SCOTTISH GOVERNMENT’S POSITION ON MINIMUM UNIT PRICING OF ALCOHOL

Introduction
1. The Scottish Government is proposing to introduce a Minimum Unit Price for alcohol in Scotland so that the harm caused by the excessive consumption of cheap, strong alcohol is significantly reduced. We are not suggesting that Minimum Unit Pricing should be adopted across the EU, this is a Scottish solution to a Scottish problem. The Minimum Unit Price is based on the number of UK units of alcohol (10 mls of pure alcohol) in a product multiplied by the Scottish Government’s preferred minimum price, which is 50p (€0.63). 

2. The Scottish Government’s overarching aim is a reduction in alcohol-related harm. Minimum Unit Pricing targets excessive consumption of drinks which are very cheap compared to their high strength. These products cause the most harm to health, and are disproportionately favoured by those who are drinking at hazardous and harmful levels.

3. The Alcohol (Minimum Pricing) (Scotland) Act 2012 was passed in June 2012 and paved the way for the introduction of a preferred minimum price of 50p (€0.63) per unit with an anticipated implementation date of April 2013. Minimum Unit Pricing has not yet been introduced as the Scotch Whisky Association (in conjunction with the European Spirits Organisation and the Comité Européen Des Entreprises Vins) sought a judicial review of the Alcohol (Minimum Pricing) (Scotland) Act 2012.

4. The first stage of the judicial review was held in our domestic court, the Court of Session, in January 2013. The Court found comprehensively in favour of the Scottish Government’s policy of Minimum Unit Pricing. The Court recognised the overwhelming evidence supporting the legitimate aims of Minimum Unit Pricing to reduce alcohol consumption, with a particular focus on reducing consumption by hazardous and harmful drinkers who experience so much of the alcohol-related harm we see in Scotland. The Judge noted that there was no suggestion that the measure is a disguised restriction on trade. He went on to state that if the alternative measures would not be just as effective as minimum pricing in achieving the legitimate aims (which he found they would not), Minimum Unit Pricing would be.

1 Exchange rate of £1=€1.25 used throughout.
necessary and proportionate. We accept that Minimum Unit Pricing is capable of affecting intra-Community trade (Article 34 of Treaty on the Functioning of the European Union). However, the Judge in his ruling concluded that Minimum Unit Pricing was justified under Article 36 (protection of health and life of humans) and proportionate. The subsequent appeal of that decision in favour of Minimum Unit Pricing has resulted in the case being referred to the Court of Justice of the European Union (CJEU).

5. The European Commission has suggested that new taxes could achieve a goal of reducing alcohol consumption generally and be less trade restrictive. However, as our domestic court has recognised, taxation would not deliver the aim of a targeted impact on those drinking at hazardous and harmful levels. Minimum Unit Pricing is more effective in achieving this aim because it has more of a progressive effect on those that drink the most in terms of consumption and alcohol-related harm.

6. The Commission, and a small number of Member States, have previously questioned the compatibility of Minimum Unit Pricing with EU law on the free movement of goods, however, as our domestic court has recognised, Article 36 of the Treaty makes clear that public health measures can be justified, provided they are proportionate.

7. This paper sets out the case for Minimum Unit Pricing to be implemented in Scotland and the Scottish Government is looking to build support for the principle of its implementation via the CJEU referral process. The UK Government has supported our case in the domestic court and is fully supportive of our case going forward.

**Scale of the alcohol problem in Scotland**

8. By global standards, Scotland consumes very high levels of alcohol. Consumption levels within the EU are high (according to the World Health Organisation consumption in the EU is almost double the World average) and Scottish consumption is above the EU average and our pattern of consumption, allied to other health factors, means there is a very significant impact on individuals, families and communities. Alcohol misuse is costing Scotland £3.6 (€4.51) billion each year – £900 (€1,125) for every adult.

9. Alcohol sales in Scotland in 2012 were equivalent to 21 UK units (210 mls pure alcohol) per person per week (10.9 litres of pure alcohol per year) which is amongst the highest in Western Europe. This figure is likely to be an underestimate of true levels of alcohol consumption. While consumption in many countries (such as France, Italy and Spain) has fallen in recent decades, consumption in the UK has doubled since the 1950s (including a 6% increase in Scotland since the mid 1990s).

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10. There have been slight reductions in alcohol consumption in recent years, however these must be considered in the context of the historically high levels which have been seen. These comparatively small reductions may be as a result of the economic downturn, which has depressed average incomes and once the economy recovers fully the recent decline may be reversed.

