



Select Committee on the Licensing Act 2003

Oral evidence: The Licensing Act 2003

Tuesday 29 November 2016

11.30 am

[Watch the meeting](#)

Members present: Baroness McIntosh of Pickering (Chairman); Lord Blair of Boughton; Lord Brooke of Alverthorpe; Lord Davies of Stamford; Baroness Eaton; Lord Foster of Bath; Baroness Greender; Baroness Henig; Lord Mancroft; Lord Smith of Hindhead; Baroness Watkins of Tavistock.

Evidence Session No. 18

Heard in Public

Questions 183 - 196

Witnesses

I: Alan Miller, Night Time Industries Association, Peter Marks, Chief Executive, The Deltic Group, Ron Reid, Shoosmith's, on behalf of McDonald's, and Ibrahim Dogus, British Kebab and Retail Awards.

Examination of witnesses

Alan Miller, Peter Marks, Ron Reid and Ibrahim Dogus.

Q183 The Chairman: Gentlemen, I bid you a warm welcome. Thank you for coming to give evidence to the Committee this morning. A list of Members' interests relevant to the inquiry has been sent to you, and copies are available for your information. The session is open to the public. It is broadcast live and is subsequently accessible via the parliamentary website. A verbatim transcript will be made of the evidence and will also be put on the parliamentary website. A few days after this session you will be sent a copy of the transcript to check for accuracy. It would be helpful if you could advise us of any corrections as quickly as possible. If after the evidence session you wish to clarify or amplify any points made during your evidence, or you have any additional points to make, you are welcome to submit supplementary evidence to us, again being as timely as you possibly can.

Perhaps I may ask a general question at the outset. Could you give the Committee an overview of how effectively you think the Licensing Act 2003 has operated in the past 11 years?

Ron Reid: I am a solicitor, here representing McDonald's restaurants. You may wonder why a lawyer is sitting here. I have represented McDonald's in relation to all its late-night licensing since before the Act came into force. Effectively, licensing has been outsourced to my firm and that is why I am here. I am also here to represent McDonald's as a business with significant experience of the licensing process. Unusually, in relation to a lot of the witnesses you have heard, McDonald's does not sell alcohol. This is not the licensing part that deals with alcohol; it is specifically late-night refreshment.

McDonald's has some 1,300 restaurants across the UK, a lot open 24/7, and they contribute substantially to the late-night economy. They employ more than 14,000 people overnight, which may be a slightly different situation from what you have seen before. They provide a service throughout the night in an increasingly 24/7 world. The use of the Licensing Act to regulate the sale of food is often overlooked; indeed in my experience, it is often an afterthought when it comes to the Licensing Act itself. People immediately equate licensing to alcohol rather than to that situation. There are few other countries—we will probably come to this later when we look at it globally—that regulate the sale of late-night food in this way, so it is almost unique. Another thing the Committee might want to be aware of is that McDonald's is a franchise business, not all of it but a substantial proportion. There are more than 160 franchisees. Some of them are small and medium-size enterprises, or they may be only one small restaurant.

I know that you are considering putting a health and well-being objective in the Licensing Act. My view on that is that the objective of the Licensing Act, from the point of view of selling food and drink—non-alcoholic drink—has been about preventing noise and disturbance to residents.

That is primarily where the issue arises. I would not have thought the proposal was in line with those objectives. I know you have had evidence from other people as to how difficult it may be for a health and well-being objective to be put in. North of the border, in Scotland, where there is a health and well-being objective, it is in relation only to alcohol. I suggest to the Committee that such separation should be maintained were there to be any change to the objectives.

We have already heard that premises are controlled through planning, and there has already been an interesting debate on that this morning. Obviously, I have views on that. I just wanted to make the point from the very beginning that this is very different from what you have been talking about generally with regard to alcohol. I practise in that area as well, and by and large on alcohol the Licensing Act has worked reasonably well and has taken a lot of time to bed in, as you said, Madam Chair.

The Chairman: McDonald's was one of the favourite venues for my surgeries when I was an MP. I felt very deprived for the last five years that I had no McDonald's in my constituency.

Ron Reid: One tends not to think of this, but McDonald's does a lot of work in the community outside.

The Chairman: They were daytime, not night-time, surgeries, but thank you.

Ron Reid: Of course.

Ibrahim Dogus: I am Ibrahim Dogus, the founder and director of British Kebab and Retail Awards. It is a different world from McDonald's and other restaurants and outlets. The British kebab industry employs tens of thousands of people; it is a strong and important part of the night-time economy. I personally run three restaurants in London. For our industry, the Act has been a qualified success. Being able to open for more hours has meant that food outlets on very small margins have been able to increase their sales and generate more income for the local economy. The key issue for our members is that it has been quite challenging for those small businesses to get a licence to sell hot food. At the same time, it is not consistent in all parts of the country. There have been different approaches to licensing issues across the country by different local authorities.

Peter Marks: Thank you for inviting me. I represent, in effect, the night-time economy at its sharpest end. I have spent 35 years running nightclub companies throughout the whole country. I have dealt with businesses as far north as Inverness down to Devon, Cornwall and Kent. I have a view over 35 years and everywhere. The Act has been pretty good. It is better than what was there before, when there was a bit of a hotchpotch and a mess; you needed three licences to operate and it was difficult to get a licence. Nowadays, it is better and simpler. It is easier to get a licence for our premises, but it is more difficult to keep it, which is interesting because investment is important. The late-night economy—a

lot of it is alcohol-based—employs more than 400,000 people and is worth £66 billion. It is a big part of our business. It is not just nightclubs; it is anything that opens from 6 pm through to 6 am.

While I run businesses that are at the sharp end and so on, there are plenty of others that rely on the Act, the ability to serve alcohol and the ease, or otherwise, with which you can get a licence. I agree with Ibrahim that it is not perfect and one issue is the unevenness of application and how it varies enormously from one town to another.

