ACS Submission: Low Pay Commission Review 2012

Introduction

1. ACS (the Association of Convenience Stores) and the Scottish Grocers' Federation (SGF) welcomes the opportunity to provide evidence to the Low Pay Commission (LPC). ACS represents 33,500 local shops across the country including Spar, Costcutter, Londis and thousands of independent retailers.

2. In ACS' submission to the Low Pay Commission this year we have new information and data on employment in the convenience sector from two new reports: the Voice of Local Shop Survey and the Local Shops Report. The Voice of Local Shops Survey is a quarterly survey of 200 retailers' views on the economy, sales, staff hours and prospects for their business. The Local Shops Report is provides comprehensive data about store numbers and employment in the convenience sector.

3. These reports provide insight into retailers' views on barriers to growth, the burden of employment costs and their confidence about the future, which we hope will support the Commission in their deliberation on the future minimum wage rate. The full reports are available in the appendices of this submission and on ACS' website here.

4. In addition to these new reports ACS has continued its annual national minimum wage survey of members asking them a range of questions on the impact of the minimum wage on their business. This year's survey covers 677 stores across the sector representing 12,319 employees. The key findings and questions from the survey are included in the appendices to this submission.

5. Since the Low Pay Commission's last review, high street performance has been in the media spotlight driven by the Government commissioning an independent review by retail experts Mary Portas. This review identified that high street retailers, like convenience stores, have been struggling significantly in recent years with current UK vacancy rates at 14.6%, a reflection of the tough trading conditions. The report made 27 recommendations in an attempt to remedy problems faced by retailers.

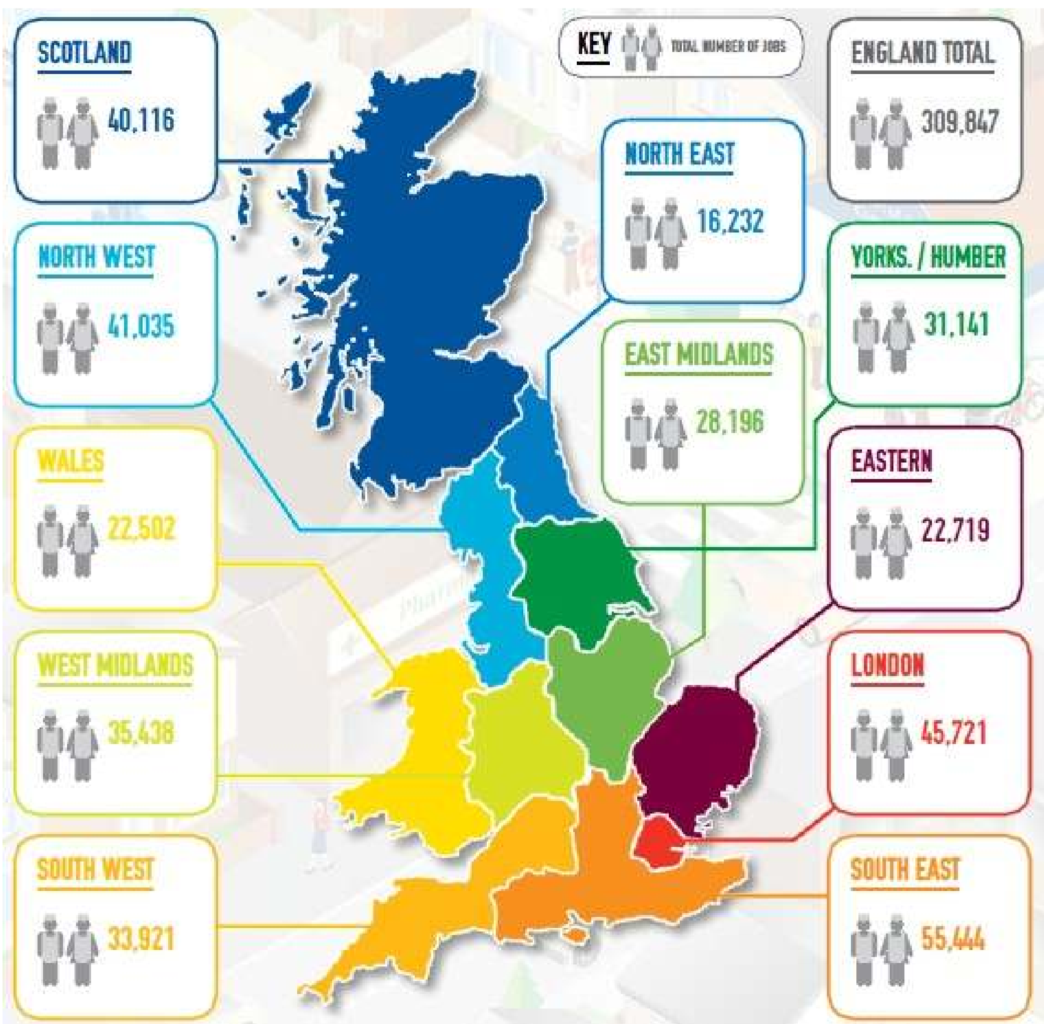
6. This review was broadly welcomed by the retail sector but the issues identified in the report have become even more pertinent as the economy has slipped back into recession. Ultimately, the revival of the high street will be driven by retailers being able to trade profitably, and this will be determined by reduced overhead costs and increased consumer spending, all of which are dependent on confidence in the economic recovery.

