



BRIEFING:

ARGUMENTS AGAINST MINIMUM PRICING FOR ALCOHOL

Scottish Health Action on Alcohol Problems (SHAAP) was established by the Scottish Medical Royal Colleges and Faculties to raise awareness about alcohol-related harm and to advocate for evidence-based policy measures formulated by public health interests to reduce this harm.

There are a number of arguments put forward by opponents of minimum pricing. This briefing addresses some of the most recent arguments that opponents have put forward as reasons for opposing minimum pricing as an effective policy measure.

Minimum pricing is not an evidence-based policy

Over the past 50 years, alcohol consumption in the UK has doubled, rising from 5.7 litres of pure alcohol per person (16+) in 1960 to 11.53 litres in 2008.¹ The most recent survey data estimates that 44% of men and 36% of women in Scotland exceed the recommended daily drinking limits on their heaviest drinking day in the previous week with 27% of men and 18% of women reporting drinking double the recommended limits.² The estimates are based on self-reporting data which is known to underestimate adult consumption levels thus confirming that the number of people drinking to excess in Scotland represents a significant percentage of the population. Consumption data also confirms that excessive drinking is not limited to a particular social group but is widely spread across social class and gender. Research findings from numerous scientific studies directly link *per capita* alcohol consumption with the burden of alcohol related harm in a population.³ What the evidence demonstrates is that changes in *per capita* consumption are reflected in changes in harm. In other words, the more alcohol a nation consumes, the greater the burden of harm it will experience and vice versa. The number of alcohol related deaths in Scotland has increased by 150% in a generation.⁴ Reducing overall consumption in the population is necessary if we are to reduce harm. A WHO – sponsored review of 32 alcohol policy measures found that in terms of the degree of effectiveness, the breadth of research support, the extent to which they have been tested cross-culturally and the relative expense of implementation, the most effective alcohol policies are controls on price and availability, drink driving laws and brief interventions. Alcohol policies found to be the least effective include education, public service announcements and voluntary regulation by the alcohol industry.

The evidence we have indicates that minimum pricing will be an effective policy measure with recent research by Sheffield University estimating that it could save 70 lives in Scotland in the first year rising to 370 after 10 years.⁵

Minimum pricing distorts the market and threatens jobs

Whilst some alcohol industry representatives, such as organisations representing the on-licensed trade, are in favour of minimum pricing, others have been vocal in opposition, particularly the multi-national companies that dominate the alcohol market in the UK and the trade bodies that represent their interests. Representatives of the Scotch whisky

industry have claimed minimum pricing will cause serious damage to the whisky trade in Scotland and put jobs at risk,⁶ although no hard evidence is provided on the likelihood or scale of job losses specifically attributable to minimum pricing. We have already seen reports of job losses within the whisky sector in Scotland, but this comes before a minimum pricing policy has been agreed or implemented. It is claimed that minimum pricing will impact negatively on Scotch whisky sales in the UK by raising the price of supermarket own-label products. This claim needs to be viewed in context. Around 90 per cent of Scotch whisky is exported from the UK⁷ and is not therefore subject to UK alcohol taxes, VAT or, if implemented, minimum pricing. The proportion of Scotch whisky sold as supermarket own-brand products that could potentially be affected by minimum pricing will be a relatively small percentage given that the bulk of whisky is exported.

If considering the potential impact of minimum pricing on jobs in the alcohol sector in Scotland, the consequences of not addressing the availability of low-cost alcohol also needs to be considered. According to recent media reports, over 6,000 UK jobs are currently at risk due to the parent company of the off-licence chain Threshers going into administration. The company employs 1,123 people in Scotland.⁸ Cheap prices in supermarket off-sales have been reported as contributing to the company's difficulties. The widening price gap between alcohol sold in the on-trade and off-trade has been blamed for the shift towards home drinking in the UK and consequently for pub closures. The majority of beer drunk in the UK is still consumed in on-licensed premises, whereas most wine (80%) and spirits (70%) is sold in the off-trade.⁹ Beer volume sales in the UK are in decline, whilst wine and spirits have increased.¹⁰ Members of the on-licensed trade and real ale campaigners have argued that minimum pricing is necessary to close the price gap between the on- and off-trade and thus preserve jobs in the pub sector and the beer industry in the UK.

