

Title: Licensing Act 2003: Consultation on removing the prohibition of the sale of alcohol at motorway service areas IA No: Lead department or agency: Home Office Other departments or agencies: DCMS; DfT; DH	Impact Assessment (IA)		
	Date: 18/07/2012		
	Stage: Consultation		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
Contact for enquiries: Ann Oldroyd (ann.oldroyd@homeoffice.gsi.gov.uk) / Helen Brewis (helen.brewis@homeoffice.gsi.gov.uk)			

Summary: Intervention and Options **RPC Opinion:** RPC Opinion Status

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£10.5	£10.5m	-£1.2m	Yes <input type="checkbox"/> Out <input type="checkbox"/>

What is the problem under consideration? Why is government intervention necessary?
 Under section 176(2) of the Licensing Act 2003 and Department for Transport circular guidance (DfT Circular 01/2008)¹, the sale or consumption of alcohol is prohibited at Motorway Service Areas (MSAs). This ban covers all premises within MSAs including hotels and lodges providing overnight accommodation within the MSA. The Government is considering whether such central prescription is needed and whether local licensing authorities should be enabled to consider licence applications for premises within MSAs as these applications would still be subject to the existing safeguards of the licensing regime.

What are the policy objectives and the intended effects?
 To reduce regulation on business and give greater powers to licensing authorities to determine what is appropriate in their local areas.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
 The options are:
 Option 1: Do nothing (retain the blanket prohibition on the sale and consumption of alcohol at MSAs); or
 Option 2: Remove the blanket prohibition on the sale and consumption of alcohol (both on and off the premises) at MSAs entirely; or
 Option 3: Remove the prohibition of the sale and consumption of alcohol at MSAs on the premises but only for hotels or lodges which are providing overnight accommodation

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year					
Does implementation go beyond minimum EU requirements?			Yes / No / N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: Jeremy Browne MP

 Date: 20-09-12

Summary: Analysis & Evidence

Policy Option 2

Description: Remove the blanket prohibition on the sale and consumption of alcohol (both on and off the premises) at MSAs entirely

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: 20.5	High: Optional	Best Estimate: 20.6

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	0.3	Optional	0.6
Best Estimate	0.2	0.04	0.5

Description and scale of key monetised costs by 'main affected groups'

Businesses falling within the scope of this policy would be required to apply for a licence to sell alcohol and pay the appropriate fees. There is also a one-off cost to licensing authorities who would be required to familiarise themselves with the new policy and consider these MSA licence applications (which would be covered by the fees payable to apply for the licence). The total administrative costs to business in applying for new licences are estimated at £0.15m-£0.28m with the cost of an annual fee estimated at £0.04m.

Other key non-monetised costs by 'main affected groups'

There is a minor risk of an increase in alcohol related crime and health harms due to increased consumption.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		2.5	21.1

Description and scale of key monetised benefits by 'main affected groups'

The main benefit will be for businesses that wish to sell alcohol within MSAs and will benefit from increased revenue and profit as a result. The estimated monetised benefit to business of option 2 is £2.5m per year.

Other key non-monetised benefits by 'main affected groups'

This would result in a benefit to consumers from increased availability of alcohol, particularly those staying at hotels or lodges providing overnight accommodation within MSAs, who will have the option to purchase alcohol.

Key assumptions/sensitivities/risks	3.5
There is a need to explore further the impacts of complete deregulation on the promotion of the licensing objectives at MSAs, particularly regarding public order concerns surrounding the enforcement of legislation prohibiting the consumption of alcohol on vehicles travelling to football matches. It is also not clear based on current evidence whether this policy would have any potential impact on drink driving incidents and this is something which also needs to be explored further during the consultation, as well as the impact on levels of consumption.	

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.1	Benefits: 2.5	Net: 2.4	Yes	OUT

Summary: Analysis & Evidence

Policy Option 3

Description: Remove the prohibition of the sale and consumption of alcohol at MSAs for the sale and consumption of alcohol on the premises but only for hotels or lodges which are providing overnight accommodation

FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: 10.4	High: Optional	Best Estimate: 10.5

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	0.1	Optional	0.3
Best Estimate	0.1	0.02	0.2

Description and scale of key monetised costs by 'main affected groups'

Hotels or overnight lodges would be required to apply for a licence to sell alcohol and pay the annual fee for doing so. As with option 2 there is also a cost to licensing authorities who would be required to familiarise themselves with the new process and consider licence applications from hotels and lodges (which would be covered by the fees payable to apply for the licence). The total administrative costs to business in applying for new licences are estimated at £0.08m-£0.14m with the cost of an annual fee estimated at £0.02m.

Other key non-monetised costs by 'main affected groups'

There is a minor risk of an increase in alcohol related crime and health harms due to increased consumption.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate		1.2	10.7

Description and scale of key monetised benefits by 'main affected groups'

The main benefit will be for hotels and lodges providing overnight accommodation within MSAs who wish to sell alcohol for consumption on their premises that will benefit from an increase in revenue and profit as a result of alcohol sales. The estimated monetised benefit to business of option 3 is £1.2m.