11. Alcohol is one of the world’s largest risk factors for morbidity, disability and mortality. Driven by higher consumption, in recent decades Scotland has had one of the fastest growing chronic liver disease and cirrhosis rates in the world. Alcohol-related hospital discharges in Scotland have quadrupled since the early 1980s, with an average of around 100 Scots being admitted to hospital each day\(^4\). Deaths caused by alcohol have increased substantially in recent decades, with an average of 20 alcohol-related deaths a week\(^5\).

12. Alcohol misuse not only affects the drinker, but also others such as family, friends, co-workers and the community. The harm alcohol causes to others can range from minor to more serious harms and can include injury, assault, traffic and workplace accidents, child neglect, partner abuse, relationship problems, harassment, noise and damage to property. These harms can take place in communities, town centres, workplaces and the home. A recent report published by Alcohol Focus Scotland Unrecognised and under-reported: the impact of alcohol on people other than the drinker in Scotland\(^6\) shows that 1 in 2 people report being

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\(^6\) Rates for Scotland and England & Wales updated to 2010; European rates to 2002.

\(^7\) Definition of ‘other European countries’ is Western and Southern/Mediterranean countries and the total number is 14.

\(^8\) [http://www.alcohol-focus-scotland.org.uk/media/1108/unrecognised-and-under-reported-full-report.pdf](http://www.alcohol-focus-scotland.org.uk/media/1108/unrecognised-and-under-reported-full-report.pdf)
harmed as a result of someone else’s drinking and 1 in 3 people report having heavy drinkers in their lives. Minimum Unit Pricing will, therefore, positively impact not just on the drinker but the wider community.

Action already taken to reduce alcohol misuse
13. Given the scale of the alcohol problem in Scotland the Scottish Government views tackling alcohol misuse as a key public health priority and has a comprehensive alcohol strategy in place which sets out over 40 measures aimed at addressing alcohol-related harm through action at national and local level designed to both prevent and treat alcohol-related harm. These include a range of licensing restrictions, education programmes and treatment and intervention initiatives. The strategy was published in 2009 and is closely aligned with the World Health Organisation’s Global strategy to reduce harmful use of alcohol. The Global Strategy recommends employing pricing policies to reduce alcohol-related harm and recognises the option to “establish minimum prices for alcohol where applicable” as an appropriate action.10

Alcohol Affordability
14. Despite these measures, Scotland’s consumption and harm remain at unacceptably high levels and further action is required to achieve a long-term shift and reverse the trends that have arisen as affordability has increased. The key component from Scotland’s alcohol strategy that is not yet in place is an intervention to address the high volume of sales of low cost alcohol. There is clear evidence that the price and affordability of alcohol is a key factor in driving consumption and therefore harm, as acknowledged by the World Health Organisation and European Union. Put simply, as alcohol becomes more affordable, consumption increases; as consumption increases, harm increases.

15. Alcohol has become around 60% more affordable in the UK since 1980. This increasing affordability in the off-trade saw sales increase by 45% between 1994 and 2012, compared to a fall of 34% in the on-trade11. Although the Minimum Unit Price would apply to all alcoholic drinks, alcohol sold in the on-trade costs on average £1.53 (€1.91) per unit and therefore would be unaffected.

16. The majority of alcohol off-sales in Scotland are sold in the major supermarket chains (around 75% of sales). Very low prices for alcohol, including the existence of many heavily discounted products and the ability to sell alcohol at a loss and so raise the price of other non-alcoholic products, are a key feature of this retail sector.

17. As part of our Alcohol Strategy restrictions are already in place to prevent off-sales premises supplying alcohol free of charge or at a reduced price on the purchase of any other product, however without Minimum Unit Pricing the impact of these regulations is limited. This results in the continual availability of alcohol at very

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http://www.scotland.gov.uk/Publications/2009/03/04144703/14
10 http://www.who.int/substance_abuse/alcstratenglishfinal.pdf?ua=1
11 On-sales and on-trade and on-sales and off-trade refers to alcohol that is consumed on premises such as pubs, clubs and restaurants.
12 Off-sales and off-trade refers to alcohol that is bought from retailers such as supermarkets, small shops and is for consumption off these premises.
low prices, some as low as 20p (€0.25) per unit, with some products being sold more cheaply than bottled water. In Scotland, it is possible to exceed the weekly sensible drinking guidelines for alcohol for a man (21 UK units or 210ml of pure alcohol) for around £5 (€6.25).

