

Alcohol alternatives consultation: CAP and BCAP's evaluation of responses



1. Introduction

The below rules were the proposed rules that were consulted on. For a final version of the rules, please refer to the Regulatory Statement and the Advertising Guidance.

Proposed rules

Proposed rules - CAP

Alcohol alternatives

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.

18.18

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.

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 that the marketing communication is solely for the alcohol alternative and not the brand itself.

18.19

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

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.

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.

18.23

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

18.24

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

18.25

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

Proposed rules - BCAP

Alcohol alternatives

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.

19.19

If an advertisement 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.

For the avoidance of doubt, where an advertisement is for an alcohol alternative that shares the same brand as an alcoholic drink, then this rule will not apply provided that the advertisement is solely for the alcohol alternative and not the brand itself.

19.20

Advertisements for alcohol alternatives with ABVs above 0% must include a prominent statement of their ABV. For the avoidance of doubt, advertisements for alcohol alternatives are not prohibited from making a feature of their ABV or from making preference claims on this basis.

19.21

Advertisements 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.

19.22

Advertisements 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.

19.23

Advertisements 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.

19.24

Television only – Alcohol alternatives advertisements must not:

19.24.1

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

19.24.2

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

19.25

Radio only – Alcohol alternatives advertisements must not:

19.25.1

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

19.25.2

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

19.26

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

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

32.2

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

32.2.1

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

Removal of (made redundant by 32.2.1):

32.4

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

32.4.7

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

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

	Organisation / Individual	Abbreviation
	Associação de Vinhos e Espirituosas de Portugal (Portuguese Wine and Spirits Association)	ACIBEV
	Alcohol Change UK	AC
	Alcohol Health Alliance	AHA
	Adult Non-Alcoholic Beverage Association	ANBA
	Balance	Balance
	British Beer and Pub Association	BBPA
	Bundesverband Wein und Spirituosen International e.V. and Verband Deutscher Sektkellereien e.V. (Association of Wine and Spirits International and Association of German Sparkling Wineries)	BWSI & VDS
	Caleno Drinks	Caleno
	Comité Européen des Entreprises Vins (European Committee of Wine Companies)	CEEV
	Club Soda	CS
	Diageo	Diageo
	The Gin Guild	GG
	Heineken UK	Heineken
	Institute of Alcohol Studies	IAS
	Molson Coors Beverage Company	MC
	Office for Health Improvement & Disparities	OHID
	Pernod Ricard	PR
	Portman Group	PG
	Private Individual	PI
	Schloss Wachenheim AG	SW
	The Scotch Whisky Association	SWA
	White Ribbon Association	WRA
	The Wine and Spirit Trade Association	WSTA

Respondent (s)	Comments	CAP and BCAP's evaluation:
<i>Rationale for intervention</i>		
AC, BBPA, Diageo, Heineken, MC	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>In general, yes, we agree with the principles of the proposed rules and guidance.</p>	<p>CAP/BCAP welcomes these responses in favour of intervention.</p> <p>These responses include references to promoting alcohol alternatives in contexts where alcohol may be unsuitable solely for reasons of intoxication. This could be addressed by changes to the Drinking Occasions section.</p>

	<p>We would begin by welcoming the consultative way the ASA has conducted this process, complemented by significant engagement with industry throughout.</p> <p>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</p>	
OHID	<p>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.</p> <p>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.</p>	<p>CAP and BCAP welcome the acknowledgment of the benefits of alcohol alternatives in supporting reduced consumption of alcohol. The evidence reviewed supports the benefits of alcohol alternatives and little comprehensive evidence has been provided of such products having a “gateway effect” on non-drinkers and children. Therefore CAP and BCAP consider that restricting responsible marketing to alcohol alternatives to existing drinkers would be disproportionate.</p> <p>The proposed rules prohibit promotion to children and revisions to guidance have addressed concerns regarding pregnancy.</p>
WSTA	<p>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.</p> <p>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.</p>	<p>The definition of alcohol alternatives within the Codes has been amended to reflect that it is for the purposes of the CAP/BCAP Codes and separate from other legislative requirements.</p> <p>CAP and BCAP recognise the potential for alcohol alternatives to encourage reduced overall consumption of alcohol.</p>
WSTA	<p>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</p>	<p>CAP and BCAP acknowledge that, as a relatively nascent category, there is limited evidence to demonstrate a substantial risk (or lack thereof) to public health from the marketing of alcohol alternatives in general. However, the Codes already regulate references to alcohol in ads for all products. The intention of the new subsection is to explain how this principle applies to the alcohol imagery, themes, and references that are often found in ads for alcohol alternatives.</p>

advertising/marketing practices present harm to minors and/or vulnerable groups within society.

The restrictions on content relate to explicit and implied alcohol references, which relate to existing standards for alcohol references in ads for all products. The subsection has been implemented to provide further clarity to a section of the food and drink industry where these references are particularly common and, in the case of products such as non-alcoholic beer, almost inherently necessary. In practice, and as explored in the original consultation document, the subsection is the alternative to capturing alcohol alternative products in the scope of the full Alcohol rules, on the grounds that they are de facto references to alcohol in and of themselves. For the reasons given by the WSTA regarding evidence, CAP and BCAP did not consider that application of all Alcohol rules was currently merited, but that existing standards relating to alcohol consumption should still apply to the relevant content of specific ads.

Further comments on specific content and targeting/scheduling rules are to be found in following sections of this evaluation.

<i>Definition of alcohol alternatives</i>		
ANBA, CS, Heineken, SWA	Agreed with the proposed definition	CAP and BCAP welcome the comments in support of the proposals.
PG	Agree 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 drinking and therefore should not be described as an 'alcohol replacement'	CAP and BCAP welcome the comments in support of the proposals.
OHID	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.	CAP and BCAP welcome the agreement on terminology. However, we consider there are clear potential benefits in shared branding encouraging existing consumers to switch to alcohol alternatives. The guidance on cross promotion will address concerns about ads for branded alcohol alternatives having the effect of promoting the overall parent brand.
AHA	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. 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.	<p>As alcohol is a legally available product that can be consumed responsibly and with low risks to health (see below) CAP and BCAP do not consider that the 'denormalisation' of alcohol consumption in general is a legitimate or reasonable policy aim for this work. Further information about this position is available here: https://www.asa.org.uk/resource/normalisation.html</p> <p>The issue of whether alcohol alternatives act as a gateway to increased alcohol consumption is addressed in detail further on in this evaluation. In summary, CAP and BCAP consider that the currently available evidence (including that provided by the respondent) relating both to consumer's reported habits and to purchasing data indicate that alcohol alternatives are very unlikely to increase alcohol consumption and may instead be likely to decrease it.</p> <p>In relation to consumption of alcohol alternatives in addition to, rather than instead of, alcohol, CAP and BCAP disagree that this is a demonstrable issue necessary to address. CAP and BCAP consider, in line with public health advice, that moderate consumption of alcohol is possible, common, and of low risk. This position reflects the Chief Medical Officer's Low Risk Drinking</p>

		<p>Guidelines. As such, if an already responsible level of alcohol consumption is maintained and not increased, this is not a sufficient risk to health to provide a robust basis justifying advertising restrictions. As discussed further below, the rules and guidance prohibit ads for alcohol alternatives from presenting the product as a means by which excessive consumption (in other words, above the level set by the Guidelines) can be increased or maintained.</p> <p>With regard to the remaining concerns within this response, about children, abstainers, brand-sharing, and irresponsible or unsafe drinking, the rules address these concerns; discussion of the relevant rules can be found in the rest of this evaluation.</p> <p>Because the topics raised in the comment are either not justifiable aims for this consultation or are already addressed in the rules and guidance, CAP and BCAP do not agree that a change to the definition is warranted on these grounds.</p>
<p>AHA, Diageo, IAS, MC, PR, PG, OHID, WSTA</p>	<p>Agreed with a 0.5% ABV upper threshold.</p> <p>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. 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 is very difficult to consume alcohol products at 0.5% ABV or below more quickly than the alcohol is metabolized by the body.</p> <p>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</p>	<p>CAP and BCAP welcome the comments in agreement with the 0.5% ABV threshold. A further discussion of the Government guidelines can be found below (including a comment on future changes to legislation).</p>

<p>AHA, BBPA, IAS, MC, PR, PG</p>	<p>review depending on the outcome of a potential Department of Health and Social Care consultation on low and no descriptors.</p> <p>Agreed with a 0.5% ABV upper threshold, but “Intended to replace alcoholic drinks in contexts where they would normally be consumed, for example non-alcoholic beer” and/or “a specific drink or range of drinks is an alcohol alternative if the audience is likely to consider it as such” were too subjective and lacked clarity for advertisers.</p> <p>The definition “drinks containing 0.5% or less alcohol by volume when presented as low- or no-alcohol versions of an alcoholic drink” used in BCAP rule 32.4.7 was clearer than the new proposed definition.</p> <p>Drinks that share branding elements with an alcohol brand should not be captured by the definition and should be subject to the full Alcohol rules.</p> <p>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.</p> <p>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.</p> <p>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</p>	<p>CAP and BCAP understand it is important for rules and guidance to be as clear and specific as possible, which was the aim of the proposed rules and guidance. However, the alcohol alternatives market is relatively new and constantly innovating, and it is therefore challenging to create a definition that captures current products and looks to inevitable developments in the near future. As such, the proposed definition and guidance were drawn up on the basis that they should capture advertising and marketing that seeks to propose drinks as replacements for alcoholic drinks, and have regard to the way in which marketing messages were likely to be understood by consumers. CAP and BCAP’s purpose in doing this was to incorporate the way in which marketing affects a consumer’s understanding of the product, and to demarcate between products that are presented in an alcohol context and those that are not.</p> <p>It should be noted that the use of the word ‘audience’ is a deliberate inclusion, referring to how the audience of the ad in question would understand the product. CAP and BCAP note the suggestion that the definition be rephrased as “if it is marketed and presented as such,” but consider that this is a reformulation of the same principle; under this form of wording, it would still be necessary for any ASA investigation to consider whether consumers were likely to interpret the ad as being marketed/presented as an alcohol alternative. The intention of an advertiser to market or present the product as an alcohol alternative (or not) does not override the potential for a specific ad to be understood in a different way by consumers. There will necessarily be a subjective aspect in defining a product category that rests in part on marketing intent and, as such, this must be recognised by and reflected in the rules and guidance.</p> <p>The ASA has significant experience considering likely consumer interpretation of marketing communications when assessing potentially problematic ads, such as those considered under the Misleadingness rules of Section 3 of the CAP (https://www.asa.org.uk/type/non_broadcast/code_section/03.html) and</p>
--	--	--