Other key non-monetised benefits by 'main affected groups'

This would result in a benefit to overnight guests staying at hotels or lodges providing overnight accommodation within MSAs in terms of increasing the availability of alcohol.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
<p>Consideration needs to be given to ensuring that this measure cannot be abused and that only those staying overnight at hotels or lodges can consume alcohol at MSAs. These risks should be managed by the licensing authority through the application of appropriate conditions on the licence, but changes to the statutory guidance could be made to support this. It is also not clear based on current evidence whether this policy would have any potential impact on drink driving incidents or wider impacts on the promotion of the licensing objectives and this is something which also needs to be considered.</p>		

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as
Costs: 0.03	Yes	OUT
Benefits: 1.2		
Net: 1.2		

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

On 23 March 2012, the Government published its Alcohol Strategy, setting out a range of measures to tackle the issue of excessive alcohol consumption and its associated harms^[1]. The Alcohol Strategy included a commitment to consult on giving licensing authorities greater freedom to take decisions that reflect the needs of their local community, including, where appropriate, to reduce the burdens of the licensing regime and support local growth. This followed the “hospitality theme” of the Red Tape Challenge, in which members of the public and businesses were invited to suggest regulations that should be scrapped or simplified.

The Government is committed to removing unnecessary regulation and to exploring how it can make the day to day process of licensing as easy as possible for responsible businesses. The consultation on the delivery of the Alcohol Strategy sets out proposals for cutting red tape in the licensing system, including a number of ways in which we wish to reduce the burdens of licensing on local organisations such as community and arts groups and schools, and businesses that are not connected to alcohol-related problems.

Prior to 1992, the Department for Transport had responsibility for developing MSAs: acquiring land, funding construction and leasing the completed sites to operating companies. In 1992 there was a change in government policy to encourage the private sector to acquire MSA sites and seek planning consent from local planning authorities to open MSAs. These MSAs are then owned by the private sector. The sale and consumption of alcohol at motorway service areas (MSAs) is prohibited nationally under section 176(2) of the Licensing Act 2003, for MSAs which are still owned by the Government (and are on land bought by the Secretary of State). Department of Transport circular guidance (DfT Circular 01/2008) places requirements on operators of MSAs (including Government and privately owned MSAs) which are reflected in their Traffic Signs Agreements with the Highways Agency. In effect, these requirements have prohibited the sale of alcohol at MSAs. However, we are aware that there has been mixed application of the Department for Transport guidance. In a small number of cases, premises at MSAs possess licences that include authorisation for alcohol sales. The legislation and guidance covers all premises within MSAs including hotels and lodges providing overnight accommodation within the MSA and supermarkets operating within MSAs.

The Government has committed to reducing regulation on business and giving local authorities greater powers to shape and determine local licensing. There is therefore a case for reducing the amount of central regulation with regards to MSAs and enabling licensing authorities to make decisions on what is appropriate at MSAs within their areas based on local evidence. There is also clearly some inconsistency in how these regulations are currently being applied and amendments would help to ensure clarity on what sales can be permitted at MSAs. However, there are concerns that lifting this ban, and in particular, permitting the sale of alcohol for consumption off the premises at MSAs, may pose public order concerns, particularly around enforcing legislation which prevents consuming alcohol on vehicles travelling to football matches. There is a need to assess during the consultation the wider impacts deregulation may have on the promotion of the licensing objectives at MSAs in particular alcohol-related crime and disorder and drink driving offences. It is not clear from existing evidence what impact this proposal may have

^[1] The Alcohol Strategy is available on the Home Office website: <http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-strategy>

on drink driving incidents if alcohol is made readily available within MSAs and these issues will be explored further during the public consultation. Any removal of the nationally imposed restriction on the sale of alcohol at MSAs will increase the opportunities to sell alcohol and may therefore have a slight impact on the availability of alcohol and therefore on consumption. Alcohol consumption at harmful levels can, as noted in other impact assessments, in certain circumstances contribute to health harms and other outcomes including alcohol driven crime.

In recent years, an increasing variety of premises types have operated within MSAs such as supermarket shopping facilities and hotels and lodges providing overnight accommodation (a summary of facilities provided at MSAs is provided in annex a). As outlined above, under provisions in the Licensing Act 2003 and Department for Transport guidance) these premises are not normally permitted to sell alcohol. However, as noted above, we are aware that there has been mixed application of the Department for Transport guidance. In a small number of cases, premises at MSAs possess licences that include authorisation for alcohol sales. Information from the Highways Agency suggests that, of approximately 107 current MSAs in England and Wales, this has resulted in at least 12 MSAs now having a licence to sell alcohol. This licence may cover an overnight lodge, off-sales, or a restaurant or refreshment venue.

It is important to note that there will be impacts (both costs and benefits) from the other policies arising from the Government's Alcohol Strategy but for the purpose of this pre-consultation assessment we are appraising the proposals relating to the deregulation of the sale of alcohol at motorway service areas in isolation. Impact assessments will be revised following public consultation to reflect the agreed and combined package of measures being taken forward and any interactions between the policies.

This is a pre-consultation Impact Assessment and is based on the best available evidence at the point of publication. We have set out within the Impact Assessment the areas where we hope to increase our evidence base through the consultation process. Impact estimates (both costs and benefits) therefore remain subject to change.

A.2 Groups Affected

Retailers wanting to operate within MSAs

Option 2 would benefit all retailers wanting to operate within MSAs including supermarket shopping facilities, restaurants and hotels and lodges providing overnight accommodation. These premises would be able to apply for licences to extend their business activities to include the sale of alcohol. Option 3 would specifically benefit hotels and lodges providing overnight accommodation at MSAs as they would be able to apply for licences to extend their business activities to include the sale of alcohol for consumption on their premises. Such accommodation providers have argued that lifting the national ban on the sale of alcohol will increase their attractiveness to potential customers and enable them to better compete with providers of accommodation not on MSA land.

