



RESPONSE TO SCOTTISH GOVERNMENT CONSULTATION ON CONSULTATION ON RESTRICTING PROMOTIONS OF FOOD AND DRINK HIGH IN FAT, SUGAR OR SALT

Alcohol Focus Scotland (AFS) is the national charity working to prevent and reduce alcohol harm. We want to see fewer people have their health damaged or lives cut short due to alcohol, fewer children and families suffering as a result of other people's drinking, and communities free from alcohol-related crime and violence. AFS welcomes the opportunity to respond to the Scottish Government's consultation on restricting promotions of food and drink high in fat, sugar, or salt.

We have structured our response to focus specifically on those areas in which we believe lessons can be shared from one health-harming product category to another. More than anything, the alcohol experience has shown that restrictions need to be comprehensive and with few, if any, restrictions, to stop retailers from shifting from one type of promotion to another, and increase the proposed policy's ability to reduce harms from HFSS products and improve public health.

Q1: Which food categories should foods promotion restrictions target?

Option 4: All the categories included in the UK-wide reformulation programmes

Alcohol Focus Scotland (AFS) welcomes the proposals on restricting promotions of foods high in fat, sugar or salt (HFSS) in order to improve public health and particularly to protect the health of children and young people in Scotland. Such a ban will help align regulations that aim to reduce consumption of health harming products, bringing those for unhealthy foods more in line with restrictions on alcohol promotions. We welcome the recognition within this consultation that to deliver real impact on harm, the environment within which people live, buy and consume harmful products must be transformed. This is in keeping with the international evidence that whole population measures that influence this environment are most effective at reducing consumption and associated harm.¹ This includes increasing the price, reducing availability, and restricting marketing of the harmful product.

Given the alcohol experience, we support the position of Obesity Action Scotland in encouraging the Scottish Government to explore how to ensure that any ban on promotional activity is robust and effective.

As a further stage, the Scottish Government should also look at marketing in the wider sense (including non-monetary promotions and product placement within stores), and also include alcohol. This will promote a comprehensive approach to addressing the promotion of these discretionary products which are so damaging to health.

Selecting Option 4 would mean that restrictions are comprehensive and do not leave room for any margin of error when complying with restrictions. A clear definition of what constitutes a

HFSS food, and clear restrictions on the types of promotions that can be used and where these products can be located, will facilitate the policy's implementation.

Q2: Should nutrient profiling be used within all targeted food categories to identify non-HFSS foods?

No

We don't believe that nutrient profiling should be used in discretionary food categories listed under option 1 and option 2. We believe that all food in these categories should be subject to restriction and therefore do not require nutrient profiling.

Q3: If nutrient profiling were used, do you agree with the proposal to only target pre-packed products and non-pre-packed soft drinks with added sugar in respect of unlimited refills for a fixed charge?

No

We strongly disagree with the proposals to include only pre-packed products. Including only pre-packed products will be particularly problematic for targeting price and location promotions in out of home (OOH) settings, where food and drinks are often made and/or served to order, and so are not pre-packed.

The experience of banning some off-sales alcohol promotions has been positive and may provide helpful learning. From 1st October 2011, the Alcohol etc. (Scotland) Act 2010 introduced a number of specific restrictions on the pricing and promotion of alcoholic drinks sold in off-licensed premises in Scotland, such as a ban on multi-buy discount promotions. This ban was associated with a 2.6% reduction in off-trade alcohol sales, driven by a 4% reduction in wine sales.² Despite this restriction, it is still possible for retailers to sell discounted alcohol within the current rules. Minimum unit pricing (MUP) established a floor price of 50p per unit, below which alcohol cannot be sold. However, MUP will not prevent products above that minimum price from being discounted from their 'usual' price, to encourage higher volume sales. Ending all price discounting would help to reduce the likelihood of consumers buying more than they otherwise would to take advantage of time-limited offers. Alcohol Focus Scotland has therefore recommended that the Scottish Government prohibit all price discounting for alcohol.

Q4: What are your views on the proposal to include the following within the scope of multi-buy restrictions:

Extra Free: Agree

Meal Deals: Agree

As with alcohol, it may be practical to start by addressing those upselling promotions which are most prevalent, such as multi-buy price promotions. We would, however, encourage the Scottish Government to address other types of price promotion such as 'extra free' in order to prevent retailers switching to these. There needs to be a consistent and blanket approach across and between different types of price and location promotions to avoid loopholes.

