

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM IOMPAR, TURASÓIREACHT AGUS SPÓRT

### JOINT COMMITTEE ON TRANSPORT, TOURISM AND SPORT

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*Dé Céadaoin, 12 Aibreán 2017*

*Wednesday, 12 April 2017*

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The Joint Committee met at 1.40 p.m.

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#### MEMBERS PRESENT:

Deputy Peter Fitzpatrick,	Senator Frank Feighan,
Deputy Imelda Munster,	Senator John O'Mahony.
Deputy Catherine Murphy,	
Deputy Kevin O'Keeffe,	
Deputy Robert Troy,	

In attendance: Deputy Thomas P. Broughan.

DEPUTY BRENDAN GRIFFIN IN THE CHAIR.

## Business of Joint Committee

**Chairman:** I propose we go into private session to deal with some housekeeping matters.

*The joint committee went into private session at 1.46 p.m. and resumed in public session at 2 p.m.*

### **General Scheme of Road Traffic (Fixed Penalty - Drink Driving) Bill 2017: Discussion (Resumed)**

**Chairman:** I welcome everyone to today's meeting to discuss the general scheme of the road traffic (fixed penalty - drink driving) Bill 2017. Last week we heard from the Minister, Deputy Ross, who introduced his Department's thinking on the proposed legislation. We have also had meetings on the Bill with the Road Safety Authority, which also wrote to the committee on the matter, An Garda Síochána and the Irish Road Victims Association from whom we heard the harrowing experiences of relatives who lost loved ones who were killed or maimed in accidents involving drink-drivers. The committee has further agreed to write to the groups again to seek any written observations they may wish to submit in light of the views expressed by the Minister and the views offered by the witnesses before the committee today.

I welcome to today's meeting Mr. Pat Crotty, president, and Mr. Padraig Cribben, chief executive officer of the Vintners Federation of Ireland; Mr. Donall O'Keeffe, chief executive officer, and Ms Deirdre Devitt, chair, of the Licensed Vintners Association. I thank the witnesses for their attendance. While we invited representatives of the Irish Hotels Federation here today, they were unable to attend.

I draw the attention of witnesses to the fact that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable. I invite a representative of the Vintners Federation of Ireland to make his opening statement.

**Mr. Padraig Cribben:** I thank the Chairman and the committee for the opportunity to come here today for a pre-legislative discussion on the road traffic (fixed penalty - drink driving) Bill 2017.

By way of background, we in the Vintners Federation of Ireland represent publicans in the 25 counties outside of Dublin. A total of 93% of our members are in family-owned and family-run premises with relatively small businesses. The most recent Revenue figures show that 52% of all publicans are in licence bracket 1, with a turnover of under €190,000 per annum - I stress that is turnover - and 78% are between brackets 1 and 2, with a turnover of less than €390,000

per annum.

The vast majority of our members live and work in the communities they serve. In many instances their customers are not alone customers but are also neighbours and friends or the sons and daughters of neighbours and friends. Our members are responsible citizens and members of the community in which they live and would not want in any way to be associated with any negative impact on their communities.

The question of fatalities on the road is a very emotive subject. Many have lost lives and many families have been affected. There is no community or sector of a community that has not been touched by a road fatality. Our members are not immune from that and many also have been affected. The issue of alcohol as a factor in road fatalities is also a very emotive subject and the federation is clearly on the record in saying that we do not condone drunk-driving and that the full rigours of the law should be visited on those who have been caught drunk-driving.

However difficult it may be, we need to try to take the emotion out of this discussion and look at it as objectively as possible on the basis of the evidence available. The primary document that is currently being used in respect of this proposal is a report from the Road Safety Authority entitled, Fatal Collisions 2008-2012, Alcohol as a Factor. It is a fairly substantial piece of work. It is our belief that a proper analysis of that report will show that there is no justification for the measures being proposed by the Minister. This report states that alcohol is a contributory factor in 38% of all deaths on the road. This headline has been bandied about by many commentators in the context of the current proposal to give the impression that by implementing this legislation, this figure will be significantly reduced. We have seen that in many articles and heard it from many commentators. We need to analyse this figure more. Of this 38%, 9% are pedestrians and can in no way be affected by the proposal, leaving 29% where alcohol is a factor, as per the report.

I enclose in my presentation table 28 from page 56 of the said report. That gives the breakdown available in the various alcohol bands where alcohol was deemed to be a factor. The first glaring figure is that in 80.4% of accidents the individuals involved were over twice the legal limit. As we have stated, in those cases the full rigours of the law should be implemented. If members look at the second line on the table, it shows that 4.6% of the 29% - not 4.6% of all the accidents - are in the 51-80 mg blood alcohol level bracket. That equates to 1.3% of the total. Of interest, and as noted by Deputy Catherine Murphy in her contribution last week, there are twice the number in the 21-50 mg blood alcohol level bracket compared with the 51-80 mg bracket. In effect, the Minister is addressing 1.3% of total road fatalities. Of course legislation that would reduce or eliminate the 1.3% would be welcome and justified if there were evidence that in those cases, alcohol was a determined cause of the accident. However, there is no such evidence in this report.

In section 4.3.7 on page 53 of the report it states:

Twenty eight (11%) of the 250 collisions cited alcohol as the sole contributory factor. An additional 3 had alcohol and a vehicle factor noted (2 with worn tyres and 1 with other).

There is no evidence provided in the report to show if any of the 11%, where it says alcohol was the sole factor, were in the 51-80 mg category or indeed which category they fall into. Looking at the level that were two and four times over the limit, it would be a fair assumption that they fall into the higher bracket.

Further on in that same page the report states, “In 301 of the 330 alcohol related collisions, other behavioural contributory factors in combination with alcohol include speed, drugs, dark clothing, dangerous behaviour, fatigue and distraction.” Again, there is no evidence that alcohol was a factor, other than a presence. The report does not say which of the other factors were relevant or to what level any of them contributed to the said accidents. What we have in the report, based on forensic analysis, is evidence of a presence of alcohol but no evidence that alcohol is the cause. I put it to members that those are two very different things. It is also important to note the level of evidence regarding culpability. The report under section 1.3 on page 14 states:

Where culpability is cited this is not judicial culpability. This report is focused on the pre-crash behaviour of the parties involved in the collision and not the result of a prosecution.

The underlining of the words “not judicial” is in the report and is not mine and highlights that the authors of the report were at pains to point out that factor.

What we are looking at here is opinion based rather than judicial based. In essence, on the basis of the above, there is no evidence to support the step being proposed by the Minister and we do not believe it will contribute to saving one life.

Before the committee last week, the Minister referred to an increase in fatalities on the road between 2012 and 2016 and said, “We need to look into why this is the case”. We do not believe too much searching is required. Since 2012, there has been a major increase in commercial activity and there has been a significant increase in employment leading to much higher volumes of traffic on the roads. Anyone who travels regularly, like members, can confirm this. At the same time, there has been a corresponding significant reduction in Garda presence in the Garda traffic corps. It is not rocket science when those two factors are put together to work out why there is an increased number of road accidents and the Minister should not need to look into why this is the case.

The Minister accused the federation at last week’s meeting of being cynical in our opposition to this legislation. We reject that accusation totally. We have put our case in a reasoned and logical way to anybody we have spoken to based solely on the report that the Minister has been relying on and we have adhered to the figures in that report at all times. We are certainly not prepared to take a lecture on cynicism from a Minister who comes into this committee and makes a virtue of doing something he says will save lives, which we dispute, while at the same time opposing a public health (alcohol) Bill, which all medical commentators can confirm will save lives, because as he says, “of the effect it will have on retailers. It could well put some of them out of business”. That is cynicism in the extreme. The Minister may have more friends in the retail trade than in the pub trade, but that might be cynical of me and, therefore, I will not suggest it.

In any situation the penalty must fit the breach of law. There is a graduated penalty system in place that fits the breach of law and this is true in almost all areas. It is true not only in Ireland but across the European Union. The Minister appears to accept a graduated penalty system is appropriate, as what he is proposing is part of such a system. The graduated system in place is appropriate.

