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TROUBLE BREWING? EU AND MEMBER-STATE PUBLIC HEALTH POLICY AND THE EUROPEAN BEER INDUSTRY

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TROUBLE BREWING? EU AND MEMBER-STATE PUBLIC HEALTH POLICY AND THE EUROPEAN BEER INDUSTRY¹

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Summary

During the past decade, the European Union (EU) has increased its competence in consumer safety and public health. Under Article 152 of the Amsterdam Treaty, for example, the EU is committed to ensure “a high level of health protection.”² This increased competence has allowed the EU to extend its regulatory reach. In the summer of 2005, the European Commission began to enforce a ban on advertising and sponsorship of cross border events by tobacco companies within the EU.³ This includes a ban on sponsorships of Formula One race car drivers by tobacco companies.⁴ The new Commissioner for Health and Consumer Affairs, Markos Kyprianou, warned the alcoholic beverage industry earlier this year that it must stop marketing its products to young drinkers or the EU will take action in this area.⁵ Such Europe-wide regulations have been advocated by non-producer groups, which have increasingly mobilized in Brussels. The focus on public health issues poses new challenges to European business and has increased the incentives for firms and trade associations to mobilize more effectively in Brussels in order to influence the EU’s regulatory policies.⁶

This paper explores the political response of one sector of the economy – European beer brewing – to these new challenges. Beer brewing is an important industry in Europe. Europe is home to five of the six largest global beer producers. European beer brewers account for 60% of the world’s beer exports and 30% of global beer production. The European brewers are represented in Brussels by the Brewers of Europe (BoE), which is a confederation of 21 national associations and represents approximately 90% of beer producers in the EU-25. During the past few years, the brewers have restructured their trade association in Brussels and engaged in more aggressive lobbying in order to influence the EU’s policy-making process. In this paper, I seek to explain these changes by examining the increased concentration of the sector and the

¹I thank Tom Allen, Martin Staniland, and David Rowe for their suggestions and comments on this paper.

²While the Treaty calls for the EU to ensure a high level of health protection, it also states that the harmonization of laws and regulations of the Member States is excluded (Art. 152 para.4 lit.c EC Treaty).

³Tobacco Advertising Directive (TAD2) 2003/33/EC of the European Parliament and of the Council of Ministers of 26 May 2003, *Official Journal of the European Communities* L152, 20.06.2003.

⁴David Rennie “EU warning on marketing alcopops to young people,” *The Daily Telegraph* (London), March 5, 2005, p. 15.

⁵George Parker, “Brussels warns drinks industry not to target young consumers,” *Financial Times*, May 2, 2005, p. 9.

⁶See, for example, Barrie Gilliat, “Operating in Contested Environments: The Experience of the Chlorine Industry,” in Justin Greenwood, ed. *The Challenge of Change in EU Business Associations*, Basingstoke: Palgrave Macmillan, 2003, pp. 123-135. The chlorine industry reorganized its trade association in the 1990s in response to challenges by environmental groups.

increased attention to public health by non-producer groups such as Eurocare⁷, the World Health Organization (WHO), some national governments, and the European Commission. I then analyze the extent to which the political activities of the brewers have shaped the debate over alcohol control in the EU.

This case study on the European brewing sector and alcohol control policy allows me to explore several broader questions. These include:

- What is the impact of industrial consolidation on collective mobilization?
- How have market liberalization and the increased competence of the EU affected the debate over public health?
- What is the relative effectiveness of industry and non-producer groups in the policy-making process?

The paper draws on interviews with Commission officials, European and national trade association officials, and individual brewers, which I conducted in 1989-91 and in 2003-04. By conducting interviews over time, I can compare the changes in the political activities of the brewers before and after the major consolidation of the industry and before and after the emergence of major alcohol control groups and the accession of the Scandinavian countries to the EU.

The paper is divided into six sections. The first section outlines the economic characteristics and political organization of European beer brewers prior to the 1990s. The second section explores the impact of increasing competitive pressures on the brewers during the 1990s and early 2000s, which led to the increased concentration of the industry and the emergence of five multinational firms - InBev, SABMiller, Heineken, Carlsberg, and Scottish & Newcastle. The third section analyzes the activities of Eurocare, WHO's Regional Office for Europe, the member states, and the European Commission to reduce alcohol-related harm. The fourth section examines the political response of the brewers to those activities, focusing in particular on the political reorganization of their European trade association and its lobbying activities in Brussels. In the fifth section, I discuss the impact of the brewers' political reorganization and lobbying on the debate over alcohol control policy in the EU. Finally, I draw some conclusions about the changes in the brewers' association and the EU's policy-making process.

1. The Economic and Political Structure of the Beer Brewing Sector Before the 1990s

The Traditional Economic Structure of the Industry

The beer brewing sector is among the largest and most important food and beverage industries in Europe. Beer brewing includes over 2,000 large, medium, and small breweries. It

⁷ Eurocare is an acronym for European Council for Alcohol Research, Rehabilitation and Education.

employs some 140,000 people directly and over 4 million people indirectly. European beer producers in the EU-25 account for 30% of all beer production worldwide. The sector also contributes some 8.5 billion Euros annually to national government budgets in the form of excise duties.⁸

Despite its economic significance, beer was a regional or national product for most of the post-WWII period.⁹ The sector was dominated by small- and medium-sized family-owned breweries. Even the largest brewers, such as Heineken, tended to have a small number of export products and a limited market presence in foreign countries. A variety of obstacles hindered the emergence of large, multinational European brewers. Regional tastes in beer varied considerably and, while beer was the dominant alcoholic drink in some northern European countries, it was less important in much of southern Europe and in much of the rest of the developing world. Moreover, national barriers to trade made it more expensive for firms to sell beer in other countries and to find distribution outlets for beer.

The most significant national barriers to trade included differences in the allowable ingredients in beer, in the allowable alcoholic content level, and in the size of containers. For example, under Germany's *Reinheitsgebot* or purity law, the German government refused to accept most beer imports. The law was established by Duke Wilhelm IV of Bavaria in 1516. It required beer to be brewed using only water, hops, malt, and yeast. No unprocessed juices or chemical additives could be used. Brewers in other major EU member beer-producing countries, such as Belgium and Great Britain, often used such additives to prolong the shelf life of beer, stabilize the foam, or improve the taste. Under a similar national purity law, Greece also forbade most beer imports.

In addition to differing national regulations, national and regional brewers were protected from competition by property and loan ties, which made it difficult for foreign brewers to find outlets in which to sell their beer. Under property ties, brewers owned bars or restaurants and those establishments were allowed to sell only their beer. Under loan ties, brewers provided loans to bars or restaurants in return for which the establishment agreed to sell only the brewer's beer. Brewers could also stipulate what other alcoholic and non-alcoholic beverages could be served. Property ties were critical to the economic survival of many small brewers because they guaranteed a retail outlet for their beer. The loan tie benefited larger brewers by saving advertising and marketing costs. It also gave them a dominant position in their domestic markets since large firms had the capital to make loans to bars, restaurants, and hotels; and foreign brewers had difficulties entering these markets.

The European Commission sought to remove some of these national barriers to trade in beer in the late 1960s and early 1970s, but was prevented from doing so by the German government. A Commission proposal in 1970, for example, would have removed national regulations restricting the allowable ingredients in beer. The proposed directive was approved

⁸Brewers of Europe, "A First Submission in the Context of DG SANCO's First Draft Working Paper on a 'Coordinated Approach in Europe to Tackle Alcohol-Related Harm,'" Brussels: BoE, September 2004, p. 6.

⁹Much of the background on the beer industry comes from Pamela Camerra-Rowe, *Lobbying in the New Europe*, Ph.D. Dissertation, Duke University, 1994.

unanimously in the Council of Ministers but was withdrawn in 1976 after intense German government opposition. Germany had the largest number of small- and medium-sized brewers and these brewers argued that the removal of purity laws would threaten their survival.

Little further progress was made in creating a European single market for beer until 1979 when the European Court of Justice (ECJ) established the principle of mutual recognition in the *Cassis de Dijon* decision. The Court ruled that food that is legally produced and marketed in one member state must be allowed to be freely traded in other member states unless the importing country could show that the product threatened public health, consumer safety, or its fiscal authority. Despite the ECJ's decision, some member governments – most notably Germany – continued to block beer imports, arguing that chemical additives were a health risk to consumers. This was challenged by a French brewer in 1982 in the European Court of Justice.¹⁰ The case was resolved in March 1987, when the Court upheld the mutual recognition principle in *Cassis* and ruled that Germany's ban on imports was illegal and disproportionate to the health risk involved. The ECJ did allow Germany to continue to require that brewers in Germany brew under the *Reinheitsgebot*.

