

FOOD AND HOSPITALITY BITES

The licensing and food law newsletter from the Safety, Health and Environment Team at DLA Piper UK LLP

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INTRODUCTION

Dear Reader,

Welcome to the second edition of DLA Piper's Food and Hospitality Bites, our publication for clients and colleagues in the food, leisure, hospitality and licensed industries. There have been a lot of developments in this area since our Spring edition and we hope that you find the range of topics in this edition helpful and informative.

One of the forthcoming developments we know that clients are concerned about, and are working hard to ensuring that they are compliant with, is the introduction of certain parts of the Food Information for Consumers Regulation which will ultimately have a big impact on how food is labelled and marketed to consumers, including when sold loose and in cafes and restaurants. In our first article, we focus on the measures which come into force in December 2014 and whilst the principal provisions do not come into force until 2016 we are currently working with clients to ensure that their labelling and other consumer facing information is "future proof" when it is designed and reviewed.

In the area of licensing we look at some of the measures being introduced to try and reduce some of the administrative burdens imposed by the regime. We also look at the current status of some of the measures introduced by the Police Reform and Social Responsibility Act 2011 and the impact that these will have.

Finally, we take a look at the way in which the regulation of tobacco products, including electronic cigarettes, is changing and the steps which were taken in the aftermath of the Europe wide horse meat scandal in 2013.

We hope you find this edition helpful and interesting.

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ALLERGEN LABELLING – THE NEW REQUIREMENTS

In our last edition we reviewed the introduction of a new European regulation on the *Provision of Food Information for Consumers* (“**Regulation**”) which comes into force on 13 December 2014.

In this article, we focus upon some of the more practical implications of the legislation which will start to affect food businesses, including restaurants, cafes, delicatessens, caterers and farm shops, late this year.

ALLERGEN LABELLING

The biggest immediate change is that all food businesses will need to provide information on the presence of the following 14 allergens in any food that they sell:

- | | | |
|-----------------------------|---------------|-------------------|
| ■ Cereals containing gluten | ■ Mustard | ■ Soya |
| ■ Molluscs | ■ Lupin | ■ Celery |
| ■ Fish | ■ Crustaceans | ■ Sesame |
| ■ Nuts | ■ Eggs | ■ Sulphur Dioxide |
| ■ Milk | ■ Peanuts | |

The requirement to give information about these ingredients applies to both pre-packed food or food that is sold “loose”, for example, in cafes or over delicatessen counters.

PRE-PACKED FOOD

Pre-packaged food must already be labelled with any allergens contained within that food under existing legislation. However, the name of all allergens contained in a product will, from December, need to be presented on the product label in an “*emphasised*” manner.

The Regulation does not stipulate how this should be done and instead provides examples of how this can be achieved using methods such as different or contrasting fonts, font sizes, styles or background colours. In practice we think that this information is likely to be highlighted via the use of “**bold**” lettering, contrasting colours and/or capital letters.

LOOSE FOOD

From 13 December 2014, it will be mandatory to provide consumers with information on the presence of allergens which are present in foods sold loose and un-packaged. This will not only apply to food which is bought, for example, from a delicatessen or a meat counter in a supermarket but also to meals which are purchased in cafes, restaurants and pubs. Such food would include for example, sandwiches and other products which are prepared in house and then packaged for sale direct to the consumer.

Whilst many such establishments may already provide this information in response to customer demand it will for the first time become mandatory for information on the ingredients above to be provided to consumers of loose food.

HOW TO PROVIDE INFORMATION ON LOOSE FOOD

Food businesses do have some flexibility about how they provide allergen information to consumers. For example, the guidance to the Regulation and the new English implementing legislation make it clear that the following methods are acceptable:

- Information provided on the menu;
- Chalkboards or notices;
- The use of tickets/labels;
- Verbally by staff; or
- A file containing allergy information for particular food that can be referred to/shown to customers.

Whichever method is chosen, the information will need to be delivered in a way which is clear, easily visible and legible. If the information is to be provided verbally by staff, then it will need to be made clear, for example by the use of a notice, that staff will be able to provide information about the allergens which are present in the products which are on sale.