A holistic approach to all the causes of fatalities on the road needs to be put in place. It needs to cover all the aspects covered by the Road Safety Authority, RSA, including speeding,

the use of phones, drugs, alcohol, etc. In addition, having legislation without enforcement is futile. The Minister said he has been breathalysed twice in recent times. I travel between 25,000 and 30,000 miles a year in my job. I have done so for 40 years, which is the guts of 1 million miles. I have never been breathalysed. Over the past five years, I have travelled approximately 100,000 miles and I have been stopped twice. There needs to be proper enforcement.

A forensic analysis of the RSA report does not support the proposal put forward by the Minister. We believe that the current provisions are adequate and appropriate and should not be changed.

**Mr. Donall O'Keeffe:** The Licensed Vintners Association, LVA, is the representative organisation for the publicans of Dublin. We have 600 members who represent 80% of the pubs in our capital city. Collectively, our members sell almost 30% of all the alcohol in the Irish on-trade and employ more than 12,000 staff. We thank the committee for the opportunity to address it on this important topic.

The LVA fully appreciates the dangers of drink-driving and welcomes the fact the overwhelming majority of the driving public uphold the law of the land in this regard. The association obviously does not condone drink-driving and recognises that it is a matter for each individual to make their personal arrangements to uphold the law in this regard. We recognise that Dublin is particularly well served by both public transport and taxi availability. Our members ensure they are informed of the late night public transport schedules, including Dublin Bus, Luas and DART, in order that they can advise customers on options. Furthermore, the majority of our members have arrangements in place with local taxi companies to provide speedy access to taxis at peak times. We also appreciate that, across Dublin, many customers live within walking distance of their local pubs. Street lighting and public footpaths make this a safe option for many.

The LVA believes that the current drink-driving limits and related penalties are appropriate. Conviction of drink-driving offences rightly brings severe sanction. The current penalties are severe enough to provide a significant deterrent and reinforce the view that drink-driving is unacceptable. The LVA welcomes the fact the proposed Bill plans to maintain the current drink-driving limit of 50 mg. RSA statistics show that 80% of the car and motorcycle accidents involved drivers who were over twice the legal limit. It seems obvious to us that regulatory and enforcement measures should be targeted at this cohort. In addition, other factors such as speed, drugs, mobile phone use, dangerous driver behaviour, fatigue, vehicle condition and road conditions play significant roles in road fatalities.

There are three obvious routes to pursue to reduce the level of drink-driving in Ireland. First is a study as to why the incidence of drink-driving among young drivers appears to be increasing, noting it was previously on a long-term downward trend. Second is an enhanced, longer-term public awareness and education campaign on the dangers of drink-driving, especially targeted at those segments of the public more likely to engage in drink-driving. Third is a consistent, high-profile Garda enforcement of the current limits. These measures, appropriately resourced and implemented consistently over the longer term, are the most effective means of reducing drink-driving.

**Deputy Peter Fitzpatrick:** I thank the VFI and the LVA for appearing before the committee. My position is clear. I am against all forms of drink-driving and I strongly favour zero tolerance. Losing one life to drink-driving is one too many. I will make no apology for my position. Over the years, we have been too tolerant when it comes to drink-driving. Thankfully,

that attitude is changing. I might not always agree with the Minister but on this occasion I fully support his efforts. Instead of taking opposing views, I strongly advocate that both the VFI and LVA work with us to change attitudes to drink-driving. In 2015, the number of road deaths was 162 but it jumped to 188 in 2016. In 2016, a total of 8,063 drivers were arrested for intoxicated driving, of whom 617 were detected driving with between 51 mg and 80 mg of alcohol per 100 ml of blood. That was an increase of 50% on 2015. Between 2008 and 2012, there were 286 alcohol related fatalities, of which 19 were between 21 mg and 50 mg of alcohol per 100 ml of blood and 16 were between 51 mg and 80 mg. Drink is a factor in 38% of all road deaths.

The proposed Bill is supported by the RSA, the Road Traffic Victims Group, the AA and the Garda. Independent research from the Road Safety Authority showed that drinking is increasing among young people. Some 81% of alcohol related deaths occur in rural Ireland. In a national survey conducted by the Road Safety Authority in January 2017, 91% of the public supported automatic disqualification. Support for this was 89% among urban and 93% among rural respondents. Over Christmas 2016, the Garda Síochána ran a six-week campaign which resulted in a 35% increase in arrests over the same period in 2015, which was significant. This new Bill will remove the dangerous impression that people who drive over the limit are allowed to continue to drive. A breakdown of the 2015 statistics for specimens from the Medical Bureau of Road Safety showed that 22% were under 24 years, 27% were between 25 and 34 years, and 21% were between 35 and 44 years. That means that drivers under the age of 44 years represent 70% of specimens taken. The figures for the age group between 45 and 54 years is 14.6%, and over 55 years was 14.9%. The gender breakdown is 81% male and 19% female.

In its opening submission, the Vintners Federation of Ireland stated that we must take the emotion out of this discussion and look at the objectives. I find this statement to be deeply flawed. We cannot take the emotion out of this. I have visited many homes in my constituency where people's lives have been destroyed by drink driving. Loved ones have been killed or badly injured as a result of a driver under the influence of drink. How can we take the emotion out of this? I urge the Vintners Federation of Ireland to approach this issue in a different manner. We must operate a zero tolerance attitude to drink driving and impose penalties on those who drink and drive. We should work towards a better understanding of the cause of drink driving and educate those who still drink and drive so that they have an understanding of the danger of their actions.

I take issue with another part of the Vintners Federation of Ireland's opening statement which stated we have evidence of the presence of alcohol but no evidence that it is the cause of these two very serious things. Is the Vintners Federation of Ireland serious? I find this statement very disturbing. How can we have a situation where alcohol is in the system of a person driving yet state that we do not know that this was the cause of the accident? I want to hear the federation's on this. I want to agree with the comments about taking a historic approach. We must, as stated, look at all factors that arise in cases of road traffic accidents. I urge it, however, to look more closely at the rising instances of drink driving and to its members to see if they have any innovative solutions to reverse this trend.

**Mr. Padraig Cribben:** There is a misconception that when people are found to be over the limit, they are not automatically put off the road. The bottom line is that people between 51 mg and 80 mg get a fixed-penalty fine and penalty points. Everyone who is found to be over that level is automatically off the road. That has been lost somewhere in the debate. People give the impression that if a person is caught drink driving he or she does not automatically lose his or her licence. In the vast majority of cases a person does. It is only in the 51 mg to 80 mg

bracket that he or she does not.

The Deputy raised two other points. One was that he wants to keep the emotion in the debate. I do not think that will lead to either good legislation or rational thinking. We understand the emotion. Many of our members live and work in communities that have been severely affected by fatalities on the roads, but to deal with an issue on the basis of emotion rather than rationality does not make sense.

On his point about the presence of alcohol and causality, that is in the report. If the Deputy can show me anywhere in the report that indicates that alcohol was the actual cause of accidents between 51 mg and 80 mg, I will gladly accept that. I do not see it.

**Deputy Peter Fitzpatrick:** I stated that in 2016, a total of 8,063 drivers were arrested for intoxicated driving. Of those, 617 were detected between 51 mg to 80 mg of alcohol per 100 ml of blood, an increase of 50% compared to 2015. That is 617 people who did not lose their licence. I am not trying to be smart. There were 35 people killed between 2008 and 2012. There are 617 people who only got a fine. These 617 people should not be driving. I agree with the Minister, Deputy Ross, and I said this last week on my local radio station that there has to be zero tolerance. I was disappointed that Mr. Cribben stated on that programme that people could drink three or four pints and still drive the next day. I am a father with three children at home. The only way to stop people from driving the next day is a zero tolerance approach.

