Finance Committee

Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill

Submission from Association of Convenience Stores/Scottish Grocer’s Federation

The Scottish Grocer’s Federation (SGF) and ACS (the Association of Convenience Stores) represent the interests of the convenience store sector in Scotland. Local convenience stores provide vital jobs and services to Scotland’s communities. There are currently 5,545 convenience stores in Scotland providing employment for 42,255 people. The Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill contains a number of provisions that will place significant financial burdens on the convenience sector in Scotland. We have previously submitted evidence to the Scottish Government about the implications of this Bill for the convenience sector, highlighting the complexity of the existing licensing system.

Across the UK, convenience store retailers have invested a total of £1.7 million into their businesses over the last quarter in an effort to improve their stores to meet the demands of modern consumers. This includes refitting stores and investing in refrigeration to increase the level of fresh produce and foods sold in store. Many of the measures in this Bill will put these investments at risk. Alcohol is an important part of the product mix sold in the convenience sector, with average alcohol sales making up 12% of total sales. Therefore, retailers will be less likely to open a store or grow their business if they encounter additional financial burdens due to further alcohol regulations proposed in the Bill. Although it is difficult to quantify the continued complexities of licensing legislation, it is time and cost intensive for retailers, especially for those trying to expand their business.

Consultation

1. Did you take part in any consultation exercise preceding the Bill and, if so, did you comment on the financial assumptions made?

Yes, however we did not comment on the financial assumptions made. Our submission to the Scottish Government is available here.

2. If applicable, do you believe your comments on the financial assumptions have been accurately reflected in the FM?

N/A

3. Did you have sufficient time to contribute to the consultation exercise?

Yes.

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1 ACS Local Shop Report 2014
2 ACS Investment Tracker
3 ACS Local Shop Report 2014
Costs

4. If the Bill has any financial implications for your organisation, do you believe that they have been accurately reflected in the FM? If not, please provide details.

5. Do you consider that the estimated costs and savings set out in the FM are reasonable and accurate?

Container marking: off sales

ACS and SGF have concerns about the effectiveness of container marking schemes as a way of reducing anti-social behaviour or tackling youth access to alcohol. Only 3% of 13-year-olds and 7% of 15-year-olds in Scotland have successfully been able to purchase alcohol from a shop in 2013, a decline from 6% and 11% respectively in 2010\(^4\). Therefore, in all likelihood, a marked container will have been sold legally to an adult. If it is then consumed by a young person, it will have been passed to them by an ‘agent’ as part of a proxy purchase or by an older family member. Proxy purchasing is extremely difficult for retailers to identify and deal with.

Proxy purchasing remains the most prevalent source for young people to obtain alcohol, with 66% of 13-year-olds and 80% of 15-year-olds in Scotland obtaining alcohol from friends or relatives in 2013\(^5\). Proxy purchasing is a complex problem and can only be addressed by multi-agency partnership approaches at local level. Container marking does not provide any evidence of wrongdoing by a retailer and should not be used by the police or Licensing Boards to target individual stores.

This is most evident in the pilot of a container marking scheme by the Dundee Licensing Board. Following evidence presented by the Dundee Co-ordinated Anti-Crime Network (DUNCAN) Project Coordinator on the scheme, the Board asked the clerk to launch a consultation on the inclusion of a supplementary statement to the Board's Statement of Licensing Policy regarding container marking\(^6\). The DUNCAN Project Coordinator stated in his own report that:

“The main finding with this mini-pilot, which is no surprise, is that off licences do take strict measures in tackling the sale of alcohol to youths. The most serious problem is agents buying on behalf of the youths, although through the bottle marking scheme it is hoped that staff would be more aware of this issue and that it would therefore be tackled and reduced.”\(^7\)

And further that:

“That this scheme will not all together stop agents buying alcohol unless a positive ID is found and thereafter an agent cautioned and charged.”

\(^4\) Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) 2013
\(^5\) Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) 2013
\(^6\) Dundee Licensing Board Minutes 21st April 2011
\(^7\) Bottle Marking Scheme Report to the Dundee Licensing Board by Duncan Project Coordinator
We do not support the proposal for container marking as a blanket condition as all licensing conditions should be based on local circumstances. In a trial case of this scheme in the London Borough of Hillingdon, the scheme was simply ineffective, feedback from the 13 licensees found that none of the 13 had had any bottles identified by the Police as come from their premise.

According to the Explanatory Notes of the Bill, there are two ways to implement container marking schemes, either using UV labels or UV pens.

