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LATE NIGHT LEVY CONSULTATION A SUBMISSION BY THE ASSOCIATION OF LICENSED MULTIPLE RETAILERS

The Association of Licensed Multiple Retailers (ALMR) welcomes the opportunity to submit additional written evidence to the City of London's consultation on the introduction of a late night levy. As the only national trade body dedicated to representing licensed hospitality, including late night businesses, we are well placed to do so. A significant number of our members operate within the City of London and will be directly affected by the proposed levy. Whilst some of these will be larger, modern bars with a significant food or entertainment offer, many will be traditional wet led outlets; all are substantive and sizeable employers and all are opposed to the proposals. This response builds on our earlier submission to the original levy consultation.

Background & Overview

The night time economy is one of the UK's primary economic sectors and makes a positive contribution:

- Generates £66 billion in revenue - 6% of UK turnover
- Employs 6% of the UK workforce – 550,000 directly and 450,000 indirectly
- Accounts for 8% of UK firms – two thirds of them small businesses
- Paying 46% of turnover in taxes - funding vital public services
- Generating £209k GVA per outlet for the wider local economy
- Serving 20 million meals a week, 3.6 million cups of coffee and 15 million customers
- Investing on average 8% of turnover directly in crime reduction, rising to 11% for late night businesses
- Participating in industry schemes like Best Bar None, Purple Flag, Pub/ClubWatch and BIDs

In the City of London, the **importance of the sector in terms of employment and job creation** should not be under-estimated. Leisure is the second largest employer, generating 21% of all jobs in the City compared to 30% in business services. ALMR research suggests the 747 licensed hospitality businesses in the City employ over 17,000 people and generate a GVA of more than £142 million a year; premises licensed after midnight contribute more per site to this measure than comparable venues which close earlier. This positive job creation record could be jeopardised as a result of the additional costs of a levy or the reduction in profits some businesses will face by closing earlier to avoid the costs; bringing closing hours forward to before midnight may have the effect of removing a full shift.

The City Prospectus identifies **hospitality as playing an important role in the City's economy and society** and in particular in maintaining the City's status as a pre-eminent business centre. In recent years, the industry has invested heavily in retail redevelopment and regeneration initiatives across the City which have transformed it from a district which closed down in the early evening, on bank holidays and at weekends to one which fulfils the Prospective objective to "meet the high expectations of the business, resident, student and visitor community". A recent economic paper produced by the Greater London Authority estimated that on average, for all London Boroughs, despite crime and disorder costs local authorities are net beneficiaries from the NTE, with a cost-benefit ratio of between 1:5.5 and 1:8.8; this rises to 1:26.5 in the City, underlining the importance of the sector to the local economy.

The night time economy is not just an important economic business sector in its own right, it also **underpins the success and contribution of other businesses** within the city. A vibrant, eclectic and attractive licensed hospitality offer attracts leisure spend throughout the day as well as the evening and is vital to supporting and sustaining the city's events, retail and tourism communities. Visitors, residents and businesses, depend on a

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diverse range of eating and drinking out outlets. The businesses that thrive and provide a vibrant late night offer are often the same businesses which provide those services throughout the day – and vice versa.

The health of the sector and the economy are interlinked and measures such as the levy which undermine late night businesses will have a knock on effect on the viability of trade during the day and evening. A late night levy will therefore result in businesses either closing earlier or focusing on quick, volume sales, particularly high-margin alcohol sales, resulting in a less diverse NTE going forward. The proposals risk damaging the City's reputation and image as a "7 days a week, late night economy" as identified in the City Prospectus.

It is worth noting in this context that City's night time economy is in direct competition with neighbouring Boroughs. The levy could adversely impact the council's strategic objective of capturing more and different leisure visitors. The proposals would therefore place City at a further **competitive disadvantage**.

