



The Alcohol (Public Health & Criminal Justice) (Scotland) Bill Consultation: Members Bill as introduced by MSPs Dr Richard Simpson and Graeme Pearson

**Response from Alcohol Focus Scotland
June 2012**

About Alcohol Focus Scotland

Alcohol Focus Scotland (AFS) is Scotland's national alcohol charity. We advocate for evidence-based policy interventions to reduce the burden of alcohol-related harm and we work to provide accurate and accessible information about alcohol to policy-makers, practitioners, the media, and the general public.

Summary of Response

- Alcohol Focus Scotland acknowledges that a range of measures are required to begin to reduce the historically high levels of consumption and harm being experienced in Scotland.
- Action is required at a number of different levels, but controls on affordability, availability and marketing are critical to reducing consumption and harm.
- AFS is not convinced that all the measures included in the consultation need to be legislated on. In some instances, it appears that it would be more appropriate to advance the proposed objectives in consultation with the Scottish Government and through the implementation of the wider alcohol strategy.
- The proposals as contained within the consultation document are wide-ranging and AFS believes some of these require further consideration and evaluation in terms of their effectiveness and cost-effectiveness before being introduced in legislation.

Part One: Health

1. Tightening Quantity Discount Ban in Alcohol etc. (Scotland) Act 2010

1.1 AFS would support this measure.

1.2 AFS believes that Scotland should go further and ban all price discounting, not just quantity discounting. Percentage discounting on single items incentivises consumers to purchase more alcohol and it is known to be a pricing practice employed by large retailers to drive sales along with multi-buy offers. Research on alcohol purchasing in supermarkets in 2010 reveals four out of five consumers have bought alcohol on promotion and 56% prefer to save a percentage off the price.¹ More recently, research reported in the Telegraph newspaper found 71% of alcohol was sold at a discount in the UK, compared to 19% in Germany and 22% in France.² The University of Sheffield modelling work³ has predicted that a ban on discounting would reduce consumption and alcohol problems, but this refers to all discounting, not simply a ban on quantity discounts.

2. Public Health Interest and Child Protection

- 2.1 The Scottish Government has a statutory requirement to issue guidance on all of the Licensing Act. This guidance is currently being revised and is anticipated to be ready by the end of 2013. The guidance covers interpretation of all of the licensing objectives. All five of the licensing objectives are inter-linked and should work together to ensure licensing policy and decision making processes regulate availability and protect communities, **including children**, from alcohol related harm.
- 2.2 AFS does not believe that further legal guidance is required on the specific objectives highlighted in the consultation. Whilst we acknowledge that a number of licensing boards have previously reported difficulty in interpreting the public health objective in particular, we believe that the provision of more practical resources will aid understanding more than the provision of further legal documentation. AFS is currently preparing a licensing resource toolkit and is working with ADPs and public health consultants to support licensing boards to develop more effective licensing practice. Changing licensing practice is also about changing attitudes and mindsets and that is an ongoing process.
- 2.3 AFS supports the introduction of a requirement on licensing boards to report on how they are seeking to promote the licensing objectives in their area. However, we believe the duty to report should be placed on licensing boards, not necessarily ministers.

3. Restrictions on Alcohol Marketing

- 3.1 Alcohol Focus Scotland welcomes the commitment in the consultation on “*moving forward on de-normalising alcohol for children*”. There is increasing recognition and acceptance that the existing excessively pro-alcohol environment and the saturation of children and young people in alcohol marketing is a child protection issue which urgently needs addressed.
- 3.2 The alcohol industry spends £800million each year in the UK marketing their products.⁴ Young people are particularly vulnerable to alcohol harm with evidence linking regular heavy drinking in adolescence with impaired brain development.⁵ Evidence also confirms that alcohol marketing increases the likelihood that young people will start to use alcohol, and to drink more if they are already drinking.⁶ There is a particular concern about social networking sites which are heavily used by children and young people and is difficult to regulate.
- 3.3 The Westminster Health Committee reported in 2010 that the current regulatory framework for alcohol marketing was inadequate.⁷ The current controls which are in place to limit children’s exposure to alcohol marketing are clearly failing. A study funded by the Medical Research Council showed that 96% of 13 year olds in the UK were aware of alcohol advertising and on average had come across it in more than five different media.⁸
- 3.4 Of the £800million spend on alcohol marketing, it is critical to note that around £550million of this is spent on football/sport sponsorship, promotions, music festivals and online marketing and promotions⁹ where the potential exposure of children is even greater and more difficult to regulate.
- 3.5 Alcohol industry sponsorship of sporting events is inconsistent with the promotion of health and well-being and Alcohol Focus Scotland believes there should be no alcohol industry sponsorship of the forthcoming Commonwealth Games in 2014.

