Alcohol etc. (Scotland) Bill

ASDA

Summary

ASDA is the UK’s second largest supermarket. In Scotland we employ more than 19,000 colleagues in 49 stores and 2 distribution centres and serve around 1.6 million customers every week.

We believe that there is a requirement for a fundamental cultural change in society’s relationship with alcohol. Therefore while we welcome the high priority given by the Scottish Government and Parliament to tackling alcohol misuse, we believe that the debate has been too focused on pricing mechanisms. As a retailer we have a duty to balance the needs of a range of stakeholders, not least our customers, many of whom are on very limited incomes, who are facing current economic difficulties and who will see their disposable incomes stretched further by impending tax rises. We believe that the Alcohol Bill relies too heavily upon theoretical changes in consumption and predictions of harm reduction and does not do enough to change the specific drinking culture in Scotland. That’s why we believe that pricing policies that punish the majority of people who drink responsibly and moderately are not the answer.

Our customers have made their opposition clear. A survey of 10,109 face-to-face interviews conducted with Asda shoppers in 30 stores throughout Scotland showed that 61% of respondents disagreed with the proposal to introduce minimum pricing, while 67.4% were against a promotions ban.

What is needed are tougher actions to tackle those who misuse alcohol; stricter enforcement of existing licensing laws; mandatory Challenge 25 for all alcohol purchases and better education and product labelling. Using tax and duty to target problem drinks is a much fairer approach and avoids the unintended consequences of the Bill.

Asda has already taken a number of voluntary measures such as the introduction of Challenge 25 to cut down on underage drinking, test purchasing of every store, and the voluntary removal of certain products from sale. We suggest that instead of pursuing a new tax on business through a blanket social responsibility levy, the Scottish Government should take the opportunity to drive up standards and take targeted action to tackle alcohol misuse through a Social Responsibility Agreement including a Social Hurdle.

The Licensing Scotland Act 2005 allowed several years transition. Given the major impact on alcohol retailing of the provisions in the Bill we believe that there must be a minimum transition period of between 12 and 18 months to allow businesses to plan and manage any changes that the Scottish Parliament approves.
Changing Consumption

The notion alcohol has become cheaper is actually caused by an increase in affordability – it is not that alcohol in itself has got cheaper. ONS figures show that since 1987 alcohol price inflation has exceeded RPI and has risen substantially more than food inflation. However, average earnings have gone up faster than RPI making alcohol more affordable. The price of alcohol in Scotland has risen over the past 4 years in both the on and off trade.

Drinking in the home is now an established social norm. The Joseph Rowntree Foundation report *A minimum income standard for Britain* sought to establish what the public considered was necessary to achieve an acceptable standard of living. The report considers four different household types: single working age, pensioner couple, couple with two children and lone parent with one child. Focus groups decided that for each household type some level of spending on alcohol was necessary to achieve an acceptable standard of living (p.18). In the case of a couple with two children, it was decided that only alcohol for consumption in the home was a necessity (p.33). Their findings remain true in this year's report and additionally the report notes that focus groups suggested there is now a lower expectation about how often working age people go out for entertainment.

It is plain to see that there has been a wider cultural shift away from the pub as the hub of the community. This has been exacerbated by some external factors including the ban on smoking in public places. Increasingly we hear from our customers of their desire to socialise with friends and family in what they see as a safer, more controlled home environment. Fear of antisocial behaviour, greater awareness and enforcement of drink driving laws, the growth of dinner party culture and an explosion in digital broadcasting and compelling TV scheduling are just some of the factors driving the growth in consumption of alcohol in the home.

It has been suggested by some that pubs are a safe, well regulated drinking environment and that shifts to home drinking are therefore negative because the home setting is unregulated. That is not the view of many of our customers who believe the opposite to be the case. They view drinking with family and friends in the home as an inherently safer choice than drinking in town and city centres which they see as a riskier option, bringing them face to face with antisocial behaviour and crime. We believe that these wider social and cultural changes better explain the shift away from pubs to home drinking than a simplistic argument on pricing policy. We also note that while there has been a shift in consumption from on trade to off trade, overall consumption has not increased since 2004.

