

Shifting the Culture

A proposal for a bill to bring forward measures to help change culture in relation to alcohol in Scotland

Submission on behalf of the Scotch Whisky Association



June 2012

Introduction

1. The Scotch Whisky Association (SWA) is the trade association for the Scotch Whisky industry. Representing over 90% of the industry, members include distillers, blenders, and bottlers.
2. The Scotch Whisky Association (SWA) welcomes the opportunity to make a written submission to this consultation.
3. Scotch Whisky is Scotland's second largest export after oil and gas. It accounts for around 80% of Scotland's food and drink exports and nearly 25% of the UK's total food and drink exports. Export figures for 2011 show that Scotch Whisky earns £134 every second for the UK balance of payments. The value of exports in 2011 was £4.2 billion, an increase of 23% on 2010.
4. The industry employs 10,300 workers directly with another 35,000 jobs across the UK supported by the industry. In addition, the industry has invested some £1 billion in its production and manufacturing capacity in Scotland over the last four years. More than £1 billion of further investment has been announced for the next five years.
5. Alcohol is a longstanding part of Scottish culture. However, the SWA recognises the need to address alcohol misuse in Scotland. We are firmly committed to playing our part to reduce alcohol-related harm, promoting a culture where responsible alcohol consumption is the accepted norm and misuse is minimised. The SWA is a leading member of the Scottish Government Alcohol Industry Partnership the aim of which is to deliver joint initiatives to tackle alcohol related harm and promote responsible drinking.

Questions by Section

Tightening Quantity Discount Ban in Alcohol etc. (Scotland) Act 2010:

Q1) Do you think the further restriction on quantity discounting proposed would be beneficial? What disadvantages might there be? Do you think there is a case for going further?

6. There has been significant new legislation introduced and only relatively recently implemented in relation to tackling alcohol misuse in Scotland. As the consultation document notes on page 13, legislation is only one part of any strategy to tackle and reduce the harmful use of alcohol.
7. The current ban on quantity discount only came into force on 1 October 2011. An initial report on the impact of the ban¹ based on retail sales data from (October 2011 - May 2012) found a 4.3% reduction in total off-trade sales compared to the same period 12 months previously.
8. We would therefore wish to understand better the impact of this measure before taking a view on whether further action is necessary in this area.

Public Health Interest and Child Protection:

Q2) Do you believe that Ministers should be required to issue guidance on these two licensing objectives?

9. There are five licensing objectives set out under The Licensing (Scotland) Act 2005. No objective should take precedence over any other objective.

¹ Monitoring and Evaluating Scotland's Alcohol Strategy : Preliminary descriptive analysis of the impact of the quantity discount ban on off-trade alcohol sales in Scotland. June 2012

10. Guidance is an important aid to supporting the implementation of legislation. Guidance should be issued on all five licensing objectives. That guidance should be based on consultation with all relevant stakeholders.

Q3) Do you believe that Ministers should be required to report to the Parliament once per session, and what should such a report be required to cover?

11. We consider this would be useful to help ensure the Licensing Act is being enforced consistently. It may be something that a National Licensing Forum could report on annually.

Restrictions on Alcohol Marketing:

Q4) Do you believe that the proposed restrictions on advertising are proportionate or necessary?

12. We do not consider the proposed restriction i.e. a complete ban on all advertising of alcoholic drinks in public places (e.g. on billboards, hoardings, bus-shelters, buses and other vehicles) to be proportionate or necessary.

13. This section of the consultation document is very much drawn from the experience of France and the restrictions on advertising introduced by the Loi Evin, which was introduced in 1991. However, an official French parliament report stated that this ban had been ineffective in reducing high-risk drinking patterns. Indeed, the head of the French National Association for the Prevention of Addiction and Alcoholism (ANPAA) accepts that the effects of the law are "weak"².

14. The consultation document states that it wishes to 'move forward on de-normalising alcohol for children'. We have seen no evidence the French Loi Evin has de-normalised alcohol for children France or resolved the issue of under-aged drinking. We note that the 2011 European School Project on Alcohol and Other Drugs (ESPAD), which collects comparable data on substance use, including alcohol, among 15-16 years olds in 36 European countries notes an increase in alcohol consumption in this age group in France between 2007 and 2011, also an increase in frequency of consumption over the past 12 months.

