

Alcohol Focus Scotland Response to the Scottish Government Consultation on Restricting Alcohol Advertising and Promotion

Sport and events sponsorship

Q1: Do you think we should prohibit alcohol sports sponsorship in Scotland?

Yes.

Alcohol sport sponsorship should be prohibited as part of comprehensive restrictions on all alcohol marketing, in line with the recommendations of the Alcohol Marketing Expert Network.¹ Sport sponsorship provides an important and unique route for alcohol companies to promote their brands. It capitalises on our love of sport and strong emotional connections to our teams and players, making us more receptive to marketing messages and extending our sporting loyalties to encompass the associated brands. Providing an opportunity to exploit a variety of sophisticated and interconnected activities, it delivers to alcohol companies a high-profile and highly attractive means of reaching large numbers of people, influencing how much and how often they consume alcohol. In addition, by linking to physical activity and high-performing athletes, alcohol sports sponsorship implies that alcohol is compatible with a healthy lifestyle. Sport should be something that inspires good health and active participation, and its use as a promotional vehicle for addictive and health-harming products is entirely inappropriate.

Sponsorship is an extremely powerful way to influence attitudes and behaviours towards alcohol. A systematic review found that the positive relationship between alcohol marketing exposure and alcohol use behaviours for adolescents and young adults was stronger for exposure to alcohol promotion, such as sponsored events, than for advertising.²

The high levels of exposure to brands achieved through sport sponsorship results in greater brand recall³ and affects attitudes towards the specific advertised brand and alcohol in general.^{4 5} The reach of sport sponsorship activities is also shown by the high levels of recall of alcohol sport or event sponsorship within the general population. In a survey conducted in Ireland in 2019 (before the COVID-19 pandemic), 76% of participants recalled seeing at least one instance of alcohol sport or event sponsorship in the past month.⁶ This is significant, as self-reported awareness of alcohol marketing is associated with binge and higher-risk drinking.⁷ Sport sponsorship has also been associated with increased consumption for adults who play sport.⁸

Sport sponsorship enables alcohol companies to reach and influence millions of young people every year. For example, broadcasts of the fifteen 2019 Guinness Six Nations Championship matches delivered an estimated 758 million Guinness-related branded impressions to children aged under 16 in the UK.⁹ In a UK survey, almost half (49%) of 11-17-year-olds recalled seeing alcohol sponsorship for sports or events at least monthly, while three in ten (29%) recalled seeing it at least weekly.¹⁰ In a New Zealand study where children's exposure to alcohol marketing was captured using wearable cameras, 31% of the alcohol marketing exposure experienced by 11-13-year-olds was via sports sponsorship, and sporting venues made up 12% of the places in which they were exposed.¹¹

Young people in Scotland are able to recall specific brands they have seen sponsoring sporting events or teams.¹² Following four years of sponsorship of the Scottish national football team by Carling beer, almost half (47%) of all 10- and 11-year-old children, and 60% of boys, made this connection.¹³ In 2019, Children's Parliament Investigators found 9-11 year olds had awareness and knowledge of alcohol sport sponsorship.¹⁴ For instance, during a school workshop, one child drew football pitch-side

advertising and spoke of the specific sponsorship activity he had encountered: *“The Champions League sponsor is Heineken. The logo is green and black. At the start of the match, they announce the sponsor and you can see the adverts all over the stadium.”*

Sport sponsorship trains children to associate brands with certain teams and events which may be closely associated with their interests, identity, and aspirations. Young people have indicated how they have liked and shared social media content of particular brands because of their association with football, and because this aligns with their desired identity. For example, a 14-15 year-old stated that, *“Budweiser sponsor the FA Cup, I’ve just downloaded the app so I’d probably like their page as well to keep up to date with things...[My friends]’ll be able to see it if I like it but sometimes I’ll share things if they’re football-related.”*¹⁵

The development of brand preferences and allegiance from a young age is significant because young people who have greater awareness and familiarity with brands, or who have developed brand preferences, are more likely to drink more alcohol.^{16 17 18} Exposure to alcohol sport sponsorship has been shown to influence drinking behaviour, increasing consumption amongst children.¹⁹

The sponsorship by alcohol brands of sporting events is perceived by people in recovery from alcohol problems as a marketing tactic that is particularly problematic.^{20 21} Both children and young people and people in recovery have noted the inherent contradiction with associating alcohol with sport, often referring to tobacco restrictions that have been introduced:²²

“It’s interesting that you can be an alcohol company and sponsor like a sport. You know, it seems a wee bit ironic to me.” (Young person).

“During sporting events we don’t target people with cigarettes anymore in the same way. Why should we be different with people with alcohol issues? It makes me feel angry. Alcohol is a really dangerous chemical that destroys people’s health - why are they trying to associate it with sport?” (Person in recovery).

“I don’t agree that sports should be sponsored by something unhealthy like alcohol.” (Person in recovery).

One of several calls made by members of Children’s Parliament (aged 9-11 years) to ensure that all children grow up in a Scotland free from the negative impact of alcohol, is to stop alcohol sponsorship of events at which children may be present.²³ There is also public support for prohibiting alcohol sports sponsorship in Scotland; more people agree (47%) than disagree (26%) that there should be no alcohol sponsorship of sports clubs, events or competitions.²⁴ This extends to sports fans themselves. Two thirds (64%) of Scottish Football Supporters Association members agreed in a recent poll that Scottish football’s reliance on the alcohol industry sponsorship is a ‘bad thing’, and fans were more than three times more likely to believe that replacing current alcohol sponsorship with non-alcohol sponsorship would be a positive change rather than a negative one.²⁵

The experience of the governing body Scottish Women’s Football (SWF) in refusing sponsorship from alcohol companies^{26 27} for the past few years demonstrates that sports organisations can thrive without it. SWF view alcohol sport sponsorship as incompatible with their goals of promoting a healthy lifestyle and believe positioning themselves as a ‘clean’ sport is beneficial not only to those who participate in and follow women’s football, but also to the long-term growth and sustainability of their business.²⁸ Two thirds of Scottish Football Supporters Association members agree with the decision of Scottish Women’s Football not to accept sponsorship from alcohol companies.²⁹

Restrictions on alcohol sport sponsorship have been implemented in other European countries. For example, of seven countries in Europe reviewed by Public Health Scotland, three have complete bans on alcohol sponsorship of sports and events, with a further three having partial restrictions.³⁰

The experience from restrictions on tobacco sponsorship suggest such measures are effective. Research on the impact of tobacco promotion and advertising restrictions showed a decline in awareness of tobacco sponsorship in countries where a ban was imminent (Canada and the UK), compared to countries where regulation was unchanged (Australia and USA).³¹ This decline was probably due to a decrease in the number and promotion of sponsorships as the date of the ban neared, with contracts not being renewed or extended.

The French Évin Law prohibits alcohol sport sponsorship. The legislation successfully prevented Budweiser from sponsoring the World Cup held in France in 1998, with advertising rights sold to electronic goods company, Casio.³² The legislation also limited Heineken's sponsorship of the European Rugby Champions Cup before 2014 to the name 'H Cup' in France.³³ When compared with those found by the same researchers in the UEFA EURO 2016 tournament held in France, the alcohol marketing references in a newer Scottish study were both more frequent and more explicit.³⁴ This suggests that France's prohibition of sport sponsorship is more effective in controlling the volume and explicitness of marketing than the self-regulatory approach employed in Scotland.

Due to the interconnected nature of marketing activities, it is likely that implementing restrictions on the activities for which Scotland has competence, such as sport sponsorship, would reduce the salience and effectiveness of other forms of marketing which leverage this content. This includes broadcast and digital marketing, which are otherwise reserved. For example, televised matches reach significantly higher numbers of viewers than can watch a match live in the stadium and have been shown to expose viewers to frequent alcohol marketing. Preventing alcohol companies from sponsoring sports events and teams would, therefore, help to reduce exposure to alcohol marketing on television. It would also reduce the ability of alcohol companies to develop and reinforce social norms about alcohol use by challenging the ubiquity of alcohol marketing.

Q2: If sports alcohol sponsorship were to be prohibited, what types of marketing do you think should be covered by a prohibition?

Statutory restrictions on alcohol sport sponsorship should cover all marketing activities, including, but not limited to:

- alcohol brand logos on match and training strips;
- advertising within stadium grounds;
- exclusive 'pourage rights' within stadiums and fan zones;
- sports iconography on alcohol products (and vice versa);
- social media activity;
- competition tie-ins;
- players, managers or coaches featuring in adverts;
- partnership activity promoting brands or products; and
- brandsharing and alibi marketing practices.

Rather than providing a list of prohibited activities however, the prohibition should be directed at the purpose of the sponsorship arrangement. The Tobacco Advertising and Promotion Act 2002 provides a useful basis for such restrictions as it bans any form of promotion where money or other help is provided to support an event or activity so as to promote smoking.³⁵ The Act does not attempt to

provide an exhaustive list but notes sponsorship could also extend to a building, institution or service. This approach could be adapted and applied to activities that promote alcohol brands.

The experience of restricting tobacco sponsorship and of implementing alcohol sponsorship restrictions in other countries demonstrates the necessity of ensuring that restrictions cover all forms of brand marketing. Although the UK tobacco legislation included restrictions on some indirect advertising through its brand-sharing regulations,³⁶ tobacco companies continued to promote their brands indirectly through ‘alibi marketing’. This is where conventional logos or brand names are replaced with key, identifiable components of the brand identity. Marlboro displayed white bar codes that closely resembled their cigarette packs on Formula 1 cars for five years after the sponsorship ban came into effect.³⁷

Alibi marketing tactics have been used by alcohol companies in France, where the law prohibits the use of an alcohol brand or other distinctive marks associated with a brand that would remind consumers of an alcoholic drink. For example, Carlsberg used brand slogan phrases in their distinctive colours and font during the EURO 2016 tournament,³⁸ and Guinness, the title partner of the 2019 Six Nations Rugby Championship, replaced their brand name with the word ‘Greatness’, chosen and designed to resemble their logo.³⁹ Similarly, in Ireland, the title sponsors of both the European Rugby Champions Cup and the Six Nations Championship have been accused of breaching the spirit and letter of the Public Health (Alcohol) Act 2018 by advertising alcohol-free beers on rugby posts.⁴⁰

Q3: What, if any, sporting activities or events do you think should be excepted from a prohibition on alcohol sports sponsorship?

There should be no exceptions to these restrictions. Comprehensive and clear bans are more effective in reducing exposure, provide clarity to the industry and are far easier to implement and enforce than partial or unclear ones.⁴¹

Research on tobacco sponsorship restrictions has highlighted the importance of not allowing exemptions, showing significantly higher levels of awareness of sport sponsorship where exemptions were allowed (e.g. Formula One racing).⁴²

Q4: Do you think we should prohibit alcohol events sponsorship in Scotland?

Yes.

Alcohol event sponsorship should be prohibited as part of comprehensive restrictions on alcohol marketing, in line with the recommendations of the Alcohol Marketing Expert Network.⁴³

Alcohol sponsorship of cultural and music events helps to send the message that alcohol consumption is both normal and necessary to enjoy them.⁴⁴ Event sponsorship is extensively used to market alcohol in Scotland. For example, last year’s sponsor of Edinburgh’s iconic Festival Fringe was Johnnie Walker, Edinburgh Gin has sponsored the Hogmanay Ceilidh, and Drygate Brewing Co. sponsored the 2022 Celtic Connections music festival in Glasgow.

