

Amending limitations on advertising low alcohol products: CAP and BCAP's evaluation of responses



1. Introduction

Existing rule

CAP 18.9/BCAP 19.10

[Marketing communications/advertisements] may give factual information about the alcoholic strength of a drink. They may also make a factual alcohol strength comparison with another product, but only when the comparison is with a higher-strength product of a similar beverage

[Marketing communications/advertisements] must not imply that a drink may be preferred because of its alcohol content or intoxicating effect. However, low-alcohol drinks may be presented as preferable because of their low alcoholic strength, provided that:

- *the [marketing communication/advertisement] could not be considered as promoting a stronger alcoholic drink, and*
- *the alcohol content of the drink is stated clearly in the [marketing communication/advertisement].*

In the case of a drink with relatively high alcoholic strength in relation to its category, the factual information should not be given undue emphasis.

Proposed rule

CAP 18.9/BCAP 19.10

[Marketing communications/advertisements] may give factual information about the alcoholic strength of a drink. They may also make a factual alcohol strength comparison with another product, but only when the comparison is with a higher-strength product of a similar beverage.

[Marketing communications/advertisements] must not imply that a drink may be preferred because of its alcohol content or intoxicating effect. However, low-alcohol drinks may be presented as preferable because of their low alcoholic strength, provided that the alcohol content of the drink is stated clearly in the [marketing communication/advertisement].

In the case of a drink with relatively high alcoholic strength in relation to its category, the factual information should not be given undue emphasis.

2. List of respondents and their abbreviations used in this document

	Organisation / Individual	Abbreviation
	Alcohol Change UK	ACUK
	Alcohol Health Alliance	AHA
	British Beer and Pub Association	BBPA
	Club Soda	CS
	Drinkaware Trust	DT
	Heineken UK	Heineken
	Molson Coors Beverage Company	MCBC
	NACM Cider Makers UK	NACM
	Portman Group	PG

Do you agree with CAP and BCAP's proposed new rule to replace CAP rule 18.9 and BCAP rule 19.10? Please set out your arguments for supporting or disagreeing with the proposal.			
	Respondent/s	Comments	CAP and BCAP's evaluation:
	NACM, PG, BBPA, AHA, Heineken, MCBC, ACUK, CS, DT	<p>Agreed with CAP and BCAP's proposed new rule to replace CAP rule 18.9 and BCAP rule 19.10.</p> <p>Agreed that removing the restrictions on advertising would be beneficial for both consumers and companies. Allowing low-alcohol products to be advertised alongside our standard strength drinks would give consumers greater choice. The proposed rule amendment will help in breaking down barriers to consumption of low and no-alcohol products. It will change the mindset that low and no-alcohol drinks are sometimes seen as a poor substitute – to an appreciation that low and no variants are desirable products chosen for their own merits</p> <p>Low strength should be a marketable factor, while high strength should not be. Including low strength drinks alongside standard drinks positions them in the 'adult' category</p> <p>Agreed with the CAP and BCAP proposed rule amendment to allow brands to promote a low alcohol product as part of a range of drinks. The amendment offers a sensible and pragmatic approach to supporting the promotion of low alcohol products.</p> <p>Agreed with the proposal. From the discussions in our online community and in-depth interviews with a number of these consumers, we know people are always delighted when their favourite alcoholic drink brand releases an alcohol-free version: they are able to enjoy the same taste but without the alcohol. We are therefore concerned that any obstacles on brands releasing and marketing their low and no alcohol options will make it less easy for consumers to reduce their consumption.</p> <p>Supported the proposal in the regulations for advertising lower alcohol products, to allow for lower strength to be highlighted as a choice for the consumer as a substitution for higher strength alternatives. Drinkaware's desire was for lower</p>	

