

WSTA response: Call for evidence and views on the Licensing and Registration of Clubs (Amendment) Bill

Introduction

Thank you for the opportunity to submit our views on the above Bill. This response is from the Wine and Spirit Trade Association (WSTA) and addresses the views and concerns of our retail members who make up the Retail of Alcohol Standards Group (RASG).

The WSTA represents over 300 companies producing, importing, exporting, transporting and selling wines and spirits in the United Kingdom. WSTA members range from major retailers, brand owners and wholesalers to fine wine and spirit specialists, logistics and bottling companies. We campaign for a vibrant and sustainable wine and spirit industry, helping to build a future in which alcohol is produced, sold and enjoyed in both a compliant and responsible manner.

The work of Retail of Alcohol Standards Group focuses on promoting high standards amongst alcohol retailers in the responsible sale of alcohol.

Retailers in the UK take their responsibility with regards to the sale of alcohol very seriously, and the members of RASG have been at the forefront of efforts to promote the responsible retail of alcohol since the group was formed, in 2005. Originally formed in response to Government requests for retailers to do more to tackle the issue of underage sales and underage drinking, today the membership and remit of RASG continues to grow.

As well as dealing with underage sales, in 2007, in order to address the demand side of underage drinking, RASG developed its first Community Alcohol Partnership (CAP). CAPs bring together local retailers & licensees, trading standards, police, health services, education providers and other local stakeholders to tackle the problem of underage drinking and associated anti-social behaviour. We have over 200 CAPs currently running in the UK.

We had a very successful CAP in Derry which ran until 2013 and would be very happy to look at setting up further CAPs in NI. CAPs can be set up with our support, in areas with evidence of an underage drinking problem.

The WSTA and members of RASG are supportive of plans introduced to modernise alcohol licensing laws when those plans are implemented as a result of evidence-based research that substantiates the need for those changes. Any modernisation plans should be proportionate to achieve the stipulated goals and practical and workable for retailers to implement.

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The WSTA and our RASG members do not believe that the Licensing and Registration of Clubs (Amendment) Bill achieves its aim of introducing a balanced package of measures to tackle alcohol misuse and promote responsible consumption. We believe that the removal of the exemption, permitting alcohol to be delivered to a minor when at the purchaser's home or work address, will lead to increased costs and resources for retailers having to implement different policies in Northern Ireland. This amend will mean that Northern Ireland is no longer aligned with England and Wales, where legislation still includes the exemption you are proposing to remove.

We believe that the provisions relating to advertising restrictions for supermarkets and the restrictions placed on retailer reward schemes have not been proven to be an area of concern. There is no evidence suggesting that alcohol advertising makes a difference to alcohol consumption or anti-social behaviour and so we fail to understand the need for these restrictions.

In response to your request for evidence we have included our concerns over clauses 13, 15, 16, 17 and 19 at the end of this document. We hope you will consider these when making any amends to the Bill as part of this call for evidence.

Although not included within this call for evidence we would like to explore the opportunity to include Article 31 variations, specifically relating to the ratio and number of licensed/unlicensed checkouts in the scope of this consultation.

It is our understanding that when an Article 31 variation is submitted, the current guidance to the courts sets a ratio of approximately 75% licensed checkouts to 25% unlicensed checkouts. We also understand that the courts can not stray too far from this ratio, in order to ensure that there are sufficient unlicensed checkouts to facilitate sales to minors and reduce risks of committing an offence of a minor being served at a licensed checkout.

The reasons we wish to include this in the scope of the review are:

- To ensure regulatory alignment with all other parts of the UK
 - In the rest of the UK, customers can be served at any checkout as the checkouts are not licensed or unlicensed
 - All retailers are required, by law, to have an age verification policy in place to reduce any risk of underage sales. All RASG members adopt Challenge 25. This same policy and approach is in place and working well in Northern Ireland already.
- There is low use of unlicensed checkouts
 - Unlicensed checkouts are not used by customers as much as licensed checkouts.

