



LEGAL

Clifton Davies Consultancy Ltd

Clifton Davies Consultancy Limited specialises in all licensing, gambling and regulatory issues affecting the pub and bar industry. The views expressed by David Clifton and Suzanne Davies are given without any assumption of liability on their part. If you have any questions, do get in touch and they will be pleased to provide answers, either via this page or direct. E: dc@cliftdavies.com / sd@cliftdavies.com W: cliftdavies.com

Looking forward to some positive goals

David Clifton focuses his mind on the World Cup and some possible forthcoming legal developments affecting your industry

By the time you read this, the country will have gone Meghan-Markle-mad as the Royal Wedding will be just days away. What could be better than that? The answer is the FA Cup final.

It just happens to be taking place on the same day, coupled with the extended licensing hours that the government has agreed to permit, meaning that licensed premises in England and Wales will be allowed to open for an extra two hours for the sale of alcohol for consumption on the premises, from 11pm on Friday 18 May to 1am on Saturday 19 May, and 11pm on Saturday 19 May to 1am on Sunday 20 May.

With the government having estimated that such a relaxation will save businesses between £0.3m and £0.5m, it's a shame that, unlike four years ago, there has been no proposal to extend licensing hours for any of the forthcoming football World Cup matches – 2014's relaxations were restricted to England's matches with a scheduled kick-off time of 8pm BST or later. Of course, an even greater shame is that in 2014 England crashed out at the group stage for the first time since 1958. Let's hope for better news this time around.

The key difference between the last World Cup and this one in licensing terms is the time zone in which the tournament is taking place. This time around, England's group matches are scheduled for 7pm on Monday 18 June, 1pm on Sunday 24 June and 7pm on Thursday 28 June, so they will be completed well within most pubs' normal licensing hours. That doesn't mean you can't submit a TEN for one or more of those trading days, but with 10 clear working days' notice required, you'd better get a move on, unless you plan to rely on a late TEN, when just five clear working days' notice is needed.

Thinking of the cheers that will greet England's goal-scoring frenzy in pubs and bars nationwide, it is anticipated that, following a recent consultation, the 'agent of change' principle will be incorporated within the new National Planning Policy Framework. Assuming that the government doesn't change its mind, future planning policies and decisions should ensure that new housing developments can be integrated effectively without unreasonable restrictions being placed on pre-existing pubs, bars, nightclubs and music venues in the local vicinity. Instead, it is proposed that the applicant for planning consent for such a new development (i.e. the 'agent of change') should bear the burden of any required noise reduction measures.

Another government consultation, the outcome of which is now awaited, is that undertaken by the Department of Health and Social Care on how best to communicate information to the public about lower strength alcoholic drinks with a view to encouraging responsible drinking. It looks as if this may be done in future by way of guidance rather than by legislation – an altogether less burdensome and more flexible approach. What is clear is the growing popularity of low- and non-alcoholic drinks, with a reported 20.5% increase in sales over the past 12 months. On the basis that may well turn out to be a continuing trend, I raise my glass of low-alcohol beer to what I hope will be England's resounding World Cup success! 🍷



QUESTIONS & ANSWERS

Q: Is the Welsh Assembly going to introduce a 50p MUP for alcohol like Scotland?

A: Although an affirmative vote on a preliminary issue by the Welsh Assembly on 13 March is thought to have given a green light to introduction of a minimum unit price for alcohol, it's not as straightforward as that, because the Assembly's Health, Social Care and Sport Committee has expressed concern that higher alcohol prices may have a negative impact on dependent drinkers, causing some to turn to drug use as a cheaper alternative. The Welsh government has responded, saying that the Public Health (Minimum Price for Alcohol) (Wales) Bill is aimed not at alcoholics but instead at "hazardous and harmful drinkers", who consume more than the recommended guidelines. I think much will depend on how Scotland's MUP programme develops following its introduction on 1 May.

Q: What is the soft drinks levy and where can I find out more about it?

A: It's a levy on the production and importation of soft drinks containing added sugar (with an ABV of up to 1.2%, subject to certain exemptions) that was introduced on 6 April with a view to helping the government's plans to reduce childhood obesity by removing added sugar from soft drinks. You can find out more about it on the gov.uk website.

Q: Has anything more happened with the Pubs Code since you last wrote about it?

A: At the end of February, Ei Group withdrew its High Court appeal against the PCA's decision that a contract it offered to one of its tenants did not comply with the Pubs Code. The reason given was that further rulings from the PCA had given it "helpful clarity". This was followed by advice published by the PCA on 2 March confirming, among other things, that an MRO proposal does not have to be in the form of a new tenancy but it must be consistent with the core principles of the Pubs Code and its terms do not have to be the same as the tied tenancy but they do have to be reasonable.