Alcohol etc. (Scotland) Bill

Scottish Grocers’ Federation

Introduction

1. The SGF welcomes the opportunity to provide written evidence to the Health and Sport Committee on the general principles of the Alcohol etc. (Scotland) Bill.

2. SGF is the trade association for the Scottish Convenience Store Sector. It is the authoritative voice for the trade to policy makers. The SGF brings together retailers throughout Scotland, from the Scottish Co-operatives, SPAR, Keystore, Nisa and local independents. Our members sell a wide selection of products and services throughout local town centre, rural and community stores. According to recent statistics (2007) there are just over 5,600 convenience stores throughout Scotland, with annual sales in excess of £3.2 billion.

3. As responsible community retailers our members view themselves as a “good neighbour”, providing a range of services and products within an attractive retail environment. They provide a lifeline and comprehensive shopping experience to some of the most isolated and vulnerable people in our society and ensure the long term viability and vitality of our high streets and neighbourhood centres which are under increasing threat from out of town developments.

4. The Scottish Government is considering a sweeping intervention in the marketplace, by restricting companies’ ability to compete and to artificially inflate the price of alcoholic products. This intervention will lead to significant disadvantages for many Scottish consumers. It is therefore crucial that there is a credible evidence base for taking action. At this stage it is not clear what that evidence base is.

5. When considering minimum pricing, restrictions on promotions and a social responsibility levy it is important to ensure that a Scottish alcohol policy works on a fair and level playing field within a broader UK level. As the measures in the Bill would only apply to the Scottish retail sector the effect would be to have a damaging impact on the competitiveness of Scottish retailers and small retailers in particular that are unable to easily absorb the additional costs that go hand-in hand with new legislation.

The advantages and disadvantages of establishing a minimum alcohol sales price based on a unit of alcohol

Advantages

6. An introduction of a minimum price would have a limited impact on small shops that are not able to offer very low cost promotions. Within the grocery market it has become common practice for supermarkets to loss
lead on alcohol as a means of driving up foot fall and increasing market share. Minimum price would put an end to the practice used by some in the grocery trade of selling alcohol below cost price (cost being defined as duty + VAT).

7. Minimum pricing may encourage consumers to purchase weaker alcohol.

Disadvantages

8. Minimum pricing challenges the concept of a “free market place” of which competitive pricing is the keystone.

9. The main disadvantage of minimum pricing is that it is a blanket pricing mechanism which will target all alcoholic drinks and all adults who consume alcohol. The vast majority of adults drink alcohol responsibly.

10. Minimum pricing is likely to encourage cross border shopping to the North of England which would have damaging and lasting consequences for off-sales retailers particularly those located in the south and central regions of Scotland.

11. Minimum pricing would lead to a growth of “white van man”, as consumers turn to illegal channels to purchase alcohol to avoid higher prices. However, the experience of the organised illegal trade is that it is unregulated, unlicensed and quickly dominated by illegal gangs, with international connections. This is very much the case in tobacco where the supply networks are extensive.

12. If only introduced in Scotland, minimum pricing will boost the sale of alcohol by the internet and mail order. If based outwith Scotland, these traders can offer multi-buy discounts. This would inflict further harm on small shops.

Alternatives to Minimum Pricing

13. Existing licensing laws including the Criminal Justice (Scotland) Act 2003; Antisocial Behaviour etc. (Scotland) Act 2004; Crime and Punishment (Scotland) Act 1997; Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007; and the Licensing (Scotland) Act 2005 already put in place a strong structural framework to address alcohol misuse. However, despite the wide range of legislative options available, individuals who misuse alcohol and break the law face few if any of the consequences for their actions. Most underage drinkers who attempt to purchase alcohol and the adults who try and buy it for them, are going unpunished, creating no incentive for them to change their behaviour. Until current legislation is fully enforced SGF believes there is little to be gained from creating additional legislation.
14. SGF is not aware of any convenience stores that sell alcohol products below cost and believe this practice is irresponsible. SGF would support measures that prevent the sale of alcohol below the cost price.

