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TH ANNUAL COMPLIANCE REPORT

**ON BEHALF OF RESPONSIBLE RETAILING
OF ALCOHOL IN IRELAND LTD
TO THE MINISTER OF STATE AT THE DEPARTMENT
OF HEALTH FOR HEALTH PROMOTION,
MINISTER MARCELLA CORCORAN KENNEDY T.D.**

In accordance with the Code of Practice
on the Display and Sale of Alcohol-Products
in Mixed Trading Premises
for the year to End of September 2016

Padraic A. White, *Independent Chairperson*
Responsible Retailing of Alcohol in Ireland Ltd ("RRAI")
30th September 2016



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1. INTRODUCTION FROM THE RRAI'S INDEPENDENT CHAIRPERSON

Padraic A. White
Independent Chairperson

This is my eighth annual compliance-report on the operation of the Code of Practice on the Display and Sale of Alcohol Products in Mixed Trading Premises in accordance with Section 7 of the Explanatory Guidelines of the Code.

This is the first compliance report to be submitted to the Department of Health and specifically to the relevant Minister, Marcella Corcoran Kennedy T.D. Health Promotion Minister. The previous seven annual compliance reports had been submitted to the Minister for Justice.

On 11 December 2015, the RRAI were formally notified by the Department of Justice and Equality that “policy responsibility for issues relating to the sale and display of alcohol products in mixed trade premises has transferred to the Minister and Department of Health”.

It is relevant to note that the Department of Health was a party to the original agreement on the formulation of the Code of Practice on the display and sale of alcohol products in mixed trade premises.

During the transition of responsibility between the Government Departments, the RRAI Board took the view that the Code should continue to be implemented with full vigour.

The membership of the RRAI is highly representative of the convenience store and multiple grocery sector with 2,616 member stores who account for 95% of the business conducted in that trading segment. The submission of the Annual Compliance Report to the relevant Minister is a critical event in the functioning of the Code. The core of the Compliance Report is the independent professional audit of a large cross-section of stores - 400 in the current Report - on the degree of compliance with criteria set out in the Code.

It has been open to the receiving Minister for the past seven years - and remains the case - to terminate the Code if dissatisfied with the levels of compliance and commence Section 9 of the Intoxicating Liquor Act 2008 which requires an onerous regime of structural separation of alcohol products from other foods and beverages.

In fact, the audit in 2016 shows a continued very high level of compliance of 90.50% which is marginally higher than the 2015 finding. The larger multiple supermarkets which have generally bigger stores had a compliance rate of 97% and the convenience stores, with typically smaller local stores, achieved a still high compliance rate of 85%.

The positive effect of the Code over the past eight years is readily evident. No longer do the Sunday newspapers feature grocery adverts with some 50% devoted to alcohol products- the maximum of 25% is strictly enforced. Similar restrictions apply to radio and TV ads by members. There is no alcohol or alcohol advertising in the windows of participating member stores in accordance with the Code.

Within stores, the days of multiple displays of alcohol in different parts of the store are well and truly over. One of the most difficult criteria for many stores to meet at the inception of the Code, particularly the smaller stores, was to meet the criteria on (1) the separation of alcohol products from other beverages/food and (2) customers not having to pass through/by alcohol in order to access these other beverages/food. There has been a striking improvement in compliance with these two key criteria culminating in 2016 with compliance rates of 99.25% and 98.25% respectively. While there will be individual examples of stores at any one time which are not compliant with the Code, the independent and professional audit of 400 stores across the country deserves recognition as the benchmark of compliance by the mixed trade sector.

The RRAI has considered the implications of the Public Health (Alcohol) Bill which had a second reading in Seanad Éireann on 17 December 2015 and is due to be re-activated in the near future in the Seanad.

The RRAI supports the substantive provisions (Section 20) dealing with the separation of alcoholic products within stores, non-visibility of alcohol in secondary selling areas manned by a full time staff member and display of alcohol products in defined separate selling units in other locations. The support of RRAI members for these measures reflects their commitment to public health objectives, notwithstanding the considerable capital cost and current expenditure which would be incurred by every supermarket in Ireland. (The total capital cost alone for members is estimated to be €25million)

The RRAI has severe concerns about the requirement in certain sections of the Bill that alcohol products in stores are “*not readily visible*”. The concerns are on grounds of workability, desirability in a retail environment, very high costs (total capital costs estimated at €100 million) and legal ambiguity.

These “visibility” requirements, in large to medium stores, would effectively require stores to wall off the alcohol section leading to problems such as the relocation of fire exits, customer and staff safety, security and insurance as well as place an extremely onerous cost on retailers to implement and maintain such a solution. In all likelihood they would also result in an extremely frustrating shopping experience for the normal customer. In smaller size stores, the requirement to implement “dark doors” on alcohol display units would also create unnecessary costs and be burdensome to the vast majority of customers.



Other concerns of the RRAI relate to the need for a realistic timeframe of not less than two years rather than the one year in the Bill, to implement new store measures; the need to amend the definition of stand-alone licensed outlets which are exempt from the Bill, and the need to allow non-food products to adjoin alcohol units.

The RRAI above all seeks clear and legally unambiguous measures which are workable by stores.

The members are surprised and puzzled, that the “not readily visible” requirement relating to the display of alcohol products in stores first emerged into the public arena from the Department of Health as recently as December 2015.

Such a requirement was not contained within Section 9 of the Intoxicating Liquor Act 2008, it was not a specific requirement contained within the original General Scheme of the Public Health Bill, nor was it one of the recommendations in the Report of the Joint Oireachtas Committee on Health and Children on the draft alcohol related legislative proposals published on 04 June 2015.

I wish to reiterate that the RRAI supports and is committed to implementing in their stores a range of substantial measures in the Public Health (Alcohol) Bill which will make a real difference in how alcohol products are displayed and sold. In addition the RRAI have set out their major reservations on many grounds of the new “not readily visible” provisions relating to the display of Alcohol products.

A handwritten signature in black ink that reads 'Padraic A. White'. The signature is written in a cursive style.

Padraic A. White
Independent Chairperson
RRAI Limited
30 September 2016

2. BACKGROUND SUMMARY OF THE RRAI AND ITS APPARATUS

The RRAI and its Code of Practice were established on 01 December 2008 as an alternative to Section 9 of the Intoxicating Liquor Act 2008, which was not commenced. Section 9 provides for the structural separation of alcohol-products from other retail-items in mixed trading premises.

In essence, mixed trading premises are supermarkets, convenience stores, service-stations, newsagents and grocery stores that sell intoxicating liquor.

The RRAI Code comprises the following two elements, which taken together, form the full official Code:

- i) the Code of Practice document, which is to be conspicuously displayed in all participating mixed trading stores; and
- ii) Explanatory Guidelines, which elaborate on the contents of the publicly displayed Code, and which contain additional provisions such as restrictions on the advertising of alcohol-products in the print and broadcast media by RRAI-members.

The RRAI Code of Practice and the Explanatory Guidelines to the Code are both contained in Annex 1 to this Report. **The Department of Justice, the Department of Health, Retail Ireland, RGDATA and the CSNA were all parties to the original agreement on the Code.**

The RRAI Code has also been strengthened since its introduction, in particular through an expansion of the RRAI's advertising rules. The RRAI Board took the initiative of extending the scope of the advertising rules to ensure compliance with the spirit of the Code. The extended advertising rules are set out in Annex 2 to this Report.

It is important to note that the organizational apparatus of the RRAI is more transparent and more accountable than normal self-regulation or voluntary codes, in the following ways:

- (1) The Code is subject to independent monitoring. An annual independent audit of compliance is carried out nationwide by recognised experts in retail-auditing.
- (2) The operation of the Code is formally subject to Ministerial review on an annual basis, in that **I submit an independent annual compliance-report to the Minister for Justice and Equality on foot of the annual audit.** The Minister can then decide if the degree of compliance warrants continuance of the Code of Practice.



- (3) The annual compliance-report is independent and is not subject to approval by the Board of the RRAI. This is in keeping with the Memorandum of Association of the RRAI, which states that one of the Chairman’s principal responsibilities is to generate the annual compliance-report, “the content of which is at the discretion of the independent Chairman”; and**
- (4) Based on his assessment of compliance with the Code, and taking into account the annual compliance-report submitted to him, the Minister can decide to commence Section 9 or not as she sees fit.**

Further information on the RRAI can be seen on its website, www.rrai.ie.

3. MEMBERSHIP OF THE RRAI

3.1 LIST OF MEMBERS:

A full list of participating Members in the RRAI, and their approximate number of licensed stores, is set out in Table 1 below. Due to various factors, such as store-closures and store-openings, the precise number of stores in each Member-Group may fluctuate during the course of the year.

The 11 full Members of the RRAI comprise of the top 20 retail-groups in the country covering all retail store types from the largest supermarkets to neighbourhood convenience stores and petrol stations. All 20 of these retail-groups were included in the 2016 independent audit of compliance. Between them, the 20 groups account for approximately 2,616 mixed trading stores, which represent the overwhelming majority of the mixed trading stores in Ireland. Of these 2,616 stores 1,554 (59%) trade with full licences while 1,062 (41%) trade with wine only licences.

The RRAI's Members fund the operation of the company, including the cost of the annual independent audit and the telephone hotline, by way of by contributions agreed by the RRAI Board.



Table 1: RRAI-Members and their approximate number of licensed stores

Member	No. of Full off-licences*	No. of Wine-only off-licences	Total No. of Off-licences
Aldi	117	0	117
Petrogas Group (Applegreen)	12	48	60
BWG Foods (Eurospar, Fresh, Mace, Spar, Londis and XL)	360	459	819
Barry Group (Costcutter)	40	52	92
Dunnes Stores	93	8	101
Gala (Gala and Checkout)	19	139	158
Lidl	135	0	135
Marks & Spencer	7	10	17
Musgrave (Centra, SuperValu and Daybreak)	582	245	827
Tesco	145	4	149
Couche-Tard Group (Topaz and Esso)	44	97	141
TOTAL	1,554	1,062	2,616

*A full off-licence is a licence for the sale of beers, spirits and wines for consumption off the premises. A very small number of RRAI-stores hold a wine-licence and a wholesale beer-licence - for the purposes of this table, such stores are included under the heading of "Full off-licences".

3.2 ASSOCIATE-MEMBERSHIP OF THE RRAI:

The RRAI also has 20 associate-members, which constitute the majority of the remaining independent mixed trading stores operating in the Republic of Ireland. Each of these stores have signed up to the RRAI Code of Practice and have committed to be bound to its standards. The associate-members are currently as follows:

- Joyce Group, which operate five stores in the Galway region at Headford, Tuam, Knocknacarra, Athenry & Inverin;
- Tempside Limited, which operates five stores in the Polonez retail-group, as follows - Athlone, Co. Westmeath; Sligo Town, Co. Sligo; Dundrum, Dublin; Mary Street, Dublin; and Moore Street, Dublin;
- Donnybrook Fair Group who operate five stores in the south Dublin and north Wicklow region in Morehampton Road, Stillorgan, Baggot Street, Grand Canal Square & Greystones
- Morton's of Ranelagh who operate two stores in Dublin City in Ranelagh & Hatch Street
- JC Savage Supermarket in Swords, County Dublin
- Letterfrack Country Shop, Connemara, Co Galway
- Ardkeen Stores in Dunmore Road, County Waterford

Several existing associate members ceased trading or subsequently aligned with symbol groups already members of RRAI.

Whilst the vast bulk of mixed traders in Ireland are now signed up to the RRAI Code, a very small number of independent mixed traders are not members of RRAI. The RRAI continue to actively engage with this small number of independent mixed traders who are not Members, with a view to these retailers joining the RRAI and/or complying with the RRAI Code of Practice.

4. EIGHTH ANNUAL INDEPENDENT AUDIT OF COMPLIANCE

The eighth annual independent audit of compliance was carried out between the 18 of July and the 29 July 2016.

4.1 AUDIT METHODOLOGY:

In part 2 of the Explanatory Guidelines of the Code, it is clearly stated that “the display provisions are the cornerstone of the Code and for this reason, the independent audit and verification system will focus in particular on whether or not the licence-holder is complying with them.” This emphasis is fully reflected in the design and implementation of the annual independent audit.

The audit was carried out each by Field Marketing Ireland Ltd., who are specialists in surveys of the retail-trade.

The FMI auditors are independent in any judgments they make as auditors. However, in any case where a dispute arises between the auditors and a retailer concerning the result of a store in the audit of compliance, I make an independent and objective assessment based on the specific facts of the case.

Eleven questions are measured in the audit of compliance. Question 1 contains four elements, all relating to the in-store display of the A3 Code-poster. A store must pass all of Questions 1 to 7, and at least two out of the remaining four (Questions 8 to 11), in order to pass the audit. ***If a store fails any single element of Question 1, or any single question among Questions 2 to 7, it automatically fails the entire audit.***

For ease of reference, the audit-form used by FMI in the 2016 audit, and which sets out the eleven variables measured, is contained in the Annex to this Report.