Licensing authorities

Both options would impact upon licensing authorities who would be required to consider licence applications from any businesses wanting to apply for a licence to sell alcohol within MSAs.

The public

Options 2 and 3 would both impact consumers, as they would result in greater availability of alcohol at MSAs.

Enforcement bodies

Both options 2 and 3 would impact upon enforcement bodies, who, in their role as responsible authorities would be required to consider any applications made for licences within MSAs and, where appropriate, make representations regarding the potential impact of granting these applications on the promotion of the licensing objectives. Option 2 may have an additional impact on enforcement bodies if this proposal resulted in a need to more rigorously enforce legislation which prevents consuming alcohol on vehicles travelling to football matches due to the increased availability of alcohol at MSAs and drink driving offences.

A.3 Consultation

Within Government

Cabinet Committee clearances were gained for the publication of the Alcohol Strategy. These clearances include official and Ministerial level discussions with other Government departments, including the Department of Health, Department for Business, Innovation and Skills, HM Treasury, HM Revenue and Customs, The Department for Culture, Media and Sport, and the Department for Communities and Local Government.

Public Consultation

This Impact Assessment has been created in advance of a public consultation. This proposal will be consulted on along with other measures set out in the Government's Alcohol Strategy. The consultation will seek feedback on the extent to which these measures will reduce the burden on business and the potential impact these measures may have on the promotion of the licensing objectives.

The Highways Agency commissioned a study in 2008 to explore issues around the sale of alcohol at MSAs. The study focussed on the potential impact of permitting the consumption of alcohol at 'lodges' providing overnight accommodation at MSAs. Feedback was sought from key stakeholders on this proposal. Whilst the Automobile Association (AA), RAC Foundation, British Motorcyclists Federation (BMF) and Institute of Advanced Motorists (IAM) stated that they would be likely to support allowing the sale of alcohol at MSA lodges, there was opposition to this proposal from the Parliamentary Council for Transport Safety, the Association of Chief Police Officers (ACPO), the Association of Industrial Road Safety Officers (AIRSO), the Royal Society for the Prevention of Accidents (RoSPA) and South Yorkshire and North Yorkshire Police. However, a full public consultation has not been conducted on these proposals and further consultation will help to identify the potential impacts on different groups.

B. Rationale

In recent years an increasing variety of premises types have operated within MSAs such as supermarket shopping facilities and hotels and lodges providing overnight accommodation (a summary of facilities provided at MSAs is provided in annex a). As outlined in the background section above, under provisions in the Licensing Act 2003 and Department for Transport guidance, these premises are not normally permitted to sell alcohol. However, as noted above, we are aware that there has been mixed application of the Department for Transport guidance. In a small number of cases, premises at MSAs possess licences that include authorisation for alcohol sales. Information from the Highways Agency suggests that, of approximately 107 current MSAs in England and Wales, this has resulted in at least 12 MSAs now having a licence to sell alcohol. This licence may cover an overnight lodge, off-sales, or a restaurant or refreshment venue.

Both options 2 and 3 would contribute to the Government's overarching commitment to reduce regulation and would be consistent with the drive to give greater control to local authorities to determine approaches to licensing based on local evidence. They would also contribute to burdens on both business and the public sector by clarifying the law and removing the current legal anomaly within the Licensing Act 2003. With options 2 and 3, premises wanting to sell alcohol within a MSA would still be required to apply to the licensing authority for authorisation to do so. The safeguards built into the licensing regime would therefore still apply and in particular licensing authorities will have to consider any relevant representations from the police, the highway authority or any other person before making any determinations in respect of MSAs. Additional safeguards, including the criminal law framework on drink driving and regulations governing HGV drivers, would also still apply.

C. Objectives

The objective of these proposals is to reduce regulation on business and give greater powers to licensing authorities to determine what is appropriate in their local areas in relation to the sale of alcohol at MSAs. While reducing regulation and increasing local flexibility, the aim is to ensure that any proposals are supported by adequate safeguards to address any potential issues which could result from increasing the availability of alcohol at MSAs and ensure the promotion of the licensing objectives².

D. Options

Option 1 Make no changes (retain the blanket prohibition on the sale and consumption of alcohol at MSAs)

Option 2 Remove the blanket prohibition on the sale and consumption of alcohol (both on and off the premises) at MSAs entirely

Option 3 Remove the prohibition of the sale and consumption of alcohol on the premises but only for hotels or lodges which are providing overnight accommodation

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

As there is no official data on facilities available at these MSAs, in order to inform this impact assessment it has been necessary to do more detailed research on MSAs and facilities provided at MSAs. This background research may not include all MSAs, is based on a rapid assessment of evidence and should be treated as indicative. The Highways Agency has reported that there are approximately 107 motorway service areas (MSAs) in England and Wales, of which around 21 are Government-owned. These figures are however approximate and in some cases may include two MSAs in the same location, i.e. where there are separate MSAs on either carriageway.

