

# Compliance Report

Alcohol Survey 2006

## Contents

<b>1. Summary</b>	<b>4</b>
<b>2. Introduction</b>	
2.1 Background	5
2.2 Code Rules	6
2.3 Survey Objectives	6
<b>3. The Alcohol Rules</b>	
3.1 Non-broadcast	7
3.2 TV	9
<b>4. Methodology</b>	
4.1 Method	12
4.2 Newspapers & Magazines Examined in the Survey	12
4.3 TV Channels Examined in the Survey	13
<b>5. The Advertisements</b>	
5.1 Non-broadcast Advertisements – Breaches	16
5.2 TV advertisements – Breaches	17
5.3 ASA Investigations – Breaches	
5.3.1 Intercontinental Brands – Vodkat	19
5.4 ASA Investigations – Non-breaches	
5.4.1 Asda Group Plc – Asda Drink	21
5.4.2 Coors Brewers Ltd - Carling	22
5.4.3 Beverage Brands (UK) Ltd – WKD	24
<b>6. Findings</b>	
6.1 Compliance Rate	25
6.2 Non-broadcast	25
6.3 TV	25

<b>6.4 ASA Investigations</b>	<b>26</b>
<b>7. Conclusions</b>	<b>27</b>
<b>8. Pre-Publication Advice</b>	<b>28</b>
<b>9. Appendix</b>	
<b>9.1 ASA Adjudications</b>	
<b>9.1.1 Shepherd Neame Ltd – Bishop’s Finger</b>	<b>29</b>
<b>9.1.2 Intercontinental Brands Ltd t/a Vodkat</b>	<b>31</b>
<b>9.1.3 Asda Group Plc</b>	<b>35</b>
<b>9.1.4 Coors Brewers Ltd – Carling</b>	<b>36</b>
<b>9.1.5 Beverage Brands (UK) Ltd - WKD</b>	<b>40</b>
<b>9.2 Guidance notes for the TV Alcohol Advertising Rules</b>	<b>44</b>

## 1 Summary

With many people in the UK enjoying an alcoholic drink when socialising or relaxing, alcohol has long been part of the fabric of UK society. Although the odd glass is purported to have health benefits, excessive drinking has been shown to contribute to a range of health and social problems to the detriment of both the individual and society. In recent years, concern has been raised, in particular, about the effect of excessive drinking on young people's health and behaviour.

The Government published its Alcohol Harm Reduction Strategy in March 2004. As one element of a package of proposals, the Strategy recommended that Ofcom, the communications industry regulator, should oversee a review of the rules for alcohol advertising on TV. As a result, CAP and BCAP drew up tougher rules on the advertising of alcohol to ensure that advertisements published after October 2005 did not have strong appeal to people under 18 years of age and advertised alcohol responsibly.

The rules were stronger than the previous ones. As before, advertisements should not suggest drinking will result in sexual success or popularity, suggest alcohol is the reason for the success of a relationship or social event or encourage people to act in a daring or unsafe way.

The strengthening was most notable in relation to the young, to protect them in four main ways in which they were considered vulnerable to alcohol misuse: sexual behaviour, immoderate drinking, youth appeal and anti-social behaviour. Alcohol ads should avoid using images and phrases from "youth culture". Music, language or animation that appeals strongly to under-18s should be avoided. Advertisers should avoid themes such as teen rebelliousness and ads can no longer show people behaving in an adolescent or juvenile way.

To ensure that advertisers are complying fully with the new alcohol rules, we conducted a survey of all alcohol advertising campaigns that appeared during December 2006. December is a key month for advertising alcoholic drinks and we identified 147 non-broadcast alcohol advertisements (excluding duplicates) and 63 TV alcohol advertisements (excluding duplicates).

After discussion and assessment, we concluded that nine of the 147 non-broadcast alcohol advertisements had breached the CAP Code, a compliance rate of 94% and that three of the 63 TV broadcast alcohol advertisements were in breach of the TV Code, a compliance rate of 95%.

## 2 Introduction

### 2.1 Background

The Advertising Standards Authority (ASA) is the independent body that endorses and administers the British Code of Advertising, Sales Promotion and Direct Marketing (the CAP Code), which applies to non-broadcast marketing communications. It is responsible for ensuring that the self-regulatory system works in the public interest. It achieves that by investigating complaints, identifying and resolving problems by research and by promoting and enforcing high standards in marketing communications by ensuring that everyone who commissions, prepares or publishes a marketing communication observes the CAP Code for non-broadcast advertisements. On 1 November 2004, the ASA assumed powers for TV and radio advertisements under contract from the communications regulator, Ofcom. Since then, the ASA has regulated broadcast advertisements, as well as non-broadcast ones, in the public interest.

The Committee of Advertising Practice (CAP) is the body that created and revises the CAP Code. It represents advertisers, promoters and direct marketers, their agencies, the media and other trade and professional organisations in the advertising, sales promotion and direct marketing industries. CAP provides a pre-publication copy advice service for non-broadcast advertisements and co-ordinates the activities of its members to achieve the highest degree of compliance with the CAP Code.

The Broadcast Committee of Advertising Practice (BCAP) is responsible for writing and maintaining the broadcast advertising codes. It represents broadcasters, advertisers and agencies. The Broadcast Advertising Clearance Centre (BACC) pre-clears most TV advertisements before transmission and the Radio Advertising Clearance Centre (RACC) pre-clears most radio advertisements before transmission. BCAP does not give copy advice on specific advertisements. Broadcasters are obliged by their licence conditions not to transmit advertisements that breach the BCAP Code.

This survey was carried out by the Compliance and Monitoring teams to ensure that marketing communications comply with the CAP and BCAP Codes and with ASA adjudications. The teams follow-up ASA adjudications, monitor marketing communications and take immediate action to ensure marketing communications that breach the Code are removed or amended. One of our objectives is to create a level-playing field for marketers within each sector and we ensure that by communicating decisions that have sector-wide ramifications. The Compliance and Monitoring teams conduct surveys to assess compliance rates in industry sectors; those surveys help to identify marketing trends and to anticipate subjects of concern that need to be addressed by the ASA and CAP or BCAP.

## **2.2 Code Rules**

The 11th edition of the British Code of Advertising and Sales Promotion came into force on 4 March 2003. The purpose of the Code is to maintain, in the best and most flexible way possible, the integrity of marketing communications in the interests of both the consumer and the trade. All advertisements should be legal, decent, honest and truthful. They should be prepared with a sense of responsibility to consumers and society and be in line with the accepted principles of fair competition.

The BCAP Television Advertising Standards Code governs advertisements on television; the BCAP Radio Standards Code governs advertisements on radio channels licensed by Ofcom.

All three Codes contain restrictions on the advertising of alcohol (see section 3). The alcohol rules in the TV and non-broadcast Codes were strengthened in response to the Government's Alcohol Harm Reduction Strategy. The rules came fully into force on 1 October 2005.

## **2.3 Survey Objectives**

The purpose of the survey was to:

- Assess compliance rates for advertisements for alcoholic drinks products in the national press, a selection of consumer magazines and posters and on TV.
- Identify potential problems or breaches of the CAP and BCAP Codes;
- Act as a deterrent to bad practice and an encouragement to good practice to ensure that all alcohol advertisements fully comply with the Codes.

### 3. The Alcohol rules

#### 3.1 Non-broadcast

- 56.1 For the purposes of the Code, alcoholic drinks are those that exceed 1.2% alcohol by volume.
- 56.2 Marketing communications must contain nothing that is likely to lead people to adopt styles of drinking that are unwise. Alcohol must not be handled or served irresponsibly. The consumption of alcohol may be portrayed as sociable and thirst-quenching. Marketing communications may be humorous but must nevertheless conform with the intention of the rules.
- 56.3 a) As is implied by clause 2.8, the spirit as well as the letter of the rules in this section apply whether or not a product is shown or referred to or seen being consumed.  
b) The rules are not intended to inhibit advertising on alcohol-related health or safety themes that is responsible and is not likely to promote a brand of alcohol.
- 56.4 Marketing communications should be socially responsible and should neither encourage excessive drinking nor suggest that drinking can overcome boredom, loneliness or other problems. Care should be taken not to exploit the young, the immature or those who are mentally or socially vulnerable.
- 56.5 Marketing communications should not be directed at people under 18 through the selection of media, style of presentation, content or 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.
- 56.6 People shown drinking or playing a significant role should neither be nor look under 25 and should not be shown behaving in an adolescent or juvenile way. Younger people may be shown in marketing communications, for example in the context of family celebrations, but should be obviously not drinking.
- 56.7 Marketing communications should not be associated with people under 18 or reflect their 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 them to drink.
- 56.8 Marketing communications should not suggest that any alcoholic drink has therapeutic qualities or can change moods or enhance confidence, mental or physical capabilities or performance, popularity or sporting achievements.
- 56.9 Marketing communications must neither link alcohol with seduction, sexual activity or sexual success nor imply that alcohol can enhance attractiveness, masculinity or femininity.
- 56.10 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 suggest that a drink may be preferred because of its high

alcohol content or intoxicating effect. Drinks may be presented as preferable because of low or lower strength.