A survey for a festival support service demonstrates the impact of event sponsorship on people’s feelings and behaviours towards brands; 93% of festival goers liked the brands that sponsored the events, 80% said they intended to purchase a product after attending an event, and 37% had a better perception of the brand afterwards.⁴⁵ Another survey reported that around a third (32%) of festival fans were more likely to connect with brands that sponsor the types of festivals they like.⁴⁶

Research has shown the importance of event sponsorship to alcohol marketing campaigns.^{47 48} Alcohol companies themselves have noted the effectiveness of event sponsorship in promoting their brands and products. For example, in explaining the decision for Glen’s to sponsor three major UK festivals in

2017, the Marketing Director of Glen's Platinum Vodka said, "Our Glen's Original vodka is currently the biggest selling spirit in Scotland and the second biggest selling spirit in the UK...We want to bring Glen's Platinum to a similar market leading position and music festivals are one of the most effective ways for drinks brands to engage with audiences, especially those in our target demographic of 25-34 year olds."⁴⁹

Research shows that event sponsorship is successful in reaching people. In a 2019 UK survey, almost half (49%) of 11-17-year-olds recalled seeing alcohol sponsorship for sports or events at least monthly.⁵⁰ In a previous study, a third of 12-14-year-olds in the West of Scotland recalled seeing alcohol being marketed through music sponsorship.^{51 52} Evidence from Ireland suggests high exposure through sport and event sponsorship, as 76% of survey participants recalled seeing at least one instance of alcohol sport or event sponsorship in the past month.⁵³ This is significant, as self-reported awareness of alcohol marketing is associated with binge and higher-risk drinking.⁵⁴

Young people in Scotland have remarked on the use of event sponsorship to promote alcohol brands:⁵⁵

"T in the park was literally an advert for Tennent's."

"...thinking back to like going to TRNSMT...the bars there have big billboards with like kind of Smirnoff and they will do things like fancy cocktails."

As noted above, the power of sponsorship should not be underestimated. A systematic review found that the positive relationship between alcohol marketing exposure and alcohol use behaviours for adolescents and young adults was stronger for exposure to alcohol promotion, such as sponsored events, than for advertising.⁵⁶

Q5: If alcohol events sponsorship were to be prohibited, what types of marketing do you think should be covered by a prohibition?

All events should be prohibited from having alcohol sponsorship. This includes music and cultural events, such as music festivals, and community festivals and events. The Tobacco Advertising and Promotion Act 2002 provides a useful basis for such restrictions as it bans any form of promotion where money or other help is provided to support an event or activity so as to promote smoking.⁵⁷ The Act does not attempt to provide an exhaustive list but notes sponsorship could also extend to a building, institution or service. This approach could be adapted and applied to activities that promote alcohol brands.

Q6: What, if any, events do you think should be excepted from a prohibition on alcohol events sponsorship, and why?

There should be no exceptions to these restrictions. Comprehensive and clear bans are far more effective. They are also easier to implement than partial or unclear ones.⁵⁸

Q7: If alcohol sponsorship restrictions are introduced, do you think there should be a lead-in time for these? How long might this be and how would it work?

It is reasonable for there to be a lead-in time for the introduction of alcohol sponsorship restrictions, as this would give organisations time to secure replacement sponsors, as happened when tobacco sponsorship of sport ended completely in 2005. Ireland permitted a three-year transition period for their restrictions on alcohol sponsorship of certain events (e.g., those aimed or mostly attended by children or those which involve driving).

However, research suggests some shortcomings to transition periods. In Ireland, it was suggested that long transition times created further opportunity for lobbying against restrictions.⁵⁹ Tobacco control research also shows that industry may use transition periods to delay or stagger implementation of public health policy, such as standardised packaging,⁶⁰ thus mitigating some of the immediate and short-term intended impacts. We believe the lead-in for alcohol sponsorship restrictions should be no longer than two years.

Outdoor and public spaces marketing

Q8: Do you think we should prohibit alcohol marketing outdoors, including on vehicles, and in public spaces in Scotland?

Yes.

Removing marketing within outdoor and public spaces could have a substantial effect in reducing exposure to alcohol promotion, and should be introduced as part of comprehensive restrictions on alcohol marketing. This would be in line with the recommendations of the Alcohol Marketing Expert Network.⁶¹

Out-of-home advertising - advertising on billboards, street furniture, transport, and place-based media (such as within cinema lobbies or sports grounds) - reaches 98% of the UK population at least once a week,⁶² promotes engagement with digital advertising more than any other media⁶³ and encourages impulse purchasing when people are on the move.⁶⁴ Advertising on public transport is particularly attractive to marketers, who consider passengers to be a captive audience.⁶⁵

Alcohol brands rely heavily on this kind of advertising, to which they allocate around a fifth of their advertising budget - nearly four times as much as the average brand.⁶⁶ Alcohol brands' spending on out-of-home advertising is predicted to grow over the coming years, despite the pandemic-induced reduction in foot and road traffic.⁶⁷ In Ireland, over two thirds (67%) of people reported seeing alcohol advertising on posters and billboards, and 53% reported seeing adverts on public transport, before marketing restrictions were put in place.⁶⁸

Outdoor and public spaces are key sources of exposure to alcohol marketing for children and young people,⁶⁹ including in Scotland and the UK.^{70 71} For example, almost half (49%) of under-18s in the UK reported having seen alcohol advertising on billboards in the street in the last month.⁷² With many children reliant on public transport, especially if they are from more deprived areas,⁷³ they spend a lot of time around bus stops and roads⁷⁴ and so are greatly exposed.

Young people themselves have told AFS how they see alcohol advertising in outdoor and public spaces:⁷⁵

"The biggest one I've ever seen, is Innes and Gunn in Edinburgh, they have billboards everywhere. The one I saw most was on route to my flat and it was at the Murrayfield end and it was like on a main bus route, so I saw it practically every day."

"A lot of it's like very like seasonal as well. Like they have all the Christmas billboards. They have like the summer themed adverts it's very like yeah, kind of changing depending on what the public wants."

"I'm originally from [area] so they have a [area] gin and they had that on a lot of their billboards because it was like local, a local gin."

Restricting alcohol marketing in outdoor and public spaces would be aligned with the wishes of children in Scotland. As part of a project investigating an alcohol-free childhood in 2019, members of Scotland's Children's Parliament (aged 9-11 years) called for adverts to be removed so that children cannot see them.⁷⁶ In 2020, the Young Scot Health Panel of children and young people aged 14-25 years recommended mandatory controls on alcohol marketing, including restrictions on alcohol advertising in public places.⁷⁷

People in recovery have noted the inescapable nature of alcohol advertising in public spaces, such as on public transport.⁷⁸ **Error! Bookmark not defined.**⁷⁹

"Public transport can be an over-stimulating and adding alcohol into the mix can be very triggering."

"From the start of the day when I'm at the bus stop it's there on the billboards as I get from A to B, it's in the shops most of them it's everywhere".

Many countries in Europe have introduced restrictions on alcohol advertising in outdoor and public spaces. Estonia, Finland, Lithuania and Sweden have all implemented an outright ban on outdoor alcohol advertising, while France, Ireland and Sweden have introduced partial bans which consider the location of the advertisement and the expectation of children seeing it.⁸⁰ Outdoor and public space advertising restrictions are also found internationally, often at state or local authority level. Several Australian states have restricted alcohol advertising on public transport and government-owned infrastructure⁸¹ and alcohol advertising was banned on New York City buses, subway cars and stations in 2017.⁸²

Research suggests that restrictions on alcohol advertising in outdoor and public spaces are successful in reducing awareness of alcohol advertising. In Ireland, past-month awareness of public transport advertising among adults declined from 53% pre-implementation of restrictions to 40% two years post-commencement.⁸³ Advertising restrictions in public spaces have been successful in reducing the consumption of other unhealthy products too. For example, a ban on the advertising of foods high in fat, sugar and salt on the London transport network was associated with significant reductions in energy, sugar and fat purchased from such products,⁸⁴ with no discernible impact on advertising income.⁸⁵ A ban on tobacco advertising on posters and billboards in the UK was found to reduce awareness of such advertising among both adults and young people.^{86 87}

A 2022 survey suggests there is majority support in Scotland for a ban on advertising in outdoor and public spaces such as streets, parks and public transport; 51% supported a ban, 18% opposed and 31% either did not know or neither supported nor opposed a ban.⁸⁸

Q9: What do you think should be covered by a prohibition on alcohol marketing outdoors, on vehicles and in public spaces? Your answer should include:

- 1) Places where you think alcohol marketing should be prohibited (e.g. on bus shelters, in or near leisure centres or on taxis); and**
- 2) Types of alcohol marketing you think should be prohibited outdoors (e.g. billboards or signage).**

All types of alcohol marketing should be prohibited in all outdoor and public spaces and in places visible from public spaces. This includes on public transport and street furniture (such as bus shelters), on vehicles (such as taxis), on billboards, in cinema lobbies, in sports grounds and in branded signage and furniture attached to licensed premises.

There have been some suggestions that partial restrictions, e.g. preventing marketing from within a certain radius of schools, might be an option. However, focusing restrictions on places specific to children would be both impractical and inadequate as the spaces in which children live, play and grow up are not limited to parks and schools. Research has shown that alcohol adverts are already unlikely to be located around schools.⁸⁹ Researchers have suggested that the recently implemented restrictions on billboard advertising in Ireland have had less impact on levels of alcohol marketing than they might because they are limited to where young people may be exposed (e.g., on or within 200 meters of a school or other youth spaces) and permit a number of exemptions, including for breweries and licensed premises.⁹⁰

Restricting all alcohol advertising in outdoor and public spaces would most effectively prevent exposure of vulnerable groups, including children and young people and those in recovery to intrusive alcohol adverts when outside of the home. It would also reduce the volume of alcohol marketing messages experienced by everyone, which serves to normalise alcohol consumption and sustain high levels of population consumption.

Q10: What, if any, exceptions do you think there should be to prohibiting alcohol marketing outdoors, including on vehicles, and in public spaces in Scotland?

There should be no exceptions; full and complete restrictions are more effective in reducing exposure. They are more straightforward for industry to understand and comply with. They are also easier to implement and enforce, as has been noted by the Finnish authorities regarding their implementation of a full ban on outdoor advertising: *“When the regulation is written so that there, any, kind of, alcohol advertisements may not be in the public places...you don’t need any surveillance authorities or police”*.⁹¹

In-store alcohol marketing

Q11: Do you think that we should further restrict the visibility of alcohol in retail environment, giving reasons for your response?

Yes.

The visibility of alcohol in the retail environment is a key form of marketing activity, influencing shoppers to impulse purchase and normalising alcohol as an everyday commodity. There are around 16,500 licensed premises in Scotland⁹² and the vast majority of the alcohol sold in Scotland is sold in the off trade (72% before the pandemic and 85% following the pandemic).⁹³

A recent qualitative scoping review suggests that mixed retail environments may be particularly problematic because of increased exposure to alcohol for vulnerable groups (e.g., people in recovery, children and young people) who use these shops for other purchases.⁹⁴ In line with the recommendations of the Alcohol Marketing Expert Network, the Scottish Government should introduce further restrictions in mixed retail environments to ensure that alcohol display and promotion is only visible to adults intending to browse or purchase alcohol.⁹⁵ This would reduce the visibility of alcohol to children and young people, and people with (or at risk of) an alcohol problem. In addition, it would address the normalisation of alcohol which helps create and sustain high levels of consumption in the general population.

In-store marketing and strategic product placement are known to increase the visibility of products in general and influence purchasing behaviours.^{96 97 98 99} Scottish licensing laws currently restrict the display and promotion of alcohol in shops to a single display area with the stated intention of ensuring that shoppers only encounter alcohol displays or promotions when they have a conscious intention to browse or select an alcohol product.¹⁰⁰ In practice, evidence suggests that when single display areas

are located near high-traffic areas, this results in frequent exposure of shoppers, including children, to alcohol products and marketing messages.^{101 102} Locating alcohol in highly visible parts of a store, including beside essential items, or near the checkouts can drive significant impulse purchase. For example, displaying alcoholic drinks at the end of aisles has been shown to uplift sales in supermarkets by up to 46%.¹⁰³ In small shops, such as local convenience stores, alcohol is very often located behind the till and may be visible in or through the window, making it inevitable that every customer will see it. It is, therefore, important that current measures are extended to ensure that alcohol display and promotion is only visible to adults intending to browse or purchase alcohol.

