



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Licensing and Registration of Clubs
(Amendment) Bill:
Northern Ireland Retail Consortium

10 November 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)
Ms Nichola Mallon
Mr Fra McCann
Mr Adrian McQuillan
Ms Carál Ní Chuilín

Witnesses:

Mr Joe McDonald	Asda
Mr Aodhán Connolly	Northern Ireland Retail Consortium

The Chairperson (Mr Eastwood): Aodhán Connolly is here from the Retail Consortium, and so is Joe McDonald, senior manager, corporate affairs NI, Asda. The Clerk's paper is at page 3 of the tabled items, and the written evidence starts at page 5. I advise members that the Retail Consortium's written briefing is followed in tabled papers by Asda's own written briefing. However, Asda is attending as a member of the consortium. Did I get that right?

Mr Joe McDonald (Asda): Yes.

The Chairperson (Mr Eastwood): Over to you guys.

Mr Aodhán Connolly (Northern Ireland Retail Consortium): Good morning. This is the first time I have been in front of the Committee since May, so thank you very much for having us along. I will be as quick as possible with the opening remarks, although there is a lot of stuff to get through. Yes, we are here to give evidence, but we are also here to address your concerns. If I do not have the answers in front of me, I can promise that, as usual, I will come back to the Committee with all due haste.

Our members have a positive story to tell about licensing; it is an important issue for them. As responsible retailers of alcohol, we share the concerns of the Minister, the Department and the Committee. We have worked hard to provide meaningful, tangible solutions and ensure correct safeguards are in place to prevent underage drinking, as well as working with communities, police and government at all levels to ensure best practice and a joined-up approach to this problem.

We have been innovators and not followers in this area. However, we do want to prevent unnecessary burdens on responsible consumers and make sure that the retail sector is not unfairly disadvantaged by any regulation. We were the first industry to introduce the Challenge 25 approach

to sales, where those under 25 must produce ID before they are sold alcohol. This goes further than Are You 18 or Think 21. This is Challenge 25, and this pops up on every till before a purchase is made. This has successfully driven down underage sales, and we have consistently outperformed other sectors such as pubs and clubs.

We have also been at the heart of initiatives to promote responsible drinking. We adopted the Government's health label plan before other drinks companies, and it is now on all own brand products sold by major retailers. We are major contributors to Drinkaware, the independent trust coordinating campaigns aimed at parents and younger drinkers. We believe partnerships involving key stakeholders are the best way to tackle existing issues and to educate the next generation. Our members are also members of the Retail of Alcohol Standards Group, and we invest heavily in training our colleagues to those standards. We ensure that the alcohol we sell is marketed responsibly, adhering to the Portman Group practice codes and the Advertising Standards Agency codes.

We have always supported targeting and applying sanctions to irresponsible retailers, but we also support proportionate evidence-based regulation. Putting targeted measures that place major burdens on retailers, regardless of their approach to alcohol, will ultimately affect consumers by reducing choice and value. We need a licensing system that allows boards to address the adverse consequences of alcohol misuse and irresponsible sales, but we must allow decent and responsible operators to run their business free of excessive and unnecessary burdens.

Turning to what is in the proposals, we are not aware of any evidence to show that the purchase of alcohol by underage people through home delivery or wine clubs is an issue or that legislation is needed to tackle it. Indeed, evidence shows that the vast majority of alcohol acquired by underage drinkers is not through retailers or home delivery systems but straight from parents or through proxy purchase sales.

According to the Northern Ireland 'Young Persons' Behaviour and Attitude Survey Bulletin', only 7% of students drink alcohol on a regular basis. Students most commonly receive this alcohol from parents by taking it from the home or through proxy purchases. According to the same survey, 82% of pupils who have drunk alcohol have never purchased it themselves. We support greater efforts by the police to crack down on proxy purchasing. It is very difficult for retailers to address this on their own, as it is often impossible for a retailer to know whether an adult is purchasing alcohol for their own consumption or for an underage drinker. All retailers' delivery drivers are trained to apply Challenge 25 on the doorstep. This amendment would require a costly reworking of systems and retraining of delivery staff, without any evidence that it will actually help to tackle underage drinking.