Alan Miller: I am Alan Miller from the Night Time Industries Association. We represent a network of bars, clubs, festivals and people in the music industry. I think the Licensing Act 2003, which came into effect in 2005, brought a lot of sensible measures, and for several years it worked very well. If we look at the report of the Institute of Economic Affairs, *Drinking, Fast and Slow*, we see that, contrary to some recent discussion, we should be celebrating much success in a number of areas. A&E levels seem to have stabilised; the level of serious crime in Britain is down, including around nightlife; and, whether or not one wants to celebrate it, almost 30% of young people consider themselves to be teetotal. That stands in contrast to some debate and discussion in the past three to four years. It strikes me that the pressure on resources for both councils and the police has meant that part of the discussion around alcohol in broad terms—issues such as anti-social behaviour and alcohol-related crimes, which are not specific crimes in Britain—often occurs in the conversation about licensing and it muddies the waters. It ends up putting enormous pressure on licensees.

Licensed premises see themselves as part of the community; there should not be a dichotomy between residents, businesses and visitors. They very much see themselves as partners with the council and police. They know that their survival cannot remain intact if, in that context, they are not a safe and professional place in which to operate. Yet at times it seems that the discussion has had a negative impact on everyday activity. As the very understandable pressures on the police increase, with demands on them to do ever more work, from terrorism to paedophilia and cybercrime, and their resources are cut, there has also been increasing pressure on licensed premises. Although serious crime has decreased, conversations about crime stats for the night-time economy, often around things like cellular phone losses, end up being about increased crime and anti-social behaviour in relation to licensed premises. That led some of the discussion in the recent period and has meant that, although many of the measures under the Licensing Act have been very good, those things have come to bear in a disproportionate way. As you know, over the past 10 years, almost 50% of nightclubs across the UK have closed.

While the provision for things like 24-hour licensing is legally and formally available, it is rarely enacted. I know we will come on to talk about issues like the night Tube in London and other things, but we can look at international examples and what happens when you have tiers.

The Chairman: I am sorry to cut you short. We are coming to that.

Q184 **Lord Mancroft:** Can we turn to London? The arrival of the night Tube creates new opportunities and challenges for the night-time economy in London. What do you anticipate those to be, and what do you think will be the implications for the licensing system specifically?

Alan Miller: The 24-hour Tube is an enormous contribution to London, and it will bring huge benefits. Studies by TfL and other organisations have shown an improvement in dispersal times compared with buses, which means that dispersal for congregations in a whole range of areas, whether for a minicab or a bus, or to get a kebab or anything else, or simply to leave, is much more professionalised. People move very quickly. Staff have the ability to travel quickly and safely; people in the suburbs are able to come and go affordably. You do not have to rush from the theatre to get the last Tube, which I am sure everyone has experienced. It will bring enormous benefits.

In any human endeavour, whether it is a shopping centre or an airport, there are questions about what it means in terms of noise and movement. It strikes me that the benefits far outweigh the costs now. If authorities are minded to provide 24-hour licences, or tiered licensing, it can be commensurate with the way the night Tube works. You can have different operational times throughout the day and night. Indeed, in cities like Paris, you can have some wine and a baguette at six in the morning. It provides a safe and sensible mechanism. Where there are questions about noise, dispersal is far quicker; people can be moved much quicker on the train and underground. Questions about safety on the Underground have been raised, but it strikes me that the benefits far outweigh the costs.

Peter Marks: I do not want to go over everything Alan said. The only thing I would add is that there will be some cost or loss to towns or areas around London. I have a club in Uxbridge, for example. Uxbridge will lose people to Westminster. It has happened in Manchester. In effect, Manchester is like London; the centre of Manchester has trams running all night from all the surrounding towns, such as Rochdale, Bury, Eccles and Ashton-under-Lyne. Those towns have died. It is fantastic for Manchester city centre but bad for the areas around it. There will be some of that here, but I agree that on the whole it is a good thing, and it has certainly helped with dispersal and so on.

Lord Smith of Hindhead: Do you have any nightclubs in London or Manchester?

Peter Marks: The answer is no to Manchester. I used to own businesses around Manchester, but they all closed, bar in Oldham. Oldham struggles like mad. In London, I have nothing in the centre. I have one in Uxbridge, two in Kingston, one in Romford and, if you press it, one in Watford.

Lord Smith of Hindhead: The Tube staying open will not really affect

your business.

Peter Marks: I think it will take from those areas, especially if they are not strong. Croydon is not particularly strong at the moment. People will want to travel into the middle of London.

Ibrahim Dogus: There are a number of benefits one can talk about, as Alan mentioned. The night Tube means practically that people are dispersed throughout the night rather than when pubs and clubs are closed, which helps to prevent large groups of people congregating in one particular area and pinch points in restaurants and takeaways. That potentially generates some extra income for local authorities and the local economy, but it is also providing choice for the consumer, although just because restaurants can open later it does not mean that they will necessarily open until late. I own a restaurant with a licence until 1 am, but I take last orders at 11.30. I am based in a residential area and there is a huge demand from consumers, but my local neighbours are also regular customers, so to be fair to my local area we take last orders at a certain hour of the night. I guess many other restaurateurs follow the same code of conduct.

Ron Reid: It is early days, but McDonald's anticipates that it will have a positive impact on the night-time economy, particularly pertaining to noise and anti-social behaviour with the dispersal that has already been mentioned by others.

As to challenges, McDonald's has processes and investment in place to make sure its restaurants have responsible operations overnight. One must remember that the people who use the overnight service provided often have nothing to do with alcohol; they work at night. It is often places open 24/7 that cannot be accessed generally by people who want a hot drink or food. They are nowhere near alcohol. In London in particular, the change may move more trade to outlying areas, but, other than that, we do not anticipate serious problems with disorder or anything of that nature. There are good systems in place in all McDonald's restaurants in relation to that.