Minimum pricing will not impact on the heaviest drinkers

It is claimed that minimum pricing for alcohol will do little to tackle alcohol misuse, however, the evidence points to the contrary. A recently published study exploring the drinking habits of patients referred to alcohol problems services in Edinburgh in 2008/09 found that the lower the price a patient paid per unit of alcohol, the more units they consumed. Most of the alcohol the patients consumed was bought from off-licences where the cheapest alcohol can be accessed. The study concluded that because the average unit price paid by this group of chronically ill patients was considerably lower than the average for the rest of the Scottish population, then it was likely that the elimination of the cheapest alcohol sales would result in reduced overall consumption by this population of drinkers, with a fairly immediate reduction in serious alcohol-related illnesses in our community.¹¹

The Sheffield study examining the effect of a range of minimum prices on levels of health and social harm in Scotland estimated that minimum pricing would have the greatest impact on the consumption of harmful drinkers.¹² The evidence shows that harmful drinkers tend to choose cheaper alcohol, so if the price of the cheapest alcohol goes up then we would expect the consumption of harmful drinkers will fall as they can afford to buy less alcohol.¹³ Although anecdotally it is sometimes claimed that harmful drinkers will maintain their level of consumption following a price increase by spending less on other goods, such as food, what we know of the drinking patterns of harmful drinkers suggests otherwise. Studies that have looked at the effects of alcohol price and tax changes on alcohol-related problems have found that changes in price/tax do

influence rates of harmful drinking. It has been observed that when the price of alcohol goes up, population consumption falls and when population consumption falls, so do rates of chronic alcohol-related disease such as alcoholic liver cirrhosis. This indicates that changes in population consumption reflect changes in the drinking habits of harmful drinkers, not just moderate drinkers. If price changes only influenced the consumption of moderate drinkers then we wouldn't expect to see trend changes in rates of chronic alcohol-related diseases following alcohol price increases or decreases.¹⁴

Sheffield University research based on outdated consumption data

The Sheffield University research study was undertaken prior to the publication of the 2008 Scottish Health Survey and it has been suggested that the conclusions reached by the authors are compromised given that they do not take account of the reduction in alcohol consumption reported in the survey. The 2008 Scottish Health Survey did record a slight reduction in weekly consumption for men and women, with the proportion of men drinking over the recommended weekly limit declining from 34% in 2003 to 30% in 2008, and women from 23% to 20%. Levels of daily consumption were similar in 2003 and 2008. It is important to note, however, that the decline in men's average weekly unit consumption, although statistically significant, was at the very margin of being so, and the decline for women was not significant. What this means is that it is difficult to say on the basis of these data whether the reported reduction reflects a real change in population consumption or has just occurred by chance in the survey. Further years of data will be needed before drawing firm conclusions on drinking trends.¹⁵ What this also means is that the changes in consumption data between the two health surveys are not so significant as to undermine the robustness of the model used in the Sheffield study to estimate the effects of minimum pricing.

Another factor to consider is that it is generally accepted that self-reported survey data underestimates actual consumption by as much as 50%, with heavier drinkers tending to underestimate their consumption more than moderate drinkers.¹⁶ It is therefore likely that whatever the reported differences between the 2003 and 2008 Scottish Health Surveys, *both* will underestimate total population alcohol consumption in Scotland by a considerable amount.

Minimum pricing is not legal under European Union trade law

A recent opinion¹⁷ on the legality of minimum pricing for tobacco under EU trade law has been interpreted as meaning that minimum pricing *per se* is not a legal measure in Europe.

The opinion by an Advocate General of the European Court of Justice (not yet a court ruling) considers the legality of minimum pricing for tobacco under a specific EU directive which covers excise duties on tobacco. This particular directive stipulates that manufacturers or importers of tobacco shall be free to determine the maximum retail selling price for their products. The Advocate General in her recent opinion finds that in setting a minimum price for tobacco, several countries have breached the terms of this directive, and it is on this basis that she considers their action illegal. By comparison, the EU directive that covers excise duties for alcohol makes no mention of retail pricing for alcohol.

