



Case M-003

Alcohol Pricing and Promotions Market Study

Findings and recommendations

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1 Overview

- 1.1 This document provides an overview of the Jersey Competition Regulatory Authority (**the Authority**)’s findings and recommendations for the alcohol pricing and promotions market study.
- 1.2 A market study is the analysis of a market as a whole, or features of a market, using a variety of evidence to assess how well it is working and if any changes should be recommended to make it work better.
- 1.3 This market study has been carried out following a request from the Attorney General. It was focused on a specific feature of the Jersey alcohol market, which is the Attorney General’s Guidance (Licensing (Jersey) Law 1974) on Drinks pricing and promotions (Guidance). The study examined the economic impact of the Guidance on licensed outlets and consumers and comparable international experience of similar policies.
- 1.4 In the delivery of this market study the Authority has been supported by experts from Frontier Economics.¹ Accompanying this document is a Frontier Economics report “M-003 Alcohol Pricing and Promotions Market Study” (**final report**).² The final report sets out the detail behind the findings and recommendations of the study summarised in this document.

¹ Frontier Economics is a microeconomics consultancy with extensive experience in supporting market studies and have direct experience of alcohol policy from their policy work in Scotland and other jurisdictions.

² Authority document number: JCRA 22/05

2 Background

2.1 This section is split into four subsections, which cover in turn:

- The Authority (see paragraphs 2.2 to 2.4);
- Overview of market studies (see paragraphs 2.5 to 2.8);
- Terms of reference (see paragraph 2.9); and
- The market study process (see paragraphs 2.10 to 2.12).

The Authority

2.2 The Authority is responsible for promoting competition in the supply of goods and services in Jersey, together with the economic regulation of the ports, postal and telecommunications sectors.

2.3 As an independent regulator, the Authority has ambitious aims to help shape and sustain the Island's economic future, for the benefit of Jersey consumers, citizens and businesses. These aims are captured in the Authority's Strategic Plan.³ This plan is the guiding framework within which the Authority shapes, prioritises and delivers its annual Business Plan.

2.4 Competition law and economic regulation seek to achieve economic efficiency and sustainable competition. This allows consumers to have the benefits of fair prices, desirable goods and services and the opportunity to choose what they want to buy. This can be challenging at times in a small market, such as Jersey, given understandable economic constraints. But equally, can present opportunities to consider pragmatic approaches tailored to market needs.

Overview of market studies

2.5 A market study is a flexible tool to explore whether a market, or a feature of a market, is working well for Jersey consumers. It considers the relationship between consumer behaviour in a market, the behaviour of businesses in that market, and the market's structure. By looking at these relationships, the Authority can determine whether action that will encourage changes to consumer behaviour, business behaviour, or both, will help address any market problems found.

2.6 The outcomes of a market study may be one or more of the following:

- A clean bill of health for the market;
- Consumer/business focused action; and /or
- Recommendations to Government.

2.7 An important point to note is that the focus of a market study is not the actions of any specific business or firm, but rather the functioning of the market as a whole. It should be nevertheless noted that, if as part of a study, evidence were found of a firm/s breaking Competition Law, the appropriate tool would be competition enforcement, not a market study. In this scenario the market study would be stopped and instead a formal investigation launched.

³ See: <https://www.jcra.je/strategic-plans/strategic-plan/strategic-plan/>

- 2.8 Consistent with the Authority's Strategic Plan, market studies are used to address issues with competition in those markets where change would most benefit Islanders.

Terms of reference

- 2.9 The study was carried out against published terms of reference which are included in the box below. These were set by reference to an initial analysis of the market and engagement with the Attorney General's Office which requested the study take place. While the Authority recognises the health/social impact of the alcohol market, the focus of the study was on the economic impact. This is consistent with the Authority's expertise as an economic regulator.

Box: The published terms of reference⁴

The Authority shall conduct a market study into the impact of the Attorney General's Guidance (Licensing (Jersey) Law 1974) on Drinks pricing and promotions on the Alcohol market on Jersey. The study will consider the economic impact of the Guidance and how it may affect competition and consumers.

