



ACS Submission: Draft London Health Inequalities Strategy

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the Mayor of London's call for views on the draft London health inequalities strategy for London. ACS represents 33,500 local shops across the UK including the Co-op, Nisa Retail, Costcutter Supermarkets, Spar UK and thousands of independent retailers. In London, there are an estimated 6,256 convenience stores¹. See Annex A for a breakdown of the number of and format of convenience retailers in London.

ACS' response to the Mayor London's call for views on the Draft London Health Inequalities Strategy addresses three areas of the Mayor's draft strategy including tackling illicit tobacco, reducing obesity and the London living wage. Please see below for ACS' response to the relevant questions.

7. Is there more that the Mayor should do to make London's society, environment and economy better for health and reduce health inequalities?

London Living Wage

Convenience retailers are important employers in London, but they struggle to manage increasing employment costs. Over the last three years, since the introduction of the National Living Wage, there has been a 9% decline in employment in the sector².

Each year ACS submits evidence to the Low Pay Commission (LPC) about the impact of Wage increase on employment in the sector. ACS' full submission to the LPC is available [here](#). The submission indicates that retailers have to make tough choices when wage rates increase such as reduce staff hours, delaying investment and not replacing staff.

8. How can you help to reduce inequalities in the environmental, social and economic causes of ill-health?

13. Is there more that the Mayor should do to help to reduce health inequalities as well as improve overall health in work to support Londoners' healthy lives and habits?

Tackling Illicit Tobacco

We welcome the Mayor of London's plans to tackle illicit tobacco, we believe retailers that trade illicit tobacco should be removed from the market. The cost of the illicit tobacco trade to the Exchequer was £2.5 billion in 2016-17³ and poses a significant threat to legitimate

¹ ACS Local Shop Report 2017

² ACS Local Shop Report 2015, 2016, 2017

³ [HMRC: Tobacco Tax Gaps 2017](#)

sales. Tobacco is an important product category for convenience retailers, representing on average 15% of sales in the UK convenience market⁴.

ACS recently conducted consumer polling, which suggests that 17% purchase non-duty paid tobacco, with a third of smokers see buying illicit tobacco as a victimless crime, 43% do not feel guilty about purchasing non-duty paid tobacco, and 75% do not fear enforcement action or sanctions for purchasing illicit tobacco⁵. Therefore, more action must be taken, both in terms of enforcement and communication to ensure that smokers are aware of the penalties and are deterred from purchasing illicit tobacco.

Earlier this year, HMRC launched a consultation on proposed changes to sanctions to tackle illicit tobacco and other duty evasion, which considered: increasing fines; introducing a new civil penalty for illicit tobacco; and naming and shaming. Following feedback to the consultation, HMRC have confirmed that they will take forward further work on legislative and non-legislative options to strengthen the use of sanctions. ACS responded to HMRC's initial consultation on sanctions to tackle illicit tobacco, which can be found [here](#).

We continue to encourage government to make more efficient use of current sanctions already available to trading standards officers so that they may tackle illicit tobacco at a local level. These include:

More Powers for Trading Standards Officers:

While we welcome that 93% of all councils are focusing enforcement activity in relation to illicit tobacco products, we are concerned that 69% of actions taken by trading standards teams to sanction retailers selling illicit tobacco are verbal or written warnings⁶. An extension of powers to Trading Standards officers would enable them to deal with offenders quickly and more effectively than at present. There is also a limited amount of intelligence shared between HMRC and local Trading Standards to enable effective and targeted enforcement activity.

Currently, trading standards officers only have the power to sanction retailers if they breach the Trade Marks Act 1994 (by selling counterfeit goods) or if they breach the Consumer Protection Act 1987 (by selling tobacco products which do not comply with UK labelling) to deal with illicit tobacco offences. ACS believes that there needs to be a significant up-lift in inland enforcement activity by HMRC to reduce the illicit trade and additional powers should be given to trading standards officers in order to enforce more effectively.

We recommend that trading standards be given the authority to sanction retailers participating in the sale of illicit tobacco using the Excise and Customs Management Act 1979. This Act specifically addresses the sale of non-duty paid tobacco as an offence. Sanctions can be placed on retailers who "knowingly acquire non-duty paid excise goods with the intention of evading payment of duty" and retailers who have taken "preparatory steps for evasion of excise duty". This Act would mean trading standards officers could sanction retailers with an unlimited fine and/or 7-years imprisonment if convicted on indictment.

⁴ ACS Local Shop Report 2017

⁵ Jericho Chambers: Attitudes to Key Product Categories in Convenience Stores 2016

⁶ [CTSI: Tobacco Control Survey 2016/17](#)

Removing alcohol licences

According to the most recent HMRC Tobacco Output (July 2016), only 62%⁷ of individuals prosecuted for tobacco duty-fraud offences were convicted. It is often difficult and time consuming to prosecute an individual. ACS believes that it may be more effective and efficient if efforts moved towards revoking the alcohol licence of the premise involved. Removing a retailer's alcohol licence is more of an effective deterrent than any other sanction, as the loss of the ability to trade alcohol would undermine their ability to trade with full convenience offer expected by consumers.