		strength drinks to be promoted as an alternative to higher strength drinks, in order to reduce harm from alcohol.	
<i>Comments relating to the consultation more generally</i>			
	ACUK, MCBC, BPPA	<p>It is not clear whether the proposed new rule as written refers specifically to 'low-alcohol' drinks (of 1.2% alcohol by volume (abv) or below), or whether it is intended to apply to the lowest strength product in an advert.</p> <p>If it is the rule's intention only to refer to low-alcohol (1.2% abv or below) drinks, it should explicitly state that it is aligned with the Department of Health and Social Care guidance on low-alcohol descriptors. This guidance states that a drink may be described as low-alcohol if "the drink must be 1.2% alcohol by volume (abv) or below and an indication of its maximum abv should be included on the label."</p> <p>Requested clarity in the wording of the amendment to make clear it includes alcohol free products</p>	<p>The proposed rule relates to 'low alcohol' products, as defined in the Scope of the Alcohol section - products that are above 0.5% but at or below 1.2% ABV. Drinks at or below 0.5% ABV are not subject to the Alcohol rules (unless they refer to or otherwise promote a drink above this strength) and are therefore not covered by the rule change.</p> <p>Moreover, the rule is specifically about comparing alcoholic strength in a context where each of the compared products are above 0.5% - alcohol free products need not be included here because there is no specific need to prohibit marketers from making preference statements about alcohol free products. Marketers are already able to promote their alcohol free products alongside alcoholic drinks, including stating that customers may want to make a swap because the lack of alcohol is a particularly attractive feature. It should be noted, however, that the inclusion of an alcoholic drink would lead to the Alcohol section applying to the ad as a whole, with all of the responsibility that entails.</p> <p>Whether to cover alcohol free products with any part of the Alcohol section as a matter of course is a wider question that was outside the scope of this consultation. CAP and BCAP will shortly be consulting on the degree to which these rules or their principles might also reasonably be applied to alcohol</p>

			free drinks that are presented as alternatives to alcohol.
	ACUK, BBPA, NACM, PG	<p>Would welcome your consideration of whether the rules should specifically allow and encourage producers to emphasise the relative merits of lower strength products in their marketing. For example, allowing a beer advert to favourably compare a 4% beer to a 5.5% beer because of its lower alcohol content, or a winemaker to advertise their 8% wine as a less harmful alternative to a 13% wine. This would require careful guidance to ensure products were not erroneously described as 'low-alcohol'. It would, however, encourage producers to nudge their consumers to choose lower strength – and therefore less harmful – alcoholic drinks.</p> <p>The rationale presented for a rule amendment for low alcohol could also apply to 'lower' strength products. The Portman Group's rule allows products below average strength (within category), or existing products which have been reformulated to below average strength, to make a virtue of their strength providing this is done in a manner which is proportionate to the product's strength relative to the category average. It also allows products of above average strength for a category to make factual statements about strength, or factual statements about the reduction in strength, following any reformulation. Allowing 'lower' strength comparisons in advertising would create consistency across alcohol marketing and advertising rules and would inform consumers of further options when looking to moderate their alcohol consumption.</p> <p>The consultation document notes both the increased consumer interest in no/low strength alternatives and the benefits from more easily and responsibly promoting such benefits. However, the responsible promotion of alcohol should reflect support for consumers who wish to reduce their alcohol consumption overall. It is therefore critical to recognise and respond to the need to provide a route for consumers who wish to make lower strength choices in a much wider sense and more simply to allow them to choose lower strength options with reference to higher strength drinks</p>	<p>Marketers are currently able to make 'lower alcohol' claims, as allowed for in the Annex of EC Regulation 1924/2006 on Nutrition and Health Claims Made on Foods, or claims that would have the same meaning. Provided that a suitable reference point is used and that the comparison is with an appropriate drink or category, including another product within the advertiser's own range or previous formulation of the product, ads may bear 'lower alcohol' claims as long as they meet the conditions of use as set out in the Annex.</p> <p>The question of whether also to allow preference claims for 'lower' alcohol products is a topic that CAP and BCAP have considered over a number of years, including during a review of the entire CAP and BCAP Codes. The Committees recognise that the development of lower-strength products is in line with Government policy to address harmful levels of alcohol consumption in the UK. Although CAP and BCAP note that a switch to a lower ABV, even when above 1.2%, would still reduce alcohol consumption, it remains the case that preferential advertising of 'lower' alcoholic drinks could result in the preferential promotion of intoxicating beverages. Advocating swapping higher-strength alcoholic drinks for lower-strength drinks could also add confusion about what is a 'safe' amount to drink in any circumstances. This runs counter to the purpose of the restrictions.</p>