Mr. Cribben is talking about emotions. I am lucky that none of my family was ever maimed or killed by a drink driver but I have met many people who have come to my constituency office who have. I cannot believe some of the statements Mr. Cribben has made and I am glad that I am able to say to him face-to-face that I am disgusted by some of what I am hearing today. We all have emotions. Imagine having to tell someone his or her child has been killed on a motorway by a drink driver. How would Mr. Cribben fancy being the garda arriving at the door to tell that family what had happened? He is saying there has not been one death one death in respect of someone between 51 mg and 80 mg. I cannot believe some of the things that Mr. Cribben is coming out with. I am really disgusted with him.

**Mr. Padraig Cribben:** What I actually said, and I would prefer if the Deputy quoted what I said rather than what he thought I said, was that there was no evidence in this report on which the Minister is relying that alcohol was the cause of any of the accidents between 51 mg and 80 mg. What is very clear in this report is that there was a presence of alcohol but what is also in it is that there was a combination of other factors, including drugs, fatigue, distraction, seat belts and so on. That is what is in the report and that is what I am quoting.

**Deputy Peter Fitzpatrick:** I told Mr. Cribben that in 2016-----

**Chairman:** Deputy Fitzpatrick, with respect-----

**Deputy Peter Fitzpatrick:** I told Mr. Cribben that in 2016 8,063 people were arrested for intoxicated driving.

**Chairman:** Deputy Fitzpatrick.

**Deputy Peter Fitzpatrick:** Of those, 617 were between 50 mg and 80 mg. That is 617 people who ought to be off the road but who are not.

**Chairman:** Deputy Fitzpatrick must allow the witness to respond. I want to clarify for the

committee that we went through the figures last week. Some 617 received fixed-penalty notices for 2016, and 501 in 2015. A figure of 758 was thrown into the mix somewhere along the line and a figure of 50%. I think it was a 23% increase, and it was 501 to 617. This is for the record as there was some confusion.

**Mr. Padraig Cribben:** Anyone over the limit is one too many but there are appropriate penalties for those between 20 mg and 50 mg, between 50 mg and 80 mg, and 80 mg and above. What we are saying is that the penalties are there and they are appropriate.

I return to Deputy Fitzpatrick's reference to three pints. What I said on that radio programme which Deputy Fitzpatrick and I were on last week was that the medical evidence is that if a person drinks X number of pints, it will go through his or her system at roughly a rate of one pint every two hours. Deputy Fitzpatrick said on that radio programme that if someone has two or three pints on a Thursday night, they should not drive until Saturday. No medical people are saying that. No one other than Deputy Fitzpatrick is saying that. What I said was that the evidence suggests that alcohol will be gone from his or her system by the following morning, provided he or she has not been drinking until 4 a.m. or 5 a.m. If someone drinks those two or three pints by 11 p.m., the medical evidence is that it is gone through his or her system by 8 a.m. the following morning. I made a reasonable point that it should not be wrong to drive the following morning.

**Chairman:** The two Fine Gael Senators have had to leave for a vote and I want to accommodate them when they return, so I will move on to the Fianna Fáil grouping.

**Deputy Robert Troy:** I welcome the witnesses and thank them for engaging with the committee on the report and the proposed legislation. Am I correct that of the 8,000 people arrested and convicted on suspicion of drink driving in 2015-2016, in 2015, 501 people received fixed penalty notices and this subsequently rose to 617 in 2016?

**Mr. Padraig Cribben:** They are the figures that are being suggested.

**Deputy Robert Troy:** In other words, in 2015 and 2016, 7,500 and 7,400 people, respectively, were put off the road for drink driving, which means the number of people disqualified from driving was greater than the number of people who received a fixed penalty notice and a €250 fine.

**Mr. Padraig Cribben:** If all those were full and true that would be correct.

**Deputy Robert Troy:** The point I am making is that automatic disqualification from driving is not the panacea it is displayed to be because if it were the number of people losing their licence would not be greater than the number of people receiving a fixed penalty notice and €250 fine.

**Mr. Padraig Cribben:** That would seem to be the case. It is clear from the report that in many cases drink driving was not the only issue. In a number of cases people had no insurance and the cars were defective. Effectively, these people had no respect for most elements of law and order.

**Deputy Robert Troy:** Of concern is the number of young people who are engaging in drink driving. Reference was made in one of the presentations to a study on why the incidence of drink driving among young drivers appears to be increasing, noting that it was previously on a downward trend. From Mr. Cribben's experience of working in the industry, what is the

reason for this change in the downward trend among young people? Historically, this was more common among older generations because they found it hard to change with the times, drink driving laws having been more liberal in the past. In Mr. Cribben's opinion, why are young people engaging in this practice?

**Mr. Donall O'Keeffe:** The study was referenced in our opening statement. We drew it from the RSA report. On the Deputy's question, there are a couple of things at play. Every generation must learn the laws of the land and at different points there is different emphasis. In the past, there were many public awareness campaigns around drink driving but that has not been the case in the last five to seven years. Also, in the past five to seven years, the level of enforcement has been lower than it traditionally has been. These two points, taken together, are a big factor. Another factor is that the current generation are more engaged in home drinking than the previous generation and they are driving between each other's houses. We do not know for sure which is the greatest contributory factor and for this reason we believe it is important that legislation, in terms of providing a deterrent, takes into consideration why these things are happening. It is clear that the latest generation have a more liberal attitude than previous generations.

**Ms Deirdre Devitt:** The availability of cheap alcohol is also a factor in more young people drinking and drinking at home. As in other areas, children need to be made aware of these sorts of issues at 14 or 15 years of age because that is the age at which they are starting to drink. We need to accept that and do something about it.

**Chairman:** Before we proceed further, I ask everybody in the room to ensure his or her mobile phone is switched off because it causes interference with the broadcasting equipment and may prevent further broadcasting of this discussion in the media.

**Deputy Robert Troy:** We need to work together to achieve the ultimate goal of reducing the incidence of drink driving. Regardless of what we do we will never eliminate road accidents. Unfortunately, that is not a possibility but we can bring forward legislation to help to reduce and minimise accidents. In that context, has the Licensed Vintners Association or the Vintners Federation of Ireland ever supported proposed or enacted legislation brought forward by any Government to amend, modify, enhance or improve drink driving law?

**Mr. Padraig Cribben:** I am relatively new in the context of drink driving legislation and so my answer is that I am not particularly sure. I would surmise that it would be an issue that would be pretty uppermost in the minds of our members and so I suspect we would have found it difficult not to do so. I recall that one of the many advertisements around drinking driving in the past referenced the phrase, "So many will suffice", such that supporting legislation might not have been high on the agenda based on where people might be coming from. As I said, in the context of drink driving legislation, I am relatively new. I think only one Act has come into force in my time.

**Mr. Donall O'Keeffe:** It is fair to say that drink driving would not be as high up the priority list for the LVA as it would be for other associations. I note from the RSA figures that more than 80% of drink driving occurs in rural areas. It is clear that this is a bigger issue outside Dublin. In Dublin, we have public transport and taxi options and population density around pubs which means drink driving should occur here far less. In our view, there is no excuse for drink driving in a Dublin context. We do not condone drink driving. There is simply no excuse for it in a Dublin context.

**Deputy Robert Troy:** Legislation is applicable to all areas, Dublin or rural, and people

have to adhere to it. There is no differentiation between Dublin, urban or rural. Legislation must be implemented across the board. Perhaps if there was greater implementation of existing legislation things would be better.

People talk about rural isolation and the effect this legislation could have on people who live on their own in rural Ireland. Have the representative bodies engaged with the Minister, Deputy Ross, and the NTA on what alternative transport could be put in place, including hackney-type services and so on. I come from a small rural village where a number of the local publicans drive their customers home at the end of the night. Do the bodies see merit in national roll-out of a particular scheme to combat isolation and ensure an element of connectivity across rural Ireland in areas where there is no public transport in place?