- 56.11 Marketing communications should not suggest that drinking alcohol is a reason for the success of any personal relationship or social event. A brand preference may be promoted as a mark of, for example, the drinker's good taste and discernment.
- 56.12 Drinking alcohol should not be portrayed as a challenge, especially to the young. Marketing communications should neither show, imply or refer to aggression or unruly, irresponsible or anti-social behaviour nor link alcohol with brave, tough or daring people or behaviour.
- 56.13 Particular care should be taken to ensure that marketing communications for sales promotions requiring multiple purchases do not encourage excessive consumption.
- 56.14 Marketing communications should not depict activities or locations in which drinking alcohol would be unsafe or unwise. In particular, marketing communications should not associate the consumption of alcohol with an occupation that requires concentration to be done safely, for example, operating machinery, driving or activity relating to water or heights. Alcohol should not normally be shown in a work environment.

### **Low alcohol drinks**

- 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.



## **3.2 TV**

### **11.8 Alcoholic Drinks**

The spirit as well as the letter of the rules in this section apply whether or not a product is shown, referred to or seen being consumed. (See also rule 1.2).

Rule 11.8.1 applies to all advertising. 11.8.2 applies only to advertising for alcoholic drinks.

Where soft drinks are promoted as mixers, rules 11.8.1 and 11.8.2 apply in full.

#### **11.8.1 – Rules which apply to all advertising.**

##### **11.8.1(a)**

(1) Advertisements must not suggest that alcohol can contribute to an individual's popularity or confidence, or that refusal is a sign of weakness. Nor may they suggest that alcohol can enhance personal qualities.

(2) Advertisements must not suggest that the success of a social occasion depends on the presence or consumption of alcohol.

##### **11.8.1(b)**

Advertisements must not link alcohol with daring, toughness, aggression or anti-social behaviour.

##### **11.8.1(c)**

Advertisements must not link alcohol with sexual activity or success or imply that alcohol can enhance attractiveness.

##### **11.8.1 (d)**

Advertisements must not suggest that regular solitary drinking is acceptable or that drinking can overcome problems.

##### **11.8.1(e)**

Advertisements must neither suggest that alcohol has therapeutic qualities nor offer it as a stimulant, sedative, mood-changer, or source of nourishment, or to boost confidence. Although they may refer to refreshment, advertisements must not imply that alcohol can improve any type of performance. Advertisements must not suggest that alcohol might be indispensable or link it to illicit drugs.

**11.8.1 (f)**

Advertisements must not suggest that a drink is to be preferred because of its alcohol content nor place undue emphasis on alcoholic strength. (This does not apply to low alcohol drinks. See 11.8.3).

**11.8.1 (g)**

(1) Advertisements must not show, imply or encourage immoderate drinking. This applies both to the amount of drink and to the way drinking is portrayed.

(2) References to, or suggestions of, buying repeat rounds of drinks are not acceptable. (Note: This does not prevent, for example, someone buying a drink for each of a group of friends. It does, however, prevent any suggestion that other members of the group will buy any further rounds.)

(3) Alcoholic drinks must be handled and served responsibly.

**11.8.1(h)**

Advertisements must not link drinking with the use of potentially dangerous machinery, with behaviour which would be dangerous after consuming alcohol (such as swimming) or with driving.

**11.8.2 – Additional rules for alcohol advertisements.**

**11.8.2(a)**

(1) Advertisements for alcoholic drinks must not be likely to appeal strongly to people under 18, in particular by reflecting or being associated with youth culture.

(2) Children must not be seen or heard, and no-one who is, or appears to be, under 25 years old may play a significant role in advertisements for alcoholic drinks. No-one may behave in an adolescent or juvenile way.

Notes: (1) See the exception in 11.8.2 (a)(3)

(2) In advertising for low alcohol drinks, anyone associated with drinking must be, and appear to be, at least 18 years old.

(3) There is an exception to 11.8.2 (a)(2) for advertisements in which families are socialising responsibly. In these circumstances, children may be included but they, and anyone who is, or appears to be, under 25 must only have an incidental role. Nevertheless, it must be explicitly clear that anyone who appears to be under the age of 18 is not drinking alcohol.

**11.8.2(b)**

Advertisements for alcoholic drinks must not show, imply or refer to daring, toughness, aggression or unruly, irresponsible or anti-social behaviour.

**11.8.2(c)**

Advertisements for alcoholic drinks must not appear to encourage irresponsible consumption.

**11.8.2(d)**

Advertisements for alcoholic drinks must not normally show alcohol being drunk in a working environment.

**11.8.2(e)**

Alcoholic drinks must not be advertised in a context of sexual activity or seduction but may include romance and flirtation subject to rule 11.8.2 (a) (Youth appeal).

**11.8.2(f)**

Advertisements for alcoholic drinks may contain factual statements about product contents, including comparisons, but must not make any other type of health, fitness, or weight control claim.

**11.8.3 – Low alcohol drinks.**

Exceptions to 11.8.1 and 11.8.2 apply to advertisements for drinks containing 1.2% alcohol by volume or less so long as the low alcohol content is made clear. (The exceptions are not granted if the advertising might promote a product of higher alcoholic strength or might conflict with the spirit of the rules.)

The exceptions are:

(a) 11.8.2 (a)(2): Anyone associated with drinking must be, and appear to be, at least 18 years old.

(b) The advertisements need not comply with:

11.8.1 (f)

11.8.1 (g)(1) or (2)

## **4 Methodology**

### **4.1 Method**

The Monitoring team monitored advertisements for alcoholic drinks products in the national press, magazines and posters and on TV from 1 December to 24 December 2006.

### **4.2 Newspapers and Magazines Examined in the Survey**

The Monitoring team surveyed these 22 national newspapers:

- Daily Express
- Daily Mail
- Daily Mirror
- Daily Record
- Daily Sport
- Daily Star
- Daily Telegraph
- Guardian
- Independent
- Independent On Sunday
- Mail on Sunday
- Metro
- News of the World
- Observer
- Scotsman
- Sunday Mail
- Sunday Mirror
- Sunday Post
- Sunday Sport
- Sunday Times
- Times
- The Sun

And these twenty one magazines:

- Company
- Cosmopolitan
- Elle
- Glamour
- Heat
- Hello
- Ok!
- In Style
- Health & Fitness
- Natural Health & Beauty

- Marie Claire
- Men's Health
- Men's Fitness
- Muscle & Fitness
- New Woman
- Red
- She
- Top Sante
- Vogue
- Yours
- Zest

#### **4.3 TV Channels Examined in the Survey**

The team monitored these 87 television channels:

- Animal Planet
- Animal Planet + 1
- Bravo
- Bravo + 1
- Challenge TV
- Challenge TV +
- Channel 4
- Channel 5
- Discovery
- Discovery +1
- Discovery Civilisations
- Discovery Health
- Discovery Home & Health
- Discovery Science
- Discovery Travel & Adventure
- Discovery Wings
- E4
- E4 + 1
- Extreme Sports Channel
- FTN
- FX
- Hallmark
- Home & Leisure
- Home & Leisure + 1
- ITV1
- ITV2
- ITV3
- Kerrang
- Kiss TV
- Living TV 2
- LivingTV
- LivingTV + 1

- Magic TV
- MTV
- MTV Base
- MTV Dance
- MTV Hits
- MTV2
- National Geographic TV
- Nickelodeon
- Nickelodeon Replay
- Paramount
- Paramount +1
- Paramount Comedy 2
- Q
- Reality TV
- Reality TV +1
- Sci-Fi Channel
- Sky Cinema 1
- Sky Moviemax 1
- Sky Moviemax 5
- Sky News
- Sky One
- Sky One Mix
- Sky Premier 1
- Sky Premier 3
- Sky Premier 4
- Sky Travel 2
- Smash Hits
- The Biography Channel
- The History Channel
- The History Channel + 1
- The Hits
- The Vault
- TMF
- Trouble
- Trouble Reloaded
- UK Bright Ideas
- UK Drama
- UK Food
- UK Gold
- UK Gold + 1
- UK Gold 2
- UK History
- UK Horizons
- UK Horizons + 1
- UK Style
- UK Style Plus
- UKTV Food + 1

- UKTV History + 1
- UKTV People
- UKTV People + 1
- UKTV Style Gardens
- VH1
- VH1 Classic

## **5. The Advertisements**

### **5.1 Non-broadcast advertisements - Breaches**

The Executive considered that nine non-broadcast advertisements had breached the Code.

#### **Ad 1**

The ad featured a scantily-clad woman in a provocative pose holding a bottle of the drink. The ad breached clause 56.9 of the code because it linked alcohol with seduction and sexual activity.

#### **Ad 2**

The ad featured a couple kissing in a bar or nightclub. The ad breached the code because the couple kissing implied sexual success and a loss of inhibition. The ad breached clauses 56.8, 56.9 and 56.11 of the code.

#### **Ad 3**

The ad featured a scene in bar or club. The ad breached clauses 56.9 and 56.10 of the Code on the grounds that it linked alcohol to sexual success and mood enhancement.

#### **Ad 4**

The ad showed a group of people at a party. The ad breached the Code on the grounds of changed moods, linking alcohol to seduction and sexual activity and irresponsible behaviour. The ad breached clauses 56.9, 56.11 and 56.12 of the Code.

