



# POLITICAL DIGEST

## May 2009



### Key Developments

- **Alcohol Code:** new proposals unveiled for mandatory code on responsible retailing
- **Licensing penalties:** new fines for licensees and bar staff introduced
- **NMW:** announcement of rates postponed until May
- **Weights & Measures:** consultation proposes maximum measures for wine to ban supersize glasses

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New Information is highlighted in bold throughout the text

## ALMR POLITICAL DIGEST

LIQUOR			
ISSUE	BACKGROUND	ALMR POSITION	ACTIVITY
<b>Alcohol Code (Policing &amp; Crime Bill)</b>	<p>The Policing and Crime Bill was published last year and <b>is due to be debated again by MPs on 19<sup>th</sup> May</b>. The Bill contains a number of provisions to tackle alcohol misuse. Chief amongst these is the clause allowing the Secretary of State to introduce a national mandatory code of practice for those selling alcohol imposing up to 9 new mandatory conditions on all licences. The Bill also gives local authorities the power to impose conditions on a block of problem premises located in an area experiencing disorder or problems. The Bill just provides the government with the power to introduce a code - the details of what such a code could contain are still subject to discussion and will be published for consultation later this month.</p> <p><b>The Home Office has held pre-consultation discussions with industry and local authority stakeholders. As a result of this, the proposed content of the draft Code has been slimmed down. A draft copy of possible mandatory conditions has been circulated and ALMR has submitted detailed evidence on likely costs in response. The present working proposals include a ban on irresponsible promotions, a requirement for POS unit pricing, Challenge 21 policy adopted and a requirement to offer minimum standard measures of alcohol.</b></p> <p>In addition, the draft list of potential local conditions which may be applied to problem premises include a ban on happy hours, the sale of "very low priced alcohol", formal staff training, minimum seating area, risk assessments and dispersal policies. The procedure for advertising potential local conditions, reviewing them and appealing against their imposition will be set out in secondary legislation – again published for consultation later this year. The content of codes and procedure will need to be approved by Parliament later this year.</p>	<p>To ensure that Ministers &amp; Opposition are aware of the efforts retailers have made to address issues of concern and to highlight the success of the responsible majority.</p> <p>To remind politicians and public audiences that the pub is a safe place in which to enjoy alcohol.</p> <p>To continue to highlight the issue of sales through the off trade channel fuelling consumption. Treasury figures suggest that alcohol is now a third cheaper in supermarkets than it was a decade ago.</p> <p><b>We have submitted detailed costings of every proposed clause in the code of practice and this suggests a total cost of £1000 per premise in the first year. This would apply to all premises and rises to an annual cost of £30,000 if all conditions are applied to problem premises.</b></p>	<p><b>ALMR recently met with the Home Office team responsible for drafting the Code and have been actively engaged in the consultation leading up to its development.</b></p> <p><b>We have recently met with the Shadow Licensing Minister, Shadow Treasury and BERR team to raise concerns about the Code. Meetings are also being held with the Shadow Home Affairs team, Special Adviser to Ken Clarke, BERR and Better Regulation Task Force</b></p> <p><b><u>Retailer Action:</u> This is a very sensitive time for the industry and the press and politicians will be seeking examples of irresponsible practice. Operators should exercise caution over promotions, ensure they offer a choice of glass sizes and operate strict "No ID – No Sale" policies. The ALMR website contains details of the industry standards, advice on promotions, Challenge 21 materials and a suggested company alcohol policy.</b></p>
<b>Anti-social behaviour</b>	<p>The Policing &amp; Crime Bill will also give the police the power to confiscate alcohol from young people without proof that they intend to consume it. A new offence will also be introduced for under 18s caught possessing alcohol in a public place more than 3 times in 12 months (£500 fine). Finally, the offence of persistent selling to children from 3 strikes and you are out to 2 offences before your licence is revoked.</p> <p>These provisions will be debated again on 19<sup>th</sup> May when the Bill concludes its scrutiny in the House of Commons. Bill Committee has now concluded its scrutiny proceedings.</p> <p><b>In its response to the Community Pub Inquiry report, the Government announced that the Home Office will shortly be publishing interactive guidance to police officers and other regulatory bodies clarifying the various closure powers they have under licensing law and how they should be used.</b></p>	<p>To ensure that members are kept alert to new penalties and police powers which may impact on their business</p> <p>To ensure that political audiences focus on individual responsibility as well as measures to tackle problem premises and to remind them of the wide range of existing powers at their disposal.</p> <p>The latest official Licensing Statistics reveal over 1000 premises licence reviews a year – up 25% on 2007. Half of these were instigated by the police and 15% by residents. In a third of cases, the review resulted in the licence being revoked or suspended.</p>	<p>We have met the Licensing Minister and Home Office officials to discuss these proposals. We have lobbied hard for their to be a 'green card' approach to reward responsible licensees.</p> <p><b>We will be actively involved in any consultation on new guidance on police powers.</b></p> <p><b><u>Retailer Action:</u> ensure that staff and managers are fully briefed on the risks these powers pose to the business and to them as individuals. See brief on website regarding existing police powers</b></p>

