



M-003 ALCOHOL PRICING AND PROMOTIONS MARKET STUDY

January 2022



CONTENTS

Executive Summary	4
1 Introduction	9
2 Background to the Market Study	10
2.1 Rationale for the study	10
2.2 Alcohol market landscape	10
2.3 Overview and history of alcohol legislation in Jersey	11
3 The Economics of Pricing Restrictions	14
3.1 The likely impacts of the Guidance on competition and consumers	14
3.2 Hypotheses	19
4 A Comparison of Alcohol Market Outcomes in Jersey and in Comparator Jurisdictions	20
4.1 Data availability and limitations	20
4.2 Key findings	21
4.3 Conclusions	29
5 In-depth Case Studies: Guernsey and Scotland	30
5.1 Guernsey	30
5.2 Scotland	32
6 Key Findings from Stakeholder Interviews	36
6.1 Interview process	36
6.2 Key findings	37
7 Our Overall Assessment of the Impact of the Guidance	44
7.1 The impact of the on-licence restrictions	44
7.2 The impact of off-licence restrictions (MUP)	46
7.3 The impact of other market features	47
8 Our Recommendations	48
9 Annex A	50

EXECUTIVE SUMMARY

The Jersey Competition Regulatory Authority ('the Authority') has commissioned Frontier Economics to support its market study to assess the impact of the Attorney General's Guidance (Licensing (Jersey) Law 1974) ('the Guidance') on alcohol drinks pricing and promotions.

THE ATTORNEY GENERAL'S GUIDANCE

The purpose of the Guidance is to reduce excessive drinking and related antisocial behaviour. The Guidance involves four main restrictions, which represent the main areas of focus for this market study.

- Price promotions: on-licence operators are not allowed to offer promotions that result in one or more alcoholic drinks being offered for sale at a price below the relevant stated price.¹
- Pricing restriction: on-licence operators are restricted from setting prices at a level significantly (10% or more) below those listed by their competitors.
- Advertising practices or promotions which encourage consumers to increase their alcohol consumption for Category 7 licence holders (Entertainment licence).
- Minimum Unit Pricing (MUP): off-licence operators (Category 6 licence holders) must not sell alcohol at prices below 50 pence per unit, the minimum unit price.

We have been asked to consider the economic impact of the Guidance and how it may affect competition and consumers. In particular the study considers:

- The impact of the Guidance on the on- and off-licence sectors and consumers;
- Comparable international experience of similar policies; and
- Actions that could mitigate unintended consequences found and support broader policy objectives.

We were asked to focus the market study on the economic impact of the Guidance rather than on wider health and social impacts relating to the alcohol market in Jersey. We recognise that the aim of the Guidance is to discourage excessive/irresponsible drinking, and that therefore the Guidance has wider social impacts (e.g. on people's health). We consider these impacts where we have sufficient data or evidence to comment. However, **the key focus of the study remains the economic impacts of the Guidance, consistent with the Authority's remit as an economic regulator.**

The study was carried out between October to December 2021. For the study, we developed hypotheses about the impact of the Guidance on competition and consumers based on economic theory and scoping interviews. These were tested with evidence gathered through international benchmarking, case studies and stakeholder interviews. We conclude the study with key findings and recommendations.

¹ A list of banned practices is provided in Section 2.3

Our hypotheses

Based on economic theory, we formulated a number of hypotheses to test using quantitative and qualitative evidence gathered in this study:

On-licence restrictions:

- The on-licence restrictions on prices and promotions are likely to limit price competition in the on-licence sector;
- Limits to price competition may increase prices overall, benefitting industry relative to consumers (setting aside health or wider social benefits);
- On-licence restrictions may lead to a shift in consumption from on-licence to off-licence;
- On-licence restrictions may impact different on-licence operators differently, depending on other ways in which these operators can compete other than price (for example, restaurants may be less affected by these restrictions than pubs that only or largely sell alcohol, as they can compete on food prices).

Off-licence restrictions:

- The effectiveness of MUP (in terms of curbing harmful drinking) and its impact on competition depends on the number of products that were priced below MUP at the time when MUP was introduced;
- In theory, the introduction of MUP could lead to a shift in consumption away from off-licences to on-licences.

We use a combination of international benchmarking, selected case studies and evidence from stakeholder interviews to test these hypotheses.

Evidence from international benchmarking

The international benchmarking analysis is intended to provide an understanding of how outcomes in Jersey compare to those in other jurisdictions.² We find that:

- Jersey's Guidance appears to be stricter than alcohol policy restrictions in comparator jurisdictions, especially for the on-licence sector;
- Alcohol consumption per capita declined significantly in Jersey between 2000 and 2018 and is now broadly in line with consumption in other jurisdictions;
- Since 2004, alcohol prices in Jersey have increased faster than average prices of other goods;
- Price levels (both pre-tax and post-tax) for a selected set of products tend to be either similar or higher in Jersey than in other jurisdictions;
- Alcohol-related health outcomes (e.g. alcohol-specific deaths) have improved in Jersey over time and are now broadly comparable to outcomes in England and Guernsey, and are better than in Scotland.

Although alcohol consumption has declined significantly in Jersey, we cannot attribute this effect solely to the impact of the Guidance. Indeed, alcohol

² We compare outcomes in Jersey with those in Guernsey, the UK and several other jurisdictions (where relevant data was available).

consumption has been falling in a number of countries in Europe, even in those where there were relatively few restrictions.

Case studies

We have also considered evidence from two markets – Guernsey and Scotland – in more detail.

In **Guernsey**, the alcohol market is similar to the market in Jersey, except that in Guernsey there are no explicit restrictions on alcohol pricing. There is evidence that promotions and discounts are used by on-licence venues in Guernsey. Overall, this case study suggests that promotions in the on-licence sector can be used responsibly, leading to consumer benefits in the form of lower prices, but without significant detrimental impacts on people’s health.

Scotland introduced MUP in May 2018. Evidence available to date suggests that this has led to (i) an increase in prices (by 7.6%), (ii) a reduction in consumption (by 7.7%) and (iii) a reduction in alcohol consumption in the top quintile of alcohol-purchasing households (potential problematic drinkers).³ However, the positive outcomes associated with the implementation of MUP in Scotland depend critically on the fact that MUP was binding for a significant share of alcohol products in Scotland (47% of all on-licence sales).

Evidence from stakeholder interviews

We also carried out 18 stakeholder interviews: 3 scoping interviews and 15 in-depth interviews, with a range of stakeholders.⁴ Our key findings from these interviews are summarised in the table below.

Figure 1 Key messages from stakeholder interviews

Type of restriction/issue	Key messages
On-licence restrictions	<ul style="list-style-type: none"> ■ There is evidence of the Guidance restricting price competition in the on-licence sector ■ There are potential inconsistencies with how the Guidance is applied (i.e. loyalty cards are used, although they are prohibited by the Guidance); ■ Some on-licence businesses stated that they would change their pricing, particularly by offering promotions, absent the Guidance ■ It appears that high on-licence prices lead to consumption shifting from on-licences to off-licences
Off-licence restrictions	<ul style="list-style-type: none"> ■ It is too early to reach definitive conclusions on the impact of MUP on alcohol consumption and competition in Jersey, due to other conflating factors (e.g. the impact of Covid) ■ MUP appears to have only affected a limited number of products (i.e. for most products MUP is not binding)

³ The research to date focused on the impact of MUP on the effectiveness of policy in reducing (problematic) alcohol consumption rather than on the impact of MUP on competition.

⁴ Including (i) on-licence retailers such as pubs, bars, restaurants, and nightclubs that sell alcohol to be consumed on their premises; (ii) off-licence retailers, such as supermarkets and off-licenses that sell alcohol to be consumed off their premises; (iii) alcohol producers and suppliers that focus on brewing or importing alcohol to be sold in Jersey; (iv) business associations and consumer groups, and (v) government departments that play a role in creating, reviewing or enforcing the guidance.

Type of restriction/issue	Key messages
Other issues	<ul style="list-style-type: none"><li data-bbox="448 338 1251 394">■ Tied-house relationships appear common and potentially impact retail prices<li data-bbox="448 405 1251 461">■ Limited wholesale competition and exclusive supply agreements may also impact quality and product offering<li data-bbox="448 472 1251 528">■ Many stakeholders consider the current licensing laws to be outdated

Our recommendations

Our study has the following recommendations, based on the key findings and wider evidence collected.

Figure 2 Our recommendations

Recommendations	Supporting rationale
<p>From an economic perspective, the pricing restriction on the on-licence sector to be removed to allow on-licences to price freely. This would ensure that benefits of competition and innovation are passed on to consumers in the form of lower prices.</p>	<ul style="list-style-type: none"> ■ No other jurisdiction studied had a similar pricing restriction ■ Consistent with economic theory ■ Consistent with stakeholder interviews
<p>The restrictions on promotion for the on-licence sector, when considered from an economic perspective, to be removed or eased. The restrictions limit on-licences' ability to compete and to attract price sensitive customers. They may also affect the level playing field in the market.</p>	<ul style="list-style-type: none"> ■ Restrictions limit on-licence traders' ability to compete and attract price-sensitive customers ■ They also affect the level playing field due to varying adherence to the restrictions ■ Evidence from other jurisdictions (Guernsey) shows promotions can be used responsibly
<p>For the on-licence trade, to consider alternative measures that distort competition less but ensure that promotions do not lead to excessive drinking.</p>	<ul style="list-style-type: none"> ■ There are potentially less distortive measures that can be introduced/enforced. For example, raising alcohol duties, extending MUP to on-licences, revoking licences of businesses that do not use promotions responsibly and providing more education on risks associated with excessive drinking, to name a few.
<p>For the off-licence sector, to review the impact of minimum unit pricing after a sufficient length of time post-COVID has passed. This review should be holistic and cover the economic, health and social impacts of the policy</p>	<ul style="list-style-type: none"> ■ The Covid-19 restrictions placed on the on-licence trade has seen demand from off-licences rise substantially. The effect of minimum unit pricing and eventual adjustments to the level should be explored once the impact of these has passed
<p>For the Authority to monitor the impact of tied house relationships and exclusive wholesale supply deals after restrictions imposed by the Guidance are relaxed. If competition issues persist, to take appropriate action to address this.</p>	<ul style="list-style-type: none"> ■ It is not feasible to properly investigate the effects of market structure and the concentration in the wholesale alcohol and pub real estate markets until the Guidance is removed ■ If removing or relaxing the Guidance proves insufficient in encouraging competition and reducing prices, further actions may be needed to address this issue

Source: *Frontier*

1 INTRODUCTION

The Jersey Competition Regulatory Authority ('the Authority') has commissioned Frontier Economics to support its market study to assess the impact of the Attorney General's Guidance (Licensing (Jersey) Law 1974) ('the Guidance') on alcohol drinks pricing and promotions. We have been asked to consider the economic impact of the Guidance and how it may affect competition and consumers. In particular the study considers:

- The impact of the Guidance on the on- and off-licence sectors and consumers;
- Comparable international experience of similar policies; and
- Actions that could mitigate unintended consequences and support broader policy objectives.

We were asked to focus the market study on the economic impact of the Guidance rather than on wider health and social impacts relating to the alcohol market in Jersey.⁵

We developed hypotheses about the impact of the Guidance on competition and consumers based on economic theory and scoping interviews. These were tested with evidence gathered through international benchmarking, case studies and stakeholder interviews. We conclude the study with key findings and recommendations.

We recognise that the aim of the Guidance is to discourage excessive or irresponsible drinking, and that therefore the Guidance has wider social impacts (e.g. on people's health). We consider these impacts where we have sufficient data or evidence to comment. However, the key focus of the study remains the economic impacts of the Guidance.

The rest of the report is structured as follows:

- Section 2 – Background to the market study, including an overview and history of the Guidance and a high-level description of the alcohol market in Jersey;
- Section 3 – The economics of pricing restrictions;
- Section 4 – A comparison of alcohol market outcomes in Jersey and in comparator jurisdictions;
- Section 5 – Case studies of Guernsey and Scotland;
- Section 6 – Key findings from stakeholder interviews;
- Section 7 – Our overall assessment of the impact of the Guidance; and
- Section 8 – Our recommendations.

⁵ The Terms of Reference are provided in the Annex

2 BACKGROUND TO THE MARKET STUDY

The Authority works to ensure that Islanders receive the best value, choice and access to high quality goods and services, in addition to promoting competition and consumers' interests. This market study focuses on the alcohol market in Jersey, investigating the economic impact of the Guidance on drinks pricing and promotions.

In this section, we first set out the rationale for conducting this market study, followed by a brief description of the alcohol market landscape in Jersey, the relevant history of the Jersey alcohol legislation, and the terms of reference for this study.

2.1 Rationale for the study

A market study is a flexible tool to explore whether a market, or features of a market, are working well for consumers. It considers the relationship between consumer behaviour, business behaviour, and the market's structure. By analysing these relationships, the Authority determines whether there is a need for action to help address any issues identified. This action could focus on enabling changes to consumer behaviour, business behaviour, or both. A market study is not targeted to the actions of any specific business.

The Attorney General has requested the study take place in view of several factors:

- The Alcohol market is a significant and important one for Jersey, contributing considerable government revenues through duties and taxes paid by companies operating in the market and consumers buying its goods
- The Guidance was introduced a number of years ago, and while it has been updated through time, there have been significant changes in the alcohol market and in international best practice which merit consideration; and
- The States of Jersey debated alcoholic drinks promotions in 2020, agreeing to allow them for a limited time. The proposition also called for a study into the local alcohol market to be carried out by the Authority, although this was not passed.

Consistent with the Jersey market study framework, the recommendations of the study are for the consideration of the Attorney General and the Government of Jersey.

2.2 Alcohol market landscape

The Jersey alcohol market is comprised of on and off-licence segments. On-licence venues include restaurants, pubs, bars, nightclubs, and sports clubs, where alcohol is consumed on the premises. Off-licence venues refer to supermarkets and other retail outlets selling alcohol, where alcohol is consumed off the premises.

