

Alcohol Marketing Restrictions: Learning from International Implementation

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Summary

Background and aims: Controls on the scale and extent of alcohol marketing have been identified as an effective and cost-effective intervention strategy to tackle alcohol harm. In 2018, The Scottish Government committed to consulting on a range of potential measures to restrict alcohol marketing. Alcohol Focus Scotland (AFS) reconstituted its Alcohol Marketing Expert Network in 2020 with a view to updating its 2017 report and making further recommendations to the Scottish Government on marketing restrictions. This research aims to inform these recommendations by focusing on the processes, successes and challenges relating to alcohol marketing restrictions in a number of European countries with existing restrictions. It also focuses on what lessons can be learned from implementation successes and challenges that might be relevant to Scotland.

Methods: This research focused on seven case study countries: Estonia, Finland, France, Ireland, Lithuania, Norway, and Sweden. This research (which complements work undertaken in parallel by Public Health Scotland, which has been published separately) was split into two Phases. Phase A focused on identification and analysis of relevant documentation relating to the process/story of the restrictions and how they were enacted in each country. Phase B provided supplementary evidence to the findings of Phase A, informed by qualitative interviews with professionals (N=23) directly involved in developing and implementing alcohol marketing restrictions in their respective countries.

Findings: Alcohol marketing restrictions were put in place to support broader alcohol control/public health policies, to protect children and young people from exposure to alcohol marketing, and to 'de-normalise' alcohol products. Restrictions were implemented due to strong political support or by utilising a window of opportunity (change in political leadership, introduction of other measures such as taxation). All countries faced opposition and challenges from alcohol industry bodies who continue to test the boundaries of the legislation. Having straightforward and clear regulations were believed to be key to implementation and enforcement.

Conclusion: There is much to learn from other countries' experience of designing and implementing alcohol marketing restrictions. Despite their different historical and geographical contexts, there were striking similarities in their experiences of developing and implementing alcohol marketing restrictions. Key factors to consider are: to underpin the legislation with clear evidence and arguments; to make the legislation itself as simple as possible and to be prepared for any proposed restrictions to be met with opposition. Comprehensive and clear bans stating only what is permitted rather than banning specific content, channels or activities are far easier to implement than partial or unclear ones.

1. Introduction

1.1 Alcohol Marketing

Marketing is the main source of communication between a brand and consumers. It is used to raise awareness of existing and new products and it allows marketers a chance to make their products attractive to consumers and stand out from other similar products (Patterson and O Malley, 2006). It is used to directly encourage sales to new and existing customers. There is evidence from a range of systematic reviews and primary studies to demonstrate that awareness/recall of or exposure to alcohol marketing is associated with increased likelihood of alcohol consumption amongst young people (Smith & Foxcroft, 2009; Booth et al., 2008; Bryden et al., 2012; Jernigan et al., 2017; Sargent & Babor, 2020).

1.2. Restricting Alcohol Marketing

Controls on alcohol marketing are one of the World Health Organization's (WHO) three 'best buy' policies to reduce the harmful use of alcohol, with WHO recommending a ban or comprehensive restrictions on exposure to alcohol marketing (WHO, 2017). Controls on the scale and extent of alcohol marketing have been identified as an effective and cost-effective intervention strategy to tackle the leading causes of alcohol harms. The WHO 'best buys' are shared by the Global Alcohol Policy Alliance, the World Bank (World Bank, 2003) and the Organisation for Economic Cooperation and Development (Sassi, 2015).

Most countries in Europe have some form of marketing regulation in place. However, very few countries have statutory bans on the marketing of alcoholic beverages (Rice, 2019). A recent report by WHO into alcohol marketing in the European Region concluded that "the global nature of alcohol marketing, and the ease with which it transcends national borders, necessitate regional and global responses, as well as national ones, and that opportunities exist to implement comprehensive, statutory regulations restricting or banning alcohol marketing to protect children and adolescents" (WHO, 2020).

1.3 Scottish Policy Landscape

In the United Kingdom (UK), responsibility for health policy is devolved to the relevant administrations in Scotland, England, Wales, and Northern Ireland. This has led to different approaches to health policy across the devolved nations (Fitzgerald and Angus, 2015). In 2008, the Scottish Government published its alcohol framework which adopted a whole population approach to tackling alcohol-related harms and included actions on restricting

alcohol multibuy promotions and the introduction of a legal minimum price per unit of alcohol (Scottish Government, 2008).

In 2018, the Scottish Government updated its alcohol framework and committed to consulting on a range of potential measures to restrict alcohol marketing (Scottish Government, 2018) and to press UK Government to take action to restrict marketing methods falling within reserved powers. Progression of the consultation was delayed due to COVID-19 and is now expected to take place in the autumn of 2022.

1.4 Research objectives

Alcohol Focus Scotland (AFS) reconstituted its Alcohol Marketing Expert Network in 2020 with a view to updating its 2017 report (Alcohol Focus Scotland, 2017) and making further recommendations to the Scottish Government on marketing restrictions. To help inform these recommendations, two parallel pieces of work were agreed between Scottish Government and AFS:

Scottish Government commissioned research by Public Health Scotland (PHS), mapping the current alcohol marketing restrictions within seven case study countries. The PHS report sets out:

- the restrictions in place in each jurisdiction
- the rationale for introduction of restrictions;
- the enforcement and monitoring regime for restrictions; and
- the findings of published evaluations of restrictions.

AFS commissioned the Institute for Social Marketing and Health (ISMH) to develop a series of country case studies of alcohol marketing restrictions, which is the focus of this report. The case studies focus on the processes, successes and challenges relating to alcohol marketing restrictions in seven European countries with existing restrictions. They aim to capture the lessons learned from implementation successes and challenges that might be relevant to Scotland and to provide a fuller, more up-to-date understanding of alcohol marketing restrictions in other countries, in light of recent developments in several jurisdictions. This includes considering regulation of a wide range of marketing activities (not only mass media advertising), and evaluations of the effectiveness of regulatory approaches/restrictions.

This research addresses the following questions:

1. Why were restrictions on alcohol marketing put in place and how was this achieved?

2. What successes and challenges were faced in developing the regulatory framework?
3. What were the key points or turning points in the process prior to and post-enactment?
4. On what basis were arguments made for and against the enacted legislation before, during and after enactment?
5. What have been the barriers and facilitators to implementation of the legislative and regulatory framework?
6. How have the policies been received by key stakeholders, including the general population?
7. What impact, if known, have the restrictions had on levels of exposure to alcohol marketing?
8. What lessons can be learned and applied to potential action in Scotland?

2. Methods

2.1. Study design

The research aimed to gain a deeper understanding of the development and implementation of the regulatory framework surrounding alcohol marketing in each case study country.

This research was split into two parts (Phase A and Phase B). Phase A focused on identification and analysis of relevant documentation relating to the process/story of the restrictions and how they were enacted in each country. Phase B provided supplementary evidence to the findings of Phase A informed by qualitative interviews with professionals directly involved in developing, implementing, and evaluating alcohol marketing restrictions in their respective countries.

2.2 Study sample

The list of countries to be included within both phases of this work was mutually agreed by AFS, Scottish Government, Public Health Scotland and ISMH. Countries were purposively selected for inclusion based on the recency of their legislation, applicability to the Scottish context, (based on geographical and population size) and specific known features (such as inclusion of digital marketing), or challenges faced by, the enacted policy. The final list of included countries is: Estonia, Finland, France, Ireland, Lithuania, Norway, and Sweden.

2.3. Phase A

The first phase of this research involved desk-based research and consideration of publicly available documents in the English language (or translated by local contacts where feasible).

The aim of this phase was to identify key points, challenges, and successes over the course of the development, enactment, and implementation of the legislation in each of the seven countries, by reviewing relevant information from national and international public health agencies and partnerships, conference presentations, newsletters, third sector organisations and prior systematic reviews. During this phase, we began to develop a historical timeline of alcohol policies and alcohol marketing restrictions in the seven countries, which could be verified and further elaborated during Phase B.

The following methods were used to identify relevant material:

- Reaching out to key contacts directly and through networks (Kettil Bruun Society (KBS), World Health Organization (WHO) Europe, Eurocare, EUCAM (European Centre for Monitoring Alcohol Marketing), Global Alcohol Policy Alliance) alongside existing advocacy and academic colleagues.
- Liaising with other researchers working on alcohol marketing and alcohol policies within any of our case study countries, who shared useful materials and contacts.
- Google searching for grey literature and legislative documents, or news articles (e.g., archive of Movendi/EUCAM/Eurocare reports/newsletters)
- Scanning of systematic reviews and existing results of a search for literature on alcohol policy arguments (up to 2019) from the IDEA (Identifying & Describing Arguments) project to identify papers on arguments in these countries.
- Google scholar searching for additional academic papers – forward/backward citation searches using Cochrane review of impact of marketing.
- Manual searching of abstracts of presentations at relevant conferences e.g., Global Alcohol Policy Conference, Eurocare, KBS, EUCAM and then sourcing the presentations or papers and using these to add to key contacts.

Results from these searches were catalogued and relevant information was extracted, country by country, into draft timelines (for key points) and emerging themes (for successes and challenges). This material was used firstly to help with identifying key contacts to interview in Phase B, and secondly to tailor interview topic guides for each country, to use the interviews to check any assumptions, fill any blanks and verify information.

2.4. Phase B

Phase B employed qualitative methods to explore in-depth accounts from key stakeholders to answer the research questions above. The aim of this phase was to gather experiential learning from the development and implementation of alcohol marketing policies in the seven

selected countries, to better understand what happened at key points, why challenges arose and how they were overcome, and what factors influenced successes in each country.

Semi-structured interviews were conducted with professionals (N=23) directly involved in developing and evaluating alcohol marketing restrictions in their respective countries. A sampling framework was developed, in consultation with AFS, to ensure we included a breadth of perspectives across public and third sectors across the seven countries (See Table 1). Potential participants were identified through the expert network, existing ISMH and AFS contacts with international organisations (Kettil Bruun Society; EUCAM; WHO; and direct links of team members KGM, NF, LCW). Interviewees were given an appropriate identifier code based on the country they provided information about, and their current or previous role (see Table 1).

Table 1. Interviews conducted in each country (with identifying codes)

Country	Interviews
Estonia	3 interviews with 3 people: Public Health Advocacy Representative (EST PH Advocate), Government Representative (EST civil servant) and former Policy Advisor (EST policy advisor)
Finland	2 interviews with 4 people: 1 Government Representative (FIN civil servant) and 3 Government Representatives from the Supervisory Authority (FIN supervisory authority)
France	2 interviews with 2 people: Public Health Advocacy Representative (FRA PH Advocate), and 1 Public Health Advocacy Representative (Lawyer) (FRA PH Lawyer)
Ireland	3 interviews with 3 people: 1 Government Representative (IRE civil servant), and 2 Public Health Advocacy Representatives (IRE PH Advocate 01, IRE PH Advocate 02)
Lithuania	3 interviews with 3 people: 2 Government Representatives (LIT civil servant and LIT politician), and 1 Public Health Advocacy Representative (LIT PH Advocate)
Norway	3 interviews with 5 people: 1 Former Government Representative (NOR politician), 3 Government Representatives (NOR enforcement body), and 1 Public Health Advocacy Representative (NOR PH Advocate)
Sweden	3 interviews with 3 people: 1 Public Health Advocacy Representative (SWE PH Advocate), 1 Government

	Representative (SWE consumer agency), 1 Alcohol Self-Regulatory Body Representative (SWE self-regulatory body)
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A semi-structured interview schedule was developed in consultation with AFS and the Scottish Government and based on findings from Phase A to achieve the research objectives detailed above. Ethical approval was granted by Stirling’s General University Ethics Panel (GUEP2131).

Interviews were conducted by five members of the research team (EG, KGM, EG, LCW, MS) using video conferencing software (Microsoft Teams Version 1.0, Microsoft Corporation) or Zoom (Version 5, Zoom Video Communications, Inc.). Interviews lasted between 60 and 95 minutes. Audio recordings were downloaded and transcribed by an external transcription agency. All interviews except those for France were conducted in English. The French interviews were translated and transcribed by an external translator.

2.5. Defining alcohol marketing

Our starting point in defining alcohol marketing came from the European Centre for Alcohol Marketing (EUCAM):

The action or business of promoting and selling products of services. A broad term that covers a wide range of disciplines including but by no means limited to, advertising in traditional media outlets such as print, television and radio, promotional activities in online and social media, and sponsorship of sporting and music events.

To be more specific about the regulations that were ‘in focus’ and ‘out of focus’ for our study, we took the list of regulations used in the ELSA project (STAP, 2007) as our starting point, and mapped them across the ‘marketing mix’, clarifying with AFS that all regulations of interest to them were included within our scope. See Table 2 below.

Table 2: Regulations that are in focus and out of focus of our study, mapped across the ‘marketing mix’ (☑ = in focus; ☒ = not in focus):

	Product	Place	Promotion	Price	People
IN FOCUS	<input checked="" type="checkbox"/> Labelling or packaging regarding promotional aspects, e.g., images, names, branding, etc.) <input checked="" type="checkbox"/> Requirements for warning labels on packaging	<input checked="" type="checkbox"/> Placement and presentation	<input checked="" type="checkbox"/> Advertising on any media visible to the public* <input checked="" type="checkbox"/> Experiential marketing (e.g., pop-ups, sampling, roadshows, and production demonstration tours) <input checked="" type="checkbox"/> Sponsoring of events <input checked="" type="checkbox"/> Advertising through mobile phone use <input checked="" type="checkbox"/> Visible sponsorship <input checked="" type="checkbox"/> Paid product placement <input checked="" type="checkbox"/> Alcohol branded merchandise	<input checked="" type="checkbox"/> Sales promotions <input checked="" type="checkbox"/> Advertising of lower prices <input checked="" type="checkbox"/> Advertising of volume discounts	
OUT OF FOCUS	<input checked="" type="checkbox"/> Labelling regarding non-promotional aspects, e.g., ingredients, nutritional information, allergens	<input checked="" type="checkbox"/> Regulation of distribution channels of alcohol <input checked="" type="checkbox"/> Regulation of where alcoholic can be consumed <input checked="" type="checkbox"/> Regulation on opening hours for commerce selling alcohol <input checked="" type="checkbox"/> Regulation on density of alcohol outlets		<input checked="" type="checkbox"/> Regulation of alcohol taxes <input checked="" type="checkbox"/> Regulation of the price of alcohol per unit	<input checked="" type="checkbox"/> Age limits for selling alcohol

* Includes social media (platforms include social networking sites like Facebook, Instagram, Twitter, and YouTube). Regulations might include use of user-generated content, the posting of content that are intended to be shared by consumers, the use of games, lotteries, competitions and giveaways.

2.6. Analysis

Interviews were recorded and interviewers wrote brief contemporaneous notes immediately following each interview, with reflective thoughts on the main points discussed, the interviewee's key areas of knowledge, aspects on which further information is required, and how the interview went overall. These notes helped to guide and focus subsequent interviews. All transcripts were analysed in NVIVO (QSR International Release 1.5.2) using thematic analysis (Ritchie and Spencer, 1994). Initially, data analysis was performed country by country, using an explanatory approach to develop greater theoretical understanding of the reasons for policy success and policy failure (Fitzgerald, O'Malley and Broin, 2019), and the conditions under which decisions were made in each country. Relevant materials identified in Phase A, including interviews with relevant stakeholders on the Movendi International 'Alcohol Issues' podcast, were also analysed as part of this process. Once each site analysis was completed, an overarching cross-case synthesis took place. This enabled us to identify patterns and themes within the data to contrast and compare experiences of developing and evaluating alcohol marketing restrictions across the case study countries.

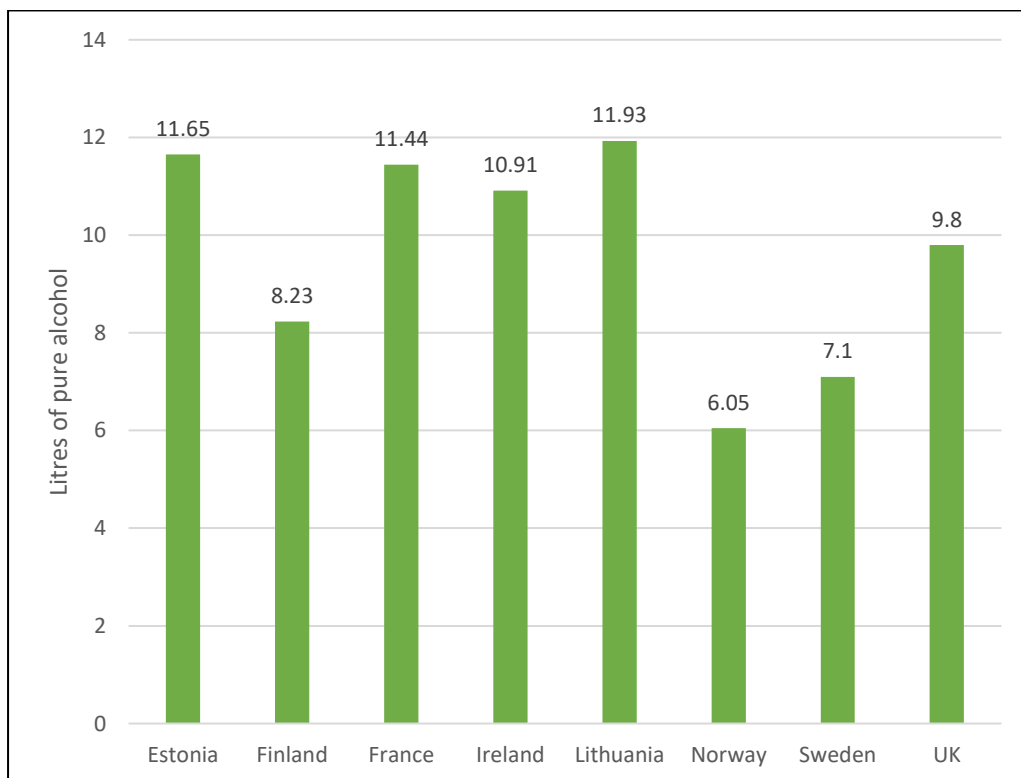
3. Results

The research findings from both Phase A and Phase B are summarised here in the form of a case study narrative description for each country. We have used quotes from the interviews and evidence from material identified in Phase A to illustrate our narrative. Before each case study, a simple historical timeline is presented for that country's marketing policy. For each timeline:

- Key actions/outcomes are highlighted in green bordered boxes.
- Boxes are coloured orange where actions/outcomes were moving away from increased restrictions.
- Key changes (e.g., Acts) are highlighted in yellow boxes.