18. The following graph shows the link between affordability and harm. It clearly demonstrates that as the affordability of alcohol has increased in the UK since the early 1980s, alcohol-related hospital discharges has followed a very similar trend.

**UK alcohol affordability index versus alcohol-related hospital discharge rates (Scotland), 1982-2011**

![UK alcohol affordability index versus alcohol-related hospital discharge rates (Scotland), 1982-2011](image)

**Why Minimum Unit Pricing?**

19. Scotland’s Minimum Unit Pricing policy aims to reduce the alcohol-related harms caused by excessive consumption and, in particular, targets a reduction in consumption of alcohol which is very cheap relative to its high strength. Minimum Unit Pricing achieves this aim because it has a progressively greater effect in terms of consumption and alcohol-related harm for those who drink the most. Minimum Unit Pricing impacts on the cheap end of the market and it is the cheap alcohol that is favoured by heavy drinkers who suffer the most harm. Survey data show that 30% of the Scottish population drink over 80% of the alcohol and it is this group that Minimum Unit Pricing will target.

20. Research findings on the minimum pricing systems operating in two Canadian provinces provide the first empirical evidence of the effectiveness of Minimum Pricing. In Saskatchewan, a 10% increase in minimum prices was estimated to reduce consumption by over 8%. In British Columbia, a 10% increase in the average minimum price for all alcoholic beverages was associated with an estimated 32% reduction in wholly alcohol attributable deaths and a 9% fall in acute alcohol-related...

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13 The affordability index is for the UK as no Scottish index is available (however relative affordability will be similar across the UK). Affordability is measured on a calendar year, discharges on financial year. Discharge rates are assigned to the year from which the majority of the data comes.
hospital admissions. The research concludes that minimum pricing is a promising strategy for reducing the public health burden associated with heavy alcohol consumption and recommends careful consideration of the policy as part of any comprehensive strategy to reduce alcohol-related harm.

**Anticipated benefits**

21. The internationally respected work of the University of Sheffield Alcohol Policy Model has provided estimates on the impacts of a Minimum Unit Price in Scotland using an econometric approach to model consumer responses to changes in the prices of alcoholic beverages and epidemiological data on the relationship between alcohol consumption and various harms. This research shows that a Minimum Unit Price of 50p (£0.63) would save over 300 lives per annum in Scotland (equivalent to reducing alcohol-related deaths by over 17%). This substantial health impact would be supplemented by a range of other social benefits which include reduced crime, fewer alcohol-related absences from work and reduced unemployment among harmful drinkers. There is estimated to be a cumulative value of harm reduction of £942m (€1,178m) each year by year 10 of the policy.

**Impact on the market**

22. Scottish consumers have a wide range of alcohol products available to them. These are sourced both domestically and across a number of countries worldwide and cover a range of prices. The legislation sets a Minimum Unit Price based on the unit content of the product and, therefore, applies to all products equally, and also does not discriminate between domestic or imported products. Products already on the market in Scotland will need to comply with Minimum Unit Pricing, but the legislation does not require the producer to change the characteristics of those products, but nor does it prevent such change if the producer prefers.

23. In 2012, of the sales priced below the preferred Minimum Unit Price of 50p (£0.63) in the off-trade, in terms of pure alcohol, 40% were spirits (the vast majority of which are produced in the UK) 25% were beer (which vary in their country of origin but are predominantly UK produced – 86% of lager is UK produced\textsuperscript{14}), 24% were wines (which are mainly imported), and 9% were ciders (which are generally domestically produced). Modelling estimates that following the introduction of Minimum Unit Pricing the value of wine sales in Scotland would increase by +£31.5m (€39.4m). Wine would also see the smallest reduction in sales (-3.2%) compared with beer (-6.3%) and spirits (-8.9%). These figures demonstrate that overall there is a greater impact on those products which are mainly UK-produced – **Minimum Unit Pricing is not a protectionist measure**.

24. There should be minimal impact on innovation for both existing products and the introduction of new products into the market. There may even be an incentive for the market to innovate, with one possible effect of Minimum Unit Pricing being the production of lower strength alcoholic products. These could be sold at a relatively lower price, because they contain fewer units of alcohol. This would be consistent with the aim of drinkers consuming less alcohol, whilst leaving the market free to determine the characteristics of products. New or existing high-strength products

\textsuperscript{14} Based on 2012 data. Figure provided by the Nielsen Company.
would have to be sold at or above the Minimum Unit Price, but this would not prevent them from being introduced or their sales continuing.

