

HOUSE OF LORDS

SESSION 2001–02
24th REPORT

SELECT COMMITTEE ON
THE EUROPEAN UNION

DRINKING AND DRIVING

WITH EVIDENCE

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Q refers to a question in the oral evidence

p(s) refers to a page in the oral or written evidence

para(s) refers to a paragraph in the Report

TWENTY-FOURTH REPORT

2 JULY 2002

By the Select Committee appointed to consider European Union documents and other matters relating to the European Union.

ORDERED TO REPORT

DRINKING AND DRIVING

5778/01 COM(2000) 4397

Commission recommendation of 21 January 2001 on the maximum permitted blood alcohol level (BAC) for drivers of motorised vehicles. [*The recommendation calls for an EU-wide BAC limit of 50mg/100ml*]

EXECUTIVE SUMMARY

INTRODUCTION

HISTORY: WHY WE UNDERTOOK THE INQUIRY

1. The Committee reported on this subject in 1998, based on COM(88) 707 final—Proposal for a Council Directive relating to the Maximum permitted Blood Alcohol Concentration (BAC) for vehicle drivers—when “the Committee came to the firm conclusion that the most effective way to reduce the incidence of drink driving consisted of a four way matrix of countermeasures: penalties; enforcement; publicity/education; and the legal limit. Of these four, penalties and enforcement are by a long way the most important”. In a consultation paper published towards the end of our then inquiry the Government said it was minded to reduce the BAC limit from 80mg/100ml to 50mg/100ml (but was waiting for the European Commission’s proposals). The Commission subsequently withdrew the proposal for a Directive, replacing it with a recommendation on 21 January 2001. Correspondence with Ministers failed to elicit the Government’s decision. We¹ decided to use police statistics for the Christmas/New Year period 2001/2002 as the basis for further examination of the matter (paras 1–9).

PART 1

NEW FACTORS SINCE WE REPORTED IN 1998

2. Since our 1998 inquiry, the following events have transpired:

- the original draft Directive has been withdrawn;
- only four Member States (including the United Kingdom) still have a maximum permitted BAC level of 80mg/100ml;
- the EU Convention on Driver Disqualification has been concluded;
- the police statistics for the Christmas/New Year 2001/02 period showed a slight increase in the number of offences;
- the Government had not resolved this issue after nearly four years of consideration.

3. We decided that the time had come to examine the matter further (paras 10–22).

¹ Membership of the Committee is given in Appendix 1.

PART 2

POLICE STATISTICS FOR THE PERIOD 18 DECEMBER 2001–2 JANUARY 2002

4. We examine these figures against the background of the annual statistics for deaths on the road through drink driving. The annual number of such deaths for 2000 is 520 against a figure of 460 for 1999. There is a slight increase in the number of drink drive offences for the period 18 December 2001–2 January 2002 as compared with last year; this comes after a 10 year “plateau” (paras 25–30).

PART 3

THE PROPOSED REDUCTION IN THE BAC LEVEL FROM 80MG/100ML TO 50MG/100ML

5. We record the Government’s own views as expressed in its consultation paper *Combating Drink Driving: Next Steps*—where it is estimated that a reduction to 50mg/100ml would save 50 lives, 250 serious injuries and 1,200 slight injuries and approximately £75 million a year—and the Department’s report on the consultation paper. The Minister throws doubt on these figures, accepts that the EU Convention on Driver Disqualification could in theory lead to a situation where UK drivers could be disqualified from driving in the United Kingdom for exceeding a lower legal limit elsewhere in the EU. He argues that the most effective way to reduce drink driving accidents is to continue to apply the existing “package” of measures. We examine the arguments for and against, and conclude that the evidence that driver impairment through alcohol begins at a level as low as 50mg/100ml justifies the reduction of the BAC level. **We therefore reinforce our recommendation that the Government reduce the permitted BAC level from 80mg/100ml to 50mg/100ml in line with the recommendation in our earlier report** (paras 31–52).

INTRODUCTION

WHY WE UNDERTOOK THIS SHORT INQUIRY

1. The Committee last looked at this subject in 1997-98 and published a report *Blood Alcohol Levels for Drivers*.² A list of the recommendations contained in that Report are to be found in Appendix 2.

2. In February 1998, the Department of the Environment, Transport and the Regions (DETR) issued a consultation paper *Combating Drink Driving: next steps*.³ The consultation exercise closed on 8 May 1998.

3. In March 2000, the Department of Transport, Local Government and the Regions (DTLR) published its road safety strategy and casualty reduction targets for 2010 *Tomorrow's Roads – Safer for Everyone*. On 20 April 2000, DTLR published a report analysing the results of its consultation exercise.⁴ On 17 January 2001 the European Commission published its recommendation⁵ on the maximum permitted blood alcohol content (BAC) for drivers of motorised vehicles which led to a correspondence between the Committee and the Minister throughout the rest of that year.⁶

4. This report concentrates on the issue of reducing the BAC legal limit from 80mg/100ml to 50mg/100ml.

5. We had recommended this reduction in the legal limit in our report *Blood Alcohol Levels for Drivers*, and in the DETR's consultation paper there was a reference⁷ suggesting that drinking by drivers in the 50–80mg/100ml range was a significant and largely hidden cause of accidents.

6. In the Government's response to our report the Government stated that,
“the Government is minded to reduce the limit and has, in the consultation paper, sought views on whether there should be a reduction”.⁸

7. The DTLR's report on its consultation exercise recorded that two thirds of the respondents supported a reduction from 80mg/100ml to 50mg/100ml.⁹

8. Given this clear statement of intent, the Committee was disappointed that the Government had been unable to give any indication when it might reduce the limit. Correspondence with the Minister throughout 2001 brought us no further forward. The Committee therefore decided that it would await the outcome of the police figures for Drink Driving offences over the Christmas and New Year period 2001/2002 to determine whether or not these provided grounds to review this issue.

