



SUMMARY

Promoting good health from childhood

Reducing the impact of alcohol marketing on children in Scotland

A report by the virtual expert network on alcohol marketing

Report Summary

About this report

This report has been developed by a virtual expert group on alcohol marketing, established following discussions at the Global Alcohol Policy Conference held in Edinburgh in October 2015. The group was tasked by the then Minister for Public Health, Maureen Watt MSP, to consider the top policy options for a range of areas within advertising and sponsorship, taking into account how such policies might be implemented in Scotland.

Network members have expertise in alcohol marketing research, policy and legislation, as it relates to the protection of public health and the reduction of health and social harm caused by alcohol. In developing this report and its recommendations, the virtual network adopted the following approach:

- a) it focused on where the evidence of the effects of alcohol marketing is strongest, which is predominantly in relation to mass media advertising.
- b) it prioritised policy options to protect children and young people, responding to current concerns about children being exposed to large volumes of marketing for health-harming products.

Nature and extent of adolescent drinking in Scotland

An alcohol-free childhood is the healthiest and best option for children. However, nearly a third of children in Scotland have drunk alcohol by the age of 13, and two-thirds by age 15.¹ Although consumption among children has fallen in recent years, alcohol is still the most widely used addictive substance by young teenagers, and levels and patterns of consumption among some

adolescents are a particular cause for concern; compared to other countries, Scottish teenagers appear more likely to engage in riskier drinking practices following the initiation of alcohol use in early adolescence.²

Adolescent drinking has a range of adverse health and social consequences, particularly for teenagers who drink regularly and experience drunkenness. Adolescents are more susceptible to the intoxicating effects of alcohol due to their physical immaturity and lower tolerance levels. Drinking during adolescence also poses risks to long-term health and wellbeing, both by affecting important developmental processes,^{3,4,5} and by establishing drinking patterns that are continued in to adulthood.⁶ Risky and frequent drinking in adolescence is a predictive factor of harmful drinking in middle-age.⁷ Therefore reducing the prevalence, frequency and quantity of teenage drinking in Scotland will improve the health of young people and their health prospects as adults, and yield social and economic benefits beyond improved health outcomes.

Nature, extent and reach of contemporary alcohol marketing

It is estimated that the alcohol industry's annual spend on marketing its products in the UK is £800m.⁸ Alcohol advertising is extensive and pervasive, innovating beyond traditional advertising methods such as television, radio, magazines, cinemas and billboards, to target consumers through multiple marketing channels and techniques, making particular use of digital technology. Marketing communications focus on creating positive attitudes to brands and instilling the idea that alcohol consumption improves the experiences of life. It is seen as a key way to recruit new consumers, with some brands specifically targeting the youngest demographics of legal drinkers.⁹

An increased reliance on marketing activity to drive alcohol sales and profits, together with a growing number of marketing channels, has implications for children in terms of their overall exposure to marketing messages, as well as the particular appeal of more interactive forms of marketing such as digital media marketing.

The influence of alcohol marketing on children and young people

The alcohol industry maintains that their alcohol advertising practices are aimed at adults and do not target children and young people. However, the pervasive nature of advertising means children in the UK are regularly exposed to alcohol messages, despite the existence of regulatory codes designed to restrict exposure of under-18s to alcohol marketing. Children can also demonstrate high levels of awareness and familiarity with alcohol brands; a survey of Scottish primary schools found 10 and 11 year olds were more familiar with certain beer brands than leading brands of biscuits, crisps and ice cream.¹⁰

Research from a growing number of studies and reviews, including from Scotland and the UK, concludes that alcohol marketing has an impact on children and young people:

- **Children find alcohol marketing messages appealing.**¹¹
- **Alcohol marketing influences children's attitudes.**^{12,13}
- **Alcohol marketing encourages children's drinking;** exposure to alcohol marketing reduces the age at which young people start to drink, increases the likelihood that they will drink and increases the amount of alcohol they will consume once they have started to drink.^{14,15,16}
- **The more alcohol marketing children see, the greater the impact,** as being aware of more marketing channels increases the odds of being a drinker.^{17,18}
- **Different marketing channels influence children's attitudes and behavior.**
- **More engaging forms of alcohol marketing are more influential.** For example, owning merchandise and downloading screensavers are found to be stronger predictors of drinking among young people than just being aware of marketing.¹⁹





