

**CHANGING SCOTLAND'S RELATIONSHIP WITH
ALCOHOL**

A response from

THE PORTMAN GROUP

**to the consultation document from the Scottish
Government**

September 2008

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1. EXECUTIVE SUMMARY

- 1.1 The Portman Group is the dedicated social responsibility organisation for UK drinks producers¹. We speak on behalf of our members on issues related to alcohol social responsibility.
- 1.2 We recommend that the following key principles should underpin the Scottish Government's approach:
- The focus should be on alcohol misuse rather than use
 - New policies should be based on sound evidence, not assumptions
 - Wherever possible, effective industry self-regulation should be encouraged
 - The vital role of consumer education to change Scotland's drinking culture should be acknowledged
- 1.3 We are concerned that the strategic approach proposed by the Scottish Government seeks to reduce the nation's overall level of consumption rather than target the behaviour of the minority of problem drinkers. We strongly believe the focus should be on reducing alcohol misuse.

Promotions and loss leading

- 1.4 We question whether policies aimed at pricing and price promotions are likely to be effective in tackling alcohol-related harm. We believe that the proposals on promotions may have unintended side-effects. We should like to engage with the Scottish Government to understand and help it define more tightly what it considers to be an irresponsible promotion and thereby allow the industry freedom to run responsible promotions.

Minimum retail pricing

- 1.5 We are unconvinced that price is the key to reducing alcohol-related harm. Price is a relatively blunt instrument to deal with alcohol misuse and action on pricing, including the imposition of minimum pricing, is likely to penalise the responsible drinking majority, particularly the poorer members of society. If, however, the decision is made to address misuse through raising price, a policy of minimum pricing is likely to be more effective than a policy of raising taxation levels. If minimum pricing were to be introduced on social responsibility grounds, we agree it should be based on minimum price per alcohol unit irrespective of drink type (beer, wine, spirit, etc).

Raising purchase age for off-sales

¹ Bacardi-Martini, Beverage Brands, Brown-Forman Brands, Carlsberg, Coors, Diageo, Inbev, Pernod Ricard, Scottish & Newcastle

- 1.6 We consider that this is a disproportionate policy measure. If 18 year-olds are trusted to vote, go to war and get married, they should be trusted to buy alcohol in a shop. Furthermore, such a policy may have the unintended side-effect of increasing illicit sales of alcohol in unregulated environments and may be undermined by cross-border shopping.

Social Responsibility Fee

- 1.7 We have doubts over this proposal, both in terms of what it seeks to achieve and whether it can be implemented fairly.

Restrictions on retail displays and promotions

- 1.8 We are concerned that these proposals, if enacted, would further serve to create the impression that alcohol is a taboo substance. In respect of the proposal for separate alcohol checkouts, we consider this will serve as no deterrent to those who are alcohol-dependent and/or seeking to drink to get drunk. It will, however, inconvenience those moderate drinkers purchasing alcohol as part of their weekly shopping and may encourage them, when they do make a purchase, to buy greater volume.

2 INTRODUCTION

- 2.1 The Portman Group (TPG) was set up in 1989 by the UK's leading alcohol producers. Its purpose was to promote sensible drinking; to help prevent alcohol misuse; to encourage responsible marketing; and to foster a balanced understanding of alcohol-related issues.
- 2.2 The Portman Group's remit for consumer education transferred to the independent charity, the Drinkaware Trust, in 2006. Since then, our revised role has involved:
- Encouraging and challenging the industry to promote its products responsibly, mainly through the operation of the Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks
 - Demonstrating leadership on best practice on alcohol social responsibility through the actions of member companies;
 - Speaking on behalf of members on these issues to inform public opinion and policy.
- 2.3 Although TPG speaks for its member companies² on social aspects of alcohol it does not represent any drinks companies or other parts of the industry on any other matter.
- 2.4 TPG welcomes this opportunity to respond to the consultation on the Scottish Government's strategic approach to alcohol harm reduction. The following points, however, should be noted:
- We are a drinks producer organisation and we therefore comment on social responsibility issues that are of direct relevance to drinks producers. Several of the consultation questions relate specifically to retailers and retail issues. Drinks producers are concerned to ensure, as far as possible, that their products are retailed responsibly but their influence over this is limited. Consequently, our responses to these questions are limited.
 - We do not take a role in the counselling, treatment or rehabilitation of those with alcohol dependency problems and our response does not, therefore, address these issues where they arise in this consultation document.
- 2.5 Problems of alcohol misuse are not confined to Scotland; they are prevalent in many countries. The consultation contains several alarming statistics of the negative impact of alcohol misuse on individuals, their families, the wider community and the public purse. Without a doubt, there are significant problems of alcohol misuse in

² Bacardi-Martini, Beverage Brands, Brown-Forman Brands, Carlsberg, Coors, Diageo, Inbev, Pernod Ricard, Scottish & Newcastle

Scotland and we welcome the Scottish Government's renewed and fervent determination to tackle these problems.