4.2 AUDIT SAMPLE AND SIZE:

The national sample of audited stores was proportionately allocated to reflect regional, store-category and Member weightings. Within these parameters, FMI selected the stores to be visited at random from their national database of stores.

The practice in the annual audit in recent years has been to audit approximately 15% of the RRAI's overall number of stores. To ensure a robust sample size and to maintain this coverage-rate of approximately 15%, a national audit universe of 400 stores was selected in 2016. The audit of 400 stores represents 15.29% of the RRAI's total universe of 2,616 stores. The audit sample has increased from 356 to 400 stores since 2010.

Of the 400 stores included in the 2016 audit, **184 were multiple-supermarkets (representing 23.52% of Member-stores in that sector), and 216 were convenience-stores (representing 11.77% of Member-stores in that sector).**

4.3 OUTCOMES OF THE 2016 INDEPENDENT AUDIT OF COMPLIANCE:

The top-line result of the 2016 audit is that 362 stores passed the audit out of 400 while 38 stores failed, resulting in an overall compliance-rate of 90.50%. In the multiple-supermarket sector, 179 stores passed out of 184, and 5 failed, giving a compliance-rate of 97.28% in that sector. In the convenience-store sector, 183 stores passed out of 216, and 33 failed, giving a compliance-rate of 84.72% in that sector.

The 2016 overall compliance-rate of 90.50% is 0.50 points higher than the rate of 90.00% scored in 2015 well ahead of the 83.50% scored in 2013 and above the 85.56% scored in 2011.

Table 2: Overall results in the Annual Independent Audit of Compliance, 2016

Mixed Trading Sector	No. of Licensed stores of RRAI-Members	No. of stores audited	No. of stores passed	No. of stores failed	Compliance-rate
Multiple-supermarkets	782	184	179	5	97.28%
Convenience-Stores	1,834	216	183	33	84.72%
OVERALL TOTALS	2,616	400	362	38	90.50%

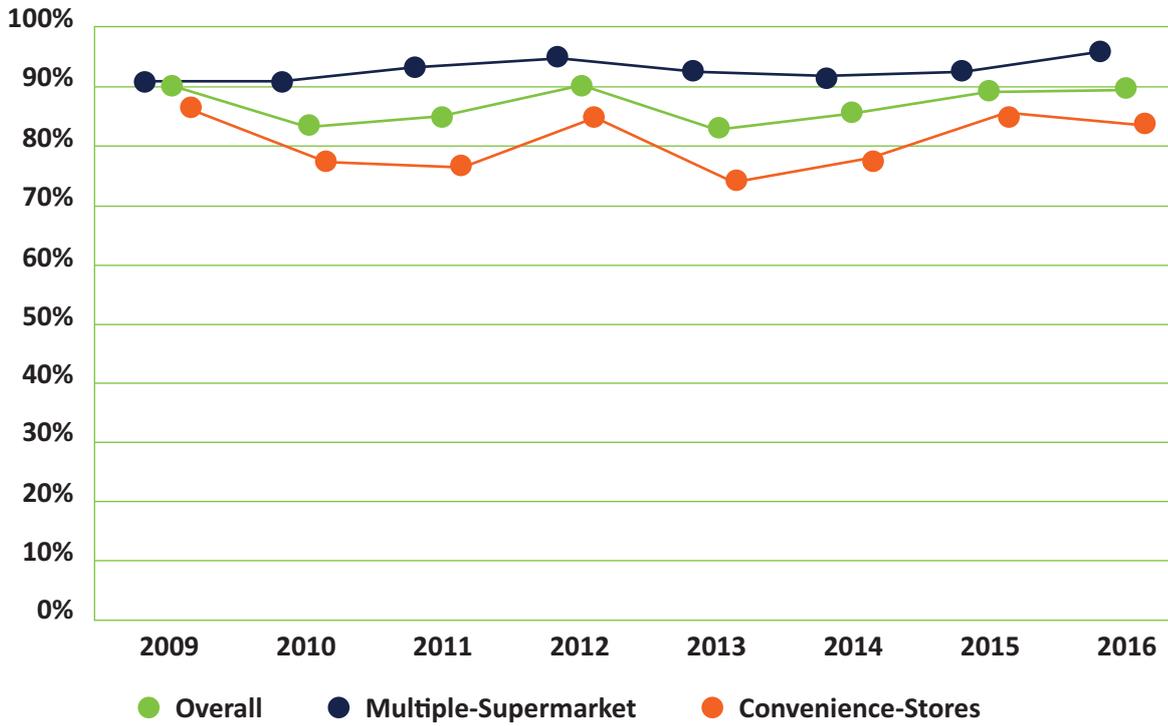


Table 3: Overall Annual Independent Audit Compliance levels since 2009

Variable	2009	2010*	2011	2012	2013*	2014	2015	2016
Overall	90.39%	84.30%	85.56%	90.30%	83.50%	86.07%	90.00%	90.50%
Multiple-Supermarket	91.74%	91.45%	94.84%	96.51%	95.08%	93.68%	95.11%	97.28%
Convenience-Stores	89.62%	79.15%	78.54%	84.66%	73.73%	79.25%	85.65%	84.72%

*Increase in pass-fail audit variables from 4 to 7 in 2010 &

*Increase in audit sample size from 360 to 400 in 2013 (to reflect increase in convenience stores members).

4.4 COMMENTARY ON 2016 AUDIT RESULTS:

In the multiple-supermarket sector, those scoring 100% compliance were Aldi, Dunnes Stores, Lidl, EUROSPAR and Tesco. In the convenience-store sector, where management-control can be less direct, particularly good compliance-rates were achieved by Applegreen and XL with 100%, Centra with 90.57%, Spar with 88.24%, and Gala with 88.23% and Topaz with 87.50%.

The provisions that govern the physical display of alcohol-products in-store remain the cornerstone of the RRAI Code. There are three separate but inter-related Code-provisions which govern the physical in-store display of alcohol-products, as follows. Two of the three physical display variables measured in 2016 demonstrated improvement versus the 2015 audit:

- (a) ***Alcohol-products will be confined to one part of the premises, whereby there can only be one alcohol display-area on the shop-floor*** (although alcohol-products can also be displayed behind the counter for security reasons, but not in a shop-window). This variable is measured by Q.3 of the annual audit, and 99.50% of the audited stores passed this question in 2016. This was almost in line with the 99.75% compliance level scored in 2015.
- (b) ***Alcohol-products will, as far as possible, be displayed only in a part of the premises which customers do not have to pass through or by in order to obtain access to other beverages and food-products.*** This variable is measured by Q.4 of the annual audit, and 98.25% of the audited stores passed this question. This was an improvement of almost 1.5 points on the 96.75% scored in 2015.
- (c) ***Alcohol-products will, as far as possible, be separated from other beverages and food-products.*** This variable is measured by Q.5 of the annual audit, and 99.25% of the audited stores passed this question. This was a 3.5 point improvement on the 95.75% compliance level scored in 2015.

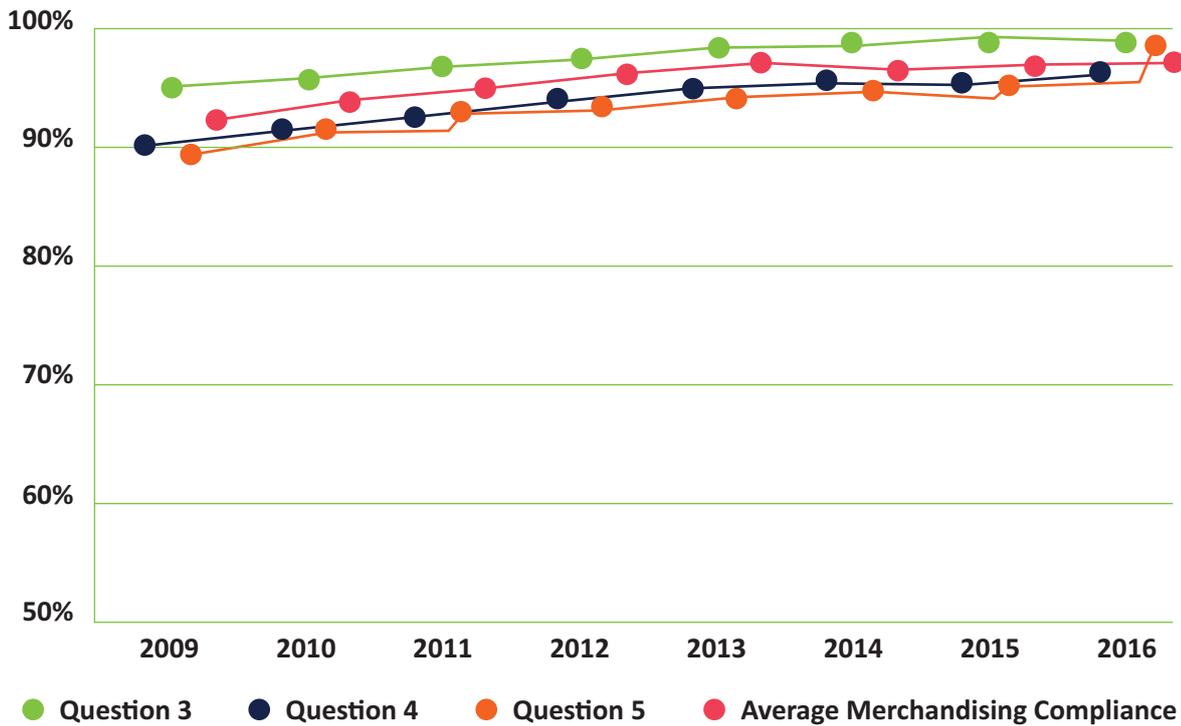


Table 4: Results re. The evolution in compliance of the questions relating to merchandising of alcohol in mixed trading premises

Variable	2009	2010*	2011	2012	2013*	2014	2015	2016
Question 3. Location of Alcohol Products	94.75%	95.50%	96.25%	97.25%	98.75%	99.50%	99.75%	99.50%
Question 4. Position of Alcohol Products	91.50%	92.75%	93.25%	95.50%	97.75%	96.25%	96.75%	98.25%
Question 5. Separation of Alcohol Products	90.75%	92.50%	93.50%	94.00%	94.50%	95.25%	95.75%	99.25%
Average Merchandising Compliance	92.33%	93.58%	94.33%	95.58%	97.00%	97.00%	97.41%	99.00%

Table 5: Results re. The physical in-store display of alcohol-products - Questions 3 to 5 of the Annual Independent Audit of Compliance, 2016

Audit-question	No. of stores passed	No. of stores failed	Compliance-rate
Q3 Is the display of alcohol-products confined to one part of the premises whereby there is only one alcohol display-area in the premises? (In addition to the main alcohol display-area, alcohol can also be displayed behind the counter for security reasons, but not in a shop-window.)	398 out of 400	1 out of 400	99.50%
Q4 Is the position of alcohol-products on display , as far as possible, only in a part of the premises which customers do not have to pass through or by, in order to obtain access to other beverages and food products?	393 out of 400	7 out of 400	98.25%
Q5 As far as possible, are alcohol-products separated from other beverages and food products?	397 out of 400	3 out of 400	99.25%

Traditionally, the most prominent reasons for stores failing the annual audit relate to in-store Code-documentation. Once again, compliance levels on both variables relating to documentation ranged between the mid to high 90 percent range. These elements are the most easily remedied and had they been at the desired levels compliance rates for the total audit would have exceeded 95%.

(a) Failure to properly display a copy of the A3 in-store code poster.

The reasons for non-compliance on this variable include, incomplete details of the relevant licence holder, failure to have relevant complaint hotline details included & not having the poster itself easily visible for all consumers. 12 stores out of 400 (i.e. 3.00%) failed to display the in-store A3 Code-poster variable versus the 3.25% non-compliance in 2015, the 4.98% non-compliance in 2014 and 6.25% non-compliance in 2013.

(a) Failure to produce a copy of the A3 in-store briefing document for staff-members.

22 stores out of total of 400 (i.e. 5.50%) were non-compliant versus the 3.50% non-compliance in 2015, versus the 5.22% noncompliance in 2014 and the 10% noncompliance level achieved in 2013.

More detailed outcomes of the annual independent audit of compliance are shown in Annex 3 for each of the eleven variables in respect of (a) the multiple-supermarket sector and (b) the convenience-store sector.

