



RESPONSE TO FOOD STANDARDS SCOTLAND CONSULTATION ON THE NATIONAL PROVISIONS IN THE FOOD LABELLING REGULATIONS 1996 REGARDING RESERVED DESCRIPTIONS FOR ALCOHOL

Alcohol Focus Scotland (AFS) is the national charity working to prevent and reduce alcohol harm. We aim to reduce the impact of alcohol in Scotland through the implementation of effective alcohol control policies and legislation. AFS welcomes the opportunity to respond to the Food Standards Scotland consultation on the national provisions relating to reserved descriptions for alcohol.

Summary

- Alcohol Focus Scotland supports a legislative approach to low-alcohol descriptors rather than providing guidance to industry.
- Using multiple different descriptors for low-alcohol products has the potential to cause confusion for consumers. Of the existing descriptors, we believe only 'low alcohol' and either 'alcohol free' OR 'non-alcoholic' should be used.
- We support the retention of the existing 'low alcohol' descriptor meaning not more than 1.2% ABV.
- While a case can be made for applying the 'non-alcoholic'/'alcohol-free' descriptor to products of either 0.05% or 0.5%, we believe consumer expectations of such a descriptor would lead to potential risks should the higher % ABV be used.

Q1: Should we introduce guidance or continue with legislation to define low alcohol descriptors?

AFS does not believe that guidance is appropriate in this instance, and supports the use of legislation to define low-alcohol descriptors.

We believe that the failure of industry to take action on alcohol labelling on a voluntary basis indicates that satisfactory outcomes are unlikely to be achieved through non-legislative means. For example, a review of previous industry-agreed labelling standards found that only 47% of labels met best-practice standards.¹ In addition, the Portman Group guidance on communicating alcohol and health-related information, reissued in 2017, no longer recommends that products contain the updated CMOs' guidance on low-risk drinking as a minimum requirement.² A recent review by the Alcohol Health Alliance found that only 7.5% of 320 different products surveyed contained the revised guidelines, and that even products launched after the publication of the revised guidelines contained out-of-date information.³

We share the concerns expressed in the consultation paper that the absence of legislation on this issue may lead to the industry applying their own descriptors to products, potentially leading to confusion for consumers. It is therefore essential that clear, enforceable, mandatory rules are put in place so that consumers can know, with confidence, what they are purchasing.

Q2: Should the existing descriptor for 'low alcohol' meaning not more than 1.2% ABV be retained?

We support the availability of low-alcohol products as options for people wishing to reduce their alcohol consumption and are in favour of retaining the existing descriptor for 'low alcohol' meaning not more than 1.2% ABV. This would maintain consistency with HM Revenue and Customs (HMRC) who use the 1.2% ABV as the point below which drinks are exempt from certain alcohol duty.

We are aware there is conflicting evidence about what the public expect this descriptor to mean. A study conducted by the Behaviour and Health Research Unit at Cambridge University, published in 2017, found that "a majority of participants perceived the alcohol content of products labelled with low descriptors as far higher in strength than the currently legislated cap of 1.2% ABV for any product using a label 'low' in relation to alcohol content."⁴ The average (median) perceived strength of 'low alcohol' products in the study was around 2.8% ABV. This research suggests the public would expect 'low alcohol' products to be up to 2.8% ABV.

Conversely, research done in 2018 by Alcohol Concern / Alcohol Research UK and Club Soda found that 56% of respondents expected a 'low alcohol' beer to contain up to 0.5% ABV.⁵ Because respondents to this survey were members of Club Soda, a group of people trying to be mindful about their alcohol consumption, these results may not reflect the wider UK population, though they provide insight into the views of people motivated to change their drinking behaviour.

We would have particular concerns around setting the descriptor at a level higher than 1.2%, as this could make it more difficult for those looking to consume lower-alcohol products. In addition, we are aware of evidence that lower strength alcohol labelling could increase the total volume of alcohol consumed on a single drinking occasion when compared to regular strength alternatives,⁶ and that the marketing of lower strength products could encourage people to extend the number of drinking occasions, e.g. drinking lower strength products at lunchtimes when previously they might not have consumed alcohol.⁷ We would therefore have concerns that increasing the definition of 'low alcohol' to a higher % ABV could negatively impact on consumers.

AFS therefore supports the retention of the existing descriptor for 'low alcohol' as 1.2% ABV.

Q3: Should the descriptor 'dealcoholised' be retained? If 'no' do you believe another descriptor could be used in its place and if so, what this descriptor should be?

No. As highlighted in the consultation paper, the term 'de-alcoholised' does not resonate well with the public. What matters to consumers is the strength of the drink they are consuming, not how the product has been manufactured.

We believe that this descriptor is not needed; products currently in this category should not be classified separately from other alcohol products. It would instead be most appropriate to use the 'alcohol-free' or 'non-alcoholic' descriptor (see our response to questions 4 and 5).

Q4: Do you agree that the term 'non-alcoholic' should be permitted to be used otherwise than in connection with sacramental and communion wines? If 'no', please provide a reason why.

Q5: Should the descriptor 'alcohol free' be retained and for this to continue at 0.05% ABV? We welcome your reasoning for your answer and any alternative suggestions.

We have considered question 4 and 5 together as we believe these questions are linked.

There is no meaningful difference between the terms 'alcohol free' and 'non-alcoholic'. To avoid confusing consumers we recommend that only one of these terms should be used.

