

ACIBEV contribution to the UK consultation on new rules and guidance to regulate alcohol alternative products

About ACIBEV

ACIBEV - Portuguese Wine and Spirits Association is a non-profit business association established in January 1975, which represents a significant part of the sector's turnover - production, distribution and trade of wines and spirits as well as vinegar and distillation of wine products.

Its Associates have an annual turnover of more than six hundred million euros, 60% of which are generated through export. Among our Associates are the majority of national export companies, leading companies in the various demarcated regions and companies that create brands that add value to Portuguese wines.

ACIBEV comments

- ACIBEV fears that the proposed rules might be too restrictive and believes that the private sector should be best placed to adopt self-regulation to regulate its advertising activities concerning no- and low-alcoholic beverages.
- Moreover, ACIBEV is concerned with some simplistic and misleading messages that seem to be conveyed directly or indirectly in the documents:
 - None of the documents (consultation document and guidance) make any distinction between harmful use of alcohol and responsible and moderate drinking, clearly alleging that “reducing alcohol intake is beneficial”, implying that this is also true for those drinking in moderation and that there is no space for a safe consumption of alcohol in moderation.
 - In the guidance document, when it comes to ABV statements, it is stated that ads for alcohol alternatives may make a feature of their ABV (or total lack) and state or imply that the product is preferable because of it.
 - While acknowledging that excessive consumption of alcohol is linked to increased health risk, scientific evidence shows that drinking wine in moderation, with a meal, as part of healthy lifestyles and dietary patterns, in particular the Mediterranean diet, does not seem to increase health risk and might even be linked to some health benefits.

Alcohol Change UK response to the CAP/BCAP consultation on alcohol alternatives

May 2022

Alcohol Change UK is a leading UK alcohol charity, formed from the merger of Alcohol Concern and Alcohol Research UK. With a vision of a society that is free from serious alcohol harm, we work towards five key changes: improved knowledge, better policies and regulation, shifted cultural norms, improved drinking behaviours, and more and better support and treatment. We welcome the opportunity to respond to this consultation.

Alcohol Change UK is the national alcohol charity behind the global phenomenon that is Dry January®. We encourage Dry January® participants to try low-alcohol and alcohol-free alternatives. We also provide reviews of hundreds of alcohol-free and low-alcohol drinks on our website. Finally we work in partnership with alcohol-free brands who sponsor the Dry January® programme.

1. Is the definition of ‘alcohol alternatives’ clear, feasible, and appropriate?

The guidance should consider expanding the definition to include drinks up to 1.2% ABV. Many drinks in this category are above 0.5% but below 1.2% ABV. Regulation 9 in the Soft Drinks Levy 2018 defines these drinks as ‘alcohol substitute drinks’, which “is advertised or sold, it is advertised or sold as a direct replacement for the particular kind of alcoholic beverage to which it is similar.”¹ Some of the wording from that definition (see below) should be adopted in this content, to ensure harmony across the government policies which apply to this drink category. Other regulations apply to drinks up to 1.2% ABV, including the requirement to display full nutritional and ingredient information on the labels. Having the marketing rules apply to the same ABV range for this category would reduce the chance of confusion in having different rules apply for different drinks in this alcohol-free and low alcohol product category. The guidance should also consider using the term ‘alcohol substitute drinks’ as used in the Soft Drinks Levy, rather than create another term: ‘alcohol alternatives’. The phrase ‘alcohol substitute drink’ is more accurate and helpful than ‘alcohol alternatives’. After all, milk, water, juice, kombucha and fizzy soft drinks are all alcohol alternatives, but are not alcohol substitutes.

¹ Soft Drinks Levy 2018. <https://www.legislation.gov.uk/ukxi/2018/41/made>

Exempt soft drinks: alcohol substitute drinks

9.—(1) The conditions specified for the purposes of section 30(4)(b) are—

(a) condition 1; and

(b) one or more of conditions 2, 3 and 4.

(2) Condition 1 is that—

(a) the soft drink—

(i) is in packaging comparable to, and marketed in a way that is comparable to, the particular kind of alcoholic beverage to which it is similar; and

(ii) is not marketed in a way which is directed at, or is likely to appeal particularly to, people under eighteen years of age; and

(b) when the soft drink is advertised or sold, it is advertised or sold as a direct replacement for the particular kind of alcoholic beverage to which it is similar.

(3) Condition 2 is that the soft drink is made from an alcoholic beverage by a process of de-alcoholisation by which the alcoholic strength of the beverage is reduced to 1.2% or lower.

(4) Condition 3 is that—

(a) the soft drink is manufactured using a fermentation or distillation process during which—

(i) alcohol is produced; but

(ii) the alcoholic strength of the product of fermentation or distillation never exceeds 1.2%; and

(b) such product is not diluted or mixed with any other substance, unless, in the case of a product of distillation, that substance has dissolved into the product.

(5) Condition 4 is that the soft drink is manufactured by blending an alcoholic beverage of cider, beer, wine or made-wine with fruit juice, with or without the addition of water or other ingredients, to make a soft drink that is similar to the alcoholic beverage used in its production.

By expanding the definition of alcohol alternatives to include drinks up to 1.2% ABV, it is important that advertisers clearly state the ABV of the drink in all communications, to avoid misleading consumers who do not want to consume any alcohol at all. It is also important that drinks above 0.5% ABV are not shown in advertising communications to be consumed in any context where consuming an alcoholic drink would be inappropriate.

These guidelines should follow the current Department of Health and Social Care definitions, where the descriptor 'alcohol-free' can only apply to drinks containing 0.05% ABV or below. In the wider context we would like there to be a clearer system

for alcohol alternative ABV definitions, where 0.5% ABV products and below could be described as ‘ultra-low alcohol’, and 1.2% ABV and below as ‘low alcohol’. This is to protect those who do not wish to consume any alcohol at all, even in a 0.5% drink, such as people who are pregnant, or people avoiding alcohol for religious reasons.

To summarise, we believe that the following descriptors best balance the needs and expectations of consumers with the demands of producers:

- “zero” – 0.0%
- “alcohol-free” – less than or equal to 0.05% but greater than 0.0%
- “ultra-low” – less than or equal to 0.5% but greater than 0.05%
- “low” – less than or equal to 1.2% but greater than 0.5%

We would recommend making these descriptors compulsory – that is, they must be used when advertising any product with an ABV in this range. This is the best way to build consistency and, therefore, consumer confidence.

We strongly disagree with moves by certain parties to have extremely high definitions of ‘low’, based on the drink type, e.g. the idea that one could use “low” to describe a wine at 8.0% or to describe a spirit at 22.0%. This is a recipe for complete confusion – descriptors should be based on a standard ABV across drinks types.

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

In general, yes, we agree with the principles of the proposed rules and guidance. One exception is for the sections about driving. There is a difference between an advertisement showing a person consuming an alcohol alternative before they drive and consuming it while driving. Consuming an alcohol alternative while driving should fall into the ‘inappropriate situations’ category as it is not a time when one would usually be drinking an alcoholic drink. Indeed, even drinking water while driving can be considered a motoring offence.

However, alcohol alternatives are a good option for someone who needs to subsequently drive. We would recommend adding ‘while driving or in charge of a vehicle’ to Sections 18.22 and 19.22, which outline a list of situations where alcohol alternatives should not be shown being consumed in marketing communications, as it would be inappropriate. In essence, marketing for low alcohol drinks should only show the drink being consumed in a situation where it replaces a full-strength alcoholic drink, or would reduce alcohol harm in situations where drinking is not recommended but is still common, for example, drinking before driving.

This proposed guidance sufficiently takes into consideration the potential ‘gateway effect’ of alcohol-free and low-alcohol drinks, whereby these drinks could introduce children and young people to the taste of alcohol drinks.

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

There is a potential gateway effect of encouraging positive brand recognition. This draft guidance does not sufficiently address the problem of ‘alibi marketing’², where alcohol producers promote their alcoholic brands through the promotion of their alcohol alternative version. The full rules which apply to alcohol marketing should apply to alcohol alternatives with a parent company which produces alcoholic drinks, where the advertisement displays or mentions the parent company brand in their advertising, to prevent brands from using alibi marketing to circumvent existing rules that apply to alcohol drinks.

As stated in our initial response to last year’s consultation, we would also welcome consideration on separate rules allowing producers to emphasis the relative merits of lower strength alcoholic 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.

We also support moves to change the definition of ‘wines’ and ‘spirits’ so that these drinks can contain much less alcohol without losing the ability to call themselves ‘wines’ and ‘spirits’ respectively. We are aware that the European Commission is consulting on this issue at the moment. We support the UK ending the extremely damaging current system whereby drinks must be above a certain strength to be described as ‘wine’ or ‘spirits’ (or ‘rum’, ‘gin’, ‘whiskey’ etc.).

² Murray, R., Breton, M.O., Britton, J. et al. Carlsberg alibi marketing in the UEFA euro 2016 football finals: implications of Probably inappropriate alcohol advertising. BMC Public Health 18, 553 (2018). <https://doi.org/10.1186/s12889-018-5449-y>

Consultation on advertising alcohol alternatives

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

It is critical to have a clear definition for both consumers and marketers to ensure the public can make informed decisions and companies can market their products responsibly.

Although the proposed definition is useful in indicating the situational aspect of alcohol alternatives, there is currently insufficient evidence about whether such drinks act as an 'alternative' or as an additional or gateway drink. Potential risks of 'alcohol alternatives' include triggering abstinent people in recovery to start drinking again, introducing children and young people to the taste and brands of alcoholic drinks, and such drinks being consumed in addition to current consumption levels, thus not reducing alcohol consumption.¹ As products can serve different functions for different people, the final sentence in the proposed definition is too vague and could contribute to normalising alcohol consumption, or marketing products in contexts where it would be unsafe or irresponsible to drink alcohol.

At present, there is also low public awareness about what constitutes an alcohol alternative in terms of alcohol content, and more needs to be done to explicitly inform the public about the ABV contents.² The proposed rules are inconsistent with Government guidelines on low alcohol descriptors, which specify that products with an ABV below 0.05% can qualify as 'alcohol free', but those between 0.05% and 1.2% would fall under 'low alcohol' products.³ Nonetheless, we acknowledge the case for defining alcohol alternatives as products with an ABV below 0.5%, given the definition of alcohol in the Licensing Act 2003 and the fact that it is very difficult to consume alcohol products at 0.5% ABV or below more quickly than the alcohol is metabolized by the body. However, to support those who wish to abstain from any amount of alcohol, it is imperative that products and advertisements clearly state the ABV of the product, rather than just a description.

We therefore believe the previous definition of alcohol alternatives being "drinks containing 0.5% or less alcohol by volume when presented as low- or no-alcohol versions of an alcoholic drink" was clearer than the new proposed definition.

From a marketing perspective, we further do not believe that drinks can be considered as alcohol 'alternatives' if they share the same branding as an existing alcohol brand. The guidance for the proposed definition acknowledges that alcohol alternatives frequently share similar branding, presentation, and descriptors with alcoholic products, and therefore run the risk of indirectly promoting alcohol or irresponsible alcoholic drinking styles. To avoid this, we recommend different rules for products that share the branding of their alcoholic counterparts and those that do not – see below for further evidence of why this is important. We also recommend making this clear in the definition, and stating that a drink will only be an 'alcohol alternative' if it does not share the same branding as an alcohol brand.

¹ Corfe, S. et al. (2020). [Alcohol-free and low-strength drinks](#).

² Nicholls, E. (2022). [The Marketing and Consumption of No and Low Alcohol Drinks in the UK](#).

³ Department of Health and Social Care. (2018). [Low Alcohol Descriptors Guidance](#).

We therefore recommend amending the definition as follows:

Alcohol alternatives are drinks containing 0.5% or less alcohol by volume when presented as no and low alcohol versions of an alcoholic drink, for example non-alcoholic beer. A specific drink or range of drinks would be considered an alcohol alternative if it does not share the same branding elements as an alcohol brand.

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

The no-and low-alcohol (NoLo) market may offer potential for reducing alcohol intake and improving public health. However, these products also run the risk of triggering relapses for those in recovery, acting as a gateway to alcoholic drinks, and normalising alcohol consumption, so it is critical that these guidelines are modified to sufficiently protect consumers from alcohol harm.

We disagree with the proposed rule in **18.18/19.19**, as all marketing of alcohol alternatives that share branding with alcoholic products should be considered cross-promotional. While the guidance recommends focussing on the alcohol-free product (rather than the brand), it is very difficult to discern how this is possible in practice. Indeed, brands themselves are now the dominant feature of contemporary marketing.⁴ The guidelines themselves acknowledge that the branding of NoLos and alcoholic products are often closely related, presented, and described in similar ways, and often feature shared branding with alcoholic drinks. For example, many NoLo beers have obvious joint branding with their alcoholic counterparts.⁵ This means, if the brand name is in the product, it is **not possible** not to promote the brand at the same time as the product.

Furthermore, brand identity is much more sophisticated than simply brand names and logos. Research has demonstrated that people are easily able to identify alcohol brands simply from visual cues (e.g., font type, straplines, colour, and shape) even when the brand name itself is absent.⁶ For example, Carlsberg's use of its 'Probably' slogan throughout the UEFA EURO 2016 tournament prompted a 50% brand recall, despite omitting the brand name.⁷ Marketing communications therefore do not need to directly promote an alcohol product to be successful in promoting an alcohol brand, or alcohol consumption more generally. Brand marketing can take many forms, including *brand-sharing*, where non-alcoholic products are used to promote the brand, and *alibi marketing*, where the brand's name or logo is replaced with key, identifiable components of the brand identity.

⁴ Casswell, S., & Maxwell, A. (2005). Regulation of alcohol marketing: a global view. *Journal of Public Health Policy*, 26(3), 343-358.

⁵ Corfe, S. et al. (2020). [Alcohol-free and low-strength drinks: Understanding their role in reducing alcohol-related harms](#). Social Market Foundation/Alcohol Change.

⁶ Youth Alcohol Policy Survey (2019). YouGov surveyed a total of 3,388 young people aged 11-19. This research focusses on 2,603 11-17-year-olds. Fieldwork was undertaken between September to November 2019. The survey was carried out online. The figures have been weighted and are representative of the national profile of the UK population by age, gender, ethnicity, region and Index of Multiple Deprivation (IMD) deciles.

⁷ Glendigging, M. (6 July 2016). Euro 2016 activation: Five things we learnt from Carlsberg's campaign. *SportBusiness*. <https://sponsorship.sportbusiness.com/2016/07/euro-2016-activation-five-things-we-learnt-from-carlsbergs-campaign/>

Previous research found that alcohol companies have strategically used this similar branding to indirectly promote alcoholic drinks, with young people associating brands with the ‘flagship’ alcoholic product regardless of what is being advertised.⁸ Research exploring Heineken 0.0’s advertising campaigns found that consumers struggled to differentiate between Heineken’s alcohol-free and alcoholic products due to the similarity of the bottle. This encourages brand allegiance, including amongst consumers under the legal drinking age.⁹

These examples of alcohol brand promotion through brand-sharing, demonstrate that marketing alcohol alternatives runs the risk of cross-promotion even when the alcohol-free nature of a product is highlighted. This must be addressed specifically in the new guidelines.

Brand-sharing with no and low alcohol products has been used in other countries in response to alcohol marketing restrictions as a way to promote alcohol brands. Norway has avoided this by subjecting NoLo products to the same advertising restrictions as alcoholic products if they share branding.¹⁰ **We recommend that the guidelines focus on regulating brands rather than ABV, making NoLo products from ‘parent brands’ subject to the same restrictions as their alcoholic products despite the lower alcohol content.**

Considering the possibility of cross-promotion outlined above, we have concerns about the proposed rule in **18.20/19.21**. Previous campaigns have featured lunchtime consumption or promote alcohol alternatives for groups such as pregnant women.¹¹ Similarly, the Heineken 0.0 ‘Now You Can’ campaign centred on transforming “traditionally non-beer moments into opportunities to enjoy a beer, without the alcohol”, with only 1 in 10 Heineken 0.0 Instagram posts showing the product in a traditional bar or pub setting.¹² Due to the similar imagery and packaging of alcohol alternatives, this type of additional marketing risks opening up new contexts and times to drink alcohol, even when products are labelled as non-alcoholic. Rather, we would recommend simply retaining 18.21/19.22, which prohibits marketing communications that encourage alcohol consumption at times or on occasions not generally considered to be appropriate.

Marketing NoLos in additional contexts means it is unlikely that alcohol-related harm will be reduced, and they can only be of public health benefit if they replace rather than add to existing consumption of higher strength products.¹³ With 44% of those consuming NoLos reporting no change in their overall alcohol consumption, it is critical that the guidelines prohibit this additional marketing.¹⁴

⁸ Kaewpramkusol, R. et al. (2019). [Brand advertising and brand sharing of alcoholic and non-alcoholic products, and the effects on young Thai people’s attitudes towards alcohol use: A qualitative focus group study](#). *Drug and Alcohol Review*.

⁹ Nicholls, E. (2022). [The Marketing and Consumption of No and Low Alcohol Drinks in the UK](#).

¹⁰ VPF. (2018). [Prohibition of alcohol advertising in Norway](#).

¹¹ Vasiljevic et al. (2019). [What are the perceived target groups and occasions for wines and beers labelled with verbal and numerical descriptors of lower alcohol strength? An experimental study](#). *BMJ*.

¹² Nicholls, E. (2022). [The Marketing and Consumption of No and Low Alcohol Drinks in the UK](#).

¹³ Anderson et al. (2021). [Production, consumption, and potential public health impact of low- and no-alcohol products: results of a scoping review](#). *Nutrients*.

¹⁴ Corfe, S. et al. (2020). [Alcohol-free and low-strength drinks: Understanding their role in reducing alcohol-related harms](#). Social Market Foundation/Alcohol Change.

Furthermore, it is especially dangerous to promote alcohol alternatives in this way when public awareness surrounding alcohol harms is already too low. For example, a national poll of 18-25-year-olds across the UK found that 26% were not aware of the Chief Medical Officers' (CMOs') guidance that it was safest not to drink when pregnant.¹⁵ Emphasis should therefore be placed on raising public awareness around these harms rather than normalising alcohol consumption. The guidance that presentation and context play a significant role in determining whether an alcohol alternative promotes alcohol consumption is currently too vague to ensure responsible marketing.

More measures are needed to better protect children from alcohol harm, who are already exposed to a significant amount of alcohol marketing. Almost 7 in 10 11-17-year-olds are aware of the brand Guinness, including 52% of 11-12-year-olds, demonstrating that existing advertising restrictions are ineffective.¹⁶ Youth exposure to alcohol marketing has been proven to be significantly associated with the initiation of alcohol use and hazardous drinking.¹⁷ Specific interventions are further needed for digital media formats. A recent study found that 40% of young people had seen alcohol adverts on social media platforms such as YouTube, Facebook, Snapchat, Instagram, and others in the past month.¹⁸

Comprehensive restrictions are the most effective way to protect children and young people from alcohol advertising. However, in the absence of these, other appropriate mechanisms may include a 9PM watershed for TV and on-demand services, and a prohibition of paid-for advertising online – policies that will be implemented for HFSS food and drinks.

We welcome the proposal that marketing communications include a prominent statement of their ABV if this is above 0% [**18.19/19.20**], which is crucial for those who wish to abstain from drinking entirely. It would be helpful for marketers if the guidance clarified what constitutes reasonable prominence to ensure legibility (with text above 3.5mm, equivalent to a 10-point font) as research has demonstrated the labelling of alcohol products is often inconsistent and illegible.¹⁹

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

Due to the similarities between alcohol alternatives and alcoholic products, the advertisement of NoLos can contribute to normalising a harmful drinking culture by implying that an alcoholic/alcohol-like drink is an essential component of relaxing, socialising, and having fun. It is therefore imperative they are marketed responsibly.

To avoid the indirect promotion of alcoholic drinks, at a minimum NoLos that share branding with alcoholic products should be subject to the standard advertising rules for alcohol products, as outlined above.

¹⁵ FASD (2020). [National poll of young adults](#).

¹⁶ Alcohol Health Alliance UK (2021). [No escape: How alcohol advertising preys on children and vulnerable people](#)

¹⁷ Jernigan, D. et al. (2016). [Alcohol marketing and youth consumption: a systematic review of longitudinal studies published since 2008](#). *Addiction*.

¹⁸ Alcohol Health Alliance UK (2021). [No escape: How alcohol advertising preys on children and vulnerable people](#)

¹⁹ Alcohol Health Alliance UK. (2020). [Drinking in the dark? How alcohol labelling fails consumers](#).

