

Tobacco and Primary Medical Services (Scotland) Bill

Scottish Grocers' Federation

The Scottish Grocers' Federation (SGF) thanks you for the opportunity to provide written evidence to the Health and Sport Committee on the general principles of the Tobacco and Primary Medical Services (Scotland) Bill. In our response SGF has limited comments to matters relating to the display and sale of tobacco.

1. SGF is the trade association for the Scottish Convenience Store Sector. It is the authoritative voice for the trade to policy makers. The SGF brings together retailers throughout Scotland, from most of the Scottish Co-operatives, SPAR, Keystore, Nisa and local independents who are our largest category of members. Our members sell a wide selection of products and services throughout local town centre, rural and community stores. According to recent statistics (2007) there are just over 5,600 convenience stores throughout Scotland, with annual sales in excess of £3.2 billion.
2. This document also represents the views of the Association of Convenience Stores (ACS).
3. SGF supports the Scottish Government's objective of reducing youth smoking through tackling access and attitudes.
4. SGF members sell tobacco responsibly. Nearly all members have adopted either a "Challenge 21" or "Challenge 25" policy on the sale of age related products including tobacco. These policies have proved very successful at ensuring children do not gain access to tobacco from shops. Small retailers that sell tobacco responsibly should not be burdened with unnecessary regulation and the associated costs.

The Need and Justification for the Creation of Offences in Part 1 of the Bill Relating to Tobacco Displays.

5. SGF is concerned that the impact of a display ban will have a disproportionate and damaging effect on small shops. Currently it is very difficult to estimate the level of costs and upheaval involved as the Government has not provided any detailed proposals, however any proposal that would require an alteration to the layout of stores would incur additional cost to businesses. For many small retailers already reeling from the costs associated with the Licensing (Scotland) Act 2005 and the economic slowdown, the additional bureaucracy and cost of a tobacco display ban could result in the closure of small shops across Scotland.
6. Some convenience stores are located in purpose built premises, but many are located in older buildings where alterations would be complicated and costly. Any proposals that require the removal of

existing gantries and the relocation of tobacco storage “below the counter” will be extremely costly. Accommodating under the counter storage is very difficult because convenience stores often do not have a large shop counter and the space is already allocated for scanning and lottery equipment in addition to cables and electrical connections.

Estimated Costs

7. SGF estimates under the counter installation will cost in the region of £10,000+. This breaks down as follows:

Smokytek 3 lane system	7200	Under counter vending system
Shop fitting retro fit cost	2000	Joinery work required to reconfigure existing checkout to accommodate new system
2 bays of shelving	600	To Shelf area vacated by cig gantry
I.T. Staff	200	Half day work to remove and re-install all systems from the checkout
Major variation application	1000	Change in store layout and operating plan would be required
Loss of trading income	600	Based on lost income as the store would have to be closed to carry out the changes
Total	11600	

8. Retailers receive the support of tobacco suppliers to provide necessary equipment and retail fixtures to display tobacco products. It is unlikely, if tobacco is removed from display, suppliers would be willing to offer retailers the same level of support. As a result the ongoing costs of renewal and maintenance of fixtures will be an additional financial burden for the retailer.
9. SGF is concerned banning the display of tobacco could result in health and safety issues for retail staff. Under the counter installations would require considerable bending which will place strain on backs and knees. (This does not apply to the Smokytek system which dispenses packs up to counter height).
10. Figures show that 25% of the adult (16+) population in Scotland are cigarette and or hand rolling tobacco smokers. (Scottish Household Survey 2007) In 2000, 29% of over 16's in Scotland smoked. The Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) 2006 National Report show the prevalence of regular smoking has reduced over recent years among both 13 and 15 year olds. Prevalence among 13 year olds has declined since 1998, from 9% to 3% among boys and 11% to 5% among girls. Among 15 year olds, smoking prevalence has declined since its peak in 1996 from 30% for both boys and girls to 12% and 18% respectively. These figures indicate that education and the introduction of measures including the

increase in the minimum purchase age are having a significant impact on reducing smoking levels.

Evidence from Countries with Display Bans

11. Better regulation requires it to proportionate and transparent. SGF is keen to see Government evidence which supports the implementation of a ban on display as a method for reducing youth smoking before placing the burden on to retailers to refit their stores. The evidence from countries which have implemented a display ban is not compelling.

