



ACS Submission: Alcohol Structures

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to HM Treasury's consultation on alcohol structures. ACS is a trade association, representing 33,500 local shops across the UK, including the Co-Op, Spar UK, Nisa Retail and thousands of independent retailers. More information about ACS can be found in Annex A.

Convenience stores provide a range of products and services, including Post Offices, bill payment services, and ATMs to local communities. Alcohol is an important product category for convenience retailers, with 84%¹ of stores holding an alcohol licence, and an average of 14% of store sales represented by alcohol².

We recognise concerns about the problem of street drinkers and the high strength alcohol products associated with this. Convenience stores have a role to play in preventing this form of alcohol harm, and almost half (41%) of convenience stores do not stock high strength lager and ciders in their stores³.

We understand that more action needs to be taken to tackle harms associated with street drinking. We believe that tackling alcohol related harm is more complex than the introduction of an increase in price of one product category. Instead, tackling alcohol-related harm is most effective when offering support to individual harmful drinkers to change their drinking behaviours in the long term.

The impact of the introduction of a new cider duty band targeting "high strength 'white' ciders" would increase the price of the majority of white ciders sold in convenience stores. We are sceptical about how much this will influence the drinking habits of harmful drinkers. However, if the government is to take action in this area, we favour action at a national level, instead of the disparate activities of local authorities and local 'reducing the strength' schemes.

ACS would welcome HM Treasury continuing to engage with business organisations while they consider the introduction of a new cider duty band. ACS has mechanisms in place to consult with the convenience sector. For example, ACS conducts its Voice of Local Shops survey every three months. It is a multiple-choice phone survey of 1,210 independent convenience store retailers and provides the opportunity for ACS to ask policy related questions that obtain an insight into the perspectives of independent retailers. If HM Treasury would find it useful, we can consult and pose specific questions to retailers about the implications of the new duty band on their business.

Please see below for our response to the relevant questions below:

¹ ACS Local Shop Report 2016

² ACS Local Shop Report 2016

³ ACS Voice of Local Shops Survey February 2014

Question 1

Do you agree that there is a case for a new still cider and perry band below 7.5% abv?

In recent years, a number of local authorities launched local initiatives such as 'Reducing the Strength' schemes to tackle harms associated with street drinking, specifically targeting high strength beers and ciders. While these types of initiatives do have the potential to make the local area safer, there are significant variances between the quality of approach of different schemes in different areas.

The most successful 'Reducing the Strength' schemes worked with a range of partners including: retailers, police, local charities and health agencies to tackle the problem. Ipswich and Portsmouth are good examples of best practice of these schemes where they took a "three-pronged" approach; off-licences were asked to agree to stop selling high strength alcohol of 6.5% abv and above, the police took action where regular street drinking was causing disturbances, and the county council invested in out-reach workers to encourage drinkers into treatment⁴.

In comparison, some local schemes only looked to remove high-strength products from shelves, which conducted in the wrong way, could be burdensome for retailers, put retailers at risk of breaching competition law⁵, and did not tackle the problems they were designed to address. These schemes were not successful in comparison to schemes which took a multi-faceted approach to tackle street drinking.

We understand that more action needs to be taken to tackle harms associated with street drinking. The introduction of a new cider duty band targeting "high strength 'white' ciders" would increase the price of the majority of 'white' ciders sold in convenience stores, and we are sceptical about how much this will influence the drinking habits of harmful drinkers. We believe that tackling alcohol related harm is more complex than the introduction of an increase in price of one product category. However, we would prefer action at a national level, and therefore we would support the introduction of a new duty band for 'white ciders' instead of the disparate activities of local authorities and local 'Reducing the Strength' schemes.

Question 2 - Where do you think the lower threshold should be set? Please provide evidence to support your answer. We would also welcome any evidence about reducing the alcohol content of ciders.

We do not have a position on what level the lower threshold should be set at.

Question 3 - In volume terms, how does the still cider market breakdown by strength in 0.1% abv increments?

Feedback from ACS members shows the majority of 'white' ciders in the convenience sector have abvs at 7.5%. Therefore, if HM Treasury were to introduce a new duty band that

⁴ [LGA: Reducing the strength Guidance for councils considering setting up a scheme](#)

⁵ ACS produced guidance for retailers in consultation with the Competition and Markets Authority, which sets out the competition risks associated with engaging with an initiative and provides retailers with a framework to assess the quality and effectiveness of an initiative before deciding whether to engage. ACS' guidance on 'Reducing the Strength' schemes can be found in Annex B. We advised our members to assess each individual scheme on its merits and be mindful of certain practices that put them in breach of competition law, or because they are unconvinced that the schemes are tackling street drinking in an effective and holistic way supported by strong evidence.

introduced a higher rate for 'white' ciders with 7.5% abvs this would increase the price of the majority of 'white' ciders sold in convenience stores.