The lifting of purity laws initially led to few changes in the market for beer. In part, Europe remained the largest market for beer and national markets continued to be protected by property and loan ties. In 1983, the EU adopted a regulation (1984/83) that provided a block exemption for beer brewers for certain property and loan ties. Beer brewers lobbied nationally for the exemption, which allowed domestic firms to continue to control much of the distribution in their national markets. This regulation allowed brewers to have an exclusive tie for beer alone for a maximum period of ten years. The regulation took effect on January 1, 1989 and expired on December 31, 1997.

Thus, for much of the post-WWII period, market integration had little impact on the beer brewing sector. Creating a European single market or global market for beer was simply not high on most brewers' priority list.

The Political Organization of the Brewers

The limited impact of market integration on the beer brewing sector was reflected in the political organization of brewers in Brussels. The brewers set up a European trade association, the Confédération des Brasseurs du Marché Commun (CBMC), in Brussels in 1958. The CBMC was a confederation of national associations. It took decisions by unanimity and finding consensus among the national associations took time and was sometimes difficult. This difficulty reflected the regional focus of brewers, the differing importance of beer brewing in European countries, differing national regulations, and the fragmentation of the industry. When members reached agreement on policy issues, it was often too late in the policy process to influence the EU's policy agenda. Instead, the CBMC functioned mainly to gather information about proposed EU policies. But even here, it lacked the resources to do so effectively. In early 1991, just two staff people followed all technical, fiscal, social and environmental issues in the

¹⁰ European Court of Justice, *Commission v. Germany*, ECJ Case 178/84.

EU.

The CBMC office was located on the outskirts of Brussels, a considerable distance from the Commission and European Parliament buildings, which added to the impression of a marginalized organization. After the passage of the Single European Act, the CBMC's General Secretary spent much time on the phone trying to explain to firm and national association officials that the organization needed more money and support in order to follow the increasing amount of legislation coming from the EU. But she said, "The biggest problem is that the national level is still seen as the most important, so it is difficult to get them to support the European association".¹¹ Some firms viewed the CBMC as a nuisance or as ineffective. Several smaller brewers said they never received information from the CBMC and some said they did not even know the CBMC existed.¹² Most of the brewers' contacts and information came from their national or regional associations.

At the same time, by the beginning of the 1990s, more legislation affecting the brewers was being proposed in Brussels, including environmental and advertising legislation.¹³ Debate about the adverse health effects of tobacco and alcohol increased within the World Health Organization and in some member states. In 1990, the alcoholic beverage industry set up The Amsterdam Group, which was supported by some of the largest European brewers, vintners, and spirits makers. The group included Heineken, Interbrew, and Scottish & Newcastle, along with major spirits groups such as Bacardi. Its goal was to promote responsible drinking in Europe and self-regulation in the industry and to participate in European level discussions on alcohol-related policies. But the European brewers' organization, CBMC, played a relatively minor role in the EU's policy-making and agenda-setting process.

2. The Globalization of the European Beer Brewing Industry

Over the past 15 years, significant changes have occurred in the brewing industry due to changes in alcohol consumption. Overall alcohol consumption in developed countries has declined, while alcohol consumption in the rest of the world has increased. In the EU-15, average per capita alcohol consumption in 1998 was 7.3 liters of pure alcohol, down from 10 liters in 1987.¹⁴ At the same time, average per capita consumption of alcoholic products worldwide increased 12% between 1990 and 2001, with the largest increases occurring in Latin American and eastern Europe.¹⁵

¹¹Personal Interview, Brussels, 02.28.91.

¹²Pamela Camerra-Rowe, *Lobbying in the New Europe: Firms and Politics in the Single European Market*, Ph.D. Dissertation, Duke University, 1994.

¹³In May 1986, the Council of Ministers passed a resolution that called on the Commission to take measures designed to decrease alcohol abuse in the member states (*Official Journal* C184, 23.07.1986). In 1989, in the TV Without Frontiers directive, the Council stipulated that alcohol advertising not be aimed specifically at minors or encourage excessive consumption. Council Directive 89/552/EEC.

¹⁴Commission of the European Communities, *Panorama of EC Industry 1990*, Luxembourg: Office of Official Publications, 1990, p. 15-75 and *World Drink Trends*, Henley on Thames: NTC Publishing, 1999. This masks considerable differences between countries. Ireland, Greece Luxembourg and Portugal saw increasing consumption in the period, while Italy, France, Denmark saw decreasing consumption.

¹⁵Adam Jones, "First the target was tobacco. Then burgers. So how has Big Alcohol stayed out of the lawyers'

Beer consumption was affected by these trends. In 2000, average per capita beer consumption in the EU-15 was 75.9 liters, down from 82.5 liters in 1980. In some countries, there was an even starker reduction: in Germany, the largest beer market in western Europe, average per capita beer consumption decreased to 125.5 liters in 2000 from 145.9 liters in 1980; in the U.K., it was down to 95.4 liters from 118.3 liters.¹⁶ Health concerns and the availability of alternative drinks, such as bottled waters and lemonade, depressed beer sales. Consumption of bottled water, for example, grew from 29.1 million hectoliters (hl) in the EU in 1995 to 34.5 million hl in 2000.¹⁷ Not only were western European beer drinkers drinking less, but by the early 2000s in several western European countries, they were more likely to buy beer in grocery stores and consume it in their homes than in pubs and restaurants. This lowered profit margins for the brewers.¹⁸

In addition to an overall decline in beer consumption, there were changes in drinking patterns across western Europe. In the period from 1970 to 1990, alcohol consumption in some of the highest consuming countries in southern Europe such as France and Italy declined, whereas the consumption in some northern countries such as Denmark increased. Moreover, some countries, including Italy and France, where wine had been the dominant alcoholic beverage type, and other countries including Great Britain, Ireland and Austria, in which beer was the main alcoholic drink, converged on a mix of around 50% beer, 35% wine and 15% distilled beverages.¹⁹

The effect of these changes in alcohol consumption was to increase competition among beer brewers in western Europe. Larger European brewers sought to consolidate their hold on traditional markets and to seek new markets in order to remain profitable. As one firm official put it, “you had to buy or be bought.”²⁰ The highly fragmented nature of the sector allowed for significant merger and acquisition activity. High transport costs and continued differences in regional taste meant that larger brewers often bought smaller, established brewers within Europe. Large brewers also aggressively pursued new market opportunities in eastern Europe, Asia, and Latin America, where consumption of alcoholic beverages was rising.

Among the most spectacular change in the sector was the emergence of Interbrew (now InBev), a company that did not exist prior to 1987. Interbrew was created in 1987, when Belgium’s two largest brewers, Brasseries Artois and Brasseries Piedboeuf, merged. Between 1995 and 2004, Interbrew spent \$13.5 billion on 42 purchases and joint ventures.²¹ The company went public in 2000. Interbrew bought many local and national brands including specialty beers and lagers from around the world. It owns such brands as Beck’s and Bass Ale.

sights?” *Financial Times*, July 8, 2003, p. 17.

¹⁶ CBMC-Brewers of Europe, *Statistics 2001*, Brussels: CBMC-Brewers of Europe, 2001.

¹⁷ Eurostat, *European Business Facts and Figures. Data 1990-2000*. Luxembourg: Office of Official Publications of the European Communities, 2002, p. 97

¹⁸ Adam Jones, “The drinks are in the house”, *Financial Times*, March 23, 2004, p. 16.

¹⁹ G. Edwards et al., *Alcohol Policy and the Public Good*, Oxford: Oxford University Press, 1994, as cited in Peter Allebeck, “Alcohol Policy in Europe: What can the European Union do?” *European Journal of Public Health*, 2001, (11): 1-3.

²⁰ Personal interview, Brussels, 04.01.04

²¹ Renee Cordes, “Interbrew Still Thirsty,” *The Daily Deal*, March 8, 2004, p. 1, (<http://web.lexis-nexis.com>).

Among its recent purchases were Gabriel Sedlmayr Spaten-Franziskaner Bräu (Spaten Group) in Germany and the largest Serbian brewery, Apatin, in 2003. In March 2004, Interbrew and Companhia de Bebidas das Americas (AmBev) in Brazil agreed to establish InBev, which now has 14% of the global market share and is the largest beer producer in the world.²²

The second largest European brewer today, SABMiller, was not present in Europe ten years ago. It began as a small South African brewing company. The company moved first into other African nations, then to eastern Europe, China, and India. In 2002, it bought Miller from Philip Morris in the U.S. and in 2003 it bought Peroni of Italy, Brouwar Dojdlyn in Poland, and d'Aurora in Romania, making it a global brewer with significant European interests. It also established a corporate office in London.