Q185 **Lord Davies of Stamford:** Many cities around the world, such as New York, Amsterdam, Berlin and Sydney, have large and diverse night-time economies, and quite different approaches to managing and licensing the businesses that operate in them. Are there things that the UK could learn from them, and if so, what are they?

Ron Reid: McDonald's has spoken to a number of global colleagues in preparation for this question. The outcome of that is that most regulation elsewhere in the world is based on planning conditions, and there is not a separate regime for the sale of food. Alcohol is dealt with elsewhere, but not in relation to the sale of food and drink. I have already mentioned in passing Scotland, where there are distinct licensing regimes for alcohol and late hours, and the public health objective is related only to alcohol and not food.

We cannot comment on a lot of areas around the world in relation to alcohol because we do not sell it in a lot of places. There are jurisdictions where the culture is quite similar to ours, if I can put it that way—for example, Australia and Ireland—but we have not moved to the 24-hour café culture in the same way as anticipated when the legislation was brought in. Australia is interesting. Late-night hours are regulated through various means at state level, but predominantly planning. Times are given for planning, and they relate to noise, lighting and things of that nature. Sydney has an interesting tiered approach. It has a more onerous approach to licensing, depending on the nature of the business. Alcohol is tier 1, and selling just food, as we do, is the lowest possible regulation and is usually dealt with by planning-type considerations. There is a need for a licence in Sydney itself, but not elsewhere in Australia.

In Ireland, any trade beyond 11 pm is dealt with entirely by the planning system, so we are unique. In the US and Canada, again it is planning. There is nothing in relation to food. We are probably unique in our approach. That was a view you were considering with previous speakers in relation to where those things could be dealt with. As far as McDonald's is concerned, we believe that the planning application is the right place to deal with food, because there are things you can do within that application. I will not carry on about it too much, but there are restrictions under planning; for instance, the proximity of takeaway restaurants to schools and so on can be dealt with on the planning side if that is an area of concern.

Ibrahim Dogus: We do not have members in other European cities, so it is difficult for us to compare countries. In our experience, the key to a successful night-time economy is that people feel safe at all times. Another point is about the sale of hot food. The Licensing Act should be reconsidered as regards hot food. The sale of hot food should not be licensed; you can sell cold food after midnight, so you should also be able to sell hot food. That should be reconsidered.

Peter Marks: My knowledge is limited to knowing other operators throughout the world. I know quite a number in Asia, Australia, Europe and North America. As regards 24-hour licensing and equalising us with the rest of the world, frankly, the rest of the world does not have 24-hour licensing. I remember sitting down with Tessa Jowell before the Act went through asking where that idea had come from. Of course, it does not really exist in this country either. Very few premises open past 4 am, unless it is for something like New Year's Eve. I have nothing to add on the international situation.

Alan Miller: The examples put forward are very good ones. Recently, with City Hall and the Mayor of London we formed the Night Time Commission, on which we serve. We brought the night mayor of Amsterdam, Mirik Milan, and Lutz Leichsenring from Berlin's Clubcommission to come to speak with us. They had slightly different examples. We seem to have tried to combine both for London in an

attempt to bring all stakeholders together, which I think they do very well in certain cities across the Netherlands where there is a kind of ambassadorial role for night life, mixing with and talking to councillors, police, transport and housing. Of course, both Amsterdam and Berlin are far smaller than London. Berlin has a particular historical experience which meant that its real estate was very cheap and a lot of artists went there. It has created a particular type of demographic and dynamic. They now talk madly about techno-tourism, but it generates a huge amount of revenue from destination traffic. They have a conversation that is similar to ours about gentrification and what it means.

New York provides some interesting insights and warning signs. On the one hand, most premises are open until about 4 am, but some of the cabaret licensing laws and restrictions introduced under Mayor Giuliani mean that you cannot do certain things in various places across Manhattan. Some people would argue that it has ended up extinguishing some of the liveliness of Manhattan, but the other boroughs may have picked that up.

As to what we can learn from them, there are over 300 million visits after 8 pm in the UK. It is not just about alcohol; it is about food and everything from crèches to theatres, museums and salons. We live in a global city where people work online with people in different countries, whether it is São Paulo or Beijing. To reflect that in a real 24-hour licensing regime would be sensible, so that people could think about what would best furnish our cities. In that context, it is also about urban planning. What they have done particularly well in Amsterdam and Berlin is to understand the relationship between urban planning and nightlife in a 24-hour city and how they work together. That is what our approach should be in the UK.

Q186 Lord Davies of Stamford: We are all particularly grateful for the international perspective you have brought today. Obviously, you have a great deal of knowledge about what goes on in comparable countries, and that is very helpful to us. I thought the general drift of your remarks was consistent with the idea that we ought to try to merge the planning and licensing systems, which was a point dealt with in the previous session. Our brief reveals that in Berlin they have either recently introduced, or at some time have had, a rule that if you move to a new address you cannot complain about the noise already there from some installation that has a licence. Is that a good principle? Do you think it should be transferred here, because, as you know very well, we have the opposite principle in this country?

Alan Miller: Indeed. It is called the agent of change principle. It denotes that, whoever is the agent of change, whether it is someone who wants to put new musical premises on a street or build apartments, it is incumbent on them to sound-insulate and take measures that prevent an impact on the immediate vicinity. That is a very sensible proposition. It applies in countries such as Australia and Canada. With that, new tenants or residents in the area are informed that the activity already exists. It is either a very quiet zone or a very lively one; that is why it has its

identity. We definitely think we should have the agent of change principle in the UK. One thing that should be understood about it is that it is about the premises and residents' understanding of it, and that is very sound, but there is also the question of a certain frisson about what happens in the city. People ask about New York. There is noise generally the whole time in Manhattan, but people still think the quality of life is high. There is a question about when people come and go. Once the agent of change principle is embedded, if it is an area of high density and activity, that is presumed to be a virtue rather than vice, and anything that goes along with it is then seen as bringing economic benefits and culture rather than problems. The agent of change principle is really good. As to people coming and leaving, that still needs to be understood. Some of the ways we have handled things recently have been problematic, but it would help with that as well.