It will no longer be permitted to rely upon generic statements that “*food may contain allergens*” when alerting customers to the presence of allergens as details of the specific allergen will need to be provided. For example, instead of just using the terms “nuts” the particular type of nut present should be given followed by the allergen category – *Contains hazelnuts (nuts)*.

It is likely that many everyday requests for information may take place during a conversation between customers and staff. Therefore, in order to be able to provide accurate information to customers food businesses will need to:

- identify which allergenic ingredients are used in the food sold;
- consult with suppliers where necessary to ensure that they obtain all of the information that they need;
- ensure that at least key staff have the knowledge, or at least access to information, about allergens in the food and products being sold;
- make sure that staff know how to handle requests from customers relating to allergens; and
- ensure that information and records kept about the allergens present in the food sold by the business are up to date and made available to staff.

SUMMARY

This legislation represents a big shift in the amount of information which is provided to consumers by food businesses. We know that many food manufacturers already label allergens in their food in the manner which is expected by the Regulation and therefore the requirements above perhaps may not impact upon the food manufacturing industry significantly, although clearly there will still be some impact.

The biggest impact is undoubtedly going to be for those operators who sell food loose and unpackaged as those businesses will need to have a clear understanding of the ingredients which are in their products and ensure that this is provided to customers. This is likely to be a significant exercise for some operators.

Looking to the future, the next big reform to be introduced by the Regulation is the inclusion of mandatory nutritional statements in the format required by the Regulation for all pre-packaged food by December 2016. Many manufacturers and retailers already provide a nutritional breakdown as standard on their products and if they wish to continue doing so they will need to ensure that this information is supplied in a format which complies with the Regulation from December 2014.



LICENSING AND DEREGULATION

THE DEREGULATION BILL

The “Red Tape Challenge” was a government review launched in April 2011 designed to remove unnecessary bureaucracy and regulatory burden on businesses in the UK. According to recent government figures, it has resulted in excess of over 3,000 regulations either being improved or scrapped entirely, leading to estimated annual savings to businesses of over £850 million.

In order to give effect to some of these changes it has been and will be necessary to amend several Acts of Parliament and a “Deregulation Bill” designed to amend several pieces of legislation is currently going through the Houses of Parliament. The first and second readings in the House of Lords took place in July 2014.

One of the pieces of legislation to be amended is the Licensing Act 2003, which is the principal piece of legislation underpinning the alcohol licensing regime in England and Wales. As drafted, the bill will significantly amend the way in which the licensing process operates and we have set out some of the key proposed changes below.

- Small businesses and community groups will be able to benefit from a *light touch, low cost* authorisation called a “Community and Ancillary Sellers Notice” which will allow them to sell small amounts of alcohol in limited circumstances when this is ancillary to a wider service or organised event.
- Premises will be able to lodge up to 15 *Temporary Event Notices* in any one year (up from the current number of 12). All other restrictions will remain the same and only five of these can be “late” TENs, each event must last no more than 168 hours (7 days) and the number of attendees must be 499 and under (including staff running the event).
- Personal Licences, which are held by those individuals who are named on premises licences as the *designated premises supervisor*, will no longer have to be renewed every 10 years (they will not have to be renewed at all).
- It will no longer be an offence to sell sweets containing alcohol, including liqueur chocolates, to children under 16.
- The requirement to report the loss or theft of an original premises licence, club premises licence or personal licence to the police before a replacement can be issued will be abolished.

- Licensing authorities will be permitted to designate certain types of premises or areas where a licence will not be required to provide late night refreshment.
- The exhibition of films within community premises will fall outside of the scope of regulation and will not require a premises licence provided the following conditions are satisfied:
 - prior written consent for the screening to take place at the community premises has been obtained from either the management committee of the premises or, if there is no management committee, the person in control or who owns those premises;
 - films are not shown for profit;
 - audience members do not exceed 500 persons;
 - films are only shown between 08:00 and 23:00 and the same day; and
 - entry to any particular film is restricted according to any classification given to that film.

The Deregulation Bill has been “carried over” in the House of Commons from the 2013-14 session to the 2014-15 session. It has now had its first and second readings in both the House of Commons and House of Lords and there will be a further Committee and Report stage which is due in October 2014.