Background research has been conducted (looking at facilities listed online for 88 MSAs) to provide some indicative evidence to inform this impact assessment (see summary in Annex A). Findings from this research suggested that almost all MSAs have a hotel or lodge providing overnight accommodation. All provide venues for refreshment (with the majority offering multiple refreshment venues) and in most cases this will include one 'eat-

² The four licensing objectives (which all have equal status) are: the prevention of public nuisance; the prevention of crime and disorder; public safety; and the protection of children from harm.

in' refreshment venue or restaurant with seating for customers to eat on the premises, along with additional fast-food establishments. Forty-one premises (47%) have a small supermarket and many also have shops selling sweets, stationery and other small items. These figures have been used to provide indicative estimates of the numbers of different types of premises at MSAs to inform the analysis below. Analysis has been done on the assumption that there are 107 MSAs as this is the figure we have been given by the Highways Agency. Although it has been suggested that approximately 12 of these 107 MSAs already have licences to sell alcohol, we do not have information on whether this includes all premises at the MSA or just some- for example our own research suggests that in these cases alcohol is most likely to be served at a lodge but not at other premises and therefore other types of premises at the MSA may still benefit as a result of deregulation. Given these difficulties, it is therefore considered inappropriate to remove those MSAs we think are currently selling alcohol from the analysis.

OPTION 1 – DO NOTHING

This option involves no change so there are no additional costs or benefits

OPTION 2 – Remove the blanket prohibition on the sale and consumption of alcohol (both on and off the premises) at MSAs entirely

COSTS

Business:

If the ban on the sale of alcohol were lifted at MSAs we would expect that the majority (if not all) hotels and lodges at MSAs would apply for authorisation to serve alcohol, along with all the supermarket-type premises. As late night refreshment is a licensable activity under the Licensing Act 2003, all of the 107 MSAs are already thought to possess a licence covering the whole of the MSA area to authorise the provision of late night refreshment. Therefore, in some cases, MSAs may be able to apply for a licence variation to seek authorisation for the sale of alcohol rather than completing a new licence application, if an existing licence was in place. We will explore during the consultation if this would be appropriate or if separate licences may be needed to ensure that the licensing authority has the opportunity to apply appropriate conditions based on the characteristics of each premises. This may also be impacted upon by other proposals in the consultation relating to the provision of late night refreshment.

Assuming that each of the MSAs has at least one hotel or lodge, we estimate that this would affect **107** hotels or lodges and based on existing percentages of supermarket-type premises we expect this to affect **50** supermarket premises. It is unlikely that smaller shops (such as those selling sweets and stationery) and fast-food establishments would start selling alcohol as this would require a significant change to their business model. However, some of the 'eat-in' restaurants may wish to apply for a licence to allow them to sell alcohol with hot meals eaten at the premises. The majority of existing MSAs have at least one of these types of restaurants. However, we do not expect that all would wish to serve alcohol and so have based our estimates on approximately half (**54**) of these premises applying to sell alcohol.

The estimates used in this impact assessment are based on indicative evidence from our own background research on the current situation at MSAs. It might be expected that if the ban on the sale of alcohol at MSAs were lifted, in the longer term, more businesses may wish to start trading and selling alcohol at MSAs. However, the decision to grant a licence still comes down to the licensing authority and it may be that in some cases the licensing authority determines that it would not be appropriate to grant a licence at an MSA, for example, for a bar that could be seen as encouraging drink driving.

The average administrative cost of applying for licences has been estimated as ranging from £482 - £1,070, depending on the complexity of the application³. The level of the annual fee would vary based on the size of premises and nature of the business. The average application fee for a premises is estimated at £235.⁴ This has been used as the most appropriate estimate in these calculations. Although a MSA is, in its entirety, likely to have a large rateable value, the average individual premises within an MSA can be assumed to be of average rateable value. It gives a total administrative cost of applying for a licence of £717 - £1,305.⁵

Based on 211 expected new applications, this gives total administrative costs to business of **£151,000- £275,000** in the first year. Given that not all applications will be new applications (some may be licence variations as noted above) our best estimate would be at the lower end of this range.

The new applicants will pay an estimated annual fee of £193⁶, which brings an annual cost (from year 2 onwards) of **£40,700**.

There would be additional costs to each premises that decided to apply for an authorisation to sell alcohol in complying with the wider requirements of the licensing regime, including the cost of complying with mandatory and imposed licence conditions, such as the need to have a personal licence holder to authorise the sale of alcohol. It is not possible to quantify these additional costs fully, as they will vary based on the size and nature of the premises and the conditions that are appropriate for the promotion of the licensing objectives in each case.

Costs to the public sector:

There will be a cost to licensing authorities which have MSAs within areas as they will be required to familiarise themselves with any changes to policy around the sale of alcohol at MSAs and consider any guidance issued on the sale of alcohol at MSAs in order to assist them in making informed decisions on any applications lodged for premises at MSAs. Based on the estimated number of MSAs (and as this may include more than one MSA clustered in an area, for example one on either carriageway), we estimate that approximately 60 licensing authorities may have a MSA in their authority area and that it would take a maximum of 15 minutes per licensing official per licensing authority. Based on the average hourly wage⁷ for a licensing officer⁸ in each licensing authority of £13.60 per hour per hour we estimate one-off familiarisation costs of **£204**. Licensing authorities will also be required to consider any new applications or applications for variations for authorisations to sell alcohol at MSAs (if either option 2 or 3 were adopted) and there would be an administrative cost involved in doing this which is part of the authority conducting usual licensing processes and it is therefore expected that these administrative

³ See impact assessment for "Licensing Act 2003: proposals to reduce burdens of licensing on those who sell limited amounts of alcohol as part of a wider service". (2012)

⁴ Figures developed using modelled estimates from the 2009-10 licensing stats bulletin http://webarchive.nationalarchives.gov.uk/+http://www.culture.gov.uk/images/research/Licensing_Statistical_Bulletin_2009.pdf and estimates of the net effect of subsequent fee band shifts provided by the Valuation Office Agency."