The majority of alcohol in Jersey's on-licence retail market is consumed in two large pub chains (Randalls and Liberation Group). They manage a significant proportion of the pubs and restaurants, and also supply a number of 'tied-house' premises owned by the chain but managed by tenants. In addition, there are some

other established operators with multiple venues, and a small number of independent operators managing a single premises.

The off-licence retail market encompasses the range of supermarkets in Jersey, as well as off-licences and other specialist alcohol retailers.

Jersey's wholesale market is concentrated, with two main wholesalers of beer and cider, Randalls and Liberation Group. There is a limited number of alternative wholesalers, such as Dunells. Most alcohol sold in Jersey is imported by these wholesalers, and almost all operators reported using one or more of these wholesalers, as opposed to importing alcohol themselves.

2.3 Overview and history of alcohol legislation in Jersey

The States of Jersey passed the Licensing (Jersey) Law in 1974, defining the rules which must be adhered to when selling alcohol. It sets out the types of licences available, the powers and responsibilities of the Licensing Assembly, and details the specific restrictions that apply to each licence type.

Licence categories

There are seven categories of alcohol licences in Jersey. These were originally set out in the Licensing (Jersey) Law 1974 and have been modified over time. Due to the variation in conditions across the licence types, licensees often hold multiple categories of licence. These categories are:

- Category 1: The Taverner's Licence
- Category 2: The Residential Licence
- Category 3: The Restaurant Licence
- Category 4: The Comprehensive Licence
- Category 5: The Club Licence
- Category 6: The Off-licence
- Category 7: The Entertainment Licence

The on-licence trade includes 1st, 2nd, 3rd, 4th, 5th and 7th category licences, and the off-licence trade includes the 6th category licence.

Alcohol pricing restrictions

The Attorney General's Guidance involves four main restrictions, which represent the main areas of focus for this market study. In the remainder of this study, we use the term 'the Guidance' to refer specifically to these four restrictions.

- Price promotions: on-licence operators are not allowed to offer promotions that result in one or more alcoholic drinks being offered for sale at a price below the relevant stated price. The non-exhaustive list of examples of banned promotions include:
 - The stated tariff price for "X beer" is £3. It is sold for £2.50.

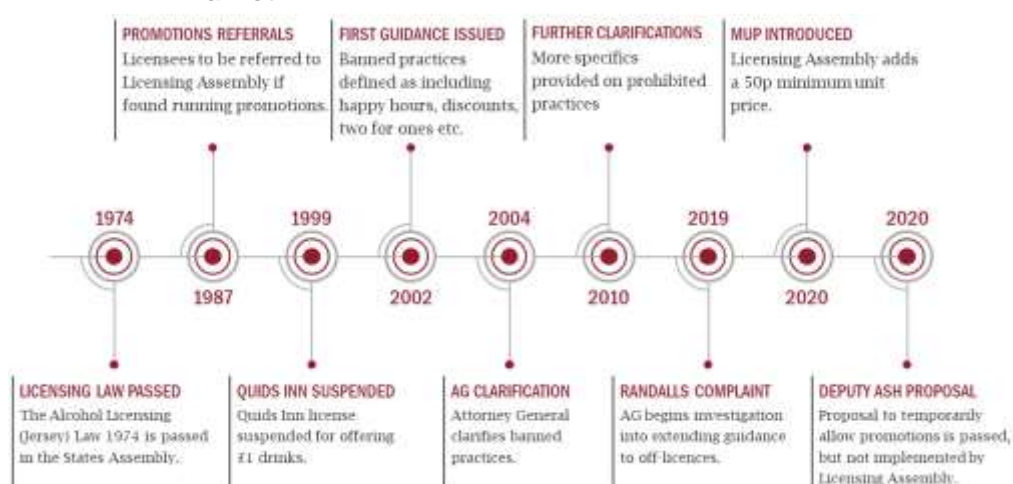
- If the price of £2.50 for “X beer” is limited to certain hours of the day or a particular day or days of the week.
- “All drinks £X all night” and all variants thereof.
- Buy one get one free (or at a reduced price).
- Free or reduced-price alcoholic drinks on entry to the premises.
- Loyalty card schemes or other membership schemes which enable the member to obtain alcohol at discounted prices.
- The use of different tariffs that are specific to certain days or times of the week.
- Pricing restriction: on-licence operators are restricted from setting prices at a level significantly (10% or more) below those listed by their competitors.
- Advertising practices or promotions which encourage consumers to increase their alcohol consumption for Category 7 licence holders (Entertainment licence).
- Minimum Unit Pricing (MUP): off-licence operators (Category 6 licence holders) must not sell alcohol at prices below 50 pence per unit, the minimum unit price.⁶

The evolution of the Attorney General’s Guidance

The basis for the Guidance for on-licence promotions dates back to 1987, following an investigation by the Attorney General into promotional practices within the alcohol market. The Licensing Assembly noted that those who ran promotions encouraging excessive alcohol consumption would risk losing their licence. Written guidance was issued by the Attorney General in 2002, 2004, and 2010, to clarify which specific practices were not permitted.

Figure 3 presents an overview of key regulatory events in the Jersey alcohol market.

Figure 3 Timeline of legislative developments in the Jersey alcohol market



Source: Frontier Economics

⁶ A ‘unit’ of alcohol is 10ml of pure alcohol determined by the volume of product and the alcohol by volume (ABV) strength. For example, a 500ml bottle of lager at 5% ABV contains 25ml of alcohol, or 2.5 units.

More recently, there have been two main consultations with stakeholders on proposed changes to alcohol regulation. The 2016 Liquor Licensing Consultation collected stakeholder views on replacing the Licensing Assembly with a new Licensing Authority, creating an Alcohol and Licensing Policy Group, and expanding the promotions restrictions to off-licences amongst others. Following a broadly negative response to the proposal of off-licence promotion restrictions, the Shadow Alcohol and Licensing Policy Group decided against lodging any legislation that would propose this change.

In 2019, the Solicitor General prepared a report on behalf of the Attorney General reviewing promotional practices within the off-licence. This involved consulting stakeholders on two alternative approaches to off-licence alcohol restrictions. Option A was to extend the existing restrictions on promotions in the on-licence to the off-licence and Option B was to adopt a minimum unit price. Following this report Option B was chosen and the Guidance was updated to include a 50p minimum price per unit of alcohol for off-licences, taking effect in April 2020.

Recent policy developments

Alcohol policy has been a recent topic of debate within the States of Jersey. Deputy Lindsay Ash of St. Clement has put forward multiple proposals to alter the restrictions, such as removing MUP and the promotion restrictions. Deputy Ash's initial proposal to remove these restrictions was not passed by the States Assembly. A second proposal requesting a temporary relaxation of the on-licence restrictions until the end of 2021 was passed in October 2020, but it was not implemented by the Licensing Assembly. Lindsay Ash's most recent proposal also gives the Minister for Economic Development until the end of December 2021 to bring forward amendments to the Licensing Law to "establish a framework whereby licensing policy decisions were vested in the States Assembly".

3 THE ECONOMICS OF PRICING RESTRICTIONS

Policymakers may have an objective to reduce excessive/problematic drinking. This is because harmful alcohol consumption imposes externalities on others (e.g. antisocial behaviour), and harms the individuals themselves if they are not making fully rational decisions about alcohol consumption (so called ‘internalities’). Policy makers use excise duties⁷ and/or other mechanisms to increase alcohol prices in order to discourage consumption (in order to correct for the negative externalities and internalities discussed above).⁸

Excise duties or other mechanisms which seek to reduce excessive or problematic drinking, however, also impose costs and these need to be carefully balanced against the possible individual or societal benefits to determine optimal policy responses. While the literature on alcohol-related harms and societal costs remains complex, the best evidence suggests that moderate consumption is unlikely to be associated with significant societal costs.

However, policy interventions raise prices for all consumers. In economic terms, interventions are (necessarily) tailored to *average* social costs of alcohol consumption, rather than *marginal* social costs for problem consumption: it may be optimal to charge a much higher price for the sixth pint of beer consumed in a session than the first, but it is not practical to do so.

In this section we consider the economic theory of pricing restrictions in order to understand the likely economic impacts of the on-licence and off-licence restrictions used in Jersey. Based on this, we formulate a number of hypotheses, which we test using the evidence from international benchmarking, case studies and stakeholder interviews.

3.1 The likely impacts of the Guidance on competition and consumers

3.1.1 On-licence restrictions

Both price restrictions and restrictions on promotions are likely to lead to higher prices for consumers and less intense competition in the on-licence sector. There is a wide consensus that competition drives positive consumer outcomes – more choice, better quality and lower prices.

The UK Competition and Markets Authority (CMA) states:

“Competition drives productivity growth by shifting market share to more efficient firms and inducing all firms to become more efficient, often through innovation, in order to survive. Across developed and less developed

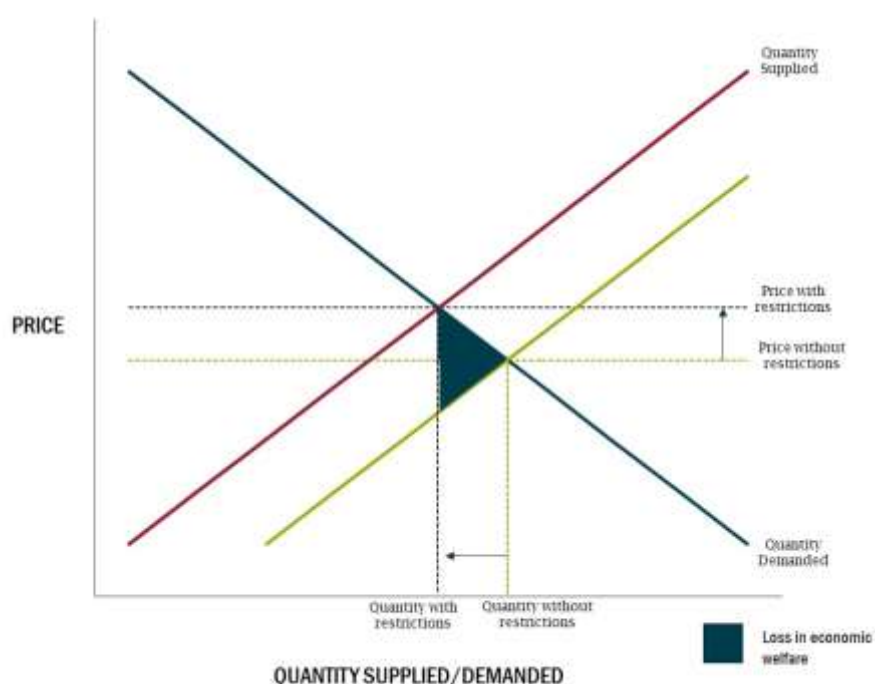
⁷ Excise duties in Jersey are discussed in more detail in Section 4 below.

⁸ See for example Crawford I., Keen M. and Smith S. (2010) “Value added tax and excises”

economies, competition has been found to result in higher productivity growth and in both lower prices and greater choice for consumers.”⁹

If, on the other hand, competition is restricted (because the market is concentrated or because businesses are unable to adjust their prices), businesses’ incentives to innovate and to become more efficient may be significantly reduced. This is illustrated by Figure 4 below. The diagram shows how cost reductions/ efficiency improvements get passed on to consumers in the form of lower prices. However, if there are restrictions in place, prices remain high (above the competitive level) and consumption is below the competitive level. There is also a loss in economic welfare¹⁰ (illustrated by the dark triangle on the diagram).

Figure 4 The Guidance causes a reduction in economic welfare



Source: Frontier

Furthermore, the Guidance is likely to benefit producers, wholesalers and retailers at the expense of consumers by (in effect) maintaining prices at a level, which is higher than the competitive level. Note that other policy interventions, e.g. excise duties, also maintain prices above the competitive level. However, if excise duties are imposed, any surplus is collected by government in the form of tax revenues, rather than retained by the industry in the form of excess profits.

The Guidance constrains on-licences’ ability to price flexibly (to price below their competitors) and to use discounts and promotions. **Pricing flexibility** is important in order to ensure that cost reductions or efficiencies are passed on to consumers in the form of lower prices. If businesses are not allowed to price below their competitors, they are limited in their ability to compete on price and have to rely on non-price factors. Generally, businesses would have weaker incentives to become

⁹ CMA “Vision, Values and Strategy for the CMA”

¹⁰ Economic welfare is defined as the sum of producer surplus and consumer surplus

more efficient and to innovate, while consumers would not benefit from lower prices.

While we recognise that an unconstrained competitive outcome might not be desirable in this case due to the externalities and internalities discussed above, we also observe that the Guidance restrictions apply in addition to the excise duties. The latter are imposed to impact alcohol consumption and to raise government revenues. Therefore, alcohol consumption in on-licences is affected both by excise duties and by the Guidance. This “double-correction” might not be optimal.

We also observe that prices in on-licences tend to be considerably higher than in off-licences. While this largely reflects cost differences in supplying alcohol for consumption on-premises than off-premises, it is likely that some part of the differential is driven by the Guidance. When faced with a large price differential, some consumers might switch alcohol consumption away from on-licences to off-licences/ drinking at home.

Indeed, the literature¹¹ generally (but not always) finds positive cross-price elasticities between on- and off-licence alcohol purchases when looking within alcohol types (beer, wine, spirits, etc.), consistent with substitution from on- to off-trade. Cross-price elasticities are often difficult to model empirically and in many cases these elasticities are not statistically significant. They also combine both pure price effects and income effects, making their interpretation somewhat difficult. One study¹² estimated cross-price effects for off-trade alcohol with respect to on-trade price, combining different alcohol types but exploring variation by overall alcohol consumption. This study finds positive, significant cross-price elasticities overall, consistent with the hypothesis that higher on-trade prices lead to increases in off-trade consumption, though also found the effects were larger for lighter drinkers.

