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**MUP predictions for year 1 in Scotland (SARG)**

*“MUP is an evidence-based solution”*

Actually, the ‘evidence’ is based on the SAPM modelling:

**SAPM predicts that a 50p per unit MUP will, in year 1, deliver:**

- A 7% reduction in alcohol consumption amongst harmful drinkers
- A 3.5% reduction in per capita adult consumption
- 1,300 fewer hospital admission
- 60 fewer deaths
- 3,500 fewer crimes

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**So, were the SAPM predictions correct?**

**Assumptions & attributions of what follows:**

Sales data are a proxy for consumption – 52 wks data 29/04/18 -27/04/19 – which measure:

- Value of sales in GBP
- Volume of sales in litres
- Volume of alcohol in UK units (8gms or 10 ltrs of ethyl alcohol)

**Data sources**

- IRI (Information Resources Data) - barcode data – for value and volume
- Aston Manor Cider calculated the unit volumes:  
Q in ml x ABV%age ÷ 1000 = units of alcohol

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**Impact of MUP on consumption**

**Alcohol consumption in Scotland in year 1 after introduction of MUP:**

- Value +9.8% - reflecting impact of 50p MUP
- Volume +1.7% - an increase as compared to the SAPM prediction of a 3.5% decrease
- Units +2,499,969

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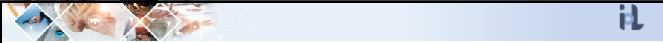
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### More recent evidence

***'Evaluating the impact of MUP in Scotland' – Public Health Scotland***

- Harmful drinkers have not reduced their intake but have switched from cheap cider to spirits.
- The increased cost of intake financed by cutting back on food and borrowing money.
- No evidence of improved health among harmful drinkers.

“Just as you don’t eat dinner on a table without legs, when the key reason for a policy disappears, the logic is the policy must go too.”  
Philip Kolvin KC, writing in Propel Opinion

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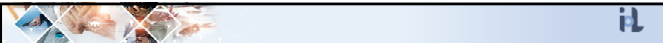
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### Costs of MUP

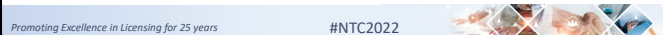
***Costs to the consumer***

Using sales data from the Public Health Scotland evaluation it is estimated that:

- The net additional cost to consumers of MUP in 2020 was £41.4mn
- Extrapolated over the 4 years of implementation it is estimated that MUP has cost consumers £270mn
- This amounts to £59.39 per adult or £71.12 per drinker
- Most indicators of alcohol-related health, crime & employment have remained similar or worsened since MUP

Ref: Duffy & Snowdon, IEA, 01 May 2022

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### What next for MUP?

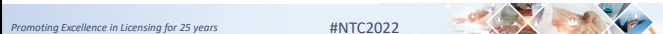
***The sunset clause***

The legislation that introduced MUP contained a ‘sunset clause’ – whereby if evaluation indicated it hadn’t worked, it could be discontinued.

How likely is this?

- Big investment of political capital by the SNP government
- SARG, whose modelling was used to justify MUP are involved in its evaluation

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**“The medicine didn’t work because the dose was too small”**

*Raise the minimum price and let’s try again!*

**ANY QUESTIONS?**




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**Minimum Pricing in Scotland**  
Stephen McGowan, TLT Solicitors




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**Minimum Pricing in Scotland**

- A (very) brief history of Minimum Unit Pricing

It was originally floated in the Licensing Bill of 2005, but abandoned:

*‘It is felt that minimum pricing is a fairly invasive approach, as it requires individual licensing boards to set prices for a tariff of drinks, which would lead to a lot of variation throughout the country.’*

Pricing schemes had been found to be unlawful under the predecessor 1976 legislation:  
*Mitchell & Butlers Retail Ltd v Aberdeen City Licensing Board [2005] 30 SLLP 24*




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**Minimum Pricing in Scotland**

- **The Alcohol (Minimum Pricing) (Scotland) Act 2012**

The 2012 Act sought to introduce a new mandatory condition on all licences set at 50p per unit.