Peter Marks: I agree totally with Alan. For me, it would be magnificent for something like that to come in. I have premises in Exeter that have been surrounded by student flats over the past five years. Five years ago there were none; there are now more than 1,000, and I am being taken to task for that. It is crazy. We do not, as people think, make lots of money from nightclubs, and you have to take a long-term view to invest. Your investment may be at risk because there is a view locally that more residents are a good thing. It may be student residents who are saying it; it may be that offices above shops have been turned into accommodation. In Kingston upon Thames, property is so expensive that it makes sense for nearly everything to be knocked down and turned into residences, but it causes a problem.

The Chairman: Pursuing what Lord Davies said, do you think there would be more chance of achieving the agent of change principle if planning and licensing were merged?

Peter Marks: Very much so.

The Chairman: That is helpful. Does anyone else wish to comment?

Ron Reid: I talked about the Australian system being controlled by planning. In Sydney, which is the area where times for food outlets are regulated, they set planning conditions. At the same time, they give a temporary licence for a year. Effectively, they say that if it runs without problems over that year you can have a full licence. That might be a matter to be considered were the two to be merged. There could be a situation where, if the application was dealt with by some form of merged committee in the way you suggested earlier, the licence could be granted for a limited period with a right to review after that. If there are no problems, it carries on. If not, it could be reviewed. The concerns are slightly different considerations in relation to planning and licensing. That seems to work very well according to our colleagues in Sydney.

Alan Miller: Sydney and Australia have some sensible plans, but they also have ludicrous ones, like the lockout laws. There was a sad and tragic incident when somebody in the street was punched, fell over,

cracked their head and died subsequently. Across all Sydney's nightlife a rule was imposed that people were not allowed into a premises after 2 am. That impacted the whole industry. It does not stop anyone punching anyone before, after or inside, but it has an effect. On the provision for a year—just to contextualise this—Peter said that people do not make much money in the industry. It is now difficult to invest, particularly in a city such as London or elsewhere, because if you have to risk millions of pounds and any incident either inside or outside your premises—

The Chairman: I think we get it.

Alan Miller: A temporary period would be very problematic; it would reduce further investment.

Q187 **Lord Brooke of Alverthorpe:** You began by generally welcoming what had happened with the changes that had taken place since the 2003 Act came into force. I share the view that there have been some beneficial changes. There are some downsides, however. We have seen a major shift from on-sales, where pubs and clubs sell most of the alcohol, to off-sale premises, such as supermarkets, which invariably sell it much cheaper than on-sale premises. As a result, we now have the phenomenon of pre-loading, which I am sure you have all heard of. I do not think it was around in 2001, 2002 or 2003. Why do you think it has come about? What experience do you have of it? What do you think we might try to do to reduce the problems that arise from pre-loading and, in turn, the difficulties we may encounter with late-night complaints from so many quarters?

Peter Marks: I certainly remember that before 2001 when you went to a supermarket the drinks occupied half a small aisle in the corner at the back, whereas now they probably occupy three aisles. Deals to bring you into the supermarket are no longer special offers on toilet rolls or baked beans; they are nearly all alcohol-based. There is no question: the fight for supermarket customers has been led very largely through alcohol. It has got cheaper and cheaper; it has been sold for many years under cost price, and every attempt to try to impose minimum pricing has been floored by European legislation, anti-competitiveness legislation, et cetera. Built into the structure of the profit and loss account of each operator, whether it be McDonald's, a cinema, a nightclub or bar, are increasing costs through the living wage, rates, cost of product, et cetera. You probably end up with an inflationary cost base of 10% or 20% over 10 years, so you have to put up your prices, but all the time you are keeping an eye on what people can buy at the supermarkets. The difference between drinking at home and drinking out has got wider and wider since about 1995. It is largely about cost.

Alan Miller: One interesting thing pre-2003 was the real concern in certain quarters that the new regime would lead to an enormous increase in binge drinking. That was the term used all the time. There was reference to alcopops and crime being out of control. That never happened. People just spread their drinking over an hour and a half or two later. The term "pre-loading" is a tricky one. It is absolutely the case,

as Peter says, that you can buy alcohol much more cheaply in premises beforehand, but when I was at university everyone used to get a couple of cans before going to a gig and it was just called having a couple of drinks before you went out. Now we have “pre-loading”, which tends to demonise everyone. The people we represent are very concerned about some of the issues, but one of the issues to do with off-licences, if they are open late, is that sometimes people get drinks, either before or after, and then there is noise or incidents. That often ends up being pinned on the licensed premises—a nightclub or bar—because it is the one that is most noted. That happens often in the stats.

As to pre-loading being a concern, I again reference the increasing demographic of young people who are now teetotal. Studies by the ONS and others of alcohol consumption in Britain show that it is not the case that suddenly we are in the grips of a terrible thing. Behaviour is good when people are out.

Lord Brooke of Alverthorpe: You do not see pre-loading as an issue.

Alan Miller: That is right.

Ibrahim Dogus: For the British kebab industry, the issue is quite different. We see it as a problem. The issue for members around pre-loading or intoxication is about safety, but there is also a problem for businesses themselves. There is a problem with taking orders, getting payment and asking people to leave when they have finished their food. It is a problem for many small businesses that do not have the capacity to employ somebody to deal with people individually on the doorstep and so on. As a restaurant owner—I cannot speak for the nightclub industry—we have a strict policy of not serving people who are drunk or intoxicated. That helps our businesses.

Ron Reid: Similarly, at McDonald’s we do not have experience of pre-loading. We do not sell alcohol, but we have strict rules about not having open containers in restaurants; people are not allowed to have open containers of alcohol. They are not allowed to bring it in. There is good training of staff on security issues, as you would expect, and those matters can be dealt with accordingly should there be an issue, but we do not really experience pre-loading in the way you suggest.