Q5: What are your views on the proposal to restrict unlimited refills for a fixed charge on targeted soft drinks with added sugar?

Agree

As noted above we consider this a 'extra free' promotion and would encourage the Scottish Government to seek to avoid loopholes by pursuing a blanket, consistent approach to all price-promotions, including free refills on soft drinks.

Q6: Should other targeted foods be included in restrictions on unlimited amounts for a fixed charge?

Yes

Q7: What are your views on the proposal to restrict temporary price reductions (TPRs)?

Agree

Q8: Are there any other forms of price promotion that should be within scope of this policy?

Yes

In Scotland, a ban on multi-buy discount alcohol promotions (such as '3 for 2' offers) was introduced in 2011, and a minimum unit price in 2018. Despite this, it is still possible to purchase enough alcohol to exceed the weekly low risk drinking guidelines for less than the cost of one adult cinema ticket.³

Price remains a common marketing tool with straight discounting still possible (to above the minimum unit price) and products are often promoted on their price. This happens 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.

A third of products in a study of small retailers in Scotland were on some form of price promotion; price marking was most common and was found on around a quarter (24%) of products.⁴ In 2021, a quarter of all alcohol sold through larger multiple retailers was on promotion.⁵ 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.⁶

The multi-buy discount ban implemented in Scotland in 2011 was more limited in scope and did not prevent straight discounting; nevertheless, research undertaken as part of the Monitoring and Evaluating Scotland's Alcohol Strategy (MESAS) programme found it had delivered a reduction in off-sales purchases of 2.6%.⁷

However, retailers responded to the multi-buy discount by enhancing other promotions; on average, 50% of all off-trade alcohol sales in Scotland in the year after the ban was introduced were on promotion.⁸ The researchers concluded "that the estimated impact of the [Alcohol Etc. (Scotland) Act 2010] may have been larger if a total ban on off-trade discounting was introduced."⁹

Despite the progress that has been made in Scotland in addressing the role of price in driving alcohol consumption, both through the multi-buy discount ban and minimum unit pricing,

further action can limit the use of price as a promotional tool. We would like to see measures put in place to control straight discounting and restrict the use of price marking and price cues. We believe that this approach should be used across unhealthy commodities including alcohol and HFSS foods.

Q9: Should the location of targeted foods in-store be restricted at:

Checkout areas, including self-service: Yes

End of aisle: Yes

Front of store, including store entrances and covered outside areas connected to the main shopping area: Yes

Island/ bin displays: Yes

Evidence shows that placement in these locations leads to impulse purchasing. This is also the case for alcohol. Scottish licensing laws currently restrict the display and promotion of alcohol in shops to a single display area, in an attempt to ensure that shoppers only encounter alcohol displays or promotions when they have a conscious intention to browse or select an alcohol product.¹⁰ However, these restrictions still allow for alcohol to be located in highly visible parts of a store: at the ends of aisles; in the middle aisle; beside tills and packing areas; and, in smaller shops, behind the till or visible in or from the window. 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.^{11 12}

Q10: Should any other types of in-store locations be included in restrictions?

Yes

Q11: If included, should the location of targeted foods online be restricted on:

Home page: Yes

Favourite products page: Yes

Pop ups and similar pages not intentionally opened by the user: Yes

Shopping basket: Yes

Checkout page: Yes

Restrictions in the online retail environment should mimic the in-person retail environment. This is particularly important following the increase in online shopping which started during the pandemic.¹³

Q12: Should any other online locations be included in restrictions?

Yes

Q13: Are there other types of promotions (in-store or online) not covered by our proposals for restricting price and location promotions that should be within scope?

Yes

Q14: Which places, where targeted foods are sold to the public, should promotions restrictions apply to?

Retail: Yes

Out of home: Yes

Wholesale (where sales are also made to the public): Yes

Other outlets: Yes

Q15: Are there other places/ types of business to which the restrictions should apply?

Yes

Q16: Are there other places/ types of business which should not be within the scope of the restrictions?

No

Q17: Do you agree with our proposal to exempt specialist businesses that mainly sell one type of food product category, such as chocolatiers and sweet shops, from location restrictions?

Yes

Specialist shops can be exempt from location restrictions but not price promotion restrictions.