9. The police figures for Drink Driving offences – Christmas and New Year 2001/2002 were published on 9 January 2002 and are to be found on pages 15–17 of the evidence. They appear to show a slight increase in the number of offences. The Committee decided that this was sufficient reason to ask the Minister to give evidence to the Committee. The Committee invited the Royal Society for the Prevention of Accidents (RoSPA) to comment on the figures and also to give its views on the European Commission's recommendation that all EU Member States align their separate jurisdictions to achieve a reduction of the permitted BAC level from 80mg/100ml to 50mg/100ml. The Committee examined the Drink/Drive figures with the Association of Chief Police Officers of England, Wales and Northern Ireland (ACPO). The evidence from these witnesses, together with a written submission from the Portman Group (which is funded by the United Kingdom's leading alcoholic drink producers), is printed with this report. We are grateful to the witnesses for this evidence.

² Session 1997-98, 16th Report, HL Paper 82.

³ <http://www.detr.gov.uk/consult.htm>.

⁴ <http://www.roads.dtlr.gov.uk/roadsafety/drink/consult1/response/cdd/index.doc.htm>.

⁵ 5778/00 COM(2000) 4397 – Commission recommendation of 21 January 2001 on the maximum permitted blood alcohol level (BAC) for drivers of motorised vehicles.

⁶ *Correspondence with Ministers*, Session 2001-02, 1st Report, HL Paper 12, pages 9–10, and *Correspondence with Ministers*, Session 2001-02, 18th Report, HL Paper 99, Pages 12–13.

⁷ Paragraph 13 of the Introduction, page 13.

⁸ *Correspondence with Ministers*, 4th Report, Session 1998/99, HL Paper 24, pages 103-106.

⁹ <http://www.roads.dtlr.gov.uk/roadsafety/drink/consult1/response/cdd/index.doc.htm>.

PART 1: NEW FACTORS SINCE WE REPORTED IN 1998

10. Since 1967, the UK has operated a legal BAC limit of 80mg/100ml. It is an offence for a person to drive a motor vehicle on a road after consuming so much alcohol that the proportion of it in his breath, blood or urine exceeds the prescribed limit.¹⁰ It is not necessary to prove physical or mental impairment or impaired driving behaviour. In the United Kingdom, conviction for exceeding the 80mg/100ml limit leads to disqualification for a minimum of 12 months for a first offence and three years for any subsequent offence within ten years.¹¹ Other penalties (fines and imprisonment) can be imposed.¹²

11. A reduction in the permitted BAC level is only part of the issue. As our Report *Blood Alcohol Levels for Drivers* concluded in 1998:

“the most effective way to reduce the incidence of drink driving consists of a four-way matrix of countermeasures: penalties; enforcement; publicity/education; and the legal limit. Of these four, penalties and enforcement are by a long way the most important”.¹³

12. In this report we concentrate exclusively on the reduction of the legal limit because of additional factors since we reported in 1998:

- the withdrawal of the proposed Directive that sought to harmonise a level of 50mg/100ml across the EU;
- a move by all Member States of the European Union except four (including the United Kingdom) to a 50mg/100ml limit or less;
- the conclusion of the EU Convention on Driver Disqualification.¹⁴

13. We believe that the arguments deployed in our 1998 report and in the DETR’s consultation paper remain valid. In our view, it was possible to restrict further examination of this subject to the simple issue of the reduction of the BAC level and to do this in the context of the European Commission’s recommendation. This is the reason for the brevity of the inquiry and the restricted number of witnesses invited to give evidence.

EUROPEAN COMMISSION: DIRECTIVE OR RECOMMENDATION?

14. Our 1998 inquiry was triggered by the European Commission draft Directive which sought to impose a harmonised permitted BAC level across the European Union.¹⁵

15. The case for harmonisation was not accepted by all Member States. The Commission withdrew the draft Directive and replaced it, in 2001, with a non-binding recommendation¹⁶ that Members of the EU should seek to operate the same permitted BAC level. Ten EU Member States have now adopted the 50mg/100ml legal limit (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Netherlands, Portugal and Spain). One EU Member State (Sweden) has an even lower level of 20mg/100ml. Only four (Ireland, Italy, Luxembourg and the United Kingdom) are still at 80mg/100ml.

EUROPEAN COMMISSION RECOMMENDATION

16. The Commission’s recommendation contains five specific recommendations:

- all Members should adopt a legal maximum blood alcohol content (BAC) limit of 0.5mg/ml (i.e. 50mg/100ml) or lower for drivers of motorised vehicles;¹⁷

¹⁰ Road Traffic Act 1988, Section 5(1).

¹¹ Road Traffic Offenders Act 1988, Section 34 (1) and (3). That Act gives courts a limited discretion for “special reasons” not to disqualify a person or to impose a lesser period but in practice they rarely do this.

¹² Minister’s evidence, Q227.

¹³ Session 1997-98, 16th Report, HL Paper 82, para 115.

¹⁴ Convention drawn up on the basis of Article K.3 of the Treaty on European Union on Driving Disqualification [1998] OJ C216/2. The Convention, when in draft, was the subject of correspondence between the Committee and the Government. See *Correspondence with Ministers*, 4th Report, 1998-99, HL Paper 24, pp 91-2.

¹⁵ 2452/89 (COM188 707 final): draft Directive relating to the maximum permitted blood alcohol concentration for vehicle drivers.