Several other European brewers moved aggressively to establish themselves globally. Scottish & Newcastle, which is based in Edinburgh, bought several major brewers including Kronenbourg, the largest French brewer; Scottish Courage, the leading British brewer; and Alken Maes, Belgium's number two brewer. It also bought Fosters and John Smith's, and, in a joint venture, purchased Hartwell, Finland's leading beer and soft drinks company. Similarly, the Danish brewer Carlsberg acquired Germany's second largest brewery, Holsten Brauerei, as well as Shumensko and Pirinsko in Bulgaria. Since the late 1990s, Carlsberg has moved from being the market leader in only six markets to having market-leading brands in more than 20 countries and sales in over 140 countries.²³ The Dutch firm Heineken, which was one of the first European brewers to engage in cross-border deals, also spent \$3 billion in 2002 for a dozen acquisitions including BBAG, a family-owned brewer in Austria. As a result of this merger and acquisition activity, five of Europe's largest brewers – InBev, SABMiller, Heineken, Carlsberg, and Scottish & Newcastle – were among the top six global brewers, along with the U.S. firm Anheuser-Busch, in 2004. Their interests reach far beyond national boundaries and their resources have increased substantially.

In addition to seeking new markets, large brewers have engaged in more aggressive advertising and marketing in the last decade in order to promote their products and attract new customers. Several of the largest brewers had to give up their property and loan ties in the 1990s and early 2000s as a result of changes in national regulatory regimes. The British government, for example, set up the Monopolies and Merger Commission in 1985 to investigate whether large British brewers held a monopoly position in the United Kingdom as a result of property and loan ties. The Commission concluded that a monopoly did exist among large UK brewers because they had the financial resources to dominate the pub and restaurant market. It recommended that loan ties be abolished and property ties be limited to 20 per brewer.²⁴ Despite vigorous opposition from the British Brewers Society and individual brewers to these recommendations, the British Department of Trade and Industry adopted regulations in August 1989 that required UK brewers with more than 2,000 pubs to release the tie on half the outlets in excess of that number and allow the tenants of those pubs to buy beer from any other brewer.

²²Interbrew, *Annual Report 2003*, <http://www.interbrew.com>.

²³Carlsberg, *Annual Report 2003*, www.carlsberg.com.

²⁴Monopolies and Mergers Commission, *The Supply of Beer: A Report on the Supply of Beer for Retail Sale in the United Kingdom*, London: Her Majesty's Stationery Office, 1989.

This national deregulation was followed by European-level discussions on property and loan ties in the late 1990s. The EU had passed a block exemption for loan and property ties for brewers in 1983, but this expired in 1997. In 1999, the EU member states passed a new block exception regulation on vertical agreements. Under the new regulation, only brewers with a market share not exceeding 30% of the domestic market could have a loan or property tie. This went into force on January 1, 2002 and several of the largest brewers were forced to give up their remaining distribution outlets.

As a result of this deregulation, the largest brewers had to rely more heavily on advertising, marketing, and sponsorships to build brand loyalty, stimulate demand, and maintain their dominant market position. Moreover, as brewers have entered new markets where beer is not a traditional drink, they have had to find ways of attracting customers through advertising and marketing. They have also had to compete head-on with the spirits industry for new consumers. The consumption of spirits has risen in Europe in recent years. Between 1998 and 2000, one million additional liters of spirits in pure alcohol were sold each year in the EU.²⁵ Greater competition with the spirits industry has led to greater expenditures on advertising and marketing. In Ireland alone, the amount spent on alcohol advertising, excluding sponsorships and other promotional activities, increased from EUR 25.4 million in 1996 to EUR 43.2 million in 2003.²⁶ Similarly, in the UK, alcoholic beverages are among the most heavily advertised products. Annual expenditure in alcohol advertising rose during the 1990s and, with it, alcohol consumption of 11-15 year-olds also rose.²⁷ In 2000, £ 227.3 million was spent on alcohol advertising in Britain, with £ 129.4 million spent on beer advertising.²⁸

3. Political Change in Europe

The increasing competitive pressures in the European brewing industry have been accompanied by new political challenges for the brewers. As national regulatory regimes were removed and the availability of alcoholic beverages became more widespread, public health experts and national government and international organizations became concerned over alcohol-related harm and advocated stricter regulation of alcohol.

The Mobilization of Non-Producer Groups - Eurocare

Many consumer, environmental, labor and public interest groups mobilized in Brussels during the 1990s because of fears that the European single market would benefit business at the expense of other groups.²⁹ The Commission also sought to increase participation of these groups

²⁵David Byrne, EU Commissioner for Health and Consumer Safety, Speech to British Beer and Pub Association, undated.

²⁶E. Donnellan, "Soaring drink sales take toll on health of society," *Irish Times*, Sept. 23, 2004, p. 9.

²⁷Institute for Alcohol Studies, "IAS Fact Sheet, Alcohol and Advertising," p. 4 at www.ias.org.uk.

²⁸Institute for Alcohol Studies, "IAS Fact Sheet: Alcohol and Advertising," p. 1 at www.ias.org.uk.

²⁹Alasdair Young and Helen Wallace, *Regulatory Politics in the Enlarging European Union*, Manchester: Manchester University Press, 2000; S. Mazey and J. Richardson, "Institutionalizing Promiscuity: Commission-Interest Group Relations in the EU," in Alec Stone Sweet, Wayne Sandholtz and Neil Fligstein, eds., *The*

in the policy-making process and even encouraged the formation of these groups.³⁰ In the case of alcoholic beverages, an advocacy group called Eurocare was formed in 1990 by nine voluntary and non-governmental national organizations. These national organizations are a diverse group that provide information to the public, educate voluntary and professional community care workers, provide work place and school programs, and/or undertake research and advocacy on alcohol and alcoholism. They include such organizations as the Institute of Alcohol Studies in the UK and ANPA (Association Nationale de Prévention de l'Alcoolisme) in France. As the EU has expanded, so too has Eurocare. The organization now has 55 member organizations.

Eurocare was set up initially because of concern over the “negative effects of the Single European Act on alcohol control policy.”³¹ Member organizations feared that as national restrictions on advertising and alcohol consumption were dismantled, alcohol consumption would increase, and so, too, would alcohol-related harm. Moreover, in 1990, the alcohol industry set up The Amsterdam Group, a pan-industry social aspects organization designed to promote responsible consumption and self-regulation and to participate in discussions with European policy-makers over alcohol control regulation. Eurocare sought to provide information to policy makers to counter the claims of the alcohol industry and to promote public health through the reduction of alcohol consumption.

Eurocare members argue that alcoholic beverages are different from other commodities in the single market. The organization classifies alcohol as a dependence-producing drug.³² Alcohol consumption, it notes, has harmful physical and societal effects. It contributes to disease and early mortality as well as to accidental and non-accidental injury and violent crime. In a recent report, Eurocare estimates that the total costs arising from the harm done by alcohol in European countries lies between 2% and 5% of GDP.³³

To reduce alcohol-related harm in Europe, Eurocare advocates policies that would reduce the overall consumption of alcohol. These include a rise in excise duties on alcohol; a ban on the advertising of alcohol on television, in sports stadia, and in young people’s magazines; and the introduction of statutory codes of advertising practice for alcohol advertising with financial penalties for infringement. It also advocates establishing low legal alcohol limits for driving and enforcing these through random breath testing throughout the EU.

While The Amsterdam Group advocates self-regulation of the industry, Eurocare members argue that self-regulation does not work. “The overall aim of such social aspects organizations is to benefit their funding body, which is the alcohol industry, rather than public health or the public good,” it argues in a report.³⁴ Eurocare members argue that despite self-

Institutionalization of Europe, Oxford: Oxford University Press, 2001

³⁰Commission of the European Communities, *An Open and Structured Dialogue Between the Commission and Special Interest Groups*. Brussels: Commission of the European Communities, SEC (92) 2272 final, 1992.

³¹ Eurocare, *A Summary of Alcohol Policy and the Public Good: A Guide for Action*, 1995, <http://www.eurocare.org>.

³² Eurocare, *A Summary of Alcohol Policy...*, p. 9.

³³Eurocare, *The Beverage Industry’s Social Aspects Organizations: A Public Health Warning*, 2002, p. 25, <http://www.eurocare.org>.

³⁴Eurocare, *The Beverage Alcohol Industry’s Social Aspects Organization*, p. 1.

regulatory codes of conduct, firms have been irresponsible in marketing alcoholic beverages. Eurocare points to specific advertisements using sexually explicit material and aimed at young people to argue that “the beverage alcohol industry is unable to regulate itself and its self-regulatory codes are persistently and consistently broken.”³⁵

Eurocare has advocated the exclusion of organizations funded by alcohol beverage producers from the European policy-making process because alcoholic beverage firms are interested in increasing their own profits and, hence, increasing consumption of alcohol. According to Eurocare, “[the] view of social aspects organizations that they have an equal place at the policy table fails to recognize that the evidence that they bring to the table is not impartial and favors the commercial interests of the beverage industry rather than the public good.”³⁶

Throughout the 1990s, Eurocare issued reports outlining the negative impact of alcohol consumption but it otherwise played a limited role. Within the European Union, moreover, public health issues remained a secondary priority behind single market legislation for much of the early 1990s. However, WHO’s focus on tobacco and alcohol, the accession of the Scandinavian states to the EU, and increased consumption of alcohol among young people helped focus more attention on alcohol-related harm issues. The EU also gained greater competence in the public health arena during the 1990s. As a result, Eurocare began to play a more influential role in shaping the debate on alcohol control policies. It has been included in discussions with the Directorate General of Consumer Safety and Public Health (DG-SANCO) on alcohol control policy. Brewers’ association officials said that Eurocare officials have been extremely well-organized for these meetings, oftentimes more so than the brewers have been.³⁷ In June 2004, Eurocare organized a conference in Warsaw that highlighted the problems of alcohol-related harm in eastern Europe. The conference was partially sponsored by the European Commission.