15. We would suggest that alcohol is already de-normalised for children. We should focus and concentrate on de-normalising misuse across Scottish society.

16. Alcohol marketing in the UK is comprehensively controlled. The current legislative framework, along with effective self-regulation ensures that alcohol marketing does not target young people under the legal purchase age.

17. The SWA Code of Practice for the Responsible Marketing and Promotion of Scotch Whisky is supported by an independent complaints panel. The Code includes a range of sanctions, which include fines and ultimately removing a company from membership.

18. The scientific literature on the influence of advertising on alcohol consumption is extensive and mostly contradictory. Econometric and cross-sectional studies have failed to show a clear causal relationship between marketing and expenditure and any indicator of harmful drinking. Where an association has been found in a small number of longitudinal studies³ it is very weak and does not make a compelling case that advertising causes harmful drinking.

² The 'Loi Evin' : a French exception, Dr. Alain Rigaud, Président Association Nationale de Prévention en Alcoologie et Addictologie (ANPAA)

³ Smith & Foxcroft 2009, BMC Public Health 9: 15

19. Many countries that impose the most severe restrictions or advertising bans on advertising and marketing continue to have problematic drinking patterns⁴. Studies have shown the principal influences shaping drinking patterns in young people are parents, family and peers⁵. Recent research from Drinkaware has indicated that parents are the largest providers of alcohol to children.
20. Scotch Whisky is an iconic brand for Scotland and makes a significant contribution to Scotland both economically and culturally. The measure proposed could mean that distilleries would be unable to display their names on the outside of buildings and, for example, company vehicles could not carry branding. Restrictions on advertising could undermine Scotch Whisky related tourism that attracts 1.3 million people a year.
21. In relation to alcohol drink advertisements screened in cinemas; such advertising is subject to the non-broadcast placement restrictions set out in the CAP Code. These rules state that no medium should be used to advertise alcohol if more than 25% of the audience is under 18 years old. Also, the Cinema Advertising Association (CAA) has a dedicated Alcohol Film Panel and tightened its pre-vetting procedures in relation to alcohol advertising in the last few years. The panel works to ensure that alcohol ads are screened in line with the CAP Code in order to limit exposure of alcohol advertising to under 18s.
22. The consultation document also makes reference to sponsorship. The Scotch Whisky industry is involved in a wide range of sponsorship activities both at the local and national level. These sponsorships cover sporting, art and cultural events. For example, local Highland games, art and film festivals to major sporting international events, such as, the Ryder Cup, which will be held in Scotland in 2014.
23. A study into the effects of sporting involvement and alcohol sponsorship on underage drinking found no significant statistical correlation between sports sponsorship awareness and attitudes to alcohol use⁶.
24. We believe that any restrictions on sponsorship would be detrimental to a wide variety of organisations. We also believe that sponsorship offers an opportunity to promote responsible consumption and can be done in such a way to protecting those under the legal purchase age.
25. The Scottish Government Alcohol Industry Partnership (SGAIP) developed Alcohol Sponsorship Guidelines for Scotland published in February 2009, which were designed to achieve that. In 2011 an independent review of the guidelines found they were necessary, worthwhile and effective⁷. The review also made a number of recommendations for the guidelines and these are currently being considered by the SGAIP.

Q5) Are there further measures you feel should be introduced?

26. No

Caffeine Limit in Pre-mixed Alcohol Products:

Q6) Do you believe that there should be restrictions on caffeinated alcohol products? If so do you believe the proposed caffeine limit of 150mg/litre on pre-mixed products is appropriate?

⁴ Martinic & Alexander 2008. Swimming with crocodiles: The culture of extreme drinking. Routledge: 186-191

⁵ Donovan 2004, Journal of Adolescent Health 35(6): 529

⁶ F. Davies International Journal of Sports Marketing & Sponsorship 2009 11 (1): 25-45

⁷ Review of the Alcohol Sponsorship Guidelines for Scotland. Social Research Findings No.111/2012

27. We have no comment to make on this proposal.

Alcohol Education:

Q7) Is there a role for further alcohol education and public information campaigns in changing alcohol culture?