Temporary promotions may also promote efficiency and increase competition in a number of ways:

- Promotions are typically used at times when demand is low (e.g. weekday evenings, early afternoon). Temporary promotions can be used to encourage consumers to shift their consumption to less busy periods.¹³
- Temporary promotions also allow businesses to distinguish between more price sensitive and less price sensitive customers. This is similar to airlines selling cheaper tickets to customers who are willing to accept more restrictions (economy fare) and charging higher prices to customers who want to be more flexible (business fares). Price differentiation improves efficiency as it allows more customers to be served than would be the case under uniform pricing.¹⁴
- Furthermore, temporary promotions can play an important role in enabling new entrants or smaller businesses to expand, as they can be a powerful tool for attracting new customers through introductory offers. In the context of entry, this can enable new businesses to become more established in the market.

¹¹ See for example [Sousa \(2014\)](#), [Yang et al \(2014\)](#) and [Whitaker \(2019\)](#)

¹² Price (2016) “The economics of Alcohol”, <https://eprints.lancs.ac.uk/id/eprint/83339/1/2016prycephd.pdf>

¹³ Sasser (1976) “Match Supply and Demand in Service Industries”, Harvard Business Review

¹⁴ See for example Blattberg et al (1981) “A theoretical and empirical evaluation of price deals for consumer nondurables”, Journal of Marketing 45; Narasimhan (1988) “A model of discounting for repeat sales”.

If temporary promotions are not allowed, it would imply less competition in the market (as new entrants would find it more difficult to get established) and might lead to some consumer groups being under-served (especially price-sensitive consumers).

We recognise that irresponsible promotions or deep discounting may cause some consumers to drink excessively. Therefore, it is important that any economic benefits of promotions and pricing flexibility are considered in the wider context. As set out above, it is important to understand which policies deliver the desired outcome with minimum unintended consequences.

3.1.2 Off-licence restrictions: Minimum Unit Pricing

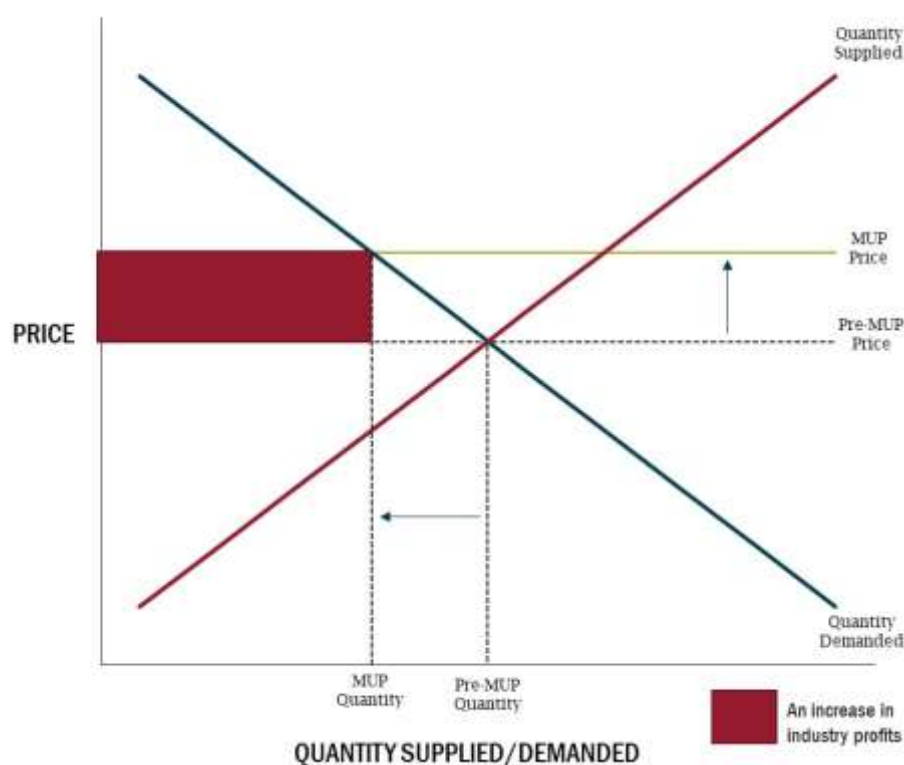
In 2020, the Guidance was amended to include the **Minimum Unit Price (MUP) of 50p** for off-licences (licence category 6). MUP targets 'cheap' alcoholic drinks, i.e. those products that are priced below MUP. As a result of MUP, the price of these products would be expected to increase to at least the minimum price implied by the Guidance (indicated by the vertical arrow on the diagram below), leading to a reduction in consumption (indicated by the horizontal arrow). In some cases these products may be delisted if, as a result of their price rise, they are unable to compete with the existing set of more expensive, higher quality drinks.

As well as targeting cheaper products, MUP can be effective at targeting the types of alcohol most often purchased by problem drinkers (cheaper spirits, beers and ciders) where external (social) costs of consumption are higher. In this respect MUP has certain advantages over using excise duties to increase prices. However, studies also note that additional revenues resulting from MUP flow to industry (retailers, wholesalers and producers) rather than public revenues, and some studies suggest that they can be accompanied by reduced excise tax revenues.¹⁵

The impact of MUP on industry profits is denoted by the red rectangle on the diagram below.

¹⁵ See for example Griffith, R., M. O'Connell and K. Smith (2020), *Tackling heavy drinking through tax reform and minimum unit pricing*, Institute for Fiscal Studies Briefing Note BN31.

Figure 5 Impact of MUP on prices of products, which were initial priced below MUP, and corresponding impact on industry profits



Source: Frontier Economics

Theory suggests that retailers and producers could respond to MUP by increasing the price of more expensive products as well to maintain price differentials between cheaper and ‘premium’ alcohols. However existing evidence from Scotland is that a relatively limited impact on more expensive products is observed in practice.¹⁶

The impact of MUP on competition is complex and depends on the degree to which MUP constrains pricing in practice. More specifically:

- MUP is more likely to affect businesses that sell cheap alcoholic drinks. On the one hand, consumption of products that were initially priced below MUP is likely to reduce, but on the other hand, the margin on these products is likely to increase. Therefore, the overall impact of MUP on off-licences is uncertain. To the extent that MUP increases industry profits for alcoholic drinks, these increased profits may be fully or partly offset if those profits are reinvested in temporary or permanent reductions in prices for other product lines, given overall competitive pressures in retail.
- Off-licences that stock more expensive drinks are less likely to be directly affected by MUP. However, they may be affected indirectly if MUP changes the competitive dynamics in other more expensive products.

¹⁶ See Frontier Economics (2019) Minimum Unit Alcohol Pricing, Evaluating the impacts on the alcoholic drinks industry in Scotland: baseline evidence and initial impacts

The overall impact of MUP on consumers and competition depends on whether it is binding, i.e. on the share of products that have been affected by MUP. If most products were priced above MUP before the MUP was introduced, its impact on consumers and competition is likely to be minimal.

In principle, MUP could reduce price differentials between on- and off-licence alcohol retail segments, leading to substitution from off- to on-licences. In practice, relatively little evidence exists so far that MUP in Scotland has led to significant consumer substitution in this direction.

3.2 Hypotheses

Based on the economic theory presented above, we have formulated a number of hypotheses to test using quantitative and qualitative evidence collected in this study:

On-licence restrictions:

- The on-licence restrictions on prices and promotions are likely to limit price competition in the on-licence sector.
- Limits to price competition may increase prices overall, benefitting industry relative to consumers (setting aside health or wider social benefits).
- On-licence restrictions may lead to a shift in consumption from on-licences to off-licences.
- On-licence restrictions may impact different on-licences differently, depending on other ways in which these retailers can compete other than price (for example, restaurants and gastropubs may be less affected by these restrictions than pubs that only or largely sell alcohol, as they can compete on food prices).

Off-licence restrictions:

- The effectiveness of MUP (in terms of curbing harmful drinking) and its impact on competition depends on the number of products that were priced below MUP at the time when MUP was introduced.
- In theory, the introduction of MUP could lead to a shift in consumption away from off-licences to on-licences.

We use a combination of evidence from international benchmarking, selected case studies and stakeholder interviews to test these hypotheses.

4 A COMPARISON OF ALCOHOL MARKET OUTCOMES IN JERSEY AND IN COMPARATOR JURISDICTIONS

We have conducted an international benchmarking analysis in order to understand how alcohol market outcomes in Jersey compare with market outcomes in other jurisdictions. In particular, we have focused on: alcohol consumption per capita; relative and absolute prices of alcohol; and alcohol-related health outcomes.

Jurisdictions were chosen based on proximity to Jersey and/or comparability of known features of the alcohol sector (such as the degree of regulatory constraints and alcohol price-setting). The jurisdictions selected for inclusion in the analysis are England, Guernsey, Ireland, Scotland and Wales.¹⁷

While alcohol consumption reduced significantly in Jersey between 2000 and 2018, this reduction cannot be attributed solely to the Guidance. Indeed, a number of factors have changed over the period. For example, excise duties have increased significantly and are now among the highest in Europe, which is also expected to reduce alcohol consumption. Falls in consumption have also been observed in other countries.

In the remainder of this section, we first discuss data availability and the limitations of this data, and then present the key findings from our data analysis.

4.1 Data availability and limitations

Our approach to the international benchmarking analysis has mainly comprised of desk-based research and a review of documents, data and materials in the public domain relating to the chosen jurisdictions.

Based on a review of available evidence and data, we have focused the analysis on a selected set of metrics and key facts. **Figure 6** describes these in more detail and indicates where it has been possible to report metrics separately for the on-licence and off-licence and/or the market as a whole (i.e. aggregate).

Figure 6 List of indicators for benchmarking analysis

Indicator	Description
Regulatory constraints on alcohol promotions, pricing and sales	Policies such as minimum unit pricing and restrictions on price-setting, promotions.
Per capita alcohol consumption	Annual consumption per capita of pure alcohol in litres.
Relative alcohol price levels	RPI changes for alcohol products relative to changes for all items.
Absolute alcohol price levels (pre-tax, retail)	Pre-tax and retail prices for select products (lager, whisky).
Rates of excise duty on alcohol products	Duty rates on comparable beer, wine and spirit-based products.

¹⁷ The Isle of Man was considered for inclusion in the benchmarking sample on the same grounds as Guernsey (relevant small island comparator) but was ultimately removed due to severe data limitations.

Indicator	Description
Alcohol-specific death rate (per 100,000)	Rate of death by causes wholly attributed to alcohol consumption.

Source: Based on publicly available information. A full list of source information is provided in the annex (see Figure 21).

Where possible, we have collected data on both time series and ‘latest year’ estimates for the metrics reported above. This data has been sourced from a range of public sources including national statistics offices, trade bodies, health and alcohol research organisations and other public bodies. In a number of cases, we have submitted direct requests for information to the relevant body.

It has been challenging to systematically compare market outcomes across jurisdictions due to issues with data availability and other data limitations. In particular:

- Limited data is available on the on-licence and off-licence sectors separately. As a result, it has not been possible to analyse separately consumption and pricing outcomes in these segments.
- Data availability varies across countries and in some instances it has not been possible to collect data on each of the metrics reported above for the full set of jurisdictions included in the benchmarking analysis. This includes data on consumption and health outcomes in Jersey, which we have been unable to source for the period 2019-2021.¹⁸

A summary of data availability for each metric over time across the set of jurisdictions included in the analysis is provided in Figure 22 in Annex A.

4.2 Key findings

Jersey’s Guidance appears to be stricter than alcohol policy restrictions in comparator jurisdictions, especially for the on-licence sector.

Figure 7 summarises the alcohol policies and restrictions in place across the set of comparator jurisdictions in the benchmarking analysis, split by the off-licence and on-licence sectors.

Based on this evidence, Jersey’s alcohol market appears to be more strictly regulated than other alcohol markets in our sample, especially in relation to the on-licence sector. For example:

- Jersey is the only jurisdiction where there is a restriction that on-licences are not allowed to price significantly below their competitors.
- Restrictions on tariff prices are supplemented by restrictions on discounts/promotions that prevent operators from selling drinks below listed prices. Ireland is the only other jurisdiction to have implemented a similar ban.¹⁹

¹⁸ We understand that Jersey’s Public Health Intelligence are currently preparing the Alcohol Profile Report 2021, due for publication in early 2022. This is expected to include latest estimates on per capita consumption of alcohol and health-related outcomes. It was not possible to be provided with these estimates for use in this report.

¹⁹ Note that Ireland does not, however, have any additional policies restricting the setting of on-licence tariff prices in place.

For a comparison, Guernsey, the most similar market to Jersey in our sample, has no restrictions on alcohol pricing, beyond excise duties and other taxes.

Figure 7 Alcohol policies in selected jurisdictions across sectors

Restrictions applying to...		Jersey	England	Guernsey	Ireland	Scotland	Wales
Minimum Unit Pricing	On-trade		Duty + VAT		10c per gram	50p per unit	50p per unit
	Off-trade	50p per unit	Duty + VAT		10c per gram	50p per unit	50p per unit
Discounts/ promotions	On-trade	Banned			Banned		
	Off-trade				Banned	Banned	
Pricing below rivals	On-trade	Restricted					
	Off-trade						
Licensing hours	On-trade	Restricted	Restricted	Restricted	Restricted	Restricted	Restricted
	Off-trade	Restricted		Restricted	Restricted	Restricted	
Displays/ adverts	On-trade	Restricted					
	Off-trade					Restricted	
Excise duties/taxes	On-trade	Duty + GST	Duty + VAT	Duty	Duty + VAT	Duty + VAT	Duty + VAT
	Off-trade	Duty + GST	Duty + VAT	Duty	Duty + VAT	Duty + VAT	Duty + VAT

Source: Based on publicly available information.

Notes: In the UK, MUP prevents the pricing of alcohol products below a Government-established 'cost' (determined as the amount of 'duty plus VAT' on a product). In England and Wales, off-trade premises are permitted to sell alcohol 24 hours a day, with the Licensing Act 2003 removing the restriction on licensing hours for off-trade venues.

Alcohol consumption in Jersey historically exceeded the levels in other jurisdictions, but the gap in consumption has narrowed significantly over time.

