

ACS Submission: Restricting alcohol advertising and promotion: consultation

ACS (the Association of Convenience Stores) is a trade association, representing over 48,000 convenience stores across the UK and over 5,000 in Scotland. The alcohol category represents 18.1% of total sales in the convenience sector in Scotland and convenience stores provide employment for 49,000 people and make a valuable contribution to local communities.

We acknowledge the Scottish Government's objective to tackle alcohol-related harm. Our sector is committed to working with the Scottish Government to ensure the responsible retailing of alcohol. As a sector, we have demonstrated a robust record of regulatory compliance with the regulatory requirements placed on retailers selling alcohol, ensuring products are sold for at least the minimum unit price, alcohol products are correctly placed in stipulated areas, products are labelled appropriately and no alcohol advertising is conducted within 200m of shops.

We and our members are also actively involved in a number of voluntary initiatives that prevent alcohol related harm, including being founding members of Community Alcohol Partnerships, an initiative which encourages partnership working between retailers, local enforcement authorities and communities to prevent underage sales. There are currently over 250 community alcohol partnerships across the UK, many of which engage with our retail members to tackle alcohol related harm issues in local communities. We are also a founding board member of CitizenCard Ltd and the Proof Age Standards Scheme (PASS).

Our sector, however, is facing multiple challenges as the Scottish Government implement a deposit return scheme, consult on restricting the location of HFSS products and the displays of nicotine inhaling products in shops. The addition of the wide-ranging consultation on alcohol marketing restrictions have increased the level of frustration and concern about the viability of trading in Scotland.

Alcohol consumption rates across the population are falling and are now at their lowest level among young people since records began.¹ Youth access to alcohol from shops is in decline, with leading industry campaigns like Challenge 25 playing a significant part in this success with 7 in 10 consumers currently aware of what the Challenge 25 policy is.² We do recognise that harmful levels of alcohol consumption exist, but it is not clear that population level interventions as proposed in the consultation have meaningful impact.

ACS' consultation response sets out the following points:

- **Further restrictions on where and how alcohol can be displayed in stores will disproportionately impact small stores that have limited space.**
- **The introduction of these types of restrictions on stores will cause huge operational burdens on convenience retailers requiring significant investments for store refits.**
- **The inclusion of multiple location restrictions for different product categories will significantly disrupt convenience stores' ability to deliver essential goods and services.**
- **We question the impact that restricting the location of alcohol in stores will have on individuals with longstanding and complex drinking behaviours.**

¹ Scottish Schools Adolescent Lifestyle and Substance Use Survey, 2018.

² Yonder consumer polling, adults aged 18-34, November 2021.

Please see below ACS' response to the relevant questions included in the consultation.

Question 11. Do you think that we should further restrict the visibility of alcohol in retail environment, giving reasons for your response?

No.

The small size of convenience stores means space is at a premium in our sector. The proposed introduction of these location restrictions will disproportionately impact convenience stores as most convenience stores in Scotland trade from premises that are less than 2,000 sqft and 53% of independent retailers trade from premises below 1,000sqft. Convenience stores need to utilize window displays and end of aisles displays to practically fit the wide range of products in their stores that consumers expect. The Scottish Grocers' Federation (SGF) survey of convenience retailers found 80% strongly disagree or disagree with limiting the visibility of alcohol products near entrances, exits, checkouts, or non-alcohol products because of the associated costs and practical difficulties in remodeling or relaying their stores. Half of convenience retailers who responded to survey also said that the measures proposed in this consultation would impact 'a great deal' on their business while a further 42% said that it would have a moderate to significant impact on their business.³ ACS urges the Scottish Government to specifically consider the impact of these proposals on small format retail spaces where sales space is already limited.

The Scottish Government should also consider the impact of regulatory restrictions on multiple product categories as the Scottish Government consult on regulating the location of high fat, salt and sugar products, displays of nicotine inhaling product, and implementing a deposit return scheme. Restrictions on multiple categories will require extensive store refits which may mean relaying aisles, remodeling store entrances and moving refrigeration units and food counters to comply with the multitude of forecasted policy restrictions. All convenience retailers are already subject to a range of restrictions dictating the location of alcohol in areas of the store. Stores can currently only display alcohol for sale within specific alcohol display areas and no alcohol advertising can take place within 200m of shops. The cumulative impact of multiple regulatory restrictions will significantly disrupt a store's delivery of essential goods and services, negatively impacting customer experiences, and the range of quality of services being provided. We strongly recommend that the Scottish Government conduct a business regulatory impact assessment of the estimated costs to retailers on implementing the restrictions suggested that demonstrates the measures will have a significant positive impact on reducing alcohol related harm in Scotland.