By way of context, the latest data relating to per capita alcohol consumption in the case study countries (with UK as a comparison) are presented in Figure 1 below.

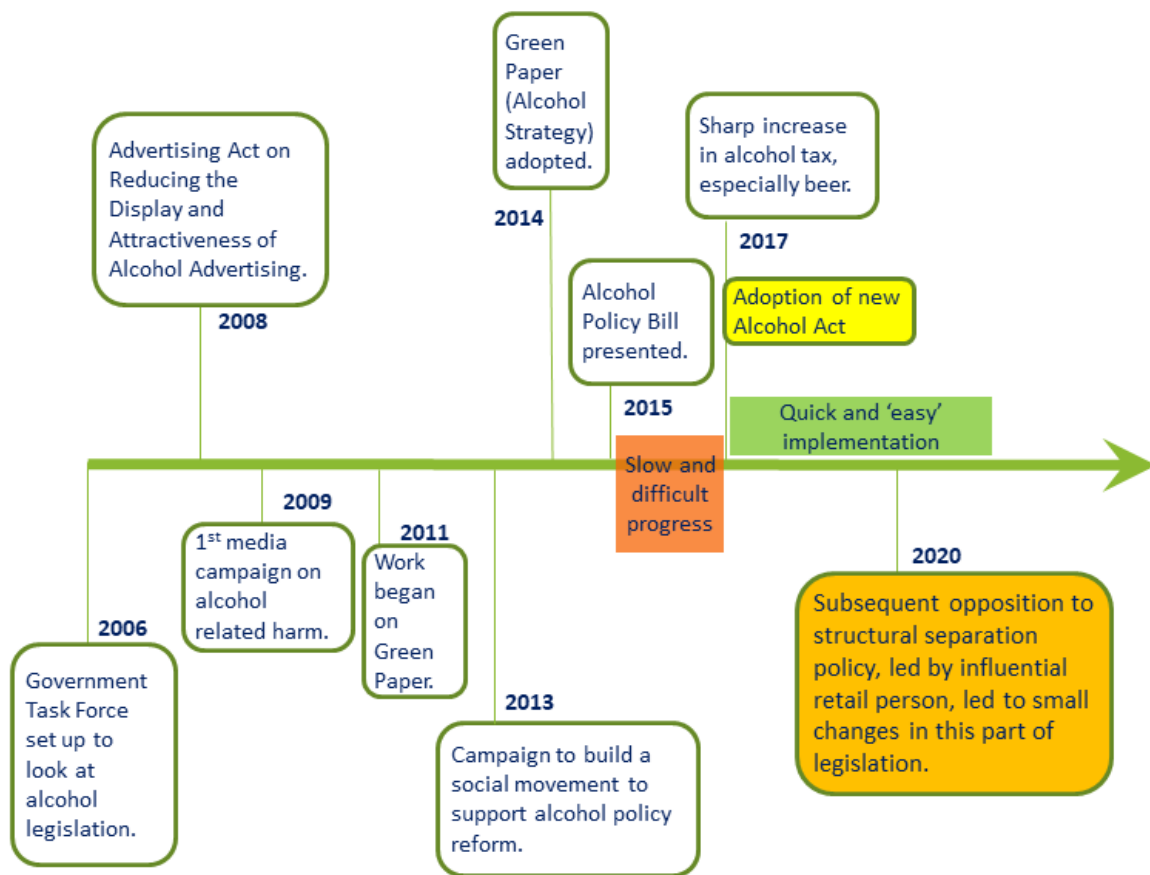
Figure 1. Alcohol consumption per capita (15+) in case study countries and UK 2016-18



Source: [https://www.who.int/data/gho/data/indicators/indicator-details/GHO/alcohol-total-per-capita-\(15-years\)-consumption-\(in-litres-of-pure-alcohol\)](https://www.who.int/data/gho/data/indicators/indicator-details/GHO/alcohol-total-per-capita-(15-years)-consumption-(in-litres-of-pure-alcohol))

3.1. Estonia

Figure 1: Estonia's alcohol marketing policy timeline



Estonia has achieved an almost complete ban of advertising alcoholic drinks across all media, with tight restrictions on the content of any permitted advertising. Action towards this did not begin in earnest until 2006, when a Government Task Force was established to look at alcohol legislation. Alcohol consumption rates in Estonia have been historically similar to countries in Northern Europe and European post-Soviet countries (Beekmann, 2016). High rates of alcohol consumption, binge drinking and youth drinking across the country led politicians to recognise the need to reduce alcohol-related harms across Estonia (Raudne, 2015). The problem of high rates of alcohol consumption and harm had been denied up to 2006, and hidden behind a veil of individual liberty and personal responsibility:

“We saw both in the parliament and in the government a denial of the problem or, you know, a typical ‘it’s an adult problem, everyone knows what they are doing, and if they, you know, cause themselves harm, it’s a free society and that’s it’ ” (EST PH Advocate).

However, during the period 2006 to 2014, a great deal of background work was done to lead up to a comprehensive alcohol strategy (adopted in 2014) and the related alcohol policy bill

(presented in 2015). The first legislation targeting alcohol advertising, introduced in 2008 and sitting under the Ministry of Economy, was partial in that it presented a list of what was *not* allowed in alcohol advertising, such as using adverts that suggest that “*alcohol would increase the consumer’s social or sexual success*” (EST civil servant), or placing adverts on the front cover of a magazine, or advertising during certain hours of broadcast media. These regulations had very minor sanctions attached to any breaches. Consequently, advertisers constantly pushed at the boundaries of what was acceptable, and the legislation proved to be difficult to enforce and ineffective. Meanwhile, however, other alcohol control measures (such as increases in taxes, and the banning of alcohol sales during night-time hours) were successfully implemented.

Although work on the 2014 Alcohol Strategy didn’t begin until 2011, several shifts were already being made in relation to the framing and understanding of the problem. First, the issue was increasingly being taken up as a public health one, and the agenda, which had previously sat with the economy department, moved to the department of health and social affairs. The Minister of Health and Social Affairs proved to be a strong champion for alcohol control at national level and within the European Union. Decision makers and advocates were increasingly guided by the work of the World Health Organization and associated evidence that went into the Global Strategy (WHO, 2010). Second, it was increasingly seen as an issue of national embarrassment, with the statistics on drinking per capita placing Estonia amongst the top three countries in the world: “*and this was something that we didn’t want to be*” (EST PH Advocate). Third, perhaps influenced by the previous two points, was that civil servants in the different sectors started working together, and the alcohol debate was increasingly ‘reframed’ in terms of a social justice issue with political solutions. This reframing was supported through various activities funded by the European Structural Fund, including a media campaign on alcohol-related harm (led by the Public Health Institute of Estonia), the commissioning of research, and the gathering and presentation of further data to produce a comprehensive alcohol ‘yearbook’ that talks about the alcohol market, consumption and harms in Estonia and discusses the negative consequences related to alcohol consumption.

When it came to the Alcohol Policy Bill, Estonian stakeholders were drawn to the example of Loi Évin in France and inspired by their neighbours in Finland. Estonia had already experienced the difficulties of enforcing a partial ban based on a subjective notion of what *isn’t* allowed and were increasingly aware of advertising in ‘new’ media (such as on the internet). They were therefore keen to make the ban as comprehensive as possible and to ensure “*the law now states not what you can’t show, but what you can show*” (EST PH Advocate). At the same time, they were aware of how far they were likely to be able to push:

“We originally proposed to ban all the internet advertising, but we understood that this will not go, yeah. Even our own minister, who was a politician ... it didn’t go further from our ministry” (EST civil servant).

One interviewee explained that whilst the civil servants were painstakingly working towards agreeing proposals across different sectors, there was not always the openness amongst them to say that those proposals would be unlikely to be accepted at the next stage by ministers or other stakeholders:

“So, we had the level of participation in those, working groups ... [but] it needs to be high enough in order to ensure that the accountability remains, as well as that you need to have also the political support which is beyond your own minister. Because what happened is that we drafted in collaboration with the representatives, we drafted a memorandum. And so, the...all the civil servants, their head of, department level [agreed to the proposals] after having some fights and, and disagreements, and kind of, back and forth and back and forth. Sometimes the industry- oriented ministries were, opposing ... Then we finally managed that we, you know, this goes forward. But I guess that they already knew that it, in their administrative ladders it will be killed.”
(EST policy advisor)

There was indeed a great deal of opposition from alcohol and advertising industries during the preparation and after the presentation of the Bill in 2015. In the words of one interviewee, the minister presenting the Bill *“needs to be strong as an iron”* (EST policy advisor). He suffered significant *“personal abuse”* and there were:

“Lots of articles, opinion pieces, and all the lobbyists and industry reps were fighting against this, using all means” (EST policy advisor).

The arguments against the Bill were felt by interviewees to be typical of those generally presented by alcohol industry bodies: that the restrictions were not necessary, that they would have terrible unforeseen consequences, and that they would be “impossible” to implement. The Bill was “ridiculed endlessly”. Copywriters and ad creators were also described as *“enraged”* (EST civil servant).

However, the preparatory work, including the accumulation of evidence and the building of public support, together with a very strong minister and deputy minister, continued to give hope for taking the Bill forward. Then, in 2017, at a time when *“Government needed money”* (EST civil servant), alcohol tax was very sharply increased (especially for beer). This followed several previous increases in alcohol tax. And, in the words of one interviewee:

“Our Advertising Act, the bill, was passed quietly because the beer industry had bigger problems than our Advertising Act ... and all their energy went there” (EST civil servant).

The various potential problems highlighted in the industry’s opposition to the Bill did not in fact play out, and the Act, once passed, was described as “easy” to implement (EST civil servant). This was helped by strong support for the restrictions amongst the public and a strong Temperance Union with a long history, which actively engaged in monitoring compliance. The way in which the regulations were written also makes enforcement more straightforward:

“I mean, surveillance, our enforcement agency, loves it because you take the list, they say ‘this is not on the list’, end of discussion. ... And, uh, you don’t have to, to speak about, uh, to discuss that whether, um, I don’t know, the naked bottom of a beautiful girl hints sexual content, something sexual or not” (EST civil servant).

In Estonia, they have found that competition amongst different producers means that they monitor and file complaints against each other. The financial penalties for breaching the regulations were raised “*really significantly*” in 2017 (“*up to 50 thousand Euros*” from “*3200 Euros*”). This has, in the words of one interviewee, “*eliminated this conscious breaking of the rules*” (EST civil servant). Previously,

“Getting fined by the enforcement agency was just part of a campaign ... either it was part of the campaign’s budget, or even part of a campaign because you could get into the news” (EST civil servant).

Whilst implementation has been described as successful, opposition to the restrictions continues to threaten a weakening of the legislation and a lessening of the potential impact of the Act. In 2020, for example, an influential retailer and owner of a chain of large shops lobbied Ministers and the enforcement agency to allow alcohol to be placed behind the counter in his stores (as is the case in smaller stores), rather than having it structurally separated. Following his intervention, parliament agreed for this law to change. The civil servant interviewee, however, described the change as “*not a very big loosening*”, and “*the way it’s worded, it makes enforcement easier*” (EST civil servant). This is because the rules are now the same for all size stores: alcohol either has to be hidden or behind the counter. However, interviewees talked about the constant threat of restrictions being weakened, given the general trend towards and political appetite for the liberalisation of regulations. Furthermore, Estonia has witnessed, like many other countries, a significant increase in the advertising of no/low-alcohol beer. In the words of one interviewee, such products have:

“The same name, the same look and everything, and that’s allowed. So, in television, we sometimes see that first they show a very short, boring clip with what is allowed in

the context of the current law – the beer with the same name – and then after that comes the bigger or longer video, so it clearly works as an alcohol advertisement, but legally it's all okay” (EST PH Advocate).

These longer videos might contain many of the attributes that are prohibited for alcohol advertisements, such as people, animated images of inanimate objects, links to important dates, events, activities or seasons, and the impression that consumption of the beverage has a positive effect.

Interviewees expressed conflicting thoughts about the acceptability of this:

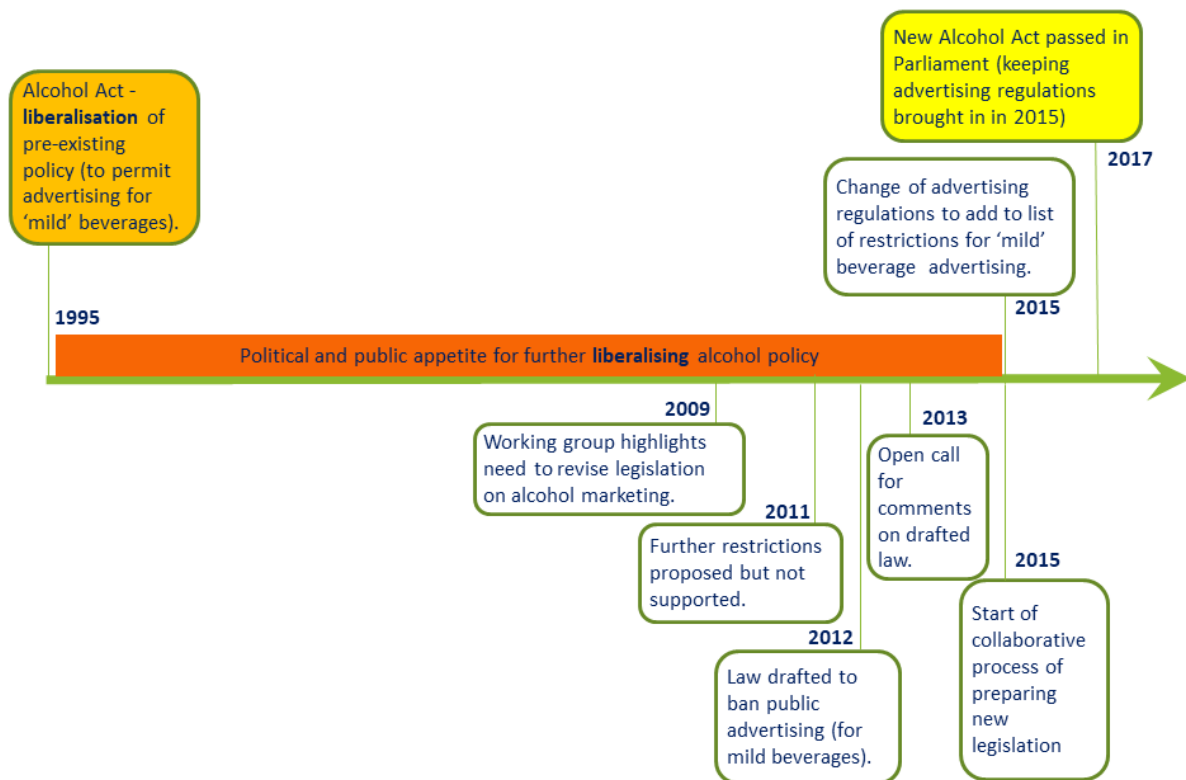
“I have controversial feelings about it. It has also rehabilitated non-alcoholic beer ... and I think Estonian society need it badly. Non-alcoholic beer was stigmatised. You could only drink it when you said I'm driving, and maybe women could drink it. But for a red blood man? No. ... And that has now been really addressed and I would say that there's no stigma around non-alcoholic beer” (EST Civil Servant).

There was agreement amongst interviewees, however, that the legal advertising of non-alcoholic beverages is also a way to continue to promote the alcohol brand.

“I think we, anticipated...that this will happen and...and we know that...Norway for instance solved it by regulating so that you can't have the same non-alcoholic and alcoholic beverage having the same name and same, you know, look. So, this is something for the future to think. On the other hand, of course, the fact that they are investing money to advertise non-alcoholic drinks, it might have some benefits also, but I think clearly that...that what they are doing is, in a way ridiculing the law which they don't think is, you know, reasonable, and they are still actually advertising alcohol” (EST PH Advocate).

3.2. Finland

Figure 2: Finland's alcohol marketing policy timeline



In Finland, the advertising of 'stronger' beverages (22% ABV or more) is prohibited across all media, apart from within licensed premises or in trade press or on manufacturers' websites. Since new regulations were introduced in 2015 (and enacted in 2017), the advertising of 'milder' beverages (less than 22% ABV) is theoretically allowed, but considerably restricted in terms of content, media and timing. Restrictions on mild beverages include a ban on advertising of milder beverages in most public places, on TV and radio between 7:00 and 22:00, in cinemas in connection with under 18 films, in user-generated content, in digital marketing, and through games, lotteries and competitions.

Finland's alcohol control policies have evolved from a historical position of prohibition (since a 1932 referendum), a history of state monopolies, and a comprehensive ban on advertising. However, there have been increasing moves to liberalise alcohol controls. Alcohol consumption in Finland grew continuously from the end of the Second World War until the beginning of the 1990s when a severe economic recession limited people's purchasing power (Karlsson et al., 2010). Annual per-capita alcohol consumption reached nearly 9 litres in 2009 (Karlsson, 2009). The activities of public health advocates have been to try to ensure no further liberalisation of alcohol controls, rather than to increase restrictions.