Economic and Convenience Sector Backdrop

7. ACS' Local Shops Report is a reminder that local shops play a vital economic role. By employing people, fostering entrepreneurship and providing a vital route to market for a range of goods and services, local shops make a significant contribution to UK plc. The local shop report has dedicated section to jobs in the convenience sector. The key findings from the report are:

    - There are in excess of 372,000 jobs in the convenience sector
    - 64% of employees are female
    - 60% of retailers employ at least one family members in their business
    - Two thirds of employees in the convenience sector work part time (less than 30 hours per week).
        - Staff turnover, defined as people employed for less than one year, is 13.5%.
    - 88% of shops offer in store training and apprenticeship opportunities are available in 24% of stores.

    The map below displays a regional breakdown of employment across Britain:



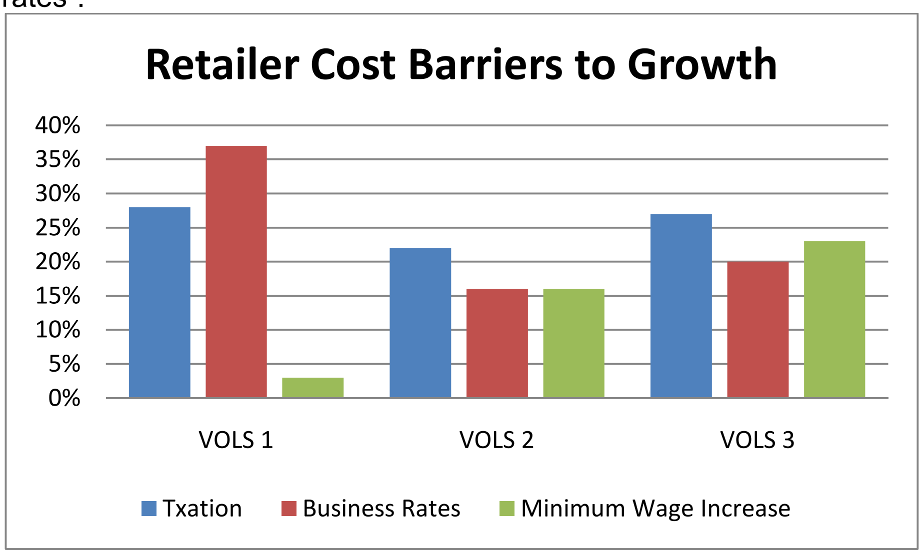
8. The jobs section of the Local Shop Report is available in the appendices to this document. The report is available in full on ACS website here.

9. In the grocery market retail sales values have continued to increase but this has been in line with food price inflation, meaning food prices have increased but margins for retailers remained the same. Retailers continue to communicate the need to maintain significant discounting to meet consumer spending habits. Household disposable income remains fragile too with the latest report highlighting that the average UK family is just £1 a week better off than they were in 2011 – and £8 a week worse off than in 2010[1].

10. Retailers' confidence is driven by the performance of the wider economy and the troubling news of negative growth and volatile unemployment figures has not helped. Medium term growth estimates from the Office for Budget Responsibility have been marginally downgraded by 0.1%[2] driven by financial turmoil in the EU. Growth across the economy is expected to remain flat and retailers are challenged to remain viable.

11. Staffing levels reflect trading performance and in the past year on balance, sales and profits are down with 41% stating that cash profits are down[3]. Looking forward retailers are positive on growth and marginally expect to employ more staff with 40%[4] stating sales would increase and 19%[5] stating that paid staffing hours would increase.

12. ACS' Voice of Local Shops Survey asked retailers to set out what they saw as barriers to growth over the next year. Retailers identified the economy, market competition and cash flow as the top three issues, however, in terms of actual business costs national minimum wage increase came third with 23% after business taxation and business rates[6].



