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4. 2023/0543/FI - C50A - Foodstuffs

5.

6. The Commission has requested further clarification on the draft Act amending the Alcohol Act. According to the proposal, the provisions on the retail sale of alcoholic beverages would be amended by allowing for retail sale subject to authorisation not only of alcoholic beverages containing up to 5.5 per cent by volume of ethyl alcohol but also fermented alcoholic beverages containing not more than 8.0 per cent by volume of ethyl alcohol.

1. The Commission has requested an analysis of the proportionality of the measure, including a report based on scientific evidence of public health justifications for differences in treatment depending on the production method of products of the same strength.

The public health implications of restriction based on production method are not unambiguous. In the light of research data, the production method should not, at least from the perspective of harms at individual level, have a bearing on the harms caused by a beverage of a particular strength. At the individual level, both acute and chronic problems caused by drinking alcohol are primarily related to how much alcohol a person drinks in one session and or over a period of many years. At the population level, changes in the prevalence of harms are mainly related to changes in overall consumption in the short term and, in the longer term, to slower changes in drinking habits. In exceptional cases, changes in the distribution of alcohol consumption may also impact alcohol harms, as was the case during COVID-19, for example, when people who consume a lot of alcohol increased their consumption while those who consume a small amount reduced their consumption.

From the point of view of population-level harms, two factors can be added to the main principle outlined above. Firstly, deregulation of individual types of beverages may lead to a different number of harms, depending on how the total amount of alcohol consumed by the population increases for different beverages. For example, in connection with the 2018 law reform, sales of both stronger beers (between 4.8 and 5.5 per cent) and stronger mixed drinks increased several times (see the next sub-chapter). In the case of beer, this led to a reduction in consumption of lower strength beer, so that the combined consumption of beer continued in line with the previous trend. On the other hand, in the case of mixed drinks, substitution was only partial, and the combined retail consumption of mixed drinks increased markedly. The sale of mixed drinks ('long drinks') of 5.5 per cent in shops facilitated their availability and led to a real increase in consumption.

According to the alcohol statistics of the National Supervisory Authority for Welfare and Health ('Valvira'), as a result of the overall reform of the Alcohol Act in Finland in 2017, consumption statistics – retail and on-trade sales combined – for mixed drinks of more than 4.7 per cent increased by 228 per cent between 2017 and 2019, and retail sales of mixed drinks of between 4.8 and 5.5 per cent increased by 531 per cent. However, retail sales of previously popular fermented mixed drinks in grocery stores fell to less than half the previous level. As a result, the total retail sales of mixed drinks of different strengths and produced by different methods increased by 40 per cent. Over the same period, the recorded consumption of other alcoholic beverages decreased: consumption of cider decreased by 13 per cent and consumption of spirits by 6 per cent.

According to statistics, the consumption of new beverage groups entering grocery stores as a result of the reform of the Alcohol Act increased significantly between 2017 and 2019: Retail consumption of strong beer of between 4.8 and 5.5 per cent increased by 635 per cent and consumption of mixed drinks by 531 per cent. Consumption of other alcoholic beverages sold in grocery stores decreased.

Between 2007 and 2017, i.e. during the ten-year period before the entry into force of the Alcohol Act, the mortality rate for alcohol-related diseases and alcohol poisoning decreased at an unprecedented rate, even more steeply than total consumption. In 2018, 1,683 people died from alcohol-related diseases and alcohol poisoning, 125 more than in 2017. In 2019 and 2020 around 160 more people died than in 2017 (1,718 in 2019 and 1,716 in 2020). In the period 2018 to 2020, the total number of these alcohol-related deaths was almost 450 higher than if their number had remained at the 2017 level.

The most significant alcohol-related disease in terms of deaths is alcohol-related liver disease, which has therefore often been examined separately. People who have died of these diseases have usually started drinking alcohol to excess some 15 to 20 years before death. However, due to the large number of people in the community with pre-existing liver damage, as alcohol consumption at population level has changed dramatically, the number of deaths from liver disease caused by alcohol has often been found to change already in the same year. Liver diseases and even death caused by these diseases do not affect only extremely heavy drinkers because daily consumption of just a few units of alcohol or even lower consumption levels can also cause serious liver damage (Rehm. et al. 2010).

In the light of research data and past experience, it is very likely that if these mixed drinks, beers and wines of between 5.6 and 8.0 per cent were to be sold in grocery trade, their consumption would increase significantly. However, it is difficult to predict whether overall consumption of mixed drinks would increase more than beer consumption, but based on the 2018 experience, this is possible. In any case, the restriction based on production method can help curb impulse purchases of mixed drinks of a higher strength than before.