We have modelled the cost of a 3 month pilot scheme in the London Borough of Hillingdon in 2009 where they adopted UV labelling. In proposals for the pilot, they calculated that the total cost would amount to £5184 in order to cover 16 off-licences for 3 months. The breakdown of the cost of the pilot scheme is as follows:

- Specific labelling guns - £70 each x 16 = £1120
- Ultraviolet, freeze resistant 'invisible' labels - £9.45 per role x 320 = £3024
- Printing plates specific to each off-licence - £65 per plate x 16 = £1040

According to the London Borough of Hillingdon’s calculations, to provide just the UV labels for the container marking scheme would cost a local authority approximately £750 for each retailer annually, with additional start-up costs for the specific labelling gun and printing plates costing £135 per retailer. The container marking provision proposed in the Bill, currently a blanket condition for all premises, would mean that implementing the blanket condition to the convenience sector alone would cost over £4million to Scottish local authorities to run the scheme for just one year. In addition, the start-up costs for a container marking blanket condition would cost just under £750,000 for the convenience sector in Scotland. These calculations are based on Hillingdon’s scheme, which do not including staff hours, which will significantly increase these costs.

Feedback from the licensees who participated in the London Borough of Hillingdon’s container marking pilot found that none of the 13 licensees that participated in the scheme would be prepared to carry on at their own expense as it was too expensive.

The alternative method, UV pens, would also serve as an administrative burden for retailers as they are more time consuming that using UV labels. However, participating licensees in the Hillingdon scheme voiced their concerns that even UV labelling was time consuming. One licensee even had to employ an extra member of staff at their own expense to mark the stock. Therefore, UV pens would only exacerbate this burden.

It is difficult to determine the financial cost of staff time when implementing a container marking scheme. There are a number of variables that would factor, including whether UV pens or labels would be used, what method staff would use to mark cans/bottles and the

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8 Hillingdon Licensing Committee Agenda Reports Pack – 1 October 2009
9 Hillingdon Licensing Committee Agenda Reports Pack – 23 April 2009
10 UV labels in Hillingdon scheme = £3024 for 16 licensees for June, July and August of 2009. Cost to 1 retailer for 3 months = £189. £189/92 = £2.05 for 1 retailer for 1 day. £2.05 x 365 days = £749.83 for 1 retailer per year.
11 UV labels determined as £750 (rounded up) for 1 retailer per year = 5545 convenience stores in Scotland = £4,158,750.
12 Hillingdon printing plates (£65) + Hillingdon labelling gun (£70) = £135 for each retailer x 5545 convenience stores in Scotland = £748,575
13 Hillingdon Licensing Committee Agenda Reports Pack – 1 October 2009
number of alcoholic products stocked in a store. A convenience store stocks a wide variety of alcoholic products with an average of 25 different beer and cider brands being stocked per store\textsuperscript{14}.

Both ACS and SGF are very concerned that the Financial Memorandum stipulates that one of the ways local authorities could recoup the costs of the scheme (as well as other additional licensing requirements) would be for Scottish Ministers to revise the prescribed maximum annual licensing fee. We urge the Committee to reconsider this possibility, businesses should be incentivised to grow rather than be burdened with additional costs such as this.

\textit{Minimum price of packages containing more than one alcoholic product}

In our previous submission to the Scottish Government under the Alcohol etc (Scotland) Act 2010, we highlighted the need for this loophole in the mandatory conditions to be closed. We therefore support this provision in the Bill. However, we want to highlight that an unintended consequence of the price restriction on multiple buying, is that retailers will only offer large multi packs, for example of 10 or 12, for sale to customers. This will mean that consumers will be forced to purchase higher volumes of alcohol.

\textit{Restrictions on advertising of alcohol}

At this stage, we call for further clarity on the provision in the Bill around alcohol advertising and how this will affect retailers. We are especially concerned for shops within close vicinity to schools and the impact this provision will have on window displays and potential fines incurred.

There are already restrictions on alcohol promotions in Scotland, restricting alcohol sales to certain areas of the store. Given the size of a convenience stores (typically below 280 sq. metres), the restriction on advertising to certain areas of a store will be challenging, as all areas of the store, and therefore advertising, are generally visible to the consumer. The removal of advertising is likely to have a significant impact on alcohol sales.

\textit{Alcoholic drinks containing caffeine}

We agree with the Financial Memorandum that ultimately the cost of this provision would lie with the manufacturer. However, we do not believe that the alcohol licensing system is the right mechanism to tackle caffeinated drinks and any associated implications, as it will add further complexity to licensing and administrative burdens to retailers.