Question 4 - We would welcome evidence on the impacts a new still cider and perry duty band could have. This includes, but is not limited to, the impacts on:

1. **businesses**
2. **consumers**
3. **public health**

Until the threshold and the rate for a new still cider and perry duty band is determined, it is difficult to assess the exact impact it would have on the convenience sector and consumer behaviour. However, for the purposes of this consultation, we have projected what impact a new duty band on still cider could have on the price of still cider with an abv of 7.5%. Our calculations are based on the current rate (£40.38 per hectolitre) to an assumed new duty band rate at £61.04 per hectolitre (the current upper band rate for still cider).

	Current Duty Rate (£40.38 per hectolitre)	Example Duty Rate (£61.04 per hectolitre)	Price Difference
500ml 7.5% cider	20p	30p	+10p
1litre 7.5% cider	40p	61p	+21p
2litre 7.5% cider	80p	£1.22	+42p
3litre 7.5% cider	£1.21	£1.83	+62p

The new duty band will increase the price of 'white ciders' sold in the convenience sector and retailers will take different approaches to pricing their alcohol product when duty rates are increased. It is difficult to assess retailers' responses to a new duty band rates until will know the extent of the increase. Some retailers may choose to absorb the increase whilst some will pass on the increases to customers.

A large proportion of 'white ciders' in the convenience sector are sold via priced marked packaging, which will cause challenges across the supply chain. For suppliers, this will mean that packaging will have to be rebranded and for retailers this will change the price points they normally sell the product to customers.

Retailers are also concerned about the impact a on new duty band will have on the illicit trade. In theory, an increase in the cost of these products could deter some consumers and street drinkers from drinking them, and switch to lower strength products, it could also result in downtrading to the illicit alcohol market. The cost of the illicit alcohol trade to the Exchequer was £1.6 billion in 2015-16⁶, as such, it poses a significant threat to the Government's public health objectives and undermines the legitimate retail trade.

While we believe the recently introduced Alcohol Wholesaler Registration Scheme will tackle the illicit trade, we still have concerns that introducing a new duty band for cider would increase the price differential between the legitimate and the illicit market. Therefore, as part of HM Treasury's consideration of a new duty band, we would welcome an assessment of the impact that it would have on the illicit alcohol market.

For more information on this submission, please contact Julie Byers, ACS Public Affairs Manager, by emailing Julie.Byers@acs.org.uk or call 01252 515001.

⁶ [HMRC: Measuring Tax Gaps 2016](#)

ABOUT ACS

The Association of Convenience Stores lobbies on behalf of over 50,000 convenience stores across mainland UK on public policy issues that affect their businesses. ACS' membership is comprised of a diverse group of retailers, from small independent family businesses running a single store to large multiple convenience retailers running thousands of stores.

Convenience stores trade in a wide variety of locations, meeting the needs of customers from all backgrounds. These locations range from city centres and high streets, suburban areas such as estates and secondary parades, rural villages and isolated areas, as well as on petrol forecourts and at travel points such as airports and train stations.



WHO WE REPRESENT

INDEPENDENT RETAILERS



ACS represents 22,870 independent retailers, polling them quarterly to hear their views and experiences which are used to feed in to Government policy discussions. These stores are not affiliated to any group, and are often family businesses with low staff and property costs. Independent forecourt operators are included in this category.

SYMBOL GROUPS AND FRANCHISES



ACS represents 15,060 retailers affiliated with symbol groups. Symbol groups like SPAR, Nisa, Costcutter, Londis, Premier and others provide independent retailers with stock agreements, wholesale deliveries, logistical support and marketing benefits. Symbol group forecourt operators and franchise providers like One Stop are also included in this category.

MULTIPLE AND CO-OPERATIVE BUSINESSES



ACS represents 12,165 stores that are owned by multiple and co-operative retailers. These businesses include the Co-Operative, regional co-operative societies, McColls, Conviviality Retail and others. Unlike symbol group stores, these stores are owned and run centrally by the business. Forecourt multiples and commission operated stores are included in this category.

