

New rules and guidance for alcohol alternative products

Committee of Advertising Practice and Broadcast Committee of Advertising Practice statement on introducing new rules and guidance relating to the marketing of alcohol alternative products.



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1. Executive summary

Following public consultation, the Committee of Advertising Practice (CAP), author of the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (the CAP Code), and the Broadcast Committee of Advertising Practice (BCAP), author of the UK Code of Broadcast Advertising (the BCAP Code), are introducing new rules and guidance relating to the advertising of alcohol alternatives (products with an ABV at or below 0.5% which are marketed as alternatives to alcohol).

The UK Advertising Codes include rules that prohibit condoning or encouraging immoderate, irresponsible, or anti-social drinking. The increasing popularity of alcohol alternatives led CAP and BCAP to consider marketers of such products would benefit from new rules and guidance to clarify how these products can be marketed responsibly.

Alcohol alternatives can be beneficial in offering consumers a means to reduce their overall alcohol intake, however given their adult audience and proximity to tropes and imagery relating to alcohol, CAP and BCAP considers ads for such products should be subject to specific regulations to ensure they are marketed responsibly.

Prior to this statement, ads for beverages with an ABV below 0.5% were not subject to the alcohol code rules but references to alcohol in such ads could be assessed under general social responsibility rules, or considered under the alcohol Code rules if they included content which promoted alcoholic products.

In February 2022 CAP and BCAP launched a consultation into proposed new rules and guidance relating to the promotion of beverages with an ABV at or below 0.5% which are marketed as alternatives to alcoholic drinks, such as non-alcoholic beer.¹ Although such products are considered non-alcoholic, their marketing often uses imagery redolent of alcohol and mentions drinking occasions. As such, CAP and BCAP have considered how these products should be marketed responsibly and how they intersect with alcoholic products covered by the Codes. The rules and guidance cover definitions, presentation of ABV statements, responsibility, and targeting and scheduling restrictions.

Following analysis of consultation responses, changes have been made to the rules and guidance to reflect issues raised. This statement provides a summary of consultation responses, analysis thereof, and corresponding amendments made to rules and guidance. It should be read alongside the evaluation table of responses published separately.

CAP and BCAP are mindful of the need to avoid unintended consequences of amending the wording of rules and to ensure that changes are effective. As such, the amended rules will be subject to review after 12 months.

To support advertisers, media owners, and advice and clearing services, the revised rules will be implemented after a 6-month grace period following publication of this statement.

The rules will take effect from **14 May 2024**.

¹ <https://www.asa.org.uk/resource/asa-consultation-on-advertising-alcohol-alternatives.html>

2. Background

2.1 Changes in the market

Low- and no-alcohol products are increasing in popularity and are no longer a niche category; this includes alcohol-free products specifically designed to provide a direct alternative to standard alcoholic drinks. The market for these products has increased markedly in recent years² and the volume of advertising has, naturally, followed this pattern.

When the alcohol rules in the CAP and BCAP Codes were developed, the zero alcohol sector was small, with little marketing. However, in recent years marketing activity for these products has expanded, meaning new rules and guidance would be helpful to advertisers and provide appropriate protections to consumers.

2.2 Rationale for change

Public health guidance is clear that reducing alcohol intake is beneficial, and the alcohol alternative market is one element which makes this easier for consumers. As such, CAP and BCAP consider it is important for rules on alcohol alternatives to recognise the benefits of these products and enable marketers to encourage reducing alcohol intake in as many ways as possible, provided those ways are responsible.

Advertising for alcohol alternatives often includes imagery resembling alcoholic products; references to situations where alcohol is likely to be consumed; explicit references to reasons not to drink; and references to the lack of alcoholic strength. Therefore, CAP and BCAP considered advertising for such products has sufficient overlap with alcohol marketing to require careful analysis of how they can be marketed responsibly.

The extremely low alcoholic strength of alcohol alternatives means they are virtually incapable of intoxicating consumers and their risk profile is therefore significantly reduced. As a result, CAP and BCAP determined it would be overly restrictive to bring all ads for alcohol alternatives under the full scope of the alcohol sections of the Codes. Instead, CAP and BCAP developed rules that deal with references to alcohol, specific alcoholic products/brands, and/or behaviours connected to alcohol consumption or the culture surrounding it. CAP and BCAP also considered how the ABVs of alcohol alternatives should be conveyed to consumers, and the issues surrounding targeting and scheduling ads away from under-18s.