With tobacco products now required to be hidden from view, both young people and people in recovery have noted the contrast with alcohol displays at checkouts.¹⁰⁴ For example:

"Alcohol is so much in your face in supermarkets without the other marketing taking place. They stopped it with cigarettes, why aren't you doing it with alcohol?" (Person in recovery)

"Hide the alcohol in shops like cigarettes. People in recovery shouldn't have to look at it when they go into shops for bread and milk." (Person in recovery)

Exposure to alcohol packaging is a key factor in the promotion of alcohol in the shops. Packaging strategies influence purchase and usage behaviour,¹⁰⁵ and a recent study in Scotland has shown how alcohol packaging can influence purchasing decisions and encourage purchase.¹⁰⁶ Point-of-sale promotions, including price discounts, giveaways and competitions, are common in the retail environment and can influence the type and range of alcohol purchased, as well as lead to the purchase of substantially more alcohol than originally intended.^{107 108} There is consistent evidence to suggest that point-of-sale promotions are likely to affect overall alcohol consumption.¹⁰⁹

Children and young people regularly see alcohol products and promotional activity in shops and supermarkets. Analysis of body camera footage from children aged 11-13 years in New Zealand found over nine in ten of the children making trips to supermarkets were exposed to alcohol marketing, with 87% of all trips resulting in exposure.¹¹⁰ In France, nearly three quarters of under-18s were exposed at least once a month to alcohol advertisements in supermarkets.¹¹¹ A similar proportion (73%) of 11-19-year-olds in Scotland reported having seen special price offers for alcohol in the past month,¹¹² which is most likely to have occurred in the retail environment. Exposure to alcohol displays in shops has been shown to predict the age of drinking onset for 13-year-olds.¹¹³

In Scotland, children and young people have highlighted the visibility of alcohol promotion in and around shops and supermarkets. For example:¹¹⁴

"...the [supermarket] I go to [alcohol]'s basically right beside the frozen aisle and right beside the dairy aisle, so it's kind of, in between quite important sections of a lot of ...shops. I feel like a lot of people on their way around, just immediately kind of go to pick it up just because it's kind of on that path round between each section. There's just, again, like an impulse buy, because it's just there in front of us with quite big advertising all down the aisle."

"...the local shop to me has all of its booze just in the window. Because I guess that's it's probably indicative of the area that I stay in...It's the first thing you see even before you go in so if you're tempted it's not great you know you can't even walk past it."

Primary school children (aged 9-11) felt that alcohol should not be advertised or displayed in shops where children can see it and called for alcohol to be sold in adult-only sections of shops, separate rooms in regular shops, and supermarkets dedicated to alcohol sales.¹¹⁵ **Error! Bookmark not defined.**

People recovering from an alcohol problem have also called for change, expressing how difficult having alcohol clearly visible in shops can be for them.^{116 117} A Scottish qualitative study highlighted the high visibility of alcohol and advertising in shops as a risk to recovery, with people actively avoiding the alcohol aisles in bigger stores as well as small shops where alcohol is often located in full view behind the till.¹¹⁸ Focus group discussions reinforce this point, with people noting the difficulty in going shopping for food and essential items when most shops sell alcohol, often placed in areas that are clearly visible and unavoidable.¹¹⁹ For example:

"I remember having to vary my routine in the very early stages of recovery. You can't avoid going for things like food shopping and even when I did that, I feel that alcohol was strategically being placed to trigger and target me."

"I had to get my neighbour to get my shopping, I just did not trust myself - it looked too good."

"I have relapsed a couple of times because of queuing next to it."

Among the public, more than half of those who expressed a view supported restricting the display of alcohol in shops and supermarkets to reduce the visibility of alcohol.¹²⁰

Many countries already have in place means of limiting visibility in physical stores. In countries such as Canada, Finland and Sweden, the government has a monopoly over elements of alcohol retail, with alcohol sold in separate shops. South Australia has a 'shop within a shop' model whereby alcohol is kept separate to the rest of the store. Estonia's legislation requires alcoholic drinks to be placed separately from other goods within mixed retail outlets, not visible from the rest of the store or from outside. In Ireland, all mixed-trade retailers have been required to physically separate alcohol products from other grocery items since November 2020.¹²¹

Similar interventions have been successful in reducing the visibility and consumption of other unhealthy products. For example, English supermarkets with a policy not to locate confectionary, chocolate and crisps at checkouts saw a 17% reduction in purchase of these items in the four weeks after implementation, with a 15% reduction still present after a year.¹²² The Irish tobacco display ban had an immediate impact on young people's attitudes towards smoking¹²³ and the UK tobacco display ban was followed by a reduction in smoking susceptibility among adolescents, potentially driven by decreases in brand awareness.¹²⁴

Q12: Do you think we should consider structural separation of alcohol in Scotland to reduce the visibility of alcohol in off-trade settings (e.g. supermarkets)?

Yes.

Separating alcohol from other products in supermarkets and shops would reduce the visibility of alcohol, protecting groups particularly affected such as children and young people and people in recovery.

Calls have been made by people within the recovery community to separate alcohol from other products in shops:¹²⁵

"It should not be on full display especially in smaller shops it is always behind the counter staring right at you it should be hidden under counter and in supermarkets it should be in its own section."

"I would like to see more consistency and at the very least alcohol being hidden in the back corner, this would make things easier."

As noted above, structural separation has been suggested by primary children as one way to reduce the visibility of alcohol in shops and supermarkets.¹²⁶ **Error! Bookmark not defined.**

Structural separation of alcohol would also reduce impulse purchasing more generally, by reducing the visibility of the products themselves and of point-of-sale promotions. See our response to question 11 for more detail.

There is evidence of effectiveness of this kind of restriction from other countries. For example, a change to Estonia's legislation requiring alcoholic drinks to be placed separately from other goods within mixed retail outlets, not visible from the rest of the store or from outside, resulted in a 15% decrease in the visibility of alcohol and halved the proportion of impulse buyers.¹²⁷

Q13: How do you think structural separation of alcohol in Scotland could operate? (e.g. with barriers, closed display cases)

The display and promotion of alcoholic drinks in mixed retail environments should be limited to a designated area separated from the rest of the store by an appropriate physical barrier through which the alcohol display area should not be visible. For smaller shops, where options such as separate alcohol areas may be impractical, alcohol could be kept behind the counter but should be concealed, as is the case with tobacco products. Alcohol should not be visible from outside the shop; this means for example, that it should not be located within, or visible from, windows.

Brand-sharing and merchandise

Q14: Do you think that we should prohibit the sale of alcohol-branded merchandise in Scotland?

Yes.

The sale of alcohol-branded merchandise should be prohibited in Scotland as part of comprehensive restrictions on alcohol marketing, in line with the recommendations of the Alcohol Marketing Expert Network.¹²⁸

Research highlights the important role that alcohol branded merchandise can play in marketing strategies.^{129 130} For example, in sport sponsorship, branded clothing is used as a high-profile and high-reach strategy to promote and reinforce associations between brands and teams.¹³¹ Branded merchandise has advantages over other forms of marketing, such as by having a longer shelf-life. In research carried out by the British Promotional Merchandise Association, 87% of people said they had kept a promotional item for longer than a year, and 83% of people reported purchasing products or services from companies that have provided branded merchandise to them.¹³² Exposure to this type of marketing is high. For example, 63% of adults in Ireland in 2019 reported having seen alcohol-branded merchandise at least once in the past month.¹³³

Alcohol-branded merchandise is particularly influential with children and young people, often becoming a regular feature of home life. A study using wearable cameras in New Zealand has revealed that a quarter of young people's exposure to alcohol marketing was via merchandise (excluding sports merchandise).¹³⁴ Most exposure happened in the home, with merchandise (excluding sports merchandise) accounting for a significant proportion (37%) of this.¹³⁵ An Australian study reported that parents frequently have alcohol-branded merchandise in the home.¹³⁶ Functional items often

become part of the normal household clutter or are used routinely in family activities: *“...and it just becomes part of the background. You don't really notice that it's there or not there”; “I would be likely to pack the picnic lunch in the Bourbon (cooler bag) and pack my son's scouts' lunch in it when he's going off for the weekend or something like that because it's a refillable bag.”*¹³⁷

It is common for children and young people to own alcohol-branded merchandise themselves.^{138 139} In a UK survey, around one in seven (15% of) 11-17-year-olds owned alcohol branded promotional materials, such as clothing or drinks glasses.¹⁴⁰ Studies consistently show that young people who own alcohol-branded merchandise are more likely to drink now and in the future.¹⁴¹ For example, in a UK study with 11-19-year-olds, ownership was associated with higher levels of consumption, including higher-risk drinking; among never drinkers, survey respondents who owned branded merchandise were twice as likely to be susceptible to drinking (to believe they may start drinking within the next year) as those who did not.¹⁴² In fact, the relationship between owning alcohol-branded merchandise and drinking behaviours for adolescents and young adults is stronger than for other forms of alcohol marketing, including advertising.^{143 144} As well as influencing whether and how much people drink, owning alcohol-branded merchandise has also been shown to affect what brand young people choose.¹⁴⁵

The use of branding on merchandise and other non-alcoholic products is a fundamental part of brand promotion which has the effect of normalising alcohol, creating and sustaining expectations around alcohol use as positive, aspirational, commonplace and even part of a healthy lifestyle. Due to this normalising effect, parents are likely unaware of the impact that exposure to alcohol marketing, and branded merchandise in particular, could have on their children. In an Australian study, where many parents reported having items of alcohol-branded merchandise in their home, many had not previously engaged with the issue of the role or potential impact of these products.¹⁴⁶ For children aged 12-16 years, receiving an item of alcohol branded promotional clothing from a parent meant they were more likely to perceive that their parents approved of them drinking.¹⁴⁷

The World Health Organization identifies the prevention of industry influence on social norms as a key purpose of comprehensive marketing restrictions.¹⁴⁸ The role of branding, including branded merchandise therefore should be recognised and included in any restrictions.

Q15: Do you think that we should prohibit the free distribution of alcohol-branded merchandise in Scotland?

Yes.

Research has documented how alcohol companies use distribution of free-branded merchandise to increase brand awareness and salience among consumers.^{149 150} The importance of the free distribution of marketing materials and services is demonstrated within this example of a sponsorship campaign: *“Through sponsorship, producers seek to build emotional connections with consumers by enhancing the event experience. It affords opportunities to use the full marketing mix: Carling's music sponsorship deals include free branded tents for 'festival virgins', free cans of beer, free t-shirts and comfort kits, and a free laundry service.”*¹⁵¹

The distribution of free merchandise may be particularly significant for young people, where it can be used to raise brand awareness and build connections. This type of marketing activity may also have a disproportionate impact on people with limited income, particularly where free items are of functional use such as items of clothing or bags. As noted above, children who are given an item of alcohol branded promotional clothing by a parent are more likely to think that their parents approve of them drinking,¹⁵² and owning branded merchandise is strongly linked to current and future drinking behaviours for young people.¹⁵³

Q16: What, if any, exceptions do you think should there be to prohibiting the sale or distribution of alcohol-branded merchandise?

There should be no exceptions.

Q17: What, if any, other restrictions do you think should be considered on the use of alcohol brands on non-alcohol products?

In line with the recommendation of the Alcohol Marketing Expert Network, alcohol marketing restrictions should explicitly include all forms of brand marketing.¹⁵⁴

Alcohol marketing does not need to directly promote an alcoholic product to be successful in achieving its aims. For action on alcohol marketing to be fully effective, legislation must be framed sufficiently broadly to capture both marketing of specific alcohol products and all forms of brand marketing. This includes brand-sharing, where non-alcoholic products and services are used to promote the brand.