Q18: If exemptions are extended beyond our proposal to exempt specialist businesses that mainly sell one type of food product category, should exemptions be applied on the basis of:

Number of employees: No

Floor space: No

Q26: Do you agree that Scottish Ministers should be able to make provision in secondary legislation, following consultation, to regulate in relation to specified less healthy food and drink and to arrange for enforcement (including the setting of offences and the issuing of compliance notices and fixed penalty notices)?

Yes

Q31: Please outline any other comments you wish to make on this consultation.

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. We have structured our response to focus specifically on those areas in which we believe lessons can be shared from one health-harming product category to another. More than anything, the alcohol experience has shown that restrictions need to be comprehensive and with few, if any, exemptions, to stop retailers from shifting from one type of promotion to another, and increase the proposed policy's ability to reduce harms from HFSS products and improve public health.

We support the response provided by Obesity Action Scotland.

References

- ¹ E.g. Babor, T. et al. (2010). *Alcohol: No Ordinary Commodity: Research and Public Policy*, Second edition. Oxford: Oxford University Press.
- ² Robinson, M., Geue, C., Lewsey, J., Mackay, D., McCartney, G., Curnock, E., & Beeston, C. (2014). Evaluating the impact of the alcohol act on off-trade alcohol sales: a natural experiment in Scotland. *Addiction*, 109(12), 2035-2043.
- ³ The minimum price for a unit of alcohol in 2021 was 50 pence, as set by the Alcohol (Minimum Price per Unit) (Scotland) Order 2018. The UK Chief Medical Officers' weekly low risk drinking guideline (updated in 2016) is for regular drinkers not to exceed 14 units per week to keep their health risks low. The average price for a cinema ticket in the UK in 2021 was £7.52. Navarro, J. G. (24 May 2022). *Average price of a movie ticket in the United Kingdom (UK) 2000-2021*. Statista. <https://www.statista.com/statistics/285783/cinema-ticketprices-average-annual-price-in-the-unitedkingdom-uk/>
- ⁴ Stead, M. et al. (2020). *Evaluating the impact of alcohol minimum unit pricing in Scotland: Observational study of small retailers*. University of Stirling.
- ⁵ Ponce Hardy, V. & Giles, L. (2022). *Monitoring and Evaluating Scotland's Alcohol Strategy: Monitoring Report 2022*. Public Health Scotland.
- ⁶ Meier, P. et al. (2010). *Model-Based Appraisal of Alcohol Minimum Pricing and Off-Licensed Trade Discount Bans in Scotland Using the Sheffield Alcohol Policy Model (V 2):- An Update Based on Newly Available Data*. ScHARR, University of Sheffield
- ⁷ Robinson, M. et al. (2014). Evaluating the impact of the alcohol act on off-trade alcohol sales: a natural experiment in Scotland. *Addiction*, 109(12), 2035-2043.
- ⁸ Robinson, M. et al. (2013). *Monitoring and Evaluating Scotland's Alcohol Strategy: The impact of the Alcohol Act on off-trade alcohol sales in Scotland*. NHS Health Scotland.
- ⁹ Robinson, M. et al. (2014). Evaluating the impact of the alcohol act on off-trade alcohol sales: a natural experiment in Scotland. *Addiction*, 109(12), 2035-2043.
- ¹⁰ The Licensing (Mandatory Conditions No. 2) (Scotland) Regulations 2007, made in exercise of powers conferred by the Licensing (Scotland) Act 2005, introduced alcohol display areas. The purpose is outlined in the Executive Note to the Regulations: <https://www.legislation.gov.uk/ssi/2007/546/executive-note/contents> The Alcohol etc. (Scotland) Act 2010 amended the 2005 Act to extend the requirement to drinks promotions.
- ¹¹ Chambers, T. et al. (2017). *Children's exposure to alcohol marketing within supermarkets: an objective analysis using GPS technology and wearable cameras*. *Health and Place*, 46, 274-280
- ¹² McBride-Henry, K. et al. (2020). Consumer alcohol exposure in supermarkets: legislatively adherent, but a societal problem. *Australian and New Zealand Journal of Public Health*, 44(1), 22- 27.
- ¹³ Obesity Action Scotland (2021). *Survey of Food and Drink Promotions in an Online Retail Environment*. <https://www.obesityactionscotland.org/media/1601/survey-of-promotions-online-march2021.pdf>