CAP and BCAP understand there is no statutory definition of alcohol alternatives³, but consider alcohol alternatives as non-alcoholic drinks (those at or under 0.5% ABV) that are intended to replace alcoholic drinks in contexts where they would normally be consumed, for example non-alcoholic beer. In relation to advertising content in particular, a specific drink or range of drinks is an alcohol alternative if the audience is likely to consider it as such; it will depend on the context and presentation of the product in the ad. The guidance expands on what factors may contribute to this interpretation.

² <https://www.portmangroup.org.uk/65504-2/>

³ The Soft Drinks Industry Levy does contain criteria for identifying alcohol replacements, although this is to assist with defining them in relation to nutritional content and tax exemptions, rather than differentiating them from alcoholic products or considering them from a specific public health and responsibility perspective.

The ABV threshold of 0.5% to denote alcohol alternatives has been chosen after extensive consideration. Since 2018, there has been no statutory threshold for what constitutes a non-alcoholic drink, with the now-revoked legislation⁴ being translated into non-binding statutory guidance. As the guidance is non-binding, CAP and BCAP could not straightforwardly mandate the use of this definition in advertising without a proper process to establish it. Drinks at or below 0.5% ABV are excluded from the definition of ‘alcoholic’ in the Advertising Codes; this reflects factors including the way in which the Licensing Act treats drinks of this strength. The alcohol alternatives market, broadly speaking, uses ‘alcohol free,’ ‘zero alcohol,’ and ‘non-alcoholic’ to describe drinks at or below 0.5%, and CAP and BCAP consider this is a reasonable and proportionate level at which to set the baseline for the ABV of alcohol alternatives, and is consistent with the scope of the existing alcohol rules.

CAP and BCAP consider alcohol alternatives, because of their adult audience and proximity to tropes and imagery relating to alcohol, should be subject to specific ad regulations to ensure marketing is responsible. Previously, this was achieved through general social responsibility rules and the potential for alcohol marketing rules to cover non-alcohol ads that indirectly promote alcohol. However, a clearer and more specific approach will ensure a level playing field for industry and more concrete safeguarding of consumer welfare.

CAP and BCAP do not consider full application of the alcohol rules to alcohol alternatives is merited, as the lack of alcohol means many specific aspects of safety and responsibility are significantly reduced or removed. Instead, the rules focus on the following broader principles:

- Indirect promotion of alcohol (including branding shared with alcoholic products);
- Indirect promotion of unwise or irresponsible alcoholic drinking styles;
- Circumstances where the portrayal of the consumption of alcohol alternatives in marketing may or may not be considered responsible.

As many of the rules depend on the context and content of the ad, they are accompanied by formal guidance that explains how the rules should be interpreted and applied, including examples of approaches that would and would not be acceptable. The remainder of this document outlines key themes from consultation responses and subsequent revisions to CAP and BCAP’s proposed rules.

⁴https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/763840/low-alcohol-descriptors-guidance.pdf

3. Consultation responses

The consultation received 23 responses from a range of interested parties including brands; trade bodies (including international respondents from EU countries); advocacy groups; and a private individual.

CAP and BCAP have published the responses and carried out a detailed evaluation of all significant points made. An accompanying evaluation table setting out longer summaries of responses to the consultation questions is published alongside this statement.

The consultation responses were structured around three key questions, as follows:

Question 1: Is the definition of 'alcohol alternatives' clear, feasible, and appropriate?

Themes which emerged in response to this question were:

Suggested alternative terminology

Some respondents suggested alternative terminology for alcohol alternatives, such as alcohol "substitutes" or "replacements". CAP and BCAP considered the original terminology of "alcohol alternatives" remained appropriate.

0.5% ABV threshold for Alcohol Alternatives

Some respondents suggested raising the threshold for alcohol alternatives to 1.2%, to align with the Soft Drinks Industry Levy. Others proposed establishing multiple categories, for example for 0.0%-0.05%; and 0.05%-0.5%. Having reviewed the evidence and rationale behind these suggestions, CAP and BCAP considered a single threshold of 0.5% ABV to be appropriate.

Subjectivity of alcohol alternative definition

Some respondents considered a more prescriptive definition would benefit advertisers and consumers in understanding whether or not a product could be considered an alcohol alternative. The definition of alcohol alternatives exists for the purposes of the Advertising Codes, CAP and BCAP considered a degree of subjectivity would be appropriate to allow for consumer interpretation and avoid creating loopholes for novel marketing approaches.