- 2.6 TPG believes that the Scottish Government has both a duty and a right to help protect society against the adverse consequences of alcohol misuse, provided that it does this on the basis of the best available evidence and uses policy measures that are based, as far as possible, on broad consensus within society.
- 2.7 Though requiring a strong lead from Government, action on alcohol problems requires a "joined up approach" involving a range of key stakeholders, including but not limited to service providers, local authorities, police, educators, community groups, drinks retailers and producers, and, not least, the general public. Alcohol Awareness Week 2007 in Scotland and the Drinkaware Trust are excellent examples of how these groups can successfully align to promote a common message on responsible drinking.
- 2.8 The Portman Group does, however, believe that harm reduction policies should be targeted at the significant minority of the population who regularly drink above recommended levels. Moderate drinking presents little or no risk of harm to either the drinker or society. Indeed, it is widely accepted that, in moderation, alcohol can provide both health and social benefits. Alcohol misuse, on the other hand, can be very harmful to the drinker and to society. It is important to keep this distinction in mind and to ensure that the strategy is targeted at preventing harmful drinking without punishing the majority of people who drink responsibly.

3 DRINKING TRENDS

- 3.1 Commentators tend to portray levels of drinking and alcohol misuse as being particularly high in Scotland compared to the rest of Great Britain when, in reality, they are not. In fact, people in Scotland drink less and are no more likely to be drinking irresponsibly than people in the rest of Britain.
- 3.2 The consultation paper acknowledges (paragraph 213) that questionnaire-based surveys provide the best indication of drinking patterns among population subgroups. The most reliable, authoritative and unbiased source of information on Britain's drinking patterns and trends is derived from the Office for National Statistics' General Household Survey (GHS). While acknowledging that such surveys are prone to under-estimation (the consultation paper makes reference to the Scottish Health Survey capturing only two-thirds of alcohol consumption), it is reasonable to assume that such under-estimation is consistent across regions and time.

- 3.3 According to the most recent GHS³, average weekly consumption in 2006 was lower in Scotland (11.6 units) than in England (13.7 units) or Wales (13.5 units). For both men and women, average consumption in Scotland was lower than in eight of the nine English government regions. The proportion of men who drank more than four units or eight units on at least one day in the previous week is no higher in Scotland than in England or Wales. The same goes for the proportion of Scottish women who exceeded three units or six units at least once in the previous week.
- 3.4 Furthermore, in comparison with the rest of Europe, the UK, and thus the Scots, on average are not particularly heavy drinkers. Of 20 EU countries where comparable data is available, the UK ranks 14th in the league table of alcohol consumption per head. On average, Britons drink 13% less than the French and 17% less than the Germans⁴.
- 3.5 In terms of trends in consumption, total consumption in the UK rose from 7.9 litres of pure alcohol per head in 1998 to 9.4 litres in 2004 but it has since fallen to 8.9 litres in 2006 (the most recent available figure), a drop of over 5%⁵.
- 3.6 With regard to trends in patterns of consumption, the Scottish Health Survey 2003 reported that the proportion of men who were drinking at excessive levels fell between 1998 and 2003 whereas the proportion of women drinking excessively increased over the same period, as did the prevalence of drinking among 13 and 15 year olds.
- 3.7 The above statistics are not intended to deny that levels of alcohol misuse in Scotland are unacceptably high, nor are they intended to deny that there are problems, indeed serious problems, arising from that misuse. It is intended, however, to put per capita Scottish alcohol consumption in perspective; to demonstrate how the level of per capita consumption can hide complex and sometimes contradictory drinking patterns and trends among subgroups; and to demonstrate that there are positive signs that certain groups of Scots are increasingly taking heed of the sensible drinking message.

4 KEY PRINCIPLES OF ALCOHOL POLICY

4.1 The Portman Group recommends that the following key principles should underpin the Scottish Government's approach:

- **The focus should be on alcohol misuse rather than use**
- **New policies should be based on sound evidence, not assumptions**

³ *Smoking and drinking among adults 2006*, Office for National Statistics

⁴ *Statistical Handbook 2007*, British Beer and Pub Association

⁵ HM Revenue and Customs

- **Wherever possible, effective industry self-regulation should be encouraged**
- **The vital role of consumer education to change Scotland's drinking culture should be acknowledged**

Focus on misuse

- 4.2 We fully support the statement in the consultation that “alcohol consumption is not bad in itself and its sensible enjoyment is the mark of a mature society at ease with itself.”
- 4.3 That's why we are concerned that the strategic approach proposed by the Scottish Government seeks to reduce the nation's overall level of consumption rather than target the behaviour of the minority of problem drinkers. We strongly believe the focus should be on reducing alcohol misuse. It is possible, indeed very probable, that reducing alcohol misuse will actually result in a net decrease in the nation's alcohol consumption but that doesn't mean that reducing overall consumption is an appropriate goal in itself.
- 4.4 Alcohol misuse is any drinking that, directly or indirectly, harms the safety or well-being of the drinker and/or other members of society. It is further defined through a range of criminal activities where alcohol is specific to the crime, e.g. drinking and driving, underage purchase, public drunkenness etc.
- 4.5 Population-wide control policies, including restrictions on availability and price, are likely to be ineffective because they would fail to address the underlying problem in Scotland, and indeed the rest of the UK, which is that drunkenness is socially acceptable. Drunkenness is tolerated, often celebrated, unlike in many other countries where it is not condoned. Instead, public policy strategies should focus on tackling our drinking culture. Better education, early interventions to provide help and support to problem drinkers and effective law enforcement can achieve this. For this reason, we welcome the Scottish Government's commitment to invest an additional £85 million in early intervention and treatment, and for prevention activity.
- 4.6 Attempting to tackle problems through reducing per capita consumption (e.g. through taxation or restrictions on availability) is untargeted, unfair and likely to be ineffective. Indeed, such an approach has been widely discredited in research studies⁶⁷⁸.