Figure 8 presents per capita consumption of pure alcohol (in litres) for the market as a whole (i.e. off-licence and on-licence combined) for the period 2000-2020.

Based on this evidence, the level of overall alcohol consumption in Jersey historically exceeded the levels observed in other jurisdictions. For example, in 2000, per capita consumption was 64% higher in Jersey (16.2 litres) than in England and Wales (9.9 litres).

However, per capita consumption of alcohol has fallen significantly over time in Jersey, decreasing by 26% between 2000 and 2018 – the largest percentage fall in consumption across all jurisdictions included in our analysis. As of 2018, per capita consumption in Jersey was broadly in line with per capita consumption in Ireland, Scotland and Guernsey.

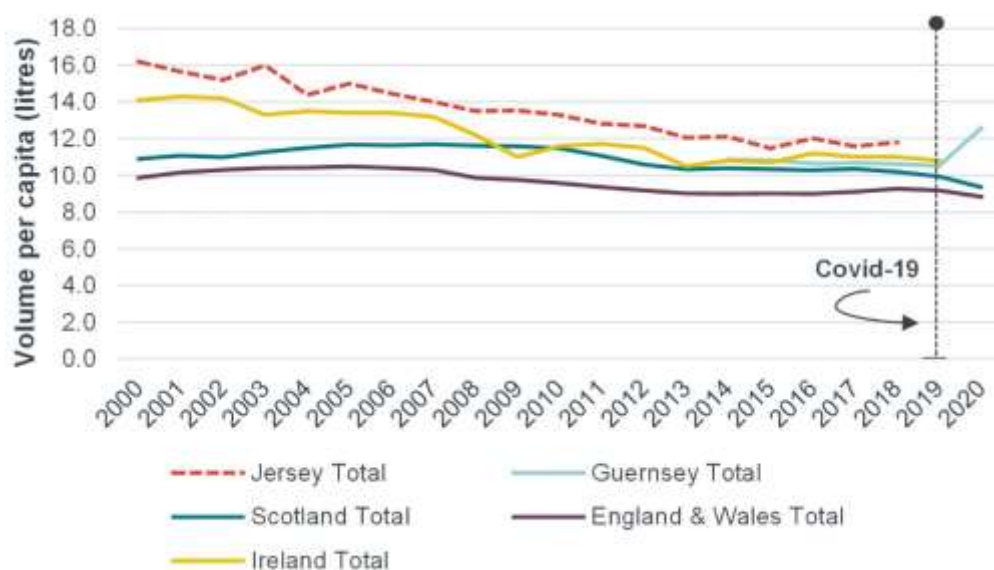
On the one hand, this may suggest that the Guidance is working. On the other hand, decreasing alcohol consumption appears to be a common trend in Europe (even in countries with relatively few restrictions). E.g. in the UK, since reaching a

peak in the mid-2000s, alcohol consumption has been falling steadily – especially among young people²⁰.

Due to issues with data availability, it has not been possible to gather data on per capita consumption in Jersey beyond 2018. This has two implications for our analysis.

- First, it is not possible to comment on the impact of minimum unit pricing on consumption in Jersey, with the policy having been introduced in April 2020.
- Second, it is not possible to comment on the impact of COVID and associated restrictions on alcohol consumption in Jersey. In other jurisdictions, trends in per capita consumption since the beginning of the pandemic appear to have diverged: while consumption has continued to fall in England, Wales and Scotland, consumption per capita has increased in Guernsey. We understand that the latter may be driven by changes in the composition of alcohol consumption in Guernsey (specifically due to a reduction in consumption of duty-free alcohol and an increase in consumption of alcohol purchased on-island).²¹

Figure 8 Alcohol consumption per capita has declined in Jersey over time²²



Source: Jersey Alcohol Profile 2018, Guernsey Public Health Intelligence, Public Health Scotland, Ireland Health Research Board

²⁰ <https://alcoholchange.org.uk/alcohol-facts/fact-sheets/drinking-trends-in-the-uk>

²¹ The increase in per capita consumption between 2019 and 2020 observed in Guernsey is understood to be driven by this demand-side substitution effect, with a smaller volume of sales occurring through duty-free channels (which are not accounted for in duty-based alcohol consumption estimates). As a result, 2020 estimates for per capita consumption in Guernsey are thought to provide a more accurate estimate of 'true' annual consumption on the island.

²² The increase in alcohol consumption in 2020 in Guernsey is driven by the substitution of duty-free alcohol (which is typically under-recorded) by domestic purchases (which are recorded fully) due to COVID. In light of that, it is not clear whether the increase in 2020 is a genuine increase in consumption compared to the previous years, or whether consumption in 2020 presents a more accurate estimate of alcohol consumption in general.

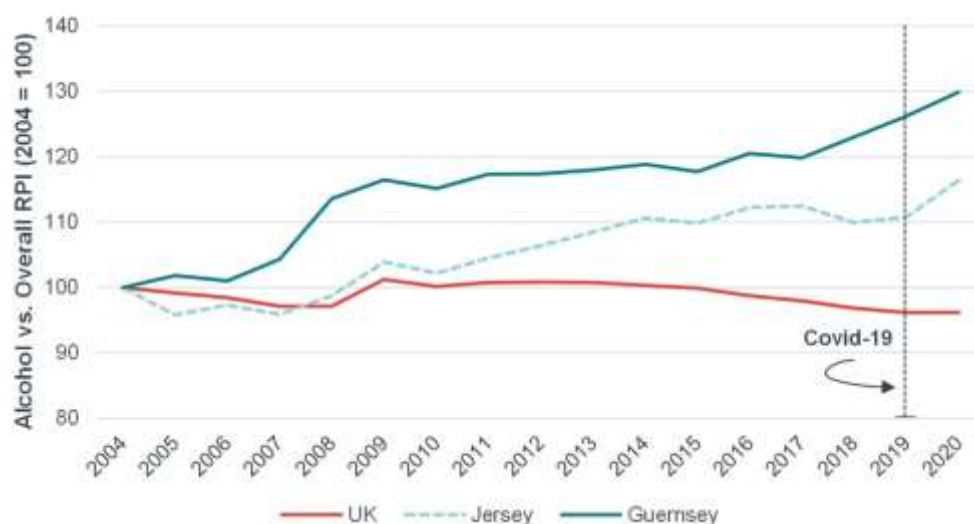
Alcohol prices have risen relative to other prices in Jersey and Guernsey, but not the UK.

Limited data on absolute price levels suggests that alcohol prices in Jersey appear to be significantly higher than the UK, and either comparable or higher than in Guernsey.

Figure 9 presents the relative change in the cost of alcohol relative to the change in the cost of a representative sample of goods and services.

Based on this evidence, alcohol prices have risen relative to the overall price of goods and services in Jersey and Guernsey. Trends in relative alcohol prices over time appear similar in the two jurisdictions, however relative prices have increased by more in Guernsey than in Jersey.

Figure 9 Alcohol prices have increased in Jersey over time (relative to the overall price of goods and services), but less so than in Guernsey. The relative prices in the UK have declined over the same period²³



Source: UK Office of National Statistics, Government of Jersey, Government of Guernsey

Note: Relative price changes in each jurisdiction are calculated by dividing scores for the alcohol component of jurisdictions' retail price index (RPI) by the score for an overall basket of goods in each year. Scores are index to 2004 in each jurisdiction for comparability.

Analysis of changes in absolute alcohol price levels on a consistent basis across jurisdictions is more difficult due to data limitations. For several jurisdictions, data on average price levels of alcohol products is unavailable, while for others data is available for only a subset of selected products.

²³ The alcohol price index is estimated using the alcohol-specific component of the retail price index in each country and is an average across all types of alcohol. This is then compared to the overall retail price index in each country (i.e. the price index across a representative basket of goods and services in each country, including alcohol) to assess relative changes in the price of alcohol over time.

However, for a subset of the jurisdictions included in our analysis, we have been able to source data on pre-tax and retail prices for the following alcohol products:²⁴

- 568ml (1 pint) of lager with an average ABV of 4%; and
- 25ml (1 serving) of whisky with an average ABV of 40%.

Data on pre-tax and retail prices for each product is reported in **Figure 10** through **Figure 13** below. Based on this evidence:

- Pre-tax and retail prices for a pint of lager are comparable in Jersey and Guernsey, with prices in both jurisdictions considerably higher than in the UK (likely to be due in part to additional costs incurred to import these products, e.g. transport costs).
- The difference in pre-tax prices between Guernsey/Jersey and the UK is larger than the equivalent difference in retail prices, consistent with the charging of VAT in addition to excise duty on alcohol products in the UK.
- Pre-tax and retail prices for a serving of whisky are higher in Jersey than in Guernsey and the UK. Differences in retail price are particularly pronounced, with prices in Jersey approximately 20% higher than in both Guernsey and the UK as of 2019.
- Pre-tax prices for whisky in Jersey are 40% (17%) higher than in the UK (Guernsey) as of 2019.

Overall, pre-tax prices of beer in Jersey are similar to those in Guernsey, but higher than in the UK, while for whisky, pre-tax prices in Jersey are higher than prices in the UK and in Guernsey.

Figure 10. Per unit pre-tax price (£), 568ml of 5% ABV lager **Figure 11. Per unit retail price (£), 568ml of 5% ABV lager**



Source: Government of Jersey, Government of Guernsey

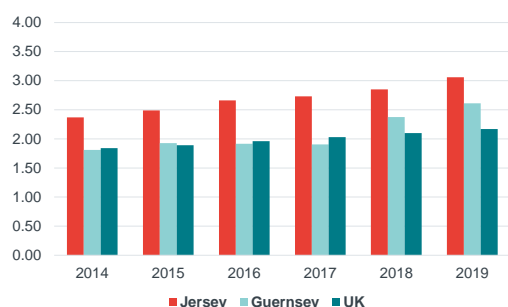
Note: Reported prices are based on a 568ml serving with an average strength of 5% ABV.

Source: Government of Jersey, Government of Guernsey

Note: Reported prices are based on a 568ml serving with an average strength of 5% ABV.

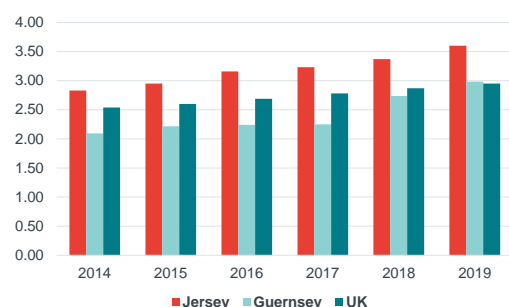
²⁴ Retail prices are defined as pre-tax prices plus excise duty, VAT (UK only) and general sales tax (Jersey only).

Figure 12. Per unit pre-tax price (£), 25ml of 40% ABV whisky **Figure 13. Per unit retail price (£), 25ml of 40% ABV whisky**



Source: Government of Jersey, Government of Guernsey

Note: Reported prices are based on a 25ml serving with an average strength of 40% ABV.



Source: Government of Jersey, Government of Guernsey

Note: Reported prices are based on a 25ml serving with an average strength of 40% ABV.

Alcohol excise duty rates on beer and wine are lower in Jersey than in other jurisdictions, but rates on spirits in Jersey are now comparatively high

Figure 14 presents indices of excise duty rates for beer, wine and spirit-based alcohol products across jurisdictions. Index scores are calculated for Jersey, Guernsey and the UK relative to Ireland and are based on 2020 excise duty rates.²⁵

Based on this evidence, excise duty rates on beer and wine are comparatively low in Jersey, with duty rates on these products in Jersey the lowest of all jurisdictions included in our comparator sample. Rates of duty are 14% (for wine) and 42% (for beer) lower in Jersey than in Ireland, where rates on wine (beer) are the highest (second highest) of all European Union member states.²⁶

By comparison, rates of excise duty on spirit-based alcohol products are high in Jersey, exceeding even Ireland (where spirit-based rates are the third highest of all member states).²⁷ This is, however, a recent change and is driven by a significant increase (~14%) in duty rates in Jersey between 2019 and 2020. As shown in **Figure 15**, rates have been comparable – if not lower – in Jersey compared to Ireland in previous years.

²⁵ Ireland has been chosen as the base for reported index scores as it has some of the highest excise duty rates on alcohol products in the European Union, with high excise duty rates reflecting a long-standing policy objective to support public health objectives. For more information, see the Government of Ireland's Department of Finance General Excise Paper (2019).

²⁶ Irish Government Department of Finance (2019) – Excise Duty Paper, Appendix 2, pg. 35.

²⁷ Ibid.

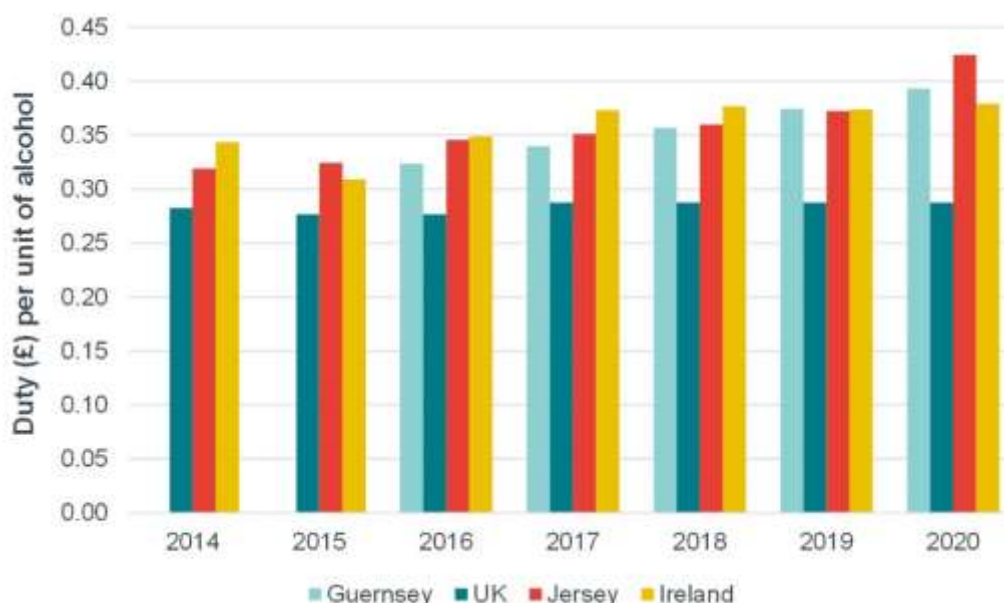
Figure 14 Excise duties (in 2020) in Jersey are higher than excise duties in other jurisdictions for spirits, but lower for beer and wine

Country	Wine duties index (Ireland = 100)	Beer duties index (Ireland = 100)	Spirits duties index (Ireland = 100)
Jersey	86	58	112
Guernsey	108	73	104
UK	95	79	76

Source: UK Office of National Statistics, Government of Jersey, Government of Guernsey, Irish Tax and Customs

Note: Per unit duty rates for beer, wine and spirits and compared on a like-for-like basis using assumed % ABV and volume figures. Relevant duty rates are calculated for assumed ABV (volume) figures of 4% (1 litre) for beer, 11.5% (1 litre) for wine and 100% (1 litre) for spirits (i.e. calculated on a per litre of pure alcohol basis).