Prior to 1995, all advertising of alcoholic beverages was banned. When Finland joined the EU in 1995, a new Alcohol Act was introduced in order to align policies with other EU member states. Finland was keen not to appear an exception within the European family, and one interviewee explained that the legislation (written in 1994), which essentially liberalised the advertising ban, was “*written in a hurry*” (FIN civil servant). A key change was to *allow* the advertising of ‘mild’ beverages (2.8% to 22% ABV), but with certain restrictions. However, the restrictions that were introduced at that time were described as being not well thought through, and the measures were difficult to interpret and enforce. Those negotiating the 1994 Act were balancing a strong desire within parliament to significantly liberalise alcohol policy, with the recognition that some restraints in relation to advertising were still needed. This meant that a distinction was made between ‘booze’ (i.e., spirits) and milder beverages such as beer (a Finnish national drink) and wine (a culturally accepted product in Europe). Parliament chose only to target ‘milder’ beverages for liberalisation.

“[Politicians] understood that it would be too much, kind of, to say that advertising of [strong] booze would be allowed” ... “the crucial thing was to liberalise ... advertising of our domestic production [beer]” ... “coming in, part of Europe, that wine is a, kind of, a cultural and a very, kind of, good thing, er, in the European culture” (FIN civil servant).

Between 1995 and 2015, society (and advertising) changed considerably. The list of restrictions included within the 1994 Act became less useful. Like elsewhere, there was a significant increase in advertising of alcohol on large billboards, on the internet and in social media and via competitions and games. These were not included in the 1994 restrictions. Consequently, a working group was established in 2009 to set about revising the legislation on alcohol marketing. There appeared to be an impasse for several years, where neither those wanting tighter restrictions nor those wanting greater liberalisation made significant progress. Further restrictions proposed in 2011 were not supported, and legislation drafted in 2012 to ban alcohol advertising in public altogether did not progress.

A window of opportunity opened in 2015 with a change in political leadership and a new coalition government. Working against a general tide towards greater liberalisation, a social democrat minister proposed a total advertising ban for milder beverages, in the expectation that this would be turned down. However, having said ‘no’ to a comprehensive ban, the government was obliged (in the context of political negotiations) to consider an alternative. The alternative put forward by the Ministry of Social Affairs and Health (which is where advertising matters resided), was to add specific new measures to the list of restrictions related to the advertising of milder beverages. The new measures were a response to the changes observed in society and within the advertising industry. Public places, user-generated (online) content, digital marketing and competitions were explicitly mentioned as advertising methods

that were no longer allowed, even for 'milder' alcoholic products and for same-brand zero alcohol products.

The main justification for adding outdoor advertising was to prevent exposure of children and young people. This was a significant change for the country, with the advertising of milder beverages now banned in all public places where children and young people might be present. This was described as being *"very easy"* to implement. Whilst there were *"a lot of complaints"* (FIN supervisory authority) to the ministry, to the public and in the press, any opposition that there was (for example from JCDecaux), was minor and *"a challenge that went nowhere really"* (FIN civil servant). This restriction was remarkably easy to enforce in Finland:

"When the regulation is written so that there, any, kind of, alcohol advertisements may not be in the public places...you don't need any surveillance authorities or police" (FIN civil servant).

The addition of restrictions in online advertising was more problematic. Social media was recognised as a *"new way of communicating with people"* (FIN civil servant) that was increasingly used by industry as an alternative to traditional media, and particularly significant in terms of its potential reach amongst younger people. These new restrictions on online advertising were described by those enforcing them as being written in a *"complex way"* that is *"not very understandable"* (FIN Supervisory authority). Whilst advertising for strong alcohol in this online environment is now prohibited, the advertising of milder alcohol here is permitted subject to a set of restrictions. These restrictions particularly target games and competitions and user-generated content and online content that is intended to be shared by consumers.

The regulatory body discussed how they were *"trying to be reasonable"* (FIN Supervisory authority) in their practical interpretation of the law. They discussed the complexity of interpreting and enforcing the restrictions given that this online environment changes rapidly, there are *"no barriers, no borders"*, and social media companies are large, powerful and international:

"We are trying to, um, prevent consumers to participate in the advertising in the social media, but because the social media's purpose is to, um, get people to comment and...so it's quite impossible...not possible to do that. So, it's, it's really difficult, yes" (FIN Supervisory authority).

Difficulties in developing and implementing regulations for marketing in social media have also been noted in the literature. A comparative study looking at alcohol marketing on social media sites in Finland and Sweden, and the impact of the legislative change in Finland, noted:

“Despite some apparent strengths, the 2015 amendment also has significant limitations that are likely to affect its potential impact. Most importantly, the fundamental inherent difficulty is its aims to regulate the sharing of alcohol marketing messages by users themselves in some online environments which function on the basis of content sharing.” (Kauppila et al., 2019)

It has also proved difficult to draw the lines around what is and isn't acceptable in marketing content. For example, the law states that advertising must not be “against good manners”; there may be humans and animals in adverts, but not children; humans are allowed to be shown having a good time, but not in a way that would suggest that that is because of the alcohol. This means advertisers are always pushing against these notions of what is and isn't acceptable, which is difficult and time-consuming to monitor and enforce. This is one of several examples given by an interviewee:

“They...make their alcoholic beverages like a cartoon, their advertising. Advertising is like cartoons...Then you say that, well you have breached the law because...this is actually for the minors. They say, ‘no it's not’. How do you...how can...it...it's not...advertised in a...for example in a men's magazine, a technical magazine or...something...anything. They always have these excuses” (FIN civil servant).

Interviewees from the supervisory authority explained that the legislation “*made it very hard for the alcohol industry because actually they cannot promote their products at all*” (FIN Supervisory authority). However, some Finnish producers have sought to continue promoting their brand by registering a company in another country so that they can advertise their products across Europe (under another country's legislation). And the industry is continuing to find ways of advertising on the internet and through social media, since restrictions on these channels are not implemented “*in a very active way*” (FIN civil servant). In a conference paper delivered by Anu Katainen (2018), the main difficulties in digital media were noted to be the challenge of regulating the spread of advertising within an environment that is based on content sharing, and monitoring activity on platforms that operate globally and that constantly develop their algorithms to optimise consumer reach. Interviewees also highlighted the need for a positive approach to alcohol marketing legislation highlighting the fact that this helps with future proofing,

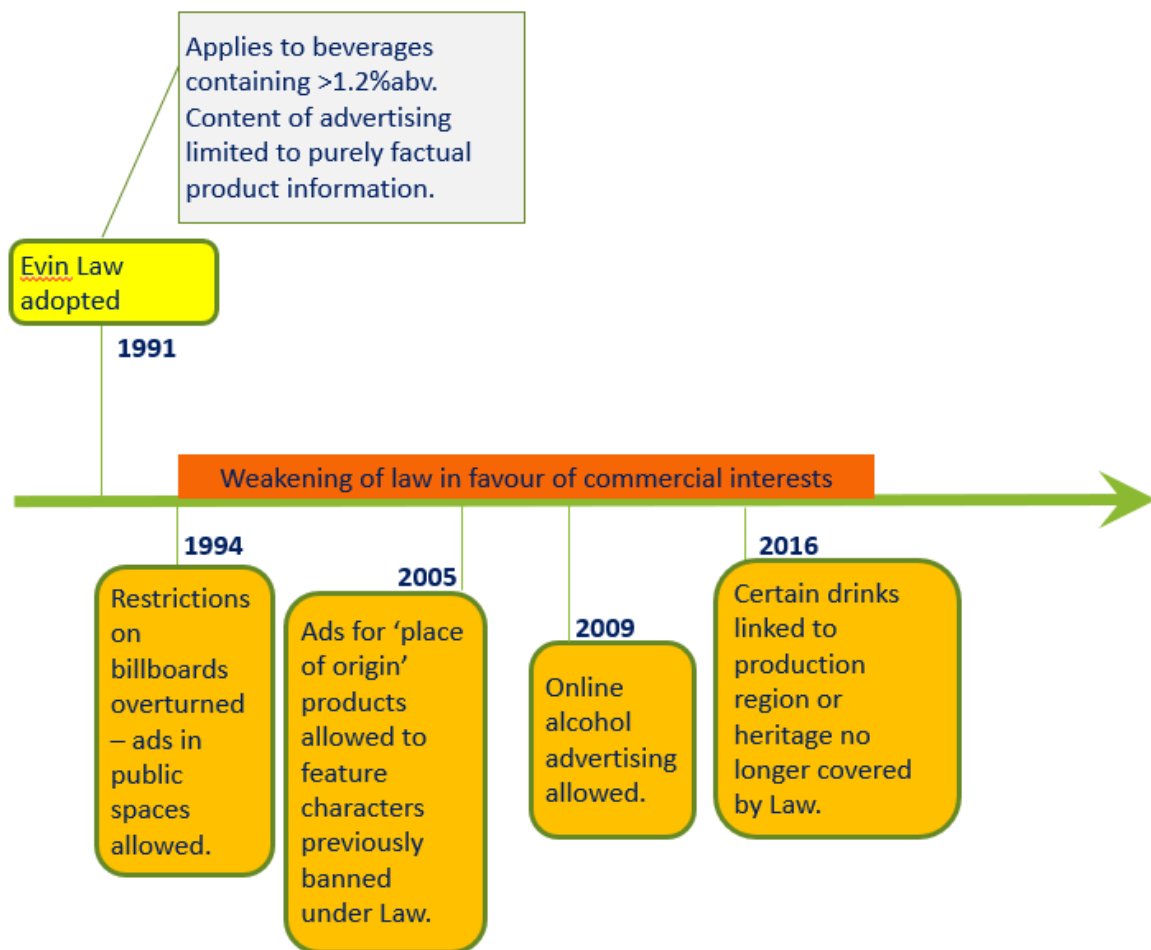
“I cannot say how important this is. ... If you choose the first rule that everything is allowed, you get these risks that if you think now, in 2021, what are the risks and harms, the harmful advertising which you think should be banned, then write them. And then after ten years that society has changed, for example social media, and then you have to write it again, and think what has happened and...and so on. For example, if you

choose the other way, er, everything is banned and then you think, what should be allowed? It's, er, different situation. The world can change. And also these new ways of, for example, if you think, er, new ways of alcohol advertising, for example peer to peer advertising in social media, they are banned already. From the first day. It's easier to ... it's future proofed ... and it is easier to implement" (FIN civil servant).

The new Alcohol Act passed in 2017 incorporated all the new restrictions to advertising that were introduced in 2015. However, various other aspects of alcohol control policy, including the places and times that alcohol can be sold, were liberalised. Given the general trend towards liberalising alcohol control regulations, one civil servant explained that it was important, at the time, to keep liberalisation of advertising “*off the table*” (FIN civil servant). Other interviewees, in the regulatory authority, suggested that there is an appetite amongst some politicians and people involved in enforcement to liberalise the regulations so that rules for advertising stronger beverages more closely reflect those for milder beverages (that is, that it is allowed in principle, rather than banned as is the case currently for stronger beverages).

3.3. France

Figure 3: France's alcohol marketing policy timeline



France has historically had a comprehensive ban of alcohol advertising in place; however, the regulations have been watered down since they were initially introduced. The 'Loi Évin', which bans both alcohol and tobacco advertising, was introduced in 1991, and is named after the minister who proposed it in parliament, Claude Évin. The law was passed after years of concern from health officials and NGOs regarding child exposure to alcohol and tobacco advertising. Before it was passed, lobbyists argued that there was no proven link between alcohol advertising and consumption, but they were unsuccessful in blocking the law (Gallopel-Morvan et al, 2017). Although it is true that substantial data linking advertising and consumption was not available when the law was introduced, this link has since been established, as this interviewee points out:

[W]e have a lot more scientific arguments on the flaws of advertising, on marketing products, on you know. So, in fact, the people who wrote the law, the legislator of the

time was in a way visionary because he made an analysis that was right from data that was weak (FRA PH Advocate).

Although some amendments have been made, the three original aims of the alcohol advertising provisions are still valid: to limit where advertising appears; to ban the use of aspirational imagery in alcohol advertising and only allow informative data; and to ensure that all alcohol advertising includes warnings about alcohol harm. The law applies to all alcoholic drinks above 1.2% ABV.

The Loi Évin is still seen as successful by public health experts and as a defining moment in French history, as well as a surprising one given France's established wine producing culture:

"I think it is an exceptional law. We are surprised that it took place in France, which is a wine-producing country. So, it came up at a bit of a historic moment [...] when the government of the day wanted to restore its image. And so, it chose health" (FRA PH Advocate).

However, the law has become weaker since 1991 with changes having been made to allow advertising in public spaces (1994), to allow features of the country/place of origin to feature in the adverts (2005), and to exempt products which have a heritage in a particular country or region (e.g., wine produced in France, vodka in Russia, whisky in Scotland) (2016). These changes have largely been due to lobbying from alcohol industry bodies who are still working to try to weaken the law. Claims have been made by alcohol industry stakeholders that the Loi Évin prevents freedom of speech. They have suggested alternatives to the law such as education about alcohol harms in place of the advertising restrictions. Other changes they have proposed included an amendment to the obligatory health warning that advertising must include; it has been reported that the suggested amendment would promote alcohol consumption ("in moderation") (Gallopel-Morvan et al, 2015). Alcohol industry bodies have also claimed that marketing restrictions have resulted in job losses within the sector, and that the law isn't effective (Gallopel-Morvan, Lecas and Rigaud, 2020). Central to this lobbying is the wine industry who have close ties with the French government, as this interviewee explains:

"The President of the Republic [Emmanuel Macron] has always shown a closeness with the Alcohol Lobby, especially during his first presidential campaign, since he had integrated the head of the Wine Lobby, Audrey Bourolleau, into his team and she then found a job at the Elysée Palace. So, there was a very close proximity" (FRA PH Advocate).

In addition to this lobbying, alcohol industry stakeholders regularly break the rules which leads to subsequent legal cases. Of these cases, an estimated 85% are upheld and "*the majority of*

the lawsuits are about the content of the ads” (FRA PH Lawyer). Alcohol industry representatives still fight hard to win these cases and work around the law, exploiting the fact that the judge may not be as experienced with alcohol law as the lawyers alcohol industry bodies can employ:

“The communication of the alcoholic [from translation – meaning alcohol industry bodies] is still extremely cunning, skilful and by definition he seeks to bypass the law, so they put their own lawyer to find where to strike with the least visibility and the most return” (FRA PH Advocate).

Monitoring advertising on the internet is proving to be a considerable challenge; the original Évin law did not need to consider internet marketing, which only emerged as a factor in the late 90s and early 21st century. Previously, all internet advertising was banned, but in 2009 an amendment was made to allow advertising on the internet, with similar restrictions as other media, such as banning advertising on websites designed for minors. This was almost impossible to enforce as the audience of a website was often difficult to ascertain due to a lack of publicly available data. Instead, the regulations focus on the content of adverts which falls under the same restrictions as other media. Social media is an especially tricky channel to monitor; groups like Addiction France need to gather evidence of any circumventions to pursue the case in court, and if the advertising is time-limited (as is often the case on social media sites), then there could be many breaches of the law which are missed:

“[T]o bring the proof before the judge it means to make a bailiff’s report, a report which is admissible by the judge and often it is ads which do not last a long time, which disappear, [by] the time that one makes the report they disappeared, they made another one, well etcetera. So, there is a cat and mouse game that is not very simple” (FRA PH Advocate).

Warnings about alcohol harm, which should be present on all advertising, including social media posts, are rarely found:

“[T]here is no health warning [on social media ads], because the Évin Law [stipulates that the ad should carry the warning] ‘the abuse of alcohol is dangerous’. So, it’s the same, these are mentions that don’t necessarily always appear on social media or on the Internet” (FRA PH Advocate).

With influencers being paid by alcohol companies to advertise on their online channels, the influencers are often the people at risk of legal action as they are creating the advertising and there is no proof of employment from the alcohol brand.

“[T]here was even a very famous French investigative program called “Cash investigation” that found the link between a large alcohol company Pernod Ricard, a global alcohol company that paid female influencers to advertise its brands, it’s illegal but they were clandestine contracts. So, the link between the sponsor Pernod Ricard and the young women who did this was not legally obvious, it was brought to light by the reporters. And we warned these influencers that in the absence of proof of employment, well of an employment contract with Pernod Ricard, they were the ones who risked the wrath of the law because they were making illegal advertisements” (FRA PH Advocate).

Other veiled sponsorship has been seen, such as product placement in social media posts, but it is hard to prosecute without proof that it is part of a paid promotion. With internet advertising often being so covert, the conclusion from a public health perspective is that it would be easier to have a complete ban on advertising on the internet:

“[U]nfortunately the solution would be not to advertise alcohol on the Internet because the difficulty of regulating it is such that, or it should be strictly supervised. But in any case, at the moment it is not satisfactory.” (FRA PH Advocate)

This interviewee agreed that the monitoring of advertising on the internet and in social media was extremely challenging:

“Today with the Internet, what is complicated is monitoring. So, monitoring what is going on is really very complicated because [...] there is a lot of content to monitor. [...] [O]ur proposal would be simply to remove the authorization to advertise on the Internet or at least to restrict much more or to force the platforms to not allow this kind of content anymore. This is a way of limiting the possibility of having this content on the Internet for control purpose, practice purpose since we cannot control it.” (FRA PH Lawyer)

Another problematic issue raised by advocacy groups was the sponsorship of events (for example sports or music events) by alcohol companies or brands. This is currently banned under Loi Évin. However, the use of alibi advertising has been noticed recently to circumvent the law: using adverts which carry elements of the branding (such as colours, slogans) without the name of a product, in order to remind people of the brand. Notably, Carlsberg used their familiar branding during the Euro 2016 tournament without using the brand name (Purves et al., 2017). Advocacy groups see this as sponsorship and therefore illegal, but feel that alcohol industry bodies are keen for it to be legalised due to the income it can bring in:

“There are considerable sums of money at stake, it is true, and not only for the alcohol industry, for the media and for [...] advertisers, communications agencies, etcetera.