Brand-sharing by alcohol brands extends to a variety of products, such as food items (e.g., Jack Daniel's barbeque sauce and Baileys ice cream), merchandise (e.g. clothing and glassware), and even airlines (in the case of Kingfisher beer in India). However, it is increasingly seen in relation to no- and low-alcohol versions of alcoholic drinks, particularly beers. See our response to question 18 for more detail on our views on how restrictions should apply to no- and low-alcohol products.

Free services provided by alcohol brands and companies, such as the laundry service example given above, should also be covered in any restrictions.

Q18: Do you think that any potential alcohol marketing restrictions should also apply to no-or low drinks products between 0% ABV and 1.2% ABV, where these carry the same brand name, or identifiable brand markings, as alcohol drinks over 1.2% ABV?

Yes.

In line with the recommendation of the Alcohol Marketing Expert Network, alcohol marketing restrictions should explicitly include all forms of brand marketing.¹⁵⁵ The experience of other countries emphasises the need to prevent the alcohol industry utilising contemporary marketing practices such as brand marketing to circumvent restrictions and thereby undermine the objectives of any legislation.

Given the recent growth in no and low alcohol products which brand-share with alcoholic drinks,¹⁵⁶ this is an area of particular concern and should be included within the parameters of the restrictions. It is becoming increasingly common for no and low alcohol products to be extensively marketed, such as through sponsorship of sporting events. Recent examples include Heineken 0.0%, which became the official beer sponsor of the UEFA Europa League in August 2020¹⁵⁷ and Peroni Libera 0.0%, which was announced as a sponsor of the Aston Martin Cognizant Formula One team in February 2021.¹⁵⁸

People find it difficult to differentiate between alcohol-free and alcoholic products of alcohol brands due to the similarity of the branding; for example, an advert for Heineken 0.0 served during a football match was seen as "*just another beer advert*" by participants in a UK study.¹⁵⁹

Alcohol marketing does not need to directly promote an alcoholic product to be successful in achieving its aims. According to researchers, the brand is now the dominant feature of contemporary marketing, to the point that it has *become* the real product.¹⁶⁰ Brand trustworthiness and identity have a major influence on purchasing decisions.¹⁶¹ The emotional response to an advert exerts a greater influence on intention to buy a product than the advert's content, and consumers rely heavily on their emotions when choosing between brands.¹⁶² Brand awareness, familiarity, and preferences are all associated with increased alcohol use for young people.^{163 164 165}

In a focus group run by We Are With You, a charity that supports people with alcohol problems, some participants viewed the advertising of alcohol-free products by known alcohol brands as a way for the industry to entice people in recovery back to drinking alcohol.¹⁶⁶ A person in recovery has shared with us that *“It’s really hard to forget about the urge to have a drink when you’re surrounded by it. Even the ads for alcohol free variants.”*¹⁶⁷

It is essential that restrictions cover products that feature identifiable alcohol brand markings, even where they do not feature a brand name. Brand identity is much more sophisticated than simply brand names and logos. Marketers establish visual cues which become synonymous with the brand, such as font type, straplines, colour and shape. Research has shown that young people in the UK are able to easily identify alcohol brands simply from these visual cues alone, even when the brand name itself has been covered up.¹⁶⁸ The success of such cues in recalling the brand is illustrated through real-life campaigns, such as Carlsberg’s use of its *‘Probably’* slogan throughout the UEFA EURO 2016 tournament, which achieved 50% prompted recall.¹⁶⁹

A Scottish example is Scotland’s major music festival, T in the Park, that was sponsored by an alcohol brand for over 25 years. T in the Park was synonymous with Tennent’s, despite not explicitly referring to the brand name; the font and colour of the ‘T’ was sufficient to make those associations. This is clearly recognised by the public, including young people. In one of the focus groups run by AFS, a young person noted that *“T in the park was literally an advert for Tennent’s.”*

The experience of other countries emphasises the need to prevent the alcohol industry utilising brand-sharing and different elements of their brand identify to circumvent any marketing restrictions. In a review of alcohol marketing restrictions in other European countries, most countries reported examples of lower or zero alcohol products that carry the same branding as alcoholic products being advertised more frequently, in place of main brand or full-strength products.¹⁷⁰ There was agreement amongst regulators and public health advocates that the legal advertising of non-alcoholic beverages was a way for companies to continue to promote the alcohol brand.

Ireland provides recent examples. The Public Health (Alcohol) Act made it an offence to advertise alcohol on public transport and at designated boarding or alighting points (e.g., train stations, bus stops), and to advertise alcohol in or on a sports area during a sports event. The definition of advertising within the Irish legislation includes any communication with the direct or indirect effect of promoting an alcohol product, including the name of an alcohol brand.¹⁷¹ Despite this, advertising for alcohol-free versions of alcoholic drinks from a popular alcohol brand has been observed on the display screens of bus shelters, electronic billboards and on buses;¹⁷² for fixtures played in Ireland during the European Rugby Champions Cup, sponsored by Heineken, the protective covers around the goalposts have displayed branding for Heineken 0.0%;¹⁷³ and Guinness 0.0% was advertised on rugby posts during the Six Nations Championship, sponsored by Guinness.^{174 175}

The use of alcohol-free products to promote an alcohol brand has been recognised by the public:¹⁷⁶

“I don’t know how they can get away with it...That’s annoying because it’s not promoting alcohol-free beer, it’s promoting your brand...You see Heineken rolling around the screens at the bottom of the thing. Half time, what are you thinking about? Heineken! And then you go and get a pint.”

Alibi marketing - where the brand’s name or logo is replaced with key, identifiable components of the brand identity – has also been used by alcohol companies to circumvent restrictions.^{177 178} In France, the Évin Law prohibits the use of an alcohol brand or other distinctive marks associated with a brand that would remind consumers of an alcoholic drink.¹⁷⁹ Examples of alibi marketing tactics by alcohol companies identified by researchers to circumvent these restrictions include Carlsberg using brand

slogan phrases in their distinctive colours and font during the EURO 2016 tournament,¹⁸⁰ and Guinness, the title partner of the 2019 Six Nations Rugby Championship, replacing their brand name with the word 'Greatness', chosen and designed to resemble their logo.¹⁸¹

Several European countries capture brand marketing in their alcohol marketing restrictions, including Norway, France and Ireland.¹⁸² Some countries, such as Norway, have taken specific action to address brand marketing as issues arose. Responding to the emergence of adverts for low-alcohol drinks, Norway extended its advertising ban to the advertising of any products carrying the same brand or distinctive mark as alcoholic beverages. Producers are free to develop new brands for no and low-alcohol drinks which have no association with alcohol brands. Where low alcohol beers continue to carry the same brand as normal strength alcohol, they are permitted for sale but not marketed.

Any legislation introduced should be carefully drafted to address contemporary marketing practices such as brand marketing and to avoid any potential legislative loopholes, as exploited by alcohol companies in other countries.

Print advertising

Q19: Do you think that we should prohibit advertising of alcohol in newspapers and magazines produced in Scotland?

Yes.

Alcohol advertising in newspapers and magazines produced in Scotland should be prohibited as part of comprehensive restrictions on alcohol marketing. This is in line with the recommendations of the Alcohol Marketing Expert Network.¹⁸³

Print advertising has a broad reach and it persists over time, with the potential to be viewed multiple times as the magazine or newspaper is passed to multiple readers. Magazine adverts have been found to exert greater influence on people's self-reported perceived favourability of advertised brands and intent to purchase than television and online advertisements.¹⁸⁴ Print advertising is also very cost-effective, ranked second for return on investment for advertising media in the UK.¹⁸⁵

Advertising in newspapers and magazines is a key source of exposure to alcohol advertising. In Ireland, 61% of adults had seen alcohol advertising in newspapers and magazines in the past month.¹⁸⁶ In a UK survey, 29% of 11-17-year-olds had seen alcohol advertising in newspapers or magazines within the last month.¹⁸⁷ As with other types of media, positive associations have been found between young people's exposure to alcohol advertising in newspapers and magazines and their past and current drinking behaviours, as well as heavy or problematic alcohol use.¹⁸⁸

We are not aware of research which has evaluated restrictions on alcohol advertising in print media, but similar restrictions on tobacco advertising have been found to reduce awareness in the print media among adults.¹⁸⁹

It will be important that the Scottish Government works with the UK Government to ensure that magazines and newspapers produced in the rest of the UK and distributed in Scotland, as well as online versions of these publications, will be similarly restricted.

Q20: What, if any, exceptions do you think there should be to prohibiting alcohol advertising in newspapers and magazines produced in Scotland?

The only exceptions should be for business-to-business publications.

Online marketing

Q21: Do you think we should restrict alcohol branded social media channels and websites in Scotland?

Yes.

As part of comprehensive restrictions on alcohol marketing, and in line with the recommendations of the Alcohol Marketing Expert Network,¹⁹⁰ all digital alcohol marketing should be restricted.

Companies' social media can be promoted by users through liking, sharing, and commenting on branded content. The participatory nature of social media blurs the boundaries between official marketing content and user interactions, as users support the distribution of alcohol marketing messages.^{191 192 193} Therefore, owned media should be covered by online advertising restrictions. In practice, this would mean that alcohol brands would be prohibited from having accounts on social media channels, such as Instagram, Facebook, Snapchat or Twitter, or being promoted through the social media of their owner companies. This would prevent them from promoting their brand online, while maintaining the ability to sell their products through their websites.

Owned media can have significant reach; brands on Facebook can expect their posts to be seen by 5.5% of their followers.¹⁹⁴ For example, a major spirit brand's UK Facebook page has over 18 million followers, meaning that each post could be reaching almost 1 million people.¹⁹⁵ Owned media also presents issues around mis-targeting, or targeting vulnerable groups, as brands have no reliable way of knowing the characteristics of their followers. For example, extensive research has shown that age-gating processes are easily circumvented,¹⁹⁶ including a recent study by the Advertising Standards Authority (ASA) which found that despite social media platforms having a minimum age requirement of 13 years, 86% of 11-12-year-olds said they had their own account on at least one platform.¹⁹⁷ Another Australian study found that 28% of Instagram and 5% of Facebook alcohol branded accounts were accessible to under-18s.¹⁹⁸

Given the accepted challenges of regulating the online environment, particularly given its transnational nature,¹⁹⁹ it will be important for the Scottish and UK Governments to work closely together, and with other international governments and partners such as WHO, to seek appropriate solutions, including by supporting calls for a global Framework Convention on Alcohol Control.

Q22: What, if any, exceptions do you think there should be to prohibiting alcohol branded social media channels and websites in Scotland?

Alcohol companies should retain the ability to sell their products through their websites.

Q23: Do you think we should restrict paid alcohol advertising online in Scotland? Examples include adverts appearing on websites, via pop ups, on social media platforms, on search engines, or influencer advertising.

Yes.

As part of comprehensive restrictions on alcohol marketing, paid alcohol advertising online should be restricted, in line with the recommendations of the Alcohol Marketing Expert Network.²⁰⁰

Digital media is an increasingly important part of the alcohol marketing mix, predicted to account for 30% of alcohol advertising spend in 2023.²⁰¹ While advertising through traditional channels has always had particular audiences in mind, digital media has significantly increased the ability to personalise marketing, using data to target individuals and groups in a way that encourages engagement with marketing messages. This is often hidden from public view and is fleeting.

Digital algorithms are designed to analyse vast volumes of data to learn the preferences, and vulnerabilities, of consumers,^{202 203} micro-targeting people with relevant content at specific times and in places when they would be most susceptible to them.²⁰⁴ This means that alcohol adverts disproportionately target those who drink the most, potentially causing significant harm.²⁰⁵

People in recovery say they feel “bombarded” with alcohol adverts on social media and the volume of adverts has even increased when they attempted to remove them from their feed.²⁰⁶ For example, following conversations on Facebook Messenger with a software developer who was developing an app to help people moderate their consumption, the next day problem drinkers were served with multiple adverts for alcohol brands in their Instagram feed.²⁰⁷

This reflects the experience of people in Scotland too:²⁰⁸

“Ads pop up all the time on social media and despite blocking them more just appear – it triggers me massively.”