- 3.6 Indeed in 2007, the alcohol industry increased its marketing spend on social media by 70%.¹⁰ This has worrying implications with regards to the exposure of children and young people to alcohol marketing when the growing presence of alcohol companies on social networking sites such as Facebook and Twitter is considered. Research from Ofcom has shown that almost half (49%) of children aged between 8 and 17 years old who use the internet have set up their own profile on a social networking site.¹¹
- 3.7 In September 2011, Diageo which makes Smirnoff vodka, struck a multi-billion dollar deal with Facebook. According to Diageo, this makes Smirnoff ‘the number one beverage alcohol brand on Facebook worldwide’. Diageo report that Facebook activity in the US has increased sales by 20%. This online activity is only set to increase, as the company boasts of training 950 marketers to build social media capabilities to generate ‘significant returns on investment’.
- 3.8 The Scottish Youth Commission on Alcohol report which was published in 2010¹² made a series of recommendations in relation to alcohol advertising, specifically that regulation is required not only in terms of the content but also on the **volume** of alcohol advertising and that stricter regulation was required for digital promotions.
- 3.9 Alcohol Focus Scotland believes that the implementation of a UK adapted “Loi Evin” would provide a good starting point to begin to protect children and young people from alcohol marketing. This framework provides guidance on marketing practices and how best to ensure children and young people are protected from an exposure that poses a risk to their health and wellbeing. The Loi Evin has been upheld by the European Court of Justice which found the measure to be proportionate, effective and consistent with the EC Treaty.¹³
- 3.10 Alcohol Focus Scotland supports the proposal within the consultation document for a ban on all advertising in public places but proposes that this **is** extended to cinema bars and lobby areas and to public paying areas such as football grounds or other sports venues.

4. Caffeine Limit in Pre-mixed Alcohol Products

- 4.1 Alcohol Focus Scotland notes the evidence presented in the consultation document and agrees that the trend towards mixing alcohol with energy drinks that are high in caffeine and sugar is an area which gives cause for concern.
- 4.2 However, the issue of mixing alcohol and caffeine is complex and we believe that this proposal will only impact on two products currently on the market and will have no impact on buying alcohol and caffeinated products and mixing them, either from an off-licence or on-licence premises.
- 4.3 With consideration to the above limitations, Alcohol Focus Scotland would still support the proposed reduction in caffeine limits to 150mg per litre of pre-mixed caffeinated alcohol products, based on the evidence of the risks outlined in the consultation paper but would further propose that the level of **alcohol** in these products is also lowered.

5. Alcohol Education

- 5.1 There is little evidence to suggest that education and persuasion strategies used on their own are effective in changing drinking behaviour. Despite the number and diversity of

this type of intervention, relatively few have been properly evaluated and significantly fewer have been shown to have any impact on drinking behaviour or alcohol-related problems.

- 5.2 However, educational campaigns can have a role in a wider strategy to address problem alcohol use if used to support more effective interventions. For example, AFS training and development packages are designed not only to build practical understanding and skills but also to raise awareness of, and build support for, evidence-based whole population measures to reduce consumption and harm. We would support further educational initiatives of this type. However, AFS is not convinced that it is necessary or appropriate for legislation in this area.

