Alcohol etc. (Scotland) Bill

Scottish Licensed Trade Association

The Scottish Licensed Trade Association is the leading trade body representing the independent liquor licensed trade in Scotland, including Public Houses, Hotels, Convenience Stores, Restaurants and Late Night Entertainment premises. The Association welcomes the Health & Sports Committee’s invitation to respond on the particular points noted in the letter of 2nd December 2009.

Minimum Pricing

The first four points focus on the issue of Minimum Pricing, something The SLTA has advocated since the Edward Health Government abolished Retail Price Maintenance over 30 years ago and our response on this is collective. The Association foresaw then, the horrendous problems which we see today, as a result of cheap alcohol, readily available and everywhere in sight. Over the last few years in particular, the dictatorial practices of the major supermarket chains, in respect of their buying power on suppliers, has driven the pricing of alcohol products into “freefall”. The link between excessive drinking and promotions and deep-discounting in off-sales, particularly supermarkets is, in our opinion, the prime contributing factor we associate with alcohol problems in Scotland and must be addressed. Not only does The SLTA agree with a minimum pricing policy, this is also a view shared by the whole of the UK & Ireland Licensed Trade Association.

Alcohol was 69% more affordable in 2007 than it was in 1980 and this figure has undoubtedly increased despite duty increases brought in by the Chancellor of the Exchequer. In fact, following the last three budget increases, alcohol prices have actually reduced in the off-trade, particularly the supermarkets with their “Duty Busting” promotions. Alcohol is no ordinary commodity and should not be retailed in the same fashion as eggs, milk or tins of beans. We would question how much these necessary commodities are “subsidising” the cheap alcohol promotions in supermarkets.

Whilst retailing restrictions will have a small impact, radical minimum pricing is required in order to completely change the consumption habits of young people in particular. Minimum Price is not a panacea, but controls on pricing is the foundation for other complementary policies to be effective.

The SLTA is basically in agreement with establishing a minimum alcohol sales price based on a unit of alcohol. With regard to the principle on which a minimum price scheme for alcohol products should be established, there are a number of methodologies to identify such a price but in general, in health terms, such suggestions lead to one contributing factor, it should be linked to alcoholic strength of the product. We do recognize that there are some anomalies with such a methodology and this should be investigated further.
The level at which a minimum price should be set has to be proportionate to the problem but defining what is “proportionate” will be difficult to establish initially, as will identifying those entrusted to set the minimum price.

The 40p-50p minimum price for a unit of alcohol has been mentioned universally and The SLTA would see this as being acceptable. The University of Sheffield Model-Based Appraisal of Alcohol Minimum Pricing and Off-Licensed Trade Discount Bans in Scotland, suggests that a minimum price of 40p would equate to a 2.7% reduction in consumption. What must also run concurrently with a minimum price policy, is an effective off-trade discount ban. The Appraisal indicates that this would see an additional 2.6% reduction in alcohol consumption. The SLTA would be concerned however, if the price was to be set too high, as the problems of “bootlegging” and other black market activities would become more prevalent.

With regard to possible alternatives to effectively addressing the public health issues surrounding alcohol consumption, the Association does not see any other alternative delivering the results minimum pricing and a ban on off-sales promotions could deliver.

Those who advocate that education is the best way forward have, quite frankly, “had their chance” and obviously have not succeeded. The figures on Health, Crime and Disorder, Lost Working Days, and Underage Drinking etc. demonstrate this.

Those who advocate taxation, do not understand how the industry works. The last three UK budgets illustrate this. The large alcohol retailers do not necessarily pass on any duty increase and in a number of cases simply force their suppliers to absorb the cost. The 10 leading supermarkets have admitted to using alcohol as a loss leader and said they would continue to do so. Taxation has never resolved the problems associated with alcohol abuse and never will.

There has been a substantial change in the drinking habits of individuals over the last 30 years, from drinking in a controlled environment to an uncontrolled environment. Strathclyde Police have recently expressed their concern with this shift and have even stated that they want “people back into pubs” (the controlled environment). We would contend that the migration to uncontrolled and unsupervised consumption of alcohol has had a substantial adverse effect on potential Government tax revenues (VAT and Corporation), due to the low cost selling and loss leading practices of the supermarkets in particular. With major Government funding cut backs predicted to be the worst for 20 years, which will no doubt affect all national and local services, the opportunity of retrieving this lost revenue, through the introduction of minimum pricing would at least go in some way, to maintaining these services, the benefits of which the public might appreciate.
Social Responsibility Fee

The Scottish Licensed Trade Association does not support the basic principle of a Social Responsibility fee in the first place. We would reiterate our comments, in part, on this issue as previously submitted to the Scottish Government:-

“To begin with, we would respectfully reiterate the words of the now Scottish Government Justice Department’s Minister for Community Safety, Fergus Ewing MSP. During the Stage 3 debate on the Licensing (Scotland) Bill 2005, Mr. Ewing sought an amendment to delete the fees provisions in section 127(1)(c), which were inserted following an amendment in the name of Paul Martin at stage 2 that was supported by all the Labour members of the Local Government and Transport Committee. That amendment stated that licensing boards would be able to charge fees "in respect of the recovery from particular licence holders, of sums not exceeding any increase in the cost of providing public services (including policing) which is directly attributable to activities in, or in the vicinity of, or by customers of, or staff employed in, the premises in respect of which the licence is held."