Minimum Pricing

We believe that there is a real danger that minimum pricing is seen as a ‘silver bullet’. This over concentration on price mechanisms neglects some of the wider social and cultural factors behind alcohol consumption. It is self evident
that there is some link between price and consumption, however we believe that this case has been overstated. Ultimately the extent to which minimum pricing would change consumption depends on the level set, but we are sceptical that at 40 or 50p per unit significant behavioural changes would follow.

Price rises would penalise hard working families on low incomes. It must be remembered that pricing is subjective and that for low and fixed income groups lower prices and promotions offer great value and make alcohol affordable within a fixed budget. For customers on job seekers allowance or on the basic state pension then prices are not ‘cheap’ they are affordable. Minimum pricing is essentially a regressive policy as it will add to the costs of the lowest income households yet make little difference to middle and high income households. Responsible drinkers on a budget will be hit more than irresponsible drinkers with higher incomes.

There are six key reasons why Asda does not support the introduction of minimum pricing in Scotland.

1. **The responsible majority should not be penalised for the sins of the minority.** In the UK 7% of the population drink 33% of the alcohol. We believe that this requires a targeted approach which identifies those who have a disproportionate impact on society and attempts to address their behaviour based on a proper understanding of the social and cultural factors which influence that behaviour. We are concerned that the most responsible, law-abiding consumers are the ones who will lose out, and that individuals who create public order disturbances will continue to do so. In particular, it would be wrong if new regulations were to hit responsible drinkers in low income groups. Regulation must recognise that there is a role for personal responsibility in tackling alcohol misuse. It is how individuals consume alcohol that is important and ultimately whether a can of lager costs 50p or £3, there is no excuse for somebody to drink to excess, or engage in anti social behaviour.

2. **Minimum pricing privatises the profit and socialises the loss.** The Scottish Government predicts that drinks industry profits will be boosted by a 40ppu minimum price to the tune of £130 million a year. This is a direct transfer from consumers to the drinks industry which does not deliver a single additional penny to the public purse to invest in tackling alcohol misuse. The financial memorandum states that a 40ppu minimum price and promotions ban would lead to a reduction of £12 million per annum from the Scottish budget through lost duty and VAT receipts. Over three years that amounts to more than a quarter of the £120 million budget for tackling alcohol misuse. We believe that consumers will find this hard to understand.

3. **We are sceptical that theoretical modelling will deliver real world results.** Minimum pricing is a system which exists in no comparable country on a nationwide basis. The Sheffield research for the Scottish Government predicts that a minimum price of 40ppu will reduce consumption among harmful drinkers by 5.7% and cost them an additional
£2 per week. It does seem unlikely that a man drinking more than 22 pints a week will reduce his consumption by less than 2 pints a week due to a price increase of £2 a week. The model predicts a reduction in deaths, illnesses, crime, and workplace absence from a 2.7% reduction in consumption. Yet consumption in the UK has reduced by 6.1% since 2004 without these benefits being visible.

4. Some of the assumptions in the modelling are questionable. In calculating the small increase in cost to moderate drinkers, the model uses an average of moderate drinkers (5-6 units) rather than average consumption levels for all drinkers which is 16 units. The model is based on 2003 figures and not the most recently available 2008 health statistics which show a significant reduction in alcohol consumption already.

5. What is the optimal price per unit for alcohol for improving health? The current debate is somewhat misleading. It is clear that the health lobby favour a much higher level than the 40p which has been provided as an example. Similarly Ministers have criticised a major pub chain for selling a pint for 99p as being “ridiculously low” yet at 40ppu the pint could be sold legally for around 90p. The Scottish Government should be unambiguous about the level it intends to set minimum pricing now to allow a proper informed debate. We note that if public health is the key objective, the Explanatory Notes predict a 70p level would lead to a reduction in consumption more than seven times greater than at 40p.

6. Finally, minimum pricing has a number of significant and undesirable unintended consequences. The Scottish Government has confirmed that it cannot stop internet sales and that there will be cross border trade. The Justice Secretary has described these as “relatively minor issues”. We disagree.

a. Cross border trade is significant as demonstrated by our experience in Northern Ireland. As well as being the top performers in the chain, our border stores significantly outperform our Scottish stores on alcohol sales with many customers driving over an hour and a half from Dublin. Importantly when they travel they also do a wider grocery shopping. Retailers with no physical presence in the Republic of Ireland now have almost 2% of the grocery market due to cross border trade. The Irish Government recently responded by reducing alcohol taxes.