We are content for this descriptor to remain at 0.05% ABV. Ideally, this descriptor would signal 'absolutely no alcohol'. In practice it is very difficult to produce fermented products that have absolutely no alcohol, and a number of products not designated as wine, beer or spirits contain alcohol at this level or above.⁸ 0.05% ABV represents trace levels of alcohol.

While we recognise there is a case to be made for this descriptor to be expanded to 0.5% ABV, we would have concerns about how this relates to the public's expectations of what alcohol-free/non-alcoholic means. For example, the Alcohol Concern / Alcohol Research UK and Club Soda research found that 47% of respondents would expect an 'alcohol-free' product to contain absolutely no alcohol.⁹ We regard it as unlikely that the public would understand it is very difficult to consume alcohol products at 0.5% ABV or below more quickly than the alcohol is metabolized by the body. We would therefore highlight as a risk of increasing the descriptor to 0.5% the potential to cause upset or alarm amongst consumers who are avoiding alcohol for religious, personal or health reasons. This highlights the importance of clear and unambiguous labels to ensure consumers are able to make informed choices about which products they drink.

Q6: Do you have any further comments?

We note the result of the low alcohol descriptors public consultation by the Department for Health and Social Care in England is to retain the existing four descriptors using guidance rather than legislation. As noted above, AFS believes that there is a strong case to be made for moving to two alcohol descriptors: 'low alcohol' meaning not more than 1.2% ABV, and either 'non-alcoholic' or 'alcohol free' meaning not more than 0.05% ABV. These descriptors would remove any ambiguity and confusion around low-alcohol products, enabling consumers to make informed choices about which products they drink.

However, we recognise the benefits of a consistent approach to low alcohol descriptors across the UK and the potential for different approaches to increase public confusion on this issue. Overall, there is a lack of information around what the public understand by the various descriptors, and what impact any changes to them would have on drinking behaviour. Moving forward, we would recommend Food Standards Scotland gather further evidence on public understanding of these descriptors and the impacts of any changes. We therefore welcome the commitment to review and assess the impact of the final decision, although we would suggest a shorter time frame for this review to provide the opportunity for action to be taken as soon as is practicable if required.

In addition, although the Department of Health and Social Care has opted to move from regulation to guidance for the low alcohol descriptors, Alcohol Focus Scotland strongly advocates for the descriptors to remain within legislation in Scotland. We therefore would support Option 2 of the proposals, subject to our comments about the number of descriptors. Given our concerns about industry self-regulation of labelling, we do not think reliance on guidance is appropriate even with the regulatory controls identified in the consultation. A legislative approach would provide greater clarity for industry and consumers and put enforcement on a stronger footing if the descriptors are not adhered to.

We believe that alongside this work on no- and low-alcohol descriptors, a mandatory regime of labelling should be introduced across all alcohol product labels, whereby all labels must provide the ABV and unit content of products, as well as the Chief Medical Officers' low-risk weekly drinking guidelines.³ Product labels should also contain warnings of the harms associated with alcohol consumption.

¹ Campden BRI (2014). *Final Report on: audit of compliance of alcoholic beverage labels available from the off-trade with the Public Health Responsibility Deal Labelling Pledge*. Campden BRI. Available from: http://webarchive.nationalarchives.gov.uk/20180201180301/https://responsibilitydeal.dh.gov.uk/wp-content/uploads/2014/11/Campden-BRI_Audit-of-PHRD-labelling-compliance-2014- FINAL-report_October2014-final.pdf

² The Portman Group (2017). *Communicating alcohol and health-related information*. The Portman Group. Available from: <http://www.portmangroup.org.uk/docs/default-source/alcohol-health-toolkit/final-for-publication-08-sept-17.pdf?sfvrsn=2>

³ Alcohol Health Alliance (2018). *Our Right to Know: How Alcohol Labelling is Failing Consumers*. London: Alcohol Health Alliance. Available at <http://12coez15v41j2cf7acjzaodh.wpengine.netdna-cdn.com/wp-content/uploads/2018/09/OUR-RIGHT-TO-KNOW-final.pdf>

⁴ Vasiljevic M, Couturier D, Marteau TM. Impact of low alcohol verbal descriptors on perceived strength: An experimental study. *British Journal of Health Psychology*. 2018;23(1):38-67. doi:10.1111/bjhp.12273.

⁵ Survey developed jointly by Alcohol Research UK / Alcohol Concern and Club Soda, January to March 2018. 556 responses were received, 530 said they had ever purchased a low alcohol product.

⁶ Vasiljevic, M., Couturier, D. L., Frings, D., Moss, A. C., Albery, I. P., & Marteau, T. M. (2018). Impact of lower strength alcohol labeling on consumption: A randomized controlled trial. *Health Psychology*.

⁷ Vasiljevic, M., Coulter, L., Petticrew, M., & Marteau, T. M. (2018). Marketing messages accompanying online selling of low/er and regular strength wine and beer products in the UK: a content analysis. *BMC Public Health*, 18(1): 147.

⁸ See Gorgus, E., Hittinger, M. and Schrenk, D. (2016). Estimates of ethanol exposure in children from food not labelled as alcohol-containing. *Journal of Analytical Toxicology*, 40: 537-42

⁹ https://www.alcoholconcern.org.uk/blog/alcohol-free-drinks-lets-get-things-clear#_edn1