

SECTION 18: ALCOHOL

Question 62: Given CAP's policy consideration, do you agree that rule 18.9 '*Marketing communications may give factual information about the alcoholic strength of a drink or make factual strength comparisons with other products but must not otherwise imply that a drink may be preferred because of its alcohol content or intoxicating effect. Low-alcohol drinks may be presented as preferable because of their low alcoholic strength.*' should be included in the Code? If your answer is no, please explain why.

<i>Responses received in favour of CAP's proposal from:</i>	<i>Summaries of significant points:</i>	<i>CAP's evaluation of those points and action points:</i>
Advertising Association; Alcohol Health Alliance UK; Archbishops' Council, Church of England ASDA; Charity Law Association; Institute of Alcohol Studies; Institute of Practitioners in Advertising; PAGB; Quaker Action on Alcohol and Drugs; Scotch Whisky Association; Tesco; Wine and Spirit Trade Association	<p>1. The respondents listed in the column to the left agree that CAP proposed rule 18.9 should be included in the Code</p> <p>2. <i>The Portman Group:</i> Noted concern from stakeholders that this rule could stifle the creative treatment that can be afforded for drinks being developed with a lower alcoholic strength but consider on balance that it is better for advertisements for drinks of lower relative strength (but above 1.2% ABV) simply to provide factual information rather than risk confusion.</p> <p>3. <i>Tesco:</i> Supported the changes to this clause but noted</p>	<p>1. See below for amendment to proposed rule</p> <p>2. See below for amendment to proposed rule</p> <p>3. CAP notes this typographical error and clarifies that it had proposed the wording originally given</p>

<p>An organisation</p> <p>Two individuals</p>	<p>that the wording differs between the consultation question section on page 84 and the proposed new Code on page 168. Considered the wording contained on page 84 is clearer.</p>	<p>on page 168.</p> <p>This rule has now been amended – see below.</p>
<p><i>Responses received against CAP's proposal:</i></p> <p>Alcohol Concern; Beattie McGuinness Bungay; British Beer & Pub Association; Institute of Alcohol Studies; Molson Coors; The Portman Group; Wine and Spirit Trade Association</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Beattie McGuinness Bungay, British Beer & Pub Association and Wine and Spirit Trade Association:</i> Considered that, in certain circumstances, it may be appropriate and right to communicate that a drink may be preferred because of its alcohol content when that content is lower than the average or usual strength.</p> <p>Noted that drinks manufacturers are increasingly providing a greater range of lower strength products within their portfolios to promote responsible drinking behaviour, in line with Government policy. Considered it fair and reasonable that the benefits of these lower strength alcoholic products should be communicated to consumers so that they can make an informed choice.</p> <p>Considered that the proposed rule could stifle treatments to promote lower-strength products.</p>	<p><i>CAP's evaluation of those points and action points:</i></p> <p>1. CAP considers that factual strength comparisons are legitimate, and that they should only be made for lower to higher strength comparisons.</p> <p>In light of respondents' input to this rule, CAP proposes to amend the wording for this rule:</p> <p>Please note that the rule quoted below has been changed from an incorrect version published in this table on 16 March 2010.</p> <p>18.9 <i>Marketing communications 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.</i></p> <p><i>Marketing communications must not imply that a drink may be preferred because of its alcohol</i></p>

	<p>2. <i>Wine and Spirit Trade Association:</i> Cited research which indicates that consumers are interested in having the option to choose lower alcohol wines¹ and considered that amending this rule to permit that would be beneficial and in line with Government policy.</p> <p>3. <i>Molson Coors:</i> Did not support any changes that would limit the communication of lower-strength alcohol</p> <p>4. <i>British Beer & Pub Association:</i> i) Noted that CAP's consultation document highlights concerns that promoting 'lower-strength' drinks could introduce confusion, especially in relation to drinking and driving; respondent considered that this was not a robust policy position as the industry's position is that if one intends to drive, then one should not drink at all. Noted in addition that under the proposed Code (rule 4.6) it makes it clear that alcohol 'marketing communications must not encourage consumers to drink and drive'.</p>	<p><i>content or intoxicating effect. There is an exception for low-alcohol drinks, which may be presented as preferable because of their low alcoholic strength.</i></p> <p><i>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.</i></p> <p>2. See 1. above</p> <p>3. See 1. above</p> <p>4. i) CAP considers that its policy position on drinking alcohol and driving is clear and that the specific rules for alcoholic drinks add further clarity about types of marketing communications that would be unacceptable.</p>
--	--	---

¹ WSTA / Wine Intelligence Consumer Intelligence Report May 2007.

	<p>ii) Noted that use of a descriptor such as 'strong' on certain products (normally in the name of the product) does not necessarily refer to alcohol content. The term can be used to describe full flavour, body, and mouth-feel etc.</p> <p>iii) Respondent noted that by law, packages must display an accurate declaration of the ABV and the vast majority of products also have a voluntary alcohol unit declaration.</p> <p>5. <i>Institute of Alcohol Studies:</i> Suggested that in order to strengthen this important message, the phrase "may... make a factual strength comparison with another product" be supplemented by the phrase "only when the comparison is with a higher strength product of a similar beverage."</p> <p>6. <i>Alcohol Concern:</i> Respondent expressed concern that, under the proposed rule, an advertisement which simply states that a type of beer is higher in strength than other beers may automatically infer that the higher-strength product is preferable.</p> <p>Suggested that proposed rule 18.9 be amended to read:</p>	<p>ii) See above; CAP has modified the wording to ensure that 'strength' here refers to alcoholic strength.</p> <p>iii) This rule would not necessarily prevent the inclusion of an ABV in a marketing communication, either within or without a product pack (e.g. a label)</p> <p>5. See 1. above</p> <p>6. See 1. above</p>
--	---	--

	<p>“... they may not make a factual strength comparison with another product...”</p> <p>7. <i>The Portman Group:</i> Expressed concern that the proposed rule 18.9 could allow an advertisement for a drink of relatively high strength to make the factual information the main message of the advertisement, thereby implying that the drink should be preferred on the basis of its strength.</p> <p>Proposed an amendment to the rule to add:</p> <p>“In the case of a drink with relatively high strength, the factual information should not be given undue emphasis”</p> <p>Respondent noted that in determining relatively high strength, a drink could be judged in the context either of any comparison in the advertisement (e.g. with a previous formulation) or of the typical strength of the sector.</p>	<p>7. See 1. above</p>
<p>Question 63:</p> <p>i) Given CAP’s policy consideration, do you agree that CAP rule 56.15 (Low alcohol drinks are those that contain between 0.5% - 1.2% alcohol by volume. Marketers should ensure that low alcohol drinks are not promoted in a way that encourages their inappropriate consumption and should not depict activities that require complete sobriety) should not be included in the present Code? If your answer is no, please explain why.</p>		

ii) Given CAP's policy consideration, do you agree that, with the exception of the rule that prevents preference based on alcoholic strength, marketing communications for low-alcohol drinks should be subject to all the Alcohol rules? If your answer is no, please explain why.