The Scottish Government should be aware that alcohol products, and other high value products, are often kept in close vicinity to the checkout for security reasons. ACS' Crime Report 2022 recorded almost one million shop theft incidents and alcohol is the second most targeted item. New regulations to move products away to the checkouts into secluded areas to the rear of the store could increase risk of theft.

We also would like to stress that the current placement of alcohol is agreed with local licensing boards which is evaluated and decided according to the local licensing board's understanding of how to deal with issues prevalent in a local community. When the Scottish Government refused to define what a 'drinks promotion' is under the Alcohol etc. (Scotland) Act 2010 because it was claimed it would 'undermine local democracy', we question why the Scottish Government is consulting on widescale overruling of decisions already made by licensing boards. Introducing universal restrictions of alcohol placement will efface decisions made by local licensing boards which are ultimately designed to offer a targeted and particularistic approach that directly deals with alcohol issues in local communities.

³ SGF Member Survey on Restricting Alcohol Advertising & Promotion 2023.

We also question the impact that restricting the location of alcohol products in convenience stores will have on individuals with longstanding and complex drinking behaviours. We recognise the comments from people recovering from alcohol addiction in the consultation document. However, we want to make clear that in small shops it is impossible to move alcohol products completely from view of customers.

The consultation document fails to give detail of how the types of interventions will be implemented or how key areas of the stores will be defined, but we wish to highlight the following points:

Window Displays

Blocking out windows will increase security risks. Blocking windows will mean stores have less natural light intake and alcohol is less visible for store workers inside and outside of the store. This is likely to negatively impact a retailer's ability to promote the licensing objective of preventing crime and disorder because of the increased likelihood of store theft. It is very important that retailers and their staff have visibility of people and vehicles approaching stores to assess risk and manage the flow of people in stores. Window displays represent a high proportion of sales space for convenience retailers and they cannot afford to be restricted especially during seasonal trading periods.

Gantries

Installing gantries is an expensive and disruptive process. We estimate it will cost £5,000 to install gantries behind checkouts for alcohol displays. If gantries were used more widely across the shop floor this would increase costs further and make it more difficult for consumer to find products. We also know from the introduction of gantries for tobacco products it increases transaction times for serving customers, increasing both labour costs and queues.

End of aisles

Removal of end of aisle displays would have little impact on consumers purchasing habits. We know from the implementation of the HFSS regulations that bans of on aisle end displays resulted in products being moved in aisle, very close to the current location but at great expense. There is no evidence to suggest that this has impacted volume of sales.

Mixed Alcohol Aisles

Restricting the use of mixed alcohol and non-alcohol aisles is already considered when premise licenses are granted. Being able to sell non-licensed stock within licensed areas of stores is a necessity, in most cases, as this enables retailers to make the most of the space they have available to supply the good demanded by consumers within their community.

Question 12. Do you think we should consider structural separation of alcohol in Scotland to reduce the visibility of alcohol in off-trade settings (e.g. supermarkets)?

No.

The introduction of proposed restrictions that includes the structural separation of alcohol will require a significant amount of money to be invested by local shops. The Scottish Government must carefully consider the cost retailers will face from refitting and relaying their stores. Given the lack clarity on what proposals will be brought forward it is challenging to provide exact costs for implementing the changes at this time.

Based on the recent location restrictions introduced in England on products high in fat salt and sugar (HFSS) we estimate a cost of £13,000 per site to refit stores and another £5000 to implement a gantry type display of alcohol products. This is equivalent to £90 million in Scotland if all

convenience stores were impacted. In order to cover these costs, convenience stores may have to raise the price of their products, delay other investments, and cut or reduce the number of staff in their stores. We urge Scottish Government to consider the costly impact of implementing structural separation restrictions for convenience store retailers where budgets will already be tighter due to increasing labour costs and rising food inflation.

The Scottish Government should also consider that implementing store refits and relays would require approval by the local licensing authority whereby the store owner would need to present evidence of a store planogram for the proposed refits that would need to be reviewed and approved before going ahead. This would place significant pressure on Local Authorities, many of which would not have the administrative capabilities and resources to cope with potentially hundreds of new licensing applications in their area.

We also want to highlight that the consultation notes that in 2018 Ireland introduced a policy of structural separation of alcohol within the retail environment to reduce overall alcohol consumption by children. This policy however is yet to receive an evaluation of its impact. Given the significant costs of implementing structural separation restrictions on retail businesses, we recommend the Scottish Government delay any consideration for implementing an adjacent policy until substantive empirical evidence is provided.