Clearly, the City attracts a large proportion of workers and other visitors who, together with residents, have an eating and drinking spend which increases the area's GDP. It is important that this is not only recognised but taken into account in any analysis of crime and disorder figures – the true metric is crime per head not resident or visitor for example – and in any final assessment of the socio-economic risk of imposing a levy.

While the consultation briefly acknowledges the vibrancy and dynamism of the NTE, we are disappointed that it does not recognise that the **majority of users enjoy the late night economy safely and responsibly**. HMIC data reveals significantly lower levels of violent crime in the City per capita than in the next-best force; this will be significantly reduced if plotted against the large number of visitors. HMIC also reports crime being "broadly stable between the years ending March 2011 and March 2012 and fell between the years ending March 2012 and March 2013". Indeed, the City of London has, in other circumstances, promoted itself as a low crime area.

The consultation also fails to take due account of the fact that the majority of licensed hospitality **businesses in the City work hard and invest heavily in minimising any nuisance or problems which may arise**. Historically, the City has always recognised the need to maintain a careful balance and recognised that an effective solution to potential problems arising from the late night economy can only be delivered through a partnership approach with relevant organisation, including licensed premises. Indeed, a report published by the police in July 2013 shows that this type of multi-agency working has achieved a 1.9% reduction in violent crime – something they had thought to be "out of reach".

It is also unclear from the Corporation's proposals that the money raised by the proposed levy will be spent within the City's night time economy; rather, it appears that the revenue would be used to fund enforcement and inspection activity against already-compliant, responsible businesses. While the Corporation cannot control how the City of London Police spends its portion of the money, the Corporation should commit to using any revenue from this proposed new tax exclusively to fund activities intended to ameliorate environmental problems that may arise in a night time economy, such as litter, noise and crime, as intended by the legislation.

The current **Best Practice**, risk assessed and targeted approach is **delivering meaningful results in an already low risk environment**. It balances the conflicting demands of business, residents and visitors; ensures that action is directed at those premises causing a problem or failing to manage their businesses effectively; and avoids unduly penalising the responsible majority. The imposition of a levy risks disrupting that balance and undermining positive partnership working and, more importantly, trade support for existing initiatives such as Safety Thirst and the Good Practice Guide.

Finally, we are concerned that the proposals may undermine existing licensing policy by effectively reintroducing a terminal hour. Section 57 of the policy states that the Council will encourage longer hours and Section 73 and

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74 encourage varied closing times in different areas so that “patrons leave for natural reasons over longer periods, thus minimising disturbance”. These policies were explicitly introduced to prevent a replication of previous large scale departures, whatever the hour, which the City acknowledges in its licensing policy was to the detriment of the licensing objectives. The levy will cut across this policy intent as many businesses will amend their hours as a result of its imposition.

We therefore believe that a levy would be **undesirable and inappropriate**. It would damage the economic competitiveness of the night time economy as a whole, reduce diversity and mix of outlet and would not tackle problems arising from off-sales of alcohol or consumption outside the City.

Response to Consultation Questions

1. Do you agree that a Late Night Levy be introduced in the City of London?

No, we do not agree that a Levy should be introduced.

The *ALMR* continues to oppose the imposition of an additional tax on late night businesses at a national and local level, particularly when it will be not be levied on all the businesses engaged in late night activity and contributing towards the anti-social behaviour and disorder problems arising from it. Businesses already face paying a series of additional local taxes in the form of supplementary business rates as well as contributing to a range of voluntary social responsibility initiatives and investing in their own internal management standards and security.

The consultation document acknowledges that crime numbers in the City of London are low and, despite almost a doubling of visitor numbers, have remained largely unchanged. Indeed, in the year ending October 2013, total alcohol related crime fell by 11% and is clearly trending downwards. A police report published in July 2013 showed that violent crime was down by almost a third in December 2012 as compared to previous years and HMIC reports also show that violent crime has fallen over the previous two years. Levels of anti-social behaviour are also declining. It is difficult, therefore, to identify the significant and serious problems which justify the imposition of a levy or require the investment of additional resources.