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- Most customers have to pay via a licensed checkout as most of the purchases made in store relate to large weekly shops and evening meals, which invariably include alcohol. Licensed checkouts are therefore busier than unlicensed ones. This situation is exacerbated at busier times of the week, and even more so at Christmas and other unexpected or seasonal events.
- Customer throughput is slowed by not being able to use all checkouts to maintain and reduce queuing times. Licensed checkouts invariably have long queues when the unlicensed checkouts are empty, but manned to maintain the 75/25 ratio.
- Due to the progress in technological payment solutions
 - The world is changing faster than ever, and retailers are developing self-service options and technological payment solutions to keep up with these changes e.g., no checkout stores/Radio Frequency (RF) Checkouts, charging customer by camera/automatic scan. These solutions are expensive to install and benefit is only realised with volume transactions. The fact that checkouts themselves are licensed means that retailers would not be able to implement innovative technological solutions to cover all purchases and satisfy consumer demand.
 - Most consumers, including minors, own and use smartphones to pay for goods. As we develop solutions that can use this technology, we don't want legislation to exclude certain age groups, or cause breaches of the Order, where a payment terminal that allows the sale of alcohol cannot be used by a person under the age of 18.
- Social Distancing is more of a challenge with longer queues
 - We appreciate your effort to increase licensed checkouts in supermarkets to help us maintain social distancing during Christmas 2020, however, the problem of social distancing will remain well past the festive period. During the Covid-19 pandemic, no matter what procedures we put in place to deal with social distancing, the fact is that it is human nature to be sociable, especially when having to queue. Being able serve all customers, no matter the purchase or their age, at any checkout would reduce queuing by around 25%.

We request that you consider the possible solutions to our issues raised above:

- Remove the need for licensed checkouts by:
 - Removing or rewording the offence in Article 58 of the Licensing Order
 - Adding an exclusion in article 58(13)
 - (f) Excluding checkouts/payment points in supermarket retailers when a person under the age of 18 is only purchasing products that do not contain alcohol

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- Increasing the guidance for licensed/unlicensed checkout ratios in stores, for example 90% licensed and 10% unlicensed. Although this is not our preferred option it will allow retail outlets to use more checkouts when needed.

Clause 13: Delivery of intoxicating liquor to young persons

Without this amend, Northern Ireland rules on delivering alcohol to minors is consistent with England and Wales.

Having consistency across the United Kingdom enables retailers to implement robust and effective measures to ensure compliance with legislation. Differences in the requirements between nations leads to an increase in costs and resources and has the potential to cause confusion.

Changes to legislation should only be made to address an evidence-based problem.

There is no evidence to suggest that minors obtain alcohol via remote purchases. The current legal requirements to age verify if a driver believes a person to be under 18 are sufficient.

WSTA and RASG members voluntarily go above and beyond their legal requirements by adopting 'Challenge 25'. We are keen to uphold the good standing that we have in our local communities, not only to protect our reputations but also to safeguard our local areas also.

We do not believe that the additional resources needed to comply with this requirement is proportionate and the need for this change has not been substantiated with evidence.

Changes to mandatory age verification on delivery would disproportionately impact on-line specialist retailers

Having to employ additional age checks on delivery would lead to substantial increase in costs.

Customers demand convenience and want to have goods delivered at a place and time convenient to them, even when they might not be home to receive them. Specialist on-line retailers satisfy this need for convenience by employing robust age verification checks at the time orders are placed. This allows them to offer flexibility in

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the delivery of goods to customers. This flexibility is offered in the form of a 'leave safe' delivery where, subject to approval, goods can be left in a 'safe location' of the customers choosing.

Evidence shows that the risk of alcohol being delivered to minors via specialist on-line retailers is extremely low. Research shows that the profile of a typical customer is a professional, aged 45+ with an above average household income.

The higher cost of the wines and the fact that these businesses are subscription-based further reduce any risks. The delay from order to delivery is a deterrent to minors purchasing alcohol, as they tend to require a more immediate delivery.

Any changes in legislation must be flexible to ensure that it is future proof

What the Covid-19 pandemic has shown us is that there is a genuine need for home deliveries and, over the past year, deliveries to the home have been a lifeline.

Any changes must not discriminate against those with ill health that may not be able to accept deliveries and who might have to rely on a minor to do this.

Clause 15: Prohibition on self-service and sales by vending machines

The scope of this clause is unclear

Further details are needed on how you define a self-service and vending machine.

We need to be mindful that future innovations around unattended delivery or remote fulfilment are not affected by this change. We need to ensure that this is not a backwards step that thwarts future innovation.

Consideration must be given to innovation in this space. Consumers demand convenience and RASG retailers must adapt to meet these shopping habits. RASG members offer a range of innovative methods - self-service checkouts, click and collect facilities, secure lockers for self-collection, or home deliveries via delivery drivers or robotic delivery capsules. In all of

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these cases, adequate age checks are carried out in order to minimise any risks of alcohol being supplied to minors. In all these cases, the goods have been purchased by the consumer before collection. It is not clear which, if any of these methods, would be prohibited by this clause.