#### **Ads 5, 6, 7, 8 & 9**

The five ads featured women in provocative poses. The ads breached clause 56.9 of the Code because they all linked alcohol with seduction and sexual activity.



## **5.2 TV advertisements – Breaches**

The Executive considered that three TV advertisements had breached the Code. The reasons for the breaches were:

- (i) ads suggested drinking is the reason for the success of a social event;
- (ii) ads suggested that alcohol could contribute to an individual's popularity or confidence;
- (iii) one ad suggested that alcohol has therapeutic qualities;
- (iv) one ad appealed strongly to people under 18 by reflecting and being associated with youth culture.

## 5.3 ASA Investigations – Breaches

### 5.3.1 Intercontinental Brands - Vodkat



The ad featured several women and two men, all dressed in club-wear, who made statements directed at the viewer as they crossed the screen: "It's not an attitude, it's the way I am"; "Since when did girl mean girly?"; "Cool, calm and under control"; "It's all about respect"; "What?"; "I'm not high maintenance, I just deserve better"; "Are you looking at me?"; "Why not?"; "Respect me. I do." The last scene of the ad showed a bottle of Vodkat beside two shot glasses and a woman's voiceover stated "Vodkats. You've got to be one to drink one."

#### Relevant clauses

- 11.8.1(a) (1)** Advertisements must not suggest that alcohol can contribute to an individual's popularity or confidence, or that refusal is a sign of weakness. Nor may they suggest that alcohol can enhance personal qualities.
- 11.8.1(c)** Advertisements must not link alcohol with sexual activity or success or imply that alcohol can enhance attractiveness.
- 11.8.2(a) (1)** Advertisements for alcoholic drinks must not be likely to appeal strongly to people under 18, in particular by reflecting or being associated with youth culture.

In February 2007, the ASA upheld complaints about the advertisement. The complainants, who believed it was designed to appeal to young people, challenged whether the ad was irresponsible because it implied that it was cool to drink Vodkat and suggested that the product could contribute to popularity, attractiveness or confidence. The ASA concluded that the ad implied drinking Vodkat could contribute to popularity, confidence and attractiveness and was likely to appeal strongly to people under 18 years of age by reflecting the cool, sassy elements of their culture.

See the appendix for a copy of the ASA adjudication.

**Verdict: Breach**

## 5.4 ASA Investigations – Non-breaches

### 5.4.1 Asda Group Plc – Asda Drink



The ad featured two men filling a car boot with cases of beer and cider. One of the men tried to shut the boot but it was too full. The voice-over stated "there's more beer for less at Asda". On-screen text stated "Any 2 £18 Any 3 £24". The screen changed to show the "Asda Price" logo and voice-over stated "more for you for less".

#### Relevant clause

**11.8.1 (g)** Advertisements must not show, imply or encourage immoderate drinking. This applies both to the amount of drink and to the way drinking is portrayed.

In February 2007, the ASA Council adjudicated and did not uphold complaints about the advertisement. The ASA noted the ad did not feature immoderate consumption and considered viewers were likely to understand that the men featured were stocking up to take advantage of a price promotion and that they did not intend to consume all the beer at once. Because it did not show, imply or encourage immoderate drinking, the ASA did not object to the ad.

See the appendix for a copy of the ASA adjudication.

**Verdict: No Breach**

#### 5.4.2 Coors Brewers Ltd - Carling



The ad featured two starlings being joined by more and more birds until the flock was flying, as one, in patterns across the sky. The ad featured music, by Hard-Fi, with the lyrics "going out tonight". On-screen text at the end of the ad stated "BELONG" in the same typeface as in the Carling logo.

#### Relevant clauses

- 11.8.1(a) 1** Advertisements must not suggest that alcohol can contribute to an individual's popularity or confidence, or that refusal is a sign of weakness. Nor may they suggest that alcohol can enhance personal qualities.
- 2** Advertisements must not suggest that the success of a social occasion depends on the presence or consumption of alcohol.
- 11.8.1 (d)** Advertisements must not suggest that regular solitary drinking is acceptable or that drinking can overcome problems.
- 11.8.2(a) 1** Advertisements for alcoholic drinks must not be likely to appeal strongly to people under 18, in particular by reflecting or being associated with youth culture.

In May 2007, the ASA adjudicated not to uphold complaints about the ad. The ASA noted the ad presented the flight of the birds as a group activity and did not focus on an outstanding individual or the transformation of a social event by an external factor. It concluded that the ad did not imply alcohol contributed to the popularity of an individual or the success of a social event. The ASA considered that the ad associated the Carling brand with conviviality and social activity and that viewers were likely to understand the text "Belong" as an invitation to participate in social activity, not as an imperative to drink to overcome loneliness. It concluded that the style and presentation of the ad was not targeted at or likely to appeal particularly to viewers under 18.

See the appendix for a copy of the ASA adjudication.

**Verdict: No Breach**

### 5.4.3 Beverage Brands (UK) Ltd - WKD



The ad featured two men doing DIY in a house. One man asked a second man to pass him a drill from the floor. The second man bent down, picked up the cordless drill and assumed the actions and movements of a robot using the sound from the drill as the sound the mechanical parts of a robot might make. The man walked towards his friend, like a robot, and pretended to hand over the drill but pulled away as the other man reached for it. The end sequence cut to the two men, in a bar, with two other men. The man who had been acting like a robot leaned over the bar table and reached for a bottle of WKD. The ad froze and showed the strap-line "Have you got a WKD side?"

#### Relevant clauses

##### 6.7 Health and safety

Advertisements must not encourage or condone behaviour prejudicial to health and safety and advertisements must not use techniques that may directly harm viewers.

##### 7.3.2 Physical harm

Advertisements must not contain material which could lead to physical harm to children.

**11.8.1(h)** Advertisements must not link drinking with the use of potentially dangerous machinery, with behaviour which would be dangerous after consuming alcohol (such as swimming) or with driving.

**11.8.2(d)** Advertisements for alcoholic drinks must not normally show alcohol being drunk in a working environment.

In May 2007, the ASA adjudicated not to uphold complaints about the ad. Because no alcohol was featured in the work environment, the ASA concluded that the ad was unlikely to be seen as dangerously or irresponsibly linking alcohol and power tools.

The ASA also concluded that the timing restrictions applied ensured it avoided encouraging young children to copy the actions using a power drill. Because no drilling into a surface took place, the ASA considered that no danger particles would enter the man's eyes and concluded that showing the men without eye protection did not encourage unsafe practices.

See the appendix for a copy of the ASA adjudication.

**Verdict: No Breach**



## **6 Findings**

### **6.1 Compliance Rate**

The survey sought to establish the proportion of advertisements for alcoholic drinks that appeared during December 2006 that complied with the Codes. The Monitoring team picked up 210 advertisements (excluding duplicates), with 147 in non-broadcast media and 63 on TV.

Of the 210 ads, we considered that 12 (6%) had breached the Codes, a compliance rate of 94%.

### **6.2 Non-broadcast**

Of the 147 non-broadcast advertisements, we considered that 24 (16%) may be problematic. Several CAP and ASA executives assessed the 24 ads and concluded that nine had breached the Code, with the remaining 15 ads being questionable.

### **6.3 Broadcast**

Of the 63 TV advertisements, we considered that nine (14%) of these may be problematic. Several CAP and ASA executives assessed the nine ads and concluded that three had breached the Code, a compliance rate of 95%, with the remaining six ads being questionable.

## **6.4 ASA Investigations**

The ASA received complaints about four of the 63 TV alcohol advertisements that we picked up during our survey and decided to formally investigate those complaints.

The ASA Council upheld complaints about a TV ad for Vodkat in February 2007, concluding that the ad implied drinking Vodkat could contribute to popularity, confidence and attractiveness and was likely to appeal strongly to people under 18 years of age by reflecting the cool, sassy elements of their culture. Please see the appendix for a copy of the adjudication.

The ASA Council concluded that the complaints about the TV ads for Asda, Carling and WKD should not be upheld. Please see the appendix for copies of the ASA adjudications.

## 7 Conclusions

We found that 94% of non-broadcast and 95% of TV ads for alcohol placed in December 2006 complied with the Code.

We are concerned that more than 5% of the alcohol ads that we picked up in the December 2006 survey did not comply with the Code. This would suggest that some advertisers are still unaware of how the alcohol clauses in the CAP and BCAP codes should be interpreted.

The Compliance and Monitoring teams will continue to monitor alcohol ads in the national press, magazines and on TV. We hope that the results of this survey will help advertisers and agencies, to understand the requirements of the revised alcohol Code rules when devising future ad campaigns for alcoholic drinks products.

If at all unsure of the implications of the rules for their advertisements, alcohol advertisers and their agencies should seek advice from the CAP Copy Advice team or the Broadcast Advertising Clearance Centre (see Section 8) or the Radio Advertising Clearance Centre at 77 Shaftsbury Avenue, London W1D 5DU, by telephone at 020 7306 2620 and by email to [adclear@racc.co.uk](mailto:adclear@racc.co.uk).