Broader issues raised in response to Question 1

- Some respondents suggested terminology such as "zero alcohol" should only apply to products at 0.0%. CAP and BCAP considered differentiations in permitted definitions within the 0.0-0.5% range could lead to consumer confusion. "Zero alcohol" and similar claims would be acceptable provided they are accompanied by clear information regarding the ABV of the product.
- The responses included a suggestion the guidance should clarify whether fermented drinks such as kombucha would be subject to the rules. An additional section was added to the guidance to address the specific issue of kombucha and fermented drinks, which may quote an ABV in their marketing for information purposes without immediately being subject to the alcohol alternative rules.

Question 2: Do respondents agree with the principles and/or wording of the proposed rules and guidance, whether individually or in general?

The consultation contained eight new rules for the CAP Code and corresponding new rules for the BCAP Code with some additions to reflect variations in the requirements in different broadcast media.

Many respondents focused primarily on Question 2 and this informed the amendments to the proposed rules and guidance. Respondents were generally in favour of the principles of the rules and guidance but provided suggestions regarding specific changes.

The key themes which emerged in response to the proposed rules were:

References to other alcoholic products

The rules set out an expectation that, beyond inherent similarity to alcoholic products – such as through packaging or presentation – references to specific alcohol products or alcohol in general within an alcohol alternative ad would be subject to the full alcohol rules. As the guidance explains, ads for alcohol alternatives which have the effect of promoting alcoholic drinks, would thus be subject to the full alcohol rules.

Presentation of ABV statements

The original rules required ads for alcohol alternatives with an ABV above 0% to include clear and prominent information on the ABV. To avoid consumer confusion, the rules have been amended so now all products marketed as alcohol alternatives must quote an ABV, even when that ABV is 0.0%.

Social responsibility and irresponsible consumption

The rules allow ads for alcohol alternatives to depict contexts which may be inappropriate for alcoholic drinks, provided the nature of the product is clear and the ad does not indicate alcohol consumption would be appropriate in these contexts. The guidance now explains the overall content of an alcohol alternative ad will be considered when assessing claims of social irresponsibility and such ads must not condone or endorse excessive consumption or other problem drinking behaviour.

Targeting and appeal to under-18s

Some respondents raised concerns about the potential that wider advertising for alcohol alternatives, particularly those which share a brand with an established alcoholic drink, could lead to increased exposure of under-18s to alcohol advertising. The rules regarding targeting of ads for alcohol alternatives and appeal to under-18s are the same as those for alcoholic drinks. This will mean ads for alcohol alternatives cannot appear in spaces and contexts where alcohol advertising is currently prohibited and thus reduce the risk of increased exposure to under-18s.

Question 3: Do respondents have any comments on the circumstances under which the full, standard alcohol rules would and would not apply?

Respondents provided a range of perspectives on circumstances under which full alcohol rules should apply in ads for alcohol alternatives, which fell under two main themes:

Cross promotion and brand sharing

Some respondents considered shared branding with an existing alcoholic product to be inherently cross-promotional and could represent “stealth marketing”. One respondent considered all instances of shared branding should be subject to the full alcohol rules. To avoid consumer confusion around the differentiation between alcohol alternatives which share branding with an existing alcoholic product and those which do not, this respondent considered all alcohol alternatives should be subject to the full alcohol rules.

Some respondents, particularly from the alcohol alternatives industry, requested further detail on the types of creative approaches and comparisons which would be permissible in instances of shared branding without an ad becoming subject to the full alcohol rules.

CAP and BCAP are aware that current behavioural and sales evidence suggests shared branding can play a key role in encouraging existing consumers to try an alcohol alternative and thus reduce their overall consumption. There is a lack of evidence to support claims alcohol alternative marketing risks directing consumers towards fully alcoholic products. The risk of increased exposure to alcohol brands is mitigated by the fact that alcohol alternative ads are subject to the same targeting and media restrictions as alcoholic products. Revisions to the guidance now make clear that alcohol alternative ads which focus on the merits of a parent alcoholic brand will be subject to the full alcohol rules.

References to alcohol and depictions of pregnancy

Industry respondents queried references in the proposed rules to “new drinking occasions” and scenarios where alcohol consumption may be inappropriate but depictions of alcohol alternatives would be acceptable. Other respondents raised concerns depictions of alcohol alternatives in scenarios where alcohol is not acceptable risks normalising alcohol consumption in these contexts and could lead to increased overall consumption.

The initial proposed guidance included a single reference to alcohol alternatives as an option during pregnancy. Consultation respondents were divided over the depiction of pregnancy in ads for alcohol alternatives. Some considered any depiction of pregnancy in alcohol alternative ads would inappropriately encourage alcohol consumption, which goes against the advised approach of total abstinence during pregnancy and conception in the UK Chief Medical Officer Low Risk Drinking Guidance. Other respondents, particularly from industry, considered that alcohol alternatives could be presented as a responsible option for informed consumers during pregnancy.