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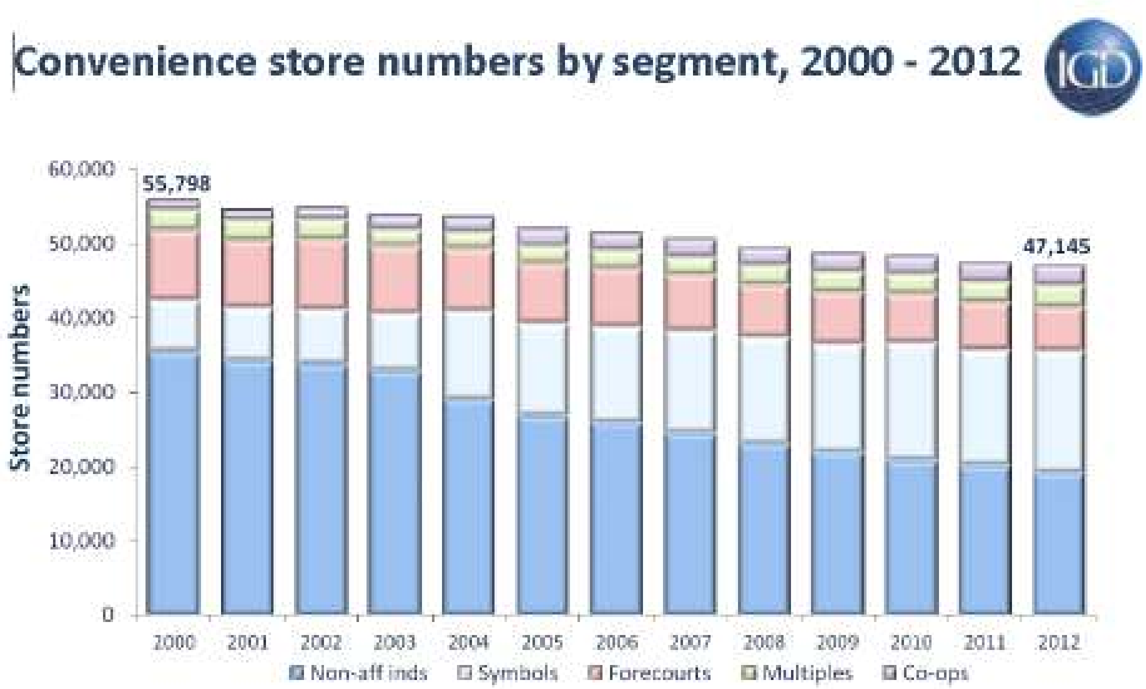
1 Asda Income Tracker July 2012
2 Office for Budget Responsibility: Economic and Fiscal Outlook
3 ACS Voice of Local Shops Survey 3 2012 – Question 2
4 ACS Voice of Local Shops Survey 3 2012 - Question 3
5 ACS Voice of Local Shops Survey 3 2012 - Question 7
6 ACS Voice of Local Shops Survey 3 2012 - Question 5

13. Despite these challenges the convenience sector overall continues to grow. Total sales for the sector amounted to £33.9 billion in the 12 months to April 2012, a 4.6%[7] increase on the previous year. However there is still a year-on-year decline in store numbers of 0.7%[8]. Multiple stores represent the fastest growing part of the sector but still only represent 6.2% of the overall sector. The chart below shows a breakdown of store type and number from 2000-12[9].



ACS National Minimum Wage Survey

14. ACS' National Minimum Wage Survey collected information from a total of 677 stores across the convenience sector representing a total of 12,319 employees. The full list of questions asked in the survey is available in the appendices to this document.

Wage Rates

15. The average wage paid by convenience retailers to staff aged 21 or over and not in a supervisory role was £6.18 per hour, 1.6% above current national minimum wage rate. In 2011 retailers were paying £6.06 per hour when the national minimum wage rate was £5.93 per hour, or 2.2% above the national minimum wage rate. This is in line with the evidence from ACS' 2011 national minimum wage survey and submission to the Low Pay Commission where we warned that more retailers would move to paying the base