## 8 Pre-publication advice

Seeking free advice from the CAP Copy Advice team is the best way to ensure that non-broadcast marketing communications do not break the Code and advertisers are urged to use that service. The team can draw on ASA research and ASA adjudications and is experienced at advising on the likely reaction of both the public and competitors. Consult the team on 020 7492 2100 (telephone), 020 7242 3696 (fax) or on [copyadvice@cap.org.uk](mailto:copyadvice@cap.org.uk). The team responds to almost all written enquiries within 24 hours.

Also, advertisers, their agencies and the media can stay the right side of the line by using AdviceOnline, an up-to-date database of advice that tells advertisers what they can and cannot do and links users to relevant Code clauses, Help Notes and past ASA decisions. CAP encourages users to subscribe to Update@CAP, its e-mail newsletter. Both services are free and available on [www.cap.org.uk](http://www.cap.org.uk).

Television ads can be sent to the Broadcast Advertising Clearance Centre for pre-transmission examination and clearance at 4 Roger Street, 2nd Floor, London, WC1N 2JX, by telephone at 0207 339 4700 and by e-mail to [enquiries@bacc.org.uk](mailto:enquiries@bacc.org.uk).

## 9 Appendix

### 9.1 ASA Adjudications

#### 9.1.1 Shepherd Neame Ltd – Bishop's Finger

**CASE NUMBER** : A06-3156  
**ADVERTISER** : Shepherd Neame Ltd

**AGENCY** : 17 Court Street  
Faversham  
Kent  
ME13 7AX

**MEDIUM** : Magazine  
**Public COMPLAINT** : (1)

---

#### **ADVERTISEMENT:**

An ad for Bishops Finger Kentish Ale that appeared in Time Out featured an image of a woman in a low-cut mediaeval costume sitting provocatively on a bale of hay. Headline text stated "I love a good session on the Bishops Finger". In the bottom right corner of the ad, text below an image of a bottle of Bishops Finger Kentish Ale stated "At 5.4% it's near the knuckle".

#### **ASSESSMENT: Upheld in part**

##### 1. Not upheld

The ASA noted that Shepherd Neame had researched the ad using male and female respondents. We considered that the image was mild and that readers were likely to see both the image and the headline text "I love a good session on the Bishops Finger" as light-hearted and playful references to the product's name and brand identity. We concluded that the ad was unlikely to cause serious or widespread offence to women.

On this point, we investigated the ad under CAP Code clause 5.1 (Decency), but did not find it in breach.

##### 2. Not upheld

We noted that the headline text "I love a good session on the Bishops Finger" used suggestive language to play on the connotations of the product's brand name. We considered that the tone of the ad was likely to be seen as light-hearted and would not encourage readers to drink excessively.

On this point, we investigated the ad under CAP Code clause 56.4 (Alcoholic drinks), but did not find it in breach.

##### 3. Upheld

We considered that the text "I love a good session on the Bishops Finger" played on

the connotations of drinking and sexual activity. We considered that the woman's pose was suggestive and concluded that, in combination with the headline text, it was likely to be seen as linking alcohol with seduction and sexual activity.

On this point, the ad breached CAP Code clause 56.9 (Alcoholic drinks).

4. Not upheld

We considered that the text "At 5.4% it's near the knuckle" was likely to be seen by readers as a playful reference to the product's name. We concluded that the ad did not imply the product should be preferred because of its high alcohol content.

On this point, we investigated the ad under CAP Code clause 56.10 (Alcoholic drinks), but did not find it in breach.

**ACTION:**

We told Shepherd Neame to adopt an approach, in future, that did not link alcohol with sexual activity and seduction.

### 9.1.2 Intercontinental Brands Ltd t/a Vodkat

<b>Intercontinental Brands Ltd t/a Vodkat</b>	<b>Case number:</b>	A06-14946/VP
Murdock Road	<b>Media:</b>	Poster, Television
East Midlands Industrial Estate	<b>Sector:</b>	Alcohol
Middlesbrough	<b>Agency:</b>	Poulters
TS3 8TB		

**Number of complaints:** 32

#### **Ad**

A TV ad and four posters for vodka.

a. The TV ad featured a number of women and two men, dressed in club-wear, who made statements directed at the viewer as they crossed the screen: "It's not an attitude, it's the way I am"; "Since when did girl mean girly?"; "Cool, calm and under control"; "It's all about respect"; "What?"; "I'm not high maintenance, I just deserve better"; "Are you looking at me?"; "Why not?" (by a man, referring to the previous speaker, a woman); "Respect me. I do." The last scene of the ad showed a bottle of Vodkat, beside two shot glasses, while a female voiceover stated "Vodkats. You've got to be one to drink one."

b. One poster showed a young woman, standing sideways on, staring at the camera. She had her arms folded across her chest and was wearing a low-cut top and denim hotpants. Text stated "THAT'S RIGHT. LOOK UP TO ME."

c. A second poster showed another woman, who was facing the camera standing with her hands on her hips. She was wearing a low-cut top and was staring at the camera. Text stated "ARE YOU LOOKING AT ME? WHY NOT?"

d. A third poster showed a full body shot of another young woman, dressed in a short skirt and midriff-skimming top. She had her hands on her hips and was looking at the camera with a lowered gaze. Text stated "I'M NOT ANTI-SOCIAL, I JUST DON'T LIKE YOU."

The top left hand corner of posters (b), (c) and (d) featured the Vodkats website address, VODKATS.co.uk. A bottle of Vodkat, next to two shot glasses appeared in the bottom right above the strapline "YOU'VE GOT TO BE ONE TO DRINK ONE."

e. The last poster, in the style of a photo shoot, featured the characters from posters (b), (c) and (d) who appeared in the same poses as above. They were joined by another young man and woman. All characters were staring at the camera, while striking various poses. The Vodkats website address appeared in the top left hand corner and the bottom right featured a bottle of Vodkat and two shot glasses. Text stated "VODKAT. YOU'VE GOT TO BE ONE TO DRINK ONE."

## Issue

The complainants, who believed the ads were designed to appeal to young people, challenged whether:

1. the TV ad and
2. the posters

were irresponsible because they implied it was cool to drink Vodkat and suggested that the product could contribute to popularity, attractiveness or confidence.

3. The ASA challenged whether the models in the TV ad and posters were, or looked, under 25.

## Response

Poulters responded to the complaints about the posters and the TV ad on behalf of Intercontinental Brands. The Broadcast Advertising Clearance Centre (BACC) responded to the complaints about the TV ad.

1. & 2. Poulters said they chose a cast of members of the public to star in the ads, not models or actors, and chose people who would not necessarily conform to stereotypes of popular, attractive or confident people but who demonstrated individuality. Poulters explained that the strapline in the posters and TV ad, "You've got to be one to drink one", was intended to reinforce the message that a consumer would not develop certain characteristics from drinking the product because they would already possess those personality traits. They emphasised that the cast were not under the influence of alcohol, nor were they associated with the product. Poulters added that the cast wore their own clothes to reinforce the message of individuality and set a sophisticated tone, and also to show mature taste without enhancing attractiveness. Poulters said they included statements about respect and control to counter any suggestion of irresponsibility; they said they had been mindful of the requirements of the CAP Code and the CAP (Broadcast) TV Advertising Standards Code when developing the ads.

The BACC said they had worked closely with Poulters over a ten week period during which time they made significant changes to ensure the TV ad was acceptable for broadcast. They said the characters in the ad were portrayed as mature, confident and sassy individuals, representative of people in their late twenties. The BACC believed that, because the cast were made up of ordinary people rather than celebrities, and because the music was not a well known piece, the ad was unlikely to appeal to under 18s. They pointed out that, although the script of the TV ad mentioned being "cool", it centred on adult attitudes and sentiments such as "calm", "under control" and "respect".

3. Poulters said the ad was designed to contrast the current climate of youth culture and binge drinking with notions of respect and control. They told us the cast was recruited via a national PR campaign that directed people to the Vodkats website to register their details. Poulters said a disclaimer on the website emphasised that applicants had to be aged 25 or over. They added that each cast member was required to show proof of their age at the casting session.



The BACC said they had insisted that all the models in the TV ad should be and look over 25 and Poulters had agreed to comply with this requirement. When the BACC watched the finished piece, prior to clearance, they had been satisfied that all the models looked old enough.

## **Assessment**

### **1. Upheld**

The ASA noted Poulters' and the BACC's comments. We considered that most viewers were likely to see the characters in the TV ad as trendy, attractive and assertive people and that notion was reinforced by phrases such as "It's not an attitude, it's the way I am", "I'm not high maintenance, I just deserve better" and "Are you looking at me? ... Why not?".

We considered that the characters featured in the ad would be highly appealing to young people, especially young women, as well as to adults in the 18 - 30 age group. We were therefore concerned that the message of the ad, created by the characters' attitude and style coupled with the strapline "You've got to be one to drink one", could give the impression that the "Vodkats" were a group of attractive, confident and popular people and drinking Vodkat would make you 'cool' like them.

Although we noted Poulters' argument that a consumer already had to possess "Vodkat" qualities in order to drink Vodkat, we considered that young viewers were likely to regard the implied qualities of the characters in the ad as something to aspire to, and that both young viewers and adults in the target audience were likely to infer from the ad that drinking Vodkat was a way of being seen to possess those qualities. We concluded that the ad implied drinking Vodkat could contribute to popularity, confidence and attractiveness and also that the ad was likely to appeal strongly to people under 18 by reflecting the cool, sassy elements of the culture.