Why not tax or excise?
25. In considering the options available, the Scottish Government analysed a range of alternatives, including taxation. We do not doubt the potential for taxation to deliver a population-wide effect in reducing consumption. The UK Government has already utilised taxation and has raised excise rates above general price inflation each year for alcohol products from 2008 to 2013 but consumption levels still remain unacceptably high.

26. Increased taxation would not – and cannot – deliver the targeted impact on hazardous and harmful drinkers that is so vital. The untargeted nature of taxation means that any attempt to design an excise regime capable of delivering a similar effect to a 50p Minimum Unit Price would, inevitably, mean a significant increase in the price of all products, regardless of their contribution to alcohol-related harm and would affect all consumers, regardless of their level of consumption. Such increases – roughly £3.30 (€4.13) increase on the price of all 75cl bottles of wine, or an extra £5 (€6.25) on a bottle of spirits – equates to a significantly higher level of intervention in the market.

27. Minimum Unit Pricing has the advantage over taxation in that those who do not drink or drink moderately (who disproportionately come from low income groups) will be largely or completely unaffected, by virtue of the fact that they drink very little and do not tend to purchase the type of products that will be affected by Minimum Unit Pricing. Moderate drinkers are estimated to pay a relatively small additional amount per year (around £8 (€10.00) on average for a 50p Minimum Unit Price). Of course, this must be seen in the context of the significant savings to health, criminal justice and productivity costs brought about by Minimum Unit Pricing.

28. The greatest health benefits from Minimum Unit Pricing are estimated to be seen amongst hazardous and particularly harmful drinkers as they disproportionately consume alcohol which is very cheap relative to its high strength. Those who drink at harmful levels in lower income groups drink greater amounts on average than those drinking at harmful levels in higher income groups. The harms caused by this increased consumption are compounded by the broader health inequalities that those from poorer backgrounds face. Alcohol-related deaths are around 7.7 times higher in the most deprived areas than in the least deprived areas, while for alcohol-related hospital discharges the figure is approximately 9.6 times higher.

29. The Sheffield Alcohol Policy Model demonstrates that the heaviest drinkers reduce their consumption the most under Minimum Unit Pricing. These are the individuals experiencing the greatest harm and are predominantly from deprived households. Minimum Unit Pricing, therefore, effectively targets the high levels of consumption and harm of those individuals who will benefit most from a reduction in consumption. Alcohol taxation cannot achieve this aim.

Conclusion
30. Minimum Unit Pricing is essential for reducing alcohol-related harm in Scotland. This view is supported by the Scottish Parliament, the public health community, the
Police, children’s charities, much of civic Scotland and parts of the alcohol industry. The Minimum Unit Pricing legislation embodies the pre-eminence that the European Treaties place on health and the life of humans, and the recognition that it is for the Member States to determine the level of protection which they wish to afford to public health and the way in which that level is to be achieved.

31. In Scotland the level of excessive alcohol consumption, the related harms and the subsequent cost to the economy particularly in terms of health and justice services has become such that it needs to exercise its right to pursue measures that afford its citizens the level of protection which it deems to be necessary. Minimum Unit Pricing falls within that margin of discretion and can be justified on the grounds that it is proportionate. With this in mind, the Scottish Government will continue to press the case for the implementation of Minimum Unit Pricing in Scotland in the strongest possible terms and welcomes the referral to the CJEU and the opportunity that it provides to present its case.

32. The Scottish Government hopes that you are able to offer support for the principle of Minimum Unit Pricing within the referral process in the form of written observations to the CJEU to help make the case for the implementation of this vital public health tool in Scotland.

Scottish Government
August 2014
Key Documents

Legislation

All Scottish Parliament documents:  
http://www.scottish.parliament.uk/parliamentarybusiness/Bills/43354.aspx

Act:  

Business and Regulatory Impact Assessment:  

Scottish Court Documents

Court of Session Outer House Judgement – May 2013:  
https://www.scotcourts.gov.uk/search-judgments/judgment?id=be2c86a6-8980-69d2-b500-ff0000d74aa7

Court of Session Inner House Opinion – April 2014:  
https://www.scotcourts.gov.uk/search-judgments/judgment?id=482a86a6-8980-69d2-b500-ff0000d74aa7

Canadian evidence to support MUP

Overview of Canadian findings (and response to alcohol industry criticism)  

Scottish Government Alcohol Strategy and monitoring

Changing Scotland’s Relationship with Alcohol: A Framework for Action – 2009:  


Monitoring and Evaluating Scotland’s Alcohol Strategy Third Annual Report – December 2013:  