	<p>reasonable person considers it as such' to provide a degree of clarity and regulatory consistency for marketers. 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 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.</p> <p>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.</p>	<p>BCAP (https://www.asa.org.uk/type/broadcast/code_section/03.html) Codes. Several rules in those sections are supported by specific consumer protection legislation and the Background in Section 3 explains "<i>The ASA will take into account the impression created by marketing communications as well as specific claims. It will rule on the basis of the likely effect on consumers, not the marketer's intentions.</i>"</p> <p>The rules are supplemented by guidance that seeks to give advertisers a degree of certainty about representative examples that are likely or unlikely to satisfy a particular principle; this in turn will be supplemented, in time, by ASA casework and the precedents that sets. Such cases may be clear cut breaches of the expectations set by the guidance, but they may also tease out more nuanced examples of what constitutes presenting a product as an alcohol alternative. This is a regular and normal aspect of regulating marketing content, rather than a particularly unusual feature of this specific exercise.</p> <p>CAP and BCAP note the suggestion that the definition retain the wording from BCAP 32.4.7. While this has been incorporated to some extent in the rephrased definition and guidance, it is insufficient by itself. The wording of this rule captures only those products that can refer to an existing alcoholic drink; for the majority of drink categories (particularly spirits) this is not legally possible. As such, while it is a helpful factor for some types of drinks, it would not in itself include many products that are highly likely to be otherwise marketed as alcohol alternatives. A further discussion of this legal restriction can be found below.</p> <p>The below section on rule 18.18/19.19 expands on brand-sharing, and the circumstances under which alcohol alternatives may be caught by the full Alcohol rules. The new wording will explain the definition is for the purposes of the CAP/BCAP Codes and not a reflection of other statutory definitions.</p>
<p>PG</p>	<p>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 the proposed guidance provides further clarity as to when a drink would be classified as an alcohol alternative. One</p>	<p>The intention of the non-exhaustive list of factors is to demonstrate a range of potential creative treatments that could indicate to consumers that a product is being presented as an alcohol alternative. As noted above, the interpretation of an ad</p>

	<p>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.</p>	<p>and the presentation of a product are subjective and take into account the ad as a whole. It is not possible to state the number of factors that would bring an ad into the definition, not least because it will depend on how the ad presents a certain factor.</p> <p>CAP and BCAP have reviewed and reworded the guidance to bring as much clarity as possible, including revising this indicator to cover settings where the sale or consumption of alcohol is predominant, rather than typical (such as bars, clubs, and adult parties). The guidance also includes wording to cover other situations where drinking may occur, focusing here on whether drinks (other than the alternative) likely to be seen as alcoholic are being consumed, rather than specifically the setting itself. The guidance also now notes that the use of a phrase such as 'alcohol free' or an ABV statement is almost always an indicator that a drink is intended to be an alternative to alcohol. However, as explored above, this is an inherently context-dependent area and the guidance will necessarily reflect this.</p>
<p>ACUK</p>	<p>The definition should be consistent with the Soft Drinks Industry Levy Regulations 2018, including raising the upper bound of the definition to 1.2% ABV</p>	<p>As acknowledged in the consultation document, CAP and BCAP note that the SDILRs include a carve-out with an upper bound of 1.2% ABV inclusive. However, this category is in the context of legislation dealing with tax status and reflects the minimum ABV applicable for Alcohol Duty rates (which is 1.2% ABV for beer, cider, perry, wine and made-wine) rather than as a specific market category for the purposes of advertising.</p> <p>Raising the upper threshold for the alcohol alternatives definition would have the effect of including products that are currently considered to be alcoholic. In step with Regulation (EC) No. 1924/2006 on nutrition and health claims for food, which sets 1.2% ABV as the upper threshold for low alcohol products, the Advertising Codes consider drinks above 0.5% to 1.2% ABV inclusive to be low alcohol, not non-alcoholic. As such, including these products with the alcohol alternatives definition would amount to a loosening of the rules in relation to a specific subset of alcoholic drinks, which CAP and BCAP do not consider would be responsible.</p> <p>CAP and BCAP do not consider that it would be appropriate to</p>

		<p>base the definition of ‘alcohol alternatives’ (a phrase deliberately chosen to demarcate it from the SDILR definition) in rules relating solely to the marketing of a product on a definition that is intended to clarify tax liability. Furthermore, should the definition from SDILR be used for marketing self-regulation, it would potentially put CAP, BCAP, and the ASA in the position of determining whether a product fell within this definition. This is not the role of the advertising regulator.</p>
<p>ACUK, AHA, WRA, OHID</p>	<p>The category should use the SDILR terminology, including being renamed ‘alcohol substitute drink’. Milk, water, juice, kombucha and fizzy soft drinks are all alcohol alternatives, but are not alcohol substitutes.</p> <p>Prefer 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.</p> <p>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’ [...]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’</p> <p>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.</p>	<p>Although CAP and BCAP acknowledge that any drink can be consumed in place of alcohol and are therefore technically ‘alternatives’, they consider that the use of ‘alternatives’ is no more problematic than any other similar term and disagree that ‘substitute’ is materially different in this regard. As noted above, the wording was specifically intended to be different to the SDILR category name because it does not use the same definition.</p> <p>The wording of the definition, by reference to alcohol drinks, is not intended to capture soft drinks and this principle is clarified further in the guidance. HFSS and other considerations related to soft drinks and the like are not referenced within the new rules because these products are not captured within the definition of ‘alcohol alternatives’.</p> <p>The revised definition makes clear the emphasis is on the presentation of a product within a marketing communication. The guidance has been expanded to clarify the position on products such as kombucha.</p>
<p>MC, PG</p>	<p>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 <i>must always</i> reference an ABV of 0.5% or below or have a specific</p>	<p>The creation of the alcohol alternatives category within the Advertising Codes is intended to capture a range of products that are placed within the alcohol context and draw on alcohol terminology and imagery as part of a marketing strategy. An ABV or other statement demonstrating a lack of alcohol is part of this</p>

	<p>reference to being alcohol free (which should reflect Government Low Alcohol Descriptors guidance).</p> <p>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.</p>	<p>context, but it is by no means the only aspect of marketing that links a product to the alcohol social context.</p> <p>The proposed guidance accompanying the consultation document noted the presence of an ABV (at or below 0.5%) or other reference to alcohol (including 'alcohol free' or similar) is a contributing factor to the definition of a product as an alcohol alternative. In practice, it is highly likely that in the majority of cases any such statements would indeed cause a product to be included in that definition.</p> <p>However, should this be a requirement to be included in the category, it may create a perverse circumstance where a drink that may in all other respects be an alcohol alternative <i>not</i> falling under the definition because it did not include an ABV statement. For instance, an ad for a non-alcoholic beer marketed using traditional bottle or pint glass imagery, but without mentioning its ABV or lack of alcohol; such a product is clearly captured by the spirit and principle of the alcohol alternatives definition, but a reliance on an ABV statement would then release it from the requirements relating to (for example) protecting children. CAP and BCAP consider that narrowing the definition to this degree would undermine their stated aims to ensure that marketing in this alcohol-adjacent space is socially responsible.</p> <p>References to the Low Alcohol Descriptors Guidance are evaluated below.</p> <p>The amendments to Rule 18.19/19.20 to remove the potential inconsistency of ABV statements not being required for alcohol alternatives at 0.0% are discussed further below.</p>
<p>AHA, Balance, BBPA, Diageo, MC, SW, WRA,</p>	<p>References to non-alcoholic, alcohol-free and other similar phrases should match the Low Alcohol Descriptors Guidance published by the Department for Health and Social Care in 2018.</p> <p>These guidelines should follow the current Department of Health and Social</p>	<p>Some respondents referred to the descriptors as being legal requirements. CAP and BCAP understand that this is not the case, as the guidance containing these descriptors is non-binding guidance that replaced the legislation from which the wording is taken. The preface to the guidance states that it "replaces the</p>

OHID

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.

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.

We encourage CAP and BCAP to make the guidance consistent with UK Government guidance and use the ABV threshold of 0.05% to determine if a product is alcohol-free.

We would propose that 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).

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".

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. 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.

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'.

rules set out in the Food Labelling Regulations 1996, which were revoked on 13 December 2018" and the introduction to the descriptors states "Use of the descriptors is voluntary. If they are used, this guidance sets the suggested conditions for their use." It also states that Trading Standards would have regard to the guidance when assessing compliance, and that enforcement action could be taken if a breach of the descriptor terms of use "means that the labelling is misleading, inaccurate or unclear."

As a recognised means by which the Consumer Protection Regulations 2008 are enforced in marketing, CAP and BCAP agree that advertising should not mislead, and claims made in advertising should be clear to consumers. However, due to the potential for a variety of approaches to convey with satisfactory clarity the alcoholic content of a product, CAP and BCAP consider it would be inappropriate and disproportionate to enforce non-legally binding guidance on these descriptors through the Codes.

As noted above, the upper threshold for 'non-alcoholic' drinks *for the purposes of the CAP and BCAP Codes* was proposed at 0.5% to reflect the current scope of the Codes' Alcohol rules, which itself reflects the definition of 'alcoholic drinks' set out in the Licensing Act 2008. It is also consistent with the Portman Group's definition and with common use across the alcohol alternatives sector.