5. OTHER ASPECTS OF THE IMPLEMENTATION OF THE RRAI CODE OF PRACTICE

5.1 COMPLAINTS RECEIVED DURING 12 MONTH PERIOD FROM OCTOBER 2015 TO SEPTEMBER 2016:

Each member is mandated to have on prominent display in their store a copy of the Code document which states that complaints concerning the Code should in the first instance be directed to the holder of the Intoxicating Liquor Licence whose details are set out in the Code document or else to the store manager. It also proposes that if there is not a successful resolution of the complaint at a store level that the complaint be forwarded to the Chairman of RRAI at the address given, by email or through the RRAI 24 hour hotline.

Complaints are received from members of the public or other interested stakeholders including members of the RRAI. The RRAI have a defined procedure for dealing expeditiously for with complaints all of which are personally reviewed and adjudicated upon by the Independent Chairperson. The target is that all complaints received are responded to within a five working day period. The target is then to process, investigate, adjudicate and revert back to the member of the public with an outcome within three weeks.



CODE OF PRACTICE ON THE DISPLAY AND SALE OF ALCOHOL PRODUCTS IN MIXED TRADING PREMISES

DISPLAY OF ALCOHOL

- Alcohol products will, as far as possible, be displayed only in a part of the premises through which customers do not have to pass in order to obtain access to other beverages and food products (except where, for security reasons, such products are displayed behind the counter but not in a window).
- Alcohol products will be confined to that one part of the premises and will, as far as possible, be separated from other beverages and food products.

ADVERTISING

- In-store advertising of alcohol products is confined to the area in which they are displayed and will not be placed in windows or at internal locations where it is intended to be seen from outside the premises.
- Advertising materials produced by retailers will not be aimed at minors and will not seek to glamorise alcohol consumption or encourage excessive consumption.

SALE OF ALCOHOL

- The sale of alcohol products is permitted only between 10.30am and 10.00pm on weekdays and Saturdays, and between 12.30pm and 10.00pm on any Sunday or St. Patrick's Day (sales are not permitted on Christmas Day and Good Friday).
- Alcohol products will be sold only at clearly designated check-out points by persons over the age of 18 years.
- Check-out points at which alcohol products are sold, or alternatively the display area, will be monitored by CCTV.

SALE OF ALCOHOL PRODUCTS BY UNSUPERVISED SELF-SERVICE MEANS IS NOT PERMITTED.

- The sale of alcohol products on a "pay-on-delivery" basis is not permitted.

PROOF OF AGE

- Production of a proof-of-age document will be demanded in all cases where the customer appears to be under the age of 21 years or otherwise where there is a doubt about his or her age.
- The Garda Age Card is the preferred proof-of-age document.

STAFF TRAINING

- Licence holders will ensure adequate training of staff members engaged in the sale of alcohol products and, in particular, that such staff members have an adequate knowledge and understanding of relevant areas of licensing law.

INDEPENDENT AUDIT

- Compliance with this Code of Practice is subject to independent audit and verification on an annual basis. The Code will be updated from time to time.

COMPLAINTS PROCEDURE

- Complaints regarding implementation of this Code should in the first instance be made to the licence holder named below, or to the Store Manager, and if this does not result in a successful resolution, then to:

The Chairman
Responsible Retailing of Alcohol in Ireland (RRAI)
84-86 Lower Baggot Street, Dublin 2
or by email to: chairman@rrai.ie
or call the RRAI's 24-hour telephone hotline on
free-phone 1800 84 80 80.

Name and address of licence holder:

RESponsible Retailing of Alcohol in Ireland Ltd.

In-Store Code Document.

The RRAI complaints 24 hour telephone hotline has been operational since 11 March 2011, on the following free-phone number 1800 84 80 80. The service is provided by Call Management, whose call-centre is based in Cork. The purpose of the hotline is to provide an efficient mechanism for members of the public to communicate concerns of non-compliance by member stores to the RRAI. The main elements of the service are as follows:

	Calls are answered by a person rather than an automated service.
	The hotline is open 24 hours per day, 7 days per week, 365 days per year.
	The hotline operates on a free-phone number, whereby the caller incurs no charge for calling the hotline.
	The call-centre logs the details of each complainant, the premises to which the complaint relates, the date and time of the alleged breach of the RRAI Code of Practice, and the full circumstances of the alleged breach.
	The RRAI Executive keeps the identity of the complainant confidential if the complainant so wishes.
	The hotline can also be used to receive general RRAI-related queries from members of the public.
	The call-centre relays each complaint/query by email to the RRAI Executive within minutes of the complaint/query being received.
	The RRAI then investigates the concern raised and determine whether or not a breach in compliance has occurred. The RRAI communicate the findings of their investigation to the member of the public in a timely and efficient manner - 3 weeks beginning to end.

The details of the hotline number are included on all hard copies of the RRAI Code on display in all its 2,616 member-stores. The word “free-phone” and the number itself are highlighted in bold text on the Code document to ensure that they are clearly visible to members of the public. Communication of the hotline details on the in-store Code documents are a mandatory “pass” variable in the compliance audit. If the retailer does not communicate this information the store will not pass the compliance audit.

To increase public awareness of the 24 hour consumer complaints hotline the RRAI have from time to time run national media communication campaigns across all the major national print titles and national and local radio stations.

During the period the subject of this compliance-report, 106 complaints were processed by the RRAI. Approximately 60% of the processed complaints came from RRAI-members or internal RRAI-sources, and the remainder from external sources and members of the public.

Of the 106 complaints processed, 63 related to alleged breaches of the Code relating to the display of alcohol (merchandising). The remaining 38 complaints received referred to alleged breaches of the in store advertising elements of the Code and the additional commitments made by members of the RRAI above and beyond the requirements of the Code relating to advertising and marketing of alcohol. In addition 5 queries were processed related to licensing law issues, namely proof of age, the permitted trading hours for the sale of alcohol, and the alleged sale of alcohol without a licence. Complaints regarding licensing law issues were handled by the RRAI Executive. It is important to stress that in the case of any complaint alleging a licensing law offence, the RRAI Executive informs the complainant that this is a legal matter which falls outside the RRAI’s remit, and that the appropriate authority to investigate any such alleged incident is An Garda Síochána.

The 101 Code-related complaints were considered by me and in the vast majority of instances, the Member involved swiftly agreed to rectify the relevant breach of the Code and/or to prevent a recurrence. The Chairman upheld 56 or 55% of the complaints raised.

Table 6: Statistics on complaints against RRAI-members, broken down by source of complaint

Source of Complaint	No. of complaints / Oct. '09 to Sept. '10	No. of complaints / Oct. '10 to Sept. '11	No. of complaints / Oct. '11 to Sept. '12	No. of complaints / Oct. '12 to Sept. '13	No. of complaints / Oct. '13 to Sept. '14	No. of complaints / Oct. '14 to Sept. '15	No. of complaints / Oct. '15 to Sept. '16
External	28	36	35	22	19	53	42
Internal (from within the RRAI)	30	91	57	28	21	79	64
Total	58	127	92	50	40	132	106

Footnote: The total number of complaints received over the last 12 Months decreased from 132 to 106. However this number is still significantly larger than the 40 complaints received in 2014 and would suggest that the most recent Code awareness communications activity conducted through October-November 2015 has left a residual awareness with members of the public for the RRAI Code.

Table 7: Statistics on complaints against RRAI-members, broken down by nature of complaint

Nature of Complaint	No. of complaints / Oct. '09 to Sept. '10	No. of complaints / Oct. '10 to Sept. '11	No. of complaints / Oct. '11 to Sept. '12	No. of complaints / Oct. '12 to Sept. '13	No. of complaints / Oct. '13 to Sept. '14	No. of complaints / Oct. '14 to Sept. '15	No. of complaints / Oct. '15 to Sept. '16
Merchandising (i.e. in-store display of alcohol)	27	83	59	30	24	60	63
Advertising/ marketing of alcohol	32	37	28	17	16	64	38
Total Code-related Complaints	58	120	87	47	40	124	101
Other Complaints	-	7	5	3	12	8	5
TOTAL	58	127	92	50	52	132	106

5.2 COMMENT ON GENERAL ENQUIRES RECEIVED BY THE RRAI:

The RRAI telephone hotline is also used to receive general enquiries both from members of the public and from RRAI-affiliated retailers, and it has proven to be a useful tool in that regard. In the 12-month period the subject of this report, as well as receiving a number of complaints through its 24 hour hotline (which are incorporated within the aforementioned complaints-statistics), the RRAI also received and processed 16 telephone queries and 19 web based queries, a decrease of 22 such contacts since 2015. The content of these contacts can range from everything between press and media queries to contacts by local voluntary groups to contacts by trade bodies and representative associations.

5.3 INTERNAL RRAI SANCTIONS-POLICY:

The RRAI Board have put additional mechanisms in place, to provide for effective and proportionate sanctions against any individual Member-Stores or Member-Groups that repeatedly breach the best practice inherent in both the spirit as well as the letter of the Code.

The potential sanctions include the expulsion of a Member-Group or an individual store from the RRAI, objections to the renewal of a liquor licence or to the granting of a new licence using the legal mechanisms currently available, and the public naming and shaming of those deemed culpable of persistent, repeated, or systemic serious breaches of the RRAI Code.

The RRAI's sanctions-policy has been made available to the public and can be seen in full on the RRAI's website at http://www.rrai.ie/RRAI_Sanctionspolicy/Default.120.html. It is also included herein as Annex 4 to this Report.



5.4 OBJECTING TO LICENCE-RENEWALS:

The RRAI has continued to seek to engage with independent mixed traders who are not Members, with a view to such retailers joining the RRAI and/or complying with the standards of good retailing of alcohol inherent in the RRAI Code of Practice.

In a particular case in a previous year (2013) the RRAI did lodge an objection in the District Court to the renewal of the liquor licences for an independent mixed trading store that was not affiliated to the RRAI but where the sale and display of alcohol was seriously at variance with the standards in the Code. The retailer in agreement with the Court became compliant, the objection was withdrawn and the retailer is a positive adherent to the Code.

6. OVERALL JUDGEMENT ON COMPLIANCE

The overall compliance-rate in 2016 as measured by the independent audit of 90.50% represents an impressive degree of compliance. In 2016 the multiple-supermarket sector had a compliance rate of 97.28%, and the convenience-store sector achieved 84.72%.

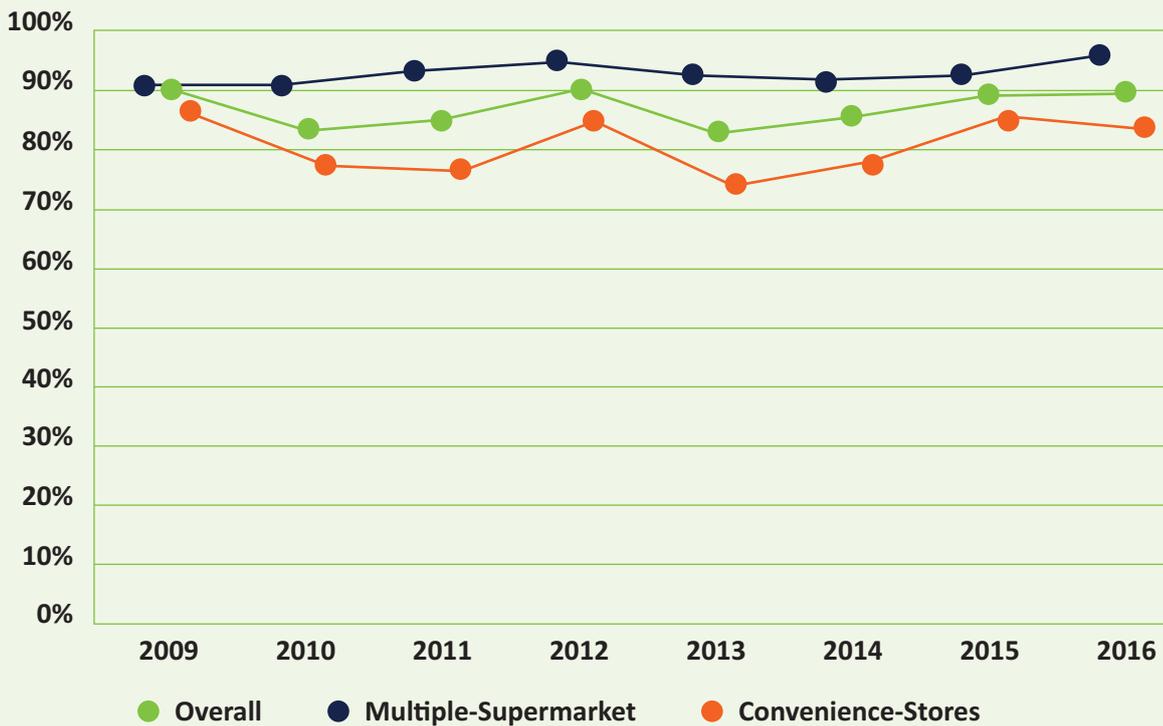


Table 8: Overall Annual Independent Audit Compliance levels since 2009

Variable	2009	2010*	2011	2012	2013*	2014	2015	2016
Overall	90.39%	84.30%	85.56%	90.30%	83.50%	86.07%	90.00%	90.50%
Multiple-Supermarket	91.74%	91.45%	94.84%	96.51%	95.08%	93.68%	95.11%	97.28%
Convenience-Stores	89.62%	79.15%	78.54%	84.66%	73.73%	79.25%	85.65%	84.72%

The provisions on the physical display of alcohol-products form the cornerstone of the Code. The compliance-rates for those provisions in 2016 were impressively high in both the multiple-supermarket and convenience-store sectors. The audit contains three key questions on the physical display of alcohol-products, and in this year's audit, the overall compliance-rate for each of these three questions ranged between 98.25% and 99.50%.