Nonetheless, marketing communications for NoLos with entirely separate brands still need to account for the possibility of gateway and additional marketing. Specifically, the standard rules should still be extended to protect children and young people from alcohol harm and prevent drinking in unsafe or irresponsible circumstances such as when pregnant, when driving, and at work. Ultimately, since consumers wish to drink NoLos in ways that mirror alcohol consumption, marketing communications should reflect this.²⁰

One instance in which it would be favourable for the marketing of alcohol alternatives to differ from the standard rules is the ability to highlight the lower % ABV as a motivating factor for consumers to choose NoLos.

²⁰ Nicholls, E. (2022). [The Marketing and Consumption of No and Low Alcohol Drinks in the UK](#).



Response to the Committee of Advertising Practice and Broadcast Committee of Advertising Practice consultation on new rules for alcohol alternatives

1. Is the definition of ‘alcohol alternatives’ clear, feasible, and appropriate?

1. ANBA is in agreement with the following definition, and believes it is clear and appropriate. “Alcohol alternatives are 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. A specific drink or range of drinks is an alcohol alternative if the audience is likely to consider it as such.”

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

1. ANBA would like CAP & BCAP to consider points 18.19 & 19.20 given the various ABV’s from 0.0 to 0.499%. This could lead to confusion of the audience. We believe that a clear statement EITHER 0.0% OR $\leq 0.5\%$ would be appropriate across any Advertisements in this category. This way should an advertisement be for a range of Alcoholic Alternatives then the $\leq 0.5\%$ would cover all the products rather than each product stipulating various ABV’s, which would cause greater confusion to the audience.
2. ANBA agrees with CAP 18.20 and BCAP 19.21, however we believe these points make the following points CAP 18.21 and BCAP 19.22 redundant. We feel strongly that so long as it’s clearly stated as Non-Alcoholic / Alcohol Free then sporting and work environments should be approved. For example, “Celebrate a Business Deal with a glass of Naughty (non-alcoholic sparkling wine) or enjoy a business lunch with a Lucky Saint (non-alcoholic beer) and retain a clear head for the afternoon meetings.” These are positive messages to encourage people to moderate their alcohol consumption and as such, should be supported and not shunned.

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

1. ANBA believes that CAP And BCAP need to set a clear position for Parent Brands holding both Alcoholic and Non-Alcoholic versions. For example, imagery, assets & marketing slogans, should not be shared between Alcoholic and Non Alcoholic versions. If they do share these then the full standard alcohol rules should apply.

Edward Gerard
Co-Chair Government Affairs ANBA
CCO Mocktail Beverages Inc.

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CEO & Founder Big Drop Brewing Co.

Balance response to consultation on advertising alcohol alternatives

Closing 5th May 2022 at 5pm

Submissions sent to adpolicy@cap.org.uk

1. Is the definition of ‘alcohol alternatives’ clear, feasible, and appropriate?

We feel that it is important to have a clear definition for consumers and marketers to ensure the public can make informed decisions and companies market their products in the most appropriate manner.

Although the proposed definition is useful in indicating the situational aspect of alcohol alternatives, there is currently insufficient evidence about whether such drinks act as an ‘alternative’ or as an additional or gateway drink, particularly for people in recovery.

Potential risks of ‘alcohol alternatives’ include triggering abstinent people in recovery to start drinking again, introducing children and young people to the taste and brands of alcoholic drinks, and such drinks being consumed in addition to current consumption levels, thus not reducing alcohol consumption.¹ For example, a recent survey of almost 1,000 people, carried out by Balance in the North East of England found that over two thirds (69%) of respondents consumed low or no alcohol products, when “normally they would have had a soft drink, or a hot drink and not alcohol.”²

As products can serve different functions for different people, the final sentence in the proposed definition is also too vague and could contribute to normalising alcohol consumption, or marketing products in contexts where it would be unsafe or irresponsible to drink alcohol.

The guidance for the proposed definition acknowledges that alcohol alternatives frequently share similar branding, presentation, and descriptors with alcoholic products, and therefore run the risk of indirectly promoting alcohol or irresponsible alcoholic drinking styles. To avoid this, we would recommend different rules for NoLo products that share the branding of their alcoholic counterparts and those that do not (see below).

At present, there is low public awareness about what constitutes an alcohol alternative in terms of alcohol content, and more needs to be done to explicitly inform the public about the ABV contents.³ For those who wish to abstain from any amount of alcohol, it is misleading to refer to products as non-alcoholic if they have an ABV above 0.05%. Therefore, we would recommend using the term ‘no and low alcohol’ (NoLo) products instead of ‘non-alcoholic drinks’ to enable a distinction. We also suggest the definition reflects Government guidelines on low alcohol descriptors, which specify that products with an ABV below 0.05% can qualify as ‘alcohol free,’ but those between 0.05% and 1.2% would fall under ‘low alcohol’ products.⁴

¹ Corfe, S. et al. (2020). [Alcohol-free and low-strength drinks](#).

² Balance Public Perceptions Survey 2022

³ Nicholls, E. (2022). [The Marketing and Consumption of No and Low Alcohol Drinks in the UK](#).

⁴ Department of Health and Social Care. (2018). [Low Alcohol Descriptors Guidance](#).

We recommend amending the definition to:

Alcohol alternatives are no and low alcohol drinks that are intended to replace alcoholic drinks in contexts where they would normally be consumed, for example non-alcoholic beer. Products qualify as no alcohol if they have an ABV below 0.05%, and low alcohol for those between 0.05% and 1.2%. A specific drink or range of drinks can be considered an alcohol alternative if it does not share the same branding as an alcohol brand.

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

The NoLo market may offer potential for reducing alcohol intake and improving public health. However, these products also run the risk of triggering relapses for those in recovery, acting as a gateway to alcoholic drinks, and normalising alcohol consumption, so it is critical that these guidelines are modified to sufficiently protect consumers from alcohol harm.

The suggested guidelines are unclear regarding how communications for alcohol alternatives should differ from alcoholic drinks when they share the same brand [18.18/19.19]. While the guidance recommends focussing on the alcohol-free product (rather than the brand), it is very difficult to discern how this is possible in practice. The guidelines themselves acknowledge that the branding of NoLos and alcoholic products are often closely related, presented and described in similar ways, and often featuring shared branding with alcoholic drinks. For example, many NoLo beers have obvious joint branding with their alcoholic counterparts.⁵

Previous research found that alcohol companies have strategically used this similar branding to indirectly promote alcoholic drinks, with young people associating brands with the 'flagship' alcoholic product regardless of what is being advertised.⁶ Research exploring Heineken 0.0's advertising campaigns found that consumers struggled to differentiate between Heineken's alcohol-free and alcoholic products due to the similarity of the bottle. This encourages brand allegiance, including amongst consumers under the legal drinking age.⁷

These examples of alibi advertising demonstrate that marketing alcohol alternatives runs the risk of cross-promotion even when the alcohol-free nature of a product is highlighted, and this must be addressed specifically in the new guidelines. Norway have avoided this by subjecting NoLo products to the same advertising restrictions as alcoholic products if they share branding.⁸ **We recommend that the guidelines focus on regulating brands rather than ABV, making NoLo products from 'parent brands' subject to the same restrictions as their alcoholic products despite the lower alcohol content.**

⁵ Corfe, S. et al. (2020). [Alcohol-free and low-strength drinks: Understanding their role in reducing alcohol-related harms](#). Social Market Foundation/Alcohol Change.

⁶ Kaewpramkusol, R. et al. (2019). [Brand advertising and brand sharing of alcoholic and non-alcoholic products, and the effects on young Thai people's attitudes towards alcohol use: A qualitative focus group study](#). *Drug and Alcohol Review*.

⁷ Nicholls, E. (2022). [The Marketing and Consumption of No and Low Alcohol Drinks in the UK](#).

⁸ VPF. (2018). [Prohibition of alcohol advertising in Norway](#).

Considering the possibility of cross-promotion outlined above, we have concerns about the proposed rule in **18.20/19.21**. Previous campaigns have featured lunchtime consumption or promote alcohol alternatives for groups such as pregnant women.⁹ Similarly, the Heineken 0.0 ‘Now You Can’ campaign centred on transforming “traditionally non-beer moments into opportunities to enjoy a beer, without the alcohol”, with only 1 in 10 Heineken 0.0 Instagram posts showing the product in a traditional bar or pub setting.¹⁰ Due to the similar imagery and packaging of alcohol alternatives, this type of additional marketing risks opening up new contexts and times to drink alcohol, even when products are labelled as non-alcoholic.

Marketing NoLos in additional contexts means it is unlikely that alcohol-related harm will be reduced, and they can only be of public health benefit if they replace rather than add to existing consumption of higher strength products.¹¹ With 44% of those consuming NoLos reporting no change in their overall alcohol consumption, it is critical that the guidelines prohibit this additional marketing.¹²

Furthermore, it is especially dangerous to promote alcohol alternatives in this way when public awareness surrounding alcohol harms is already too low. For example, a national poll of 18-25-year-olds across the UK found that 26% were not aware of the CMOs’ guidance that it was safest not to drink when pregnant.¹³ Emphasis should therefore be placed on raising public awareness around these harms rather than normalising alcohol consumption. The guidance that presentation and context play a significant role in determining whether an alcohol alternative promotes alcohol consumption is currently too vague to ensure responsible marketing.

More measures are needed to better protect children from alcohol harm, who are already exposed to a significant amount of alcohol marketing. Almost 7 in 10 11-17-year-olds are aware of the brand Guinness, including 52% of 11-12-year-olds, demonstrating that existing advertising restrictions are ineffective.¹⁴ Youth exposure to alcohol marketing has been proven to be significantly associated with the initiation of alcohol use and hazardous drinking.¹⁵ Specific interventions are needed for digital media formats, following a recent study that found 40% of young people had seen alcohol adverts on social media platforms such as YouTube, Facebook, Snapchat, Instagram, and others in the past month.¹⁶ We would also propose including a 9PM watershed for TV and on-demand services for the promotion of alcohol alternatives, and a prohibition of paid-for advertising online.

⁹ Vasiljevic et al. (2019). [What are the perceived target groups and occasions for wines and beers labelled with verbal and numerical descriptors of lower alcohol strength? An experimental study.](#) *BMJ*.

¹⁰ Nicholls, E. (2022). [The Marketing and Consumption of No and Low Alcohol Drinks in the UK.](#)

¹¹ Anderson et al. (2021). [Production, consumption, and potential public health impact of low- and no-alcohol products: results of a scoping review.](#) *Nutrients*.

¹² Corfe, S. et al. (2020). [Alcohol-free and low-strength drinks: Understanding their role in reducing alcohol-related harms.](#) Social Market Foundation/Alcohol Change.

¹³ FASD (2020). [National poll of young adults.](#)

¹⁴ Alcohol Health Alliance UK (2021). [No escape: How alcohol advertising preys on children and vulnerable people](#)

¹⁵ Jernigan, D. et al. (2016). [Alcohol marketing and youth consumption: a systematic review of longitudinal studies published since 2008.](#) *Addiction*.

¹⁶ Alcohol Health Alliance UK (2021). [No escape: How alcohol advertising preys on children and vulnerable people](#)

We welcome the proposal that marketing communications include a prominent statement of their ABV if this is above 0% [**18.19/19.20**], which is crucial for those who wish to abstain from drinking entirely. It would be helpful for marketers if the guidance clarified what constitutes reasonable prominence to ensure legibility (with text above 3.5mm, equivalent to a 10-point font) as research has demonstrated the labelling of alcohol products is often inconsistent and illegible.¹⁷

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

Due to the similarities between alcohol alternatives and alcoholic products, the advertisement of NoLos can contribute to normalising a harmful drinking culture by implying that an alcoholic/alcohol-like drink is an essential component of relaxing, socialising, and having fun. It is therefore imperative they are marketed responsibly.

To avoid the indirect promotion of alcoholic drinks, at a minimum NoLos that share branding with alcoholic products should be subject to the standard advertising rules for alcohol products.

Nonetheless, marketing communications for NoLos with entirely separate brands still need to account for the possibility of gateway and additional marketing. Specifically, the standard rules should be extended to protect children and young people from alcohol harm and prevent drinking in unsafe or irresponsible circumstances such as when pregnant, when driving, and at work. Ultimately, since consumers wish to drink NoLos in ways that mirror alcohol consumption, marketing communications should reflect this.¹⁸

One instance in which it would be favourable for the marketing of alcohol alternatives to differ from the standard rules is the ability to highlight the lower % ABV as a motivating factor for consumers to choose NoLos.

¹⁷ Alcohol Health Alliance UK. (2020). [Drinking in the dark? How alcohol labelling fails consumers.](#)

¹⁸ Nicholls, E. (2022). [The Marketing and Consumption of No and Low Alcohol Drinks in the UK.](#)



ASA Consultation on Advertising of Alcohol Alternative Drinks

British Beer & Pub Association Response

5th May 2022

Introduction

The British Beer & Pub Association is the leading trade body representing companies across the UK, which between them own around 20,000 pubs and brew over 90 percent of beer sold in the UK. Member companies have many different ownership structures, including UK PLCs, privately-owned companies, independent family-owned brewers and UK divisions of international brewers.

The brewing and pub industry in the UK makes a major contribution to the local and national economy. The sector generates £23 billion of economic value and supports 900,000 jobs. 85% of pubs in the UK are run as SMEs.

Executive Summary

Our members are proud of their reputation as responsible producers and retailers and their proactive work with Government and other stakeholders on numerous voluntary initiatives aimed at discouraging irresponsible and harmful consumption of alcohol over the years to demonstrate their commitment. We believe that the voluntary approach has yielded great success to ensure that UK brewers and pub operators play their part in helping to tackle harmful consumption of alcohol and ensuring consumers are informed of the nature and characteristics of their favourite pint, including the growing availability and diversity of low and no alcohol beers.

We are supportive of ASA in working on the development of the new rules and which we believe will be important to ensure that low and no alcohol products are advertised and promoted appropriately. We are also grateful of the opportunity to comment on the proposed new rules and remain enthusiastic to work with the ASA to ensure that the new rules deliver against the stated policy aims and objectives whilst supporting growth and innovation across the category.

Broadly we are supportive of the new rules and what they are seeking to achieve. We have made some observations in our fuller responses to the consultation questions below, however in summary the

following are the points that we would particularly seek to raise in response to the draft rules and guidance:

- We would prefer that ASA to develop a more focused definition of alcohol alternative products and one which reflects those products that are genuinely intended as an alternative to full-strength drinks. Encompassing a wider, less well-defined definition that could include soft drinks, water and fruit juices then complicates the new rules as well as diluting their intentions. We are also concerned that this carries the potential to upset the growth within the low and no alcohol category. Separately, carbonated and non-carbonated soft drinks and fruit juices also carry other implications for consumer health, and which are not referenced within the new rules i.e. HFSS.
- The rules, and final definition, should not derail or disrupt the potential for further growth within the low and no-alcohol drink sector. Whilst growth has been significant to date, it remains from a low base and therefore it is important that further expansion of the category should not be inhibited to ensure that the awareness and availability of such products continues to develop.
- As well as protecting against the indirect encouragement of consumption of alcohol at higher levels or inadvertent promotion of full-strength products, the rules should provide a level playing field and recognise and allow flexibility for producers to promote alcohol alternative products, particularly where these are alcohol free, in opportunities where promotion of full-strength alcohol may not normally be appropriate, whether for health or social reasons, but where consumption or enjoyment of low strength drinks is acceptable and may be desirable to those adults seeking to avoid or reduce their alcohol consumption.

We hope that the following responses are helpful in the context of this consultation and remain ready to assist the ASA further as necessary.

Consultation Questions

The following are our full responses to the questions posed within this consultation:

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

We support the need for a definition for 'alcohol alternative' drinks, however we would challenge the nature of the definition as proposed within the consultation and specifically with regards to the scope of the definition, which we suggest is ultimately too broad and highly subjective. We believe that it is necessary to develop a less subjective definition which both reflects the true extent of alcohol alternative drinks but does not risk curtailing the growth potential for the category nor inhibit further innovation as the category evolves.

The consultation proposes that alcohol alternative products would include drinks that have an alcohol strength that does not exceed 0.5% ABV and which we would consider to be traditionally associated with alcohol free and low or dealcoholised drinks produced as alternatives to full-strength drinks.

However, we do not support the wider condition that this definition should also include a specific drink or range of drinks as an alcohol alternative “if the audience is likely to consider it as such”. Such a condition introduces a significant degree of subjectivity which, even based on the additional category information mentioned with the guidance (and which is noted as a non-exhaustive list), broadens the potential scope of the definition too far. In particular, when evaluating whether or not a drink may be considered as an alcohol alternative, it will be important to differentiate between drinks that are genuinely intended as an alternative or, more likely in social situations, where a drink may be chosen by a consumer as the only drink available which did not contain alcohol.

Particularly in relation to preventing indirect promotion of full strength drinks, we believe that such a broad definition overcomplicates the situation with regards to promotion of alcohol free or low alcohol drinks as alternatives to full-strength products as well as the ability to monitor or enforce the new rules.

The consultation notes that there has been no statutory threshold since 2018 to constitute a non-alcoholic drink. This would encompass the definition of an ‘alcohol replacement drink’ laid down in the Soft Drink Industry Levy in 2018 and ‘voluntary’ descriptors for the appropriate use of terms to describe low alcohol drinks as described in the DHSC guidance on use of low alcohol descriptors.

Whilst now established within guidance, use of the current low alcohol definitions remains enforceable in the UK by local Trading Standards Authorities under those clauses within food labelling Legislation that relate to fair information practices. We believe that it is important not to underestimate the purpose of clear, relevant low alcohol descriptors. The current descriptors have been included in UK food labelling Legislation since at least 1996 and until they were removed into Guidelines under a Sunset Clause in 2014.

Taking into account the above, we believe that the low alcohol descriptors in their current format should be reviewed and the BBPA is lobbying for these to be aligned with descriptors used to define alcohol free products in other global markets, including the EU. However, until such time as the current definitions are revised, we would assert that any references to low alcohol products as used in the new ASA rules and associated guidance should be consistent with the definitions as they are published within the existing DHSC guidelines on low alcohol descriptors.

With regards to the proposed definition for drinks that may be considered to be alcohol alternatives, and particularly when considering drinks that are produced without alcohol, the ASA should also consider where these may include characteristics that might be considered unhealthy in a context that aligns with efforts to reduce harmful consumption of alcohol, but which are not covered within the proposed new rules i.e. HFSS.

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

The BBPA is broadly supportive of the new rules and their intention, in particular to ensure that vulnerable groups are protected from indirect marketing of alcohol drinks. We do not believe that there is any compelling evidence that alcohol free drinks are a gateway to consumption of higher strength drinks. Indeed, the benefit from the availability of such drinks to adults who are seeking to reduce their alcohol consumption or who are looking for an alternative to an alcohol drink in given social situations is well documented.

Research published by the Advertising Standards Authority in 2021 shows that children's exposure to TV ads for alcohol is falling at a faster rate than their exposure to all TV ads, making up just 0.9% of the adverts seen by children. We acknowledge the complexity of social and digital marketing however companies have also worked to ensure responsibility in the digital sphere, where the industry have worked closely with social media companies to create Digital Guiding Principles to improve age screening, enabling users to opt out of alcohol marketing, and allowing content creators to age-gate posts.

Therefore, whilst we support the development of rules to help brand owners to understand how to market and promote alcohol free products appropriately, we believe that it will be important to ensure that the new rules do not become a barrier to further growth in the sector. Whilst this growth has been significant, it is still from a small base and as a sector we are conscious that there remains significant further potential for the category. We welcome that the proposals clearly note the fact that consumption of drinks up to 0.5% ABV carries no appreciable risk of intoxication. Particularly in the case of alcohol-free drinks, rules on their promotion should therefore reflect where such products offer new opportunities to adults that are not appropriate to full-strength drinks.

It will also be important to ensure that the rules do not conflict with or further complicate existing, statutory requirements under UK food labelling Legislation. This will avoid the need for any costly modification or changes to existing product labels and so that companies can implement the new rules as quickly as possible.

Specific comments on the proposed CAP/BCAP rules & guidance are as follows:

CAP/BCAP Rules Preamble

Noted above our concern that alcohol alternatives would include any drink or range of drinks considered to be so by the audience makes the definition too broad.

