



The Bar Council

Law reform essay competition 2024: highly commended award

Drunk on freedom? The case for introducing statutory limitations on alcohol sponsorship and health warning labels by Kelvin Ma

1. Introduction

'I would dread it when the Euros were on.'

Lisa avoided coming home whenever England had lost a football game because she knew exactly what would happen as soon as she walked through the door.¹

Her suffering worsened with alcohol. Her partner Lee became a 'monster on Stella'.² Lisa experienced this domestic abuse for 29 years. Tragically, her experience of alcohol-induced rampages is not an isolated story.

Alcohol has long been linked to violent crimes. In 2009, the Law Commission observed that many violent crimes are committed when the offender is intoxicated, usually as a result of alcohol.³

Society's hangover from alcohol continues unabated. In 2018, alcohol-related crimes made up 39% of violent offences across England and Wales, and alcohol-related incidents took up 37% of ambulance service time.⁴

These crimes have a devastating effect on vulnerable people. There are many women, like Lisa, who are victims of alcohol-induced domestic violence. The suffering also crosses into the next generation. Approximately 200,000 children live with a parent suffering from an alcohol dependency problem.⁵ Alcohol's impact on these children is heartbreaking. They are six times more likely to experience domestic violence, three times more likely to consider suicide, and two to three times

¹ BBC Sussex, 'I Always Dreaded When the Football Was On' (*BBC News*, 24 June 2024) <<https://www.bbc.com/news/articles/cgllkxde79eo>> accessed 10 September 2024.

² *ibid.*

³ Law Commission, *Intoxication and criminal liability* (Law Com No 314, 2009) para 1.1.

⁴ 'Cost of alcohol in England' (*Institute of Alcohol Studies*, April 2024) <<https://www.ias.org.uk/wp-content/uploads/2024/04/Cost-of-Alcohol-in-England-Methodology.pdf>> accessed 19 May 2024.

⁵ Robert Pryce and others, 'Estimates of Alcohol Dependence in England Based on APMS 2014, Including Estimates of Children Living in a Household with an Adult with Alcohol Dependence' (*Public Health England* 2017), 36.

more likely to become addicts themselves.⁶ Left unchecked, the consumption of alcohol will continue to plague generations of vulnerable domestic partners and children.

A law reform of alcohol legislation is therefore long overdue. To limit violent crime and harms caused by alcohol, this paper proposes statutory restrictions on the industry's strategies to increase alcohol sales. These strategies involve promoting alcohol through occasions, brand, packaging, price, and channel ('OBPPC').

Next, this paper will comparatively analyse the experiences of Ireland, Scotland and France, as these jurisdictions have introduced alcohol marketing limitations. The proposed Alcohol Advertising Act (the 'AAA') incorporates the most effective elements of France's Loi Évin and Ireland's Public Health (Alcohol) Act 2018. It also includes 'brandsharing' controls based on the UK's Tobacco Advertising and Promotions Act 2002 to address a loophole in the Loi Évin.

2. Alcohol and serious harms

Alcohol has stood the test of time⁷ as it provides enjoyment to many⁸, particularly in social settings.

Its role in socialising is reflected in the corporate slogans of large alcohol companies. They emphasise alcohol's ability to 'unite people to celebrate all life's moments'⁹, to 'bring people together'¹⁰, and to 'celebrate life, every day, everywhere'.¹¹

Therefore, the industry associates alcohol with major sports tournaments such as the football World Cup¹² and the Summer Olympics.¹³

⁶ 'Alcohol research' (NACOA, 2023) <<https://nacoa.org.uk/research-resources/research/>> accessed 10 September 2024.

⁷ Patrick E McGovern and others, 'Fermented Beverages of Pre- and Proto-Historic China' (2004) 101 *Proceedings of the National Academy of Sciences* 17593.

⁸ 'Global Status Report on Alcohol and Health 2018' (*World Health Organization*, 2018) <<https://iris.who.int/handle/10665/274603>> accessed 9 September 2024.

⁹ Molson Coors, 'Annual Report' (2023), 6.