Q188 **Baroness Henig:** Moving on more explicitly to security, since last year’s terrorist attacks in Paris, particularly at the Bataclan, there have been heightened concerns about security, particularly because in the UK the terrorist threat level remains very high. Some have suggested that some UK venues are not taking security seriously enough. Is that fair comment? If you think it is, what improvements could be introduced in this area?

Alan Miller: I do not think it is a fair comment. Licensed premises recognise themselves as part of the community, with an ever-increasing raft of requirements and measures that they often spearhead themselves. Going to pubwatches around the UK, sometimes sitting with the police

and discussing terrorism in particular, I see that we are the eyes and ears on the street and we are able to communicate with the police, who understandably have limited resources. We absolutely want to work in the spirit of partnership and collaboration. However, partnership and collaboration, particularly on such an emotive issue, is the case across the board with these things. There is a discussion about partnership, but we are often held responsible when incidents occur. We very much want to work with the authorities as much as possible. We also recognise that when police resources are stretched there is pressure on licensed premises. Sometimes, people think that perhaps they could just take up all the slack with everything. One has to ask where the jurisdiction and parameters exist for all of those different things, with a finite amount of resources.

Peter Marks: We take it seriously. We have training for our supervisors and managers. We send them on courses regularly. We are nearly always the largest premises in each of our towns, so it is easy for us because we have the infrastructure to be able to do it. I feel sorry for the guy who may be running his own tenancy in the middle of a town centre, because he does not have the wherewithal, finances or training easily at hand.

Ron Reid: Obviously, I can comment only on the measures that McDonald's has taken in recent years in relation to the increased threat of terrorist activity and so on. McDonald's has undertaken training programmes for staff at particularly high-risk restaurants, such as those in central London and places like that. The company continues to work closely with the National Counter Terrorism Security Office, which is the government department set up to protect crowded places and support businesses, including those operating in the late-night economy.

Q189 **Baroness Watkins of Tavistock:** The Committee has heard from a great many local residents and their representative groups about the nuisance and distress caused by late-opening premises. Many of them believe that the licensing system as it currently stands is fundamentally biased in favour of licensed premises and against local residents. Some people from Camden, for example, spoke eloquently about that. How can the interests of the night-time economy be best reconciled with the legitimate concerns of local residents about noise and disruption, recognising that not everything is legitimate?

Peter Marks: It is a perception problem, because I feel that it is skewed against us. London is different. I am not really in London. In London, everything is on top of everything else, whereas for me there are very few places where residents are an issue; I mentioned Exeter. In many respects, to be fair—referring back to the agent of change principle we talked about earlier—who was there first matters. It is then up to the other to try to fit in with who was there first. I cannot think of a fairer system. I understand why residents may feel that way. I live on a high street in a Northamptonshire town. Late on a Friday night, if I am ever at home, I hear people walking past my door shouting and screaming at each other if they have had too much, but it comes with the territory of living in the town centre. Not once have I ever complained about it,

because most of the time it is a joy to live there; it is just one small element. I get where some residents are coming from, but I revert to the agent of change principle as the fairest way of dealing with it.

Alan Miller: It is a really important question that goes to the heart of the matter—the kind of tapestry that we want in our cities and country. Let us compare the 32 boroughs in London with some other cities such as Glasgow and Manchester. In places like Hackney, Tottenham, Peckham, Croydon and other areas, bars, nightclubs and activities often generate new destination traffic; they bring in a lot of young people. Boroughs like Tower Hamlets have been transformed in many ways. New investment comes in. Developments such as the Old Truman Brewery bring in a number of bars and clubs. There is new investment in creative industries. Councils then make money from property prices. Real estate developers do that too. New people move in, and some older people are there as well. You get a whole new influx and transformation of the area, often in beneficial ways. Sometimes, there are costs.

The issue of who complains is striking. Recently, there was a discussion in the London Borough of Hackney. Sometimes, councillors are minded to think that the few vocal residents they hear from represent all residents. They say, “The residents have had enough and we need to have a controlled zone”. When we sampled, and went out to the residents of Hackney, we had a response from 5,500 people, which is almost three times the number who voted for any councillor. They said they loved the nightlife; some were employed by it. They thought there should be more, not less, and 95% of them were residents of the London Borough of Hackney.

Legally, councillors have to respond to one complaint. We have many members who can give examples of one very upset or belligerent person when there are thousands, or tens of thousands, of local residents who love what they do. That is not to dismiss the concerns. The agent of change principle matters, but we have to reflect overall on what is brought in both day and night. When a crime is committed or there is an incident during the day, no one says that Asda has to go because there was a crime there. We have to deal with it appropriately and in context.

We encourage every professional licensed premises to have an active relationship with their residents, and most of them do. There is a hotline to managers and licensees to report noise pollution and incidents, because they recognise they are one or two incidents away from losing their licence. It is not like farming or biomedicine. In no other industry in Britain can you be so close to losing your livelihood and all your staff as in the licensed regime. That is the context.

Ibrahim Dogus: This is always a tricky situation, especially now when more and more people choose to live in town centres due to work or other issues. The principle of the agent of change is sensible and useful. It is important that locals know when they move to an area what the licensing arrangements are during trading hours, and that restaurant owners or nightclub owners and so on are respectful to residents,

particularly outside trading hours. It is important to involve estate agents, because when they promote a property in an area they talk about transport links, schools, the proximity to shops and so on, but perhaps they should also be talking about licensed premises near properties so that the individual who prefers to live in a certain street has that information, because we cannot expect everybody to do their research and find out what sort of licensed premises there are around an area. Local authorities have noise schemes, but the problem is that they are not funded properly, so they may not be in a position to enforce noise violations. That is a matter to be considered as well.