¹⁶ 5778/00 COM(2000) 4397 – Commission recommendation of 21 January 2001 on the maximum permitted blood alcohol level (BAC) for drivers of motorised vehicles.

¹⁷ Includes riders of motorcycles.

- a lower limit of 0.2mg/ml (i.e.20mg/100ml) should apply to inexperienced drivers, motorcyclists, drivers of buses and coaches and drivers of vehicles carrying dangerous goods;
- all Member States should adopt random breath testing;
- accuracy of breathtesting devices should be harmonised;
- Member States and the Commission should collaborate in the fields of research and development, exchange of information and statistics and publicity.

THE ADOPTION OF A LEGAL MAXIMUM BAC LIMIT OF 50MG/100ML OR LOWER

17. This Report sets out to address the first of the bullet points in paragraph 16 above and to argue the case that the United Kingdom should adopt the EU Commission's legal maximum blood alcohol content (BAC) limit of 50mg/100ml or lower for drivers of motorised vehicles.

A LOWER LIMIT FOR INEXPERIENCED DRIVERS AND OTHERS

18. We did not, on this occasion, consider the Commission's recommendation of a lower limit of 20mg/100ml for inexperienced drivers, motorcyclists, drivers of buses and coaches, and drivers of vehicles carrying dangerous goods. We had already looked at this proposal in our 1998 Report (paragraph 100) and had come to the conclusion:

“that a policy of a 20mg/100ml for new drivers would mean an increase in the permitted BAC for male drivers just when they reach the age when they are typically most at risk. The Committee questions whether higher or lower penalties for such drivers would be effective. Furthermore, we agree with Commissioner Kinnock that **age related legislation would be unworkable. We believe that specific and targeted publicity and education is particularly important in tackling this group**”

OTHER ISSUES IN THE RECOMMENDATION

19. We did not look at random breath testing in the current Report, but we did look at it in detail in our 1998 Report and we came to the conclusion “that we are not convinced that its application in the United Kingdom would be viable” (paragraph 103).

20. We did not consider the harmonisation of breath testing devices in the course of this inquiry. We note, however, that it is being dealt with separately as an amended proposal for a Directive of the European Parliament and of the Council on measuring instruments (presented by the Commission pursuant to Article 250(2) of the EC Treaty).¹⁸

21. We did not consider the Commission's recommendation as it applies to collaboration in the fields of research and development, exchange of information on statistics, and publicity.

EUROPEAN CONVENTION ON DRIVER DISQUALIFICATION 1998

22. In our view, the conclusion of the European Convention on Driver Disqualification, which was adopted and signed by all EU Member States in June 1998 is an added reason for the Government to consider moving on this particular issue. The objective of the Convention is “that drivers who are disqualified from driving in a Member State other than that in which they normally reside should not escape the effects of their disqualification when they leave the State of the offence” (Article 2). In effect, this means that if a driver is disqualified in one Member State, he is disqualified in all 15. This Convention, when it enters into force, could, in theory, lead to the situation whereby United Kingdom motorists might be disqualified for a drink driving offence elsewhere in the EU based on a BAC reading above 50mg/100ml and below 80mg/100ml, and that this penalty would apply in the United Kingdom even if the United Kingdom retained a BAC level of 80mg/100ml. The Home Office is currently consulting on the choice of method for enforcement.¹⁹ (See, on the other hand, paragraphs 35, 40 and 47.)

¹⁸ EM 6121/02.

¹⁹ <http://www.homeoffice.gov.uk/oicd/jcu/roteuddc.pdf>.

PART 2: STATISTICS

23. Two sets of relevant statistics are to be found on pages 15–17 and precede the oral evidence from the Association of Chief Police Officers of England, Wales and Northern Ireland (ACPO). The Royal Society for the Prevention of Accidents (RoSPA) has analysed these figures and its assessment precedes the Society’s oral evidence on pages 1–6.

24. Under Section 6 of the Road Traffic Act 1988, a constable in uniform can carry out a breath test:

- where there is reasonable cause to suspect that the driver has alcohol in his body or has committed a moving traffic offence;
- following an accident.²⁰

25. ACPO offers standard guidance, which is not binding, to all police forces that calls for drivers involved in collisions to be breath tested. However, it is not always possible to do this, for example if the driver is unconscious or seriously injured²¹ or if the number of police officers attending the accident is insufficient to cope with breath testing. This means, therefore, that there is uncertainty surrounding figures which record the number of drink driving accidents.

ANNUAL STATISTICS

26. RoSPA’s written evidence on page 1 sets out the number of incidents, deaths, serious casualties and slight casualties for the years 1990, 1999, and 2000.

“In 2000, one in every six people killed on the roads died in an accident where a driver or rider was above the drink drive limit. Drink drive casualties account for 13 per cent of all road accident deaths, 6 per cent of all serious injuries and 5 per cent of slight casualties.

Drink drive accidents and casualties reduced consistently for many years. During the 1990s the number of people killed and seriously injured in drink drive accidents fell by around 40 per cent and slight injuries by 10 per cent. However, between 1999 and 2000 the number of people killed in drink drive accidents rose by 13 per cent, serious injuries rose by 2.5 per cent and slight injuries by 7 per cent—although these are still provisional figures.”