Failure of self-regulation of alcohol marketing

Alcohol marketing in the UK is governed by a complicated regulatory system of self- or co-regulation, with different industry-developed codes of practice applying to different media and different bodies overseeing compliance. Common across all industry codes of practice is that they focus mainly on the content of marketing messages, rather than placing limits on the amount of alcohol marketing. They also all contain rules prohibiting the targeting of under-18s by using content that is 'particularly' appealing to children, or through the selection or context in which the advert appears.

Research from various countries suggests that industry self-regulatory advertising codes are subject to under-interpretation and under-enforcement.^{20,21,22} In the UK, high levels of awareness of alcohol brands and marketing among children of all ages shows that the current system of voluntary regulation is not working. Existing advertising codes can be seen to be inadequate in a number of respects:

- **Inadequate restrictions on content:** 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 a lot of alcohol marketing and they find the content appealing.

- **Inadequate restrictions on exposure:** The current rules on the placement of alcohol adverts to avoid targeting children have not been effective in reducing children's exposure, and in fact, between 2009 and 2011, the number of alcohol adverts seen by children increased.²³ The limited effect of the codes in preventing children's exposure to alcohol marketing is in part due to the way the rules are constructed.
- **Inadequate enforcement:** The current system of regulatory oversight relies primarily on public complaints. With the exception of television adverts, regulatory controls apply retrospectively, after advertisements have already been shown. This can result in large numbers of children seeing inappropriate advertising before action is taken. There is also a lack of statutory powers of enforcement, meaning there is little deterrent from misapplying the codes.

The way forward: putting children first

The evidence of harm caused to children and young people through exposure to alcohol marketing, and the failure of the current regulatory regime to adequately protect children from such exposure, clearly points to the need to improve the regulatory approach. There is broad support within the general population for increased alcohol marketing restrictions.^{24,25}

Analysis of regulatory regimes in other countries has identified several key components of effective alcohol marketing regulation with respect to children, which include:

- restrictions on the volume and content of alcohol marketing;
- monitoring and enforcement systems that avoid conflicts of interest.²⁶

Effective regulation depends on having clear and appropriate policy objectives, and a robust,

evidence-informed policy approach. If regulation is to work to protect children then it must be directed towards reducing children's exposure to alcohol marketing and reducing the appeal of alcohol marketing to children. There are several ways in which the current regulatory model should be improved:

- **Regulation should act in the best interests of children**, with particular reference to the fact that children's exposure to alcohol marketing impacts negatively on their rights.
- **Regulation should ensure equal consideration for all children**, addressing the in-built inequality of the current system whereby some children can be exposed to alcohol marketing, providing a certain threshold hasn't been crossed.
- **Regulation should take a comprehensive approach to protecting children**, in recognition that such an approach has the highest potential to reduce the impact of alcohol marketing on children, as well as being the most straightforward system to enforce.

- **Regulation should be put on a statutory footing**, in light of evidence from different countries that voluntary and self-regulation of alcohol marketing is not sufficiently protective of children. Adequate regulation requires a credible threat of enforcement.
- **Regulation should include young people's views**.
- **Regulation should be independent of the alcohol and advertising industries**, to ensure its effectiveness and to avoid conflicts of interest.

Legal powers to restrict alcohol marketing to protect public health

Under domestic and European law, commercial operators have a legal right to promote their goods and services through marketing communications. However, even though these rights are protected in the UK, they are not absolute and can be restricted on public health grounds, provided that the restrictions imposed are proportionate.²⁷ When assessing the proportionality of marketing



restrictions, both UK courts and the Court of Justice of the European Union (CJEU) have clearly stated that the EU and Member States have a broad margin of discretion in how they decide to protect public health, including through the imposition of extensive marketing restrictions.