So, there are several lobbies involved that should be able to do sports or cultural sponsorship” (FRA PH Advocate).

Since its introduction, alcohol industry bodies have lobbied against the law and tried to circumvent it. However, because the law states clearly what is allowed in terms of where advertising is placed, and what content can be included, it is easier for those trying to uphold to law to do so. It is also harder for alcohol industry bodies to advertise in ways not explicitly defined by the law.

“The Évin Law was born from the observation that it is easier, it is more intelligent to foresee what is authorized because by defining what is forbidden, it leaves a lot of room for imagination, even more room for circumvention” (FRA PH Lawyer).

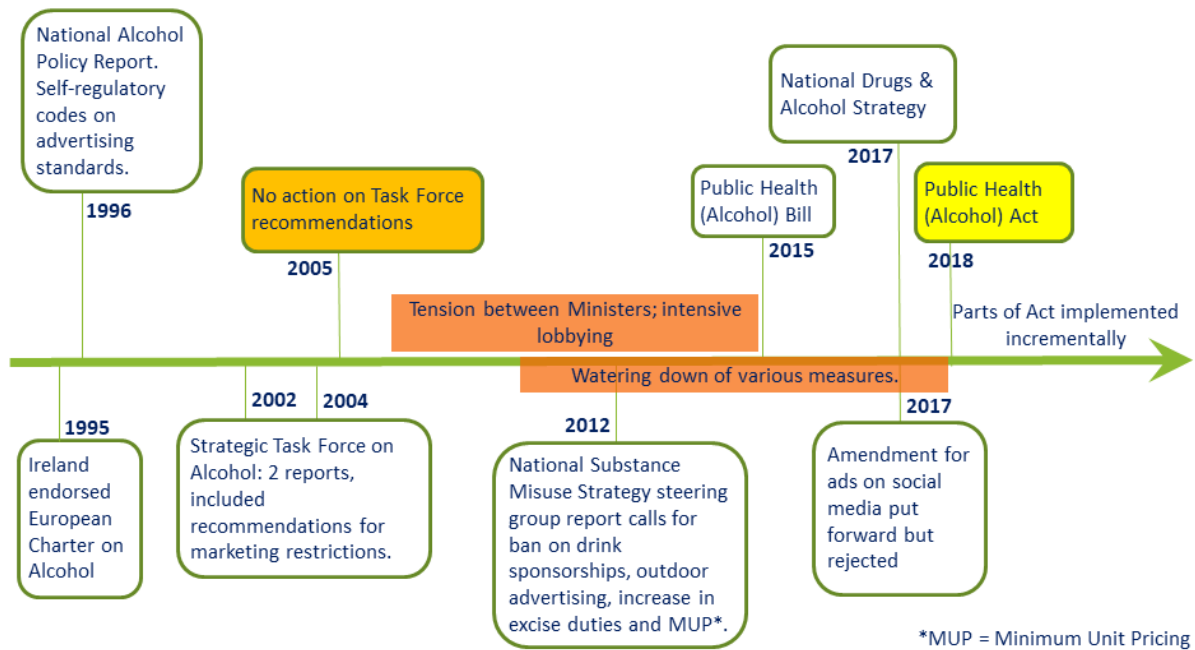
“In my opinion this is to be recommended because it is much simpler to define what is allowed rather than to fight afterwards to limit an authorization that would be universal with some exceptions” (FRA PH Advocate).

“But there is also another advantage, which is that if the pro-alcohol community wants to go back to the law, they are obliged to have a debate and they cannot do it on the sly” (FRA PH Advocate).

Although Loi Évin is seen as effective, it is believed that reverting back to the original law before the amendments were made and having better enforcement would make for a more robust law with more impact (Gallopel-Morvan et al, 2015). Little evidence exists on the effectiveness of the legislation as it has been difficult to assess the impact of advertising restrictions on behaviour in isolation from other factors such as sales bans, public health campaigns and warnings on bottles (Gallopel-Morvan, Lecas and Rigaud, 2020). However, that research which does exist suggests that young people in France are exposed to alcohol marketing through online, magazine, newspaper and radio ads as well as during sports events and concerts due to a lack of enforcement (Gallopel-Morvan et al., 2017).

3.4 Ireland

Figure 4: Ireland's alcohol marketing policy timeline



Through the Public Health (Alcohol) Act 2019, hereafter ‘the Act’, Ireland is in the process of introducing a range of controls on alcohol marketing. These include restrictions on the content and placement of alcohol advertising, where and how alcohol can be displayed in retail, the mandatory provision of health messaging and warnings, and controls on pricing and price-based promotion. The legislation was enacted in October 2018, and the individual sections are being phased in by the incumbent Minister for Health. As some measures are still to be phased in at the time of reporting, Appendix A reports the full measures and, where applicable, the date they commenced or are due to commence.

The historical antecedents of this policy change, the importance of strong political leadership, the power and influence of industry lobbying and challenge, and how advocacy organisations made salient arguments to support implementation are extensively and comprehensively detailed elsewhere (Lesch & McCambridge, 2021a; Lesch & McCambridge, 2021b; Lesch & McCambridge, 2022). We do not therefore revisit these topics in any depth here. Further to this, we highlight here three other key lessons from Ireland’s experience that may inform the implementation of controls elsewhere.

The first key lesson is the need for pragmatism and realism in bringing about meaningful policy change. Not all measures in the Act are as restrictive as initially proposed. For example, a proposed ban on sport sponsorship was reduced to a ban on specific advertising or sponsorship of certain events. However, interviewees suggested that compromise was a

legitimate and inevitable part of achieving realistic and feasible policy change, particularly when policymakers themselves had to weigh up compromises concerning economic impact and public acceptability. Instead, interviewees expressed the belief that change in alcohol marketing policy is incremental and graduated, as it was for tobacco, so concessions on individual measures for this Act were necessary to achieve the key step of getting some restrictions on the statute book:

“Compromises were made, but that’s how it works. Politics is the art of the pragmatic. So, to me, what’s incredible is the amount that we got on the books. It’s not the things we lost, it’s the things we won....” (IRE Civil Servant).

“I mean, people have been working on this since the 1990s, and when I joined...people wiser and more experienced than me said, you’ve got to think of this in terms of tobacco control. And that took twenty years, so you know, that’s the timeframe you are dealing with here. And so, it is incremental, it is slow, there are knockbacks” (IRE PH Advocate 01)

“...a bit like any endeavour, you know, that seeks to bring about political consensus, you start at a particular point and work your way back until you find common ground” (IRE PH Advocate 02).

The second key lesson is that, beyond passage of the legislation, commencement of the individual restrictions also had challenges and potential for further prevarication or delays. Specifically, while three years have elapsed since the legislation passed, several key measures have only recently commenced (e.g., minimum pricing and controls on advertising during sport), and some do not yet have implementation dates. Interviewees suggested that this was partly because the technicalities of implementing some measures required further legal ratification and inter-departmental agreement, both of which had been impacted by the COVID-19 pandemic. For example, requirements for health warnings (on packaging, in licensed venues, and in adverts), plans to limit advertising to factual information, and the broadcast watershed (radio/television) all required separate regulations to be ratified by the Attorney General. The health warnings also required external assessment by the European Union prior to commencement. Interviewees also highlighted how politicians had agreed to long transition times at the outset. These long transition times, and requirements for further ratification, created a post-implementation opportunity for stakeholders to lobby over the economic impact of the measures or bring about further legal challenge.

“I’ll give you an example. So, a TV ad is going to have to have three health warnings in it. We have to go into detail of how big the text will be. Whether there’ll be a spoken word along with it...So, that’s definitely a delay for that reason because

there's a level of detail that you have to go into for those things. The other thing is there was certainly a promise made in our parliament, that there would be a three-year lead in for some of the stuff for a one-year lead in, and that was to give industry time to prepare...and that's important. People have to change things up. So, you have to give them a lead in time. It's also easier for politicians to support something if they know it's not coming in for three or four years.” (IRE Civil Servant).

“[The broadcast watershed] hasn't been commenced because alcohol advertising on television is worth about fourteen million [euros]. And, crucially, it's worth fourteen million to the state broadcaster who relies on television licences and advertising to survive.....So, again, there's a cheque of fourteen million that's essentially holding up a public health measure” (IRE PH Advocate 01).

The third key lesson concerns the challenge of monitoring and enforcing compliance, a role which fell within the remit of the Environmental Health Officers from the Health Service Executive for most of the Act's measures. It remains unclear who will be in charge of enforcing other measures such as the watershed on TV/radio broadcasts. While it was suggested that having one authority responsible for most enforcement created clear lines of responsibility and accountability, interviewees expressed some concern this was *“heaping more work on the same people”* (IRE PH Advocate 01), in a department which already had a broad remit, including concurrent COVID-19 measures. Questions were also raised about the extent to which adequate provisions had been made to ensure the responsible officers had the correct training and knowledge of the multifaceted measures in the Act – ranging from minimum pricing to advertising restrictions. This training was felt to be necessary to avoid a lack of coherence between policy making, law makers, and enforcers, and instances of non-compliance.

“So, the learning is that if you're going to do it, and if you're going to put it in place, you've got to be absolutely sure that there are sufficient resources for people to go and enforce it. And, in that context, that the enforcing officers or the authorised officers are fully informed of what the process is, you know, the legal implications are of the law, that they understand what it is...you can't be nearly compliant with the law, you have to be compliant with the law” (IRE PH Advocate 02).

For those found to be in breach of the legislation, the Act contains graduated sanctions, ranging from fines to more severe penalties for individuals or organisations. However, it was suggested that in practice the likely recourse would be to use enforcement powers to rectify instances of non-compliance (e.g., alcohol displayed outside of the separated zone in retailers) but not to pursue active prosecution (e.g., fines or custodial sentences).

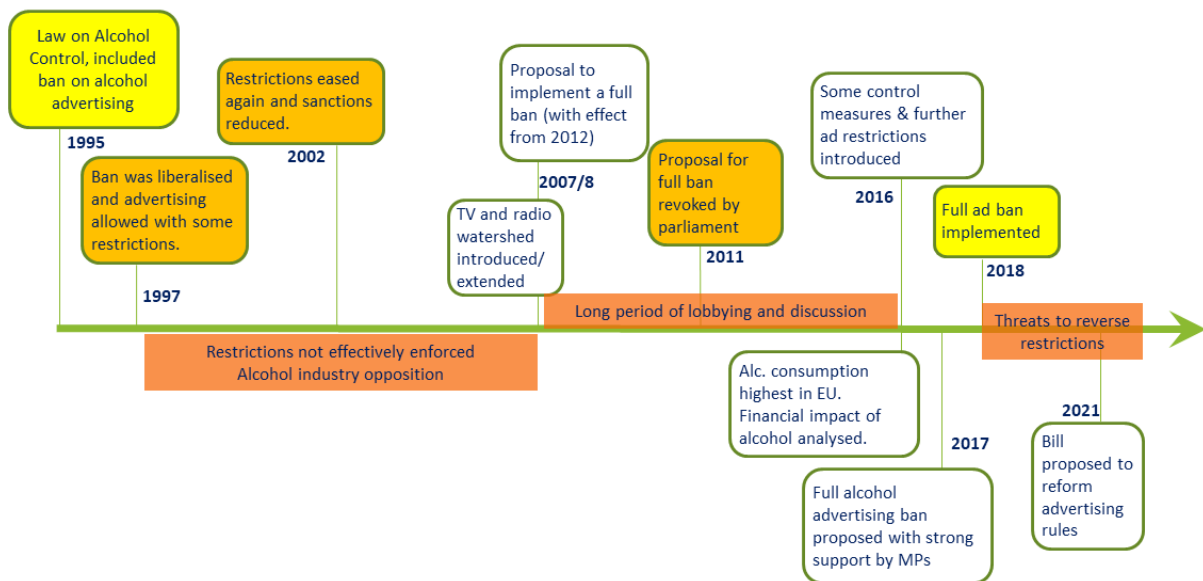
“So, would alcohol, breaches of alcohol law be treated any more seriously by judges? My guess is no. Like an assault is easy to understand. Burglary is easy to understand. Is it, is it easy to, I don't know, to put a, a big penalty on somebody, for example, a retailer, if they just say, oh well, that was an accident or whatever? I think it's, it's tricky law to sell to a judge, because the, the harms are not immediate or direct. I forgot to have...oh, I had the...I had the slab of beer outside the alcohol area. Is that really a sin compared to assault in a judge's eyes? No.” (IRE Civil Servant).

There was concern that lack of compliance with the regulations would not be taken seriously. Again, many of these challenges came down to lack of training, understanding or capacity.

There is a Public Health Alcohol Research Group (PHARG) established by the Minister for Health in Ireland that is tasked with guiding the monitoring and evaluation of the measures in the Act. This group includes officials from relevant government departments, representatives of alcohol charities, academic experts from Ireland and the UK, and a representative of a UK public health agency with evaluation expertise. The University of Stirling is leading the development of logic models for different elements of the Act, on behalf of PHARG, working with a short life working group to map available data and data/research gaps. A UK-Ireland Alcohol Research Network (ACORN) has been independently funded (by the Irish Research Council and UK's Economic and Social Research Council) and is supporting capacity building for monitoring and evaluation of the Act measure in Ireland (alcoholresearch-uk-irl.net).

3.5 Lithuania

Figure 5: Lithuania's alcohol marketing policy timeline



Lithuania's current position is an almost complete ban on advertising alcoholic beverages, though this does not extend to low/no alcohol products of the same brand. These marketing restrictions are part of a comprehensive new alcohol strategy implemented in 2018, brought in to tackle the population's very high consumption levels and alcohol-related harm. Lithuania had an early ban on alcohol advertising that came from its Soviet past; Lithuania was part of the Soviet Union until 1991, and so experienced Gorbachev's strong anti-alcohol stance. The 1995 law on alcohol control reflected that past and included a full ban on alcohol advertising. However, this was progressively dismantled over the subsequent decade as political interests changed and as the strength and influence of alcohol industry bodies grew.

"I do believe it was a national alcohol industry that had very, very strong influence, because it was possible at that time just to buy the law, and buy, um, an amendment" (LITH PH Advocate).

The legislation in 1997 that *allowed* advertising subject to certain restrictions, proved to be very difficult to interpret and enforce because the restrictions were open to subjective judgement. One interviewee (a civil servant involved in alcohol policy at that time) explained how difficult it was to convince a court that an advertisement was particularly appealing to children, for example, when industry claimed the advert was targeted towards adults. Moreover, the industry appeared to have little concern that they would ever be subject to any sanctions. Advertisers thought to be in breach of the legislation were unconcerned at going through a lengthy court process, knowing that their adverts would continue to be in circulation in the meantime:

“[S]ometimes industry, also want some, some court decisions because they are playing...they were playing on the...very near the line of risk... of restriction and it is very difficult to prove, and some of, um, advert...advertisements were very, um... very good for them ... to make bigger sales, especially to children. It's very difficult to prove that this advertisement is for the children, not for adults” (LITH civil servant).

Following continued opposition to the regulations, the restrictions were eased again in 2002. However, the comparatively high rates of alcohol consumption and growing evidence of alcohol harm in the country were difficult to ignore. A coalition of public health advocates drew on their experience with tobacco control, joined forces with youth organisations, and sought support from international partners (including Eurocare, IOGT (International Organisation of Good Templars), Nordan and EUCAM) to push for greater alcohol control measures. They worked to gather data and evidence on alcohol consumption, morbidity, mortality and suicide.

The policy discussions around alcohol control focused initially on protecting children and young people. However, an advocacy representative reported that even advertisers recognised that there is no way to protect *only* children from exposure to marketing. So, the focus shifted to protecting all people from the effects of advertising, given that alcohol is “a *dangerous substance*” (LITH PH Advocate). A proposal for a full advertising ban was announced in 2007, with the intention to implement it in 2012. This prompted an intense period of lobbying and discussion. Alcohol industry bodies, advertising agencies, media organisations and business, and government representatives galvanised to oppose the plan.

As illustrated in the extracts below, public health advocates claim that industry disputed the facts and figures presented on Lithuania’s consumption rates and alcohol-related harm and manipulated research to support their arguments. Opponents of the proposed ban created a strong narrative and used a variety of tactics to influence public opinion and government decision-making, using a range of extreme arguments against the proposed control measures.

“[The alcohol industry] have tried to increase mistrust in WHO, they say the statistics are wrong, the calculations are wrong, the scientists are wrong, and maybe they are even biased.” (Interview with Nijole Gostautaite Midttun, the President of the Lithuanian Tobacco and Alcohol Control Coalition (NTAKK), Movendi International Podcast, 2020).

"Every time there is a proposal for new restrictions or discussions about new restrictions, they [alcohol industry bodies] always use the same narrative. ... That if we restrict, somehow people will drink more. Also, they are using researchers. This year, we had researchers in economic science coming out with a study that they had done themselves, without involving anybody from public health side, or involving anybody

who has worked with real alcohol policy research before. And they just claimed that even though the alcohol consumption numbers are declining, their surveys show that people are drinking more. So, they just claim that despite the facts, they believe that people drink more, they drink more harmfully, and therefore these policies should be discontinued” (Interview with Nijole Gostautaitė Midttun, the President of the Lithuanian Tobacco and Alcohol Control Coalition (NTAKK), Movendi International Podcast, 2020).

“While a public opinion survey showed that a majority of the general population of Lithuania supports the idea of total ban, it seems opponents are going all out to turn public opinion against the ban. Parties from all around society are getting involved in the debate. Aurelijus Veryga (Lithuanian Minister of Health) tells of pressure coming from sports associations when beer producers told them that they will stop supporting basketball if advertising will be restricted.” (EUCAM, 17 June 2011).