15. There should be closer partnership between the Government, police, local authorities, alcohol retailers and the alcohol industry in order to encourage a collaborative approach to fostering a culture which recognises that responsible, moderate consumption of alcohol can be part of a healthy lifestyle.

16. There is little difference between price and availability across the UK. However, the issue of alcohol misuse is greater in Scotland compared to the rest of the UK, indicating this is a cultural issue. A long term education programme is required in order to effect a true cultural change in attitudes towards alcohol. This should be combined with targeted interventions against alcohol misuse.

Social Responsibility Levy

17. SGF is concerned a social responsibility fee is essentially a tax on selling alcohol, a legal product, which would be indiscriminate and in addition to licensing fees which have increased for small retailers since the introduction of the Licensing (Scotland) 2005 Act by 667%. There will be a point at which convenience store retailers, who already have to deal with an increased burden of regulation, will be unable to continue trading.

18. A levy sends a dangerous message that no individual need be responsible for their own actions because retailers will be made to pay.

19. The Scottish Government is proposing to give a broad power to Ministers to allow local authorities enabling powers to raise supplementary taxes via the licensed trade, without adequate scrutiny. The Scottish Government has yet to provide any detailed proposals surrounding this measure.

20. The vast majority of anti social behaviour linked to alcohol is associated with the night-time economy. Police have identified two peak periods for city centre disorder, one at midnight (when the pubs come out) and the other at 3.00 a.m. (when the nightclubs close).

21. If a levy was to be introduced it should only apply to licensed premises whose activities impact negatively on the wider community. SGF members understand the importance of selling alcohol responsibly. This is reflected in the age verification policies including Challenge 21 and Challenge 25 which responsible retailers already operate in their stores on a voluntary basis. In addition SGF members support initiatives including Alcohol Awareness Week. Alcohol fuelled anti-social behaviour does not affect every community in Scotland. It would be punitive to tax a retailer due to the actions of a small group of individuals and irresponsible licensees.
22. A large supermarket’s alcohol turnover will be at least 50 times greater than that of a convenience store. This must be reflected in the level of the levy, if introduced, which must be proportionate.

**Powers for Licensing Boards to Raise Purchase Age in Off Sales to 21**

23. SGF believes the Scottish Government should not continue to pursue a measure which does not have the support of the public or Scottish Parliament. There was very limited support for the original measure which proposed a blanket raising of the age amongst those who responded to the consultation. In October 2008, following a Scottish Conservative Party Debate, the Parliament rejected the Scottish Government’s proposals to raise the age limit for purchasing alcohol from off-licenses and supermarkets from 18 to 21.

24. There is no logic to a proposal that allows an 18 year old to drink, purchase alcohol in a pub, bar, restaurant or nightclub, drink at home or in the street but not allow them to purchase alcohol in an off-licence.

25. This proposal is counter-intuitive to the other Government legislation which permits an 18 year old to sell alcohol, obtain a personal licence as a Designated Premises Manager, train others to sell alcohol responsibly and vote, smoke, marry or join the armed forces.

26. There is no evidence to support the claim that raising the minimum age for purchasing alcohol will target and reduce alcohol misuse. The voluntary initiatives, such as Armadale, were only in place for restricted times on Friday and Saturday nights and were coupled with increased enforcement; highly visible policing; intelligence gathering on proxy purchasing; and a media strategy aimed at changing public perception.

27. Empowering licensing boards to raise the legal alcohol purchase age in the area to 21 could result in regional variations in the implementation of this policy. This could result in 18 to 20 year olds travelling to a location which does not have a ban in order to purchase alcohol. It would create confusion, conflict when sales are refused in some stores but not in others, and challenges for multiple retailers trying to abide by different regimes. Restrictions would increase bureaucracy for small retailers and costs in relation to staff training and customer notification.

28. The Bill proposes a licensing board would have a duty to assess the impact of off-sales to person under the age of 21 via a detrimental impact statement. The licensing board has the power to review this statement at any time or upon the request of a licensing forum or chief constable. The licensing board may choose to consult with retailers who will be caught up in a ban; however, they are under no statutory requirement to do so.