The case for regulation is particularly compelling when children are at stake. Scottish Ministers have a duty under the Children and Young People (Scotland) Act 2014 to keep under consideration whether there are any steps that they could take that might give further effect in Scotland to the UN Convention on the Rights of the Child. Taking action on alcohol marketing has been specifically cited as a legitimate approach for States to take to protect children's right to health.

Competence to restrict alcohol marketing in Scotland

Within the UK, competence to act to restrict alcohol marketing is shared between the Scottish and UK parliaments. With regard to regulation of alcohol marketing, matters that are reserved to Westminster are broadcasting, consumer protection and internet services. Regulation of the press, printed adverts, billboards, outdoor displays, point of sale displays, adverts or hoardings at sporting events, and sponsorship of events, is within the competence of the Scottish Parliament. In addition, there is a view that internet services, which is a reserved matter, relates to infrastructure of internet provision, rather than the content of websites, and therefore, there maybe scope to regulate website content within Scotland.²⁸



Recommendations

A broad consensus exists in support of action on alcohol marketing in Scotland. A majority of MSPs, including all opposition party leaders, as well as key national children's charities and public health bodies have supported the pledge 'I believe alcohol marketing has no place in childhood.'

The virtual expert network is of the clear view that the most protective environment possible would be of most benefit to children and young people. While the Scottish Parliament does not have legislative competence to regulate across the full range of marketing activities, it does have powers over a number of key areas of regulation that would increase the protection afforded to children, and many adults. It also remains open to the Scottish Government to lobby the UK Government on matters of reserved competence, thus enabling it to pursue a comprehensive approach within its powers.

In making the following recommendations, the virtual expert network has had regard to matters of legislative competence, and has framed the recommendations in line with the extent of the Scottish Government's powers:

Recommendation 1: The Scottish Government should make clear that a key policy objective of alcohol marketing regulation should be to reduce the impact of alcohol marketing on children. This should form the basis of any discussions between the Scottish Government and UK Government on reserved matters.

Recommendation 2: The Scottish Government should prohibit outdoor alcohol advertising and advertising in public spaces. This includes advertising in streets, parks, on public transport, and in sports grounds.

Recommendation 3: The Scottish Government should set out a timetable for ending alcohol sponsorship of sports events, music and cultural events.

Recommendation 4: The Scottish Government should restrict alcohol advertising in newspapers and magazines to publications aimed at adults. This restriction should be limited to business-to-consumer (B2C) publications, not business-to-business (B2B).

Recommendation 5: The Scottish Government should press the UK Government to introduce restrictions on alcohol advertising on television between 6am and 11pm. The impact of such a change on children's exposure to alcohol marketing on television should, however, be monitored, and if it leads to unintended consequences, an outright ban should be pursued.

Recommendation 6: The Scottish Government should call on the UK Government to restrict alcohol advertising in cinemas to 18-certificate films.

Recommendation 7: The Scottish Government should consider its competence to legislate to restrict alcohol marketing on social media within Scotland. It should adopt measures deemed within scope. If there are steps to restrict digital alcohol marketing that are not within competence, it should lobby the UK Government to take steps to introduce such restrictions.

Recommendation 8: The Scottish Government should restrict all alcohol advertising content in Scotland, where still permitted, to promoting factual information, such as composition, origin and means of production. The Scottish Government should also call on the UK Government to take similar action at UK level for reserved matters.



Recommendation 9: The Scottish Government should immediately set up an independent taskforce to oversee development and implementation of alcohol marketing restrictions in Scotland.

Recommendation 10: The independent taskforce should explore the options for establishing an independent regulator for alcohol marketing in Scotland, which should be backed up by statutory powers of enforcement/sanction.

Recommendation 11: The independent taskforce should explore how an alcohol marketing regulator could require provision of marketing data to be provided to it.

Recommendation 12: The Scottish Government should commission a monitoring and evaluation programme to measure the effectiveness of regulatory changes in Scotland.

Recommendation 13: The Scottish Government should commission research to build the evidence base on alcohol marketing.

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