



Health and Sport Committee
T3.60
Scottish Parliament
Edinburgh
EH99 1SP

Advertising Standards Authority
Mid City Place, 71 High Holborn
London WC1V 6QT
Telephone 020 7492 2222
Textphone 020 7242 8159
Email enquiries@asa.org.uk
www.asa.org.uk

healthandsport@scottish.parliament.uk

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By email

**The Advertising Standards Authority and Committees of Advertising Practice
response to the call for views on the Alcohol (Licensing, Public Health and Criminal
Justice) (Scotland) Bill.**

1. Introduction and Executive Summary

1.1 This submission is provided by the Advertising Standards Authority (ASA) and Committees of Advertising Practice, CAP and BCAP (the 'ASA system').

1.2 The ASA system is committed to upholding high standards in advertising. We recognise the important public health debate in Scotland about its consumption of alcohol and the role that advertising regulation has to play in ensuring that alcohol advertising is responsible.

1.3 The ASA system is grateful for the opportunity to participate in the call for views on the Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill. In 2012 the ASA submitted a response to the Shifting the Culture consultation (see Annex 1).

1.4 In this response the ASA system would like to address Section 6-13 of the Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill concerning restrictions on alcohol advertising.

1.5 Alcohol advertisements in Scotland are subject to a comprehensive set of rules that apply to non-broadcast and broadcast ads. These have been developed by the Committees of Advertising Practice and independently administered by the ASA. The ASA system relies on a continual review of new evidence, to ensure that our rules protect young and vulnerable people from harm and remain proportionate and targeted.

1.7 For over 50 years the ASA system has acted as the first line of control for ensuring advertising is responsible. We believe that the public and consumers have benefitted from

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Chairman Rt Hon Lord Smith of Finsbury **Chief Executive** Guy Parker

ASA Council Kate Bee, Alan Bookbinder, Rachel Childs, Roisin Donnelly, Ray Gallagher, Wesley Henderson, David Hepworth, John Mayhead, Suzanne McCarthy, Sir Martin Narey, Shireen Peermohamed, Hamish Pringle and Sam Younger

The Advertising Standards Authority Limited, registered in England No 733214, Mid City Place, 71 High Holborn, London WC1V 6QT.

The Advertising Standards Authority (Broadcast) Limited, registered in England No 05130991, Mid City Place, 71 High Holborn, London WC1V 6QT.

the development of the ASA 'one-stop-shop' for advertising regulation, through which consumers know where to complain and businesses know where to come to for advice and support.

When developing policy towards the regulation of advertising - including that around alcohol ads - we hope that policy makers and legislators recognise the role and impact of the established UK advertising self-regulatory system, including the steps we've taken to ensure ads for alcohol products are responsible.

1.8 This submission provides:

- A brief overview of the UK advertising regulatory system
- A brief summary of the Alcohol Advertising Rules
- The ASA's response to Section 6-13
- Recent examples of ASA action against alcohol advertising

2 Overview of the ASA system

2.1 Advertising in the UK is regulated by the self-and co-regulatory ASA system. We have been regulating advertising in non-broadcast media since 1962. In 2004 we entered into a co-regulatory partnership with Ofcom and extended our remit to include TV and radio advertising. We began regulating companies own websites and social media in 2011: creating the 'one-stop-shop'.

2.2 The Advertising Codes (the Codes) are written and maintained by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP).¹ The Advertising Codes cover advertising across media, including that which appears on billboards and on bus stops.

2.3 The ASA is the independent body responsible for administering the Codes. During 2014 the ASA received 37,073 complaints about 17,002 ads. Our action led to 3,384 ad campaigns being changed or withdrawn.²

2.4 The system is entirely funded by industry, through an arms-length levy. This ensures a proper separation between the system's regulatory functions and its industry funders.

2.5 The ASA system takes a 360° approach to regulation. In addition to handling complaints, we pro-actively monitor ads across both national and local media to make sure standards are being maintained.