Figure 15 Per unit excise duty rates (£) on spirits exceeding 1.2% ABV: Jersey has the highest rate among the comparator jurisdictions



Source: UK Office of National Statistics, Government of Jersey, Government of Guernsey, Irish Tax and Customs

Note: It has not been possible to calculate equivalent per unit duty rates on spirits in Guernsey for 2014 and 2015 as a flat rate on spirits exceeding 1.2% ABV was not implemented until 2016.

Overall, the excise duty rates on beer and wine in Jersey are lower than in Guernsey, Ireland and the UK, while the excise duty on spirits is higher in Jersey than in other comparator jurisdictions.

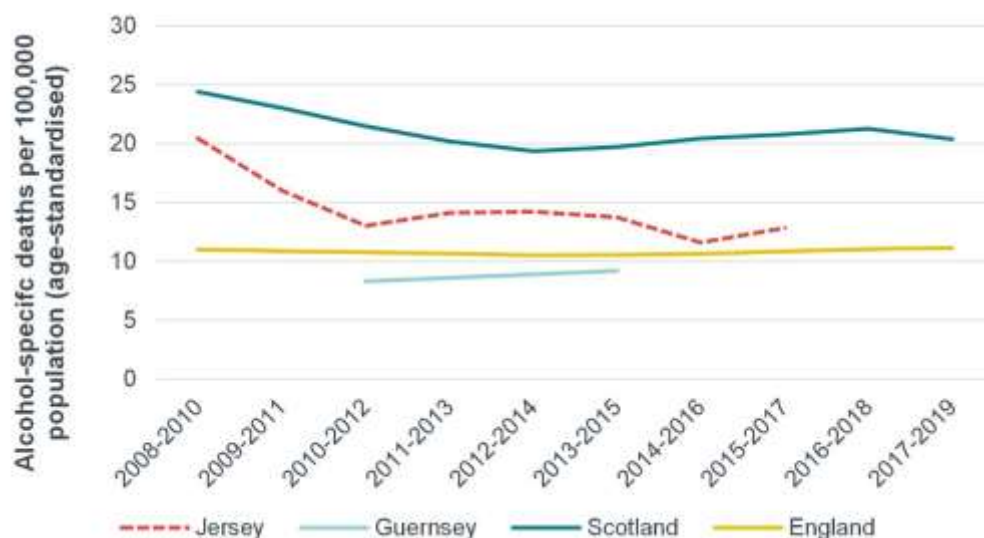
Health outcomes in Jersey have improved significantly and are only marginally worse than in Guernsey and in England

Figure 16 presents rates of alcohol-specific deaths in Jersey, Guernsey, Scotland and England.^{28 29} Note that due to the relatively small number of alcohol-specific deaths occurring in Jersey, deaths are measured over a three-year period.

Based on this evidence, rates of alcohol-specific deaths in Jersey have improved over time, from 20 deaths per 100,000 population in 2008-10 to 12 deaths in 2015-17. Alcohol-specific deaths are lower than in Scotland and only marginally higher than in England and Guernsey, despite higher per capita consumption of alcohol. Furthermore, we observe that:

- Data for Jersey indicates a small increase in alcohol-specific deaths between 2014-16 and 2015-17. However, due to data limitations, we are unable to determine whether this is a temporary change or the start of a longer-term upward trend.
- Available data indicates the gap between alcohol-specific death rates in Jersey and alcohol-related death rates in Guernsey narrowed between 2010-15.³⁰
- Rates of alcohol-specific deaths appear to have fallen in Scotland since the introduction of MUP in 2018 but remain considerably above the level observed in other jurisdictions.

Figure 16 Alcohol-specific deaths per 100,000 of the population (3-year rolling averages by jurisdiction) have declined in Jersey over time and are broadly comparable to those in England



Source: Jersey Alcohol Profile 2018, Public Health England, Public Health Scotland, Guernsey Health Improvement Commission

²⁸ The UK Office of National Statistics defines an alcohol-specific death as caused by diseases known to be a direct consequence (or wholly attributable to) the consumption of alcohol.

²⁹ Data for Guernsey reports rates of alcohol-related deaths. Alcohol-related deaths comprises both conditions considered wholly attributable to alcohol consumption and a proportion of deaths from conditions considered partially attributed to alcohol consumption.

³⁰ As explained above, alcohol-related deaths comprise a broader range of conditions contributing to the death of an individual as a result of alcohol consumption. We would therefore expect the rates of alcohol-specific deaths in Guernsey to be smaller in magnitude than the reported rates of alcohol-related deaths.

Note: Data for Guernsey reports rates of alcohol-related deaths. This data is available in Guernsey for the period 2010-2015 only.

4.3 Conclusions

The international benchmarking analysis compares outcomes in Jersey across areas such as consumption, pricing and health to those in other jurisdictions. We find that:

- Alcohol consumption per capita declined significantly in Jersey between 2000 and 2018 and is now broadly in line with consumption in other jurisdictions.
- Since 2004, alcohol prices in Jersey have increased faster than average prices of other goods (though the same is true, and to a greater extent, in Guernsey).
- Price levels (both pre-tax and post-tax) for a selected set of products tend to be either similar or higher in Jersey than in other jurisdictions.
- Alcohol excise duties are lower in Jersey than other jurisdictions for beer and wine, but (as of 2020) higher for spirits.
- Alcohol-related health outcomes (e.g. alcohol-specific deaths) have improved in Jersey over time and are now broadly comparable to outcomes in England and Guernsey, and are better than in Scotland.

It is difficult to attribute any observed differences in these outcomes between Jersey and other jurisdictions to the Guidance in place in Jersey, as there are many other factors that can be expected to affect relative levels of consumption, pricing and health. For example, excise duties have increased significantly and are now among the highest in Europe, which is also expected to reduce consumption. Furthermore, differences in consumer preferences, market structure and supply chain logistics (e.g. transportation costs) can all be expected to drive – in part – differences across jurisdictions.

We have therefore supplemented the takeaways from our international benchmarking analysis with case studies and in-depth stakeholder interviews as a means of further exploring the relative importance of the Guidance (versus these other factors) to alcohol market outcomes in Jersey.

5 IN-DEPTH CASE STUDIES: GUERNSEY AND SCOTLAND

To further explore the observed differences in outcomes between Jersey and other jurisdictions identified through our international benchmarking exercise, we have produced two case studies examining alcohol-related policies and outcomes in select jurisdictions in more depth. These case studies focus on **Guernsey** and **Scotland** respectively.

The rationale for the choice of jurisdiction is as follows:

- **Guernsey.** The structure of alcohol markets in Guernsey and Jersey appear to be broadly similar, with two large pub chains, several tied pubs and a small number of independent pubs, and a heavy reliance on imported alcohol. The two islands are also comparable in terms of economic structure. However, unlike in Jersey, there are no on-licence pricing restrictions in place in Guernsey. Outcomes in Guernsey may provide useful context for understanding how promotions in the on-licence sector are used and how consumer outcomes compare across the two jurisdictions.
- **Scotland.** MUP has been in place in Scotland since 2018. As a result, several years of data are now available to compare outcomes in the periods before and after the policy's introduction. This provides an opportunity to assess the impact of MUP on prices and consumption in the off-licence sector.

5.1 Guernsey

Guernsey and Jersey appear to have similar alcohol markets based on a number of market-specific and economy-wide factors. These include:

- similarities in the structure of domestic alcohol markets, with two leading chain operators that own multiple premises;
- a dependence on imported alcohol for distribution and sale on-island; and
- similarities in median income level.

Figure 17 reports evidence for Jersey and Guernsey across each of these factors.

A key difference between the two markets, however, is the absence of explicit on-licence pricing restrictions in Guernsey; unlike in Jersey, on-licence venues in Guernsey are free to set prices and are not prohibited from offering promotions or discounts.^{31 32}

³¹ See The Liquor Licensing (Guernsey) Ordinance, 2006.

³² While venues in Guernsey are free to set prices and offer promotions on alcohol drinks, we do understand that consideration is being given to the regulation of alcohol pricing through promotion bans and the introduction of Minimum Unit Pricing in Guernsey as set out in its 2021-2016 Substance Abuse Strategy. See Table 1 of States of Guernsey (2021) – Combined Substance Use Strategy for Guernsey and Alderney 2021-2026 for more detail.

Figure 17 Comparison of Jersey and Guernsey across alcohol-market specific and economy-wide factors: the markets appear to be broadly similar, except for the Guidance

	Jersey		Guernsey	
Alcohol-market specific factors				
Licensed premises (2021) per 1,000 of the population (2019)	Total	6.4	Total	5.1
	Off-licence	2.6	Off-licence	3.1
Presence of chain operators with multi-premise ownership	Randalls	19	Randalls	19
	Liberation Group	39	Liberation Group	17
Dependence on imported alcohol for distribution/sale	✓		✓	
Excise duty rates on alcohol products (£ per unit, 2020)	Beer (4% ABV)	£0.17 per unit	Beer (4% ABV)	£0.22 per unit
	Wine (11.5% ABV)	£0.19 per unit	Wine (11.5% ABV)	£0.24 per unit
	Spirits	£0.42 per unit	Spirits	£0.39 per unit
Economy-wide factors				
Median weekly income per capita (£)	£610 per week (2020, Q2)		£661 per week (2020, Q1)	

Source: States of Jersey, States of Guernsey, Randalls (Guernsey, Jersey), Liberation Group

Note: Note that Randalls Guernsey and Randalls Jersey are separate entities. Liberation Group is a single entity across both islands. Figures on multi-premise ownership include premises wholly-owned by operator, tenanted premises, partner pubs and shops.

There is evidence that promotions and discounts are used by on-licence venues in Guernsey – both by chain-owned and independent venues – as shown in **Figure 18**.³³ A large number of venues also regularly participate in ‘Tennerfest’, an annual fixed-price food and drink festival.³⁴

Figure 18 Example promotions offered by on-licence venues in Guernsey

Venue	Promotion/discount	Time, frequency	Venue type
The Doghouse	20% off drinks (plus discounts for live sports)	4pm-6pm, Daily	Independent
Mariner's Inn	£2.50 pints of draught beer	5pm-6pm, Mon-Fri	Chain (Randalls, tenanted pub)
Buho	2-for-1 on beer, wine and selected cocktails	5pm-6pm & 9pm-10pm, Mon, Wed, Thu	Independent
Plough Inn	£3.00 pints of draught beer	6.30pm-7.30pm, Fri	Chain (Liberation Group, partner pub)
Mojito	2 cocktails for £12	6pm-8pm, Fri-Sat	Chain (Liberation Group, partner pub)
Forester's Arms	Selected discounts	7.30pm-8.30pm, Fri	Chain (Liberation Group, partner pub)

Source: Based on publicly available information.

Note: Promotions active as of November 2021.

³³ Note that results reported in **Figure 18** provide an example of promotions and discounts offered by on-licence venues in Guernsey and should not be considered an exhaustive list of available promotions and discounts.

³⁴ For more information on the festival, see <https://www.tennerfest.com/>.

Evidence from the benchmarking analysis also indicates that pre-tax and retail prices across the two jurisdictions are comparable for beer, but significantly higher in Jersey than in Guernsey for whisky. This is despite lower rates of excise duty on certain products in Jersey.

Despite an absence of explicit on-licence pricing restrictions in Guernsey, we do not, however, observe evidence of a detrimental impact on health. In particular, the benchmarking analysis shows that:

- per capita consumption of alcohol has been lower in Guernsey than in Jersey, despite a stricter policy landscape in Jersey;³⁵ and
- the rate of alcohol-specific deaths in Guernsey has been lower than in Jersey based (although rates are shown to have risen in Guernsey slightly over the period 2010-2015).

Although on-licence pricing restrictions are not in place in Guernsey, we understand that when alcohol licences are up for renewal, the police and the parish authorities are invited to provide their views. If there have been any previous problems, e.g. disorderly behaviour by consumers on multiple occasions, this will likely affect the prospect of the grant of the licence. This appears to provide sufficient incentives for licence holders to use promotions responsibly.

Furthermore, the island does have an alcohol strategy that adopts a health-led approach to preventing and reducing harm from alcohol use. Guernsey has recently published its 2021-2026 Combined Substance Use Strategy, with the success of the strategy gauged on the basis of key performance indicators (KPIs).³⁶ These includes KPIs on measures to minimise harm caused by substance use, such as evidence on support for young people at risk from alcohol (and/or other substance) abuse.

Overall, this case study suggests that promotions in the on-licence sector can be used responsibly, leading to consumer benefits in the form of lower prices, but without significant detrimental impacts on people's health.

