

Recd 26/10/07

WJC/ys/VV002

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Dear Mr Glen

CONSULTATION ON SMOKING PREVENTION WORKING GROUP REPORT: TOWARDS A FUTURE WITHOUT TOBACCO

I refer to the above consultation and we would like to make the following comments relating to three of the recommendations in the Report.

Recommendation 5/6

Recommendation 6 calls for the introduction of a negative licensing scheme to enable vendors who repeatedly sell cigarettes to under-age customers to be prohibited from selling tobacco products. The Report does not go into any detail on how this would work, but we would like to make the following suggestions in light of proposals for a negative licensing scheme that were consulted on for England and Wales last year.

We are supportive of an effective sanctioning regime against retailers that repeatedly flout age related sales law. It needs to be remembered that most retailers will be making every effort to comply with the law rather than following a policy of deliberately selling to underage people.

However, we believe that, before going to a negative licensing regime, the same ends could be achieved by more effective enforcement of the current regime. Indeed, recommendation 5 of the Report calls for greater efforts in this regard with measures including the use of proof of age, active test purchasing and prosecution with heavy fines. In our view, if this recommendation goes forward there should be no need to introduce a negative licensing regime.

Coupled with an increase in age of purchase to 18 this could also likely aid the situation of tackling underage sales, given it is in line with other products and may make it easier for retailers to assess age. Another way to tackle it further may be to look to the approach for alcohol where retailers have used common signage using an under 21 policy (challenging up to that age, but serving those 18 and over where they can produce proof of age) which could be extended to tobacco sales.

With both these factors a negative licensing scheme should be unnecessary. We say this in the context of concerns that a scheme involving retailers being prohibited from selling tobacco products could have a deleterious effect on retailers' business in Scotland.



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The regime proposed in England and Wales was based on three underage sales over a period of three years which could result in a ban on selling tobacco of up to a year. If negative licensing were to go ahead (which, as above, we considered was not necessary if the current regime were enforced more effectively), we questioned the time periods proposed on the following basis:

- A three year assessment period is too long and does not take account of the levels of staff turnover; store staff could have changed completely in that time. We proposed a a period in line with the period of 3 months under the Violent Crime Reduction Act (VCRA) in England and Wales in relation to three underage sales of alcohol which is three months.
- The proposal that the ban from selling tobacco could apply for up to a year seemed excessive. Again we referenced the VCRA where three underage sales could result in a licence review with the licence only being suspended for up to three months (and even here, this would only come into play where the offer of up to 48 hour closure were not accepted as an alternative to prosecution). We suggested a similar three month period be applied in the case of the ban of tobacco products, with the precise period taking account of effort to comply.

The Scottish Executive needs to consider the possible impact of preventing retailers selling tobacco products. For many small stores tobacco sales make up a substantial proportion of trade; for some Co-op stores this can be up to 35%. A ban on tobacco sales for a prolonged period could therefore lead to closure of the store. The Co-op operates stores in communities across the UK and this could deprive a local community of a vital food store and would run counter to our social responsibility principles. Forcing closure of stores would not be a proportionate response to the situation and would not be in line with better regulation principles.

Recommendation 19

We note the recommendation to prohibit the display of cigarettes at the point of sale, to be replaced by a simple list of the brands available and their prices. There is no indication given in the Report on the reasoning behind this recommendation and how it is considered it would achieve the objective of preventing young people from taking up smoking and reducing smoking. There are also no details on how this would precisely work at retail level eg where cigarettes would be kept.

We have concerns over this recommendation as we are not convinced it would achieve the objectives of the Report, but there are also practical considerations, especially in small stores of introducing cabinets for cigarettes that would require store refits. We therefore do not believe that this recommendation should be introduced.

We note that all these recommendations will be subject to separate consultation when proposals have been worked up further by the Scottish Executive and we look forward to feeding into this process once we have fuller details of how it is proposed they will be progressed.

Yours faithfully



Ken MacKenzie
Chief Officer
SCOTTISH CO-OP