¹⁰ AB InBev, 'Full Year Annual Report' (2019), 5.

¹¹ Diageo, 'Annual Report' (2023), 2.

¹² 'Budweiser renews World Cup sponsor deal with FIFA despite 2022 fiasco' (*ESPN*, June 2023) <https://www.espn.co.uk/football/story/_/id/37820615/budweiser-renews-world-cup-sponsor-deal-fifa> accessed 14 September 2024.

¹³ 'International Olympic Committee and AB InBev announce Worldwide Olympic Partnership' (*Olympics*, January 2024) <<https://olympics.com/ioc/partners/ab-inbev>> accessed 15 September 2024

Yet there is a darker side to alcohol consumption. Although it has a public face that facilitates joyous celebrations, it also contributes to private and hidden harms.¹⁴

Firstly, alcohol has a detrimental effect on global health. It is a Class 1 carcinogen¹⁵ and its consumption was responsible for 2.6 million deaths globally in 2021.¹⁶

Secondly, alcohol-related harms go beyond the drinker¹⁷ and can happen behind closed doors. UK public health research shows that between 25% and 50% of domestic abuse perpetrators had been drinking during the time of the assault.¹⁸ Alcohol-related harms are therefore a priority for improving public health and tackling violence against women and girls.

3. The current law

Unlike other consumer goods^{19,20}, the marketing and promotion of alcohol in the UK is largely self-regulated. The Advertising Standards Authority ('ASA') is the UK's advertising regulator, which applies a set of Advertising Codes set by a sister organisation, the Committee of Advertising Practice.²¹ The advertising industry funds the ASA.²²

The alcohol industry self-regulates its packaging and sponsorship through the Portman Group, which is made up of alcoholic beverage producers and brewers²³. On the Portman Group's council²⁴, there are alcohol industry leaders, namely CEOs and Managing Directors. Its Independent Complaints Panel reviews complaints

¹⁴ Nicole Winchester, 'Commission on Alcohol Harm: "It's Everywhere" – Alcohol's Public Face and Private Harm' (*House of Lords Library*, April 2021) <<https://lordslibrary.parliament.uk/commission-on-alcohol-harm-its-everywhere-alcohols-public-face-and-private-harm/>> accessed 12 September 2024.

¹⁵ Benjamin O Anderson and others, 'Health and cancer risks associated with low levels of alcohol consumption' (2023) *The Lancet Public Health* 8, 6.

¹⁶ 'Global status report on alcohol and health and treatment of substance use disorder' (*World Health Organization*, 2024) <<https://iris.who.int/bitstream/handle/10665/377960/9789240096745-eng.pdf?sequence=1>> accessed 11 September 2024.

¹⁷ Caryl Beynon and others, 'Alcohol-Related Harm to Others in England: A Cross-Sectional Analysis of National Survey Data' (2019) 9 *BMJ Open* e021046.

¹⁸ Winchester (n 14).

¹⁹ 'Key Regulations' (*Food Standards Agency*, January 2024) <<https://www.food.gov.uk/print/pdf/node/425>> accessed 15 September 2024.

²⁰ Consumer Protection Act 1987; General Product Safety Regulations 2005.

²¹ 'About the ASA and CAP' <<https://www.asa.org.uk/about-asa-and-cap/about-regulation/about-the-asa-and-cap.html>> accessed 15 September 2024.

²² *ibid.*

²³ 'Members' <<https://www.portmangroup.org.uk/about-our-members/>> accessed 15 September 2024.

²⁴ 'Council' <<https://www.portmangroup.org.uk/our-council/>> accessed 15 September 2024.

against two codes of practice, covering the naming, packaging, labelling²⁵, and sponsorship²⁶ of alcoholic drinks.

Self-regulation falls far short of the WHO's recommendation to implement statutory marketing regulations to mitigate alcohol-related harms.^{27,28} Therefore, the status quo does not adequately mitigate against the harms of alcohol consumption.

4. Prohibition

One way to reduce alcohol-related harms is through prohibition. However, prohibition is not a practical solution for three reasons.