5.2 Scotland

In May 2018, Scotland implemented a minimum price of 50 pence per unit (ppu) of alcohol sold. . The 50ppu minimum price is a flat rate, applying to all types of alcohol sold in all settings (on- and off-licensed premises). A 'unit' of alcohol is 10 millilitres of pure alcohol, meaning the minimum price is more likely to affect higher-strength products measured in terms of alcohol by volume (ABV). For example, a 500ml can of 5% ABV lager contains 25ml (2.5 units) of alcohol, and so must be sold for no less than £1.25. However at 3% ABV, the minimum price is 75p.

The process of implementing the 50ppu MUP in Scotland was lengthy. Legislation to introduce MUP was brought in June 2012 when the *Alcohol (Minimum Pricing) (Scotland) Act 2012* received Royal Assent. Legal challenges led by industry

³⁵ This is supported by findings from stakeholder interviews, as reported in the following section of this report.

³⁶ See States of Guernsey (2021) – Combined Substance Use Strategy for Guernsey and Alderney 2021-2026 for more detail. The relevant KPIs include: to achieve a reduction in average rates of alcohol consumption in adults (over 16s); To reduce the proportion of adults (over 16s) who exceed low risk drinking guidelines; to achieve a reduction in the rate of alcohol-related mortality in Guernsey and Alderney; and the number of children referred to the Children's Convenor for issues which involve drugs and/or alcohol.

questioned the compliance of the Act with EU legislation.³⁷ The European Court of Justice ruled in 2015 that MUP could be justified on public health grounds if no alternative measures could be identified to achieve similar effects, and left it to the Scottish Courts to determine this. Following a review process, including a Supreme Court decision in 2017, MUP was permitted and came into force in 2018.³⁸

The evidence base underpinning decisions about whether to implement MUP and the rate at which to set it was extensive.³⁹ Much of the work in support of the 2012 Act came from modelling work produced by the School of Alcohol and Related Research at the University of Sheffield.⁴⁰ The modelling work drew on original econometric analysis of how MUP at various rates could affect the demand for alcohol, combined with existing evidence on the links between alcohol consumption and various harms such as health. In advance of the 2012 Act, the Health and Sport Committee of the Scottish Parliament also ran a call for evidence process on MUP.

While no specific rate for the MUP was included in the 2012 Act, a 45ppu rate was proposed by the Scottish Government as the likely rate as the Act was being legislated on. Given the delays in implementation, following the Supreme Court decision, the Scottish Government ran a public consultation process on MUP on a higher proposed rate of 50ppu.⁴¹ Further modelling work was also undertaken. Drawing on this evidence base, the Scottish Government "... concluded that a 50 pence per unit minimum price struck a reasonable balance between public health, social benefits and intervention in the market."⁴²

The time elapsed since the implementation of MUP in Scotland has provided opportunity for research into the impact of the policy. A 'sunset clause' built into the legislation means that MUP will expire automatically after six years, unless the Scottish Parliament votes for it to continue. Ministers are also required to present evidence to the Scottish Parliament as to the impact of MUP after five years. The legislated scope of the review includes the impact of MUP on the alcoholic drinks industry (producers and licence holders), social impacts (e.g. crime, health and public nuisance), and impacts on consumers broken down by characteristics (e.g. age, gender, deprivation and level of alcohol consumption). An overall evaluation of MUP, designed to provide this evidence base, is being led by Public Health Scotland, comprising both internal and commissioned research projects focused on evaluating MUP across these and other dimensions.⁴³

We focus this case study specifically on research from Anderson et al. (2021) on the effectiveness of MUP as an alcohol policy tool to reduce off-licence purchases

³⁷ Katikireddi & McLean (2012) – Introducing a minimum unit price for alcohol in Scotland: considerations under European Law and the implications for European public health, *Eur J Public Health*.

³⁸ More detail available in House of Commons Library Briefing Paper 5021 (2020) – Alcohol: Minimum Pricing

³⁹ See http://archive2021.parliament.scot/ResearchBriefingsAndFactsheets/S4/SB_12-01.pdf for details.

⁴⁰ A repository of studies is available at <https://www.sheffield.ac.uk/scharr/research/themes/alpol/alcohol-group-publications#Scotland%20reports>

⁴¹ See <https://consult.gov.scot/alcohol-policy/minimum-unit-pricing/>

⁴² See <https://www.gov.scot/policies/alcohol-and-drugs/minimum-unit-pricing/>

⁴³ See <http://www.healthscotland.scot/health-topics/alcohol/evaluation-of-minimum-unit-pricing-mup> for further details of the MUP evaluation portfolio.

in Scotland.^{44 45} Note that the research to date focused on the impact of MUP on the effectiveness of policy in reducing (problematic) alcohol consumption rather than on the impact of MUP on competition. Frontier Economics have been leading an evaluation of the impact of MUP on the alcoholic drinks industry in Scotland. The first wave of findings suggested little demonstrable impact of MUP after one year on a range of key metrics such as number of premises, revenue and employment.⁴⁶ The second wave of evaluation findings is underway, expected to be published in 2022.

Wider evidence supports the positive, targeted impact of MUP policy in Scotland. In particular:

- **Increases in alcohol price following the implementation of MUP were sustained.** Analysis shows per gram prices of alcohol in Scotland increased by 7.6% in 2020 when compared to the northern England control group.
- **Decreases in alcohol purchases following the implementation of MUP were sustained.** Analysis shows per gram purchases of alcohol in Scotland decreased by 7.7% in 2020 when compared to the northern England control group.
- **MUP targeted households accounting for the largest share of purchases.** Evidence indicates that MUP predominantly reduced purchases in the top quintile of alcohol-purchasing households.

In addition, the authors found that estimated changes in price levels and purchases were not affected by the introduction of COVID-19 restrictions in March 2020.⁴⁷

Initial evidence suggests that MUP had a positive impact on health outcomes in Scotland. Alcohol-specific deaths fell in the period following implementation, decreasing by 10.2% in Scotland between 2018 and 2019.⁴⁸ This compares to an 8.2% increase in northern England over the same period.

Research to date also provides little evidence of unintended consequences of the policy. For example, Leyland et al. (2021) report no evidence of demand-side substitution from alcohol to other substances, while also finding that concerns about other harms (including crime and the use of other sources of alcohol) generally were not realised.⁴⁹

The positive outcomes associated with the implementation of MUP in Scotland depend critically, however, on the fact that MUP was binding for a significant share of alcohol products in Scotland.

⁴⁴ Anderson et al. (2021) – Impact of minimum unit pricing on alcohol purchases in Scotland and Wales: controlled interrupted time series analyses, *Lancet Public Health Journal*.

⁴⁵ Anderson et al. (2021) use household purchase data for purchases made in the period 2015-2018 and the first half of 2020 to analyse the impact of introducing MUP in Scotland. Purchases in northern England are used as a control, with the authors using out a location-controlled, interrupted time series regression analysis.

⁴⁶ Frontier Economics (2019), *Minimum Unit Alcohol Pricing: Evaluating the Impacts on the Alcoholic Drinks Industry in Scotland, Baseline Evidence and Initial Impacts* (<https://www.frontier-economics.com/media/3481/minimum-unit-alcohol-pricing-2019.pdf>)

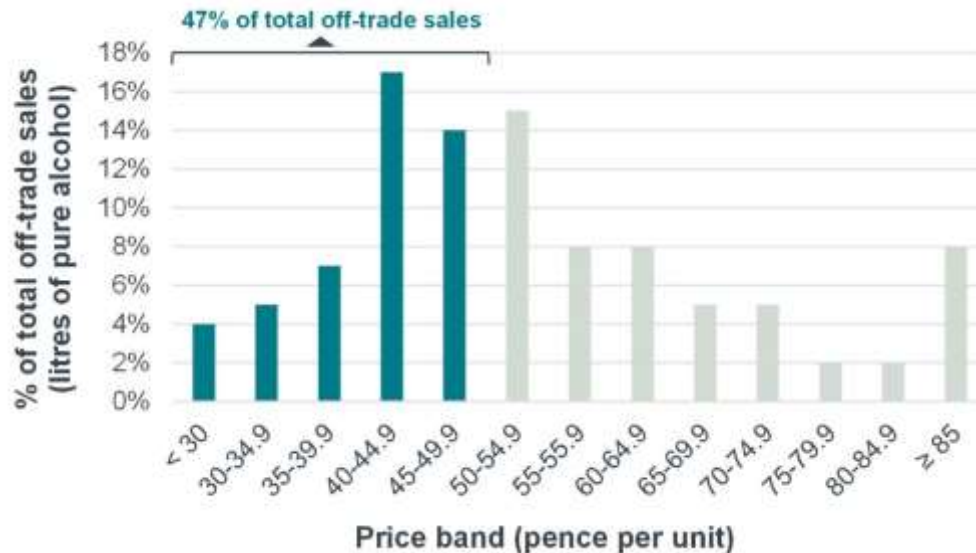
⁴⁷ To control for the potential impact of COVID-19 on results, the model specification used for analysis included a variable controlling for the introduction of lockdown measures in the UK.

⁴⁸ Estimated using data from the Office of National Statistics on alcohol-specific deaths for 2018 and 2019.

⁴⁹ Leyland et al. (2021) – Evaluating possible intended and unintended consequences of the implementation of Minimum Unit Pricing of Alcohol in Scotland: a natural experiment, *National Institute for Health Research*.

Figure 19 shows that 47% of alcohol sold through off-licence premises in Scotland was sold at a price below 50 pence per unit in the year before MUP was implemented.⁵⁰ Furthermore, 73% of all alcohol sold in Scotland was sold via off-licences. As a result, MUP represented a structural shift in the Scottish alcohol market.

Figure 19 Per unit price distribution of alcohol sold in off-licence premises in Scotland (2017): 47% of total off-trade sales in Scotland were affected by the MUP



Source: *Monitoring and Evaluating Scotland’s Alcohol Strategy (MESAS) – Monitoring Report 2018*

In order to understand whether MUP has a desired impact in Jersey, it will therefore be important to understand the extent to which MUP at its current level is binding. Ensuring that MUP binds on a significant share of alcohol sales will be necessary if the policy is to have an impact on price, consumption and harms.

⁵⁰ Monitoring and Evaluating Scotland’s Alcohol Strategy (MESAS) – Monitoring Report 2018

6 KEY FINDINGS FROM STAKEHOLDER INTERVIEWS

We held a series of stakeholder interviews to better understand the economic impact of the Guidance on Jersey's alcohol market and whether the Guidance might have any unintended consequences. These interviews were split into (i) scoping interviews and (ii) in-depth interviews.

- The role of the scoping interviews was to understand the impact of the Guidance at a high-level, inform our hypotheses and to identify relevant stakeholders for in-depth interviews.
- The role of in-depth interviews were to collect more detailed qualitative evidence on the impact of the Guidance on competition in the alcohol market in Jersey.

In this section, we first provide more information on the interview process and the stakeholders we interviewed. We then summarise the key messages emerging from these interviews.

6.1 Interview process

Our qualitative engagement mainly consisted of semi-structured interviews with stakeholders. Interviews were conducted based on topic guides, structured in line with the areas of interest that we agreed with the Authority. These guides were used flexibly with questions tailored to the specific interviewee.

Stakeholders for interview were also selected through consultation with the Authority, complemented with suggestions from the three scoping interviews with individuals who had specialist local knowledge of the Jersey alcohol market.

The interviews were carried out on an individual basis via video conference to ensure participants could speak as freely as possible. There were six categories of questions:

- **Company background:** The alcohol licences held by stakeholders, their customer base, product range and the nature of their business.
- **Guidance compliance and enforcement:** Views on how the Guidance is enforced, and any examples where the Guidance is not complied with.
- **Alcohol market background with a focus on price and competition:** Views on how stakeholders make pricing decisions, the drivers of prices, frequency of price changes, key dimensions for how providers compete to attract customers and degree of competition between on and off-licences.
- **Impact of no promotions or pricing restriction:** Views on the historic impact of the Guidance and what would change in a scenario where the Guidance was removed.
- **Impact of Minimum Unit Pricing (MUP):** Views on the current impact of MUP on off-licence product range and prices, business revenues and competition between on and off-licences.

- **Impact on consumers and society:** Views on how the Guidance has impacted alcohol consumption in general and excessive drinking in particular. Questions also probed on other unintended consequences of the Guidance, suggestions for alternative approaches to curb excessive drinking and wider issues related to Jersey's alcohol licensing regime.

Who did we interview?

We identified five main stakeholder groups, each of which represented different organisations in the Jersey alcohol market who we wanted to engage with. These stakeholders included:

- **On-licence retailers** such as pubs, bars, restaurants, and nightclubs that sell alcohol to be consumed on their premises. Within this group, we engaged with a range of stakeholders of varying size, from small independents to established chains.
- **Off-licence retailers** such as supermarkets and off-licences that sell alcohol to be consumed off their premises.
- **Alcohol producers and suppliers** that focus on brewing or importing alcohol to be sold in Jersey.
- **Business Associations and Consumer Groups** which represent the views of businesses or consumers.
- **State Departments** that play a role in creating, reviewing or enforcing the guidance.

In total, we conducted 18 interviews across these segments, enabling us to gather a diverse range of views and insights from numerous different perspectives.⁵¹

6.2 Key findings

In this sub-section, we summarise the key themes emerging from the interviews. These are split into (i) the impact of the on-licence restrictions; (ii) the impact of the off-licence restrictions and (iii) other relevant issues.

6.2.1 The impact of the on-licence restrictions

Theme 1: There is evidence of the Guidance restricting price competition in the on-licence sector

It appears that the Guidance limits the ability of on-licences to compete on price. Instead pubs, bars, restaurants and nightclubs reported that they compete on quality, level of service, ambience and specific events, such as DJ nights in the case of nightclubs. Reputation was seen as being important for attracting customers.

Some stakeholders also reported that the Guidance prevented businesses from lowering their listed price.

⁵¹ Not all stakeholders contacted were able to participate in the study, in some cases instead of a formal interview, feedback was provided by e-mail.