In light of the concerns regarding depictions of pregnancy, outside of the formal consultation, CAP and BCAP gave careful consideration to the issue and proactively engaged with public health bodies, pregnancy advocacy groups, and advertising regulators in other countries to establish an appropriate and proportionate position on this issue.

4. Outcome

In light of consultation responses, assessment of evidence, and engagement with stakeholders, CAP and BCAP have agreed on the following new rules:

Alcohol alternatives

Alcohol alternatives are non-alcoholic drinks (for the purposes of the CAP / BCAP Code, those at or under 0.5% ABV) that are intended to replace alcoholic drinks in contexts where they would normally be consumed, such as non-alcoholic beer. A marketing communication / advertisement for a non-alcoholic drink will be subject to the below rules if it is likely to be understood by the audience as an ad specifically for an alternative to alcohol, whether in general or as a non-alcoholic version of a particular alcoholic drink. Where an ad for a drink at or below 0.5% has the effect of promoting an alcoholic drink, the Alcohol rules apply in full.

The definition of alcohol alternatives within the Codes has been amended to reflect that it is for the purposes of the CAP/BCAP Codes and separate from other legislative requirements.

CAP 18.18/BCAP 19.19

If a marketing communication / advertisement for an alcohol alternative refers to or depicts alcohol, those references or depictions must comply with the rules relating to responsible portrayal of alcohol consumption, which are 18.1-18.8 / 19.2-19.9 and 18.10-18.13 / 19.11-19.14.

Where a marketing communication / advertisement is for an alcohol alternative that shares the same brand as an alcoholic drink then this rule will not apply to references to or depictions of the brand name, provided that the primary effect of the marketing communication / advertisement is to promote the alcohol alternative. References to the shared brand name, in any part of the marketing communication / advertisement, without a reference to the alcohol alternative, are likely to be understood as references to alcohol.

CAP 18.19/BCAP 19.20

Marketing communications / advertisement for alcohol alternatives must include a prominent statement of their ABV. Marketing communications / advertisements for alcohol alternatives are not prohibited from making a feature of their ABV or from making preference claims on this basis.

Several respondents raised concerns about proposed rules 18.20-18.22/19.21-19.23 which relate to the content of alcohol alternative ads. In light of consultation responses, CAP and BCAP have restructured the requirements around ad content into two rules – 18.20/19.21 and 18.21/19.22, listed below.

The first revised rule covers depictions of scenarios where alcohol alternatives may be acceptable but condoning or encouraging alcohol consumption in similar circumstances would not be acceptable – for example before driving.

CAP 18.20/BCAP 19.21

Marketing communications / advertisements for alcohol alternatives may depict the product in circumstances where consumption of alcoholic drinks would be inappropriate or unsafe – such as prior to driving or daring physical activities – if it is clear the product is an alcohol alternative. Marketing communications / advertisements must not encourage or condone consumption of alcohol in the same circumstances or imply the product is alcoholic. Resemblance to an alcoholic drink (as in rule 18.18 / 19.19) is acceptable as long as the ad makes explicitly clear the product featured is an alcohol alternative.

The second revised rule outlines expectations regarding depictions of alcohol alternatives in scenarios which could indicate problem alcohol consumption.

CAP 18.21/BCAP 19.22

Marketing communications / advertisements for alcohol alternatives must not contain content likely to disparage sobriety, or condone or encourage heavy, problematic, or otherwise higher-risk alcohol consumption as desirable. They must not present alcohol alternatives as a way to increase alcohol consumption beyond responsible levels.

CAP 18.22

Marketing communications for alcohol alternatives must not be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth culture. They should not feature or portray real or fictitious characters who are likely to appeal particularly to people under 18 in a way that might encourage the young to drink alcohol or alcohol alternatives. People shown drinking or playing a significant role (see rule 18.24) should not be shown behaving in an adolescent or juvenile manner.

CAP 18.23

Marketing communications for alcohol alternatives must not be directed at people under 18 through the selection of media or the context in which they appear. No medium should be used to advertise alcohol alternatives if more than 25% of its audience is under 18 years of age.

CAP 18.24

People shown drinking or playing a significant role in marketing communications for alcohol alternatives must neither be nor seem to be under 25. People under 25 may be shown in marketing communications, for example, in the context of family celebrations, but must be obviously not drinking.

BCAP 19.23

Television only – Alcohol alternatives advertisements must not:

19.23.1

be likely to appeal strongly to people under 18, especially by reflecting or being associated with youth culture or showing adolescent or juvenile behaviour.