18.19/19.20

The rules should as far as possible remain consistent with the descriptors as included in the DHSC low alcohol labelling guidelines. References to statements that refer to ABV and particularly where these are

in relation to product labelling must be consistent and not conflict with Statutory UK food labelling requirements (EU 1169/2011).

5. Background

Whilst we see no compelling evidence that this is taking place, we acknowledge the need to continue to take measures to avoid inadvertent or indirect and inappropriate promotion of alcohol. However we would also reiterate, particularly in relation to alcohol free drinks, there will be new opportunities to promote such drinks to adults for occasions that would not normally be appropriate for full-strength and which are important as part of raising awareness of choice and the opportunity and benefits of low and no alcohol products. The rules should not inhibit such opportunities and which may represent a barrier to further growth in the sector.

5.2

As noted above, descriptors for the appropriate use of terms to describe low alcohol drinks remain clearly described in the DHSC guidance on use of low alcohol descriptors. These descriptors have been established since their inclusion in the 1996 Food Labelling Regulations and ultimately removed under a sunset clause from the more recent Consumer Food Information Regulations (EU 1169/2011). Whilst these descriptors have been moved into Guidelines, and until such time as they are revised, they are familiar to the sector and remain enforceable through Local Trading Standards if a breach of the descriptor rules results in labelling being considered as misleading, inaccurate or unclear.

We support the establishment of the threshold for the rules to apply to drinks with a strength of 0.5% ABV or below. However, and as also noted for Q1, we believe that this is sufficient justification for a more focused definition of alcohol alternative drinks for the purposes of these rules. Such a definition should reflect the true extent of alcohol alternative drinks and which does not curtail the growth potential for the category nor inhibit further innovation as the category evolves.

5.3

With reference to the focus on the bulleted broader principles, whilst we would support the aim of preventing indirect promotion of alcohol and/or promotion of irresponsible consumption, particularly to vulnerable groups, *it is difficult to understand* where alcohol alternatives would or could be consumed irresponsibly.

5.4

Definition of Alcohol Alternatives

As noted above, we would prefer a more focused, less subjective definition of alcohol alternative drinks. An open-ended definition that permits the inclusion of any drink, including carbonated and non-carbonated soft drinks, fruit juices and water, which may also be considered to be alternatives under the ASA proposals, risks diluting this effort, undermines the potential for growth and innovation within the category and potentially makes the new rules unwieldy and overly complicated. There are similarly

characteristics in some of these alternative drinks that might be considered unhealthy in a context that aligns with efforts to reduce excessive consumption of alcohol but which has not been covered within the new rules i.e. HFSS.

Alcohol Alternatives by Alcohol Brands

We are broadly supportive of this element of the guidance – that shared branding will not automatically preclude a product from the alcohol alternatives code. Marketeers should be given full license to draw comparisons between alcohol alternatives and their alcoholic equivalents, to nudge consumers towards the category. We believe that some of the examples given for claims that would be permitted versus those that would not be allowed under the code remain particularly nuanced. It will be necessary for ASA to provide further expanded or more comprehensive examples to aid clear understanding of the rules and to ensure a level playing field with regards to the application of the rules across the whole category.

Additional Drinking Occasions

As we have noted above, whilst we are not aware of any compelling evidence that this is occurring, we recognise that avoiding inadvertent or indirect and inappropriate promotion of alcohol should always be considered when advertising alcohol free and low alcohol drinks. However any new rules must acknowledge, particularly in relation to alcohol free drinks, that there will be new opportunities to promote such products to adults. Whilst these opportunities may not necessarily be considered appropriate for full-strength, they remain important as part of raising awareness of the category and associated benefits of low and no alcohol products. The rules should not inhibit such opportunities, particularly when the evidence indicates that the category is already helping consumers to moderate their alcohol consumption, and which may present a barrier for further growth in the sector.

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

On ‘shared branding’, we would welcome clarification on the differences between the examples given in guidance and the consultation. The table given in guidance appears to state that “*the taste you know and love*” would invoke the full alcohol rules, whilst the consultation says “*if you like our gin, you’ll love this alcohol-free alternative*” would not be considered to promote the original product.

We are concerned that these differences create a situation where products that have been developed as an alcohol free or low alcohol version of a full-strength brand are then disadvantaged in comparison with new beers that are developed as low alcohol or alcohol free. In particular, any restriction around the ability to promote ‘flavour’ or ‘taste’ as part of the promotion of the product represents a potential barrier to growth and since one of the principal objections from consumers levied against perceptions of quality or their enjoyment of low alcohol or alcohol free drinks is the balance of flavours or the taste of the product.

Contact:

For further information or to discuss any aspect of this response:

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Contribution to the UK consultation on new rules and guidance to regulate alcohol alternative products

About Verband Deutscher Sektkellereien e.V. and Bundesverband Wein und Spirituosen International e.V.

Where the Association of German Sparkling Wineries represents around 95 % of sparkling wine production in Germany and has been committed to the general commercial interests of its members at national and international level for 130 years, the Association of Wine and Spirits International has been representing the main import volume of produced, imported and distributed wine and spirits in Germany for more than 70 years. None of the associations pursues its own economic purposes.

Our comments:

As trade associations, the Verband Deutscher Sektkellereien e.V. and the Bundesverband Wein und Spirituosen International e.V. also take on the task of advising on technical and legal issues and are committed to ensuring that the versatility, innovative strength and quality of sparkling wine and wine products either with alcohol, low alcohol or no alcohol enjoy the reputation of connoisseurs worldwide.

The industry shows a high degree of responsibility when marketing its alcoholic products. Our members fear that the proposed rules and guidance to regulate the advertising of alcohol alternative products might be too restrictive and are concerned with some simplistic and misleading messages that seem to be conveyed directly or indirectly in the documents:

- Moderate alcohol consumption and a healthy lifestyle are compatible. None of the documents (consultation document and guidance) distinguishes between harmful use of alcohol and responsible and moderate drinking, clearly alleging that “reducing alcohol intake is beneficial”, implying that this is also true for those drinking in moderation and that there is no space for a safe consumption of alcohol in moderation.
- In the guidance document, when it comes to ABV statements, it is stated that ads for alcohol alternatives may make a feature of their ABV (or total lack) and state or imply that the product is preferable because of it.
- While acknowledging that excessive consumption of alcohol is linked to increased health risk, scientific evidence shows that drinking wine in moderation, with a meal, as part of healthy lifestyles and dietary patterns, in particular the Mediterranean diet, does not seem to increase health risk and might even be linked to some health benefits.

The companies believe that the private sector should be best placed to adopt self-regulation to regulate its advertising activities in relation to no- and low-alcoholic beverages.

Overall in some parts of the consultation document it felt as though it leans too heavily to derisking presentation of alcohol vs the upside of alc alternatives.

Public health guidance is clear that reducing alcohol intake is beneficial, and the alcohol alternative market is one of the elements that makes this easier for consumers. As such, CAP and BCAP consider that it is important for the 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.

This is the principle point for us. We hope these guidelines can focus on encouraging and enabling alc alternative brands to talk to consumers about the health benefits of a lower alc intake lifestyle. Yes, brands can and should do this in the advertising space without the need to reference perceptions around excess drinking. The rules and guidance needs to be careful in that it risks preventing alc alternative brands from clearly landing the benefit messages for fear of presenting too much reference to the alc occasion.

18.20

Marketing communications that feature alcohol alternatives being consumed in circumstances that would be inappropriate or unsafe for alcoholic drinks must make clear that the product is non-alcoholic.

18.21

Marketing communications for alcohol alternatives must not encourage the consumption of alcohol at times or on occasions that are not generally considered to be appropriate, such as during the working day or during sporting activities.

The two points above feel quite contradictory. In spaces like this the guidance will need to be crystal clear. It's covered further down in a little more detail, but I think this remains a watch-out and in need of monitoring.

Building from this principle, one of the ways in which CAP and BCAP propose enabling the transition between alcohol and alternatives is to allow advertisers to compare an alternative with their standard alcoholic drinks in a factual manner without being interpreted as promotional. For instance, claims such as “The same hoppy taste as our usual IPA” or “if you like our gin, you’ll love this alcohol-free alternative” would not be considered to promote the original product and would therefore not be subject to the full Alcohol rules. However, claims that are overtly promotional, such focusing on the reasons to purchase the alcoholic version, would invoke the alcohol rules. This would include claims (promotional aspects bolded) such as “an alcohol free version of our best-selling prosecco” or “the same fantastic taste, just without the alcohol.”

Referencing earlier point above, this was quite hard to make sense of just from reading it.

Excessive alcohol consumption

As noted in some of the above points, alcohol alternatives often use imagery and contexts that are redolent of alcohol and the surrounding social culture, as these help to position the products as alternatives to alcohol drinks, particularly in social settings. Some of these ads may feature some of the downsides of drinking to persuade consumers to switch, or may push the need for being sober to be more ‘fun’.

CAP and BCAP consider that both these approaches may, in some instances, have the effect of encouraging excessive consumption of alcohol, either by depicting heavy drink as normal or hedonistic, or by presenting sobriety as dull, strange, or otherwise undesirable. References to wanting or needing to drink in situations that are usually considered unacceptable (see 'Additional drinking occasions' above) would also be considered irresponsible. Therefore, the proposed rules prohibit content that encourages excessive or problematic alcohol consumption. However, this rule does not seek to prohibit ads from showing excessive drinking in the context of persuading heavy drinkers to switch all or some of their drinks to non-alcoholic alternatives, as long as these depictions are not framed as desirable or normal.

This is the one we have an issue with. You can present excessive drinking, but you can't just show that a social occasion that involves alcohol for people that don't drink excessively is a fun occasion. And that substituting an alc alternative into that social occasion is a positive enabler and positive contribution to social issues relating to alc consumption. I think this is potentially flawed and misses the point. There is a global mainstream trend towards moderation

05/05/2022

CEEV contribution to the UK consultation on new rules and guidance to regulate alcohol alternative products

About CEEV

Comité Européen des Entreprises Vins (CEEV – www.ceev.eu) was founded in 1960 and represents the wine and aromatized wine companies in the industry and trade in the European Union. CEEV brings together 25 national organisations from 13 EU Member States plus Switzerland, Ukraine and United Kingdom (WSTA), and its members produce and market the vast majority of quality European wines, both with and without a geographical indication, and account for over 90% of European wine exports.

CEEV comments

- CEEV fears that the proposed rules might be too restrictive and believes that the private sector should be best placed to adopt self-regulation to regulate its advertising activities in relation to no- and low-alcoholic beverages.
- Moreover, CEEV is concerned with some simplistic and misleading messages that seems to be conveyed directly or indirectly in the documents:
 - None of the documents (consultation document and guidance) make any distinction between harmful use of alcohol and responsible and moderate drinking, clearly alleging that “reducing alcohol intake is beneficial”, implying that this is also true for those drinking in moderation and that there is no space for a safe consumption of alcohol in moderation.
 - In the guidance document, when it comes to ABV statements, it is stated that ads for alcohol alternatives may make a feature of their ABV (or total lack) and state or imply that the product is preferable because of it.
 - While acknowledging that excessive consumption of alcohol is linked to increased health risk, scientific evidence shows that drinking wine in moderation, with a meal, as part of healthy lifestyles and dietary patterns, in particular the Mediterranean diet, does not seem to increase health risk and might even be linked to some health benefits.



Committee of Advertising Practice
Castle House
37-45 Paul Street
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London, 4 May 2022

Response to the Committee of Advertising Practice and Broadcast Committee of Advertising Practice consultation on new rules for alcohol alternatives

Club Soda is a mindful drinking movement. We represent both individual consumers interested in low and no alcohol drinks, and companies producing them.

This is our response to the consultation on new rules for alcohol alternatives (in what follows, questions and direct quotes from the consultation document are in an *italic font*).

1. Is the definition of ‘alcohol alternatives’ clear, feasible, and appropriate?

Broadly yes. There will though, inevitably, be cases that fall outside of the definition. For example, fermented drinks such as kombuchas and kefir can have an ABV of 0.5% and even higher, but would not be considered “alcohol alternatives” so would be outside of the scope. And there will almost certainly be future innovations that will be even more difficult to fit into these rules and guidance.

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

Overall, we feel that parts of the wording lean too heavily to de-risking the potential presentation of alcohol, as opposed to promoting the benefits of alcohol alternatives.

In general, some of the occasions where it is suggested that talking about alcohol-free drinks would not be allowed are still based on drinking alcohol, and

not on the fact the alcohol alternatives are just drinks that are good for hydration – often with an alcohol content lower than some soft drinks. So drinking them at lunch/gym/after sports etc should all be okay and there is no reason to discourage the presentations of such in advertising either.

We have specific comments on the following points in the consultation document.

18.19 Marketing communications for alcohol alternatives with ABVs above 0% must include a prominent statement of their ABV.

What is meant here by “above 0%” exactly? All alcohol alternative drinks will contain at least a minuscule amount of ethanol. Or is there a threshold (0.05%?) implied here? And secondly, could this inclusion be met by using words such as “alcohol-free” or “non-alcoholic”, or must the exact ABV always be used?

18.20 Marketing communications that feature alcohol alternatives being consumed in circumstances that would be inappropriate or unsafe for alcoholic drinks must make clear that the product is non-alcoholic.

18.21 Marketing communications for alcohol alternatives must not encourage the consumption of alcohol at times or on occasions that are not generally considered to be appropriate, such as during the working day or during sporting activities.

These two points (18.20 and 18.21) feel somewhat contradictory: make clear that product is non-alcoholic, but do not feature these occasions? In these points the guidance will need to be crystal clear and unambiguous. We also struggle to see how promoting alcohol-free drinks would encourage consumption of alcohol?

Alcohol is today also consumed (and portrayed as being consumed) at almost all times and occasions. For example at breakfast/brunch (“bottomless prosecco” offers etc) and around exercise (e.g. team bonding afterwards). Restricting the role of alcohol-free drinks seems unfair in this environment.

And while nobody would encourage drinking and driving, an alcohol-free drink is the perfect alternative to alcohol for this occasion. Our research found that more than a quarter of drivers will drink at least one alcoholic drink when driving to a licensed venue¹. Therefore, encouraging all drivers to have alcohol-free drinks only would be preferable.

¹ Jessy Parker Humphreys and Jussi Tolvi: Drivers’ views on non-alcoholic drinks in venues, 2021, see <https://joinclubsoda.com/product/drivers-views-on-non-alcoholic-drinks-in-venues-full-report/>

18.22 Marketing communications must not encourage excessive or otherwise problematic consumption of alcohol or promote alcohol alternatives in a way that might encourage an increase in drinking. This does not prohibit ads from encouraging heavy or binge drinkers to swap to alcohol alternatives.

As above, how would promotion of alcohol alternatives encourage increased use of alcohol?

Public health guidance is clear that reducing alcohol intake is beneficial, and the alcohol alternative market is one of the elements that makes this easier for consumers. As such, CAP and BCAP consider that it is important for the 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.

This is a very important point for us. We hope that these guidelines can focus on encouraging and enabling alcohol alternative brands to talk to consumers about the health benefits of a lower alcohol intake lifestyle. Yes, brands can and should do this in the advertising space without the need to reference perceptions around excess drinking. The rules and guidance needs to be careful in that it risks preventing alcohol alternative brands from clearly landing the benefit messages for fear of presenting too much reference to the alcohol occasions.

*Building from this principle, one of the ways in which CAP and BCAP propose enabling the transition between alcohol and alternatives is to allow advertisers to compare an alternative with their standard alcoholic drinks in a factual manner without being interpreted as promotional. For instance, claims such as “The same hoppy taste as our usual IPA” or “if you like our gin, you’ll love this alcohol-free alternative” would not be considered to promote the original product and would therefore not be subject to the full Alcohol rules. However, claims that are overtly promotional, such focusing on the reasons to purchase the alcoholic version, would invoke the alcohol rules. This would include claims (promotional aspects **bolded**) such as “an alcohol free version of our **best-selling** prosecco” or “the same **fantastic** taste, just without the alcohol.” (page 12)*

Some producers of alcohol alternatives felt that this part of the guidance is quite hard to understand and could be expanded on.

The paragraph on *Excessive alcohol consumption* on page 15 seems to suggest that you can present excessive drinking, but you can’t just show that a social occasion that involves alcohol for people that don’t drink excessively is a fun occasion. And that substituting an alcohol alternative into that social occasion is a positive enabler and positive contribution to social issues relating to alcohol consumption.

This thinking is potentially flawed and misses the point. There is a global mainstream trend towards moderation.

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

We don't think they should apply in most situations.



Laura Willoughby
CEO



Jussi Tolvi
Director

The Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) - Consultation on advertising alcohol alternatives: Diageo Great Britain submission

Executive summary:

- Diageo Great Britain welcomes the proposals by the Committee of Advertising Practice (“CAP”) and Broadcast Committee of Advertising Practices (“BCAP”) to introduce new rules and guidance to strengthen the regulation around the advertising of alcohol alternative products.
- Diageo is a leading producer of beverage alcohol in the UK, with a number of well-known no and low alcohol brands in our portfolio, such as Seedlip, Gordon’s 0.0 and Guinness 0.0. Our ambition is to shape and lead the ‘no alcohol’ spirits segment, and we want to provide consumers with choice. We do not think consumers should have to compromise on taste on those occasions when they choose not to drink or moderate their alcohol intake.
- Our brands, alcoholic and non-alcoholic, are made to be enjoyed responsibly, and we promote moderation through our [DRINKIQ](#) platform, through our brands and through our labels in Great Britain, which include calorie information per serve and an enhanced health warning.
- Diageo is committed to being a responsible marketer, and we provide consumers with the information and tools they need to make responsible choices about drinking or not drinking. For example, the Diageo Marketing Code is our mandatory minimum marketing standard. It governs how we, and any third parties we work with, must operate.
- We agree with the view of the consultation that *alcohol alternatives* are an adult product category, and therefore, should be marketed in a socially responsible way due to their close association with alcoholic drinks. This is already the approach Diageo takes regarding our own no and low alcohol portfolio. We, therefore, agree that the introduction of guidelines will help support the category to innovate and grow in a sustainable and responsible way.
- However, we believe that any new guidance or rules around the marketing and advertisement of alcoholic alternatives should be proportionate and not risk the unintended consequence of limiting consumer choice if the category is only able to advertise in a limited scope of occasions.
- Furthermore, while we agree that guidance is needed to ensure against irresponsible cross-promotion with alcoholic products, the guidance should not impede the ability of an alcohol alternative to present itself as a viable substitute to consumers in the form of taste, look, quality and more.

Promoting trends of moderation in the UK:

- The majority of adults in the UK drink responsibly, with 4 in 5 (77%) UK adults either not drinking or drinking below the 14-unit low-risk threshold set by the Chief Medical Officer¹.
- The no and low alcohol category plays an important part in supporting consumers looking to moderate their alcohol intake. A recent YouGov poll commissioned by the Portman Group in its fourth annual survey exploring UK consumer attitudes to low and no alcohol found that over a quarter (26%) of those who have tried low and no alcohol say that their subsequent weekly alcohol consumption has decreased since they first tried it. The most cited reasons for the appeal of low and no alcohol to consumers are that it enables them to drive home and not drink excessively at social events².
- Our portfolio of no and low alcohol brands provides consumers with a breadth of choice in the UK. We know that when consumers choose not to drink alcohol, they want to be able to enjoy the drink they have without compromising on taste, and we believe that our no and low portfolio in the UK ensures they are able to do exactly that.

¹ <https://digital.nhs.uk/data-and-information/publications/statistical/health-survey-for-england/2019>

² Ibid.

The Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) - Consultation on advertising alcohol alternatives: Diageo Great Britain submission

- We welcome the opportunity to respond to this important consultation and provide our insight to ensure that the guidance and rules being created are supporting producers to be responsible marketers while enabling the category to grow and attract new consumers.