Again, we do not believe that there is clear evidence in support of the proposed restrictions on off-sales promotions. The licensing regime in Northern Ireland is already restrictive, and the sale and promotion of alcohol is highly regulated. We believe that limiting promotional material to the alcohol areas is an unnecessary and ineffective regulation. In Scotland, the same measures have failed to make any impact on reducing alcohol-related harm. They have, however, created the anomalous position whereby it is legal for one retailer to advertise alcohol within another retailer's boundaries and vice versa but illegal for each retailer to advertise alcohol outside their own stores. The Bill proposes no such restrictions for alcohol producers or for pubs, many of which include visible external advertising of alcohol. We can see no reason why this would be allowed to continue outside a pub car park but not a retailer car park.

It is also important that we learn the lessons from the development of policy in Scotland. Further clarity on what constitutes promotion will be key, and a large proportion of the issues faced in Scotland have been because of the lack of clarity as to the definition of the phrase, leading to the lack of consistency in approaches from local licensing standards officers. There is also a need for clarity on whether generic, unbranded signage that states that premises sell alcohol could be counted as promoting the sale of alcohol. Some of our members operate convenience-model stores, some of which have alcohol licences. Convenience-model stores that hold licences need to be able to communicate to consumers where the purchase of alcohol is possible in-store.

On the code of practice, our members have serious concerns with the proposal to permit formal approval of codes of practice on responsible retailing. The operation of codes of this type is not subject to Executive scrutiny in the same way that licensing legislation is, and it is appropriate that licensing restrictions be fully considered by the Assembly to ensure that their impact is not disproportionate or unnecessary. If administered incorrectly, a code of practice on retailing would cause significant damage to Northern Ireland's retail sector. We believe that, through the already high standards put in place by our members, we actually surpass the measures laid down in the current

voluntary code. Our members have, throughout each of the devolved Assemblies and Westminster, been firmly against paying for self-regulation. When the chair of the code was here a couple of weeks ago to give evidence, he said that there had been 50 complaints. Only one of those was against one of our members, and it was not upheld. It was an unfounded complaint. We are opposed to any attempts to apply a code of practice governed by the hospitality industry to the retail sector. An effective code of practice requires an in-depth understanding of the sector that it seeks to govern. To avoid any conflicts of interest or perceptions of such, we urge the Government to ensure that the introduction of any code of practice is taken forward on a sectoral basis. We believe that any code panel must be wholly independent, including the secretariat. It would not make sense, for example, that the agri-food processors provide a secretariat to the Groceries Code Adjudicator. Our members are commercial companies, and it must be shown that their interests will be impartially protected.

On the last area, you will be glad to hear that we have no objections to the proposal to remove the exemption for Angostura bitters. In conclusion, we are more than willing to work with the Department, the Minister, the Committee and all levels of government to encourage healthy eating and responsible consumption of alcohol, as is shown by our track record in this area. However, these proposals put an unwelcome burden on both consumers and responsible retailers for little, if any, benefit.

Mr McDonald: I will not add much to that. Aodhán has covered all the main points. All I would say, from an Asda point of view, is that we are very pleased to be here in the Communities Committee. Community engagement is a really big thing for Asda, and being a responsible retailer of alcohol is a really big piece of our business. We have a really good track record of reducing the volume of our alcohol, taking high-volume alcohol off our shelves and giving more space for the lower-volume and alcohol-free stuff. That is actually in line with customer demand. We participate on a voluntary basis in all the codes that you have heard about this morning, and that is working very well.

What is really working for us is when we get into these things that we talked about this morning. Across the water, we are involved in a lot of these community alcohol partnerships, and that is really getting close to the matter. We are working here with Drink Wise Age Well in the Western Trust to look at the issue of alcohol among the over-50s, and that is getting right down into the nub of the issue. We are working with Active Communities Network, which brings in groups like the Falls community group to talk to young people about alcohol. That voluntary approach and partnership approach in the community, as opposed to further legislation, is really working for us. We want to grow our business here in Northern Ireland, but we do not want additional red tape and cost unless there is really good evidence that some of the new ideas will work. These sort of ideas have not really worked for us in other places.