Notwithstanding the above comments on the legal footing of the DHSC guidance, the 0.5% threshold also mirrors the upper bound of the descriptors ('de-alcoholised'), which refers to drinks from which alcohol has been removed. CAP and BCAP therefore consider that the upper bound of 0.5% is consistent with existing and in-force legislation, as well as other forms of regulation.

Should there be legislative change in future, CAP and BCAP will review the definition to ensure it is relevant and appropriate.

	<p>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.</p> <p>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.</p> <p>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 .</p>	
<p>AC, Balance, PR</p>	<p>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</p>	<p>Respondents' concerns relating to consumer confusion or understanding of different strength thresholds and terminology have not been underpinned by evidence that is likely to affect the proposed definition. One study that prominently featured in a response stated that participants in the study "used the term</p>

alcohol for religious reasons. 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.

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. 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.

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%). 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.

‘alcohol free’ in interviews and included products with an ABV above 0.05% in this category,” and noted that ‘NoLo’ was used infrequently. The study also suggested that there is limited understanding of the difference between ‘low’ and ‘no’ alcohol. Due to the lack of existing concrete definitions, the researchers in the study combined ‘low and no’, as there was no current terminology that would capture products above 0.05% ABV marketed and understood as alcohol free; a further indication that clarity is required.

CAP and BCAP agree that, although there may be a lack of understanding about the different labels (particularly ‘de-alcoholised’), the evidence suggests a general consumer understanding that terms such as ‘non-alcoholic’ refer to drinks with a very low alcohol content. Because of the potential interchangeability between similar terms, CAP and BCAP do not consider that splitting the 0.0 – 0.5% ABV range into three separate terms is likely to aid consumer understanding. In this context, CAP and BCAP consider that the clearest approach is to have a single, definite threshold covering terms that are used interchangeably and understood to have materially similar meanings to consumers. This is supplemented by a statement of ABV, as mentioned below. The setting of 0.5% as the threshold is discussed above.

As also noted above, the term ‘low alcohol’ is already defined within the Codes as above 0.5% up to 1.2% ABV inclusive, with the upper boundary reflecting legislation. These drinks are considered to be alcoholic, both in the Codes and by the Licensing Act 2008. CAP and BCAP consider that using ‘no and low’ to capture all drinks at or below 1.2% ABV would contribute to consumer confusion about terminology by capturing alcoholic and non-alcoholic drinks within the same term.

CAP and BCAP consider that, as explored further below and above, issues relating to misleading or unclear advertising are best dealt with on a case-by-case basis in the full context of a piece of marketing and its claims; this includes statements about the alcohol content of a product and the prominence or presence

		<p>of an ABV statement.</p> <p>The application of DHSC descriptors is discussed above. Should there be legislative change in future, CAP and BCAP will review the definition to ensure it is relevant and appropriate.</p>
Diageo	<p>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.</p>	<p>As noted above, CAP and BCAP have considered a range of legislation when drawing up the definition of alcohol alternatives. As there is little consistency between them, significant limitations on their applicability, and no current statutory definition of non-alcoholic (and similar terms), it was necessary for CAP and BCAP to create a definition for the purposes of the Codes. This definition is intended to be consistent with the Codes, the prevailing approach of the market, and the Licensing Act definition of an alcoholic drink, and avoid the potential conflict that could arise from adopting the SDILR definition.</p> <p>Should there be legislative change in future, CAP and BCAP will review the definition to ensure it is relevant and appropriate.</p>
CS, WSTA	<p>There will 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.</p> <p>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.</p> <p>Links showing examples of products that would inadvertently be caught were provided. 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.</p> <p>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:</p> <ul style="list-style-type: none"> - non-alcoholic drinks (those at or under 0.5% ABV); 	<p>CAP and BCAP agree that the alcohol alternative market is complex and, given its relatively nascency, subject to a high degree of innovation and new product development. As such, the definition of alcohol alternatives is primarily principles-based and dependent on the context of the product marketing (the latter accounting for how an advertiser seeks to position themselves in the market). This approach will, to the extent that future-proofing is possible in this sector, be adaptable to this ongoing innovation. However, CAP and BCAP rules are subject to periodic review, so the definition and rules can be updated as necessary to reflect significant changes in the market.</p> <p>The rules and guidance are not intended to capture >0.5% ABV bearing products such as some types of kefir and kombucha; the guidance has been updated to clarify this and explain that purely informational references to being alcohol free would not in themselves indicate that an ad was for an alcohol alternative.</p> <p>In relation to the comments on sparkling teas presented in sparkling wine-shaped bottles, CAP and BCAP agree these drinks appear to fit the definition as outlined by the respondent.</p>

	<p>- intended to replace alcoholic drinks in contexts where they would normally be consumed; and/or</p> <p>- are likely to consider these as an alternative to alcohol by those that are consuming them.</p> <p>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.</p>	<p>From the online shopping page examples provided, with one exception (which was a smaller bottle size of a drink in another example) all used sparkling wine bottles and/or champagne flutes or other wine glasses in their imagery. All but one of those using this imagery also prominently displayed their ABV and/or used phrases such as ‘non-alcoholic’ or “wine alternative.” These elements reflect key criteria included in the guidance on the definition. CAP and BCAP consider these online shopping pages would be highly likely to be understood by consumers as ads promoting an alternative to alcohol. However, CAP and BCAP disagree their inclusion in the definition is inadvertent. On the contrary, these ads are representative of the type of marketing content to which the definition and, therefore, the rules are intended to apply. CAP and BCAP consider this demonstrates the ability of the rules to capture relevant but less common types of alcohol alternatives and are satisfied the approach and scope of the definition are effective in this regard.</p>
<i>Comments on rules 18.18/19.19 (references to alcohol)</i>		
BBPA, Diageo, Heineken	<p>Agreed with the principle relating to brand-sharing.</p> <p>We welcome that shared branding will not automatically preclude a product</p>	<p>CAP and BCAP welcome the comments in support of the proposals.</p>

	<p>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.</p> <p>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 a research agency. 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 suggests that reducing bonds with known parent brands would create less confidence in an alcohol alternative among consumers. Studies into consumer preference for light beer suggest that taste, prior experience, and brand drive choices. A Club Soda survey found that nearly half (44%) of 'mindful drinkers' show some brand loyalty when moving from alcohol to an alcohol alternative.</p> <p>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.</p>	
<p>ANBA, Diageo</p>	<p>Further clarity should be provided on what degree of brand-specific imagery would be permissible. 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.</p> <p>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.</p>	<p>The guidance has been amended to focus on the effect of the ad. An ad which does not primarily focus on the branded alcohol alternative will be considered cross-promotional for the wider alcoholic brand.</p>
<p>AC, AHA, Balance, OHID</p>	<p>There is a potential gateway effect of encouraging positive brand recognition. This draft guidance does not sufficiently address the problem of 'alibi marketing', 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</p>	<p>The intention of the brand-sharing rule is to allow ads that focus solely on a non-alcoholic version of an existing product the same leeway to demonstrate the benefits of a lack of alcohol as any other alcohol alternative. Some ad content that would potentially encourage a reduction in alcohol consumption or other public</p>

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.

We 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. 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.

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. 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.

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.

Concerns around brand sharing, or stealth, marketing of alcohol alternatives has recently been voiced by the Foundation for Alcohol Research and Education in Australia, the Social Marketing Foundation and Institute for Alcohol Studies in the UK, and in the wider academic public health community. [respondent provided links which appear in the full consultation response]

health benefits may not be permissible if the ads in question were required to comply with the full Alcohol rules.

However, significant limitations on content and targeting are still applicable. For reasons explored below, CAP and BCAP do not consider that the risks suggested by respondents are likely to be borne out or outweigh the potential benefits of allowing brand-shared product ads to fall under the alcohol alternative rules.

CAP and BCAP understand that concerns around brand-sharing (sometimes referred to as 'alibi marketing', a related concept where a brand is alluded to, rather than explicitly stated or shown) relate to:

- the potential for brand marketing exposure to rise through increased ability to place ads
- ability to target and appeal to under-18s
- for brand-sharing to form a 'loophole' by which alcohol brands can present content relating to alcohol without the limitations of the full Alcohol rules
- non-alcoholic products could act as a 'gateway' to purchasing the alcoholic version amongst those who hadn't previously purchased it

CAP and BCAP disagree with this interpretation of the proposed rules; the points are dealt with separately below.

However, as part of the 12 month review of the new rules and guidance, CAP and BCAP will explore any changes to ad exposure at a product and brand level.

Some respondents (and research they cited) mention concerns about brand-sharing and sports sponsorship. Sponsorship arrangements, including TV coverage of events that shows logos (e.g. stadium branding and press conference backgrounds) fall outside of the scope of the Codes, and are therefore not part of the discussion.

