

Evidence from Association of Convenience Stores – PHB 74 / Tystiolaeth gan
Y Gymdeithas Siopau Cyfleustra – PHB 74



ACS Submission: Public Health (Wales) Bill

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the National Assembly for Wales Health and Social Care Committee's call for evidence for the general principles of the Public Health (Wales) Bill. ACS represents 33,500 stores across the UK, all of which have an important role to play in supporting public health policy. In Wales, there are 3,219 stores, employing over 24,530 staff¹.

ACS' primary concern regarding the Public Health (Wales) Bill is the proposal to introduce a tobacco retailers' register in Wales. Not only would this impose financial and administrative burdens to convenience retailers; but would also pose a significant risk of enforcement activity being refocused on legitimate retailers, rather than those that participate in the illicit tobacco trade.

Part 2: Tobacco and Nicotine Products

Do you agree with the proposal to establish a national register of retailers of tobacco and nicotine products?

The proposed tobacco and e-cigarette retailer register would impose additional costs on retailers. Any proposed register should reflect the current register that is used in Scotland, which operates as a negative licensing system with free registration for retailers. However, we support Option 1 of the impact assessment, 'do nothing', as we are not convinced that the benefits of a tobacco register outweigh the financial and administrative burdens of the scheme and other tobacco legislation. Instead, we would like to see instead a focus on tackling the illicit tobacco market in communities across Wales through greater investment in HMRC and local authority enforcement activity.

Additional Burdens

¹ ACS Local Shop Report 2014

Tobacco is an important product category for convenience retailers, representing an average of 20% of sales in the UK convenience market². Retailers work hard to ensure they retail these products responsibly through enforcing age restrictions using policies, such as Challenge 25. Convenience stores selling tobacco are already burdened by a number of restrictive tobacco legislation, most notably the tobacco display ban, the Tobacco Products Directive and the standardised packaging of tobacco to be introduced next year. A tobacco retailer register will only exacerbate these burdens and add further complexities to tobacco legislation.

Additional Costs

The Bill stipulates that the regulations may make provision to require payment of a fee to accompany an application for a retailer to register. The Explanatory Notes propose that this fee would be set at £30 for the first premise and £10 for each additional premise. Based on the number of convenience stores in Wales, the cost to the convenience sector to register is estimated to be over £90,000.

In light of this significant financial burden that retailers will face when registering, ACS seeks further clarity on exactly what will be disseminated regarding the Impact Assessment's claim that "the register will be an invaluable tool in disseminating information and guidance to retailers around the sale of tobacco and nicotine products." Currently the Welsh Government has sought advice from trade bodies on what information to disseminate to local retailers, including the ACS Tobacco Display Ban guide.

Enforcement agencies already have limited resources for enforcement activity. ACS does not deem the use of funds from the register to disseminate information and guidance to retailers as a justifiable cause to charge for registration. Enforcement activity should be focused on tackling the illicit tobacco trade.

Failure to Address Illicit Trade

The introduction of a tobacco retailers' register risks focusing enforcement activity on legitimate, registered retailers rather than addressing retailers participating in the illicit trade. The tobacco register neglects to consider that illicit tobacco retailers will not sign up and will risk enforcement action because the offence is not as great as evading duty.

The illicit tobacco market costs the Treasury approximately £2billion³ every year, as such, it represents a significant threat to both public health and legitimate retailers. One of the most common sales avenues for illicit tobacco are 'tab houses', selling

² ACS Local Shop Report 2014

³ HMRC Measuring Tax Gaps 2014

from private houses, which accounts for 34% of illicit tobacco sales⁴. There is an increase in the proportion of 14-15 year old illicit tobacco buyers who have bought from 'fag houses' from 15% in 2009 to 34% in 2011⁵. Illicit tobacco makes tobacco accessible to children and young people. Tackling this must form a central part of any tobacco control or public health policy.

Do you believe the establishment of a register will help protect under 18s from accessing tobacco and nicotine products?

Recent data from HSCIC shows that the most frequent source of age restricted products, such as alcohol and tobacco products is not local shops. Young people are more likely to access these products through other people, including parents or older siblings, with 64%⁶ of young people accessing tobacco through these means. This is a reflection of the industry's positive work of introducing voluntary age verification schemes, such as challenge 25. The introduction of a tobacco register is unlikely to further the reduction of underage sales.

Do you believe a strengthened Restricted Premises Order regime, with a national register, will aid local authorities in enforcing tobacco and nicotine offences?

We agree that the use of restricted sales orders and restricted premises orders in cases where retailers repeatedly breach regulations would be proportionate. However, detailed guidelines would be needed to ensure these strict penalties would be used only where appropriate to target repeat offenders.

What are your views on creating a new offence for knowingly handing over tobacco and nicotine products to a person under 18, which is the legal age of sale in Wales?

Retailers need to ensure that they have a robust age verification policy for remote sales, both at point of sale and point of delivery.

Do you believe the proposals relating to tobacco and nicotine products contained in the Bill will contribute to improving public health in Wales?

ACS continues to advocate further action on tackling the illicit market. We believe that retailers have made significant progress in reducing young people's access to tobacco products over the last ten years. We would like to see a greater focus on targeting resources on the most frequent source of tobacco products (parents and older siblings) through education and campaigning. It is incredibly difficult for

⁴ APPG on Smoking and Health - Inquiry Into the Illicit Trade in Tobacco Products 2013

⁵ APPG on Smoking and Health - Inquiry Into the Illicit Trade in Tobacco Products 2013

⁶ HSCIC: Smoking, drinking and drug use among young people in England in 2014

retailers to address proxy purchasing as all proxy purchases start with a legitimate sale.

Finance Questions

What are your views on the costs and benefits of implementing the Bill? (You may want to look at the overall costs and benefits of the Bill or those of individual sections.)

If introduced, a tobacco register should not be funded by retailers, but operated on a similar model that is already in place in Scotland where registration is free. As highlighted in the consultation document, the benefits of the registration scheme would fall primarily to trading standards and local authorities, yet retailers would be expected to fund this scheme.

Therefore, we do not believe the potential benefits of a tobacco register for retailers is proportionate to the burdens that would be imposed on them.

How accurate are the estimates of costs and benefits identified in the Regulatory Impact Assessment, and have any potential costs or benefits been missed out?

All potential costs are accounted for in the Regulatory Impact Assessment.

Are there any other ways that the aims of the Bill could be met in a more cost-effective way than the approaches taken in the Bill's proposals?

Any proposed tobacco retailer register should reflect the register already in place in Scotland. Not only would this provide consistency to retailers who operate nationwide, but would not be as burdensome on retailers.

For more information on this submission, please contact Julie Byers, Public Affairs Executive, at [REDACTED] or by calling [REDACTED].