



HONG KONG RETAIL MANAGEMENT ASSOCIATION

Response on HKSAR Government's Proposal to Prohibit Commercial Sale and Supply of Alcohol to Persons under the Age of 18 ("Proposal")

(28 March 2017)

On behalf of the Hong Kong Retail Management Association ("the Association"), we write to present our members' views on the HKSAR Government's Proposal to Prohibit Commercial Sale and Supply of Alcohol to Persons under the Age of 18 ("Proposal"):

Background

1. Since 1985, the Association introduced the code of practice for all member companies to abide by on a voluntary basis, which includes not selling any product restricted by law, including liquors, to persons under the age of 18 ("Under-aged Persons").
2. Despite it is not a legal requirement at present, members of the Association, including leading retail chain operators in Hong Kong, generally have their own internal policies on refraining from selling alcoholic beverages to Under-aged Persons.

Comments on the Government's Proposal to Prohibit Commercial Sale & Supply of Alcohol to Persons under the Age of 18 ("Proposal")

3. The Association supports the Government's good intention to protect persons aged below 18 from consuming alcoholic drinks.
4. The Association concurs with the Proposal that no licensing system is required for selling alcohol as administrative costs would be too high for both the Government and retailers, and this may be ineffective to achieve the policy objective of prohibiting Under-aged Persons from purchasing/consuming alcohol.



5. The Association also concurs with the Proposal that there should be no legal obligation on retail outlets to verify the age of purchasers of regulated alcoholic products (unlike tobacco), but only a requirement for ‘reasonable steps’ to be taken by the retailers. However, the Proposal should specify that as long as the retailer has taken reasonable steps to verify the age of the purchaser this would be a legal defence against any offence under the new law.

Comments in respect of Conventional Retail Outlets under the Proposal (e.g. convenience stores)

6. From an operational perspective for retailers, pre-existing procedures on prohibiting supply of tobacco to Under-aged Persons implemented for compliance with the Smoking (Public Health) Ordinance should effectively cover the additional legal obligations on prohibition of selling alcohol (e.g. display of signage and checking HKID Card/passport as means of age verification).
7. Retailers may need to take some additional operational measures to comply with the legal requirement, e.g. to ensure payment systems can flag up an alert to cashier staff to prompt for potential age verification when goods scanned are ‘regulated alcoholic beverages’.
8. The Proposal should also make it clear that it would not be a requirement to lock-up or store regulated alcoholic beverages in a restricted area (i.e. space excluded from public access) at Conventional Retail Outlets, as it is impracticable due to the high rental cost of retail premises.
9. For goods purchased pending delivery to customer’s premises - age verification upon receipt of goods delivered to customers appears to be impracticable for retailers, as this would impose too much legal and operational burden on delivery staff. In addition, operational systems cannot distinguish whether the goods to be delivered comprise regulated alcoholic beverages or not (particularly for supermarkets, where it is very common to have a mixture of goods delivered to the customers). This would lead to uncertainty at operational level, as well as additional costs to retailers.



Comments in respect of Remote Sales Outlets under the Proposal (e.g. online sale/telephone orders)

10. Age verification required for Remote Sales Outlets upon sale appears to be impractical. Collection of copies of age identification documents via website/email/fax could also constitute excessive collection of personal data of the purchaser, which is likely to trigger complaints.
11. The same standard for Conventional Retail Outlets (i.e. reasonable steps be taken to verify age and not a legal obligation) should also be applied to Remote Sales Outlets. From overseas' experience, online retailers of alcoholic beverages only require the purchaser to confirm he/she is over 18 years of age at the time of payment (e.g. Australia and UK) – as the presumption is that holder of a credit card / debit card is over 18 years of age.
12. We suggest that age confirmation by the purchaser by a tick-box upon checkout (online sale) and/or verbal confirmation request by the seller over the phone (for telesales) should be sufficient to discharge the obligation as to age verification requirement.
13. Age verification upon delivery would also be impractical for the reasons stated above.

Other comments

14. We also have concerns on the legal definition of regulated alcoholic beverages, which define as beverages containing more than 1.2% of ethyl alcohol by volume.
15. Some products containing alcohol are not used for beverage purpose generally but may be caught as “regulated alcoholic beverages” under the law (e.g. Chinese cooking wines, tonic wines used for health purposes or medicated oils).
16. We suggest that these types of products should be exempted under the law, or at a minimum be treated differently from alcoholic beverages for drinking which is what the law is intended to catch.



17. Listed below are some key differences of such products, especially for health-related products containing alcohol:
- these products are for external application and used as health tonic (not as a ‘beverage’)
 - there is a legitimate reason for use of alcohol in these products (it is needed to extract herbal essences which are not soluble in water)
 - prices of these items are quite high and chance for abuse is low
18. We would like to highlight the importance for the Government to take the lead in public education, so as to raise the public awareness that no one under 18 can purchase any alcohol, instead of telling the public that it is illegal for retailers to sell to Under-aged Persons. This would also help easing the stress on frontline staff members in potential confrontation with customers.
19. We consider that just imposing the legal obligations on the retailers may not be the most effective way of achieving the policy objective. For example, in the United Kingdom, it is a criminal offence for an Under-aged Person to purchase alcoholic products (<https://www.gov.uk/alcohol-young-people-law>). On the relevant website, warnings were given to the Under-aged Persons that a personal criminal record can impede one’s future. This appears to be a more holistic approach where the burden is not just vested on retailers, but it also discourages the Under-aged Persons from making a purchase.

Conclusion

20. To conclude, the Association does not object to the policy objective under the Proposal, but we would like to see a balance to be drawn between operational efficiency and attaining the policy objective.

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