Sources:
Valvira Alcohol statistics 2017, 2018, 2019, 2020 and 2021. https://www.valvira.fi/alkoholi/tilastot

Uusitalo, L., Nevalainen, J., Rahkonen, O., Erkkola, M., Saarijärvi, H., Fogelholm, M. & Lintonen, T. (2022) Changes in alcohol purchases from grocery stores after authorizing the sale of stronger beverages: the case of the Finnish alcohol legislation reform in 2018. Nordic Studies on Alcohol and Drugs. 39(6), 589-604. https://doi.org/10.1177/14550725221082364.

Rehm, J., Taylor, B., Mohapatra, S., Irving, H., Baliunas, D., Patra, J. & Roerecke, M. (2010) Alcohol as a risk factor for liver cirrhosis: A systematic review and meta-analysis. Drug and Alcohol Review, 29: 437-445. https://doi.org/10.1111/j.1465-3362.2009.00153.x

2. The draft Government proposal draws attention to the fact that products with an alcoholic strength of between 5.5 and 8 per cent by volume made from spirits are more attractive to underage girls than beverages with similar alcoholic strengths produced by fermentation. The Commission has requested scientific information to support this argument.

Another issue that may be relevant from the point of view of the above justification for production method restriction relates to vulnerable groups – and, in the case of mixed drinks, in particular young people. The most popular alcoholic beverage among Finnish boys is beer, while girls' favourites are long drinks, cider and strong drinks. (Raitasalo & Härkönen 2019) In connection with the 2018 legislative amendment, girls' consumption of mixed drinks increased. (Raitasalo & Härkönen 2019, Lintonen et al. 2020.) Overall, the alcohol consumption of young Finns has decreased almost continuously since the turn of the millennium, but the development stopped between 2017 and 2019, and the amount of alcohol consumed in one session by young people, especially girls, increased after the legislative amendment.

In the context of consumption of alcohol by young people, the most significant amendment to the Finnish Alcohol Act concerned the expansion of the range of alcoholic beverages sold in grocery stores. The removal of the production method restriction liberalised the sale of mixed drinks based on spirits (referred to as long drinks in e.g. the ESPAD survey) in grocery stores, kiosks and service stations. Beer has been the most popular alcoholic beverage among Finnish boys throughout the period covered by the ESPAD survey, i.e. since the mid-1990s. (Raitasalo & Härkönen 2019) Girls' favourites are long drinks, cider and strong drinks. In 2015, 23 per cent of girls had consumed long drinks in the last 30 days, while four years later, in 2019, the figure was 27 per cent. The percentage of girls who consumed strong drinks also increased between 2015 and 2019, from 20 per cent to 23 per cent. (Härkönen et al. 2021.)

For girls, the differences in consumption of different types of drinks were smaller, but long drinks were the most popular drink in both years (1.1 and 1.5 units). The consumption of long drinks by girls increased quite substantially between 2015 and 2019, on average 0.4 units, and in 2019 it accounted for the largest share of total consumption, 35 per cent, the last time alcohol was consumed.

In addition to the proportions of respondents drinking different beverages and the number of units consumed the last time alcohol was consumed, the data from the ESPAD survey can also be used to calculate the average number of times different beverage types were consumed in 2015 and 2019 (Figure 4.6). Among boys, the average number of times each type of drink was consumed remained almost the same or decreased slightly, but was not of statistical significance. However, beer remained the most commonly used alcoholic beverage. For girls, the consumption of long drinks and strong drinks increased. In both years, the most commonly consumed drink among girls was long drink, but the number of times cider and strong drinks were consumed came very close to long drink.

A study based on the Adolescent Health and Lifestyle Survey (NTTT) in Finland also shows similar results: between 2017 and 2019, only mixed drinks increased in popularity among young people. In the case of girls, mixed drinks accounted for 24 per cent of consumption the last time alcohol was consumed in 2017; in 2019 the percentage was 37 per cent. For boys, the corresponding percentages were 19 and 21 per cent. (Lintonen et al. 2020.)