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<b>Licensing Act (fees)</b>	There is still no progress to report on how and when licensing fees will be amended for the period 2009-11. In 2007, the Independent Fees Review panel recommended a 7% increase from this year, but Ministers have yet to confirm this. A public consultation on the plans is expected imminently but the new regime is unlikely to be in place before the Autumn. The consultation is also expected to cover related issues such as a common payment date, the imposition of town centre multipliers to nightclubs. <b>The Government may be waiting for the publication of the DCMS Select Committee report on licensing before confirming any changes.</b>	To press for clarity for operators on the fundamental issues as early as possible and ensure that the panel's recommendations are taken forward.  To provide timely and proactive advice to members on any changes.	The <i>ALMR</i> submitted evidence to the Independent Fees Review Panel, Government Advisory Groups and the Select Committee inquiry. We will respond to the consultation in due course. <b>Retailer Action: remember to pay annual fees – LAs are not required to invoice for payment and the onus is on the operator to pay</b>
<b>Licensing Act (reform)</b>	The Government has tabled draft legislation introducing a new procedure for handling minor variations. Changes which would have no adverse impact on the licensing objective would not need to be advertised or copied to the relevant authorities and would attract a lower fee. Local authorities would have total discretion to determine which variations are minor, but the addition of sale of alcohol, an extension of hours for the sale of alcohol between 11pm and 7am and any increase in the amount of time on any day during which alcohol may be sold or supplied can never be considered to be a minor variation. Licensing authorities would be required to respond to applicants within 10 working days either allowing the minor variation or referring it to the full variation process. There would be no right of appeal against a decision to reject an application for minor variations. National Guidance will be issued to local authorities. The House of Lords Committee scrutinizing the Regulations has recommended that it be considered in more depth, suggesting that the change to the law will not be implemented until later this year. <b>In its response to the APPBG Community Pub Inquiry Report, the Government said that they would bring forward proposals for further reform and simplification of the licensing regime by summer. These will include electronic applications, single point of contact for applications, removal of interim authority rules and the requirement for 3 yearly reviews of local licensing policies. Further elements of reform or simplification may emerge once the DCMS Select Committee has published its report on licensing on 14<sup>th</sup> May.</b>	To participate actively in Government working groups and with industry partners to deliver workable reform.  To push for greater deregulation of the Licensing Act 2003 to ease the burdens on operators – particularly in respect of advertising.  <b>Public consultation on these issues will also give the trade the opportunity to press for additional reform to remove cost and administrative burdens eg copying and advertising requirements.</b>	<i>ALMR</i> responded to the consultation document, calling for a 3 tier system with a materiality test - very small changes would not be subject to any formal procedure, changes with some impact being considered under the minor procedure and significant changes being scrutinized in full. On the timescale for consideration, we argued that there should be presumed grant if not determined within 10 days. <b>The <i>ALMR</i> submitted detailed evidence to the DCMS Select Committee inquiry on licensing and pressed for further simplification. We will respond to the Committee's report when published and seek to engage with Ministers. <i>ALMR</i> has recently met with the Conservative Tourism minister to discuss licensing reform and we seek to influence the shape of opposition proposals in this area.</b>
<b>Minimum Pricing</b>			