“Facebook know that I am in recovery, because of the stuff I post. So why are they showing me this sort of thing? It should be blatantly obvious that I don’t want to see that...They see that I am talking about recovery and I think they think ‘Oh we have a chance to market more alcohol that might be of interest to this guy.’”

As well as identifying the preferences of users and exposing them to targeted messages, digital marketing enables the conversion of promotional messages into purchase. The advertising functions of social media platforms are increasingly integrated with purpose-built retail apps and websites, showing as ‘buy now’ buttons or ‘swipe up’ features on adverts. This removes the level of separation found between most other forms of promotion and the act of purchasing and may therefore increase impulse purchase.

Children and young people live in an increasingly digital world, and this is likely to be a growing route of exposure. Around two in five (42% of) 11-17-year-olds in the UK reported having seen adverts on social media, and 19% had interacted with alcohol marketing online, in the previous month.²⁰⁹ With so much digital marketing occurring below the radar, it is difficult to assess the true amount and nature of alcohol advertisements being served online to children. However, a recent study by the UK’s Advertising Standards Authority (ASA) reported that around 1 in 5 under-18s were served alcohol adverts on social media.²¹⁰

Even when age-gating is used, it is easily circumvented;²¹¹ for example, more than a third of the alcohol adverts served to children on social media were to those registered as under 18.²¹² With the targeting of adverts driven by technology, the marketers themselves may not be aware who the advertising is served to.²¹³ Despite this, research has shown that the alcohol industry often do not use the tools available to them, such as interest-based targeting, to stop children seeing their ads.²¹⁴ Digital platforms are not only allowing but actively facilitating alcohol marketing to young people, through tagging children and young people as being interested in alcohol and approving sponsored content promoting alcohol to be targeted at children and young people.²¹⁵

Studies consistently report that participation and engagement with digital alcohol marketing - such as clicking on an alcohol ad, visiting an alcohol-branded website, liking or sharing an ad on social media, or downloading alcohol-branded content - is positively associated with alcohol use for adolescents and young adults.²¹⁶ Experimental studies have found that alcohol marketing on social media increases people’s interest in visiting a bar and intentions to consume alcohol.^{217 218} The participatory nature of digital marketing means it has a more powerful influence on drinking behaviour than simple exposure.^{219 220}

Digital marketing blurs the boundaries between official marketing content and user interactions, with users becoming co-creators and distributors of alcohol marketing messages.²²¹ This allows for drinking culture and promotional messages about alcohol to become embedded in daily communications and relationships. Influencer marketing is a well-established and particularly effective promotional tool and should therefore be captured within restrictions. Content generated by users, including social media influencers, can reflect different representations of alcohol consumption than can be portrayed by brands themselves, such as associations with the user's own identity or excessive or harmful practices.²²²

Young people are regularly exposed to alcohol promotion via online influencers and celebrities. In a UK survey, 29% of 11-17-year-olds reported having seen internet celebrities (e.g. YouTubers and 'social influencers') talking about, or promoting, an alcohol brand within the past month.²²³ One in four complaints about online advertising submitted to the ASA in 2019 took issue with sponsored influencer posts, equating to 4,000 complaints.²²⁴ The ASA has since published further guidance for influencers to encourage them to make it clear that their posts are advertising content.²²⁵

Children's Parliament Investigators aged 9-11-years-old have recommended that adverts be removed so that children can't see them, including ensuring that online adverts are not shown during times when children might be using the internet.²²⁶

Restrictions for online advertising of alcohol are in place in other countries in Europe. Lithuania prohibits alcohol advertising online entirely, while Sweden prohibits advertising on video-sharing platforms and Estonia and Finland prohibit it on other social media platforms.²²⁷

Q24: What types of paid alcohol advertising do you think should be covered by any restrictions?

All types.

This should explicitly include influencer marketing. The financial relationships between brands and influencers have become less transparent, such as where items are 'gifted' with an expectation of exposure in return. We recommend that legislation explicitly restricts alcohol brand owners from providing free products or services to online celebrities and influencers.

Q25: What, if any, exceptions do you think should there be to restricting paid alcohol advertising online?

There should be no exceptions.

Q26: Do you think we should restrict alcohol companies from sharing promotional content on social media (e.g. filters, videos or posts) – whether this is produced by them or by consumers?

Yes.

As we have stated in our answer to question 21, alcohol brands should be prohibited from having social media accounts, and owner companies prohibited from brand promotion on social media channels. This would prevent them being able to promote their brand, and alcohol consumption more generally, either through their own content or sharing the content of consumers. By reproducing content generated by users, alcohol companies can promote different representations of alcohol consumption than can be portrayed by them, such as excessive or harmful practices.²²⁸

Q27: What, if any, exceptions do you think there should be from restricting alcohol companies from sharing promotional content on social media (e.g. filters, videos or posts) – whether this is produced by them or by consumers?

There should be no exceptions.

Television and Radio Advertising

Q28: Do you think we should explore prohibiting alcohol advertising on television and radio completely (e.g. like Norway or Sweden)?

Yes.

As part of comprehensive restrictions on alcohol marketing, alcohol advertising on television and radio should be restricted, in line with the recommendations of the Alcohol Marketing Expert Network.²²⁹

Traditional commercial television remains one of the most effective advertising channels, with 60% of consumers making a purchase after seeing or hearing an advert on TV.²³⁰ TV advertising achieves the highest return of investment (ROI) of all media channels²³¹ and amplifies the effects of other media, such as by increasing traffic to advertisers' websites.²³²

TV advertising is effective because of its significant reach and popularity. In Scotland in 2022, 83% of people watched broadcast TV, averaging 3 hours 28 minutes per day (the most of any UK nation).²³³ Many people also watch on-demand services on their television, with 69% of households in Scotland subscribed to at least one subscription video-on-demand (SVoD) service in 2022.²³⁴ Children also watch a significant amount of television, with those aged 4-15 watching just under an hour each day.²³⁵

Alcohol brands still rely heavily on television advertising, devoting half of their 2020 spending on television, twice as much as the average brand.²³⁶ The high level of investment in TV advertising by alcohol brands is revealing. In 2007, Guinness spent an estimated \$16 million producing the second most expensive TV advert ever made, followed closely by Bud Light's \$12 million advert in 2014.²³⁷

Alcohol advertising on TV is highly prevalent in the UK. A study of programmes aired between 6 and 10pm in the UK found that 18% of programmes and 11% of advertising breaks contained alcohol branded content.²³⁸ The most common form of alcohol branding within TV programmes was sponsorship, either of a programme or of sporting events.²³⁹ Studies have consistently shown the high frequency of exposure to alcohol marketing during televised sports broadcasts.^{240 241 242 243} For example, during the live Six Nations rugby union match between Scotland and England in 2020, there was an alcohol marketing reference every 12 seconds.²⁴⁴

Television is the most frequent source of alcohol marketing awareness for children and young people. In a 2019 survey, 59% of 11-17-year-olds in the UK reported having seen alcohol adverts on TV in the last month.²⁴⁵ Exposure was also high on catch-up and streaming services, with a third (34%) of young people seeing alcohol advertising at least monthly. It is estimated that children in the UK see an average of 0.8 alcohol ads per week, one advert for every six seen by those over the legal drinking age.²⁴⁶ The reach of alcohol advertising is even greater for adults; in Ireland in 2019, 79% of adults reported having seen alcohol advertising television, including programme sponsorship, in the past month.²⁴⁷

Exposure through television is not limited simply to adverts. Alcohol companies reach and influence millions of young people every year through sponsoring sports and events broadcast on television; for example, broadcasts of the 2019 Guinness Six Nations Championship games delivered an estimated 758 million Guinness-related branded impressions to children aged under 16 in the UK.²⁴⁸ Children are exposed to alcohol marketing through other family viewing too, such as soap operas, which were found to deliver around 26 million branded alcohol impressions over three months to children aged under 16 in the UK.²⁴⁹

Several systematic reviews have revealed an association between exposure to alcohol advertising on TV and the onset and continuation of drinking among young people.^{250 251 252} Similar effects on consumption have been found for TV advertising of other health harming products, such as unhealthy foods.^{253 254}

Children and young people in Scotland themselves have expressed concern at how they are exposed to alcohol advertising on TV and called for change.^{255 256} However, it is not only children and young people who would benefit from restricting alcohol advertising on television. People with an alcohol problem have found alcohol advertising on TV to be problematic, making abstinence more difficult and acting as a barrier to their recovery.²⁵⁷ Television advertising was seen as particularly powerful as people felt this intruded into their own home.²⁵⁸ Participants in several studies reported having to use strategies to steer clear of alcohol advertising, either through turning off media to try avoiding adverts or by actively recalling the negative aspects of alcohol use.²⁵⁹

Many of these themes emerged in our discussions with people in recovery in Scotland:²⁶⁰

“Certain movie channels are sponsored by alcohol companies, so I get constant alcohol adverts.”

“I avoided TV like the plague – never had it on for weeks.”

“I was watching the news the other night and they were talking about the problem with alcoholism in Scotland. The very minute the news finished the first advert was one for drink promotions.”

Commercial radio is also popular with people in Scotland and therefore a source of alcohol advertising exposure. For example, 80% of adults aged 35-44 years old listen to commercial radio, for an average of 13 hours per week.²⁶¹ A study in Ireland found that 47% of adults recalled hearing alcohol adverts on the radio at least once in the past month.²⁶²

Although young people are less likely to listen to radio than other age groups, 55% of 15-24-year-olds in Scotland still listen to commercial radio for an average of just under 12 hours each week.²⁶³ Sponsorship by alcohol brands on radio often occur in programmes that have a high child audience, i.e. during breakfast and drivetime.²⁶⁴ An American study found that alcohol advertising accounts for a substantial proportion of all alcohol radio advertising heard by underage youth, with this type of advertising common on radio programmes with disproportionately large youth audiences.²⁶⁵ In the UK, children and young people are exposed to alcohol advertising on the radio; a survey of 11-17-year-olds found that 18% of respondents had heard adverts for alcohol on the radio within the last month.²⁶⁶

Consideration should be given as to how to ensure other types of audio, such as streaming services, podcasts and on-demand radio, are covered by alcohol advertising restrictions.

Taking into account the popularity of TV and radio, it is clear that restricting alcohol advertising on these media would protect children and young people and people in recovery from harmful exposure, while at the same time, tackling the normalisation of drinking in Scottish culture more generally. In line with other European countries, such as Lithuania, Norway and Sweden, Scotland should introduce a complete ban on TV and radio advertising for alcohol.

Q29: Do you think we should introduce a watershed for alcohol advertising on TV and radio (e.g. like Ireland), and if so how would this work?

Yes.

We strongly recommend that the Scottish Government introduce a comprehensive ban on alcohol marketing because this would offer the greatest protection to people by preventing exposure to marketing in the first place. As noted in our answer to question 28, our preference is for a prohibition on all TV and radio advertising. A watershed for alcohol advertising would only become relevant in the event that comprehensive restrictions were not put in place.

Although partial restrictions through watersheds are popular for alcohol advertising across Europe, prohibitions are more effective. Research of alcohol marketing restrictions in other European countries emphasises the advantages of full over partial restrictions.²⁶⁷ This includes that the more comprehensive the regulatory approach, the easier it was felt to be to implement and enforce.