On this point, the TV ad breached CAP (Broadcast) TV Advertising Standards Code rules 11.8.1(a)(1), 11.8.1(c) and 11.8.2(a)(1) (Alcoholic drinks) but did not breach 11.8.1(a)(2), 11.8.2(a)(3) or 11.8.2(e) (Alcoholic drinks).

### **2. Upheld**

The ASA acknowledged that Poulters had consulted the CAP Copy Advice team to try to ensure compliance with the CAP Code.

We nevertheless considered that the overriding message of the posters was that consumers who chose to drink Vodkat would be joining a group of people whose members were cool, attractive and uncompromising. We were concerned that the presentation of characters typifying those qualities, making statements like "That's right. Look up to me", in poster (b), and "I'm not anti-social. I just don't like you", in poster (d) could appeal to people seeking to be credited by their peer group with having the same qualities. We were also concerned that the images and tone used in all the posters could be seen to imply drinking Vodkat could enhance confidence or attractiveness. We considered that the "cool club" message was consolidated by the strapline "You've got to be one to drink one" that featured in each poster. We concluded that, because the overall message of each poster seemed to be that Vodkat was a "cool" drink and drinking it could enhance confidence, popularity or attractiveness, the posters could be seen to be irresponsible.

On this point, posters (b), (c), (d) and (e) breached CAP Code clauses 2.2 (Responsibility), 56.5, 56.8, 56.9 and 56.12 (Alcohol) but did not breach 56.4 or 56.7 (Alcohol).

### 3. Not upheld

We acknowledged that Poulters had been careful in their selection of candidates for the ads. Although we considered that the TV ad was likely to appeal strongly to people under 18, we were satisfied that the people featured in the ads were, and looked, over 25.

On this point, we investigated the TV ad under CAP (Broadcast) TV Advertising Standards Code rule 11.8.2(a)(2) (Alcoholic drinks) but did not find it in breach.

On this point, we investigated the posters under CAP Code clause 56.6 (Alcohol) but did not find them in breach.

### **Action**

The TV ad should not be shown again in its current form.

The posters should not be shown again in their current form.

### 9.1.3 Asda Group Plc

**Asda Group Plc**  
Asda House  
Southbank  
Great Wilson Street  
Leeds  
Great Wilson Street  
Leeds  
LS11 5AD

**Case number:** A06-13948  
**Media:** Television  
**Sector:** Retail  
**Agency:** Publicis

**Number of complaints:** 3

#### **Ad**

A TV ad, for Asda, featured two men filling a car boot with cases of beer and cider. One of the men tried to shut the boot, but it was too full. Voice-over stated "there's more beer for less at Asda". On-screen text stated "Any 2 £18 Any 3 £24". The screen changed to show the "Asda Price" logo and voice-over stated "more for you for less". On-screen text in the top left corner featured the "D-RINKAWARE.CO.UK" logo.

#### **Issue**

Alcohol Focus Scotland and two members of the public complained that the ad encouraged immoderate drinking.

#### **Response**

Asda said the full boot was intended to emphasise the range and number of products available in the offer. They thought the ad made clear the men were stocking up for a party and pointed out that the men were not shown consuming the alcohol themselves.

The Broadcast Advertising Clearance Centre (BACC) considered that the ad presented a story about people stocking up for the Christmas party season. They considered the ad was consistent with CAP guidance on alcohol ads and argued that it did not feature or imply immoderate consumption.

#### **Assessment**

Not upheld

The ASA noted that the ad did not feature immoderate consumption. We considered viewers were likely to understand that the men featured were stocking up to take advantage of a price promotion and that they did not intend to consume all the beer at once. As the ad did not show, imply or encourage immoderate drinking, we did not object.

We investigated the ad under CAP (Broadcast) TV Advertising Standards Code rule 11.8.1(g), but did not find it in breach.

#### **Action**

No further action required.

#### 9.1.4 Coors Brewers Ltd - Carling

**Coors Brewers Ltd Carling**  
137 High Street  
Burton-on-Trent  
Staffordshire  
DE14 1JZ

**Case number:** A06-16608  
**Media:** Cinema, Television  
**Sector:** Food and drink  
**Agency:** BMB Advertising

**Number of complaints:** 8

##### **Ad**

An ad in cinemas and on TV, for Carling, featured two starlings and then a flock of starlings flying together in patterns across the sky. The ad featured music with the lyrics "going out tonight". On-screen text at the end of the ad stated "BELONG" in the same typeface as the Carling logo.

##### **Issue**

Alcohol Concern, the Institute of Alcohol Studies and six members of the public complained about the ads.

1. Alcohol Concern and three members of the public complained that the cinema ad suggested drinking could lead to social success.
2. Three members of the public complained that the cinema ad suggested drinking could overcome loneliness.
3. Two members of the public, who saw the cinema ad before films with 12A and 15 certificates, complained that, through style of presentation and medium, the ad was directed at people under 18.
4. Alcohol Concern and three members of the public complained that the TV ad suggested alcohol could contribute to an individual's popularity or confidence and that the success of a social occasion depended on the presence or consumption of alcohol.
5. One member of the public complained that the TV ad suggested drinking could overcome loneliness.
6. The Institute of Alcohol Studies and one member of the public complained that the TV ad could appeal strongly to people under 18.

##### **Response**

Carling explained that, following the introduction of new rules for the advertising of alcohol on TV in 2005, they had wished to take positive action to ensure compliance with the new rules and to move away from previous stereotypical approaches to the advertising of beer. They said they took their obligations seriously and pointed out that Coors Brewers Ltd was a full voluntary member of the Portman Group. They said they wished the Carling brand to evoke the themes of togetherness and inclusive sociability, but that those themes were not aimed at developing or encouraging irresponsible social patterns or behaviours. They said they had developed connections with the football and music industries to associate the brand with communal activity in keeping with the

theme of togetherness and that the "Belong" campaign was intended to develop that theme further.

1. & 4. Carling said that they had taken advice from the CAP Copy Advice team on whether the ad was suitable to be shown in cinemas and had then conducted their own research on groups of men aged between 18 and 34, with an average age of 25. They said their research indicated that consumers thought the ad referred to sociability and social norms, but not conformity. They pointed out that the CAP and BCAP Codes permitted marketers to show drinking as a sociable activity and argued that the BCAP Code encouraged that approach, because it warned against the portrayal of regular solitary drinking as acceptable.

They said the ad was an abstract presentation that did not carry a direct message but evoked the excitement of sociable activity. They said the ad associated the brand with the feeling that arose from participation in a communal activity or event but did not imply that viewers needed to drink Carling to experience that feeling. They thought the footage in the ad implied that the starlings came together because of their natural social instincts and not because of any external factor. They pointed out that the ad did not portray individual social success or popularity and that no starling was shown to be excluded from the group, but that participation was seen to be open to all, without qualification. They did not believe that the word "Belong" was presented as an instruction and argued that it was used to associate Carling with the joy of participation in social activity.

On point 1, the Cinema Advertising Association (CAA) argued that the ad conveyed conviviality and not social success. They pointed out that the ad did not feature any outstanding individual.

On point 4, the Broadcast Advertising Clearance Centre (BACC) believed that, because the ad featured starlings and not people, it was removed from the context of bars, parties or other social activities associated with human beings. They pointed out that alcohol was not featured in the ad and it did not anthropomorphise the birds or suggest changes to their behaviour that indicated an increase in popularity or enjoyment. They asserted that the word "Belong" referred to the flock of birds only and not to any enhancement of mood or success.

2. & 5.

Carling said their arguments on points 1 and 4 also applied on points 2 and 5. They added that none of the individual birds in the ad were depicted as lonely or unhappy outside the flock. They said the soundtrack made no contrast between sad solitary birds and happy birds in a group, but that the initial, quiet build-up of the music communicated anticipation of a social event and the introduction of more instruments and vocals underlined enjoyment of the event itself.

On point 2, the CAA argued that the ad promoted companionship and sociability but did not imply that drinking would overcome loneliness.

The BACC said their arguments on point 4 also applied on point 5. They added that no lone birds were admitted to the group.

3. & 6. Carling believed from figures they had seen that 90% of the audience for the cinema ad had been aged 18 or over. They did not believe the ad was likely to appeal strongly or particularly to people under 18. They pointed out that the ad did not feature young people or real or fictitious characters likely to appeal to people under 18. They said the ad did not refer to or associate itself with youth culture. Carling did not believe that wild-life programmes, like the one from which the footage of starlings was taken, were designed to appeal particularly to people under 18. They did not believe the track by Hard-Fi that featured in the ad had a particular appeal for people under 18 and sent a letter from Hard-Fi's management that said their own market research and sales statistics indicated that the age range of Hard-Fi's fan base was between 25 and 35 years. Hard-Fi's management added that they had never actively targeted the youth market, had never featured in press or magazines designed to appeal to people under 18 and had turned down offers of appearances on youth TV shows in favour of appearances on TV shows targeted at an adult audience, partly because of the adult nature of the band's lyrics and their message. They said they had produced the first mobile phone video designed to be viewed by people aged 18 or above only and that the group only played live concerts in venues that had a policy of not admitting people under 18. They said the median age at Hard-Fi live concerts was 25 years.

