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**ANNEX A**

1 September 2009

**Advertising Standards Authority, Committee of Advertising Practice and Broadcast Committee of Advertising Practice Response to NICE – ‘Alcohol-Use Disorders (Prevention): Additional Evidence Consultation’**

**SECTION 1: Introduction & Overview**

**1. Introduction**

- 1.1 This response is submitted on behalf of the advertising self-regulatory system (‘the ASA system’; ‘the system’): the Advertising Standards Authority (ASA); the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP).
- 1.2 The ASA is the UK self-regulatory body for ensuring that all advertisements, wherever they appear, are legal, decent, honest and truthful.
- 1.3 The ASA administers the UK Advertising Codes, which are written and maintained by CAP and the BCAP. CAP is responsible for the non-broadcast Code and BCAP is responsible for the TV and radio Codes<sup>1</sup>. A more detailed explanation of the advertising regulatory system is included at **annex B**.
- 1.4 The ASA always strives to maintain an inclusive and consultative approach to our work, which we believe is vital if we are to be seen by all stakeholders as a responsible and accountable body.
- 1.5 As the UK body with responsibility for regulating all advertising, including alcohol advertising, the ASA is disappointed not to have been consulted at an early stage in regard to part 1 of this NICE work, which is looking specifically at the controls on alcohol advertising. It is regrettable that on this occasion the ASA was not identified by NICE as a key stakeholder

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<sup>1</sup> The Advertising Codes can be found at: <http://www.cap.org.uk/cap/codes/>

and the advertising regulatory system was alerted about the project late in the process and by a third party. As a result we were not aware of the main consultation on the evidence, which closed in June 2009.

- 1.6 It appears from the scoping and consultation documents that NICE has not acknowledged the existing advertising regulatory system for alcohol or CAP and BCAP's ongoing review of the alcohol advertising rules.
- 1.7 In addition the current list of stakeholders for NICE's project does not seem to represent a varied list of consultees. Many organisations that might have a strong interest in NICE's work are not represented e.g. those involved in licensing.
- 1.8 It is for these reasons that the advertising regulatory system cannot give its endorsement of the processes undertaken by NICE to date on this work.

## **2. Response summary**

- 2.1 The ASA system understands that NICE is working to develop three pieces of guidance on alcohol use disorders. This response is specifically in relation to the first piece of guidance, 'Prevention', which is intended to cover, amongst other things, interventions on advertising.
- 2.2 In the scoping document, NICE asks the following question in relation to advertising:

**Question 3:** *Is the control of alcohol promotion (for example, advertising) effective and cost effective in reducing levels of consumption, alcohol misuse, alcohol-related harm or alcohol-related social problems among adults and young people?*

**Expected outcomes:** *a change in the level of consumption, alcohol misuse, alcohol-related harm and alcohol-related social problems among adults and young people, and a change in their attitudes and beliefs in relation to alcohol.*

- 2.3 The system takes the need for socially responsible advertising very seriously. The rules governing alcohol advertising were strengthened significantly in 2005 and are actively enforced by the ASA. These rules

were strengthened in response to the Alcohol Harm Reduction Strategy for England 2004 and Ofcom's research into alcohol advertising, which provided suggestive evidence of a link between alcohol advertising and young peoples' attitudes to drink.

- 2.4 CAP and BCAP are currently in the process of reviewing all the Advertising Codes, including the alcohol-specific rules. As part of this work, they have analysed the latest evidence on the relationship between alcohol advertising and harm. A full public consultation was held between March and July 2009. CAP and BCAP are currently considering the responses and any additional evidence provided as part of that process.
- 2.5 The advertising regulatory system is a best practice, evidence-based regulator. If evidence emerges that brings into question the effectiveness of the current alcohol advertising rules, CAP and BCAP will consider it.

## **SECTION 2: Regulating Alcohol Advertising**

### **3. Evidence-based rules**

- 3.1 The current alcohol advertising rules were tightened significantly in October 2005, in response to the Alcohol Harm Reduction Strategy, which suggested a possible link between young people's awareness and appreciation of alcohol advertising and their propensity to drink.
- 3.2 In 2004, Ofcom (the statutory backstop regulator for broadcast advertising) undertook research to assess the relationship between alcohol advertising and attitudes to alcohol<sup>2</sup>.
- 3.3 Ofcom concluded that alcohol advertising has some impact on young people's attitudes to alcohol. However, this is at a relatively low level compared to other influences within the wider family and social environment.
- 3.4 The rules were consequently updated in line with Government's better regulation principles, which state that regulation must be transparent, accountable, proportionate, consistent and targeted. The rules were

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<sup>2</sup> Ofcom 2004 research at: [http://www.ofcom.org.uk/consult/condocs/AlcAds/alcohol\\_addverts/](http://www.ofcom.org.uk/consult/condocs/AlcAds/alcohol_addverts/)

drafted in light of the best available evidence about the impact of alcohol advertising on society.