Any amendments will then be considered by both Houses of Parliament before the Bill can receive Royal Assent. The Bill is expected to receive Royal Assent in the next Parliamentary session.

LEGISLATION REFORM ORDER

Outside of the Deregulation Bill some other relevant changes have been introduced which are deregulatory in nature and which affect the licensed trade. In particular, draft regulations in the form of a Legislative Reform Order (LRO) have been laid before parliament and are due to come into force in April 2015.

From that date the following changes will be introduced:

- regulated entertainment held by, or on behalf of, local authorities, hospitals, schools on their own premises between 0800 – 2300 will be exempt from licensing. As will entertainment activities that are part of nursery provision on non-domestic premises.
- the performance of live music or the playing of recorded music in unlicensed community premises, hospitals, local authority premises and schools which take place between 0800 – 2300 in front of audiences of 500 people will not be licensable activities.
- the audience limit before which a premises licence will be required for performances of live music in licensed premises between 0800 – 2300 will be raised from 200 to 500.



LATE NIGHT LEVY UPDATE

Among other measures, the Police Reform and Social Responsibility Act 2011 gave licensing authorities the power to introduce a “late night levy” to be paid by those licensed premises which operate during the late night economy.

It is fair to say that the scheme, which aims to help fund policing in the late hours of the evening and early hours of the morning, when alcohol is often the cause of criminal behaviour, has been met with a mixed reaction.

Local authorities have a discretion on whether or not they choose to introduce the levy and must carry out a public consultation exercise if they choose to do so. Where the levy is introduced, licensed premises trading between 00:00 and 06:00 must pay a charge, which is set nationally and varies according to the rateable value of premises. The proceeds of the levy are divided between funding late night policing and going towards the licensing authority to aid alternative initiatives to reduce alcohol-related crime.

To date, only a handful of local authorities have resolved to introduce a levy in their area and currently only Newcastle City Council and Cheltenham Borough Council have introduced a levy, although the levy is set to be introduced in several other areas.

We have conducted a review across the country and the table below shows the local authorities that have now considered the introduction of a levy and the decisions that they have taken.

LICENSING AUTHORITY	DECISION MADE
Chelmsford City Council	Approved – comes into force on 1 November 2014
Cheltenham Borough Council	Approved – came into force on 1 April 2014
Cheshire East Council	Consultation proposed – working group established to evaluate options
City of London	Approved – comes into force on 1 October 2014
City of York Council	Consultation launched
Colchester Borough Council	Consultation delayed
Islington Council	Approved – comes into force on 1 November 2014
Leeds City Council	Consultation launched
Liverpool City Council	Consultation proposed for October 2014
Milton Keynes Council	Rejected. Second consultation possible
Nottingham City Council	Approved – comes into force on 1 November 2014
Southampton City Council	Consultation closed – awaiting decision
Newcastle City Council	Approved – came into force on 1 November 2013
Weymouth & Portland Borough Council	Rejected consultation
Plymouth City Council	Consultation closed – decision postponed
Tameside Metropolitan Borough Council	Consultation closed – awaiting decision
Woking Borough Council	Rejected

Reactions towards the scheme are still mixed, however the overall trend appears to be that there is a reduction in the number of local authorities considering and implementing the levy. Whilst the levy has never been popular amongst the licensed trade, if local authorities themselves are not actively pursuing the levy then it appears likely that the levy will not become as widespread as perhaps the Government had hoped.

Some of the reasons why the levy has been rejected appear to have been because of vocal and strong opposition from the local licensed trade. However, local authorities themselves have also expressed concerns that most of the money raised by any levy would be spent in the administration of the levy. This would mean that very little of the money raised would actually be directed towards reducing the burden of policing the late night economy and implementing initiatives to reduce the impact of drink related anti-social behaviour.

There have been some interesting developments in the passage of late night levy consultations. For example, Milton Keynes Council considered and ultimately rejected the introduction of the levy in its area in 2013. However, earlier this year Thames Valley Police, which is the police force which covers Milton Keynes, announced plans to submit a second modified proposal to introduce the levy on the basis that the levy was vital to make a contribution to the costs of policing the night time economy.

The outcome of this proposal is still awaited but, if successful, it could set a precedent for police forces in areas where the licensing authority has decided not to introduce the levy to effectively ask local authorities to revisit that decision.