<p>AHA</p>	<p>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. 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. 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.</p> <p>Furthermore, brand identity is much more sophisticated than simply brand names and logos. 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.</p>	<p>Regarding brand exposure, brand-shared product ads subject to the alcohol alternatives rules must abide by targeting and scheduling restrictions that are identical to those for alcoholic drinks.</p> <p>CAP and BCAP therefore disagree with the assumption that ads for brand-shared alcohol alternatives would significantly affect the degree to which consumers are exposed to marketing for an alcohol brand.</p> <p>Because the targeting and scheduling restrictions are the same as for alcoholic drink ads, alcohol alternative marketing can only appear in the same ad space available to alcohol. Brand-shared alcohol alternative ads do not increase the ability of a brand to expose new audiences to their brand any more than a general increase in advertising spend would. An alcohol brand's ability to place an ad in space currently unavailable to alcoholic drinks is entirely unchanged, whether the marketing is treated as an alcohol ad or an alcohol alternatives ad.</p>
<p>AHA, OHID</p>	<p>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. 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.</p> <p>...we disagree with the proposed guidance for "shared branding" regarding its crosspromotional 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 and can experience difficulty telling the difference between an alcohol-free product that shares the same branding as an existing alcohol product. These alcohol</p>	<p>In relation to concerns about exposure to those under the legal drinking age, CAP and BCAP note (as explored above) that identical age-based restrictions apply to alcohol alternatives marketing as a whole. A non-alcoholic product ad would not allow an existing alcohol brand greater exposure to an under-18 audience.</p> <p>Rules relating to content of particular appeal to children, juvenile behaviour, and appeal to youth culture have also been carried forward from the full Alcohol rules. The prohibition on featuring under-25s in advertising, which aims to curb imagery that older teenagers might find aspirational, has also been retained.</p> <p>There is therefore no increased scope for brands to produce ad content that appeals to, features, or is targeted at under-18s through the alcohol alternatives rules.</p>

	<p>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. Adults also perceive alcohol-branded alternatives as alcohol marketing by default promoting the wider brand and alcohol product.</p> <p>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.</p> <p>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. [respondent provided links which appear in the full consultation response]</p>	
<p>AHA</p>	<p>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.</p> <p>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</p>	<p>As outlined in the consultation document, CAP and BCAP recognise the part that brand-shared alcohol alternatives can play in a consumer’s decision to drink an alcohol-free product. As such, as long as marketing for these products is responsible (including with regard to any alcohol imagery and references), CAP and BCAP consider that there is a potential public health benefit to marketing these products, although this is currently limited by the size of the market as therefore largely relates to impacts on individuals rather than the population. It must be recognised, however, that the market is expanding and that further consumer take-up may have a further impact in future if consumption of non-alcoholic drinks continues to rise.</p> <p>As mentioned elsewhere, restrictions relating to the placement</p>

consumption.

and (to a large extent) alcohol-related content of such ads is subject to rules identical to or materially consistent with the rules for alcoholic drinks.

CAP and BCAP note that the independent academic research cited by a respondent indicates that purchasing low- or no-alcohol versions of 'parent' existing alcoholic products (3.5% ABV or below) during a test period led to a reduction in the likelihood of subsequently purchasing the parent drink by households that have previously purchased it.

Households that purchased no/low products but hadn't purchased the parent product were "less than one-third as likely to go on and newly buy a same-branded parent beer" compared with households that hadn't purchased either. When households that had only purchased the no/low version *did* subsequently make a parent purchase, "they bought half as much volume" as households that had previously purchased neither. The research concludes the data "suggests that the introduction of new [low/no] beers did not act as gateways increasing the purchases of same-branded higher-strength products."

Evidence relating to the effects of brand-shared alcohol alternatives on problem drinking behaviours, including triggering effects for those recovering from alcohol addiction, was provided by a respondent. The report featured research based on consumer surveys. It noted that 39% of respondents reported drinking no/low products "to drink at times when it would not have been more appropriate to have something stronger," such as prior to driving, and 33% said they consumed such products to cut down on their alcohol intake. Notably, 7% said they consumed no/low drinks "because they were recovering from alcohol dependency". The report noted that 50% of respondents who were current or past no/low consumers had not changed their current alcohol intake as a result (so were not using them as substitutes) but that 44% of those who consumed a no/low drink in the last 12 months had reduced their intake. In both groups, a very small minority reported an increase in alcohol consumption, which is a correlation potentially associated with a 'gateway'

		<p>effect: 3% (6% of the 50% who had changed consumption patterns) and 6% respectively. It should be noted that this evidence relates to alcohol alternatives more generally, rather than brand-shared products specifically.</p> <p>CAP and BCAP do not consider that evidence provided by respondents establishes a need for further restrictions on the grounds that brand-shared alcohol alternatives act as a 'gateway' to alcohol consumption. The conclusions of available evidence, in fact, suggest the opposite is more likely to be the case. Similarly, the evidence suggests that alcohol alternatives are being used to support recovery from alcohol dependency, rather than acting as a trigger for relapse.</p> <p>However, CAP and BCAP acknowledge new evidence relating to alcohol alternatives is steadily becoming available; this will be considered as part of regular reviews of the rules and, should new evidence indicate that further restrictions are necessary, this can be considered.</p>
<p>BBPA, Heineken</p>	<p>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.</p> <p>Studies into consumer preference for light beer suggest that taste, prior experience, and brand drive choices. A Club Soda survey found that nearly half (44%) of 'mindful drinkers' show some brand loyalty when moving from alcohol to an alcohol alternative.</p> <p>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". Where reports have suggested brand sharing is of concern, consumers have also been clear about the category's benefits.</p> <p>Others have given examples of the issue in countries where alcohol</p>	<p>These interpretations of the existing evidence align with CAP and BCAP's analysis that there is no clear evidence of alcohol alternative products contributing to increased consumption of associated alcoholic products.</p> <p>The proposed rules require content to be responsible and, importantly, not encourage or condone problem drinking behaviours. The primary difference between the full alcohol rules and the alcohol alternatives rules is that the non-intoxicating status of alcohol alternatives means fewer restrictions on depicting consumption are necessary. However, references to and depictions of alcohol must still be responsible.</p>

	marketing is restricted, and alcohol alternatives have been presented as a means to circumnavigate regulation. 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.	
Diageo	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.	The guidance will be amended to provide some representative, but not exhaustive, examples of approaches likely to have the effect of promoting an alcoholic parent brand and so be subject to the full alcohol advertising rules.
Diageo, MC	<p>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</p> <p>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.</p> <p>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.</p> <p>In the section <i>Broad references to alcohol</i>, it is suggested that if an advert makes use of “<i>imagery associated with drinking alcohol</i>” it could be</p>	<p>CAP and BCAP agree the use of alcohol imagery can be an effective part of conveying to consumers that a non-alcoholic alternative can take the place of an alcoholic drink. The new rules and guidance were proposed in recognition of the relevance of such imagery to the market and the need to ensure that, where such references to an alcohol context are used, they are responsible. Responsible references to alcohol are explored below in discussion of those specific rules.</p> <p>The wording of the rule and guidance were intended to reflect the preface to the Alcohol sections, which states that the rules apply to ads for alcoholic drinks and those that feature or refer to them. The latter inclusion covers ads for any product, if the ad includes references to alcohol (such as a tourism ad with a scene showing people drinking in a hotel bar). This preface also clarifies that, where an ad for a drink at or below 0.5% ABV has the effect of promoting an alcoholic drink, it will be considered under those rules.</p> <p>Considering the comments received on the rule, CAP and BCAP acknowledge that, in reflecting the preface in a summarised and shortened form, the resulting wording of the rule did not match the intention and related sections of the guidance compounded this by overstating the restrictions.</p> <p>As such, the rule has been significantly revised to clarify that:</p> <ul style="list-style-type: none"> • the presentation of an alcohol alternative in the same style as an alcoholic drink does not constitute a reference to alcohol • where alcohol is referenced or depicted in any other way

	<p>considered to be promoting an alcoholic drink. We believe there is a risk that by restricting “<i>imagery associated with drinking alcohol</i>”, 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.</p>	<p>those <i>references</i> will be subject to the social responsibility standards in the alcohol rules (18.1-18.13, excluding 18.9). The rules regarding targeting/scheduling and appeal to children are the same across both product categories, so already apply</p> <ul style="list-style-type: none"> • ads having the effect of promoting an alcoholic drink are already covered by the preface to the Alcohol section, so the repetition has been dropped from the rule. The brand-sharing clause is retained here to clarify that the products captured by the clause are not considered to constitute promotion of an alcoholic drink <p>The guidance has been revised to reflect the new wording. Notably, it clarifies that background settings with an assumed or depicted alcohol context (such as a pub or party, or a meal with visible implicitly alcoholic drinks) would be highly likely to constitute a reference to alcohol but, as above, this simply means that such depictions are subject to the rules on responsible portrayal of consumption. This is consistent with how references to alcohol are treated in any other (non-alcohol) ad and is not a new standard for alcohol alternatives.</p>
<p>BBPA, Caleno, CS, MC, PR</p>	<p>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.</p> <p>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.</p> <p>The guidance includes examples of how existing alcohol brands can make brief references to their alcoholic drinks when describing an alcohol</p>	<p>The intention of this section is to recognise, as above, that a non-alcoholic version of an existing product is a key entry point to consuming alcohol alternatives. As such, there is some benefit in allowing alcohol brands to explain an alcohol-free version is comparable in taste to the original, thereby encouraging consumers to try it.</p> <p>CAP and BCAP have reflected on the responses received on the guidance, in particular the table, and consider that it would be better to simplify the position on co-branding based on the wording of rule 18.18/19.19: “provided that the primary effect of the marketing communication is to promote the alcohol alternative”. The intent of comparisons ought to be to encourage people who already drink the original to try the alternative, and it is not necessary to promote the original to meet these aims. Claims such as “if you like our zero alcohol drink, try the original” will make a marketing communication or advertisement subject to the full Alcohol advertising rules, but provided the claim is clearly</p>

alternative, without being interpreted as promoting the alcoholic version. Some producers of alcohol alternatives felt that this part of the guidance is quite hard to understand and could be expanded on.

In the section *Alcohol alternatives by alcohol brands* it is proposed that if a nonalcohol 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 limiting brand owners’ ability to support the UK government’s stated intent to work with industry to nudge consumers towards lower strength alternatives.

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.

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.

Both CAP’s Advice Service and the Portman Group’s Advisory Service

intended to promote the alcohol alternative, the rules for alcohol alternatives will apply correspondingly.