⁵ Figures developed using modelled estimates from the 2009-10 licensing stats bulletin http://webarchive.nationalarchives.gov.uk/+http://www.culture.gov.uk/images/research/Licensing_Statistical_Bulletin_2009.pdf and estimates of the net effect of subsequent fee band shifts provided by the Valuation Office Agency."

⁶ Figure developed using modelled estimates from the 2009-10 licensing stats bulletin http://webarchive.nationalarchives.gov.uk/+http://www.culture.gov.uk/images/research/Licensing_Statistical_Bulletin_2009.pdf and estimates of the net effect of subsequent fee band shifts provided by the Valuation Office Agency."

⁷ See Annex C to the Health and CIPS Impact Assessment

⁸ This is the median hourly wage for local government administrative occupations (licensing officers) and business and public service associate professionals (Trading Standards Officers). Data was obtained from the 2011 Annual Survey of Hours and Earnings. <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-256648>

costs would be covered by the licence fee. We will consider this more as part of the forthcoming consultation.

The revenue from fees is not included as a benefit to licensing authorities as it is expected that this revenue will cover the cost of processing the applications.

Licensing authorities may want to communicate these policies to key contacts in their area, in addition to any national communication via the Home Office website. The cost of doing so is expected to be covered by the fees charged and have therefore not been quantified in this Impact Assessment.

Increased crime and health costs:

As set out below, there is a **general risk of increased health harms and crime** as a result of Option 2. In summary, we think this risk is small and mitigated by the characteristics of the measure and MSAs. As also explained below, it is not possible to quantify this at this stage though we consider this further during the consultation process.

Like all the other deregulatory measures on which we are consulting, the proposal at Option 2 is aimed primarily at reducing bureaucratic burdens on business and others. In this it is fundamentally different from other proposals in the Alcohol Strategy aimed at reducing the harms caused by excessive alcohol consumption.

That said, with any deregulatory measure, there is a general risk of increased health harms and crime and disorder because the increase opportunities for and ease of selling alcohol. We recognise that Option 2 on MSAs will result in increased opportunities for businesses (including shops, restaurants and overnight accommodation) to sell alcohol at MSAs, subject to the decisions of licensing authorities to grant premises licences to do so - decisions that are based on crime and disorder considerations. Increased availability is likely to lead to an increase in the overall consumption of alcohol, though the extent of this will depend on how consumers or the industry respond to this change. High levels of alcohol consumption are associated with both crime, particularly violent crime, and ill health^[1].

We have considered how to estimate or model this possibility. There is no data on the typical consumption associated with MSAs (given that there is a national ban on sales) so we cannot quantify this. However, since the number of affected premises estimated is very low, we believe that the associated increase in consumption would also be small. There are only 107 MSAs in England and Wales. Even if 211 additional licences were granted as suggested above, that would be less than one tenth of one percent of the number of licensed premises in England and Wales (216,200 based on 2009/10 figures).

Even if an estimate of the consumption effect were made, we do not consider that there is an appropriate mechanism with which to translate this into alcohol related harm costs. We considered the use of the the model developed by the Sheffield School of Health and Related Research ("SchARR model"), which has been developed specifically to explore the impact of alcohol control policies, such as pricing, on alcohol consumption and harms, although it is able to deal with factors such as outlet density. However, we have concluded that it does not lend itself to the small scale and uncertain nature of this measure. And we believe that the average effect that would be modelled by the SchARR model would not be representative of the true impact, given the types of premises that would be affected (see Mitigation sub-section below).

^[1] See the Home Office's impact assessments on minimum unit pricing and ban on multi-buy promotions for a summary of the evidence.

We are carrying out a technical consultation with licensing authorities and key partners and will seek to gather evidence on the likely impact of this proposal. This will be used to inform any final stage Impact Assessment.

Mitigation. We also believe that the risk of increased consumption leading to general crime and disorder and health harms resulting from the increased availability of alcohol at MSAs is mitigated by the fact that the type of premises affected at MSAs are not those typically associated with high levels of consumption of alcohol or crime and disorder or health harms. MSAs are not "destination venues" or part of local town centre night-time economies; they are set apart. In recent years, there has been a deregulation of the type of businesses that can operate at MSAs, including supermarket facilities. If Option 2 was to go ahead, in making their decisions on new licence applications, licensing authorities would be bound to take into account any representations received from the police and others and make their decisions in accordance with the statutory licensing objectives, including the prevention of crime and disorder.