On point 3, the CAA explained that, like other ads for alcohol products, the Carling ad had not been screened with any film that might attract an audience that included 25% or more people aged under 18. They argued that only adult members of the audience who already drank alcohol and were already familiar with the Carling brand would recognise that the typeface used for the word "Belong" was the same as for Carling's logo, which did not feature in the ad itself. They argued that the word "Belong" invited viewers to belong as drinkers of Carling rather than of other brands of beer, but did not imply that drinking was the only way of belonging in a general sense.

On point 6, the BACC said they had seen the letter from Hard-Fi's management and were persuaded that the target audience and fan base for the band were aged between 25 and 35. They did not think the visual presentation of the ad appealed strongly or particularly to people under 18.

## **Assessment**

### **1. & 4. Not upheld**

The ASA noted that the ad presented the flight of the birds as a group activity and did not focus on an outstanding individual or the transformation of a social event by an external factor. We concluded that the ad did not imply alcohol contributed to the popularity of an individual or the success of a social event.

On these points, we investigated the cinema ad under CAP Code clause 56.11 (Alcoholic drinks) and the TV ad under CAP (Broadcast) TV Advertising Standards Code rule 11.8.1 (a) (Alcoholic drinks), but did not find them in breach.

### **2. & 5. Not upheld**

We noted the comments from Carling, the CAA and the BACC. We noted that the ad was removed from the context of bars and parties and did not feature scenes of drinking. We also noted that it did not feature scenes of isolation or exclusion. We considered that the ad associated the Carling brand with conviviality and social activity and that viewers were likely to understand the text "Belong" as an invitation to

participate in social activity rather than an imperative to drink to overcome loneliness. We did not object.

On these points, we investigated the cinema ad under CAP Code clause 56.4 (Alcoholic drinks) and the TV ad under CAP (Broadcast) TV Advertising Standards Code rule 11.8.1 (d) (Alcoholic drinks), but did not find them in breach.

### 3. & 6. Not upheld

We noted that the ad did not feature young people and that the target audience and fan base of Hard-Fi was aged between 25 and 35. We noted that the cinema ad had not been screened with any film that might attract an audience that included 25% or more people aged under 18, in accordance with the approach required for alcohol ads. We concluded that the style and presentation of the ad was not targeted at or likely to appeal particularly to viewers under 18.

On these points, we investigated the cinema ad under CAP Code clauses 56.4, 56.5 and 56.7 (Alcoholic drinks) and the TV ad under CAP (Broadcast) TV Advertising Standards Code rule 11.8.2 (a) 1 (Alcoholic drinks), but did not find them in breach.

### **Action**

No action necessary.



### 9.1.5 Beverage Brands (UK) Ltd - WKD

**Beverage Brands (UK) Ltd**  
2440 The Quadrant  
Aztec West  
Almondsbury  
Bristol  
BS32 4AQ

**Case number:** A06-13767  
**Media:** Cinema, Television  
**Sector:** Alcohol  
**Agency:** Big Communications

**Number of complaints:** 5

#### **Ad**

A TV and cinema ad, for WKD, featured two men doing D.I.Y in a house. One man asked his friend to pass him a drill from the floor. The friend bent down, picked up the cordless drill and assumed the actions of a robot using the sound from the drill as the sound the mechanical parts of a robot might make. The first man was not impressed and asked for it again. The friend walked towards him, like a robot, and pretended to hand over the drill but pulled away as the man reached for it. The man who had asked for the drill had a slight smile on his face. The end sequence cut to the two friends, in a bar, with two other men. The man who had been acting like a robot leaned over the bar table and reached for a bottle of WKD. The ad froze and the strap-line "Have you got a WKD side? drinkaware.co.uk" appeared.

#### **Issue**

1. Four of the five complainants believed it was dangerous to link alcohol with power tools;
2. One of the five complainants believed the ad could encourage young children to mimic the actions using a power drill and
3. One of the five complainants believed the ad showed an unsafe practice, because the men were using a drill without wearing eye protection.

#### **Response**

WKD commented on the complaints about the cinema and TV ads. The Broadcast Advertising Clearance Centre (BACC) responded to the complaints about the TV ad and the Cinema Advertising Association (CAA) commented on the cinema ad.

1. WKD explained that the robotic scene did not depict the consumption of alcohol. Because the two friends' actions were spontaneous but deliberate and controlled, they said the ad implied they were not working under the influence of alcohol. They said there was no sign of alcohol in the robotic scenario and, when viewers saw alcohol in the end frame, it was in a completely different location: a bar.

The BACC did not believe the action in the ad was reckless. They said that, throughout the ad, the action was slow, moderate and controlled. They stated that, during the drill sequence, there were no drinks in the room, nor were the characters shown drinking. They said there was a distinct separation between the day's activity and the bar scene, which clearly portrayed the end of a day's work. They reiterated that, throughout the ad,



it was clear that there was no link between the use of power tools and the consumption of alcohol.

The CAA explained that the ad had been approved by their Copy Panel under the alcohol codes. They explained that, during the Panel's discussion, concern had been expressed that the robotic action could have been considered to be juvenile behaviour. However, they had agreed that the miming and teasing in the ad was not, in reality, the prerogative of teenagers, nor was it reflective of an irresponsible attitude: they added that the man had ceased his robotic actions before he came close to his friend and handed over the drill. Because the friend took the drill with a knowing smile, they believed he had recognised his companion's familiar teasing attitude.

2. WKD said the ad was not addressed to, targeted at or featuring children and did not believe it would encourage children to mimic the action, given that it took place in a work environment. They stated that they would not expect a child to be in possession of any kind of power tool.

With regards to the cinema ad, they explained that the CAA Alcohol Panel would estimate what the typical audience would be for a new film. They said they could only buy into films which were likely to have over 75% of over 18 year olds in the audience. They highlighted that that was not determined by the British Board of Film Classification (BBFC) certificate of the film. The ad appeared during the trailers of films with 12A, 15 and 18 certificates.

The BACC explained that the TV ad had received a 'DC' timing restriction, which was applied to alcohol ads and ensured that it was not transmitted in, or adjacent to, children's programmes, religious programmes or programmes commissioned for, principally directed at, or likely to appeal particularly to, audiences below the age of 18. They considered that the restriction was sufficient to avoid encouraging children to 'play' with power tools.

The CAA said the adults in the ad were clearly over the age of 25.

They stated that the alcohol exhibition restriction the ad was shown under did not allow alcohol ads to be shown with any film likely to achieve an average audience profile of 25% or more under 18 year olds. They explained that, working from pre-released publicity together with film profiles underwritten by independent research, the CAA Alcohol Panel would deem forthcoming films as either proscribed or non-proscribed for carrying alcohol ads. They said their decision might not reflect the BBFC certificate: a film with a U certificate, for example, might be aimed at and appeal overwhelmingly to an adult audience and therefore be non-proscribed and able to carry alcohol ads, whereas a film with a PG certificate might be proscribed and therefore unable to carry alcohol ads. They explained that all 15 and 18 certified films could carry alcohol ads.

3. WKD explained that they were careful to ensure that the scenario in the ad was not unsafe. They said the man was using a battery operated drill with a screwdriver part, as opposed to a drill part, in order to tighten screws on a shelf. Because the action took place in the air and not into material, they considered there was no possibility of anything harming his eyes. They added that, whilst the man was moving across the

room, there was no one near him and the ad ended before his friend used the tool. They therefore believed eye protection was not needed.

The BACC considered that it was not always necessary to show characters wearing eye protection when an ad featured a drill. Because no actual drilling took place, they believed there was no danger of any dust or particles entering the eyes. They said the action shown was clearly moderate and safely executed.

The CAA believed that, because the ad showed the man drilling in air only and ended before the friend used the tool, to show the men without eye protection was not irresponsible.

## **Assessment**

### **1. Not upheld**

The ASA acknowledged that there was a clear separation between the two scenes in the ad. We noted the drill scenario did not show any of the characters drinking alcohol and considered that it did not give the impression that they were working under the influence of alcohol. We also noted a bottle of WKD, which was shown only in the final bar scene, was the only reference to alcohol in the ad. Because no alcohol was featured in the work environment, we concluded that the ad was unlikely to be seen as dangerously or irresponsibly linking alcohol and power tools.

On this point, we investigated the ad under CAP Code clause 56.14 (Alcoholic drinks) and CAP (Broadcast) TV Advertising Standards Code rules 11.8.1 (h) (Alcoholic drinks - Rules which apply to all advertising) and 11.8.2 (d) (Alcoholic drinks - Additional rules for alcohol advertisements) but did not find it in breach.

### **2. Not upheld**

We acknowledged that the ad was not targeted at children. We noted the BACC's restriction that the ad should not be transmitted in, or adjacent to, children's programmes or programmes targeted at, or likely to appeal to, viewers under the age of 18. We also noted, at cinemas, the ad was shown only in trailers for films where the majority of the audience was over 18. We considered that for a child to be in possession of a drill without adult supervision was unlikely, hence making it difficult for them to emulate the robotic actions and, therefore, unlikely to cause them physical harm. We noted we had received no reports that children had attempted to copy the action. We concluded that the restrictions applied to the ads were sufficient to avoid encouraging young children to copy the actions using a power drill.