Table 1: Annual Statistics

	1990	1999	2000 (provisional data)
Drink Drive Incidents	13,210	11,050	11,780
Deaths	760	460	520
Serious Casualties	4,090	2,470	2,530
Slight Casualties	15,550	13,980	14,980

Source: RoSPA

POLICE STATISTICS FOR THE PERIOD 18 DECEMBER 2001–2 JANUARY 2002

27. The total number of tests (59,475) for the period 18 December 2001 to 2 January 2002 breaks down into 44,196 “non-collision” tests and 15,279 “collision tests”. The total number of positive tests (4,557) breaks down into 3,310 “non-collision” and 1,247 “collision”. The figure of 15,279 represents a 1.4 per cent increase over the same period last year, and the figure of 1,247 for positive tests represents a 15 per cent increase. Overall, 8.1 per cent of those tested were positive, compared with 7.1 per cent the previous year.²² The figure of 6,512 for injuries from collisions represents a 5.5 per cent increase.

28. There are variations. In Scotland, for example, there was a large drop in the number of breath tests carried out from more than 3,300 to 2,200, mainly because fewer random checks had been conducted. Despite the reduction in the number of breath tests conducted, the number of drivers who failed a breath test was very similar—190 during this year’s campaign, compared with 199 the previous year. This means that the proportion of drivers failing breath tests increased. In Northern

²⁰ ACPO evidence, Q 137.

²¹ See the case of Mrs Mary Kettle as reported in *the Daily Telegraph*, 4 March 2002.

²² ACPO evidence, Q 127.

Ireland the police administered more breath tests but also caught more drink drivers—an increase of 12 per cent over the previous year.

29. The figures show a slight increase in the number of drink-drive offences over the same period last year. The United Kingdom has an unparalleled record in Europe over a 25 year period, having brought about a substantial decrease in the number of Drink Driving offences. However, for the past 10 years, the situation has remained more or less unchanged.²³ In the light of that, both ACPO and RoSPA felt that, although the increase was minimal (1 per cent overall), it sent out a disturbing message. We found, however, that no detailed statistical analysis had been conducted upon the significance of the increase noted. There may be a number of reasons why the figures varied one year with the other. Because there was a slight increase and this followed a ten year plateau in the figures and because the BAC limit was under review, we found it surprising that rigorous analysis may not have been conducted on the figures. The Committee is also concerned at the regional variations in collecting statistics for Drink Driving offences²⁴ which makes the establishment of an adequate statistical base difficult.

30. For his part, the Minister claimed that it was difficult to extrapolate from one set of figures only.²⁵ The Police had carried out more tests this year²⁶ and the small 1 per cent increase in recorded offences might be attributed to other factors such as adverse weather “which may have had some effect on the way the figures appeared this year”.²⁷ The increase was worrying, but very small. A similar blip had occurred in the late 1990s. However, if the blip turned into a trend, the Government would be concerned.

²³ RoSPA evidence, Q3.

²⁴ Minister’s evidence, Q210.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

PART 3: THE PROPOSED REDUCTION IN THE BAC LEVEL FROM 80MG/100ML TO 50MG/100ML

BACKGROUND: THE DEPARTMENT'S 1998 CONSULTATION

31. The purpose of this inquiry was to find out what action the Government intended to take on the BAC level—to leave it at 80mg/100ml or to reduce the BAC level to 50mg/100ml, as the Government had previously said it was minded to do. When the Minister gave oral evidence on 11 March, he said that the Government would take a decision as to whether or not it would change the existing BAC limit “within weeks”. The Committee was, therefore, taken aback to learn within days—first in an article in the press on 17 March, later confirmed by means of a Parliamentary Question on 20 March—that the Government had decided to leave the existing BAC limit unchanged at 80mg/100ml (see para 49).

32. In the Department's consultation paper *Combating Drink Driving: Next Steps*, published in 1998, the Department wrote:

“although in most respects the current system works quite well, it takes too little account of driver impairment at levels below 80mg/100ml, even though there is much evidence internationally that impairment begins well below that for the average driver. It has been estimated that about 80 road users a year are killed in accidents where at least one driver had blood alcohol over 50mg/100ml but no driver had blood alcohol over 80mg/100ml. Perhaps 50 of these deaths could be saved each year if the legal limit were reduced to 50mg/100ml and enforced as effectively as the current limit. Some 250 serious and 1,200 slight injuries per year could also be saved. The Government therefore is minded to lower the Drink-Drive limit to 50mg/100ml.”

In Annex 2 to the consultation paper “The Estimated Effect on Casualties of Lowering the Legal Alcohol Limit to 50mg/100ml” the Department notes that:

“for drivers in the 50–80mg/100ml range, the risk of a non-fatal accident is around 2 to 2.5 times as high as for a sober driver: for a fatal accident the risk is about 6 times as high”.

33. In summarising the public response to its consultation paper, the Department noted that:

“there was a clear majority in favour of a lower limit. Those in favour of a 50mg/100ml limit included such bodies as the Association of Chief Police Officers (and Scottish counterpart), the Magistrates' Association, the Justices' Clerks' Society, the British Medical Association, the Honorary Medical Advisory Panel on Alcohol, Drugs and Substances Misuse and Driving (“the Medical Advisory Panel”), the Automobile Association, the Royal Society for the Prevention of Accidents, the Transport Research Laboratory and the Parliamentary Advisory Council for Transport Safety. Although local authorities have no direct responsibility for enforcing the drink-drive limit, their views are important because of their role in road safety education. Of those who responded, 79 per cent were in favour of a lower limit, 14 per cent were against and the remainder expressed no clear view.”

34. The consultation paper also recorded the concerns of:

“two overlapping interests about a lower limit: those of the alcohol industries and those of rural communities generally, both being concerned primarily about the viability of rural pubs if a lower limit is adopted and properly enforced.”

But the paper added that:

“it is uncertain nevertheless how many are critically dependent on customers who expect to drink 3–4 units of alcohol and drive home afterwards and would be disinclined to visit the premises at all if they could not legally do this.”