THE CONVENIENCE SECTOR



In 2016, the total value of sales in the convenience sector was £37.5bn. The average spend in a typical convenience store transaction is £6.13.



There are 50,095 convenience stores in mainland UK. 74% of stores are operated by independent retailers, either unaffiliated or as part of a symbol group.



The convenience sector provides flexible employment for around 390,000 people. 21% of independent/symbol stores employ family members only.



24% of shop owners work more than 70 hours per week, while 22% take no holiday throughout the year. 74% of business owners are first time investors in the sector.



Convenience stores and Post Offices poll as the two services that have the most positive impact on their local area according to consumers and local councillors. 84% of independent/symbol retailers have engaged in some form of community activity over the last year.



Between August 2015 and May 2016, the convenience sector invested over £600m in stores. The most popular form of investment in stores is refrigeration.

OUR RESEARCH

ACS polls the views and experiences of the convenience sector regularly to provide up-to-date, robust information on the pressures being faced by retailers of all sizes and ownership types. Our research includes the following regular surveys:

ACS VOICE OF LOCAL SHOPS SURVEY

Regular quarterly survey of over 1200 retailers, split evenly between independent retailers, symbol group retailers and forecourt retailers. The survey consists of tracker questions and a number of questions that differ each time to help inform ACS' policy work.

ACS INVESTMENT TRACKER

Regular quarterly survey of over 1200 independent and symbol retailers which is combined with responses from multiple businesses representing 3,970 stores.

ACS LOCAL SHOP REPORT

Annual survey of over 2200 independent, symbol and forecourt retailers combined with responses from multiple businesses representing 5,765 stores. The Local Shop Report also draws on data from him! research and consulting, IGD, Nielsen and William Reed Business Media.

BESPOKE POLLING ON POLICY ISSUES

ACS conducts bespoke polling of its members on a range of policy issues, from crime and responsible retailing to low pay and taxation. This polling is conducted with retailers from all areas of the convenience sector.

ANNEX B

Retailer Guidance: 'Reducing the Strength' Initiatives

Local initiatives to tackle street drinking have the potential to make the local area safer, and to reduce alcohol harm. However, they also have the potential to place retailers at risk of breaching competition law, and if conducted in the wrong way, initiatives can be burdensome for retailers without tackling the problems they were designed to address.

This guidance is designed to help retailers of alcohol manage their relationship with local authorities and to understand the competition risks of working with local authorities to deliver local initiatives, commonly known as 'Reducing the Strength'.

What is a 'Reducing the Strength' initiative?

'Reducing the Strength' local initiatives are led by local authorities designed to tackle alcohol related harm associated with street drinking. As well as other measures to tackle street drinking, these initiatives attempt to remove high-strength alcohol products from sale through changes to a premise licences or more often through voluntary agreements with a retailer.

Most 'Reducing the Strength' initiatives target beers and ciders above 6.5% ABV, and many are located in areas that have significant problems with street drinking.

Why do we need guidance?

Retailers need to be able to make informed judgments about the quality of a local initiatives and approach of the local authority running it before they can commit to participating.

Retailers need to be aware of the significant competition risks they could be exposed to by engaging with a badly managed 'Reducing the Strength' initiatives and the penalties associated with breaching competition law.

COMPETITION RISKS

Competition law attempts to prevent businesses from working together to fix prices, trading conditions or share commercially sensitive information that will disadvantage consumers or give them an advantage over other competitors. There is potential for businesses to breach competition law under a 'Reducing the Strength' initiative by:

- *Sharing their business strategy by agreeing with other retailers, at a meeting, through bilateral conversations, not to sell certain products or to sell them at an agreed price*

Example: A local authority holds a meeting of local retailers and outlines their desire for all retailers to voluntarily not sell any beer above an ABV of 6.5% by a set date. They ask all the retailers in the meeting to agree to sign up to the initiative in the room with other retailers. If you find yourself in this situation you should call an end to the meeting and leave.

- *Agreeing to participate in a 'Reducing the Strength' initiative based on information that other retailers will participate, either directly or indirectly.*

Example: A local authority officer visits a local convenience store and shows them a list of retailers that have agreed to sign up to the local authority's 'Reducing the Strength' initiative. On the basis of seeing the list the retailer decides to sign up to the initiative.

The fact that an agreement is sanctioned by the government (national or local), or that discussions take place in the presence of Government Officials does not prevent a retailer from breaching competition law.