Responses received in favour of CAP's proposal from:

Advertising Association; Alcohol Concern; Alcohol Health Alliance UK; Archbishops' Council, Church of England; ASDA; British Beer & Pub Association; Charity Law Association; Institute of Alcohol Studies; Institute of Practitioners in Advertising; The Portman Group; PAGB; Quaker Action on Alcohol and Drugs; Scotch Whisky Association; Wine and Spirit Trade Association

Summaries of significant points:

1.
The respondents listed in the column to the left agreed that 56.15 should no longer be included in the Code and that all alcohol rules must also be applied to low-alcohol drinks (those containing between 0.5% and 1.2% alcohol), other than the rule which allows implication of preference based on alcoholic strength.

CAP's evaluation of those points and action points:

1.
CAP agrees

An organisation		
Two individuals		
<p><i>Responses received against CAP's proposal:</i></p> <p>Institute of Alcohol Studies; Molson Coors</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Molson Coors:</i> Did not support any changes that would limit the communication of low-strength alcohol</p> <p>2. <i>Institute of Alcohol Studies:</i> Considered that no exception should be made for low-alcohol drinks and that all the Alcohol rules should apply to all drinks above 0.5% alcohol.</p> <p>Noted that the Licensing (Low Alcohol Drinks) Act 1990 defined low alcohol liquor as "any liquor which is of a strength not exceeding 0.5% at the time of the sale or other conduct in question." The Licensing Act 2003 makes no reference to low alcohol drinks at all. The special category of low-alcohol drinks as being between 0.5% and 1.2% alcohol dates back to the 1964 Licensing Act. Considered it an anachronism to retain this category in the</p>	<p><i>CAP's evaluation of those points and action points:</i></p> <p>1. CAP considers that maintaining rule 56.15 could inappropriately suggest that it is permissible to promote low-alcohol drinks in ways prevented by the alcohol rules. (For the avoidance of doubt, CAP considers it is appropriate to exempt low-alcohol drinks from proposed rule 18.9, in line with the present Code.)</p> <p>2. CAP has not seen any evidence that suggests it is harmful to maintain the exemption for low-alcohol drinks from the rule that prevents preference based on alcoholic strength, nor has it seen evidence that the 1.2% threshold is inappropriate.</p> <p>CAP notes that the Licensing Act does not create offences in relation to alcohol and marketing and that it defines different alcohol products according to strength in a way that differs from, but does not preclude, CAP's definition of low-alcohol drinks. CAP also notes that its definition (see below) is compatible with Directive 2000/13/EC as implemented in the UK Food Labelling Regulations 1996 and with the EC Regulation on</p>

	Advertising Codes.	Nutrition and Health Claims 1994/2006
<p>Question 64: Given CAP's policy consideration, do you agree that rule 18.12 '<i>Marketing communications must not link alcohol with activities or locations in which drinking would be unsafe or unwise. Marketing communications must not link alcohol with the use of potentially dangerous machinery or driving. Marketing communications may feature sporting and other physical activities (subject to other rules in this Section, for example appeal to under 18s or link with daring or aggression) but must not imply that those activities have been undertaken after the consumption of alcohol</i>' should be included in the Code? If your answer is no please explain why.</p>		
<p><i>Responses received in favour of CAP's proposal from:</i></p> <p>Advertising Association; Archbishops' Council, Church of England; ASDA; British Beer & Pub Association; Brown-Forman Beverages; Charity Law Association; Institute of Practitioners in Advertising; The Portman Group; PAGB; Scotch Whisky Association; Wine and Spirit Trade Association</p>	<p><i>Summaries of significant points:</i></p> <p>1. The respondents listed in the column to the left agree that CAP proposed rule 18.12 should be included in the Code</p>	<p><i>CAP's evaluation of those points and action points:</i></p> <p>1. CAP agrees</p>

Three organisations Two individuals		
<p><i>Responses received against CAP's proposal:</i></p> <p>Alcohol Concern; Alcohol Health Alliance UK; Institute of Alcohol Studies</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Alcohol Concern and Alcohol Health Alliance UK :</i> i) Considered that new rule 18.12 is preferable to current Rule 56.14, but did not believe that 18.12 went far enough.</p> <p>Suggested that rule 18.12 should be amended to prevent any link whatsoever between alcohol and sporting activity, even if it is not implied that the consumption of alcohol has taken place before those activities:</p> <p><i>Marketing communications must not link alcohol with activities or locations in which drinking would be unsafe or unwise.</i></p> <p><i>Marketing communications must not link alcohol with the use of potentially dangerous machinery or driving. Marketing communications may not feature sporting or other physical activities.</i></p> <p>ii) Expressed concern that the proposed rule could allow for the consumption of alcohol after sport or physical activity which could create a misleading</p>	<p><i>CAP's evaluation of those points and action points:</i></p> <p>1. i) CAP considers it is acceptable to allow sporting and physical activities to feature in marketing communications for alcohol, as long the ad does not imply that those activities have been undertaken after the consumption of alcohol and the depiction does not breach the other rules in this section.</p> <p>ii) Rule 18.12 states: <i>'Marketing communications must not link alcohol with activities or locations in which drinking would be unsafe or unwise. Marketing communications must not link alcohol</i></p>

	<p>impression that alcohol is an appropriate beverage for hydration, whereas it is actually a diuretic and its consumption can result in temporary dehydration of the body.</p> <p>2. <i>Institute of Alcohol Studies:</i> Welcomed the first two sentences of this rule but expressed concern that permitting the linkage with “sporting and other physical activities” (even with the restriction that such communication “must not imply that those activities have been undertaken after the consumption of alcohol”) could potentially contradict 18.14 – the appeal to youth by association with youth culture, of which sport is a major component, 18.17 – the link with fitness – and 18.7 “Marketing communications must not imply that alcohol can enhance mental or physical capabilities, for example by contributing to professional or sporting achievements.”</p>	<p><i>with the use of potentially dangerous machinery or driving. Marketing communications may feature sporting and other physical activities (subject to other rules in this Section, for example appeal to under 18s or link with daring or aggression) but must not imply that those activities have been undertaken after the consumption of alcohol’</i></p> <p>CAP considers that refreshment is far removed from rehydration, and if the unsafe consumption of alcohol for rehydration purposes was shown in an ad it would be likely to fall foul of CAP’s rules on irresponsibility.</p> <p>2. CAP considers it is acceptable to allow sporting and physical activities to feature in alcohol advertisements, as long as the depiction does not breach the other rules in this section. The rule emphasises that an ad must not imply that those activities have been undertaken after the consumption of alcohol.</p>
--	---	---

Question 65:

- i) Taking into account its general policy objectives, do you agree that CAP's rules, included in the proposed Alcohol Section, are necessary and easily understandable? If your answer is no, please explain why.**
- ii) On consideration of the mapping document in Annex 2, can you identify any changes from the present to the proposed Alcohol rules that are likely to amount to a significant change in advertising policy and practice, are not reflected here and that you believe should be retained or otherwise given dedicated consideration?**
- iii) Do you have other comments on this section?**