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

- We agree that the term 'alcohol alternative' appropriately defines the category that the newly proposed rules and guidance intend to capture. However, we view the current definition of alcohol alternatives proposed by CAP and BCAP, that *"a specific drink or range of drinks is an alcohol alternative if a reasonable person is likely to consider it as such"* as being too subjective and would welcome further clarification of this definition.
- An alternative approach would be to align the definition with that used in existing legislation to ensure products are being treated consistently from a regulatory perspective and ensure greater standardisation for brands.
- We are also supportive of the ABV threshold for alcohol alternatives being 0.5% ABV or under. However, our view is that the descriptor "alcohol-free" should be reserved for products that are below 0.05% ABV. This is in line with the current UK Government guidance and would ensure that the guidance on ABV statements reflects this.
- We request that any guidance on the displaying of ABV on alcohol alternatives with an ABV above 0% clearly states the number of decimal places to which the ABV should be rounded and how it should be presented. The Food Information to Consumers Regulations do not require the ABV of a product to be displayed if it is 1.2% and below. For those products above 1.2% ABV, the figure should be presented to not more than one decimal place. We strongly encourage CAP and BCAP to align their guidance with the approach mandated by regulation for alcoholic products so that products which are below 0.05% ABV and considered alcohol-free under UK Government guidance are deemed to have an ABV of 0.0% for the purposes of the rules.
- Furthermore, the guidance suggests that a product can only be considered alcohol-free if certain production processes are followed. However, we encourage CAP and BCAP to make the guidance consistent with UK Government guidance and simply use the ABV threshold of 0.05% to determine if a product is alcohol-free.
- Unless the rules and guidance are in line with current regulations on ABV marking and UK Government guidance on alcohol-free products, a product could be labelled as alcohol-free with no ABV marking but, when advertising, the product would have to include an ABV marking, as it may not be considered "genuinely alcohol-free" under the CAP and BCAP codes. This inconsistency would add unnecessary complexity and likely confuse consumers.
- We also believe that not restricting production methods for alcohol-free products or requiring ABV marking too many decimal places for alcohol alternatives, will encourage innovation of truly alcohol-free products for the benefit of consumers.

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

- We are pleased that CAP and BCAP are aiming to provide marketers with greater clarity around the responsible advertising of alcohol alternatives through this consultation to enable the category to innovate and grow sustainably and responsibly. We also welcome the consultation's recognition that *"the extremely low alcoholic strength of alcohol alternatives means that they are incapable of intoxicating consumers and their risk profile is therefore significantly reduced"* and therefore that any new rules or guidance should be applied in a proportionate way, given the lower risk profile of these products.

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- However, we have some concerns that the guidance 18.21/19.22 *“Marketing communications for alcohol alternatives must not encourage the consumption of alcohol at times or on occasions that are not generally considered to be appropriate, such as during the working day or during sporting activities”* is too broad in its current wording, and we would welcome further clarity around the exact occasions and the specific context of an alcohol alternative in an advert that would ultimately encourage or promote alcohol consumption.
- For example, if an advert presented a situation of adults at a working lunch consuming an alcohol alternative, which was clearly presented as alcohol-free or non-alcoholic in the advert, rather than indirectly promoting the consumption of an alcoholic drink, we believe this is encouraging and prompting adults to drink responsibly and moderate their alcohol content by choosing alcohol alternatives. Additionally, an advert might depict a scenario where an adult is likely to be driving but is also worried about peer pressure when with friends or in a social setting. Presenting a non-alcoholic alternative as a viable option in that circumstance, which doesn't compromise on quality and taste, enables consumers to feel comfortable in those situations where they know there are exciting and enjoyable alternatives for them to drink.
- While we completely support guidance in this space to ensure that alcohol alternatives are not promoting excessive or irresponsible consumption of alcoholic drinks, we urge CAP and BCAP to not propose guidance around the occasions in which alcohol alternatives can be advertised or marketed. Our concern is that a restrictive approach will not only impact the ability of adult consumers to understand the breadth of the category and the different alcohol alternatives on offer for those occasions in which they cannot or do not wish to drink, thereby restricting their choice, but will also impact the ability of the category to innovate and grow.
- We also consider that this approach is more consistent with proposed rule 18.20/19.21, which states that provided it is clear the product being advertised is an alcohol alternative, it is acceptable to show the product in circumstances where consuming alcohol would be inappropriate or unsafe (e.g., for designated drivers).
- Finally, the guidance is very specific that information on the non-alcoholic nature of a product must be given before or at the time the first alcohol alternative is shown. We believe this approach is too prescriptive, and provided the overall advert makes it clear the product being advertised is non-alcoholic, that should be sufficient and give companies the flexibility to market alcohol alternatives effectively and responsibly to consumers.

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

- We welcome CAP and BCAP proposing rules and guidance that aim to clarify what constitutes the promotion of alcohol in adverts for alcohol alternatives, as we recognise that there are instances where some adverts for alcoholic alternatives can also promote alcohol drinks.
- However, we would still welcome further clarity to understand when shared branding would be considered a cross-promotional piece of marketing and therefore, the rules relating to alcoholic drinks would apply in full.
- We are pleased the consultation goes on to clarify that where a marketing communication is for an alcohol alternative that shares the same brand as an alcoholic drink, the alcoholic drinks rules would not apply. Over recent years, Diageo has innovated to provide consumers with greater choice when it comes to alcohol-free versions of our brands, most notably Guinness 0.0, Gordon's 0.0 and Tanqueray 0.0.

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- However, our view is that in its current form, guidance 18.18/19.19, *“If a marketing communication for an alcohol alternative also refers to, or otherwise has the effect of promoting, an alcoholic drink, the rules relating to alcoholic drinks apply in full”* needs much further clarity.
- A major barrier to consumers viewing alcohol alternative drinks as a viable alternative and genuine substitute that they would wish to sample and potentially purchase is the lack of belief and trust that alcohol alternatives taste good and are of the same quality as their alcoholic counterparts. Therefore, alcohol alternatives need to be able to position themselves as comparative in taste, quality, craft, heritage and more and make claims promoting the similar taste, quality, craft etc. of the alcohol alternative with the alcoholic counterpart.
- Equally, the presentation of an alcohol alternative through an advert or marketing communication is important to encourage consumers to view these products as a viable alternative that they would like to drink instead of alcohol. For example, by presenting the alcohol alternative in a cocktail served in glassware and with garnishes commonly associated with cocktails and showing alcohol alternatives in settings where alcohol is commonly consumed and present in the background (e.g., bars, pubs, restaurants), consumers are more likely to see alcohol alternatives as enjoyable alternatives to alcoholic drinks that they wish to try.
- For example, the launch of Guinness 0.0 highlights how we have harnessed the power of our brewers and our ingredients to create an alcohol-free beer that is 100% Guinness but 0% alcohol. We know people want to be able to enjoy a Guinness when they choose not to drink alcohol without compromising on taste, and with the launch of Guinness 0.0, we believe they will be able to do exactly that.
- As such, we would welcome CAP and BCAP reviewing the proposed guidance and adding greater clarity to ensure that the unintended consequences of rules around cross-promotion do not heavily restrict the way in which alcohol alternatives can be positioned to consumers as ultimately, this will impact those consumers wishing to moderate their alcohol consumption, or limit choice for those that cannot or do not wish to drink alcohol on a certain occasion.
- Applying these new rules and guidance based on the purpose and effect of a reference to an alcoholic product or inclusion of an alcoholic product in the background of an advert, rather than the existence of the reference or inclusion, would ensure against the irresponsible marketing of alcohol alternatives and obvious cross-promotion, while enabling the alcohol alternatives category to appeal to consumers and flourish.

About Diageo Great Britain and our commitment to promoting responsible drinking and tackling alcohol harm:

- Diageo is one of Britain’s largest and most innovative companies, employing 5,000 people across 60 UK sites and supporting thousands more in our supply chain.
- We are the proud owner of many iconic brands such as Guinness, Pimm’s, Gordon’s Gin and Johnnie Walker, which are produced in the UK and sold in over 180 countries around the world.
- Our iconic brands are made to be enjoyed responsibly, and Diageo has long been committed to promoting moderation and tackling alcohol harm.
- In December 2020, Diageo announced a bold new stance to promote moderation and tackle alcohol harm in the UK. This included the launch of our refreshed [DRINKiQ](#) consumer website, with a new AUDIT screening tool to help people identify whether they may be drinking at harmful levels, and the introduction of new and enhanced product labels.

The Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) - Consultation on advertising alcohol alternatives: Diageo Great Britain submission

- We are committed to being a responsible marketer, with strict adherence to our Diageo Marketing Code, which is our mandatory minimum marketing standard. It governs how we, and any third parties we work with, must operate.
- The code applies across all our markets and guides every aspect of our activities, from research and development to marketing, promotion, and packaging. It includes, for example, a requirement to direct our marketing only at adults over the legal purchase age and not to present moderate consumption or abstinence negatively. We review the code every 12 to 18 months to ensure it addresses evolving issues in the marketplace.
- Our Digital Code of Practice, which complements the Diageo Marketing Code, sets out principles for digital marketing, including ensuring that our marketing is directed at adults over the legal purchasing age, monitoring user-generated content and ensuring consumer privacy.
- We are also a member of the [World Federation of Advertisers 'Responsible Marketing Pact'](#), which aims to reduce minors' exposure to alcohol marketing, limit the appeal of alcohol marketing to minors and strive to ensure the online environment is free from alcohol marketing to minors.
- We have also committed to a step-change in our work globally on preventing underage drinking, drinking and driving, and heavy episodic ("binge") drinking over the next decade as part of our 2030 sustainability action plan, which includes a commitment to reaching one billion people globally through our global DRINKiQ platform, educating over 10 million people on the dangers of drinking underage through SMASHED, our award-winning alcohol education programme, and a commitment to changing the attitudes towards drink driving of five million drivers in partnership with the United Nations Agency UNITAR, supporting the second UN Decade of Action for Road Safety.

Response from The Gin Guild

We have advised our membership of the above consultation and invited them to respond direct to you (or to ourselves for a collated response).

In the first instance however, as this is an area which has caused considerable difficulty and concern to date within the industry, we would ask you specifically to ensure that you encapsulate, as part of the guidance, a prohibition on low or no alcohol products from using any of the specific nomenclature that applies to specific spirits as laid down by the current EU regulations.

The above to include specific reference to EU Regulation 2019/787 - i.e., that the use of the legal names referred to in paragraph 2 of this Article or geographical indications in the description, presentation or labelling of any beverage not complying with the requirements of the relevant category set out in Annex I or of the relevant geographical indication shall be prohibited.

That prohibition should also to apply where such legal names or geographical indications are used in conjunction with words or phrases such as 'like,' 'type,' 'style,' 'made', 'flavour' or any other similar terms.

For example, given that there are full definitions for formal definitions in the regulations for spirits, including gin, whiskey, rum, and vodka, et cetera there is no such thing, and no product should be so described, as 'alcohol free gin,' 'alcohol free whiskey' or 'low alcohol/no alcohol gin' et cetera.

If spirit nomenclature is utilised it can only be used and applied to spirits which fully meet the terms of the regulations. In the case of gin these include the key criteria of a minimum alcohol ABV of 37.5%, specific provisions as to the nature and original ABV of any base spirit utilised in the production, and the requirement that the predominant taste of the key underlying product is that of Juniper.

Many brands, even respectable brands seem to struggle a little with the above concepts.

A good example of application correctly done is that of White & Mackay light. As it is entitled to do so the brand plays on the original whiskey brand name and branding, but is quite clear in branding and takes great care to avoid any reference to claiming their lower ABV product is described as whiskey.

Images attached:



30% alc./vol.

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HEINEKEN UK response to Committee of Advertising Practice and Broadcast Committee of Advertising Practice consultation on new rules for alcohol alternatives

Executive Summary

We would begin by welcoming the consultative way the ASA has conducted this process, complemented by significant engagement with industry throughout.

As a founding member of the Portman Group and a member of the British Beer & Pub Association, we endorse both submissions on our behalf and request that said support is added to any response weighting system used in this consultation process.

To avoid duplication, we have sought to address specific issues where we have additional concerns and where we have examples or consumer insights which we believe to be of value to this consultation.

HEINEKEN UK broadly welcomes the intention behind the Committees' decision to introduce a new framework for regulating alcohol alternatives. However, we are concerned by elements of what has been proposed, fearing that concerns around so-called 'addition' marketing are unduly reflected in the proposed rules and guidance. We have also provided evidence on the importance of enabling alcohol-free brand extensions, which we believe to be relevant to this consultation. As stated by the ASA, the 'alcohol alternatives' category offers significant opportunities from a public policy perspective. We fear that elements of what is proposed here will unnecessarily problematise the category potentially hampering future growth.

In summary:

1. We believe the guidance and supplementary text surrounding rule 18.21 risk unnecessarily problematising alcohol alternatives and are not supported by the evidence. We would strongly urge the ASA to not make a link between alcohol alternatives and increased alcohol consumption in either the final rules or guidance.
2. We believe marketers should be given full license to draw comparisons between alcohol products and alcohol alternative brand extensions.
3. We are concerned by the proposed addition of a new 'genuinely alcohol-free' descriptor under ABV statements guidance. We expect a consultation on low and no descriptors from the Department of Health and Social Care imminently, and therefore do not feel it appropriate for a new descriptor to come to fruition via this process.

This response includes commercially sensitive insights, commissioned by HEINEKEN UK from external research agencies, which we believe will be informative to this consultation. In this publicly available version, the sources have therefore been redacted.

Our commitment to growing the alcohol alternatives category

More and more, consumers are now able to have an alcohol-free version of their favourite beer or cider. Though the market is small, a point made universally across the evidence, it is not insignificant. Alcohol-free beer accounts for 0.5% of the total beer volume sold in the UK. Annually, we are seeing around 30% growth¹ in low and no products, with the category now worth £35 million to the on-trade alone in the last 12 months. Had the pandemic and subsequent restrictions placed on trading not occurred, we believe the category's value would be closer to £90 million in the on-trade. The Social Market Foundation point to 2019 CGA data showing sales of alcohol-free and low-strength drinks in the on-trade increasing by 48% in the preceding 12 months².

¹ [Portman Group research shows a significant increase in consumer appetite for low and no alcohol](#)

² [NoLo-drinks-and-alcohol-related-harms-Sept-2020.pdf \(smf.co.uk\)](#)

One in three people now report 'semi-regular' consumption of low and no products, up from one in four in 2020³. According to CGA data, 36% (15.5 million) of UK consumers have drunk alcohol alternatives in the last six months. Kantar World Panel data show that 19 million adults agree they are happy to consider trying no and low alcohol products. Surveys and consumer research⁴ indicate that being able to drive home safely and moderate consumption, are the primary factors behind consumer decision making⁵.

HEINEKEN UK therefore has a strategic objective to catalyse further normalisation of zero-alcohol beer and cider, using our reach, capacity, and well-developed brands to build the category. Beyond the development of new alcohol-free extensions of our brands, we are actively pushing this agenda with two key initiatives.

We have invested heavily to create a way of selling HEINEKEN 0.0 on draught in pubs. This has not been easy because of the technology needed to maintain the alcohol content at below 0.05%. Having developed a solution and invested in its rollout, by 2025 we hope there will be as many HEINEKEN 0.0 draught taps as there are HEINEKEN Original taps in pubs across the UK.

In parallel, we recently announced a new product placement deal with ITV which will see zero-alcohol beer feature on the bar of both the Rovers Return Inn and The Woolpack in Coronation Street and Emmerdale for the first time. We envisage this will be a major step forward in our efforts to normalise zero-alcohol beer among the soaps' 11 million daily viewers.

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

We are happy with the 0.5% ABV threshold proposed for an alcohol alternative.

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

ABV Statements

We are concerned by the proposed addition of a new de facto 'genuinely alcohol-free' descriptor. **We expect a consultation of low and no descriptors from the Department of Health and Social Care imminently, and therefore do not feel it appropriate for a new descriptor to come to fruition via this process.**

HEINEKEN UK believes that should the ASA introduce a new 'genuinely alcohol-free' descriptor, it should remain aligned with current government guidance⁶ at 0.05%. For products such as Heineken 0.0, which is brewed through a natural fermentation process, 0.03% ABV is the lowest possible threshold achievable after the alcohol's removal. We therefore believe that current guidance risks penalising the alcohol-free beer category, where achieving 0% ABV is not possible.

Drinking occasions

We request further clarification on guidance and supplementary text in the consultation regarding rule 18.21. The consultation document implies there is a means by which alcohol alternatives can lead to increased consumption of alcohol: *"one of the concerns with the prevalence of alcohol alternatives is the potential for them to increase alcohol consumption by normalising drinking alcohol-like products at times where drinking alcohol would not be considered socially acceptable (although not necessarily dangerous)"*. Indeed, guidance uses similar language associating new drinking occasions with *"increased consumption of alcohol"*. Neither point is evidenced.

³ [Portman Group research shows a significant increase in consumer appetite for low and no alcohol](#)

⁴ ██████████, undertaken 3-12th April 2022, N=317

⁵ [Portman Group research shows a significant increase in consumer appetite for low and no alcohol](#)

⁶ [Low-alcohol descriptors - GOV.UK \(www.gov.uk\)](#)

Evidence indicates that the growing low/no market, of which alcohol alternatives are included, is almost exclusively cannibalising existing alcohol consumers who are looking to moderate. Kantar World Panel data show that 98% of low and no consumers are existing alcohol purchasers.

For alcohol-free beer specifically, larger studies based on similar sized data sources note that *“zero-alcohol beer was more likely to be bought and drunk by those who generally bought and drank the most alcohol”*⁷. Further, a recent study of purchase data from 64,280 British households found that *“increased availability of new no- and low-alcohol beers does not seem to be a gateway to purchasing same-branded higher-strength beers but rather seems to replace purchases of these higher-strength products”*, and that the category could in fact, *“contribute to reducing alcohol consumption”*⁸.

Nationally representative polling conducted by YouGov, commissioned by the Portman Group, shows that the use of low and no products is driven by current alcohol drinkers, with close to three-quarters (72%) reporting at least trying these products⁹. The same data indicate that over a quarter (26%) of those who have tried low and no alcohol say that their subsequent weekly alcohol consumption has decreased since they first tried it¹⁰.

Since the introduction of the wider low and no category, alongside product reformulation, household purchases of alcohol by volume have reduced¹¹. Further, Anderson et al¹² suggest that *“there are future opportunities to increase the volume of such products”* in the context of alcohol harm reduction. This comes against a further backdrop of declining alcohol consumption at a national level.

We see no strong evidence indicating that the promotion of alcohol alternatives translates into alcohol consumption. Indeed, small-scale research pointing to concerns around ‘addition marketing’, highlights the category’s considerable upside – that alcohol alternatives can be a *“nice little life hack”* for consumers looking to moderate¹³.

We therefore believe the guidance and supplementary text surrounding rule 18.21 risk unnecessarily problematising the alcohol alternatives category and are not supported by the evidence. Given the stated public policy benefits of alcohol alternatives and evidence of the category’s positive impact thus far, the potential benefits would appear to far outweigh the risks intimated under rule 18.21. **We would therefore strongly urge the ASA to not make a link between alcohol alternatives and increased alcohol consumption in either the final rules or guidance.**

The strong line taken by the ASA on ‘Drinking Occasions’ appears to contradict guidance around ‘Unsafe Circumstances’. Here the ASA correctly intimates that ‘addition marketing’ is not a concern when responsibly promoting alcohol alternatives in situations which are socially irresponsible for alcohol products, such as after driving, provided measures are taken to prevent *“irresponsible ambiguity”*.

We do not believe that guidance should stipulate which occasions are or are not acceptable. Further, we feel that the examples given create ambiguity. For example, *“during the working day”* implies that campaigns with the objective of encouraging lunch-time beer drinkers towards alcohol alternatives and the associated benefits, may be precluded under suggested guidance. The same ambiguity applies to *“during sporting*

⁷ [IJERPH | Free Full-Text | Is Buying and Drinking Zero and Low Alcohol Beer a Higher Socio-Economic Phenomenon? Analysis of British Survey Data, 2015–2018 and Household Purchase Data 2015–2020 | HTML \(mdpi.com\)](#)

⁸ [Are Lower-Strength Beers Gateways to Higher-Strength Beers? Time Series Analyses of Household Purchases from 64,280 British Households, 2015–2018 | Alcohol and Alcoholism | Oxford Academic \(oup.com\)](#)

⁹ [YouGov surveyed 2,079 adults from across the UK online between 9 and 10 December 2021. The figures have been weighted and are representative of all UK adults \(aged 18+\)](#)

¹⁰ *ibid*

¹¹ [Anderson P, Jané Llopis E, O’Donnell A, et al. Impact of low and no alcohol beers on purchases of alcohol: interrupted time series analysis of British household shopping data, 2015–2018.](#)

¹² *ibid*

¹³ [The-Marketing-and-Consumption-of-No-and-Low-Alcohol-Drinks-in-the-UK-March-2022.pdf \(ias.org.uk\)](#)

activities”, which may preclude the promotion of an alcohol alternative in post-match drinks, where alcohol could be consumed.