- A former independent pub landlord explained that his business could source alcohol cheaper than other tied pubs, but was unable to charge lower retail prices than its competitors due to the Guidance. As a result, their business was unable to compete on price despite being more cost-efficient, and customers could not benefit from lower prices.
- Similarly, a tied pub explained that the Guidance has “*probably helped them in a way, so that they don’t have to compete with places that can afford to be cheaper*”.
- Stakeholders reported that Wetherspoon, a UK based chain, considered entering Jersey’s market, but decided not to. Several factors may have led to Wetherspoon’s decision not to enter, but stakeholders felt that their lower pricing business model would not have been consistent with the Guidance.
- An on-licence business has recently reduced wholesale costs by renegotiating their terms of supply. They would now like to offer promotions and reduce pricing to attract people to their venue earlier, but this practice would not appear to comply with the Guidance.

Therefore, the Guidance clearly limits the ability of on-licences to compete, to the detriment of consumers. While the objective of the Guidance is to curb excessive/harmful drinking, it appears that the effect of the Guidance is much wider, leading to higher prices for all consumers in the market.

Theme 2: We have identified potential inconsistencies with how the Guidance is applied

Stakeholders reported several examples of potential non-compliance with pricing restrictions in the Guidance. In particular, these included examples of drinks promotions and loyalty schemes that appear to be inconsistent with the Guidance.

- Several stakeholders reported examples of drinks promotions in Jersey, including a ‘bottomless brunch’ offered by a local restaurant⁵². There were also several examples of restaurants selling food and drinks as a bundle at a discount, where this discount is applied in principle to the food. This practice seems relatively common, although one stakeholder reported that “*many years ago we tried to offer a pie and pint for £7.50, but we were told that this offer was encouraging people to drink excessively and therefore stopped.*”
- Stakeholders also stated that large chains use loyalty programs which provide customers with points or credit following each purchase in proportion to the amount of money spent⁵³. These points can be redeemed to reduce the price of any subsequent food or drink purchases at the pubs running these loyalty schemes.

While we recognise that loyalty schemes have a relatively limited impact on consumers’ ability to buy alcohol cheaply, they appear to be inconsistent with the Guidance. Therefore, the fact that some on-licences offer these schemes may give them an advantage over other licensees who follow the Guidance to the letter.

⁵² We understand that the interview with the restaurant owners that they offered this promotion because they were under the impression (erroneously) that the Guidance had been temporary removed after the State Assembly vote.

⁵³ These schemes also add points as soon as a customer receives a loyalty card

In addition to these examples, stakeholders were unclear on how exactly the on-licence Guidance is applied. The consensus is that the promotion restrictions are straightforward to monitor and enforce due to the small size of Jersey and how quickly people would become aware the guidance was being violated. It was confirmed by one stakeholder that in the event of a promotion being offered, a reference can be made to the Police, who are able to deal with the matter by contacting the relevant licensee. In general, this has been sufficient for removing reported promotions.

Stakeholders were less clear on how precisely the price undercutting restriction was enforced. One stakeholder reported that the undercutting restriction refers only to premises within 100m of you, although it is not clear from the Guidance that this is in fact the case.

Theme 3: Some on-licence businesses considered that they would change their pricing, particularly by offering promotions, absent the Guidance

On-licence stakeholders said that if the **promotions restriction** is removed, some businesses would offer temporary on-licence promotions. This is more likely to be the case for small independent pubs and restaurants.

- The restaurant that offered the bottomless brunch (while erroneously believing that the Guidance had been removed) reported that it was a “game changer” for its business as it allowed the business to expand its customer base (without experiencing any problems with excessive drinking).
- Several pubs considered that promotions could be used when demand is lower. In particular, ‘happy hours’ for pubs were considered likely, e.g. a promotion on drinks between 5-6pm to attract customers after work on a specific day of the week. One pub commented that they have noticed ‘happy hour’ promotions happening in Guernsey.
- Other businesses reported that they face seasonal demand, including far lower demand in some winter months where on-licences need to “give people a reason to leave their homes”. One business already uses non-alcohol promotions to attract customers during quieter months in the lead up to Christmas, and consider that alcohol-based promotions would be a helpful option which they would also use.
- Stakeholders reported that promotions would be useful to raise consumer awareness of their products and wider offering. An independent pub considered that promotions would increase awareness of specific new drinks, and a restaurant stated that promotions could help to reignite waning customer interest in on-licence businesses. A consumer organisation confirmed that promotions are an important part of the customer offer for new start-up premises.

Although stakeholders considered that some independents would offer promotions, most on-licence businesses stated they would not immediately offer promotions themselves, absent the Guidance. This is due to businesses reportedly earning thin margins limiting their ability to offer promotions, and the risk of promotions undermining their wider offer in non-promotion periods if customers become used to lower price points.

Some stakeholders said that they would not immediately offer promotions absent the restriction, but “*if they saw suddenly a massive reduction in footfall [due to other businesses offering promotions or reducing price], they would perhaps then review their strategy to counter this*”. A consumer organisation reported that if new independent pubs could enter the market using promotions, then that may compel other on-licence operators to follow suit.

Stakeholders reported that if the **pricing restriction** was removed, some small independents may reduce listed prices.

- Several on-licences reported that there was room for free-houses to reduce prices based on current retail price levels and differences in wholesale costs between tied and independent pubs. One tied pub stated that “beer could be £1 to £1.20 cheaper” and another on-licence business considered absent the Guidance “*you may see more than a 10% reduction in price [for smaller independents] since there could be a gap in the market at lower price points*”.
- Stakeholders also reported that most pubs, specifically tied pubs, would not reduce price in the short term, again due to these businesses reportedly earning thin margins. Most stakeholders considered that the pub chains would not immediately lower their price if restrictions were removed.

Some stakeholders stated that they would not immediately reduce price absent the restriction, but might do so later if they see that their competitors have reduced prices.

Some stakeholders stated that a removal (or easing) of the Guidance would lead to a “race to the bottom”, with “the only winner being the consumer”. In response to these comments we note that generating benefits to consumers is precisely the objective of competition, which the Authority is required to protect. Furthermore, the Guidance has been introduced to reduce excessive drinking rather than to protect inefficient operators. To the extent that there exist other measures to reduce excessive alcohol consumption, which do not distort competition, these measures should be prioritised.

Theme 4: It appears that high on-licence prices lead to consumption shifting to off-licences

Some stakeholders reported that some customer groups are excluded from the on-licence alcohol market due to high prices, particularly young people. Stakeholders reported that these individuals tended to only participate in the market during periods where prices were lower, such as Tennerfest. One independent restaurant highlighted that their bottomless brunch promotion attracted a high proportion of young people, yet by ensuring responsible consumption, this stakeholder had no problems with excessive drinking. Consumer Groups also highlighted that there has been a general shift in consumption away from pubs and restaurants to drinking at home, which is at least partially driven by differences in prices between on-licences and off-licences.

There was a consensus across stakeholders that people drinking excessively at home before going out is an issue in Jersey. Some stakeholders highlighted the resulting issues this causes to licence holders when they have to deal with customers who arrived seemingly sober, “*but after one drink they will be on the floor*”. Stakeholders expressed concerns that consumption at home can be more

harmful than consumption in licensed premises “*due to the lack of trained staff able to step in to prevent drinking to excess*”.

6.2.2 The impact of the off-licence restrictions

Theme 5: It is too early to reach definitive conclusions on the exact impact of MUP on alcohol consumption and competition in Jersey

As stated in Section 3, in principle, we would expect MUP to increase prices of cheap alcoholic drinks, which in turn would reduce consumption. However, this effect has not been detected yet. This is likely to be due to the relatively low level of MUP compared with prevailing retail prices.

However, at this stage it is difficult to fully disentangle the impact of MUP from other factors: MUP was introduced in April 2020, which coincided with a period of high demand for alcohol from off-licences during Covid. This increase in demand was due to a combination of (i) temporary closure of on-licences due to Covid, and (ii) a reduction in duty free purchases due to travel restrictions.

One off-licence reported that their initial volumes increased by 60% during the Covid pandemic, and their demand continues to remain high compared to historic levels. Off-licences reported that they had to adjust pricing and product range due to the higher demand; for example, one off-licence stopped offering promotions since they no longer needed to use them to attract customers, and started to sell more spirits due to the lack of duty-free products. Given this high demand, off-licences did not feel the need to discount their products and, as a result, MUP was not binding for most of the products.

Given these other factors, it is difficult to assess the impact of MUP on alcohol consumption and on competition at this stage.

Theme 6: MUP appears to have only affected a limited number of products

Off-licence stakeholders reported that MUP had only affected a small proportion of products; 20 lines in the case of one operator, and 12 lines for the other. Cheap beers, ciders and wines were most commonly affected, with no reports of stakeholders altering prices of spirits or products already above the MUP level. For affected products, stakeholders mainly responded by raising price to a level above 50p per unit, with one stakeholder estimating the price increases following MUP to be between 5 and 15%. One stakeholder delisted some of their products due to MUP, but not many.

Stakeholders considered that products on promotion were most likely to be affected by MUP. One off-licence reported that all listed retail prices were above the MUP level, and only their multibuy promotions or reduced to clear products were affected. This stakeholder was also clear that they offer many promotions at any given time, such that only a small proportion of promotions were affected by MUP.

6.2.3 Other issues identified by the stakeholders

During the course of the interviews, stakeholders raised a range of other issues not directly related to the Guidance, but which might impact competition in the alcohol market in Jersey.

Theme 7: Tied-house relationships appear common and potentially impact retail prices

Stakeholders reported that tied relationships were common. A consumer organisation estimated these relationships are in place for over 90% of pubs in Jersey. Several pubs also reported having a tied relationship with one of the pub chains.

According to stakeholders, there are three main aspects of these relationships. It is not necessarily the case that all three aspects apply to each tied relationship.

- **Pricing and supply:** On-licence stakeholders explained that in some cases, tied pubs are restricted to buying wholesale alcohol drink lines exclusively from the relevant tied pub chain at listed tariff prices. One tied pub explained that as part of their tied agreement, they are required to purchase all of their alcohol from the relevant pub chain.
- **Access to premises:** A consumer group, tied pub and restaurant reported that the two pub chains own most of the pubs in the island and therefore provide access to premises. Their understanding was that access to premises often formed part of tied agreements.
- **Management of business:** Tied pub stakeholders explained that as part of the tied agreement, they are responsible for repairing the inside of the building, whereas the relevant tied pub chain makes decisions on the outside of the building.

Stakeholders reported that tied pubs are charged higher wholesale prices than non-tied pubs, which reduces tied pub margins.

- An on-licence stakeholder considered that their gross margin increased by 20 percentage points following a switch from being in a tied relationship to being a free house. Another tied pub reported that they could pay up to three times as much as a nearby hotel to source their alcohol, which is “*massively restrictive to profit*”.
- A restaurant considered that access to premises played an important role in these relationships. They explained that there are limited premises available which can be used as a pub that are not owned by the pub chains. The pub chains therefore were able to leverage the fact that they own most of the pub estate to require tenants to also use them as alcohol supplier under certain terms of supply, knowing that tenants will accept these terms given the lack of alternative pub options.

Stakeholders also reported that the products they can sell are limited through these agreements. One restaurant stated that the pub chains tell their tied tenants “*what to buy and how much to charge*”, and another tied pub stated that their tied agreement forbids them from selling guest ales.

Theme 8: A lack of wholesale competition and exclusive supply agreements may also impact quality and product offering

On-licence stakeholders reported that there are limited options for wholesale supply and expressed frustration at the service offered by these suppliers. Issues were raised around the flexibility of suppliers to adapt their offering, including little interest in expanding the product offering when asked by customers, and a resistance to alter delivery methods after complaints. Stakeholders identified that there were a small number of alternative suppliers, but these businesses tended to focus on more specific product offering compared to the larger groups. The lack of competition may be due to two features of the wholesale market reported by stakeholders: exclusive supply deals from major brands held by large suppliers and the fact that tied-house venues are off-limits to independent suppliers.

Theme 9: Many stakeholders consider the current licensing laws to be outdated

Stakeholders reported that the current licensing structure is outdated due to the categories of licences it uses. Most on-licence stakeholders hold more than one type of license for the same premises, with the most common pairing being the Taverner's and Restaurant licenses. One stakeholder explained that this is done because of the specifics of the Taverner's licence requiring children to leave the premises by 9pm, which is a significant restriction for those serving food. Another stakeholder reported that some businesses, for example those selling hampers, online subscriptions, or selling from mobile vans, cannot find a licence category that works for them.

In addition, stakeholders said that the process of obtaining a new license is excessively onerous and is even more difficult if applying for a licence at a venue that has not previously been a pub or restaurant. For example, before obtaining a licence there is a requirement to appear before a parish assembly who only meet once a quarter, and the capacity of a new venue must be set by the fire department, but only once the premises is completely built.

7 OUR OVERALL ASSESSMENT OF THE IMPACT OF THE GUIDANCE

In this section, we bring together different strands of our analyses and provide our overall assessment of the economic impact of the Guidance, and identify any unintended consequences. Our findings are broadly in line with our hypotheses formulated in Section 3.2 above. For example, we confirm that:

- The on-licence restrictions on prices and promotions are likely to limit price competition in the on-licence sector;
- On-licence restrictions appear to lead to a shift in consumption from on-licences to off-licences; and
- MUP currently appears to have little impact on alcohol consumption/ sales, given that few products were priced below MUP at the time when MUP was introduced.

We also note that in our analysis we predominantly relied on the economic theory/ existing literature and the qualitative information obtained in the interviews. While having more disaggregated data on consumption by sector (on-licence and off-licence consumption) would be desirable, this information was not available to us.

In the remainder of this section, we provide a more detailed assessment of the on-licence restrictions, off-licence restrictions and other features of the market in turn.

7.1 The impact of the on-licence restrictions

Finding 1: Jersey's on-licence restrictions are unique and appear to restrict competition.

Our international benchmarking demonstrates that Jersey is the only jurisdiction in our sample that limits the ability of on-licences to price below their competitors. This restriction limits the ability of on-licences to compete: they can only compete on non-price factors (e.g. ambiance or quality of entertainment), but not on price.

