



June 2020 Newsletter

There is No Silver Bullet to Reduce Alcohol Harm: A System is Needed By Pamela Erickson

Everyone seems to be looking for a silver bullet that will effectively reduce alcohol problems. Some entities seem to like tax increases; other groups like education programs. Some think we should reduce outlets, advertising and dangerous products. But the truth is there is no one measure that will cure problems with alcohol.

To effectively reduce alcohol harm, a system is needed with multiple measures to control the problems of alcohol misuse. This advice comes from the world's most credentialed alcohol researchers who authored a book entitled, "Alcohol: No Ordinary Commodity." They state:

"Local strategies have great potential to be effective when prior scientific evidence is used and multiple policies are implemented in a systematic way. Thus, a complementary system of strategies that seek to restructure the total drinking environment is more likely to be effective than single strategies." p. 251, *Alcohol: No Ordinary Commodity*.

Unfortunately, public policy discussions and decisions tend to be one policy at a time without an examination of how the change will impact the whole system. Legislatures consider bills that adopt or change single policies. Courts consider the constitutionality of single policies. And, there is a notion that a single policy needs to be proven effective by itself. But, as researchers note, "Alcohol policies rarely operate independently or in isolation from other measures..." Instead, they are often "molded to existing conditions and are typically implemented over time in a way that is fragmented, piecemeal and not coordinated..." (p. 251, *Alcohol: No Ordinary Commodity*.) And, as the researchers state in the above quote, single measures alone are unlikely to be very effective.

Courts invariably look at single policies and the impact on constitutional issues such as interstate commerce. And, they tend to prefer tax increases which are notoriously difficult to get passed in a legislative process; or educational measures which as a stand-alone effort tend to be ineffective. An example is a case from Washington State where the Costco Corporation challenged several policies. Consider this statement from a District Court judge ruling in favor of banning several policies in Washington State, which was later overturned:

The court found no "persuasive evidence that the purpose of any of the challenged restraints was to promote temperance by raising average beer and wine prices." And, the state "could readily achieve that goal in a manner that does not run afoul of the Sherman Act. Most obviously the State could adopt higher excise taxes."

Judge Marsha Pechman, US District Court, Costco v. Hoen (recommending the same strategy used unsuccessfully in UK.)

Why do we need multiple policies to address the same things? Here are a few of the many reasons.

1. Some licensees can become so powerful they can manipulate the market and avoid a tax increase designed to reduce the availability of cheap alcohol. For example, in the United Kingdom, big box grocery chains have captured a large share of the alcohol market. When a large tax increase was levied, retailers were able to require that suppliers absorb it. So, while the tax was raised, the price to the consumer was not. Thus, the tax was not passed on to consumers as anticipated. Scotland and Wales have instead adopted a minimum price law to deal with the cheap alcohol

problem. In the US before Prohibition, local markets were flooded with cheap alcohol. So, when regulatory systems were designed, most states adopted multiple measures to prevent large quantities of cheap alcohol from driving increased consumption. Most states have alcohol excise taxes, a few states have some kind of minimum price law, and most others have a combination of laws banning special favors or deals and require suppliers to sell their products at the "same price to all". These measures prevent large quantities of cheap alcohol from flooding the marketplace.

2. Entrepreneurs are clever and innovative-- usually a good thing-- but sometimes they gain an unfair advantage by exploiting a loophole.

This often results in a new rule or law to close the loophole. In the US, state and federal laws ban providing "things of value" as a quid pro quo for exclusively selling one supplier's products or giving favorable shelf or bar placement for certain products. Suppliers sometimes offer small branded items that don't equate to a "thing of value", but then it may reach the point of being, for example, a year's supply of cocktail napkins or coasters which could amount to a substantial cost.

3. There is an imbalance in advocacy on alcohol laws.

Some industry members have the resources to hire lobbyists and public relations firms that will advocate for elimination of individual rules calling them "antiquated or ineffective." Often, public health officials or law enforcement are not involved in the discussion. Public health officials are usually funded by government grants that prohibit involvement in lobbying. Even when their work is educational, they often stay away for fear of being accused of lobbying. Over time, the alcohol regulatory system can be weakened one law at a time as only deregulatory forces are able to advocate. And, eventually the weakened system could collapse.

Simply put, single measures aren't enough to deter large enterprises from aggressively selling large quantities of cheap alcohol. We must impress upon our policy makers that we need a system with multiple measures to balance prices (not too low to increase consumption, but not too high to induce bootlegging); control availability (prevent the proliferation of outlets, but effectively control or curtail home delivery); and prevent aggressive promotional practices especially

those that target vulnerable populations such as youth or heavy drinkers.

In the law/rule-making processes and in courts, we should emphasize that we have an effective system, that laws work in concert with one another, and that sometimes multiple measures are necessary. Here are some explanatory points that should be addressed:

1. The purpose of the measure under consideration
2. How the measure works in concert with other system measures
3. What might happen or how the system will be impacted by the change
4. The impact on enforcement and licensing
5. And, an explanation of how difficult it is to exactly determine the impact of the single measure under consideration.

Sources:

Thomas Babor et al, "Alcohol, No Ordinary Commodity, research and public policy", Second Edition, Oxford University Press, 2010.

Pamela S. Erickson, "The Dangers of Alcohol Deregulation: The United Kingdom Experience," available at www.healthyalcoholmarket.com.

Pamela S. Erickson, "Alcohol Deregulation by Ballot Measure in Washington State." A Status Report on the Implementation of Measure 1183, 2014. Available at www.healthyalcoholmarket.com.