29. Section 9 of the Bill would enable licensing boards to apply new conditions on all or certain premises licences (e.g. in a particular geographical area) at one time. Licensing boards would not be required to hold a hearing for
each premises licence to which a variation of condition was to be applied. The Scottish Government suggests this would reduce bureaucracy and costs for both the board and the trade. SGF is extremely concerned this would lead to licensing boards having the ability to make unilateral decisions with no recourse for retailers. This is disproportionate and unfair for retailers running highly responsible businesses, who through no fault of their own are located within a geographical area in which the licensing board believes off-sales to under 21s is resulting in a detrimental impact on that community.

30. SGF understands a judicial review would be the only means of overturning the decision. The cost associated with a judicial review would be prohibitive for any small independent retailer.

The Role of Promotions and Promotional Material

31. These restrictions are an anti-competitive blunt instrument and will place small shops at a greater disadvantage.

32. Promotions do not create excessive consumption. They offer shoppers good deals and value for money alongside other groceries. Promotions are intended to drive up footfall and increase a retailer’s business.

33. A supermarket will obtain lower prices from a supplier due to economies of scale and greater bargaining power, than a small shop can achieve. Small shops cannot compete with supermarkets on price. Promotions are one of the few marketing tools small shops can use to compete with the supermarkets. If promotions are to be restricted and a pricing mechanism is not introduced to prohibit below cost selling, supermarkets could circumvent promotional restrictions by offering lower unit prices. This would be extremely damaging for small shops that would be unable to compete. The closure of small shops would have a detrimental affect on many communities across Scotland.

34. SGF would support the banning of the word “free” in promotions but wish to retain the ability to offer promotional activity. As stated earlier we would also support a ban on below cost selling.

35. Part 1 (2) of the Bill could result in retailers no longer selling an alcohol product as a single unit. Customers would be required to buy a larger amount.

36. Part 4 of the Bill restricts promotional activity to the designated alcohol area within a store. SGF is unaware of any evidence which links promotional activity in other store areas to alcohol misuse. We are also concerned that this measure does not apply to the on-trade.

37. For small independent convenience store retailers window bills and promotional leaflets represent the only realistic method of advertising their special offers or promotions whilst large operators can afford radio,
national newspapers and TV advertising. Any restrictions on promotional material relating to alcohol should apply across all forms of media or not at all.

38. Leaflets are an important method for small retailers to advertise promotions. Retailers distribute leaflets in their surrounding neighbourhood and have them available in the store itself. Occasionally leaflets are personalised for each store. The leaflet will advertise promotions on a variety of different products including alcohol. On average 10% of a leaflet is taken up by alcohol promotions. It would not be cost effective for a small retailer to produce two separate leaflets (one for grocery promotions and another for alcohol). Without these leaflets small shops would be placed at a significant disadvantage to a supermarket that has the budget available to fund television and radio advertising.

39. Many retailers affiliated to a symbol group e.g. SPAR take part in national promotions which include the supply of point of sale materials. If the measure in the Bill was introduced, Scottish retailers would no longer be able to do this and would incur additional costs if required to produce Scotland specific marketing materials.

40. If restrictions were placed on promotional leaflets it could lead to supermarkets diverting marketing spend to additional TV and radio advertising which would place small shops at a further disadvantage.

Age Verification Scheme

41. SGF members already operate age verification schemes in their stores including Challenge 21 and Challenge 25. SGF would support the mandatory introduction of age verification schemes. However, we would oppose prescriptive guidelines. SGF would welcome the use of an existing scheme as the template for an age verification policy and would encourage the Scottish Government to work closely with the retail sector on its development.

SGF would welcome the opportunity to provide oral evidence to the Health and Sports Committee.

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References
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2. Dr Alasdair J.M. Forsyth, Glasgow Caledonian University (Oct 2006) Assessing the relationships between late night drinks marketing and alcohol-related disorder in public space
3. Policy Memorandum Para. 51