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

Shared branding

We welcome that shared branding will not automatically preclude a product from the alcohol alternatives code. As well as not problematising the category unnecessarily, we believe that giving zero alcohol extensions of well-known brands full license to grow and recruit existing alcohol drinkers will be vital to the category’s success.

Consumers are looking for alcohol-free extensions of brands they know and enjoy. As stated in the consultation document, a non-alcoholic version of a consumer’s preferred drink is a “powerful factor in switching to an alcohol alternative”. 1 in 5 (22%) no and low beer or cider consumers report brand sharing as a reason for consuming, according to insights from the research agency ██████¹⁴. This is significant – in comparison just over 1 in 3 report ‘not having to worry about drinking too much’ (36%) or being able to drive (35%), as reasons for consumption. Separate qualitative research, undertaken by ██████, suggests that reducing bonds with known parent brands would create less confidence in an alcohol alternative among consumers¹⁵. Studies into consumer preference for light beer suggest that taste, prior experience, and brand drive choices¹⁶. A Club Soda survey found that nearly half (44%) of ‘mindful drinkers’ show some brand loyalty when moving from alcohol to an alcohol alternative¹⁷.

We do not see our alcohol alternatives as means to promote our alcohol brands by stealth, quite the reverse. With growth rates of low / no products exceeding the broader alcohol category, it makes more business sense to grow the category, investing in both marketing and development of new products and innovations, such as Heineken 0.0 on draught.

As detailed in our response to question 2, the evidence indicates that alcohol alternatives are recruiting alcohol consumers, not the other way round, and the category has helped consumers moderate their consumption. Further, peer reviewed quantitative research has stated that “purchases of new no- and low-alcohol beers do not appear to act as gateways for increased purchases of same-branded higher-strength beers”¹⁸.

Where reports have suggested brand sharing is of concern, consumers have also been clear about the category’s benefits¹⁹. Others have given examples of the issue in countries where alcohol marketing is restricted, and alcohol alternatives have been presented as a means to circumnavigate regulation²⁰. This is not applicable to the UK, given alcohol brands can be promoted, subject to the robust system of self-regulation operated by the ASA and Portman Group.

We believe marketers should therefore be given full license to draw comparisons between alcohol products and alcohol alternative brand extensions. One comparison we have specific concerns around is taste. The table of examples for brand websites given in guidance cautions that “great taste” risks over-

¹⁴ ██████, undertaken 3-12th April 2022, N=317

¹⁵ Conducted by ██████ who spoke to 4 groups of 8 (n32) consumers aged 18-55 including both men and women, across two locations in the North and South of England

¹⁶ [Drink to get drunk or stay healthy? Exploring consumers’ perceptions, motives and preferences for light beer - ScienceDirect](#)

¹⁷ [Consumer research summary - short \(1\).pdf \(googleusercontent.com\)](#)

¹⁸ [Are Lower-Strength Beers Gateways to Higher-Strength Beers? Time Series Analyses of Household Purchases from 64,280 British Households, 2015–2018 | Alcohol and Alcoholism | Oxford Academic \(oup.com\)](#)

¹⁹ [The-Marketing-and-Consumption-of-No-and-Low-Alcohol-Drinks-in-the-UK-March-2022.pdf \(ias.org.uk\)](#).

²⁰ [NoLo-drinks-and-alcohol-related-harms-Sept-2020.pdf](#) and [see reference to ‘regulatory slippage’](#) in Alcohol Change UK response to the CAP/BCAP consultation on amending limitations on advertising low-alcohol products

promotion, precluding the phrase's use in campaigns promoting alcohol alternatives in situations where alcohol is not socially responsible, for example when driving after a night out. The consultation document similarly states that *"the same fantastic taste, just without the alcohol"* risks over-promotion. We believe these suggestions risk removing a valuable tool for marketers to nudge alcohol consumers towards alcohol alternatives, especially when historic innovations in zero-alcohol category have resulted in a perceived legacy of poor quality and taste. Insights from the research agency ████████²¹ suggest taste is a crucial comparison made by consumers, with one in three (32%) of no and low beer and cider drinkers citing *"tasting like its alcoholic version"* as a reason for consuming alcohol alternatives.

Further, we would welcome clarification on differences between examples given in guidance and the consultation. The table given in guidance appears to state that *"the taste you know **and love**"* would invoke the full alcohol rules, whilst the consultation says *"if you like our gin, **you'll love** this alcohol-free alternative"* would not be considered to promote the original product.

²¹ ████████ undertaken 3-12th April 2022, N=317

Consultation on advertising alcohol alternatives

Consultation response by the Institute of Alcohol Studies

We welcome the opportunity to respond to this consultation.

The Institute of Alcohol Studies (IAS) is an independent institute bringing together evidence, policy and practice from home and abroad to promote an informed debate on alcohol's impact on society. Our purpose is to advance the use of the best available evidence in public policy decisions on alcohol. IAS is a member of the Alcohol Health Alliance UK (AHA), an alliance of more than 60 non-governmental organisations.

We support and endorse the AHA's response to this consultation. In particular, we would like to highlight the concerns about brand sharing and cross-promotion. All marketing of alcohol alternatives that share branding with alcoholic products should be considered cross-promotional. While the guidance recommends focussing on the alcohol-free product (rather than the brand), it is very difficult to discern how this is possible in practice as brands have now become the dominant feature of marketing.¹

Brand identity is much more sophisticated than simply brand names and logos and research has demonstrated that people can easily identify alcohol brands from visual cues such as font type, straplines or colour, even when the brand name itself is absent.² Marketing communications do not need to directly promote an alcohol product to be successful in promoting an alcohol brand, or alcohol consumption more generally.

We therefore recommend that the guidelines focus on regulating brands rather than ABV, and make no- and low-alcohol products from 'parent brands' subject to the same restrictions as their alcoholic products despite the lower alcohol content.

Moreover, there is currently insufficient evidence as to how no/low alcohol products are used – while they might act as 'alternative', they can also be 'additional' or risk being a gateway drink.³ As they are likely to serve different functions for different people, the suggested definition is too vague. There are furthermore inconsistencies with Government guidelines on low alcohol descriptors. We therefore recommend amending the definition as follows:

“Alcohol alternatives are drinks containing 0.5% or less alcohol by volume when presented as no and low alcohol versions of an alcoholic drink, for example non-alcoholic beer. A specific drink or range of drinks would be considered an alcohol alternative if it does not share the same branding elements as an alcohol brand.”

For further information and detailed evidence, please see the response from the Alcohol Health Alliance UK.

¹ Casswell, S., & Maxwell, A. (2005). Regulation of alcohol marketing: a global view. *Journal of Public Health Policy*, 26(3), 343-358.

² Youth Alcohol Policy Survey (2019). YouGov surveyed a total of 3,388 young people aged 11-19. This research focusses on 2,603 11-17-year-olds. Fieldwork was undertaken between September to November 2019. The survey was carried out online. The figures have been weighted and are representative of the national profile of the UK population by age, gender, ethnicity, region and Index of Multiple Deprivation (IMD) deciles.

³ Corfe, S. et al. (2020). [Alcohol-free and low-strength drinks](#).



**Committee of Advertising Practice and Broadcast Committee of Advertising
Practice consultation on new rules for alcohol alternatives:
Consultation response (May 2022)**

About Molson Coors Beverage Company

Molson Coors Beverage Company is one of the world's largest brewers and owner of some of the UK's most important breweries and brands – including Carling, the UK's number one lager, brewed in Burton on Trent and made from 100% British barley; Sharp's – maker of the famous Doom Bar in Rock, Cornwall; and Aspell, which continues to involve the Chevalier family who founded the Cyder House in 1728 in Suffolk.

In addition to Carling, Doom Bar and Aspell, our beverage portfolio includes Coors, Staropramen, Madri Excepcional, Blue Moon, Pravha, Cobra, Worthington's, Caffrey's, Rekorderlig and the hard seltzer Three Fold. Our range of low and no alcohol products includes Doom Bar 0.0%, Cobra Zero, Bavaria 0.0% and Rekorderlig no alcohol. Through exclusive distribution partnerships, we have also expanded our beverage brand range to include Bodega Bay, Miami Cocktail Company, Tarquin's Gin, Lixir drinks and Jimmy's Iced Coffee.

Our Western Europe Head Office is in Burton on Trent and we have regional offices across the UK in Edinburgh, London and Belfast. Our National Contact Centre is in Cardiff. We have around 12,000 on-trade customers and the largest technical services and customer sales team in the industry. Across our breweries, offices and mobile workforce we employ over 2,200 people across the UK. The business also supports the Molson Coors Growers Group, which brings together more than 140 farmers as part of our extended supply chain.

Despite the challenges of the pandemic, we have continued to invest in our business, supporting the UK economy and the UK's progress towards net zero. In April 2021 we became the first major brewer in the UK to produce all our products using 100% renewable electricity as well as removing plastic rings and introducing a fully recyclable and sustainable cardboard sleeve for can multipacks for all our major brands. This means we hit our target to remove all single-use plastic from the packaging of major brands by the end of April 2021, following the introduction of recyclable cardboard large-format multipacks in 2020. Since 2019, we have removed more than 700 tonnes of single-use plastic from UK operations.

We are committed to building an inclusive culture that celebrates people's diverse experiences, perspectives and backgrounds. We have rolled out inclusivity awareness training for all our senior managers and are focussing on how we can better use data to measure and understand diversity within our organisation as part of our Diversity, Equity and Inclusion approach.

In the UK, we have been certified as a *Top Employer* for the 8th time and have been awarded the MIND Gold Workplace Wellbeing award. We have also partnered with ENEI (Employers Network for Equality & Inclusion), one of the UK's leading employer networks, to help us truly embed Diversity, Equity and Inclusion in everything we do and to achieve the Gold standard in 3 years' time.

We are committed to tackling harmful drinking and supporting moderation. We are a major contributor to the Drinkaware Trust, and a member of several organisations that promote responsible drinking including the Scotland Alcohol Industry Partnership, The Portman Group and the International Alliance for Responsible Drinking (IARD).



Consultation response - Key summary

- As a responsible alcohol producer and member of the International Alliance for Responsible Drinking (IARD), The Portman Group, British Beer & Pub Association and major supporter of the Drinkaware Trust, we welcome the opportunity to respond to this consultation.
- We are committed to the responsible marketing of our products. We are a signatory to the Portman Group Code and the IARD Digital Guiding Principles and operate our own Marketing Compliance Committee to ensure all product marketing adheres to these codes and our own internal standards of practice.
- We welcome CAP and BCAP consulting on proposed marketing communications guidance for the alcohol alternatives category to ensure the category can continue to grow and innovate in a socially responsible way.
- We are committed to playing our role in tackling harmful alcohol consumption and supporting the UK government's efforts in *"Making alcohol-free and low alcohol products more available [to] help to nudge the general drinking population towards lower strength alternatives"* – as part of its commitment to *"work with industry to deliver a significant increase in the availability of alcohol-free and low-alcohol products by 2025"*¹ – we now have 0.0% ABV products in the lager, ale and cider categories. Our zero- alcohol portfolio is reflective of the Department of Health & Social Care (DHSC) Alcohol Free definition as outlined in the Low Alcohol Descriptors Guidance (December 2018), containing no more than 0.05%ABV.
- While there is currently no compelling evidence to suggest alcohol alternative products or the promotion of these products cause harm, we agree they should be marketed in a socially responsible way given their close association with alcoholic drinks. It is important that guidance in this area should be proportionate to the significantly reduced risk profile of alcohol alternatives and not inadvertently dampen growth or innovation in this important category.
- We believe the proposed guidance is currently open to significant levels of interpretation due to a lack of clarity in the draft guidance. There is a risk that, in its current proposed form, the guidance could be applied inconsistently and disproportionately to the risk profile of the alcohol alternatives category, with the unintended consequence of reducing growth and innovation in the category and constraining brand owners' ability to effectively promote an alcohol alternative to a consumer wanting to moderate their overall alcohol consumption or who does not drink alcohol.
- We also believe the proposals as currently drafted present a twin-track approach, whereby alcohol alternatives that do not share a brand name with an alcohol variant are subject to a reduced level of guidance, leading to further confusion for consumers and advertisers.

¹ HM Government, Advancing our health: prevention in the 2020s, p43, Published July 2019



Alcohol Alternatives: Consultation response

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

The use of 'alcohol alternatives' is a reasonable description to use given the category is designed to provide a wider choice for adult consumers who do not drink alcohol or who are choosing to moderate their alcohol consumption. As the products are alternatives, they should not be described as an 'alcohol replacement' or 'alcohol substitute'.

We are comfortable that the alcohol alternative definition be applied to non-alcoholic drinks that are at or under 0.5% ABV. Our own portfolio of non-alcoholic beers and ciders are all 0.0% ABV. Our zero- alcohol portfolio is reflective of the Department of Health & Social Care (DHSC) Alcohol Free definition as outlined in the Low Alcohol Descriptors Guidance (December 2018), containing no more than 0.05%ABV.

We do not agree with the proposed definition – *“A specific drink or range of drinks is an alcohol alternative if the audience is likely to consider it as such.”* We believe this definition is overly subjective and open to too varied interpretation and urge reconsideration of this proposal.

We recognise the challenge of the absence of a current legislative definition for alcohol alternatives, which is future fit and could accommodate innovation in the alcohol alternatives category. However, we believe that any definition must reduce ambiguity as far as possible.

Within the proposed Alcohol Alternatives Advertising Guidance, we are largely aligned to the list of factors that are likely to indicate that a drink is an alcohol alternative (page 7), recognising that this list is not exhaustive.

We would propose that in order to be described as an alcohol alternative, a drink *must always* reference an ABV of 0.5% or below or have a specific reference to being alcohol free (which should reflect Government Low Alcohol Descriptors guidance).

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

We are committed to the responsible marketing of our products. We are a signatory to the Portman Group Code and the IARD Digital Guiding Principles and operate our own Marketing Compliance Committee to ensure all product marketing adheres to these codes and our own internal standards of practice. We welcome CAP and BCAP consulting on proposed marketing communications guidance for the alcohol alternatives category to ensure the category can continue to grow and innovate in a socially responsible way.

We are committed to playing our role in tackling harmful alcohol consumption and supporting the UK government's efforts in *“Making alcohol-free and low alcohol products more available [to] help to nudge the general drinking population towards lower strength alternatives”* – as part of its commitment to *“work with industry to deliver a significant*



*increase in the availability of alcohol-free and low-alcohol products by 2025*² – we now have 0.0% ABV products in the lager, ale and cider categories. Our zero- alcohol portfolio is reflective of the Department of Health & Social Care (DHSC) Alcohol Free definition as outlined in the Low Alcohol Descriptors Guidance (December 2018), containing no more than 0.05%ABV.

While there is currently no compelling evidence to suggest alcohol alternative products or the promotion of these products cause harm, we agree they should be marketed in a socially responsible way given their close association with alcoholic drinks. It is important that guidance in this area should be proportionate to the significantly reduced risk profile of alcohol alternatives and not inadvertently dampen growth or innovation in this important category.

We welcome the proposed CAP rules 18.23 - 18.25 and BCAP rules 19.24 -19.26 and agree that the marketing communications of Alcohol Alternatives should not appeal to consumers under the Legal Drinking Age (LDA).

While we agree that any marketing communications related to an alcohol alternative should focus only on the alcohol alternative product, we believe that the *Promotion of alcoholic drinks* guidance on page 13 to accompany proposed CAP and BCAP rules 18.18 - 18.21 and 19.19 -19.22 is too subjective in parts and is therefore open to inconsistent implementation that could be disproportionate to the risk profile of alcohol alternatives. We believe as drafted it could unintentionally limit CAP and BCAP's stated intent of these proposed rules to "*recognise the benefits of these products and enable marketers to encourage reducing alcohol intake*" through the effective promotion of alcohol alternatives. We would welcome further clarity in this guidance and have highlighted three key concerns below.

- In the section *Broad references to alcohol*, it is suggested that if an advert makes use of "*imagery associated with drinking alcohol*" it could be considered to be promoting an alcoholic drink. We believe there is a risk that by restricting "*imagery associated with drinking alcohol*", it removes the ability of brand owners to demonstrate the wider choice available during occasions when a consumer might typically choose an alcoholic drink – not only during occasions when an alcoholic drink is not appropriate. Similarly, the sense of occasion a typical alcoholic drink serve can evoke, can also be a factor in encouraging consumers to consider an alcohol alternative. We would welcome more guidance to provide clarity in relation to this point.
- In the section *Alcohol alternatives by alcohol brands* it is proposed that if a non-alcohol variant of an alcohol brand made reference to a consumer being able to enjoy the same "*fantastic taste, just without the alcohol*" it would be considered to be promoting the alcoholic drink and therefore subject to the full alcohol CAP and BCAP code. We believe there is a risk this proposed guidance limits brand owners' ability to effectively promote a non-alcohol alternative to an alcoholic drink by letting consumers know that they can enjoy the same taste of a favoured brand without the alcohol. This could have the unintended consequence of

² HM Government, *Advancing our health: prevention in the 2020s*, p43, Published July 2019



limiting brand owners' ability to support the UK government's stated intent to work with industry to nudge consumers towards lower strength alternatives.

- We also believe the proposals in this section as currently drafted present a twin-track approach, whereby alcohol alternatives that do not share a brand name with an alcohol variant are subject to a reduced level of guidance, leading to further confusion for consumers and advertisers.

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

We would welcome additional clarity and guidance on what would be considered a cross-promotional piece of marketing. As flagged earlier in our response, we believe the proposals as currently drafted present a twin-track approach, whereby alcohol alternatives that do not share a brand name with an alcohol variant are subject to a reduced level of guidance, leading to further confusion for consumers and advertisers.

May 2022

[ENDS]





Evidence and recommendations on the Advertising Standards Authority consultation on advertising alcohol alternatives

Summary

- We are supportive of expanding the low- and no- alcohol market to support individuals to reduce their alcohol consumption. However, these products should only be promoted as substitutes to regular strength drinks, not as an addition to an individual's alcohol consumption, especially when such promotion normalise new environments for drinking alcohol-associated products.
- Important progress has been made on reducing drink driving and drinking while pregnant. We are concerned that these improvements may be undermined by certain approaches to the marketing of new alcohol alternatives.

Introduction

Alcohol alternatives do have the potential to help drinkers reduce their alcohol consumption if they are consumed as substitutes for alcohol products. However alcohol alternative products should only be marketed to adults that currently drink alcohol and should follow the same alcohol advertising regulations, with minor exceptions. Currently, the existing CAP and BCAP codes do not cover products at or below 0.5% alcohol by volume (ABV), leaving the potential for these products to be marketed towards children and pregnant people and create new drinking cultures. Therefore, we welcome this consultation in addressing this regulatory gap and support a guiding principle for alcohol alternative marketing regulations based on “marketing alcohol alternatives as substitutes for alcohol rather than to be consumed in addition.”

1. Is the definition of ‘alcohol alternatives’ clear, feasible, and appropriate?

We are broadly supportive of the proposed definition of “alcohol alternatives”, which is clear, feasible, and appropriate. This definition covers the current gap in the CAP and BCAP codes described in the introduction, which only apply to products above 0.5% ABV. The proposed definition and guidance make clear that alcohol alternatives are products which are to act as substitutes for alcohol and includes both alcohol alternatives that share the same brand as an existing alcohol product and those that do not, which we support.