Other than the general health and crime risks associated with the increased availability, we have considered whether there are **specific crime and disorder risks** associated with the sale of alcohol at MSAs, as noted below. They include: (1) the potential for increasing drink driving; (2) the danger of offering encouragement to commit the offences under the Sporting Events (Control of Alcohol) Act 1985, which prevent the carrying and consumption of alcohol or being drunk on motor vehicles travelling to football matches. Alcohol does not tend to be made available in MSAs in other EU states. If the national prohibition was removed, other safeguards would still apply, including the framework of criminal offences relating to drink driving and regulations governing HGV drivers for example. On the sporting events travel offences, operational police evidence suggests that these are well observed. The Police already liaise with operators of official (club or supporters' club run) coaches ahead of matches and are aware of their timings, sometimes providing police escort according to risk. There were three arrests across England and Wales during 2010/11 for these offences. As noted below, we would need to explore further with the police the impact on enforcement costs.

BENEFITS

Business:

Increased revenue/ profit

The ONS estimated total expenditure on Alcohol in England and Wales to be £37.44bn⁹ per annum. For the 216,200 licensed premises¹⁰ this gives an average revenue of £173,000 per licensed premises. If the ban on the sale of alcohol at MSAs were lifted, rather than increasing consumption of alcohol, consumers may transfer where they are purchasing their alcohol from other outlets to MSA outlets. For example, rather than purchasing alcohol before starting their journey, or from an outlet such as a supermarket or off-licence at the end of their journey, they may purchase the alcohol at an MSA outlet as it is more convenient. If alcohol were sold at lodges or restaurants at MSAs, customers may choose to stay and eat and drink at the MSA, rather than going to an alternative site away from the MSA lodge which does serve alcohol. As it is not clear to what extent this transfer would occur, we have included a transfer rate for profits here of 50 per cent, although we will explore during the consultation whether this is an appropriate estimate. Our best estimate of the share of revenue which represents profits to businesses is taken from

⁹ Total consumer expenditure on alcohol in the UK in 2010 was £42.07bn (ONS figures). Nielsen (2008) estimate that 89% of this expenditure was in England and Wales.

¹⁰ Alcohol, Entertainment and Late Night Refreshment Licensing Bulletin for England and Wales, September 2010

Morningstar financial data¹¹. This suggests that the average net margin for the alcohol industry is 13.42%. Therefore for the purposes of this assessment we have assumed that the annual profits obtained through possession a premises licence is £23,240.

Table 1: Benefits to business: annual increases in revenue and profits

	Potential number of new licences	Revenue as a result of new licences	Profit as a result of new licences	Total impact on business*
Hotels/ overnight lodges	107	£18.5m	£2.5m	£1.2m
Off-trade premises	50	£8.7m	£1.2m	£0.6m
Restaurants	54	£9.4m	£1.3m	£0.6m
Totals	211	£36.5m	£4.9m	£2.5m

* Profit as a result of new licences excluding 50% profit transfer rate.

Net Effect

The estimated net effect is an average benefit of £2.4m per year. This includes the one-off cost of familiarisation for LAs; the cost to business of the application fee; the annual licence fee; and the benefits to business from profits for alcohol sales.

ONE-IN-ONE-OUT (OIOO)

Option 2 has an impact on business and is therefore in scope for “One in One Out”.

COSTS (INs)

The estimated annual costs to business based on administrative costs of making applications or applications for licence variations to sell alcohol at MSAs are **£0.05m-£0.06m on average**.

BENEFITS (OUTs)

Benefits to business in terms of increased GVA as a result of new licences (taking into account a 50% transfer of profits) are estimated to be **£2.5m per year**.

NET

Based on our best estimate option 2 would result in an average net out (over 10 years) of £2.5m - £0.05m = **£2.4m per year**.

OPTION 3 – Remove the prohibition of the sale and consumption of alcohol at MSAs on the premises but only for hotels or lodges which are providing overnight accommodation

COSTS

Business:

Administrative costs:

¹¹ www.morningstar.co.uk

The average administrative cost of applying for licences has been estimated as ranging from £482 - £1,070, depending on the complexity of the application¹². The level of the annual fee would vary based on the size of premises and nature of the business. The average application fee for a premises is estimated at £235 and has been used as the most appropriate estimate in these calculations as, although an MSA is, in its entirety, likely to have a large rateable value, the average individual premises within an MSA can be assumed to be of average rateable value. This gives a total administrative cost of applying for a licence of £717 - £1,305.

Using these assumptions, if the prohibition of the sale of consumption of alcohol at MSAs was lifted, but only for overnight hotels and lodges, we would expect all lodges (107) to apply for a licence, resulting in administrative costs of **£77,000 - £140,000**.

The new applicants will pay an estimated annual fee of £193, which brings an annual cost (from year 2 onwards) of **£20,700**.

There would be additional costs to each premises that decided to apply for an authorisation to sell alcohol in complying with the wider requirements of the licensing regime, including the cost of complying with mandatory and imposed licence conditions, such as the need to have a personal licence holder to authorise the sale of alcohol. It is not possible to fully quantify these additional costs as they will vary based on the size and nature of the premises and the conditions that are appropriate for the promotion of the licensing objectives in each case.

Costs to the public sector:

As with option 2, there will be a cost to licensing authorities which have MSAs within their areas as they will be required to familiarise themselves with any changes to policy around the sale of alcohol at MSAs and consider any guidance issued. We estimate that approximately 60 licensing authorities may have a MSA in their authority area and that it would take a maximum of 15 minutes per licensing official per licensing authority. Based on an hourly wage for a licensing officer of £13.60¹³ per hour we estimate one-off familiarisation costs of **£204**. Licensing authorities will also be required to consider any new applications or applications for variations for authorisations to sell alcohol at hotels or lodges at MSAs (if option 3 were adopted). There would be an administrative cost involved in doing this which it is expected would be covered by licence fees. We will consider this more as part of the forthcoming consultation and update as necessary in any final Impact Assessment.