The trend of abstaining from alcohol among young people became more pronounced in the six-year period preceding the amendment to the Alcohol Act (2011 to 2017), but this development stopped between 2017 and 2019. In 2021, the proportion of young people abstaining from alcohol started to increase again. Similarly, the amount of alcohol consumed by young people in one session increased, especially among girls, after the change in the law. This is probably explained by the increase in the consumption of mixed drinks among girls. The stagnation of the positive development in young people's alcohol consumption at exactly the same time as the reform in 2018 of the Alcohol Act suggests that the legislative amendment had an impact on young people's alcohol consumption, even though the causal link cannot be properly established based on the available data and studies. However, studies of alcohol consumption among young people or Finnish and international research literature have not found compelling evidence as to why the trend of

abstaining from alcohol came to a halt after the legislative amendment.

The most common way for young people to source alcoholic beverages is through alcohol being bought for them or supplied by friends (Raitasalo & Härkönen 2019), and it can be assumed that it is easier for young people to get their adult friends to buy alcohol in a local store than in an Alko store located further away. The legislation reform therefore improved the availability of mixed drinks also for minors by raising the maximum strength of alcoholic beverages sold in grocery stores from 4.7 per cent to 5.5 per cent, and by making the mixed drinks produced from spirits, which are popular among girls in particular, available in grocery stores. This may well have been linked to the increase in consumption also in terms of total quantity of alcohol among girls who drink alcohol, as the average strength of mixed drinks increased, and the quantities consumed as mixed drinks increased without a similar reduction in consumption of other beverages.

If deregulation of one type of drink leads to a greater increase in young people's alcohol consumption than the deregulation of another type of drink, society may want to protect young people through different regulation of different types of drinks. Although alcohol consumption is harmful to young people regardless of the type of drink, the preference of underage girls for long drinks as their drink of choice suggests that allowing the sale of stronger long drinks in grocery stores is likely to lead to an increase in girls' alcohol consumption This assumption is supported by the observations described above of the effects of the amendment to the previous Alcohol Act on drinking among girls. Several international studies have also shown that improving the availability of mixed drinks leads to an increase in alcohol consumption among young people and in Germany and Australia, for example, taxation of these beverages was increased in 2004 and 2008 to curb consumption (Gale et al.). 2015; Müller et al. 2010; Wicki et al. 2006).

The Government's proposal to increase the alcohol content of beverages sold in retail to a maximum of 8 per cent would not apply to mixed drinks, which can be seen as a positive factor in reducing alcohol consumption among young people. On the other hand, low-alcohol sweet wines may also be of interest to underage young people. This would expose young people to a wider supply of alcoholic beverages despite the reintroduction of the production method restriction.

Sources:
Gale, M., Muscatello, D.J., Dinh, M. ym. (2015) Alcopops, taxation and harm: a segmented time series analysis of emergency department presentations. BMC Public Health 15, 468. https://doi.org/10.1186/s12889-015-1769-3.

Müller, S., Piontek, D., Pabst, A., Baumeister, S. E. & Kraus, L. (2010) Changes in alcohol con-sumption and beverage preference among adolescents after the introduction of the alcopops tax in Germany. Addiction, 105(7), 1205–1213. https://doi.org/10.1111/j.1360-0443.2010.02956.x.

Wicki, M., Gmel, G., Kuntsche, E., Rehm, J., & Grichting, E. (2006) Is alcopop consumption in Switzerland associated with riskier drinking patterns and more alcohol-related problems? Addicti-on (Abingdon, England), 101(4), 522–533. https://doi.org/10.1111/j.1360-0443.2006.01368.x.

Raitasalo, K. & Härkönen, J. (2019) Substance abuse and gambling among young people – ESPAD survey 2019. Helsinki: Finnish Institute for Health and Welfare, Statistical Report 40.

Härkönen, J., Raitasalo, K., Lintonen, T. & Mäkelä, P. (2021) What happened to alcohol consumption and consumption of different types of drinks among young people after the law reform in 2018? Social policy 86(3), 251–262.

Lintonen, T., Ahtinen, S. & Konu, A. (2020) Alcoholic beverage preferences among teenagers in Finland before and after the 2018 alcohol law change. Nordic Studies on Alcohol and Drugs 37 (2), 141-152. https://doi.org/10.1177/1455072520910547

3. In addition, the Commission has asked the Finnish authorities to assess the effects of the proposed measure on competition between producers of alcoholic beverages, taking into account the Government's objective of promoting fair and open competition.