The reasons given for Mr. Ewing’s continued opposition to this were:-

“First, the measure is unenforceable, because it is impossible to interpret and implement. I understand Paul Martin's motivation in lodging the amendment and I do not criticise him for doing so, but the scheme that he has devised would not work.

How would one calculate the increase in the cost of providing public services? For example, on policing in the city centre, how would one calculate the increased police provision that was required? With regard to the ambulance service, how would one calculate the increased number of ambulances or ambulance staff required? On refuse collection, would one have to compute the additional volume of garbage that was left as a result of antisocial behaviour? After doing that calculation, one would have to decide whether it related to one particular pub or to more than one and where the behaviour occurred, because the bill states ‘in the vicinity of’. One would have to apply the total extra cost across an unspecified number of public houses or clubs in an area. A finance department that performed that task would require hundreds of staff, and there would have to be such a department for each licensing board. I submit that the measure is unenforceable. I know that Paul Martin received the same letter that I received from the Law Society of Scotland, in which it states views broadly to that effect.

Secondly, I argue against the measure because it is punitive, as public house premises and clubs pay the Exchequer substantial amounts of money through general taxation and, in particular, through non-domestic rates. Licensed premises pay high levels of non-domestic rates, and it is right that they should make that contribution, but if this extra cost is levied, premises will have to pay an extra tax—a Martin tax—which is a tax too far.”
It would now appear that all retailers of alcohol will be included, unlike the original consultation document, where it appeared that only the on-trade sector of the industry was being targeted. However, to take this a step further, why should this proposed measure only be targeted at the Licensed Trade? However, we are still extremely concerned over the possible mechanism which may be used to calculate this “fee”. From experience, the Scottish Government’s preferred route is to base charges associated with the liquor licensed trade on rateable values. We already have serious issues with the Scottish Government in the context of “liquor licensing fees” and fear the same issue will arise with any proposed Social Responsibility fee calculated, using rateable values.

The rates are fundamentally flawed to start with, because the on-trade and off-trade pay according to entirely different ratios. The on-trade ratio is based on turnover and is on average 9% of turnover, whereas the off-trades’ ratio is based on square footage. This does not equate proportionately to supermarkets turning over millions of pounds in alcohol sales each year.

If there is to be a Social Responsibility fee, then this must be based on a system having the same scale of charges across Scotland as a whole. This will avoid the ridiculous variations in liquor licensing charges we see imposed by the various Local Councils at present, and which would be proportionate to the volume of alcohol sold.

One or two points that have also been raised on the issue of a Social Responsibility Fee are, if individual operators are to be charged for policing, will they have a say as to where that policing will be focused, to the detriment of others? If the police are called away from an area to some major incident what happens then, considering these licensed premises are paying for policing in their area? If there is a greater police presence in our city and town centres, then surely all businesses should pay for that policing as it is not only the Licensed Trade that benefits from that presence? Will the money raised actually see its way to covering the police costs or will it be diverted to some other budget? Will Local Councils take advantage of gathering extra income through this avenue in addition to police costs? The Justice Minister has suggested in the past that taxi marshals and late night buses have to be paid for by councils – will pubs and clubs now have to pay for this? With regard to taxi marshals this obviously also benefits the running of the taxi industry late at night, so surely taxis should pay towards this service through their licence. In respect of providing buses, is this not also down to individuals paying a fare to recoup the costs in providing this type of service?

**Legal Age for Alcohol Purchasing**

In the Committee’s letter of 2nd December calling for written evidence on the proposed Alcohol Etc. (Scotland) Bill, the points highlighted included “The justification for empowering licensing boards to raise the legal alcohol purchase age in their area to 21”. In the proposed Alcohol etc. (Scotland) Bill, Section 8, all references regarding the alcohol purchase age are directed
at off-sales “transactions” from any licensed premises and we assume that this is actually the case.

The Association cautiously supports this proposal based on our concerns with under-age drinking and purchases of alcohol by minors from off-sales premises. However we are of the opinion that clarification would be required on the term “locality” as stated in Section 8 (3) (1) (b) of the proposed Alcohol etc. (Scotland) Bill.

We do agree that such a proposal would not only help with the issue of alcohol related harm amongst the 18-21 age group but would also help to substantially reduce the access to alcohol for those under 18.

