

Regulatory Reform Committee: Better Regulation Inquiry

Response by the Association of Convenience Stores

1. ACS (the Association of Convenience Stores) represents 33,500 local shops across all UK regions who employ 375,000 people. We welcome the opportunity to submit evidence to this inquiry.
2. Convenience retailing is a highly regulated sector, with retailers having to comply with product regulation, including licensing requirements for alcohol, and age restricted sales rules on products such as fireworks, fuel, lottery, tobacco, and some magazines, in addition to regulations affecting all physical businesses such as health and safety, fire safety and food safety regulations, and employment law. ACS welcomes the commitment of the current government to the principles of better regulation, and the introduction of mechanisms such as One in Two Out to reduce the regulatory burdens on business.
3. In this submission we will highlight the successes of the current better regulation agenda, but also the areas where further improvements could be made.

The scope and impact of regulation

4. Regulation provides clear boundaries and protections for businesses and consumers, but also places costs and burdens on affected premises. It is essential that the need to balance these two issues remains central to Government policy making.
5. For example, the Licensing Act 2003 is the legislation that creates the framework for alcohol policy and guides retailers in their day to day activity. This clearly highlights the need to reduce crime and disorder, protect public safety, prevent public nuisance and protect children from harm as the four key policy objectives.
6. Local authorities have the power to grant, review, amend and revoke licenses based on these criteria under the Act, in addition to the new responsibilities to tackle public health issues in their area, but are limited to the powers set out in the Act. This legislation and how it is implemented therefore remains central to both national and local policy priorities.
7. Retailers support these aims and are committed to ensuring their effective delivery. However, it is essential that any changes made to this framework have a strong evidence base that can be directly linked to the four core criteria, if the regulation is going to remain effective and coherent for retailers to implement.
8. Current proposals to move away from a centralised system and introduce locally set fees risk undermining this, potentially giving rise to much greater variations in enforcement approaches, leaving retailers with unpredictable costs and less

consistency. For example, the proposed fee caps set out in the policy consultation could lead to a 496%¹ increase in total licensing costs for the convenience sector if adopted, while some areas may adopt these levels while others maintain lower fee levels, creating significant discrepancies and deterring business investment in some local areas.

9. ACS has responded to the Government consultation on these proposals highlighting our concerns, but believes this provides a clear example of where unnecessary complications or additional burdens can undermine and outweigh the benefits provided.

Primary Authority

10. ACS works closely with the Better Regulation Delivery Office of the Department of Business, Innovation and Skills and have welcomed their continued commitment to engaging with businesses to deliver the better regulation agenda. In particular, the introduction and expansion of the Primary Authority initiative to include trade associations provides a significant opportunity to improve and simplify compliance requirements for thousands of small businesses.
11. ACS launched our own primary authority scheme in partnership with Surrey County Council in March this year, and we are currently in the process of developing a new suite of assured advice to benefit members of the scheme. We welcome the addition of new areas of regulation to be included in the schemes, such as age restricted sales of alcohol and fire safety, and will continue to work with the Better Regulation Delivery Office throughout this process.

Impact Assessments

12. One area of concern remains the quality of Government impact assessments and the basic analysis which is often lacking and sometimes omitted altogether from these important documents. As impact assessments are published alongside policy consultations, it is essential that these contain thorough and accurate information on all aspects of the predicted policy impact and the costs and benefits associated with it. Without this it is difficult, if not impossible, for organisations such as ours to effectively scrutinise the policy proposals or understand the full implications for our members.
13. In the Regulatory Policy Committee's (RPC's) latest publication (May 2014), they rated 9 impact assessments as fit for purpose, only one of these being rated as needing no changes (green). While this does highlight that the RPC is requiring some change and improvement to the vast majority of impact assessments, the criteria on

¹ Figures derived from Home Office consultation document and set out in ACS Locally Set Licensing Fees submission:

http://www.acs.org.uk/filemanager/root/site_assets/submissions/2014/locally_set_fees_consultation_response_for_web.pdf

which they are assessed are arguably less robust than many affected by the regulations introduced would wish.

