

ACS' Evidence to the Police Reform and Social Responsibility Bill's Public Bill Committee

ACS (the Association of Convenience Stores- Annex 1) welcomes the opportunity to submit evidence to the Public Bill Committee stage of the Police Reform and Social Responsibility Bill. The proposals that affect our members relate to licensing reforms and changes in Police structures.

Licensing

Due to the diverse make up of our membership, ACS has a unique perspective on the possible impact of the licensing proposals to share with the committee. ACS members include large national businesses such as the Co-operative Group and Martin McColl, but we also represent a significant numbers of small businesses who either operate independently or under the fascia of a symbol group, such as SPAR or Nisa-Today's. While all alcohol retailers will be affected by the proposals in the Bill, smaller retailers are at risk of being disproportionately affected by the additional bureaucracy and cost inherent in the proposals, as unlike larger businesses they do not have the in-house or consultancy resources to deal with any changes to the legislation.

It is also worth noting that while ACS represents a significant portion of the off-trade sector our members do not have the buyer power of the supermarkets to engage in the more controversial deep discounting practices, such as below cost selling. Indeed, the ability of supermarkets to offer these alcohol deals has a significant commercial impact on our sector.

Some provisions in the Bill with regard to licensing raise particular concerns for our members:

The Licensing Process

The Bill contains three proposals which will substantially change the Licensing Act and run the risk of depriving licensees of a fair process. The Bill Impact Assessment acknowledges that the increased level of regulation will impact on responsible businesses as well as irresponsible licence holders¹. While it is recognised that Government wishes to do more to enable local communities to tackle premises creating alcohol related harm and disorder, the blanket nature of the provisions in the Bill are likely to have adverse consequences. They will jeopardise the current inclination towards partnership working which brings benefits to many areas.

Below are our views on specific proposals:

(S.103) Making Licensing Authorities responsible authorities: This proposal is concerning as it seems at odds with the role of impartial adjudicators allocated to Licensing Authorities under the Licensing Act 2003. If this provision is enacted it could lead to a situation where a Licensing Authority is deciding on a representation it itself has brought, being in effect both prosecutor and judge. This may lead to licensees being dealt with unfairly. This is a particular concern considering the announcement that the

¹ Police Reform & Social Responsibility Bill Impact Assessment, Home Office, Dec 2010, Pg. 13

Local Authorities (Model Code of Conduct) Order 2007, which was meant to provide safeguards for businesses in these sort of situations, is set to be scrapped.

It is worth noting that the Policing and Crime Act 2009 allowed members of Local Authorities to become 'interested parties', enabling them to make representations about licenses. Therefore there are already provisions to ensure that this tier of local decision making has a voice in proceedings. Further meddling will lead to confusion and an unjust situation for businesses.

(S.105) Removing the 'vicinity' test: Removing the vicinity test could mean that individuals or organisations anywhere in the country will be able to make representations on a licence. There is a danger that this will allow national campaign groups or even national businesses to interfere in the local decision making process. It would not be desirable for a Licensing Authority to be flooded with a multitude of representations creating additional burden and costs for both the applicant and the Local Authority. The current situation allows Licensing Authorities flexibility when defining the 'vicinity' to ensure that all relevant representations are heard. Common sense prevails in this area already and there is not a case for change.

(S.109) Reducing the evidential burden on Licensing Authorities: Reducing the evidential base required by a Local Authority to justify their decisions will not only have a negative impact on the applicant but will damage the current culture based on local partnerships working together on effective, evidence-based solutions. Most local authorities already manage the licensing process very effectively² and it would be more proportionate to share best practice to help improve areas with problems, rather than restructuring the whole system and lowering the evidence base.

Persistent Underage Sales

All retailers accept that there have to be significant penalties in place for those who persistently sell alcohol to children. All retailers have placed considerable funding and resources on initiatives to prevent underage sales such as Challenge 25 and No ID No Sale, which have reduced underage alcohol sales significantly. While more work needs to be done, it should be recognised that most children obtain their alcohol from other sources than buying it themselves, most commonly through 'proxy purchasing' when an adult buys alcohol for a child³. More focus should be given to how to tackle this growing problem through local partnership, rather than superfluously increasing the penalties around underage sales.