b. The internet is a fast growing market and these regulations will provide a boost to that growth. It is inconceivable that customers will not turn to internet sales if a significant price gap opens up between Scotland and England. This also raises the prospect of a digital divide where often lower income groups will be faced with higher prices, while more affluent consumers will avoid price hikes through internet purchases. It will put Scottish businesses at a competitive disadvantage.

c. Major price differences with England promote black market sales through both organised crime and ‘white van man’ deliveries, often in the most deprived areas. A combination of minimum pricing and promotions ban in Scotland is likely to lead to a significant difference in prices with England allowing alcohol purchased legally in England to be sold on at a
profit even taking account of transport costs. It will also be easier for counterfeit alcohol to be passed off as cheap alcohol from England.

Alcohol Promotions

We are concerned that proposals to ban alcohol promotions will simply add cost to our customers, particularly those on a low and fixed income, with little evidence that it will reduce alcohol misuse and problem drinking. It is clear that promotions in the off trade are different to the on trade. Promotions in the on trade are de facto about immediate consumption – an additional bottle of beer, free pint or glass of wine, or double for the price of a single cannot be taken off the premises. It can only be consumed there and then. Promotions in the off trade on the other hand are often used by customers who are seeking good value but who purchase the alcohol with a view to consuming it over a longer period of time or with a wider group of family and friends. When a customer takes advantage of a quantity discount, it does not mean that they will consume that alcohol immediately. Indeed many customers stock up and consume alcohol over weeks or months. That is a fundamental difference.

Asda does not support a ban on promotions as currently proposed, however if one is to be introduced we believe that the following flaws and dysfunctional elements must be addressed if it is to be meaningful.

1. **Introducing linear pricing will simply drive manufacturers, retailers and customers to larger pack sizes.** The proposal that the minimum price of packages containing more than one alcoholic product must not be less than the combined retail price of the individual alcoholic product in the package is hugely flawed. The Policy Memorandum explains that it would mean that a case of 24 cans of beer could not be sold for less than the costs of buying those 24 cans individually. However, Asda does not sell single cans or bottles of beer other than speciality products. The logic of such a position is that stores and manufacturers will cease to stock individual cans or small packs and pack size will increase.

2. **The Bill still allows alcohol to be included ‘free’ as part of a deal.** There is nothing in the legislation to stop a promotion which provides a benefit to customers of the same amount or more than the cost of the alcohol they purchase. For example it would be perfectly legal to run a promotion such as “Buy a bottle for a fiver and get a fiver off your shopping”. We understand attempts to allow alcohol to be included as part of meal deals, however in so doing the Bill leaves a number of major loopholes.

3. **The Bill fails to create a level playing field.** There is nothing in the Bill to stop the use of vouchers or loyalty cards to continue providing a discount for quantity purchasing or providing alcohol free of charge. We believe that the Scottish Government should give careful consideration to this matter. It seems at odds with the policy objectives of stopping promotions if companies can provide discounts using loyalty cards, vouchers or gift vouchers to provide alcohol free or at a reduced price.
4. **The principle of no advantage in purchasing alcohol should be considered.** If the Scottish Parliament wishes to see a ban on promotional activity involving alcohol, we believe that it should consider a ban which makes it clear that customers should not receive any incentive or additional benefit from purchasing alcohol. Without this principle, there is a risk that one type of promotional activity involving alcohol will be substituted for other more creative approaches.

**No Promotional Material outside Alcohol Aisles**

We believe that limiting promotional material to the alcohol areas is unnecessary and ineffective regulation. Why should an alcoholic product which is not on a quantity discount nor below the legal minimum price not be advertised? There are a number of anomalies and unintended consequences which must be addressed:

1. **The Bill would ban display of newspapers and magazines which include alcohol advertising.** The display and sale of newspapers surely must be allowed to continue.

2. **The Bill could also ban the provision of our instore Asda Magazine and Asda FM radio station.** The Asda magazine has a UK wide readership and covers a wide range of topics of interest to our customers including information on products, recipes, wine selections, healthy eating advice, tips on helping the environment and much more. To ban this magazine from being given to Scottish customers because it includes reference to alcohol would be ridiculous and would fly in the face of a range of other Government priorities.