Heineken, PG	We ask that guidance is introduced if low-alcohol comparisons are permitted to ensure that one category of alcohol is not presented as favourable to another. The current, and proposed, wording of the rule references 'similar beverages' and we would ask that this is clarified in guidance so that alcohol producers and advertisers know what category comparisons are permitted	The assessment of how category comparisons are made and whether certain drinks fall into the same category as one another would ultimately be the purview of the ASA, who have considerable experience in making these judgements as a result of the same restrictions in rules for all other food and drink. However, this assessment is highly likely to be influenced by the type of drink, the type of comparison, and the context of the ad as a whole. As ASA precedent becomes further developed, CAP guidance will be updated accordingly.
ACUK	If increased awareness only resulted in these drinks being consumed in addition to full-strength drinks, for example during occasions where an alcoholic drink would not usually be consumed, there would be no benefit. We would, therefore, welcome new guidance that these drinks should not be advertised as suitable for consumption during non-typical drinking occasions such as while driving or at the gym, but as alternatives to full-strength drinks.	Low alcohol products are covered by every rule in the Alcohol section of the Codes, including advertising to certain audiences and not encouraging unwise styles of drinking (e.g. at times of day that would not generally be considered acceptable). However, CAP and BCAP will shortly be consulting on the degree to which these rules might also reasonably be applied to alcohol free drinks that are presented as alternatives to alcohol.
ACUK	There is a possibility that increased awareness of low-ABV and alcohol free drinks would lead to them being marketed towards, and used by, children under the legal drinking age. Although alcohol-free drinks contain almost no alcohol, the fact that they are mimicking their full-strength counterparts means that they should not be marketed at or consumed by children, to prevent any gateway effect. Given that alcohol free or low-alcohol drinks are still in the 'adult drink' category, we believe that these adverts should not be aimed at under-18s. For example, alcohol adverts, even for alcohol free alternatives, should not be shown in cinemas before films rated 15 or below. We would, therefore, welcome guidance that marketing of alcohol free and low-alcohol products should be subject to the same regulation and restriction as marketing of full-strength drinks.	
AHA	Would welcome additional guidance about the advertising of low-alcohol products to specific audiences and relating to specific potential drinking occasions	
DT	There is some evidence that that lower strength products can be a potential moderation technique for higher-risk drinkers, if they are consumed as a substitution for a higher strength alternative, rather than in addition, but there is a need for robust academic research in this area. Drinkaware would encourage an independent pilot which monitors consumers' reaction and understanding of the	CAP and BCAP do not currently have plans for further research in this area, but very much welcome details of any research conducted by others. If any organisations have conducted research in these areas, the

		advert/messaging first, to understand the impact upon consumers and to address any unintended consequences. We would be happy to advise on this.	Committees encourage them to contact the Regulatory Policy team.
	DT	Research is required into potential unintended consequences, such as to understand whether lower strength drinks are perceived as additional drinks rather than substitutions for higher strength products by higher risk drinkers, as well as whether a lower strength product can prime a drinker to want a higher strength one.	Nonetheless, CAP and BCAP note the concerns raised about the consequences of amending the rules. While the limitations on preference claims for low alcohol products have been adjusted, ads must still be responsible and the rules about excessive consumption and appeal to children must still be complied with. The Committees also consider that there is an inherent implication of 'swapping' when a preference claim is made in regard to low alcohol content. To minimise the potential for adverse consequences, CAP and BCAP will review the rule after 12 months and, if necessary, conduct further work.
	DT	Additionally, further research is required on the impact of lower strength and alcohol-free drinks on children and young people. For example, does the proliferation of lower strength and alcohol-free drinks normalise drinking or act as a gateway to higher strength alcohol amongst children and young people? Currently, there is no published evidence, but we would advocate a strongly precautionary stance.	Moreover, CAP and BCAP will soon be consulting on how the Codes should apply to ads for alcohol free products, which will involve a consideration of the points raised here.
	DT	We would recommend that the guidance offer greater clarity on what 'relatively high strength' means or, the definition of 'standard products' and on what constitutes a 'category'? For example, craft beers vs lager / bitter.	The proposed rule relates to 'low alcohol' products, as defined in the Scope of the Alcohol section - products that are above 0.5% but at or below 1.2% ABV. The statement clarifies that 'standard products' refers to drinks above 1.2% ABV - that is, alcoholic drinks with an alcohol content too high to be considered 'low alcohol'. As noted above, the question of appropriate categories would be a matter for ASA precedent, which would be reflected in future CAP guidance.
	DT	There are a number of people who must not or should not drink alcohol for medical or other reasons. It is therefore essential that advertising is clear, so they are not inadvertently misled into consuming alcohol.	CAP and BCAP understand that there is a range of reasons why consumers may not want to drink alcohol, even at the very low

			levels that may be described as alcohol-free. It is their view that the alcohol content of such products is therefore likely to constitute material information for these consumers, and that advertising should include this information under rules about truthfulness and accuracy. Guidance on this topic has been published and is available here .
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