THE NEW TOBACCO PRODUCTS DIRECTIVE

Cigarettes and other tobacco based products are already heavily regulated across Europe but new legislation is to be introduced which will strengthen those controls even further.

The new Tobacco Products Directive (2014/40/EU) (“**Directive**”) came into force on 19 May this year. Member states have two years to transpose the requirements of the Directive after which the existing Tobacco Products Directive (2001/37/EC) will be repealed. The new Directive will become binding on 20 May 2016.

One of the key objectives of the legislation is to update the regime which regulates the sale and supply of tobacco to take account of several market, scientific and international developments in the sector. However, the measures which are contained in the Directive are in effect just a strengthening of the existing packaging and labelling measures which already apply to the sale of tobacco products in Europe.

Whilst such requirements will undoubtedly have an impact on the tobacco industry one of the biggest changes this legislation will introduce is the regulation, for the first time, of products which do not contain tobacco but which are closely linked to smoking or tobacco consumption.

This will cover products such as electronic and herbal cigarettes and the rules are being introduced in response to concerns that not enough is known about the potential health impacts of these products which have become increasingly widely available in recent years.

Subject to some transitional provisions some of the key changes that will apply to traditional tobacco products from May 2016 are:

PACKAGING AND LABELLING REQUIREMENTS

- Cigarette packets must feature mandatory picture and text health warnings which cover 65% of the front and back of the package.
- At least 50% of the side of cigarette packs must be covered with text health warnings.
- Roll your-own tobacco will also be required to carry the 65% health warnings on the packaging
- Additional text warnings will be required for packets of cigarettes.
- References to promotional or misleading feature or elements, including references to lifestyle benefits, flavours (or a lack of) and special offers will be prohibited.

The Directive stops short of introducing plain or standardising packaging but it gives Member States the option to introduce such measures if they feel it is in the interests of public health, proportionate and would not be a barrier to trade between Member States. This is something that the UK government is currently considering and a consultation on the introduction of regulations requiring the standardisation of tobacco packaging was launched by the Department of Health and by the Devolved Administrations which ran from June to August this year. A summary report of consultation responses is expected shortly.

CHANGES IN PACKET SIZE

- Cigarette packets will need to be of cuboid shape.
- Each packet will need to contain a minimum of 20 cigarettes.
- Each packet of roll-your-own tobacco will need to contain a minimum of 30g of tobacco.

These minimum packet sizes are designed to ensure that all health warnings are clearly visible and to remove 'pocket-money' packs from the market, which are often targeted at younger people.

BAN ON "CHARACTERISING FLAVOURS"

- Flavourings in cigarettes and roll-your-own tobacco will be banned to the extent that they give the product a distinguishable ("characterising") flavour other than tobacco
- This will include fruit flavours, spice, herbs, candy, menthol and vanilla.

Menthol is perhaps the most common characterising flavour that will be banned under the Directive, after a phase-out period of four years, which will apply to all products with more than a 3% market share in Europe. It has been widely reported that Poland intends to appeal over the ban on menthol cigarettes as it believes it will be unfairly affected as one of Europe's largest consumers and producers of menthol cigarettes, and it will be interesting to see what the outcome of this appeal is.

Other tobacco products, such as cigars, cigarillos and smokeless products are exempt from this ban. This is because the ban is aimed at making smoking less attractive to young people and such products are generally not favoured by young people in any event.

E-CIGARETTES

E-cigarettes have become a common sight in recent years and are now a popular alternative to tobacco products. However e-cigarettes are currently unregulated at a European level which has prompted concern at many levels because the longer-term health effects of e-cigarettes are not yet known and because there is a fear that e-cigarettes will introduce young people to smoking who will then move on to more traditional tobacco products.

In response to this the Directive introduces a new set of rules to try and provide some assurances about the quality and safety of those products which are on the market. These rules will only apply to products which **contain nicotine** and therefore products which do not contain nicotine will fall outside of the scope of the legislation, as will those products which fall within the scope of the rules on medical devices.