⁶ Rose, G (1992) *The Strategy of preventive medicine*. Oxford University Press. Oxford.

⁷ Tuck, M (1980) *Alcoholism and Social Policy. Are we on the right lines?* Home Office Research Study No 65. HMSO. London

⁸ Duffy, JC (1993) *Alcohol Consumption and Control Policy*. Journal of Royal Statistical Association. Series A (Statistics in Society), 156, (2)

- 4.7 The consultation says in paragraph 20 that there is clear international evidence that if alcohol consumption falls, reductions in both acute and chronic harm can follow within a relatively short time. If this correlation were to be correct, it would be reasonable to assume that the fall in alcohol consumption in the UK since 2004 would have resulted in a reduction in alcohol-related health harms by now.
- 4.8 There are many examples of countries across the world that have adopted this consumption theory only to find that it has failed to achieve any significant reduction in alcohol misuse. Furthermore, adopting a population-wide approach may not only fail to reduce misuse but it could perversely contribute to an increase in unhealthy drinking patterns and unregulated trading with the associated criminal activities⁹.
- 4.9 A targeted and expressly anti-misuse strategy will receive a high-degree of public support which is necessary for successful implementation. Such support is far less likely to be forthcoming for a generalised 'alcohol strategy' which would be widely perceived as unwarranted interference in personal choices and legitimate business activities which, for the most part, are unproblematic.
- 4.10 There is a considerable risk that the proposed restrictions on availability in Scotland, if implemented, will turn alcohol into a social taboo, demonising drink and therefore increasing its appeal to young people in particular. Such an approach would not aid the development of healthy and responsible attitudes to alcohol.

A sound evidence base

- 4.11 We believe in evidence-based policy making. If the evidence base is lacking, research should be undertaken rather than policy be introduced on a hunch.
- 4.12 Although current Scottish consumption data are adequate for most purposes, we lack reliable data on a range of consequences of alcohol misuse. This is particularly true of statistics on alcohol-related violence, because of problems relating to the definition and recording of such data. There are further problems in respect of accurate data on the economic and social costs of alcohol misuse because of (a) methodological problems in estimating such costs and (b) a tendency to ignore the economic and social benefits of alcohol in such assessments. The lack of reliable and empirical data on the nature and scale of these alcohol-related harms makes objective evaluation of initiatives aimed at the reduction of such harms very difficult.
- 4.13 There is a raft of contradictory evidence of the influence of price and promotions on harm. In the absence of strong evidence, it seems

⁹ *International Survey of Alcoholic Beverage taxation and Control Policies*, Brewers Association of Canada 1993

imprudent to tackle alcohol misuse by acting against price and promotions.

Effective industry self-regulation

- 4.14 The harms associated with alcohol misuse are multi-faceted and often involve complex mechanisms. TPG believes that no single action is likely to reduce alcohol problems on its own. An effective alcohol harm reduction strategy should cover a broad policy mix which comprises (a) effective enforcement of laws governing sale and consumption; (b) self-regulation by those who produce, advertise and sell alcohol, and (c) encouragement of individuals to take personal responsibility for drinking choices.
- 4.15 We commend the Scottish Government and other agencies for the greater emphasis that has been placed on eliminating sales to underage customers in recent times. Changes in the law on penalties and the roll-out of test purchasing across Scotland has helped to expose the minority of retailers who irresponsibly and unlawfully sell to those who are under age.
- 4.16 There are areas of police enforcement where we believe more could be achieved. For example, Section 61 of the Crime and Punishment (Scotland) Act 1997 provides police with the powers to confiscate alcohol from under 18s in public places. Only 13 offences of alcohol being confiscated from children were recorded in 2006-2007, compared to 48 cases in 2004-2005. We acknowledge that it is only an offence to refuse to hand-over alcohol to police and that cases where children voluntarily surrender alcohol to police are not recorded. We still nonetheless believe that police could use this power more extensively.
- 4.17 The drinks industry has a legitimate and important role to play alongside Government in combating alcohol misuse. Enlightened corporate social responsibility is positively good for business; by demonstrating commitment to social responsibility, industry members can help to protect their standing in the community and commercial freedoms and enhance their success in a manner consistent with good citizenship.
- 4.18 In the right circumstances, self-regulation offers distinct advantages over legislation. Self-regulation is particularly appropriate when dealing with subjective issues and with regulation that is to be applied 'in the spirit'; legislation can deal only with 'black and white.'
- 4.19 Additionally, self-regulatory structures can respond quicker to emerging issues and public opinion because drafting and passing legislation can be cumbersome and may take many months.
- 4.20 Furthermore, self-regulation is funded by industry, not the public purse.