35. At the end of the Summary the Department stated that the Government would defer any further decision on the matter (i.e. the reduction of the limit from 80mg/100ml to 50mg/100ml) until the new EC proposals were known. These proposals were published on 21 January 2001.²⁸

²⁸ 5778/00 COM(2000) 4397 – Commission recommendation of 21 January 2001 on the maximum permitted blood alcohol level (BAC) for drivers of motorised vehicles.

THE MINISTER'S RESPONSE

36. In his evidence to the Committee, the Minister said that his Department would not welcome a major debate on the question of reducing the permitted BAC level because he thought that this would suggest that there was an acceptable level of Drink Driving.²⁹ The Department strongly endorsed the line taken by the Police that motorists should not drink and drive.

37. In addition, the Minister thought that a reduction of the permitted legal limit to 50mg/100ml would cause breaches of this lower limit to be regarded widely as a "lesser offence" and there would be pressure to reduce the penalties associated with it.³⁰ The Minister was concerned to carry the public with him, and did not feel that there would be sufficient public acceptability for a reduction in the legal limit.³¹ This was a point made by the Portman Group in its written evidence.³² The Department's consultation paper had also identified the severity of penalties as a key question.³³

38. The Department's "package" approach had worked well. The Minister was cautious about untying any element of it. The strategy had to be comprehensive, and he was sceptical that a reduction in the legal limit by itself would make very much of a difference in reducing the number of Drink Driving offences. The Minister added that the Department's own estimate of the number of deaths and injuries that might be prevented by a reduction of the legal limit to 50mg/100ml was just that—an estimate only. Recent evidence from Canada seemed to suggest that the reduction might not yield all the predicted savings in lives and injuries.³⁴ He added that the courts, too, might adopt a different attitude to the offences if the legal limit was set at a lower level implying that they might be considered "trivial".

THE EU CONVENTION ON DRIVER DISQUALIFICATION

39. Reducing the limit to 50mg/100ml would bring the United Kingdom into line with the overwhelming majority of EU Member States. This might be useful when the EU Convention on Driver Disqualification entered into force. This Convention would require Member States to enforce penalties applied in other Member States for road traffic offences including Drink Driving offences. If the United Kingdom continued to leave its legal limit unchanged, then United Kingdom motorists in other Member States could be disqualified for Drink Driving offences involving an alcohol content in the blood above the 50mg/100ml limit but below the 80mg/100ml level. The United Kingdom would have to implement these penalties on its own citizens, even though the United Kingdom limit had not been breached.³⁵

40. The Minister said motorists travelling in Europe would have to be aware of the Drink Driving penalties there, as they had already to be aware of speed limits which also varied from country to country.³⁶ He said that any ban on driving, for example, incurred for having exceeded the 50mg/100ml limit in another EU Member State would have to be applied in the United Kingdom. However, because penalties were generally less severe in other EU Member States and in practice the imposition of a disqualification would probably be triggered by much higher levels of BAC, this was likely to remain a theoretical possibility rather than a real problem until other EU Member States adopted penalties as severe as those which obtained in the United Kingdom.

THE COMMITTEE'S VIEWS

41. The Committee is disappointed with the Government's response to the European Commission's Recommendation on a legal BAC limit and we remain of the view that it should have been willing to follow general EU practice on this issue and to reduce the legal limit to 50mg/100ml as we recommended in our 1998 Report. Public acceptability of change is important but public attitudes are changing. So far as we were aware, the Government had not sought to test public opinion after it had concluded the 1998 consultation exercise. The Government acted quickly in the aftermath of the Ladbroke Grove train crash to respond to public demands for safety devices to be fitted to

²⁹ Minister's evidence, Q212.

³⁰ Minister's evidence, Q215.

³¹ Q209.

³² Written evidence, p38, para 7.

³³ *Combating Drink Driving: Next Steps*, February 1998, paragraph 42.

³⁴ *The Safety Impact of Lowering the BAC Limit for Drivers in Canada*, Douglas J Beirness and Herb M Simpson.

³⁵ Convention drawn up on the basis of Article K3 of the Treaty on European Union on Driver Disqualification [1998] OJ.C216/2, Article 6(2)(a) permits a Member State to refuse to enforce disqualification when the conduct for which it was imposed does not constitute an offence under its law. The Government has said that it does not intend to apply this concession.

³⁶ Minister's evidence, Q220.

locomotives. The death toll on that occasion was well below the annual saving in lives and injuries that it is estimated would follow the reduction in the BAC limit (see para 32 above). The Minister's attempt to undermine his Department's assessment of the number of possible deaths and injuries that might be avoided with a 50mg/100ml limit ignores a solid corpus of research conducted over many years with the assistance of the Transport Research Laboratory (TRL).

42. As the Minister observed, the problem in setting any BAC level is that it implies there is an acceptable level below which it is safe to drink and drive. The current 80mg/100ml level encourages a popular rule-of-thumb assessment about how much a person can drink before the limit is reached. The effect of alcohol on a person's ability to drive varies considerably. A reduction of the BAC limit to 50mg/100ml would reduce the level at which the rule-of-thumb assessment operated and would possibly convince many drivers that the only way they could be certain of not breaking the limit would be to avoid alcohol entirely when driving.

43. The Portman Group argued that a general reduction in the limit would be less effective than implementing special programmes targeted at "hard-core" repeat offenders on the one hand and new and young drivers on the other. Although the Committee did not look again in this inquiry at the other three ways of reducing the incidence of drink driving as set out in its 1998 Report *Blood Alcohol Levels for Drivers*,³⁷ the Committee sees no inconsistency in its position: the general reduction in the BAC should be accompanied by continuing efforts to deal with recidivists and with new and young drivers, not seek to replace such programmes.

