

Deficits in Alcohol Enforcement Legislation in Ireland: Bottomless Brunches

Niamh McGrath⁽¹⁾ , Frank Houghton⁽¹⁾ , John Lombard⁽²⁾ 

(1) Social Sciences ConneXions Research Institute, Technological University of the Shannon, Limerick, Ireland 
 (2) School of Law, University of Limerick, Limerick, Ireland. 

CORRESPONDING AUTHOR: Dr Frank Houghton, Technological University of the Shannon, Limerick, Ireland.
 E-mail: Frank.Houghton@TUS.ie

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Alcohol remains a clear and present danger to population health in Ireland. In response to this threat, the Irish Government passed the Public Health (Alcohol) Act, 2018. In addition to introducing Minimum Unit Pricing (MUP) and alcohol warning labels, this legislation also prohibits the selling of alcohol at a reduced price and the sale of alcohol in a manner likely to encourage alcohol consumption. However, this paper identifies numerous examples of 'bottomless brunches' in Ireland wherein unlimited alcohol is provided for a fixed price within a certain time period. A robust response from the Health Services Executive (HSE) and the Government is required to respond to alcohol as a Commercial Determinant of Health (CDoH).

The World Health Organization (WHO) has identified alcohol as an important Commercial Determinant of Health (CDoH) [1,2]. Alcohol is responsible for approximately 2.6 million deaths annually and constitutes more than 5% of the total global burden of disease and injury [3–5]. The significant adverse impacts of alcohol on health and well-being globally are mirrored in recent research from Ireland's Health Research Board (HRB) [6]. Recent evidence suggests that alcohol is the 8th leading cause of death in Ireland and is responsible for 8% of deaths [7].

In response to the damage wrought by alcohol, the Irish Government passed the Public Health (Alcohol) Act, 2018 (PHAA) [8]. This Act introduced several key measures, including Minimum Unit Pricing (MUP), and the impending commencement of mandatory alcohol warning labels. Although the Government has been criticised both for its deficits and for the slow enactment of the PHAA 2018 [9–11], it remains a significant piece of alcohol-control legislation.

Section 23 of the PHAA 2018 relates to the sale and supply of alcohol products [8]. Among other prohibitions, it permits the Minister to make regulations

prohibiting the supply and sale of alcohol at a reduced price. These regulations were subsequently provided for by the Public Health (Alcohol) Act 2018 (Sale and Supply of Alcohol Products) Regulations 2020, which came into operation on 11 January 2021 (see Table 1).

Table 1. Regulations 4, 5 and 6 of the Public Health (Alcohol) Act 2018 (Sale and Supply of Alcohol Products) Regulations 2020

4. A person shall not sell or supply, or cause to be sold or supplied, an alcohol product at a reduced price or free of charge to any person on the purchase by that person, or any other person, of - (a) one or more other alcohol products (whether of the same or a different kind), or (b) any other product or service.
5. A person shall not sell or supply, or cause to be sold or supplied, an alcohol product for a period of 3 days or less at a price less than that being charged for the alcohol product on the day before the commencement of the period concerned.
6. A person shall not advertise or promote, or cause to be advertised or promoted, the sale or supply of alcohol products in a manner specified in Regulation 4 or 5.

It is arguable that these public health regulations are being breached by the provision of so-called 'bottomless brunches', wherein, for a set fee, unlimited alcohol is provided alongside food for a set time period [12]. The drinks provided routinely include sparkling wine in the form of Prosecco, Mimosas, or Bellinis. The law prohibits the sale or supply of alcohol at a reduced price to any person on the purchase of any other product or service. The supply of unlimited alcohol is contingent upon the purchasing of food. As such, it can be argued that the sale and supply

of alcohol in this fashion represents a violation of the Public Health (Alcohol) Act 2018 (Sale and Supply of Alcohol Products) Regulations 2020.

A cursory internet search by one of the authors lasting less than 4 hours identified 18 establishments offering bottomless brunches including unlimited alcohol in Dublin (n=5), Cork (n=5) Limerick (n=2), Galway (n=2), Kilkenny (n=1), Sligo (n=1), Tipperary (n=1), and Athlone (n=1).

Figure 1. Online Advert for a Dublin based Boozy Brunch



Figure 1 details an example advert for one such Bottomless Brunch, albeit described in this particular advert more explicitly as a 'Boozy Brunch'.

More detail on such bottomless brunches can be seen in the following web-based advert for another Dublin-based establishment:

For just €49.50 per person, you'll be treated to a delectable brunch main dish paired with an endless flow of cocktails, all within a relaxed 2-hour sitting... We are serving up epic flavours and unbeatable vibes alongside our classic boozy brunch cocktails. Our drinks menu is extensive with bottomless cocktails including the classic Bellini with peach puree, Mimosa with OJ and French 75s.

Such actions in relation to the PHAA 2018 bring attention to the crucial issue of the enforcement of legislation in Ireland. Alcohol Action Ireland reports that they have repeatedly raised this issue with the HSE without any result [13]. Recent research has highlighted other deficits in the enforcement of the PHAA 2018 [14]. This lack of enforcement is also evident in other public health-related domains, including tobacco control [15], road traffic laws [16–19], and environmental protections [20]. It has been suggested that alcohol legislation enforcement in Ireland may be impeded by issues as legal complexities and apprehension relating to judicial enforcement [21]. The result may be an orientation towards soft mandates rather than prosecution.

This examination suggests that alcohol control legislation without robust enforcement may be of little use in restricting illegal alcohol promotion. Alcohol remains a commercial determinant of health that continues to significantly negatively impact population health in Ireland [6,7]. It is disconcerting that despite prior reports to the HSE on this issue [12], no action appears to have been taken. Ireland has exhibited a

lack of leadership in relation to alcohol control in the past [22]. However, direct and purposeful leadership is now required to promote health and combat the threat posed by practices that actively promote excess alcohol consumption.

CONFLICT OF INTEREST

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