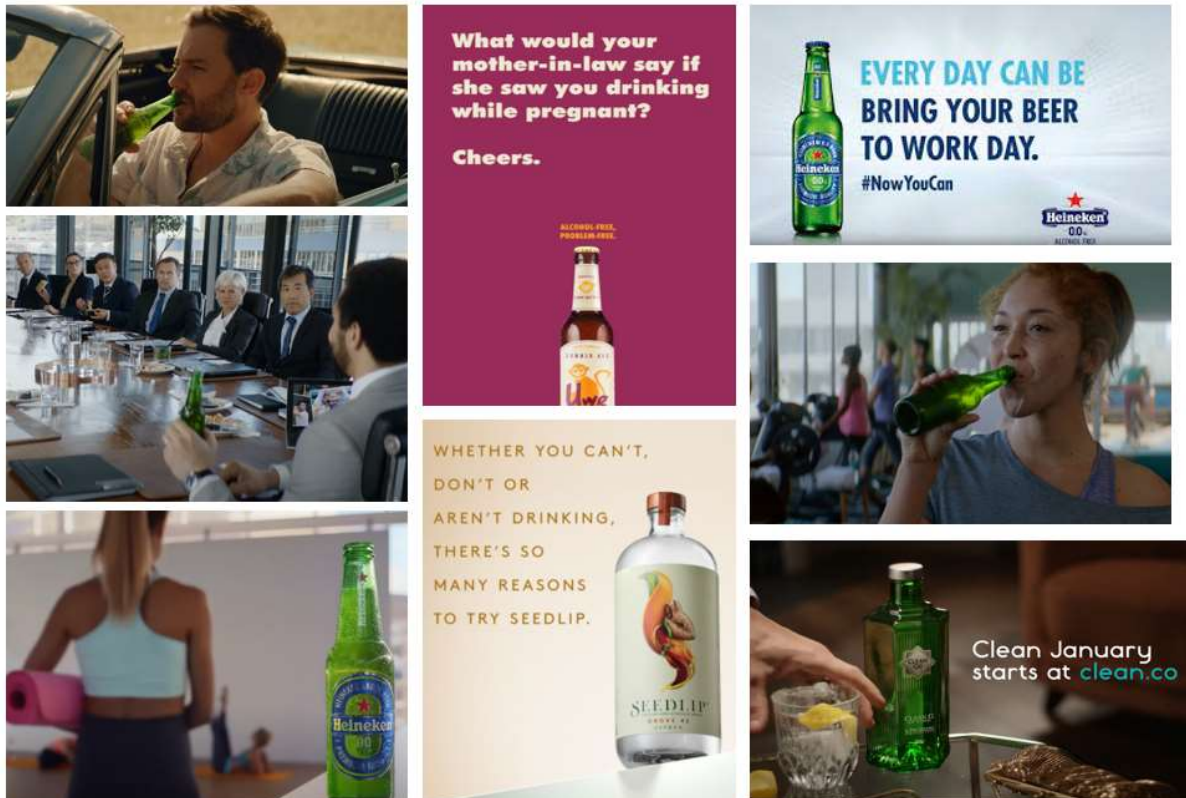
Alcohol alternative campaigns have promoted consumption of their products in contexts or occasions when alcohol products would not have usually been consumed, like while driving, at work, or working out (Figure 1). Some of these alcohol alternative products share the same brand as an existing alcohol product. In addition to potentially increasing the overall volume of brand marketing, these brands may market alcohol alternatives in a way to create new occasions to drink where they can sell the alcohol alternative (e.g. the gym, during pregnancy), while at the same time protecting traditional drinking contexts to market their alcohol products (e.g. the pub) (1). Under the current CAP/BCAP codes, this approach is



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likely to promote alcohol alternatives as additional to, rather than substitutes for, alcoholic drinks. The ability for alcohol alternatives to act as alcohol marketing and expand both drinking occasions and categories of drinkers demonstrates a need for alcohol alternative marketing restrictions under the CAP and BCAP codes.

Figure 1. Examples of marketing campaigns pairing alcohol alternative products with non-drinkers or non-drinking occasions



It is therefore important to ensure that alcohol alternatives, both those that share the same brand as an existing alcohol product and those that do not, can only be marketed in the same contexts and platforms as alcohol. The principle of treating alcohol alternatives as alcohol if they share the same brand as an existing alcohol product is currently used in Norway, where products below 0.7% ABV fall under the same advertising restrictions as alcohol if they use the same branding or distinctive marks (2). Concerns around brand sharing, or stealth, marketing of alcohol alternatives has recently been voiced by the Foundation for Alcohol Research and Education in Australia (3), the Social Marketing Foundation (4) and Institute for Alcohol Studies (1) in the UK, and in the wider academic public health community (5).

Having a definition that covers both alcohol alternatives that share the same brand as an existing alcohol product and those that do not creates an easy system to implement. It also avoids creating an arbitrary distinction which could result in alcohol alternative brands that do not share the same brand as an existing alcohol product (e.g. Lucky Saint) being able to advertise differently from an alcohol alternative product that shares the same brand as an existing alcohol product (e.g. Heineken 0.0), despite both being “alcohol-free” products of the



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same strength. We acknowledge the importance of branding, as described in the introduction, and note that alcohol alternatives that share the same brand as an alcohol product de facto act as both brand marketing and alcohol marketing. However, because we recommend all alcohol alternatives, both those that share the same brand as an existing alcohol product and those that do not, follow the same rules as alcohol products with minor exceptions, we feel that the risks of brand marketing by alcohol alternatives would be negated.

We recommend that the term 'non-alcoholic' is removed from the proposed definition for alcohol alternatives, and that the use of the term 'non-alcoholic' is used with care throughout the rules and guidance. The Government sets out its expectations in relation to how low alcohol drinks (those of 1.2% ABV or less) may be described in Low Alcohol Descriptor Guidance (6). These guidelines state that generally the term 'non-alcoholic' *"should not be used in conjunction with a name commonly associated with an alcoholic drink. There is an exception for non-alcoholic wine where it is derived from unfermented grape juice and is intended exclusively for communion or sacramental use. The labelling or advertising of these non-alcoholic wine should make it clear that it is exclusively for such use"*. We recommend that the rules and guidance for advertising alcohol alternatives should use language which is consistent with the Low Alcohol Descriptor Guidance to provide industry with clear and consistent guidance. We propose the below amended definition for alcohol alternatives:

- Alcohol alternatives are drinks at or under 0.5% ABV that are intended to replace alcoholic drinks in contexts where they would normally be consumed, for example alcohol-free beer. A specific drink or range of drinks is an alcohol alternative if the audience is likely to consider it as such.

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

As stated in question 1, we agree with defining and treating alcohol alternative marketing as substitutes for alcohol, as these products have the potential to help drinkers reduce their alcohol consumption. These products contain no or minimal alcohol and therefore have a substantially reduced health risk compared to stronger alcohol products if consumed as a substitute for full strength alcohol products. This substitution approach complements the government's commitment to increasing the availability of alcohol alternatives in the 2019 *Advancing Our Health: Prevention in the 2020s* green paper, aimed at helping current drinkers reduce their alcohol consumption (7). This would be achieved if current drinkers substituted alcohol alternatives for their alcoholic drinks but not if consumed by new drinkers or in new drinking occasions.

How alcohol alternatives will be consumed will partly be influenced by its marketing. As described above, there have been examples of alcohol alternative campaigns which have appeared to expand the number of drinking occasions (e.g. at the gym or during work) or target new consumer groups which it would be inappropriate to consume alcohol (e.g. pregnant people). A clear example of this is Heineken 0.0's *Now You Can* campaign which states the following on their webpage:



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Heineken® 0.0 is alcohol free and tastes great. This opens up lots of possibilities. All of them refreshing.

Ice-cold beer post-hot-yoga class? Now you can.

Before driving? Now you can.

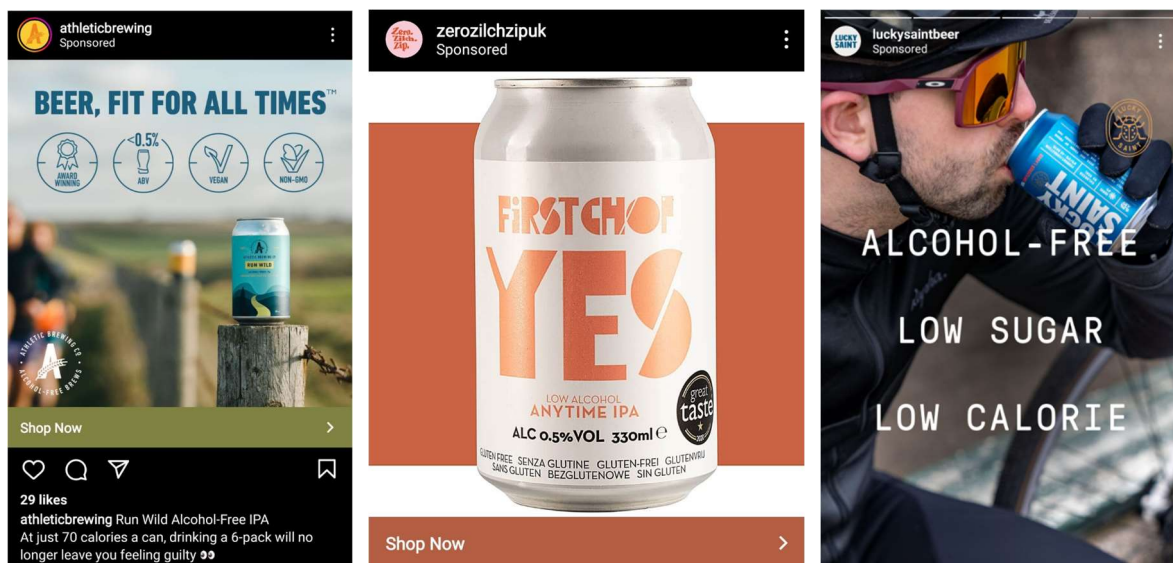
While writing something like this? Now you can.

Beer O’Clock just got revamped to 24 hours.

So no matter what you’re doing, where you’re doing it or when, you can enjoy an ice-cold, delicious Heineken® 0.0.(8)

A similar approach has been done by San Miguel 0.0 (which paired their alcohol alternative with road cycling, marathons, and yoga) as well as new alcohol alternative products that do not share the same brand as an existing alcohol product (Figure 2). Therefore, we support the proposed consultation in treating alcohol alternatives as substitutes for alcohol rather than to be consumed in addition to close a current marketing loophole.

Figure 2. Alcohol alternative products that do not share the same brand as an existing alcohol product and which promote new drinking occasions.



We also support the following proposals from the alcohol alternatives consultation including:

- Removal of 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:” and 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” in the BCAP code for alcohol
- Replacing 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:” and 32.2.1 “alcoholic drinks containing 1.2% alcohol or more by volume (see rule 32.4.7)” with 32.2 “These may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly



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to audiences below the age of 18:" and 32.2.1 "Alcoholic drinks containing 0.5% or more by volume or alcohol alternatives at or below 0.5% ABV".

These changes would align all alcohol and alcohol alternative marketing rules to only allow marketing towards people aged 18 years or older, the legal purchase age of alcohol in England, which we support.

However, we disagree with the proposed guidance for "shared branding" regarding its cross-promotional nature and therefore proposed rules 18.18 and 19.19. The proposed guidance states that "[s]ome alcohol alternatives are marketed under the umbrella of an existing alcohol brand, usually as a non-alcoholic version of a popular drink. Ads for such products will not inherently be treated as cross-promotional, but marketers must take care". As stated in the introduction, children are brand aware from an early age (9) and can experience difficulty telling the difference between an alcohol-free product that shares the same branding as an existing alcohol product (10). These alcohol alternatives functionally act as alcohol marketing, which increases the risk that adolescents will start to drink alcohol or increases patterns of risky alcohol use such as binge drinking among those who already drink (11, 12). Adults also perceive alcohol-branded alternatives as alcohol marketing by default promoting the wider brand and alcohol product (1, 13).

For this reason, with minor exceptions, we recommend that alcohol alternatives that share the same brand as an existing alcohol product should be subject to the same rules as alcohol within the CAP/BCAP codes. However, we also recognise that having two sets of rules for alcohol alternatives, mandated based on either being a product that shares the same brand as an existing alcohol product or one that does not, is arbitrary regarding the health risks of the products and unnecessarily complicated for industry, CAP/BCAP, and the consumers.

Additionally, there are already CAP/BCAP codes allowing for factual comparisons to be made based on alcohol strength and allows adverts to depict lower strength products as preferable based on this characteristic. If such codes (CAP 18.9 and BCAP 19.10) are modified to include alcohol alternatives, this would facilitate treating these products as substitutes for alcohol rather than in addition, minimise concerns around brand marketing, and be straight forward to administer. Therefore, we recommend that all alcohol alternatives follow the same rules as alcohol, with minor exceptions, rather than have their own separate sub-section in the CAP/BCAP codes. However, there are some proposed rules in the alcohol alternative consultation that we suggest including that are specific to alcohol alternatives:

18.19/19.20 *[with minor modification] Marketing communications for alcohol alternatives with ABVs above 0% must include a prominent statement of their ABV. For the avoidance of doubt, marketing communications for alcohol alternatives are not prohibited from making a feature of their ABV or from making preference claims on this basis.

18.20/19.21**[with modification] Marketing communications that feature alcohol alternatives being consumed in circumstances that would be inappropriate or unsafe for alcoholic drinks must make clear that the product is non-alcoholic.

18.21/19.22 Marketing communications for alcohol alternatives must not encourage the consumption of alcohol at times or on occasions that are not generally



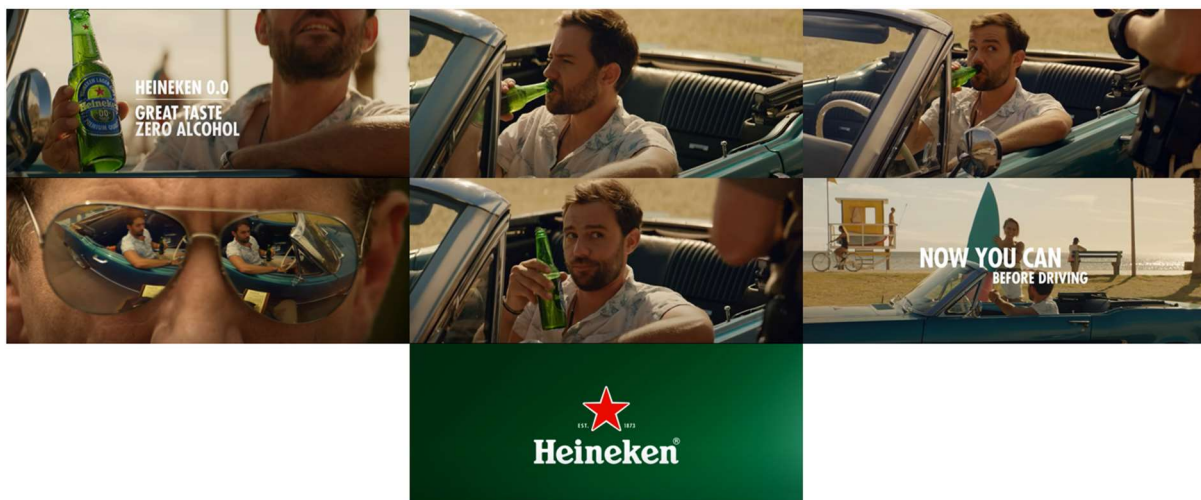
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considered to be appropriate, such as during the working day or during sporting activities.

*We recommend clarifying that this expectation should apply to products above 0.0% ABV rather than 0% ABV. Stating 0% ABV may risk an interpretation that products as strong as 0.4% ABV do not need an ABV statement if the producers are rounding down the strength of their product.

**We also recommend changing the phrasing of 18.20 and 19.21. We support the spirit of the rule, particularly in example marketing such as suggesting an alcohol alternative would be preferable to “get home safe” after an evening at the pub. However, due to the influence of branding, it is not sufficient to simply list the ABV or words like “alcohol-free” at the beginning of the advert, as people associate these products that have the same branding as an existing alcohol product with the full strength alcohol version. For example, in a real Heineken 0.0 advert, a man in a car is depicted drinking what viewers assumes is a full strength beer. It is not until partway through that the advert makes clear the product is an alcohol alternative. Under the proposed 18.20 and 19.21 guidance, even if the advert begins with an “alcohol-free” claim, the branding information is clearly visible and based on the above evidence some people likely will associate “Heineken” with the full strength Heineken. This is problematic due to the nature of the advert which is a man drinking what looks to be alcohol while behind the wheel of a vehicle – an illegal activity, as drink-driving is an offence, and was provisionally associated with 4,620 crashes, 6,480 casualties, and 220 deaths in 2020 (14). The brand association is made stronger at the end of the advert when “Heineken”, with no reference to 0.0 or “alcohol-free”, is on screen for a full 2 seconds of the 30 second advert (Figure 3). The advert is not promoting the product as an option for a designated-driver and instead suggests a new occasion to drink – that is, in a car. Altering the advert to prominently feature the ABV at the beginning of the advert (Figure 3) would arguably be compliant with rules 18.20 and 19.21 but equally arguably would not be abiding by the spirit of the rules.

Figure 3. Altered Heineken 0.0 advert where the alcohol-free descriptor (0.0) is put at the beginning of the advert rather than part way through (15).





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- Current 18.20 and 19.21, as written, may also allow for direct marketing to groups such as pregnant people. The UK Chief Medical Officers' Low Risk Drinking guidelines state: if you are pregnant or planning a pregnancy, the safest approach is not to drink alcohol at all, to keep risks to your baby to a minimum. Encouraging pregnant women to drink alcohol alternative products runs contrary to this advice since most alcohol alternatives do contain small amounts of alcohol (noting that consumption of alcohol alternatives would be safer than consuming higher strength alcoholic drinks).

Given the UK Chief Medical Officers' guidance (16), targeting of adverts towards this group presents a confusing message. Many women already have a mixed understanding as to the harm alcohol can have on the developing fetus and research has highlighted the importance of consistent messaging of "no safe" level of alcohol exposure during pregnancy (17). Further considering that some 0% products actually contained up to 1.8% ABV (18), we recommend the precautionary principle and avoid direct marketing to pregnant people and those trying to become pregnant.

We recommend updating the phrasing in 18.20 and 19.21 to "Marketing communications that feature alcohol alternatives may suggest products are preferable to alcoholic drinks in situations where it would be inappropriate or unsafe to consume alcoholic drinks (e.g. designated driver) and they must make clear the product contains no alcohol. They may not depict alcohol alternatives being consumed in situations where it would be inappropriate or unsafe to consume alcoholic drinks (e.g. in a vehicle). Marketing should not be directed at pregnant people or those trying to become pregnant" or similar.

Other than the above exceptions specific to alcohol alternatives, we recommend that any references to "alcohol" in the CAP and BCAP codes be inclusive of both alcohol and alcohol alternatives.

We also recommend incorporating alcohol alternatives into the principle for alcohol in the CAP/BCAP codes, as there currently is no principle for alcohol alternatives. The principle could incorporate the focus of alcohol alternative marketing as substitution rather than addition. Example phrasing could be: "marketing communications for alcoholic and alcohol alternative drinks should not be targeted at people under 18 and should not imply, condone or encourage immoderate, irresponsible or anti-social drinking. Alcohol alternatives should be marketed in ways clearly depicting them as substitutes for alcoholic drinks. The spirit as well as the letter of the rule applies."

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

Yes – see our response in question 2.



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Is the definition of ‘alcohol alternatives’ clear, feasible, and appropriate?

We largely agree that the definition of ‘alcohol alternatives’ is suitable, and that a threshold of at or under 0.5% ABV is appropriate.

However, like many producers, we do have concerns that because there is currently no statutory threshold for non-alcoholic drinks, the proposed CAP & BCAP’s definition may further compound existing confusion in the market

Currently there is only non-binding guidance across both the UK and devolved governments. As a result, there is a lot of confusion around the use of terms such as ‘alcohol free’ (0.05%) and ‘non-alcoholic’ (0.5%).

We also have some reservations around the language “if the audience is likely to consider it as such”. This is highly subjective, and more objective criteria would be helpful; for instance the product’s ABV, whether it’s marketed under a known alcohol brand, or is produced by a producer of alcoholic beverages, or is advertised as suitable to be consumed at times or occasions when alcoholic beverages would normally be consumed etc.

Our understanding is the Department of Health and Social Care will revisit their low & no alcohol descriptors and may permit ‘alcohol free’ and ‘non-alcoholic’ to be used interchangeably for all low/no alcohol products up to 0.5% ABV, as CAP & BCAP’s ‘alcohol alternative’ definition suggests.

Until then there is a risk that the proposed CAP/BCAP definition may create further confusion; for instance, where the term ‘alcohol free’ is used in marketing for a product that is above 0.05% ABV. It may be necessary for CAP & BCAP to keep this definition under review therefore.

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

As stated, the existing guidelines around ‘alcohol free’ (0.05%) and ‘non-alcoholic’ (0.5%) are confusing for consumers, out of sync with precedents set in many international markets where the terms are used interchangeably, and we would support a change enabling both to be used for all low & no alcohol products up to 0.5% ABV.

In this context however, until the existing government guidelines are changed, we are concerned that the phrase ‘genuinely alcohol free’ adds a further layer of confusion. For instance, would a ‘de-alcoholised’ product (i.e. one which removed alcohol after fermentation), be considered ‘genuinely alcohol free’ or not, where it was under 0.05% ABV? For this reason, we would not support CAP & BCAP adding another qualifier being added to what are already overly complicated descriptors.