**Mr. Padraig Cribben:** Rural isolation is a major issue. We steered clear of mentioning rural isolation in our presentation because it is interpreted by certain commentators in a specific way, which we believe is not particularly helpful. We previously engaged with the Department of Transport, Tourism and Sport, and with Deputy Alan Kelly when he was Minister, about a rural hackney service. The former Minister introduced it. We have found that there is much red tape associated with it that is making it almost impossible to operate. Many of our members drive people home at night. That happens quite regularly across the country. For a number of reasons, however, it is not as simple as getting in the car and driving people home. Business is such that, in most instances, there is one person behind the bar at night. There is a situation where there are a number of people in the bar. One guy wants to go east and the other wants to go west. When one is taking the guy east, should the guy who wants to go west be left in charge of the bar while one is away? It is desirable but not practical in many cases. What we have been seeking for some time is some form of business relief for those who buy, for example, seven-seater minibuses to ferry people to and from establishments. No such business relief is available.

We have engaged with the Department of Transport, Tourism and Sport, particularly on the rural hackney service, with some level of success but we believe that changes are needed. We have tried to engage with the Departments of Finance and Transport, Tourism and Sport on the issue of business relief for those who buy seven-seater minibuses but without success. Rural isolation is a big issue. We believe that, in looking at the issue before us, we would be muddying the water by bringing that in as a factor.

**Deputy Kevin O'Keeffe:** I welcome the witnesses. On the comment earlier, while we do not want to do so, we have to take the emotive issue out of this discussion. I commend the witnesses on coming before us today. I am a rural Deputy. The media try to portray it as if it is Dublin against rural Ireland but it is an issue that affects the whole country. We talk about dairy farmers who live a few miles out from villages but there are big towns and even Dublin where one could be living inside an urban sprawl with the pub still two miles away. I see lately, driving through the streets of Mallow at midnight, that no taxis are available and the area with the speed limit through the town could be over three quarters of a mile long.

I am not condoning drink-driving. As indicated in one of the reports, we have to be fair. As Mr. Cribben said in respect of those reports, we have to be objective and the penalty must fit the crime. The Minister for Transport, Tourism and Sport, Deputy Ross, in his letter to us in February, made the point that the reason he was trying to change the penalty for a person with blood alcohol content of between 50 mg and 80 mg per 100 ml to three months off the road as opposed to a fixed penalty of three penalty points and a €200 fine was that people were abusing it, as if to say that there were repeat offenders. I am going to go on the record now. I asked the

Tánaiste and Minister for Justice and Equality, because it is a matter for her Department, if she could give me figures to show that people who were caught with blood alcohol content between 50 mg and 80 mg per 100 ml became repeat offenders. In other words, did they show disregard for this legislation? She said she was not in a position to provide that information. It harks back to the issue that the Minister, Deputy Ross, had a knee-jerk reaction at Christmas and went gung ho on the issue without considering figures. We see the witnesses have taken consideration already. The vintners have provided figures that completely contradict what some of the other organisations have given us. A real rush-job is going on here and I ask that more consideration be given to the matter.

It is hard to defend the issue, I know, but, as stated, there must be balance. In my area, some places depend on the State. In some villages, post offices that are dependent on State subsidies are being closed. The local creamery branch was dependent on them to keep up with technologies. The shopkeeper is under pressure from the multiples. Pubs, which have no subsidies whatsoever, pay the highest tax contribution to the Exchequer and are trying to survive. I think there should be fair deliberation on this legislation.

Have the witnesses seen business pick up in recent years? In the context of the pub trade - this is directed at our guests from the VFI in particular - I came across the term "staycation" during the week. Recent CSO household figures show that there has been an upturn in the domestic market. Do vintners feel that there has been such an upturn? What we are trying to do is keep pubs open. I know they can turn to alternatives such as providing food, coffee, etc., but has there been an upturn in the drinks industry with regard to pubs?

**Mr. Padraig Cribben:** Two answers could be given to that. I would like to be as clear as possible in the answers that I give. If one looks at where it stands today compared to where it was in 2007, 2008 or 2009, it is down by about a third. Was 2016 better than 2015? Yes, by a margin of about 1% or 2%. I think it is fair to say that I am talking globally. There has not been an even spread across the country or even within towns. In 2015 and 2016, we saw a marginal increase in business in the on-trade but that is coming from a situation where business had dropped by a third between 2007 and 2014. Again, in looking at this legislation, we have not mentioned the effect on trade because we have tried to stick to the facts and figures contained in this report. To answer the Deputy's question, it is down by about a third and beginning to show a bit of an upward curve.

**Deputy Kevin O'Keeffe:** I thought Mr. Cribben was somewhat critical of the Garda presence. I would not be of the same opinion. I think the Commissioner made a good comment in the past couple of weeks when she appeared before one of the committees. It is not about gardaí being out to catch people, it is about having a Garda presence in order to provide a deterrent. People say that gardaí go up and down the street all night. However, that kind of activity, as opposed to having them up the road bagging people, is fine. A deterrent is as good as enforcement and as catching people. The Commissioner said that in the past couple of weeks. There is very little traffic on the roads. Much is made of the checkpoint issue and the amount of bags used. The checkpoints were probably there but there were no cars on the road for people to drive through the checkpoints, as far as I know. I ask that the Minister review this Bill again and that due consideration be given to enforcing existing legislation.

**Chairman:** There were a few minutes left over in the Fine Gael slot. Senators Feighan and O'Mahony had to leave for a Seanad vote. Senator O'Mahony is currently chairing proceedings in the Upper House. There are a few minutes left for Senator Feighan who has returned.

**Senator Frank Feighan:** I will be as brief as possible and I thank the Chairman for allowing me back in.

We take our job seriously. We are law-makers. We want to ensure that law is good law. Any law that is rushed or any law for which both sides are not taken into account is bad law. We are trying to bring in laws that effectively help to save members of the public on the roads from drink-driving, but we have to try to be balanced to ensure that all sides are listened to. This has been a very informative session. The witnesses took the time out to come up with a report that is forensic and that has certainly enlightened members of committee. I hope the analysis in the report will show there is no justification for the measures proposed by the Minister. This committee will take on board all sides of the argument, from the RSA and today's witnesses. The witnesses are welcome and what they have put on the record of this committee is important for this Bill. It will make sure it is fair and does what it is supposed to do.

**Deputy Imelda Munster:** The LVA said it was of the opinion that current penalties were sufficiently severe. How do they weigh that view against the fact that people continue to drink and drive? The witnesses acknowledged there was an increase in young people drinking and driving and outlined why they thought this was the case. I agree that the lack of enforcement and resources in the Garda traffic corps have contributed to it, and the increase in staff this year will be woefully inadequate in this regard. There was a six-week campaign against drink-driving over Christmas, instigated by An Garda Síochána, but there was an increase of 35% in arrests for drunk driving in that period, so if we had the traffic corps present for 52 weeks of the year the statistics would show that drunk-driving was on the rise.

The vintners said they disputed the idea that the penalty in the new Bill would save lives, though they also said they did not condone drink-driving and that the full rigour of the law should be applied to people who do it. However, I cannot understand how they can stand over the contention that drinking over the limit of 50 mg and under 80 mg is harmless. Can they explain why they say that?

Deputy Troy referred to initiatives the witnesses had looked into, such as a rural hackney service. I was wondering what the associations here today had contributed to road safety and I thought about the cost of soft drinks, at between €4.50 and €5, to which there was no reference in either of today's statements. Several years ago there was a campaign for a free drink for a designated driver but that seems to have fallen by the wayside. Surely, initiatives such as free soft drinks for designated drivers would go some way to alleviating the problems they face in rural Ireland.

The only thing that is changing in this legislation is the penalty. It remains unlawful to drink-drive if one is between 50 mg and 80 mg. The witnesses said there was evidence of a presence of alcohol in certain accidents but that there was no evidence that alcohol was a factor. The law of the land states that if there is evidence of the presence of alcohol and a person is above the legal limit they are breaking the law. The statistics do not have to prove that alcohol was a factor. If a person breaks the law by being over the limit they have broken the law. The law is there for the very obvious reason that alcohol can impair driving.