Evidence suggests that time restrictions for alcohol advertising on TV can reduce children's overall exposure to alcohol advertising but have the potential to increase exposure for older children.²⁶⁸ This is due to a combination of shifts in alcohol advertising to directly after the watershed and peak viewing times for (particularly older) children. For example, in the Netherlands, alcohol ads more than tripled after 9pm following the introduction of the watershed restriction.²⁶⁹ In the UK, a significant proportion of children watch television after the current watershed of 9pm; in 2016, one million children aged 4-15 years (10% of the child population) watched live TV between 9 and 10pm.²⁷⁰

In addition, a watershed ban would not protect adults from exposure to alcohol advertising. This includes people with or in recovery from an alcohol problem, who have cited television as an intrusive and particularly challenging element of alcohol marketing which threatens their recovery.²⁷¹

Cinema Advertising

Q30: Do you think alcohol advertising should be restricted in cinemas?

Yes.

Alcohol advertising in cinemas should be restricted as part of comprehensive restrictions on alcohol marketing.

Cinema is a powerful advertising medium, uniquely offering a captive audience that consciously processes marketing messages. Cinema advertising is eight times more effective at making a brand stand out than television, with higher brand recall and more emotional engagement.²⁷² Alcohol companies apportion a greater share of their marketing budgets to cinema advertising than companies in other product categories,²⁷³ establishing and reinforcing the connection between alcohol brands and leisure activity.

Going to the cinema is the most popular cultural activity in Scotland, with 58% of adults attending each year.²⁷⁴ Cinema-going is particularly popular with children and young people; two thirds of 5-10-year-olds and 70% of 11-15-year-olds visit the cinema in the UK.²⁷⁵ Nearly one in five (19% of) 11-17-year-olds in the UK report having seen adverts for alcohol at the cinema within the last month.²⁷⁶ Millions of people are therefore exposed to harmful alcohol marketing messages when attending the cinema, including children. Research carried out in the North East of England found one in four adverts shown during popular family (12A and 15-certificate) films were for alcohol.²⁷⁷

People in recovery from an alcohol problem have highlighted how difficult it has been for them to see alcohol advertising in the cinema. For example, one person told us:²⁷⁸

"We have a small local cinema and last time I was there with my wife I remember saying to her that the first 7 adverts at the cinema were for alcohol... In my earlier

days of recovery, I would have been straight to the wine shop after seeing that, even now it doesn't make you feel very comfortable. They were all very fancy adverts and well filmed and it all looked very attractive. In the earlier days I would have definitely been tempted by that."

Several European countries already have in place bans on alcohol advertising in cinemas. For example, Lithuania, Norway and France prohibit alcohol advertising in cinemas entirely, while Ireland prohibits advertising at films unless they are certified as 18 years or above, as does Finland for mild alcohol (strong alcohol advertising is prohibited in cinemas).²⁷⁹

Research from Ireland shows the impact of restrictions on alcohol advertising at the cinema, finding reduced past-month awareness of cinema advertising among adults, falling from 29% pre-implementation to 20% two years post-implementation.²⁸⁰ This decrease was sustained even once pandemic mitigation measures had eased, whereas in Northern Ireland (where the restrictions do not apply) awareness increased as pandemic mitigation measures lifted.

Q31: If alcohol advertising was restricted in cinemas, what, if any exceptions (e.g. products in scope, times of day or specific movie ratings) do you think should be considered?

There should be no exceptions to alcohol advertising restrictions in cinemas.

To protect children and young people, some countries have limited alcohol advertising to certificate-18 films. If this approach was taken in the UK, alcohol advertising would be limited to 5% of the films released each year (those that are classified as suitable for adults only).²⁸¹ This would of course ensure that children and young people are not exposed to alcohol promotion while at the cinema. There is also evidence from Ireland that this type of restriction is effective in reducing awareness of alcohol advertising at the cinema for adults.²⁸²

However, restricting alcohol advertising such as to specific movie ratings would not provide adequate protection to the general population or people with or in recovery alcohol problems, for whom the intrusive nature of cinema advertising presents unique risks. Unlike viewing a film at home, it is not possible to switch off or walk away from an alcohol advert shown in the cinema, which is a common strategy used by people in recovery when they encounter alcohol advertising on TV.²⁸³

Full restrictions are preferable over partial restrictions as they provide greater protection from exposure across all population groups and the more comprehensive the regulatory approach, the easier it is felt to be to implement and enforce.²⁸⁴

Restrictions on content of advertisements

Q32: Do you think that the content of alcohol marketing in Scotland should be restricted to more factual elements?

Yes.

We strongly recommend that the Scottish Government introduce a comprehensive ban on alcohol marketing because this would offer the greatest protection to people by preventing exposure to marketing in the first place.

Content restrictions would only become relevant in the event that comprehensive restrictions were not put in place. They would offer a much more limited protection by seeking to reduce the appeal and salience of any marketing that might be permitted.

Current rules do not provide any protection from the appeal of alcohol adverts for the general population. Restricting the content of alcohol advertising to factual criteria only would reduce the appeal of adverts and limit the potential for advertising to create positive feelings and attitudes towards alcohol brands and products, as well as towards drinking itself.

Attempts so far to control the content of marketing messages to decrease their appeal to children have had limited impact. Children in the UK see large volumes of alcohol marketing and they find the content appealing. The codes proscribe content that is 'particularly' appealing to children but this has been shown to be of little practical value. Many common features of alcohol marketing - such as the use of humour - are considered to have general rather than 'particular' appeal and are therefore not proscribed. Yet these features can powerfully shape children's perceptions and attitudes to alcohol. For example, a substantial proportion of adolescents below the minimum legal purchasing age in a UK study had positive reactions towards the alcohol adverts studied, which had not been ruled to breach any of the UK marketing codes.²⁸⁵

Research suggests that limiting advertising to factual product information may be effective in reducing the appeal and persuasion of alcohol marketing. A French study found that young adults reported more positive reactions to alcohol adverts which featured a salient context (sport or party) than plain adverts with no context (i.e., just product and logo).²⁸⁶ The same experiment found contextual adverts which featured characters generated more positive reactions than contextual adverts without characters.

In addition to restricting the content of adverts to factual elements only, any content restrictions should also include a mandatory health warning on all advertising. Similar action has been taken in Sweden, Estonia, France and Ireland.²⁸⁷

Q33: Do you think we should only allow alcohol marketing to include elements set out in a list, like in Estonia? This would mean all other elements not on the list would be banned from adverts.

Yes.

As above, we strongly recommend that the Scottish Government introduce a comprehensive ban on alcohol marketing because this would offer the greatest protection to people by preventing exposure to marketing in the first place.

Content restrictions would only become relevant in the event that comprehensive restrictions were not put in place. The approach as used in Estonia, which limits the content of any remaining marketing to factual criteria as set out in a list, would provide some limited protection by reducing the appeal and salience of that marketing. Ireland will take a similar approach; once commenced, Section 12 of the Public Health (Alcohol) Act will only permit advertising to refer method of production, price, and other objective product characteristics (e.g., strength).

Q34: Do you think that content restrictions like the Estonian model should be applied to all types of alcohol marketing?

Yes.

As above, we strongly recommend that the Scottish Government introduce a comprehensive ban on alcohol marketing. Content restrictions would only become relevant if comprehensive restrictions were not put in place.

Enforcement

Q35: How do you think that any future alcohol marketing restrictions in Scotland should be monitored and enforced?

As recommended by the Alcohol Marketing Expert Network, the Scottish Government should implement systematic and regular monitoring and enforcement of statutory restrictions by an independent body or government agency, with powers to impose robust sanctions for non-compliance.²⁸⁸

A human rights-based approach to alcohol harm places duties on states that they have too often relinquished through the delegation of alcohol marketing regulation to industry bodies. Systems that rely on self or voluntary regulation, as currently in place in the UK, are ineffective in preventing high levels of exposure to, or salience of, alcohol marketing. This also extends to dealing with non-compliance, with research showing that when the alcohol industry controls the compliance and complaints processes, they fail repeatedly to remove marketing materials that have been identified as non-compliant with industry codes.²⁸⁹ The Scottish Government must take responsibility for ensuring that the systems they put in place to protect and promote the rights of their citizens are doing so in practice.

The World Health Organization has highlighted the important role of monitoring systems and deterring regulatory infringements in ensuring the effectiveness of alcohol marketing controls.²⁹⁰ Ensuring that monitoring compliance with any new statutory restrictions is undertaken by a government agency or body independent from the alcohol and advertising industries is in keeping with the principle that states should retain accountability for ensuring people's human rights are being protected and promoted.

Adopting statutory restrictions on alcohol marketing will address some of the shortcomings of the current regulatory system, removing the reliance on subjective assessment of the appropriateness of particular adverts or activities. Nevertheless, the experience of other countries demonstrates the continued need for monitoring and enforcement to ensure the restrictions are adhered to and that any breaches are dealt with appropriately, as companies will test the limits of what is permitted. For example, as far back as the 1990s, tobacco companies developed alibi marketing strategies for tobacco promotion in what they referred to as 'dark market' areas or countries, i.e. places where tobacco promotion was restricted.²⁹¹ In France, the alcohol industry has regularly broken the alcohol marketing rules, leading to legal challenges, with an estimated 85% upheld.²⁹²

Vigilance is therefore needed to ensure that sufficient resources are allocated to monitoring compliance with regulations and to enforce breaches where these occur. Failure to act on seemingly clear breaches of legislation can lead to confusion and set unhelpful precedents about the scope of the legislation.

Sufficiently robust and punitive sanctions, such as substantial financial penalties, need to be an integral element of the enforcement regime, as these are necessary for restrictions to be effective and meaningful.²⁹³ In Estonia, a substantial increase in the fine level in 2017, from 3,200 Euros to up to 50,000 Euros, was felt to have "eliminated this conscious breaking of the rules."²⁹⁴

Enforcement must also be timely. A key challenge identified across European countries that have introduced alcohol marketing restrictions was slow and reactive enforcement, which provided little deterrent from breaching the legislation as the marketing would have achieved its effect before any enforcement action can be taken.²⁹⁵

While recommending countries put in place comprehensive restrictions on alcohol marketing, we acknowledge there may be some limited forms of marketing that remain legitimate, such as business-to-business promotional activity. Legislation will require to clearly differentiate between permitted and restricted activity. In line with the recommendation of the Alcohol Marketing Expert Network, the Scottish Government should adopt a ‘positive list’ approach to legislation, stating what activities are permitted under the legislation, rather than what are not.²⁹⁶

Experience from countries that have implemented marketing restrictions has highlighted the importance of limiting any ambiguity within the restrictions, often caused where there requires to be subjective interpretation of the scope of the legislation. In Sweden, for example, the principal rule of “particular moderation” (under which advertising is not allowed to be obtrusive, to encourage the consumption of alcohol, or to contribute towards a positive attitude towards the consumption of alcohol) has been found to leave a lot of ‘grey areas’ over what is and what is not allowed, which have required to be resolved in the courts.²⁹⁷

A clear recommendation from almost all countries involved in recent case study research is that restrictions need to be straightforward and clear in order to limit the potential for industry to exploit loopholes or ambiguities. France was one of the first countries to attempt to list the specific situations in which alcohol advertising is allowed, banning any activity not explicitly permitted. A similar approach has been adopted in Lithuania and is planned in Ireland.

Research suggests this approach has several advantages.²⁹⁸ Firstly, it allows for more straightforward regulation that is easier to implement, monitor and enforce. Even countries that applied a positive list approach in a more limited way highlighted the advantages. Secondly, it is a means to prevent industry pushing the boundaries of the legislation, learning from the experience in several countries of industry testing the limits of what is permitted and trying to find ways to circumvent the rules.

Thirdly, a positive list approach is an important way to help future-proof legislation against new technologies or innovations. The rapid development of marketing techniques and channels has been a challenge in some countries with longer-standing marketing restrictions, especially when based upon legislation that specifies which channels and activities are not permitted. In Sweden, Norway, and Lithuania, there have been continued efforts to ensure ‘old’ legislation remains fit for purpose, particularly in response to emerging forms of new media marketing. Adopting a positive list approach would ensure that emerging new technologies or marketing activities which policymakers cannot currently anticipate are still covered by the legislation.