As a whole, the complaint-mechanisms operated effectively during the past year. In most cases, where issues were raised regarding specific stores or advertisements, the relevant RRAI-member responded promptly and in a positive manner.

It is worth noting that one of the most visible manifestations of the Code-restraints is the restriction on newspaper-advertisements for Members, whereby a maximum of 25% of the core advertising-space can be allocated to alcohol-products within any single advertisement. There is now almost universal compliance by RRAI-members with this restriction.

My assessment, as Independent Chairperson, is that the overall compliance-rate of 90.50% in this year's audit is very impressive and that overall, the RRAI's Members continue to be firmly committed to the Code.

7. OBSERVATIONS ON OTHER POLICY RELATED MATTERS

7.1 EVOLUTION IN THE PUBLIC HEALTH POLICY ENVIRONMENT SINCE SEPTEMBER 2015

Following publication of the General Scheme of the Public Health (Alcohol) Bill in February 2015, the RRAI made a submission to the Joint Oireachtas Committee on Health in March 2015, in its pre-legislative scrutiny of the General Scheme of the Bill. The RRAI was supportive of the Committees call in its published Report of June 2015 to strengthen the requirements for the separation of alcohol products from food and other beverages (“separation requirements”) and which reflected similar proposals of its own to the Department of Justice in 2012. In addition, that RRAI also noted the Committees recommendation to ensure that these separation requirements **“not be too onerous on retailers and which would not impose excessive compliance costs on the sector”**.

The Public Health (Alcohol) Bill was introduced and had its second stage in the Seanad Eireann on 17 December 2015. The RRAI noted with serious concern the introduction of a new and highly restrictive provision that alcohol products should not be “readily visible” from outside the alcohol selling area in larger stores.

In the case of storage units, containing alcohol products, the relevant provisions within the Bill state that, alcohol should “not be visible” to members of the public. These provisions would most likely apply to the smaller store formats.

The RRAI are the firm view that the introduction of these particular “visibility” provisions go far beyond the policy objectives set for it, they will result in a highly frustrating experiences for the normal customers and will place a penal cost of in excess of a €100ml in capital investment alone on the Irish retail industry.

Amongst the other challenges posed by the legislation in its current form include:

- Legal advice received suggests that the “not readily visible” requirement would necessitate the erection of at least a 7 foot screen to close off from view the alcohol selling area. The creation therefore of “a store within a store” will inevitably result in Planning Implications, Insurance and Fire Certification issues. In addition it may well also require the movement of the location of the alcohol selling area within stores which in turn may require changes to the existing licencing terms for large numbers of stores.
- As a result of the alcohol products not being readily visible from outside the alcohol selling area and the creation of a store within a store retailers are extremely concerned that this dark area will become a source of significant Health & Safety concerns and customer safety risks. In addition a significant increase in theft and additional security risks will be an inevitable outcome of this proposal.

- Realistic implementation timelines are required as the current proposal of one year to ensure compliance with the new requirements across 2,616 stores is simply not credible. The body of work required is too great and the number of qualified suppliers will not be sufficient to meet such a narrow timeline.
- Retailers have a real concern that Section 20 of the Bill as currently drafted will result in legal ambiguity as to what constitutes compliance. This lack of clarity will also make consistency in interpreting the regulations by the Environmental Health Officers virtually impossible.
- Ambiguity also surrounds the definition of what actually constitutes a stand-alone off licence. This remains a major concern as the Bill states that the new regulations will not apply to off-licences whose sales comprise wholly or mainly alcohol products. This lack of precision in definition is potentially open to abuse and may result in existing stand-alone off licences selling more grocery products while not being covered by the requirements of Section 20.
- Legal advice received by the members of the RRAI states that the current adjacency requirement is anomalous and too restrictive. The regulation as currently drafted will prohibit any other product whatever (including non-food products) from adjoining alcohol products. These regulations will typically cover smaller retail stores who will not have the space for alcohol storage units to adjoin nothing.



Large store as envisaged, alcohol “not readily visible”.



Convenience store as envisaged, alcohol “not visible”.

7.2 PROVISIONS IN THE PUBLIC HEALTH (ALCOHOL) BILL WHICH THE RRAI SUPPORTS

The RRAI supports stronger provision for the separation of alcohol from other beverages that match the policy objectives set out in the 2008 Intoxicating Liquor Act and 2015 Public Health (Alcohol) Bill now before the Seanad. Accordingly the RRAI positively supports the following three substantive proposals contained within the Bill:

(1) The non-visibility of alcohol products in secondary selling areas manned by a full time staff member: Section 20 of the Public Health (Alcohol) Bill subsection 1 (a) proposes;

- (i) “One point of sale area in the premises to which the off-licence is attached which shall contain a storage unit” -**
 - (I) That may indicate it contains alcohol products**
 - (II) That shall not be accessible to members of the public**
 - (III) That shall not contain advertisements for alcohol products**
 - (IV) From which alcohol products shall not be visible to members of the public when closed, and which shall remain closed when not in use.**

The RRAI are supportive of this subsection in its entirety. The requirements covered in this subsection would typically cover alcohol products sold from customer service areas. These desks sell tobacco but also confectionary and snack products attractive to children. These customer service areas are very significant as they are a key area where alcohol tends to be most visible to children.

Cognizant of this legitimate concern the members of the RRAI are supportive of the requirement for the non-visibility of alcohol products in these secondary selling areas which are manned full time by a member of staff. It is envisaged that the alcohol products in this area would be sold from cabinets not visible to consumers. However as the area is manned by a full time member of staff responsible consumers can continue to make an informed choice while purchasing an alcohol product.

This development is important as it practically demonstrates the commitment of the RRAI to workable and practical solutions to deliver reasonable public policy outcomes.



Convenience store current situation.



Convenience store as envisaged.

(2) The separation of alcohol products in larger store formats: Section 20 of the Public Health (Alcohol) Bill - subsection 1 (a) proposes;

(a) *“Advertisement for alcohol products and the exposure for sale of alcohol products are exclusively confined to” - “A single area in the premises to which the off licence is attached”-*

(I) *Which is separated from the remainder of the premises by means of a physical barrier, through which alcohol products and advertisements for alcohol products are not readily visible to members of the public*

(II) *To which members of the public do not have to pass through in order to gain access to, or make purchase of, products other than alcohol products*

(III) *In which the only products exposed for sale are alcohol products and related products and where a related product is exposed for sale, that product is also exposed for sale elsewhere in the premises concerned.*

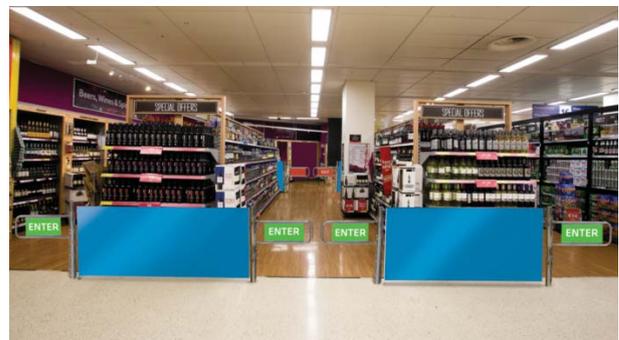
The RRAI are supportive of the core provision that alcohol should be **“separated from the remainder of the premises by means of a physical barrier”** which would typically apply in the larger store formats.

The RRAI support the reasonable separation of alcohol products by means of the creation of a physical barrier containing a separate entrance and exit thereby obliging consumers to have to make a conscious and deliberate decision to enter the alcohol selling area and to then select an alcohol product for purchase. This provision amply meets the enhanced separation objective intended in the 2008 Intoxicating Liquor Act and the recommendations of the Report of the Joint Oireachtas Committee on Health and Children in 2015.

While installing barriers of this specific kind will require a significant capital investment by retailers, the industry believes that it is a proportionate and workable measure which will not unduly effect security and general store management. This development would match best practice currently operating in Northern Ireland.



Larger store current situation.



Larger store as envisaged.

(3) The display and sale of alcohol in defined, separate selling units in smaller retail formats: Section 20 of the Public Health (Alcohol) Bill - subsection 1 (b) proposes;

(b) “Advertisement for alcohol products and the exposure for sale of alcohol products are exclusively confined to-

(i) One or more storage units (which shall be adjacent to each other) in the premises to which the off-licence is attached

(I) That may indicate it or they contain alcohol products

(II) That shall not contain anything other than alcohol products and advertisements for alcohol products

(III) That when closed shall not allow alcohol products or advertisements for alcohol products to be visible to members of the public

(IV) Which, when not in use shall remain closed.

The RRAI are supportive of the core provision that alcohol products should be sold be **“exclusively confined to”** - **“one or more storage units (which shall be adjacent to each other) in the premises to which the off-licence is attached”** which would typically apply in the smaller store formats.

This separate “storage unit” provision would apply because it is typically not practical to provide a physically separated section for the sale of alcohol products in smaller stores. (Provision would apply to 1,062 stores or 40% of stores)

This provision calls for all alcohol products including wine to be put in defined and separate storage units. In large number of stores this would result in the removal from sale entirely of alcohol products from floor display which in some cases would account for up to 50% of the alcohol on display.

Despite the logistical difficulties and significant incremental financial cost posed this a major change which the RRAI is supportive of.



Convenience store current situation.



Convenience store as envisaged.

7.3 RRAI PROPOSED AMENDMENTS TO THE PUBLIC HEALTH (ALCOHOL) BILL 2015

The elements the RRAI does not support

The RRAI seek to lay out a set of five modest and reasonable amendments that will deliver the key separation policy objectives underpinning the 2008 Intoxicating Liquor Act and the 2015 Public Health (Alcohol) Bill in a workable and affordable form.

The estimated cost of the separation provisions laid out in Section 20 of the Public Health (Alcohol) Bill is over €100ml. This calculation includes capital costs only and does not include the increased operational and labour costs that will inevitably flow from implementation of the Bill in its current form. The estimated costs of the proposed RRAI amendments to Section 20 of the Public Health (Alcohol) Bill will be €25ml. Again this calculation includes capital costs only and does not include the increased operational and labour costs that will inevitably flow from implementation of the Bill in its current form. Both estimates have been generated on the basis of legal advice received from established practitioners in the field and costings delivered by long established and professional store fitting firms.

(1) Amendment One - Visibility in larger store formats: Section 20 of the Public Health (Alcohol) Bill - subsection 1 (a) proposes;

(c) "Advertisement for alcohol products and the exposure for sale of alcohol products are exclusively confined to-

(i) "A single area in the premises to which the off licence is attached-

(I) Which is separated from the remainder of the premises by means of a physical barrier, through which alcohol products and advertisements for alcohol products are not readily visible to members of the public

(II) To which members of the public do not have to pass through in order to gain access to, or make purchase of, products other than alcohol products

(III) In which the only products exposed for sale are alcohol products and related products and where a related product is exposed for sale, that product is also exposed for sale elsewhere in the premises concerned.

To satisfy the existing "**not readily visible**" requirement a barrier of at least 7 feet in height would need to be erected in every relevant store. The inclusion of the "**not readily visible**" requirement would in effect create a sealed and blind area within each store, in other words the creation of a store within a store. This area would not be visible by store employees thereby opening up significant security and theft risks for stores. The creation of a sealed and blind area envisaged would open up significant planning, fire, health and safety and disability access challenges for stores.

The RRAI consider this **“not readily visible”** requirement to be unreasonable and excessive, the practical consequences of which were clearly not considered prior to the publication of the Bill. The RRAI note that this **“not readily visible”** requirement had not been considered in the pre legislative scrutiny of the Public Health (Alcohol) Bill carried out by the Joint Oireachtas Committee on Health and Children.

In addition, that RRAI also notes that the **“not readily visible”** requirement does not meet the Committees recommendation to ensure that separation requirements **“not be too onerous on retailers and which would not impose excessive compliance costs on the sector”**.

The RRAI are therefore not supportive of the provision that **“alcohol products and advertisements for alcohol products are not readily visible to members of the public”** which would typically apply in the larger store formats.