The planned advertising ban was revoked on the eve of its implementation date (late in 2011). But the coalition of advocates, boosted by growing public support, ran campaigns to raise the profile of alcohol-related harm and the ‘sobriety’ movement and collected signatures for a major petition to parliament to act on alcohol control. They focused on supporting the three ‘best buys’ promoted by the World Health Organization (2017). Meanwhile, a series of shocking stories of tragedy involving intoxicated individuals (including infanticide, violence and road traffic accidents) reinforced the case for preventing indirect harm and supporting those with a problematic relationship with alcohol.

By the time of the government elections in 2016, the mood in the country had changed. One of the parties that formed the new coalition government included tackling alcohol problems prominently in their manifesto.

“It was a part of the ... party programme, and ... that was our promise, you know, to...to our voters, you know, to go with this programme, and, er, that was quite widely accepted by society” (LITH politician).

The government made significant increases to alcohol taxes (more than doubling taxes on some beverages) and increased the legal age to buy alcohol (from 18 to 20). They achieved important victories in securing a ban on selling alcohol in petrol stations, a ban on discount campaigns for alcoholic beverages, and restrictions on off-sales hours. The industry-led opposition continued to be strong, and the government failed to secure all the alcohol control measures they put forward. However, the full advertising ban was put forward for a second time in 2017, this time with strong support from MPs, and was successfully implemented in 2018. This full ban had been challenging to secure, despite considerable public support. The

relationship between the media and the party and politicians that took forward the advertising ban was still very difficult:

“It was a storm. A storm in the media. It was, hard to say ... the policy makers, they were called Taliban for example. They claimed that both joy and rock and roll will leave the country because of these alcohol restrictions. That we are leaving the realm of civilised countries which are allowed to drink. That the foreigners will not understand. Tourists will not understand. There were claims that tourism would stop. That TV stations would leave the country. That producers and retailers will start moving from the country. So, none of these horror stories actually happened, but the narrative was very strong. And they still continue.” (Interview with Nijole Gostautaitė Midttun, the President of the Lithuanian Tobacco and Alcohol Control Coalition (NTAKK), Movendi International Podcast, 2020).

One interviewee, a politician in government at this time, discussed the pros and cons of pushing ahead with a comprehensive package of alcohol control measures, versus small incremental changes. They noted that the success of different strategies can depend on the strength of the government:

“If you propose one measure, er, another side will always argue that, you know, this is not the best one, and we have...we have to go for another one. It’s like a game, you know, ... they are starting to, erm, let’s say, [pause] send some misleading arguments that this measure is...is not, er, a very important one”....

“But when you go with the complex [set of proposals] of course you are touching more, er, groups of interests. And not just an alcohol industry but also advertisement industry, er, and recreation industries, erm, and many other players that are becoming very active. So, it depends, sometimes it’s, er, easier to argue, but at the same time, er, the opposition, erm, and resistance is...is higher”. ...

“If there is no strong majority probably it’s better to go [pause] measure by measure, because to push through the...the...the whole complex, er, is really very complicated” (LITH politician).

Although a comprehensive advertising ban may be harder to navigate through the policy making process, one interviewee was very clear about the benefits both in terms of the effort put into the negotiation phase, and with respect to the post-legislative phase:

“[I]t is better to, er, to have kind of a relatively ambitious goal and work towards that rather than to put all your effort into smaller goals and then get them revoked and back and forth and back and forth ... we don’t have time to waste” (LITH PH Advocate).

“It is really very efficient to have a total ban, you know? Er, it’s much easier to litigate, it’s much easier to...to implement, it’s much cheaper for the state and then, um, it’s very convenient. But it is really, really inconvenient for the industry. You have to fight every step of the way. (LITH PH Advocate)

The advertising ban was successfully implemented and none of “the horror stories” predicted by the industry actually happened (Interview with Nijole Gostautaite Midttun, the President of the Lithuanian Tobacco and Alcohol Control Coalition (NTAKK), Movendi International Podcast, 2020). One way in which the government tried to soften the impact on the advertising industry was to provide a large public health fund for information campaigns that went to internet portals and major news outlets. Some of the lost alcohol advertising revenue was also replaced by the advertising of non-alcoholic beer (including of the same brands as alcoholic drinks) and gambling. One interviewee felt that advertisers can’t have taken *“a very big hit, because it went silent”* (LITH PH Advocate). However, this interviewee noted that without data on advertising revenues, it is not possible to accurately measure the impact on this industry.

Surveys have shown that public acceptance of and support for the advertising ban has grown since it was implemented, and that people are recognising the positive impacts on their neighbourhoods and communities of the alcohol control measures (Interview with Nijole Gostautaite Midttun, the President of the Lithuanian Tobacco and Alcohol Control Coalition (NTAKK), Movendi International Podcast, 2020). Furthermore, there are positive population-level statistics on consumption levels and mortality statistics:

“What we’ve seen is that in 2016, 17 and 18, consumption levels have dropped by approximately 1 litre per year per capita of population above 15 years old. ... mortality has gone down dramatically ... and we have a lot of other benefits that we see that are related to these positive effects of alcohol control policy” (Interview with Nijole Gostautaite Midttun, the President of the Lithuanian Tobacco and Alcohol Control Coalition (NTAKK), Movendi International Podcast, 2020).

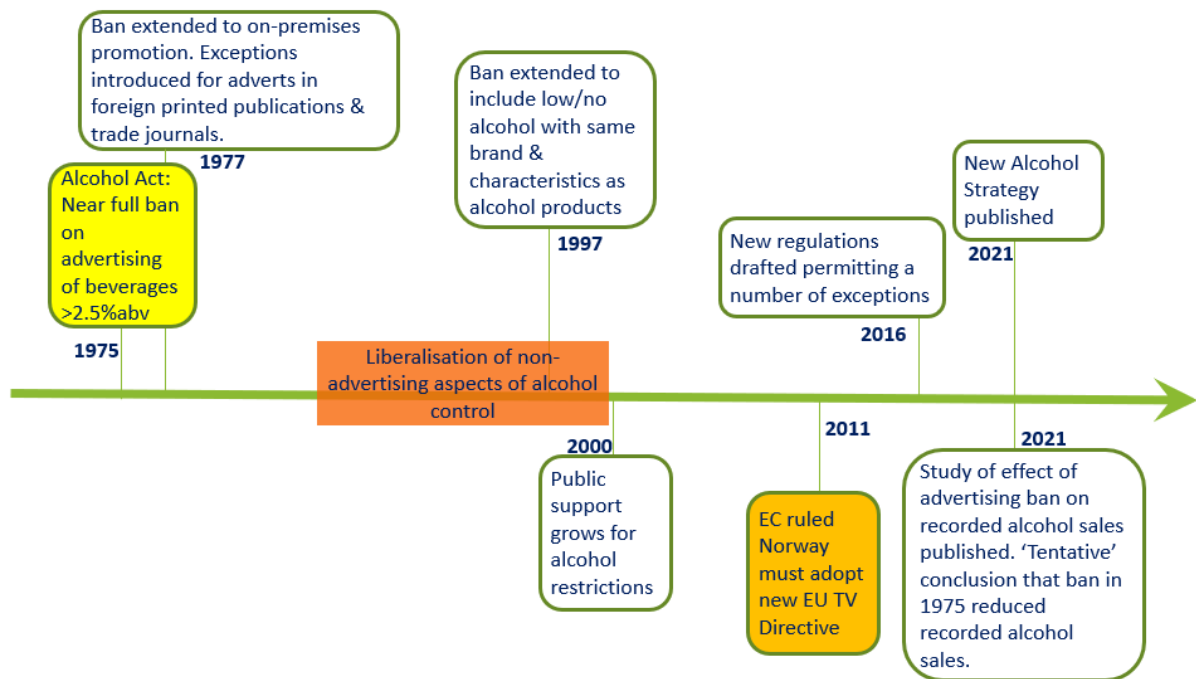
Despite this, opposition to the advertising ban has not let up. The Lithuanian Tobacco and Alcohol Control Coalition have warned that there is a continued need for attention so that restrictions are not reversed:

“Alcohol industry is very resourceful. They are creative, they are really able, and they have a lot of money. So no, I don’t think that the pressure to revoke measures will stop. Also, we have to understand that all measures, they lose their power over time. So, in many ways, industry might just wait and just work on not having any more restrictions. That would be enough just to again have a slow increase in consumption. So, in this way, they are very powerful”. (Interview with Nijole Gostautaite Midttun, the President

of the Lithuanian Tobacco and Alcohol Control Coalition (NTAKK), Movendi International Podcast, 2020).

3.6 Norway

Figure 6: Norway's alcohol marketing policy timeline



Norway has the most extensive ban on alcohol advertising amongst our case study countries, and the longest lasting as the original Act was passed in 1975. The advertising ban applies to (i) direct advertising of all alcoholic beverages, (ii) advertising of low/no alcohol beverages and of other products (e.g., clothing) which carry the same brand and characteristics as alcoholic beverages, and (iii) the appearance of alcohol products in advertising for unconnected products (e.g., furniture). The ban applies to all commercial communication (including traditional advertising channels and social media) targeting the Norwegian market, regardless of channel or medium:

“Instead of listing the channels the ban should apply in, it’s really important that it’s media neutral and method neutral” (NOR Enforcement Body).

However, several exceptions were introduced in the 2016 regulations, which have proved challenging (see below). The support for advertising restrictions has endured, backed by a strong political will to regulate the promotion of alcohol, broad cross-party political consensus, support from alcohol industry stakeholders (particularly smaller producers, who benefit from a “level playing field” against companies with larger marketing budgets), and strong public support for the advertising ban; in 2016, a survey showed support from 82% of the population.

Although alcohol consumption levels are amongst the lowest in Europe (Global Health Observatory 2018), there continues to be a ‘normalised drinking culture’ in Norway, as exemplified in this quote from an interviewee:

“Wine has been kind of the symbol of good life and relaxation and, yeah, and, um, connecting to each other, so the symbol is very, very strong in Norway. ... Normal people drink alcohol” (NOR PH Advocate).

This image of alcohol as associated with the good life is perceived to have been reinforced in recent years with the growth in editorial references to alcohol, such as newspaper and magazine features about the wines of different countries and blogs by wine connoisseurs.

“The consumer interest in exploring the background and facts of different products, in all areas, including alcohol products, is very different now than it was thirty years ago. So, the consumers expect to know everything about the product and also the story of the product and the manufacturers and companies and everything related to this product” (NOR Enforcement Body).

Norway’s advertising ban in 1975 applied to all beverages greater than 2.5% ABV. The growth in television advertising in the early 1990s in Norway saw the appearance of low alcohol beer commercials which were widely recognised as promoting alcohol brands and therefore unacceptable. In 1997, the advertising ban was extended to apply to the advertising of other products carrying the same brand or distinctive mark as alcoholic beverages.

“They started marketing the low alcohol products in a way that, in our opinion, actually everybody’s opinion, was marketing of alcoholic beverages...the public had an understanding [of what the companies were trying to do], it was very obvious...so it was very important to close that loophole. It was before our time, but I don’t think there was much opposition” (NOR Enforcement Body).

Industry responded to this by developing new brands for no-alcohol beverages which have no association with alcohol brands. Where low alcohol beers continue to carry the same brand as normal strength alcohol, they are permitted for sale but not marketed. Both strategies are used by alcohol companies.

The most significant battles in Norway have been to do with a conflict between the national legislation and international trade agreements and EU rules, and a constant concern about the potential for legal challenges, particularly regarding free speech and trade agreements. For example, legal disputes have arisen around the application of the European Union’s proportionality rule, with a notable case reaching the Supreme Court in 2009. This case focused on the advertising of wine within a niche periodical ‘Vinforum’, which was ruled by the Market Council in 2005 as violating the prohibition against advertising alcoholic beverages (Alcohol Act section 9-2). The appeal against this ruling was ultimately rejected by the Supreme Court.

Disputes have also arisen around the European Commission (EC) rules regarding the 'country-of-origin' principle, with the EC ruling in 2011 that Norway must adopt the European Union Audio Visual Media Services Directive (AVMSD). The implication was that Norway could only continue its comprehensive alcohol advertising ban on television if they came to an agreement with those countries that were transmitting the advertising. In an article posted by the European Centre for Monitoring Alcohol Marketing in August 2011, the foreign Minister (Erik Lahnstein) was quoted as saying:

"We have a situation changing from one of 100 percent robust protection, to one of how effectively we can guard against alcohol adverts on TV". (EUCAM August 2011)

An update to the regulations published in 2020 subsequently added the following exception to the prohibition: "advertising on foreign television channels when such advertising is in accordance with the advertising rules of the country from which the channel is broadcast" (section 14-3).

The Directorate of Health is responsible for supervising compliance with the advertising ban. Monitoring of advertising in Norway is generally reactive rather than pro-active. While some companies do share examples of planned marketing campaigns with the directorate beforehand and seek guidance on their acceptability, freedom of speech principles mean that the directorate is not allowed to authorise or vet any communications before they are released to the public; it can only react to advertising once it appears:

"We have the responsibility [to enforce the regulations] but we depend on the public to send us tips and complaints about the advertising. There are only three, four people in the directorate to monitor the whole alcohol industry in Norway" (NOR Enforcement Body).

Where they find the ban has been violated, they may order the circumstance to be rectified within a certain timeframe. A "coercive" fine may apply if the matter is not dealt with before the deadline (NOR Enforcement Body). In practice, up to now, commercial actors have only been fined for failing to follow a rectification order – i.e., they are only punished if they do not put it right. However, by that point, a marketing campaign may already have run its course:

"It's a huge problem that in many cases they've already gained the objective of the marketing once we make this order...once we make the rectification order, the campaign is already over" (NOR Enforcement Body).

New legislation is being drafted which would fine organisations for breaking the law in the first place, with fines proportionate to the severity of the violation and the company's income.

A recent study of the effect of the advertising ban on recorded alcohol sales has been published concluding that the ban in 1975 reduced recorded alcohol sales, although the conclusion is described by the study authors as ‘tentative’ due to possible effects of unrecorded alcohol consumption and marketing on social media and satellite TV channels (Rossow, 2021). Interviewees generally felt that the main ban, and the 1997 amendment, continued to perform effectively:

“We don’t see a lot of classic, traditional advertising for alcohol products in Norway, so in this area the advertising ban is very effective...and I think probably this is because [it] has very wide public support... most political parties and also the industry and in the public. So, if someone tried to put up traditional advertising for alcohol, people would probably react in a negative way” (NOR Enforcement Body).

However, changing marketing technologies in the past 20-30 years and the opening of the state monopoly have been associated with *“a huge increase in violations”* (NOR Enforcement Body). These factors, combined with growing consumer interest in and demand for information about alcohol products (for example, the provenance of different wines), contributed to changes, introduced in 2016, which set out around 20 exceptions to the regulations. One of the exceptions, for example, permits the provision of ‘neutral’ information to the public in a number of channels and settings such as producer websites and bar menus. This contradicted the original aim of the restrictions, which previously only allowed information to be displayed on producer websites:

“The new exceptions [introduced in 2016]...were aimed at [providing] information from the commercial actors to the consumer, but only in channels in which the consumer seeks out information about alcohol...The aim was to ... only allow the consumers who are interested in this information in the first place to gain it...they’re not allowed to give the same information in social media because it has a far wider reach” (NOR Enforcement Body).

Some alcohol companies are now arguing that provision of neutral information about products should be allowed on social media platforms as well as on company websites, because consumers would go in the first instance to a Facebook page rather than a website to gain factual information about a company or product: *“[they argue that websites] are ‘old-fashioned’ ...a profile on Facebook is nowadays the same as a webpage”* (NOR Enforcement Body). For enforcement agencies, monitoring advertising on social media is more challenging; whereas websites are more stable, *“things happen so quick [on social media], the advertisement is on and off before we even check it”* (NOR Enforcement Body).

Defining what is and is not permitted 'neutral information' is also a challenge. Interviewees gave examples of social media posts which

"In our view go beyond neutral language... 'good' and 'fine' and 'superb', all these adjectives that promote the product in a very positive way" (NOR Enforcement Body).

It was noted that it was difficult to draw a line between professional descriptors for describing wines and beers (e.g., 'fresh', 'citrusy'), which could be permitted in some circumstances, and marketing descriptors. There is no written list of permitted and proscribed descriptors, so each example is assessed individually, which is time-consuming.

Another challenging area is defining the actor responsible for potentially problematic marketing. Bars and pubs are permitted to have social media accounts, and to advertise events, but not to promote products. This gives rise to ambiguous situations such as advertising for a night club event which involves a product launch or promotion, where the content of the advertising might be construed as promoting the product itself and where any potential involvement of the producer is unclear:

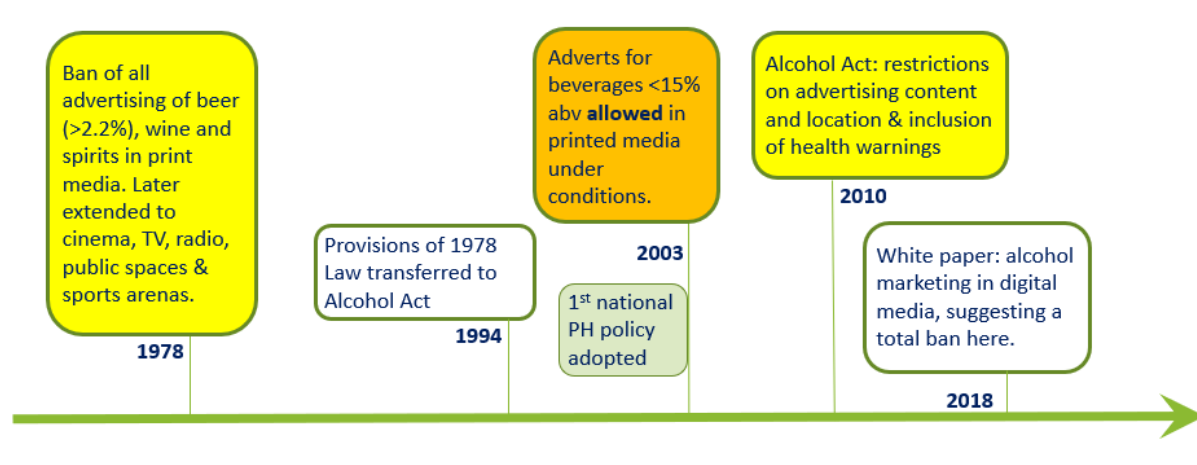
"We have a lot of cases where we have to go into detail to find out, does the advertising ban apply to this or not?... who has organised the event, and whether you can prove who has organised the event" (NOR Enforcement Body).

