

ASA system submission to the Department of Health consultation on the New Substance Use Strategy

1. Background and Introduction

- 1.1. This submission is provided by the Advertising Standards Authority (ASA), the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) – the 'ASA system.'
- 1.2. The ASA is the UK's independent advertising regulator. We have been administering the non-broadcast Advertising Code (written and maintained by CAP) for 58 years and the broadcast Advertising Code (written and maintained by BCAP) for 16, with our remit further extended in 2011 to include companies' advertising claims on their own websites and in social media spaces under their control.
- 1.3. We are responsible for ensuring that advertising is legal, decent, honest and truthful and our work includes undertaking proactive projects and acting on complaints to tackle misleading, harmful or offensive advertisements. We are committed to evidence-based regulation and we continually review new evidence to ensure the rules remain fit-for-purpose.
- 1.4. In addition to investigating ads, we also provide a wealth of training and advice services (most of which are free) for advertisers, agencies and media to help them understand their responsibilities under the Codes and to ensure that fewer problem ads appear in the first place. CAP and BCAP provided 722,523 pieces of advice and training in 2020.
- 1.5. The ASA system is providing this written submission in response to the Department of Health consultation on the New Substance Use Strategy.

2. Regulation of alcohol advertising

- 2.1. The ASA is the UK's regulator for alcohol advertising across all media. We're supported by a range of expert statutory backstops, who can assist us, where necessary, to bring non-compliant advertisers into compliance. Together, this 'collective regulation' helps to protect people and responsible business from irresponsible ads: ads that mislead, harm or offend their audience.
- 2.2. The Advertising Codes contain alcohol rules that sit on top of other Code provisions that require ads not to mislead, harm or cause serious or widespread offence. The rules protect young people by both reducing the likelihood that they will see alcohol ads and, if they do, by ensuring the ads will not appeal strongly or particularly to them.
- 2.3. The rules and guidance benefit from our consideration of the available evidence and our experience of administering the Codes over the years. The latest rules and guidance include protections that benefit from that consideration and our experience.
- 2.4. The rules state that alcohol ads must not:
 - Link alcohol with daring, antisocial, aggressive or irresponsible behaviour (see ASA upheld ruling on [Macallan whiskey](#))
 - Link alcohol with seduction, sex or social success (see ASA upheld rulings on [Scottish Gin Society](#), [Budweiser](#) and [WKD](#))

- Show alcohol being handled or served irresponsibly (see ASA upheld rulings [Student Money Saver Ltd](#))
- Show people drinking or behaving in an adolescent or juvenile way or reflecting the culture of people under 18 years of age (see ASA upheld rulings on [Diageo](#) and [Hold Fast Entertainment](#))
- Depict people who are, or appear to be, under the age of 25 (see ASA upheld ruling on [Sibling Distillery](#))

3. Regulation of broadcast alcohol advertising

- 3.1. Alcohol ads are banned from appearing in and around TV programmes which are made for, or likely to appeal particularly to, those under the age of 18, and are subject to strict rules about their content. Alcohol ads on TV are subject to a pre-clearance regime by Clearcast.
- 3.2. The ASA carries out monitoring on children's exposure to age-restricted TV ads on an annual basis to ensure that the sector remains compliant with our rules. Our [May 2020 report](#) found that:
- Between 2008 and 2019 children's exposure to TV alcohol ads decreased by two thirds, from an average of 2.8 to an average of 0.9 ads per week.
 - The average number of alcohol ads children saw on TV in 2019 remained stable and at similar levels to those observed in the previous four years.
 - Children's exposure to alcohol ads on TV, relative to adults', has continued to fall from the peak of 41.1% in 2008 to 19.6% in 2019. This means that in 2019, children saw, on average, around 1 alcohol ad for every 5 seen by adults.
 - In 2019, 0.8% of all TV ads seen by children were alcohol ads. This percentage has remained below 1% since 2015.
- 3.3. In October 2020, we published a [report on advertising trends during the first Covid-19 lockdown](#). This report contained our analysis of trends during the seven weeks following the Government's initial work-from-home announcement on 16 March 2020. These figures, based on a short and extraordinary period of time, should be treated with caution and should not be interpreted as indicative of longer-term trends.
- 3.4. Analysis of trends during these seven weeks (from 16 March-3 May 2020) compared with the same weeks in 2019, found that exposure to TV ads in total rose by 15.6%. This is in line with Ofcom's [Media Nations 2020](#) report which found that, in April 2020, viewers spent an average of six hours and 25 minutes each day watching TV and online video content. Additionally, at this time the public service broadcasters saw their combined audience share rise to its highest level in six years.
- 3.5. While overall exposure to alcohol adverts increased during this lockdown period, children's exposure to these ads continued to average at less than 1 ad per week. This suggests that the scheduling restrictions, designed to reduce significantly under-18s' exposure to ads, are working.