**Mr. Donall O'Keeffe:** Our first recommendation was that there be a study to examine what specifically has caused the increase incidence of drink-driving among young people. We do not know for sure but we think one factor is that the level of enforcement in the past five or seven years has been lower than historically, meaning the next generation of drivers is more willing to take a chance. We also think cheap alcohol has been a factor, as has more home entertainment

where people have to drive between homes. Not all the alcohol which is drunk is drunk in pubs.

We also made clear that we did not condone drink-driving and in Dublin there is no excuse for it. Understanding what is going on with the generation of drivers aged between 18 and 27 is very important, and we should not rely on anecdote or the hearsay that is bandied about for that purpose. We were asked why there was a 35% jump in recorded drink-driving offences last December, when the higher level of enforcement was in operation. The answer is in the question. It was the higher level of enforcement that led to the higher numbers. If there was a higher level of enforcement throughout the year it is more than likely that there would be a spike in arrests for a period, following which the level of incidents would drop right down. Long-term, higher-profile enforcement is the way to manage the drink-driving issue. There will always be idiots willing to drink and drive but if there are high levels of enforcement and a longer-term commitment to public awareness, much of the problem will be mitigated.

**Deputy Imelda Munster:** Mr. O'Keeffe said he felt the current penalties were sufficiently severe. I wanted a response to the fact that these penalties were not working. Does he not think that drink-driving costs lives and is such a serious matter that every effort should be made to drive the message home? The current penalties are not working but Mr. O'Keeffe feels they are sufficiently severe.

**Mr. Donall O'Keeffe:** We feel they are sufficiently severe because the figures show that 7,300 of the 8,000 convictions resulted in automatic suspensions from driving for a minimum period. We do not believe anyone drinks with a view to hitting a target between 50 mg and 80 mg. Nobody drinks like that and it is nuts to suggest it. The vast majority of people do not drink and drive, which is evident from the number of arrests compared with the number of people on the road. Much of the enforcement activity and public awareness focus should be on the cohort that drinks and drives. According to the RSA, 80% of those who are caught are at double the legal limit. They are drinking large levels of alcohol before getting behind the wheel of a car and they face higher penalties. Being caught for drink-driving rightly attracts a severe sanction for the vast majority of people and means they are automatically off the road. In the longer term, sustained public awareness campaigns, year in and year out, and sustained high-level enforcement are the way to go to deal with drink-driving.

**Deputy Imelda Munster:** How many drinks does Mr. O'Keeffe think a person can have without their driving being impaired?

**Mr. Donall O'Keeffe:** We do not give any advice on this. The legal limit is 50 mg and people should not get behind the wheel of a car if they are above that. A person's blood alcohol count is affected by age, sex, weight, whether one has eaten or is tired and one's physical and emotional condition. These all vary from person to person so the LVA and publicans do not issue any guidelines to members of the public or customers. We advise them not to drink and drive or to stay under the limit of 50 mg.

**Ms Deirdre Devitt:** As a working publican with a pub in town and in the suburbs, I have a responsibility to run a premises where people enjoy themselves in a safe environment. I drop people around the block, which might save a senior citizen between €5 and €7, which he can spend on something else. He has gone out to meet his friends and have a conversation that he would not be having at home. I quite often drive people home, even when there are taxis and buses available. I feel responsible and if I or my staff can do that, we do. We do not tell people to drink and drive.

**Deputy Imelda Munster:** That is not what I was saying. As a publican, if a customer came into Ms Devitt's pub and she had seen him park the car outside and if he ordered a second and third pint, at what stage would she tell him she could not serve him?

**Ms Deirdre Devitt:** At what stage? Pubs around the country and in Dublin have hundreds of people coming in. We cannot watch every individual customer. People are responsible for their own actions and we can only do our best within the walls of our premises to ensure people have a good time in a safe environment and do not drink and drive.

**Deputy Imelda Munster:** That is grand. I thank the witness for her answer. I just wanted to know from her point of view as a publican, at what stage would she intervene. I think the Vintners Federation of Ireland said that a lot of its customers are members of the community; they are neighbours and neighbours' children. I am just wondering if Ms Devitt's neighbour, or her neighbour's son or daughter, parked the car outside and came in to her pub, at what stage would she refuse to serve them more drink? I accept that it is the responsibility of the person who is drinking but there is also an onus on the publican, particularly when Ms Devitt is arguing against this legislation which just entails a penalty change.

**Mr. Pat Crotty:** That is why in many rural pubs there are quite a few cars still in the car park in the morning. It is not necessarily that the owners are still inside in the pub but that they have found some other way home. Sometimes, as we described, they have been brought home by the publicans themselves. The fact that somebody drives to the pub does not mean he or she is going to drink to excess and get in the car and drive home again.

If I could comment on the Deputy's first question about why people persist if penalties are adequate and severe, it is my view as a publican and as someone who drives a lot of miles too, that at this stage there is no fear of being caught. There is not enforcement. Mr. Padraig Cribben mentioned the number of miles he drives without ever having been breathalysed. I can say the same. I am sure I should touch wood or something. There is no fear of it among a certain cohort of people. The ordinary citizen who has one drink after work and drives home for his dinner to his family is not the person who is killing someone. As the evidence shows, it is the person who drinks to twice or four times the limit or whatever and gets in the car. Why do they think that is okay? They do not expect to be caught and they do it every night.

**Deputy Imelda Munster:** As I said at the start, I do not disagree with the witnesses on the lack of traffic corps enforcement. I have raised the issue with the Minister myself and have said the very same thing. People can go out and drink-drive in the full knowledge that there is not a chance of them being stopped. That still does not address those who willingly drink and drive, whether they do so because they know they are going to get away with it or because the penalty is currently three points and they can get 12 before they are disqualified. Drink-driving is on the increase. According to statistics we were given last week, there have been 35 fatalities over the last five years in which a blood alcohol level of between 50 mg and 80 mg was a factor. That is 35 fatalities too many.

**Chairman:** If I may correct the Deputy, there were 35 fatalities in the reference period from 2008 to 2012, and for a blood alcohol level under 80 mg, which also includes the 21 mg to 50 mg range.

**Deputy Imelda Munster:** Yes, it was still under 80 mg.

**Mr. Padraig Cribben:** If I may correct the record, I know the Deputy did not misquote me

intentionally but I never said that those who drive with a blood alcohol level of between 51 mg and 80 mg are harmless and I never said that alcohol was not a factor. What I actually said was that alcohol was not proven in this report to be the cause. Alcohol is deemed to be a factor. We do not know to what level it is a factor from the report.

The other point that needs to be made is that probably the biggest killer on the road, as everybody would accept, is speeding. The penalty for speeding is exactly the same. It is a fixed penalty and a fine. I can assure the committee as someone who drives quite a lot that speeding is a major factor on the roads.

May I address the issue of the 35 deaths? That has been used as a headline figure. It is just not true and is misleading. I included the scale in my report from page 56 of the Road Safety Authority report. Some 4.6% of the 29% of the accidents in which alcohol was a factor - a factor rather than the cause - were in the 51 mg to 80 mg bracket. That percentage is way short of 35. I agree with the Deputy that any one is one too many. This is not a numbers game. However, the Minister was wrong when he used the figure of 35 fatalities. He was misleading when he did so. Based on the Road Safety Authority report, it is not correct. I said it in our opening statement and will say it again. One is one too many. However, we must have evidence that alcohol was the cause and we do not have it.

**Deputy Catherine Murphy:** These hearings are in the context of pre-legislative scrutiny. The key issue for us is evidence. We have to satisfy ourselves that the evidence shows that enacting this legislation has the potential to save lives. We have to look at the Road Safety Authority evidence, including some of the points that have been made. We also have to look at international evidence.

There is no doubt that there has been a huge shift in the way people socialise. There is quite a lot of home drinking. Considering the number of pubs and their survival and so on, it is clear that although people have not stopped drinking they are getting it in a different place. It is not at all clear whether that kind of data is collected. We might note that. When people are breathalysed they might be asked about their drinking habits. One difference between drinking in the pub and at home is that people do not measure their drinks in the same way at home. There are other things we need to be looking at in terms of statistics that would be quite useful. That may be for another day.