14. For example, the 2012 impact assessment accompanying the standardised tobacco packaging consultation contained no figures or assessment of the potential impact on or costs for businesses, yet still only received an amber status. This raises the question of what standards these assessments are being held to, and what would be required for an impact assessment to fail this scrutiny process.
15. In order to provide greater transparency to this process, the workings of the RPC should be more transparent, and for there to be clearer requirements on the minimum standard for impact assessments by government departments, which would include mandatory assessment and cost estimates for businesses affected by the proposed regulations.

One in Two Out

16. ACS welcomes the Government commitment to removing two pieces of regulation for every new regulation introduced. However, this policy is not sector specific and is often focused at sectors which are not directly affected by the new regulations – i.e. you may introduce a new burdensome regulation for retail, and remove two from the construction industry.
17. We believe that, in order to deliver effective outcomes, this policy needs to contain a direct link to the sector affected by the regulations proposed, so each sector can benefit from the deregulation agenda. One In Two Out will not have a genuine impact felt by business unless those that experience new regulatory burdens directly benefit from the consequent deregulation.
18. In addition, the understanding of what constitutes a ‘deregulatory’ measure is often at odds with the practical results of regulation on the ground. For example, current Home Office proposals to remove the requirements for retailers to hold a poisons licence are deemed to be deregulatory. However, this requirement will be replaced with mandatory suspicious transaction reporting requirements, which will impose a much greater operational and administrative burden for retailers. It is important that these consequences are also considered as part of this policy, as without correct analysis of what constitutes ‘deregulatory’, there is no certainty that the policy can or will actually deliver cumulative reductions in regulatory burdens.

Red Tape Challenge

19. ACS has submitted evidence to Government Red Tape Challenge consultations on areas including retail and managing town centres, in which we have identified a number of areas where we believe regulatory burdens could be reduced on our members. We welcome the opportunity that the Red Tape Challenge provides to contribute these ideas and information, however the outcomes do not always reflect the areas in which regulatory simplification is most needed.

20. The process of removing unnecessary regulation will only have real results if this is focused on areas which are restricting or adding burdens to businesses. While we acknowledge these are often the more complicated and controversial areas to address, we would welcome greater focus on industry priorities in order to bring about real improvements and encourage greater flexibility and growth opportunities for retailers.

Evaluation of new regulations

21. There remain significant variations in the extent to which Departments evaluate the impacts of regulation once it has come into effect. Of particular concern are areas where further regulation is proposed before existing measures have been assessed. This makes it impossible to assess the potential impact of the new regulatory proposals, given there has been no assessment of the current 'norm' from which to project the impact of additional measures.

22. In the current example of tobacco control regulations, standardised packaging is now being proposed despite there being no assessment of the impact of recent tobacco display ban regulations for larger stores having been made, and this policy not having even come into effect yet for smaller stores. The Impact Assessment for the standardised packaging consultation in 2012 clearly stated:

'A policy to introduce standardised tobacco packaging would need to be justified and be based on expected benefits over and above existing tobacco control measures, including the benefits of the following initiatives in England (which the devolved administrations in Scotland, Wales and Northern Ireland are at varying stages of implementing under similar legislation in their own territories):

- a) Legislation to stop the sales of tobacco from vending machines, which came into force in England in October 2011; and*
- b) Legislation to end the open public display of tobacco products, which will come into force in England in April 2012 for large shops and in April 2015 for all other businesses.'*

23. No assessment of the impact of these measures has yet been produced. Without this, it is impossible to predict the impact of standardised packaging.

24. To address this, and to prevent situations such as this which risk imposing additional and potentially unnecessary regulations on business, we wish to see stricter requirements regarding assessment of new and recently introduced regulations. In particular, we would call for mandatory assessments of all recently introduced regulation (within 2-4 years), with a requirement for no additional regulation to be introduced within 2 years unless a full assessment has been carried out or there are exceptional circumstances identified.