First, it denies consumers the choice to engage in moderate drinking. Second, the short-term benefits of prohibition are likely to be circumvented over time.²⁹ Finally, the USA's experience with the 18th Amendment shows that the emergence of illegal brewing and distribution, also known as bootlegging, would likely undermine prohibition. Bootlegging could redirect revenues from legitimate alcohol businesses to organised criminal gangs ('OCGs').³⁰ Past evidence shows that it is at best unenforceable, and may at worst create a new revenue stream for OCGs.

5. Rising to the occasion: the need for law reform

Instead of prohibition, this paper will assess the need for statutory restrictions through the occasions, brand, price, packaging, and channel framework ('OBPPC').

Originally pioneered by the Coca-Cola Company³¹, the OBPPC framework is a strategy to drive revenue growth in consumer goods companies.³² Since then, the

²⁵ 'NPP Sixth Edition' <<https://portmangroup21.wpenginepowered.com/wp-content/uploads/2023/11/Portman-Group-NPP-Sixth-Edition-Amended.pdf>> accessed 15 September 2024.

²⁶ 'Sponsorship Code 2023' <<https://portmangroup21.wpenginepowered.com/wp-content/uploads/2023/11/Portman-Group-Sponsorship-Code-2023.pdf>> accessed 15 September 2024.

²⁷ Karine Gallopel-Morvan and others, 'Does the French Évin Law on Alcohol Advertising Content Reduce the Attractiveness of Alcohol for Young People? An Online Experimental Survey' (2022) 83 *Journal of Studies on Alcohol and Drugs* 276.

²⁸ World Health Organization (n 8) 106.

²⁹ Kai Barron and others, 'Alcohol, violence, and injury-induced mortality: Evidence from a modern-day prohibition' (2022) *Review of Economics and Statistics*, 5.

³⁰ Edward Behr, *Prohibition: Thirteen years that changed America*, (first published 1926, Arcade Publishing 1996) 95.

³¹ Tom Zhang, 'Two Ways to Operationalize Your Portfolio Strategy for Market Growth' (*Business Transformation Consultants | Prophet*, 25 April 2024) <<https://prophet.com/2024/04/two-ways-to-operationalize-your-portfolio-strategy-for-market-growth/>> accessed 12 September 2024.

³² Tamio Yoshimatsu and Vikas Tiku, 'Coca-Cola Bottlers Japan Kick-off Presentation' (Coca-Cola, Japan, 17 June 2017) <https://en.ccbj-holdings.com/pdf/irinfo/8_1.pdf> accessed 9 September 2024, 51.

largest global alcoholic beverage companies have adopted this framework.³³³⁴ By using the OBPPC framework, the AAA could effectively negate the industry's strategies to increase alcohol sales.

Moreover, this paper will also conduct a comparative study of alcohol advertising restrictions in France, Ireland, and Scotland, as they have introduced a range of alcohol advertising laws. This analysis will highlight the most effective forms of statutory restriction.

5.1 Occasions

Occasions are specific situations that influence behaviour.³⁵ The alcohol industry has gone to great lengths to connect occasions with consumption. These include cultural events such as Guinness' support for the 'Original Sounds Collective' at the Notting Hill Carnival³⁶ and Budweiser's sponsorship of the popular Belgian music festival Tomorrowland.³⁷ The industry sponsors these events to evoke connections with health and vigour, as they once did for the tobacco industry.³⁸

For alcohol, the most prominent occasion of all is sports. In 2024, the industry was united in promoting alcoholic consumption during the 'summer of sport', including Wimbledon, the Euros football tournament, the T20 Cricket World Cup, and the Paris 2024 Summer Olympics.³⁹ Leading brewers crafted marketing plans for sports

³³ Budweiser Brewing Group APAC, 'Unaudited Results for the Nine Months Ended 30 September 2021 and the Third Quarter 2021 Financial Information' <<https://www1.hkexnews.hk/listedco/listconews/sehk/2021/1028/2021102800027.pdf>> accessed 9 September 2024, 4.