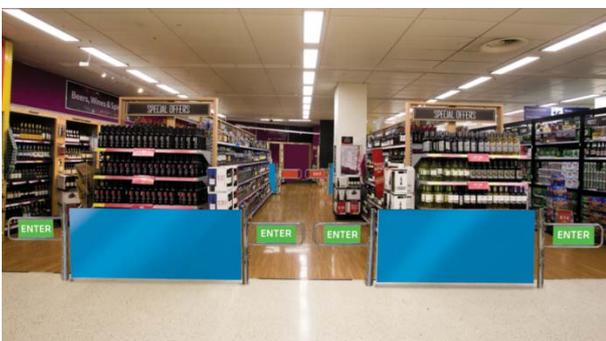
The RRAI amendment instead proposes that this part of the clause be removed and the amending subset (I) be amended and to be read as follows; **“which is separated from the premises by means of a physical barrier”**.



Larger store current situation.



Larger store envisaged in Bill.



Larger store as in Amendment.

(2) Amendment Two - Visibility in smaller store formats: Section 20 of the Public Health (Alcohol) Bill - subsection 1 (b) proposes;

(b) - “Advertisement for alcohol products and the exposure for sale of alcohol products are exclusively confined to-

(i) One or more storage units (which shall be adjacent to each other) in the premises to which the off-licence is attached

(I) That may indicate it or they contain alcohol products

(II) That shall not contain anything other than alcohol products and advertisements for alcohol products

(III) That when closed shall not allow alcohol products or advertisements for alcohol products to be visible to members of the public

(IV) Which, when not in use shall remain closed.

This separate “storage unit” provision applies because it is typically not practical to provide a physically separated section for the sale of alcohol products in smaller stores. (The provision would apply to 1,062 stores or 40% of store universe). Clause (III) requires that **“when closed the storage units shall not allow alcohol products to be visible to members of the public”**. In other words to meet this “visible” clause would require retailers to sell alcohol from behind “dark doors” on the floor of their stores.

The RRAI consider this “visible-dark door” requirement to be most punitive and impractical for these smaller stores. It appears unreasonable to force the vast majority of responsible consumers to have to search for the legal product of their choice from behind “dark doors” before purchase.

This requirement particularly effects stores with wine only licences. The wine category unlike beer or spirits is particularly fragmented with products continually entering and exiting the market. Therefore to make any kind of informed choice consumers are obliged to browse the products on display prior to purchase. To block off visibility of new products from the view of consumers would inadvertently restrict competition within the wine category by giving the existing producers a competitive advantage.

The RRAI are therefore not supportive of the provision that requires that **“when closed (the storage units) shall not allow alcohol products or advertisements to be visible to members of the public”** which would typically apply in the smaller store formats.

The RRAI amendment proposes that this visibility clause subset (III) be removed entirely.



Smaller store current situation.



Smaller store envisaged in Bill.



Smaller store as in Amendment.

(3) Amendment Three - Adjacency in smaller store formats: Section 20 of the Public Health (Alcohol) Bill - subsection 5 (b) proposes;

(b) A storage unit containing alcohol products for sale for consumption off the premises shall not adjoin a storage unit containing products other than alcohol products.

Legal advice received by the RRAI has noted that the subsection as drafted is anomalous in that it prohibits any other products whatever, including non-food products, from adjoining the storage units containing alcohol products. In practical terms given the layout of store envisaged by the adjacency requirement alcohol products need to be adjacent to something. It is for this reason that the proposed amendment builds on the current Code requirement confirming that storage units containing alcohol products not be placed adjacent to other beverages and food products. In other words that they adjoin storage units or shelving containing non-food products.

The Bill requires that; (b) ***“A storage unit containing alcohol products for sale for consumption off the premises shall not adjoin a storage unit other than alcohol products”.***

The RRAI amendment proposes that; ***“A storage unit containing alcohol products for sale for consumption off the premises shall not immediately adjoin a storage unit or storage units containing other beverages or food products”.***

(4) Amendment Four - Implementation Period: Section 20 of the Public Health (Alcohol) Bill - subsection 1 proposes;

“Subject to subsection (3) and the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (SI No 639 of 2002) the holder of an off-licence shall ensure that, not later than one year after the commencement of this subsection.”

The proposed separation requirements will oblige retailers to make significant in-store changes across a very large number of stores some 2,600 in a very short period of time. The retail industry are of the firm view that the required renovations could not be executed within this one year timeline and that a minimum of a two year transition period would be more appropriate.

The changes proposed may require physically moving fire doors and safety exit changes that will require planning permission therefore a two year transition timespan is agreed by the industry to be the minimum necessary. In many cases licencing law requirements specify the precise area within a store where the alcohol can be displayed and as a result moving this area would require the permission of the local licencing authority. Again a two year transition timespan is agreed by the industry to be the minimum necessary.

Other certification from various regulatory bodies may well be required to effect the necessary changes including, from the fire authorities, from health & safety and those bodies responsible for disability access.

There are a finite number of store fitting companies physically available to do the quantity of work required. Costs to complete this work would be driven up if this arbitrary timeline was imposed on such a large number of retailers seeking access to such a limited number of suppliers.

The Bill requires that; ***“Subject to subsection (3) and the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (SI No 639 of 2002) the holder of an off-licence shall ensure that, not later than one year after the commencement of this subsection.”***

The RRAI propose that; ***“Subject to subsection (3) and the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (SI No 639 of 2002) the holder of an off-licence shall ensure that, not later than two years after the commencement of this subsection.”***

(5) Amendment Five - Stand Alone Off-Licence Definition: Section 20 of the Public Health (Alcohol) Bill - subsection 3 proposes that subsection 1 shall not apply to;

(a) "A premises to which an off-licence is attached in relation to which sales comprise wholly or mainly alcohol products"

The RRAI amendment proposes that; ***(3) Subsection (1) shall not apply to- (a) "Any premises where the only non-licenced business carried on is the exposure for sale and the sale of (i) Non-alcoholic beverages, (ii) Ice, (iii) Cigarettes, tobacco, cigars and matches"***

The RRAI are of the view that the lack of precision in the definition of what precisely constitutes a stand-alone off-licence is potentially open to abuse.

Under the terms of the substance misuse group the Department of Health were tasked with introducing a Code on the display and sale of alcohol products in the stand-alone off-licence sector. It was envisaged that this Code would develop in tandem with the Code developed by the Department of Justice with the mixed trading sector. The Department of Health did not introduce such a Code and as a result there has been no comparable evolution in the practices surrounding the display, sale and advertising of alcohol products in this sector as there has been in the mixed trading sector.

The lack of definition in what specifically constitutes a stand-alone off-licence will potentially encourage existing stand-alone off-licences to sell more grocery type products while still meeting the "mainly" alcohol sales requirement and so avoiding the requirements of Section 20. Unless this ambiguity is removed it will also encourage existing mixed trading premises to convert into stand-alone licences. The RRAI amendment proposes that the definition included in the 2008 Act be used to eliminate these ambiguities.

The Bill proposes that: ***"A premises to which an off-licence is attached in relation to which sales comprise wholly or mainly alcohol products"***.

The RRAI amendment proposes that; ***(3) Subsection (1) shall not apply to- (a) "Any premises where the only non-licenced business carried on is the exposure for sale and the sale of (i) Non-alcoholic beverages, (ii) Ice, (iii) Cigarettes, tobacco, cigars and matches"***.



7.4 PROOF OF AGE:

As highlighted in previous compliance-reports, a Garda Age Card is the only identification accepted in law as a defence where a licence-holder is prosecuted for the sale of alcohol to a person under the age of 18 years.

The RRAI Board remains concerned that a statutory anomaly continues to exist, whereby other forms of identification are acceptable under licensing law as proof of age in one instance (i.e. where 18-21 year-olds need to prove their age when in the bar of a licensed premises after 9.00pm), yet they are not acceptable in law as proof of age regarding the purchase of alcohol.

The RRAI's Members re-iterate that this continues to cause them difficulties in-store, particularly when foreign tourists seek to buy alcohol, that the current law is discriminatory towards foreign tourists, that there is inconsistency within the current law on proof of age, and that this needs to be addressed as a matter of urgency.

ANNEX 1: THE VOLUNTARY CODE AND EXPLANATORY GUIDELINES

RRAI CODE OF PRACTICE:

Display of Alcohol

Alcohol products will, as far as possible, be displayed only in a part of the premises through which customers do not have to pass in order to obtain access to other beverages and food products (except where, for security reasons, such products are displayed behind the counter but not in a window). Alcohol products will be confined to that one part of the premises and will, as far as possible, be separated from other beverages and food products.

Advertising

In-store advertising of alcohol products is confined to the area in which they are displayed and will not be placed in windows or at internal locations where it is intended to be seen from outside the premises. Advertising materials produced by retailers will not be aimed at minors and will not seek to glamorize alcohol consumption or encourage excessive consumption.

Sale of Alcohol

The sale of alcohol products is permitted only between 10.30am and 10.00pm on weekdays & Saturdays and between 12.30pm and 10.00pm on any Sunday or St. Patrick's Day (sales are not permitted on Christmas Day and Good Friday). Alcohol products will be sold only at clearly designated check-out points by persons over the age of 18 years. Check-out points at which alcohol products are sold, or alternatively the display area, will be monitored by CCTV. The sale of alcohol products by unsupervised self-service means is not permitted. The sale of alcohol products on a "pay-on-delivery" basis is not permitted.

Proof of Age

Production of a proof-of-age document will be demanded in all cases where the customer appears to be under the age of 21 years or otherwise where there is a doubt about his or her age. The Garda Age Card is the preferred proof-of-age document.

Staff Training

Licence holders will ensure adequate training of staff members engaged in the sale of alcohol products and, in particular, that such staff members have an adequate knowledge and understanding of relevant areas of licensing law.

Independent Audit

Compliance with this Code of Practice is subject to independent audit and verification on an annual basis. The Code will be up-dated from time to time.



Complaints Procedure

Complaints regarding implementation of this Code should, in the first instance be made to the licence holder named below, or to the Store Manager and if this does not result in a successful resolution, then to:

The Chairman

Responsible Retailing of Alcohol in Ireland (RRAI)

84-86 Lower Baggot Street, Dublin 2

or by email to: chairman@rrai.ie

or call the RRAI's 24-hour telephone hotline on **free-phone 1800 84 80 80**.

Name and address of licence holder: _____

EXPLANATORY GUIDELINES OF THE RRAI CODE OF PRACTICE:

Background

Section 9 of the Intoxicating Liquor Act 2008 provides for the structural separation of alcohol products from other beverages and food products in premises which are engaged in mixed trading, such as supermarkets, convenience stores and petrol stations. This Code of Practice for the display and sale of alcohol products in mixed trading premises is intended to achieve the policy objectives of section 9 of the 2008 Act on a voluntary basis. The Code provides for an independent audit and verification mechanism to oversee compliance and the provision of an annual report on its implementation to the Minister for Justice, Equality and Law Reform.

This Code of Practice has been drawn up by Retail Ireland, the Convenience Stores and Newsagents Association (CSNA) and RGDATA representing the mixed trading sector and the Departments of Justice, Equality and Law Reform, and Health and Children. It represents a commitment by the mixed trading sector to adhere on a voluntary basis to the standards and procedures set out in the Code.

The credibility of the Code depends on the effectiveness of the independent audit and verification system set up to oversee its implementation. If the audit and verification process reveals that implementation of the Code is achieving the goal of structural separation, it may not be necessary to bring section 9 of the 2008 Act into operation. However, if voluntary measures are not successful, the Minister for Justice, Equality and Law Reform has stated that the statutory provisions will be activated.

The basic principle underpinning this Code of Practice is that alcohol is not an ordinary household product despite being sold in many supermarkets, convenience stores and petrol stations. The sale of alcohol products requires a District Court certificate and a licence issued by the Revenue Commissioners. Renewal of the licence is also subject to District Court supervision. Moreover, the conditions of sale and consumption of alcohol is governed by extensive statutory provisions set out in the Licensing Acts 1833 to 2008.

Contents Of The Code

1. DISPLAY OF CODE

All mixed trading premises involved in the display and sale of alcohol must display a laminated copy of the Code in a conspicuous place in the premises. It must contain the name and address of the licence holder of the premises concerned. Display of the Code represents the commitment of the licence holder to implement and abide by its provisions. It also alerts customers to the standards which they are entitled to expect.

2. DISPLAY OF ALCOHOL

Under the Code, licence holders commit to displaying alcohol products, (including spirits and spirit based beverages; beer; cider; wine and wine based products), separately from other beverages and food products in one part of the premises. The part of the premises chosen for the display of alcohol should, as far as possible, be such that customers do not have to pass through or by it unless they intend purchasing alcohol products. Ideally, it should be at the rear of the premises. Separate display need not, of necessity, involve a physical wall or other such physical barrier. Cross-merchandising of alcohol with other food products is precluded.