- 4.21 The work of the Committee of Advertising Practice/Advertising Standards Authority and the Portman Group demonstrate how self-regulation can operate successfully and in the public interest. Rules are set following full public consultation; both have independent complaints processes and robust mechanisms for securing industry compliance. These self-regulatory systems have been acknowledged as drivers of responsible business practice:
- 4.22 In its recent review of the industry's social responsibility standards, KPMG LLP, found: "there has been considerable improvement [in alcohol marketing] supported by the enforcement levers of the Portman Code and the Committee of Advertising Practice, as well as raised public expectations."¹⁰
- 4.23 It should be acknowledged that competition law prevents effective self-regulation in some areas, for example, in respect of pricing and price-related issues: that is where, if there is sound evidence that a policy measure will reduce alcohol-related harm, government may need to step in and legislate.

Effectiveness of education

- 4.24 A lasting difference in the level of alcohol misuse can be achieved only through cultural change and individuals taking personal responsibility for their drinking behaviour. Only when a sense of personal ownership is developed will adults make decisions that benefit their health, lifestyles and well-being.
- 4.25 Fostering a sense of personal responsibility depends upon people understanding how much alcohol they are drinking and the risks associated with their behaviour. For individuals to make healthy drinking choices they need to have access to reliable information about alcohol and its effect. When equipped with such knowledge the overwhelming majority of the population will make healthy, responsible decisions.
- 4.26 Education has made a huge difference to drink driving in the UK, changing both attitudes and behaviour significantly over the last 30 years. Education campaigns and hard-hitting advertisements, combined with robust enforcement of the law, changed the culture. Consequently, the number of people killed in drink-drive accidents each year has fallen by over 60%¹¹. Education can have a similar impact on our harmful drinking culture, provided that it is combined with proper enforcement of the law.

¹⁰ *Review of the social responsibility standards for the production and sale of alcoholic drinks*, KPMG LLP, 11 April 2008

¹¹ Department for Transport data

- 4.27 The industry is fully committed to playing its part in educating consumers.
- 4.28 For example, Alcohol Awareness Week is a ground-breaking initiative involving the Government, industry, health professionals and the voluntary sector in Scotland working together to promote a joint message on sensible drinking. The combined action of stakeholders, anchored around a common purpose, enabled a responsible drinking message to be communicated with great impact (it achieved a spontaneous awareness level of 56%) and at low cost¹².
- 4.29 Another important and unique partnership initiative is the Drinkaware Trust. The Trust is funded entirely by industry but governed by a board comprising of representatives of the alcohol voluntary sector, health professionals and industry. Its role is to help change the UK drinking culture in a positive way through campaigning and education. The Portman Group's member companies are investing over £6million in the Trust's work for 2007-2009, the first three years of its existence.
- 4.30 The Portman Group's member companies are committed to using their own marketing to promote responsible drinking. Increasingly, alcohol advertising features reminders to drink responsibly; and there are ubiquitous references to a website, www.drinkaware.co.uk, where consumers can access comprehensive information about responsible drinking. Additionally, a number of drinks companies run their own social responsibility programmes and educational campaigns¹³. These include Scottish specific initiatives; for example, Scottish & Newcastle's responsible drinking signage at Edinburgh's Hogmanay Street Party and Inbev's responsibility messaging at the T in the Park music festival
- 4.31 The educational work of industry, government and other stakeholders is helping to change drinking attitudes and behaviour in a positive way. This progress, however, can be undermined by media influences outside the control of the industry. As the consultation paper notes when discussing Scotland's drinking culture in paragraph 27, "The frequent, and often positive, portrayal of alcohol misuse in some sections of the media has not helped". Positive role models can reinforce good behaviour in society and we should like to see the broader media take greater responsibility to tackle alcohol misuse rather than trivialise, condone or encourage it through their editorial policy.

5 SPECIFIC QUESTIONS FOR CONSULTATION

Promotions and loss leading

¹² *Alcohol Awareness Week 2007 Evaluation Report*, Scotch Whisky Association

¹³ *Setting the responsible drinking agenda*, The Portman Group, April 2008

5.1 The Scottish Government has invited views on the proposal that regulations should be made under the Licensing (Scotland) Act 2005 to:

- put an end to off-sales premises supplying alcohol free of charge on the purchase of one or more of the product, or of any other product, whether alcohol or not
- put an end to off-sales premises supplying alcohol at a reduced price on the purchase of one or more of the product, or of any other product, whether alcohol or not.
- prevent the sale of alcohol as a loss-leader

5.2 While producers have some influence over the way in which their products are promoted at point-of-sale (for example, they control their packaging and may additionally offer point-of-sale display material, etc), this influence is limited and they do not control pricing; this is controlled by the retailer. Producers are nonetheless interested in the way in which their products are presented for sale and thus we consider entitled to express views on social responsibility issues arising in the retail environment. However, it should be made clear that producers' influence in this area is secondary to retailers and, in respect of pricing issues, it is for the retail sector to determine and defend its own positions and policies.