<i>Responses received from:</i>	<i>Summaries of significant points:</i>	<i>CAP's evaluation of those points and action points:</i>
Advertising Association; Alcohol Concern; Alcohol Health Alliance UK; ASDA; Beattie McGuinness Bungay; British Beer & Pub Association; Brown-Forman Beverages; Charity Law Association; Department of Health; An individual; Institute of Alcohol Studies; Institute of Practitioners in Advertising; The	<p>1. <i>Beattie McGuinness Bungay:</i> Considered the current Code to be very effective and found it the rules to be practicable, clear and reasonable.</p> <p>Considered that the current code does a good job protecting the vulnerable and the young from any communications that may encourage harmful or unhealthy consumption.</p> <p>2. <i>Department of Health:</i> Was content with the minor technical changes to the rules, which will strengthen the guidance for the advertising of alcohol.</p>	<p>1. CAP agrees</p> <p>2. CAP agrees</p>

<p>Portman Group; PAGB; Scotch Whisky Association; Scotch Whisky Association; Scottish Health Action on Alcohol Problems (SHAAP); Tesco; Wine and Spirit Trade Association</p> <p>Three organisations</p>	<p>3. <i>An organisation, British Beer & Pub Association and Brown-Forman Beverages:</i> Noted that throughout the Code, the word “should” has been replaced by “must”.</p> <p>4. <i>An organisation, British Beer & Pub Association and Brown-Forman Beverages:</i> Expressed concern that some changes to the text removed examples of positive statements that can be made, such as a brand reflecting ‘the drinker’s good taste and discernment’ and the explicit reference within the Code which permits creative treatments to use humour and references to sociability.</p> <p>5. The Portman Group: Agreed that rules are necessary and easily understandable.</p> <p>Suggested rewording definition to state:</p> <p><i>‘alcoholic drinks are defined as drinks containing at least 0.5% alcohol; low-alcohol drinks are defined as drinks containing between 0.5% and 1.2%</i></p>	<p>3. Readers may note that rules in the new Code state ‘must’, for example ‘must not mislead’. Rules in the present Code state ‘should’. ‘Should’ might imply that compliance with the Code is voluntary when it is not. The decision to use ‘must’ does not signify a substantive change; it merely removes ambiguity about the intent of the rules.</p> <p>4. Present rule 56.11 states: “A brand preference may be promoted as a mark of, for example, the drinker’s good taste and discernment.” CAP considers that the proposed rules do not meaningfully prohibit this type of treatment.</p> <p>CAP notes that proposed rule 18.3 continues to permit explicitly the consumption of alcohol to be depicted as sociable</p> <p>5. CAP agrees. The revised introduction should read: The rules in this section apply to marketing communications for alcoholic drinks and to marketing communications for promotions of alcoholic drinks. Alcoholic drinks are defined as drinks containing at least 0.5% alcohol; for the purposes of this Code low-alcohol drinks are defined as drinks containing between 0.5% and 1.2% alcohol.</p>
---	--	---

	<p><i>alcohol.'</i></p> <p>Respondent felt this was necessary to reflect CAP's intent to make low-alcohol drinks subject to all the alcohol advertising rules, except where stated. Respondent noted that the sale of low-alcohol drinks is subject to normal liquor licensing requirements.</p> <p>6. <i>Tesco:</i> Respondent suggested that the definition to this section be amended to make it clear that alcoholic drinks are those <u>over</u> 1.2%, not <u>at</u> 1.2%, the latter already being contained in the definition of non-alcoholic drinks.</p> <p>7. <i>Scottish Health Action on Alcohol Problems (SHAAP):</i> Did not respond to any of the specific questions in the consultation but stated a general view that rules covering alcohol advertising should not be a matter for industry self-regulation.</p>	<p>6. See 5. above</p> <p>7. The CAP Code and the self-regulatory framework that exists to administer it have been developed to work within and complement legal controls. The UK's legal context allows for and promotes the use of self-regulation as an alternative instrument to statutory regulation and as a proportionate and effective enforcement measure. A clear distinction about jurisdiction, competences and responsibilities is maintained between the ASA and other public authorities.</p> <p>CAP has consulted widely on its rules to ensure they are relevant and fit for purpose. The ASA</p>
--	--	--

	<p>8. <i>Scottish Health Action on Alcohol Problems (SHAAP):</i> Respondent's position was that alcohol is a fundamentally harmful drug which should not be marketed or promoted.</p> <p>9. <i>Institute of Alcohol Studies:</i> Considered that, in relation to proposed rule 18.1, it was important to note that even small amounts of alcohol can increase the vulnerability of the young, immature or those who are mentally or sociable vulnerable.</p> <p>10. <i>Alcohol Concern:</i> i) Expressed concern that proposed rule 18.3 could allow advertisers to present an alcoholic drink as preferable to a soft drink.</p>	<p>Council administers the Code. It is independent of industry.</p> <p>8. The advertising rules fit within a broad regulatory framework for alcohol. Although the framework regulates access to alcohol, it does not entirely prohibit its supply as a fundamentally harmful substance. CAP must make regulatory decisions in light of that framework.</p> <p>9. The CAP Code regulates marketing communications and not the products themselves. CAP considers that proposed rule 18.1 offers explicit protection for vulnerable groups from irresponsible or potentially harmful alcohol ads.</p> <p>10. i) CAP considers that alcoholic drinks can be portrayed as refreshing without implying that they are preferable to soft drinks. It is likely that, if the ASA Council were to consider a complaint about an advertisement that encouraged consumption of alcohol over a soft drink, it would likely find that advertisement irresponsible. Alternatively, if an advertisement suggested it was a sign of toughness or daring to prefer alcohol over a soft drink then that would fall foul of 18.4:</p> <p><i>Drinking alcohol must not be portrayed as a</i></p>
--	---	--

	<p>ii) Also considered that alcoholic drinks should not be presented as 'thirst-quenching' on the basis that alcohol is a diuretic, and therefore can result in temporary dehydration.</p> <p>11. <i>Alcohol Concern:</i> Suggested that proposed rule 18.5 should retain the present reference to 'masculinity or femininity' as such attributes may not necessarily be included under the term 'attractiveness'.</p> <p>12. <i>Alcohol Concern:</i> Suggested that proposed rule 18.6 be amended to include the following: "Nor must they imply that drinking is an essential or normal part of daily routine"</p>	<p><i>challenge. Marketing communications must neither show, imply, encourage or refer to aggression or unruly, irresponsible or anti-social behaviour nor link alcohol with brave, tough or daring people or behaviour.</i></p> <p>ii) 18.3 states: <i>"The consumption of alcohol may be portrayed as sociable or thirst-quenching."</i> CAP considers that refreshment is far removed from rehydration, and if the unsafe consumption of alcohol for rehydration purposes was shown in an advertisement it would be likely to fall foul of CAP's rules on irresponsibility.</p> <p>11. CAP does not consider that removing the reference to 'masculinity or femininity' amounts to a significant change; CAP considers that stereotypical attributes relating to 'masculinity' or 'femininity' would be captured by 18.4, 18.5, 18.6</p> <p>12. 18.6 states <i>'Marketing communications must not imply that alcohol might be indispensable or take priority in life or that drinking alcohol can overcome boredom, loneliness or other problems.'</i> CAP considers that the respondent's concerns are addressed by the rule's wording; an ad that presents alcohol as essential or a normal part of daily routine would be caught by the proposed rule which prevents it from appearing</p>
--	---	--