Despite commentary to the contrary, it was not opposed by the “trade” writ large, it was in fact supported by a number of trade bodies including the Scottish Licensed Trade Association, Tennents, and Greene King

It was, however, subject to one of the most famous legal challenges against the Scottish Government since the parliament came into being in 1998

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**Minimum Pricing in Scotland**

- **Scotch Whisky Association and Others v Lord Advocate and another [2017] UKSC 76**

This was one of the most famous and long running challenges to Government policy. The Act was passed in 2012. The legal appeal went through the Scottish Courts, the Supreme Court, to the ECJ, and back the Supreme Court again – hence the final decision not being reached until 2017.

The petitioners had argued MUP was an unreasonable restraint on trade, amongst other things. The court ultimately agreed that MUP could be introduced... my two key takeaways are as follows...

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**Minimum Pricing in Scotland**

- **Scotch Whisky Association and Others v Lord Advocate and another [2017] UKSC 76**

Two key points to note:

1. The courts reached their decision referring the “evidence” presented by the Scottish Government on health benefits: this was the modelling famously produced by Sheffield University
2. The court was particularly swayed by the presence of the “sunset clause” as a solid factor in why MUP was not unreasonable – if it did not prove to achieve its goals, it would fall away

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**Minimum Pricing in Scotland**

- **Minimum Pricing in Practice**

**MUP came into effect on 1 May 2018, the magic formula being:**

$$MPU \times S \times V \times 100$$

**In relation to alcohol in package with other goods (cheese and wine gift set)... "MUP applies as if the alcohol were sold on its own for that price"**

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**Minimum Pricing in Scotland**

- **MUP in the real world**

**In May 2018, instead of 3 bottles for £10 deals, single bottles were sold for £3.33**

**Lots of coverage around "raids" over the border**

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**Minimum Pricing in Scotland**

- **MUP in the real world**

**Cocktails: each alcoholic component must be assessed and the MUP tallied up.**

Table 15.1 Ingredients of a Long Island Iced Tea

Product	%ABV	Units (approx)	MUP
15 ml Bacardi Carta Blanca light rum	37.5%	0.4	20p
15 ml Rutte Dey Gin	43%	0.35	17.5p
15 ml Ketel One Vodka	40%	0.375	18.75p
15 ml Patrón Silver blanco tequila	40%	0.375	18.75p
15 ml De Kuyper Triple Sec	40%	0.375	18.75p
15 ml Monin Pure Cane Sugar Syrup	N/A	N/A	N/A
15 ml Freshly squeezed lemon juice	N/A	N/A	N/A
15 ml Freshly squeezed lime juice	N/A	N/A	N/A
Top up with Coca-Cola	N/A	N/A	N/A
<b>Total</b>		<b>1.5</b>	<b>94p</b>

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**Minimum Pricing in Scotland**

- MUP and voucher schemes

**Has the voucher been obtained through a cash/equivalent transaction?**

**If YES, then the voucher can be used to reduce the price below MUP due to the equivalency.**

**If NO, then this is unlawful IF the discount takes the price below MUP**

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**Minimum Pricing in Scotland**

- MUP and “free booze” promotions

**If the drink is genuinely free, MUP does not apply. MUP only applies where a product is sold**

**If the drink is supplied pursuant to some other product which has been paid for, eg a free glass of wine with a meal, then the cost of that other product cannot be below MUP**

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**Minimum Pricing in Scotland**

- MUP and the Sunset Clause

**MUP expires unless an Order is brought forward by Parliament sometime between 1 May 2024 and 1 May 2025.**

**The Order will be debated – ie, has MUP worked and should it be retained.**

**In order to allow Parliament to debate this, the Act requires assessments to be carried out and presented**

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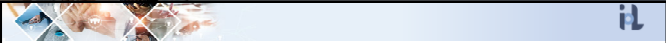
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### Minimum Pricing in Scotland

- **MUP – has it worked?**
- **Consultation must take place with various stakeholders. Scottish Government appointed the NHS and Sheffield University to deliver the consultation and report**
- **A number of “mini reports” have been issued with, to my mind, no clear or single theme emerging**

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### Minimum Pricing in Scotland

- **MUP – has it worked?**
- **With the publication of every “Mini” reports, there is a call from health actors such as AFS to increase the MUP, typically to 65p**
- **I argue that this would undermine the legal basis on which the MUP was allowed to run by the courts.**
- **The “grand experiment” must be allowed to run its course; then there will be plenty of time for debate**

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