The Chairperson (Mr Eastwood): Thanks very much to both of you. I say every week that there are certain things that we can do as part of this Bill and certain things that we cannot do. I agree with you in terms of how you make sure that underage people do not get served and all of that. You do very good work there, and it is well recognised.

Mr McDonald: Thank you.

The Chairperson (Mr Eastwood): It is difficult, though, when we are talking about the issues around alcohol consumption, when we see the prices of alcohol in some of your members' shops. I do not know how we will ever — we can tinker around the edges of this Bill, but I believe there is no way to really tackle the scourge of alcohol if we are selling alcohol at some of the prices that it is being sold at. That is not happening in any pubs; it is happening in supermarkets, and it is a big issue for us.

That is outside the scope of this Bill, but we have said it every other week, and other witnesses from right across the sector have said it to us, so I am saying it to you today: it is my personal opinion that there should be a minimum alcohol pricing regime. That is outside our scope and control right now, but I think the members of this Committee will want to see that happening at some stage in the future.

I agree with you on the Challenge 25 stuff. I think it is fantastic. If we did bring in a mandatory element around people having to show ID when drink is being delivered to a house, if you are already doing it, how does that make life difficult for you?

Mr McDonald: At Asda, we do Challenge 25 on every home delivery, whether there is alcohol in the order or not. It is just the safest way to keep our colleagues right. We train the colleague to do Challenge 25 on the doorstep. They do that, and then we test-purchase that, so we test in the secret shopper model whether they are doing it or not. The bit we do not do is record the ID that is shown.

The Bill is suggesting that we would have to do that, which would introduce another process. When you are working for a large retailer, that can lead to quite a bit of additional cost because we would have to record that somehow or other. We use an electronic system in our business, and you would have to build all that in. It would not be that big a deal, but you just question whether it is really necessary to do that when we are doing a job right and test-purchasing it.

What we do in Asda, for example, is that if at a checkout a colleague fails a test purchase, we take them off the checkout, and they do not get back onto the checkout until they have been completely retrained, because it is a really big deal for us. There is a legal obligation on the individual member of staff, as well, not to sell alcohol to an underage person. We feel like we are doing a really good job and we do not need the extra layer, even though it is not that big a deal, unless it was really going to help the issue that you are trying to address and we are all trying to address, which is alcohol misuse. It does not feel like it is really going to take us anywhere extra.

Mr Connolly: I completely agree with what Joe said. It is the administrative burden, when we are already doing the job. In previous evidence that you have heard, I think it was two weeks ago, it was pointed out that it was not the supermarkets and delivery that was the problem here, and that the legislation was really trying to look at other delivery services and taxi drivers. Fra quite rightly said earlier it is a few rogues, rather than the great taxi companies that we have out there. Our problem with it is straightforward: it is the administrative burden and the changing of those systems. We already have very tight systems. We are actually leading other industries in what we are doing, and that is why we brought Challenge 25 in.

The Chairperson (Mr Eastwood): I get that. It is just the difficulty that we face when we are writing legislation is we have to consider the rogue elements and everybody else as well. If that is where the problem is, sometimes you might get caught up in it, unfortunately.

Mr Connolly: If we are talking about rogue elements, what they are doing is illegal, so it has less to do with any sort of administration. If they are rogue and illegal, they will not be filling out the admin anyway. So it is about catching those people who are breaking the law, rather than putting an administrative burden on those who uphold it and actually push it forward.

Mr McQuillan: That is the sort of point that I was going to make, too. I want to recognise what Asda does for the community. We hear time and time again from community groups that go to it that Asda is sponsoring this and that.

Mr McDonald: Thank you.

Mr McQuillan: You started off, Aodhán, by saying that there was no clear evidence that there was a problem with delivery. I know what you have said there about what you do about delivery, but how do we get at the rogue element if we do not enforce legislation of some sort?

Mr Connolly: Adrian, I think you are the only member of the Committee that I have not formally met, so it is nice to meet you.