These falls in violent crime and anti-social behaviour took place ahead of the introduction of the City's Good Practice Guide and Traffic Light scheme and the more proactive enforcement which accompanies them. While these schemes are by no means perfect – there is more scope to incentivise good practice through positive points and penalty points may be being over-applied where one incident involves multiple participants - both measures have the potential to reduce crime levels even further. It is, however, too early to assess the impact of either and therefore consideration of a levy is premature; its imposition may also undermine trade support for these existing measures.

What is clear, however, is that current voluntary best practice initiatives such as Safety Thirst and Best Bar None – neither of which depend on intrusive enforcement and inspections - are having a positive impact in dealing with the root cause of potential problems (rather than delaying with their after-effects) and promoting responsible retailing. By tackling problems at source and preventing them arising in the first place, we believe that this approach will be more effective at tackling alcohol related crime and disorder and thereby reducing the costs associated with policing the late night economy.

More importantly, businesses remain concerned that there is no certainty that the monies raised will be used to address specific problems in their area. We remain unclear as to how the inspection and

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enforcement activity against existing premises will reduce and prevent general problems of crime and disorder on the City streets.

2. Do you agree that if a levy was to be introduced it should operate between midnight and 6am?

Given that we do not believe a LNL is an appropriate and proportionate intervention in the market, we do not believe that any Late Night Supply Period should be imposed. We therefore disagree with the proposal for midnight to 6am.

b. If not, during what time period do you think the levy should operate and why?

The decision as to the supply period should be evidence-based and justifiable. Based on the tables on pages 2 and 3, it would appear that there may be evidence of a particular problem at 3am connected with alcohol related offences and arguably most likely in relation to consumption within the NTE. An earlier start time may mean that incidents are included in the levy period which are caused by consumption in a domestic or street setting, or outside the City, earlier in the evening.

3. Do you agree that there should be no exemptions from paying the levy?

While we do not support the imposition of a levy on any business we agree that, if the problems post-midnight are sufficiently serious to warrant its imposition, then all businesses selling alcohol at that time should be liable.

The only exception to this should be businesses which are licensed to sell alcohol after midnight on New Year's Eve. Prior to the introduction of the Licensing Act 2003, the Government legislated to deregulate at a national licensing hours for all premises for New Year's Eve. This was a grandfather right protected under the transition to the new licensing regime and it would be wrong for it to be removed by anything other than due legal process. The levy should not apply to premises which have a relevant late night authorisation in respect of New Year's Eve.

4. It is proposed that premises meeting the necessary 'small business rate relief' criteria should not be entitled to a reduction in the Levy?

No.

Given the significant additional costs a levy will impose, and the fact that this may undermine the viability of smaller businesses in particular, we believe that the Council should employ all discretionary reductions or discounts which are available to them.

5. Do you feel that premises meeting the Safety Thirst Award Scheme should be entitled to a 30% reduction in the levy?

Yes.

It is accepted at a national level and indeed in the Council's Licensing Policy that voluntary best practice and partnership schemes which are focused on raising management standards are far more effective than other, more blunt measures, in tackling alcohol related harms. We believe that a partnership approach which deals with the root cause of any problems and is targeted and proportionate is a better means than a flat rate levy on all business. The imposition of a levy may raise revenue to clean up any problems, but it will do nothing to deliver better management standards and encourage responsible retail practice which may prevent such problems occurring in the first place or at least make them much easier to deal with.

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Our preference remains for these schemes to be used in preference to a levy, but if a levy is to be imposed then a 30% reduction is vital to ensure that operators are not deterred from participating and the schemes are not undermined.

6. Do you agree that the net revenue from the levy should be split with 30% going to the Local Authority and 70% to the Police? If not, how would you rather see the money spent?

How the levy proceeds are to be split is arguably of less importance than whether a new tax should be imposed in the first place. We do not agree that it is desirable to raise the revenue through a levy; as noted above, a more collaborative partnership approach may well have delivered more effective results without the need for a levy. We urge the Council and police to continue to work in partnership with the licensed retail trade to deliver effective solutions to clearly defined problems.