On this point, we investigated the ad under CAP (Broadcast) TV Advertising Standards Code rules 6.7 (Health and safety) and 7.3.2 (Children - Physical harm) and CAP Code clause 10.1 (Safety) but did not find it in breach.

### **3. Not upheld**

We noted the man in the ad was shown drilling into air, not into material. Because no actual drilling into a surface took place, we considered that there was no danger of particles entering the man's eyes and concluded that to show the men without eye protection would not encourage unsafe practice.

On this point, we investigated the ad under CAP (Broadcast) TV Advertising Standards Code rule 6.7 (Health and safety) and CAP Code clause 10.1 (Safety) but did not find it in breach.

**Action**

No further action required.

## **9.2 Guidance notes for the TV Alcohol Advertising Rules**

### **Rule 11.8 Alcoholic Drinks**

**The spirit as well as the letter of the rules in this section apply whether or not a product is shown, referred to or seen being consumed. (See also rule 1.2).**

**Rule 11.8.1 applies to all advertising. 11.8.2 applies only to advertising for alcoholic drinks.**

**Where soft drinks are promoted as mixers, rules 11.8.1 and 11.8.2 apply in full.**

Guidance Note:

These rules, controlling TV advertising content, have been strengthened, particularly with the intention of protecting the young in the four areas where they may be considered vulnerable to alcohol misuse: sexual behaviour, immoderate drinking, youth appeal and anti-social behaviour.

In these Notes, examples are sometimes offered but they should be regarded merely as illustrating the intended spirit of the rule.

N.B. unless otherwise stated, the term “alcohol” in these Notes means “alcohol or a particular type or brand of alcoholic drink”.

### **Rule 11.8.1 – Rules which apply to all advertising.**

Guidance Note:

Rule 11.8.1 is not intended to inhibit advertising on alcohol-related health or safety themes that is responsible and not likely to promote a brand or type of alcohol.

#### **Rule 11.8.1(a)**

**(1) Advertisements must not suggest that alcohol can contribute to an individual’s popularity or confidence, or that refusal is a sign of weakness. Nor may they suggest that alcohol can enhance personal qualities.**

Guidance Note:

The purpose of this rule is to prevent any suggestion that an individual becomes more attractive or a better person or that self assurance can be improved through choosing to drink alcohol.

Any suggestion that an individual’s behaviour or performance can be changed by drinking is prohibited. No advertisement should suggest that an individual is to be more admired for choosing to drink alcohol or that a person who chooses not to drink might be less popular.

**(2) Advertisements must not suggest that the success of a social occasion depends on the presence or consumption of alcohol.**

Guidance Note:

This rule is not intended to prevent the depiction of alcohol as a responsible social lubricant but is designed to prevent the suggestion that the successful outcome of a social occasion depends on or results from the presence or consumption of alcohol.

The introduction of alcohol should not be seen to transform a social occasion and the choice of a type or brand of alcohol instead of another should not seem to contribute to the success of a social occasion. Lively, but responsible, social interaction or party scenes with alcohol present are allowed but that liveliness must not depend on or result from the presence of alcohol.

No behaviour may be adolescent or childish.

Please also refer to rules 11.8.1(c) and 11.8.2(e).

**Rule 11.8.1(b)**

**Advertisements must not link alcohol with daring, toughness, aggression or anti-social behaviour.**

Guidance Note:

This rule applies whether or not alcohol consumption is seen or implied. 11.8.2(b) also applies to advertising for alcoholic drinks.

The “daring” element of the rule is designed to prevent associating alcohol with feats that would be considered dangerous, foolish or reckless or likely to encourage irresponsible or anti-social behaviour.

“Toughness”: Advertisements should not suggest that drinkers of alcohol are tough, macho or resilient or associate such qualities with a brand’s image.

“Aggression”: Attitudes, behaviour or atmospheres that are threatening or potentially violent are prohibited as is the use of weapons or objects as weapons.

“Anti-social behaviour”: What constitutes anti-social behaviour, especially among the young, can be the subject of wide interpretation but will be associated with behaviour that offends against generally accepted social norms and common sense. Examples include non-playful rudeness, excessive boisterousness and behaviour not normally associated with sobriety. Care should be taken to avoid immature, adolescent, childish, boorish or loutish behaviour and this applies to both men and women.

The rule, however, is not intended to prevent all irreverence or humour.  
Please also refer to rules 11.8.1(a) and 11.8.2(a).

**Rule 11.8.1(c)**

**Advertisements must not link alcohol with sexual activity or success or imply that alcohol can enhance attractiveness.**

Guidance Note:

Rule 11.8.2(e) applies, in addition to this rule, to advertising for alcoholic drinks. The purpose of this rule is, for example, to allow a couple to sit together sharing affectionate kisses or glances but not to allow sexual contact, an erotic atmosphere or implications of a sexual motive. The rule is not designed to prevent the use of glamorous images.

Advertisements may not suggest that alcohol has a positive role to play in sexual relationships. Alcohol should not be used as an aid to seduction or seem to enhance a person's attractiveness. It is permissible to use warm, sensuous images or dialogue to illustrate or describe an alcohol product but they must not seem to be linked to sex or a sexual motive.

The depiction of alcohol as a responsible social lubricant is allowed provided rules 11.8.1(a)(1) and 11.8.1(a)(2) are observed.

Linking alcohol with mild flirtation or romance is similarly allowed, for example by using gentle dialogue, facial expressions or body language that do not imply sexual activity has taken, or is about to take, place. (See also rule 11.8.2(e)).

The use of sexual innuendo will be acceptable only if the innuendo is not linked to alcohol in any way. The use of sexual innuendo must comply with general Code rules about offence.

**Rule 11.8.1 (d)**

**Advertisements must not suggest that regular solitary drinking is acceptable or that drinking can overcome problems.**

Guidance Note:

This rule does not prevent showing a person having a drink alone but advertisements must not suggest that regular solitary drinking is acceptable behaviour or that alcohol is an essential or indispensable part of daily routine.

Advertisements may not suggest or imply that alcohol can be used as a means of escape from personal or emotional problems, boredom or depression.

Please also refer to rule 11.8.1(a)(1).

**Rule 11.8.1(e)**

**Advertisements must neither suggest that alcohol has therapeutic qualities nor offer it as a stimulant, sedative, mood-changer or source of nourishment, or to boost confidence. Although they may refer to refreshment, advertisements must not imply that alcohol can improve any type of performance. Advertisements must not suggest that alcohol might be indispensable or link it to illicit drugs.**

Notes:

Advertisements must not suggest that alcohol can improve physical or mental performance or that it is necessary to maintain a normal lifestyle. Please refer also to rules 11.8.1(a)(1) and 11.8.1(d).

**Rule 11.8.1 (f)**

**Advertisements must not suggest that a drink is to be preferred because of its alcohol content nor place undue emphasis on alcoholic strength. (This does not apply to low alcohol drinks. See 11.8.3).**

Guidance Note:

Although factual, incidental references to an alcohol product's strength are acceptable, advertisements must not place undue emphasis on the alcohol content or strength of a product.

Incidental, factual strength comparisons between an advertiser's own products (e.g. re-formulations and brand extensions) may be presented as information but advertisements must not suggest that those products are to be preferred, or can be consumed in greater quantities, because of their altered alcohol content. Competitor strength comparisons are disallowed.

Although advertisements may suggest that a drink could be preferred because of its taste, that preference must not be linked to alcoholic strength.

**Rule 11.8.1 (g)**

**(1) Advertisements must not show, imply or encourage immoderate drinking. This applies both to the amount of drink and to the way drinking is portrayed.**

Guidance Note:

This rule is intended to prevent viewers thinking that immoderate consumption of alcohol is acceptable. It would therefore rule out, for example, scenarios such as drinking sessions, drinking games, downing drinks in one swallow or excessively quickly and pub or club "crawls".

Advertisements must not show or suggest an excessive amount of alcohol dispensed per person. Depictions of well-stocked bars or guests arriving carrying alcohol are acceptable provided that nothing implies that immoderate consumption has taken or will take place.

In considering what would constitute an excessive amount of alcohol, please apply the Department of Health's Recommended Daily Amounts of alcohol.  
(See also rule 11.8.2 (c)).

**(2) References to, or suggestions of, buying repeat rounds of drinks are not acceptable. (Note: This does not prevent, for example, someone buying a drink for each of a group of friends. It does, however, prevent any suggestion that other members of the group will buy any further rounds.)**

Guidance Note:

Advertisements may show a person buying a drink for friends but must not suggest that a pattern of round buying is to be, or has been, established. The use of the word “round” or similar is unacceptable.

Advertisements must not suggest peer pressure on individuals to drink alcohol. (Note: rules 11.8.1(g)(1) and 11.8.1(g)(2) do not apply to advertising for low alcohol drinks).

### **(3) Alcoholic drinks must be handled and served responsibly.**

Guidance Note:

There must be no suggestion of reckless abandon in the way that alcohol is handled and dispensed. This rule is not intended to prevent the depiction of, for example, the traditional popping of champagne corks accompanied by some overflow of wine. But scenes of, for example, party-goers being soaked in champagne are not acceptable.