Similar concerns apply to editorial references to alcohol (for example, a magazine feature about French wines) and to influencer content on social media, which may involve 'hidden marketing' (i.e., influencers being paid by the industry). The directorate has the power to investigate whether content is linked to alcohol producers in any way (for example, it can order disclosure of documentation), but again, this is time consuming. In addition, there is a concern among enforcement officials that investigating cases such as this might attract negative publicity, because the examples are seen by the public as trivial and harmless; any resulting public backlash could be counterproductive and benefit alcohol industry stakeholders.

Some proposals for further liberalising other aspects of alcohol control have been made by several parties, including the Conservative Party, such as the selling of stronger alcoholic drinks (<8% ABV) in grocery stores, selling alcohol at petrol stations, allowing drinking in public, and reducing taxes (Soerheim, 2020). Norway's alcohol policies have also yet to incorporate regulations on labelling or health warnings. Advocacy organisations *"fear that gradual changes may chip away at the foundation on which the pillars rest"* (Soerheim, 2020).

3.7 Sweden

Figure 7: Sweden's alcohol marketing policy timeline



There is a partial ban of alcohol advertising in Sweden, where the advertising of beverages of over 2.25% ABV is restricted, and low and no-alcoholic beverages must not be advertised in a way that may cause them to be confused with stronger alcoholic beverages (e.g., include words, jokes or images that associate the drinks with higher strengths of alcohol). In general, restrictions relate to media, content, and location of advertising, with the aim being to protect children and young people from exposure. Generally, moderation is required in all marketing, such that it should not be intrusive or encourage the use of alcohol. Visual content in adverts is limited to the brand logo, a picture of a single pack and raw materials.

There is a total ban on advertising of alcohol on Swedish TV and radio, including on-demand services. Marketing online is permitted, but with the same content restrictions as in other media. The principle of non-intrusiveness means that advertisements designed to attract immediate attention (such as pop-ups online) are prohibited. Although alcohol advertising outdoors and in cinemas is not prohibited, it is generally considered to be inconsistent with the requirement for moderation in marketing. In print media, there is a distinction made between stronger beverages and milder ones: the advertising of alcoholic drinks over 15% ABV is prohibited in print media, whilst adverts for weaker beverages are allowed provided that they are accompanied by a health warning.

Sweden has a long history of alcohol control measures and temperance movements, driven by very high levels of alcohol consumption during the 19th century. In general, Sweden uses high price and taxation and the retail monopoly to limit consumption. The state-owned retail monopoly controls the availability and sale of alcoholic beverages. When Sweden joined the EU in 1995, various alcohol control measures (particularly around monopolies and licensing)

were challenged, leading to a weakening of the strict Swedish alcohol policy (Kanlic, 2010). Whilst total alcohol consumption is the second lowest amongst our case study countries, consumption has grown since the 1990s. Swedish EU membership has also increased the possibilities for 'alcohol tourism', where people in Sweden bring cheaper alcohol from other EU countries (Ramstedt, 2010).

Rules on alcohol marketing form an important part of Sweden's overall alcohol policy. The government's rationale for restricting advertising, according to the Ministry of Health and Social Affairs, is

"The protection of public health, and especially the protection of children and young people, in line with the Action Plan on Youth Drinking. ... Furthermore, and as pointed out in the WHO declaration on young people and alcohol, the health and wellbeing of many young people is today seriously threatened by the use of alcohol and other psychoactive substances." (Ministry of Health and Social Affairs Sweden, 2016)

The policy goal of reducing exposure to alcohol marketing is balanced with an understanding that the consumption of alcohol is 'cultural', and that since it is legal to manufacture and sell alcohol, there ought to be an opportunity to advertise the products (Kanlic, 2010).

The foundations for Sweden's advertising rules were introduced in 1978's Law on Alcohol Advertising. This law followed several years of investigation and much debate (principally focused on an increase in youth intoxication, and following the increasing popularity of newer, stronger beers), before an agreement was made between alcohol industry bodies and the Swedish consumer agency. In general, there is a lot of public support in Sweden for marketing restrictions, and "*people in general are sceptical of marketing*" (SWE PH Advocate). The ban on advertising of strong beer (more than 2.2% ABV), wine and spirits in print media was extended some years later to cinema, TV and radio, public spaces and sports arenas. The main purpose of expanding the ban was to limit beer advertising. At this point, different strength beers had different logos and packaging depending on their alcohol content despite being from the same brand. However, when the advertising ban was extended, the packaging of different strength beers from the same brand became identical, with products only distinguishable by their alcohol content. This was a tactic used by the industry to ensure they could continue to promote their stronger products. In some cases, adverts were produced for beer with an alcohol content of less than 2.2% ABV, even if such a product did not exist (Kauppila et al 2019).

Subsequently, these alcohol advertising measures were transferred to the Alcohol Act (1994), which collates all provisions regarding alcohol into one law. The primary rule when marketing alcoholic beverages to consumers is that "particular moderation" should be observed.

Advertising is not allowed to be obtrusive, to encourage the consumption of alcohol, or to contribute towards a positive attitude to the consumption of alcohol. Given the Act's focus on children and young people, marketing must not be aimed particularly towards or feature children or young people under 25 years of age. This is to help prevent young people from laying the foundations of future alcohol habits, and to protect the age group with the highest alcohol consumption (20-24). It is also in recognition that young people may be particularly susceptible to, and less critical of alcohol advertising (Kanlic, 2010). An interviewee from the enforcement agency acknowledged the legislation relating to the observation of particular moderation "*doesn't say that much*" and is "*not detailed in the actual legislation*" (SWE consumer agency), but it has been well established and further specified, over the years, through case law.

Beyond the 'particular moderation' principle applying to all alcohol advertising, there is a strict ban on alcohol advertising on television and radio in Sweden. However, these rules can be evaded by commercial channels that broadcast from other countries (such as the UK). According to the EU Country of Origin principle, adverts from UK-based channels fall under the jurisdiction of the UK self-regulatory rules on advertising. The situation also creates a disparity between those channels that can advertise, and domestic channels, which have to comply with the strict domestic rules. Even the Swedish state-owned company that (until 2008) manufactured and distributed Absolut Vodka, amongst other products, advertised on tv and radio channels that are broadcast from the UK. Absolut's long-running advertising campaign, running for 15 years from its launch in 1980, was very well known and extremely creative, winning hundreds of awards. The double standard, of a state with a strict alcohol control policy, with a state-owned company that evaded those rules, was subject to much criticism.

The commercial advertising of alcohol in print media (periodicals) was initially (since 1978) banned for all beverages over 2.2% ABV. However, following Sweden joining the EU, this ban was tested in the courts, with claimants arguing that the legislation was contrary to articles 28 and 49 of the EC Treaty. The European Court of Justice has tended to rule that restrictions to advertising of alcohol beverages because of public health concerns are justifiable. However, the question of whether the measures are proportionate to the objective to be achieved, is for member states to determine at national level. In a significant case (known as the Gourmet case) the principle of proportionality in relation to print media was assessed at national level, first in the Stockholm District Court (which dismissed the Swedish Consumer Ombudsman's application and regarded the prohibition as excessive), then in the Market Court (which upheld the District Court's judgement). The Market Court, like the District Court, decided that the public health benefits of a ban were not proportionate to the restrictions on trade – partly because the state has other instruments at its disposal to prevent alcohol harm, including

tax/price and the retail monopoly. Thus, the Swedish general ban on commercial advertising of alcoholic beverages in periodicals, contained within the Alcohol Advertising Law, was deemed to be contrary to EU law. The government subsequently changed the legislation. However, they held firm to the notion that alcohol advertising has to be limited, and that every alteration must be made carefully in light of potential public health impacts (Kanlic, 2010).

Rather than remove the ban completely, the Swedish government instead applied it to alcoholic beverages with more than 15% ABV. The justification was that part of the alcohol policy advised consumers to choose alcohol beverages with a lower alcohol content over those with a higher content, for health reasons. Criticism has been levied at the change in legislation, both the decision not to remove the ban completely, and the decision to opt for a seemingly arbitrary 15% ABV limit. Those arguing against it stated that the rules were unfair (allowing the advertising of some sherry brands but not others), that the government was not taking EU law seriously, and that further legislative cases would be likely to emerge (Kanlic, 2010).

For beverages with 15% ABV or less, the rules around commercial advertising in print media continue to be restrictive: the general principle of ‘particular moderation’ must be observed; images may only show the item, raw materials included in it, individual packs of the item, and the brand or equivalent mark (this is referred to as the ‘picture rule’); adverts must not be larger than 21 column centimetres; the advert must not be in conflict with good practice because of the context in which it occurs (that is, to not associate alcohol consumption with driving, sports or work); and health messages or warning texts must cover 20% of the advert (Kauppila et al 2019). These restrictions have been successfully defended in the Market Court, with conditional financial penalties handed down to those who break the rules. However, one interviewee explained that they continue to be tested against the proportionality rule, and there is currently a case relating to the ‘picture rule’ which has been fought for “*at least three or four years now*” (SWE consumer agency), and which has just reached the Supreme Court of Sweden. Another interviewee explained that “*Sweden in general are quite harsh on the proportionality checks on the laws, which also affects alcohol marketing*” (SWE PH Advocate). For this interviewee, this seems out of kilter with what is happening in other countries:

“Estonia for example has a ban on alcohol marketing, er, that hasn’t been up for any legal issues when it comes to EU proportionality. Like the Lithuanian complete ban on alcohol marketing is the same ... [and] in France, since the nineties, and it hasn’t really been discussed that it’s an issue when it comes to the proportionality in that sense” (SWE PH Advocate).

The content restrictions related to advertising in print media also apply to marketing on the internet and are applied in the same way for all beverages more than 2.2% ABV (Kauppila et al 2019).

The Swedish Alcohol Act contains no explicit prohibition of outdoor advertising. However, the requirement for 'particular moderation' is rigidly interpreted in public places, such that alcohol advertising here can often be regarded as intrusive and in contravention of the principal regulations. It is generally accepted that advertising for alcohol drinks should not occur on public transport (or public transport stops), at hospitals or other care institutions, at public sports grounds and other public arenas, or in or around premises primarily intended for or frequented by young people under the age of 25.

Direct advertising (for example, direct mail from businesses to consumers) would appear to be regarded as intrusive and in contravention of the principal regulations. However, there has previously been uncertainty as to how to apply the Swedish Alcohol Act's regulations to direct advertising. In 2015, the Swedish Market Court tried a wine seller, who had been sending letters, with the intent of promoting its selection of wine, to Swedish consumers over the age of 25. The Swedish Market Court found that this use of direct marketing did not constitute a breach of the Act's requirement for particular moderation. It was felt that a balance needed to be found between the traders' interests and the consumers' interests, in terms of providing product information on the one hand and protecting public health on the other (Movendi International, 2015).

With regards to the marketing of low and no alcoholic beverages, Sweden has learned from past experience. Regulations now state that the marketing of 'alcoholic light' beverages must be such that it cannot be mistaken for marketing of alcoholic beverages. The recommendations regarding advertising for alcoholic light drinks (jointly approved by Sveriges Annonsörer, Sveriges Bryggerier, Sprit & Vinleverantörsföreningen and Sveriges Marknadsförbund, and adopted in 2011), state that

“The marketing of alcoholic light drinks may not be directed specifically towards or depict children or young people who have not yet reached the age of 25.”

“The advertisement must not: create associations between consumption of drinks with a higher alcohol content or their intoxicating effect; include words, jokes, images, etc., that associate the drinks with higher strengths of alcohol; include a disparaging assessment of alcohol-free drinks; imply that sexual prowess is stimulated by the consumption of alcohol”.

However, one interviewee felt this issue of alcohol-free beverages hasn't yet been fully dealt with in Sweden:

“[T]he, ... lack of dealing with the issue when it comes to alcohol free, is, quite a big issue because it's a very easy way to circumvent a lot of the ... because people still associate it I haven't heard that this has been discussed, er, policy wise. I think it's quite, er, a big issue” (SWE PH Advocate).

As elsewhere, alcohol industry bodies in Sweden have increasingly turned to digital media to promote their products. Whilst the principle of ‘particular moderation’ and the ‘picture rule’ theoretically applies to social media, national legislation doesn’t apply to a range of marketing that currently appears on social media. This includes content shared by consumers and involving interactive communication between alcoholic beverage companies and their potential consumers (Dramstad, 2017). In 2016, the Swedish government commissioned a committee of specialists in public health and media law to identify improvements to the protection of children and young people from alcohol advertising in digital media. The final investigation (Regeringskansliet, 2018) suggested a total ban on commercial advertising of alcohol on social media (Kauppila et al 2019). This suggestion, however, has yet to be adopted into law and *“there hasn't really been any political pressure on this issue”* (SWE PH Advocate). One interviewee felt it was unlikely that the suggestion would be taken further, given the court challenges the existing legislation has faced:

“There was a suggestion to forbid all um, all marketing in social media for alcohol. That was the suggestion. Um, but it hasn't, er, it hasn't led to anything, at least not yet. Um, [pause] I'm not sure, well, when you look at how it has gone in other court cases ... it kind of looks like it's going in another direction. Like this principle of proportion is kind of forcing, ... um, the courts, er, to almost go, er, in...in a more liberal, er, direction. It's like the government wants more rules, more restricted, um, policy. Er, but when we go to court and test the rules, it more kind of opens up instead” (SWE consumer agency).

An advocacy representative described how the fear of litigation may be preventing progress, despite a consensus in parliament and broad political agreement for a social media advertising ban:

“The legal situation makes it very unclear if it will be, kind of, disallowed when it goes to court ... so I think that it could be one aspect that really the government is, kind of, scared about.” (SWE PH Advocate).

This same interviewee suggested other reasons for a lack of progression on this. The first was that government might be *“scared to open a can of worms and having discussions that they maybe don't want to have about the alcohol policy in general”* (SWE PH Advocate).

“The current government are quite content with the current policy and are probably very scared that if you open this up, you might get a discussion of other parts of alcohol

policy, that they ... that some part might for example want to liberalise or privatise and otherwise focus on” (SWE PH Advocate).

Another reason was that it might not be seen as “*an election winner*”. And finally, the interviewee acknowledged that “*of course, the industry has a lot of lobbying power as well*” (SWE PH Advocate).

From a more practical perspective, two interviewees also pointed to the challenges of creating regulations for social media advertising that are feasible to monitor and enforce:

“It’s a tricky area ... the amount of marketing in social media, and the speed. I mean, some companies, they publish, well, many posts day, and it’s hard for governmental agencies to keep track of it all. And a lot of marketing is like stories and is just temporary and we are dependent on someone actually recording the story and sending it to us for us to be able to do something” (SWE consumer agency).

“In the traditional media, it’s much easier to evaluate these pictures before they come out ... in the online environment, when information is so much more fast and it’s much easier for illegal content or content that is very much in the grey zone to be, er, to stay up and reach, er, vulnerable populations” (SWE PH Advocate).

In general, the enforcement of regulations is made possible by active reporting of suspect adverts by consumers, government and non-government agencies and businesses themselves. Many companies reportedly take the responsibilities of marketing very seriously and are very knowledgeable about the legislation. They not only follow the rules, but report on those who don’t. These same companies also have their own interests, however:

“They are really interested in marketing their products and they have their own legal teams, and they are just like in there, the grey area. It’s like the ... in the zone of what’s forbidden or not” (SWE consumer agency).

Alcohol industry stakeholders created a self-regulatory body which helps to clarify, for producers or sellers, how to behave in the current legislative environment. But this same body is also very political, as explained by this interviewee:

“[The head of the self-regulatory body] was very critical of the picture rule, for example, and was out a lot in the media, and I think also, he was also listened to in the court case actually” ... “it’s helped the industry a lot in how to push policy in different directions” (SWE PH Advocate).

The enforcement agency has a programme that helps them to record all TV adverts, and a new programme that will help to find marketing in social media. They also “*manually go through websites, social media accounts, listen to podcasts*” (SWE consumer agency).

However, there are very few resources available for this monitoring. When they find adverts that look as though they contravene the regulations, they have to make difficult decisions about which to pursue:

“We can’t act on everything of course. We have to choose what we think is most important for us to act on” (SWE consumer agency).

Clear breaches (for example of the ‘picture rule’) are dealt with by the Consumer Ombudsman.

“The picture rule has been a good rule for us to refer to and it’s easily understandable” (SWE consumer agency).

However, many of the cases in “the grey areas” are contested in court.

“When it comes to this rule of particular moderation, it leaves a lot of space for interpretation” (SWE consumer agency).

4. Discussion

4.1. Key findings

Why were restrictions on alcohol marketing put in place and how was this achieved?

Our findings suggest three broad reasons for putting alcohol marketing restrictions in place: to support broader alcohol control/public health policies; to protect children and young people from exposure to alcohol marketing; and to 'de-normalise' alcohol products, given that alcohol is 'no ordinary product'.

In some places, e.g., Estonia and Lithuania, the levels of consumption and harm among the general population had become too serious to ignore and were seen as a source of national embarrassment. In others, e.g., Sweden, Finland and Norway, there had been a long history of alcohol control and temperance movements which framed alcohol as a product which should be restricted in its marketing. However, influence from the EU has meant a move towards increased liberalisation of some control measures.