6. Alcohol Discrimination Against Under-21 Year Olds in Off-Sales

- 6.1 Alcohol Focus Scotland does not support a ban on a licensing board's ability to impose a restriction on individual licensed premises to sell only to a restricted adult age group. In general we believe that licensing boards should be empowered to take action on restricting availability in the public interest when supported by evidence on what is effective in reducing alcohol harm. Rather than hampering their ability to act in promotion of the licensing objectives, we believe that efforts need to be directed towards encouraging licensing boards to use their powers in a more meaningful way, to turn licensing into more than a bureaucratic exercise.

7. Community Involvement in Licensing Decisions

- 7.1 Community involvement in the licensing process is currently facilitated through the operation of local licensing forums, whose membership includes community members as well as the licensing standards officer for the area, a representative from the local health board and others from the community who have an interest in licensing matters. Local licensing forums must meet at least four times per year.
- 7.2 Local licensing boards must formulate and produce a statement of licensing policy every three years which outlines how the board will promote the five licensing objectives and must include an assessment of over-provision of licensed premises in the area. Local licensing forums must be consulted on this policy statement and as such members have influence over the entirety of licensing policy affecting the whole area and are not restricted to decisions about individual premises. Once produced the policy statement must also be made publicly available. The licensing board must consider the policy statement when exercising its functions, which includes making decisions on individual licence applications.
- 7.3 A review of any licensed premises can be applied for at any time by any person, including local community members. The review can be considered on grounds relevant to any one of the five licensing objectives. If the licensing board uphold a review then there are a number of sanctions which can be imposed, including suspending or revoking a licence.
- 7.4 At present when issuing new licences, or variations being proposed on existing licences, boards must notify neighbours, community councils and so on in the form of a notice displayed outside the premises in question. Notification is displayed for at least 21 days and is also on the local authority website and/or in the local newspaper. Any person can object to the issuing of a new licence or varying an existing licence on specified grounds.

- 7.5 Alcohol Focus Scotland feels that the current arrangements under the Licensing (Scotland) Act 2005 as outlined above allow local communities **greater** influence over licensing decisions and processes in their local area than those which are proposed in the consultation document. We therefore do not support these proposals.
- 7.6 AFS is minded to support the suggestion that premises licences are required to be renewed. However, we believe that any renewal process needs to amount to more than an administrative exercise. The renewal process must involve consideration of whether continuation of the licence is consistent with promotion of the licensing objectives.

8. National Licensing Forum

- 8.1 Alcohol Focus Scotland would support in principle the setting up of a National Licensing Forum if the purpose was to share learning and knowledge and support licensing boards in their decision-making processes. However, it would not be a straightforward process to identify representatives from key licensing stakeholder groups and further thought would be required on how membership was constituted. It would also be important to ensure that commercial vested interests did not dominate the Forum if the main purpose of the Forum was to support licensing boards in implementing licensing policy in the public health interest.

Part Two: Justice

9. Alcohol Bottle Tagging

- 9.1 Sources of purchased alcohol have changed considerably over time, particularly amongst 15 year olds. Friends/relatives are now the most common source of purchased alcohol. This has more than doubled from 15% in 1998 to 37% in 2010¹⁴
- 9.2 Alcohol Focus Scotland would support the gathering of further evidence on which are the most effective approaches and interventions to restrict the availability of alcohol to those under the legal purchase age.
- 9.3 The control measures on availability which have the strongest empirical evidence of effectiveness to reduce alcohol consumption across the population, including young people, are laws that raise the minimum purchase age, a reduction in the density of outlets and a reduction in the hours or days of sale.¹⁵

10. Alcohol Fine Diversion

- 10.1 Alcohol Focus Scotland would support the gathering of further evidence on the effectiveness and cost effectiveness of alcohol fine diversion schemes in reducing binge-drinking and associated anti-social behaviour. In particular evidence from existing pilot projects, such as the service provided by Fife Alcohol Support Service (FASS), should be considered.
- 10.2 Evidence gathered should be used to inform the design, implementation and evaluation of further pilot projects in geographically and demographically diverse communities.

- 10.3 After the robust examination of evidence gathered, consideration must then be given to how fine diversion schemes would be implemented at a local level if they are to become a statutory provision.

