



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Licensing and Registration of Clubs
(Amendment) Bill: Joint Industry Code for the
Responsible Promotion and Retail of Alcohol

27 October 2016

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Colum Eastwood (Chairperson)
Ms Michelle Gildernew (Deputy Chairperson)
Mr Steven Agnew
Ms Nichola Mallon
Mr Fra McCann
Mr Adrian McQuillan
Ms Carál Ní Chuilín
Mr Christopher Stalford

Witnesses:

Mr Duncan McCausland Joint Industry Code for the Responsible Promotion and
Retail of Alcohol

The Chairperson (Mr Eastwood): We have Duncan McCausland, who is the chair of the complaints panel of the Joint Industry Code for the Responsible Promotion and Retail of Alcohol. You are very welcome, Mr McCausland. Members have your report and the updated figures in relation to complaints. Over to you. You have 10 minutes, and we will have questions after that.

Mr Duncan McCausland (Joint Industry Code for the Responsible Promotion and Retail of Alcohol): I will try to keep it shorter than 10 minutes, because I am conscious of your time. You received a copy of the last annual report in relation to the code. The code was created in 2012, and it is a self-regulating measure introduced by the industry that outlines the basic standards expected of those involved in the production, promotion, retail and service of alcohol. I think that that is critical, based on what you have just heard from your previous witnesses. To date, as we sit here today, we have had 50 complaints from a wide variety of people across society, including the police, councils and members of the public. Of those, we have upheld 15, either by finding people irresponsible, which we then publish in the press, or by referring them directly to the PSNI in relation to a direct breach of the licensing laws. I will come back to that in some of the examples.

Responsible promotions are an effective marketing tool and are legitimate. The code specifically deals with things that are irresponsible, and I can give you examples of that. This code was set up in partnership with the industry and the statutory bodies. They all came together and produced this, and compliance with the code applies right across Northern Ireland both to off-licences and on-licences and, in effect, to every person who has a licence. There is a high level of compliance. Although 50 complaints have been made in the last four years, we receive, on average, about five requests a week from licensees to give advice on how they should go about presenting promotions that comply with the code.

We have reviewed the code and enhanced its working. For example, members may remember the incident that happened at the Odyssey, where over 100 young children were taking alcohol that had been delivered or provided to them on buses on which they were being brought to an event. The then Health Minister tried to get legislative change in relation to preventing the carriage of alcohol on buses, but we were able to change the code immediately and reflect that any promotion that, in effect, advertised alcohol on buses was a direct breach of the code and irresponsible. The code has been reviewed and enhanced. Another example of the enhancement has been the issue of social media and awareness of social media, and that is a major issue going forward. A lot more licensees are using social media as a means of advertising what they are offering.

One thing that we cannot deal with is the cost. We cannot deal with price, and that is a major issue. Earlier, members were saying that 70% of all alcohol is provided by supermarkets. A report that came out this month from the Alcohol Health Alliance specifically shows that alcohol can be as cheap as 16p a unit. The two types of alcohol that people seem to focus on in relation to overconsumption or underage drinking are high-strength white cider and cheap vodka. For the cost of a cinema ticket, £8.24, you can buy 7.5 litres of cheap white cider or 53 shots of vodka, so you can buy alcohol for pocket money. I know that the Licensing Bill that you are dealing with does not prepare for that, but, if that were to be considered going forward, it would substantially start to deal with the issue of preloading, and it would also strengthen any code that deals with the issue of responsible promotions. That is very important for members to consider.

As you are probably aware, the Scottish Parliament passed a minimum price of 50p a unit. That was challenged in the courts by the whisky industry, and, this month, the courts threw that challenge out. Hopefully, a minimum price of 50p a unit will be able to be introduced. What does that mean? It means that the cheapest bottle of wine will be £4.69, the cheapest price for four cans of beer will be £4 and the cheapest bottle of whisky that you can buy will be £14. That starts to put in place a recognition that you cannot get a litre of cider for 16p, which, clearly, is completely incorrect.