2.6 CAP, recognising that prevention is better than cure, provides a wealth of training and advice services for advertisers (most of which are free) to help them understand their

¹ www.cap.org.uk

² ASA Annual Report 2014 <https://www.asa.org.uk/News-resources/Media-Centre/2015/ASA-Annual-Report-2014.aspx#.VYfZhvIVhBc>

responsibilities under the Codes, meaning fewer problem ads appear in the first place. CAP gave advice on over 190,000 occasions in 2014.³ CAP has also developed a new e-learning module for alcohol advertising which will be launched later this year. We will be publicising the module as a key service to advertisers to further improve good practice and enhance levels of compliance with the Codes.

2.7 Through our new five-year strategy⁴, we are committing to being more proactive and having more impact in how we regulate. Our ambition is to make every UK ad a responsible ad. As part of this work we have recently published our new Prioritisation Principles which provide a framework to guide us in how we allocate our resources and prioritise our work to tackle the ads which cause the most harm or detriment to consumers and to society.⁵

3 The Alcohol Rules

3.1 The ASA wholly supports the social imperative of ensuring that alcohol advertising is responsible, and above all that children and the vulnerable are fully protected. To that end, each of the Codes contain a specific set of alcohol rules that sit on top of the general Code requirements that ads must not mislead, harm or offend, and must be prepared with a sense of social responsibility.

3.2 The alcohol rules are comprehensive, proportionate, and based upon detailed assessments of the best available evidence of the effect of alcohol advertising on drinking behaviour. The alcohol rules were significantly strengthened in 2005 in response to concerns about underage drinking and anti-social behaviour.

3.3 In summary, the rules state that alcohol ads must not:

- link alcohol with daring, antisocial, aggressive or irresponsible behaviour;
- link alcohol with seduction, sex or social success;
- show alcohol being handled or served irresponsibly; or
- show people drinking or behaving in an adolescent or juvenile way or reflecting the culture of people under 18 years of age.

3.4 In non-broadcast media (for example in outdoor space and in the cinema) alcoholic drinks cannot be advertised if more than 25% of the audience is under 18 years of age.

3.5 Alcohol ads are banned from appearing in and around TV programmes which are made for, or likely to appeal to those under the age of 18 and are subject to strict rules about their content.

³ Ibid

⁴ <http://www.asa.org.uk/About-ASA/Strategy.aspx>

⁵ <https://www.asa.org.uk/News-resources/Media-Centre/2015/New-prioritisation-principles-to-guide-our-work.aspx#.VYkiiPIVhBc>

3.6 The content and placement rules should be viewed alongside one another. The content rules ensure that, where children do see alcohol ads, those ads do not appeal to them.

3.7 The Broadcast and Non-broadcast Advertising Codes for Alcohol Products can be viewed in full in Annex 2 and Annex 3.

3.8 Examples of ASA action

3.8.1 Below are links to recent ASA alcohol adjudications, full details of which are available on our website:

[Diageo Great Britain Ltd \(July 2014\)](#) – A picture posted by Captain Morgan on their Facebook page showed the pirate Captain Morgan raising a glass and cheering whilst surrounded by his crew. We upheld The Youth Alcohol Advertising Council's (YAAC) complaint, which challenged whether the ad was irresponsible, because it implied that alcohol could overcome boredom and was capable of changing mood.

[Wm Morrison Supermarkets plc \(April 2014\)](#) - A video ad, shown during a series of children's nursery rhymes on YouTube, featured images of a number of bottles of spirits. The voice-over stated "These litre bottles of spirits are £15 each ..." We concluded that the ad had not been targeted responsibly.

[Halewood International Ltd \(April 2014\)](#) - A TV ad for Lambrini products featured various scenes depicted the women laughing, talking, putting on makeup and getting ready for the evening. We considered the slogan "Big Night In" and the repeated inclusion of the product gave the impression that the alcohol was a key component of the success of the party, we concluded that the ad was irresponsible.