The Competition and Markets Authority (CMA) are the UK's leading competition and consumer body and has produce clear guidance on 'Local Authority Initiatives and Competition Law' which can be accessed [here](#).

DO'S AND DON'TS

Key do's:

- Do consider the competition law implications of a local authority's proposals at an early stage;
- Do remember that despite the fact than an agreement is sanctioned by a local authority, or that the discussion takes place in the presence of authority officials, does not prevent it from breaching competition law;
- Do ask the local authority if they adhere to the Local Government Association Guidance [document](#); *"Reducing the Strength Guidance for councils considering setting up a scheme"*;
- Do seek independent legal advice where necessary. ACS provides a legal support helpline for members, for more information visit ACS' website [here](#).

Key don'ts:

- Don't ask or agree an approach with another retailer about supporting a 'Reducing the Strength' initiative;
- Don't share sensitive commercial information (e.g. prices, costs, volume, future commercial strategies) with other retailers;
- Don't meet up with other retailers before you have made a decision on whether to take part in an initiative, even if a local authority asks you to do so to discuss your involvement with a local initiative.

ENFORCEMENT ACTION

Licensing conditions attempting to restrict the sale of higher-strength beers and ciders would require clear evidence specifically linking the sale of certain higher-strength beers and ciders at that premises to the breach of one of the licensing objectives, for example prevention of crime and disorder.

Attempts to introduce generalised or blanket licensing conditions could exceed current licensing powers and licensees would be well within their rights to challenge such a condition both before and at a licensing review.

Please remember that 'Reducing the Strength' initiatives are voluntary. If you encounter pressure or threats of further licensing conditions, enforcement action or naming and shaming, please contact your trade association or the ACS [helpline](#) if you are a convenience store, for further legal advice or licensing support.

QUALITY OF INITIATIVE

The quality of 'Reducing the Strength' initiatives can vary greatly from one local authority to another. The core principles of good 'Reducing the Strength' initiatives include using an inclusive approach and targeted action to address defined health harms in particular areas.

There are a number of factors you should consider and questions you should pose to local authorities to identify the quality of a 'Reducing the Strength' initiative. Please see the list below for potential questions to ask your local authority:

- Has the local authority defined the problem?
 - Is there evidence of a high number of street drinkers in your area?
 - Where do the street drinkers congregate?
- What products are covered by the initiative?
 - Does this match the products street drinkers use?
 - How long will you have to prepare to comply with an initiative? For example, do you need time to sell through existing stock?
- What other partners are involved?
 - Have the police and local authorities been invited to join?
 - What support is being provided to street drinkers?
- How is the initiative to be evaluated?
 - What impact has been made on the problem identified, and over what time is this being measured?
- Is there clarity on what can be achieved through intervention?
 - Is it designed to run in perpetuity or is there a time limit or a point where it has been deemed to have succeeded (impact on problem) or have failed?
- Who owns the initiative?
 - Is there a board or committee, or consultative mechanism in which you can get involved?
 - Is this governance mechanism compliant with competition law?
- How will the initiative communicate with participating retailers, other businesses, and the wider community?

ALTERNATIVE APPROACHES

Please be aware that there may be alternative approaches that the local authority and police can take:

1. Focus on Duty Fraud: It may be that a retailer feels the issues faced in the local area are related to duty fraud. There have been examples of links between street drinking, problem premises, and duty fraud product. Dealing in duty fraud product is an offence which should result in the removal of an alcohol licence.

[Tackling Duty Fraud Guide](#)

2. Community Alcohol Partnerships: If the initiative appears to relate to under-age drinking rather than street drinking, CAPs are an established and effective way of tackling this problem.

[CAP Website](#) [Setting up CAP](#)

3. Refusal to Serve Schemes: Particularly where there are a small number of street drinkers being targeted with this scheme, it may be more effective to focus on not serving those individuals rather than removing products for all customers. These schemes are challenging, and require engagement from local groups which help street drinkers, and they are a credible alternative to investigate.

TRADE ASSOCIATIONS

ACS (the Association of Convenience Stores) is the voice of over 33,500 local shops, supporting our members through effective lobbying, comprehensive advice and innovative networking opportunities.

Contact: Edward.woodall@acs.org.uk or call 01252 533014

The Wine and Spirit Trade Association (WSTA) is the voice of the wine and spirit industry in the UK, representing over 340 companies producing, importing and selling wines and spirits.

Contact: Carlo@wsta.co.uk or call 0207 0893 871

Please note: this document constitutes guidance only. Seek legal advice as appropriate.