11. Alcohol Arrest Referral

- 11.1 Alcohol Focus Scotland would support the gathering of further evidence on the effectiveness and cost effectiveness of alcohol arrest referral schemes in providing a route to earlier treatment.
- 11.2 In particular evidence from existing pilot projects should be considered in terms of improved outcomes for attendees in relation to their recovery and future involvement with criminal justice.
- 11.3 Recent findings from evaluations of Home Office alcohol arrest referral pilot schemes have shown largely disappointing results. In particular, the evaluations suggested that the schemes did not successfully reduce re-arrest¹⁶.
- 11.4 Further consideration needs to be given to the implementation of such schemes, taking into account the documented concerns of third sector organisations which are highlighted in the consultation document.
- 11.5 Glasgow Council on Alcohol (GCA) currently operate a Community Payback Order pilot project whereby the Courts will fast-track someone to their service as part of a sentencing package if alcohol has been involved in the crime committed.
- 11.6 Results from this pilot have identified that there are problems at times with referral pathways, but once someone is engaged in their programme they are recording positive results for individuals, in terms of reducing their drinking and future involvement with criminal justice.
- 11.7 Alcohol Focus Scotland would recommend discussions with GCA to gather evidence on the specific short, medium and long term outcomes from the pilot project.

12. Drinking Banning Orders

- 12.1 The consultation document does not provide evidence of the effectiveness of drink banning orders in England and Wales. Further evidence gathering and consultation is required on the effectiveness and cost effectiveness of such orders in reducing alcohol-related crime and disorderly behavior before considering the introduction of the measure in Scotland.

13. Alcohol and Drug Treatment and Testing Orders (ADDTO)

- 13.1 Alcohol Focus Scotland would express caution about extending DTTOs to include alcohol given that the Scottish Alcohol Needs Assessment¹⁷ identified that services were only available to address the needs of 1 in 12 of those who are alcohol dependent. In addition to this, the report also highlighted that not everyone who needs treatment is at a stage to accept treatment (motivational readiness to change). Health professionals may therefore feel it is not the most effective use of their time to provide treatment to people who have not

voluntarily sought this. AFS would suggest that the view of health professionals is sought before including the measure in legislation.

14. Alcohol Offences Information Sharing

- 14.1 Further consideration is required on what GPs would be expected to do with the information provided to them by the Police and whether or not they would be supportive of this measure. AFS suggests that the view of bodies like the RCGP, SHAAP and the BMA are sought on the efficacy of this measure before proceeding.

Part Three: General Questions

19. Do you support the general aim of the proposed Bill? (as outlined above). Please indicate “yes/no/undecided” and explain the reasons for your response.

- 19.1 Alcohol Focus Scotland would particularly support measures to reduce alcohol marketing, however other measures proposed require further consideration and evaluation in terms of their effectiveness and cost-effectiveness before being introduced in legislation.

20. Are there further legislative (or non-legislative) changes that you would recommend, beyond those outlined in this consultation, in order to further its general aims of tackling Scotland’s culture of excessive alcohol consumption?

- 20.1 Alcohol Focus Scotland believes that the role of the alcohol industry in the development of public health policy is a key area for consideration. When considering this, the following statement from the 2010 report by the House of Commons Health Committee on alcohol should be considered: *“It is time the Government listened more to the [Chief Medical Officer] and the President of the [Royal College of Physicians] and less to the drinks and retail industry. If everyone drank responsibly the alcohol industry might lose about 40% of its sales and some estimates are higher. In formulating its alcohol strategy, the Government must be more sceptical about the industry’s claims that it is in favour of responsible drinking.”*¹⁸
- 20.2 A recent report, *The role of the alcohol industry – How Big Alcohol abuses “Drink Responsibly” to market its products*¹⁹ offers an insight into how the industry takes this message to promote, grow loyalty to and build credibility for its brands. The report claims that “...the ‘drink responsibly’ slogan also serves as a public relations distraction for alcohol corporations fighting evidence-based, effective policies such as increasing alcohol taxes, restricting alcohol advertising...there is no evidence to show that ‘drink responsibly’ messages are an effective strategy for reducing alcohol consumption or related harm”. The Alcohol Justice Group offer recommendations to “stop the industry’s cynical, self-serving ‘drink responsibly’ charade”, including alcohol prevention and public health advocates refusing drink industry funded materials and investigating the possibility that alcohol companies are engaging in misleading and/or deceptive marketing by using ‘drink responsibly’ messages.
- 20.3 Alcohol Focus Scotland recommends that the alcohol industry should be involved in the *implementation* of alcohol policy in their capacity as producers and retailers of alcohol, but should not be involved in the identification or delivery of public health goals given the