Across the case study countries, there are three distinct stories to tell. In Finland and France, there has been a protracted struggle to retain restrictions that have been in place for decades. In Sweden and Norway there have been continued efforts to ensure 'old' legislation remains fit for purpose, particularly in the current media environment. In Ireland, Estonia and Lithuania (following the dismantling of the 1995 Act), there has been a long slow process of policy negotiation and development to get to a full or comprehensive ban on alcohol advertising or to make significant progress (in Ireland's case).

In developing, adapting or protecting restrictions on alcohol marketing, the following mechanisms and contexts are noted as being important:

- Several countries cited having a strong proponent in Government and/or a strong political will to regulate alcohol as being key to success. In Estonia and Lithuania, a change in leadership resulted in strong support from MPs, and in Norway and Ireland there was strong political will to regulate the promotion of alcohol, including broad cross-party political consensus.
- Public Health teams (such as those in Estonia, Ireland, Sweden and Norway) successfully framed the issue of alcohol marketing as one of social justice which disproportionately affected the poorest citizens, the youngest citizens, or as an issue of national embarrassment where the levels of harm from alcohol consumption were so great that it was obvious something had to be done. Some countries (such as Lithuania) moved from discussions around alcohol control focused initially on

protecting children and young people to framing the argument to be about protecting everyone from alcohol-related harm.

- Windows of opportunity were seized, quickly and effectively. Examples were a change in leadership (as with Finland and Lithuania) or the implementation of other measures such as an increase in alcohol taxation (Estonia) which drew the attention of alcohol industry bodies.

What successes and challenges were faced in developing the regulatory framework?

Three of the case study countries (Norway, Estonia and Lithuania) have been successful in achieving an almost complete ban of advertising across all media. In one of these countries (Norway), this also extends to low/no alcohol beverages which carry the same branding or distinctive marking as alcoholic beverages. This is viewed as important to avoid the use of alibi marketing or the marketing of no and low alcohol products with the same branding as their alcoholic equivalent. In France, there is a fairly comprehensive package of restrictions, and similar measures will also apply in Ireland if all sections of their Act are commenced in full. In two of the countries (Finland and Sweden), there are bans for advertising of stronger alcoholic beverages and/or across some media, with lesser restrictions for what are described as 'milder' alcohol products (i.e., lower than 22% ABV in Finland and lower than 15% ABV in Sweden).

However, all countries have faced significant challenges in developing, enacting, implementing, enforcing and maintaining the regulations. They also reported ongoing issues and persistent threats to the existing legislation.

- Regulating content on social media remains a key challenge for many countries due to issues around monitoring, enforcement, the international nature of many social media platforms and constant innovation in social media technologies by marketers. The high volume of marketing activity on social media means that monitoring this platform is extremely difficult and time-consuming. The nature of social media marketing also makes it difficult to identify and deal with any breaches before the adverts have been seen by members of the public. In Finland, the internet and social media were not included in the original 1994 legislation. New legislation in 2015 was able to explicitly prohibit user-generated (online) content and digital marketing and competitions for all alcoholic products and for same-brand zero alcohol products. This was reported as being problematic to write and the new restrictions were described as complex and difficult to understand. In France, monitoring advertising on the internet is proving to be a considerable challenge; as with Finland, the prevalence of advertising on the internet today was never factored into the original regulations.

Previously, all internet advertising was banned in France, but in 2009 an amendment was made to allow advertising on websites, with similar restrictions as other media, such as banning advertising on websites designed for minors. This was almost impossible to enforce as the audience of a website was often difficult to ascertain due to a lack of publicly available data. Instead, the regulations focus on the content of adverts which falls under the same restrictions as other media. In Norway, the advertising ban applies to all commercial communication (including traditional advertising channels and social media) targeting the Norwegian market, regardless of channel or medium. However, the guidance on what is 'neutral' advertising (and therefore permissible) on the internet and social media was reported as sometimes being difficult to interpret; for example, there are challenges in whether or not restrictions apply to licensed premises' accounts or influencer posts. Alcohol industry bodies in Sweden have increasingly turned to non-traditional media to promote their products. Whilst the principle of 'particular moderation' and the 'picture rule' theoretically apply to social media, national legislation doesn't capture a range of marketing that currently appears on social media. In 2016, the Swedish Government commissioned a committee of specialists in public health and media law to identify improvements that could be made to protect children and young people from alcohol advertising in digital media. The final investigation suggested a total ban on commercial advertising of alcohol on social media. This suggestion, however, has yet to be adopted into law and it is believed unlikely that it will be implemented due to the likelihood of legal challenge from alcohol industry representatives. A total ban of alcohol advertising on the internet was also suggested by interviewees from France as a solution to the difficulties inherent in enforcing a partial ban.

- Another common challenge was alcohol industry bodies continually pushing for liberalisation (weakening of restrictions). In Estonia, an influential retailer lobbied Ministers and the enforcement agency to allow alcohol to be placed behind the counter in his stores rather than have it structurally separated. Parliament agreed for this to be changed. In Finland, all alcohol advertising had been banned for a number of years. However, during the process of joining the EU in 1995, extensive lobbying (alongside a desire to align policies with other EU Member States) led to this ban being liberalised, initially to allow the advertising of 'mild' beverages (2.8% to 22% ABV). This was further weakened between 1995 and 2015 to permit advertising on billboards, internet and social media. Further liberalisation regarding the times and places that alcohol can be sold occurred in 2017. In France, alcohol industry representatives lobbied for liberalisation of the Loi Évin to allow advertising in public spaces and to allow features of the country/place of origin to feature in the adverts and to exempt products which

have a heritage in a particular country or region. In Ireland, long transition times, and requirements for further ratification, created a post-implementation opportunity for stakeholders to lobby over the economic impact of the measures or bring about further legal challenge. In Lithuania, the 1995 law included a complete ban on alcohol advertising which was progressively weakened due to continued lobbying from increasingly influential alcohol industry representatives. A full advertising ban was proposed in 2007 but came under intense criticism and lobbying from alcohol industry representatives. In Norway, further proposals for liberalising other aspects of alcohol control have been made by alcohol industry bodies, including the selling of stronger alcoholic drinks (<8% ABV) in grocery stores, selling alcohol at petrol stations, allowing drinking in public, and reducing taxes.

- Some countries reported that alcohol industry bodies will push the boundaries of what is permitted including the use of alibi marketing. Regulations in Estonia are reported to have had very minor sanctions attached to any breaches, resulting in alcohol industry bodies constantly pushing at the boundaries of what is deemed acceptable. In France, alcohol industry bodies regularly break the rules which has led to subsequent legal cases. Alcohol industry representatives fight hard to win these cases and work around the law, exploiting the fact that the judge may not be as experienced with alcohol law as the lawyers alcohol companies can employ. Another problematic issue raised by advocacy groups was the sponsorship of events (for example sports or music events) by alcohol companies or brands. This is currently banned under the Loi Évin. However, the use of alibi advertising has been identified recently as a means for industry to circumvent the law: using elements of the branding (such as colours, slogans) without the name of a product, in order to remind people of the brand.
- Another challenge is how to deal with no or low alcohol products which feature the same branding as alcoholic products. Countries reported a significant increase in the advertising of no or low alcohol products, particularly beer. These products have been used to continue to advertise certain alcohol brands where advertising the full-strength variant would not be permitted. Finland successfully included restrictions for same-brand zero alcohol products in their regulations whereas Lithuania's almost complete ban does not extend to no/low alcohol products. Norway has the most extensive ban which extends to advertising of low/no alcohol beverages and of other products (e.g., clothing) which carry the same brand and characteristics as alcoholic beverages. The growth in television advertising in the early 1990s in Norway saw the appearance of low alcohol beer commercials which were widely recognised as promoting alcohol brands and therefore unacceptable. In 1997, the advertising ban was extended to apply to the advertising of other products carrying the same brand or distinctive mark

as alcoholic beverages. Similarly in Sweden, low and no-alcoholic beverages must not be advertised in a way that may cause them to be confused with stronger alcoholic beverages. However, these restrictions are not as strong as the approach in Norway as they are less straightforward, leaving room for circumvention and misinterpretation.

- Monitoring and enforcing alcohol marketing restrictions is a challenge for several countries. In countries where there are partial restrictions on alcohol marketing, challenges remain around definition and interpretation. Countries such as Estonia reported that the enforcement agency had difficulty enforcing a partial ban based on a subjective notion of what was not allowed. In Lithuania, the legislation in 1997 that allowed advertising, with restrictions, proved to be very difficult to interpret and enforce because restrictions were open to subjective judgement. Subsequent legislation in Lithuania adopted a more successful approach based on explicitly stating what can be shown. Countries also face challenges regarding their capacity to monitor and enforce the restrictions. For example, in Sweden there are very few resources available for monitoring. When they find adverts that look as though they contravene the regulations, they have to make difficult decisions about which to pursue based on capacity and the time required to pursue each case. The enforcement of regulations is made possible by active reporting of suspect adverts by consumers, government and non-government agencies and businesses themselves. In Finland, monitoring and enforcing restrictions on social media were not implemented in a very active way meaning the industry continues to find new ways of advertising on the internet. Monitoring of advertising in Norway is generally reactive rather than pro-active. Those who do not comply with regulations are given a chance to rectify the breach or else be fined. However, the time taken for this process means the advert has usually run its course. In Ireland it was suggested that allocating all the responsibility for enforcement to one agency meant that enforcement was challenging and, in some areas, unfeasible. It may also be impractical to have Environmental Health Officers monitoring alcohol advertising and labelling if this is to be the case.
- Attaching minor sanctions to breaches was also believed to be challenging and ineffective. In Estonia, putting in place significantly higher financial penalties for breaches was believed to have eliminated deliberate rule breaking. In Ireland, for those found to be in breach of the legislation, the Act contains graduated sanctions. However, it was suggested that in practice the likely recourse would be to use enforcement powers to rectify instances of non-compliance (e.g., alcohol displayed outside of the separated zone in retailers) but not to pursue active prosecution (e.g., fines or custodial sentences). This process would seem to be appropriate for marketing restrictions such

as structural separation but would be impractical and ineffective for advertising as it is likely campaigns will already have run by the time they are rectified.

- Some countries reported difficulties dealing with cross-border marketing. For example, in Finland, alcohol producers have sought to continue promoting their brand by registering a company in another country with more permissive legislation, so that they can advertise their products across Europe. In Norway, disputes have also arisen around the European Commission (EC) rules regarding the 'country-of-origin' principle, with the EC ruling in 2011 that Norway must adopt the European Union Audio Visual Media Services Directive allowing advertising from other countries to be shown in Norway. Similarly, there is a strict ban on alcohol advertising on television and radio in Sweden, but these rules can be evaded by commercial channels that broadcast from other countries (such as the UK). It is unclear how 'country of origin' rules will apply in the UK, post-Brexit.

What were the key points or turning points in the process prior to and post-enactment?

The annotated timelines in the results section identify some of the key points in the process for the seven case study countries, although these are generally fairly lengthy and convoluted processes. The usual factors could be seen to influence the policy making process including: interests, ideology, circumstances, policies of political parties, activities and representations of interest groups, public wants and needs, evidence and data, and personal views of political office.

In Estonia the government acted fairly early on alcohol advertising compared to some other European countries, but the legislation wasn't well designed or enforced. From 2006 to 2014, there was background work leading up to an alcohol strategy. During this time, the issue was taken up as a public health one, different sectors worked together, and various activities funded by the European Structural Fund took place, including a media campaign which helped to reframe the alcohol debate as a social justice issue. When an Alcohol Policy Bill was presented in 2015, the real battles began and strong opposition from industry and a hostile media made for difficult progress. However, there was a window of opportunity when the industry was considerably distracted by a massive increase in alcohol tax in 2017, and the new Alcohol Act was passed with little opposition. Although implementation was described as quick and easy, that hasn't stopped continued opposition to elements of the Act.

Finland was quite a different case because there was a historical position of prohibition and a comprehensive ban on advertising, but when they joined the EU, there were increasing moves to liberalise the alcohol controls. The main activities of public health advocates have been to try to ensure no further liberalisation, rather than to try to increase restrictions. Lots of

background work by civil servants at the Ministry of Social Affairs and Health meant that when there was a window of opportunity in 2015 (created by a change in political leadership), the Ministry of Social Affairs and Health was ready with proposals for new advertising regulations that better reflected the changing times.

Lithuania, like Finland, had an early ban on advertising which was watered down over a period of a decade until the country could no longer ignore the embarrassingly high rates of alcohol consumption and growing evidence of alcohol harm (robust international statistics were published in 2016 showing that Lithuania's alcohol consumption was the highest in the EU). The disappointment, in 2011, when the soon-to-be-implemented ban on alcohol advertising was revoked by parliament, galvanised those in favour of restrictions. A strong band of advocates, working together, with support from international partners and with growing public support, ensured that when there was a window of opportunity in 2017 - when a new coalition government was formed - they were ready. The full ban proposal was again put forward, with strong support from MPs, and implemented in 2018. Although this battle was won, the opposition has not let up and there is a risk that the restrictions could be reversed by a new government.

In Ireland, a long period of background work ensued following the publication of a national alcohol policy report in 1996. This work included gathering research and data, conducting campaigns, and lobbying. A turning point around 2008/9 was when a new focus was placed on the Irish population's health by government bodies. A Healthy Ireland Framework was launched in 2013, which consolidated key targets for public health action and helped to ensure political consensus for drafting a new Alcohol Act. The legislative process was lengthy, with various proposed restrictions being watered down along the way after opposition from alcohol lobbyists. The sheer complexity of the legislation has also meant for a very long, drawn-out implementation phase, so there are still some measures that are yet to be implemented, providing opportunities for further opposition.

France is a story of a comprehensive ban that has subsequently been watered down over time. The law has become weaker since 1991 with changes having been made to allow advertising in public spaces (1994), features of the country/place of origin to feature in the adverts (2005), and an exemption for products which have a heritage in a particular country or region (2016). Previously, all internet advertising was banned, but in 2009 an amendment was made to allow advertising on websites, with similar restrictions as other media, such as banning advertising on websites designed for minors. Although it's difficult to assess the effectiveness of the restrictions because they have been progressively weakened, the original approach it is still held up by others as an example to follow.

Norway was one of the first countries to restrict alcohol advertising, with the Act being passed in 1975. The ban applied to beverages >2.5% ABV but was extended to include low/no alcohol products in 1997. Although some aspects of alcohol control have been liberalised, support for advertising restrictions has remained. The most significant battles here have been to do with conflict between the national legislation and international trade agreements and EU rules, and a constant concern about the potential for legal challenges.

Sweden, like Norway, implemented a ban of advertising for beverages >2.2% ABV in the 1970s. Again, there have been legal conflicts and concerns with existing legislation that have reined in the appetite to impose further restrictions. Instead, the policies have been adapted, especially in response to wider EU legislation. A key change was the decision in 2003 to allow adverts for beverages less than 15% ABV, under certain conditions. This does mean the restrictions are open to some interpretation and harder to enforce. The new Act (2010) incorporated health warnings as well as restrictions on advertising content and location.

On what basis were arguments made for and against the enacted legislation before, during and after enactment?

As described above, arguments made for the legislation tended to focus on social justice or national pride, framing the high levels of alcohol harms as a source of national embarrassment. In countries such as Sweden, the issue was raised as a way of protecting children and young people from increasing levels of alcohol-related harm. In Norway, protecting children and young people was described as 'much easier to sell' to politicians who would be more inclined to implement policies designed to protect young people as they were aware that supporting such restrictions would play well with voters. There also appeared to be a long standing social and political consensus that alcohol is harmful and a belief that Norway does not want to be a society prone to alcohol-related harms, resulting in a consensus that alcohol marketing should be strongly restricted. In Lithuania, a series of shocking stories of tragedy involving intoxicated individuals (including infanticide, violence and road traffic accidents) reinforced the case for preventing indirect harm and supporting those with a problematic relationship with alcohol. In several countries (notably Ireland, Sweden, and Estonia) the arguments were very clearly framed as public health ones and tackling alcohol harm was incorporated into health improvement strategies and plans.

Arguments made against restrictions have included: economic and cultural impacts, freedom of speech, as well as challenges regarding the proportionality of the restrictions and their effectiveness. In Estonia arguments against restrictions were typical of those presented by alcohol industry organisations: that the restrictions were not necessary and that they would be "impossible" to implement. Alcohol industry stakeholders used the media to frequently criticise

the Bill in a bid to undermine the legislation and reduce public support for it. They also argued that that restrictions on alcohol advertising would have terrible unforeseen consequences for the industry. Similar arguments arose in France where alcohol industry bodies claimed that marketing restrictions had resulted in job losses within the sector. Central to this lobbying was members of the wine industry who have close ties with the French Government. Claims have also been made by alcohol industry groups in France that Loi Évin prevents freedom of speech.

Alcohol industry organisations also challenged the data used to support restrictions. Lobbyists in France also argued that there was no proven link between alcohol advertising and consumption, challenging the data used to support restrictions. In Lithuania, alcohol industry bodies, advertising agencies, media organisations and business and government representatives disputed the facts and figures presented on Lithuania's consumption rates and alcohol-related harm and manipulated research to support their arguments. Opponents of the proposed ban created a strong narrative and used a variety of tactics to influence public opinion and government decision-making, using a range of extreme arguments against the proposed control measures. They argued that the data used to support the measures was false.

Alcohol industry organisations have previously argued against restrictions on advertising by claiming that advertising doesn't affect consumption, but rather affects people's choice of which beverage to buy. Therefore, any restrictions on their ability to market alcohol products would be against free trade laws and ineffective at reducing overall alcohol consumption. This argument was used in Sweden where marketing restrictions were challenged on the basis that they would have an adverse impact on free trade agreements. The European Court of Justice ruled that any restrictions were justified on the grounds of protecting public health, provided they were proportionate. Thus, the legal challenges then became an argument about proportionality. Similar challenges arose in Norway to do with a conflict between the national legislation and international trade agreements and EU rules. Legal disputes have arisen around the application of the European Union's proportionality rule.

What have been the barriers and facilitators to implementation of the legislative and regulatory framework?