The World Health Organization - European Regional Office

The European Regional Office of the World Health Organization (WHO) has been a strong advocate of reducing the harmful effects of alcohol use. The mission of WHO’s European Regional Office is to improve health in its 51 member-state region, which includes all the countries of the EU. The European Region has the highest per capita alcohol consumption in the world and alcohol products are estimated to be responsible for 9% of the total disease burden in Europe. It estimates that 25% of European men and 10% of European women consume alcohol at levels that are hazardous and harmful to their health.³⁸ WHO places alcohol in the same category as other addictive substances such as tobacco and psychoactive drugs.

WHO’s Regional Office for Europe drew up a European Alcohol Action Plan (1992-99),

³⁵Eurocare, *The Beverage Alcohol Industry’s Social Aspects Organizations*, p. 19.

³⁶Eurocare, *The Beverage Industry’s Social Aspects Organizations*, p. 1.

³⁷Personal interview, Brussels, 03.25.04

³⁸World Health Organization, *European Alcohol Action Plan 2000-2005*, Copenhagen: Regional Office for Europe, 1999, p. v.

which was approved by the member states.³⁹ The plan called for per capita consumption of alcohol to decrease to 75% of 1980 levels by 2000. To meet that goal, WHO recommended that countries develop national alcohol action plans and pass stricter drunk driving regulations and more rigorous rules governing the marketing of alcohol. In response to the First Action Plan, over half of the countries in the EU region developed a country alcohol action plan and some countries did pass more restrictive legislation. Only three member countries (Italy, Poland, and Spain) achieved the EU target of a 25% reduction in alcohol consumption. Of the remaining countries for which data was available, 11 countries in the region saw a decrease and 11 countries in the region experienced increases in the consumption of alcohol.⁴⁰

In 1995, members adopted a European Charter on Alcohol, which lays out five principles and ten strategies countries can use to develop comprehensive alcohol policies aimed at public health. The principles include that “All children and adolescents have the right to grow up in an environment protected from the negative consequences of alcohol consumption and, to the extent possible, from the promotion of alcoholic beverages.”⁴¹ The Charter was the basis for a second European Alcohol Action Plan, which was adopted by member states in 1999 and covers the period from 2000-2005.⁴² This plan includes the following recommendations:

- promoting high visibility, random breathalyzer tests;
- reviewing current drunk driving legislation and adopting blood alcohol limits of .5% or lower;
- developing tax policies that ensure a high real price of alcohol;
- limiting the number of outlets where alcohol is sold and restricting the hours or days of sale;
- restricting advertising to product information and appearance in adult print media;
- restrictions on the sponsorship of spirits at sporting events.

WHO officials also became increasingly concerned about alcohol use among young people. At a conference on Alcohol and Young People in Stockholm in 2001, WHO organizers noted that some 55,000 young people aged 15-29 had died from alcohol-related causes in 1999 and that for young men, alcohol was the biggest single killer.⁴³ Dr. Gro Harlem Brundtland, Director-General of WHO, argued that there had been a new focus on youth by the alcoholic beverage industry during the 1990s and that the drinks industry had used marketing techniques designed to attract young people by focusing on “youth, lifestyle, sex, sports and fun.”⁴⁴ She sharply criticized the alcoholic beverage industry for targeting young people in its advertising

³⁹WHO, *European Action Alcohol Action Plan (1992-1999)*, EUP/RC42/8, Copenhagen: Regional Office for Europe.

⁴⁰WHO, *European Alcohol Action Plan 2000-2005*.

⁴¹WHO, *European Charter on Alcohol*, Copenhagen: Regional Office for Europe, 1995, p. 1.

⁴²WHO, *European Alcohol Action Plan 2000-2005*.

⁴³Frances Williams, “WHO urges action on alcohol,” *Financial Times*, February 20, 2001, p. 12.

⁴⁴Opening Speech by Gro Harlem Brundtland, Alcohol and Young People Conference, February 2001. (<http://www.eurocare.org/who/youngpeople/brundtland.html>).

and for marketing products that mixed alcohol with fruit juices and energy drinks and for alcopops, which are sweet, fruit fizzy alcoholic drinks. WHO officials recommended stricter advertising and marketing controls.

WHO officials also expressed concern over relations between government agencies and the alcohol beverage industry. Like Eurocare, WHO suggested that the alcohol beverage industry not be included in public health policy-making. “Although some form of cooperation with the industry...cannot a priori be ruled out, [the WHO said] there was no support for recommending that local and national public health alcohol policies in general be developed in cooperation with them.”⁴⁵ WHO officials excluded representatives of the alcoholic beverage industry from a meeting in 2002 on marketing and promotion of alcoholic beverages to young people at which the targeting of children and adolescents by the alcoholic beverage companies was sharply criticized. After receiving complaints by alcoholic beverage firm officials, WHO officials have taken a more pragmatic approach and engaged in dialogue with the industry.

The increasing attention to alcohol consumption by WHO raised concerns among alcoholic beverage firms including the brewers. They feared that WHO was targeting alcohol in the same way it had targeted tobacco. Some public health experts argue that this is not the case, since WHO has devoted inadequate resources to alcohol control.⁴⁶ But in the past year, WHO focused renewed attention on alcohol consumption. In 2004, WHO published its *Global Status Report on Alcohol Policy*, which suggests that member states need to do more in terms of alcohol control.⁴⁷ Earlier this year, WHO’s Executive Board called on member states to “develop, implement and evaluate effective strategies and programs for reducing the negative health and social consequences of the harmful use of alcohol.”⁴⁸

The Role of National Governments and the Accession of the Scandinavian Countries

While Eurocare and WHO have focused government attention on the harm caused by alcohol consumption, national governments are responsible for implementing and enforcing policies regarding alcohol control at the national- or Europe-wide level. National governments retain primary responsibility for public health, including protecting citizens against alcohol-related harm. They have varied widely in their attention to alcohol control legislation. France, for example, increased its national restrictions on alcohol advertising in the early 1990s in response to higher alcohol consumption among children and adolescents. The so-called *Loi Evin*, passed by the French legislature in 1991 over the objections of the Chirac government, introduced a strict ban on alcohol advertising on television and on alcohol sponsorship of cultural and athletic events, as well as restrictions on other types of alcohol advertising. It took effect in 1993 and was the strictest legislation among the EU member states at the time. At the EU level, the French government also sought to reduce alcohol abuse among children and adolescents. In

⁴⁵WHO, *European Alcohol Action Plan 2000-2005*, p. iii.

⁴⁶See, for example, Robin Room and Thomas Babor, “World Health Organization’s Global Action on Alcohol: Resources Required to Match the Rhetoric,” *Addiction*, 100 (2005), pp. 579-580

⁴⁷World Health Organization, *Global Status Report on Alcohol Policy*, Geneva: WHO, 2004.

⁴⁸World Health Organization, *Public Health Problems Caused by Harmful Use of Alcohol*, Eb115.R5, 22 January, Geneva: WHO, 2005.

its work program for the EU presidency in the first half of 2000, the French government expressed hopes of adopting a Council recommendation regarding young people and alcohol abuse.⁴⁹ For other countries, including Germany and The Netherlands, alcohol control legislation has had a lower priority and several continue to have voluntary advertising and marketing controls.