- 3.5 The rules are a proportionate response to the evidence on the relationship between alcohol advertising and attitudes to alcohol. Since the updated rules came into force, the regulatory system has continued to monitor their effectiveness, to ensure the public remain protected.

#### **4. The rules**

- 4.1 The advertising rules ensure that alcohol ads do not reflect or encourage any antisocial or undesirable behaviours associated with alcohol misuse. They are particularly designed to protect young people and vulnerable groups. As well as strict content rules, there are also scheduling restrictions (placement rules) to protect young people. The full alcohol advertising code rules are attached at **annex B**, but in summary, the rules state that alcohol ads must not:

- link alcohol with daring, antisocial, aggressive or irresponsible behaviour
- link alcohol with seduction, sex or social success
- show alcohol being handled or served irresponsibly
- show people drinking or behaving in an adolescent or juvenile way or reflecting the culture of people under 18 years of age
- depict people who are, or appear to be, under the age of 25.

- 4.2 In television, alcohol advertisements are subject to tough scheduling restrictions. The rules prevent alcohol ads from being placed during any programme that is made for or aimed at children or is likely to appeal particularly to audiences below the age of 18, regardless of the time of day.

- 4.3 The rules mean alcohol ads cannot be shown around programmes that may attract a high youth audience (such as 'The Simpsons' and 'Ugly Betty') even after 9pm.

- 4.4 In non-broadcast advertising, alcohol advertisements should not be directed at people under 18 through the selection of media, style of presentation, content or context in which they appear. No medium should

be used to advertise alcohol if more than 25% of its audience is under 18 years of age.

### **SECTION 3: The effectiveness of the rules**

#### **5. Ongoing research**

- 5.1 Following the introduction of the new rules, the ASA, jointly with Ofcom, commissioned a major two-stage research project to assess the impact of the strengthened alcohol advertising rules on young peoples' attitudes to alcohol ads.
- 5.2 The first wave (December 2005) established a measure of the appeal of alcohol advertising to young people. The research used ads that appeared prior to the rule changes and the research was created as a benchmark against which the impact of the new rules could be assessed<sup>3</sup>.
- 5.3 The second wave (November 2007) evaluated the impact of the tightened Codes and the changes to the alcohol advertising market over the previous two years<sup>4</sup>.
- 5.4 Both waves of the research specifically used ads that seemed to be aimed at the younger end of the legitimate market: therefore the research findings are not representative of all alcohol ads. Significantly it was more difficult to find such ads for the 2007 survey, perhaps indicating a shift in marketing focus away from the younger end of the legitimate market.
- 5.5 Findings from the second wave showed:

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<sup>3</sup> First stage research results at: [http://www.asa.org.uk/NR/rdonlyres/CC8127C7-D1AE-4092-99B0-335FE2F2A221/0/alcohol\\_research\\_2005.pdf](http://www.asa.org.uk/NR/rdonlyres/CC8127C7-D1AE-4092-99B0-335FE2F2A221/0/alcohol_research_2005.pdf)

<sup>4</sup> The second stage research results can be accessed at:  
[http://www.asa.org.uk/NR/rdonlyres/D311E8A2-C7CD-44B5-BECD-D87BC3812F04/0/Youngpeoplealcoholadvertising\\_20071116.pdf](http://www.asa.org.uk/NR/rdonlyres/D311E8A2-C7CD-44B5-BECD-D87BC3812F04/0/Youngpeoplealcoholadvertising_20071116.pdf)

- Alcoholic drink suppliers had shifted their advertising spend away from television with a reduction of 26% on TV compared to a 3% fall for all media from 2005-2007.
- Children and young adults were exposed to fewer alcohol advertisements on television.
- A significant decline in the proportion of young people saying they felt alcohol ads were aimed at them.
- A significant decline in young people's recall of alcohol ads, with unprompted mentions of alcohol ads down from an average of 3.9 ads remembered to 3.3.
- Young people also felt some of the 'edgier' ads made the drink look appealing and would encourage people to drink, with 34% believing that in 2007 compared with 25% in 2005.