44. As for the argument that a lower limit would generate pressure to reduce penalties, the Committee did not accept there was necessarily a causal connection. Maintaining severe penalties was part of the Department's formula, together with enforcement, education and publicity. This combination had worked well in the past. The fact that with the reduction in the BAC limit the penalty would appear more severe was to be welcomed. The ultimate objective was to persuade people not to drink at all when driving. However, there is no reason why a lesser penalty—a shorter period of disqualification, fines or endorsement of driving licences—could not apply between 50mg/100ml and 80mg/100ml, though the Committee would prefer to keep the harsher penalty at a lower BAC level in line with the recommendations in the 1998 Report:

"the existing automatic 12 month licence suspension underlines the serious nature of a drink driving offence. In our view, lessening the penalty for any drink driving offence in the 50-79mg/100ml range could potentially devalue the seriousness of a drink driving offence in the eyes of the public. We therefore consider that, in the United Kingdom, there should be no reduction in the minimum disqualification period of 12 months, even if the permitted BAC level was reduced to 50mg/100ml."³⁸

45. To sum up: the United Kingdom has an excellent record in comparison with other EU Member States in reducing the number of people killed and injured on our roads. But the reduced level of deaths and accidents attributed to drink driving has remained unchanged for several years. It is unclear whether the Christmas/New Year figures indicate a "blip", a new plateau, or the beginning of an upward trend. They do not suggest a future reduction.

46. Most EU Member States now operate a BAC legal limit of 50mg/100ml but with varying penalties and effectiveness of enforcement. So the argument that because the majority now operates a lower BAC level, the United Kingdom should fall into line, is in itself not overwhelming. But in any case, it is for each Member State to assess the balance of advantage in responding to the Commission's recommendation.

47. The conclusion of the EU Convention on Driver Disqualification while the United Kingdom retains BAC of 80mg/100ml is unlikely to affect United Kingdom motorists until disqualification is applied consistently in other EU Member States at lower BAC levels than obtain at present. (See Appendix 3 for an indicative sample of penalties in EU Member States.) But the tendency throughout the EU appears to be towards tighter control of drink driving.

48. The Committee is of the opinion that action that reduces the number of people killed or maimed because of drink driving is to be encouraged. The Minister has sought to downplay the estimate given in his Department's consultation paper *Combating Drink Driving: Next Steps*, Annex 2, by suggesting that fewer people might be killed or injured in Drink Driving accidents than the evidence adduced in that document predicts. The Minister did not indicate what number of deaths and injuries might constitute a more realistic estimate. The Committee believes that death or injury should be avoided if

³⁷ Session 1997-98, 16th Report, HL Paper 82, para 115.

³⁸ Paragraph 91 of the Report.

possible. The Committee remains of the view expressed in its 1998 Report³⁹ that the most effective way of reducing the incidence of drink driving consists of four countermeasures: penalties; enforcement; publicity/education; and the legal limit. It welcomes action in all of these areas but does not think that a unilateral reduction in the legal limit necessarily affects the balance of such measures (we have addressed the link between the existing penalties and a lower legal limit in paragraph 44 above). However, the Committee notes that the evidence in the Department's consultation paper that driver impairment begins well below the existing BAC level (at 50mg/100ml in fact) has not been challenged. The Committee believes that this fact cannot be ignored.

49. As we were about to complete our inquiry, the Government announced, by way of a written answer,⁴⁰ that they had concluded that there was no need to reduce the legal limit of permitted blood/alcohol levels for drivers in the United Kingdom. The Committee believe that this decision contradicts all the evidence we have received, in connection with both this inquiry and our 1998 report. This decision appears to be based on the proposition that so far the package approach, including a BAC legal limit at this level, had worked, that it would unbalance the package to reduce the BAC level alone, and that public opinion would not countenance such a change.

50. We do not accept these assumptions. The package approach has achieved a great reduction in the past but as we observe above (para 45) the reduction in drink driving has stuck at the same level for the last ten years. We see evidence for driver impairment from 50mg/100ml upwards. We see no reason to disregard the estimate of lives that might be saved or injuries avoided were the lower limit to be introduced. We sense that the public attitude towards drink driving offences has changed and is less tolerant of such behaviour.⁴¹ We note the Department has not taken more recent soundings of public attitudes. We note that the Department's position coincides with that of the alcohol industry but is opposed by local authorities, the police, the British Medical Association, the Automobile Association, the Royal Society for the Prevention of Accidents, the Transport Research Laboratory, and the Parliamentary Advisory Council for Transport Safety.

51. We, therefore, reinforce our recommendation that the Government reduce the permitted BAC level from 80mg/100ml to 50mg/100ml in line with the recommendation in our earlier report.

52. The Committee considers that this proposal raises important questions to which the attention of the House should be drawn, and recommends this Report to the House for information.

³⁹ *Blood Alcohol Levels for Drivers*, 16th Report, Session 1997-98, HL paper 82.

⁴⁰ House of Commons Official Report, Hansard Vol 382 No 120, Col 362W, Wednesday 20 March 2002.

⁴¹ Mrs Mary Kettle's case as reported in *the Daily Telegraph*, 4 March 2002.