Ron Reid: The objectives of the Licensing Act already allow for the legitimate concerns of communities. They are consulted as part of licensing applications, and that will include all the relevant authorities, as you are aware. Local authorities are able to review or revoke licences if they believe that a particular premises is causing issues for local residents, and they do that in consultation with the police and other stakeholders.

McDonald's communicates and consults with communities before bringing forward any type of planning or licensing application. It does that in line with the expectations of the local authority. That will usually involve consultation with the local community and residents' associations, and speaking to local councillors, the police and environmental departments before the applications go forward. McDonald's invests a considerable amount of time in ensuring that its restaurants are good neighbours to local communities, and includes all sorts of issues around that. Litter patrols and so on are often a condition on a licence for a McDonald's restaurant. This does not have a great deal to do with licensing, but it is often a condition that is imposed. As a result, they apply licence conditions. All restaurants do at least three litter picks a day within a 500-metre area. They have been doing that since 1980—long before the legislation—but now we find that, because we do it, it becomes a condition of the licence, but it is not a condition on other people's licences.

Baroness Watkins of Tavistock: There seems to be a juxtaposition. For example, Mr Marks thinks the system probably favours residents, and you were talking coherently about the argument that people who already live there should perhaps have a right to a greater say. When there is a dramatic social change, as Mr Miller described in a particular borough, that is quite difficult to contain too, because they are probably not the majority. You are saying that the balance is about right but you recognise that it is never going to be perceived as perfect by everybody. Is that right?

Peter Marks: I guess that is where I am on that. We must remember that London is very different from the rest of the country, with everybody on top of each other. The rest of the country, which is largely what I am about, does not have anything like the issue, but it is encroaching. We

need to be sensible. The agent of change principle is the only way I can think of to be fair.

Alan Miller: It always depends on the specifics of who is doing what and what the complaint is. It is the case that in places like Camden, for instance, which is the highest destination for tourism in Britain, there is a whole new development of the market. There are different parts of Camden. The bits round Primrose Hill are particularly quiet and then there is the central area. A lot of it is to do with thinking about a joined-up urban planning approach and how we have quiet areas alongside bustling areas. A lot of people have moved into the area because of the bar and live music arena in Camden, and they love it. Others want a different quality or experience, but many have made a lot of money out of properties there because they have become so successful, and sometimes their circumstances have changed; they go on to have children or whatever. The nuances need to be looked at.

Q190 **Lord Blair of Boughton:** We received statistical evidence that a very large amount of violent crime is connected with alcohol abuse, not necessarily around licensed premises. A number of police chiefs, including the present commissioner, have called for the number of licensed premises to be reduced. Of course, the police were involved in the closure of Fabric, and presumably have been involved in the conditions under which it is to be reopened. Do you think that your industry is doing enough to help to reduce violent crime?

Peter Marks: I understand the police are under enormous pressure because of budget cuts. I have never seen fewer police on the street other than on a Saturday night. I remind everybody that I have done 35 years of this; 25 have been spent on the road knowing everywhere. I have never seen with my eyes so little trouble as exists today. I do not think there is anything like the number of incidents. How we record, manage and measure them—everything is on CCTV—might lead people to say otherwise. Most town centres are dead other than on Saturdays, but according to the statistics and *Mail* readers, everything is so much worse. That is not my view. The police, who have a horribly difficult job to balance the budget, are using their stretched resource to try to suggest that things have never been worse. I just do not believe it strongly.

Lord Brooke of Alverthorpe: You do not accept that A&Es are exceptionally busy, with 70% alcohol-related cases, from Thursday through to Sunday.

Peter Marks: I do not know how those measurements have been made or for how long. Maybe it has always been 70%; it may have been 80% in the past.

Lord Brooke of Alverthorpe: No, the figures were not.

Peter Marks: I do not want to dispute the NHS, but what I see with my own eyes is that town centres are not as busy as they used to be. Footfall suggests that investment in the late-night economy has gone down

throughout the country, because it is more difficult to make money, and that there are fewer people involved in violent incidents. That is not to say the A&Es are not full of people who have had drink, but a lot of the drinking is done at home through supermarkets. It is difficult to extract one from the other. I know that sometimes the police ask, "What was the last premises you actually had a drink in?" Those premises will often get the blame. That could be crackers, because somebody might have had 10 drinks at home and gone out to have a drink in the local pub, and the pub will get the blame.

Alan Miller: To give one impressionistic example, a journalist walking home from the opera was mugged, and when the police took the details they asked, "Have you had anything to drink?" He said that he had had a glass of champagne: alcohol-related crime. It sounds ridiculous, but the stats-obsessed approach of policing today, rather than the moral claim for policing, means that everything is put into an incident report that is often very vague. Is alcohol related to it in some fashion somewhere? If so, you then have all those spikes in alcohol-related crime, even though the ONS and other figures over the past 10 years demonstrate that serious crime in Britain is decreasing, and A&E levels have stabilised.

Lord Brooke of Alverthorpe: No.

Alan Miller: In the report we submitted we gave evidence based on some of the statistics from the ONS and Institute of Economic Affairs that relay that.

Lord Brooke of Alverthorpe: What about the IAS figures?

Alan Miller: I am aware of the IAS, but it is a particular organisation.

The Chairman: Can we come back to the question about what you can do to reduce crime? Sir Bernard Hogan-Howe would probably say we should close all the premises and then there will not be a problem with crime. You probably would not agree with that.

Lord Blair of Boughton: Nor would I.

Alan Miller: Indeed. When Sir Bernard Hogan-Howe made those comments, it was in the context of how to have policing in a community in the face of enormous cuts.

The Chairman: I do not want to take Lord Blair's words, but I think he is trying to say, "The police are doing their bit. What are you doing?"

Alan Miller: What we have done already is to make our streets much safer; we have lit them up; we act in partnerships.

The Chairman: The councils light them.