However, the accession of the Scandinavian countries (and particularly Sweden) to the EU in 1995, focused attention on the alcohol control issue and highlighted the tensions between liberalization of national regulatory regimes and public health issues. Finland and Sweden strictly regulated alcohol sales and consumption in an effort to reduce overall consumption of alcohol rather than targeting specific abuse of alcohol. The countries had low alcohol consumption rates and low incidences of alcohol-related deaths.⁵⁰

Prior to accession, Sweden had the strictest anti-drinking regime in Europe. Sweden's alcohol control policies reflected the tradition of people often drinking to the point of drunkenness. Strict alcohol control policies, which were introduced in the early twentieth century, significantly reduced alcohol consumption and alcohol-related harm to one of the lowest rates in western Europe.⁵¹ These control policies included a monopoly on the production of spirits; the importing, wholesale, and retail distribution of alcoholic beverages stronger than 3.5% alcohol; ceilings on personal traveler imports; and exceedingly high taxation. When Sweden negotiated its accession agreement with the EU in the early 1990s, it sought unsuccessfully to retain some of its restrictive policies.⁵² The EU viewed such restrictions as conflicting with the creation of a single market, and Sweden reluctantly agreed to eliminate ceilings on personal traveler imports of alcohol by 2004.⁵³ Sweden also gave up its wholesale, importing and spirits production monopolies and replaced these with a licensing system. Sweden was able to maintain its monopoly on retailing for public health reasons.⁵⁴

As a result of lifting national controls, alcohol consumption in Sweden has risen. While alcohol consumption in Sweden is still low compared with some European countries, it has increased 30% since 1995 and is now at its highest levels in 100 years.⁵⁵ Government officials have been particularly concerned over new products such as alcopops, which were introduced into Sweden in 1996, and which, under single market rules, the government can no longer ban.⁵⁶

⁴⁹Trygve Ugland, "A Case of Strange Bedfellows in the EU: An Institutional Perspective on the French-Swedish Cooperation on Alcohol Control," *Scandinavian Political Studies*, Vol. 26, No. 3 (2003), p. 272.

⁵⁰Paulette Kurzer, "Can Scandinavian Member States Play a Leadership Role in the EU? The Case of Alcohol Control Policy," *Scandinavian Studies*, (2002), p. 307.

⁵¹Suzanne Daley, "Europe Making Sweden Ease Alcohol Rules," *New York Times*, March 28, 2001, p. 1. Daley reports that at the height of alcohol consumption in Sweden in the mid-1800s, Swedes drank on average 49 quarts of pure alcohol per adult per year.

⁵² Paulette Kurzer, *Markets and Moral Regulation: Cultural Change in the European Union*, New York: Cambridge University Press, 2001, p. 88; and Paulette Kurzer, "Can Scandinavian Member States Play a Leadership Role in the EU? The Case of Alcohol Control Policy," *Scandinavian Studies*, 2002, p. 323.

⁵³Kurzer, "Can Scandinavian Members States Play a Leadership Role in the EU?" p. 317.

⁵⁴Richard Tomasson, "Alcohol and Alcohol Control in Sweden," *Scandinavian Studies*, (Winter 1998), vol. 70, Issue 4, pp. 477-509.

⁵⁵George Nicholas, "Sweden is advised to cut taxes on alcohol," *Financial Times*, August 17, 2004, p. 8.

⁵⁶Gabriel Romanus, "Alcopops in Sweden - A Supply Side Initiative," *Addiction*, December 2000, Supplement 4,

The Swedish government sought to raise its concerns and push for regulation of alcohol consumption at the European level. When Sweden took over the presidency of the Council of Ministers in January 2001, for example, it proposed to develop a comprehensive EU policy to reduce the harmful effects of alcohol. It held numerous meetings of the Council of Ministers of Health to discuss alcohol control regulations.⁵⁷ In June 2001, the Council of Ministers called on the EU to address the problems of alcohol among children and adolescents and suggested that member states take measures ensuring that alcoholic beverages are not designed or promoted in ways that appeal to children and adolescents.⁵⁸ The Council notes that it is “necessary to ensure that representative production and trade organizations demonstrate their commitment to these principles.”⁵⁹ The Council also recommended that the EU develop a Community strategy to reduce alcohol-related harm.⁶⁰ The Swedish Health Ministry sent a national expert to the Directorate for Public Health and Consumer Safety (DG-SANCO) for six months in the first half of 2004 to help draw up a comprehensive EU alcohol control policy.

Sweden has not been alone in its concern over alcohol consumption. The Swedish government has been actively supported several times in its stand on alcohol control policy issues by the French and Finnish governments.⁶¹ Moreover, surveys and reports published by the European Commission and national governments in the past few years have shown increases in binge drinking in some western European countries, particularly among young people.⁶² Alcohol-related harm has also increased substantially in some member states.⁶³ The widespread availability of cheap alcohol, the targeting of alcohol products at the younger market, and alcohol beverage promotions are believed to have contributed to the rise in consumption among young people.⁶⁴

The increase in binge drinking and drinking among young people has prompted some national governments to try to curb alcohol abuse. The Irish government, for example, came under increasing public pressure to address underage drinking after a Dublin student was kicked to death by other students outside a pub.⁶⁵ A 2003 EU health survey indicated that per capita consumption of alcohol in Ireland had increased by 45% in the past ten years. Ireland had among the highest alcohol consumption rates among the EU-15 member states and underage drinking was also among the highest in the EU. Irish drinkers were also more likely to engage in

vol. 95, pp. 609-20.

⁵⁷Kurzer, 2002, p. 325

⁵⁸Council Recommendation 2001/458/EC, June 5, 2001, *Official Journal* L161 of 16.06.2001.

⁵⁹European Communities, *Official Journal* L161, 16.06.2001.

⁶⁰Council Conclusions of 5 June 2001 on a Community strategy to reduce alcohol related harm, *Official Journal* C175 of 20/06.2001.

⁶¹Ugland, “A Case of Strange Bedfellows in the EU,” p. 270.

⁶²WHO has defined binge drinking as drinking at least one bottle of wine, several measures of spirits or 4 pints of beer or more in one drinking occasion. See Alan Richardson, “Killer in a Bottle,” *The News of the World*, December 19, 2004.

⁶³Increased consumption of alcohol in Britain has been accompanied by an increase in alcohol related harm, including a five-fold increase in chronic liver disease since 1950. Sarah Lyall, “British Worry That Drinking Has Gotten Out of Hand,” *New York Times*, July 22, 2004, p. 3.

⁶⁴Sarah Lyall, “British Worry That Drinking Has Gotten Out of Hand,” *New York Times*, July 22, 2004, p. 3.

⁶⁵John Murray Brown, “Ireland calls time on the binge culture,” *Financial Times*, May 20, 2004, p. 13.

binge drinking than drinkers in other EU member states.⁶⁶ A second report, published in September 2004 by the Strategic Task Force on Alcohol in Ireland, showed that each Irish adult drank the equivalent of 13.5 liters of pure alcohol in 2003. It noted that binge drinking, which it defined as six or more standard drinks on a single occasion, was an especially acute problem, with nearly 60% of all visits to pubs leading to drinking binges. The report estimated that in 2003 alcohol consumption cost the country some EUR 2.65 billion in health care costs, road accidents, alcohol-related crime, absenteeism from work and lost productivity.⁶⁷ The Irish Health Minister, Michael Martin, called alcohol consumption “public enemy number one.”⁶⁸

In response, the Irish government tightened its pub licensing rules in 2004 by setting earlier closing times on Thursdays. The Irish Prime Minister also said that if it were not for single market rules, his government would have banned sales of alcopops.⁶⁹ On the European level, when the Irish took over the EU presidency in the first six months of 2004, it made reducing alcohol-related harm one of its priorities.

The enlargement of the EU to eastern Europe also focused attention on the problems of alcohol consumption. In Eastern Europe, alcohol consumption is higher on average than in the west. Consumption of beer in eastern Europe has increased from slightly more than 67 liters per person in 1996 to over 85 liters on average in 2002. In some countries, it is considerably higher. In the Czech Republic, for example, beer consumption averages almost 160 liters per person annually, compared to 124 liters annually per person in Germany, the highest in the west.⁷⁰ The five largest European brewers have been active in expanding their markets to eastern Europe and now control 73% of the beer market in eastern Europe.

Thus, the accession of the Scandinavian states and eastern European states to the EU, along with recent reports showing increases in consumption by young people and in binge drinking in some countries, have focused attention on alcohol control regulation. This interest by member states and the limited ability they have under single market rules to institute stricter national alcohol control policies has encouraged action in the EU.

The European Commission

For much of the 1980s and early 1990s, the EU undertook relatively little specific action in the area of alcohol control. Much attention was focused on the single market program. Dismantling national regulatory regimes increased the availability of many goods for consumers in the EU, but it also raised concerns among member governments about public health and consumer safety risks. This led EU member states to emphasize the need for the EU to ensure a high level of health protection in the Amsterdam Treaty in 1997.

⁶⁶“Spirit of the Nation,” *Irish Independent*, March 13, 2004.

⁶⁷E. Donnellan, “Soaring drink sales take toll on health of society,” *The Irish Times*, September 23, 2004, p. 9.

⁶⁸Pat Flanagan, “Shock study shows we spend pounds 6Bn on drinks,” *The Mirror*, Irish Edition, Sept. 23, 2004, pp. 4, 5.

⁶⁹John Murray Brown, op. cit., p. 3.

⁷⁰European Beer Statistics 2004, p. 4 at <http://www.xs4all.nl/~pattro1ro/eustats.htm>.