Canada

12. The figures in the chart showing teen smoking in Canada suggest youth smoking rates remain higher in the States that implemented the display bans first (2005) (Saskatchewan and Manitoba), and that in one, Saskatchewan, the rates of smoking amongst 15+ are on the increase. Therefore display bans have had no effect on the downward trend of smoking levels.

	Canada Average		Saskatchewan		Manitoba	
	15+	15-19	15+	15-19	15+	15-19
1999	25	28	26	31	23	29
2000	24	25	28	24	26	25
2001	22	22.5	25	27	26	28
2002	21	22	21	29	21	23
2003	21	18	24	28	21	20
2004	20	18	22	25	21	21
2005	19	18	22	25	22	20
2006	19	15	24	21	20	20
2007	19	15	25	19	20	20

Source - Health Canada Statistics

Iceland

13. In Iceland a ban was established in 2001. The Iceland National Office of Statistics' records the levels of teen smoking, but there is no clear indication that the introduction of the display ban has helped lower teen smoking rates. 69% of females aged 15-19 years had never tried smoking on average in the six years prior to 2001, which rose to an average of 71.8% in the six years following the implementation of the display ban. However, other tobacco measures have been introduced including a ban in smoking in public places introduced in 1 June 2007. The comparable figure for males aged 15-19 years is 71% and 71.4%. Since 2001 the number of men 16-19 who smoke has decreased by 7% (from 30% to 23%) and women of the same age has decreased by 2% (from 32% to 30%). Source www.statice.is

Customer Migration – Closure of Small Shops

14. In 2007 independent convenience stores accounted for approximately 37.5% of cigarette sales in the UK. For almost all convenience stores tobacco will be the single largest contributor to sales at between 20 and 25%. The retail price of tobacco is high primarily due to duty and VAT. Consequently the gross margin associated is low, gross margin on tobacco is between 6 and 8%; by comparison a retailer can expect around 25% for newspapers and magazines.
15. Small retailers are concerned if a display ban was introduced customers, no longer able to see the range of tobacco, may assume a small retailer will not stock a less popular brand. The reduction in storage space resulting from a display ban will mean this is an actuality. In addition, the complexity of a transaction where cigarettes are not on display coupled with the time taken to complete the transaction may result in smokers altering their shopping habits and purchase tobacco from large format stores.
16. Sales of multi packs are far greater in multiple grocers than convenience stores. One of the unintended consequences of customer migration to large format stores could be an increase in the level of bulk purchasing of cigarettes. This could result in adults smoking more and children having the opportunity to take cigarettes from the home without their parents' knowledge. Adults are less likely to notice the removal of a packet of cigarettes when there is a large quantity stored at home.

The Advantages and Disadvantages of Creating a Register of Tobacco Retailers

17. SGF is unclear of the benefits of a registration scheme in reducing levels of underage smoking or in addressing the black market in tobacco. Whilst SGF understands the intention of a registration scheme is to encourage and support responsible retailing and assist in rooting out rogue retailers we do not accept that this measure alone will lead to action being taken to tackle the pervasive illegal trade in communities throughout Scotland. The lack of resource to be dedicated to apprehending street and "white van man" sellers is the biggest threat to a successful tobacco youth access prevention programme. A registration scheme is a poor substitute for a package of measures that target this large and under enforced route by which young people get hold of tobacco.
18. It remains the case that 1 in 5 cigarettes smoked in the UK is bought from the black market and that 1 in 3 young smokers in deprived communities have smoked black market cigarettes. HM Revenue and Customs (HMRC) estimates that approximately 17% of all cigarettes and 59% of all hand rolling tobacco consumed in the UK in 2006/7 is

non UK duty paid. The RIA states smoking rates remain stubbornly high in the most deprived areas and deprived communities are more likely to have purchased cheap tobacco from illicit sources, contributing to health inequalities. A registration scheme will do little in addressing the issue of the black market unless enforcement is strong and vigilant.

19. In the current economic climate retailers should not have to pay for a registration scheme. SGF understand from information provided by the Scottish Government that registration for retailers will be free. SGF would seek assurances that in the long term a registration will continue to be free of charge to the retailers.