I do not think that this is the way to do it. The people who are delivering to under-18s — those who are the problem and the areas that have been named in evidence previously given to the Committee — are not going to be worried about an administrative burden. At the end of the day, they are breaking the law. We are more than happy, as our track record shows, to work with the justice community and government at all levels to move this forward. If we are not only holding ourselves to the legal requirements, but holding ourselves above them by looking at Challenge 25 rather than checking whether someone is 18, the administrative burden that these changes bring really do not have a benefit, because, at the end of the day, you are not going to change that adherence by the illegal deliverers of alcohol. However, if there is something we can do, we will be very glad to discuss it and bring it forward. One of the reasons why we are happy to come today is that we have quite a good story to tell. If we can build on that story by helping in other ways, we will, absolutely, but there has to be a determinate benefit to the community. This is just an admin burden without any proven effect.

Ms Ní Chuilín: Your presentation was very similar to that made by the Wine and Spirit Trade Association. That is a good thing, in terms of consistency. When we talk about the difficulties that have been presented to us, it is not a particular criticism of Asda, because Asda is represented here.

However, there is a big concern, and it is probably outside everyone's scope, that when you go into the supermarket, at times alcohol is cheaper to buy than essential items. That has been raised with us.

Mr Connolly: We have always treated alcohol as a different commodity. One of the easiest ways to see it is that, over the past 30 years, the cost of your basket of groceries has gone down significantly because there has been deflation in prices. The only area of produce that we sell where there has not been a significant drop in price is alcohol. We are responsible retailers of alcohol. You rightly said that it is outside the scope of the Committee, but I am more than happy to talk about the minimum unit price.

Ms Ní Chuilín: Can I finish my question, Aodhán, if you do not mind?

Mr Connolly: I apologise.

Ms Ní Chuilín: Thank you. Minimum unit pricing is in the remit of Health, not in our remit. This is an example of where one Committee will complement the work of others. I am just making the point that a lot of the concern about attitudes and custom and practice around the consumption of alcohol has been raised with us in terms of preloading. To be fair, that normally happens with off-licences, but there are drinks promotions and, at times, it is cheaper to buy cider than a loaf and milk. That is a concern; but it is a societal issue.

In terms of the community aspect, I am really keen, because I know you were present for Miles Beale's presentation, to hear how we can collectively create better awareness for people who are doing the right thing and are genuinely involved in partnerships around the misuse of alcohol or its negative impact on the community, in terms of antisocial behaviour or its effect on mental health. I am keen to hear that.

We are on the record as saying that, if a youngster successfully buys alcohol from you, they will be seen with your branded bags. That is very open, and I welcome it. It is not the same for off-licences, whose bags are normally blue, pink or whatever; we all acknowledge that. For us, that is a weakness when it comes to the practices of some off-licences. I put in the caveat that most of the off-licences I have worked with in the past were quite happy to put their brand on the bags — the community off-sales initiative (COSI). They were quite happy to do that.

It is really about how can we ensure that, within the scope of the Bill, we get the right laws and the right regulations, and that they are clearly understood. What else can we do as a community to create a better awareness of the potential negative impacts of alcohol? How can we get those partnerships extended? You mentioned the Falls Community Council's drugs and alcohol awareness programme, which is great, but there are others who will be really interested in capitalising on those opportunities.

Mr McDonald: I think that is why this is good. What we tend to find is that, although the whole issue of alcohol gets debated a lot, supermarkets are very rarely in the room. When it is debated in the media and in forums like this, supermarkets are often set to the side and are actually depicted as the problem, but it would be much better if we could get more two-way opportunities to explain all the things that we are doing: reducing the volume, and taking off and delisting a lot of the different products that you mentioned.

Price will always be the trickiest bit. Take Asda: our whole basis for operating is the communities that we work in, where there are thousands of low-income families, so everything in our business is geared towards what we call "everyday low prices"; that is your loaf of bread and your pint of milk. When it comes to alcohol, we do not sell things at really low prices, but we do try to sell things at a price that those families can afford if they are going to use alcohol responsibly. Then you drift over into the problem that some people overuse alcohol, so how do we address that point? We do not really have community alcohol partnerships in Northern Ireland, but they are working quite well across the water. That is what happens when you get everyone properly around the one table. Asda has funded some of those things. We have given £1 million to Drinkaware to get those programmes up and running, but none of that money is on the ground in Northern Ireland, making a difference, because that sort of process is not working.