The General Directorate for Health and Consumer Protection (DG SANCO) has played the lead role in seeking to reduce alcohol-related harm. David Byrne, the former Commissioner for Health and Consumer Safety, made clear at the beginning of his term in office that he wanted to tackle alcohol abuse and to encourage cooperation between Commission services in doing so. He also promoted cooperation with WHO to meet public health challenges. Byrne met with the Director General of WHO, Dr. Brundtland, in December 2000 and spoke at WHO's meeting on Alcohol and Young People in February 2001. He noted that "combating alcohol-related harm is a public health priority in many member states and also at the EU level."⁷¹ He challenged the alcohol beverage industry to demonstrate that it could effectively regulate itself and could take a responsible attitude toward young people and alcohol in its marketing and promotions.

After the WHO conference, the Commission prepared a proposal for a Council recommendation on the drinking of alcohol by children and adolescents, which was approved by the Council in June 2001. The Commission recommended that member states take measures restricting the sale and advertising of alcoholic beverages so that advertising would not appeal to children and adolescents.⁷² The Commission had already moved to create maximum authorized levels of alcohol in the blood of motor vehicle drivers.⁷³ It recommended in January 2001 that all member states should adopt a general level not exceeding .5 mg/ml and a second limit of .2 mg/ml for inexperienced drivers and those operating larger vehicles or motorcycles. It wrote: "Making AL (alcohol levels) uniform through the Community would certainly send a more powerful message and provide a clearer reference."⁷⁴ In July 2003, the Commission also issued a draft regulation to tackle unsubstantiated claims by the alcohol industry about nutrition and health. Under the regulation, the EU would restrict nutritional claims for alcoholic beverages with an alcohol content in excess of 1.2% to those concerning energy and strength. It does not permit any health claims for such beverages.

The Commission has been slower to respond to the Council's call for a community strategy to reduce alcohol-related harm.⁷⁵ DG SANCO drew up a first draft of a comprehensive plan to reduce alcohol-related harm in Europe in 2004 and sent it to stakeholders in July 2004. Since then, it has held meetings with representatives of public health organizations and the alcohol beverage industry to discuss the draft. In the working paper, DG SANCO proposed a more coordinated approach in Europe to tackling alcohol-related harm. It has identified seven goals it hopes to achieve before the end of 2010. These include decreasing the number of alcohol-related road accidents; postponing the age at which children and adolescents may start to drink alcohol; improving enforcement of existing regulations on commercial communications; improving product information and common labeling; and combating harmful drinking patterns

⁷¹David Byrne, Speech to Young People and Alcohol Conference, February 21, 2001, *Rapid*, Commission of the European Communities, Speech 01/78.

⁷²Commission of the European Communities, *Official Journal* L 161, 16.06.2001

⁷³Commission of the European Communities, Commission Recommendation of 17th January 2001 on the maximum permitted blood alcohol content for drivers of motorized vehicles, (2001/C48/02-10), *Official Journal* L43, 14.02.2001.

⁷⁴Commission of the European Communities, *Official Journal*, L43, 14.02.2001.

⁷⁵Council Conclusions of 5 June 2001 on a Community Strategy to reduce alcohol related harm, *Official Journal of the European Communities*, C175, 20.06.2001.

such as binge drinking.⁷⁶ It recommends such actions as unrestricted breath testing and the establishment of a minimum alcohol purchasing age of 18 in all member states. It also suggests that self-regulatory approaches adopted by the beverage alcohol industry should be monitored by an independent third body.⁷⁷ DG SANCO officials hope to issue a final Commission communication by the end of 2005.

In April 2005, the Commission also sent to the European Parliament and Council a proposal which would establish a Community Action Program in Health and Consumer protection for the period from 2007-2013.⁷⁸ The program recommends increasing the participation of consumer and health organizations in EU policy-making. It also recommends that the EU promote health and prevent illness by reducing the growing burden of avoidable diseases related to life-style and addiction including alcohol use.⁷⁹

4. Changes in the Political Mobilization of the Brewers

The mobilization of non-producer groups and the increasing interest in alcohol control has made the brewers feel increasingly vulnerable to Europe-wide regulation. Brewers suggest that there are more regulatory threats emanating from the EU than ten years ago or even six months ago.⁸⁰ This fear has led to changes in their organization. “The only way to respond,” according to one industry official, “is to have a good organization in Brussels and a good national organization and relations between them have to be effective.”⁸¹

The brewers want to ensure that the industry can freely innovate, promote and market its products. This is particularly important for large brewers who rely increasingly on advertising and marketing in a highly competitive market. The brewers also recognize that they need to differentiate themselves from other alcoholic beverages since wine, beer and spirits are not treated the same in the EU and the interests of the three sectors are not always identical.⁸² For example, wine is considered to be a part of EU agricultural policy and is governed by the Common Agricultural Policy, which differs from beer and spirits, which come under industrial policy. Moreover, the consumption of spirits is sometimes viewed as a more serious problem than beer drinking because of the higher alcohol content of spirits and the fact that spirits are not

⁷⁶Commission of the European Communities, Health and Consumer Protection Directorate-General, DG SANCO Discussion Paper on the EU Strategy on Alcohol, 2004, p. 7.

⁷⁷*Ibid.*

⁷⁸Commission of the European Communities, *Healthier, safer, more confident citizens: A Health and Consumer Protection Strategy*, Proposal for a Decision of the European Parliament and of the Council establishing a programme of Community action in the field of health and consumer protection 2007-2013, (SEC (2005) 425, Brussels 06.04.2005, COM(2005) 115 final.

⁷⁹*Ibid.*, p. 5.

⁸⁰Personal interviews, Brussels, 03.25.04

⁸¹Personal interview, Brussels, 03.22.04.

⁸²The spirits industry wants to display the amount of alcohol in a standard serving on labels on its bottles in the US since spirits have fewer calories and carbohydrates than beer. Beer brewers do not want labels indicating the amount of alcohol in a standard serving. See Jenny Wiggins, “Getting the measure of alcohol content,” *Financial Times*, July 6, 2005, p. 30.

generally consumed with meals.⁸³ Thus, brewers needed an organization that allowed them to fight their own battles and to determine when to cooperate with other parts of the alcohol beverage industry.⁸⁴

The largest brewers initiated many of the changes in the brewers' European trade association. While these brewers had the resources to set up their own lobbying offices in Brussels (and some did), they often found it advantageous to lobby through the association because of the need for coordination and a unified message. Moreover, the Commission and the European Parliament were sometimes more responsive to the appeals of small brewers than to those of large multinationals and more willing to meet with trade association officials. In the early 1990s, Commission officials were known to send back individual alcohol firm lobbyists without hearing their arguments.⁸⁵ Hence, the large firms sought to strengthen the trade association, the CBMC.

To do so, CBMC members made several changes. First, the association chose a General Secretary from outside the industry in the mid-1990s in order to "shake up the organization."⁸⁶ Members hoped that an outsider would be able to arbitrate better between the various interests within the organization and raise the profile of the organization. Secondly, the members of the Brewers of Europe increased the financial resources of the organization in order to expand its lobbying and information gathering activity. In 2002, the large firms and national associations agreed to increase the budget of the association by approximately 36%⁸⁷. While the members have not reached that goal, they did increase the association's budget 16% in 2003 and over 6% in 2004, so that it now has a budget of Euro 1.8 million.⁸⁸ The five major firms contribute 50% of the budget to the European association through their national association fees and the additional money they spend on special projects. In addition to increasing the general operating budget, the association bought a new building for its headquarters, located two blocks from the European Parliament. The building, which includes conference rooms where brewers can meet EU officials or hold receptions, officially opened in March 2004. The association also changed its name from CBMC to the Brewers of Europe (BoE) in 2003 in order to make clear to public officials and the general public whom the trade association represents.

Third, in order to respond more quickly to new EU policy initiatives, the association has changed its decision-making procedures. In March 2004, association members agreed to set up a presidential advisory committee, comprised of representatives of the five largest brewers and the association's vice presidents, one of whom represents smaller brewers. The committee is

⁸³Bernadette Costello, "EU blames marketers for too much sex in ads," *Off Licence News*, August 22, 2003 available at lexis-nexis.com.

⁸⁴This is sometimes difficult since some brewing companies belong to large multinational spirits companies. Guinness, for example, is part of the multinational spirits company, Diageo.

⁸⁵Personal interview, Brussels, 03.28.91.

⁸⁶Personal interview, Brussels, 11.13.03.

⁸⁷Personal interview, Brussels, 11.13.03.

⁸⁸Personal interview, Brussels, 03.25.04. One reason they have not met their goals is that the German National Brewers' association, the largest contributor among the national associations, has had difficulties increasing its contribution. Five of the national association's largest firms left the national association in 2003 because they believed that the association had been slow to undertake organizational change. This left the association with a Euro 600,000 shortfall in its budget and made it difficult to meet its financial obligations to the Brewers of Europe.

designed to enable the association to take positions on new issues more quickly. While the association does not admit firms as direct members of the association, some firm officials said this practice is likely to change over the next several years.⁸⁹ The association is also seeking to more actively involve brewers in decision-making by having them (rather than association officials) chair committees, since they have the technical and practical expertise necessary to deal with issues in the EU.