Question 13. How do you think structural separation of alcohol in Scotland could operate? (e.g. with barriers, closed display cases)

Please see answer to question 12.

Question 23. Do you think we should restrict paid alcohol advertising online in Scotland?

No.

Convenience retailers use paid for advertising on a whole range of social media platforms as an important low-cost marketing tool to communicate to customers their range of products and services. Typically, the catchment area of people this is promoted to is their local community which represents a tiny fraction of exposure in relation to the wider general population. In May last year 55% of social media and online searches of 'convenience stores' were via Facebook, 34% via Instagram, 27% via Twitter, 26% via Whatsapp, and 16% via TikTok.⁴

Removing retailers to promote on social media will remove an important marketing tool to increase their outreach with their local customers and compete with larger businesses. If the Scottish Government were to introduce paid-for-advertising restrictions, we urge the Scottish Government to bring forward a proportionate meaningful exemption for small businesses due to their minimal reach with the wider population.

Question 24. What types of paid alcohol advertising do you think should be covered by any restrictions?

Please see answer to question 23.

Question 25. What, if any, exceptions do you think should there be to restricting paid alcohol advertising online?

Please see answer to question 23.

Question 35. How do you think that any future alcohol marketing restrictions in Scotland should be monitored and enforced?

⁴ Scottish local Shop Report 2022.

We would like to emphasise the effective role of the Portman Group as the social responsibility body and regulator for alcohol labelling, packaging and promotion in the UK. The Portman Group has a robust record of tackling malpractice in alcohol marketing and promoting responsible behaviour in the alcohol market. This is best exemplified in the ruling the Portman Group gave in 2014 that any products containing more than 4 units (at that time the Chief Medical Officers' maximum recommended daily consumption level) in a single serving would be presumed to breach the Code rule against encouraging 'illegal, irresponsible or immoderate consumption'. Since manufacturers recognised that major retailers would not stock products containing more than 4 units, this led to reduced can sizes and reformulated strength. We urge the Scottish Government to consider whether it is proportionate to introduce a vast swathe of costly and practically challenging regulatory restrictions against the alcohol industry when we have an effective regulator with a demonstrable history of ensuring our market acts responsibly and decisively to tackle alcohol related issues.

If the Scottish Government decide to implement in store location restrictions, we would like to see local authorities offer advice and guidance to retail business before they engage in any enforcement activity, including improvement notices. In the event of non-compliance where enforcement action does need to be taken, issuing an improvement notice is a proportionate first response.

Question 38. Do you think the Scottish Government should look to introduce a comprehensive package of restrictions across a number of marketing channels?

No.

A comprehensive package of restrictions will radically increase the cost of producing, distributing and retailing alcohol in the entire alcohol supply chain as businesses will need to invest significant sums of money to ensure compliance with the onerous range of proposed restrictions. Given the significant pressures already facing Scottish businesses with high energy costs and inflation, we urge the Scottish Government to recognise that this will not just detriment business but Scottish society as a whole: restricting consumer choice, increasing costs, and threatening the thriving economic contribution of the alcohol to local communities.

We would strongly support a more localised, evidence-based and collaborative approach to tackling alcohol harm in communities. Initiatives such as Community Alcohol Partnerships (CAP) are supported in local communities by retailers and are an exemplary example of a localised initiative that is effective in reducing alcohol harm in communities blighted by alcohol related social issues. CAP's typical improvements in their key measures include a 62% reduction in regular drinking among 13–16-year-olds, a 42% reduction in alcohol related anti-social behaviour, pass rates of 98% in Challenge 25 compliance following CAP training and a 68% reduction in residents reporting children and young people drinking in public places to be a very big or fairly big problem.⁵ We strongly believe further support and targeted investments in initiatives such as CAP that primarily function to reduce alcohol related harm will have a strong and positive impact to help the Scottish Government achieve its aim of tackling alcohol related harm issues, without undermining and impacting the competitiveness and vast economic contribution of the alcohol industry.

⁵ Community Alcohol Partnerships Annual Report 2021-2022.

Declaration of direct or indirect links to the alcohol industry

Direct Links.

Alcohol sales represent 18.1% of convenience sector sales. 77% of convenience stores have an alcohol license.⁶

ACS' submission reflects the views of ACS retail members only.

For more information on this submission please contact Daniel Askew, ACS public affairs assistant, daniel.askew@acs.org.uk

⁶ ACS Local Shop Report 2022