In particular we believe the extension in the voluntary closure notice period is disproportionate and risks jeopardising the effectiveness of this sanction. Currently Police use closure notices to ensure that a store completes necessary training and preparation

² Only 13% of respondents to National Audit Office survey believed that the licensing act had a negative impact. *The Home Office: Reducing the risk of violent crime*, National Audit Office, Feb 2008

³ The most common ways to for young people to get alcohol were being given it by friends (24% of all pupils), a parent (22%) or asking someone else to buy alcohol (18%) or taking alcohol from home with permission (14%). Buying or attempting to buy alcohol from a shop (6%) or pub (4%) was the least common method. *Smoking, Drinking and Drug Use Among Young People* 2008.

http://www.ic.nhs.uk/webfiles/publications/sdd08fullreport/SDD_08_%2809%29_%28Revised_Oct_09%29.pdf

before being allowed to sell alcohol again. This is a useful partnership tool as it results in a sanction (loss of revenue) but also ensures that retailers gain the necessary support to prevent further underage sales. Increasing this period from a maximum of 48 hours to a period between 48-336 hours will mean that retailers are less likely to accept the voluntary closure notice and that more cases will have to be dealt with in the courts, increasing the costs for all involved. We do not see the case for removing Police discretion in this case.

It is worth noting that some businesses could be placed at risk if they are not allowed to sell alcohol for two weeks. Retailers operate on tight margins and a sudden decline in revenue can undermine cash flow and imperil the business. Over the past ten years independent convenience stores have closed at a rate of just under 10 a week⁴, indicating the difficulties facing the sector. ACS admits the closure of a deliberate or wilfully negligent business is a proportionate action but we would argue that it is not proportionate for a retailer, who despite training has had two staff members make a mistake and sell alcohol to an individual underage in a three month period⁵, to lose their business.

Late Night Levy

Our main concern regarding the blanket nature of the ban is that it will not discriminate between stores that are simply open late and those that are trading irresponsibly and adding to local problems. While the majority of ACS members are unlikely to be open between 12-6am there are some stores who will operate during these times, providing a useful service to those with unusual working hours. It is unfair that these stores would be liable to the potentially significant costs⁶ but are unlikely to benefit from the additional policing and other measures as they will not be located in late-night on-trade centres.

There is also concern that local shops are having to contribute funds to this levy it may divert resources away from schemes such as Business Improvement Districts (BIDs) and Community Alcohol Partnerships (CAPs).

Licence Fee Rise

While a proposal to allow Local Authorities more autonomy in increasing licence fees is not currently included in the Bill, we are alive to the possibility of amendments being tabled. Therefore we would just like to make a few, brief comments on our concerns around moves to increase and localise licence fees.

Convenience store operators were the big financial losers when the Licensing Act 2003 was introduced, as they did not receive any significant benefit from the change in licensing regime⁷. We would therefore be extremely concerned about the impact of any

⁴ William Reed Knowledge Store, Grocery Retail. In 2000 number of independent stores was 41,558 but by 2010 this had declined to 35,981. Total decline, 6,077 which equates to 9.7 a week.

⁵ The definition of the offence of persistently selling alcohol to children was amended in the Crime and Security Act 2009. Instead of 3 offences in a 3 month period it becomes 2 offences in a three month period.

⁶ The Bill Impact Assessment shows that the levy is anticipated to cost a licensee more than their annual licence Police Reform & Social Responsibility Bill Impact Assessment, Home Office, Dec 2010, Pg. 20

⁷ Convenience Stores did not benefit from the merging of a number of licences into one regime. There were also no significant commercial opportunities from the extending licensing hours as was the case for other types of businesses.

further increases on the convenience sector. In particular independent businesses who are already fighting a difficult economic situation and consolidated market⁸ may struggle to finance a dramatic increase in licensing costs. It could be the case in certain areas of particularly high licensing fees that independent businesses find themselves unable to compete and only large national chains would be able to afford an alcohol licence. This could impact significantly on the licensed trade, particularly considering the estimate in the RIA that 75% of licensed premises are small businesses⁹.