Similarly, demonstrations of the panache of a cocktail barman in a controlled situation are likely to be acceptable but showing others amateurishly trying similar feats in an uncontrolled way is unlikely to be acceptable. Alcohol should not be thrown or poured over people and no-one may be shown pouring a drink into the mouth of another person.

#### **Rule 11.8.1(h)**

**Advertisements must not link drinking with the use of potentially dangerous machinery, with behaviour which would be dangerous after consuming alcohol (such as swimming) or with driving.**

Guidance Note:

Advertisements should neither show nor suggest people drinking alcohol, or having consumed alcohol, in an environment that is hazardous for drinking. They should not show or suggest drinking before using potentially dangerous machinery.

If driving, or other means of transportation, is featured, there should be no suggestion that the person in charge of, or steering, the vehicle has been drinking or will drink and any ambiguity about that should be resolved.

### **Rule 11.8.2 – Additional rules for alcohol advertisements.**

***Guidance Note:***

***This rule applies also to all advertisements that promote alcoholic drinks, including supermarket or other retail advertisements.***

#### **Rule 11.8.2(a)**

**(1) Advertisements for alcoholic drinks must not be likely to appeal strongly to people under 18, in particular by reflecting or being associated with youth culture.**



Guidance Note:

The purpose of this rule is to prevent advertisements that might encourage those under 18 to drink, or think they should drink, alcohol. Thus themes that are likely to appeal strongly to those under 18 are unacceptable.

It is not possible to produce an exhaustive list of possible infringements to this rule, but, as a guide, particular caution should be exercised as follows:

- a) Personalities. Avoid those who are likely to have a strong appeal to the young; for example, pop stars, sportsmen and sportswomen who command particular admiration of the young, television personalities, youth-orientated performers and any person who is likely to have strong influence on the behaviour of the young.
- b) Avoid themes that are associated with youth culture; for example, disregard for authority or social norms, teenage rebelliousness, mocking or outwitting authority be it parental or otherwise, immature, adolescent or childish behaviour or practical jokes and any behaviour that seeks to set those under 18 apart from those of an older age group.
- c) Teenage fashion or clothing mostly associated with those under 18.
- d) Avoid music or dance that is likely to appeal strongly to under 18s. But an advertisement that, for example, features an old recording that, perhaps as a result of its use in the advertisement, becomes popular with the young once again, will not necessarily be challenged. Announcements of alcohol-sponsored events may be made but the emphasis must be on the event, not the alcohol.
- e) Language commonly used by the young but rarely by an older generation; for example, slang or novel words.
- f) Cartoons, rhymes or animation. Avoid those likely to have strong appeal to children and teenagers. Mature themes are likely to be acceptable.
- g) Caution is needed in the use of all sports. In addition, certain sports have a strong appeal to the young, for example, skateboarding or "extreme sports"; they should be avoided.
- h) Avoid puppets or cute lovable animals that are likely to inspire strong affection in the young.

Humorous treatments cannot be used to circumvent the rule and, in any case, immature, adolescent or childish humour must be avoided.

This rule requires particularly sensitive judgements. If they have any doubts about an advertising idea, advertisers or agencies are strongly advised to consult the BACC (or broadcaster compliance team) at the earliest stage of script development.

**(2) Children must not be seen or heard, and no-one who is, or appears to be, under 25 years old may play a significant role in advertisements for alcoholic drinks. No-one may behave in an adolescent or juvenile way.**

**Notes:**

**(1) See the exception in 11.8.2 (a)(3)**

**(2) In advertising for low alcohol drinks, anyone associated with drinking must be, and appear to be, at least 18 years old.**

**Guidance Note:**

It is important that anyone featured in alcohol advertising not only is at least 25 years old but also must seem to be obviously over 25.

No-one, be they 25 or older, may behave in an immature, adolescent or childish manner.

**(3) There is an exception to 11.8.2 (a)(2) for advertisements in which families are socialising responsibly. In these circumstances, children may be included but they, and anyone who is, or appears to be, under 25 must only have an incidental role. Nevertheless, it must be explicitly clear that anyone who appears to be under the age of 18 is not drinking alcohol.**

**Guidance Note:**

This exception allows children to appear, in minor roles, in alcoholic drinks advertisements (as they can in, for example, advertisements for restaurants in which adults may be drinking with a meal). Those situations are likely to be either family meals at home or in a restaurant or responsible parties for over 25s.

Incidental flashbacks to youth may be used provided they adhere to the conditions set out above and, in particular, provided they are an inconsequential element of the advertising.

**Rule 11.8.2(b)**

**Advertisements for alcoholic drinks must not show, imply or refer to daring, toughness, aggression or unruly, irresponsible or anti-social behaviour.**

**Guidance Note:**

This rule, for alcohol advertisements, supplements 11.8.1(b), which applies to all advertisements.

11.8.1(b) prohibits the linking of alcohol to various forms of behaviour or attitudes but that means an advertisement that is not specifically for an alcoholic drink could include such behaviour or attitudes so long as they are not linked to alcohol or drinking.

11.8.2(b) goes further: it prohibits such behaviour and attitudes being shown or referred to in alcoholic drinks advertising, especially in relation to the young.

The prohibition on unruly and irresponsible behaviour includes threatening or violent behaviour, rowdiness, rudeness, irresponsible or adolescent behaviour or generally ill-disciplined actions and attempts at potentially dangerous activity, whether successful or not.

**Rule 11.8.2(c)**

**Advertisements for alcoholic drinks must not appear to encourage irresponsible consumption.**

Guidance Note:

Please also refer to rule 11.8.1(g).

This rule seeks to prevent advertising for alcoholic drinks encouraging irresponsible alcohol consumption or condoning the purchase of more alcohol than an individual should safely consume.

No advertisement that refers to multiple-purchase may imply that those purchases are for anything other than shared consumption. Advertisements should not suggest an unreasonable amount of alcohol for any individual's consumption on any single drinking occasion.

In considering what would constitute an excessive amount of alcohol, please apply the Department of Health's Recommended Daily Amounts of alcohol.

**Rule 11.8.2(d)**

**Advertisements for alcoholic drinks must not normally show alcohol being drunk in a working environment.**

Guidance Note:

Please also refer to 11.8.1(h)

The working environment will include offices, factories, building sites or any working situation where alcohol consumption might impair performance. An exception can be made for licensed premises (if the staff are obviously not involved in drinking) and for celebratory drinks if the end of work or business has been clearly established.

**Rule 11.8.2(e)**

**Alcoholic drinks must not be advertised in a context of sexual activity or seduction but may include romance and flirtation subject to rule 11.8.2 (a) (Youth appeal).**

Guidance Note:

This rule complements rule 11.8.1(c) but goes further by prohibiting the advertising of alcohol in any context of sexual activity or seduction.

Romance or mild flirtation between couples who are obviously over 25 in both appearance and behaviour may, however, be shown provided it is gentle, understated and does not imply that the attraction has anything to do with drinking or choosing alcohol.

Advertisements must not suggest that sexual activity or seduction has taken place or might take place.

**Rule 11.8.2(f)**

**Advertisements for alcoholic drinks may contain factual statements about product contents, including comparisons, but must not make any other type of health, fitness or weight control claim.**

**Notes**

- If made, numerical statements of carbohydrate content should be given in grams per unit of alcohol and the number of calories per unit should be made clear.
- Numerical statements of calorie or carbohydrate content should not be qualified, for example by words such as “only”.
- Factual comparisons may be made either “internally”, between an advertiser’s products (for example, if the calorie content has been significantly [25% or more] reduced or is significantly different from another product in the range) or between the advertiser’s product and competitor products. If an internal comparison relates to a significant reduction or difference, words such as “reduced” or “lower” are acceptable unless another element of the advertisement renders the claim unacceptable, for example by implying a wider health, fitness or weight control claim. If such words are used for calories or carbohydrates, the advertisement should contain a statement of the number of calories per unit of alcohol.
- “Low calorie”, “light”, “lite” or “diet” may be used in relation to nutritional qualities only if the product contains no more than 40kcal in both a typical measure and each 100ml. (Please see the Food Labelling Regulations 1996 (as amended)).
- Words such as “light” or “lite” may be used if they do not imply nutritional qualities, for example if they clearly relate only to flavour, colour or strength. The use of such words as part of a brand name is therefore acceptable unless another element, such as a logo [for TV Code] / sign-off [for radio Code], implies an unacceptable claim; if it does, the advertisement should make clear that the product is not suitable for health, fitness or weight control purposes.
- If a brand name implies a health or fitness (which includes exercise) claim, the advertisement should make clear that the product is not suitable for health or fitness.

**Rule 11.8.3 – Low alcohol drinks.**

**Exceptions to 11.8.1 and 11.8.2 apply to advertisements for drinks containing 1.2% alcohol by volume or less so long as the low alcohol content is made clear. (The exceptions are not granted if the advertising might promote a product of higher alcoholic strength or might conflict with the spirit of the rules.)**

**The exceptions are:**

**(a) 11.8.2 (a)(2): Anyone associated with drinking must be, and appear to be, at least 18 years old.**

**(b) The advertisements need not comply with:**

**11.8.1 (f)**

**11.8.1 (g)(1) or (2)**

No guidance necessary.