Evaluation and provision of data

Q36: Do you think that Scottish Government should require the alcohol industry to provide information and data on alcohol marketing campaigns in Scotland?

Yes.

The requirement to provide information and data on alcohol marketing campaigns in Scotland should inform an evaluation programme to assess the effectiveness of marketing restrictions. Information and data required to be provided should include marketing spend, media used, and data on the demographics of audiences reached.

Ensuring robust evaluation of restrictions is an important means of measuring their impact on outcomes. It could also be used to track whether there are unintended consequences arising from the implementation, such as loopholes that undermine the legislative aims. Such evaluation could be important in combatting challenges to regulation by the industry, or to support further restrictions, if necessary. It could also act as important evidence for other countries considering how to implement

potential restrictions and for the World Health Organization in considering action at the international level, such as in relation to digital marketing.

There is public support for this measure, with two thirds of the public agreeing that the alcohol industry should be required to publicly disclose business information relevant to its activities (such as sales data, details of lobbying and marketing).²⁹⁹

Q37: Do you think that Scottish Government should require the alcohol industry to provide local alcohol sales data in Scotland?

Yes.

Alcohol sales data are widely accepted as the most robust indicator of population level consumption.³⁰⁰ However, in the absence of the provision of sales data by alcohol companies, evaluation of alcohol policies must be conducted using data from market research companies, at a cost. Although these are the best estimates of sales data, they are collected from a variety of different sources, with estimates produced to account for the lack of data from discount retailers.

Requiring the provision of local alcohol sales data would enable the Scottish Government to undertake or commission the most robust evaluations of alcohol policy, including on the proposed restrictions on alcohol marketing. It would also significantly enhance local licensing policy development and decision-making by providing licensing boards with a much clearer and more accurate picture of the availability of alcohol in a geographic area and the impact of different types of premises. Such sales data would also help to increase our understanding of how the alcohol 'best-buys' are interconnected, to understand whether interventions are being effective, and to inform future policy.

The provision of sales data would be valuable not just to inform national policy but also, by providing a fuller picture of sales in local areas, to better inform local licensing boards and Alcohol and Drug Partnerships.

There is public support for this measure, with two thirds of the public agreeing that the alcohol industry should be required to publicly disclose business information relevant to its activities (such as sales data, details of lobbying and marketing).³⁰¹

End Questions

Q38: Do you think the Scottish Government should look to introduce a comprehensive package of restrictions across a number of marketing channels? If so, what do you think this package should include?

Yes.

A successful marketing strategy does not rely on the reach and persuasion of a single activity. Instead, a range of activities are interwoven to interact and complement each other, to maximise the likelihood of reaching and persuading consumers. The repeated exposure of people to a marketing message through these interconnected activities leads to familiarity, recall, purchase and even brands becoming an integral part of people's individual and cultural identities. This results in a cumulative effect of marketing, where the more channels and content people are exposed to, the more likely they will be influenced.^{302 303}

Experience from tobacco suggests that restrictions that affect only limited aspects of the marketing mix are likely to result in an expansion of activity in other parts of the mix, diluting the impact.³⁰⁴ As a creative industry, marketers are highly adaptive and able to exploit the limitations of any regulatory system. Only the adoption of comprehensive restrictions can prevent investment shifts from regulated

to unregulated media, marketing techniques or settings and consequently protect children, vulnerable adults and the public at large from harm.

Case study research of alcohol marketing restrictions in other European countries emphasises the advantages of full over partial restrictions.³⁰⁵ The more comprehensive the regulatory approach, the easier it was felt to be to implement and enforce. Complete restrictions were considered to be clearer for enforcers and industry alike, removing ambiguity and the need for subjective interpretation of the rules.

The long-standing recommendation of the World Health Organization is for comprehensive restrictions on alcohol marketing. According to WHO, this is an impactful and cost-effective approach which will help protect children, adolescents, people in recovery and abstainers from the pressure to drink as well as disrupting the industry's ability to create and maintain social norms that encourage high levels of alcohol use in the population more generally.³⁰⁶

Taking this evidence into account, the Alcohol Marketing Expert Network has recommended that the Scottish Government introduce statutory restrictions on alcohol marketing activities in all areas of its competence.³⁰⁷ These include advertising in outdoor and public spaces; sponsorship of sports and events; branded merchandise; competitions, giveaways and rewards; point-of-sale promotions; advertising in print publications; the display and placement of alcohol in shops; the use of price as a promotional tool; and product packaging. Regulating these activities would substantially increase the protection from alcohol marketing afforded to children, people with (or at risk of) an alcohol problem, and the general population by unplugging a range of marketing channels and activities and reducing the power of the remaining marketing activities by disrupting the marketing mix.

In addition, the Scottish Government should press the UK Government to introduce restrictions on alcohol marketing on TV, radio, newspapers and magazines produced in the rest of the UK, and in cinemas to complement the restrictions which can be delivered by the Scottish Parliament. Given the accepted challenges of regulating the online environment, particularly given its transnational nature,³⁰⁸ it will be important for the Scottish and UK Governments to work closely together, and with other international governments and partners such as WHO, to seek appropriate solutions to digital alcohol marketing, including by supporting calls for a global Framework Convention on Alcohol Control.

There is clear direction from the WHO that a statutory approach is preferable. Research from a variety of countries suggests that industry codes are subject to under-interpretation and under-enforcement, and they are regularly violated.^{309 310 311} Worse, industry documents and practices reveal how alcohol companies actively target their marketing at people they know are drinking at levels likely to be harmful to their health, or to newly legal drinkers, with associated risks of appealing to underage consumers.^{312 313} The current system of co- and self-regulation of alcohol marketing in the UK is confusing, fragmented, contradictory in places, and ineffective in controlling levels of exposure or the power of marketing. It fails to prevent marketing content that appeals to children and young people and to prevent high levels of exposure through a range of marketing channels. In addition, enforcement is retrospective, slow and weak.³¹⁴

There is broad public support for increased alcohol marketing restrictions in Scotland. Around three quarters (73%) of people support limiting children's exposure to adverts,³¹⁵ and almost half (48%) of people support a ban on all alcohol advertising - with higher levels of support than opposition for this measure.³¹⁶ Around two thirds (62%) of people support restricting advertising, sponsorship and promotion of alcohol products online, in public spaces and at sport and cultural events.³¹⁷

Children and young people have also called for action on marketing. As part of a project investigating an alcohol-free childhood in 2019, members of Scotland's Children's Parliament (aged 9-11 years) called for adverts to be removed so that children cannot see them and for alcohol to be less visible in shops.³¹⁸ In 2020, the Young Scot Health Panel of children and young people aged 14-25 years recommended mandatory controls on alcohol marketing, including restrictions on alcohol advertising on TV, in cinemas and in public places, and content requirements for adverts and packaging to reduce appeal to young people and warn them of the dangers of drinking.³¹⁹

People in recovery across Scotland have expressed a wish to see the ubiquitous and intrusive marketing of alcohol in their daily lives addressed:³²⁰

"It glamorises alcohol and makes it out to be something desirable. It makes me feel angry at times. It can be a trigger for people who prefer not to drink or trying to give up. Large amounts of money are spent on marketing a product that is essentially harmful. I would prefer there was no marketing of alcohol at all as there is with smoking."

"Until you are in recovery it is hard to understand how important this is. Reducing alcohol advertising could easily help save lives for many in the recovery community."

Q39: What, if any, additional alcohol marketing methods or channels not covered in the consultation would you like Scottish Government to consider restricting and why?

As indicated in our answer to question 38, comprehensive restrictions on alcohol marketing are most effective. Although the proposals in this consultation cover a wide variety of types of marketing activities, a few elements are missing. These include the use of price as a promotional tool; product packaging and labelling; competitions and rewards; and celebrity endorsement. More detail is provided on each of these elements below. We have also highlighted the need for the online retail environment to be considered.

The use of price as a promotional tool

The use of price as a promotional tool should also be considered as part of comprehensive restrictions on alcohol marketing. Despite the progress that has been made in Scotland in addressing the role of price in driving consumption, both through the multi-buy discount ban and minimum unit pricing, straight discounting is still possible and products are often promoted on their price. This is through marking of the price on the packaging itself or visual cues such as brightly coloured or differently-sized labels or shelf markers which draw attention to a low or reduced price. Price promotions are common in Scotland. In 2021, a quarter of all alcohol sold through larger multiple retailers was on promotion.³²¹ In a UK survey, 54% of 11-17-year-olds reported having seen special price offers for alcohol at least monthly.³²²

Studies illustrate how marking the price on the product itself can help drive sales, particularly impulse sales.³²³ Providing the regular price for comparison has also been shown to enhance the perceived value of offers on larger deals,³²⁴ and evidence from the Netherlands suggests that price discounts directly encourage sales.³²⁵

Modelling undertaken prior to the implementation of the multi-buy discount ban in Scotland estimated that banning all off-trade price promotions (both quantity discounts and other price-based promotions) could deliver a reduction in alcohol consumption of 3.1% and would complement minimum unit pricing.³²⁶ The Scottish Government should take further action to limit the use of price as a promotional tool. In particular, measures should be put in place to restrict straight discounting, price marking, price cues and the inclusion of alcohol in retail reward schemes. This would bring action

on alcohol marketing within the retail environment in line with proposals for unhealthy foods, for which legislation is expected within this parliamentary year.

Product packaging and labelling

Product packaging is a form of marketing not covered by this consultation. It is particularly important for brand identity – consumers automatically associate packaging with the brand, and it is what they tend to know best about the brand.³²⁷ As well as allowing products to catch attention and stand out on the shelf, packaging helps to create product and brand appeal.³²⁸ The attractiveness of packaging means products can often be repurposed or displayed at home.

The introduction of comprehensive restrictions on key forms of advertising and promotion will lead to increased industry attention on forms of marketing which remain available to them, such as packaging. To counter this, the Scottish Government should mandate the provision of health information to be displayed on all product packaging, in line with the recommendations of the Alcohol Marketing Expert Network.³²⁹ In addition to the health risks associated with drinking, this information should include, for example, unit content, drinking guidelines, a pregnancy warning, and nutrition and ingredients listings; all of which can inform healthier decisions.

Competitions and rewards

Competitions and rewards are forms of promotional activity that are also commonly used by alcohol companies and should be included in any restrictions. Around a quarter (26%) of 11-17-year-olds in the UK have reported seeing competitions or prize draws linked to alcohol products within the last month.³³⁰

Celebrity endorsement

It is unclear whether celebrity endorsement, an important marketing activity, is considered under sports and/or event sponsorship. Recent survey data from Ireland and Northern Ireland finds that between half and two-thirds of adults recall past-month awareness of celebrity endorsement.³³¹ Children and young people are also regularly exposed to this type of alcohol marketing. The 2017 and 2019 Youth Alcohol Policy Surveys found that around 7-in-10 11–19-year-olds in Scotland recalled seeing celebrity endorsement for alcohol in the past month.³³²

Online retail environment

With the increase of online purchasing during the pandemic, it is important that restrictions apply not just to purchases in physical premises but also to the online retail environment. Online shopping has become increasingly popular, including for alcohol. One in five people in the UK reported having purchased alcohol online even before the pandemic.³³³ Point-of-sale promotions on online supermarket websites are common, being served at various stages during the process (on the retailer's main page, offers page, when selecting items and during checkout). Recent research in Scotland found that one in ten food and drink promotions served during online supermarket shopping were for alcohol, increasing to 28% of promotions when shopping with an 'unhealthy' basket that already included an alcohol product.³³⁴

Q40: What further evidence on alcohol marketing would you like the Scottish Government to consider?