5.3 We note that each of these proposals, and the following proposal on minimum pricing, appear under the heading of "Reduced consumption". Paragraph 46 of the consultation paper states:

"There is strong evidence that increased consumption is driving increases in alcohol-related harm. Any comprehensive strategy must seek to reduce consumption if we are to be able to be successful in reversing the negative trends in harm"

5.4 We have already explained why we dispute this strategic approach and why we believe that the focus should instead be on reducing alcohol misuse. Indeed, if the logic of the above paragraph held true, as previously noted, Scotland should have been experiencing a drop in alcohol problems since 2004. We therefore consider that, whatever their actual effect might be, the aim of the proposals is wrong.

5.5 With regard to their effect, while recognising the concern that exists in many quarters over the pricing policies of supermarkets, against whom these proposals are aimed, we question whether policies aimed at pricing and price promotions are likely to be effective in tackling alcohol-related harm.

5.6 On Thursday 24 January 2008, in response to a parliamentary question, Shona Robison MSP, Minister for Public Health, said:

“International studies have shown a correlation between price and consumption, although it is clear that the relationship is complex, and variable in different countries and across different products. From the available evidence it is not possible to accurately predict the effect of price increases on consumption levels in Scotland.”

- 5.7 We agree with the Minister’s assessment of the complex nature of the association between price and consumption. In general, we believe that raising the overall price of alcohol is likely to result in a fall in overall consumption (though even this is not guaranteed because of the confounding factor of cross-border shopping to which Scotland would be particularly prone). As we have already demonstrated, however, overall consumption is not necessarily an accurate indicator of alcohol misuse as it may hide significant variation in individual drinking behaviours and patterns.
- 5.8 International evidence suggests that those who misuse alcohol are least likely to change their behaviour because of price changes¹⁴. The reduction in consumption that may occur following a price rise therefore will not necessarily occur primarily among those misusing alcohol.
- 5.9 Price is therefore a relatively blunt instrument to deal with alcohol misuse and action on pricing is likely to penalise the responsible drinking majority, particularly the poorer members of society.
- 5.10 In light of the above, the focus on the price of alcohol, particularly in supermarkets, is perhaps misplaced; instead, we need to find a long-term solution to the problem of alcohol misuse by achieving a change in the drinking culture.
- 5.11 Having said all that, we recognise that the first two of the proposals do not act against price per se, but against the way in which price is manipulated by the retailer to encourage additional purchase (i.e. volume-related discounts).
- 5.12 We are acutely aware of the potential dangers of inciting consumers to purchase more alcohol than they might otherwise have chosen. We see a possible distinction, however, between the on-trade and off-trade because purchase in the former is always for immediate consumption whereas in the latter it is not. Incentives to purchase extra volume in the on-trade therefore almost inevitably impact on drinking patterns and thus run a higher risk of encouraging alcohol misuse. Because of this, we have issued a Help Note for producers on responsible volume-related discount promotions in the on-trade (in so far as producers have influence over such promotions) which seeks to ensure that promotions are designed and presented in such a way as to avoid

¹⁴ *Effects of beverage alcohol taxes and prices on consumption – a systematic review and meta-analysis of 1003 estimates from 112 studies*, Wagenaar, A. Salois, M.J. Komro, KA. Presented at the 34th Annual Alcohol Epidemiology Symposium of the Kettil Bruun Society for Social and Epidemiological research on Alcohol, Victoria, British Columbia, June 2-6, 2008

encouraging excessive drinking¹⁵. In the off-trade, however, the purchase of extra volume does not necessarily impact on drinking patterns; instead, consumers may choose to store their purchase and consume it at their leisure over weeks or months.

- 5.13 The consultation paper notes that no evidence has been produced to demonstrate that off-trade promotions have only this benign effect on drinking behaviour. But nor has evidence yet been produced to demonstrate that they lead to alcohol misuse. For this reason, we are not convinced that action is required to curb volume-related discounts in the off-trade.
- 5.14 If firm evidence emerges that volume-related discounts in the off-trade cause misuse, we shall review our position. Competition concerns mean that any action will almost certainly have to be legislative rather than self-regulatory as any collusion by retailers on price and volume-related discounting would appear to breach competition law.
- 5.15 Should the Scottish Government decide to press ahead with restrictions on volume-related discounts, we should point out possible unintended side-effects. Retailers may compete instead by further reducing basic prices (the proposed actions on below-cost selling and minimum pricing notwithstanding) or there may be a move to larger-sized stock-keeping units (SKUs); either of these might undermine the intent of the above proposals. We should also like to engage with the Scottish Government to understand and help it define more tightly what it considers to be an irresponsible promotion and thereby allow the industry freedom to run responsible promotions. In particular, we should like to see some flexibility to reflect genuine differences in production costs; for example, we consider it reasonable for a 500ml bottle of spirit to cost slightly more than 50% of the cost of a 1 litre bottle of the same brand, etc. We obviously have expertise in defining responsible practice and would welcome the opportunity to discuss this issue further with the Scottish Government.

