Contemporary challenges for regulatory models
Which approach to take?
A conceptual overview

Brendan Hughes
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Third international symposium on drugs and driving
Why change the law?

Reaction to drug-taking trends? NPS?
Credibility of public?
Pressure from public?
Ease of enforcement?
Ease of conviction?

Ultimately – to reduce undesirable behaviour (road safety threats / drug use)
…. for minimum cost and maximum benefit
What’s the broader context? Drug laws

Penalties for cannabis use in Europe

Note: In Spain – if in public place

Hughes (2017) Cannabis legislation in Europe – An overview
What’s the broader context? Drug use

Predominant stimulant in general population
Last Year Use, age 15-34, most recent survey available
What type of “drug” is controlled?

<table>
<thead>
<tr>
<th>Substances</th>
<th>Exempted</th>
</tr>
</thead>
<tbody>
<tr>
<td>• “drugs”</td>
<td>• some psychoactive medicines</td>
</tr>
<tr>
<td>• “narcotic and psychotropic”</td>
<td>• barbiturates, benzodiazepines</td>
</tr>
<tr>
<td>• “toxic substances”</td>
<td>• “if in accordance with doctor’s prescription”</td>
</tr>
<tr>
<td>• “substance and plants classified as narcotics”</td>
<td></td>
</tr>
<tr>
<td>• “substances listed in the UN conventions”</td>
<td></td>
</tr>
</tbody>
</table>

- What about new psychoactive substances?
- What about painkillers borrowed from a friend?

*Unintended consequences: synthetic cannabinoids to evade chemical tests…?*
What type of “use” is penalised?

‘Under the influence’ of non-prescribed medicines?

Sanctions in Europe *usually equal* to those for driving under the influence of illicit drugs (UN Conventions).

Do not dissuade use of medicines by patients in need. (Lower sanctions for medicines in some European countries)

BUT: “As you can see, our legislators think that a drug taken legally does not form a hazard to traffic safety; but the same drug taken illegally does. I am not serving a nation of geniuses.”
What type of driver is controlled?

More severe sanctions (including imprisonment) might be established when the driver is:

- Professional
- Novice
- Young
- Recidivist…
Should the risk level determine the penalty?

<table>
<thead>
<tr>
<th>Risk level</th>
<th>Relative risk</th>
<th>Substance group</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slightly increased</td>
<td>1 – 3</td>
<td>0.1 g/l ≤ alcohol in blood &lt; 0.5 g/l Cannabis</td>
</tr>
<tr>
<td>Medium increased</td>
<td>2 – 10</td>
<td>0.5 g/l ≤ alcohol in blood &lt; 0.8 g/l Benzoylecgonine, Cocaine, Illicit opioids, Benzodiazepines and z-drugs, Medicinal opioids</td>
</tr>
<tr>
<td>Highly increased</td>
<td>5 - 30</td>
<td>0.8 g/l ≤ alcohol in blood &lt; 1.2 g/l Amphetamines, Multiple drugs</td>
</tr>
<tr>
<td>Extremely increased</td>
<td>20 - 200</td>
<td>Alcohol in blood ≥ 1.2 g/l Alcohol in combination with drugs</td>
</tr>
</tbody>
</table>

EMCDDA (2014) Driving under the influence of drugs, alcohol and medicines in Europe – Findings from the DRUID project
Enforcement - how accurate is the diagnosis?

Figure 7. Sensitivity and specificity of the oral fluid screening devices for any positive result

EMCDDA (2014) Driving under the influence of drugs, alcohol and medicines in Europe – Findings from the DRUID project

Laboratory standards? For conviction?

ARIDE? SFST? DRE?
# Blood Drug Concentration limits in laws

<table>
<thead>
<tr>
<th>THC (ng/ml)</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Belgium</td>
</tr>
<tr>
<td></td>
<td>Denmark</td>
</tr>
<tr>
<td></td>
<td>Ireland</td>
</tr>
<tr>
<td></td>
<td>Luxembourg</td>
</tr>
<tr>
<td></td>
<td>Netherlands (polydrug)</td>
</tr>
<tr>
<td>1.3</td>
<td>Norway (=0.2 alc)</td>
</tr>
<tr>
<td>2</td>
<td>Czech Republic</td>
</tr>
<tr>
<td></td>
<td>United Kingdom</td>
</tr>
<tr>
<td>3</td>
<td>Netherlands (only THC)</td>
</tr>
<tr>
<td></td>
<td>Norway (=0.5 alc)</td>
</tr>
<tr>
<td>9</td>
<td>Norway (=1.2 alc)</td>
</tr>
</tbody>
</table>
Enforcement – is it straightforward?

1. Police can stop a car – at random (22 countries) or with suspicion (4).
2. Police can drug-test a driver – at random (11) or with suspicion (15).
3.1. Police test physical signs (16) or oral fluid (10).
3.2. Police test oral fluid (3) or physical signs (1) …or in either order (1).

4A. Oral fluid is sent as evidence (3).
4B. Blood is taken as evidence, in a hospital (15), police station (2), or either (5).
What is an appropriate penalty?

Criminal, or non-criminal?

Fines:
Min €100 – 1 500, Max €600 – 9 000 or higher

Licence withdrawal or driving ban:
Min 1 mth – 1 year, Max 2 years – life [offences comparable?]

Imprisonment:
Max 1 mth – 14 years [offences comparable?]

Note: penalties for drug use without impairment may be the same as, or higher than, those for alcohol use with impairment [DRUID 2009].
Is the law working?

Changes in type of drug involved? NPS?
Increased arrests, convictions?
Decreased detections?
Roadside surveys?
Self-report surveys?
Decreased positive autopsies?

These are usually before/after measurements. Did you have the number before?
What is the policy objective?

1. Control Illicit Drug Use:  
   **Substance / Impairment**

   Policy descriptor – Driving after taking drugs; zero tolerance.
   Enforcement – any drug/metabolite detected proves an offence.

   → Random drug testing? Civil rights?
Key questions behind legislation:

*What* are you trying to control?

…and *why*?

→ It may be advisable to use ranges of substances, offence levels, and penalties.

Thank you for your attention

Brendan Hughes