5.6 Although the results were positive, the ASA was concerned that some alcohol ads were still of strong appeal to under-18s. In light of these findings, the ASA has since taken the research into account when interpreting the advertising rules about youth appeal.

## **6. Monitoring and Compliance Surveys**

6.1 The ASA primarily responds to complaints from members of the public and industry. In 2008, the ASA resolved 392 complaints about alcohol ads. To put this in context, the ASA dealt with 26,422 complaints during the year.

6.2 Complaint levels about alcohol are not particularly high but the ASA has banned 18 ad campaigns under the new alcohol rules since they were introduced. That figure does not include those alcohol advertisers that have breached the general Code provisions, for misleading, harmful or offensive ads.

6.3 The ASA does not just wait for complaints to come in: it also pro-actively monitors ads on a daily basis across all media for compliance with the

Codes. It concentrates its activities on high-profile sectors (such as alcohol) or sectors with low compliance.

- 6.4 The compliance and monitoring team also conducts compliance surveys, to assess all ads from a particular sector that have appeared during a defined period. Ads are assessed against the Codes and unacceptable ads are either amended or removed.
- 6.5 The ASA has conducted three surveys of alcohol ads to assess compliance with the new rules. The 2006 survey revealed a compliance rate of 94%. The 2007 survey revealed a significantly higher proportion of alcohol ads (97%) were compliant with the Codes<sup>5</sup>. The 2008 survey is due to be published very soon. Early indications are that the survey will reveal a compliance rate of 99%.

## **7. Reviewing the latest evidence base**

- 7.1 For the past 18 months, CAP and BCAP have been undertaking a full review of the Advertising Codes, including the alcohol rules, to ensure that they remain evidence based, up-to-date and fit for purpose.
- 7.2 Following a request by the Culture Secretary in the Department of Health's (DH) 2008 consultation '*Safe, Sensible, Social*', CAP and BCAP committed to assessing specifically the findings of the DH-commissioned review into the evidence on the relationship between Price, Promotion and Harm (SchARR Review), as part of the full, ongoing review of all the Advertising Codes.
- 7.3 Having completed that assessment, CAP and BCAP found that the SchARR review does not offer persuasive evidence to support a proposal to further strengthen the alcohol advertising rules. SchARR found that there was a suggestive link between advertising and alcohol harm. The current, robust rules have recently been strengthened on the basis that a suggestive link exists. An overview of the CAP and BCAP analysis has been included at **Annex C**.
- 7.4 However, CAP and BCAP have held a full public consultation on the Advertising Codes and specifically upon their analysis of the SchARR

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<sup>5</sup> Both reviews can be found on the ASA website at <http://www.asa.org.uk/asa/research/>

review. That consultation closed on 10 July 2009. CAP and BCAP are now considering all responses – including any new or later evidence submitted to the consultation – to see whether there is any case to reconsider their findings on alcohol advertising.

- 7.5 If further evidence submitted by consultees brings into question the effectiveness of the current alcohol advertising rules, CAP and BCAP will consider whether to revise the Codes.
- 7.6 CAP and BCAP hope to publish new Advertising Codes in the first quarter of 2010.

#### **SECTION 4: Sheffield University modelling work for NICE**

- 8.1 The advertising regulatory system understands that to inform this consultation, NICE commissioned the University of Sheffield to undertake modelling to assess the effectiveness and cost-effectiveness of public health related strategies and interventions to reduce alcohol attributable harm in England.
- 8.2 CAP and BCAP also understands that the University of Sheffield's modelling has utilised the modelling it undertook for the SchARR review. We note that the NICE-commissioned work contains some updated policy modelling (version 2.0).
- 8.3 However, in so far as it relates to advertising, CAP and BCAP can see no significant difference between the methodology and results of the DH commissioned SchARR modelling and the work currently being considered by NICE.
- 8.4 Both pieces of work considered the same three policy scenarios; both highlight the limitations of the current evidence base and the disagreement in the academic research literature on the effect of advertising bans.
- 8.5 In light of this, CAP and BCAP would like to draw to NICE's attention to the CAP and BCAP analysis of the SchARR Review. This analysis has recently been subject to full public consultation (see annex C).

## **SECTION 5: Contact**

### **9. Contact details**

9.1 We would be delighted to welcome the NICE Review team to our offices to explain in full how the UK's advertising regulatory system operates. If the NICE review team would like to arrange a visit or would like to ask any questions about our submission, please do not hesitate to contact us.

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