Minimum retail pricing

- 5.16 The Scottish Government has invited views on the principles on which a minimum pricing scheme for alcohol products should be established.
- 5.17 We must again stress that producers do not control the price at which their products are sold. Producers are nonetheless interested in the way in which their products are presented for sale and thus we consider entitled to express views on social responsibility issues arising in the retail environment.
- 5.18 As explained above, we are unconvinced that price is the key to reducing alcohol-related harm. Price is a relatively blunt instrument to deal with alcohol misuse and action on pricing, including the imposition

¹⁵ *Help Note on multi-purchase, on-trade promotions*, Portman Group

of minimum pricing, is likely to penalise the responsible drinking majority, particularly the poorer members of society.

- 5.19 The consultation paper partly justifies the proposal for minimum pricing by stating that it wants to end “pocket money pricing”, implying that the Scottish Government is linking low price with underage purchase. Allegations that low price is to blame for alcohol misuse among under-18s miss the point; it is illegal for under-18s to buy alcohol and we should enforce the law rather than make alcohol more expensive for everyone.
- 5.20 Having said that, we do acknowledge that if one nonetheless seeks to address misuse through raising price, a policy of minimum pricing is likely to be more effective than a policy of raising taxation levels. First, it is guaranteed to impact on price; tax rises may be absorbed by the retailer. Secondly, it is more targeted in that it is acting only against the lower price-end of the market which is the end at which those who misuse alcohol are more likely to make their purchases (though in so doing one might argue that it is also targeted against the poorer members of society).
- 5.21 If minimum pricing were to be introduced on social responsibility grounds, we agree it should be based on minimum price per alcohol unit irrespective of drink type (beer, wine, spirit, etc). Otherwise, the harmful drinker (whom the measure is seeking to target) would simply switch to whichever drink-type was the cheapest price per unit.

Raising purchase age for off-sales

- 5.22 The Scottish Government has invited views on whether the minimum age for off-sales purchases should be raised to 21 in Scotland
- 5.23 While acknowledging the thinking behind the proposal, raising the legal purchase age for off-sales to 21 would be inconsistent with our earlier comments (paragraph 4.24) on the importance of encouraging a sense of personal responsibility among adults in Scotland. Restricting their ability to purchase a product that they can legally consume appears to be a disproportionate policy measure. If 18 year-olds are trusted to vote, go to war and get married, they should be trusted to buy alcohol in a shop.
- 5.24 The consultation paper partly justifies the proposal by claiming that it would reduce purchases by under-18s. Such purchases are already illegal and it makes far more sense to enforce the current law more robustly than to change the age threshold for purchase.
- 5.25 We therefore welcome the Scottish Government’s recent focus on enforcement activity. We believe that a sustained programme of this

nature would significantly reduce levels of alcohol misuse among under-18s in Scotland.

- 5.26 This policy proposal raises the prospect of a rapid increase in illicit sales of alcohol in unregulated environments which will bring with it an increase in crime, anti-social behaviour and illegal trading.
- 5.27 It raises the prospect of young adults, aged 18-21, choosing physically to cross the border to England in order to buy alcohol. Also, it could be difficult to enforce this potential restriction, particularly, in the border region, with the growing popularity of internet alcohol sales. Presumably, there would be nothing stopping a 20 year old in Scotland from legitimately purchasing alcohol from an on-line retailer in England and having this delivered to their home in Scotland.
- 5.28 Furthermore, if enacted, this policy measure could foster a feeling of resentment among young adults. It could also increase the appeal of alcohol to young people by creating a 'mystique' surrounding alcohol. Turning alcohol into a 'forbidden fruit' will only enhance its appeal to young adults looking to find ways of escaping the problems in their lives.

Social Responsibility Fee

- 5.29 The Scottish Government invites views on the following aspects of a 'social responsibility fee':
- What criteria should be used to determine the types of premises (or specific premises) that should be subject to the fee? (e.g. late opening premises, or premises in a particular area) or conversely what criteria should be used to consider exemptions from the fee?
 - How should the fee be determined? (e.g. based on rateable values, alcohol sales turnover)
 - Should a fee be applied to Occasional Licences as well as Premises Licenses?
 - Should a similar fee be applied to other premises licensed under separate legislation? If so, what types of premises should be subject to a fee?
 - Are there any other comments you would like to make on the operation of a social responsibility fee?
- 5.30 As a drinks producer organisation it would be inappropriate to comment in detail on the merits or otherwise of this particular proposal as it concerns retailers.

- 5.31 We do, however, have a couple of observations about the principles involved in this proposal. First, if the purpose of such a fee would be to crackdown on irresponsible retail practices, surely any failings should be dealt with by licensing authorities in reviews of individual premises' licensing conditions. Otherwise, the impression could be given that licensing authorities are gaining financially while allowing irresponsible practices to go unchecked.
- 5.32 Secondly, if the purpose is to create a levy on retailers to fund some of the costs of alcohol-related crime, disorder and health harms, in addition to their business taxes, the difficulty will be in creating a system that is fair to all. This is because of the complexity of apportioning responsibility for people's actions to specific retailers.