However, while the Code provides that alcohol products must be located in a separate area away from other beverages and food products, it is recognized that certain mixed trading premises specialize exclusively in beverages and food products. For this reason the words 'as far as possible' have been included; in such cases, the licence holder is expected to comply as far as possible with the display provisions. It is also recognised that separation of alcohol products from other beverages and food products may present insuperable difficulties for small premises. Here also, the commitment of the licence holder is to ensure compliance as far as possible with the separation provisions.

In short, it is expected that all mixed trading premises, irrespective of size or level of specialization, will endeavor as far as possible to implement the separation provisions.

The Code permits the display of alcohol products behind the counter in the interest of security. Alcohol products may not, however, be displayed in the windows of the premises.

The display provisions are the cornerstone of the Code and for this reason, the independent audit and verification system will focus in particular on whether or not the licence holder is complying with them. A failure to implement and abide by these standards may result in activation of section 9 of the 2008 Act.

3. ADVERTISING

The Code provides that in-store advertising of alcohol products is confined to the area in which such products are displayed. Advertising materials should not, therefore, be placed in windows or at internal locations where they are intended to be seen from outside the premises. Moreover, advertising materials produced by retailers should not seek to glamorize alcohol, or encourage excessive consumption, and should not be directed at minors.

As a complementary measure, the mixed trading sector has given a commitment that any advertisement published in newspapers or magazines must devote at least 75% of any such advertisement to products other than alcohol. This commitment does not apply to a retailer's own publications or to trade magazines. In addition, the sector undertakes not to commission any alcohol-only radio or television advertising.

4. SALE OF ALCOHOL

The law specifies that off-sales of alcohol are permitted only between 10.30 a.m. and 10.00 p.m. from Monday to Saturday and between 12.30 p.m. and 10.00 p.m. on any Sunday or St Patrick's Day (such sales are not permitted at all on Christmas Day and Good Friday). These details are included in the Code for the information of the public and for the convenience of sales staff in dealing with customers. It is advisable to block alcohol sales at cash registers outside of these times.

Alcohol products may be sold only at clearly designated check-out points by persons over the age of 18 years. Check-out points at which alcohol products are sold, or the display area, will be monitored by CCTV as an aid to enforcement of the statutory provisions prohibiting the sale of alcohol to persons under 18 years of age.

Unsupervised self-service purchases of alcohol are not to be permitted. In the case of 'on-line' purchases of alcohol products, it is a requirement that the customer pays for alcohol at the time of placing the order. Payment on delivery of alcohol products is an offence under licensing law. Moreover, the control systems in place for delivering alcohol products purchased and paid for in advance must include a verification mechanism to ensure that alcohol is not being sold and delivered to persons under 18 years of age.

The inclusion of these provisions regarding the sale and delivery of alcohol are intended to assist licence holders to comply with existing law.

5. PROOF OF AGE

It is an offence to sell or deliver alcohol to a person under 18 years of age. Where a customer appears to be under the age of 21 years, or where there is a doubt about his or her age, staff members should seek confirmation of the customer's age. The Garda Age Card is the preferred proof-of-age document for this purpose.

6. STAFF TRAINING

It is important that staff involved in the sale of alcohol products have an adequate knowledge and understanding of relevant areas of licensing law, particularly those relating to the sale and delivery of alcohol to persons under 18 years. The Code commits licence holders to ensuring that staff members are adequately trained in these matters. A training manual has been prepared by the mixed trading sector to assist licence holders in this regard. Compliance with the training commitments in the Code reflects good practice in the sector.

7. INDEPENDENT AUDIT

An independent body selected by the representative bodies of the mixed trading sector will monitor implementation of the Code and report to a Director appointed by the sector with the agreement of the Minister for Justice, Equality and Law Reform. The Director will submit an annual compliance report to the Minister.

8. COMPLAINTS MECHANISM

The Code contains provision for a complaints mechanism which will permit customers to lodge complaints where it appears that the Code's provisions are not being implemented. It is envisaged that complaints may be resolved locally in consultation with the licence holder or be submitted to the Director. For this reason, the copy of the Code on display must contain contact details of the licence holder and the body responsible for monitoring the implementation of the Code.

Implementation

The Code is effective 1 December 2008 and applies to all premises with off-licences which are engaged in mixed trading. These guidelines expand on some of the standards which are set out in the Code and are intended to give practical guidance for their application. They should be read in conjunction with the Code of Practice for the Sale and Display of Alcohol Products in Mixed Trading Premises.

ANNEX 2: CONSOLIDATED VERSION OF THE RRAI'S EXTENDED ADVERTISING RULES

RRAI ADVERTISING RULES

1. EXTRACT FROM THE RRAI CODE OF PRACTICE:

"Advertising: In-store advertising of alcohol products is confined to the area in which they are displayed and will not be placed in windows or at internal locations where it is intended to be seen from outside the premises. Advertising materials produced by retailers will not be aimed at minors and will not seek to glamorise alcohol consumption or encourage excessive consumption."

2. EXTRACT FROM THE EXPLANATORY GUIDELINES OF THE RRAI CODE OF PRACTICE:

"Advertising: The Code provides that in-store advertising of alcohol products is confined to the area in which such products are displayed. Advertising materials should not, therefore, be placed in windows or at internal locations where they are intended to be seen from outside the premises. Moreover, advertising materials produced by retailers should not seek to glamorise alcohol, or encourage excessive consumption, and should not be directed at minors.

As a complementary measure, the mixed trading sector has given a commitment that any advertisement published in newspapers or magazines must devote at least 75% of any such advertisement to products other than alcohol. This commitment does not apply to a retailer's own publications or to trade magazines. In addition, the sector undertakes not to commission any alcohol-only radio or television advertising."

3. MEMBERS' DECISIONS TO TOUGHEN CODE-PROVISIONS ON ADVERTISING AND MARKETING:

(As set out on pages 16 and 17 of the RRAI Independent Chairperson's Third Annual Compliance Report, 30 September 2011).

Over time, in the course of implementing the Code, and as certain practical queries on compliance arose, the RRAI Board took a series of decisions to toughen its advertising rules. These decisions were taken in the interests of consistency with the letter and spirit of the original Code, as follows:

(a) Revised Print-Advertising Commitments:

In respect of advertisements which members place in newspapers and magazines, the Code commits members to devoting at least 75% of any such advertising space to products other than alcohol.

Alternatively, alcohol products should not constitute over 25% of any such advertisement.

(This can be summarised as the "25% alcohol/75% non-alcohol" advertising rule.)

Over time, certain ambiguities emerged in the practical application of these provisions. As a result, the RRAI's members decided to adopt a more detailed formulation in respect of print advertising in the interests of uniform compliance. The detailed formulation is as follows:

“Any advertisement published in newspapers and magazines must devote at least 75% of any such core advertising space, exclusive of corporate borders, to products other than alcohol, with no more than 25% of such relevant core advertising space exclusive of corporate borders, being allocated to alcohol products. In any spacing calculation, products have to be allocated their full and proper proportion of space.”

The Code specifically excludes retailers' own publications or trade magazines from this restriction. The Code also prohibits mixed trading retailers from commissioning any alcohol-only radio or TV advertising. As mentioned in my Second Compliance-Report in 2010, the Board of the RRAI took the initiative of extending the scope of these advertising restrictions in the interest of enhancing the effectiveness and credibility of the Code. The RRAI Board decided to extend the “25% alcohol/75% non-alcohol” advertising rule to other media such as newspaper inserts, outdoor advertising billboards, bus advertisements and bus shelter advertising, as set out below.

(b) Newspaper Inserts, Supplements, Flyers and Mail-Shots:

The RRAI agreed that all inserts and supplements should allocate no more than 25% of space to alcohol products and that at least 75% of space be devoted to products other than alcohol. These spacing provisions apply to the entirety of the insert or supplement. The RRAI also agreed that all flyers and mail-shots produced by members should allocate no more than 25% of space to alcohol products and that at least 75% of space be devoted to products other than alcohol. These spacing provisions apply to the entirety of the flyer or mail-shot.

(c) Outdoor Advertising:

The RRAI agreed the following commitments regarding outdoor advertising:

- Any advertisement on billboards, buses or in bus shelters must devote at least 75% of any such core advertising space, exclusive of corporate borders, to products other than alcohol, with no more than 25% of such relevant core advertising space, exclusive of corporate borders, being allocated to alcohol products. In any spacing calculation products have to be allocated their full and proper proportion of space.
- No billboard or bus shelter advertising featuring alcohol will be placed within 100 metres of a primary or secondary school or a premises that is on the list of designated youth sites drawn up by the Department of Health & Children. This is consistent with agreements made between the outdoor media association and the Department of Health & Children and is the current practice of providers used by the RRAI's member-groups.

(d) Broadcast-Advertising:

The Code stipulates that the RRAI's members undertake not to commission any alcohol-only radio or television advertising. To avoid ambiguity, the RRAI Board agreed that any advertisements featuring alcohol products commissioned by its members and broadcast on radio or television would apply the following principles:

- Exclusive of corporate introductions, the alcohol products should not exceed 25% of the net time available for products featured. It was also agreed that 75% of the net time available for featured products would feature product(s) other than alcohol.
- For example, in a standard 20 second radio advertising slot where 5 seconds was used at the beginning or end of the advert for corporate content leaving 15 seconds net time available for product advertising, the time allocated to alcohol products should not exceed 25% of that 15 second period, equivalent to a maximum duration of 3.75 seconds.
- As the minimum practical advertising slot for alcohol within an advert is three seconds, the timing restrictions do not apply below this three-second threshold.
- In 2011, in consultation with the Alcohol Marketing Communications Monitoring Body, the RRAI Board agreed that alcohol-related advertising for RRAI-members should not be broadcast during "family breakfast time", which runs from 6:00am to 10:00am daily. This mirrors the existing broadcasting industry codes, which already prohibit the broadcast-advertising of alcohol during family breakfast time. As RRAI-members do not have direct control over broadcasters' advertising schedules, the onus is on the broadcasters themselves to ensure that this rule is adhered to, but RRAI-members nonetheless support the principle that alcohol-related advertising should not be broadcast during family breakfast time.

ANNEX 3: RESULTS OF THE RRAI ANNUAL INDEPENDENT AUDIT OF COMPLIANCE 2016 BY MULTIPLE-SUPERMARKET AND CONVENIENCE-STORE SECTOR

Table 9: 2016 audit results by question & by store format

Retail Audit Question/Variable Measured	Multiple-supermarket Compliance	Convenience-store Compliance
Q1 (a) Is the Code of Practice document on conspicuous display within the store (in A3 size)?	100%	98.25%
(b) If the store has a net retail area of over 4,000 sq feet, is there more than one A3 copy of the Code on display?	100%	99.54%
(c) Does each copy of the Code display the name and address of the licence-holder?	100%	96.37%
(d) Does each copy of the Code display the RRAI telephone hotline information?	100%	97.22%
Q2 Is the in-store advertising of alcohol products confined to the area in which alcohol products are displayed, and not in windows or at other locations where it is intended to be seen from outside the premises?	100%	99.54%
Q3 Is the display of alcohol-products confined to one part of the premises whereby there is only one alcohol display-area in the premises? <i>(In addition to the main alcohol display-area, alcohol can also be displayed behind the counter for security reasons, but not in a shop-window.)</i>	100%	99.07%
Q4 Is the position of alcohol products on display, as far as possible, only in a part of the premises which customers do not have to pass through or by, in order to obtain access to other beverages and food products?	98.91%	97.69%
Q5 As far as possible, are alcohol products separated from other beverages and food products?	99.46%	99.07%
Q6 Is a copy of the in-store briefing document for staff-members held in-store?	98.37%	91.20%
Q7 Have all staff-members engaged in the sale and display of alcohol been briefed on the Code of Practice?	99.46%	97.22%

Retail Audit Question/Variable Measured <i>- continued</i>	Multiple- supermarket Compliance	Convenience- store Compliance
Q8 Can you confirm that alcohol-related advertising materials produced by the retailer and displayed in-store are not aimed at minors, do not in any way glamorise the consumption of alcohol, and do not encourage the excessive consumption of alcohol?	100%	100%
Q9 Are alcohol-products only sold at clearly designated check-out points?	95%	77.00%
Q10 Are these check-out points or the alcohol display-area monitored by CCTV?	100%	100%
Q11 Is the purchase of alcohol-products at unsupervised self-service checkouts not permitted? <i>(Tick "yes" if the purchase of alcohol at unsupervised self-service check-outs is not permitted).</i>	100%	100%

If a member-store failed any part of Question 1, or any of Questions 2 to 7, the store failed the audit.

In relation to the remaining four variables [Questions 8-11 inclusive], where compliance required satisfying at least two of the four questions, there was no instance of failing the audit on these four questions.