From 2016, manufacturers of affected products will be required to notify Member States at least 6 months before they place a new product on the market and submit detailed information about the ingredients used, the nicotine doses and the production process. This will also include a declaration that the manufacturer takes full

responsibility for the quality and safety of the product under normal use. For products already on the market on 20 May 2016 a notification must be made by November 2016.

Member states will also be required to monitor market developments in relation to e-cigarettes and their refill containers to establish, amongst other things, whether there is any evidence that the use of these products can provide a gateway into nicotine addiction and so ultimately encourage the consumption of “traditional” tobacco products amongst young people and non-smokers.

One of the biggest changes is likely to be the application of the stringent labelling and advertising requirements to such products and whilst they may not be as strict as those applied to traditional tobacco products they will be a lot stricter than they are now – the labelling of E-cigarettes is currently determined by the rules set out in the general product safety legislation and in some cases European chemical legislation.

These obligations include:

- restrictions on the amount of nicotine which can be included in any liquid to be used in an E-cigarette (no more than 20mg/ml) and on the maximum size of cartridges/tanks (a maximum of 2 ml) and any refill containers (a maximum volume of 10ml);
- prohibitions on the use of certain additives such as: vitamins or any other substances designed to give the impression that a product provides a health benefit; caffeine and similar additives; anything added to colour emissions and anything which is carcinogenic, mutagenic or toxic to reproduction in an un-burnt form; and
- the inclusion of certain warnings and information on both the outside and unit packaging of products, including details of the manufacturer, statements that

the product is not recommended for use by young people and non-smokers and the inclusion of certain mandatory health warnings in a prescribed form.

CONCLUSIONS

Whilst the Directive has been widely celebrated by cancer charities and health services across Europe, it has unsurprisingly run into strong opposition from both tobacco companies and manufacturers of e-cigarettes, some of whom have complained of a “*nanny state mentality*”.

The European Commission’s aim is that the new Directive will lead to a 2% drop in the consumption of tobacco products over a five year period (equating to roughly 2.4 million fewer smokers in Europe over this five year period). It is expected that this will amount to savings of approximately €506 million in healthcare costs annually.

The Directive (and any additional measures introduced by the individual Member States) will clearly provide significant challenges to both the tobacco industry and, for the first time, those who manufacture e-cigarettes. The increased regulation, particularly around package design and labelling requirements, will no doubt continue to be heavily opposed by those in the tobacco industry, and the fact that there is the potential for these requirements to vary between the Member States provides an additional layer of uncertainty and complexity.

The introduction of e-cigarettes and e-liquids within the scope of the legislation will no doubt prove challenging for businesses in this sector and we have been working with some of the some of the leading names in the business to ensure that their products comply not only with the current rules but also to ensure that their products will comply with the new rules once they come into force.



THE HORSEMEAT SCANDAL – WHAT HAPPENED NEXT?

BACKGROUND

The 2013 horsemeat scandal represented the largest food related fraud of recent times. As a result, literally millions of beef burgers, ready meal and packs of processed meat were withdrawn from supermarkets and other food outlets when it was discovered that they contained undeclared horsemeat.

The issue first came to light in January 2013 when the Food Safety Authority of Ireland published findings revealing that a number of beef burgers on the market in Ireland were found to contain horse and pig DNA. Soon after, the UK Government informed the Commission in February 2013 that beef lasagne placed on the market in the UK was found to contain between 80 – 100% horsemeat.

There then followed a raft of countries across Europe, including Sweden, Germany, Switzerland, France, Norway and Austria, who reported that mislabelled processed meat products had been found on their shelves.

Criminal gangs were thought to be behind the scandal who sought to profit from passing off cheaper cuts of meat which had not gone through the proper control procedures as legitimate and more expensive cuts of meat. Those caught up in and affected by the scandal include a wide range of household names including Tesco, Iceland, Lidl, Aldi, Findus, Nestle, Compass Group and Whitbread and in this article we look at the steps which have been taken in response to the scandal.

EUROPEAN LEVEL

Food Fraud Network

In response to the scandal, the European Union established the Food Fraud Network (“**FFN**”) in July 2013 which is made up of representatives from each of the Member States plus Iceland, Norway, Switzerland. This is a network designed to improve cross border communication of food safety issues which affect multiple jurisdictions and also serves as a forum for discussion on the coordination and prioritisation of action at EU level on food fraud matters.