We note that CAP & BCAP’s guidelines will require any alcohol alternative products above 0% to include a prominent statement of their ABV. We have no objection to this in principle, but would like clarity on how many decimal places the ABV should be provided to (our understanding is to 1 decimal place), and would just ask that any permitted tolerance levels are consistent with wider government guidelines also.

Although Pernod Ricard do not produce any ‘alcohol alternatives’ of alcohol-branded products below 0.5%, we agree with some of the concerns expressed by our industry bodies that the proposed rules are unnecessarily restrictive. For instance, a reference to “the same great taste” would be classed as cross-promotional of both the non-alcoholic and the alcoholic versions of a drink, and therefore the full alcohol rules would apply. However, as ‘taste’ can be a key component in encouraging consumers to switch to an ‘alcohol alternative’ product, this seems excessive.

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

We do have some concerns at the potential for confusion, around what is and what is not cross-promotional. For instance, if an individual with an 'alcohol alternative' drink is featured most prominently, but several individuals holding a branded alcohol product feature in the background (as you might expect in e.g. a pub environment), would that be considered cross-promotional or not? Some further clarity in this area may be helpful.

We also believe there should be flexibility to show consumption of an alcohol alternative product, at times where it would not be socially responsible to consume alcohol (for example, some work environments) – in the same way that an alcohol alternative product can be marketed to someone who is pregnant or driving. At present, the proposals suggest that an 'association' with an alcoholic drink would be sufficient as a threshold for the full alcohol rules to apply. In our view, 'encouragement' would be a more appropriate threshold. There is no evidence that glassware alone, or a garnished drink, would encourage alcohol consumption, indeed the opposite is often true. I.e. the presentation of a product can proactively encourage someone to try an alcohol alternative drink.

Portman Group response to Committee of Advertising Practice and Broadcast Committee of Advertising Practice consultation on new rules for alcohol alternatives



Executive Summary

1. The Portman Group welcomes the opportunity to respond to the Committee of Advertising Practice ("CAP") and Broadcast Committee of Advertising Practice's ("BCAP") proposal to introduce new rules and guidance to regulate the advertising of alcohol alternative products.
2. Alcohol alternatives are an adult product category and should be marketed in a socially responsible way due to their close association with alcoholic drinks. We therefore agree that it is helpful to introduce guidelines so that the category can continue to grow and innovate in a responsible manner.
3. We agree that alcohol alternative drinks are incapable of intoxicating consumers and therefore have a significantly reduced risk profile. There is no compelling evidence which currently exists either in the UK or internationally to suggest that alcohol alternative products, or their associated marketing, cause harm.
4. The Portman Group's fourth annual low and no survey, in partnership with YouGov, demonstrated that consumers of alcohol alternative products are using them as part of a responsible and moderate approach to drinking.
5. Any regulatory action should be proportionate to the real or likely harms and should not unnecessarily restrict a category designed to provide wider consumer choice and help consumers trying to reduce their overall alcohol consumption as well as being a useful tool to tackle harms such as drink driving.
6. We are concerned with the definition that *"a specific drink or range of drinks is an alcohol alternative if a reasonable person is likely to consider it as such"*. Audience perception can be subjective and while a reasonable person is a useful measure in some circumstances, this is an area where there is known confusion for consumers, making a test based on consumer perception difficult to apply.
7. We believe that as long as the context of the advertisement is clear, it is not unreasonable to show consumption of an alcohol alternative in times where it would not be socially responsible to consume alcohol given that there is no evidence to suggest harm.
8. It seems counter-intuitive to state that alcohol alternative products cannot positively reference the taste of their alcoholic counterparts to *encourage* a switch if the context of the ad is clearly promoting an alcohol alternative. We would welcome a review of this point to consider the fact that such references would be used to drive positive behaviour change and promote the consumption of an alcohol alternative as opposed to realistically promoting the consumption of alcohol.

The Portman Group

9. Founded in 1989, the Portman Group is the world leading and first industry regulator committed to moderation and promoting a sensible relationship with alcohol among

those who choose to drink. We've worked hard to act as a bridge with industry and government to increase awareness and raise standards. This has helped contribute to a downturn in misuse.

10. The Portman Group operates the [Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks](#) and the [Code of Practice on Alcohol Sponsorship](#). They ensure that alcohol is marketed in a socially responsible way, only to those aged 18 and over, and in a way that does not have particular appeal to vulnerable consumers.
11. The Independent Complaints Panel applies the Code, which has led to more than 160 irresponsible products and promotions either being re-branded or removed from the market, in turn driving industry changes and protecting consumers.
12. The Portman Group has more than [150 Code signatories](#) including producers, retailers and membership bodies. The Group is funded by fifteen member companies: Asahi UK Ltd; Aston Manor Cider; Bacardi; Brown-Forman; Budweiser Brewing Group UK&I; Campari; C&C group plc; Diageo GB; Heineken UK; Mast-Jägermeister UK; Mark Anthony Brands; Molson Coors; Pernod Ricard UK, SHS Drinks and Thatchers Cider.

Background

13. The growth of the alcohol alternatives category reflects the strong commitment from industry to improve the range of options for consumers who want greater freedom of choice and to moderate their overall alcohol consumption.
14. In the Portman Group's fourth annual survey exploring UK consumer attitudes to low and no alcohol, YouGov polling revealed that the use of low and no products is driven by current alcohol drinkers, with close to three-quarters (72%) at least trying these products, compared to only 38% of non-drinkers¹.
15. Over a quarter (26%) of those who have tried low and no alcohol say that their subsequent weekly alcohol consumption has decreased since they first tried it. The most cited single reasons for the appeal of low and no alcohol to consumers are that it enables them to drive home and not drink excessively at social events².
16. The 2021 polling results bolster the Portman Group's polling results from the last four years which demonstrate that consumers of alcohol alternatives are buying these products as part of a responsible approach to drinking.
17. The Portman Group recognises that alcohol alternatives are intended for adult consumers and should be marketed as such. Alcohol alternatives create an association with alcohol, an age-restricted product, and we agree that such products should not particularly appeal to under-18s.
18. We note that the consultation document does not refer to any evidence regarding harm caused by consumption of alcohol alternatives or related marketing and bases proposed regulatory action on a precautionary principle. At the time of writing, there is little evidence of direct harm to drinkers of alcohol alternative products, or harm to other people who might be affected by a drinker's consumption, or wider societal damage.

¹ YouGov surveyed 2,079 adults from across the UK online between 9 and 10 December 2021. The figures have been weighted and are representative of all UK adults (aged 18+)

² Ibid.

19. Any regulatory action should be proportionate to the real or likely harms and should not restrict a category designed to provide wider consumer choice, which helps consumers trying to reduce their overall alcohol consumption as well as being a useful tool to tackle harms such as drink driving.

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

20. The Portman Group agrees that the term 'alcohol alternative' is an appropriate one to define the category that would be captured by new rules and guidance. The category is designed to provide wider consumer choice for those who do not drink while also providing an alternative for those already drinking³ and therefore should not be described as an 'alcohol replacement'.
21. We acknowledge that there is no statutory threshold for what constitutes a non-alcoholic drink as legislation was revoked and replaced with non-binding statutory guidance. The Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks defines an alcoholic drink as above 0.5% ABV. This definition is consistent with the Licensing Act 2003 and the definition used to describe alcoholic drinks in the CAP and BCAP Codes. We therefore agree with the proposed parameter that an alcohol alternative is a drink with an ABV of 0.5% and below, subject to other factors. However, we also ask that any definitions are subject to review depending on the outcome of a potential Department of Health and Social Care consultation on low and no descriptors.
22. We recognise that the current descriptors in non-binding guidance are confusing for consumers and industry alike⁴ and that it is therefore reasonable to set the baseline for the ABV of alcohol alternatives within the scope of existing alcohol rules. We also understand the need to introduce principles-based rules to achieve a balance between innovation and prevention of harm. However, we are concerned with the definition that "*a specific drink or range of drinks is an alcohol alternative if a reasonable person is likely to consider it as such*". Audience perception can be subjective and while a reasonable person is a useful measure in some circumstances, this is an area where there is known confusion for consumers, making a test based on consumer perception difficult to apply.
23. Proposed guidance lists a variety of factors that may indicate whether a drink is being marketed and presented as an alcohol alternative and we mostly aligned with this list. However, we do note that '*reference to alcohol the product is intended to mimic or replace*' may not be compatible with the Spirit Drink Regulations 2008 and it may be worth clarifying that for some categories such references are not advisable.
24. We think that the definition of an alcohol alternative should be determined by the product's ABV and the factors listed on page seven of proposed guidance, whilst not exhaustively; and should reconsider the principle '*if a reasonable person considers it as such*' to provide a degree of clarity and regulatory consistency for marketers.
25. We would suggest that the wording is amended to '*A specific drink or range of drinks is an alcohol alternative if it is marketed and presented as such*' with the factors in guidance clarifying how this is applied. This approach places the onus and responsibility on marketers when advertising in this space and removes the scenario

³ Ibid.

⁴ YouGov polling, total sample size was 2048 adults. Fieldwork was undertaken between 24th - 25th April 2018. The survey was carried out online. The figures have been weighted and are representative of all GB adults (aged 18+)

that a company may be penalised for a breach based on subjective audience perception. The caveat which states that it is not an exhaustive list would still allow for this to be a principles-based application, but one that is clearer for marketers to adhere to.

26. We agree that presentation and description should play a key part when determining if a non-alcoholic drink is to be classified as an alcohol alternative. We would ask that proposed guidance provides further clarity as to when a drink would be classified as an alcohol alternative. One of the determining factors states that an indicator would be '*a focus on situations where a significant portion of consumers may typically drink alcoholic drinks*' and we agree that a bar or party setting are appropriate examples. We would welcome clarity beyond these social settings, for instance, a café with outdoor seating, a garden BBQ, dinner party etc. While the other factors listed help identify an alcohol alternative product it is not clear how many of these factors may signify an alcohol alternative, for instance, would a focus on a 'situation' be enough of a determining factor? Further clarity on this specific point would aid marketers when seeking to understand whether an ad is promoting an alcohol alternative or an alcoholic product when comparisons or switching are being referenced.

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

27. We welcome clarity for marketers in this area so that the alcohol alternatives category can continue to innovate and grow in a responsible manner.
28. We have addressed the circumstances in which the full alcohol rules may apply in relation to cross-promotional marketing in this section and in response to question three.
29. We acknowledge that some people, whether for health, lifestyle, or religious reasons, may wish to know if any food or drink still retains some alcohol at a detectable level and therefore understand the proposal of rule 18.19 that marketing communications for alcohol alternatives must include a prominent statement of their ABV. We also understand that CAP and BCAP's existing rules on Misleading Advertising require drinks describing themselves as 'alcohol free' to be advertised with a statement of ABV unless they are 'genuinely alcohol free'. For this rule to be applied fairly and consistently we request that further details are explained in guidance.
30. While consumers and industry agree that current descriptors in non-binding guidance are confusing, the majority agree that the term 'alcohol-free' is useful and that there is merit in raising this threshold from 0.05% ABV to 0.5% ABV and below. At present, the definition of alcohol-free is based on 0.05% ABV. In the section of proposed guidance entitled 'ABV statements' it is not entirely clear whether the current definition of alcohol-free at 0.05% in non-binding guidance is captured by the phrase 'genuinely alcohol-free'. Proposed guidance seems to suggest that any production process that removes alcohol after fermentation would not be considered alcohol-free, despite industry using the ABV threshold of 0.05% to determine this (as opposed to the production process). If guidance were to introduce another qualifier to the descriptor 'alcohol-free' we are concerned that this introduces another layer of complexity for industry and consumers that is contrary to current widespread practice. Alcohol producers could be faced with a situation where the packaging of a product could be labelled as 'alcohol-free' with no ABV present but when advertising the product would have to include an ABV as it may not be considered 'genuinely alcohol-free' under the CAP Code.

31. The Food Information Regulations do not require the ABV of a product to be displayed if it is 1.2% and below. For those products above 1.2% ABV, the figure should be presented to not more than one decimal place and positive and negative tolerances are stated depending on the beverage. While rule 18.19 requires that an ABV is displayed on an ad, it would be helpful if guidance could clarify how many decimal places this should be and advise how much of a positive or negative tolerance would be considered before an ad became misleading. For instance, if a 0.5% ABV tolerance were applied this could affect whether a product is an alcohol alternative or not. As CAP is not the appropriate body to determine new tolerance levels we would ask for consistency with the Food Information Regulations.
32. We agree that it is widely accepted that alcohol alternatives do not have the capability to intoxicate a consumer and any new principles must be applied proportionately given that they do not have the risk profile of alcoholic drinks. We would therefore ask for clarity regarding the drinking occasions section of guidance. Proposed rule 18.21 states that marketing communications must not encourage the consumption of alcohol at times or on occasions that are not generally considered to be appropriate, such as working at a desk in an office or sporting activities. While CAP and BCAP do not consider that every reference to an alcohol alternative in these circumstances would inherently promote alcohol consumption, this is dependent on the context of the ad. The consultation document states that most uses of alcohol imagery would be highly likely to be inappropriate in these circumstances. However, if marketing communications for an alcohol alternative must make it clear that the product does not contain alcohol from the offset, then an ad is highly unlikely to encourage the consumption of alcohol on the basis of using alcohol-related imagery such as a beer bottle/glass as there is no compelling evidence to suggest this is the case. Given that CAP and BCAP have acknowledged the public health benefit of alcohol alternatives and their significantly reduced risk profile, it seems disproportionate to prevent alcohol alternatives from positioning themselves in different drinking occasions when they can help to reduce alcohol intake in some examples. The example cited in the consultation document refers to drinking at a desk in an office, but if it is explicitly clear that this is not an alcoholic product there are situations, like a lunch break, where this would be appropriate behaviour and would in fact give a consumer a different choice to consuming alcohol – thus reducing a drinking occasion - or a soft drink.
33. In the same way that proposed guidance states an alcohol alternative could be marketed to designated drivers or to pregnant women, we believe that as long as the context of the advertisement is clear, it is not unreasonable to show consumption of an alcohol alternative in times where it would not be socially responsible to consume alcohol given that there is no evidence to suggest harm. The wording of rule 18.21 would support this with the emphasis on the point that the ad should not encourage alcohol consumption. Based on the likelihood of harm, it seems disproportionate to suggest that a 'garnished drink', with no alcohol in, would encourage alcohol consumption. The word 'encourage' would suggest that the ad would need to persuade an individual to do something which we believe is the correct threshold, both directly and indirectly. At present, the consultation document (page 15) seems to suggest that an 'association', as opposed to encouragement, would be enough of a threshold for full alcohol rules to apply and we would welcome clarification on this point. There is no evidence base to suggest that a reference to a broad alcohol signifier, such as glassware, would *inherently* encourage alcohol consumption at times that are not generally considered appropriate. In fact, consumer polling suggests that presentation of the product is a key part in encouraging consumers to try alcohol alternatives, as opposed to encouraging alcohol consumption.

34. Page 8 of guidance details whether certain references would be considered cross-promotional and when the full alcohol rules may apply for brand websites. We would welcome clarification to understand whether this guidance would be applied more broadly than brand websites.
35. The accompanying table on pages 8 and 9 of proposed guidance further detail the difference between a factual and promotional claim for brand website purposes. The table suggests that a reference to 'the same great taste' would be classed as cross-promotional and the full alcohol rules would apply. Available evidence, and the consultation document, suggests that for some consumers the availability of a non-alcoholic version of their usual drink is a powerful factor in switching to an alcohol alternative, therefore helping to moderate their overall alcohol consumption. This should be considered alongside the fact that there is no compelling evidence to suggest that those products which share a brand with an alcoholic counterpart inherently encourage alcohol consumption when the focus is solely on the alcohol alternative.
36. In an area where there is no compelling evidence of harm, and the available evidence suggests that consumers are using these products as part of a responsible and moderate approach to drinking, it seems restrictive to prevent an ad from stating that a consumer could have the 'same great taste of their favourite beer' and depict them driving a car as a designated driver on a night out. When balancing the opportunity of driving positive behaviour change against the potential harm caused, this could restrict marketing unnecessarily.
37. Both CAP's Advice Service and the Portman Group's Advisory Service encourage alcohol producers to focus on the taste and quality of a product in marketing, as opposed to the strength or potential effect of the alcohol. It seems counter-intuitive to state that alcohol alternative products cannot positively reference the taste of their alcoholic counterparts to *encourage* a switch if the context of the ad is clearly promoting an alcohol alternative. While we agree that it is reasonable to state that the full alcohol rules should apply if an ad is promoting an alcoholic product, and therefore promoting alcohol consumption, such an ad focusing on 'great taste' would clearly be encouraging the consumption of an alcohol alternative, a category that the Department of Health and Social Care want to nudge the general drinking population towards and significantly increase availability of by 2025⁵. We would welcome a review of this point to consider the fact that such references would be used to drive positive behaviour change and promote the consumption of an alcohol alternative as opposed to realistically promoting the consumption of alcohol.
38. We agree with the wording and principle of the other proposed CAP and BCAP rules. In particular, we support and recognise the view that alcohol alternative products should not have a particular appeal 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?

39. We consider that it would be beneficial for industry to understand when shared branding would be considered a cross-promotional piece of marketing and would welcome further guidance in this area.
40. The proposed wording of 18.18 states that if a marketing communication has the effect of promoting an alcoholic drink, the rules relating to alcoholic drinks apply in full and we agree with this principle. The rule clarifies that the rule will not apply provided that

⁵ Department of Health and Social Care: Advancing our health – prevention in the 2020s, July 2019

the marketing communication is 'solely for the alcohol alternative and not the brand itself'. Supplementary guidance clarifies that the presence of an alcoholic drinks brand will not be inherently treated as cross-promotional, but that care must be taken. We think that the industry would benefit from further guidance in this area to assist in recognising when a shared brand appearance would become an alcohol ad. For instance, if an ad placed an individual consuming an alcohol alternative front and centre, but incidentally still included individuals with the alcoholic version in the background to demonstrate that a switch could be made and looked no different in an attempt to tackle any remaining social stigma around alcohol alternatives, would this be classed as an ad for an alcohol alternative? Or would the incidental brand appearance make this a cross-promotional piece despite the juxtaposition being used to promote a positive switch to an alcohol alternative? Whilst we appreciate that it is not possible to detail every example we would welcome further clarity to understand how far some producers may need to go to work harder and what this may look like.

41. We would also ask for clarification in an example where an advert for an alcohol alternative product was set in the context of a brand-owned bar, where the focus was solely on the alcohol alternative, would any background reference to the wider brand through the bar setting mean that the full alcohol rules would apply? Would this also be the case where the brand-owned bar appearing incidentally in the background was not the same brand as the alcohol alternative in the ad?

Portman Group
May 2022

Response from Schloss Wachenheim AG

As brand owners of Eisberg Alcohol Free wine, we would like to provide the following feedback on the consultation.

Definition of No Alcohol

We would like to see more clear definition between 0,5 and 0,05% products that reflects the current UK legislation on labelling of reduced alcohol wines. Less 0,05% should be described Alcohol Free in advertising and less 0,5% should be described as De-alcoholised rather than "no alcohol".

Alcohol Free Wine

Does the guidance allow the use of the term "Wine" in advertising when discussing alcohol free?

Pregnancy

We would like to see a separate point in the guidelines that deals with pregnancy and appealing to pregnant women. Is this considered acceptable?

Driving

We would like to see a separate point in the guidelines that deals with driving and appealing to designated drivers. Is this considered acceptable?

Occasions

Is it acceptable to promote alcohol alternatives for occasions where alcohol may not be appropriate. For example, Mothers Day breakfasts, brunch, day time picnics.

Locations

Is it acceptable to promote alcohol alternatives in locations where alcohol consumption is prohibited? For example, public parks, public transport.

Moderation

We feel the guidelines (in point 18,22) do not fully take into account a moderate consumption of alcohol. Should excessive drinking be consider to be anything above the weekly recommended intake of 14 units?

Sporting events

Do the guidelines restrict the promotion of alcohol alternatives around sporting activities that are not necessarily during the activity itself? For example, a glass of alcohol-free after a cycling trip or consumption of alcohol free while spectating/wearing sporting attire or kit.

Portman

We believe there could be more clarity on when Portman Guidelines would supersede these new guidelines.

Examples

We feel there could be more examples of what is appropriate advertising and what is inappropriate when discussing sport, work place, occasions, heavy drinking, hangovers.

Therapeutic Application

Does the Portman guideline 3.2j treating therapeutic application apply to alcohol alternatives? For example, relaxing with a glass of wine in the bath.