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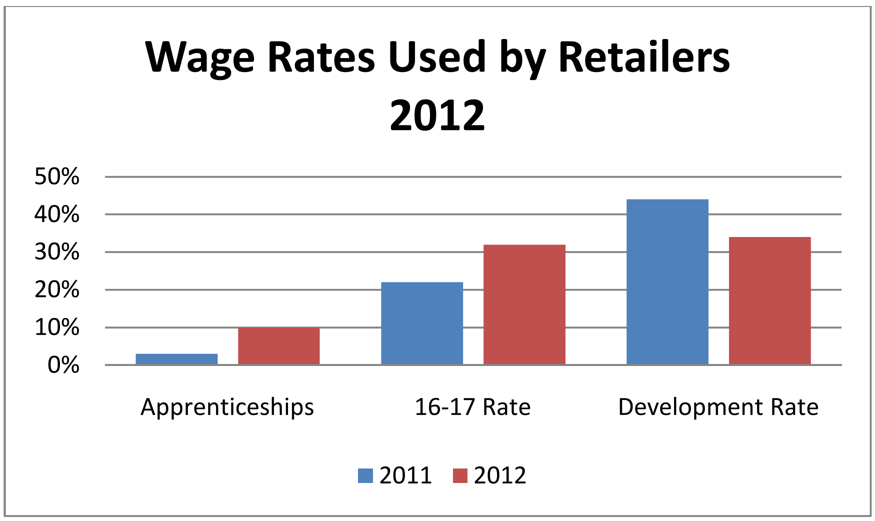
7 IGD Convenience Facts 2012
8 IGD Convenience Facts 2012
9 IGD Convenience Retailing 2012

national minimum wage rate and that further national minimum wage increases would squeeze pay differentials and promote this trend.

16. The survey asked retailers if they used the different wage rates available such as the apprenticeships rate, 16-17 year old rate and the development rate. When the results compared with last year it showed an increase in the number of apprenticeships and use of the 16-17 year old rate. Working in grocery retail offers flexible working hours and in the convenience sector it is predominately part-time work. This matches with the needs of young people studying or looking for entry level employment. Employment figures from the ONS show an increase in 16-17 year employment in April to June 2012[10] and an overall increase in part-time working by 2.2% on the previous year[11].

17. The decline in the development rate could be a reflection of the static jobs market with employees staying on longer and being upgraded to the adult national minimum wage rate. The increase in the 16-17 year old rate and use of the development rates may also reflect the freeze in the rates announced by the Government last year, this was an approach referenced by retailers in ACS' Retailer Focus Group last year. The chart below shows the wage rates used by retailers in 2012 compared with 2011:



Impact of NMW Increase

18. The survey shows that retailers are still attempting to reduce employment costs wherever possible. 80% of retailers said that they had laid off staff in the last 12 months as a result of increased employment costs. The chart below sets out the trend in retailer response to national minimum wage increase compared with 2010 and 2011.

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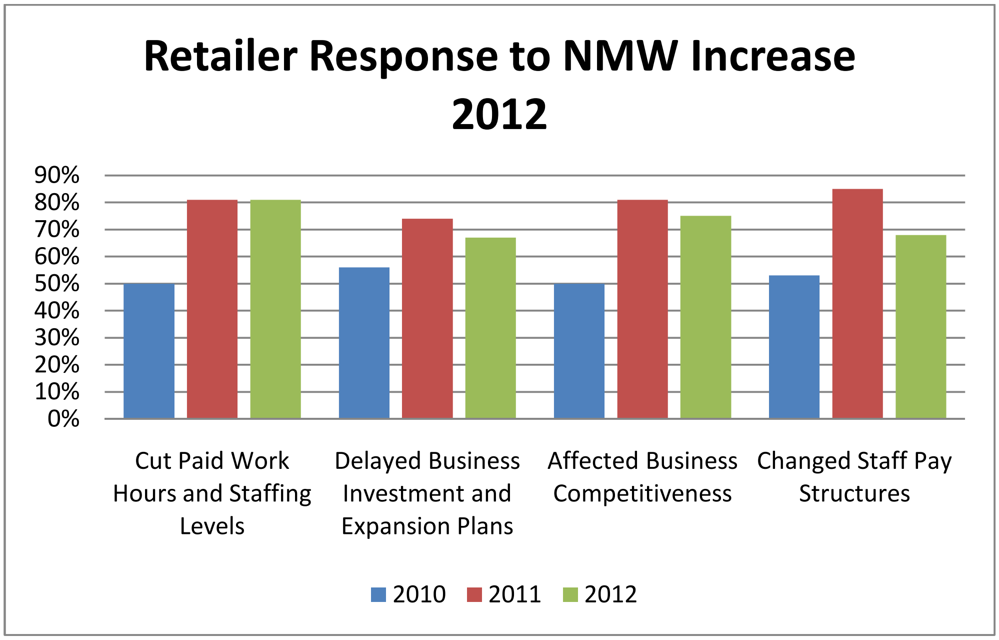
[10] ONS Labour Market Statistics, August 2012 05: Employment, unemployment and economic inactivity by age group

[11] ONS Labour Market Statistics, August 2012 01:Summary of Labour Market Statistics



19. There continued to be an increase in the number of retailer reducing working hours and staffing levels in their business. Two thirds of all retailers surveyed believed they have been impacted by national minimum wage increases and had to take action to mitigate the harm.