	<p>13. <i>Alcohol Concern & Alcohol Health Alliance:</i> Suggested that proposed rule 18.10 be amended to read:</p> <p><i>Marketing communications must not include sales promotion information.</i></p> <p>Respondent considered that the advertising of alcohol sales promotions implicitly encourages higher sales and therefore greater consumption by the individual. Respondent considered there should be no promotion of alcohol which is being sold at a discount as part of a multi-buy promotion.</p> <p>14. <i>Alcohol Concern & Institute of Alcohol Studies:</i> Suggested that proposed rule 18.13 be amended to read:</p> <p><i>Marketing communications must not feature alcohol being drunk by anyone in their working environment.</i></p> <p>Respondents considered that it would create an unnecessary exception, creating a vague rule which may be open to misinterpretation.</p> <p>Expressed further concern that such an exception</p>	<p>indispensable and taking priority in life.</p> <p>13. CAP's rule spells out and prevents irresponsible forms of sales promotions. Sales promotions are likely to encourage sales but CAP has seen no evidence that increased sales translates to harmful consumption.</p> <p>14. 18.3 states: Only in exceptional circumstances may marketing communications feature alcohol being drunk by anyone in their working environment. CAP considers that the rule only permits this type of depiction in exceptional circumstances, and also considers that the respondents' concerns are additionally addressed by rules 18.1, 18.6, 18.11, 18.12.</p>
--	---	---

	<p>seems to condone drinking in working environments in which alcohol is the norm, noting that alcohol-related deaths are particularly high amongst bar staff and publicans. Considered it is therefore unwise to promote the consumption of alcohol by anyone in their working environment.</p> <p>15. <i>An organisation and Brown-Forman Beverages:</i> Considered that the current rule relating to alcohol being drunk in a working environment was sufficiently clear to prevent irresponsible drinking and felt that the proposed wording added unnecessary confusion.</p> <p>16. <i>An organisation:</i> Expressed concern that proposed rule 18.14 had been amended from the present Code and no longer prevented communications from being directed at people under 18.</p> <p>17. <i>An organisation:</i> Respondent considered that the present wording of</p>	<p>15. The present rule states: <i>Alcohol should not normally be shown in a work environment.</i></p> <p>CAP considers that by stressing 'exceptional circumstances' only, the proposed rule is potentially tougher than the present rule. It correctly places the onus on the advertiser to justify the exceptional circumstances that justify showing alcohol being drunk in a working environment. It is likely that, in time, the rule will be supported by guidance.</p> <p>16. CAP notes that this explicit prohibition appears in rule 18.15: "<i>Marketing communications 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 alcoholic drinks if more than 25% of its audience is under 18 years of age</i>".</p> <p>17. CAP considers that the proposed wording has, in practice, the same meaning as the present rule.</p>
--	--	--

	<p>this rule better captured the meaning of the rule in two senses, in that the age is specified and the reference to ‘their’ culture is more meaningful than ‘youth’ culture:</p> <p><i>“...should not be associated with people under 18 or reflect their culture...”</i></p> <p>18. Brown-Forman Beverages: Supported that removal of the reference to a specific age (18) and its replacement with ‘children and young persons’ but did not consider it a material change.</p>	<p>‘Youth culture’ is the term used in the TV Code and CAP considers that, in practice, the change from ‘culture’ reflective of people under 18 to ‘youth culture’ adds more certainty for advertisers. ‘Youth culture’ arguably conjures up a clearer image of unacceptable references e.g. graffiti, skateboarding etc.</p> <p>See also ‘18’ below</p> <p>18. The introduction to the Alcohol rules and rule 18.14 include incorrect references to ‘children and young persons’; a term introduced into the Codes for the purposes of the gambling rules, which regulate ads for products that may be legally ‘sold’ to under 16s or under 18s. That differentiation does not apply to alcohol products. CAP has amended the introduction and rule 18.14 accordingly:</p> <p>Principle Marketing communications for alcoholic drinks should not be targeted at people under 18 and should not imply, condone or encourage immoderate, irresponsible or anti-social drinking.</p> <p>18.14 <i>Marketing communications must not be likely to appeal particularly to people under 18, especially by reflecting or being associated with youth</i></p>
--	--	--

	<p>19. Brown-Forman Beverages: Welcomed the reference to ‘particular appeal’ in 18.14, noting that some adult themes may have minimal, unintended appeal to limited numbers of young people.</p> <p>20. Brown-Forman Beverages: Expressed concern about the subjective nature of ‘reflecting or being associated with youth culture’, noting that some pursuits may have broad inter-generational appeal and this should not prevent them from being featured in an advertisement for alcoholic drinks.</p> <p>21. Alcohol Concern, Alcohol Health Alliance, Institute of Alcohol studies: i) Recommended that proposed rule 18.15 be amended to read:</p> <p><i>Marketing communications must not be directed at people under 18 through the selection of media or</i></p>	<p><i>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. People shown drinking or playing a significant role (see 18.16) should not be shown behaving in an adolescent or juvenile manner.</i></p> <p>19. CAP agrees.</p> <p>20. CAP recognises that there is a subjective element to some rules in the Code and considers that this rule allows for the ASA to make a case-by-case judgement, mindful that the rule prevents marketing communications from appealing particularly to people under 18.</p> <p>21. i) CAP’s alcohol rules are proportionate and effective. They work in two main ways to prevent the unacceptable promotion of alcohol to under 18s: Firstly, they exclude alcohol ads from media that is primarily targeted at under 18s. Secondly, in all other media, which could attract a minority under 18 audience, the rules prevent the content</p>
--	---	---

	<p><i>the context in which they appear. No medium should be used to advertise alcoholic drinks if more than 10% of its audience is under 18 years of age.</i></p> <p>Respondents believed that 10% is a more appropriate percentage in this case and would reduce the number of children exposed to alcohol advertising.</p> <p>ii) Respondents noted that the World Health Organisation's European Charter on Alcohol states that:</p>	<p>of the ads from appealing particularly to under 18s.</p> <p>In the absence of persuasive evidence to suggest that further quantity restrictions would have any effect on underage drinking, CAP considers its 25% rule continues to strike the right balance.</p> <p>CAP considers its approach to regulating alcohol marketing communications ensures that marketing communications for alcoholic drinks should not be targeted at children or young persons and should not imply, condone or encourage immoderate, irresponsible or anti-social drinking.</p> <p>CAP considers the 25% rule to be proportionate because it allows adults who are legitimate consumers of alcoholic drinks to see ads which are relevant to them but prevents media which is primarily targeted at under-18s from containing marketing communications for alcoholic drinks.</p> <p>CAP considers that extending the 25% rule would be disproportionate as it would prevent legitimate consumers of alcoholic drinks from having access to information about products relevant to them.</p> <p>ii) See above</p>
--	---	---