³⁴ 'Diageo-Annual-Report-2023.Pdf' <<https://media.diageo.com/diageo-corporate-media/media/p1bljst1/diageo-annual-report-2023.pdf>> accessed 10 September 2024, 136.

³⁵ Felix Horstmann, 'Effects of Occasion-Based Targeting: Evidence from Valentine's Day Horstmann' <<https://archives.marketing-trends-congress.com/2019/pages/PDF/65.pdf>> accessed 14 September 2024.

³⁶ Aamna Mohdin, 'Guinness Aims to Bring More Women into Notting Hill Carnival's Sound System Scene with New Grassroots Programme.' (*London Post*, 14 August 2023) <<https://london-post.co.uk/guinness-aims-to-bring-more-women-into-notting-hill-carnivals-sound-system-scene-with-new-grassroots-programme/>> accessed 12 September 2024.

³⁷ 'Win the Ultimate Tomorrowland Trip with Budweiser' (*On the Grapevine*, 30 April 2024) <<https://blog.carryout.ie/thanks-to-budweiser-win-the-ultimate-trip-to-tomorrowland-for-you-and-a-friend/>> accessed 15 September 2024.

³⁸ 'Tobacco Advertising and Promotion in the UK' (*Action on Smoking and Health*, February 2019) <<https://ash.org.uk/resources/view/tobacco-advertising-and-promotion-in-the-uk>> accessed 12 September 2024.

³⁹ Gordon Davidson, 'Star Pubs Sets up Its Licensees for 2024's "Summer of Sport"' (3 April 2024) <<https://sltn.co.uk/2024/04/03/star-pubs-sets-up-its-licensees-for-2024s-summer-of-sport/>> accessed 13 September 2024.

occasions to create a ‘major uplift’ in beer sales.⁴⁰ They openly acknowledged how ‘brand affiliation to sports and tournaments plays a role in shopper’s buying habits’.⁴¹ The industry’s dedication to sports shows that sports sponsorships are key to occasions-focused marketing strategies, as shown by Budweiser’s sponsorship of the England Men’s Football team.⁴²

Yet it is this very connection with sports occasions that triggers alcohol-induced harms. Take the example of Lisa’s partner. Whilst pricing and packaging may have affected the brand of his drink, academic research shows a relationship between alcohol consumption and domestic violence. Domestic abuse does not occur simply because of heightened emotions from a team winning or losing a match. Instead, the violence is only present when a perpetrator is under the influence of alcohol.⁴³

Therefore, this paper proposes three reasons the UK should mitigate these harms by adapting parts of France’s *Loi Évin*, introduced in 1991. First, it banned any link between alcohol marketing and sports, including sports sponsorships.⁴⁴ For example, it prevented an American beer brand from sponsoring the 1998 Football World Cup.⁴⁵ Such a ban would break the link between sporting occasions and alcohol-induced violence during these events.

Secondly, the *Loi Évin*’s restrictions are proportionate. The law was reviewed in the case of *Bacardi v TF 1 France*.⁴⁶ Although the UK may no longer refer cases to the European Court of Justice, the Advocate General’s observation⁴⁷ sheds light on the proportionality of its alcohol advertising restrictions. He concluded that the *Loi Évin* did not ‘go beyond what is necessary in order to attain the objective of protecting public health’.⁴⁸ Therefore, despite repeated legal challenges by the alcohol

⁴⁰ David Shrimpton, ‘Let the Games Begin | In Focus: Summer of Sport’ (*Talking Retail*, 13 May 2024) <<https://www.talkingretail.com/advice/category-management/let-the-games-begin-in-focus-summer-of-sport-13-05-2024/>> accessed 13 September 2024.

⁴¹ Tony Corbin, ‘Budweiser Advises Retailers Ahead of Expected Summer of Sport Beer Sales Surge’ (*Talking Retail*, 5 June 2024) <<https://www.talkingretail.com/news/industry-news/budweiser-advises-retailers-ahead-of-expected-summer-of-sport-beer-sales-surge-05-06-2024/>> accessed 13 September 2024.