Again, the code that I chair cannot deal with price. We look at how people manage the pricing of events and how they are run, and that may be important for members to note. Every licensed premises that we inspect — we go out and inspect them and ask for evidence that they are managing the promotions responsibly — produces a training manual. Employees have to sign that and indicate the levels of training that they have gone through on health and safety legislation and licensing legislation. If legislation is introduced that gives statutory responsibility or statutory recognition to the code, employees will have to sign to confirm that they have received code training.

Renewing licences may be a way for you to monitor how much training licensees are giving their staff and whether they are ensuring that their staff are complying with the levels of training that are required. As Mr McCann described, there are a lot of responsible licensees. Around 90% to 95%, if not 99%, of the licensees who come before us show responsibility in how they are operating. The biggest problem seems to be cheap alcohol, which is available in considerable quantities, particularly in supermarkets. We have been working with the supermarkets to try to move them away from using alcohol as a loss-leader and to encourage them to have bread, nappies, milk or whatever as a loss-leader instead, because alcohol has major consequences outside the supermarkets.

Why are we asking for statutory recognition? The legislation before you allows the Department to recognise any code that comes forward and complies with the appropriate standards that they require. I hope that this code will, because it has been operating for the last four years and has been recognised by the four separate Ministers who have been in post in that time.

Giving it statutory recognition means a licensee must take mandatory cognisance of the code by training, as I mentioned earlier, and the licensing authorities — the councils, the PSNI and the courts — must also reflect, on a mandatory basis, any finding of irresponsibility under the code on the part of a licensee who promotes the consumption of alcohol irresponsibly. What does that mean? It means that if your licence is coming up for renewal, to put it very simply, you have to be a responsible person. If I am on a council committee that decides whether to issue entertainment licences, and I have a report of irresponsibility on the part of a person, I will refuse an entertainment licence to them. If a court is deciding on whether to issue you a licence — for which you have to be deemed a responsible person — and you have been found to have been irresponsible, the court has grounds to refuse the licence. Those are important checks and balances in what you are trying to discuss and take forward in changes to the licensing laws.

I will stop there, Chair, because I said I would not talk for 10 minutes. Knowing me, I probably could talk longer, but I will stop now and answer any questions. Specific examples of what we define as

irresponsibility include drinking games; sale of unlimited amounts of alcohol at a fixed charge; the consumption of a large amount of alcohol being encouraged over a short period of time; alcohol being offered as a reward or a prize; buy-one-get-one-free offers; happy hours; triple servings, where people are given three quantities in the one go; rapid drinking and rapid-drinking games; encouraging or rewarding the consumption of large quantities of alcohol in a single session; excessive drinking sessions or pub crawls; and dispensing alcohol from dispensers other than glasses. One of the early findings that we had was against a nightclub that was planning to dispense alcohol through water pistols, where staff would walk around with vodka in the water pistols and look to fire it into people's mouths. That was completely irresponsible and was stopped. What effect has the code had? At least one premises has lost its licence and gone out of business, so I suggest that there is a benefit in giving the Department the ability to recognise a code.

What is the benefit of a code? As you rightly said, we can adjust the code to reflect major changes in society. The biggest adjustment that we have made in the last four years is for awareness of social media. We are taking that on board. If we had to come back to you, the lawmakers in the Assembly, you know how long it would take for legislation to go through to reflect those changes. That is the benefit of the code: it is like having a speedboat rather than an oil tanker to try to deal with the problem out there.

If you ask me what else you can give, I must say that it is outside your gift in the Bill: it is to put a mandatory price on an alcohol unit.

The Chairperson (Mr Eastwood): Thanks very much. You will get no argument from me on that. That is the problem that we are facing. All the focus in the Committee is on the Bill and on how we deal with problems around alcohol. The Bill deals with a tiny section of the real problem. The real problem is in Tesco, Asda and the rest of them. It is important to note that we should not take on all the responsibility for this. I am fully supportive of what you say.