	<p>“All children and adolescents have the right to grow up in an environment protected from the negative consequences of alcohol consumption and, to the extent possible, from the promotion of alcoholic beverages.”</p> <p>iii) Respondents cited a number of studies to support their suggestion of changing the threshold from 25% to 10%.</p> <p>Studies cited:</p> <ul style="list-style-type: none"> • Aitken, P.P et al (1988) • A 2004 report from the US National Bureau of Economic Research • A long-term national study in the U.S (2006) • British Academy of Medical Sciences (2004), ‘Calling Time’ • Anderson ‘Is it time to ban alcohol advertising?’ (2009) • The Science Group of the European Alcohol and Health Forum (2009) 	<p>iii) CAP has considered the evidence cited by respondents here and considers that the evidence presented is not sufficiently robust to justify changing the proposed rules. In line with better regulation principles, CAP’s regulatory activity must be evidence based. In CAP’s view, none of these studies provide persuasive evidence that alcohol ads contribute to alcohol-related harms or that further restrictions on the amount or prevalence of alcohol ads will correlate to a reduction in alcohol-related harm.</p> <p>The Aitken and ‘Calling Time’ reports were published before the alcohol rules were strengthened in 2005 to prevent appeal to children or young persons.</p> <p>CAP considers that the findings of the US reports cannot be extrapolated to the UK market, where the regulatory environment is so different.</p> <p>The 2009 Anderson article and SGHEAF review rely primarily on pieces of evidence considered in the SchARR review, which concluded that more original research is needed in this area. See</p>
--	--	--

		<p>Q75. 9. below for CAP's full consideration of the SGEAHF review and the full Anderson review upon which that article bases its assertions.</p> <p>CAP also notes Anderson's assertion in the article 'Is it time to ban alcohol advertising?' that all European countries, except the UK, have some form of a ban on alcohol advertising. This is incorrect; in non-broadcast advertising in the UK there is a ban on alcohol marketing communications that are directed at people under 18 through the selection of media, style of presentation, content or context in which they appear.</p>
	<p>iv) In addition to this, Alliance Health UK considered that around a quarter of the UK population are under 18, and this regulation allows a 12 year old child to be exposed to exactly the same amount of marketing as a 24 year old. Respondent considers that the rule does not protect children adequately.</p> <p>v) The Institute of Alcohol Studies also noted that in the US, the National Research Council and Institute of Medicine, the US Surgeon General and 20 State Attorneys General recommend that no media should be used to</p>	<p>iv) CAP does not accept the argument that the present restriction allows a 12 year old to be exposed to the same amount of marketing as a 24 year old. CAP's rule ensures that alcohol ads cannot be placed in media that appeals particularly to the under 18s (i.e. where more than 25% is under 18). CAP acknowledges that a 12 year old may access media that can legitimately include alcohol ads, but the content of those ads cannot appeal particularly to under 18s. See above for CAP's consideration of its 25% rule.</p> <p>v) The UK's relationship with alcohol is widely acknowledged to stem from a complex range of factors, including but not limited to factors such as, socio-economic groups, family influences and peer pressure. The UK's relationship with alcohol</p>

	<p>advertise alcohol if 15% or more of its audience is under the legal drinking age. Only 8.6% of the UK population is now aged between 12 and 18 years old, and 16.4% is aged between 5 and 18 years old. The IAS further considered that overexposure due to a disproportionate placement of alcohol advertisements in youth-orientated programmes and media needed to be monitored and guarded against in traditional and new media, and went on to suggest that statutory Codes should replace the current system.</p> <p>22. <i>Alcohol Health Alliance:</i> In addition to the input above, this respondent set out a list of alcohol-related prohibitions categorised as 'core', 'expanded' and 'optimal'. The optimal approach included a complete ban on marketing all alcohol products</p> <p>23. <i>Scottish Health Action on Alcohol Problems (SHAAP):</i> Respondent quoted a 'growing body of evidence'</p>	<p>is clearly very different to the experience in other countries, as is the UK's self-regulatory system for advertising. Given the significant contextual differences between different countries, research findings in one country may not be directly relevant to the UK or other countries. CAP agrees with the IAS that alcohol ads must not appear in media that particularly appeals to under 18s; see above.</p> <p>CAP's Codes apply to traditional and new non-broadcast advertising.</p> <p>The UK's advertising regulatory system is widely viewed as an example of best practice in both self and co-regulation. The CAP Code (and its sister BCAP Code) is mandatory; advertisers must comply with them or face sanctions.</p> <p>22. CAP is an evidence-based regulator. At this stage, CAP has not seen any persuasive evidence that there is a need for alcohol advertising in the UK to be more tightly restricted or banned completely. See 21.i) above for CAP's consideration of its 25% rule.</p> <p>23. CAP has considered the evidence cited by the respondent and does not consider its conclusions compelling or robust enough to justify imposing</p>
--	---	--

	<p>linking alcohol advertising and consumption (Anderson et al: 'Impact of Alcohol Advertising and Media Exposure on Adolescent Alcohol Use') and noted a strong preference for a complete ban on alcohol advertising</p> <p>24: Alcohol Concern: Recommended that proposed rule 18.16 be amended to read:</p> <p><i>People shown must neither be, nor seem to be, under 25.</i></p> <p>Respondent believed that no-one who is under 25 or a child should be featured in advertisements in any capacity and that no exceptions should be made for advertisements that feature families socializing responsibly.</p> <p>25. Alcohol Concern: Recommended that proposed rule 18.17 be amended to read: <i>Marketing communications may give factual information about product contents including comparisons, but must not make any physical or</i></p>	<p>further restrictions on alcohol advertising.</p> <p>See 21.i) above for CAP's consideration of its 25% rule.</p> <p>See 21.iii) above for CAP's evaluation of Anderson (2009)</p> <p>24. 18.16 states: 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.</p> <p>CAP considers that this exception is appropriate and allows for the depiction of alcohol being drunk in responsible scenarios within a family environment. There is no suggestion that the rule permits the endorsement or encouragement of irresponsible drinking habits in the presence of children or underage drinking.</p> <p>25. Rule 18.17 states: <i>Marketing communications may give factual information about product contents, including comparisons, but must not make any health, fitness or weight-control claims. The only permitted nutrition claims are "low-alcohol", "reduced alcohol" and "reduced energy</i></p>
--	---	---