⁴² *ibid.*

⁴³ Ria Ivandić and others, ‘Football, Alcohol, and Domestic Abuse’ (2024) 230 *Journal of Public Economics* 105031.

⁴⁴ Ina Johansen, ‘Loi Evin – an Advertising Ban in the Homeland of Red Wine’ (2009) *EUCAM* 2.

⁴⁵ Karine Gallopel-Morvan and others, ‘France’s Evin Law on the control of alcohol advertising: content, effectiveness and limitations’ (2017) 112 *Addiction* 86.

⁴⁶ Case C429/02 *Bacardi France SAS v Télévision française 1 SA (TF1) and Others* [2004] ECR I-006613.

⁴⁷ Case C-429/02 *Bacardi France v Télévision française 1 SA (TF1) and Others* [2004] ECR 2004 I-06569, Opinion of AG Tizzano, para 107.

⁴⁸ *ibid.*

industry⁴⁹, the Loi Évin remains an appropriate response to the harms of alcohol consumption.

Thirdly, the status quo is the very definition of regulatory capture, namely the tendency of regulators to identify with the interest of the industry they are supposed to regulate.⁵⁰ UK alcohol businesses self-regulate their sponsorship activities via the Portman Group. The Group is directly funded and governed by the industry.⁵¹ As a result, the Portman Group is likely to be directed by the interests of its industry funders, rather than advocating for expensive mitigations for alcohol-related harms.

5.2 Brand

Alcohol companies intentionally connect specific brands to different occasions. For example, Birra Moretti has used media and celebrity sponsorships, such as its tie-up with Love Island presenter Maya Jama and comedian Jack Whitehall, to link its brand with enjoying Italian food, sports, and music.⁵² Limitations on sponsorship of cultural or sports events will weaken this connection.

5.3 Packaging

Beyond the practical purpose of packaging, it is also a marketing tool. Alcohol brands use packaging to connect themselves with key occasions, such as football tournaments. For example, Bud Light plastered the England Football Team players' heads on its beer packaging.⁵³

Another purpose is to warn consumers about the health risks of drinking alcohol. Although the Portman Group has backed statements to 'please drink responsibly', pregnancy labelling, guidance from the UK Chief Medical Officer, and a link to

⁴⁹ Johansen (n 44).

⁵⁰ 'Regulatory Capture' (*Oxford Reference*)

<<https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100411608>> accessed 13 September 2024.

⁵¹ Jonathan Noel and Thomas Babor, 'Does Industry Self-Regulation Protect Young People from Exposure to Alcohol Marketing? A Review of Compliance and Complaint Studies' (2017) 112 *Addiction* 51.

⁵² 'Birra Moretti presents...Live Italian, featuring Jack Whitehall, Maya Jama, and Lawrence Dallaglio', (*Banijay UK*, March 2023) <<https://banijayuk.com/birra-moretti-presents-live-italian-featuring-jack-whitehall-maya-jama-and-lawrence-dallaglio/>> accessed 10 September 2024.

⁵³ John Glenday, 'Ad of the Day: Fans Wear England Footballers' Faces with Bud Light Boxheads Packaging' (*The Drum*, May 2021) <<https://www.thedrum.com/news/2021/05/11/ad-the-day-fans-wear-england-footballers-faces-with-bud-light-boxheads-packaging>> accessed 12 September 2024.

drinkaware.co.uk⁵⁴, these requirements are inadequate. The ‘drink responsibly’ wording shifts the responsibility from the producers to the consumer.⁵⁵

In contrast, Ireland has introduced cancer labelling for alcoholic products.⁵⁶ Their firmer approach has support from the WHO, the European Commission, and public health bodies.⁵⁷

Ireland's approach is also backed up by academic research. A recent 2024 UK study found that multiple text health warnings may lessen the persuasiveness of alcohol marketing, more than the industry-preferred language of ‘drink responsibly’.⁵⁸

Public health should not suffer because of private sector inadequacies. Potential consumers should be made aware of the health risks of alcohol consumption. The current industry standard blames consumers and hides cancer risks behind a separate website link.⁵⁹ Stricter requirements are needed to educate consumers. The UK should therefore adopt Ireland’s approach and shift the responsibility for responsible drinking back to the alcohol industry.