Restrictions on retail displays and promotions

- 5.33 The Scottish Government invites views on whether regulations should be made, under the Licensing (Scotland) Act 2005, to extend the existing regulations to:
- Prevent the display on licensed premises of promotional material relating to alcohol in a way visible to persons outside the premises
 - Prevent the use on licensed premises of any special display designed to promote sales of alcohol for consumption off the premises.
 - Prevent on licensed premises any other promotional activity to induce the sale of alcohol for consumption off the premises.
- 5.34 The Scottish Government also seeks views on whether new regulations should be introduced to require that alcohol must be purchased through an 'alcohol only' checkout or checkouts in off-sales premises.
- 5.35 We comment on these proposals from the perspective of a drinks producer organisation; there are likely to be additional concerns that retailers will have from their perspective given that these proposals relate specifically to the retail environment.
- 5.36 Once again, however, we are concerned that these proposals, if enacted, would further serve to create the impression that alcohol is a taboo substance. It would mean that bars and off-licences may have to have blacked-out windows, making them akin to sex shops in terms of their appearance. We consider that, far from improving the situation, these measures will further increase alcohol's appeal to precisely the sections of society whose attitudes and behaviours to alcohol we are seeking to change through education and tougher enforcement.

- 5.37 In respect of the proposal for separate alcohol checkouts, while we fully appreciate the reasons for this proposal, we consider it will fail to achieve its purpose. It will serve as no deterrent to those who are alcohol-dependent and/or seeking to drink to get drunk. It will, however, inconvenience those moderate drinkers purchasing alcohol as part of their weekly shopping who will henceforth have to queue twice, once for their food shopping and once for their alcohol.
- 5.38 Furthermore, the inconvenience of queueing twice may encourage consumers, when they do make a purchase, to buy greater volume (i.e. cause them to stock-up). This conflicts with the intent of the Scottish Government's proposals on volume-related discounts.

Information for parents

- 5.39 The Scottish Government has invited views on the provision of alcohol information for parents.
- 5.40 This is an extremely important area of work. We believe there is a shortage of reliable and accessible information for parents about how and when it is advisable to introduce their children to alcohol. We would urge the Scottish Government to work closely with the UK Government and the industry-funded Drinkaware Trust because educating under-18s is also a key strand of the Trust's strategic approach.

6 ADDITIONAL COMMENTS ON CONSULTATION

- 6.1 The following points are on issues in the consultation of direct relevance to drinks producers.

Alcohol Advertising

- 6.2 There are strict controls on the marketing activities of drinks producers in the UK administered by OFCOM, the Advertising Standards Authority (ASA) and the Portman Group. The BCAP/CAP Advertising Codes and Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks cover all drinks producer marketing activities within the UK. Compliance with these Codes is mandatory: there is no opt-out for any drinks manufacturer.
- 6.3 The ASA's regulations, by which advertisers and broadcasters must abide, prevent television alcohol advertisements from appearing whenever the proportion of child viewers reaches 20% above the national average. This regulation applies 24 hours a day, seven days a week and means that TV alcohol adverts are never placed within programmes aimed at children or those with particular appeal to children.

- 6.4 The television advertising rules, which were toughened three years ago, ban adverts from targeting or appealing strongly to under-18s. The impact of the new regulations was assessed by OFCOM and the ASA last year and a report was published in November 2007. This found that, although there has been an increase in the proportion of young people saying that the advertisements make the drink look appealing and would encourage them to drink, there was no change in how much young people said they liked the adverts and there was a decline in the proportion who said they felt the advertisements were aimed at them. The report also showed that children and young adults are being exposed to fewer alcohol advertisements on television and that there has been a significant decline in young people's recall of alcohol advertisements.
- 6.5 The consultation indicates that the Scottish Government would support a 9pm watershed for alcohol advertising. This seems an arbitrary cut-off point because many youngsters may still be watching television after that time. We believe that the present system of audience profiling is a far more reliable mechanism for assessing if a programme is suitable for carrying alcohol advertising.
- 6.6 In any case, a watershed is less relevant in today's television-on-demand media environment because people are able to watch what they like, when they like. It would also be irrational to impose a watershed ban on advertising when alcohol misuse is so prevalent in television programmes which are not regulated to the same high standards.
- 6.7 The claim by Alcohol Concern that there is a spike in television alcohol advertising between 3pm and 5pm is simply untrue. Alcohol Concern's claim is not supported by the data used to compile their report: "*Not in Front of the Children.*" Troubled by the insinuation that alcohol companies were flouting the scheduling rules on alcohol advertising, the Portman Group obtained the raw data used in the compilation of Alcohol Concern's report.
- 6.8 Our analysis of that raw data shows that, rather than a spike between 3pm and 5pm from Monday to Friday, there is a trough in alcohol advertising during these hours: the number of alcohol advertisements between 3pm and 5pm, in fact, actually falls by over 50% in comparison with the two hour periods immediately before and afterwards. Even if the weekend data is included, there is still a huge fall in alcohol advertising between 3pm and 5pm rather than a "spike".
- 6.9 Alcohol advertising in the early evening will be scheduled during programmes such as 'Test Match Cricket', 'The Early Evening News' and 'Countdown.' These programmes attract a small proportion of viewers under the age of 18 and, therefore, do not breach the ASA's scheduling restrictions.