Barriers and facilitators at each stage of the process are broadly generic and can be grouped into three main categories as illustrated in Figure 9:

- National context. These factors are important to understand, even if they are sometimes difficult to change. Some aspects of context here are entrenched and relate to national identity and cultural differences. For example, where countries have a

strong temperance union or movement, this can create a positive context for tighter regulations. One interviewee described her country as 'legalistic' in the sense that once parliament has approved something, it will generally stand accepted and unchallenged. Where national policy-making processes and policy actors are more open to direct lobbying, and where conflicts of interest go largely unchallenged, this can be a difficult context in which to introduce regulations that are unpopular amongst powerful industry organisations. Other aspects of context are sometimes more temporal. For example, the presence or absence of a strong majority in parliament can determine whether controversial measures are pushed through. In addition, strong support of or opposition from the public and media can influence policy makers' appetite for pursuing changes in legislation. Several countries have demonstrated how public opinion can be influenced over time, and how support can be built for tighter regulations, for example by raising awareness of alcohol related harms.

- National facilitators and barriers. These factors represent the area where the most change can be enacted. Recommendations for action would include targeting national barriers and turning them into national facilitators, to create a more supportive environment for implementing restrictions on alcohol marketing. For example, where there is weak cross-government support, it can be helpful to develop intersectoral collaboration through the creation of a working group or task force, and to involve and collaborate with a range of different interest groups and advocacy organisations who might be affected by the issues. A strong, national coalition (or 'umbrella' organisation) that brings together and represents these different interest groups and advocacy organisations can help to keep campaigns focused and on track. It is useful to consider where, in government, the responsibility lies, and in which government departments the impacts are felt. A national target that relates to reducing alcohol-related harm can help to galvanise action. And it is important to frame the alcohol debate in a way that resonates with politicians and the public – for example as an issue of social justice, rather than as a problem for individuals. Good national level data, and reliable evidence on consumption, health impact, suicide and wider harms is crucial for developing and maintaining a strong argument. Given the complexity of marketing regulations, it is also helpful to appoint specialists on public health and media law who can foresee problems and mitigate the threat of potential legal challenges.
- International facilitators and barriers. It is important to know about and understand these factors, and there are sometimes levers that can be pulled. There are opportunities, for example, to mobilise support from international partners and advocates, to learn from other countries about what has worked well and also what not to do, and to use international evidence and strategies to good effect. It is important to

recognise the value of multiple countries working together on the same issues, to reduce the risk of unintended consequences and to address advertising platforms that have global operations and reach. National governments that take a bold stand on reducing alcohol harm can also play an important role on the international stage, and push, for example, for stronger EU regulation in this area.

Figure 9: Barriers and Facilitators to implementation

<p>Support from international partners (e.g. Eurocare, Movendi, Nordan, Eucam)</p> <p>Examples set by other countries</p> <p>Cross-border working</p> <p>Strong scientific evidence</p> <p>International advocates for marketing restrictions</p> <p>WHO strategy and evidence; 'best buys'</p> <p style="text-align: center;">INTERNATIONAL FACILITATORS</p>										
<p>Good data on consumption & harm</p> <p>Alcohol a key target within public health policy</p> <p>Framing of debate as a social justice issue with political solutions</p> <p>Health taking firm lead of agenda (over economy)</p> <p>Inter-sectoral collaboration e.g. through task force or working group</p> <p>Strong NGO advocating & monitoring</p> <p>Public campaigns</p> <p>Collaboration of different organisations to support restrictions</p> <p>Government appointed legal specialists</p> <p>Diversion of attention (to a 'bigger' problem)</p> <p>Careful political moves re what to put on table when</p> <p>Evidence of attitudes & public opinion</p> <p style="text-align: center;">NATIONAL FACILITATORS</p>										
<p>High consumption and harm exposed/witnessed</p> <p>Strong temperance union</p> <p>Strong minister to champion measures</p> <p>Strong majority in Parliament</p> <p>Public support for ad bans</p> <p>Serendipity with timing</p> <p>Fractures / competition in alcohol industry</p> <p>Little tendency to oppose legislation once passed</p> <p style="text-align: center;">NATIONAL CONTEXT</p>										
<p>General tide towards greater liberalisation and de-regulation</p> <p>History of poor enforcement of regulations</p> <p>Weak majority in parliament</p> <p>Strong public resistance to increased regulation</p> <p>United, powerful and hostile media</p> <p>Strong and united alcohol industry</p> <p style="text-align: center;">NATIONAL BARRIERS</p>										
<p>Poor understanding of links between alcohol consumption & NCDs</p> <p>Poor understanding of positive impact of control measures</p> <p>Close involvement of industry and economic representatives</p> <p>Lobbying generating concerns in government re negative impacts</p> <p>Weak cross-government support</p> <p>Conflicts of interest amongst decision makers</p> <p>Lack of legal expertise in PH and media law</p> <p>Lack of clarity re proposals and implementation plans</p> <p>Bureaucratic & political delays</p> <p style="text-align: center;">INTERNATIONAL BARRIERS</p>										
<p>Cross-border mis-alignment</p> <p>EU law not very progressive</p> <p>Proportionality rule in EU law</p> <p>EC rules re country of origin principle</p> <p>Social media service providers operate globally, platforms constantly developing</p>										

How have the policies been received by key stakeholders, including the general population?

In almost all of the case study countries, the stakeholders reported that the general public were largely in favour of restricting alcohol marketing. In some places (e.g., Estonia, Sweden, Norway) there was strong support amongst the general public for restricting alcohol advertising. In Lithuania, the public supported restrictions on advertising as they did not feel it would affect them personally. In Ireland, there was a growing cynicism among the general population towards big business and industry, which made restrictions on marketing more palatable.

As discussed above, framing alcohol as either a social justice and public health issue or a source of national embarrassment worked well as a way of beginning a dialogue with policymakers. The evidence and arguments put forward by WHO and the inclusion of bans or comprehensive restrictions as one of the 'best buys' for the prevention and control of NCD, made them an obvious policy lever to press.

As described above, alcohol industry stakeholders have generally opposed restricting alcohol marketing by attempting to circumvent the laws or by lobbying for increased liberalisation of laws. Arguments made regarding job losses within the industry have not tended to come to pass and any difficulties regarding implementation, such as those argued in Estonia, have also proven to be minor or non-existent. In Norway and France, alcohol industry representatives have lobbied against the implementation of marketing restrictions citing freedom of speech, job losses and trade agreements. In countries such as France and Lithuania there have been examples of alcohol marketing which contravene the law, and in Ireland there have already been early examples where alcohol companies have been accused of not acting in the spirit of the restrictions (Moloney, 2022). There were also examples of industry support for advertising bans – notably from smaller producers in Norway who were better able to compete with larger companies. Perhaps in this context, a ban could therefore be framed as protecting smaller independent producers.

What impact, if known, have the restrictions had on levels of exposure to alcohol marketing?

The most notable finding here is the lack of research evidence. However, this is often due to the difficulty in separating the effect of marketing restrictions from the other measures which they are often implemented alongside. For example, despite initial implementation in 1991, very few studies have evaluated the effectiveness of the Loi Évin restrictions in France. One such study concluded that compared to social factors, policy measures did not appear to have an impact on reducing alcohol consumption (Cogordan, Kreft-Jais and Guillemont, 2000).

However, the same study concluded that when combined with a ban on the sale of alcohol to minors, restrictions on alcohol advertising were linked to a decrease in alcohol consumption over time. In Norway, a recent study of the effect of the advertising ban on recorded alcohol sales concluded that the ban in 1975 reduced recorded alcohol sales (Rossow, 2021). However, the growth of satellite tv and social media marketing in the past 20-30 years and the ending of the state monopoly have seen a large increase in violations which is likely to have an overall effect on exposure. Research is ongoing to evaluate the impact of the early measures introduced in Ireland (Critchlow and Moodie, 2021).

Interviewees often pointed to more qualitative indicators of potential impact, though formal qualitative studies are also lacking. For example, in Estonia, those who monitor advertising notice that they have very much less to do, as due to the near-complete ban alcohol advertising has largely disappeared (at least from traditional media). Also in Estonia, it was noted that alcohol consumption was decreasing until 2015, after which it levelled off (which interviewees attribute to the increase in cross-border trade prompted by large tax increases). Likewise, in Finland, the complete ban on advertising in public places means that now there is significantly less exposure in these spaces. Some small-scale evaluations are believed to have been conducted in Finland, but the findings have not been made available to the research team. An evaluation of Lithuania's policies by an American team of researchers was mentioned also by an interviewee, but this is believed to still be ongoing.

4.2 Lessons learned and implications for Scotland

Be bold: Although responsibility for health policy is devolved to the Scottish Government, marketing spans into areas which are reserved to the UK Government such as broadcasting. This means that the Scottish Government does not possess the power to implement a complete ban on alcohol marketing. However, one of the most frequent recommendations for Scotland was to be brave and ambitious whilst developing alcohol marketing restrictions. Any restrictions on alcohol marketing need to be as comprehensive as possible. A comprehensive ban on alcohol marketing was frequently cited as the most straightforward and effective measure to limit exposure. However, this is not always possible and an important lesson for Scotland is to remain pragmatic and propose bold restrictions whilst accepting that there may be some degree of compromise in order to gain political and public support.

Provide clear guidance: Related to this was the recommendation that restrictions should be framed to be as clear and unambiguous as possible. Almost all countries recommended that restrictions need to be straightforward and clear with no room for grey areas or subjective interpretation. The simplest way to do this would be to follow the original French and

Norwegian approach of a comprehensive and clear ban. This was referred to by one Swedish stakeholder as a 'positive legislation' approach where you specifically state any communications which should not be treated as marketing for the purposes of the legislation, with everything else being illegal. This was believed to be the easiest way to ensure implementation. Keeping the regulations 'media and method neutral' helps to future-proof restrictions so that emerging new technologies which policymakers cannot currently anticipate are still covered.

Address digital media marketing: Restricting alcohol marketing on social media was a key challenge for all of the case study countries and it was believed that this could be addressed by straightforward and comprehensive restrictions. However, the main difficulties in digital media were noted to be the challenge of regulating the spread of advertising within an environment that is based on content sharing, and monitoring activity on platforms that operate globally and that constantly develop their algorithms to optimise consumer reach. The international nature of much of this marketing makes it difficult to monitor and enforce and even countries which have reported some success implementing legislation addressing online alcohol marketing have described the legislation as complex and difficult to understand.

Gain public and political support: Finding a way to frame any potential restrictions is important to gain public and political support. The results here indicate that one often follows the other. Many countries did extensive polling to gauge public opinion and support for potential restrictions. For example, in Ireland, public support for alcohol marketing restrictions was strengthened by a growing cynicism towards big business and industry. In Lithuania, public support was attributed to a belief that any such restrictions would not affect the public personally, unlike tax increases or reduced opening hours. Improving health literacy can also help to gain public support for marketing restrictions as they become more informed about the links between alcohol and cancer. Our results indicate that if the public are supportive of a measure this will carry weight with politicians who are keen to appeal to voters and implement policies which already have strong public support. Having strong political will and leadership is vital to successful implementation as any restrictions will be subject to attacks from alcohol industry organisations.

Build the evidence: It is important to build evidence to combat any challenges or lobbying by alcohol industry stakeholders and others such as marketers. There needs to be a strong evidence base showing the need for legislation based on evidence of harm, which disproportionately affects the poorest citizens. Background work is important in order to be prepared for any window of opportunity which may arise as a result of political change. Evidence from other countries can be used to show what can be achieved. Any proposed

restrictions will be contested on grounds such as trade agreements, job losses or freedom of speech. The key message from countries such as Ireland, Estonia and Lithuania is to be prepared for these arguments. The French case study illustrates how continued lobbying by alcohol industry stakeholders can gradually weaken what began as robust restrictions and which are still held up as the gold standard by other countries. The lack of robust evaluations in many countries could have an impact on alcohol industry bodies' levels of success in pushing for increased liberalisation. Therefore, it is important that monitoring and evaluation be built in at the planning phase and used to build evidence of effectiveness.

Keep enforcement in mind: Restrictions should be designed so that they can be easily monitored and enforced, definitions need to be clear and definitive with no room for misinterpretation or subjective application. In practice this means stating any communications which should not be considered as marketing for the purposes of the legislation rather than listing what is not allowed. Consideration should be given to proactive rather than reactive systems for approving and monitoring advertisements. Sufficient resources should be allocated to enforcement and compliance and capacity increased to cope with the extra demands. Responsibility for monitoring and enforcement should be allocated to bodies along with sufficient resources and personnel to be able to undertake it effectively, rather than to departments with already heavy workloads. Sanctions need to be significant enough to discourage advertisers from breaching the regulations; countries with minor sanctions attached to the restrictions have reported continual breaches. Advertisers operate without fear of prosecution and for enforcement to be effective this needs to be considered, with fines proportionate to the severity of the violation and the company's income. Examples have shown that when penalties are raised significantly, it can eliminate intentional breaches of the regulations.

Be aware of cross-border marketing: It is also important to consider issues such as cross-border marketing which would be a particular issue for Scotland due to it being part of the United Kingdom. Sweden's experience regarding the EU Country of Origin principle shows the challenges of restricting alcohol marketing which originates in another country. Opponents may use this to argue that alcohol advertising restrictions are unfeasible and ineffective at limiting exposure, however, national action can still reduce exposure.

Boundaries will be tested: The examples above demonstrate how alcohol industry bodies will continually test/push the boundaries of what is acceptable under the regulations. As stated above, focusing on protecting children and young people can leave the restrictions open to subjective interpretation as there can be difficulties involved in proving that marketing has been aimed primarily towards children and young people. This can lead to long, drawn-out legal disputes where the restrictions are open to challenges regarding thresholds and

technicalities. A major difficulty is that much enforcement is reactive rather than proactive. Those responsible for enforcing laws often rely on reports from members of the public regarding any potential breaches. Examples from France have shown that alcohol industry bodies can and will challenge any disputes in court. The ensuing legal action can take months to get through the courts during which time the adverts will remain in circulation. It is important to anticipate this by employing the various elements identified above (e.g., by adopting a positive approach to legislation, addressing alibi marketing and providing clear guidance).

Address no/lo alcohol and alibi marketing: Another important point to consider here relates to the use of marketing for no/low alcohol products or alibi marketing in markets where alcohol marketing is restricted. Most countries report examples of lower or zero alcohol products that carry the same branding as alcoholic products being advertised in place of main brand or full-strength products. Some countries, such as Finland and Norway, have addressed this by including 'same-brand zero alcohol drinks' in their restrictions. In countries such as France, alibi marketing - using distinctive fonts and colours clearly associated with specific brands - has also been used to circumvent existing restrictions and this should also be explicitly addressed in any future legislation.

5. Conclusion

In conclusion, there is much to learn from other countries' experiences of designing and implementing alcohol marketing controls. Despite their different historical and geographical contexts, there were striking similarities in their experiences of developing and implementing alcohol marketing restrictions. Key factors to consider are: to underpin the legislation with clear evidence and arguments; to make the legislation itself as simple as possible and to be prepared for any proposed restrictions to be met with opposition. Comprehensive and clear bans stating any communications which should not be considered as marketing for the purposes of the legislation rather than banning specific content, channels or activities are more effective and far easier to implement than partial or unclear ones.

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7. Appendices

Appendix A. Summary of the Public Health (Alcohol) Act 2018 and commencement dates

Sect.	Measures and key exceptions	Commencement
11	Minimum price of €0.10 per gram of alcohol.	1 st January 2022.
12	Requires alcohol packaging and licenced premises to display warnings about the dangers of alcohol consumption, the dangers of drinking when pregnant, the link between alcohol and fatal cancers, and details of website providing independent health information about alcohol. The design and content of warnings will be mandated by the State.	Not yet scheduled.
13	Limits alcohol advertising (with limited exceptions) to factual information (e.g., product strength) and mandates the same warnings and website information as outlined for Section 12.	Not yet scheduled.
14	Prohibits advertising for alcohol in, on, or within 200 meters of certain locations (e.g., posters near schools, unless part of licenced premises) and on public transport or at transport hubs.	12 th November 2019
15	Prohibits advertising for alcohol in, or on, a sports area during an event, (except for branded clothing) or at events aimed at children or where most attendees or competitors are children.	12 th November 2021
16	Prohibits alcohol sponsorship of events where most competitors or attendees are children, or if the event involving motor vehicles/driving.	12 th November 2021
17	Prohibits clothing intended to be worn by children which promotes alcohol consumption or is branded with alcohol brand names, logos, etc.	12 th November 2019
18	Limits print press advertising of alcohol to $\leq 20\%$ of advertising space in publication and prohibits advertising for alcohol on the front or back cover, on any outer wrapping, and if the publication is aimed at children or $\geq 20\%$ readership are children.	Not yet scheduled.
19	A 'watershed' that prohibits advertising for alcohol on television between 03:00 and 21:00 or on the radio between 00:00 and 10:00 or 15:00 and 00:00.	Not yet scheduled.

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|----|--|--------------------------------|
| 20 | Prohibits advertising for alcohol at the cinema unless immediately before, or during, films certified for 18+ audiences or the advertising is part of licensed premises in the cinema. | 12 th November 2019 |
| 22 | Requires mixed-trade retailers to limit the visibility of alcohol and associated advertising through specific options, e.g., physical barrier with a minimum 1.2 meters height or enclosed adjacent storage units where products are not visible up to 1.5 meters. | 12 th November 2020 |
| 23 | Prohibits award or use of loyalty points in relation to sale of alcohol (both accrual or redeeming), the sale of alcohol at a reduced price (or free of charge) when sold with either one or more alcohol products or other products and service (e.g., buy one get one free), or sale of alcohol at reduced price for period of three days or less. | 11 th January 2021 |

Notes:

Section 21 relates to a statutory review of Sections 13-20

See (Irish Statute Book, 2018) for full details of measures and exceptions