5.4 Pricing

The WHO recommended minimum unit pricing (‘MUP’) as a ‘best buy’ policy to reduce health risks.⁶⁰ However, pricing regulation has led to mixed results in Scotland.

The Scottish government introduced MUP laws in May 2018 under the Alcohol (Minimum Pricing) (Scotland) Act 2012. MUP had a negligible impact on crime and health outcomes. Five years after its implementation, the Scottish Government’s evaluation did not find consistent evidence of a positive or negative impact on crime,

⁵⁴ ‘Market Review 2024’ <<https://portmangroup21.wpenginepowered.com/wp-content/uploads/2024/08/Portman-Group-Market-Review-2024.pdf>> accessed 13 September 2024.

⁵⁵ Jim McCambridge, ‘Dealing Responsibly with the Alcohol Industry in London’ (2012) 47 *Alcohol and Alcoholism* 635.

⁵⁶ Public Health (Alcohol) (Labelling) Regulations 2023, SI 249/2023, s 5(3).

⁵⁷ Shawn Pogatchnik, ‘Ireland Signs Law Requiring Cancer Warnings on All Alcoholic Beverages’ (*POLITICO*, 22 May 2023) <<https://www.politico.eu/article/ireland-signs-law-requiring-cancer-warnings-on-all-alcoholic-beverages/>> accessed 9 September 2024.

⁵⁸ Nathan Critchlow, Crawford Moodie and Karine Gallopel-Morvan, ‘Restricting the Content of Alcohol Advertising and Including Text Health Warnings: A Between-group Online Experiment with a Non-probability Adult Sample in the United Kingdom’ (2024) 48 *Alcohol, Clinical and Experimental Research* 1155.

⁵⁹ ‘Alcohol and Cancer’ <<https://www.drinkaware.co.uk/facts/health-effects-of-alcohol/alcohol-related-diseases-and-illnesses/alcohol-and-cancer>> accessed 10 September 2024.

⁶⁰ ‘WHO Best Buys - Alcohol Reduction Policies’ <<https://iris.who.int/bitstream/handle/10665/259232/WHO-NMH-NVI-17.9-eng.pdf?sequence=1>> accessed 10 September 2024.

public safety, and public nuisance.⁶¹ The policy also did not improve health outcomes, as alcohol-related hospital admissions increased after MUP was introduced.⁶²

Ireland's MUP policy has also failed to deliver positive health outcomes conclusively. In 2022, Ireland introduced MUP under the Public Health (Alcohol) Act 2018. Although the policy led to a reduction in overall alcohol-related signs and symptoms, known as presentations, it also saw an increase in alcohol intoxication or poisoning hospital presentations.⁶³ This may have resulted from reduced household expenditure on food or 'switching to consuming more spirits amongst persons with alcohol dependence'.⁶⁴

Instead, the new laws have largely benefited⁶⁵ the industry.⁶⁶ MUP may have eliminated the cheapest alcohol products in the market, forcing consumers to experiment with more expensive brands.⁶⁷ This phenomenon is potentially why industry leaders, such as C&C Group, enthusiastically support⁶⁸ the policy in Scotland and Ireland.

Therefore, despite the WHO recommendation⁶⁹, this paper proposes to exclude MUP from the law reform. The evidence from Scotland and Ireland does not support its proposed benefits.

5.5 Channel

Alcohol companies refer to two different channels, namely off-premise, such as buying alcohol from a supermarket to drink at home, or on-premise, such as drinking in a bar, pub, or restaurant.⁷⁰

⁶¹ Scottish Government, 'Alcohol (Minimum Pricing) (Scotland) Act 2012: Report on the Operation and Effect of the Minimum Pricing Provisions 2018 - 2023', 18.