ANNEX 4: AUDIT FORM USED BY THE AUDITORS IN THE EIGHTH RRAI ANNUAL AUDIT OF COMPLIANCE JULY 2016

Call Information		
Client Ref:	FMIACOP _ _ _ _	
Store Name and Address:	_____	

Store Contact Name:		
Store Contact Position:		
Date of Visit:		
Time of Visit:		
Tick appropriate size of store before commencing audit:		
Net retail area of over 4,000 Sq Feet / 372 Sq Metres	<input type="checkbox"/>	
Net retail area of up to 4,000 Sq Feet / 372 Sq Metres	<input type="checkbox"/>	
7 Redline Areas for Immediate Pass/Fail		
Q1	(a) Is the Code of Practice document on conspicuous display within the store in A3-size?;	Yes <input type="checkbox"/> No <input type="checkbox"/>
	(b) If the store has a net retail area of over 4,000 square feet / 372 square metres, is there more than one A3 copy of the Code on display?;	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
	(c) Does each copy of the Code display the name and address of the licence-holder?; and	Yes <input type="checkbox"/> No <input type="checkbox"/>
	(d) Does each copy of the Code display the RRAI telephone hotline information? <i>(Parts (a), (c), and (d) must all be scored positively for a store to pass Question 1, along with part (b) where applicable.)</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Q2	Is the in-store advertising of alcohol products confined to the area in which alcohol-products are displayed, and not in windows or at other locations where it is intended to be seen from outside the premises?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Q3	Is the display of alcohol products confined to one part of the premises whereby there is only one alcohol display-area in the premises? <i>(In addition to the main alcohol display-area, alcohol can also be displayed behind the counter for security reasons, but not in a shop-window.)</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>

Q4 Is the **position of alcohol products on display**, as far as possible, only in a part of the premises which customers do not **have** to pass through or by, in order to obtain access to other beverages and food products? Yes No

Please tick one of the following options that best describes where the alcohol products are displayed within the store: (for explanatory purposes)

- 1. At the entrance to the store
- 2. Directly opposite or facing food or beverage products primarily consumed by children
- 3. Directly opposite or facing fresh food or beverage products (fruit/veg, dairy, meat) or preserved/packaged/frozen food or beverage products
- 4. Towards the middle of the premises
- 5. On a perimeter wall and late in the customer's journey through the store
- 6. At the rear of the premises

Q5 As far as possible, are **alcohol products separated** from other beverages and food products? Yes No

Q6 Is a copy of the **in-store briefing document for staff-members** held in-store? Yes No

Q7 Have all staff-members engaged in the sale and display of alcohol been **briefed on the Code of Practice**? Yes No

Remaining 4 Retail Audit Questions
2 of these 4 questions Must be answered Yes to pass overall audit

Q8 Can you confirm that alcohol-related advertising materials produced by the retailer and displayed in-store are **not** aimed at minors, do **not** in any way glamorise the consumption of alcohol, and do **not** encourage the excessive consumption of alcohol? Yes No

Q9 Are alcohol products only sold at clearly designated check-out points? Yes No

Q10 Are these check-out points or the alcohol display-area monitored by CCTV? Yes No

Q11 Is the purchase of alcohol products at unsupervised self-service checkouts **not** permitted? (*Tick "yes" if the purchase of alcohol at unsupervised self-service check-outs is **not** permitted.*) Yes No

Photographs and Comments

R Did you take a photograph of any non-compliance? Yes No

Audit Comments: _____

ANNEX 5: RRAI SANCTIONS-POLICY

SANCTIONS-POLICY AGAINST MEMBER GROUPS OR MEMBER-STORES THAT ARE IN BREACH OF THE RRAI CODE OF PRACTICE

1. DEFINITIONS:

In this document:

The term “**Code of Practice**” shall encompass the RRAI code of practice and its explanatory guidelines, and the RRAI’s advertising rules (which extend beyond the literal wording of the code and its explanatory guidelines); and

The term “**serious breach**” is restricted to breaches relating to:

- (a) the in-store merchandising or display of alcohol-products, and
- (b) the advertising of alcohol-products,

and excludes breaches relating to in-store code-documentation.

Examples of what constitutes a “**serious breach**” include but are not limited to the following:

- (a) having more than one display-area for alcohol-products on the shop-floor (although alcohol-products can in addition be displayed behind the shop-counter, for security reasons, but not in a shop-window);
- (b) displaying alcohol-products directly opposite or facing other beverages or food-products, whereby customers cannot get access to those other beverages or food-products without passing through or by alcohol-products (*although the “as far as possible” qualification may apply in limited circumstances*);
- (c) displaying alcohol-products directly adjacent to other beverages or food-products (*again, the “as far as possible” qualification may apply in limited circumstances. In addition, the display of alcohol-products back-to-back with other beverages or food-products, or at ninety degrees to other beverages or food-products, can be acceptable*);
- (d) in larger stores with a net retail area of over 4,000 square feet / 372 square metres, displaying alcohol-products within 0.8m of other beverages or food products along a wall, aisle, or row of shelving (*once again, the “as far as possible” qualification may apply in limited circumstances, and the display of alcohol-products back-to-back with other beverages or food-products, or at ninety degrees to other beverages or food-products, can be acceptable*);

- (e) the cross-merchandising of alcohol-products with other beverages or with food-products;
- (f) displaying an advertisement for any alcohol-products in the shop-window or at an internal location whereby it is intended to be seen from outside the store;
- (g) placing an advertisement in a newspaper, where the amount of space allocated to alcohol-products represents more than twenty-five per cent of the total core-advertising space allocated to products within that advertisement - e.g. placing an alcohol-only advertisement in a newspaper; and
- (h) placing an advertisement on radio or television, where the amount of time allocated to alcohol-products represents more than twenty-five per cent of the net time available for products featured within that advertisement - e.g. placing an alcohol-only advertisement with a radio station. As the minimum practical advertising slot for alcohol-products within a broadcast-advertisement is three seconds, the timing restrictions will not apply below this three-second threshold.

2. UPON WHOM MAY SANCTIONS BE IMPOSED, AND IN WHAT CIRCUMSTANCES?

2.1 DISTINCTION BETWEEN DIFFERENT TYPES OF MEMBER:

A distinction is to be drawn between:

- (a) Member Groups with direct managerial control over their mixed trading stores; and
- (b) Member Groups made up of independently-operated mixed trading stores, where the Member Groups in question do not have direct managerial control over the stores concerned.

2.2 MEMBER GROUPS WITH DIRECT MANAGERIAL CONTROL OVER THEIR MIXED TRADING STORES:

The policy is to impose sanctions against any Member Group with direct managerial control over their mixed trading stores in any of the following cases:

- (a) Where a Member Group (or any of its stores) commits persistent and/or repeated serious breaches of the Code of Practice over a period of time. The bona fides of the Member Group or store(s) in question will be taken into account; or
- (b) Where a Member Group engages in a systemic serious breach of the Code of Practice across a significant number of its stores in a concentrated period, typically during a holiday-weekend or holiday-period; or
- (c) Where a Member Group fails to pay its subscription due to the RRAI in full by the absolute cut-off date agreed by the Board in any given year.

2.3 MEMBER GROUPS MADE UP OF INDEPENDENTLY OPERATED MIXED TRADING STORES:

2.3.1 Sanctions against an individual mixed trading store

Where an independently-operated mixed trading store (within a Member Group) commits persistent and/or repeated serious breaches of the Code of Practice over a period of time, the policy is to impose sanctions against the store itself. The bona fides of the store in question will be taken into account.

2.3.2 Sanctions against a Member Group

The policy is to impose sanctions against a Member Group made up of independently-operated mixed trading stores in any of the following cases:

- (a) Where the number of stores, within a Member Group, that commit persistent and/or repeated serious breaches of the Code of Practice over a period of time represents two per cent (2%) or more of that Member Group's total number of mixed trading stores. The bona fides of the Member Group in question will be taken into account; or
- (b) Where a systemic serious breach of the Code of Practice occurs across a significant number of a Member Group's mixed trading stores in a concentrated period, typically during a holiday-weekend or holiday-period; or
- (c) Where a Member Group fails to pay its subscription due to the RRAI in full by the absolute cut-off date agreed by the Board in any given year.

3. WHAT SANCTIONS MAY BE IMPOSED?

3.1 DEBT-RECOVERY PROCEEDINGS:

Where a Member Group fails to pay its due subscription in full by the absolute cut-off date agreed by the Board in any given year, the Chairperson may write a formal letter to that member indicating that legal proceedings will commence if full payment is not received by the RRAI within a certain time-frame.

Should the subscription or any portion thereof remain unpaid after the deadline set out in the Chairperson's letter, legal proceedings may be instigated against the Member Group concerned for the recovery of the lawful debt due to the RRAI.

The RRAI may also seek to recover its costs for any such legal proceedings from the Member Group against whom the proceedings are taken.

3.2 EXPULSION OF A NON-COMPLIANT MEMBER GROUP, AND REMOVAL OF THEIR REPRESENTATIVE(S) FROM THE BOARD OF DIRECTORS:

The RRAI Board may consider expelling any Member Group for serious breaches of the Code of Practice under headings 2.2 and 2.3.2 above.

Under Article 5 of the Articles of Association of RRAI Limited (“the Company”, and/or “the RRAI”), the membership of any Member may be terminated at the Directors’ discretion. Any decision to terminate a membership is subject to the voting requirements set out in Article 61 of the Articles of Association.

Article 61 sets out the Company’s internal rules on voting at board meetings, whereby any questions voted upon require a two-thirds majority in order to be passed.

In addition, Articles 50 and 55 provide the mechanisms for removing a Director of an expelled Member from office. Under Article 50.7, the office of Director shall be vacated if a Director is required in writing by all his co-Directors to resign. Under Article 55, the Company may remove a Director by way of ordinary resolution (provided extended notice of that resolution has been given). Any appointment of an alternate Director automatically comes to an end once the appointer ceases to be a Director.

3.3 OBJECTIONS TO THE RENEWAL OF THE LICENCES AND/OR TO THE LICENCE-APPLICATIONS OF NON-COMPLIANT MEMBERS:

Objections to the granting of new licences or to the renewal of existing licences are heard in the District Court.

The main objects clause in the Memorandum of Association of RRAI Limited (the “RRAI”) is to encourage, oversee, promote and verify compliance with the Code of Practice. In addition, there is a specific provision within the objects clause to permit, enable and empower the RRAI to formally object, either through the relevant department of Customs and Excise or the relevant Court, to the renewal and/or granting of any intoxicating liquor licence attaching to or to attach to any premises of any Member of the RRAI and/or of any non-member.

Furthermore, again under its objects clause, the RRAI may, at its discretion, involve, notify, co-operate with and/or assist the relevant Superintendent of An Garda Síochána (or such other competent authority) in any objections to the renewal or granting of any intoxicating liquor licence.

(a) Objection to the renewal of an existing off-licence of a non-compliant member -

Under the District Court Rules, an objection to the renewal of an off-licence must be made at the Annual Licensing Court for the Court area that the relevant off-licence is situated in. Annual Licensing Courts take place in September in District Courts nationwide.

The Civil Law (Miscellaneous Provisions) Act 2011 became law on 17 June 2011. Section 17 thereof provides for formal approval by the Minister for Justice and Equality of a code or codes of practice to regulate the display, sale, supply, advertising, promotion and marketing of alcohol. Any code of practice that is formally adopted can apply to a chosen class or classes of intoxicating liquor, class or classes of licensed premises, or type of licence. A licence-holder who is not compliant with an applicable approved code may face objections to the renewal of their liquor licence on the grounds of character. The RRAI is engaging with the Department of Justice and Equality on the inclusion of the key elements of its voluntary code within any formally approved code that would apply to mixed trading off-licences.

Under statute-law, including the Civil Law (Miscellaneous Provisions) Act 2011, the Superintendent of the Garda Síochána for the licensing area in which an off-licence is located is the only statutory objector to the renewal of that licence. The RRAI has engaged positively with the Gardaí in the past regarding objections on the grounds of character. It will renew its previous contacts at Commissioner-level, with a view to full co-operation by the Gardaí in any such objections-process.

The RRAI may also send a warning letter to any mixed trading store that persistently or repeatedly commits serious breaches of the Code of Practice. The warning letter will advise the store in question that unless it rectifies existing serious breaches and refrains from further serious breaches, the RRAI may formally recommend to the Gardaí that an objection to the renewal of the store's licence(s) be lodged in Court on the grounds of character.

(b) Objection to any application by a non-compliant Member for a new off-licence -

The grounds of objection will depend upon the statutory provision under which an application is made for a new off-licence.

In any application for a full new off-licence, objection can be made on the grounds of the character of the applicant and the suitability of the premises. Moreover, the vast majority of applications for new off-licences are made under section 18 of the Intoxicating Liquor Act 2000, where the grounds of objection are wider again, as follows - the character, misconduct or unfitness of the applicant; the unfitness or inconvenience of the premises; the unsuitability of the premises for the needs of persons residing in the neighbourhood; and/or the adequacy of the existing number of licensed premises of the same character in the neighbourhood.