19.23.2

include a person or character whose example is likely to be followed by those aged under 18 years or who has a strong appeal to those aged under 18.

BCAP 19.24

Radio only – Alcohol alternatives advertisements must not:

19.24.1

be targeted at those under 18 years or use a treatment likely to be of particular appeal to them.

19.24.2

include a person or character whose example is likely to be followed by those aged under 18 years or who has a particular appeal to those aged under 18.

BCAP 19.25

Alcohol alternatives advertisements must not feature in a significant role anyone who is, or seems to be, under 25 and must not feature children.

An exception is made for advertisements that feature families socialising responsibly. Here, children may be included but they should have an incidental role only and anyone who seems to be under the age of 25 must be obviously not drinking alcohol or alcohol alternatives.

Scheduling

The following rule will be amended to reflect the change in the threshold for alcoholic products from 1.2% ABV to 0.5% ABV.

BCAP 32.2

These may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18:

32.2.1

Alcoholic drinks containing 0.5% or more by volume or alcohol alternatives at or below 0.5% ABV.

The amendment of BCAP rule 32.2.1 to include alcohol alternatives means the following rule will no longer be required and can be removed:

BCAP 32.4

These products may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to persons below the age of 16:

32.4.7

drinks containing less than 1.2% alcohol by volume when presented as low-alcohol or no-alcohol versions of an alcoholic drink

Changes to guidance

Several amendments were made to the initial proposed guidance to reflect consultation responses, changes to rules, and discussions during the wider engagement process. The most significant changes are listed below:

Definition of alcohol alternatives

The revised rules make clear that the definition of alcohol alternatives is for the purposes of the CAP and BCAP Codes and not related to other statutory or associated definitions. The examples of marketing approaches likely to be subject to the alcohol alternatives rules, which appears in the associated guidance, was expanded to provide further clarity.

Requirement to state ABVs

The guidance was amended to reflect the requirement that all products presented as alcohol alternatives must include a clear ABV statement, even if that ABV is 0.0%. The previous position could create a scenario where an alcohol-free beer at 0.5% ABV is required to state an ABV but a product at 0.0% ABV presented in the same manner is not. The rules and guidance were amended to avoid consumer confusion about the nature of the two products in such scenarios and of the alcohol alternative sector more generally.

Kombucha/fermented drinks

An additional section of the guidance explains the exemption for kombucha and other fermented drinks. Such products may quote an ABV in marketing communications for information purposes, but unless otherwise presented as alcohol alternatives will not be subject to the rules.

Legally protected names

Some consultation respondents raised concern the presentation of spirit replacement drinks – for example “alcohol-free gin” – could breach legislation regarding legal protection of specific product names. To address this concern an additional section was added to the guidance explaining that advertisers should seek their own legal advice if they wish to use a legally protected name in the promotion of their alcohol alternative.

Pregnancy

As explained in Section 3, several respondents cited the Chief Medical Officers’ Low Risk Drinking Guidance. Although not developed with alcohol alternatives in mind, the guidance advises against any alcohol consumption during pregnancy, so it would not be appropriate for CAP and BCAP guidance to permit marketing of alcohol alternatives in a manner which undermines this advice.

The CAP and BCAP guidance has been revised to permit ads for alcohol alternatives which contain no alcohol whatsoever (0.0% ABV) to depict pregnancy. Such depictions must be responsible, the nature of the product must be clear, and the ads must not appear to condone or encourage consumption of alcohol in these contexts.

This precautionary approach is in response to the lack of evidence and guidance relating to this specific issue and is more restrictive than approaches set out by some advertising regulators internationally. CAP and BCAP will continue to monitor evidence around the impact of consumption of alcohol alternatives during pregnancy and address any changes to official guidance.

Co-branding and cross-promotion

The guidance has been amended to focus on the effect of an alcohol alternative ad. An ad which is not primarily focused on the alcohol alternative and has the effect of promoting the wider alcohol brand will be subject to the full alcohol rules.

The targeting and media choice requirements for alcohol alternatives are the same as those for alcoholic drinks, which will limit the risk of increased exposure of under-18s to alcoholic brands through co-branded alcohol alternative advertising.

5. Implementation

To allow advertisers, media owners, and advice and clearance services sufficient time to amend their approaches and processes in response to the changes, the implementation of CAP Code rules 18.18-18.24 and BCAP Code 19.19-19.25 (and associated BCAP scheduling rules 32.2.1 and 32.4.7) will be subject to a six-month grace period; the ASA will enforce the new rules and revised guidance from **14 May 2024**.

CAP and BCAP will carry out a review after 12 months from **14 May 2024** to ensure the new rules are functioning as intended.

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