The Scottish Government should consider alcohol-related harm from alcohol marketing as a major human rights concern and its legally binding obligations as a duty-bearer to respect, protect and fulfil people's rights. Introducing statutory restrictions on alcohol marketing would contribute to Scotland's ambitious human rights agenda, including its commitment to incorporating the UN Convention on the Rights of the Child (UNCRC) into domestic law to the maximum extent possible³³⁵ and its plans to

incorporate four further international treaties through a new Human Rights Bill,³³⁶ including the International Covenant on Economic, Social and Cultural Rights (ICESCR), which would address the right to the highest attainable standard of physical and mental health.

As well as harming the right to health and the right to life, survival and development, alcohol marketing also undermines people's rights to privacy and to be free from exploitation.³³⁷ The UN Convention on the Rights of the Child recognises that children, including adolescents, are a vulnerable group requiring special protection. Evidence demonstrates that the impact of alcohol marketing threatens to undermine a wide range of children's rights, including their rights to life, survival and development, to the enjoyment of the highest attainable standard of health, to privacy, and to be free from exploitation. In order to uphold the rights of children, international human rights monitoring bodies have given clear interpretative guidance to states and urged them to introduce effective regulation of alcohol marketing,³³⁸ including a ban on the alcohol advertising, promotion and sponsorship of all children's sporting events, and other sporting events which could be attended by children.³³⁹

The accountability introduced by taking a human rights-based approach requires that states should regulate alcohol marketing in the public interest – avoiding actual, potential or perceived conflicts of interest and undue interference from industry actors – and end self-regulation. Instead, states should implement effective, legally binding regulation of the alcohol and advertising industries.

The Scottish Government should consider that introducing alcohol marketing restrictions would contribute to efforts to tackle Scotland's consistently high levels of alcohol consumption and related problems. In a recent survey, most (59%) of S4 pupils in Scotland said that they drink alcohol³⁴⁰ and around a quarter of adults in Scotland drink at levels that put their health at risk.³⁴¹ There are over 3,700 deaths each year from alcohol (nearly 1 in 15 of all deaths).³⁴² It is estimated that up to 1 in 20 people in Scotland could have a Fetal Alcohol Spectrum Disorder (FASD), a family of conditions arising from exposure to alcohol at any stage of pregnancy.³⁴³ Alcohol harm has been recognised as a public health emergency following dramatic increases in alcohol death rates during the pandemic.³⁴⁴

There is significant evidence on the impact of alcohol marketing on drinking behaviours, and in turn, alcohol-related harm, providing clear rationale for the introduction of comprehensive restrictions. We have set out below some key evidence on the impact of alcohol marketing on the general population, children and young people and people with (or at risk of) and alcohol problem.

The general population

There is a wealth of evidence that exposure to alcohol marketing is causally linked to consumption.³⁴⁵
³⁴⁶ ³⁴⁷ Critical appraisals of alcohol marketing campaigns show that promotional activity by alcohol companies not only enables brands to retain customers and to facilitate switching between brands or products, but also serves to recruit new drinkers and increase consumption.³⁴⁸ ³⁴⁹ There is conclusive evidence of a small but consistent association of advertising with consumption at a population level.³⁵⁰ Evidence shows that alcohol promotional activities consistently demonstrate an aggregative effect;³⁵¹ the more people are exposed, the greater the effect.

The aggressive, pervasive and sophisticated nature of alcohol marketing creates an alcohol-promoting environment where norms about the role of drinking in our society are reinforced. This helps to establish and sustain expectations around alcohol use as positive, aspirational, commonplace, and even part of a healthy lifestyle. The positive expectations around alcohol use created by marketing are predictive of consumption.³⁵² ³⁵³ Social norms are amongst the most powerful drivers of behaviour, including drinking.³⁵⁴ ³⁵⁵ This normative effect has serious and wide-reaching consequences for the general population, as well as for vulnerable groups. There is little opportunity for messages

countering these norms to cut through; public health lacks the resources (or likely sophistication of messaging) to counter industry narratives. Industry influence on social norms relating to consumption has been identified by the World Health Organization as a reason to restrict alcohol marketing.^{356 357}

Children and young people

Children and young people are at particular risk from alcohol marketing both due to their increased susceptibility to its persuasive messages and because they experience disproportionate physical and mental impacts from drinking alcohol.³⁵⁸ Significantly, research has now established a causal connection between children and young people's exposure to alcohol marketing and drinking.³⁵⁹ Reviews of decades of research have concluded that alcohol marketing leads young people to start drinking earlier, to drink more if they are already drinking, and to drink at heavy or problematic levels.^{360 361} Alcohol marketing provides the building blocks for current and future behaviour by affecting how children and young people think and feel about alcohol. It encourages them to develop brand preferences and positive expectations around alcohol, as well as creating and reinforcing social norms around alcohol consumption.³⁶² High levels of brand knowledge and preferences for certain brands have been demonstrated by under-18s, including in Scotland and the rest of the UK, even before they have started to drink.^{363 364 365 366}

The current self-regulatory approach in the UK is failing to protect children and young people from regular exposure to alcohol marketing. In a UK survey, 82% of 11-17-year-olds reported having seen alcohol advertising in the last month.³⁶⁷ Children and young people in Scotland recognise how highly visible and heavily marketed alcohol is and are calling for action on marketing.^{368 369}

People with (or at risk of) and alcohol problem

People with (or at risk of) an alcohol problem - people with an alcohol use disorder, in recovery from an alcohol use disorder, or drinking above recommended guidelines - are at increased risk from alcohol marketing. Those with alcohol dependence also experience both disproportionate harm from alcohol use and increased susceptibility to alcohol marketing, with marketing messages processed differently by heavy drinkers.³⁷⁰ The more someone drinks, the more likely they are to pay attention to alcohol cues,³⁷¹ which, in turn, leads to increased cravings,³⁷² creating a vicious circle whereby alcohol-related stimuli become more noticeable as cravings increase, and cravings increase as greater attention is paid to alcohol-related stimuli.³⁷³

A literature review commissioned by AFS identified that people with alcohol problems are more likely to notice alcohol marketing, due to both greater exposure and interest, and that heavy drinkers are more likely to find alcohol adverts appealing.³⁷⁴ The findings suggest that marketing effects have the potential to translate into increased alcohol use and pose a risk to recovery for people with alcohol problems, making it difficult for them to abstain from drinking, encouraging or triggering drinking, and even being directly responsible for their relapse. This is supported by people's accounts of their experiences of being in recovery.

Q41: If you sell, distribute, advertise or manufacture alcohol, or represent those who do, how do you think the potential restrictions in this consultation paper would impact you, and the wider alcohol sector?

AFS does not sell, distribute, advertise or manufacture alcohol, or represent those who do. We consider that it is right and appropriate that industry has the opportunity to input to the consultation as to the effect of the proposals on them as "economic operators."³⁷⁵ However, previous experience suggests that industry views on the likely impacts of public health policies on businesses should be subject to careful scrutiny. For example, industry bodies and companies made a number of claims in relation to a minimum unit price for alcohol. These include the then CEO of the Scotch Whisky

Association (SWA) stating to the Scottish Parliament's Health and Sport Committee, "I can give you a guarantee that, if Scotland goes ahead with a health-based justification for a minimum price, jurisdictions around the world will use that precedent discriminately against Scotch whisky. We calculate that we would lose 14.5 per cent of our exports—£500 million-worth—over a number of years."³⁷⁶ In fact, Scotch whisky exports grew in both 2018 and 2019 following the introduction of MUP,^{377 378} only falling in 2020 due to the COVID-19 pandemic and US sanctions;³⁷⁹ they have since hit record levels at over £6bn in 2022.³⁸⁰ This is why it would be helpful to require companies to provide data on their marketing spend and on alcohol sales, in order to better understand current activity and to assess the impacts of any future legislative changes.

Impact Assessment

Q42: Are there any relevant equality issues that Scottish Government should be considering at this stage in the policy development?

Alcohol harm is not equally experienced in Scottish society. People who live in the most deprived areas of Scotland are more than five times more likely to die and seven times more likely to be admitted to hospital due to alcohol than those who live in the least deprived areas.^{381 382} Population measures that aim to reduce the overall consumption of alcohol will therefore have the most benefit for the most disadvantaged people in our society.

There is some specific evidence in relation to the greater levels of exposure to alcohol marketing for people from more deprived areas. Children from deprived areas are more reliant on public transport,³⁸³ meaning that they are likely exposed to a higher volume of alcohol advertising linked to transportation networks.³⁸⁴

¹ Alcohol Focus Scotland (2022). *Realising our rights: How to protect people from alcohol marketing. A report by the Alcohol Marketing Expert Network.*

² Finan, L. J. et al. (2020). Alcohol marketing and adolescent and young adult alcohol use behaviors: A systematic review of cross-sectional studies. *Journal of Studies on Alcohol and Drugs, Supplement*, (s19), 42-56.

³ Biscaia, R. et al (2014). Sponsorship effectiveness in professional sport: an examination of recall and recognition among football fans. *International Journal of Sports Marketing and Sponsorship*, 16(1), 2-18.

⁴ Zerhouni, O. et al (2016). Dynamic exposure to alcohol advertising in a sports context influences implicit attitudes. *Alcoholism: Clinical and Experimental Research*, 40(2), 422-428.

⁵ Zerhouni, O. et al (2019). How alcohol advertising and sponsorship works: Effects through indirect measures. *Drug and Alcohol Review*, 38(4), 391-398.

⁶ Critchlow, N. et al. (2022). Have restrictions on alcohol advertising in Ireland affected awareness among adults? A comparative observational study using non-probability repeat cross-sectional surveys. *Journal of Studies on Alcohol and Drugs*. Advance online publication. <https://doi.org/10.15288/jsad.22-00099>

⁷ Critchlow, N. et al. (2022). Have restrictions on alcohol advertising in Ireland affected awareness among adults? A comparative observational study using non-probability repeat cross-sectional surveys. *Journal of Studies on Alcohol and Drugs*. Advance online publication. <https://doi.org/10.15288/jsad.22-00099>.

⁸ Brown, K. (2016). Association between alcohol sport sponsorship and consumption: A systematic review. *Alcohol and Alcoholism*, 51(6), 747-755.

⁹ Barker, A. B. et al (2021). A content analysis and population exposure estimate of Guinness branded alcohol marketing during the 2019 Guinness Six Nations. *Alcohol and Alcoholism*, 56(5), 617–620.

¹⁰ Youth Alcohol Policy Survey (2019). Online survey carried out by YouGov Plc. for Cancer Research UK between September and November 2019. Total sample size was 2,603 young people aged 11-17 living in the UK. The figures have been weighted and are representative of 11-19-year olds in the UK by age, gender, ethnicity, region and Index of Multiple Deprivation (IMD) deciles.

¹¹ Chambers, T. et al. (2018). Quantifying the nature and extent of children's real-time exposure to alcohol marketing in their everyday lives using wearable cameras: Children's exposure via a range of media in a range of key places. *Alcohol and alcoholism*, 53(5), 626-633.

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- ¹² Houghton, F. et al. (2014). Children's awareness of alcohol sponsorship of sport in Ireland: Munster Rugby and the 2009 European Rugby Cup. *International Journal of Public Health*, 59(5), 829-832
- ¹³ Alcohol Focus Scotland, Alcohol Concern, Balance North East and Drink Wise (2015). *Children's Recognition of Alcohol Branding*.
- ¹⁴ Children's Parliament (2019). "It's all around you, all the time." *Children's Parliament investigates: an alcohol-free childhood*. Alcohol Focus Scotland.
- ¹⁵ Purves, R. I. et al (2018). "I wouldn't be friends with someone if they were liking too much rubbish": A qualitative study of alcohol brands, youth identity and social media. *International Journal of Environmental Research and Public Health*, 15(2), 349.
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