



## **ASA Consultation on Amending limitations on advertising low-alcohol products**

**14<sup>th</sup> April 2021**

### **Introduction**

The British Beer & Pub Association champions issues that matter to the beer and pub industry. These are causes our members are passionate about: whether that is promoting beer as the nation's favourite alcoholic beverage, or lobbying against increases in beer duty and businesses rates that are so damaging to community pubs.

Our members are responsible for 90% of beer brewed in Britain today and we represent around 20,000 of the country's pubs. They include international companies, family brewers, managed locals and the nation's largest tenanted pub estates. It's a diverse group but we are passionate about representing, supporting and campaigning for the interests of the beer and pub sector. The BBPA is now more than 100 years old, having been founded in 1904, we have a unique identity and a powerful voice which we use to influence public opinion, in the interests of our members.

### **Executive Summary**

The Committee of Advertising Practice (CAP) and The Broadcast Committee of Advertising Practice (BCAP) have proposed changes to amend the limitations on advertising of low-alcohol products. The proposals would enable producers to promote low alcohol drinks alongside standard strength products and to allow marketers to promote low-alcohol drinks by virtue of their strength directly in comparison to standard strength drinks.

BBPA is supportive of the proposals and which we have called for in the past. We would draw attention to:

- The need to ensure sufficient clarity such that the changes to the rules apply to alcohol free drinks as well as low alcohol drinks.
- A missed opportunity to ensure similar flexibility to promote lower-strength drinks and to provide consumers with further options where they are looking to reduce their overall alcohol consumption

## Consultation Proposal

The Committee of Advertising Practice (CAP) and The Broadcast Committee of Advertising Practice (BCAP) are consulting on a change to the current UK Code of Non-Broadcast Advertising and Direct & Promotional Marketing (the CAP Code) and the UK Code of Broadcast Advertising (the BCAP Code) with regards to the rule limiting advertising of low-alcohol products.

The rule (CAP - 18.9/BCAP - 19.10) currently allows only low-alcohol products (i.e. those with an ABV of 0.5-1.2%) to be advertised as preferable because of their (low) strength. All other alcoholic products may only make factual statements about strength or make a limited comparison with a higher- strength product. No advertisements must imply that a drink is preferable because of its higher strength or intoxicating effects, or that an unusually high strength for its category is a selling point.

Under these current rules, low alcohol drinks can only be promoted as preferable if the advertisement as a whole could not be considered to promote a higher strength product as well. Therefore, in practice it is only acceptable to highlight a low alcohol drink's strength if it is the only product type in the ad; any inclusion of a standard drink would be likely to breach this rule.

ASA consider that the existing CAP/BCAP rules are no longer fit for purpose in positively promoting the benefits of low-alcohol products and are proposing amending the rules to allow the promotion of low alcohol drinks alongside standard strength drinks.

### Proposed Amendment to the CAP/BCAP Code

The following is the existing rule for CAP/BCAP (18.9/19.10) and with the proposed amendment:

#### ***i. Existing Rule (proposed removal **highlighted**):***

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

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

- *the [marketing communication/advertisement] could not be considered as promoting a stronger alcoholic drink, and*

- *the alcohol content of the drink is stated clearly in the [marketing communication/advertisement].*

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

**ii. Proposed New Rule:**

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

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

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

**BBPA Response:**

**Question 1: Do you agree with CAP and BCAP's proposed new rule to replace CAP rule 18.9 and BCAP rule 19.10? Please set out your arguments for supporting or disagreeing with the proposal.**

The BBPA welcomes the opportunity to respond to this technical consultation and the decision to amend the CAP/BCAP Codes to enable producers to more comprehensively promote low strength drinks within their portfolio.

This is a change we have called for in the past and we support the changes as proposed for rules 18.9/19.10 under the CAP/BCAP Codes.

As is mentioned within the consultation document, there has been significant growth in consumer interest in the no/low category and our own data shows that over the 6 years between 2013-2019 production volumes for no and low alcohol beer increased by over 300%. In 2019 alone, 69 million pints of no and low beer were sold.

Whilst the proposed rule changes and the scope of the CAP/BCAP are focused on low alcohol, within the no/low drinks category it is important to note the role of no-alcohol or alcohol free drinks (where alcohol is removed and the final strength does not exceed 0.05% ABV).

The rationale behind the proposed change to the CAP/BCAP rules notes the importance of supporting the capabilities for responsible promotion of alcohol drinks and the growth of consumer interest in the no/low sector. However, the wording of the new rules remains centred on low alcohol drinks. Whilst the CAP/BCAP notes more broadly that the application of the rules on the responsible promotion of low and standard strength alcohol drinks does extend to alcohol free drinks, it would help to clarify this further within the wording of rule 18.9 and 19.10.

We do consider there to be a missed opportunity within the proposal as laid out within this consultation and in particular to clarify where the CAP/BCAP rules might be used to allow the responsible promotion of lower-strength drinks.

The consultation document notes both the increased consumer interest in no/low strength alternatives and the benefits from more easily and responsibly promoting such benefits. However, the responsible promotion of alcohol should reflect support for consumers who wish to reduce their alcohol consumption overall. It is therefore critical to recognise and respond to the need to provide a route for consumers who wish to make lower strength choices in a much wider sense and more simply to allow them to choose lower strength options with reference to higher strength drinks.

This is similarly reflected in the policy objective of the Governments low-risk drinking guidelines which promote the need to encourage consumers to reduce their alcohol consumption and which might equally be done through choice of alcohol free or low strength drinks or more directly by choosing drinks of lower alcohol strength relative to higher strength.

The revision of the European Structures Directive in 2020, and which was introduced before the UK left the European Union, introduces a definition that can be used for lower-strength drinks. In the case of beer a 'lower strength' category would be defined as between 1.2%ABV and no greater than 3.5% ABV.

We believe that supporting consumers on their journey to reduced alcohol consumption should include promotion of 'lower strength' options equally to the availability of low and no alcohol products.

This is reflected in the Portman Group Code of Practice which currently allows the use of promotional materials to make a virtue of lower-strength across all product categories where the product is below the average strength of the category:

**3.2 A drink, its packaging and any promotional material or activity should not in any direct or indirect way:**

- (a) give the higher alcoholic strength, or intoxicating effect, undue emphasis.
- A product's lower alcoholic strength may be emphasised proportionately when

it is below the average strength for similar beverages. Factual information about alcoholic strength may be given;

We believe that in addition to making the proposed amendments to the CAP/BCAP codes, this represents an ideal opportunity to align the CAP/BCAP with rule 3.2 (a) of the Portman Group Code of Practice to similarly allow producers to market the availability of lower-strength options in a responsible manner.

We hope that our response will be helpful with respect of the proposals to amend the current limitations on advertising low-alcohol products. If necessary we would be delighted to discuss our response further or to answer any questions or address points of clarification that may be required.

British Beer & Pub Association