APPENDIX 1

Membership of Sub-Committee B

The Members of the Sub-Committee which conducted this inquiry were:

Viscount Brookeborough
Lord Brooke of Alverthorpe (Chairman)
Lord Cavendish of Furness
Lord Chadlington
Baroness Cohen of Pimlico
Lord Faulkner of Worcester
Baroness O’Cathain
Lord Shutt of Greetland
Lord Skelmersdale
Lord Wilson of Tillyorn
Lord Woolmer of Leeds

DECLARATION OF MEMBER’S INTERESTS

FAULKNER OF WORCESTER, Lord
President-Elect, RoSPA

APPENDIX 2

Summary of the Opinion of the Committee from the 1998 Report⁴²

1. A package of measures rather than any one single measure would be the most effective way to tackle drink driving (paragraphs 85 and 115).
2. Drivers with Blood Alcohol Concentrations (BACs) well in excess of the legal limit and new, young drivers are the most important target groups (paragraph 86).
3. Concentration on drinking drivers is out of proportion to the effort put into reducing other causes of road accidents in the United Kingdom (paragraph 88).
4. More research should be undertaken into the effects of drugs on driving performance (paragraph 89).
5. Much of the progress made in reducing the number of casualties caused by drink driving is due to the stringent penalties on those who disregard the law (paragraph 90).
6. The permitted BAC for drivers in the United Kingdom should be reduced from 80mg/100ml to 50mg/100ml (paragraph 114).
7. There should be no reduction in the minimum disqualification period of 12 months at the 50mg/100ml level in the United Kingdom (paragraph 91).
8. A second-tier limit of 150mg/100ml should be introduced in the United Kingdom (paragraph 92). At 150mg/100ml, more stringent minimum penalties should apply (paragraph 93).
9. At a level of 150mg/100ml a convicted drink driver in the United Kingdom should be classified a High Risk Offender (HRO) (paragraph 98).
10. The HRO scheme in the United Kingdom should be improved by incorporating many features of the schemes currently existing in Sweden and Germany (paragraph 99).
11. The Committee does not favour different limits or different penalties for new young drivers, for whom specific targeted education is particularly important (paragraph 100).
12. The Committee considers that police officers in Great Britain should receive better training on the extent of their powers to stop and breathalyse motorists (paragraph 102).
13. The Committee considers that United Kingdom legislation gives the police sufficient powers and, therefore, does not support the introduction of random breath testing or of unfettered discretion in police powers (paragraphs 103-104). The Committee does, however, support targeted enforcement by the police (paragraph 105).
14. Evidential roadside testing should be introduced in the United Kingdom as a priority (paragraph 106).
15. Road policing should be made a core policing priority in Great Britain (paragraph 107).
16. The Committee supports the Department of the Environment, Transport and the Regions' message "None for the road" in restating that it is not safe to drink and drive at all (paragraph 108).
17. The specific problems of combining drinking and driving should be emphasised in general education about alcohol in United Kingdom schools (paragraph 109).
18. The use of home breathalysers and ignition interlock devices would encourage more personal responsibility in the decision whether to drink and drive (paragraph 110).
19. Whilst the Committee supports a reduction in the permitted BAC level for drivers in the United Kingdom (paragraph 114), we do not support a European Community Directive harmonising drink driving limits. Setting the permitted BAC for drivers is a matter for Member States (paragraph 116).

⁴² Paragraph numbers refer to paragraphs in *Blood Alcohol Levels for Drivers*, 16th Report, Session 1997-98, HL paper 82.

APPENDIX 3

Penalties for Drink Drive Offences in the European Union

Source: Department for Transport.

The following charts are for illustrative purposes only. Figures for Greece and Luxembourg were unavailable at the time of compilation.

AUSTRIA				
BAC	50-80mg/100ml	80-119mg/100ml	120-159mg/100ml	>160mg/100ml or specimen refused
First Offence				
Endorsement				
Fine	£141-£2,345	£375-£2,345	£563-£2,817	£751-£3,755
Suspension	None for first offence	4 weeks	3 months minimum	4 months minimum
Imprisonment	None			
Other	Rehabilitation can be offered	Criminal record Insurance penalty	Obligatory Training Course Criminal record Insurance penalty	Obligatory Training Course Additional traffic psychology exam Obligatory Medical Examination Insurance penalty
Second Offence within 12 months				
Endorsement				
Fine	£141-£2,345			
Suspension	3 weeks	3 months	more than 3 months	Considerably longer
Imprisonment	None			
Other				
Third Offence within 12 months				
Endorsement				
Fine	£141-£2,345			
Suspension	4 weeks MINIMUM			
Imprisonment	None			
Other	Criminal record Insurance penalty			

BELGIUM			
	BAC	50-80mg/100ml	>80mg/100ml or refusal to give a sample
First Offence			
Endorsement			
Fine		£80.00 (immediate)	£639-£6,390
Suspension		3 hours (immediate)	6 hours (immediate) followed by further test. If still over 80mg/100ml 8 days to five years according to BAC
Imprisonment		None	15 days to 6 months
Other		No Court appearance Not affected by re-offence	Court appearance
Re-offence within 3 years			
Endorsement			
Fine			£1,278-£15,978 and or imprisonment
Suspension			8 days to 5 years
Imprisonment			1 month to 2 years
Other			
Second Re-offence within 3 years			
Endorsement			
Fine			£2,557-£31,952 and or imprisonment
Suspension			8 days to 5 years or infinite
Imprisonment			2 month to 4 years
Other			

