



Northern Ireland
Assembly

Committee for Health, Social Services and
Public Safety

OFFICIAL REPORT (Hansard)

Tobacco Retailers Bill: Briefing from the
Tobacco Manufacturers' Association

5 June 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Sue Ramsey (Chairperson)
Mr Jim Wells (Deputy Chairperson)
Mr Roy Beggs
Mr Mickey Brady
Ms Pam Brown
Mr Samuel Gardiner
Mr Kieran McCarthy
Mr Conall McDevitt

Witnesses:

Ms Jaine Chisholm Caunt Tobacco Manufacturers' Association

The Chairperson: Do members have any need to declare an interest in this?

Mr Beggs: My dad is a Larne councillor.

The Chairperson: Pam, as a councillor, do you need to declare an interest in this session?

Ms Brown: Yes, I am a member of Antrim Borough Council. Thank you, Chair.

The Chairperson: I refer members to the correspondence from Cancer Research UK expressing concerns that the Tobacco Manufacturers' Association (TMA) was called to give evidence to the Committee on this Bill. For your information, the association submitted a response to the call for evidence on the Bill, and based on this submission, we invited them to present oral evidence to the Committee. In terms of the World Health Organization guidelines, which Cancer Research referred to, the Committee is interacting with the tobacco industry for the sole purpose of regulating the sale of tobacco products, which is the purpose of this Bill. Are members content to write back to Cancer Research informing it of this?

Members indicated assent.

The Chairperson: I refer members to the Tobacco Manufacturers' Association submission, and members have their yellow Bill folders in front of them. I welcome Jaine Chisholm Caunt, who is secretary general of the Tobacco Manufacturers' Association. I will hand straight over to you for your presentation, and then we will open it to members' questions. I know that you have travelled in this morning, so thank you very much for coming and for giving information to the Committee.

Ms Jaine Chisholm Caunt (Tobacco Manufacturers' Association): Thank you very much for inviting me. I am the secretary general of the Tobacco Manufacturers' Association. We appreciate the opportunity to come here today to comment on the Tobacco Retailers Bill. TMA is the trade association for tobacco companies that operate in the UK; its three member companies are British American Tobacco; Gallaher, which is a member of the Japan Tobacco International (JTI) group; and Imperial Tobacco.

TMA believes that smoking is a matter of informed adult choice. Children should not smoke and should be discouraged from doing so. Under current legislation, it is illegal in Northern Ireland and the rest of the UK to sell tobacco products to those under 18. TMA believes that children should have no access to tobacco products and that practical, access-based interventions are an appropriate way to reduce youth smoking. Children who gain access to tobacco often do so in one of three ways: via friends and family, often referred to as proxy purchasing; via an unscrupulous criminal who sells illicit tobacco; or via a retailer who breaks the law.

A registration scheme for tobacco retailers would apply only to one of those three channels. Although we do not oppose a tobacco register for retailers, we echo the concerns raised by other witnesses regarding the potential administrative burdens on retailers, and particularly the potential for introducing costs. Those are also our concerns. TMA suggests that the Committee also fully considers the following options to tackle underage smoking.

First, introduce proxy purchase legislation. TMA would support the introduction of an offence for adults to knowingly buy or attempt to buy a tobacco product or cigarette papers on behalf of a person under 18. It is illegal to proxy purchase alcohol in the UK on behalf of a person under 18, but not — except in Scotland — to proxy purchase tobacco. TMA was encouraged by the inclusion of this provision to prevent the proxy purchasing of tobacco products in the Tobacco and Primary Medical Services (Scotland) Act 2010, which was passed by the Scottish Parliament on 27 January of that year. We suggest that the Northern Ireland Assembly also considers including that provision in its Bill.

We also suggest that there should be further measures to tackle the illicit trade in tobacco in Northern Ireland. The empty pack survey, which is carried out jointly by all tobacco manufacturers in the UK, shows that 18% of cigarettes and 43% of hand-rolling tobacco in Northern Ireland was either illicit or cross-border shopped in 2012, creating an estimated £80 million loss in retail sales in Northern Ireland, which is equivalent to £27,000 in lost turnover for each one of the 1,300 small shops operating in the country.