I have one question: 50 seems like an awfully low number of complaints.

Mr D McCausland: Yes, but what you have to remember, Chair, is that over 1,000 have sought advice from us.

The Chairperson (Mr Eastwood): That is good, rather than —

Mr D McCausland: Exactly. I take it that the 50 complaints that came before us is a bit of a failing on our part, inasmuch that we try to avoid people even being considered for being irresponsible rather than having to go through the process. It has been a benefit that we have managed to get the industry around to recognising the code, being part of it and taking it on. I would be more worried if I were sitting in front of you saying that I had 500 complaints in front of me, because that would show that the code is failing.

The Chairperson (Mr Eastwood): I think that a figure of 50 shows that the code is working.

Mr Agnew: Thank you, Duncan. To help me to understand the code, I have been looking at your complaints matrix. You said that the code cannot judge on price. Why is that? Was it a joint decision that was made when —

Mr D McCausland: European legislation specifically prevents us from referring to price. That was the issue in Scotland. The Scottish whisky distillers took the Scottish Parliament to court on the basis of trying to introduce a 50p mandatory limit. They said that it was restricting trade. If we have that, we could specifically look at price. I have to say to you, Chair, that there would be substantially more promotions before us in relation to price than there are. That is important, and it could be a benefit from Brexit, but I will not go down that line. It would remove the issue of dealing with European legislation.

Mr Stalford: Hear, hear. It is another benefit — one of many.

The Chairperson (Mr Eastwood): It is the first one that I have heard of.

Mr D McCausland: Chairman, I am not commenting on that. *[Laughter.]*

The Chairperson (Mr Eastwood): You have just started a whole discussion. Go ahead, Steven.

Mr Agnew: In one of the decision notes, it states that there is no evidence that the promotions in question encourage irresponsible or excessive consumption. That appears a few times in connection with various offers.

Mr D McCausland: The key thing there — I am not trying to pre-empt your question — goes back to what you said about training. We look strongly at training manuals to see how they operate the code. If, say, you are providing five shots for £10, that has to be shared with people, and it has to be operated in a fashion that they are shared with people. It also has to be operated so that you cannot go up and buy those five or 10 shots two minutes before drinking-up time and take them away.

You all know my background, and I can tell you now that, in 32 years of policing, I never saw a prosecution for being drunk on a licensed premises. The legislation exists to prosecute people who are drunk on a licensed premises, but licensees are very reluctant to have their customers prosecuted, because that cuts their own nose off to spite their face. It tends to be that the person who has consumed too much is put outside the premises, and the problem is taken there.

We see more and more that responsible licensees arrange for their customers to be taken home and looked after. We even had a lady in Omagh who ran a nightclub who sent for the parents of children who were trying to get in who, she believed, were under age, and she held them at the door until the parents came down and handed them over. That is a perfect example of how to operate responsibly and not encourage excessive consumption. That is the key. It is hard for the bar staff to manage. You should not have large numbers of these promotions that encourage excessive consumption.

Mr Agnew: I wonder how much effort is put into trying to find the evidence that these drinks promotions are or are not harmful.

Mr D McCausland: We have a number of stages. We write to licensees and ask for evidence to be produced on how they manage the promotion. We examine the evidence, and, if we are not happy with what we see, we call the licensee — I use the word "call" very loosely — to come before the panel. Every licensee has attended and come before the panel. I will not use the word from my former employment — "interrogate" — but they are asked, in the nicest possible way, to explain how these promotions operate. It is not a nice process, but it is done in a very sensible and pragmatic way. The people on the panel are from the health industry, the licensing trade, youth groups or universities. They understand how these things operate and, therefore, ask the questions in a candid fashion. The biggest thing that I have noticed is that not one licensee wants to be found irresponsible. Even the supermarkets do not want to be found irresponsible.

The Chairperson (Mr Eastwood): They are going about it in a funny way.