	<p>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 2025. 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.</p> <p>Although we 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.</p>	
PG	<p>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.</p>	<p>CAP and BCAP have revised the guidance to clarify cross promotion of alcoholic products in any medium will make an ad subject to the full alcohol rules.</p>
PR, PG	<p>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.</p> <p>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</p>	<p>The rule requires the focus of the ad to be entirely on the product and not the brand. Imagery featuring the alcoholic version of the brand changes this focus and is therefore highly likely to bring the ad under the full Alcohol rules. Deliberate inclusion of the original drink in the ad, including as part of the background or setting, is not considered incidental. This does not however mean advertisers are prohibited from making these comparisons or switching messages, it simply means any ad that uses them must comply with the full Alcohol rules.</p>

	<p>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.</p>	
<p>PG</p>	<p>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?</p>	<p>CAP and BCAP consider that an ad for a branded bar would be captured by the Alcohol rules because it is inherently linked to the alcoholic products from that brand served at that bar. As such, were a branded bar identifiable in an ad for an alcohol alternative, the ad would be treated as promoting the bar as well as the drink, and the full Alcohol section would apply.</p>
<p>BBPA, MC</p>	<p>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.</p> <p>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.</p>	<p>CAP and BCAP acknowledge standalone alcohol alternative brands and existing alcohol brands occupy different positions in relation to the rules. However, this is because there is a material difference between these brands in the context of alcohol marketing. There is no restriction on brand-shared alternatives referring to taste or quality; the limitations on phrasing only apply to comparisons with the alcoholic version, and only if advertisers wish to avoid invoking the full Alcohol rules for the whole ad.</p> <p>CAP and BCAP consider that an ad for a brand-shared alcohol alternative could <i>also</i> serve as an ad for the brand in some cases, due to the association of the name with alcohol. For many alcohol brands, the brand name (which is primarily also the product name) is synonymous with alcohol, so CAP and BCAP consider that a focus on the brand rather than the alcohol alternative is likely to promote the alcoholic products commonly associated with that brand.</p> <p>The intention is to enable alcohol brands to market their non-alcoholic products to the degree allowed by the rules, while recognising that the brand itself is inherently and inextricably</p>

		<p>linked with alcohol with regard to consumer understanding. CAP and BCAP consider that this principle is the only reasonable alternative to capturing all shared-brand ads under the full Alcohol rules.</p> <p>Standalone alcohol alternatives brands do not have this restriction because they are not synonymous with alcohol. However, an alcohol brand that wished to operate on the same level could do so if they were to market their alcohol-free products under a name that had no such association. The extra level of caution required for brand-shared products is down to consumer recognition of the brand and its association with an established alcohol product; if brands wish to leverage that brand recognition to market an alcohol-free product they may, under these proposals, but must then accept that this approach associates the product more closely with alcohol, necessitating a greater degree of care.</p> <p>CAP and BCAP therefore do not consider that the brand-sharing principle creates a disproportionate or otherwise unreasonable imbalance of regulation between standalone alcohol-free and alcohol brands. The further degree of caution required to ensure that brand-shared ads focus on the specific product and avoid promotion of alcohol through the brand is a direct and justifiable result of the use of a brand name primarily associated with alcohol.</p>
OHID	<p>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 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</p>	<p>CAP and BCAP consider shared branding can play an important role in encouraging existing customers to try alcohol alternatives and thus reduce overall alcohol consumption.</p> <p>The revised guidance makes clear that ads for branded alcohol alternatives which refer to full strength products will be subject to the full alcohol rules. Ads for alcohol alternatives will be subject to the same audience and media restrictions as alcoholic drinks: permitting shared branding in ads for alcohol alternatives should not lead to increased exposure of under-18s to alcohol brands. As a result it is not necessary to require all alcohol alternative ads to be subject to the full alcohol rules.</p>

	products with minor exceptions , we feel that the risks of brand marketing by alcohol alternatives would be negated.	
<i>18.19/19.20 (ABV references)</i>		
AHA, Balance, WRA	<p>We welcome the proposal that marketing communications include a prominent statement of their ABV if this is above 0%, which is crucial for those who wish to abstain from drinking entirely.</p> <p>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.</p> <p>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</p>	<p>CAP and BCAP welcome the comments in support of the proposal.</p> <p>To clarify, the CAP and BCAP Codes allow alcohol ads to state the ABV of a product, but this must not be presented as a reason to purchase the product (except for drinks at or below 1.2% ABV, which can be marketed as preferable because of their low ABV). If a product has an ABV significantly higher than is usual for the category, this must not be given undue emphasis.</p> <p>As non-alcoholic products, this restriction does not apply to ads for alcohol alternatives; the wording of the rule specifically allows these ads to make their lack of alcohol content a feature and selling point.</p>
AHA, Balance, WRA	<p>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.</p> <p>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.</p>	<p>CAP and BCAP consider it is important for the ABV statement to have reasonable prominence in relation to the ‘alcohol free’ statement, as it directly relates to it. Any judgement of how prominent an ABV statement is will necessarily take into account its legibility in the context of a specific ad. Stating a minimum size for the statement risks implying this would be acceptable regardless of the size of the ‘alcohol free’ claim, and also risks overlooking how the proximity of the statement affects its prominence. As such, CAP and BCAP do not consider it necessary to mandate a specific size of ABV statement.</p>
ANBA	<p>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 ≤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 ≤0.5%</p>	<p>CAP and BCAP consider that the ABV of an alcohol alternative is likely to be material information for consumers (that is, it is likely to affect their decision to purchase or find out more about a product). As such, where an ABV is stated for an advertised product it should be specific to that product rather than an</p>

	<p>would cover all the products rather than each product stipulating various ABV's, which would cause greater confusion to the audience.</p>	<p>indicative range.</p> <p>However, CAP and BCAP agree that, where an ad features a range of alcohol alternatives, it may on occasion be appropriate for the ad to incorporate their ABVs into a range. To provide a balance between accuracy and clarity, the guidance has been updated to state that where 3 or more individual products are advertised together as alcohol free, the ABV statement may give a range from the highest to the lowest ABV as long as it is still prominent in relation to the claim. Inclusion of the lowest ABV as the bottom of the range is material, as a simple “≤0.5%” could imply that one or more of the advertised products is lower than is the case.</p> <p>This would not apply to longer form ads (such as advertorials, brand websites showing the range on a single page, or online shopping pages for a selection pack) because there is sufficient space to include the ABVs for each product in a manner that is clear to consumers.</p>
<p>Diageo, Heineken, PR, PG</p>	<p>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.</p> <p>We are concerned by the proposed addition of a new de facto ‘genuinely alcohol-free’ descriptor. 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. ... should the ASA introduce a new ‘genuinely alcohol-free’ descriptor, it should remain aligned with current government guidance at 0.05%. For products ... brewed through a natural fermentation process, 0.03% ABV is the lowest possible threshold achievable after the alcohol’s</p>	<p>CAP and BCAP’s view is that the ABV used on an ad should be that used on the product itself, with any tolerances or consideration of decimal places consistent with the law, but notes that FICR only applies to products above 1.2% ABV. While CAP and BCAP agree that as much consistency as possible is desirable, because the law is only applicable to products with significantly higher ABVs, there is a limit to how far the FICR provisions can be applied.</p> <p>CAP and BCAP agree that it is reasonable and appropriate for ABVs for alcohol alternatives to be stated to a single decimal place. However, the alcohol content of some drinks is very low, and the lower a value the more relevant the accuracy of a second decimal place becomes. While, as discussed above, CAP and BCAP do not consider the DHSC descriptors guidance is the right basis for defining the upper threshold of alcohol alternative ABVs, the category of ‘alcohol free’ in that guidance is defined to two decimal places because the lower value means a more precise approach to its numerical expression is appropriate.</p>

	<p>removal. We therefore believe that current guidance risks penalising the alcohol-free beer category, where achieving 0% ABV is not possible.</p> <p>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.</p> <p>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.</p>	<p>CAP and BCAP consider it would reasonable for ABV statements for alcohol alternatives to use two decimal places where this is particularly relevant. For example, an alcohol-free beer marketed as 0.05% ABV.</p> <p>With regard to tolerances, CAP and BCAP note that these are provided for in FICR. However, the appropriate degree of tolerance varies according to the ABV and the type of drink. As the bottom ABV threshold for the regulation is 1.2% and alcohol alternatives are less than half as strong, the lowest tolerances thresholds (0.3% or 0.5% depending on drink type) may not be suitable for alcohol alternatives, particularly those below 0.1% ABV. Therefore, CAP and BCAP do not propose to use any of the FICR tolerances in the guidance.</p> <p>As the most relevant legislation is of limited use and the necessary precision of an ABV test increases as strength decreases, CAP and BCAP consider that the question of whether a stated ABV is sufficiently accurate is best addressed through the requirements for substantiation under rule 3.7/3.9: “[marketers] must hold documentary evidence to prove claims that consumers are likely to regard as objective and that are capable of objective substantiation.”</p> <p>Given that the ABV of an alcohol alternative must be known to the producer in order to establish the production process has led to the correct ABV (and that many ads for such products state an ABV) CAP and BCAP understand advertisers already have processes to determine the ABV of their product to a degree they consider to be satisfactory. Should evidence of the ABV be required during an ASA investigation, advertisers would be expected to account for any margin of tolerance shown in the test and demonstrate that the ABV in the ad was sufficiently substantiated. In accordance with the existing rules on substantiation, marketers are expected to hold robust evidence relating to their ABV statements.</p>
<p>CS, Diageo, Heineken, PR</p>	<p>Respondents requested clarity as to the point at which the alcohol content of a drink was so low that no ABV would be necessary.</p>	<p>The proposed rule and associated guidance was intended to convey that, for a sufficiently low strength, the claim ‘alcohol free’ or similar would not be likely to mislead when unaccompanied by</p>

	<p>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?</p> <p>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. 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.</p> <p>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.</p> <p>We are concerned that the phrase ‘genuinely alcohol free’ adds a further layer of confusion. For instance, would a ‘dealcoholised’ 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.</p> <p>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 guidance 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.</p>	<p>an ABV. However, CAP and BCAP acknowledge that the wording of the rule and guidance was insufficiently clear.</p> <p>The phrase ‘genuinely alcohol free’ was not intended to form a new descriptor, but to describe products with an ABV significantly below 0.5%. This phrase has been removed from the guidance.</p> <p>Having considered the responses and further reflected on the rule, CAP and BCAP consider that the most reasonable course of action is to remove the ‘0%’ exemption from the rule. Not only will this ensure the rule is straightforward for advertisers, it avoids the potential for consumer confusion over whether an ABV is or is not stated.</p> <p>As such, the rule now states:</p> <p>“[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.”</p>
GG, PG, SW,	The guidance should encapsulate a prohibition on low or no alcohol	CAP and BCAP understand the names of many alcoholic spirits