DENMARK						
	BAC	51-80mg/100ml	80-120mg/100ml	121-150mg/100ml	151-200mg/100ml	201-250mg/100ml > 250mg/100ml
First Offence						
Endorsement		None	None	None	None	None
Fine		£348 - £435	1 month's salary	1 month's salary	1 month's salary or imprisonment	None
Suspension			1 year or re-test	1-2 years	2-2 1/2 years	2 1/2 - 3 years
Imprisonment		None	None	None	None/14 days	20-30 days
Other		Possible re-test				
Second Offence						
Endorsement		None	None	None	None	None
Fine		£435-£694	None	None	None	None
Suspension			3 years	3 years	5 years	5 years
Imprisonment		None	10 days	14 days	20 days	30 days
Other		Possible re-test				
Third Offence						
Endorsement		None	None	None	None	None
Fine		?	None	None	None	?
Suspension		Possible	10 years	10 years	10 years	10 years
Imprisonment		10-14 days	min 30 days	min 30 days	min 30 days	min 40 days
Other						
Fourth Offence						
Endorsement						
Fine						
Suspension		Possible				
Imprisonment		14-20 days				
Other						

FINLAND				
	BAC	50-120mg/100ml	120-179mg/100ml	180-240mg/100ml
Endorsement		None	None	None
Fine		Depends on income	Depends on income	Depends on income
Suspension		3-6 months	6-10 months	10-18 months
Imprisonment			15-45 days suspended	45-75 days often suspended
Other				75 days to 3 months

FRANCE		
	BAC	50-79mg/100ml
		>80mg/100ml or refused sample
Endorsement		3 points
Fine		6 points
Suspension		up to £3000
Imprisonment		up to 3 years
Other		up to 2 years
Civil contravention (4th class) Criminal offence		
		in case of serious injury or re-offence
Endorsement		6 points
Fine		up to £20,000
Suspension		Infinite
Imprisonment		up to 2 years ?
Other		
Third Offence		
		in case of killing someone
Endorsement		6 points
Fine		up to £30,000
Suspension		Infinite
Imprisonment		up to 4 years
Other		

GERMANY				
	BAC	30-109mg/100ml	50-79mg/100ml	80-109mg/100ml
				>110mg/100ml
First Offence, no injuries caused and no signs of unsteadiness				
Endorsement*			2 Points	4 Points
Fine			£66	£164-£493
Suspension			None	1-3 months
Imprisonment				Decision by court about penalty or imprisonment and about driving permission or suspension of driving licence
Other				Criminal Offence
Second Offence, no injuries caused				
Endorsement*				7 Points
Fine				£328-£985
Suspension				3 months
Imprisonment				
Other				Administrative Offence
Third Offence, no injuries caused				
Endorsement*				7 Points
Fine				£492-£985
Suspension				6 months
Imprisonment				
Other				Administrative Offence
In the event of unsteadiness or an accident				
Endorsement*		7 Points		
Fine		1-3 months salary OR imprisonment		
Suspension		between 6 months and 5 years		
Imprisonment		up to 5 years		
Other		Criminal offence		

* At the central traffic register data about traffic violations are collected. Beginning at the level of 8 points measures will be imposed, starting with an admonition and resulting in suspension of the driving licence when 18 points is reached.

IRELAND			
	BAC	80-100mg/100ml	100-150mg/100ml
First Offence			
Endorsement			
Fine		Maximum fine of £816	
Suspension		3 months	1 year
Imprisonment		At the discretion of the Court	2 years
Other			
Second Offence			
Endorsement			
Fine		Maximum fine of £816	
Suspension		6 months	2 years
Imprisonment		At the discretion of the Court	4 years
Other			

ITALY		
	BAC	>80mg/100ml
First Offence		
Endorsement		
Fine		£166-£664
Suspension		15 days to 3 months
Imprisonment		up to 1 month
Other		
In case of injury or repeat offence within one year		
Endorsement		
Fine		£166-£664
Suspension		1 to 6 months
Imprisonment		up to 1 month ?
Other		
In case of killing someone		
Endorsement		
Fine		£166-£664
Suspension		2 months to 1 year
Imprisonment		up to 1 month?
Other		

NETHERLANDS									
	BAC	54-80mg/100ml	81-100mg/100ml	101-130mg/100ml	131-150mg/100ml	151-180mg/100ml	181-210mg/100ml	211-250mg/100ml	>251mg/100ml
Endorsement									
Fine		£114-£175	£204-£248	£263-£321	£394 - 6 months	£481 - 6 months	£554 - 9 months	£642 - 9 months	
Suspension									12 months
Imprisonment								2 weeks	
Other									

PORTUGAL			
	BAC	50-80mg/100ml	81-120mg/100ml >120mg/100ml
Endorsement			
Fine		£48-£241	£96-£482
Suspension		1 to 6 months	3 months to 2 years 6 months to 5 years
Imprisonment			up to 1 year
Other			

SPAIN		
	BAC	50-80mg/100ml >80mg/100ml
Administrative Offence		
Endorsement		No points system in Spain
Fine	£193-£386	£193-£386
Suspension	up to 3 months	12 months to 4 years
Imprisonment		not unless linked to another crime
Other		

SWEDEN			
BAC	20-100mg/100ml	>100mg/100ml	Driving when severely under the influence
Endorsement			
Fine	Varies according to income	Very high fines OR	
Suspension	Varies according to BAC level		12 months
Imprisonment	Possible 2 months	3 months to 2 years according to BAC level OR	Varies according to severity
Other	Possible community service	Treatment Possible community service	Alcohol dependence clinic Possible electronic tagging

APPENDIX 4

List of Witnesses

The following witnesses gave evidence. Those marked * gave oral evidence.

- * Association of Chief Police Officers of England, Wales and Northern Ireland (ACPO)
- * Mr David Jamieson, MP
Portman Group
- * Royal Society for the Prevention of Accidents (RoSPA)
- * Department of Transport, Local Government and the Regions (DTLR)