	<p><i>mental health <u>or wellbeing</u> claims, which include fitness or weight control claims, <u>or claims to enhance overall quality of life.</u></i></p> <p>Respondent recommended a broader approach to the matter of the relationship between alcohol and health and wellbeing, including mental health. Respondent noted two pieces of evidence that suggest a link between alcohol abuse and depression.</p>	<p><i>and any claim likely to have the same meaning for the audience.”</i></p> <p>CAP notes the respondent places emphasis on alcohol abuse, in drawing the link between alcohol and depression. CAP’s rules, especially 18.2, 18.3, 18.6 and 18.7 prevent the encouragement or endorsement of harmful or otherwise irresponsible forms of alcohol consumption.</p> <p>CAP has taken best advice to ensure that 18.27 complies with the requirements of the NHCR, a maximum harmonisation EU directive.</p>
<p>ADDENDUM QUESTION:</p> <p>Question 75: Given CAP’s policy consideration, do you agree that the evidence contained in the SchARR Review does not merit a change to CAP’s alcohol advertising content or ad placement rules? If your answer is no, please explain why you consider the SchARR Review does merit a change to CAP’s alcohol advertising content or ad placement rules.</p>		
<p><i>Responses received in favour of CAP’s proposal from:</i></p> <p>Advertising Association; British Beer & Pub Association; The</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Advertising Association, British Beer & Pub Association, The Portman Group, Scotch Whisky Association and Wine and Spirit Trade Association:</i> Agreed that the evidence contained within the SchARR Review did not merit a change to CAP’s</p>	<p><i>CAP’s evaluation of those points and action points:</i></p> <p>1. CAP agrees</p>

Portman Group; Scotch Whisky Association; Wine and Spirit Trade Association	rules on the content and scheduling of alcohol advertisements.	
<p><i>Responses received against CAP's proposal:</i></p> <p>Alcohol Concern; Scottish Government; Quaker Action On Alcohol And Drugs ; Department of Health; Alcohol Health Alliance</p>	<p><i>Summaries of significant points:</i></p> <p>1. <i>Alcohol Concern and Alcohol Health Alliance:</i> Disagreed with CAP's evaluation of the SchARR Review, and felt that SchARR offered persuasive evidence to further strengthen alcohol advertising rules, particularly in order to protect young people.</p> <p>2. <i>Alcohol Concern and Alcohol Health Alliance:</i> Felt that in evaluating the SchARR review, CAP should have given more to evidence statement 5 and that CAP relied too heavily on evidence statement 6. Also felt that CAP should have given greater weight to evidence statement 8 and the studies which backed up these statements.</p>	<p><i>CAP's evaluation of those points and action points:</i></p> <p>1. Although Part A of the SchARR review begins to draw some links between alcohol advertising and increased consumption, the evidence that relates to advertising is markedly equivocal.</p> <p>2. While evidence statement 5 states that '<i>There is conclusive evidence of a small but consistent association of advertising with consumption at a population level. There is also evidence of small but consistent effects of advertising on consumption of alcohol by young people at an individual level</i>', it is directly qualified by evidence statement 6 which notes that '<i>There is an ongoing methodological debate on how advertising effects can and should be investigated and further research and methodological developments for establishing a definite causal relationship is required</i>'. CAP notes that the qualifications given in statement 6 significantly reduce the potency of evidence statement 5.</p>

	<p>3. <i>Alcohol Health Alliance:</i> Considered that CAP's analysis of the SchARR review relied on a narrow reading of evidence statement 6 which calls for the need for further research and methodological development. Respondent considered that this statement was outweighed by other pieces of evidence presented in the SchARR review.</p> <p>4. <i>Alcohol Concern:</i> Highlighted two of the studies referenced in SchARR: Dring & Hope (2001) and Ellickson et al (2005).</p>	<p>In particular reference to the studies set out as part of evidence statement 8, the SchARR review notes that '<i>many of these studies use opportunistic USA student populations and are not generalisable to the typical population of UK young people</i>'.</p> <p>CAP considers it is important to note that, because of a paucity of relevant, robust data, Part B of the SchARR review is unable to explore fully the evidence statements given in Part A in relation to advertising and is limited to exploring three policy scenarios. Again, the outcomes show that not enough pertinent evidence is available to draw clear conclusions.</p> <p>3. CAP considers that the need for further, robust research and methodologies is repeatedly emphasised throughout the SchARR Review and provides relevant and important context for the consideration of the Review's evidence statements.</p> <p>4. CAP considers that the SchARR Review took account of these and other studies in presenting its evidence statements.</p> <p>CAP notes that the Dring & Hope study was</p>
--	--	---

	<p>5: <i>Scottish Government, Dept of Health and DCSF:</i> Considered it disappointing that BCAP/CAP were dismissive of the findings of the Sheffield Review and quoted evidence statements 5 and 10 in particular: “There is consistent evidence from longitudinal studies that exposure to TV and other broadcast media is associated with inception of and levels of drinking [by young people]”.</p>	<p>carried out in 2001 in Ireland and Ellickson was set in the US. CAP does not consider that the results of these studies can be extrapolated to the UK in 2010. CAP notes again that the SchARR reviewers did not consider the studies included as being sufficiently robust to draw definitive conclusions.</p> <p>5. See 2. above for CAP’s consideration of evidence statement 5.</p> <p>CAP considers that evidence statement 10 is not wholly relevant to advertising as it encompasses programming and music videos which are not within CAP’s remit; in so far as the SchARR review relates to advertisements, it does not offer persuasive evidence to support a proposal to further strengthen the alcohol advertising rules, indeed it calls for more in-depth research to be carried out. CAP’s existing rules on alcohol were significantly updated in 2005 on the basis of the best available evidence at that time. That evidence suggested that advertising had some influence on young people’s attitudes to drinking, albeit a relatively low level compared to other factors. The rules are proportionate and effective response to that evidence. The evidence CAP has reviewed as part of this consultation is no stronger than that which forms the basis of the current rules. As mentioned elsewhere in this document, CAP has not seen robust evidence</p>
--	--	---

	<p>6. <i>Scottish Government, Dept of Health and DCSF:</i> Noted that CAP's analysis of the ScHARR review made no mention of the 2009 review by the European Alcohol & Health Forum's Science Group</p> <p>7. <i>Alcohol Concern, Quaker Action On Alcohol And Drugs and Alcohol Health Alliance</i> Recommended that public-health-based messages should be included in 1/6th of advertising, a technique is referred to by the ScHARR authors as 'counter advertising'.</p>	<p>that relates clearly to the situation of UK alcohol advertising since those rule changes.</p> <p>6. CAP's analysis of the ScHARR Review was conducted in response to Department of Health's Safe, Sensible, Social consultation and intentionally focused on that Review alone.</p> <p>See 9. below for CAP's evaluation of the SGEAHF review.</p> <p>7. CAP notes that the ScHARR review assumes that no benefit is derived from the public health message itself but solely from the fact that, assuming advertisers maintained their present budgets, exposure to alcohol advertising would be reduced. The review acknowledges "<i>a large degree of uncertainty around the appropriateness of this assumption</i>". It does not differentiate between mandatory end-frames for all alcohol advertisements and replacing 1/6th of alcohol advertisements with separate media space for health-based messages, nor does it discuss how such a scenario could be implemented.</p> <p>CAP is not persuaded of the efficacy of including mandatory end-frames; CAP considers the balance of robust evidence fails to show that compulsory messages or warnings are an effective public policy measure. CAP does not</p>
--	---	--