28. Yes. We believe in alcohol education in its broadest sense. The industry puts significant effort and resource into educating consumers to drink responsibly whether that is putting information on labels (the number of units in a bottle, the sensible daily guidelines, the pregnancy message, plus a responsible drinking message and the Drinkaware website) to including a responsible drinking message on all advertising - a requirement of the SWA Code of Practice for the Responsible Marketing and Promotion of Scotch Whisky. In addition many companies run their own initiatives and provide funding to the independent charity Drinkaware whose aim is to provide consumers with information to make informed decisions about the effects of alcohol on their lives and lifestyles through its public education campaigns.

29. Under the Scottish Government Alcohol Industry Partnership one of the outcomes defined for the Partnership is 'Increased consumer knowledge and skills to deliver attitudinal change that enables people to adopt safe drinking patterns and reduces acceptability of hazardous drinking.' The SGAIP has previously delivered four successful Alcohol Awareness Weeks in conjunction with a range of other partners. It has also previously developed a work place alcohol policy template and is currently developing a campaign work stream to deliver towards this outcome.

30. We believe there is more scope for the Scottish Government working in partnership with Drinkaware, and other stakeholders, to extend the reach of current Drinkaware campaigns (details of which can be found on the Drinkaware website - www.drinkaware.co.uk.) Also, working with Drinkaware, to develop unique and innovative ways of communicating key responsible drinking messages and highlighting the issues associated with excessive consumption to key target groups in Scotland.

31. There is in place a raft of school-based education programmes, both at primary and secondary level. However, it would appear there are a variety of tools, programmes and approaches available and used across the country. The curriculum for excellence sets outcomes, but allows teachers the discretion as to how best they deliver the outcome in terms of substance misuse education.

32. We believe serious consideration should be given by the Scottish Government to providing guidance/recommendations on evaluated programmes/education resources in this area to support schools/teachers. Care would be required to be taken to allow for innovation and to allow for new materials/technologies to be tested and evaluated.

Q8) Would it be beneficial for Ministers to be made directly accountable to the Parliament for their policy in this area, as proposed?

33. We do not consider it necessary that Ministers be made directly accountable to Parliament. However, we do agree that Ministers should publish their policy and plans in relation to alcohol education and public information campaigns. This is an important element of any strategy to tackle alcohol misuse.

34. Plans should set out details of funding and how the policy/campaigns will be evaluated. At the current time the funding of such campaigns appears to be constantly under threat and subject to change, which makes planning, engaging and coordinating delivery with multiple stakeholders difficult. It would also allow for better co-ordination with other alcohol campaigns.

Alcohol Discrimination Against Under-21 Year Olds in Off-Sales:

Q9) Do you support a ban on Licensing Boards requiring off-licenses to restrict sales on age-grounds alone, or are there circumstances where this could be justifiable?

35. Yes we support this proposal.

Community Involvement in Licensing Decisions:

Q10) Do you believe that community neighbours should be consulted and their views taken into account when licences are being renewed or extended or when special licences are being issued?

36. Being a producers' organisation this is not an issue of direct relevance to our members. However, a number of our members do operate Distillery Visitor Centres, which are licensed. We consider the current arrangements under the Licensing (Scotland) Act 2005 satisfactory.

Q11) Do you believe that the New Zealand model is an appropriate one to emulate, if not what, changes should be made?

37. We consider the arrangements under the Licensing (Scotland) Act 2005 to be satisfactory.

National Licensing Forum:

Q12) Do you believe that there is a role for a National Licensing Forum in addition to the existing local forums? If so:

- **Should it be funded through licensing fees or central Scottish Government funding?**

- **What would its membership be, and who would appoint them?**

- **To whom would it be accountable?**

- **What would its functions be?**

38. Yes we believe there is a role for a National Licensing Forum. In addition to the functions set out in the consultation document there is a role for the Forum in issuing guidance to ensure consistency in application of licensing legislation and to assist with implementation.