7. Do you agree with the way in which the Licensing Authority are intending to spend their portion of the levy. If you do not agree with the way in which the Licensing Authority are to spend their proportion of the levy, how would you rather see the money spent?

We are concerned that you can only answer this question by accepting that a levy will be introduced. We do not agree with the way in which either the police or the local authority are intending to spend their portion of the levy but that does not mean that we believe the money should be otherwise spent; we do not believe that the money should be raised in the first place.

We question whether increased inspections will have a material impact on the number of alcohol related crimes on the street or general disorder and believe that this is the wrong focus of activity when existing best practice and traffic light schemes are already directed in this area. This will only further penalise and burden responsible operators but do nothing to reduce crime more generally or contribute to the costs of policing the late night economy.

The Government consultation on locally set licensing fees makes clear that these fees are to be used to fund the establishment of an appropriate licensing department. We are concerned that the Corporation is proposing to use levy proceeds to fund administrative work that is not clearly linked to eliminating or tackling problems in the NTE.

If a levy is to be introduced then the proceeds must be focused on front line policing of the NTE, not on administration.

8. Do you agree with the way in which the Police will spend their portion of the levy?

We are concerned that you can only answer this question by accepting that a levy will be introduced. We do not agree with the way in which either the police or the local authority are intending to spend their portion of the levy but that does not mean that we believe the money should be otherwise spent; we do not believe that the money should be raised in the first place.

We are, however, extremely concerned that the police are proposing using levy proceeds to cover their legal costs associated with taking cases against individual premises or objecting to TENs and applications. We believe that this is wholly inappropriate and could have a distortative effect on enforcement priorities and activity. As originally envisaged, the levy was designed to tackle general problems or costs associated with policing the late night economy, not individual cases which were specifically attributable to individual premises. In this way it was to provide additional resources over and above those already directed at tackling problem premises.

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If a levy is to be introduced then the proceeds must be focused on front line policing of the NTE, not on administration.

9. Have you any other comments to make regarding the introduction of a Late Night Levy?

In deciding whether to introduce a late night levy, the licensing authority must bear in mind that this will be seen as a significant and substantive extra tax imposed by the Council on operators who are already struggling in the current financial climate. It will have direct consequences for business profitability and viability as well as GVA to the local economy and employment patterns.

The City of London's current low levels of crime and disorder and strong reputation for being a safe night out are dependent on attracting a wide and diverse range of customers, venues and activities after dark. Imposing a significant additional operating cost on those businesses will inevitably mean that will narrow going forward to those drink led late night businesses which can generate sufficient income to cover the levy costs and this may jeopardise the city's status, income and investment by the sector – this would not just be restricted to night time businesses but would have a knock on effect across the day-time economy. Many of our members have said that they will voluntarily vary their hours to exempt themselves from the levy – this will not only reduce the mix of businesses trading, but also reduce levy revenues.

Sections 57, 73 and 74 of the Corporation's highlight the importance of flexible licensing hours and staggered closing times in managing gradual dispersal and minimising anti-social behaviour and disturbances. If a number of premises reduce their hours as a result of the levy, this could potentially create anti-social behaviour issues with a large number of premises closing at the same time and a return to the spike of crime, disorder and nuisance at midnight observed across the country prior to the introduction of the Licensing Act 2003.

The National Alcohol Strategy states that targeted action taken voluntarily by pubs and clubs themselves is most effective in curbing irresponsible drinking and associated drunken violence. The Home Secretary, Theresa May, in publishing the strategy, suggested that a legislative approach, either national or local, was a 'sledgehammer' which all too often misses its target and that a partnership approach was more effective. This is demonstrably the case in the City of London and our concern is that the imposition of a flat rate tax may undermine this and the businesses the Corporation needs to realise its strategic ambitions for the City.