As well as depriving the Northern Ireland economy of revenue, illicit traders do not care who they sell to and frequently target children. A report carried out by the anti-smoking organisation FRESH in the north-east of England found that 14- and 15-year-olds were twice as likely to buy illicit tobacco as adults. We would also like to see further promotion of the Real Deal campaign for fake-free markets, to stop street markets and car boot sales selling illicit products, including tobacco.

We would also like to see increased participation in proof-of-age schemes. Retailers face difficulties in assessing age without the use of ID cards. In that regard, TMA is a principal supporter of CitizenCard, which is the UK's leading accredited proof-of-age standards scheme, with over two million cards issued since its launch. TMA also initiated the No ID, No Sale (NINS) campaign, which is operated by CitizenCard and promotes age verification at point of sale.

The NINS campaign has engaged more than 100,000 retailers nationwide and assisted in creating a culture in which young people routinely expect to be asked to prove their age, and in which retailers accept only the correct ID. We encourage the Northern Ireland Assembly to promote participation and uptake of those schemes.

The Chairperson: Thank you, Jaine. Over the weeks, a number of organisations, including the Department, have briefed us on the proposed legislation, and, unfortunately, JTI could not be here today. You said that, in general, from the Tobacco Manufacturers' Association point of view, you are not opposed to the register. You said that there is a concern about the possibility of the introduction of a cost to that. JTI suggested removing clause 10, which is the issue of registration. Do you support its position in removing clause 10?

Ms Chisholm Caunt: I represent the industry as a whole. If you have a specific question on JTI's submission, it will have to be directed to it. I have spoken to JTI in advance of appearing here today, and it is very happy to provide any further clarification in writing.

The Chairperson: OK. That is fair enough. It is JTI's suggestion, so it is right that it should answer it. You said that you are not opposed to the register. Do you think if that clause were removed, it would undermine the whole ethos of the Bill or the whole issue of registration if there was no comeback for failing to register?

Ms Chisholm Caunt: TMA has actually just provided comment overall on the Bill rather than on individual clauses, so I am not able to provide any further detail on specific clauses, just on the principle.

The Chairperson: On the principle of the overall part of the Bill, you are not opposed to the register.

Ms Chisholm Caunt: We stated that we are not opposed to the register in principle, but we are concerned about potential for administrative burdens on retailers, particularly small retailers, and the potential to introduce costs at a later date. I would be pleased to hear how those could be ameliorated.

The Chairperson: It is not, per se, an issue about the register; it is the issue that there is a possibility that there could be costs attached to it.

Ms Chisholm Caunt: Sorry. Can you repeat the question, please?

The Chairperson: You are not necessarily opposed to a register.

Ms Chisholm Caunt: No.

The Chairperson: But the issue is that there could be a possible cost. So, it is not the register that you are opposed to.

Ms Chisholm Caunt: It is not the register, per se.

Mr Wells: As you know, smoking kills 2,300 people every year in Northern Ireland. Some of them, including friends of mine, have recently died particularly horrible deaths as a result of lung cancer. Therefore, my view and that of others on the Committee is that this legislation should make it as difficult as possible for under-18s to access tobacco, because we know that the stats show that your product is taken up by people mostly in their teens. The vast majority of people who start smoking do so when they are young, so it is important to stop them from having access to the product.

The Chief Environmental Health Officers Group and the Northern Ireland Local Government Association (NILGA) told the Committee that they visit between only 15% and 20% of premises in any given year for test purchases. So, in reality, most retailers will receive only one visit in a five-year period. The legislation states that a premises or person will be convicted if they commit three offences in three years. Obviously if you are only visiting a property once every five years, that makes it almost impossible to obtain a conviction. It was suggested that that should be changed to three offences committed in a five-year period, which would then be the threshold for restricting premises or a sales order. What would be the view of your group on that proposal?

Ms Chisholm Caunt: We are totally in support of measures to stop under-18s from accessing tobacco. We would like to see stricter enforcement of the law and greater penalties. We would certainly welcome the opportunity to make sure that the law is enforced. It would be helpful if the number of visits could be increased. It is also important to make sure that retailers are aware of the law and know that they need to enforce it.

Mr Wells: So, basically, you would support it being three offences over a five-year period to make it more likely that councils would get prosecutions?

Ms Chisholm Caunt: Well, we certainly do not support retailers breaking the law, so we would be in favour of measures to make sure that retailers abide by the law.