20. The figures are given further context by ACS' VOLS survey of 200 independent retailers. Almost half (49%)[12] of retailers said they had no plans for developing their business in the coming year. Retailers' lack of confidence in the wider economy and the prospects of additional employments cost down the line means their current preference is to consolidate their existing business, freezing business investment plans and where possible maintaining or reducing staffing levels.

21. Many of the messages that ACS have received from retailers are recurring themes from previous years. In the appendices to this document is the report from ACS' 2011 Retailer Focus Group – an independently chaired group discussing the impact of the national minimum wage with representatives from the Low Pay Commission present. The group highlighted four key areas; Business Impact, Employment Practices, Employment Expenses and wider economic circumstances.

22. Mark Childs, the Independent Chair, asserted this conclusion from the group's discussion: *"ACS' members are experiencing something akin to a perfect storm. They find they are no longer able to deploy previously effective techniques to adapt their cost base to the rising expense of the NMW. This is substantially because most other operating expenses are increasing at unprecedented rates.*

[12] Voice of Local Shops 3 Question 4

"This lack of maneuverability is compounded by the wider economic context, which leaves consumers intolerant of product price rises at a time when consumers are already experiencing declining purchasing power."

23. ACS will be holding similar forums on a regional basis during the Commissioner's tour of the country to highlight the impact of national minimum wage for retailers and the actions they take in response.

National Minimum Wage 2013

24. The NMW survey asked retailers to recommend what action the commission should take on the national minimum wage for 2013. 82% of retailers asserted that they strongly agreed or agreed that the national minimum wage should be frozen at its current rate for 2013.

25. Retailers were also asked if they thought that national minimum wage should continue to be reviewed on an annual basis. There was an overwhelming 85% of retailers who thought the wage rate should be reviewed every two years, providing them with more certainty and time to plan. Given the groundswell of opinion the Commission should consider revisiting how often the timescales for the review of the wage rate.

26. **ACS urges the Low Pay Commission to be cautious in its recommendations to government on the national minimum wage rate for 2013. There is a clear steer from small business that wage rates should be frozen at their current level.**

27. The increases in minimum wage most notably impacts on independent retailers who have to take on the additional paid hours they cut out of their business themselves. Independent retailers have had no other option but to increase the number of hours that they work.

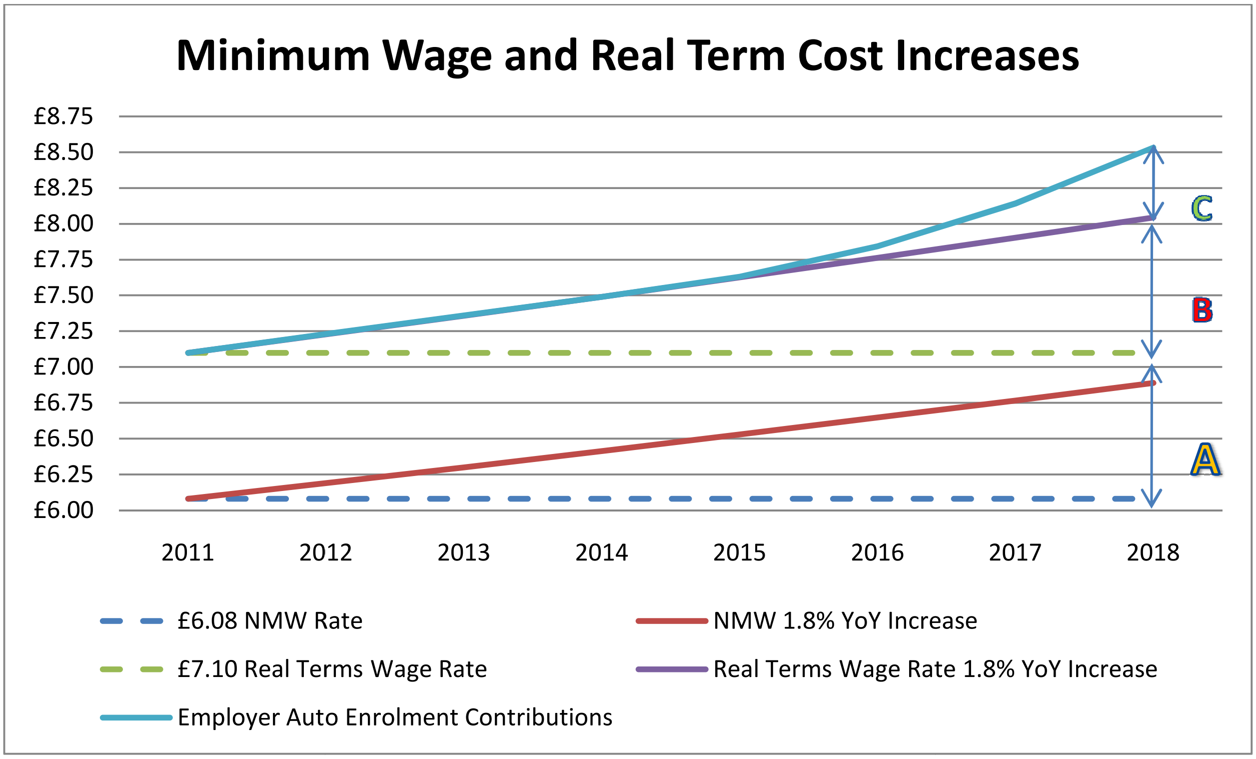
28. The Local Shop Report identified that 60%[13] of UK independent retailers work over 50 hours per week, well over the national average and if they were not self employed the majority would be in breach of the Working Time Directive. This trend is also reflected in terms of the amount of holiday that independent retailers take with over half of them having fewer than 10 days off per year and one in five taking no holiday at all.