Finally, since decision-making in the European Union increasingly occurs in a number of institutions, the association has broadened its lobbying channels. It increased its presence in the European Parliament by setting up a European Parliament Bier Club, which now has close to 200 members. The BoE sends out a newsletter to members of the Bier Club and holds two annual social events for MEPs. The association also established a communications department within the trade association in order to promote a better image in the press.

Along with the reorganization of the association, the tactics of the organization have changed. In particular, it has become more aggressive in its attempts to shape the public debate about alcohol consumption and its own image as a responsible actor in that debate. First, it has sought to educate the public about responsible drinking. It has published a brochure outlining the education campaigns of member associations, firms, and the Brewers of Europe as a way of encouraging best practices in Europe.⁹⁰ These include initiatives aimed at discouraging drinking by underage minors, and initiatives aimed at helping parents educate children about the implications of drinking. For example, the Belgium Arnoldus group, which is the social aspects organization of the Belgian Brewers, along with the Belgian Road Safety Institute, instituted a campaign in 1995 called BOB to make people aware of the dangers of drinking and driving and to encourage people to appoint a designated driver before a night out. The European Commission agreed in 2001 to fund similar BOB campaigns in other EU member countries because of its success in Belgium.

Secondly, some of the largest brewers and 11 of the national associations approved a plan in November 2002 to establish and pay for an independent research council. The need for independent research has grown as debates regarding the impact of alcohol consumption have increased. In 2003, the Brewers of Europe set up the European Research Advisory Board as an independent foundation to fund bio-medical and psychological research into beer and alcohol consumption. It includes an advisory board of eight scientists who review the research applications and advise the Board of Directors on which projects should be funded. National association officials and firms agreed to fund the board for an initial period of three years with contributions of between Euro 400,000 and Euro 500,000 each year. In 2004, they funded six research projects, which included research on alcohol-nicotine co-dependence, on adolescent alcohol use, and on the relationship between the misuse of alcohol and various diseases such as cancer. The projects will take two to three years time to complete and the results will be published in peer-reviewed, scientific journals, regardless of whether they are favorable to the industry or not. The research board reflects a long-term offensive strategy and association officials said it took time to convince members to spend money on research. But the increased

⁸⁹Personal interview, Brussels, 06.2004.

⁹⁰CBMC-The Brewers of Europe, *European Brewing Industry Initiatives to Combat Misuse*, Brussels: CBMC, 2003.

public debate on alcohol misuse, as well as the Commission's desire for scientific-based evidence in coming up with alcohol control policies, persuaded members to undertake this initiative. As one official noted: "If you want to be seen as reasonable and credible, you can't sponsor research which is not independent."⁹¹

Along with this, the association has focused on the positive health effects of moderate consumption of beer.⁹² Recent research indicates that moderate consumption of darker beers might have a similar effect to moderate consumption of red wine in reducing the risk of coronary heart disease.⁹³ The association held its third Beer and Health Symposium in the fall of 2003 in an effort to disseminate these findings.

Finally, the association and large firms have sought to promote self-regulation as an alternative to Europe-wide regulation. The Brewers of Europe issued guidelines to serve as common standards for advertising as well as other forms of marketing such as promotions and sponsorships.⁹⁴ In particular, they seek to ensure that commercial communications are targeted at people above the legal drinking age and that they do not encourage excessive or irresponsible drinking. These guidelines do not replace existing national self-regulatory systems, but help to fill in gaps in countries where there is no national self-regulatory system, particularly in the new member states of eastern Europe. Trade association officials view this as demonstrating their commitment to effective self-regulation and they have presented these guidelines to the Commission. Individual brewers have also published codes of conduct.⁹⁵

The political reorganization and increased activity of the brewers' association have been helped by the economic changes in the sector during the 1990s. The larger brewers have more resources to contribute to the organization and greater incentives to avoid Europe-wide regulations which might affect their advertising and marketing. Moreover, the consolidation of the sector has meant a significant reduction in the number of firms. The theoretical literature suggests that the concentration of a sector will enhance its ability to undertake collective action since smaller groups have an easier time organizing collectively than larger groups.⁹⁶ Several national trade associations said that consultation with firms has become easier with fewer members although they admit that they have less room for independent action.⁹⁷ For example, in Spain, the number of active breweries has decreased from 34 in 1987 to 21 in 2004.⁹⁸ The major exception is Germany, where the industry is still highly fragmented with 1,279 breweries. However, even there, several well-known brands, including Hannen Alt, Beck's, and Lowenbrau, are now owned by large foreign companies, which decreases the overall fragmentation of the industry. Finally, the national associations now share the same large companies as members, which increases the common interests across associations.

⁹¹Personal interview, Brussels, 11.13.03

⁹²CBMC-The Brewers of Europe, *The Benefits of Moderate Beer Consumption*, Second Edition, Brussels, 2002.

⁹³Brewers, "A First Submission...", 2004, p. 9.

⁹⁴Brewers of Europe, *Responsible Commercial Communications. Guidelines for the Brewing Industry*, Brussels: BoE, 2003.

⁹⁵See, for example, Interbrew, *Code of Conduct of Communications and Marketing Standards*, 2004.

⁹⁶Mancur Olson, *The Logic of Collective Action*, Cambridge, MA: Harvard University Press, 1971.

⁹⁷Personal interview, Brussels, 03.23.04

⁹⁸Personal interview, Brussels, 03.23.04

At the same time, association officials admit that it is still difficult to come to agreements in the BoE on some issues because of continuing differences in both the markets and cultural perspectives on beer, particularly between southern and Scandinavian countries, and because of differences between small and large brewers. Moreover, some national associations, especially those who pay the most into the budget, have sometimes been reticent to expand the activities of the European association. But these differences have also been muted because of the brewers' concerns over the public health debate on alcohol consumption.

5. Lobbying and Political Influence

One of the main goals of the BoE is to influence the EU's public health debate over alcohol consumption. This debate centers on three related issues:

1. Is the problem overall consumption of alcohol or abuse by specific groups of drinkers?
2. Are education and self-regulation the most effective means of reducing alcohol-related harm or are high taxation and restricted access to alcohol also necessary?
3. Should the alcoholic beverage industry participate in the policy making process?

Many Eurocare, WHO, and public health experts, along with some national government officials, argue that the best means of reducing alcohol-related harm is reducing overall consumption of alcohol. They point to research which shows that when alcohol was less easy to acquire, alcohol-related harm went down. They also suggest that education and self-regulation are not effective for reducing alcohol-related harm. Robin Room, an alcohol researcher at Stockholm University, argues, for example, that the least effective approaches are alcohol education in school, voluntary codes of bar practice, providing alcohol-free activities as an alternative to drinking, and regulating the content of alcohol advertising. The most effective, in terms of the demonstrated effects on rates of alcohol problems in the population as a whole, are increasing taxes, regulating availability, and deterrence in the context of drunk driving.⁹⁹ Finally, public health officials believe that the alcoholic beverage industry should not participate in developing strategies to reduce alcohol-related harm because of their commercial interest in increasing the consumption of their products.

The brewers agree with public health officials that inappropriate consumption of alcoholic products has negative physical and societal consequences and that misuse of alcohol should be reduced. But they argue that policy-makers should target the misuse of alcohol by the minority of drinkers, rather than overall consumption of alcohol. They write:

Across Europe, the majority of millions of adults who drink alcoholic beverages do so without causing harm to themselves or others. On the other hand,

⁹⁹Kathy Sheridan, "Drinking together, thinking together," *Irish Times*, September 24, 2002, p. 15.

excessive drinking by a small minority of consumers can be harmful and is associated with many health problems. Even infrequent drinking in excess by those who are typically responsible can result in significant harm. Any strategy must therefore target alcohol-related harm and its causes without disproportionately interfering with the pleasure enjoyed by the millions of people who drink responsibly.”¹⁰⁰

The brewers differentiate alcohol consumption from tobacco consumption by pointing to research that shows that moderate consumption of alcoholic beverages may have health benefits. They therefore argue that alcohol need not be regulated in the same fashion as tobacco and that the benefits of alcohol consumption must be included in any discussion of alcohol control legislation.