The forum will eventually use a dedicated IT tool which will enable members of the network to rapidly exchange information in relation to suspected or potential cases of cross-border fraud.

Horse Passports

Whilst originally introduced for animal welfare purposes and to ensure that horse could be traced when sold the European Commission has also looked at whether horse passports can be used to track horse meat and ensure that it does not end up in the food chain when it is not supposed to.

The Commission has therefore required Member States to report on the measures through which the horse passport legislation is enforced and has also presented to the Standing Committee on the Food Chain and Animal Health to amend the Regulations in order to make it compulsory for horse passports to be recorded in a central national database.

NATIONAL LEVEL

The first significant step that the UK Government took in response to the scandal was to commission an inquiry led by Professor Chris Elliott, Professor of Food Safety and Director of the Institute for Global Food Security at Queen’s University Belfast into the UK’s food supply networks and consumer confidence.

The Elliott Review’s interim report was published in December 2013 with the final report published in July 2014. The focus of the report is very much on working to improve confidence in the food industry and to increase trust between Government, regulators, industry and consumers.

The report set out a number of the perceived weaknesses in the food supply chain network and included over 45 individual recommendations designed to address them. These included:

- prioritising consumer confidence at all stages of the food supply chain and putting consumers first;
- the establishment of a new food crime unit;
- giving greater responsibility to the Food Standards Agency (FSA); and
- increasing co-operation and collaboration between the FSA, Department of Health and Defra.

The general thrust of the Elliot Review’s report is therefore that work needs to be done to increase trust between the food industry and consumers but the impact of the review will depend very much upon how the recommendations are received and addressed by the relevant bodies.

CONCLUSIONS

The failings that led to the horsemeat scandal have by no means been resolved, either at a national or European level. However some positive changes have been made to date, and food security has been pushed back up the political agenda.

The Government’s reaction to Professor Elliott’s final report will be interesting and so far the Government’s approach has been positive with Government ministers publically stating that all of Professor Elliot’s ideas would be accepted. Indeed, on 4 September 2014 it was announced that the Government will establish a Food Crime Unit to fight the trade in fraudulent food.



THE ALCOHOL MISUSE MANIFESTO 2015

An Alcohol Misuse Manifesto 2015 has been published by an “All Party Parliamentary Group on Alcohol Misuse”, the aim of which is to promote discussion on alcohol related issues, raise concerns and to make recommendations to the Government and other policy makers. The Manifesto contains a number of measures designed to tackle alcohol abuse and has provoked some controversy amongst consumers, the retail trade and the drinks industry.

THE PROPOSALS

The aim of the Manifesto is to *‘form the foundation of a future government’s Alcohol Strategy and deal with the type of alcohol misuse which puts strain on our public services and ends lives all too prematurely’*. It lists 10 key proposals that the Parliamentary Group want all political parties to commit to:

1. Make reducing alcohol harm the responsibility of a single Government minister with clear accountability.
2. Introduce a minimum unit price for alcoholic drinks.
3. Introduce public health as a fifth licensing objective, enabling local authorities to make licensing decisions based on local population health needs and the density of existing outlets.
4. Strengthen the regulation of alcohol marketing to protect children and young people.
5. Increase funding for treatment and raise access levels from 6% to 15% of problem drinkers.
6. Prioritise the delivery of Identification and Brief Advice. Identification and Brief Advice should be delivered in a wide range of different settings including health care, involving GPs routinely asking questions, and in-workplace programmes.
7. Include a health warning on all alcohol labels and deliver a Government-funded national public awareness campaign on alcohol-related health issues.
8. Introduce mandatory training on parental substance misuse, foetal alcohol syndrome disorder and alcohol-related domestic violence for all social workers, midwives and healthcare professionals.
9. Reduce the blood alcohol limit for driving in England and Wales to 50mg/100ml, starting with drivers under the age of 21.
10. Introduce the widespread use of sobriety orders to break the cycle of alcohol and crime, anti-social behaviour and domestic abuse.