Clause 16: Restrictions on off-sales drinks promotions in supermarkets etc.

The offence provision is too specific and could potentially create friction between competitors.

A license holder of a store, or an agent of theirs are prohibited from advertising outside of specific areas of their store and anywhere within 200m of their premise boundary. This prohibition does not extend to other retailers' promotions and could lead to friction between competitors who may take advantage of this, advertising their own drink promotions within 200m of another store's boundary.

The definition of an 'off-sales drinks promotion' is too vague

Further details are needed on what constitutes a drinks promotion.

Not all stores are licenced and those that are need a way to distinguish themselves from those that are not. Licensed stores display licenses at store entrances. Window graphics displaying products available to purchase are used. At what stage would these be considered a promotion?

Although advertising of alcohol within a 'meal deal' are exempt, confirmation as to whether this exemption extends beyond these is needed.

This clause will disproportionately affect local producers.

These restrictions will have a greater impact on local producers and farm shops who rely on local advertising to promote their products. These advertising restrictions have the potential to reduce visitor numbers which might, in turn, affect tourism in the local area generally.

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This sector is already heavily regulated.

The alcohol industry is already heavily regulated. Retailers must have a licence issued by a local authority before they are able to sell alcohol. Advertising is regulated and enforced by the Portman Group, the Advertising Standards Authority, and the Committee of Advertising Practice. Labelling is regulated and enforced by local government enforcement officers. Most retailers belong to a trade association, such as the WSTA, who offer additional advice when requested. Another control on the industry is unnecessary and would fail to cover any issues that were not already controlled.

Clarification is needed on what 'wholly or mainly' means in relation to a magazine promoting the purchase of alcohol.

Further clarification is needed on what is included within the scope of this clause. Does this clause only apply to articles that relate wholly to alcohol or to all articles that reference alcohol in some way e.g., promotion of a seasonal cheese and wine gift or a weekly meal deal.

No evidence has been provided showing that there is a link between alcohol advertising and increased consumption.

There is no evidence suggesting that alcohol advertising makes a difference to alcohol consumption or anti-social behaviour and so this prohibition is unjustified. Changes to legal requirements should only be made to address an evidence-based issue.

Clause 17: Prohibition of loyalty schemes

The scope of this clause is unclear, and we fail to understand how this applies to our existing reward schemes

Proper consideration must be given to this provision as loyalty schemes come in various forms e.g., credit cards, and some loyalty cards can be used in other premises outside of the issuing retailer.

It is unclear whether this clause relates to loyalty schemes that apply to alcohol purchases only or to schemes that reward consumers for the purchase of any goods available in store.

Most stores run loyalty schemes that are linked to a person's spending across the entire retail range. The loyalty points are not instantaneous.

Customers enjoy the rewards that loyalty schemes give them and the incentive to double or treble their value offer rewards away from the store e.g., eating out or collecting airmiles.

There is no evidence to show that loyalty schemes encourage consumers to spend their reward on alcohol purchases.

Loyalty cards were reviewed by the Scottish Government and any solutions were considered unworkable in this area. They decided to differentiate between loyalty rewards and coupons, with loyalty rewards being treated as cash.

Loyalty schemes do not only benefit the holder but also charities and other good causes.

The Bill fails to consider these wider benefits and the positive effect that these have on local communities, charitable causes and other industries.

Loyalty schemes have wider reaching benefits than that the Bill makes out. RASG members are an essential and integral part of their local communities. We contribute to

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local causes to help support our communities. The success of our reward schemes plays an important role in this, enabling us to support charities and other good causes. Restrictions placed on our schemes have the potential to affect the donations provided to these good causes.

Clause 19: Code of practice

This sector is already fully regulated and self-regulated

The alcohol industry is already heavily regulated. All aspect of selling alcohol, from production site controls, sales, labelling and marketing, are controlled by legislation and/or guidance.

RASG members belong to the Wine and Spirit Trade Association, who advise on compliance and regulatory issues. RASG have their own website where we have guidance on the responsible retail of alcohol.

We do not believe that there is a need to create another form of assurance, however, it is essential that retailers have an input into developing any code that supports self-regulation.

Kelly Moss
Head of Compliance
Wine and Spirit Trade Association
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