The Means of Enforcement and the Fixed Penalties Regime Proposed in Part 1 of the Bill

20. The new penalties are biased towards detecting and enforcing against retailers found to be contravening the regulations. These penalties will present no deterrent to street traders and people who sell in pubs, clubs and car boot sales. Those that supply illegal product tend to have no scruples about who they sell to and they face no regulatory enforcement.
21. The Government should concentrate on enforcement of existing legislation together with supplying additional resources to support Trading Standards in addressing the black market in tobacco. It is clear that action taken to significantly reduce the availability of tobacco through the black market in Scotland would have a major impact on smoking in the population. As set out in the Appendix 1, the health benefit cost derived from reducing access to cheap, illicit tobacco would have a dramatic impact on health, and the savings in reduced health care costs alone would offset the additional resources required. This will help to ensure a consistent application of resources for Trading Standards.
22. Currently the resource and focus given to this problem by Trading Standards varies significantly across the 32 local authorities in Scotland. The tendency to defer enforcement on the black market to HM Revenue and Customs and the UK Border Agency is a part of the problem, the focus of these institutions is on long-term investigations into large scale criminal networks and recovering revenue. This means they pay little or no attention to the white van on the street in a housing estate or man selling in the pub. It is necessary for resources to be allocated to enforcement agencies on the ground to tackle this pervasive problem.
23. The extent of retailer liability for offences is confused in the Fixed Penalty Notice (FPN) proposal. To what extent does the issuing of an FPN implicate the retail company, particularly if the company operates more than one branch? To what extent will companies be consulted or notified if action is taken against a company employee? If an employee

accepts a penalty do companies maintain a defence of due diligence on any proceedings against them? SGF recommends detailed guidance is developed to assist retailers, enforcers and judges about how FPNs can be used effectively. SGF is keen to be involved in those discussions.

Proxy Purchasing

24. Currently it is not an offence for someone over 18 to buy tobacco on behalf of a child.

25. Yet the SALSUS 2006 National Report found that:

- 38% of 13 to 15 year old boys who were regular smokers were given cigarettes by friends, siblings or parents and 48% of 13 to 15 year old girls who were regular smokers were given cigarettes. 27% of boys and 26% of girls bought cigarettes from other people.
- Among occasional smokers 52% of boys and 55% of girls reported being given cigarettes, while 11 % of boys and 21% of girls purchased from other people.

26. A person who purchases tobacco on behalf of a person under 18 (proxy purchasing) is not committing an offence, despite this being a major route to market for underage smokers. Making it an offence to supply tobacco to an under-18 is an important deterrent to adults. SGF believes this should be made an offence, and that the penalties should start with a FPN increasing in severity to possibly imprisonment for repeat offences. An adult found to have sold illicit tobacco to an under 18 should be an aggravating circumstance for the purpose of sentencing.

Underage sales

27. There should be a culture in which young people understand it is not acceptable to purchase or attempt to purchase tobacco when under the age of 18. It is clearly wrong for underage people to attempt to deceive a retailer and obtain a product they are not old enough to consume. Therefore it should be illegal. An equivalent law already exists for alcohol. The penalties do not have to be tough but could include a FPN or completion of a mandatory education programme on the dangers of smoking.

Conclusion

28. We welcome the Scottish Government's aim to reduce the level of smoking in Scotland. SGF oppose the display ban because it will harm our members businesses, and there is no proven benefit. We further believe that action taken in this area is a distraction away from matters of far more pressing importance. We would encourage the Scottish

Government to focus its attention on the most important challenges, which are the illicit market and adults that supply tobacco to underage people.

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Chief Executive
Scottish Grocers' Federation
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Appendix 1

Calculation of the benefit of reducing access to illicit tobacco

The approach adopted in the DoH's paper to calculate the benefit from banning displays consists of five main steps:

- a. Estimate the impact on displays on children ever smoking
- b. Use this to estimate the impact on 11-15 year olds that regularly smoke
- c. Use the estimated births per annum to estimate the reduction in each age cohort
- d. From this calculate the monetary benefit on a per annum basis
- e. Finally calculate the discounted benefit over ten years.

We use the approach adopted in the DoH consultation document to calculate the benefit from banning displays to estimate the benefit from reducing the illicit trade. To do this we must make a number of assumptions, as follows:

- a. Using the data quoted in the consultation document, we assume that if one in three 16-24 year olds smokes illicit tobacco, this is also likely to hold true for 11-15 year olds;
- b. From estimates used by the DoH we assume that 39 per cent of 11-15 year olds have ever smoked, while 9 per cent smoked regularly;
- c. From estimates used by the DoH we assume a cohort size of 650,000 births per annum;
- d. From estimates used by the DoH we assume that each child deterred from smoking represent a monetary benefit of £83,100 and that each adult induced to stop smoking represents a monetary benefit of £57,300.

