

KDSR/AM/S.26

29 September 2004



**THE BELHAVEN BREWERY
COMPANY LIMITED**

Smoking in Public Places Consultation
Scottish Executive
Health Department
3ES
St Andrew's House
Regent Road
EDINBURGH
EH1 3BR

Dear Sirs

**SMOKING IN PUBLIC PLACES
SCOTTISH EXECUTIVE CONSULTATION
RESPONSE FROM THE BELHAVEN GROUP PLC**

I write on behalf of The Belhaven Group Plc ("Belhaven") which is Scotland's leading regional brewer with integrated brewing, distribution, pub retailing and tenanted estate management activities. Belhaven owns over 250 pubs in Scotland and we supply beer and related products to around 2,000 pubs, hotels, sports clubs and other licensed premises throughout Scotland. Belhaven employs more than 1,500 people and has its headquarters in Dunbar, East Lothian. We also operate our activities from satellite bases in Aberdeen, Stirling, Alloa and Dumfries.

Before responding can I say that we are bitterly disappointed by the Scottish Executive's management of the consultation process which we consider to have been extremely unbalanced with little, if any, regard having been taken for business interests. We say that for the following reasons:

1. Both the First Minister and the Deputy First Minister have pre-empted the consultation process by indicating firmly and clearly to the Scottish and UK press their preference for a total ban.
2. The preface to the questionnaire is very heavily weighted towards the health issue and makes no attempt to introduce the economic impact of smoking restrictions in licensed premises.
3. Despite the questionnaire featuring licensed premises on the cover it does not ask the question which is fundamental to the process – "Would you support a law that would make licensed premises smoke free?" Perhaps the reason for the avoidance of that question is that the Department of Health in Scotland is already aware that 80% of the UK public do not want a ban in licensed premises (2003 Department of Health UK poll).
4. Moreover the questionnaire is highly misleading in that the pivotal question - number 2 – asks "would you support a law that would make enclosed public places smoke free (public places includes **workplaces and public transport**)."

The Belhaven Brewery Co Ltd, Dunbar, East Lothian, EH42 1RS

Offices/Brewery: 01368 862734 (tel) • Tech Services: 07000 235767 (tel) • Telesales: 01368 862323 (tel)
Offices: 01368 869500 (fax) • Brewery: 01368 865640 (fax) • Telesales: 01368 869503 (fax)

www.belhaven.co.uk e-mail: info@belhaven.co.uk

Registered in Scotland No 22860 Registered Office: Belhaven Brewery, Bethaven, Dunbar, Scotland



INVESTOR IN PEOPLE

Workplace legislation is a reserved matter so it is hard to understand why the Scottish Executive chose to highlight workplaces within the questionnaire. Mr McCabe failed to give any reasonable explanation for this at either the local conferences or the national conference held recently in Edinburgh. It is our contention that, if the public do respond positively to question 2, the Scottish Executive should refer the issue to the Westminster Government as they have jurisdiction over it.

5. The Scottish Executive has marked the questionnaires distributed through the licensed trade without similarly marking those distributed by the health lobby. No satisfactory reason has been given by Mr McCabe for this tactic being adopted and we remain suspicious about his motives. We believe that the public's response to the questionnaire will be collated in such a way as to favour the health lobby. Otherwise, why mark the questionnaires in the first place?

Can I now move on to articulate our response to the consultation.

We are fully supportive of the objective of Scotland becoming a more smoke free country. We fully accept that smoking damages health in a serious way and we all want to see a reduction in the number of smokers. Moreover, we are committed to providing more comfort and choice for non-smokers within the hospitality environment and to provide a more healthy work environment for our staff.

However, tobacco is not a banned substance and research shows that 67% of Scottish pub goers are also smokers. The habit of smoking is more prevalent in deprived areas and, whilst we do not have conclusive research, we would estimate that between 80% and 90% of community pub goers in the more deprived areas in Scotland are smokers. Smoking tobacco is an addiction and, as all who either are or have been smokers will testify, it is not easy to stop. Indeed, the dictionary definition of addiction is "something, usually a narcotic drug, upon which people are dependent".

So it is hardly surprising that the general view in the Scottish licensed trade is that a total ban on tobacco smoking could severely prejudice the viability of many licensed establishments, particularly those which are not geared towards the provision of food. The current news from Ireland is not good with the licensed trade reporting a downturn of 15% since the ban was introduced in April and there are estimates that the decline may be as much as 25% in the first twelve months of the ban, after the impact of winter weather which will hardly encourage smokers to visit their local. Belhaven's view is that a smoking ban in Scotland would result in approximately one in every six licensed premises closing – about 2,000 small businesses would not survive it. Job losses could be as much as 30,000 when redundancies through the supply chain are taken into account. The most vulnerable businesses are those of small independent traders who do not have the financial clout to combat sudden loss of turnover as a result of a political decision of this type.