39. We consider the membership would be along the same lines as the previous Forum and should include all relevant parties. We believe the Forum should be accountable to the Justice Minister.

40. On the issue of funding, we do not think this would be overly onerous and it would be worth investigating the costs associated with the previous Forum.

41. An outcome under the revised SGAIP partnership agreement is 'improved operation of Scotland's licensing regime to the wider benefit of all stakeholders and the public'. The partnership is currently developing a work stream to establish a licensing forum to deliver towards this outcome.

Alcohol Bottle Tagging:

Q13) Is there sufficient evidence to justify legislation allowing Licensing Boards to make participation in a bottle tagging scheme a licence condition, or are current voluntary arrangements adequate?

42. We consider the current voluntary arrangements to be adequate.

43. Alcohol bottle tagging schemes require to be carefully considered as to what information they can usefully provide. Just because bottles confiscated by youths can be traced back to a particular store does not mean they were able to purchase from that store or that it was not obtained via proxy purchase. Adequate CCTV coverage would be required to confirm any infringements of the law.
44. The scheme described in the consultation document used UV pens to mark bottles; others have used stickers. The latter is less cost effective. Any such scheme could not be done at the place of production (i.e. bottling, canning) as there is no way of knowing what stores which products will eventually be sold through and therefore would not be proportionate. It would have to be a retailer initiative.

Alcohol Fine Diversion:

Q14) Should Fine Diversion be made available, on a statutory basis, throughout Scotland, if the further pilot is successful?

45. If further pilots are fully evaluated and considered successful then there may be merit in this proposal.

Alcohol Arrest Referral:

Q15) Do you believe that Arrest Referral schemes for Alcohol (as well as Drugs) should be a statutory requirement within each Community Justice Authority area?

46. We agree this proposal merits further investigation.

Drinking Banning Orders:

Q16) Should drinking banning orders be introduced in Scotland? If so should they be piloted in one Sheriffdom?

47. We would suggest that drinking banning orders be piloted in at least two Sheriffdoms and be fully evaluated before consideration is given to introducing them across Scotland.

Alcohol and Drug Treatment and Testing Orders (ADDTO)

Q17) Do you believe extending DTTOs to become ADDTOs would add value to the existing range of disposal? What differences of context between drugs and alcohol would need to be taken into account?

48. This is not an area of expertise for our organisation. As with a number of other proposals set out in the consultation documents it probably merits further investigation and perhaps it would be appropriate to run and evaluate one or two pilots.

Alcohol Offences Information Sharing

Q18) Do you believe that notifying a GP about a patient's conviction for an alcohol-related offence would be beneficial? Should it apply only in cases of conviction, or in other circumstances as well?

49. No. Based on the information provided in the consultation document, this proposal could be overly onerous and as there is no obligation on GPs to take any action we are unsure what, if any, impact it would have.

General Questions

Q1) Do you support the general aim of the proposed Bill? (as outlined above). Please indicate “yes/no/undecided” and explain the reasons for your response.

We believe in the approach adopted by the World Health Organisation of taking action to reduce the harmful use of alcohol rather than alcohol *per se*.

There have been significant changes to the legislative landscape in recent years to tackle alcohol-misuse. Many of these measures are still relatively new and are still being embedded and require to be fully evaluated.

We believe that enforcement in certain areas requires to be improved. There are still low numbers of prosecutions for those who sell to those under the legal purchase age and those who are intoxicated.

There are some proposals set out in the consultation document which merit further investigation/piloting.

Q2) Are there further legislative (or non-legislative) changes that you would recommend, beyond those outlined in this consultation, in order to further its general aims of tackling Scotland’s culture of excessive alcohol consumption?

Refer to our response above.

Q3) What is your assessment of the likely financial implications (if any) of the proposed Bill to you or your organisation? What (if any) other significant financial implications are likely to arise?

We will be in a better position to answer this question once there is a clearer understanding of which proposals are likely to be introduced in any future Bill.

Q4) Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?

No comment.