<p>SWA</p>	<p>products from using any of the specific nomenclature that applies to specific spirits as laid down by the current EU regulations, including a 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.</p> <p>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.</p> <p>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.</p> <p>Does the guidance allow the use of the term "Wine" in advertising when discussing alcohol free?</p> <p>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".</p> <p>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.</p>	<p>(and other drinks with specific styles, production processes, or geographical indicators) are significantly restricted in use by legislation, and that these restrictions would prohibit terms such as 'non-alcoholic gin'. For the avoidance of doubt, CAP and BCAP have removed any wording from the guidance that could imply that a breach of these regulations would be permissible under the Codes, and clarified that references to alcoholic products should not be made if prohibited by law.</p>
<p>Diageo</p>	<p>Unless the rules and guidance are in line with current regulations on ABV marking and UK Government guidance on alcohol-free products, a product</p>	<p>CAP and BCAP derived the requirements to include an ABV on advertising from their consideration that, for consumers to whom</p>

	<p>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.</p>	<p>0.5% or below still constitutes a level of alcohol that they would not wish to consume, an ABV forms part of the transactional decision to purchase or find out more about a product. This is separate to labelling legislation, which CAP and BCAP do not administer. CAP and BCAP consider there is a higher risk to consumer detriment from omitting this from marketing than from it being in marketing but not on a label.</p>
<p><i>18.20 (as a replacement for 18.20-18.22)</i></p>		
	<p>Several respondents commented in relation to 18.20-18.22 in combination, or raised points that affected more than one of these rules. Key comments related to:</p> <ul style="list-style-type: none"> • the clarity of additional drinking occasions; • the relationship between ads for alcohol alternatives and encouraging problematic alcohol consumption; • potential conflicts or inconsistencies between the rules. 	<p>CAP and BCAP note the comments in relation to 18.20-22, particularly with regard to clarity. As such, these rules have been significantly rewritten and, notably, condensed into one overarching principle that retains the broad intentions of the original proposals but in a clearer and more consistent way.</p> <p>The rule now states:</p> <p><i>Marketing communications for alcohol alternatives may present the product being consumed in circumstances where it would be inappropriate or unsafe to consume alcoholic drinks due to intoxication, such as prior to driving or daring physical activities, if it is clear that the product is non-alcoholic. Resemblance to an alcoholic drink (as in rule 18.18) is acceptable as long as the ad makes explicitly clear that the product is non-alcoholic.</i></p> <p><i>When presenting alcohol alternatives in this manner, marketing communications must not imply, encourage or condone consumption of alcohol in the same circumstances or imply that the product is alcoholic. Additionally, marketing communications must not present alcohol alternatives as a way to increase</i></p>

		<p><i>alcohol consumption beyond responsible levels, contain any content likely to disparage sobriety, or imply that heavy, problematic, or otherwise higher-risk drinking is normal or desirable.</i></p> <p>Accordingly, the guidance has also been rewritten and gives further information about what content is likely to breach this rule.</p> <p>As the broad principles of the original rules have been retained in the redrafted guidance, they remain relevant and are evaluated below. These sections explain how the reformed wording of the rule covers the aspects of the three separate rules that have been retained following the assessment process. Where respondents' comments apply to multiple rules, these are grouped into the most applicable rule for the topic and, where necessary, repeated.</p>
<p><i>18.20 (unsafe circumstances)</i></p>		
<p>AC, CS, SW, WRA, OHID</p>	<p>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.</p> <p>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 the 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.</p> <p>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 venue. Therefore, encouraging all drivers to have alcohol-free drinks only would be preferable.</p>	<p>CAP and BCAP agree that alcohol alternatives are an appropriate and potentially effective way of avoiding drinking before driving; for the avoidance of doubt, presenting alcohol alternatives in this way is not prohibited by the rules. It must be clear the product is not alcoholic, but this is highly likely to form a natural part of messaging for this type of ad.</p> <p>One specific ad example cited involved a character drinking a 0.0% beer in a parked car, but the ad did not depict consumption of an alcohol alternative in an unsafe scenario, such as while driving.</p> <p>Concerns about ads depicting dangerous behaviour such as drinking while in charge of a moving vehicle, are already covered by the CAP and BCAP's broader rules on responsible behaviour, including specific Code Rules covering irresponsible motoring.</p>

	<p>We would like to see a separate point in the guidelines that deals with driving and appealing to designated drivers. Is this considered acceptable?</p> <p>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</p> <p>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.</p>	
<p>Caleno, CS, Heineken</p>	<p>18.20 and 18.21 appear contradictory</p> <p>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.</p> <p>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".</p>	<p>CAP and BCAP acknowledge the original phrasing of 18.20 and 18.21 together blurred the distinction between additional occasions for drinking and situations that are unsafe when people are intoxicated. While the majority of circumstances fall into one rule or another there are some that are not so clear. For instance, consumption during pregnancy is not a safety concern because of intoxication but because of the alcohol itself, and therefore does not fit within the original 'unsafe circumstances' rule.</p> <p>18.20 was intended to cover situations where intoxication would be dangerous (such as driving) and 18.21 to cover the risk of condoning an increase in drinking.</p>

		<p>This form of wording did not sufficiently clarify why the principle of 18.20 was necessary in its own right, separated from concerns about additional drinking occasions.</p> <p>The revised rules clarifies the ‘inappropriate or unsafe circumstances’ aspect refers primarily to intoxication, with additional occasions removed because (as discussed further below) this is now considered to be an expression of problem drinking already covered by the rules.</p>
<p>AHA, Balance</p>	<p>Previous campaigns have featured lunchtime consumption or promote alcohol alternatives for groups such as pregnant women. 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. Due to the similar imagery and packaging of alcohol alternatives, this type of addition 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.</p>	
<p>Diageo</p>	<p>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.</p>	<p>CAP and BCAP acknowledge there are some approaches to marketing in which the alcohol-free nature of a product would not be revealed until the later stages of an ad, and that this may be an effective way to promote some aspects of the product (such as undermining the misconception that non-alcoholic drinks lack flavour).</p> <p>However, given the risks of engaging in certain activities while intoxicated, CAP and BCAP consider that considerable caution must be taken to avoid any suggestion the activities featured are being carried out under the influence of alcohol. Where the consumption of a drink resembling alcohol is featured and a risky activity undertaken, there is a significant risk of this being interpreted as dangerous behaviour and that it would not be adequately mitigated by a subsequent statement that the drink was not alcoholic. CAP and BCAP consider the need to ensure alcohol-adjacent marketing is undertaken responsibly justifies this restriction.</p>
<p><i>18.21 (additional drinking occasions)</i></p>		
<p>BBPA, CS, Diageo, PR,</p>	<p>As we have noted above, whilst we are not aware of any compelling evidence that this is occurring, we recognise that avoiding inadvertent or</p>	<p>CAP and BCAP agree that the non-intoxicating nature of alcohol alternatives means that they may be suitable for times when</p>

PG, SW

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.

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 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.

We have concerns that 18.21/19.22 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.

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

alcohol consumption would be unsafe (as above) or on occasions that are not generally recognised as ordinary settings for alcohol consumption.

CAP and BCAP understand that there are public health concerns over ads for alcohol alternatives presenting consumption in circumstances that, reasons of safety aside, are not considered appropriate for consuming alcohol because this could be seen to risk encouraging an increase in alcohol consumption. In essence, the concern is that showing a non-alcoholic beer in an unusual situation, particularly if the depiction implied that it is already taking the place of alcohol, could lead consumers to normalise this to the extent that a standard beer would then no longer be out of place. Rather than being demonstrated by evidence of a specific problem, this view as presented to CAP and BCAP appears rooted in the perceived potential for alcohol alternatives to normalise drinking patterns that are currently not acceptable to the majority of people. In the absence of evidence to demonstrate this effect, CAP and BCAP do not consider that there is sufficient justification for a blanket prohibition on presenting alcohol alternatives in situations where alcohol consumption would be inappropriate, and this was not the intention of the originally proposed rule.

For the avoidance of doubt, the proposed rule did not prohibit marketers from presenting alcohol alternative consumption on occasions or in situations where alcohol consumption is likely to be considered inappropriate or problematic. Instead, it prohibited condoning or encouraging alcohol consumption at these times. The following discussion therefore relates to those situations where care must be taken, not to situations that are always prohibited.

The rule also allows ads for alcohol alternatives to show alcohol being consumed in these situations, provided sufficient care is taken with presentation to ensure alcohol consumption is not encouraged or condoned. This is primarily likely to be the case for ads focusing on alcohol alternatives being a means by which consumers can tackle their problem drinking.

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 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. 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

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

Although the 'additional drinking occasions' concerns have not been demonstrated to be a standalone risk, many occasions likely to be considered inappropriate for consuming alcohol are seen as such because they are associated with problem drinking behaviours and dependence on alcohol, such as consumption:

- in the morning (in many circumstances)
- while commuting
- while working (excepting celebrations or a social drink with lunch)
- of several drinks while alone
- regularly throughout the day and/or week (leading to high consumption overall)
- during events overwhelmingly not associated with alcohol, such as many religious or civil ceremonies, watching school performances, or attending an appointment at (e.g.) a bank
- while unwell

Condoning alcohol consumption in these situations is already subject to the prohibition on condoning or encouraging problematic alcohol consumption, which directly reflects the overarching intention of the Alcohol section as a whole. This was the purpose of the original proposed rule, but in light of the comments received, CAP and BCAP consider that by creating a specific rule this purpose was made less clear. As such, the rule has been removed, and the guidance redrafted to reflect the above explanation of uncommon drinking occasions, in acknowledgement that the original guidance focused too stringently on the presentation of the alcohol alternatives rather than on implications of alcohol consumption.

Finally, some respondents questioned how ads for alcohol alternatives could breach this rule when they did not depict any alcohol consumption. CAP and BCAP consider that, depending on the creative approaches used, there is a risk presenting alcohol alternatives in these situations could occasionally have

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.