In particular the study will consider:

- The economic impact of the Guidance on the on and off-licence trade and consumers;
- Comparable international experience of similar policies; and
- Any actions that could help mitigate any unintended consequences found and support broader policy objectives.

For the purposes of this study the alcohol market includes the on and off-licence trade. Where on-licence trade includes 1st, 2nd, 3rd, 4th, 5th and 7th category licences set out in the Licensing (Jersey) Law 1974. The off-licence trade refers to 6th category licence set out in said Law. Further, while the Authority recognises the health/social impact of this market, the focus of the study will be on the economic impact.

The market study process

- 2.10 After finalising the terms of reference the Authority launched this market study publically in September 2021. In October, Frontier Economics was appointed to support the market study after a competitive procurement process based on criteria including proven expertise, strategic fit and value for money.
- 2.11 An initial starting point of the study was economic theory, which was used to derive hypotheses to test during the study. This was complemented by structured interviews with a range of key stakeholders across October and November 2021. At the same time, information and data was collected in Jersey and elsewhere covering among other areas consumption statistics, regulation and prices.
- 2.12 Following a thorough assessment and analysis of all the evidence collected during December 2021 and January 2022, the findings and recommendations were synthesised and written up in the final report which accompanies this document. In line with the timeline set out in the terms of reference the final report was completed in January 2022, and was submitted to the Attorney

⁴ See: <https://www.jcra.je/cases/2021/m-003-alcohol-pricing-and-promotions-market-study/alcohol-pricing-and-promotions-market-study-terms-of-reference/>

General for consideration.⁵ Following this, the final report and associated documentation was published on the Authority website, in March 2022.

⁵ The Authority notes the final report was finalised in advance of the publication of the [Jersey Alcohol Profile 2021](#) in February 2022. This provided an update on the [Jersey 2018 Alcohol Profile](#), which was used in the final report and shows broadly similar trends, for example, alcohol consumption in 2019 was similar to the number presented for 2018. Given this, no changes have been made to the final report and the findings and recommendations within it.

3 Market study findings

3.1 The findings of the market study with respect to the on-licence trade restrictions included in the Guidance are as follows:

- Jersey's on-licence pricing restrictions are unique. Stakeholder feedback, economic theory and market outcomes all suggest they restrict competition.
- High prices in the on-licence sector are likely to lead to a shift away from on-licence to off-licence consumption. This is a trend identified by stakeholders and is consistent with economic theory, and the weight of econometric evidence from other countries.
- There are relatively higher on-licence prices on Jersey. This suggests the removal of pricing restrictions and responsible use of promotions could encourage competition and benefit consumers.
- There are other features of the on-licence trade that might also have an impact on competition. This includes tied relationships and exclusive wholesale supply deals.
- Inconsistencies in the way the Guidance is applied could impact the level playing field in the on-licence market.

3.2 The findings of the market study with respect to the off-licence trade restrictions included in the Guidance are as follows:

- It appears few products were affected by the introduction of minimum unit pricing. However, it is too soon to reach definitive conclusions on its impact as its introduction coincided with COVID restrictions and the shift of demand to off-licences.

Further information:

[Frontier Report, chapter 7 \("Our Overall Assessment of the Impact of the Guidance"\)](#)

4 Market study recommendations

4.1 The recommendations from the study aim to increase competition and benefit consumers. They are set out in the Figure below, alongside supporting rationale. Consistent with the Jersey market study framework, the recommendations are for the consideration of the Attorney General/Licensing Assembly and Government.

Figure 1: Overview of recommendations

Recommendation	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 trade, when considered from an economic perspective, should be removed or eased. The restrictions on promotions 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 using 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 minimum unit pricing (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 is not sufficient to encourage competition and reduce prices, further action may then be required to address this issue.

Further information:
 Frontier Report, chapter 8 (“Our Recommendations”)

5 Next steps

- 5.1 The recommendations from the study are for the consideration of the Attorney General/Licensing Assembly and Government. The Authority will closely follow further policy developments in this area with interest.
- 5.2 As set out in the Authority's 2022 Business Plan the Authority's market studies regime aims to address issues with competition in those markets where change would most benefit Islanders. Over the course of the year, the Authority will complete the two additional studies already underway (Freight Logistics and Telecoms Retail Pricing) and further studies are planned.