Using the data and assuming that any percentage reduction in illicit tobacco translates to an equal reduction in the proportion of illicit cigarettes smoked we estimate the benefits for three different scenarios:

- a. a 50 per cent reduction in illicit trade, i.e. a reduction in illicit cigarettes smoked by 11-15 year olds from one in three to one in six;
- b. a 25 per cent reduction in illicit trade, i.e. a reduction in illicit cigarettes smoked by 11-15 year olds from one in three to one in four; several recent econometric studies based on cross-sectional data conclude that young adults are somewhat less responsive to price than youths, but more responsive than other adults. So this assumption is likely if anything to underestimate the ratio. Chaloupka and Pacula (1998)
- c. a 10 per cent reduction in illicit trade i.e. a reduction in illicit cigarettes smoked by 11-15 year olds from one in three to two in seven;
- d. a 5 per cent reduction in illicit trade, i.e. a reduction in illicit cigarettes smoked by 11-15 year olds from one in three to nineteen out of sixty.

First we have to calculate the number of "ever smokers" and regular smokers that smoke illicit tobacco. On the assumption that one in three cigarettes smoked by 11-15 year olds is illicit, we estimate that, of the 39 per cent of 11-

15 year olds that have ever smoked, 13 per cent smoked illicit cigarettes and of the 9 per cent of regular 11-15 year old smokers 3 per cent smoked illicit cigarettes.

Next we need to estimate the impact on youth smokers of a reduction in consumption of illicit tobacco. According to a study by the Department of Public Health and Sciences of the University of Toronto, pricing of tobacco products, more specifically cigarettes, is directly correlated with smoking patterns amongst consumers, especially young people. If the price of cigarettes or tobacco-related products drops, young people are more likely to start smoking.

When the federal government and several Canadian provinces reduced tobacco taxes in the early 1990s in order to combat higher levels of cigarette smuggling, the number of cigarette purchases in those provinces, along with the number of young people who started smoking, went up by 11 per cent – three percentage points higher than over provinces that had kept their tax rates unchanged.

Price sensitivity of cigarette is inversely related to age for several reasons:

- a. the share of young smokers' disposable income spent on cigarettes is likely to be larger than that of adult smokers;
- b. peer influence is more important to youths than to adults so they are more likely to reduce their smoking as peers reduce theirs;
- c. youths are generally assumed to behave more myopically than adults so the more immediate costs of smoking such as the financial cost will be relatively more important.

Recent estimates indicate that a 10 per cent price increase reduced youth smoking by 5 per cent or more.

Tauras and Chaloupka (1999a), using longitudinal data on young adult smoking from the Monitoring the Future surveys, provide additional evidence that young adults are more responsive to price changes than adults, but less responsive than youths, estimating an average overall price elasticity of -0.79. In other words, for every one per cent rise in prices, demand decreased by around 0.8 per cent. In the absence of data on price differences between illicit and legal tobacco, we assume that any reduction in the proportion of illicit cigarettes smoked translates into a similar reduction in youth smoking. Though there appear to be important differences in price sensitivity among population sub-groups, it has been suggested that young blacks particularly and young men generally are relatively more responsive to changes in price than are young white and young women. However, for simplicity we do not distinguish between these groups here.

On the basis of these assumptions calculation of the impact of a reduction in illicit tobacco on youth smoking and the monetary value associated with it are illustrated on the table below:

Costed Health Benefits of Reduction in Illicit Tobacco Trade

Reduction in illicit tobacco	Percentage of 11-15 year olds that would have ever smoked illicit tobacco	Percentage of regular 11-15 year old smokers that would not have smoked as a result of reduction	Number of each annual cohort not smoking	Total number of life years saved per annual cohort	Monetary value per annual cohort (£ million)	Monetary value over 10 years (£billion)
50%	6.5	1.5	9,718	16,131	808	6.7
25%	9.8	0.8	4,859	8,066	404	3.4
10%	11.7	0.3	1,944	3,226	162	1.4
5%	12.4	0.2	972	1,613	81	0.7

Source: Association of Convenience Stores