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. 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.

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

the effect of also condoning alcohol consumption. The most likely scenario would be an approach that implied it was ordinary, expected, or otherwise desirable to 'need' an alcoholic drink during these uncommon situations and that an alcohol alternative was a way to satisfy that need. This would include depicting problem drinking uncritically. It is also likely that many breaches of this type would be inadvertent and caused through ambiguous messaging or unconsidered juxtaposition of imagery, rather than deliberate intent.

Therefore, if they choose to take this approach and place the product in a situation not usually associated with alcohol, marketers must take care to avoid any implication that it would be normal or desirable to consume an alcoholic product in those circumstances.

	<p>could be more examples of what is appropriate advertising and what is inappropriate when discussing sport, work place, occasions, heavy drinking, hangovers.</p>	
<p>AHA, WRA</p>	<p>Due to the similar imagery and packaging of alcohol alternatives, addition marketing risks opening up new contexts and times to drink alcohol, even when products are labelled as non-alcoholic.</p> <p>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</p>	
<p>Heineken</p>	<p>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.</p> <p>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. 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 products. 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 it. Since the introduction of the wider low and no category, alongside product reformulation, household purchases of alcohol by volume have reduced. Further, Anderson et al 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.</p>	<p>As discussed above, CAP and BCAP have not seen any evidence to demonstrate that presenting alcohol alternatives in situations where alcohol consumption is inappropriate exclusively for reasons of intoxication would be inherently problematic. As such, the proposed rule did not prohibit this, but required advertisers to avoid condoning alcohol consumption in these circumstances. A key aspect of concerns about additional drinking occasions appears to be related to the normalisation of drinking patterns that are currently considered inappropriate. However, this is already part of the prohibitions on condoning problematic drinking behaviours. The proposed rule intended to cover this latter issue, but CAP and BCAP consider that establishing it as a separate rule served to obfuscate the principle and implied that it was a problem in its own right.</p> <p>The guidance outlines examples of situations in which advertisers should take particular care not to condone consumption of alcohol, and has been significantly redrafted for clarity.</p>

	<p>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 moderate. 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.</p> <p>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 activities”, which may preclude the promotion of an alcohol alternative in post-match drinks, where alcohol could be consumed.</p>	
OHID	<p>...we recommend that any references to “alcohol” in the CAP and BCAP codes be inclusive of both alcohol and alcohol alternatives.</p> <p>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.”</p>	<p>Convincing evidence was not provided to support the argument of alcohol alternatives have a “gateway” effect, leading consumers towards the parent brand alcoholic drinks. Evidence assessed prior to the consultation and provided by respondents indicates that alcohol alternatives can have a beneficial effect in helping existing drinkers to reduce their consumption.</p> <p>In the absence of evidence that consumption of alcohol alternatives leads to increased consumption of alcohol, requiring them to be marketed solely as a substitute for existing consumers would be a disproportionate limit on advertiser’s ability to responsibly market their products to non-drinkers.</p>
<i>18.22 (responsible consumption)</i>		
BBPA, CS	<p>With reference to the focus on the bulleted broader principles, whilst we would support the aim of preventing indirect promotion of alcohol and/or</p>	<p>The rule relates to ads that could be interpreted as condoning or encouraging problematic consumption of alcohol, not of alcohol</p>

	<p>promotion of irresponsible consumption, particularly to vulnerable groups, it is difficult to understand where alcohol alternatives would or could be consumed irresponsibly.</p> <p>How would promotion of alcohol alternatives encourage increased use of alcohol?</p>	<p>alternatives.</p> <p>During background research, CAP and BCAP came across examples of alcohol alternative ads that implied being sober was boring, difficult, weird, or otherwise undesirable, and that the advertised product addressed this either by looking like alcohol (so no-one realised it wasn't alcoholic) or by being exciting in their own right. By taking this approach, these ads implied that being sober was not a social norm and potentially stigmatised it, using this trope to promote a 'solution'.</p> <p>In addition, ads for alcohol alternatives may feature references to alcohol to highlight an occasion where the alternative might be consumed. These references may imply heavy or other problematic styles of drinking are commonplace, expected, or glamorous, and that people remaining sober may be missing out.</p> <p>CAP and BCAP consider this type of messaging is likely to contribute to the attitude that alcohol is a necessary part of socialising, which is an indicator of problematic styles of drinking.</p> <p>For the avoidance of doubt, ads for alcohol alternatives are not prohibited from describing other non-alcoholic options (such as soda or juice) as undesirable; the issue is focusing on sobriety itself as a problem.</p> <p>There is also the potential for alcohol alternatives to be presented as a drink that can be alternated with alcoholic drinks and therefore enable consumers to 'keep up' with their friends or otherwise drink for longer periods. CAP and BCAP consider this approach presents the product as a means to increase alcohol consumption, potentially irresponsibly. Therefore, the revised rule and guidance specifically prohibits such approaches.</p>
<p>Caleno, CS</p>	<p>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</p>	<p>This section of the consultation document related solely to the caution required when depicting excessive drinking and is clear that this would present a risk "in some instances" rather than being inherent in every reference to excessive drinking. As clarified further in the draft guidance that accompanied the</p>

	<p>social issues relating to alcohol consumption. This thinking is potentially flawed and misses the point. There is a global mainstream trend towards moderation.</p>	<p>consultation document, the rule does not prohibit ads for alcohol alternatives from depicting sober events as fun, or from explicitly presenting them as alternative to drinking for those who want to have fun without drinking (as long as this latter element does not suggest drinking is an expected prerequisite to having a good time, as per existing Alcohol rules).</p>
PI, SG	<p>I believe that targeting an audience of pregnant women (directly) should be treated with a much more stringent guideline and not permitted. The proposal wants to include pregnancy within the Unsafe Circumstances (which I agree with). It also states that a rule around doing this/allowing this would be to (simply) state the ABV clearly so women can make a choice. Comparatively, the proposed guidance and the concerns within ‘Additional Drinking Occasions’ (around normalising consumption of alcohol-like products during times when it would not be socially acceptable although not necessarily dangerous) seem more stringent than those around ‘Unsafe Circumstances’.</p> <p>I would argue that being pregnant, should at least be included within the situations where ‘normalising drinking’ is not acceptable. Popular medical opinion and Drink Aware both state “that no amount of alcohol is safe during pregnancy”. It is my opinion that the advertising and ‘normalising’ of alcohol-free alternatives (which do contain alcohol) to pregnant women, carries far more risk and potential harm to an individual and indeed their unborn child, than say an advert suggesting someone have an alcohol-free drink during their working day- this is because the effect is not known and thus should not be condoned in any way.</p> <p>Because the ASA would potentially be permitting the producers of such alcohol-free beverages to begin specifically advertising these products to a target audience of pregnant women, it is almost condoning the behaviour, normalising it somewhat and suggesting it is indeed safe when medically, it is not. In fact, it is irresponsible.</p> <p>We would like to see a separate point in the guidelines that deals with pregnancy and appealing to pregnant women. Is this considered acceptable?</p>	<p>Following this comment, CAP and BCAP revisited the reference to pregnancy in the guidance and took further advice.</p> <p>CAP and BCAP originally considered that the extremely low levels of alcohol within alcohol alternatives meant that they would not fall within the bounds of the Chief Medical Officer’s Low Risk Drinking Guidelines, which advise total abstinence during pregnancy and conception. The Guidelines relate to alcohol consumption in general and do not specifically discuss the safety of or give specific advice about drinks with ABVs at or below 0.5%, but the advice to avoid alcohol is based on their view that the risks of low levels of drinking are not known from currently available evidence.</p> <p>CAP and BCAP understand that some consumers choose to drink 0.5% ABV and below products during pregnancy. However, it would be inappropriate for an advertising regulator to decide whether consumption of alcohol alternatives is compatible with the CMO’s advice to avoid alcohol, even at low levels. As such, although CAP and BCAP acknowledge that alcohol alternatives contain only small amounts of alcohol and the choice to drink them is ultimately a decision for individual consumers, the Codes cannot condone any messaging that contradicts the Guidelines.</p> <p>Therefore, to comply with rule 18.20/19.21 ads for alcohol alternatives must not state or imply that such products can or should be drunk during pregnancy or when trying to conceive. The guidance has been updated to reflect this.</p>
OHID	<p>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</p>	<p>As mentioned above, the guidance has been amended to align with the CMO’s guidance on alcohol and pregnancy.</p>

	<p>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).</p> <p>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).</p> <p>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.</p>	<p>The research cited regarding variations between stated and actual ABVs in low alcohol products took place in Canada and we have seen no indication of this issue occurring in the UK. Therefore it would not be appropriate to use the research as a basis for policy decisions in the UK. Advertisers are required to hold evidence to substantiate claims in their ads. The guidance has been amended to include a reminder that this applies to ABV statements. If ABVs appearing on product labels do not match the actual product this is a wider legislative issue rather than a matter for CAP and BCAP as advertising regulators.</p>
<i>Appeal to children</i>		<p>There were no responses disagreeing with replicating the existing rules on appeal to children from the Alcohol section</p> <p>While not explicit, some comments discussed in the above</p>

		section on rule 18.18/19.19 expressed a preference for alcohol alternatives to be regulated in the same way as alcohol. These comments referred to concerns about children and increased exposure, indicating support for replicating the relevant restrictions.
PG	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	
<i>Under-25s</i>		
		<p>With one exception, there were no responses disagreeing with replicating the existing rules on featuring under-25s from the Alcohol section.</p> <p>While not explicit, some comments discussed in the above section on rule 18.18/19.19 expressed a preference for alcohol alternatives to be regulated in the same way as alcohol. These comments referred to concerns about children and increased exposure, indicating support for replicating the relevant restrictions.</p>
WSTA	<p>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%.</p> <p>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.</p>	<p>The restriction on featuring under-25s in ads for certain products used throughout the Codes is not derived from Challenge 25, which is an industry practice intended to avoid selling alcohol to under-18s who look older than their age. Rather, these rules recognise that for many under-18s the lifestyles of 18-25 year olds may be viewed as aspirational. There is therefore a risk that presenting this age group consuming or otherwise partaking of age restricted products and activities may play a role in making these appealing to under-18s.</p> <p>CAP and BCAP acknowledge that, although many retailers voluntarily prohibit the sale of alcohol alternatives to under-18s under a Challenge 25 approach, there is no legal restriction requiring them to do so. However, this indicates an industry view that such products exist in an alcohol context, in a way baking ingredients and orange juice do not.</p> <p>As made clear in the consultation, CAP and BCAP consider that by choosing to advertise a product as an alternative to alcohol,</p>

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 marketers as this age group may play a pivotal role in promoting moderation of alcohol through consumption of no and low alcoholic beverages

marketers necessarily set themselves within the same context. Ads for alcohol alternatives, by the definition set out in the new rules, feature and to a large extent reflect the commonplace presence and role of alcohol in social and celebratory situations. Therefore, marketers must recognise that they share in efforts to ensure advertising drawing upon and using the social position of alcohol is responsible.