RESPONSE TO THE MANIFESTO

The response to the Manifesto has been varied. On the one hand many senior medical professionals have endorsed the proposals including Professor Sir Ian Gilmore (the Royal College of Physicians special advisor on Alcohol and chair of the Alcohol Health Alliance) who welcomed the fact that the proposals target low-cost alcohol and heavy drinkers, leaving moderate drinkers largely unaffected. The proposals have also been welcomed by the British Medical Association and groups such as Alcohol Concern.

Support from the drinks industry and the licensed trade has been, at least in some parts, far less receptive. Whilst they appear to recognise the need to encourage a healthy approach to alcohol consumption through, for example, improved education, there is a concern within industry that some of the proposals go too far. Some have also suggested that, if implemented, these proposals could unfairly impact on responsible consumers and responsible operators rather than the less responsible consumers that the Manifesto claims to be aimed at.

KEY CONCERNS

Many of the proposals such as increased education, the use of sobriety orders and a reduction in the drink driving limit have been generally welcomed by those on both sides, other proposals have been met with more resistance. Two of the most contentious issues are:

1. Public health as the fifth licencing objective – a Private Member’s Bill has already been introduced seeking this amendment and there is a concern that this will

be used as a justification to cut down on the granting of licences to responsible publicans and that, in an already highly regulated sector, further changes to the licensing laws would be unnecessarily restrictive.

This, however, has been countered by those who suggest that taken with the proposal for minimum prices on alcohol, the provision is actually aimed at those who sell low cost alcohol and as such there shouldn’t be a massive effect on responsible publicans.

2. Health warnings on all alcohol labels – this has been met with mixed responses, mostly because there is a lack of detail on what these warnings would look like and whether they would be based on the warnings now used on tobacco products.

FINAL COMMENT

The publication of the Manifesto was always going to be controversial and this was acknowledged by the Parliamentary Group itself. Whilst many of the proposals are not new and simply develop existing policies, a few measures have the potential to introduce significant change.

With a general election due in the first half of next year, it will certainly be interesting to track the development of these proposals and to see how – if at all – they are taken up in the political parties’ election manifestos. We will keep you informed on developments as we get closer to the general election next May.





IN BRIEF

HEALTH WARNINGS SHOULD BE COMPULSORY

In August 2014 the All-Party Parliamentary Group on Alcohol Misuse made recommendations that health warnings comparable to those applied to cigarettes should be compulsory on bottles of wine, beer and spirits to raise awareness of the dangers of excessive drinking and the growing problem of liver disease.

Their report suggests that there is an epidemic of alcohol abuse in Britain and also recommends a minimum unit price for alcohol, stronger regulation of alcohol marketing, a reduction in the drink drive limit, the appointment of a single Government minister with responsibility for alcohol issues and giving local authorities the power to make licensing decisions based upon *local population health needs*.

“PUBLIC HEALTH” AS A LICENSING OBJECTIVE

A Private Members bill was introduced in June 2014 which seeks to add “*protecting and improving public health*” to the four existing licensing objectives (the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm).

The effect of this is that applicants for a premises licence would have to show that the licence (or variation to an existing licence) that they are seeking would not have a detrimental impact on “public health” which is potentially a significant hurdle to overcome. The Bill is currently in its infancy and the amendment it seeks may never be introduced but is an indication of how some in Government wish to see alcohol tackled in the UK.

ALCOHOL WHOLESALE REGISTRATION TO BEING IN OCTOBER 2015

Under current rules wholesalers of alcohol who sell direct to trade do not need a premises licence. It is only where wholesalers sell to the public (including if they sell to employees) that a premises licence is required.

In a move designed to crack down on alcohol duty fraud the Alcohol Wholesaler Registration Scheme is expected to be introduced next year. In order to obtain a registration, wholesalers will need to demonstrate that they are “fit and proper” and have their supply chains tested to make sure they are legitimate before being registered. Retailers will only be allowed to purchase from registered wholesalers.

SCOTCH WHISKY ASSOCIATION CHALLENGE HEARD IN EUROPE

In September 2014 the European Court of Justice heard a challenge brought by the Scotch Whisky Association (along with other European wine and spirit producers) against the Scottish Government’s minimum pricing law which was first introduced in 2012. This legislation, which, sought to introduce a minimum unit price of 50p, has been delayed pending the outcome of this legal challenge.

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