Introduction

The Scotch Whisky Association (SWA) agrees that attitudes in Scotland to alcohol misuse must change and alcohol-related harm must be reduced. The Association and its members actively promote responsible drinking. The Association operates a tough Code of Practice on responsible marketing, was a founding member of the Scottish Government Alcohol Industry Partnership and initiated the Alcohol Awareness Week, now in its third year. We take a leading role in the Fife project set up to trial and evaluate initiatives to reduce alcohol misuse. Our aim is to ensure that moderate consumption continues to be part of normal healthy life in Scotland, and that misuse is regarded as unacceptable behaviour.

The SWA supports much that the Government wishes to achieve, but is opposed to minimum pricing. The Association is concerned that the debate has become polarised around price, with the risk that other approaches will not be properly considered and pursued. Tackling misuse can only be successful if a multi-component approach is taken that targets those drinking most heavily or inappropriately. With 80% of alcohol consumed by 30% of the population, targeting hazardous and harmful drinkers offers the greatest opportunity to reduce harm. Alcohol consumption has remained flat in Scotland over the past five years. Not only that, the Alcohol Bill is being introduced against the backdrop of implementation of the new Licensing Act and roll out of the national brief intervention programme the impact of which have still to be assessed.

This paper looks more widely, but begins with aspects of the Alcohol Bill on which the Committee has requested comment. We would welcome the opportunity to discuss these matters in more detail with the Committee.

Minimum Pricing

The advantages and disadvantages of establishing a minimum alcohol sales price based on a unit of alcohol

Research for the Scottish Government shows minimum pricing would not have a significant impact on tackling misuse, yet it has the potential to damage the Scotch Whisky industry and wider Scottish economy severely. We believe minimum pricing to be illegal, ineffective and likely to cause negative unintended consequences.

Minimum pricing is recognised as a barrier to the free movement of goods. We believe it to be illegal under the EU Treaty (Article 28), and likely to be in breach of World Trade Organisation rules (GATT Art.III). These rules have allowed Scotch Whisky exports to grow and underpin future industry success. Scotch Whisky accounts for around 90% of Scottish food and drink exports. It is Scotland’s largest single product export industry. If Government action in
Scotland undermined EU and WTO rules, the knock on effect would be hugely damaging for Scotch Whisky and the wider Scottish economy, reducing exports by as much as £600m a year.

A Scottish system might attempt to overcome EU and WTO trade law by seeking a public health exemption, but no such exemption has ever been secured for any product. If Scotland were to secure an exemption, this would establish a precedent that would give other countries the opportunity to introduce spurious ‘public health’ justifications for keeping Scotch Whisky out of vital export markets, undermining the industry, employment in Scotland and the Scottish economy.

Exports of premium brands would be adversely affected overseas by a Scottish initiated trade barrier. Attempts to open up new markets would be stalled. Econometric analysis suggests that some 20% of Scotch Whisky exports would be put at risk. At home, value brands and supermarket own label products favoured by those on lower incomes would see immediate price rises. Companies specialising in this sector which represent 30% of Scotch Whisky sales in Scotland fear a significant loss of business, leading to job losses and closures. At a 50p a unit price, an average priced bottle of Scotch would increase by over 30% (a 40p unit would cause a 6% increase).

The industry believes minimum pricing to be the most serious threat to its future competitiveness.

The rationale behind the use of minimum pricing as an effective tool to address all types of problem drinking

The case for minimum pricing relies heavily on the Government commissioned ‘Sheffield’ modelling. The report shows those drinking most heavily will have to spend less than the price of one pint of beer a week more and will be the least likely to change their drinking patterns and behaviour. The proportion of hazardous and harmful drinkers remains unchanged. Any reduction in total consumption would be due to moderate drinkers reducing their drinking. If overall consumption falls through a reduction in excessive drinking we have no issue with that outcome. Reducing consumption without significantly reducing the number of heavy drinkers, while undermining a major Scottish industry and its contribution to the economy, is not a policy that is in the national interest.

The Sheffield modelling contains many flaws. Moderate consumption under the terms of the study is 6 units a week compared to the Government moderate guidelines of 14 for a woman and 21 for a man. The negative cost impact on responsible moderate consumers is seriously underestimated.

The Sheffield report has three categories of drinker - moderate, hazardous and harmful. All drinkers within a category are assumed to hold the same characteristics. No assessment is made for age, gender, ethnicity, social grouping or different drinking patterns. For example it is assumed that all hazardous and harmful drinkers buy on price alone. Also, key parts of the
model do not use Scottish data but make assumptions about impact in Scotland; there is no consideration of the impact of minimum pricing on cross border sales, illicit supply, organised crime and fraud.

Minimum pricing is a blunt instrument borne by many but of limited impact. The SWA believes the Alcohol Bill should be amended to remove the minimum pricing provisions.

**Sales below cost**

If policymakers wish to introduce a price-based mechanism as part of a multi-component approach, investigation of a ban on sales below cost could be merited. Such bans operate in certain EU countries and appear able to overcome the EU and WTO legal obstacles confronting minimum pricing.