Economic theory suggests that as a result:

- on-licences have limited incentives to become more efficient, as they would not be able to reduce their prices and attract new customers; and
- consumers pay higher prices compared to a scenario where this restriction is not in place.

This is indeed supported by our evidence from the stakeholder interviews, with some businesses reporting that they are unable to pass on wholesale cost savings to consumers, while others saying that the Guidance has helped them “*so that they don't have to compete with places that can afford to be cheaper*”.

The Guidance might also have an impact on potential new entry. For example, one UK chain considered entering Jersey's market, but decided not to do so. This may be due to the more restrictive trading environment in Jersey compared to the UK. This further supports our finding that the Guidance limits competition in the on-licence sector.

We recognise that the objective of the Guidance is to curb excessive drinking or antisocial behaviour and that raising prices through restrictions on on-licence competition is one way of achieving this objective. However, it is important that this objective is achieved in the most economically efficient way, with minimal unintended consequences. Alternative approaches to increasing price, such as higher excise duties or a Minimum Unit Price applied to on-licences could achieve similar benefits without the resulting impact on competition and consumers.

Finding 2: Greater price flexibility (including promotions) could be beneficial for competition and consumers, as long as these promotions are used responsibly.

In Section 3, we set out the benefits for competition from pricing flexibility and promotions. Promotions allow businesses (i) to smooth demand between busy and non-busy periods, and (ii) to attract customers who otherwise might not be served at all (those with low willingness to pay). Promotions are also helpful for introducing new products into the market and for supporting new entry more generally.

Some stakeholders commented that they would use promotions if allowed, while others said that they might respond if promotions are used by their competitors. This effectively describes “competition in action”, i.e. competitors responding to what others are doing to the benefit of consumers.

Based on the evidence from the interviews, it does not appear that promotions would lead to drastic reductions in prices. Indeed, a number of on-licences stated that their margins are “thin” (this is discussed in more detail below) and therefore they will not be able to discount heavily.

Stakeholder comments are also indirectly supported by the evidence from the case study on Guernsey (see Section 5). While there are examples of promotions being used in Guernsey (both by independents and by chains), they do not appear to result in deep discounting or to lead to antisocial behaviour.

Finding 3: We have identified potential inconsistencies with how the Guidance is currently applied

We have identified examples of practices which are prohibited by the Guidance, but nevertheless are used by market participants. These include the use of loyalty schemes or discounting food sold together with alcohol, amongst other things.

Loyalty schemes are used by a number of on-licences. They encourage spending (both on food and on alcohol) and provide discounts when a certain threshold is reached. While we recognise that loyalty schemes have a relatively limited impact on consumers’ ability to buy alcohol cheaply, they appear to be inconsistent with the Guidance. Therefore, the fact that some on-licences offer these schemes may give them an advantage over other licences who follow the Guidance to the letter or those who have been limited in their promotional activity.

Stakeholders also commented that the requirement not to price alcohol significantly below competitors is seen as particularly unclear. Some businesses

believed that it only applied to competitors within a 100m radius, while others interpreted it as applying to all competitors.

These differences in interpretation and inconsistencies in enforcement of the Guidance are likely to affect the level playing field in the market, with the Guidance being more burdensome for some businesses than for others.

Finding 4: The on-licence restrictions are likely to have led to a shift in consumption from the on-licence sector to off-licences

Evidence from stakeholder interviews is that high prices in the on-licence sector lead to a shift away from on-licence to off-licence consumption. This in turn could have social consequences. For example, stakeholders reported that this contributes to increased alcohol consumption at home/ people being more likely to drink excessively in a less controlled environment.

Stakeholders also commented that the Guidance is at least partly responsible for the shift in consumption to off licences through higher on-licence prices. This interpretation is also consistent with Findings 1 and 2 that on-licence restrictions reduce competition and put upward pressure on prices.

Economic theory would also suggest that, to the extent the Guidance is increasing the relative price of on-licence alcohol in Jersey to off-licence alcohol, there would be some consumer substitution between these segments. This is further supported by empirical evidence. As discussed in Section 3.1.1, some studies find positive, significant cross-price elasticities, which is consistent with the hypothesis that higher on-trade prices lead to increases in off-trade consumption.

7.2 The impact of off-licence restrictions (MUP)

Finding 5: It is too soon to reach definitive conclusions on the impact of MUP, but stakeholders suggest that only a limited set of products have been affected to date

The introduction of MUP in Jersey coincided with a period of high off-licence demand in Jersey during Covid. The main drivers of this demand were the temporary closure of on-licences and reduced duty free purchases due to restricted travel. Stakeholders reported significantly higher volumes sold during this period of increased demand. On this basis, it is too soon to accurately disentangle the impact of MUP in Jersey from other factors.

However, stakeholders also suggested that MUP seems to have had a limited impact to date. This is primarily because MUP has only affected a small proportion of product lines with prices below the minimum floor. Stakeholders also reported that, in future, MUP is more likely to affect products on promotion, especially multi-buy promotions, since their unit prices are lower on average.

The experience of Scotland, where MUP was introduced in 2018, was that MUP increased price per gram of alcohol, reduced alcohol consumption and led to a fall in alcohol-specific deaths. However, evidence from stakeholder interviews suggests that MUP affects a significantly lower proportion of product lines in Jersey compared to Scotland. On this basis, evidence from Scotland should not be used

to predict the precise impact of MUP in Jersey, but instead could indicate the possible directional impact of MUP in Jersey (i.e. what could be achieved if the MUP was binding for a larger share of products).

7.3 The impact of other market features

Finding 6: Other features of the on-licence market might also impact competition

Topics raised during stakeholder interviews indicate that the on-licence alcohol market may not be working as well as it could. Stakeholders identified two market features that could potentially impact competition: 1) tied relationships between on-licence operators and one of the two integrated pub chains, and 2) exclusive supply agreements between major alcohol drink brands and two of the largest alcohol drinks wholesalers.

First, some stakeholders with experience of tied relationships reported that two aspects of these agreements potentially restrict on-licence retail competition.

- In some cases, tied on-licence operators are required to use the relevant tied pub chain exclusively for wholesale supply of alcohol drinks.
- Tied on-licence operators are often charged wholesale prices equal to the listed retail tariff price of the relevant tied pub chain.

Together, it appears that these two aspects may impair the ability of tied on-licence operators to compete at the retail level, by increasing their wholesale costs and controlling the range of alcohol drinks for sale. Competition at the wholesale level may also be reduced by potential wholesalers being denied sales to tied on-licence retailers, due to exclusive tied supply agreements.

Second, some stakeholders reported that certain major alcohol drink brands have exclusive supply deals with one or both of the integrated pub chains. This may reduce competition at the wholesale level, by denying actual or potential wholesalers access to important alcohol drinks brands for sales to retailers.

Further analysis on each of these market features may be needed to definitively conclude whether they reduce competition in the on-licence market.

This analysis cannot be undertaken currently given the Guidance restrictions in place, i.e. we are unable to separate out the impact of the Guidance from the impact of the market structure on prices and competition in the on-licence sector. The Guidance restrictions need to be removed first to allow competition in the sector to develop. However, if there are further concerns at that stage, e.g. prices remain high (which is not justified by excise duties or any other targeted interventions), further analysis of the impact of the market structure would be needed.⁵⁴

⁵⁴ It is also worth noting that the practices discussed above are not prohibited ex ante. In some circumstances, exclusive dealing can be welfare enhancing (see for example Mills (2017) "Buyer-induced exclusive dealing").

8 OUR RECOMMENDATIONS

Our study has the following recommendations, based on the key findings and wider evidence collected. These are made from a competition/ economics perspective, in line with the terms of reference.

Figure 20 Our recommendations

Recommendations	Supporting rationale
From an economic perspective, the pricing restriction on the on-licence sector should be removed to allow on-licences to price freely. This would ensure that benefits of competition and innovation are passed on to consumers in the form of lower prices.	<ul style="list-style-type: none"> ■ No other jurisdiction studied had a similar pricing restriction ■ Consistent with economic theory ■ Consistent with stakeholder interviews
The restrictions on promotion for the on-licence sector, when considered from an economic perspective, to be removed or eased. The restrictions limit on-licences' ability to compete and to attract price sensitive customers. They may also affect the level playing field in the market.	<ul style="list-style-type: none"> ■ Restrictions limit on-licence traders' ability to compete and attract price-sensitive customers ■ They also affect the level playing field due to varying adherence to the restrictions ■ Evidence from other jurisdictions (Guernsey) shows promotions can be used responsibly
For the on-licence trade, to consider alternative measures that distort competition less but ensure that promotions do not lead to excessive drinking.	<ul style="list-style-type: none"> ■ There are potentially less distortive measures that can be introduced/enforced. For example, raising alcohol duties, extending MUP to on-licences, revoking licences of businesses that do not use promotions responsibly and providing more education on risks associated with excessive drinking, to name a few.
For the off-licence sector, to review the impact of minimum unit pricing after a sufficient length of time post-COVID has passed. This review should be holistic and cover the economic, health and social impacts of the policy	<ul style="list-style-type: none"> ■ The Covid-19 restrictions placed on the on-licence trade has seen demand from off-licences rise substantially. The effect of minimum unit pricing and eventual adjustments to the level should be explored once the impact of these has passed
For the Authority to monitor the impact of tied house relationships and exclusive wholesale supply deals after restrictions imposed by the Guidance are relaxed. If competition issues persist, take appropriate action to address this.	<ul style="list-style-type: none"> ■ It is not feasible to properly investigate the effects of market structure and the concentration in the wholesale alcohol and pub real estate markets until the Guidance is removed ■ If removing or relaxing the Guidance proves insufficient in encouraging competition and reducing prices, further actions may be needed to address this issue

Source: Frontier

If these recommendations are implemented, we expect to see a number of positive impacts for consumers and competition in Jersey:

- Consumers would benefit from lower on-licence prices, as any efficiency improvements/ cost savings would be passed on to consumers (at least to

some extent), as well as more choice and innovation (e.g. promotions across food and drinks). Currently, on-licences are unable to reduce their prices due to the Guidance. If the requirement to price in line with competitors is removed, we expect to see more price variation in the on-licence sector, which will benefit consumers. Consumers would further benefit from temporary promotions, which could particularly impact price-sensitive consumers.

- Businesses would benefit from more flexible pricing, which would allow them to smooth any troughs in demand/ increase footfall in quieter periods. It could also facilitate new entry, as new entrants would be able to make introductory offers to attract customers.

To the extent that there are concerns around the impact of the removal of the Guidance on excessive drinking and resulting antisocial behaviour, these could be addressed in a number of ways:

- Revocation of licences if promotions are not used responsibly (e.g. if there are several occasions when the police had to get involved). Indeed, if there are any persistent problems identified, the licences of these businesses could be revoked/ renewal not granted (as in Guernsey).
- Excise duties could be increased for some products, if appropriate. The advantages of excise duties vis-à-vis the Guidance restrictions is that excise duties apply both to on-licence and off-licence consumption equally and therefore, do not distort competition between the two sectors. Furthermore, any raised tax revenues could be used to invest in other measures to tackle alcohol-related problems (e.g. in health and education).
- MUP could be used across both off-licence and on-licence sectors (as in Scotland). Applying MUP to on-licences would ensure that any promotions used could not reduce the price below the MUP level.
- Better education on health risks associated with excessive drinking and on the support available to problematic drinkers.

9 ANNEX A

A.1 The market study's Terms of Reference

This market study will specifically investigate the impact of the Attorney General's Guidance within the Licensing (Jersey) Law 1974, relating to drinks pricing and promotions. The alcohol market is defined as both the on and off-licence trade.

While the Authority recognises the health and social impact related to the alcohol market, the focus of the study will be solely on the economic impact. This is consistent with the Authority's expertise as an economic regulator.

The study will assess economic impact by exploring the effect of the Guidance on competition and consumer outcomes in the market.

This will require:

- an assessment of how the Guidance impacts competitive dynamics within the on-licence and off-licence market segments and between these two segments.
- consideration of consumer impacts such as prices faced by consumers and products offered.
- exploration of potential unintended consequences of the Guidance.
- a review of what actions can support broader policy objectives.

The outputs of the work will include recommendations, which may suggest changes in the Guidance, or highlight alternative options.

A.2 Sources for quantitative benchmarking metrics

Figure 21: Sourced for quantitative benchmarking analysis

Metric	Jersey	England	Guernsey	Ireland	Scotland	Wales
Consumption	Jersey Alcohol Profile 2018	Public Health Scotland (E&W)	Guernsey Health Information Commission	Ireland Health Research Board	Public Health Scotland	Public Health Scotland (E&W)
Alcohol prices (relative)	Government of Jersey	Office of National Statistics	Government of Guernsey	NA	Office of National Statistics	Office of National Statistics
Alcohol prices (absolute)	Government of Jersey	Government of Jersey	Government of Guernsey	NA	Government of Jersey	Government of Jersey
Excise duties	Government of Jersey	Office of National Statistics	Government of Guernsey	Government of Ireland	Office of National Statistics	Office of National Statistics
Rate of alcohol-specific deaths	Jersey Alcohol Profile 2018	Public Health England	Government of Guernsey	NA	Public Health Scotland	Public Health England

Source: *Frontier Economics*

A.3 Data availability over time for quantitative benchmarking metrics

Figure 22: Data availability over time

Metric	Jersey	England	Guernsey	Ireland	Scotland	Wales
Consumption	2000-18	2000-20 (E&W)	2014-20	2000-19	2000-20	2000-20 (E&W)
Alcohol prices (relative)	2000-20	2000-20 (UK)	2004-20	NA	2000-20 (UK)	2000-20 (UK)
Alcohol prices (absolute)	2005-19	2005-19 (UK)	2014-20	NA	2005-19 (UK)	2005-19 (UK)
Excise duties	2014-20	2000-20 (UK)	2016-20	2014-20	2000-20 (UK)	2000-20 (UK)
Rate of alcohol- specific deaths	2008-17	2001-19 (E&W)	2010-15	NA	2001-19	2001-19 (E&W)

Source: *Frontier Economics*