⁶² John C Duffy, Christopher Snowdon and Mark Tovey, 'The Hangover: The Cost of Minimum Alcohol Pricing in Scotland' [2022] SSRN Electronic Journal <<https://www.ssrn.com/abstract=4173233>> accessed 9 September 2024, 23.

⁶³ T Maharaj and others, 'Alcohol-Related Emergency Department Presentations and Hospital Admissions around the Time of Minimum Unit Pricing in Ireland' (2024) 227 Public Health 38.

⁶⁴ *ibid*, 41.

⁶⁵ C&C Group, 'Annual Report' (2023), 18.

⁶⁶ Scottish Government (n 61), 18.

⁶⁷ *ibid*.

⁶⁸ C&C Group (n 65), 78.

⁶⁹ 'WHO Best Buys - Alcohol Reduction Policies' (n 60).

⁷⁰ 'On-Trade/Off-Trade: a balancing act for drinks' suppliers' (*Lumina Intelligence*, January 2021) <<https://www.lumina-intelligence.com/wp-content/uploads/2020/03/On-trade-off-trade.pdf>> accessed 10 September 2024.

Whilst the majority of alcohol is consumed off-premise⁷¹, alcohol-related harms also take place in pubs and restaurants. The law should therefore restrict sponsorships to detach key trigger events from alcohol consumption in both channels.

6. Law reform

Based on the OBPPC analysis, this paper suggests that occasions-focused marketing and packaging are the main causes of alcohol-induced harms.

To mitigate these harms, this paper proposes the Alcohol Advertising Act ('AAA').

The AAA will introduce provisions prohibiting sports and cultural sponsorship and mandate detailed health warnings on alcoholic products. The AAA takes inspiration from France's Loi Évin, and Ireland's Public Health (Alcohol) Act 2018 and Public Health (Alcohol) Labelling Regulations 2023.

In addition, the Act will adapt s.11 Tobacco Advertising and Promotion Act 2002 for brandsharing. This provision will address a weakness in the Loi Évin.⁷² It failed to restrict Carlsberg's advertisement where they partially used their core slogan of 'Probably...the best in the world' to promote the brand. This provision will prevent alcohol companies from using non-alcoholic products or an alcoholic brand's core elements to circumvent the new restrictions.

The AAA is not a blanket ban on alcohol marketing. Despite the Loi Évin's partial success, the alcohol industry's success in lobbying for amendments in 2015 shows the challenge of sustaining a widespread ban.⁷³

Instead, the AAA takes a more nuanced approach. As a starting position, consumers should have the freedom to choose. Alcohol's connection with serious harms comes from its association with sports and cultural events.⁷⁴ Under the AAA, alcohol companies can continue to promote and associate their brands with general concepts, such as leisure, relaxation, and sunny weather. Therefore, the Act is limited to restricting sponsorships and mandating health labels, reducing the risks of liver disease and cancer to the public.

The AAA's key provisions are drafted below.

1 Definitions

⁷¹ Alexandra Torney and others, 'Where Do High-Risk Drinking Occasions Occur More Often? A Cross-Sectional, Cross-Country Study' (2024) 43 *Drug and Alcohol Review* 1172.

⁷² Rachael Murray and others, 'Carlsberg Alibi Marketing in the UEFA Euro 2016 Football Finals: Implications of Probably Inappropriate Alcohol Advertising' (2018) 18 *BMC Public Health* 553.

⁷³ Gallopel-Morvan and others (n 45), 2.

⁷⁴ Ivandić and others (n 43).

(1) “Alcoholic products” are food or beverage products containing over 1.2% alcohol by volume.

(2) “Sponsorship” is any form of public or private contribution to any event, venue, individual, or organisation, with the aim or direct or indirect effect of promoting an alcohol product, brand, or alcohol consumption. A contribution can be in the form of money or take any other form, such as the provision of services or of contributions in kind.

2 Sponsorship

(1) It shall be an offence for a person to sponsor or cause the sponsorship of an event, venue, individual, or organisation if the purpose is to promote an alcoholic product, brand, or alcohol consumption in the United Kingdom.

3 Labelling

(1) This section applies to information on alcoholic product containers.