Alan Miller: For licensed premises, yes, indeed; otherwise, there is a Detroit effect where there is a vacuum on the high street and no one is there. Roy Smith, the borough commander of Lambeth, makes very good points. The night-time economy is reducing crime by employing people,

working in partnership with the police and creating revenue streams. Often, it is looked at as a drain on police resources when incidents occur. Our industry is doing lots of things, from training to ensuring that people are safe in their environment, and down the road we have all sorts of measures such as business improvement districts where we have pastors and other elements.

The British public voted against private policing. The important fact, which I will come back to, is that Sir Bernard Hogan-Howe made that comment because of concern about managing resources. It is partly a perception issue. Night-time activity is not a drain on resources; it generates lots of business rates and revenue and employment; it lights up our high streets and prevents crime. It means that there are eyes on the street; people partner with the police and are willing to notify people that there are safe places to go to enjoy things. That is our contribution. If you take that away and impose measures that suffocate night life and close it down, there will be no one on the street and that creates a real problem.

Q191 Lord Smith of Hindhead: Would it help if establishments did not sell intoxicating liquor to people who are already intoxicated, which is an offence under the Licensing Act, so the person who has had 10 drinks at the supermarket does not get served?

Peter Marks: Absolutely. Of course, there are laws, and responsible operators do their best to make sure they do not do that, because it is bad business to serve alcohol to someone who is drunk or to encourage someone to get into such a terrible state. You do your best as an operator. You do not always get it right. Someone can have a lot to drink and get straight in because it has not had an effect yet.

Ibrahim Dogus: The issue for us is not the number of licensed premises but how well they are managed. The majority of responsible premises are managed well, and if rules are not enforced, they need to be. As stated before, local authorities need to be properly funded to take care of enforcing noise and licensing rules effectively, and there needs to be two-way communication between authorities and businesses. That will help local issues.

Ron Reid: McDonald's makes substantial investments in security, safety, protecting the local environment and that sort of thing. It trains its people. There are systems within stores—CCTV and something called staff safe, where if somebody is misbehaving in a queue for instance, it is monitored remotely and a voice says, "You in the grey jacket, behave yourself". That usually puts an end to it. We spend a lot of money doing that. We have a lot of franchisees, and it is a considerable amount of what they do. It is about how premises are managed. I agree with that comment. The focus should be on those who are doing well in that space, and they should be given the freedom to carry on, but for those who are not, there should be some form of enforcement. It is not a level playing field in the late-night economy, even outside alcohol.

The Chairman: The current law is not being enforced.

Ron Reid: I do not think a lot of the current law is being enforced, but in certain areas McDonald's has to have security door staff, properly badged and all the rest of it, as part and parcel of conditions on licences. In vast areas of the country, the restaurants are nowhere near where alcohol is served, and they are certainly not dependent on alcohol-fuelled people for their business; they serve a much wider community base—people who keep the country going during the night and that sort of thing. It is a service industry from their point of view.

Q192 **Lord Smith of Hindhead:** This question is very similar to the one that has just been asked. Late-night levies and early morning alcohol restriction orders, or EMROs, have been strongly opposed by many licensees, although only seven licensing authorities have introduced a late-night levy. Proposed changes in the Policing and Crime Bill would make late-night levies similar to cumulative impact policies, allowing councils to target them at particular problem areas, such as city centres, without applying them to the entire area. The late-night economy generates considerable public expense in terms of policing, safety and street cleaning. How can the costs be mitigated, and who should pay for them?

Ibrahim Dogus: We are mainly small businesses. We already pay quite a lot of taxes, including business rates, income tax, national insurance contributions, VAT and so on. The margins in the industry are already quite tight. Another indirect tax introduced as a late-night levy, or under a different name, is a problem for businesses. We do not want to see further increases in taxation.

Ron Reid: I would echo that. Obviously, McDonald's makes substantial investments in security, safety and protecting the local environment. Extending the late-night levy to its businesses means that they will pay for the actions of a small number of others who do not operate to those standards. Our view would be that those businesses should be encouraged to hold themselves to that higher standard and do some of the things that we do in the local community to address the issues, rather than just putting a blanket charge on everybody. I remind the Committee that a lot of the people who operate a McDonald's are small businesses because they are franchisees.

Peter Marks: To go back to my friend here, it is about affordability. I used to make about 26p for every pound, and after that I would take off head office costs and the cost of finance, and there would be something left to reinvest in the business and for the shareholders. That is now about 14p or 15p. Eight per cent of my turnover goes to security and door staff, so we are paying for it. Although they are not my numbers, Tim Martin, chairman of Wetherspoons, has always said that for every pound they take, 70p somehow ends up in tax and back with government. We are already paying and we are squeezing the pips. It is not that we are all driving around in huge cars, enjoying lavish lifestyles and everything is great. Everything—mind you, I think this is true of

nearly every industry—is squeaking and there is no capacity to take on more cost.

Alan Miller: I echo all those points. One issue is that business rates, which are increasing massively, particularly in London, have been going up nationally, so the conversation has been: how do you generate more revenue locally? As well as underlining all the points that have been made, the discussion around late-night levies and EMROs perceives nightlife as a series of problems rather than generating revenue for the council and local community, a brand value for tourism, and a place where people want to invest in properties from which they make taxes. There is a whole multiplier and regeneration effect. Business improvement districts and business rates are mandatory and are already contributed to, but in addition—this is linked to the previous point—there is the cost of security personnel and CCTV. Some places that do not even sell alcohol have to have breathalysers to check people on the way in. Increasingly, there are measures at every level where more cost is being imposed because resource is presented as an issue. Ironically, more senior, older police often say to us, “Do you remember Friday night back in the 1980s? We do not have anything like that now”.