The revenue from fees is not included as a benefit to licensing authorities as it is expected that this revenue will cover the cost of processing the applications.

Licensing authorities may want to communicate these policies to key contacts in their area in addition to any national communication via the Home Office website. The cost of doing so is expected to be covered by the fees charged and have therefore not been quantified in this Impact Assessment.

¹² See impact assessment for "Licensing Act 2003: proposals to reduce burdens of licensing on those who sell limited amounts of alcohol as part of a wider service". (2012)

¹³ This is the median hourly wage for local government administrative occupations (licensing officers) Data was obtained from the 2011 Annual Survey of Hours and Earnings. <http://www.ons.gov.uk/ons/publications/re-reference-tables.html?edition=tcm%3A77-256648>
All figures have been up-rated by 21% for non-labour costs.

Increased crime and health costs

As with Option 2 above, there is a **general risk of increased health harms and crime** as a result of Option 3. In summary, we think this risk is small and mitigated by the characteristics of the measure and the nature of MSA lodges. As also explained below, it is not possible to quantify this at this stage though we will consider this further during the consultation process.

Like all the other deregulatory measures on which we are consulting, the proposal at Option 3 is aimed primarily at reducing bureaucratic burdens on business and others. In this respect, it is fundamentally different from other proposals in the Alcohol Strategy aimed at reducing the harms caused by excessive alcohol consumption.

That said, as with any deregulatory measure, there is a general risk of increased health harms and crime and disorder because the increased opportunities for and ease of selling alcohol. We recognise that Option 3 on MSAs will result in new opportunities for MSA lodges or other businesses providing overnight accommodation to sell alcohol, subject to licensing authority decisions to grant a premises licence. This could lead to an increase in the overall consumption of alcohol, although to a lesser extent than with Option 2 because it is limited to “on-trade” sales of alcohol at overnight accommodation. The extent of the increase will also depend on how consumers or the industry respond to this change, although lodges (we estimate that there are 107 in England and Wales) have been lobbying for this change on the grounds that the current prohibition puts them at a competitive disadvantage compared with other overnight accommodation not at MSAs.

High levels of alcohol consumption are associated with both crime, particularly violent crime, and ill health¹⁴.

We have considered how to estimate or model this possibility. There is no data on the typical consumption associated with MSAs (given that there is a national ban on sales) so we cannot quantify this. However, since the number of affected premises estimated is very low, we believe that the associated increase in consumption would also be small. Even if 107 additional premises licences were granted as suggested above, that would be less than one tenth of one percent of the number of licensed premises in England and Wales (216,200 based on 2009/10 figures).

Even if an estimate of the consumption effect were made, we do not consider that there is an appropriate mechanism with which to translate this into alcohol related harm costs. We considered the use of the model developed by the Sheffield School of Health and Related Research (“SchHARR model”), which has been developed specifically to explore the impact of alcohol control policies, such as pricing, on alcohol consumption and harms, although it is able to deal with factors such as outlet density. However, we have concluded that it does not lend itself to the small scale nature of the measure that this MSA proposal and, in addition, there are too many unknown variables (including how many MSA lodges would ultimately seek a licence to sell alcohol at MSA; how many licensing authorities would exercise their discretion to grant them; and how both the public and industry would respond to this).

We are carrying out a technical consultation with licensing authorities and key partners and will seek to gather evidence on the likely impact of this proposal. This will be used to inform any final stage IA.

¹⁴ See the Home Office’s impact assessments on minimum unit pricing and ban on multi-buy promotions for a summary of the evidence.

We believe that the risk of increased consumption leading to crime and disorder and health harms resulting from the increased availability of alcohol is mitigated by the fact that MSA lodges are not the type of premises associated with high levels of consumption of alcohol or crime and disorder or health harms. A Highways Agency study in 2008 concluded that: "there was no evidence that lodges have a role as a local pub with many people arriving late in the day, bringing their own alcohol with them and generally viewing the overnight stay as a convenient break in the journey rather than a pleasurable experience for its own sake."¹⁵ If Option 3, were to go ahead, in making their decisions on new licence applications, licensing authorities would be bound to take into account any representations received from the police and others and make their decisions in accordance with the statutory licensing objectives, including the prevention of crime and disorder.

Other than the general health and crime risks associated with the increased availability, there is a specific crime and disorder risk associated with the sale of alcohol at MSAs in relation to drink driving. If the national prohibition was removed, other safeguards would still apply, including the framework of criminal offences relating to drink driving and regulations governing HGV drivers for example. The Highways Agency report did not find evidence of increased drink driving. As noted below, we would need to explore further with the police the impact on enforcement costs.

BENEFITS

Business:

Increased revenue/ profit

Based on the assumptions set out in relation to option 2 above, if option 3 were adopted and 107 licences were granted for the sale of alcohol at lodges or hotels providing overnight accommodation at MSAs, the expected revenue would be £18.5m and expected profit would be £2.5m. Taking into account a 50% transfer of profit this results in a total benefit to business of £1.2m per year.

Net Effect

The estimated net effect is an average benefit of £1.2m per year. This includes the one-off cost of familiarisation for LAs; the cost to business of the application fee; the annual licence fee; and the benefits to business from profits for alcohol sales.