While other ads referencing alcohol as part of a non-alcohol product (such as holidays) are usually considered to reflect alcohol within the specific references they use, these references are still subject to the under-25s rule. Replicating this rule for alcohol alternatives extends that principle to the whole ad in recognition the product itself has significant, inextricable links to alcohol in and of itself. While CAP and BCAP consider it appropriate to allow, under specific circumstances, a limited amount of content that wouldn't be appropriate for alcohol ads, this strong link to alcohol nonetheless requires a degree more caution than other non-alcohol product ads that reference alcohol and which are already caught by the rule.

As such, although CAP and BCAP understand that alcohol alternatives are legal for sale to under-18s (although voluntarily limited in practice) and have not been demonstrated to increase or cause alcohol consumption by under-18s, it is nonetheless inappropriate to feature under-25s in ads whose foundation for the presentation of the product is alcohol's role in society.

Targeting

With one exception, there were no responses disagreeing with replicating the existing rule prohibiting targeting under-18s from

		<p>the Alcohol section.</p> <p>While not explicit, some comments discussed in the above section on rule 18.18/19.19 expressed a preference for alcohol alternatives to be regulated in the same way as alcohol. These comments referred to concerns about children and increased exposure, indicating support for replicating the relevant restrictions.</p>
WRA	<p>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.</p>	
WSTA	<p>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.</p> <p>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.</p>	<p>The rule does not prevent marketers from targeting their ads at the 18-25 age group or generally appealing to them. The only prohibition relating to this age group is being featured in ads for alcohol alternatives, which is discussed above.</p>
<i>Scheduling</i>		
		<p>There were no responses disagreeing with amending the scheduling rules to include alcohol alternatives under the same restrictions as alcoholic drinks.</p> <p>While not explicit, some comments discussed in the above section on rule 18.18/19.19 expressed a preference for alcohol alternatives to be regulated in the same way as alcohol. These comments referred to concerns about children and increased exposure, indicating support for replicating the relevant restrictions.</p>

General comments

Caleno, CS

Some of the proposals lean too heavily to derisking presentation of alcohol vs the upside of alcohol alternatives. The rules and guidance need 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 occasion.

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.

As outlined in the consultation document, CAP and BCAP's primary rationale for proposing additional rules and guidance for alcohol alternatives was to ensure references to alcohol, which are common in this form of advertising, are responsible. As part of this, the rules and guidance clarify what would be considered a reference to alcohol. This intention means a key focus for the consultation was defining and restricting the content of alcohol references, and CAP and BCAP consider this is justified by the need to ensure that consumers are protected from potentially harmful alcohol depictions. As such, where marketers choose to present a product in an alcohol context there are some restrictions on advertising content that goes beyond what would be required for products just presented as soft drinks.

However, the rules and guidance also present certain divergences from the alcohol rules that are specifically intended to allow alcohol alternatives to use alcohol-adjacent imagery while positioning themselves as beneficial to consumers.

As noted above, CAP and BCAP acknowledge the wording of some of the rules and guidance implied tighter restrictions than intended on how alcohol alternatives can present themselves. Many of the clarifications to the rules and guidance make explicit the approaches and imagery that are permitted, rather than leaving this to inference; for instance, the ability of alcohol alternatives to be placed within situations where alcohol consumption would be inappropriate. The rewording of these sections increases the visibility of the potential for alcohol alternatives to present their benefits while referring to alcohol.

**ACIBEV,
BWSI &
VDS, CEEV,
WSTA**

Several respondents indicated they considered the proposed rules might be too restrictive. The private sector should be best placed to adopt self-regulation to regulate its advertising activities in relation to no- and low-alcoholic beverages.

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

CAP, BCAP, and the ASA are the self-regulatory body for the advertising industry across all sectors, including alcohol. For this consultation in particular, CAP and BCAP have taken significant steps to engage with the alcohol industry and include them in the process, in recognition of the nascency of the sector and complexity of the issues. CAP and BCAP also work closely with the Portman Group, who are the self-regulatory body specific to the alcohol sector, and have a strong relationship with Trading Standards.

	<p>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 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.</p>	<p>Proposed rules and formal guidance are consulted on, with submissions received from the public, industry, interest and campaign groups, academics, and statutory bodies. Interventions are based on available evidence and intended to strike a reasonable balance between consumer protection and proportionate limitations on advertisers' freedom of expression. All advertisers must abide by the Codes and those subject to a ruling by the ASA Council must withdraw or amend their advertising. With a 60 year history of effective self-regulation, CAP and BCAP strongly disagree with the contention that rules and guidance will not hold sufficient sway with alcohol advertisers and consumers.</p>
<p>SW</p>	<p>We believe there could be more clarity on when Portman Guidelines would supersede these new guidelines.</p>	<p>The ASA, CAP and BCAP are the self-regulator for the advertising industry; this includes alcohol marketing, but does not overlap with the work of the Portman Group. As such, the rules and guidance will not be superseded by work coming from the Portman Group.</p>
<p>ACIBEV, BWSI & VDS, CEEV, SW</p>	<p>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.</p> <p>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.</p> <p>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?</p>	<p>CAP and BCAP use the UK Chief Medical Officer's low risk drinking guidelines as the basis for what they consider to be responsible drinking. These guidelines set a maximum intake of 14 units a week, spread evenly over at least 3 separate occasions (roughly equivalent to 2 or 3 pints of beer or glasses of wine). The other key guideline is that several alcohol-free days a week is an effective way to reduce consumption.</p> <p>Ads that encourage or condone drinking above the level of the low risk guidelines are considered to be irresponsible. In this way, the rules relating to alcohol consumption make a distinction between harmful and moderate drinking.</p> <p>The low risk drinking guidelines state there is no convincing evidence for net health benefits (except for the very limited group comprising women over 55, where the maximum benefit is 5 units a week with any benefit tailing off above 14 units). It also states carcinogenic effects begin with any level of drinking and increase alongside consumption.</p> <p>Current UK guidelines and DHSC policy tend towards overall</p>

		<p>reduction in consumption to minimise the health risks from drinking. CAP and BCAP consider the tone of the consultation document and guidance mirror the official view that reduction in consumption is broadly beneficial, particularly for heavy or binge drinking, and that alcohol alternatives can play a role in this. However, this does not extend to implying there is no moderate or responsible intake of alcohol or that consumption should be reduced to zero. It also does not mandate that alcohol alternatives be presented in this way, although marketers are free to do so if they wish.</p> <p>Finally, in reflection of legislation, health claims (such as ‘healthy’ or ‘good for you’) are prohibited for alcoholic drinks; ads for alcohol alternatives may include these within the conditions of use.</p>
<p>AC</p>	<p>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.</p>	<p>The consultation only considered drinks at or below 0.5% ABV, so this issue did not form part of analysing the proposals. In addition, CAP and BCAP have no specific plans to consider changes to the Codes in this regard as they are already covered by specific rules based on legislation.</p> <p>Current food legislation allows marketers to use a ‘low alcohol’ claim only where the ABV is at or below 1.2%, and this is reflected in the Codes. No drink at the ABVs specified in the respondent’s comment would be permitted to be described as ‘low’ alcohol.</p> <p>Legislation also allows for ‘reduced alcohol’ claims, which would include ‘lower alcohol’; as this is specifically allowed for in legislation, it would be unreasonable for CAP and BCAP to prohibit its use, so it is reflected in the Codes. Such a claim must be based on a suitable reference point made clear in the ad, and the strength of the product must be significantly below the level of the reference point. This suitable reference point would need to be reasonable and justifiable; a claim such as “our 8% wine is a lower alcohol choice than this 12% beer” would be highly unlikely to be acceptable because the comparison is against a product unrepresentative of its category. This does not generally prohibit advertisers who have reformulated an existing product (or</p>

		<p>launched a new version) with a lower ABV from making this point in their advertising.</p> <p>Finally, CAP and BCAP understand the majority of specifically named alcoholic drinks (and the term 'spirit') have a required minimum ABV. Therefore, some drinks would be unable to make such a comparison because in order to be significantly lower strength than a suitable reference point they would need to be below the legal minimum.</p>
SW	Is it acceptable to promote alcohol alternatives in locations where alcohol consumption is prohibited? For example, public parks, public transport.	An ad depicting consumption of alcohol alternatives in a context where alcohol is not permitted would be acceptable provided the non-alcoholic nature was explicit and there was no implication alcohol consumption in such a context is normal or acceptable. If this was not clear the ad would risk breaching Code rules prohibiting advertisers from inciting consumers to break the law.
SW	Does the Portman guideline 3.2j treating therapeutic application apply to alcohol alternatives? For example, relaxing with a glass of wine in the bath.	An ad depicting a character relaxing in a bath with a glass of wine or an alcohol alternative would not be inherently problematic under the therapeutic qualities aspect of the alcohol rules. However, if the implication within the ad is that the alcoholic product or the alcohol alternative's similarity to the alcoholic product, is primarily responsible for the relaxing effect, this could be a problem.