4. Regulation of online alcohol advertising

- 4.1. The ASA regulates all online ads including:
- Companies' and other organisations' advertising claims on their own websites, social media spaces, apps and advergames

- Influencer ads on websites, social media spaces, apps and advergames
 - Paid ads on websites, social media spaces, apps and advergames
- 4.2. In non-broadcast media (including online, cinema, newspapers and outdoor spaces) no medium should be used to advertise alcoholic drinks if more than 25% of its audience is under 18. As with the broadcast scheduling rules, the content and placement rules should be viewed alongside each other.
 - 4.3. Alcohol ads online – including on social media – must follow the same strict content rules as those in traditional media. They must be prepared in a way that is socially responsible and must not appeal particularly to children or other vulnerable people. Crucially, alcohol ads must not be directed at under 18s.
 - 4.4. In 2017, CAP introduced [standards](#) requiring advertisers to use all the tools available to them on social media platforms to target their ads away from under-18s in the case of alcohol ads. This is because, while age targeting provides a means to reach an audience on the basis of their known or inferred ages, it can be subject to inaccuracies e.g. by younger users misreporting their age, or people of different ages sharing the same device.
 - 4.5. Primary responsibility falls on the advertiser to demonstrate that they've done everything they can to target alcohol ads away from under-18s, including by not just relying on reported age. Advertisers, of course, hold to account the agencies that support them and the platforms and networks they advertise on in order to help meet that responsibility. The Advertising Codes also place secondary responsibility on those intermediaries, platforms and networks.
 - 4.6. Selecting or deselecting interest-based factors for the purpose of targeting an ad online, such as what users are interested in, share on social media or the accounts with which they interact, can – in combination with age-targeting tools – help remove certain demographics, including children, from a target audience. For example, a child who misreports their age is still very likely to remain interested in content designed for their real age and less likely to be interacting with much content designed for adults. Such interest-based factors can be used as a tool to reduce inappropriate exposure.
 - 4.7. These standards were enforced in a [ruling on a Diageo ad](#) for Captain Morgan's rum. Diageo and Snapchat were not able to satisfy the ASA that they had taken sufficient care to target their ads away from under 18s. Following the ASA's decision to ban the ad on the grounds of irresponsible targeting, Diageo pulled all its advertising from Snapchat globally. Snapchat have since made changes to help advertisers better target their ads on their platform.
 - 4.8. We know people are spending more time online, businesses are increasingly advertising online and the pace of technological change online is contributing to societal concerns. That's why, in November 2018, we launched our five year strategy, [More Impact Online](#), which focused on improving the effectiveness of our online advertising regulation. We're proud of the technological initiatives we've undertaken as a part of our More Impact Online strategy.
 - 4.9. In the first year of the strategy, we used new Avatar Monitoring technology in the form of child avatars, which simulate children's online browsing activity, to identify ads that children see online. The research has been a breakthrough in harnessing technology to provide the ASA with the necessary intelligence to help us better protect children and vulnerable groups online.
 - 4.10. Our two-week Avatar Monitoring exercise found that:
 - Just 73 of the 95,665 ads served to the seven different Avatar profiles were for alcohol products (0.08%).

- The monitoring did not identify any instances where alcohol ads were served to child Avatars on websites clearly intended for children.
- The individual ads were assessed and their content considered unlikely to appeal to children. 43 of the ads were served by a supermarket promoting their Christmas drinks offers. 24 ads were for two whiskey brands, while the remaining 6 ads were for an online alcohol delivery service.

4.11. The 2019 Avatar Monitoring work gave us a springboard to expand our proactive monitoring of online advertising. In 2020, we published the [first](#) and [second](#) reports of our year-long, CCTV-style online monitoring project, which identifies and tackles age-restricted ads appearing in children's media.

4.12. Over three month intervals, we used monitoring tools to capture ads served on a sample of over 50 websites and YouTube channels aimed at under-18s or attracting a disproportionately high under-18 audience. This allowed us to:

- Identify instances where the ad rules were being broken
- Take follow-up action to contact advertisers whose ads broke the rules to secure the removal of the problem ads; and
- Warn advertisers to review and, as necessary, amend their practices to ensure they target future ads responsibly

4.13. In the first sweep we found 159 ads which broke the rules, of which only 10 were alcohol ads from 1 brand which appeared on 1 website. In the second sweep we found 127 ads which broke the rules, of which only 6 were alcohol ads from 4 brands which appeared on 2 websites and 3 YouTube channels.

4.14. Overall, our research supports previous compliance surveys, which strongly indicate that the vast majority of alcohol advertisers are sticking to our rules, including online. We have publically reported the above figures, shared them with relevant industry groups, and taken compliance action against any repeat offenders. We'll follow up our year-long CCTV monitoring with a retrospective 'Learnings' report later in 2021.

5. Regulation of cinema alcohol advertising

5.1. The ASA is responsible for regulating ads screened in the cinema under the CAP Code. Cinema ads cannot be broadcast as part of trailers for a film where more than 25% of the audience is under the age of 18, or where the film is likely to appeal to those under the age of 18. As with broadcast scheduling rules, the content and placement rules should be viewed alongside each other.

5.2. The scripts for cinema ads are pre-cleared by the Cinema Advertising Association (CAA). The CAA have a Copy Panel designed to ensure the content of ads are suitable, and also scheduled appropriately. In line with the Cap Code, the CAA places restrictions on ads not suitable for children to ensure they are not screened during films with an inadequate age classification.

6. Regulation of outdoor alcohol advertising

6.1. The ASA regulates the content and placement of ads in outdoor spaces, and the CAP rules equally apply. Outdoor advertising is subject to alcohol placement restrictions and its content is controlled by the alcohol rules.

6.2. The ASA has set the benchmark that advertisers and media owners must ensure that outdoor ads are not be placed in areas where under-18s make up more than 25% of the audience. For example, alcohol ads must not be placed within 100m of primary or secondary schools, because the audience for such ads is likely to be significantly skewed towards under-18s.

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