Q193 **Lord Foster of Bath:** I too want to touch on the late-night levy. I think it is widely accepted that, although late-night food vendors often do not themselves sell alcohol, the problems of noise, crime and disorder often congregate around them. We have already heard that in London—you were all very keen to say this—one of the great advantages of the night Tube is that it helps dispersal away from such places, but in many parts of the country, not least market towns, there is no such facility to aid dispersal. Do you believe that late-night food vendors should contribute more to the cost of dealing with the problems of the late-night economy? We have heard from McDonald’s about litter-picking and staff training. You have also talked about working with councils and others, but do you believe they should be doing more? In particular, what is your view about the proposal that the late-night levy would also apply to late-night food vendors?

Ibrahim Dogus: I briefly touched on it. Many of our smaller restaurants and takeaways operate on very small margins. With business rates, especially in London, likely to increase or double, this is going to impose a huge extra burden on those small businesses. Properly run restaurants and takeaways, which account for all their income and expenditure, will be paying business rates, VAT, income tax and national insurance for their employees. They are already contributing to meeting the costs of policing, safety and the cleaning of their areas. This will be something extra. There must be another way; there must be others who would be interested in contributing more to the cost.

Ron Reid: I do not disagree with anything that has been said. A number of fees are levied, from business rates right through to the annual fees one has to pay to keep the licence, which are not inconsiderable. The fees are based on business rates, and business rates are high enough. Well-run businesses should not have to pay an additional burden.

Organisations that invest in security and so on, and spend a lot of time making sure they are well respected in the community and deal with issues—in conjunction with residents, which McDonald's does a lot of—should not be additionally penalised by a tax across the board, which is effectively what it would be, that does not differentiate those well-run businesses.

- Q194 **Lord Brooke of Alverthorpe:** Gentlemen, some of you have identified that cheap booze is a source of some of the problems. Do you think those who sell cheap booze should be required to pay an extra charge to meet some of the problems?

Peter Marks: We are talking about the supermarkets. They are rather powerful, are they not? No one has ever successfully tackled the problem, but I would welcome that. That is where I see so much of the issue and change over the past 30 years. Those of us who have been grown up for more than 30 years—dare I say the over-50s?—have seen enormous change. The biggest change of all has been the amount of alcohol sold in supermarkets and the cheapness of it. That has to be part of the problem and part of the solution.

The Chairman: It could be taxed and priced.

Peter Marks: Yes.

- Q195 **Lord Davies of Stamford:** Do the members of the panel sometimes feel that the comments in the press and politics about the nightlife economy are all about complaints and problems? It all sounds very miserable and difficult; the police get worried and want to cut you back and so forth, but in fact, what we are missing is not only that you are making money but that a lot of people are having a very good time, meeting new friends, enjoying music and contributing to the civilisation, life and vigour of our capital city and other big cities in this country.

Peter Marks: I agree. The trouble is that good news does not sell newspapers. There was once a good news channel in America and it closed down after three months. Therein lies a big part of the perception problem. If ever I go on holiday and let slip what I do for a living, I get virtually attacked by everybody around me because they perceive that I am the nub of every ill in the town centre, but that is not the case. Needless to say, we run a professional company. There are lots of professional businesses out there, with a lot of money reinvested, a lot of people employed and a lot of enjoyment being had. We would be a lot worse off if we did not have it.

Lord Smith of Hindhead: We all have the same problem when we let slip what we do.

Peter Marks: I understand.

Alan Miller: I agree. The comments in the world press and from other people about the tragedy of Bataclan were that we would not allow nihilists and evil people to suffocate and stamp out what we do, where we

go, where we fall in love, meet our friends, network and relax. This is who we are; it is our way of life. That is very important.

In the post-war period, everything about British culture has been interrelated with nightlife, from the Beatles onwards to Adele and Tinie Tempah today. It is incomprehensible to imagine them without the dance floor and nightlife. That goes for British fashion, London Fashion Week, design, advertising and our film industry. How do you get music and innovation? It is where the next cultural phenomenon is hatched. It is a foundation, platform and university for new talent. If we limit, suffocate and prevent nightlife and continually overregulate it, we run the real risk that people vote with their feet and go to cities such as Berlin and Amsterdam, which invite that nightlife and use it as an example. Slightly ironically, the British Council internationally talks about it as a great part of our culture, but in some places across Britain we have been making further impositions, unfairly I think, and limiting some of that success.

Ron Reid: We must not forget the wider night-time economy. There are people who work during the night and need to be serviced with hot drink and food. If you are someone who keeps our infrastructure going by resurfacing a road in the middle of the night, why should you not be able to get hot food and drink? That overnight economy is worth £70 billion to the British economy. In McDonald's alone, in an average year that overnight economy employs 14,000 people and produces some £250 million in revenue. We must not forget that it is not just about clubs and that sort of thing. We have to remember that it also affects the supply chain. For instance, McDonald's buys British produce; it buys British meat and those types of thing. That has an added benefit to the daytime economy—a kick-on, if I can put it that way. We are sometimes in danger of losing that by looking at night-time industries as only around alcohol and that sort of issue.

Q196 **The Chairman:** I think Mr Miller mentioned the night mayor in Amsterdam. We now have a night tsar. We are having great difficulty getting her to appear before the Committee, which is a note of regret. I understand that the night mayor, whom I met recently in Amsterdam, is introducing an experiment whereby one single resident can phone the police to complain about an incident during the night. As we know, they employ young people as hosts. If we were to look at something like that in this country, who would pay for that sort of activity?

Alan Miller: The quick answer is that it depends.

The Chairman: Not you, you are saying.

Alan Miller: I do not want to get on the line for it personally. We already have stewards and patrons in certain areas like Camden. That is usually part of a business improvement district, and part of the rateable value that the businesses pay towards that, so that could be part of the discussion. As to having a hotline, most venues, particularly professional ones, have correspondence with residents already. People can call the council. The council is legally obliged to take action on any complaint.

That is already mandatory, and that is why we see some of the actions implemented. There may be a perception gap, in that some residents think they complain a lot but nothing ever gets done, but we already have that facility.

The Chairman: On behalf of the Committee, I thank you all for being so generous with your time, and answering all our questions and contributing to our inquiry. We are immensely grateful.