	<p>8. <i>Alcohol Concern and Alcohol Health Alliance:</i> Noted that young people's drinking in the UK continues to be a significant problem which can lead to a variety of harms and considered that this could partly be attributed to a comparatively low level of restriction of alcohol advertising in the UK.</p>	<p>consider it is within its remit to prescribe 'counter advertising', although it notes that Government, industry and NGOs already partake in marketing of social and health-based issues.</p> <p>8. CAP has not been presented with persuasive evidence to substantiate the respondent's point of view.</p> <p>CAP strongly disagrees with any assertion that there is a low level of restriction of alcohol advertising in the UK.</p> <p>In March 2004, the Government's Alcohol Harm Reduction Strategy recommended that Ofcom should oversee a review of the TV rules for alcohol advertisements. In parallel with Ofcom's consultation, CAP reviewed its own alcohol rules, which were subsequently strengthened and came into force on 1 January 2005. Subsequent ASA research² has shown that there is a high level of industry compliance with the rules.</p> <p>The UK's advertising regulatory system is widely viewed as an example of best practice in both self and co-regulation.</p>
--	---	---

² [ASA Alcoholic Drinks Advertisements Compliance Survey 2008](#)

	<p>9. <i>Alcohol Concern and Alcohol Health Alliance:</i> Drew CAP's attention to new reviews which had been published since ScHARR which explored links between alcohol advertising and consumption:</p> <ul style="list-style-type: none"> • Anderson et al (2009) - 'Impact of Alcohol Advertising and Media Exposure on Adolescent Alcohol Use: A Systematic Review of Longitudinal Studies' • The Science Group of the European Alcohol and Health Forum (2009) – 'Does marketing communication impact on the volume and patterns of consumption of alcoholic beverages, especially by young people? - a review of longitudinal studies.' • Anderson, Chisholm & Fuhr (2009) – 'Effectiveness and cost-effectiveness of policies and programmes to reduce the harm caused by alcohol' 	<p>9. CAP is not persuaded that the evidence cited here supports a view that CAP's alcohol rules are too weak or too strong. The two reviews cited here rely heavily on similar or identical studies, as does the review by Smith and Foxcroft which was published simultaneously (cited by Quaker Action on Alcohol and Drugs, below). Most of the studies considered in these three reviews were conducted in the US where the regulatory environment for alcohol advertising is very different from that in the UK. Furthermore, not all of the studies reviewed look at the relationship between advertising and consumption but instead consider other types of influences on young people, such as film, music videos, 'beer stands' etc. Although the pieces of evidence cited were published in 2009, CAP notes that the reviews considered data gathered between 1985 – 2005. CAP considers that this makes it difficult to extrapolate the studies to the 2010 UK market where there are strict advertising content and placement rules in place.</p> <p>CAP also notes that most of the studies reviewed by Anderson et al, Smith and Foxcroft and the SGEAHF had previously been included in the ScHARR review which itself had concluded that the research and methodologies used were not sufficiently robust to draw meaningful</p>
--	---	---

	<p>conclusions. Indeed, the Smith and Foxcroft review qualifies its own conclusions by pointing out the many limitations of the studies considered and reiterating SchARR's call for further research.</p> <p>CAP notes that Anderson et al and the SGEAHF reviews contain three studies which were published in 2008 and therefore not considered in the SchARR review. CAP also notes that these studies' objectives were to consider the influence of movies and alcohol-branded merchandise on alcohol consumption and not a link between advertising and underage consumption.</p> <p>CAP does not consider that the Anderson, Chisholm & Fuhr article adds anything new to the debate as its discussion of a link between alcohol advertising and underage consumption relies heavily on the Anderson 2009 study discussed above. (see also Q.65.23iii))</p>
<p>10 <i>Quaker Action On Alcohol And Drugs :</i> Noted support for the position presented by Alcohol Concern.</p> <p>Cited studies and articles which explored links between alcohol advertising and consumption:</p> <ul style="list-style-type: none"> • Smith and Foxcroft (2009) 	<p>10. See above for CAP's evaluation of Smith & Foxcroft (2009)</p> <p>CAP considers that neither Andersen (2003) nor Rutger (2009) are relevant to the UK advertising market.</p>

	<ul style="list-style-type: none"> • Andersen et al. (2003) • Rutger et al (2009) <p>11. <i>Alcohol Concern and Alcohol Health Alliance:</i> Based on Anderson et al (2009) and the SGEAHF Review the respondents call for the CAP code to be amended to prevent marketing communications for alcohol from appearing in media where more than 10% of its audience is under 18. [see also Question 65]</p> <p>12. <i>Department of Health & DCSF:</i> Noted recent evidence and the wider evidence base available, as well growing public concern on this issue.</p>	<p>11. CAP considers the present 25% rule to be proportionate in that it allows adults who are legitimate consumers of alcoholic drinks to see marketing communications which are relevant to them but prevents media which is primarily targeted at under-18s from containing marketing communications for alcoholic drinks. In the absence of persuasive evidence to suggest that further quantity restrictions would have any effect on underage drinking, CAP considers its 25% rule continues to strike the right balance.</p> <p>[see also Question 65]</p> <p>12. CAP has taken into account the recent evidence on alcohol promotion. CAP considered if the findings of the ScHARR Review and other research submitted to CAP as part of its Code Review consultation merit a change to CAP's alcohol advertising rules. CAP has explained why it considers the evidence does not support a change to the rules that govern the content and placement of alcohol ads. CAP acknowledges the growing public concern about the UK's relationship with alcohol and the impact on individuals and society at large of alcohol-related harms. However, CAP is not persuaded that that</p>
--	--	--

	<p>concern relates significantly to alcohol advertising. It is more likely that the concern relates to, for example, anti-social behaviour, the cost to the NHS and other emergency services and the prevalence of underage drinking. Neither the evidence statements in the SchARR Review nor other research submitted to CAP as part of its Code Review provide persuasive evidence that alcohol advertising has a direct or significant indirect effect on those or other alcohol related harms. Although complaints are by no means the only indicator of public concern, the ASA continues to receive very few complaints year on year about alcohol ads. CAP firmly believes that the low levels of complaints indicate that its rules ensure that alcohol advertising remain responsible, with particular regard to the protection of under 18s.</p>
	<p>Asked CAP for the following:</p> <ul style="list-style-type: none"> i. some discussion of research gaps and how they might potentially be filled
	<ul style="list-style-type: none"> i. The SchARR Review calls for more research and CAP considers it is for the authors of the Review to make specific recommendations on how research gaps might be filled. However, CAP's evaluation above does highlight inadequacies in the existing research, relating to their geographical setting, scope and focus. CAP hopes that its evaluation of the SchARR Review and other pieces of research submitted to CAP as part of its Code Review goes some way to answering the respondents' question.