Our thoughts on it are that we are a completely open business, completely happy to work with you, the PSNI, the local community groups and the Active Communities Network — all the people who are on the ground. We are completely willing to do all that. Loading a bit more red tape onto our business

will not, in our opinion, really solve any of those problems. We have taken a bit of heart from the fact that fewer young people are drinking alcohol. There is a communication message starting to get through. The Wine and Spirit Trade Association mentioned this morning that consumption is down. Our alcohol sales are down, so you can take some heart from that, in a roundabout way. For us, that is a much better approach.

Mr F McCann: Carál has covered most of it. Your sales are probably down because somebody else probably has a better offer. I know that Asda has been involved in a number of localised schemes, and Adrian raised that. The Committee is scrutinising the Bill to try to get it right. I know you stated that, statistically, there has been a drop in the number of young people who drink, but, when you walk throughout West Belfast, it does not seem like that. If you go to the Bog Meadows, Falls Park or Poleglass on a Friday night, you will see 200 or 300 young people there. Parents have a responsibility to deal with this, but we are tasked with trying to come up with legislation that allows us to tackle it.

Joe, you and Aodhán have been at pains to point out the work that Asda does with the community, but there is quite a number of other large retail outlets. I know that there is severe competition between you, but, on things like this, do you sit down with each other, look at the difficulties that communities face with alcohol abuse, and work out how it can be dealt with? A lot of the stuff that we have argued about in the past has been in and around self-regulation. It gets to a stage where we have to sit up and look at the difficulty. Unfortunately, or fortunately, Asda and the other big outlets fall into it because of the amount of alcohol sold there.

Mr McDonald: As you heard this morning, we are part of the industry's voluntary Portman Group codes. Interestingly, WSTA mentioned bringing forward a Northern Ireland version of the Retail of Alcohol Standards Group. In all those forums, the retailers and the wine and spirits industry all work together and say, "What is the most responsible way to retail this product?" We cannot talk about price. Competition law excludes that, which is fair enough. However, we can talk about the best ways and practices to get it right. If someone comes up with a good idea, we can share that and so on. Mind you, there are probably not enough Northern Ireland forums; it is all on a national basis that Asda, Sainsbury's and Tesco discuss best practice. There is probably not a Northern Ireland-specific forum. In our business, we have a full-time colleague whose responsibility it is to get our corporate social responsibility right when it comes to alcohol sales. It is the only part of the business where someone's full-time job is to make sure that we do this the right way. That is the amount of industry effort that goes into it. The reputational damage to a company like Asda would be enormous if it got this wrong.

Mr F McCann: Before you came in, I spoke about the need for communication on this. These partnerships exist outside the North. I am not saying that you can do it, but unless people are talking to one another about these partnerships and forums, they will never be set up here.

Mr Connolly: One of my big takeaways from today after listening to Miles's evidence, to what you have said, and to what Carál said after I rudely interrupted her, which I apologise for —

Ms Ní Chuilín: Sorry, Aodhán.

Mr Connolly: It is quite all right. There is a job of work to be done and a body of education to be done. One of the action points that I will take from this is to have a word with the Committee of Advertising Practice (CAP) and our wider membership to see what role we can play. A body of education needs to be undertaken. We believe that a partnership approach is the only way to tackle these issues. We need to look not only at the Assembly and the Department but at local government and local responses for the local focus that you mentioned. I am happy to give a commitment to the Committee that I will follow this up as soon as I get out.

Ms Gildernew: Aodhán and Joe, you are very welcome. Aodhán, I apologise for missing your presentation. I had a call from the school; my wee lad is sick and they wanted somebody to pick him up. I was trying to sort that out, and that is why I missed it. I was very rude, but it could not be helped. It is great to see you both here. I know Joe from another life.