Likewise, the list of competent objectors is wider in applications for a new off-licence than for the renewal of an existing licence. The following persons can object to an application for a new off-licence:

- Any resident or owner of property in the parish in which the proposed off-licence is located;
- The Garda Superintendent for the area in which the proposed off-licence is located; and
- Any person who would be affected by the decision to grant the licence - the RRAI would presumably fall under this category.

Where serious breaches of the Code of Practice are committed by a Member Group under headings 2.2 or 2.3.2 above, or by an individual store/retailer under heading 2.3.1 above, the RRAI may consider:

- (a) formally objecting to any Court-application for a new off-licence by the Member Group or individual retailer in question; and/or
- (b) formally recommending to the Gardaí that an objection to the renewal of the licence(s) attaching to the store in question be lodged in Court on the grounds of character.

3.4 “NAMING AND SHAMING”:

With a view to publicly "naming and shaming" any persistently non-compliant Members, the RRAI may:

- Publish details on its website of any finding made by the Board of persistent, repeated, or systemic serious breaches by any of the RRAI's Members; and
- Issue press releases to the same effect.

ANNEX 6: PROPOSED RRAI AMENDMENTS TO THE PUBLIC HEALTH (ALCOHOL) BILL 2015

1. INTRODUCTION:

The RRAI respectfully propose that the following amendments be made to Section 20 of the Public Health (Alcohol) Bill. The RRAI have consistently supported Government efforts to reduce alcohol related harm. To that end the RRAI have under the auspices of the Department of Justice and the Department of Health been successfully operating a Code of Practice on the display and sale of alcohol since 2009. This aligned and considered process has dramatically changed the way alcohol products are displayed, advertised and sold in Irish supermarkets.

The compliance rate with the Code in 2016 was over 90% across the 2,600 member stores scored by independent audit. The RRAI membership comprises over 95% of the supermarkets and convenience stores across the length and breadth of the Republic of Ireland.

The RRAI are of the firm view that Section 20 as currently constituted will be extremely onerous to implement, be almost impossible to monitor and manage on an ongoing basis and will ultimately be extremely frustrating for responsible retailers and consumers.

To that end the amendments proposed will in our view better deliver the desired policy outcomes by bringing greater clarity for all stakeholders around the requirements surrounding the sale and display of alcohol products in grocery stores. These amendments will we believe offer greater certainty to customers, retailers, and the regulatory and licencing authorities.

2. PROPOSED AMENDMENTS TO SECTION 20 REGARDING STRUCTURAL SEPARATION AND SUPPORTING RATIONALES:

- (1) Subject to subsection (3) and the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (SI No 639 of 2002) the holder of a an off-licence shall ensure that, not later than one year after the commencement of this subsection -

Amendment One

Proposed that the implementation period be extended from 1 to 2 years by amending (1) to read as follows

“Subject to subsection (3) and the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (SI No 639 of 2002) the holder of a an off-licence shall ensure that, not later than two years after the commencement of this subsection -”

Rationale for change;

- The proposed separation requirements will oblige retailers to make significant in-store changes across a very large number of stores, some 2,600 in total, in a very short period of time. RRAI retailers are of the firm view that the renovations required could not be executed within this one year timeline and that as a result a two year transition period would be more appropriate.
- The changes proposed may require physically moving fire doors and exits-changes that will require planning permission. Suitable time periods will be required to allow for this-in our view at least the two year period proposed.
- In many cases licencing requirements specify the precise area within the store where alcohol can be displayed and as a result moving that area would require the permission of the licencing authority. This would only be able to be changed through the licencing renewal process. Again it is the view of the RRAI that at least two licencing cycles would be required to effect these changes.
- Other certification from various regulatory bodies may well be required including from the fire authorities, from health & safety and from those bodies responsible for disability access.
- There are a finite number of store fitting companies physically available to do the work required. Costs to complete this work would be driven up if this arbitrary timeline was imposed on such a large number of retailers seeking access to such a limited number of suppliers.

- (a) advertisements for alcohol products and the exposure for sale of alcohol products are exclusively confined to-
- (i) a single area in the premises to which the off licence is attached-
- (l) which is separated from the remainder of the premises by means of a physical barrier, through which alcohol products and advertisements for alcohol products are not readily visible to members of the public from outside the area.

Amendment Two

Proposed that the visibility requirement be removed by amending (I) to read as follows:

“which is separated from the remainder of the premises by means of a physical barrier,”

Rationale for change;

- The members of the RRAI are of the view that the erection of a waist height barrier or gate meets the “as far as is possible” separation requirement in the current Code of Practice and secures the objective of enabling customers not having to pass through the alcohol selling area if they do not wish to.
- The inclusion of the visibility requirement along with that of the physical barrier would in effect create a sealed and blind area within the store in other words a store within a store.
- To satisfy the existing visibility requirement a barrier of at least 7 feet in height would need to be erected. This in the view of the RRAI is a disproportionate, onerous and costly requirement
- This area would not be visible by store employees opening up significant security and theft challenges for stores.
- This sealed & blind area would open up significant planning, fire, health and safety and disability access challenges for stores with consequent time and cost implications.
- Amongst the consequences of the security and health and safety challenges identified might be the necessity to employ a full time employee within the area adding significant incremental cost to the store.
- The costs of these incremental overheads will have to be recouped by retailers which may result in increased prices for consumers.
- The members of the RRAI are of the view that the dual requirements of barrier and a 7 foot visibility screen is in this respect more burdensome both than the related section of the 2008 Act and the position currently applying in Northern Ireland.

(II) to which members of the public do not have to pass through in order to gain access to, or make a purchase of, products other than alcohol products, and

(III) in which the only products exposed for sale are alcohol products and related products and where a related product is exposed for sale, that product is also exposed for sale elsewhere in the premises concerned.

or

(i) one point of sale in the premises to which the off-licence is attached which shall contain a storage unit-

(I) that may indicate it contains alcohol products

(II) that shall not be accessible to members of the public

(III) that shall not contain advertisements for alcohol products and

(IV) from which alcohol products shall not be visible to members of the public when closed, and which shall remain closed when not in use,

Rationale for change;

- The members of the RRAI are willing to accept the requirement for non-visible and closed cabinets in the secondary selling area (eg. behind the customer service desk) on the basis that these areas are manned by staff who can manage the visibility requirement as distinct from the primary selling area on the floor of the store which are not.

or to both;

or

- (b) advertisements for alcohol products and the exposure for sale of alcohol products are exclusively confined to-
- (i) one or more storage units (which shall be adjacent to each other) in the premises to which the off-licence is attached
 - (I) that may indicate it or they contain alcohol products
 - (II) that shall not contain anything other than alcohol products and advertisements for alcohol products
 - (III) that when closed, shall not allow alcohol products or advertisements for alcohol products to be visible to members of the public, and

Amendment Three

Proposed that visibility requirement in subset (III) be removed entirely

Rationale for change;

- This alternative proposal (b) would appear to have in mind smaller store formats unable to satisfy the physical barrier & visibility requirements laid out in proposal (a).
- A significant majority of these smaller store formats are wine only licences (1,062 stores) and therefore require in the view of the RRAI a different separation dispensation from the larger predominantly full licence arrangement outlined in (a).
- On that basis the RRAI would concur with the requirement that the “on-floor” exposure for sale of alcohol in such stores would be confined to one or more defined and separate “storage unit(s)” exclusively for the sale of alcohol products.
- However it appears most punitive and impractical for these smaller stores to be obliged to sell product from behind “dark” doors in these storage units or cabinets on the floor of the store.
- In addition it appears most punitive for responsible consumers to have to search for the products from behind “dark doors” in these “storage units” before purchase. This requirement would in our view be completely disproportionate without robust empirical and peer tested evidence to support or justify it.
- The “cabinet” or “cabinets would be accessible by means a see through self - closing door.

(iv) which, when not in use shall remain closed

or

(ii) one point of sale in the premises to which the off-licence is attached which shall contain a storage unit-

(I) that may indicate it contains alcohol products

(II) that shall not be accessible to members of the public

(III) that shall not contain advertisements for alcohol products and

(IV) from which alcohol products shall not be visible to members of the public when closed, and which shall remain closed when not in use,

or to both;

(2) Nothing in subsection (1) shall be construed as prohibiting the exposure for sale of alcohol related merchandise in any area of the premises to which the off-licence concerned is attached.

(3) Subsection (1) shall not apply to-

(a) A premises to which an off-licence is attached in relation to which sales comprise wholly or mainly alcohol products, or

Amendment Four

Proposed that the imprecise definition of stand-alone off licence be removed so that (a) be replaced by;

“Any premises where the only non-licensed business carried on is the exposure for sale and the sale of-

(i) Non-alcoholic beverages

(ii) Ice

(iii) Cigarettes, tobacco, cigars and matches.”

Rationale for change;

- The RRAI are of the view that the lack of precision in the definition of what precisely defines a stand-alone off licence is potentially open to abuse.
- This clause if uncorrected offers the possibility for stand-alone off licences to increase the amount non-alcohol products they offer for sale, in effect becoming quasi grocery stores, while still meeting the “mainly” alcohol sales requirement and so avoiding the requirements of Section 20.

(b) A premises licensed under Part IV of the Act of 1943

(4) A person who contravenes subsection (1) shall be guilty of an offence

(5) Subject to subsection (6) and the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (SI No 639 of 2002) the holder of a licence under Part IV of the Act of 1943 shall ensure that, not later than one year after the commencement of this subsection-

Amendment Five

Proposed that the implementation period be extended from 1 to 2 years by amending (5) to read as follows

“Subject to subsection (6) and the European Communities (Requirements to Indicate Product Prices) Regulations 2002 (SI No 639 of 2002) the holder of a licence under Part IV of the Act of 1943 shall ensure that, not later than two years after the commencement of this subsection-“

Rationale for change;

- For consistency with Amendment One above.
- (a) Subject to subsection (6) alcohol products for sale for consumption off the premises shall not be displayed in a storage unit containing products other than alcohol products
 - (b) A storage unit containing alcohol products for sale for consumption off the premises shall not adjoin a storage unit containing products other than alcohol products, an

Amendment Six

Proposed that the adjacency requirement be amended so that (b) be amended to read as follows;

“A storage unit containing alcohol products for sale for consumption off the premises shall not immediately adjoin a storage unit or storage units containing other beverages or food products.”

Rationale for change;

- The RRAI believe that the subsection as drafted is anomalous in that it prohibits any other product whatever from adjoining alcohol products.
 - In practical terms given the layout of store envisaged to be covered by proposal (b) alcohol needs to be adjacent to something. It is for this reason that the proposed amendment builds on the current requirement by confirming that alcohol products not be placed adjacent to other beverages and food products.
- (c) And advertisement for an alcohol product shall not be displayed except in, on, or adjacent to, a storage unit where alcohol products are contained.
 - (6) Notwithstanding subsection (5) (a) a product other than alcohol product may, if it is packaged with an alcohol product, be displayed in a storage unit containing alcohol products by the holder of a licence under Part IV of the Act of the Act of 1943
 - (7) A person who contravenes subsection (5) shall be guilty of an offence.
 - (8) In this subsection “Act of 1943” means the Intoxicating Liquor Act 1943.

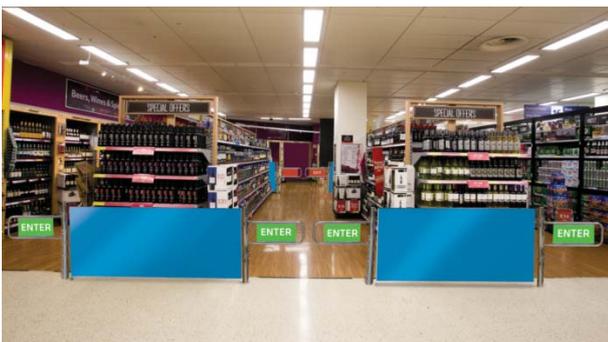
3. IMAGES OF STORES UNDER THE PROPOSED LEGISLATION AND IMAGES OF STORES UNDER THE PROPOSED AMENDMENTS:



Current Situation.



Situation after Bill.



Situation after Amendment.



4. CONCLUSION:

In summary the RRAI wholeheartedly supports the policy objectives of reducing alcohol related harm. The members of the RRAI clearly recognise that alcohol is not a “regular” grocery product and have since 2009 through the Code of Practice dramatically changed the way alcohol products are displayed and sold in Irish supermarkets. The members of the RRAI seek an efficient and effective set of regulations covering the display and sale of alcohol products. The proposed amendments to Section 20 bring certainty and clarity and in the view of the RRAI offer the best prospect of a workable and long term solution to these matters.





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