3. **The Bill allows for alcohol branded products to be displayed throughout stores.** A manufacturer branded t-shirt could be displayed anywhere in the store but an advert for the same product would be illegal. Equally, under the existing regulations only alcohol and soft drinks (or products packaged with alcohol) can be displayed in the alcohol aisle. This means that bottle openers cannot be displayed in the alcohol aisle. Yet the Bill would allow a manufacturer branded bottle opener to be displayed but a non branded product would still be banned.

4. **The definition of ‘vicinity’ requires clarity.** There has been a suggestion that flyers and promotional material delivered near to where we have a store could be deemed to be ‘in the vicinity’ and therefore banned. Not only does this make little sense, but it raises competition issues. It must also be made clear that retailers can only be held responsible for their own advertising in the vicinity of stores and not advertising by a third party over which they have no control.

**Raising age to 21 for off sales on local basis**

We are strongly opposed to this proposal. It will lead to confusion for customers and colleagues across the country. It has the potential to
undermine customer understanding and support for the highly successful Challenge 25 initiative. It raises significant competition issues if one operator has to comply but another across the road does not. We also reject the idea that 18 to 20 year olds are competent to purchase alcohol in a pub but not from a supermarket as part of a weekly shop. It is bizarre to ban a couple of 19 and 20 with a young baby from purchasing a bottle of wine to consume at home but to allow them to consume in a pub. It is unfair and discriminatory.

**Social Responsibility Levy – A Different Conversation**

Rather than introduce a new tax, we believe that the Scottish Government should take the opportunity of a different conversation with industry. We recommend a Social Responsibility Agreement on Alcohol – or a Social Hurdle – as we believe this would be more effective in driving up standards and taking targeted action to tackle alcohol misuse.

We certainly do not believe that it would be fair or logical to introduce a new blanket tax aimed at ‘those who profit from the sale of alcohol’ which does not apply to the manufacturers of alcohol who clearly derive significant profits from alcohol alone. Our sales also include a number of products and services which support key government initiatives such as the provision of affordable healthy produce, fruit and vegetables. The Licensing Act provides authorities with ample provisions to penalise operators who do not comply with the law. We also believe that it is impossible directly to prove a link between antisocial behaviour in town centres and alcohol purchased from our stores. It is a dangerous route for government to effectively ignore personal responsibility.

The Government has provided no indication of the level the levy will be set at or how it would be determined. However, we are concerned that a potentially expensive new tax will lead to higher prices for consumers and present Scotland as a more expensive place to do business. It is clear that the levy approach risks being a zero sum game with no incentive for retailers to fund additional activity. For example Asda has already provided £20k of funding for an antidisorder youth bus in Glasgow. The Government risks throwing the baby out with the bathwater.

In contrast, the introduction of a Social Responsibility Agreement on Alcohol with industry could offer an alternative and potentially more effective approach. Such voluntary approaches can and do work. Challenge 25 is a voluntary and very successful industry initiative. Within the aim of reducing alcohol related harm, it could include:

- **reducing underage sales** (including mandatory cross industry Challenge 25; an increase in industry test purchasing; joint working to highlight existing offences of attempting to purchase when underage)
- **tackling antisocial behaviour** (through requirements for licensees to develop anti abuse & disorder plans; support for diversionary projects for young people)
• **improving information to consumers** (through innovative measures to improve information and education at point of sale and through product labelling; a Scotland specific awareness raising campaign under Drinkaware)

• **enforce the existing laws** with much closer and more effective working between retailers and relevant public authorities (e.g. proxy purchasing / selling to people under the influence / underage sales)

• **working with industry to improve education and raise awareness** (targeting problematic alcohol consumption among different groups of people; sharing industry information on consumption and purchasing trends and looking at best practice across the world on education and social marketing approaches)

• **support for nationwide rollout of Community Alcohol Partnerships** and further development of alcohol intervention programmes

All licensees would be liable for a levy unless they could demonstrate that they had ‘cleared the social hurdle’ in which case they would be exempted from the levy. For businesses that do not respond, the levy could be added to existing licence fees until they meet the social hurdle requirements.

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ASDA  
20 January 2010

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1 Monitoring and Evaluating Scotland’s Alcohol Strategy (MESAS); Analysis of alcohol sales data, 2005-2009; January 2010  
4 Joseph Rowntree Foundation – *A minimum income standard for Britain*, July 2009. p21  
5 Monitoring and Evaluating Scotland’s Alcohol Strategy (MESAS); Analysis of alcohol sales data, 2005-2009; January 2010