A lot of the questions have been asked, but I will just make this point. We are keen that we are involved in legislation that promotes responsibility. We are all very exercised about underage drinking. We recognise that the Bill is about the licensing and registration of clubs. During our deliberations, we have learned an awful lot about drinking patterns and that only about 20% of the drink consumed here is consumed in pubs. We recognise the value to our night-time economy and tourism product of a

healthy pub and nightclub scene. A lot of alcohol consumed here is bought in supermarkets, and I welcome the fact that you are here. However, we want to see a culture shift, if you like, around responsible drinking and ensuring that children are not getting access to it and that we all behave responsibly.

One thing that I disagree with Carál on is that milk is 90p for 2 litres, Joe. It is probably the only thing cheaper than alcohol in the supermarkets. Now that you are poacher turned gamekeeper, can you do anything about that? *[Laughter.]* We have to recognise that a lot of it is sold in supermarkets. I buy a right bit in supermarkets myself, truth be told, but the fact is that people are consuming more alcohol bought in supermarkets — about 80% of alcohol is bought from supermarkets and 20% in pubs. We have to look at all the things that make access to alcohol more difficult so that people can take responsibility for their drinking. We cannot fix everything, and I know that you are concerned about some of the proposals in the legislation, but we have a job to do here, and that is what we are all about.

Mr McDonald: There are two separate things. First, there is what is happening in the marketplace. We are a business that is trying to grow; we are trying to run a successful business. It is the same in any category: we are trying to grow our markets here; that is our objective. Alongside that, when it comes to alcohol, we are keen to work with the Programme for Government and the Assembly to make sure that alcohol is consumed responsibly. For us, is it better to work with Drink Wise Age Well in our stores in Enniskillen, Strabane and Omagh in the Western Trust, or would it be better to ban the advertising of alcohol 200 metres around the shop? It is far better to work with Drink Wise Age Well, and that is where we want to put our energy. If we end up with additional costs, we will have to put that energy and resource into administration. Another way of doing it is to partner with people, work on the ground and do a good job. I do not think there is any comparison.

Mr Connolly: In the last mandate, when we talked about better regulation across government in Northern Ireland, one of the things was that it had to be evidence-based. In a lot of these things, there is no evidence to show that they will actually make any difference, other than adding an administrative burden. I have to side with Joe in that there are better ways for us not only to continue to have the highest standards of any industry, as far as the sale of alcohol is concerned, but also to make sure that those are community-based.

The Chairperson (Mr Eastwood): What would be the cost of not advertising around your store? How would that add cost? Surely, that would reduce cost.

Mr Connolly: With regard to the administration, I am talking about the deliveries. In that particular one, that is the administrative burden.

The Chairperson (Mr Eastwood): Joe, you said that you have to spend a certain amount of money in the community, and that is great; that is very welcome. Then you talked about if you had to ban advertising; I do not know how that costs anything. Surely, it would be cheaper.

Mr McDonald: It does not; I will pull back. I was referring to the wider approach of the Bill. There would be cost to recording the home shopping, which we talked about earlier. There would be a cost if we went to a code that needed all those things, the WSTA that I talked about earlier, independent panels, procedures and a secretariat, and all the rest of it. We have a compliance team in our business; there is always a cost there because we have to comply with our licensing rule. Every time you put an extra piece of legislation in, there is a cost just to getting it right. Asda takes a very precautionary approach with its licensing. Every time we go to change something in a shop, we go to court and ask permission; we never do something and think that it will be OK. Any additional legislation that you bring in, there will be at least an indirect cost.

The Chairperson (Mr Eastwood): You understand what I am getting at.

Mr McDonald: I understand fully.

The Chairperson (Mr Eastwood): We are not interested in regulation for regulation's sake, definitely not. We should not add red tape where it does not do anything. We have to find a balance between the red tape that does not do anything and the red tape that is important regulation. You have the responsibility because you are charged with the opportunity of selling alcohol, and we have to find a way of making sure that it is done in the best way possible.

Thank you very much for coming in. We will consider your offer to keep the dialogue going, one way or other.