They also believe that education policies rather than restrictive legislation should be at the core of policies because they have been shown to be efficient and cost-effective in reducing alcohol-related harm. They argue that limiting the availability of alcohol can have negative repercussions by encouraging “unnatural attitudes towards beer” and creating uncontrolled and illegal production.¹⁰¹ Finally, they argue that any policy-making must involve consultation with a broad coalition including the brewing industry since the industry takes the issue of alcohol-related harm seriously and has experience in confronting it.¹⁰²

Analysts are divided over the ability of industry-funded groups and multinational firms to influence EU policy. In a recent study, Paulette Kurzer emphasizes the influence of the alcohol beverage industry on EU alcohol control policy. She writes: “...Eurocare carries virtually no policy weight, especially not against French or Austrian wine growers, gigantic multinational beverage companies, and the free market philosophy of the Commission.”¹⁰³ Others also point to the influence of large multi-national firms on the EU’s policy process.¹⁰⁴ Still other researchers suggest that public health, consumer, and environmental groups are sometimes able to influence the regulatory process.¹⁰⁵

While it is difficult to measure the precise influence of the brewers’ association and the alcohol-beverage industry, more generally, on the policy-making process, there is some indication that the brewers have had some impact on the alcohol control debate. Unlike the tobacco industry, the brewers have been included in the discussions of EU alcohol-related policy.¹⁰⁶ The BoE and members of other alcoholic beverage trade associations have participated

¹⁰⁰The Brewers of Europe, “Some Additional Comments and Reflections in the context of DG SANCO’s First Draft Working Paper on a ‘Coordinated Approach in Europe to Tackle Alcohol-Related Harm’ from 22nd July 2004,” Brussels: BoE, March 2005.

¹⁰¹Brewers of Europe, “A First Submission...”, p. 12.

¹⁰²See Brewers of Europe, “Some Additional Comments and Reflections...” 2004, p. 5.

¹⁰³Kurzer, 2002, p. 324.

¹⁰⁴See, for example, David Coen, “The European Business Interest and the Nation State: Large-Firm Lobbying in the European Union and Member States,” *Journal of Public Policy*, 18, 1 (1998), pp. 75-100.

¹⁰⁵Alasdair Young, and Helen Wallace, *Regulatory Politics in the Enlarging European Union*. New York: Manchester University Press., 2000.

¹⁰⁶Francesco Duina and Paulette Kurzer, “Smoke in your eyes: the struggle over tobacco control in the European

in discussions regarding DG-SANCO's draft of a comprehensive alcohol control policy and have submitted their comments on the draft. Part of the reason that EU officials have been willing to include industry representatives is that the industry admits that alcohol abuse is a problem and has taken the initiative to self-regulate.¹⁰⁷ Firms, national associations, the European Brewers' Association, and The Amsterdam Group have all developed codes about responsible communication.¹⁰⁸

Moreover, the EU and most national governments have not targeted overall consumption of alcohol but have focused their attention on problem groups, such as young people, binge drinkers, and drunk drivers. It is primarily the Swedish government, Eurocare, and public health experts who advocate reducing overall alcohol consumption. Part of this reflects the unwillingness of some governments to target alcohol because of the substantial revenue it generates, as well as a strong tradition in many European countries of viewing alcohol as food.¹⁰⁹

At the same time, the brewers have not been successful in convincing EU officials that education and self-regulation alone will solve the alcohol abuse problem. After a December 2003 meeting with representatives of both the industry and Eurocare, for example, Commission officials suggested that it should also focus on a mixed approach to alcohol-related harm that included both education measures and control policies.¹¹⁰ In its draft working paper outlining an EU approach to reduce alcohol-related harm, DG SANCO also does not discuss education measures but focuses instead on restrictive measures. While the Commission officials say that they are willing to see if self-regulation works, they hold out the threat of further regulation if the industry cannot regulate itself. This suggests that the Commission is not completely dominated by a free market philosophy. DG SANCO has, for example, shown its willingness to limit tobacco advertising and sponsorships and to limit trade as a result of bovine spongiform encephalitis (mad cow disease).

Moreover, the brewers are unable to affect all institutions within the EU equally. The brewers have focused most of their attention on the Commission and the European Parliament. But they are less able to influence the European Court of Justice. Last year, the ECJ found that the French government's ban on indirect television advertising for alcoholic beverages was compatible with Community law.¹¹¹ It ruled that France could ban television channels from showing shots of billboards advertising alcohol at sporting events. This has raised a new fear among the brewers and other alcoholic beverage firms that such rulings will encourage Eurocare and some government officials to seek a complete ban on alcohol advertising in the EU.

Union," *Journal of European Public Policy* 11, 1, February 2004, pp. 57-77.

¹⁰⁷Adam Jones, *Financial Times*, op cit., July 8, 2003, p. 17.

¹⁰⁸Advocacy groups such as Eurocare and public health experts continue to view the motives of the industry suspiciously. At a recent stakeholders meeting, several public health experts voiced concern over the relationship between the Commission and firms and called for greater transparency on meetings between officials and alcoholic beverage industry.

¹⁰⁹The Irish government, for example, received EUR 1.8 billion from alcohol taxes in 2002. See E. Donnellan, "Soaring drink sales take toll on health of society," op cit., p. 9.

¹¹⁰Interview, Brussels, 03.23.04

¹¹¹ECJ, Cases C-262/02 and C429/02.

Conclusion

What is noteworthy about the European brewing industry is the degree to which it has changed both economically and politically in the last 15 years. In the words of one trade association official, the sector was stuck in the Middle-Ages for much of the post-WWII period.¹¹² Markets were regional and the sector lacked an active and well-resourced brewers' association at the European level. Even as late as the 1990s, firms and national associations did not take seriously the threat of Europe-wide alcohol control legislation.

The focus of WHO, the European Commission, national governments, and non-producer groups on alcohol regulation in the past decade has changed that perception. As overall consumption of alcohol in Europe declined and national regulatory regimes were dismantled, alcoholic beverage firms engaged in more aggressive marketing and advertising. Single-issue groups such as Eurocare mobilized to focus attention on the harm caused by alcohol consumption and advocate stricter alcohol control policies. The accession of the Scandinavian countries to the EU and research showing increases in binge drinking among young people led some national governments to advocate stricter regulation of alcohol consumption. The increased competence of the EU in public health and the limits imposed by single market rules to restrict alcohol consumption nationally provided an opportunity for member states to push for Europe-wide regulations.

The brewers have responded to these new regulatory challenges by restructuring their trade association in Brussels and engaging in more aggressive lobbying at the EU level. The association has had to invest more time and effort in public relations campaigns to influence the public debate and to promote its image as a responsible actor in the alcohol policy process. To that end, it has focused on publicizing programs undertaken by firms and trade associations to promote responsible consumption and on issuing self-regulatory guidelines for responsible commercial communication. These new strategies are aimed not only at national and EU government officials, but also at the media and the public.

The concentration of the sector and the emergence of five multinational beer brewers facilitated the political reorganization. The larger firms provided both the impetus for reform and many of the resources necessary to undertake more aggressive lobbying activity. Moreover, the concentration of the industry has meant that it is somewhat easier to reach agreement on issues.

The political reorganization and activity of the brewers has had an effect on the alcohol control debate. EU efforts tend to be focused more on specific groups of problem drinkers, including young people and drunk drivers, rather than on restricting overall alcohol consumption. The Commission has also included industry officials in its discussions of alcohol-control policy. Both former EU Health Commissioner Byrne and current EU Health Commissioner Kyprianou have also said that the industry will be given a chance to self-regulate. But while Kyprianou views self-regulation as preferable to high taxes or new regulations, he does maintain the

¹¹²Personal interview, Brussels, 11.13.03.

possibility of Europe-wide regulation as a last resort.¹¹³ Moreover, the policy process in the EU is very pluralistic. The beer brewers are only one of a number of stakeholders involved in the policy process. Eurocare and public health experts have persuaded the Commission that a combination of education and regulatory measures may be necessary to reduce alcohol-related harm in the EU.

Moreover, although alcoholic beverage firms have established voluntary self-advertising and marketing guidelines and are promoting responsible drinking, they face a great temptation to cheat, given the increased competitive pressures in the industry. Brewing officials admit that the increased competition among firms has led some of the larger alcoholic beverage firms to push the boundaries in terms of advertising and sponsorship.¹¹⁴ Pat Barry, head for corporate relations at Diageo, the spirits manufacturer, said: “It is fair to say that the drinks industry pushed to the boundary and beyond the boundary.”¹¹⁵ This suggests that the EU or national governments may need to set up an independent regulatory body to monitor the self-regulatory efforts of the industry or the industry may need to use financial penalties to enforce the rules.

Self-regulation also has not curbed binge drinking and drinking among young people. This has increased the public health costs of some EU governments. Despite the alcohol beverage industry’s significant contributions to national government budgets, the costs associated with alcohol-related harm may lead national governments to pursue stricter alcohol control policies. Thus, even with more effective political lobbying, European beer brewers may be unable to avoid some kind of Europe-wide alcohol control policy.

¹¹³George Parker, “Brussels warns drinks industry not to target young consumers,” op cit., p. 9.

¹¹⁴Personal interviews, 03.22.04 and 03.23.04.

¹¹⁵John Murray Brown, “Ireland calls time on the binge culture,” *Financial Times*, May 20, 2004, p. 13.

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