The SWA strongly supports action to prevent the loss leading of alcohol. A number of commercial confidentiality and competition law concerns may need to be addressed if sales below cost are to be banned. The Association has already proposed for discussion a ban on below tax (excise and VAT) sales of alcohol as a fair and transparent mechanism to tackle loss-leading.

This ‘floor price’ mechanism, combined with excise duty reform to ensure all alcohol is taxed on the same basis according to alcohol content would be equitable and transparent. Taxing all drinks at the same rate according to alcohol content would underpin the message that it is the amount of alcohol consumed rather than the type of drink chosen that matters. The SWA would welcome the opportunity to work closely with Government and others to find a fair, transparent and legal mechanism to address loss leading.

**Non-pricing measures**

Focus on price erroneously suggests that price provides a straightforward solution. Changing attitudes and behaviour, and reducing misuse long term, is complex. A report for the European Commission shows alcohol is more affordable across the EU, yet consumption has declined.

Policies should be targeted at those with harmful drinking patterns. Research for the Scottish Government has shown that alcohol is slightly more expensive in Scotland than England, yet alcohol problems in Scotland are reported to be worse than in England. There is a need to understand why there is an apparent difference in harms when market conditions are broadly similar.

Focus on a price solution may obscure other policies. As shown by drink driving, changing attitudes requires a long term commitment, best secured through effective campaigning, significant penalties backed by proper enforcement. This helps reinforce the personal responsibility of the drinker.
Social Responsibility Fee
The advantages and disadvantages of introducing a social responsibility levy on pubs and clubs in Scotland

It is vital that before any fee is considered the purpose of the fee is addressed. It should be considered only on a fault-based basis. Licensed businesses already pay for their licence on top of business rates and other charges. Properly managed businesses operate to the highest standards and should not be penalised for the failings of others. Those that fail to meet acceptable standards should take responsibility for their deficiencies.

The SWA would support a fault-based fee targeted at premises shown to be contributing to alcohol-related harms. Well-run pubs, restaurants, tourist attractions and distillery visitor centres must not be penalised through a blanket national or local policy.

Promotions
The role of promotional offers and promotional material in encouraging people to purchase more alcohol than they intended

There are many types of promotion, and not all are price based. For many small companies the ability to offer legal purchase age consumers a taste of a new product is an effective way of introducing a new brand when they do not have the marketing budgets of larger competitors. The industry’s strict Code of Practice has guidance on responsible tastings. The SWA supports restricting marketing material to alcohol display areas, with in-store sampling and other responsible promotional activity allowed only within these areas.

The Scottish Government has made a commitment that proposed legislation will be scrutinised to ensure no unintended consequences for whisky-related tourism, such as an end to the traditional practice of offering a ‘dram’ to distillery visitors. We welcome that approach, which is consistent with tackling misuse and not penalising responsible consumption.

Stopping sales to underage consumers
The justification for empowering licensing boards to raise the legal alcohol purchase age in their area to 21

Existing licensing law bans sales to those who are under the legal purchase age or intoxicated. The law needs to be consistently applied, both by those selling alcohol, and by the police.

The SWA is not convinced that raising the legal purchase age in the off-trade is a proportionate or effective policy response. The potential for confusion where one area applies a different purchase age to its neighbouring licensing board/town; or those of purchase age in a pub are not of purchase age to buy alcohol to enjoy at home. We believe clarity of the law, supported by firm enforcement is a better way forward.
The SWA supports strong sanctions such as licence revocation on test purchasing and a ‘two strikes and you’re out’ basis. Mandatory staff training required under the Licensing Act will help equip staff to comply with the law in sometimes difficult circumstances.

Other issues
Working in Partnership

Changing culture requires a sustained effort from all stakeholders - government, industry, the public health and education communities, the voluntary sector, media, and individuals.

The Scottish Government Alcohol Industry Partnership demonstrates what can be achieved by working together. Successes include the annual Alcohol Awareness Week, a model alcohol in the workplace policy backed by the STUC and CBI, supply chain responsibility standards, sponsorship guidelines, and support for a pilot community based multi-component project in Fife.

Responsible Labelling and Marketing

The vast majority of whisky bottles display units of alcohol to help consumers make informed choices. Over 80m bottles of Scotch Whisky carried such information in the UK last year. Distillers are also implementing new voluntary responsible drinking labelling standards. 76% of labels already or will soon feature five responsibility message elements.

The SWA’s Code of Practice governs the global promotion of Scotch Whisky. It is backed by an independent complaints panel and sanctions, including the power to fine and ‘name and shame’ offenders. This is positive and effective self-regulation in action.

Better Alcohol Education and Early Interventions

Better alcohol education can play a key role in instilling responsible attitudes. Children should learn from an early age about the dangers of misuse, that choosing to drink alcohol is a big step, and that making the choice not to drink is one to which no stigma is attached. It is also important that young people have sporting and cultural diversionary activities.

Education should continue through adult life, with support given to health professionals to deliver brief interventions to change drinking habits before they become problematic. The industry welcomes the increased focus on brief interventions. One in eight individuals receiving brief interventions moderates their drinking behaviour.

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