- 6.10 We fully support the self-regulatory system that applies to non-broadcast advertising, including cinemas, and which is covered by the CAP code. This code seeks to protect under-18s from alcohol advertising. It prevents advertising from having strong appeal to under-18s and imposes restrictions on advertisers from targeting under-18s through the choice of media.
- 6.11 This does not mean though that alcohol advertising cannot ever be placed in media where under-18s might see it: such a restriction would effectively prevent any print or poster advertising for alcohol (except perhaps in top-shelf publications and on posters in venues restricted to over-18s access such as nightclubs). Instead, the rules adopt a standard that no more than 25% of the audience should be under-18. It is considered, and we agree, that this provides an appropriate balance between protection of children and advertiser freedom.
- 6.12 The reason drinks producers advertise is to influence consumers' brand choice. Many factors other than advertising influence purchasing decisions and a number of researchers have concluded that advertising has a relatively weak effect on consumption although it can have a powerful effect on brand-switching^{16,17}.
- 6.13 Earlier this year, a comprehensive review of the literature on the impact of advertising on alcohol use, including the effectiveness of full and partial advertising bans, found that the evidence on the impact of advertising on alcohol use is mixed and that there is a lack of conclusive evidence regarding a causal link. The evidence from the research on the impact of advertising bans on consumption is also inconclusive¹⁸.

Alcohol Sponsorship

- 6.14 Alcohol sponsorship by drinks producers is regulated in the UK through our Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code rules are set by the Portman Group in consultation with governments, the wider industry, alcohol charities and health campaigners. KPMG acknowledged in its recent review of the industry's social responsibility standards that our Code was "binding" and meant producers are "tightly regulated"¹⁹.
- 6.15 The Code rule on the placement of sponsorships is: "those under 18 years of age should not comprise more than 25% of the participants, audience or spectators" of the event for which sponsorship is provided.

¹⁶ Furnham, A. (2002) *Growing up with Advertising*, The Social Affairs Unit,

¹⁷ Fisher, J (1993) *Advertising, alcohol consumption and abuse: a worldwide survey*. Westport Connecticut: Greenwood Press

¹⁸ *Advertising and the misuse of alcohol*, FDS International and Volterra Consulting, June 2008

¹⁹ *Review of the social responsibility standards for the production and sale of alcoholic drinks*, KPMG LLP, 11 April 2008

- 6.16 Other Code rules would also apply to sponsorships. For example, the Code stipulates that a drink's alcoholic strength should not be the dominant element of a communication; there must be no association with illegal drugs, bravado, aggression or anti-social behaviour; and any suggestion that the drink will lead to sexual success or increased popularity are also outlawed.
- 6.17 The 4th edition of the Code, which was introduced at the start of this year, also prevents producers from encouraging consumers to drink rapidly and producers are not able to display their company's branding on children's replica sports shirts under sponsorship agreements signed after 1 January 2008.
- 6.18 The Code is supported across the UK by retailers who refuse to sell any product found in breach of the Code by the Independent Complaints Panel. Over the last ten years, more than 70 drinks have been removed from sale following decisions made by the Independent Complaints Panel.
- 6.19 The Portman Group's Code Advisory Service provides free, fast and confidential advice to drinks producers to enable them to stay on the right side of the Code. Last year, the Code Advisory Service provided advice on 220 occasions to drinks producers anxious to stay within the right side of the Code.
- 6.20 The Code has established minimum standards for all drinks producer marketing activity within the UK. Additionally, our member companies, nine of the largest drinks companies, use their sponsorships as a force for good, as a vehicle for communicating responsible drinking messages. For example, their support for server training programmes helps promote responsible attitudes to alcohol and ensures that alcohol adds to people's enjoyment of events²⁰.
- 6.21 We welcome the initiative from the Scottish Alcohol Industry Partnership which will build on this through the development and dissemination of detailed, best practice sponsorship guidelines in Scotland. This will help to further raise standards further across the industry. Later this year, the Portman Group will be issuing similar guidelines for alcohol producers within the rest of the UK which will complement those developed by the Alcohol Industry Partnership.

Alcohol Product Labelling

- 6.22 The Portman Group member companies recognise the importance of using their marketing to educate consumers about responsible drinking. They were the first to unit label their products. They all display messages about drinking responsibly on their labels and in other marketing. Furthermore, they established the Drinkaware website and have since promoted it extensively on their labels, advertising and

²⁰ *Setting the responsible drinking agenda*, The Portman Group, April 2008

brand merchandising. As a result, this website is now the main source of full and reliable sensible drinking information for consumers and awareness of alcohol units among adults has steadily increased from 79% ten years ago to 85% today²¹.

²¹ *Drinking: adults' behaviour and knowledge in 2007*, Office for National Statistics