The Committee should also note that there is no evidence that caffeine contributes to a ’masking effect’ in relation to how intoxicated a person may be. Following a request from the European Commission, the European Food Safety Authority Panel (EFSA) on Dietetic Products, Nutrition and Allergies was asked to deliver a scientific opinion on the safety of

\textsuperscript{14} Him! Beer & Cider Category Deep Dive 2015
caffeine, providing advice on caffeine intakes, from all dietary sources including alcohol. The EFSA delivered its opinion in May 2015\textsuperscript{15} and concluded:

“Alcohol consumption at doses up to about 0.65 g/kg bw, leading to a blood alcohol concentration of about 0.08 %, would not affect the safety of single doses of caffeine up to 200 mg from any dietary source, including “energy drinks”. Up to these levels of intake, caffeine is unlikely to mask the subjective perception of alcohol intoxication”. (p.49)

The two research studies cited above are offered to the Committee to show that there is not a consensus on any putative harmful effects of a combination of alcohol and caffeine.

In addition, the provision is likely to have a limited impact on Scotland’s relationship with alcohol, as ready mixed caffeinated drinks account for less than 1% of total alcohol sales in the Scottish off-trade. We urge the Finance Committee to reconsider whether powers for another mandatory condition are proportionate to the cost.

Applications for, or to vary, premises licence: consultation and publicity

Currently, alcohol licensing applicants are required to display an A4 notice at or near their premise for a 21-day period. The Bill proposes to double this period to 42 days and allow Boards to require the notice to be re-displayed for an additional 42 days if the A4 notice is removed or defaced. This acts as an additional barrier to obtaining an alcohol licence by providing further uncertainty to retailers on whether they can obtain a licence in an allotted time frame and delaying new store developments.

We urge the Finance Committee to consider the implications of posing further licensing conditions and regulations on the growth and investment of the convenience sector. Retailers are less likely to open a store in an area where it is harder to obtain their alcohol licence, whether it’s by additional licensing conditions or further complexities in licensing legislation. In Scotland, vacancy rates remain high at 13.7\%\textsuperscript{16}, and therefore we urge the Committee to reconsider the impact further regulations on alcohol licensing would have on high street investment.

Furthermore, we are concerned that retailers will be subjected to additional financial burdens as the Financial Memorandum states that under this provision:

“Should the fees payable for an application for, or to vary, a premise licence to be increased to offset some or all the Board’s additional costs, then a proportion of the £180,000 additional annual cost would be transferred to applicants instead.”

Retailers should not be further financially burdened by additional legislation which the local authority should be responsible for.

\textsuperscript{15} European Food Safety Authority: Scientific Opinion on the Safety of Caffeine, 27\textsuperscript{th} May 2015
\textsuperscript{16} Local Data Company and University of Stirling December 2014
6. If applicable, are you content that your organisation can meet any financial costs that it might incur as a result of the Bill? If not, how do you think these costs should be met?

The Financial Memorandum does not account for the financial burdens that will be placed on convenience stores. Provisions included in the Bill would impact small retailers significantly, including the container marking scheme, advertising restrictions and applications for, or to vary, premises licences. Not only will small business be burdened financially but they will also suffer administrative burdens, many of which may struggle with the additional costs and complexities of running their business. 77% of shops in the convenience sector are owned and operated by small business owners or ‘independents’. It is a highly entrepreneurial sector, one in five have established their business within the last five years, and more than 57% work over 50 hours per week. These statistics demonstrate the importance of cutting red tape for the owners and operators of these businesses and to ensure the continued growth of this sector.

We therefore urge the Committee to take into consideration the impact that these provisions would have on small businesses. Entrepreneurs are significantly hampered by complex administrative burdens, including licensing applications and consequential licensing conditions.

7. Does the FM accurately reflect the margins of uncertainty associated with the Bill’s estimated costs and with the timescales over which they would be expected to arise?

N/A

Wider Issues

8. Do you believe that the FM reasonably captures any costs associated with the Bill? If not, which other costs might be incurred and by whom?

The Financial Memorandum does not take account of the financial costs to retailers especially with regard to advertising. We understand it is hard to model the cost of advertising to retailers; however, it is important for retailers to promote products as outlined above.

9. Do you believe that there may be future costs associated with the Bill, for example through subordinate legislation? If so, is it possible to quantify these costs?

Please see our concerns outlined above.

For more information on our submission, please contact:
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