## ALMR POLITICAL DIGEST

EMPLOYMENT			
ISSUE	BACKGROUND	ALMR POSITION	ACTIVITY
Agency Workers	<p>The European Union has adopted an Agency Workers Directive. The legislation will need to be implemented at a UK level by December 2011 and the Government has this month published a consultation document setting out how it intends to do this. The new law would only apply to casual staff recruited through an employment agency or business, not all temporary workers. After being employed for more than 12 calendar weeks, such workers will be entitled to the same basic working and employment conditions eg pay, annual leave, in work rest periods, as a permanent member of staff doing the same or a comparable job.</p> <p>The main impact will be felt by businesses which offer more than the statutory minimum employment rights in these areas to permanent staff eg if permanent staff have an entitlement to a full lunch hour, then you cannot give an agency worker just the statutory minimum 20 mins rest. If you offer overtime payments, unsociable work allowances or performance related bonuses to permanent staff then you will also need to extend them to agency workers employed for more than 12 weeks.</p>	<p>To resist calls for temporary or casual staff to be given equal rights from day 1 of employment.</p> <p>To press for a light touch regulatory regime.</p>	<p>We will monitor the progress of the consultation and subsequent legislative revisions and advise members accordingly.</p>
National Minimum Wage	<p>The Government has confirmed that the use of tips, service charges or gratuities to make up the national minimum wage will be outlawed from 1 October 2009. Legislation implementing this change will be introduced to the House of Commons shortly.</p> <p>Until 1 October, employers can continue to include tips in NMW calculations, providing they are paid directly by the employer through the payroll. Tips distributed via a tronc account cannot count towards NMW calculations.</p> <p>The Government was due to announce the level of increase to the NMW for October 2009 in February/March. Instead, the announcement will now be made in later this month.</p>	<p>To highlight the impact of successive increases on the pub trade.</p> <p>To draw attention to the increasing proportion of turnover directed at wage costs.</p>	<p>We provided detailed evidence to the LPC based on members' survey. This called for a freeze on the rate of increase or a peg at the rate of inflation. <b>We responded to the consultation on the use of tips.</b></p> <p><b>Retailer Action:</b> Check hourly rates. NMW enforcement will now switch to hospitality trade</p>
Paid Annual Leave & Flexible Working	<p>The entitlement to paid statutory leave increased again from 6<sup>th</sup> April 2009 to 5.6 weeks (28 days). The new entitlement will be provided on a pro-rata basis for the remainder of this calendar year and for part time workers going forward. Unlike under current rules, employees will be able to carry over the additional 0.8 weeks leave into a subsequent holiday year, but the ability to offer payment in lieu of this additional leave will come to an end in April. Employers will be able to include bank holidays in the calculation of statutory leave.</p> <p>6<sup>th</sup> April 2009 also saw the extension of the right to request flexible working to parents with children aged 16 or under.</p>	<p>To press for maximum flexibility for employers and to ensure that there is no requirement to offer bank holidays as leave.</p> <p>To resist any attempts to legislate for the payment of staff working on bank holidays.</p>	<p>We were actively engaged in lobbying on this issue and secured some concessions. We will continue to focus on providing advice to members.</p> <p><b>Retailer Action:</b> Review terms of contracts of employment and holiday entitlement.</p>

**ALMR POLITICAL DIGEST**

<b>OPERATIONAL</b>			
<b>ISSUE</b>	<b>BACKGROUND</b>	<b>ALMR POSITION</b>	<b>ACTIVITY</b>
<b>Business Rates</b>	<p>The Government has published a Business Rates Supplement Bill which will allow certain local authorities and the Greater London Authority to levy a supplement on the business rate and retain the proceeds to promote economic development in their local areas. The Bill allows a maximum 2p per pound rateable value to be levied. There will be an exemption for business properties with a rateable value of less than £50,000 per annum.</p> <p><b>In the meantime, the Budget confirmed that two thirds of this year's 5% increase in business rates bills can be deferred until 2010/11 and 2011/12.</b></p> <p><b>The Conservative Party has published separate proposals to give local authorities the power to levy business rate <u>discounts</u> on businesses with a community value. Discussions with the policy team suggests that, in certain circumstances, pubs could be included in this.</b></p>	<b>To oppose new business stealth taxes and support any measures which provide help and support to vital community services.</b>	<p>We lobbied against this proposal in our Budget Submission. We will continue to resist it.</p> <p><b>We have met with the Conservative Communities Spokeswoman to discuss business rate proposals. This issue will also be taken up in forthcoming meetings with the Shadow BERR and Treasury team.</b></p>
<b>Food Standards Agency – Scores on the Doors</b>	<p>The Food Standards Agency has concluded its consultation on the introduction of a new 'scores on the doors' scheme, with a recommendation to government to introduce a new 5 tier grading scheme with a star rating for premises hygiene. A simpler, pass, fail and improvement required system has abandoned. During a regular hygiene inspection, the premises will be assessed for compliance with existing food hygiene legislation eg food temperature, food handling, cleanliness, ventilation, light, management structures and controls as well as the businesses track record. The rating will be available on the web but need not be displayed at the outlet. Unlike existing pilot projects, there will be a mechanism for re-inspection and re-scoring should standards improve following inspection. At present, this is just a recommendation to the FSA Board and draft legislation has yet to be determined.</p>	<p>To oppose the introduction of unnecessarily burdensome requirements on food operators.</p> <p>To resist any scheme based unduly around record keeping, management systems and control mechanisms and instead focus on issues of direct danger to customer health and safety.</p> <p>To ensure that any scheme is voluntary, with adequate appeal and rescoring mechanisms.</p>	<p>We have responded to the consultation process and this is available through our website</p> <p>We are also lobbying against a London Local Authorities Bill which proposes introducing a more complex scheme, including mandatory display of results, within London.</p> <p><b><u>Retailer Action:</u> Members with experience of existing pilot or voluntary initiatives of this nature are invited to contact the office.</b></p>
<b>Gaming Machines</b>	<p>As a result of industry lobbying, the Government has brought forward a review of stakes and prizes for Category C &amp; D AWP machines to be applied from 2009-2012. <b>The legislation is currently being considered by the Houses of Parliament and is expected to be approved shortly. It would see the stake rise to £1 and the prize to £70 from 9 June 2009.</b></p> <p><b>The Chancellor's Budget Statement confirmed that the Treasury would consult on measures to reform Amusement Machine Licence Duty and replace it with a gross profits model. This proposal was consulted on in 2001/2 and shelved after industry opposition.</b></p>	<p>To work with other industry parties to achieve a better deal for pub AWP machines</p> <p>To highlight the devastating decline in AWP machine income over recent years and to explain the impact this has on community pub operators.</p>	<p>The <i>ALMR</i> has worked with BBPA and FLVA on a joint industry submission on gaming machines. <b>We will actively engage in the consultation on changes to the duty regime.</b></p>