4 Response to Section 6-13 concerning restrictions alcohol advertising

4.1 Advertising near premises used by children

4.1.1 The ASA system understands that alcohol advertising is one part of the larger public health debate surrounding Scotland's consumption of alcohol, and the role we must play in ensuring advertising does not encourage or condone irresponsible drinking. The ASA system continually relies on the review of new evidence to ensure that its rules reflect what is needed to protect the public and children in particular.

4.1.2 As outlined, the rules enforced by the ASA prohibit alcohol ads from being shown if more than 25% of the audience is under the age of 18. The rules mean ads can't appear where there is a high percentage of children which is similar in effect to the scheduling restrictions on TV. These rules work in conjunction with the strict content rules offering two levels of protection for children against alcohol ads. Where alcohol ads are permitted, they cannot appeal to children or otherwise condone irresponsible drinking behaviours.

4.1.3 In addition, the outdoor advertising industry has taken its own voluntary steps in this area. The Outdoor Media Centre extended its Charter of Best Practice in 2013 to prohibit

alcohol advertising within 100m of a school front gate. This provision acts in addition to the rules within the UK Advertising Codes, which also still apply.

5 Complaints and Compliance

5.1.1 The ASA receives relatively few complaints about alcohol advertising. In 2014 the ASA received 187 complaints (out of a total of 37,073) about 140 alcohol ads (out of a total of 17,002), so alcohol ads comprised just 0.8% of all those complained about.

5.1.2 The ASA is proactively keeping pace with new technologies and the changes to the way ads are viewed by young people. In 2013 the ASA conducted a survey to find out what ads children are seeing when they use social media.⁶ Only 3 out of the 427 ads that were viewed during the study were ads for alcohol products. These were only seen by children who, prior to the survey, had lied about their age and had registered for the sites as 18 or older. The content was, nonetheless, compliant with the rules, and did not encourage the irresponsible use of alcohol.

5.1.3 Advertisers cannot 'opt out' of the ASA system. It is not voluntary. Compliance with both the rules and ASA decisions is mandatory. When advertisers do get it wrong, they face both financial loss from having an ad campaign pulled, and damage to their reputation through the publication of an upheld ASA adjudication.

5.1.4 In the rare event of an advertiser refusing to amend or withdraw their ad following an ASA adjudication, or in the event of a particularly serious breach, the system has a range of sanctions available to it to enforce its decisions.⁷ For illustration, CAP can issue alerts to its members, including the media, advising them to withhold services such as access to advertising space and can ask internet search websites to remove a marketer's paid-for search advertisements.

6 Summary

6.1 The alcohol advertising rules, developed by CAP and BCAP and administered by the ASA, are comprehensive and robust. We are confident that the ASA system is best-placed for considering concerns about advertising in the first instance, with CAP ensuring the continual review of the appropriateness of the rules by receiving and considering representations supported by evidence.

6.2 We ask that policy makers, if they have concerns about advertising or believe further measures are needed, address those to the ASA system in the first instance, because it is our responsibility to ensure rules are set at the right level, enshrining consumer protection

⁶ https://www.asa.org.uk/News-resources/~media/Files/ASA/Reports/ASA%20Compliance%20Survey_Children%20and%20advertising%20on%20social%20media%20websites.ashx

⁷ <https://www.asa.org.uk/Industry-advertisers/Sanctions.aspx>

whilst reflecting commercial rights to advertise. In striking the appropriate balance, we believe the one-stop-shop model provided by the ASA system remains in the best interests of consumers, the wider public and businesses.

6.3 If there are concerns about the advertising rules in place, we ask that the self-regulatory system is given the opportunity to assess the evidence and, if necessary, take action.

6.4 We would be happy to meet policy makers to discuss our role, or to provide further written information on request.

Contact Details

Hannah Law
Press and Public Affairs Assistant
Advertising Standards Authority
Tel: 020 7492 2121
Email: hannahl@asa.org.uk