Mr D McCausland: One supermarket — I cannot name it, for obvious reasons — went out of its way to ensure that it was not found irresponsible by demonstrating in evidence what it was doing. As the legislation stands, the supermarket was not irresponsible, but, when a person leaves a supermarket with a quantity of alcohol, its responsibility ends. In many ways, that is the problem about the cost. It was actually about the cost of champagne.

The Chairperson (Mr Eastwood): Of course.

Mr Agnew: Finally, if you have found someone irresponsible, what is next? What sanctions are there?

Mr D McCausland: We write to the council and the PSNI, and we publish it in the press. Any finding of irresponsibility has attracted considerable press interest: one licensed premises — a nightclub — closed as a result. What we want to get from the legislation, not just for this code but for any code, is to be able to apply to the Department to be given that statutory recognition so that the licensing authorities must take it on board. As I said, a finding of irresponsibility, in effect, would work dramatically against any person applying for a licence because it is in the law that you must be a responsible person. If the code states that you are irresponsible and you are publicly found to be irresponsible, it can affect your livelihood.

Mr Agnew: Sorry, Chair, I said that that was my final question, but one thing has sprung to mind. We previously addressed with the PSNI the issue of people essentially abusing their entertainment licence and selling alcohol after hours. Have you had complaints about that?

Mr D McCausland: No. At the end of the day, it is not a promotion as such. We encourage them — even the PSNI because I wrote to all the commanders recently — to refer licensed premises to us to look at. We can look at it from the industry point of view and examine and support them from that side. You said, Chair, and members have been saying that a lot of the regulatory bodies have to join together and get a bigger bang for their buck in what they are trying to do and make sure that we are not all pulling in different directions. That is critical and is why we hope to get statutory recognition for the code.

Ms Ní Chuilín: Thanks very much; it was a good presentation. The thing that interests me is that the code needs to be on a statutory footing, which would make the issue quite clear. It is like a lot of voluntary approaches that have been in legislation in the past that, if people are responsible, they will adhere to it, and, if they are not, they will use it as a reason not to do it. I find it strange that the joint industry code for responsible promotion is funded by a lot of the drinks or hospitality-based companies, which in itself shows that there is a fair degree of responsibility. Are you involved with any other partners in having an input into the code on the basis that, if it does go statutory, and if you are pushing for it to go statutory, it might be a good idea to try to engage, if you have not already done so, with some of the health and social care providers? The two guys who were in previously — you were listening to them — have all that experience of dealing with the outcomes, which makes something much more rounded when it goes through the process of becoming statutory. I assume that you are doing that.

Mr D McCausland: We regularly go to the alcohol committee in the Assembly and brief it. We are more than keen to link into any projects or anything that goes on. Our panel is completely independent and has a former senior Health civil servant on it.

Ms Ní Chuilín: I saw that.

Mr D McCausland: We also have members from the youth groups, the two universities and two former members of the industry. I am from the legal side, and the code is also advised by a solicitor.

Ms Ní Chuilín: I saw that.

Mr D McCausland: We also have a number of advisers. Although the finance of the code is supported by the suppliers — by the way, we are not here asking for public money to set this up or to create another public quango — the reality is that this is being run by the industry. My panel and I have complete and utter independence. If we did not think that we would have that, the panel and I would immediately leave and make that public knowledge. That is why the code has been so successful and why the industry has recognised that.

You are right: those who are responsible comply with it. A very small number of people are irresponsible and do not comply. By giving it statutory recognition, it will start to tighten it up, but it will also do what you spoke about in your previous sessions. They have to do the training, and there is a means for you to check whether they are doing the training because they keep training manuals, and, when the inspections come up, the training manuals should be produced. If you are having your licence renewed or varied, you should have your training manual fully up to date. I suggest that, under health and safety legislation, you have to do that anyway, so making it a part of this legislation strengthens our position and strengthens the whole industry.

The Chairperson (Mr Eastwood): Very good. Thank you very much. That was very useful.