(2) The following health warnings are prescribed for the purpose of limiting health risks and other societal harm caused by alcohol consumption and shall be set out in the form provided in s.3(3):

“Consuming alcohol causes liver disease”, and

“There is a direct link between alcohol and fatal cancers”.

(3) For the purposes of this section, the Secretary of State may by regulations prescribe the form of a warning under section 3(2) of this Act, including its size and colour and the size, colour and font type of the printed material on the warning concerned.

4 Brandsharing

(1) This provision prohibits the use of sponsorship to promote alcohol products, brand, or alcohol consumption –

(a) in connection with any service or product (other than an alcoholic product) of any name, emblem, or other feature which is the same as, or similar to, a name, emblem or other feature connected with an alcoholic product, or

(b) in connection with any alcoholic product, of any name, emblem, or other feature which is the same as, or similar to, a name, emblem or other feature connected with any service or product other than an alcoholic product.

5 Penalties

(1) A person who contravenes a prohibition or restriction contained under sections 2, 3, and 4 of this Act is guilty of an offence.

(2) A person guilty of an offence under any provision of this Act is liable –

(a) on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both, or

(b) on conviction on indictment to imprisonment for a term not exceeding two years, or a fine, or both.

The regulatory responsibility for alcohol sponsorship and packaging should also be reassigned.

Alcohol restrictions must be strictly enforced to be effective.⁷⁵ Given the direct link between the Portman Group and the alcohol industry⁷⁶, the law should instead give a separate body regulatory authority. The Office for Health Improvement and Disparities ('OHID'), part of the Department of Health and Social Care, already aims to limit harmful alcohol use.⁷⁷ Therefore, the OHID should be expanded to replace the Portman Group to supervise and enforce the new statutory restrictions.

7. Conclusion

Alcohol is deeply connected with violent crimes in the UK.⁷⁸ Alcohol-induced crime, such as domestic violence, disproportionately affects disadvantaged and vulnerable victims. A radical reform of alcohol regulation is needed to limit such harms, without resorting to prohibition.

A common refrain from the alcohol industry is that there is insufficient evidence to link alcohol marketing with harmful consumption.⁷⁹ These gripes are in direct contrast to the scientific research⁸⁰ on alcohol-related harms.⁸¹⁸²

⁷⁵ Gallopel-Morvan and others (n 45), 90.

⁷⁶ Noel and Babor (n 51).

⁷⁷ 'About Us' (GOV.UK) <<https://www.gov.uk/government/organisations/office-for-health-improvement-and-disparities/about>> accessed 15 September 2024.

⁷⁸ Winchester (n 14), 30.

⁷⁹ Florentine Petronella Martino and others, 'Analysis of Alcohol Industry Submissions against Marketing Regulation' (2017) 12 PLOS ONE e0170366.

⁸⁰ 'Alcohol and Cancer Risk Fact Sheet - NCI' (14 July 2021) <<https://www.cancer.gov/about-cancer/causes-prevention/risk/alcohol/alcohol-fact-sheet>> accessed 15 September 2024.

⁸¹ Max G Griswold and others, 'Alcohol Use and Burden for 195 Countries and Territories, 1990–2016: A Systematic Analysis for the Global Burden of Disease Study 2016' (2018) 392 The Lancet 1015.

⁸² World Health Organisation (n 11); Ivandić and others (n 38).

The UK should learn from the experiences of Scotland, Ireland, and France. Given the mixed outcomes in Scotland and Ireland, the UK Government should not introduce MUP as part of this new law reform.

The alcohol industry has long promoted consumption through the OBPPC model. It is time to use the industry's strategies against itself to tackle alcohol-related harms. Therefore, this paper proposes to impose statutory restrictions on occasions-based marketing and mandate stricter health labelling requirements for alcoholic products.

This law reform will give the public increased protections, whilst maintaining their freedom to choose. It does not apply a blanket ban on alcohol marketing or prevent people from enjoying a relaxing drink. Instead, the AAA empowers consumers with the necessary knowledge to make an informed choice.

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