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<b>Pubco Inquiry</b>	<p>The House of Commons Business, Enterprise and Regulatory Reform Select Committee is currently conducting an inquiry into Pub Companies. The inquiry is principally focused on whether the conclusions of the 2004 parliamentary review of pubcos have been implemented – namely have the companies involved revised their codes of practice and have they addressed lessees' concerns. The Committee will make recommendations, but the Department of Business and Enterprise has confirmed that it will not be investigating the tie and stated that it does not raise competition concerns. In the meantime, the issue of the tie and pub ownership models have continued to be the subject of extensive debate by MPs.</p> <p><b>The report will be published on Wednesday 13<sup>th</sup> May and the Government will respond to the proposals in due course.</b></p>	<p>To highlight issues of concern to multiple lessees – in particular the assessment of operating costs in the pub co rental model.</p> <p>To resist calls for further regulation or intervention in the industry by the competition authorities.</p>	<p>The <i>ALMR</i> has submitted detailed evidence to the inquiry, drawing on the results of our Benchmarking Survey. The BBPA and <i>ALMR</i> both gave evidence on 11 December.</p>
<b>Smoking</b>	<p>The Health Bill is currently under discussion in the Houses of Parliament and gives Ministers the power to regulate the use of cigarette vending machines. Last year, it consulted on plans to control under age purchases by means of either an electronic ID card, ID coin mechanism or staff remote control of access. The cost of changes is likely to be in the region of £150-300. A further consultation will be held on the detailed regulations later this year. The Government has said that it hopes to implement changes in 2011 for large companies and 2013 for smaller companies.</p> <p><b>The House of Lords has now debated the relevant clauses. It is expected to complete its passage and move on to the Commons later this month.</b></p>	<p>To ensure that a ban on vending machines is not taken forward and to seek to minimise the likely cost and disruption to business of the introduction of new mechanisms to control under age purchases.</p>	<p>The <i>ALMR</i> remains actively involved in discussions with officials on these and other smoking related measures.</p> <p><b>Retail Action: make sure your machines carry the mandatory notices on age of use and brief staff to ensure they supervise machine use.</b></p>
<b>Weights and Measures</b>	<p>Following a European Directive on changes to the law on the quantities in which food may be sold, the National Weights and Measures Laboratory published a consultation document which proposes significant changes to the quantities in which alcohol may be sold:</p> <ul style="list-style-type: none"> <li>- new 1750ml quantity for pre-packaged spirits</li> <li>- new 187ml quantity for pre-packaged still wine</li> <li>- new 2/3 pint measure for draught beer and cider</li> </ul> <p>In addition, the consultation asked whether the prescribed quantities for gin, rum, vodka and whisky (25/35ml) should be extended to other spirits and whether the prescribed quantities for wine (125/175ml) should be extended to sherry and port. Finally, in view of the public health concerns about levels of consumption, the consultation asks whether there should be an upper limit on the quantity in which wine may be sold. At present, wine may be sold in 125 or 175ml measures or multiples thereof. The proposal if adopted would therefore ban 250ml measures.</p>	<p>To resist undue regulation of commercial freedom and to support moves to deregulate the measures in which products may be sold.</p>	<p>The <i>ALMR</i> responded to the consultation strongly resisting proposals to introduce health policy through weights and measures legislation.</p>

