



## **Attorney General's Guidance**

### **Licensing (Jersey) Law 1974**

#### **Drinks pricing and promotions**

- 1) The Licensing Assembly's approach to drinks promotions is very clear and was established in 1987 when giving judgment following a reference by the then Attorney General in relation to marketing or advertising practices which might constitute an inducement to consume alcohol to excess:

*"In our opinion licensees who use blatant schemes of this kind are not fit and proper persons to hold a licence and these marketing practices are contrary to the public interest, but we accept that they are a small minority of the total number and we stop short of imposing a general condition on all. However, in any case where from this day on any licensee does persist in the practice, we ask that the licensee individually be referred to us and in such an event the Assembly would give serious consideration to the removal of the licence altogether as an alternative to imposing a condition."*

- 2) In that particular case, the license was suspended.
- 3) The Attorney General's position today remains unchanged. He will have no hesitation in referring a licensee to the Licensing Assembly if presented with evidence that a licensee has or is pursuing advertising practices or drinks promotions which are intended to or may have the effect of encouraging consumers to increase their consumption of alcohol. The States of Jersey Police continue to monitor licensed premises, review advertisements placed on the internet or sent by text messages, and provide regular reports to the Attorney General.
- 4) The Attorney General previously published statements in 2002, 2004 and 2010 seeking to set guidelines so that licensed premises would better understand what type of practices might result in a referral to the Licensing Assembly. The Attorney General has been directed by the Licensing Assembly to update these earlier statements so as to include off-licences, in addition to on-licences, which shall have effect from 14 April 2020.

### **On-licences (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 7<sup>th</sup> category licences)**

5) The following are practices that are most likely to result in referrals to the Licensing Assembly:

a) Any promotion, pricing policy or other act that results in one or more alcoholic drinks being offered for sale at a price below the relevant stated price on the tariff displayed at the licensed premises as required by Law.

The following examples fall into this category:

- i) the stated tariff price for “X beer” is £3. It is sold for £2.50;
- ii) if the price of £2.50 for X beer is limited to certain hours of the day or a particular day or days of the week;
- iii) “All Drinks £x all Night” and all variants thereon;
- iv) buy one get one free (or at a reduced price);
- v) free or reduced price alcoholic drinks on entry the premises;
- vi) loyalty card schemes or other membership schemes which enable the ‘member’ to obtain alcohol at discounted prices;
- vii) the use of different tariffs that are specific to certain days or times of the week.

The above is a non-exhaustive list of drinks promotions. The Attorney General will carefully consider the substance and reality of any pricing policy, promotion or other act and determine if it is intended to or may have the effect of encouraging consumers to increase their consumption of alcohol. If the answer is yes, then proper grounds will exist for a referral.

b) If the stated prices on the tariff are significantly below that generally charged in other premises. The starting point is that a difference of 10% or more is likely to be considered ‘significant’.

Previously, these guidelines invited comparisons between premises holding the same type of licenses.

From now on, the Licensing Unit will focus be on the realities of the business and comparisons will be fairly drawn with other premises that substantially operate on a similar or reasonably similar basis. The category of license will be a factor in that analysis but is no longer decisive.

- c) Any advertisements for premises holding seventh category licenses which concentrate exclusively or substantially on the sale of alcohol and which make little or no mention of the provisions of entertainment.

Advertisements which do little or no more than refer to a particular 'theme night' but thereafter focus on drinks promotions and say little or nothing about the entertainment being provided are in effect a drinks promotion in themselves. They are at high risk of a referral.

**Off-licences (6<sup>th</sup> category licences)**

- 6) In respect of sales to members of the public, other than by a duty free retailer, a referral to the Licensing Assembly is likely if the sale price of any alcoholic drink is below 50 pence per unit of alcohol, or such other price as specified in this guidance as amended from time to time.

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