Additional Licensing Measures

Government has also indicated that they will introduce additional measures relating to alcohol licences through a non-legislative route, specifically through amending the Statutory Guidance Section 182. Many of these measures are significant and will add much additional cost and time to licensees. It is important that the impact they will have cumulatively with other licensing changes are considered, even if they do not form part of the legislation.

Below is a brief summary of the proposed additional measures and an indication of the likely repercussions for convenience stores.

- **Applications:** The Statutory Guidance will be amended to require licence applicants to give further consideration 'to the interests of the local community' in their application, requiring much greater information on the areas 'social-demographic characteristics, specific local crime and disorder issues and an awareness of the local environment.' This is clearly a significant additional burden on all retailers but one that will disproportionately affect smaller retailers who will struggle without sufficient backroom or professional capability.
- **Police Recommendations:** There will be a presumption that all reasonable recommendations from the police should be accepted, unless there is 'clear evidence to the contrary'. This will remove Licensing Authorities discretion in deciding what measures are best for the community and could lead to businesses having to fund unnecessary measures. Currently there is no evidence that Licensing Authorities routinely disregard Police recommendations; yet it is important that they have the power to do so in cases when it is not appropriate.
- **Cumulative Impact:** The evidential base required for the introduction of a Cumulative Impact Policy will be reduced. In 2009 139 Cumulative Impact Policies were introduced¹⁰, demonstrating that the current guidelines are workable. Reducing the evidential base further is a worrying trend towards less effective local policies.

⁸ The number of independent convenience stores has declined from 40,405 in 2001 to 35,534 in 2009. Source: William Reed Knowledge Store

⁹ See RIA, *Rebalancing the Licensing Act*, <http://www.homeoffice.gov.uk/publications/about-us/impact-assessments/ia-alcohol-measures?view=Binary>

¹⁰ DCMS, *alcohol, entertainment & late night refreshment licensing statistics*, 2009

http://www.culture.gov.uk/what_we_do/research_and_statistics/4865.aspx

Policing

ACS also has points we wish the Committee to consider regarding the Police Reform aspects of the Bill. Convenience store operators are at threat from a wide variety of crime and the attitude and response of the Police to shop crime is a key concern to our members. Below are our comments on specific proposals in the Bill.

Police Reform

Police performance has historically been measured against nationally set targets which rarely, if ever, featured business crime. Whilst we support the move away from nationally imposed targets and towards local accountability, ACS believe it is vital retailers are seen as a significant partner in the local community and are genuinely involved in setting local crime priorities.

Provision must be made to support Police Commissioners in tackling business crime. The definition of business crime has proven difficult to define and Police Commissioners will find it hard to set tackling retail crime as one of their priorities from crime maps alone. This means engagement with local businesses will be essential for Commissioners and will require effective transparent consultation measures.

Local and National Strategy

While acknowledging that priorities will be driven at the local level, there needs to be a centralised strategy to address crime which recognises and shares effective practice across each of the force areas. This will provide support to the locally elected commissioners and will remove duplication of effort/resources. A centralised strategy for tackling crimes against the business community should highlight the importance of businesses to safe and vibrant communities and encourage effective engagement between local businesses and elected commissioners. This would provide businesses with the reassurance they need that a coherent and consistent approach will be applied across the numerous force areas. A good example of where this has worked well is with the National Counter Terrorism and Security Office where national leadership/training of the Counter Terrorism and Security Advisers ensures a consistent approach across the UK based on a greater understanding of how national businesses operate.

If you would have any questions regarding this submission please contact jenny.amphlett@acs.org.uk or 01252 533008.

ANNEX 1- THE ASSOCIATION OF CONVENIENCE STORES

ACS is the trade body representing the interests of over 33,500 convenience stores operating in city centres as well as rural and suburban areas. Members include familiar names such as Martin McColl, Spar and Costcutter, as well as independent stores operating under their own fascia. Our members operate small grocers, off-licence or petrol forecourt shops with between 500 and 3,000 square feet of selling space.

If you need any more information on this submission please contact Jenny Brown on either jenny.brown@acs.org.uk or 01252 515001.