	<p>ii. whether the absence of a strong evidence base for particular interventions, particularly where little research has taken place, necessarily means that no impact should be expected from such interventions</p>	<p>ii. CAP considers that despite the availability of research which explores the relationship between the promotion and depiction of alcohol in the media, the methodologies used and the geographical setting of these studies make it impossible to extrapolate the results to the UK advertising market in a relevant way.</p> <p>CAP does not take lightly a decision to restrict advertisers' ability to impart information and consumers' right to receive information.</p> <p>CAP's rule on the placement of alcohol advertising goes well beyond the law. CAP considers that is necessary to ensure alcohol ads remain responsible, with particular regard to the protection of under 18s. In practice, that means that alcohol ads cannot appear in media titles of particular interest to under 18s. Further restrictions on alcohol ads must be evidenced-based to ensure that any benefit clearly outweighs the obvious detriment that further restrictions on the placement of alcohol ads would have.</p>
	<p>iii. Further discussion of whether the evidence of a link between alcohol advertising and drinking of alcohol by young people requires an approach that looks to reduce the exposure of young people to alcohol advertising. Currently, the framework seeks</p>	<p>iii. See i) and ii) above</p>

	<p>to prevent targeting of young people. Even if such a change was thought premature, some discussion to indicate what nature and level of evidence might justify a different approach should, surely, be expected</p> <p>13. <i>Alcohol Concern:</i> Highlighted concerns about advertising in cinemas, noting that the CAP rule which states that 'no medium should be used to advertise alcoholic drinks if more than 25% of its audience is under 18 years of age' means that the actual number of under 18s exposed to alcohol advertising in cinemas may be high.</p> <p>Respondent used 'The Dark Knight' as an example of a film which had an audience consisting of 21% of under-18s and in one screening, 9 out of 19 ads shown before the film were for alcoholic drinks. The film accrued 12,218,894 admissions of which 1.4m were aged 7-14.</p> <p>Respondent noted that the Cinema Advertising Association issues a list of films for which alcohol advertisements are proscribed.</p> <p>CAA has its own rule specifying that no more than 40% of ads shown before a non-proscribed film can be given to alcohol ads. Respondent considered that the showing of 'The Dark Knight' cited above broke this rule.</p>	<p>13. CAP considers the 25% rule to be proportionate. CAP considers that in relation to the cinema, young people attending a 12A film would normally be accompanied by an adult so viewing would be supervised. As well as satisfying the 25% rule, all ads must comply with the content rules which mean that any alcohol ads seen by under 18s must not appeal to them by linking with youth culture, or showing adolescent or juvenile behaviour.</p> <p>CAP does not regulate or oversee the activity of the Cinema Advertising Association (CAA) and notes that the CAA often goes further than the CAP Code in proscribing alcohol advertising from films with an under-18 audience of less than 25%.</p> <p>CAP understands that the CAA uses previous, similar films as the basis for deciding likely audience figures because films are placed on the proscribed list before they are released. Alcohol ads can always be shown with 18 rated films and can usually be shown with 15 rated films.</p> <p>CAP also understands that, since August 2008,</p>
--	--	--

	<p>14. <i>Scottish Government:</i></p> <p>i) Referred to its own policy document: "Changing Scotland's Relationship with Alcohol: A Framework for Action".</p> <p>ii) Respondent considered that a precautionary approach to the protection of young people in relation to alcohol advertising was justified given that evidence is mounting in relation to:</p> <ul style="list-style-type: none"> the considerable harms which excessive alcohol consumption can cause; 	<p>films with a 15 certificate that are based on superhero/comic book character or considered to be 'gross-out' comedies appear on the CAA's proscribed list. The film cited by Alcohol Concern was released prior to this additional rule coming into force in August 2008.</p> <p>CAP has received clarification from the CAA that the 40% rule applies to the totality of its contracted member's commercials shown before the feature, not just those between the idents; the showing of 'The Dark Knight' did not breach this rule.</p> <p>Because these extra restrictions imposed by the CAA are not covered by the CAP Code, CAP cannot consider them under the Code Review.</p> <p>14.</p> <p>i) CAP notes that the ASA considers this policy document to be inaccurate in its discussion of advertising regulation and responded separately to the points raised when it was first published. CAP does not consider that it presents any new evidence relevant to this Code Review.</p> <p>ii) See 12. above.</p>
--	--	---

	<ul style="list-style-type: none"> • indications that early introduction to alcohol can lead to misuse in later life; and • the influence which exposure to alcohol advertising has on young people's consumption. <p>15. <i>Scottish Government:</i> Considered that given the latest evidence the current approach outlined by CAP did not fulfil the requirement of the Communications Act 2003, section 319 (2) (a) to ensure that "<i>persons under the age of eighteen are protected</i>". Respondent noted the CAP codes claims to "<i>prevent appeal to young persons</i>". Considered that in practice the code simply limited explicit appeal to young people rather than preventing appeal to them.</p> <p>16. <i>Scottish Government:</i> Respondent would welcome a co-regulatory approach to advertising and urged UK Government to develop a UK approach to advertising which unequivocally protects children from exposure to alcohol advertising across all media, and that one way of achieving this would be to apply a ban on television advertising before the 9pm watershed.</p>	<p>15. The Communications Act is not relevant to CAP, since non-broadcast advertising is not within its scope; BCAP has responded separately on this point. However, on the point of principle, CAP considers its alcohol rules do ensure that persons under the age of eighteen are protected, for the reasons given above in CAP's consideration of the 25% rule.</p> <p>16. For the avoidance of doubt, the BCAP system is co-regulatory and CAP is self-regulatory.</p> <p>The UK advertising regulatory system is recognised as one of the strictest in the world and the ASA is regularly held up by the rest of Europe as setting the standard for others to follow.</p> <p>Discussions surrounding a 9pm watershed are not relevant to CAP; BCAP has responded separately on this point.</p>
--	--	--

	<p>17. <i>Quaker Action On Alcohol And Drugs :</i> Respondent asked for clarification about the type of evidence required by CAP in order to take a precautionary approach, believing that given the balance of strong probabilities and desirability of social goals, this point has now been reached. Noted that it would be impossible to fully understand the effect of a UK ban until such a ban were implemented.</p> <p>18. <i>Alcohol Concern, Quaker Action On Alcohol And Drugs and Alcohol Health Alliance:</i> Noted that the STAP study of 24 European countries states all except for the UK have some kind of alcohol advertising ban in place. Anderson's 2009 paper 'Is it time to ban alcohol advertising?' asserts that a ban would be 'a highly cost effective measure to reduce harmful alcohol use'</p> <p>19. <i>Alcohol Health Alliance:</i> Listed the organisations that make up the CAP Committee and noted that the individual names of members were not in the public domain. Respondent felt that the health community should have representation in the UK self-regulatory system.</p>	<p>17. CAP strengthened the alcohol rules in 2005. Recent research demonstrates a high level of compliance with these rules. See CAP's consideration of 12. above</p> <p>18. See Q65, 21. above. The ASA, as well as EASA, responded formally to the European Commission about STAP study to point out the many inaccuracies contained within the report.</p> <p>19. Individual members of CAP Committees are not listed publicly as CAP is made up of organisations: not individuals. The self-regulatory system is by definition comprised of those that fund it; if outside representation is invited, the system ceases to be self-regulatory. In line with better regulation principles, CAP has sought the input of all its stakeholders, including bodies with</p>
--	---	---

		<p>a primary or significant interest in public health. This evaluation is evidence of CAP's commitment to engage with, listen and respond to the views of all its stakeholders. The consultation was conducted in line with the Government's best practice guidance on conducting consultations.</p>
--	--	--