In July 2009, in a written response to a question from Catherine Stihler MEP on the legality of minimum pricing for alcohol, the European Commission stated that Council Directive 92/83/EEC (covering excise duties on alcohol) “does not prohibit Member States from setting minimum retail prices for alcoholic beverages.” The Commission also confirms that if pricing rules applied to all relevant traders operating within a national territory and if they affected in the same manner, in law and in fact, the marketing of domestic and imported products then such rules would not be contrary to the free movement of goods in the EU single market. If it was found, however, that such pricing rules did constitute an obstacle to the free movement of goods then they would need to be justified on public policy grounds. The Commission states that it is important for Member States to consider the range of alternative measures that might have the same public health impact and which might be less restrictive to trade. They suggest that a minimum price level could equally be ensured by increasing the excise duties on alcohol.

In summary, the position appears to be that minimum pricing is permissible under EU trade law if it applies to domestic and imported products alike and it does not constitute a barrier to trade. If the prices set were shown to be a barrier to the free movement of goods then there would need to be a public policy justification. To be justifiable, the measure would have to be shown to be necessary to achieve the policy objective and the objective couldn't be achieved by any less trade-restrictive measure.

In the UK, there is arguably a case that using alcohol taxation alone is *not necessarily sufficient* to achieve a minimum price for alcohol all of the time. The evidence we have on the pricing practices of major grocery retailers in the UK reveals that alcohol is frequently sold at a loss, with many promotional offers throughout the year.¹⁸ An increase in alcohol taxation is not guaranteed to lead to an increase in alcohol prices as big alcohol retailers can and do absorb tax increases. Minimum pricing for alcohol by contrast is a fixed floor that cannot be undercut by loss-leading and below-cost selling. Evidence also suggests that increasing the price of the cheapest alcohol has a greater public health benefit because cheaper alcohol tends to be bought more by harmful drinkers than moderate drinkers. Some research has shown that an increase in the price of the cheapest drinks would lead to a bigger drop in alcohol consumption than an overall price increase.¹⁹ This suggests that minimum pricing for alcohol and taxation are *complementary* mechanisms and that taxation alone is unlikely to achieve the same health benefits.

References

¹ *Alcohol Factsheet 2008*, HMRC

² *Scottish Health Survey 2008*, Scottish Government, September 2009

³ *Alcohol in Europe: a public health perspective*, IAS, 2006.

⁴ Alcohol-related deaths in Scotland, 1979 to 2008. General Register Office for Scotland.

⁵ Sheffield study

⁶ See *Scottish legislative programme: SWA response*, Scotch Whisky Association, Oct 09

⁷ See SWA's *Export Markets Factsheet*, www.scotch-whisky.org.uk

⁸ 'Threshers owners in administration', BBC, 29th October 2009.

⁹ Data supplied to the Scottish Government by The Nielsen Company. See <http://www.scotland.gov.uk/Topics/Health/health/Alcohol/resources>

¹⁰ *Alcohol Factsheet 2008*, HMRC

¹¹ 'Price of alcohol influences drinking habits of heaviest drinkers', *SHAAP*, 1 Nov 2009.

¹² *Model-based appraisal of alcohol minimum pricing and off-licensed trade discount bans in Scotland*, SchARR, University of Sheffield, September 2009.

¹³ See Booth et al (2008), *The independent review of the effects of alcohol pricing and promotion: Summary of evidence*, University of Sheffield, for latest review of evidence.

¹⁴ Noström, T (ed) *Alcohol in Postwar Europe: Consumption, drinking patterns, consequences and policy responses in 15 European countries*, 2002. Almqvist & Wiksell International. Stockholm

¹⁵ *Scottish Health Survey 2008*, Scottish Government, September 2009

¹⁶ *Model-based appraisal of alcohol minimum pricing and off-licensed trade discount bans in Scotland*, ScHARR, University of Sheffield, September 2009.

¹⁷ See Opinion in Case C-197/08, *Commission v French Republic*.

http://curia.europa.eu/jcms/jcms/j_6/

¹⁸ *Pricing Practices Working Paper*, Part of Groceries Market Inquiry, Competition Commission, 2007.

¹⁹ Grunewald P J et al, *Alcohol Prices, Beverage Quality, and the Demand for Alcohol: Quality Substitutions and price Elasticities*, *Alcoholism: Clinical and Experimental Research*, Vol 30, (1), 2006, pp 96-105.