There are probably drivers who are over the limit and are a risk to others although they have not intentionally set out to be. Some of it is the morning after and some of it is not being able to measure what they are drinking. We cannot be conclusive about the morning after and what makes somebody safe to drive. There is evidence that people are driving while compromised. There is more information gathering to be done, irrespective of this legislation.

We are listening to each side. It is very interesting that there is a difference in tone between the two associations. They may not be saying something different but their tone is different. Why are they not one organisation?

**Mr. Padraig Cribben:** How long has the Deputy got?

**Deputy Catherine Murphy:** The tone of the Licensed Vintners Association is that there is public transport here and it is less of an issue. It is a much stronger issue for the Vintners Federation of Ireland, yet the risk is much higher outside of Dublin where it is 89%. One would expect resistance from the Licensed Vintners Association because there is less damage done by

virtue of the higher compliance rate or lower risk. The witnesses might comment on whether I am reading that correctly. I am because, essentially, 89% of offences are committed outside of the Dublin region.

**Chairman:** Does the Deputy refer to offences or accidents?

**Deputy Catherine Murphy:** I think it is accidents.

**Mr. Padraig Cribben:** It is 81% in rural areas.

**Deputy Catherine Murphy:** It strikes me that the Vintners Federation of Ireland should have a stronger feeling in terms of protecting clients or customers in its members' pubs. Mr. Cribben said it is a long story in that regard. Are the vintners' groups wholly funded by their members and no additional funding comes from the drinks industry?

**Mr. Padraig Cribben:** We are 90% plus funded by our members.

**Deputy Catherine Murphy:** Where does the other 10% come from?

**Mr. Padraig Cribben:** From various activities.

**Deputy Catherine Murphy:** So it is not from the big drinks companies.

**Mr. Padraig Cribben:** Anything that comes in that regard is small and comes in an indirect way. It is not material to our existence.

**Deputy Catherine Murphy:** Is it the same for the Licensed Vintners Association?

**Mr. Donall O'Keeffe:** We receive money from some of the big drinks companies but we are essentially funded by our members.

**Deputy Catherine Murphy:** The groups representing publicans are an interest group.

**Mr. Donall O'Keeffe:** Our position is the LVA position. We are not influenced by what the big suppliers think about it. The position is decided by the association for the association.

**Deputy Catherine Murphy:** Right, okay.

**Mr. Pat Crotty:** We fight with the large supplier companies as often as we agree with them, probably more often.

**Deputy Catherine Murphy:** I am sure that is the case. That is part of the reason I wonder why there is not one large organisation because it seems to me that would involve greater leverage.

The comment that every generation must learn the law is an interesting one. There is some validity in that. It would be useful for us to recommend some things from the hearings and one of them would be about education and retraining programmes. When there is a change, for example, to drink-driving rates, people pay attention because they think it will affect them, but when the rates fall, people do not have the same level of awareness.

Reference was made to the level of enforcement. I was breathalysed on the way home from Leinster House one night when we had a late sitting. It was the only time in 35 years of driving that I was breathalysed. It was part of a Christmas campaign. Breath-testing is carried out on a sporadic basis. People who are at the upper end of the offending scale are not being

caught. What tends to happen is that there are drink-driving campaigns as opposed to consistent breath-testing. I agree that we must look at the available evidence but, irrespective of what law we enact, without enforcement it does not matter if it is 120 or 150. We are still not catching the people we should be catching. On occasion, even when people are caught there are times when technicalities arise. For example, in my area the machine in the Garda station was not properly calibrated and the offender got off. There are a range of factors that must be taken into account. We must look at the evidence in considerable detail and if it stacks up there is merit in the legislation. The potential to save lives is the critical reason underlying the enactment of legislation such as the Bill under discussion. However, we will not look exclusively at Road Safety Authority reports and we will take international evidence into account as well.

**Mr. Padraig Cribben:** The Deputy made a good point about young people drinking. In essence, that is referred to in the trade as the lost generation. Young people, by and large, do not drink in pubs. They drink at home. As someone said earlier, they drink in situations where measures are not counted. That makes it all the more surprising that some, including the Minister, are against the Public Health (Alcohol) Bill, which is designed to reduce the availability of cheap alcohol, which is the source of a lot of the drink that is being used by young people before they drive.

**Chairman:** I thank Mr. Cribben. Something that has been missed in the debate on young people is that the goalposts have shifted for a lot of young drivers in that since October 2010, novice drivers, learner drivers and professional drivers have a limit of 20 mg compared with 50 mg for other drivers. Prior to that the limit was far higher and the lower limit must be factored into the debate as well.

I met a professional driver at the weekend and we were discussing the previous week. I told him about the legislation. He was not aware that his limit was lower than mine, as a non-specified driver. Many people do not know the limits that apply to them, and even if they do, they do not know how alcohol intake is related to the limit. There must be education on those issues because there is still a perception that 50 mg is a pint and a bit or that 20 mg corresponds to a bottle. It is very different for everybody but the amount of misinformation out there is a factor in the debate.

We spoke earlier about enforcement. The joint lowest year for fatalities on roads since records began was 2012 and that year also had the highest number of fixed penalty notices for the 51 mg to 80 mg cohort of drivers. The same year also had the highest number of arrests for suspected drink-driving. I do not think that is a coincidence. I do not think there is a correlation between fixed-penalty notices and fatalities because we have seen those figures fluctuate in recent years. There does not seem to be a trend, as such, but the highest number of arrests is reflective of a high level of enforcement and presence on the ground and that is something we need to see increased. Do vintners recognise international studies that show that any alcohol impairs driving?

**Mr. Padraig Cribben:** Of course we do. It would be folly to suggest otherwise but it does come back to scale, proportionality and the penalty being appropriate to the level of the breach of legislation.

**Chairman:** We had much discussion here last week and we are waiting for a breakdown of the figures. It is easy to go off on a tangent about other issues but this pre-legislative scrutiny is in respect of the changes to the penalties applying to drivers registering between 51 mg and 80 mg of alcohol in blood. Since the change in October 2010 relating to drivers responsible for

accidents who had such readings, the figure of 16 over five years is not broken down per annum. We do not have a breakdown of that in respect of the years after the law change. There may have been some cases where the law was already in place for a lower limit. That is important in informing debate on this.

Does the delegation agree that sometimes people may unintentionally go over the limit? Such people might set out to have one drink or half a drink but if somebody buys a round, for example, they might end up driving home after having more than they intended to have at the start of the evening. Is that something that is seen on a regular basis?

**Mr. Padraig Cribben:** There are two issues and that is one. The other issue is the morning after, if people think they have done everything right but the alcohol might not have gone through the system as fast as they anticipated. They may have left a car outside a premises and collected it the next morning. It is unintentional and these people have looked to do everything right. This really scares people.

**Chairman:** Is the information out there about the amount of time it takes for a unit of alcohol to leave one's system misleading in some cases?

**Mr. Padraig Cribben:** There is no average, which is the problem. As Mr. O'Keeffe stated earlier, it depends on each individual. Members spoke earlier about accepting international science. The accepted international science is it takes an hour for a unit of alcohol to go through the system. That time could actually be 45 minutes for me and an hour and a quarter for the Chairman, depending on individual circumstances. Where an action is wholly unintentional and people are trying to comply with the law, people may sometimes be caught out in a marginal fashion.

**Chairman:** In terms of practical action from vintners, I accept that 20 years ago, licensed vintners accounted for a larger percentage of the alcohol sold in the country. I know things have changed hugely. At the same time, they still have a significant portion of the alcohol sales taking place. What can be done practically in bars to try to discourage drink-driving? I am not sure I have seen any posters or information in prominent positions in bars to discourage people from drinking and driving. Could other things be done where people might be in doubt? How accurate are those devices that people can get to test the alcohol level before they decide to drive? There are disposable versions but with the more expensive versions used by the Garda, mouthpieces can be replaced for 15 cent. Is there a space for those kinds of measures?