Mr Wells: There was a proposal that if a retailer was caught selling cigarettes to under-18s, a notice would be put up in the store to say that they had been prevented from selling tobacco products and to

give the reason why, so that their customers would know that they had been convicted of what many perceive to be a serious offence. What would your view be on that?

Ms Chisholm Caunt: That is a measure that my member companies would be interested in talking to politicians about further. We are certainly not opposed to registration and measures to enforce the law on ensuring that young people do not have access to tobacco.

Mr Gardiner: The Chief Environmental Health Officers Group and NILGA told the Committee that they were in favour of an amendment to the legislation to change the maximum period for a restricted premises order or sales order from one year to three. What are your views on that proposal?

Ms Chisholm Caunt: Further to my previous answers, in responding to the actual Bill, we have commented overall on the principle of tobacco registration, but also on looking at some other solutions that we feel would be beneficial to the aim of reducing the access of young people to tobacco products. I believe that my member companies would be happy to talk with policymakers further about how the law could be enforced.

Mr Gardiner: Have you made any representations to those companies?

Ms Chisholm Caunt: Have I made any representations to those companies? My member companies have submitted evidence to this Committee.

Mr Beggs: You indicated that there are three strands that could perhaps be used to drive down the sale of tobacco to the under-18s. This particular legislation that we are looking at deals with the retailers. You mentioned proxy purchase tobacco being illegal in Scotland.

Ms Chisholm Caunt: Yes.

Mr Beggs: Have there been any successful prosecutions for that? Has it had time to show a benefit?

Ms Chisholm Caunt: That has only been on the statute books for, I believe, about a year. I believe that, so far, there have not been many prosecutions under that legislation. However, I think it needs some time to bed in.

Mr Beggs: The third element is illegal tobacco. Have you or your organisations any suggestions as to how this legislation might be able to be adapted to proactively assist in challenging those using illegal tobacco?

Ms Chisholm Caunt: One suggestion we would make is that in a retailer potentially committing an offence — the three offences that were referred to — those offences should include the sale of illicit tobacco as well as the sale of tobacco to under-18s. That would be one of the things that we would support. To address the scale and problem of the illicit tobacco trade in Northern Ireland, there needs to be greater partnership working between the various enforcement bodies, including the industry, sharing intelligence and data.

Mr Beggs: You have quoted figures of 18% and £80 million in Northern Ireland. Are those the estimates for Northern Ireland, or just a pro rata figure?

Ms Chisholm Caunt: Those are the estimates for Northern Ireland.

Ms Brown: Thank you for your presentation. It has been suggested that the register should be based at each of the local councils in Northern Ireland. Has your association any objection to it being centralised in one place in Northern Ireland, as opposed to held by the councils?

Ms Chisholm Caunt: We do not have a view on that at the moment. The position in Scotland is that there is a central register.

The Chairperson: Do any other members wish to comment?

Mr Wells: Just one point. Are you aware that some of what you are suggesting would affect what are called "reserved matters"? Some of these issues are relevant to the Northern Ireland Assembly

because they are devolved. However, issues involving the taxation of cigarettes, smuggling, etc, are reserved to the central Westminster Government. They are not covered in the Bill because we cannot do it. It is not due to a lack of co-ordination. If we could, we would, but that has to come from London.

Ms Chisholm Caunt: I understand that, but proxy purchasing is within your power.

The Chairperson: We could mention some of the issues that you have raised to departmental officials. Around the illicit tobacco stuff, we did mention HMRC to the Minister, and he has agreed to look at that. This is work in progress for us; we are scrutinising the Bill that is in front of us. This is not the final Bill; this is not the final legislation. That is why we have presentations and responses to the Bill from a lot of people so that we can get everybody's views on this.

That was very quick and painless. Well done. That was probably the quickest presentation that we have had on this Committee for a long time, so thank you for that.

Mr McCarthy: That is because I was not in.

The Chairperson: That is what it was, Kieran. I am trying to get it over before you start. So on behalf of the Committee, Jaine, thank you very much for travelling here and presenting us with your paper.

Ms Chisholm Caunt: Thank you very much for inviting me. If it is OK with you, I would like to leave behind some materials for the Committee to read.

The Chairperson: Thank you.