In the proposed amendment to the Alcohol Act, the provisions on the retail sale of alcoholic beverages would be amended by allowing for retail sale subject to authorisation not only of alcoholic beverages containing up to 5.5 per cent by volume of ethyl alcohol but also fermented alcoholic beverages containing up to 8.0 per cent by volume of ethyl alcohol. Retail sales would therefore continue to be allowed for alcoholic beverages of 5.5 to 8.0 per cent produced by fermentation, but on the other hand, the alcohol company's monopoly would still apply to mixed alcoholic drinks of 5.5 to 8.0 per cent. The amendment would therefore result in different treatment of alcoholic beverages produced by fermentation and alcoholic beverages produced by other methods – and, therefore, traders producing alcoholic beverages by different methods would also be treated differently.

The present proposal is part of the implementation of Prime Minister Petteri Orpo's Government Programme. In accordance with the Government Programme, the Government will reform alcohol policy responsibly in a European direction and continue the overall reform of the Alcohol Act carried out in 2018. The Government's objective is to promote fair and open competition. Several other changes to legislation related to the opening of the market and increasing competition have also been agreed in the Government Programme. The proposed amendment is the first of the legislative amendments. The amendments concern, inter alia, the expansion of retail sales at the manufacturing site of domestic alcoholic beverage producers, clarification of the cross-border distance selling procedure, and allowing online sales and home delivery of alcoholic beverages. In accordance with the Government Programme, the Government will also examine by the mid-term review a change that would enable alcohol retail sales subject to authorisation of wines with an alcohol content of 15.0 per cent. The Government will reform alcohol legislation responsibly and gradually in a manner acceptable from the perspective of EU law.

The proposed amendment will implement the Government Programme's objective of fair and open competition, as it will enable operators who have obtained a retail licence referred to in the Alcohol Act to have a wider product range, while reducing the alcohol company's exclusive sales right. In accordance with the Government Programme, the Government will continue to open the market in a determined and responsible manner. The most significant measures to promote competition in the proposal would therefore relate in particular to the retail sale of alcohol. The current alcohol percentage limit (alcohol content up to 5.5 per cent) excludes from authorised retail sales a large number of European and domestic fermented alcoholic beverages with an alcohol content of 5.5 to 8.0 per cent, such as beers from Belgium and Germany and beers produced by domestic small breweries. In that regard, it can be considered that the proposal to increase the percentage limit for fermented alcoholic beverages to 8.0 per cent would open up competition, in particular with regard to beers, and thus enable an increasing number of operators to sell and compete on the market subject to authorisation.
The effects of the proposal on competition between producers of alcoholic beverages can be expected to be minor but mainly pro-competitive in nature. In particular, for fermented alcoholic beverages of 5.6 to 8.0 per cent, the liberalisation of retail sales is estimated to increase the consumption of these alcoholic beverages and the size of the market for these alcoholic beverages in Finland. For example, after the 2018 legislative reform, the consumption of new products entering the grocery trade increased dramatically (Source: Ex-post evaluation of the Alcohol Act that entered into force in 2018). A larger domestic market for fermented alcoholic beverages containing 5.6 to 8.0 per cent alcohol may attract some new domestic and foreign players and thus increase competition.
On the other hand, while the proposed amendment is likely to increase sales of fermented alcoholic beverages and promote competition in this respect, it may in part be at the expense of alcoholic beverages produced by other methods. This means that while the sales of fermented beverages containing 5.5 to 8.0 per cent of alcohol would increase, sales of beverages of the same strength produced by other methods could fall. In addition, in the long term, the proposed change may have an impact on consumers' purchasing and consumption behaviour, so that consumers will continue to favour fermented alcoholic beverages of those strengths over alcoholic beverages produced by other methods. Therefore, it is possible that even if at some point in Finland the retail sale of mixed drinks containing between 5.5 and 8.0 per cent of alcohol were to be authorised, consumers' purchasing and consumption behaviour could already have been shaped in such a way that consumers would continue to favour fermented alcoholic beverages of the said strengths.

In 2002, the EFTA (European Free Trade Association) Court issued a judgment according to which the fact that Norwegian law allowed the sale in grocery stores of fermented alcoholic beverages with an alcohol content of up to 4.75 per cent but not spirits of the same strength, constituted indirect discrimination against European products (EFTA Court 2002). On the

other hand, in Finland's case, mixed drinks of 5.6 to 8.0 per cent are unlikely to be an essential product group from the perspective of other countries, and the proportion of foreign products in this product group is almost certainly not larger and probably smaller than for the beers and wines proposed to be sold in stores. Therefore, the challengers to Finland's production method restriction may not be found abroad. Consequently, in Finland's view, anti-competitive factors based on the method of alcohol production would be proportionate, given that the division based on production method is based on the objective of protecting children and young people in particular.

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