**Ms Deirdre Devitt:** For example, I have blackboards with notices asking people to leave the car, not to drink and drive and come back tomorrow after having a bit of breakfast. The Chairman made a point regarding awareness and campaigns and speaks about younger people. We should remember that many younger people do not watch television or see these campaigns or advertisements. They use their tablets or social media like Snapchat with their friends. There is a responsibility on everybody, including parents, publicans and politicians, to realise that people might not be getting information because they do not watch television.

**Mr. Pat Crotty:** There is another item that was alluded to by Deputy Munster earlier, which is the concept of the designated driver at Christmas. That is a significant time in terms of people drinking outside their normal habits. That still exists and the concept is very active. Most publicans are very actively involved in this. The Deputy mentioned the cost of soft drinks but we provide for a designated driver for an entire night as long as he or she brings other people home with them. That runs for the entire Christmas and new year period.

**Mr. Padraig Cribben:** I will respond to what we might call the “in-house” breathalyser referred to by the Chairman. It is fraught with danger in this context. If I run a pub and the customer uses the device but it is inaccurate, I would leave myself open to all kinds of claims. We know the problems everybody has with insurance now and I suspect this would be a godsend for insurance companies. We are concerned about reliability and people leaving themselves open to claims.

**Chairman:** It could be a rough guide.

**Mr. Pat Crotty:** There is a double whammy as for some groups of people, it creates a target. That is also unhelpful.

**Chairman:** There is an issue related to insurance. An initiative in my locality last year was a “cars for bars” scheme, where we got 20 volunteers to sign up and make themselves available one night per month to bring people not just to local pubs but also to any other social events. It was particularly aimed at older people but also at others. It was more of a measure to combat rural isolation than something to boost pubs. Of course, it incorporated pubs too. The big problem was that insurance companies would not provide insurance for a rostered arrangement. Has the delegation had engagements in that regard? That model could run throughout rural Ireland where there are no hackney cabs available. We have a hackney available at the weekend and only sometimes midweek. That model could work really well for people if communities empower themselves to make a service available. Has the delegation had any engagement with Insurance Ireland about anything like that?

**Mr. Padraig Cribben:** We have had engagement with individual insurance companies that are very reluctant to insure proprietors who drive people home at night. Effectively, if a person drives a customer home at night, it is as if he or she is bringing a friend to wherever. It is a significant headache for those who want to do it. If people are to do it on something akin to a commercial basis without charging - if they want to be fully insured - the premiums would be excessive if somebody actually provides insurance. Getting the insurance is difficult.

**Chairman:** That is mind-boggling. One of the key measures that can be taken in being proactive in road safety is to ensure people can get home safely from the pub.

**Mr. Padraig Cribben:** Correct.

**Chairman:** If a proprietor does it informally, it is okay, but if he or she tries to be upfront and say there is a specific vehicle to carry people home from the pub, the premium would be much higher.

**Mr. Padraig Cribben:** Correct. The ideal transport would be a seven-seat car but trying to get some business cost relief on that has proved futile.

**Chairman:** The same vehicle registration and motor tax must be paid.

**Mr. Padraig Cribben:** Correct.

**Chairman:** The only break is a rebate on the diesel or it can be put up against expenses.

**Mr. Padraig Cribben:** Yes.

**Chairman:** VAT can be reclaimed on diesel but not petrol.

**Ms Deirdre Devitt:** Insurance is mind-boggling in general so any addition to insurance cost would not be sustainable.

**Mr. Pat Crotty:** On the same subject there is another caveat. If this is done in an informal way and a person is involved in an accident through no fault of one's own, he or she would be in the hands of an insurance company. Mr. Cribben mentioned the hackney service providing for rural services and it is fraught with red tape. That only applies to a named person so if I am the named person in my pub but I have a drink, another employee would not be insured for driving people in the designated vehicle. It only applies to one person so it is very difficult on all fronts.

**Chairman:** The proposed changes in the Bill relate to penalties and not limits. We are looking at an automatic disqualification option for the fixed penalty notice instead of points and a fine for the cohort between 51 mg of alcohol and 80 mg of alcohol per 100 ml of blood. There was no consultation with the delegation on the regulatory impact analysis. Rather than automatic disqualification for three months, should there have been consideration of increasing penalty points or fines? Would it have been as good a deterrent?

**Mr. Pat Crotty:** I refer to a point already made. All the penalties could be multiplied by ten - one could put a person off the road for ten years - but it does not matter if there is no enforcement, of which there is precious little. Enforcement is the answer. Perhaps I am being simplistic, but that is the starting point. Enforcement itself is a form of education. People will not be long learning if gardai are present on the roads.

**Chairman:** Deputy O'Keeffe pressed a point about getting a breakdown of the up-to-date figures. Unfortunately, the reference period for the RSA's study spanned the old law and the new law. That is not ideal, but I understand that studies take time to be finalised. We have not been able to get an answer as to whether the penalty for a first offence is a disincentive and we have not been able to get figures on the number of reoffenders. Are the witnesses aware of those figures through their research?

**Mr. Padraig Cribben:** No.

**Chairman:** They have not been able to get those figures.

**Mr. Padraig Cribben:** No.

**Mr. Pat Crotty:** For the average punter who has never offended and is trying to do right, to get away, as it were, with a penalty and a fine after being caught at between 50 mg and 80 mg will be the most chastening experience ever. That person would never have to be breathalysed again.

**Chairman:** Deputy Broughan has been waiting patiently and other members wish to speak again.

**Deputy Thomas P. Broughan:** I welcome the Vintners Federation of Ireland and the Licensed Vintners Association and thank them for their presentations. I had to go upstairs to ask a question of the Minister for Foreign Affairs and Trade, so my question to the witnesses has probably already been asked. Do they believe that this change in legislation will discourage people from going to bars and consuming alcohol? Will it affect the witnesses' business?

**Mr. Padraig Cribben:** Unfortunately, those who are going to drink and drive will do it regardless. That is the reality. The report shows that of those who were caught with higher

levels, drink-driving was not the only factor. It was the state of the cars, the presence or lack of insurance, etc. A cohort of people have a healthy disregard for the law, not just in this respect, but across the board.

The chance of getting caught the morning after may discourage people. Most of those in that bracket are caught unwittingly. They are trying to be compliant, so this legislation is targeting the wrong people and disregards the more severe penalties that are required for those who are causing the problems.

**Deputy Thomas P. Broughan:** When the Houses introduced health and safety legislation for workers down through the years, it was clear that consuming any alcohol before going to a workplace, using machinery and so on could not be countenanced. Is there a level of consumption that does not impair? In other words, is there an acceptable level of alcohol that a driver may consume?

**Mr. Padraig Cribben:** The law states 50 mg.

**Deputy Thomas P. Broughan:** I am asking for the witnesses' opinion. Is it acceptable that-----

**Mr. Padraig Cribben:** We believe the law is appropriate.

**Deputy Thomas P. Broughan:** The witnesses believe that the alcohol level set by the law is-----

**Mr. Padraig Cribben:** The law is appropriate, which is borne out by laws globally.

**Deputy Thomas P. Broughan:** The witnesses do not believe that it impairs people's capacity to drive or operate a major-----

**Mr. Padraig Cribben:** The law states that, if someone is over 50 mg, he or she is over the limit. Penalty points and a fine are the appropriate penalty for being between 50 mg and 80 mg. The Deputy may have been absent, but I mentioned that the biggest killer on our roads was speeding. That is generally accepted. However, the penalty for being caught speeding is a fixed fine and penalty points. The law is appropriate.

**Deputy Thomas P. Broughan:** I agree that speeding is a major issue. The Oireachtas must move on enforcement because 186 deaths per year is unacceptable. As Deputy Fitzpatrick said, though, alcohol is a factor in a significant proportion of those deaths. It is another element for our consideration.