Removing alcohol licences for selling illicit tobacco and illicit alcohol is an underused sanction by all enforcement bodies. The reasons that enforcement bodies underuse this sanction are multi-faceted; it is not communicated that this sanction is available, the process to revoke a licence is viewed as complex and requires working across a number of local council departments. ACS strongly advocates greater use of the removal of alcohol licences from retailers for any engagement in the illicit market.

Restricted Premise Orders

Trading standards officers already have powers available to them to make provision for Restricted Premises Orders (RPO) where there has been a total of three underage sales offences at a premises in a two-year period. This prohibits a retail premises from selling tobacco products for a period of up to 12 months. However, trading standards officers do not have the power to use RPOs to sanction retailers involved in the sale of non-duty paid tobacco products.

We recommend that the scope of the use of Restricted Premises Orders (RPO) and Restricted Sales Orders (RSO) be extended to include illicit tobacco offences. The offence for breaching a RPO or RSO is far greater than the current powers available to trading standards officers. This would be a more effective way for dealing with low volume and low value illicit tobacco offences instead of fines or written or verbal warnings.

If you would like to learn more about our recommendations on what action should be taken to tackle illicit tobacco, please see our [submission](#) to HMRC on proposed sanctions to tackle illicit tobacco or contact Julie Byers, ACS Public Affairs Manager by emailing Julie.Byers@acs.org.uk or calling 01252 515001.

14. What can you do to help all Londoners to develop healthy habits? What is preventing you from doing more and what would help you?

Improving Fruit and Vegetable Offer

Retailers sell a range of grocery products and provide a number of services to their local communities. There is a significant variety of products offered in-store, chilled foods is the most popular sales category in the convenience sector, representing 17.2% of sales, followed by canned and packaged grocery (7.3%) and fruit and vegetables, which represent

⁷ [HMRC: Quarter 3 and 4 outputs: October 2015 to March 2016](#)

6.4% of sales. Convenience stores also offer essential community services including Post Offices, free to use ATMs, bill payment services and parcel collection⁸.

There is a significant variety in the products offered in different types of store, depending on their size, location and ownership type. For example, while 16% of independent retailers said their store sells more fruit and vegetables compared to the last year, 35% responded that they did not sell fruit and vegetable in their store⁹. Independent retailers tend to operate in smaller format stores compared to multiple retailers. 61% of independent retailers will operate in locations up to 999sq ft compared to 19% of multiples who trade in smaller format stores¹⁰. This demonstrates that not all convenience stores carry the same product range and the smallest operators are not targeting consumers looking to do a weekly shop.

We acknowledge that convenience store retailers have a role to play in the obesity debate and the industry wants to align with the Mayor of London's ambitions to reduce childhood obesity. Convenience retailers are already following consumer trends, by increasing and promoting healthier rangers in-store. In ACS' Voice of Local Shops survey of 1,210 independent retailers, 15% of retailers stated that they run more promotions on fruit and vegetables than compared to the last year, while 15% said they had increased the range of fruit and veg in their store compared to the last year¹¹.

We would welcome further engagement with the Mayor of London's office to discuss further ahead of the publication of the draft London Food Strategy.

Promoting Peas Please

ACS has been engaging and promoting Peas Please to our members, which is an initiative by Food Foundation. Peas Please aims to increase vegetable consumption by securing commitments from industry and government to improve the availability, acceptability (including convenience), affordability, and quality of the vegetable offer in shops, schools, fast food restaurants and beyond¹².

ACS also supported and communicated an online guide¹³ launched by the Food Foundation which provides practical ideas for small and large retailers to increase their fresh, frozen and tinned vegetable sales. Tips include using mid aisle displays, using floor stickers, and marking space in trolleys for fruit and veg. We also helped develop the research section of the toolkit¹⁴.

As well as promoting the Peas Please online toolkit to members, ACS also committed to a number of pledges including:

- A new award at the Retail Industry Awards, Convenience Retail Awards, and HIM CTP Awards that will recognise and reward convenience retailers who increase sales and encourage consumption of fresh fruit and vegetables. The awards provide an

⁸ ACS Local Shop Report 2017

⁹ ACS Voice of Local Shops Survey August 2017

¹⁰ ACS Local Shop Report 2017

¹¹ ACS Voice of Local Shops Survey 2017

¹² [Food Foundation: About Peas Please](#)

¹³ [Food Foundation Peas Please Retailer Toolkit](#)

¹⁴ [Food Foundation Peas Please What Research Shows](#)

opportunity to promote the profile of Peas Please and incentivise retailers to invest and increase vegetable sales in their stores.

- Encourage convenience retailers to participate in the Healthy Start scheme by promoting existing guidance and highlighting the benefits of participating in the scheme through ACS communications, including news stories on ACS' website, weekly e-newsletters to members, quarterly communication mail outs to independent retailers, and at ACS events.
- Promote awareness of the work of Veg Cities to convenience retailers with stores located in Birmingham, Brighton and Cardiff. ACS will also encourage convenience retailers in these areas to consider how they can engage with local stakeholders' initiatives which aim to promote vegetable consumption.

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