Additional Costs and Implications

29. Looking at other employment and business costs that retailers will have to bear in the future pension reforms are extremely concerning. Retailers have indicated that 54% of employees are eligible for auto enrolment contributions meaning that retailers will eventually have to administer new pension schemes for these employees and pay 3% contributions towards them.

[13] ACS Local Shops Report

30. Although the full extent of the uptake will not be known until beyond 2016 when the policy is fully introduced retailers have highlighted significant concerns that this additional cost will again affect their staffing structures. The Commission must consider that even if the minimum wage rose year on year at the rate of 1.8% from last year, it would mean a 2018 wage rate of £6.89 per hour as well as additional pension costs.



31. The graph above shows the increase in national minimum wage rate at 1.8% year on year. Evidence from members has shown the real terms cost of a full time employee as £7.10 when employer national insurance contributions and paid holiday leave are taken into consideration. The additional pension costs from 2016-18 will mean a £1.50 increase in real terms costs over a seven year period.

32. The Government is consulting on employment measure that will affect small businesses like more flexible working provision for employees and for the sharing of paternity and maternity between parents. These additional regulatory burdens and costs for retailers will lead to further reduction in paid working hours and exacerbate the trends set out above.

33. Other business costs continue to increase too with energy bills increasing year on year and climbing the ladder of overall overheads costs. With significant amounts of refrigeration and lighting required over long hours to run a convenience store increased costs are inevitable.

34. The high inflation rates of 2011 saw retailers detrimentally impact in more than just the price of goods. There was a 5.6% increase in business rates across the sector which is another cost directly off the bottom line of retailers. The overall cost to the convenience sector of the increase was £35.7 million on the average this meant an £883 increase in costs per convenience store.

LPC Remit

35. The Low Pay Commission remit focused specifically this year on the regulations for salaried employees and the accommodation off-set. Both of these issues have limited impact on the convenience sector and members have not raised any specific concerns on these points.

36. There are limited circumstances where accommodation off-set is offered to convenience employees and no evidence has been supplied by members on this issue. However, in some family run businesses there maybe grey areas in the interpretation regulations. This grey area of the convenience market is the hardest to reach and it is therefore difficult to measure the extent of the problem.

37. No concerns have been raised on the calculation of salaried workers hours by members. The existing guidance[14] for business is clear in its definition of what is considered as salaried working hours. The retail environment being fixed means that no further of interpretation of the guidance is necessary and there is a clear consideration of one an employee is present and working at the business

38. ACS is willing to work if the Low Pay Commission and Department for Business Innovation and Skills if any further communication of the accommodation off-set or salaried working hour's regulations are deemed necessary.

Conclusion

39. ACS urges the Low Pay Commission to carefully consider the impact that another increase in National Minimum Wage will have on small retailers during this difficult trading period. ACS' members have provided a clear steer that the minimum wage rate for 2012 should be frozen at its current rate.

40. The Low Pay Commission must take a fresh look at the impact of national minimum wage on small business when considering its recommendation to Government for 2013. There are myriad changes occurring in the national economy which affect employment and investment decisions. Year on year increases in the minimum wage when the overall economic climate is in decline is unsustainable and ultimately damaging to job creation in the economy.