Mr. Cribben mentioned the RSA's report and the percentages at the various levels. In practice, is there not a fundamental connection between the 51 mg to 80 mg level and the higher levels?

**Mr. Padraig Cribben:** We do not see it in the report. Those caught at the lower levels are generally compliant. I am reluctant to use the term "strayed into", but that is what happens in many cases. They are trying to be compliant, but they are still slightly over the limit the morning after when they return to collect their cars because their bodies did not react as expected to what they consumed the night before. I suspect that the wrong people are being targeted by this legislation.

There have been 186 or 187 fatalities on the road. If this legislation is enacted and has any

effect, which we dispute, it will only affect 1.3% of those fatalities.

**Deputy Thomas P. Broughan:** To put it another way, would it be worth it if it only saved one life or six lives?

**Mr. Padraig Cribben:** As we mentioned in our opening statement, if there was evidence that it would save one life, it would be justifiable, but we have not seen that evidence.

**Deputy Thomas P. Broughan:** Given the figures cited by Deputy Fitzpatrick, the legislation would save lives. Surely the witnesses should welcome that and pursue some of the avenues that the Chairman outlined. I was a transport spokesperson for a long time and dealt with the development of community-based rural transport. I remember OK Transport in Offaly and Kildare. I know the Beara Peninsula and south-west Cork very well, where it can be difficult for people to socialise. On the face of it, though, and given these statistics, surely the legislation should be welcomed and we should then move on to dealing with speeding.

**Mr. Padraig Cribben:** This is where we differ. There was no evidence in the report to suggest that. The only evidence was of the presence of alcohol. There was no evidence that the alcohol's presence caused any death.

**Deputy Thomas P. Broughan:** Were we employers running a factory where machinery that required dexterity and so on was used, would we be happy if anyone had consumed any alcohol? We would be very unhappy, in fact.

**Mr. Padraig Cribben:** That is the reality, but the current law is proportional. This is a question of proportionality.

**Ms Deirdre Devitt:** I might add to that. The fundamental question is how to stop people from drinking and driving. The current laws are not being enforced, so will the proposed changes be enforced? This is like sportspeople's chances of getting caught for using drugs, where that chance is higher. If the current laws are not being enforced, what will this change do?

**Deputy Thomas P. Broughan:** Nobody would disagree with that. We cut the traffic corps in half during the austerity years, which was crazy. Cities like Warsaw in Poland, where alcohol has a similar role in society, produced a situation in which every driver had a one-in-two chance of being invigilated and subsequently noted a dramatic decrease. I am not challenging anything in that regard, but this small step might lead to lives being saved, so perhaps the witnesses should welcome it and support the Minister.

**Chairman:** Next are Senator Feighan and Deputy O'Keeffe.

**Senator Frank Feighan:** It has been a very interesting discussion. The facts and figures are open to interpretation. The witnesses stated anecdotally that in rural areas like the one I come from there is less traffic on the roads at night. Years ago the traffic at night was coming from and going to the pubs but now there is more traffic in the mornings. Approximately six months ago I left a dinner dance in Carrick-on-Shannon and drove to Castlerea, over 20 miles, through two villages and past seven or eight pubs. I left at midnight on a Saturday and met no car coming towards me. That tells me that fewer people are going to pubs in rural areas.

We need to use more imagination. Gardaí are a very valuable resource but they should be out stopping crime. We need to use modern technology such as the speed vans which have

helped gardaí ensure that many people comply with the speed limits. People complained that small Garda stations were being closed but to me that made sense because I would prefer to see a garda in a car than sitting in a station. There was a lot of political brouhaha about that. We have heard about Garda cars being fitted with technology to recognise the licence plates of people who do not have a licence or insurance. Is there anything modern technology can do to address this problem, for example, that a person cannot start their car if they have alcohol on board? Cars now are almost like airplanes. Are the witnesses aware of anything coming down the line that will help ensure people do not drink and drive?

**Chairman:** Is the Deputy referring to the alcolocks that prevent someone activating the vehicle if they have alcohol in their system?

**Senator Frank Feighan:** Yes and what are the witnesses' views on that?

**Ms Deirdre Devitt:** We are not aware of anything coming down the line, but in the same way as we are responsible for serving customers in our pub and refusing customers whom we believe to have had too much to drink, it might be useful to monitor how much alcohol people buy in supermarkets per person because a lot of drinking is being done in the home. We have a responsibility on our premises to refuse people if we believe they have too much drink on board. The multiples, however, do not have the same apparent responsibility. Maybe we should see how much alcohol is purchased, particularly in this week, on Holy Thursday in advance of Good Friday.

**Senator Frank Feighan:** That is a fair comment.

**Mr. Padraig Cribben:** I am not aware of any technical developments other than the one the Chairman referred to.

**Chairman:** I presume the witnesses would not have any issue with that, if there is a limit.

**Mr. Padraig Cribben:** No, absolutely not.

**Deputy Kevin O'Keeffe:** I commend the witnesses who have a hard job. We must not lose sight of the fact that the reason the legislation is in its current format is that people's livelihoods would not be jeopardised the morning after. On a recent radio programme that was covering this proposed change in legislation, I heard a lady who was asked if she had ever been bagged and she said she had been one morning after. She had been out the previous night for a few drinks with friends and went to collect the car but obviously chose the wrong time to do that because she failed the test. At least she was able to go back to work. She admitted she got a big fright and said that was the end of her few drinks the night before. The morning after is a big issue. Innocent people's livelihoods would be at stake.

Deputy Murphy said that people drink at home where there is no control of the measure and they are not aware of how much they take or what their system is capable of. They think when they get up the next morning that they are good enough to drive. I have asked the Minister for Transport, Tourism and Sport and the Minister for Justice and Equality whether this offence has been repeated and I cannot get an answer. Have the people caught for three penalty points and the fine ignored the law?

Many years ago publicans were wary of gardaí raiding the place because a wife rang them when her husband did not come home from the pub. Now the husband and the wife are at home drinking, which is sad. Younger people are adhering more to the law but they are doing dough-

nuts at our crossroads in rural Ireland because they have so much time on their hands and they are not in the pubs.

**Chairman:** There are a few old lads doing them as well.

**Deputy Kevin O'Keeffe:** I respect the fact that the background to the legislation is to save people's livelihoods the morning after.

**Chairman:** I am quite concerned about the fact that, in the context of the categories of driver to whom section 29 applies, namely, the learner, novice or professional drivers who have readings between 20 mg and 50 mg and between 50 mg and 80 mg, of the number who choose to contest the fixed penalty notice and go to court, more of those who are not in the 50 mg to 80 mg cohort of non-specified drivers choose to go to court. I put to the Minister for Transport, Tourism and Sport last week the fact that the regulatory impact analysis did not factor in more court cases and challenges if there is an automatic disqualification instead of the points and fine. Do the witnesses know from their research the average waiting time for a drink driving case in the courts?

**Mr. Padraig Cribben:** I do not have that information.

**Chairman:** I am just concerned that more people will challenge.

**Mr. Padraig Cribben:** Absolutely.

**Chairman:** Instead of a three month automatic disqualification there would be a six month minimum if convicted in court. In a rural area, more people will challenge it because they will be off the road rather than the 82% who opt for the fixed penalty notice in that cohort. We need to factor that into this debate because it was not part of the regulatory impact analysis. I am conscious that there are people who were five or six times the legal limit, having drunk eight or ten pints, who are arrested, do the readings and go back on the road the following day and drive for months without being put off it. I would be fearful that many of them would be on the roads much longer without coming to court as a result of this. It has not been factored into the thinking behind the Bill. Have the witnesses come across the waiting times in their research?

**Mr. Padraig Cribben:** No.

**Chairman:** We will have to get that from the Department of Justice and Equality. I thank our witnesses for appearing here, and for their time and testimony which will inform the overall pre-legislative scrutiny conducted by this committee.

The joint committee adjourned at 3.50 p.m. until 9 a.m. on Wednesday, 3 May 2017.