There are reasons (other than economic and employment) why a total ban should not be implemented:

Social – If a ban were to be quickly implemented people will simply stay at home to drink where they can smoke without restriction. This shifts the health problem into the family home and into the heart of family life. Moreover, it rips the heart out of community life, particularly in deprived areas and for the older age groups who enjoy meeting their friends by day in pubs or social clubs. We agree with the views of Dr John Reid, Secretary of State for Health (UK), who stated recently that smoking was one of the few pleasures many working class people were able to enjoy and they should not be told what to do by well-meaning middle class politicians.

Policing – In Ireland we have already seen a rise in disorder issues because large numbers of smokers are standing outside pubs with their drinks. Running parallel with the smoking debate is the Government's alcohol harm reduction strategy and there are obvious conflicts between the two if a tobacco ban is implemented.

Choice – Our research, and the research of the UK Government, shows overwhelmingly that pub goers want the right of choice. Non-smokers have made it quite clear that they should have the option of visiting licensed premises with their smoker friends or visiting licensed premises which restrict the use of tobacco.

However, we realise that there is tremendous pressure on politicians from the health lobby to take positive action by way of legislation and it is perfectly clear to everyone that the status quo is not an option either. Whilst significant progress has been made through the Voluntary Charter in providing more smoke free areas and much better ventilation for pub goers, we recognise that voluntary action doesn't take place on a level playing field as individual licensees are naturally reluctant to take steps to restrict smoking if these steps place them at a competitive disadvantage.

So the Scottish Licensed Trade Association (the SLTA) and the Scottish Beer & Pub Association (the SBPA), of which Belhaven is a member, recently asked the Scottish Executive, through Mr McCabe, to legislate and make five radical measures compulsory for all licensed premises ranging from pubs, hotels, restaurants, sports clubs, social clubs, entertainment venues, etc.

1. Smoking should be banned at the bar counter in all licensed premises.
2. Smoking should not be permitted in any area where and when hot food is being served.
3. All licensed premises (whether or not they sell food) should be required to allocate a minimum of 30% of total floor space as a non-smoking area and this percentage would be ratcheted upwards to 40% in year 2 and 50% in year 3.
4. Every licensed premise should have a smoking policy sign at the entrance.
5. Smoking should not be permitted in any area of licensed premises from which the public are excluded (ie, back of house).

At the end of year 3 a review of progress will be made and appropriate further steps taken.

Belhaven fully supports this proposal which is very similar to the Norwegian model which has moved to a total ban over a period of years.

If these measures are introduced, Scotland will have made a huge stride forward in improving choice for non-smokers and protecting their health as well as the health of employees in the industry. A firm message will be conveyed to the Scottish public in general and smokers in particular and, over a period of time, we would anticipate a significant increase in the presence of non-smokers in licensed premises.

We strongly oppose a total ban, at least at this point in time. A stepped approach is required to achieve the policy objectives in the least damaging way.

Where do we go from here?

We would propose that the Scottish Executive and relevant business interests should agree how the potential economic impact of the four options available to the Scottish Executive (as detailed in the questionnaire) is to be assessed. We strongly suggest that the impact of the ban in Ireland over a period of twelve months requires to be studied by a trusted independent research body such as the Institute of Fiscal Studies. In our opinion it would be gross financial mismanagement for the Scottish Executive and the Holyrood Government to select any one of the four options without first undertaking such research.

The Scottish Executive also needs to enter into further consultation with relevant business leaders to review how smoking restrictions are to be imposed throughout the licensed trade in the absence of Holyrood's jurisdiction over workplace legislation. It has been clear from the local conferences that even Mr McCabe believes there is little point in introducing regulations to restrict tobacco smoke if they do not cover social clubs and sports clubs which are not classified as public places and to which the police have no right of entry. In our opinion any legislation which does not create a level playing field would be ineffective and, most probably, widely disobeyed. In any event it would not resolve health issues appertaining to second hand smoke; it would simply shift such issues from one type of licensed premise to another.

Finally, it is our view that it makes sense for the same smoking restrictions to apply in both Scotland and England, given their close geographic and cultural links and the point made above – the UK Parliament controls health and safety at work. Tony Blair said on TV (Frost on Sunday 26 September) that the Government will announce the way forward within two weeks. It makes sense for Holyrood to study the UK proposals and follow them as closely as possible (assuming Westminster opts for action other than workplace restrictions which would of course automatically apply to Scotland, Wales and Northern Ireland as well as England).

Conclusions

- The SBPA/SLTA proposal should be adopted by the Scottish Executive. Similar solutions have worked well in Norway and Australia and our proposal would not be materially damaging to the Scottish economy.

Smoking in Public Places Consultation

29 September 2004

- Research should be undertaken on the economic impact of the workplace tobacco ban introduced in Ireland at the end of March 2004 and the outcome of that research should be carefully studied.
- The Scottish Executive and Holyrood politicians require to balance health and economic arguments relative to smoking restrictions before making decisions which will have a pivotal and important influence on the shape of our country in the future.
- It makes sense for steps taken to restrict tobacco smoking in public places to be universal throughout the UK. Unless that happens, there will be considerable confusion amongst residents and visitors and less likelihood that restrictions will be obeyed in licensed premises throughout the country.

Yours faithfully



STUART ROSS
CHIEF EXECUTIVE