However, the problem of age identification would still remain a problem for licensees who already conduct their premises in a responsible manner. The new test purchasing laws now in place have obviously heightened the need to more actively seek proof of age and The SLTA is supportive of this. However, mistakes will obviously be made and fake ID’s will continue to be used. What must be remembered is that only a person actually purchasing or consuming alcohol in licensed premises knows his or her own age and therefore he or she is committing an offence.

One last view on this matter is that The SLTA has always advocated that an individual should be 21 years or older to hold a liquor licence. A person between 18 and 21 under the licensing act can be deemed as a fit and proper person to hold a licence, however, this same person would not be able to purchase alcohol through an off-sales transaction should a 21 year old age limit be introduced. The SLTA also advocates that those who sell alcohol should be 18 years and over and this should be applicable to all retailers of alcohol.

Promotional Offers and Promotional Material

The Scottish Licensed Trade Association’s views on irresponsible promotional activities are well documented and the Association strongly contends that “price should not be used as a marketing tool to promote the sale of alcohol”. The SLTA was deeply disappointed and concerned that in the Licensing (Scotland) Act 2005 there were very lenient mandatory conditions extended to off-sales premises in respect of controlling irresponsible promotional activity. The SLTA very much welcomes the focus of the Scottish Government on the promotional activities and practices of off-sales premises, in particular those of supermarkets. It continues to be our view that the link between binge/excessive drinking and promotions in off-sales, particularly supermarkets, is the major contributing factor we see with alcohol abuse problems in Scotland.

According to the Scottish Government’s previously published figures, there are 561 known supermarkets in Scotland who sell alcohol. In the 12 month period, up to September 2009, figures from Nielson and CGA, collated from licensed trade industry sales data, revealed that 68% of all alcohol sold in
Scotland is sold through the off-sales sector. Of these sales, other evidence shows that the supermarkets dominate, with only a negligible volume being sold through the “corner shop”.

Over the last five years sales from off-sales premises have increased by 8% and in the On-Sales sector, sales have decreased by 15%. In fact since 1998 UK beer sales in the on-trade have dropped by just over 36% We know from other jurisdictions, which have a very high proportion of alcohol sales from the off-trade, that they have very high alcohol abuse problems as well. In Scotland over the last 5 years the sales of pure alcohol per person over the age of 18, have increased from 7.5 litres to 8.2 litres in the off-sales trade, but the on-sales trade has seen a decrease from 4.7 litres to 4.0 litres. This confirms again the shift from drinking in a controlled environment to an uncontrolled environment and emphasises the dramatic effect of supermarket deep discounted pricing and substantial promotional activities. This information and other recent surveys also highlight that the problems associated with alcohol abuse are not restricted to just “young people”.

There are very many well-run responsible off-sales operators in this country, however there are also some who are totally irresponsible. The prices charged, especially in the supermarkets, are quite often invitations to abuse alcohol. The supermarket industry has already been taken to task by the Westminster Government, on below-cost selling and some of the major retailers have admitted that there have been, AND WILL BE, occasions when this will happen. We fully support that action must be taken to end irresponsible promotions and below-cost selling of alcoholic drinks in all licensed premises.

It is fundamentally wrong to “force” customers to purchase more than they require, a practice, which in our opinion, supermarkets are actively encouraging particularly when it comes to alcohol products. Whilst obviously price is the main emphasis, what is generally ignored is the fact that supermarkets have stopped selling single bottles/cans, other than the most premium brands. The smallest possible unit of purchase of general brands being in most cases, a “4-pack”. The reason for this appears to be a practice note by the Government that the case price should be a direct multiple of the available can/bottle price.

It is also surely in the Government’s interest, albeit the Westminster Government, that below-cost selling should be banned. It is ridiculous that the Government is actually subsidising those who practise below cost selling in that such companies’ input/output VAT amounts will be reversed and they will actually be able to reclaim a proportion of the VAT on such transactions. In addition, Corporation Tax is lost on such transactions, adding to a further loss in revenue to the Exchequer.

Finally, we would also draw the Committee’s attention to an investigation conducted by Alcohol Focus Scotland in 2006 which revealed that promotional offers on alcohol by the major retailers dramatically increase both sales and frequency of customer return. Alcohol Focus Scotland approached
a number of the major supermarket and off-sales chains to request information on customer spending patterns when alcohol products were sold at reduced prices or through special offers such as ‘3 for 2’. It was no surprise that few provided information, but of those who did, the findings showed a clear link between off-sales promotions and how much alcohol people buy and therefore consume. The investigation revealed that sales increased by 20-25% when promotions were run; customers who bought on promotions tended to be heavier spenders than average; 83% of customers who purchased alcohol on promotion returned for a second purchase; largest uptake was among those doing their weekly shop between Friday pm and Saturday am; and wine was the most popular promoted alcohol product.

Colin A. Wilkinson
Secretary
SLTA
20 January 2009