obvious conflict of interest and the fact that their expertise is in producing and selling alcohol and not in protecting and improving public health.

20.4 As described earlier (Question 3) Alcohol Focus Scotland believes that alcohol marketing is a further area that requires urgent attention from Government. Action is required at a Scotland, UK and international level to ensure children and young people are protected from over-exposure to alcohol marketing.

21. ***What is your assessment of the likely financial implications (if any) of the proposed Bill to you or your organisation? What (if any) other significant financial implications are likely to arise?***

N/A

22. ***Is the proposed Bill likely to have any substantial positive or negative implications for equality? If it is likely to have a substantial negative implication, how might this be minimised or avoided?***

22.1 Health inequalities are a major concern in Scotland and it is the view of Alcohol Focus Scotland that implementing effective alcohol policies aimed at reducing overall alcohol consumption in the population will have a particularly beneficial impact on the health and wellbeing of those suffering the most disadvantage.

References

¹ Alcohol Purchasing in Supermarkets, October 2011, Mintel.

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³ University of Sheffield, Model Based Appraisal of Alcohol Minimum Pricing and Off-Licensed Trade Discount Bans in Scotland using the Sheffield Alcohol Policy Model (v2) – Second Update, 2012.

⁴ Alcohol Harm Reduction Project: Interim analytical report, Prime Minister's Strategy Unit, 2003.

⁵ Tarpert S F and Brown S A (1999) Neuropsychological correlates of adolescent substance abuse: Four year outcomes, *Journal of the International Neuropsychological Society* 6: 481-493

⁶ Anderson P, de Bruijn A, Angus K, Gordon R and Hastings G (2009b) Impact of alcohol advertising and media exposure on adolescent alcohol use: A systematic review of longitudinal studies. *Alcohol and Alcoholism* 44: 229-243.

⁷ Health Committee, First Report of Session 2009-10, *Alcohol*, House of Commons 151-I Back. 2010.

⁸ Ibid.

⁹ Ofcom, ASA, Neilson Media. *Young People and Alcohol Advertising: An investigation of alcohol advertising following changes to the Advertising Code*, 2006.

¹⁰ James, L (2008) Winners and losers of the next UK media downturn, World Advertising Research Centre.

¹¹ Ofcom (2008) Social Networking: A quantitative and qualitative research report into attitudes, behaviours and use, p 5

<http://stakeholders.ofcom.org.uk/binaries/research/media-literacy/report1.pdf>

¹² Report of Scottish Youth Commission on Alcohol. Young Scot, 2010.

¹³ Commission of the European Communities v the French Republic, Case C-262/02 (Court of Justice of the European Communities) March 11, 2004.

¹⁴ Scottish Schools Adolescent Lifestyle and Substance Use Survey (Salsus) 2010 National Report. ISD Scotland, 2011.

¹⁵ Babor T et al (2010), *Alcohol no ordinary commodity*. Oxford University Press.

¹⁶ Drug and Alcohol Findings. Summary of two evaluations of Home Office alcohol arrest referrals pilot schemes. 2012.

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¹⁷ Rice P, Drummond C et al., *Scottish Alcohol Needs Assessment*, 2009.

¹⁸ Health Committee, First Report of Session 2009-10, *Alcohol*, House of Commons 151-I Back. 2010.

¹⁹ Alcohol Justice Group, *How Big Alcohol abuses "Drink Responsibly" to market its products*, 2012.