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[14] National Minimum Wage: Salaried Working Hours Guide; Business Link

APPENDICES

National Minimum Wage Focus Report

Introduction

ACS (the Association of Convenience Stores) is the trade association representing 33,500 local shops across the country including Spar, Costcutter, Londis and thousands of independent retailers. Through polling of our members over a number of years, the national minimum wage remains in the top three issues of concern. As such each year ACS provides written and oral evidence to the Low Pay Commission outlining the impact that national minimum wage is having on members' businesses.

Focus Group

This year to support the Low Pay Commission further in their review of the national minimum wage, ACS have held an independently chaired focus group to drill down on the actions and processes that retailers take in response to the national minimum wage.

The national minimum wage focus group was held on the 23rd September 2011 at the offices of the Low Pay Commission. The meeting was independently chaired by Mark Childs. Mark is the former CIPD VP for Reward and Managing Director of the leading independent reward consultancy, Total Reward Solutions. In the 1990s Mark also chaired the CBI's National Minimum Wage Committee.

The group has been independently chaired and facilitated so not to align with any political agenda and instead to explore in more depth the types of action retailers take to national minimum wage compliance and to paint a fuller picture of their operating environment.

Participating Retailers

Paul Cheema, Independent Retailer, Costcutter, Leicester

Rav Garcha, Independent Retailer, Garcha Stores, Birmingham

Alex Hornby, Finance Director, Sewell Group, Hull

Arjan Mehr, Independent Retailer, Londis, Bracknell

David Taylor, Finance Director, Bishops Retail, Durham

Julian Taylor-Green, Independent Retailer, Londis, Bordon

Guy Warner, Independent Retailer, Budgens, Costwolds

Thomas West, Independent Retailer, Premiere, Ipswich

Questions

1. How have increases in the National Minimum Wage impacted on your business?

2. What action have you taken (if any) in response to increases in the National Minimum wage?

    a. Staffing decisions and pay rates
    b. Investment decisions and business development
    c. Pricing decisions
    d. Other responses

3. Has the overall cost of employing staff made your business less competitive? If so, how?

4. Would a two year recommendation for the National Minimum Wage be better for your financial planning?

5. Are there any changes to the National Minimum Wage regulations that would be helpful?

Foreword from Independent Chair of Focus Group

As an active participant in the employer's side of the debate which preceded the inception of the National Minimum Wage in the mid-1990s, there was a tacit understanding that creative steps could be taken to protect profit margins. These included raising prices, re-profiling the workforce and reducing non-employment costs.

In past years, ACS members seem to have proven adept at finding creative ways of maintaining their slender profit margins, by deploying innovative solutions to offset rising employment costs – increases in the National Minimum Wage in particular.

The most striking feature of the recent focus group discussion is the genuine and unsurpassed challenge which retailers now face, that they seem to have run out of options. It follows that further near term increases in the National Minimum Wage, when combined with other rising costs, will directly and severely impact already thin profit margins. The detrimental effect of an extended period of falling profitability might be far reaching and long lasting; for owners, employees and customers alike.

Details findings, evidencing these concerns, are reported in the pages following.

Mark Childs

Business Impact

The increasing expense of the NMW is having a detrimental impact on ACS members' businesses. However, context is important to understanding the reasons for resistance to further increases, observing that too many other costs associated with running a business have been rising rapidly. The rapid rate of increase across a broad spectrum of the cost base is proving greater than firms' ability to raise prices, to generate additional revenues or to cut costs in order to offset increasing expense.

The consequential impacts of a rising National Minimum Wage, when combined with other cost increases, were reported as follows:

- Lower Profits
    - Making it harder to borrow money from financial institutions
    - Diminishing the appetite for further expansion as profit margins are so low
    - Replacing an entrepreneurial spirit with a more a more defensive mindset
- Change in Employment Demographics
    - Employing more staff aged <21 to reduce average unit labour costs
    - Generating higher staff turnover as younger workers move on e.g. to University
    - Balancing cost reduction against issues of performance and reliability
- Reduction in store opening hours
    - Opening hours have been reduced by 25% in the case of one retailer
- Technological Innovation
    - Implementing digital price tags to reduce manpower is being considered
    - Investing in this technology is however too expensive for small retailers
- Shrinkage
    - Increasing rates of theft are widely reported due to fewer staff on duty
    - Balancing stock loss and reductions in staff costs is a real issue for many

Employment Practices

The rising cost of the NMW is having a negative consequential impact on employment practices and examples of detrimental change are legion. Specific and detailed accounts of changes in employment practice, arising directly from increased employment expense, were provided by focus group participants and are summarised below.