Alcohol Alternatives Consultation

Response from the Scotch Whisky Association



Introduction

The Scotch Whisky Association (SWA) is the trade body for the Scotch Whisky industry, representing 86 member companies involved in the production and distribution of Scotch Whisky, accounting for over 95% of our sector. Membership of the SWA is diverse, from listed multinational spirits producers through to small family-run distillers, bottlers, blenders, and brokers.

Consultation Questions

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

Yes, we consider the definition to be clear, feasible and appropriate as this is consistent with the Licensing Act 2003 and the definition used to describe alcoholic drinks in the CAP and BCAP Codes. The proposed parameter that an alcohol alternative is a drink with an ABV of 0.5% and below, subject to other factors, is acceptable. It reinforces that alcohol alternatives are products intended to replace alcoholic drinks in contexts where the latter would typically be consumed.

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

Broadly we are content with the principles and wording of the proposed rules and guidance. However, there is a particular issue we wish to flag that requires to be addressed in the guidance and code rules relating to the protection of spirit drink categories and those spirits which have Geographical Indication (GI) status. As currently worded the proposed code rules and guidance do not recognise the protection afforded to these products in by UK law.

For example, in the consultation document it states on page 14 under the section headed 'Alcohol alternatives by alcohol brands', third paragraph

*'Building from this principle, one of the ways in which CAP and BCAP propose enabling the transition between alcohol and alternatives is to allow advertisers to compare an alternative with their standard alcoholic drinks in a factual manner without being interpreted as promotional. For instance, claims such as "The same hoppy taste as our usual IPA" or "**if you like our gin, you'll love this alcohol-free alternative**" would not be considered to promote the original product and would therefore not be subject to the full Alcohol rules.'*

In the accompanying guidance document on page 7 it states:

Factors that are likely to indicate that a drink is an alcohol alternative include:

- *similar styles of branding to alcoholic drinks or shared branding with alcoholic drinks;*

- *images featuring packaging similar to alcoholic drinks;*
- *imagery relating to alcoholic drinks, such as beer glasses, cocktail shakers, or garnished drinks;*
- *references to '<0.5% ABV' or similar;*
- **references to the type of alcohol that the product is intended to mimic or replace;**
- *specific references to a lack of alcohol e.g. 'alcohol free';*
- *a focus on situations where a significant proportion of consumers may typically drink alcoholic drinks, such as at a bar or party.*

The text highlighted above does not take into consideration the fact there are strict provisions in UK law, specifically retained EU Regulation 110/2008 and EU Regulation 716/2013 as amended, which restrict how the names of defined alcohol categories can be referred to in the labelling and promotion of other beverages. Reference to some of the relevant provisions is made below.

UK law does not permit reference to, for example, the protected category description "whisky" in the labelling **and marketing** of beverages which are not whisky or do not contain whisky. "Whisky-like", "style", "type", "flavour of whisky" etc are not permitted. The same applies for other protected spirits categories such as "gin". Where the spirit drink category is an ingredient, there are specific rules in the regulations referred to above as to how the category name appears on labels or in sales promotion. Further details can be provided.

UK law also protects GIs such as Scotch Whisky from "evocation" (Article 21 of EU Regulation 2019/787, retained as UK law). Illegal evocation can occur when brand names, descriptions and images on the labelling and in the marketing of a product triggers in the mind of consumers a direct connection to Scotch Whisky, when it is not. Further details, including relevant case law, can be provided.

If "non-alcoholic spirits" are marketed as alcohol alternatives to spirit drink categories by reference to those categories there is a risk that will breach the legal requirements which protect those categories and GI names. An example of an attempt to leverage the reputation of gin to sell a low alcohol drink was CLEANGIN. CLEANGIN was only 1.2% abv and clearly could not be described as a gin but it was directly marketed as a low alcohol equivalent to gin. After several months of discussion and a complaint to the authorities, the labelling was eventually changed (to CLEANG).

Also, the above points would also have to be taken into consideration in relation to the first bullet point mentioned above:

Factors that are likely to indicate that a drink is an alcohol alternative include:

- *similar styles of branding to alcoholic drinks or shared branding with alcoholic drinks*

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

We are content the proposed changes to the code rules and guidance have got this right.

May 2022



White Ribbon Association response to CAP 'Alcohol Alternative' consultation

The White Ribbon Association is a charity dedicated to raising awareness of the effects of drugs, alcohol, tobacco and gambling. Through our range of services to schools, colleges, and community venues, including health hubs and libraries, we aim to promote healthier lifestyles. We provide adult and children's health display boards, informative health stands, and educational resources, which are available on our website.

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

The consultation asks if the CAP (Committee of Advertising Practice) definition of 'alcohol alternatives' is clear, feasible, and appropriate. The definition given is *'Alcohol alternatives are 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. A specific drink or range of drinks is an alcohol alternative if the audience is likely to consider it as such'*.

Within the consultation explanatory notes, under section 5.2 entitled Background, the CAP state 'there is no statutory definition for 'alcohol alternative drinks''. Whilst we agree with this fact, we do have some concerns with the content and wording in their chosen definition above.

We would ask for the term 'non-alcoholic drinks' to be removed from the definition as we do not believe it is appropriately used in this context. An alternative term could be 'Alcohol Substitutes'

Our argument is based on several resources defining 'non-alcoholic drinks' that appear to conflict with the CAP definition.

1. Drinkaware, an agency working directly with both the alcohol industry and public sector bodies to tackle alcohol harm, states on their website that *'Non-alcoholic drinks and alcohol-free drinks are not the same. Non-alcoholic drinks are drinks containing no alcohol at all. Alcohol-free drinks, however, contain a small amount of alcohol but only at a strength of 0.05% or less.'*ⁱ
2. The Department of Health and Social Care 'Low Alcohol Descriptor Guidance' document published in December 2018, states *'The term 'non-alcoholic drinks' should not be used in conjunction with a name commonly associated with an alcoholic drink'*ⁱⁱ
3. Trading Standards also state *'The term 'non-alcoholic drinks' should not be used in conjunction with any name commonly associated with an alcoholic drink (beer, wine etc).'*ⁱⁱⁱ
4. Food Labelling Regulations (FLR) 1996 state *'Non-alcoholic – cannot be used in conjunction with a name associated with an alcoholic drink'*.

Whilst we understand that some of the above have been discarded (mainly the Food Labelling Regulation 1996) and the legislation has been replaced by Government guidance, we do believe the Government feels strongly about such definitions being upheld for continuity and public protection, particularly for young people and those in recovery. Even

in the 'The Soft Drinks Levy Regulations' 2018 section 9 of part 3 where such drinks are explained, the Government never use the term 'non-alcoholic drinks' instead they use the term 'Alcohol Substitutes'.

Another part of the CAP alcohol alternative definition is the ABV% of such drinks. It states '(those at or under 0.5%)'. Drinks in the UK that are under 0.5% ABV are described as de-alcoholised, not non-alcoholic. The alternative term of 'Alcohol-Free drinks' would not be appropriate to use here as UK standards define such drinks as having at or below 0.05% ABV content, which is ten times less alcohol than ASA definition allows.

We understand Europe uses variant ABV% levels up to 1.2% for Alcohol-free drinks, with most standing at 0.5%, it needs to be acknowledged we are no longer in the EU so UK regulations should be followed.

The consultation paper presented by CAP states that several pieces of legislation which term alcohol-free with a maximum ABV% are no longer current and have only been replaced with guidance. This, therefore, makes action within the guidance voluntary not mandatory. We would like to raise the fact that the Government have been clear on the max ABV% in those guidelines and has been clear on how certain products are marketed and advertised. CAP have a responsibility to regulate alcohol-free products advertised in the UK, so clarity on max ABV% that fits within UK guidelines needs to be added to the definition and the rules CAP are setting.

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

With regards to the principles and wording of the proposed rules and guidance and whether full standard alcohol rules should apply or not, we believe some of these rules may open in-direct advertising of alcoholic drinks. We particularly focus on the wording placed in **CAP 18:18 and BCAP 19:19** rules where it states ***'If a marketing communication for an alcohol alternative also refers to or otherwise has the effect of promoting an alcoholic drink the rules relating to alcohol drinks apply in full. For the avoidance of doubt, where a marketing communication is for an alcohol alternative that shares the same brand as an alcoholic drink then this rule will not apply provided the marketing communication is solely for an alcohol alternative and not the brand itself'***. Many alcohol alternative drinks have the same colours, branding, and names as their alcoholic counterparts. Therefore, we are not clear how indirect marketing of alcohol products can be avoided using the rulings as they are laid out. How this could be avoided is dependent on how other rules are set out and interpreted, such as rules **CAP 18:19 and BCAP 19:20**. We understand that normally the rules do not allow alcoholic drinks (those above 0.5%) to advertise their ABV% strength. Allowing only alcohol alternatives to place their ABV% may clear any confusion regarding the drink being an alcohol alternative from any alcoholic counterpart. However, the wording must be clear on what is considered the maximum ABV% allowed within the alcohol alternative category and be in line with UK guidelines, not EU regulations. To make this clear to the public, within the advertising, the ABV information needs to be provided in a standard reasonable size and font. If this is not done or the ABV is above standard UK Alcohol-free guidance, then all alcohol rulings should apply.

Based on our argument that the term ‘non-alcoholic drinks,’ is removed from the definition of alcohol alternatives, we feel this wording should also be removed with any corresponding rules it is used in. In line with the Government ‘Low Alcohol Descriptors Guidance’ document, we ask for the terms de-alcoholised or alcohol-free to be used instead with the option of using ‘Alcohol Substitutes’ as an overall term.

We are pleased the age restrictions of directing marketing and the age of the person featuring in the marketing is stated at above 18 years old, as these are not classed as soft drinks but as ‘adult drinks’ and need to be treated as such.

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

Whilst we understand advertising such drinks could help reduce UK alcohol intake and reduce alcohol harm, we believe some caution is needed when such drinks are dressed as their alcohol counterparts and if alcohol products are featured in the same advert. Adverts for alcohol alternatives should avoid settings where alcohol advertising is unacceptable such as the workplace, swimming pools, sporting venues and activities, driving etc, as ‘non-alcoholic drinks’ are considered an ‘Adult Drink’ that are linked to alcoholic products and brands. If such content is being used with such drinks than full standard alcohol rules should apply.

Summary:

- In summary, we would like the term ‘non-alcoholic drink’ to be removed from the CAP alcohol alternatives definition as these drinks contain no alcohol and should not be used in context with alcoholic drinks.
- We should follow UK alcohol-free guidelines of 0.05% and not EU rules of 0.5% as we are no longer members of the EU. If over 0.05% and below 0.5% then the term ‘de-alcoholised drink’ should be used instead.
- Any ruling within the guidelines should also remove the term ‘non-alcoholic drinks’ when referring to alcohol alternatives
- We would like to see caution used when such alcohol alternatives are advertised, particularly when they are branded similarly to their alcoholic counterparts as there is a high risk of indirect alcohol advertising occurring.
- Such alcohol alternative advertisements should not normalise drinking such drinks in settings where alcohol would be unsuitable including within the workplace. These are ‘Adult drinks’ not soft drinks, and cannot be purchased by those under 18.

ⁱ Drink aware website

ⁱⁱ Department of Health and Social Care, Low Alcohol Descriptors Guidance, Dec 2018

ⁱⁱⁱ Trading Standards Institute Advice, Alcohol beverages, Spirits and Food

www.bromley.gov.uk/leaflet/327479/3/757/d

Advertising of alcohol alternatives - Consultation response

Author: [REDACTED], Head of Compliance
Date: 4 May 2022

Thank you for the opportunity to comment on this consultation

Introduction - The Wine and Spirit Trade Association (WSTA)

The WSTA is the largest alcoholic drinks trade association in the UK. We represent over 350 companies that produce, import, export, transport and sell wines in the UK, including British wine and RTDs; spirits, including lower alcohol spirits drinks substitutes between 1.2% and 15% abv; and low and no alcoholic beverages under 1.2% abv that are aimed at over 18's and marketed as alternatives to full strength alcoholic beverages.

Our members range from major retailers, brand owners and wholesalers to fine wine and spirit specialists, logistics and bottling companies.

We campaign for a vibrant and sustainable industry. Our members take their responsibility with regards to the promotion and sale of alcohol very seriously, being at the forefront of efforts to help to build a future in which alcohol is produced, sold and enjoyed in both a compliant and responsible manner. This responsibility extends to the low and no alcoholic beverage sector, which many of our members are very active in.

WSTA Response

The WSTA agree that the definition of 'alcohol alternatives' within the consultation is clear, feasible, and appropriate.

The WSTA and our members recognise that products at and below 0.5% alcohol by volume are not covered by legislation and do not fall within the definition of 'alcohol'. We accept that products at and below 0.5% abv are not marketed in the same way as other 'alcohol free' products in so far as they are targeted at adults. As such, we agree that some element of control should be exercised in relation to these products.

We believe that low and no alcoholic beverages are marketed, advertised and sold in a socially responsible manner. Both the alcohol and the low and no alcohol sector demonstrate the principle of self-regulation at its finest with self-imposed restrictions placed on product sales, product placement and product advertising. As such, the WSTA question the need for more formal rules to be created by a body outside of the alcohol industry.

The WSTA are supportive of and have welcomed the call for industry guidance from our members, to clarify the rules around both low alcoholic beverages and beverages that are not legally defined as alcohol. Although we believe that this area is best controlled by the continuation of the self-regulatory approach that industry currently adopts, we accept that a more formal approach could be taken by the creation of accepted industry guidance; however, this should be produced by industry themselves.

Guidance would not only provide clarity for consumers but for producers, marketers, and advertisers also. As a trade association, the WSTA would be best placed to draft industry guidance, ensuring that this was acceptable to both regulators and industry alike, detailing minimum standards that industry should work to and that were achievable by all. Any WSTA guidance would be approved by the WSTA's primary authority partners and would be freely available for all marketers/advertisers to access, whether WSTA members or not.

The WSTA agree that low and no alcohol products are no longer a niche category, however, we believe that an extension to the CAP and BCAP codes is unnecessary, and the proposed rules are unnecessarily restrictive. The proposed extension to the CAP and BCAP codes have not been created to address a demonstrable risk or harm. There is no evidence to suggest that current advertising/marketing practices of products at 0.5% and below, are harmful to society – either in terms of content or advertisement placement. CAP have not been able to demonstrate that current advertising/marketing practices present harm to minors and/or vulnerable groups within society.

The WSTA understands the restrictions on using adults under the age of 25 in marketing campaigns for alcoholic beverages. This is a direct link to the Challenge 25 scheme that retailers voluntarily adopt when selling alcoholic beverages. However, while we understand the basis for these rules in relation to alcoholic beverages, we do not believe these rules should be extended to products at and below 0.5%.

The consumption of low and no alcohol products is one option available to consumers who want to reduce their alcohol intake. It follows that healthy consumption should be encouraged from an early age i.e., the age of 18, when people are legally permitted to consume alcohol. Although not currently done, targeted communications at those aged 18 and above would be the most impactful way of communicating healthy behaviours to that age group. This may include the use of role models in that age bracket. Therefore, introducing restrictions on using adults under the age of 25 in marketing communications, for products at and below 0.5%, seems counterintuitive to the wider educational piece that industry have a role in providing.

Challenge 25 is voluntary; in England and Wales it is neither a legal requirement to follow Challenge 25 nor is it a mandatory condition that is placed on a premise licence. It is a universal scheme that can be applied to any age restricted product. Legally speaking, products at and below 0.5% abv are not age restricted and invariably contain no more alcohol than orange juice or flavourings used as baking ingredients, which do not see the same level of control as products that are targeted at adults. Products at and below 0.5% abv can legally be sold and consumed by people of any age. Despite this, industry have not expressed a desire to promote or sell 'alcohol alternative' products to minors. In fact, our retail members (whether store based or online) apply the same restrictions and policies to these products as they do alcoholic beverages. However, the ability for these products to be marketed at those aged 18 to 25 should not be taken away from marketeers as this age group may play a pivotal role in promoting moderation of alcohol through consumption of no and low alcoholic beverages.

In 2019/2020, the Department of Health and Social Care released a consultation, 'Advancing our health: prevention in the 2020s'¹. As part of this consultation, they recognised that most people who drink, do so responsibly but also recognised that making alcohol-free and low-alcohol products more available would further promote responsible drinking by nudging the general drinking population towards lower strength alternatives. To make this possible and help consumers make the switch from alcohol to low and no alcoholic beverages quicker, The Department of Health and Social Care committed to working with industry to deliver a significant increase in the availability of alcohol-free and low-alcohol products by 2025. To support further innovation in the sector and encourage people to move towards alcohol-free products, they also committed to review evidence and to consider increasing the alcohol-free descriptor threshold from 0.05% abv up to 0.5% abv.

The proposed extension of the CAP and BCAP rules, placing restrictions on the advertising/marketing of products that Government has committed to help support and change the rules on labelling, recognising that UK rules were tighter and out of sync with the EU, cannot be justified and may hinder any effects that government is hoping to see in this area.

Conclusion

While we agree with the definition suggested for 'alcohol alternative' products, the WSTA and our members believe that industry are best placed to ensure that the promotion of these products remains socially acceptable and not misleading to consumers. Industry would ensure that rules introduced would be acceptable now and be future proofed for this fast-

¹ [Advancing our health: prevention in the 2020s – consultation document - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/advancing-our-health-prevention-in-the-2020s)

growing sector. The WSTA are in a prime position to produce this guidance. We are used to working in conjunction with enforcement officers and believe that guidance approved by trading standards would hold more sway, with both industry and consumers, than guidance produced by CAP.

Extension of the CAP and BCAP codes has not been justified and has not been created to address a demonstrable risk or harm.

Prohibiting the advertising/marketing of alcohol alternatives to people under 25 would seem to be counterintuitive to the wider government appetite to improve people's health and encourage responsible drinking. The WSTA and members argue that being able to target marketing and adverts at people from the age of 18+ would play a significant role in educating people about the benefits of reducing alcohol consumption before any bad habits were potentially formed.

Alcohol-free and low alcohol alternatives can help some people to cut down their drinking. Whilst the Department of Health have recognised the importance that these products play in helping to achieve this, the suggested amends to the CAP and BCAP codes does not.

Clarificatory note submitted 23-05-22

The WSTA responded to the recent consultation on alcohol alternatives. Within this response, we stated that we had no issues with the definition of alcohol alternatives, describing this as 'clear, feasible, and appropriate'. Since submitting our original response we have come across a selection of products that we feel would inadvertently fall within this definition and be bound by the suggested extension of the Codes to cover products at and below 0.5% abv.

A few links showing examples of products that would inadvertently be caught are included below for information. These products are sparkling teas. They are not advertised using any low alcohol descriptors. Some are presented in sparkling wine shape bottles with some also being secured using a cork, cage and foil.

As well as being available for retail sale, these products are often supplied as part of treat packages, such as afternoon teas, as an alternative to alcohol. The WSTA believe that products are likely to fall within the definition of an 'alcohol alternative' as defined within the consultation. They are:

- non-alcoholic drinks (those at or under 0.5% ABV);
- intended to replace alcoholic drinks in contexts where they would normally be consumed; and/or
- are likely to consider these as an alternative to alcohol by those that are consuming them.

We do not think that products such as these were intended to be caught by the proposed code extension, however, now it is clear that they would be, believe the definition to be problematic. The definition of alcohol alternative is too subjective and too wide and all-encompassing to be of any help to industry or consumers.

We reaffirm our belief that an extension to the CAP and BCAP codes is unnecessary, and the proposed rules are unnecessarily restrictive. CAP have not been able to demonstrate that current advertising and marketing practices of these products are socially irresponsible, that they cause offence or that they present harm to minors and/or vulnerable groups within society.

[Copenhagen Organic Sparkling Tea BLÅ, 75cl, 0% ABV - Fortnum & Mason \(fortnumandmason.com\)](https://www.fortnumandmason.com)

[Fortnum's Sparkling Tea, 0% ABV, 75cl - Fortnum & Mason \(fortnumandmason.com\)](https://www.fortnumandmason.com)

[Jasmine Sparkling Tea Gift Box by Saicho - Cold Brewed Tea \(thefoodmarket.com\)](https://www.thefoodmarket.com)

[Saicho Jasmine Sparkling Cold Brewed Tea : The Whisky Exchange](https://www.whiskyexchange.com)

[About REAL Kombucha - The Story Behind the Brand](https://www.realkombucha.com)