ONE-IN-ONE-OUT (OIOO)

Option 3 has an impact on business and is therefore in scope for "one in one out".

COSTS (INs)

The estimated annual costs to business based on administrative costs of making applications or applications for licence variations to sell alcohol at lodges or hotels at MSAs are **£0.03m on average**.

BENEFITS (OUTs)

Benefits to business in terms of increased GVA as a result of new licences for lodges and hotels selling alcohol at MSAs (allowing for a 50% transfer of profit) are estimated to be **£1.2m per year**.

¹⁵ Task 442 (387): Roadside Facilities Project – Sale of Alcohol at Motorway Service Lodges (Capita Symonds for the Highways Agency), 2008

NET

Based on our best estimate, Option 3 would result in a net out of £1.2m - £0.03m= **£1.2m per year.**

F. Risks

Concerns have been raised previously that deregulation of the prohibition of alcohol sales at MSAs may pose public order concerns, particularly around enforcing legislation which prevents consuming alcohol on vehicles travelling to football matches, and also in relation to increasing the opportunity for and sending dangerous messages about drink driving.

There is a potential risk with option 2 that this may increase the chance of people consuming alcohol on vehicles travelling to football matches. There was 1 arrest during the 2009/10 season, and 3 arrests during the 2010/11 season for offences under section 1 or 1A of the Sporting Events (Control of Alcohol etc.) Act 1985. These are offences of possession of alcohol, intoxication, and allowing possession or consumption of alcohol on a vehicle travelling to and from a regulated match. However, the low number of offences and further anecdotal evidence suggests that this legislation is currently well observed and coach operators usually operate responsibly in this regard. We will explore the extent of this risk further with the police.

There has been no conclusive evidence on the potential impact of the sale of alcohol at MSAs on drink driving offences or accidents on adjacent motorways. Analysis was undertaken as part of a study commissioned by the Highways Agency in 2008.¹⁶ This suggested that the average percentage of accidents with positive breath tests on motorways adjacent to MSAs with licensed premises was slightly above the national average, whereas on motorways with MSAs without licensed premises this figure was slightly below the national average. However, these figures were not statistically significant, were based on a very small number of MSAs with licensed premises (6 out of 67) and did not demonstrate clear cause and effect between accidents and those drinking at licensed premises at MSAs. Therefore no clear conclusions can be drawn from this analysis.

There may also be concerns regarding increases in drink driving if MSAs were permitted to serve alcohol and while there is no research to suggest that this policy would have a negative impact on drink driving offences and accidents we will explore these further and consult with key partners who may be able to provide further evidence on this during the consultation. Additional enforcement costs have not been included in this impact assessment as it is not clear whether there would be any additional enforcement costs as a result of these measures. We will explore this issue further during the consultation.

The extent to which new licences are granted at MSAs as a result of either option 2 or option 3 would be dependent on local licensing authorities, who would still have to determine what action is appropriate for the promotion of the licensing objectives in their own areas.

As this would be a new area for licensing authorities to consider, the statutory guidance (issued under section 182 of the Licensing Act 2003) would need to be amended to ensure that licensing authorities have sufficient advice on issues affecting the high speed motorway network which should be taken into account when determining any applications in relation to MSAs.

¹⁶ Roadside Facilities Project- Sale of Alcohol at Motorway Service Area Lodges (2008), unpublished research produced for the Highways Agency

G. Enforcement

As set out in section F there are risks that Option 2 in particular may lead to an increase in offences for consuming alcohol on vehicles travelling to football matches, requiring increased enforcement of this offence. We will also consider the potential for increased need for enforcement of drink driving offences if either Option 2 or 3 were introduced. We will consult with the police and other enforcement bodies during the consultation to enable us to better assess this impact.

H. Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes.

Option	Costs	Benefits
2	Monetised £0.5m (PV, best estimate)	Monetised £21.1m (PV, best estimate)
	Familiarisation and administrative costs of new applications, possible increase in crime and health harms.	Increased profit as a result of alcohol sales
3	Monetised £0.2m (PV, best estimate)	Monetised £10.7m (PV, best estimate)
	Familiarisation and administrative costs of new applications, possible increase in crime and health harms.	Increased profit as a result of alcohol sales

As this is a consultation stage impact assessment there is not a preferred option at this stage. We will explore the potential impact of both policy 2 and policy 3 during the consultation, in particular looking at the potential reduced burden on business and the potential impact on the promotion of the licensing objectives. This will include consideration of whether these proposals could impact upon drink-driving incidents or wider alcohol-related harms. However, for illustrative purposes we have selected option 3 as the preferred option as on the basis of current evidence there are likely to be fewer potential risks on the promotion of the licensing objectives with this option. However, any potential risks will be explored further during the consultation to enable us to make an informed decision on a preferred option.

I. Implementation

The Government would implement option 2 or 3 through legislative changes to the Licensing Act 2003. This would mean the policy receives Parliamentary scrutiny and an implementation timetable would be subject to the necessary Parliamentary procedures.

J. Monitoring and Evaluation

The duty to review all new policies after a minimum of five years would apply to this policy.

K. Feedback

Feedback is being sought during the consultation on the potential of these proposals to reduce burdens on business and the potential impact of these proposals on the promotion of the licensing objectives. Specifically we will seek feedback from licensing authorities, the licensed trade and enforcement bodies on whom these proposals would have an impact.