- Reduction in Working Time to Cut Costs
  - Making redundancies or choosing not to replace staff who leave the business
  - Reducing staff hours; despite staff often volunteering to work for less than NMW
  - Increasing hours are bring worked by shop owners to compensate
- Erosion of Pay Differentials
  - Managing employees is a less attractive choice as pay differentials are eroded
  - Eroding differentials leaves supervisory staff on similar rates to shop floor staff
  - Growing level of complaint from supervisory/middle management about pay rates
- Disproportionate Impact on Salaried Staff
  - Bearing the brunt of headcount reduction or fewer hours
  - Declining levels of goodwill as extra hours are being worked to plug gaps
- Damage to Employer Brand
  - Employing staff at NMW rates is not seen as a badge of honour
  - Working for NMW is often perceived as a stigma and candidates seek more
  - Losing good quality staff to large companies paying more is always a problem
- Changes to Working Patterns
  - Migrating to more part-time workers to reduce the NI overhead
  - Adopting ‘just in time’ rostering; removing overlap between staff shifts
  - Relying on goodwill to conduct staff matters

Employment Expense

Increases in the NMW need to be understood alongside other rising employment expenses, appreciating that retailers calculate hourly cost of employment having regard to all employment overheads, not just base pay.

The changing features of this expenses landscape are as follows:

- Paid Holiday
    - Increasing paid holiday entitlement to 5.6 weeks equates to a 12% on-cost to working time, noting this was only 7.7% on-cost in 2006
- National Insurance Contributions
    - Rising NI Contribution rates bring the social security tax on-cost to 13.8%, noting that a further 1% was added as recently as April 2011
- Pensions
    - Enroling staff in the new national pensions' system has the potential to add a further 3% on-cost
- Aggregate On-Cost
    - Aggregating all statutory employment on-costs the total would have risen from 20.5% of working time in 2006 to 28.8% in 2016. In 1997 it was a mere 10%.

Wider Economic Considerations

A strong and consistent theme in the focus group discussions was the economic context in which the NMW is being increased. Key factors which need to be understood alongside the burden of a rising NMW and additional employment on-costs are:

- Consumer Spending
    - Spending patterns of consumers are changing, to the detriment of retailers
    - Competing for share of consumer expenditure is proving challenging
- Business Rates and Utilities Prices
    - Increasing costs are out of the control of retailers
- Reliance on Promotions
    - Reducing margins arise from using promotions to compete in a saturated market
    - Falling profits are a natural consequences of deflationary pricing

Conclusion

ACS members are experiencing something akin to a perfect storm. They find they are no longer able to deploy previously effective techniques to adapt their cost base to the rising expense of the NMW. This is substantially because most other operating expenses are increasing at unprecedented rates.

This lack of manoeuvrability is compounded by the wider economic context, which leaves consumers intolerant of product price rises at a time when consumers are already experiencing declining purchasing power.

By extension, retailers have hit an overall cost ceiling and are unable to offset increases in the NMW by reducing either other aspects of their cost base or by generating additional or higher revenues.

THE LOCAL SHOP REPORT 2012

ACS the voice of local shops

A report by the Association of Convenience Stores

National Minimum Wage Survey Questions 2012

How many stores do you have?

How many staff do you employ?

In your businesses what is the typical hourly rate for staff aged 21 or over, not on probation or in a supervisory role (£)?

Do you pay staff either of the following rates in your business? (Please tick)

Development Rate (£4.98 for 18 to 20 year olds)

16-17 rate (£3.68 for 16 to 17 years) – Yes

Do you employ apprentices and if so what do you pay them(£)?

If you have laid off staff in the past 12 months was this due to:

Employment Costs Recession Other Other (please specify)

Have increases in employment costs led to any of the following, please answer yes or no for each:

a reduction in the hours you employ staff for?

an increase in the hours you have had to work

impacted on your business expansion or investment plans?

made your business less competitive?

affected pay structures within your business?

Under the Government's Pension Reforms how many of your staff will qualify for automatic enrolment? (For staff to qualify for automatic pension enrolment they must meet the following criteria: be at least 22 years old, have not yet reached State Pension age; and earn more than the minimum earnings threshold.)

Please rate the following statements:
NMW rate should be frozen for 2013

A review of NMW every two years would be beneficial to my financial planning

When do you calculate your wage Bill for the financial year ahead?

In the absence of National Minimum Wage what would influence your decision to increase staff wages?

RPI

CPI

Business Sales

Business Profitability

National Average Earnings

Are consumers spending less?

How is this affecting your business?

What actions are you taking in your business to cope with changing consumer spending habits?

What is the best action that the Government could take to benefit your business?

Please tick yes or no for the following statements:

Has your access to credit (through loans or overdrafts) been restricted over the last year?

Have you had issues with accessing credit from suppliers?

Has the recession impacted on your banking costs?

Any other comments or issues you want to raise?