

BCAP consultation document

Broadcast advertising of alcohol

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Closing date for responses:

For Section 2 (Guidance Notes): Monday 11 April 2005

For Section 3 (Health & Diet): Monday 6 June 2005

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Section 1

Summary

1. After public consultation last year, Ofcom published revised alcohol TV advertising rules, which came into force on 1 January 2005.
2. In response to consultation comments, Ofcom asked BCAP to:
 - a) draft a set of Guidance notes to help interpret and apply the alcohol rules;
 - b) conduct a review of rule 11.8.1(e) and consider health and dietary claims in relation to alcohol.
3. Ofcom requires BCAP to consult on its proposals. Consultation comments will be considered by BCAP's Advertising Advisory Committee¹ before BCAP seeks Ofcom's approval for the Guidance notes and any changes to the Television and Radio Advertising Standards Codes. BCAP hopes to publish the Guidance notes by June 2005 and changes to the Television and Radio Advertising Standards Codes by August 2005.
4. We welcome your comments on sections 2 and 3 of this consultation.
5. Broadcasters, advertisers and agencies need, as soon as possible, guidance to help them interpret and apply the new alcohol TV advertising rules. Because the new rules themselves have already been subject to a full consultation, a four-week supplementary consultation will apply to the Guidance notes in Section 2.
6. Section 3, however, contains a proposed new rule and a 12-week consultation period will apply.
7. The consultation on Section 2 (Guidance notes) ends on **Monday 11 April 2005**.

The consultation on Section 3 (Health and dietary claims) ends on **Monday 6 June 2005**.

¹ The AAC represents consumer interests. Its creation was an Ofcom requirement as part of the delegation of broadcast advertising regulation to ASA(B) and BCAP. BCAP is required to consider the AAC's advice and report back to the Committee if that advice is not taken.

Section 2

Guidance Notes for the TV Alcohol Advertising Rules

Background

8. It is widely accepted that the problems associated with alcohol, including those relating specifically to young people, have multiple causes rooted primarily in family and social environment. However, recent research indicates that advertising has some influence on young viewers' attitudes to drinking, albeit at a relatively low level compared to those other factors.
9. It has been long-standing public policy that one of the aims of the regulation of TV advertising should be to reduce any negative impact of alcoholic drinks advertising, particularly on children and young teenagers.
10. The government's Alcohol Harm Reduction Strategy was published in March 2004. As one element of a wide-ranging package of proposals, the Strategy recommended that Ofcom, the communications industry regulator, should oversee a review of the rules for alcohol advertising on TV.
11. After public consultation last year, Ofcom published revised rules which came into force on 1 January 2005. (They have been applied by BACC since then to all new advertising proposals but advertisers have a grace period until the end of September 2005 for advertising that was approved under the old rules but would not comply with the new).
12. The key changes to the TV rules are in four areas:
 - a) Alcohol commercials likely to have "strong appeal to people under 18" will be forbidden. The previous rule forbade "particular appeal" to under 18s. Previously therefore, if an advertisement was likely to appeal just as much to over 18s as to under 18s, the test was passed and the advertisement could run. The new rule means that advertisers will have to steer clear of "youth culture" and ensure that other elements (such as animation) do not have strong youth appeal, regardless of the strength of appeal to other age groups.
 - b) The rules on sexual content or sexual links have been strengthened. Previously, the rules did not bite in practice unless the protagonists had drunk or were drinking alcohol. The new rules are intended to prevent more subtle links between sex and drinking or between sex and a brand image. Nevertheless, scenes of romance or mild flirtation between over 25s will be allowed unless the ad is likely to appeal to youngsters or suggests that drinking has or will smooth the path of passion.
 - c) For similar reasons (i.e. because the previous rules did not bite unless drinking occurred) the rules about daring, aggressive, irresponsible or anti-social behaviour have been strengthened.

d) Alcoholic drinks must be handled and served responsibly.

13. In November 2004, Ofcom delegated responsibility for the regulation of broadcast advertising to the Advertising Standards Authority (Broadcast), an independent body. Responsibility for the broadcast advertising Codes was delegated to the Broadcast Committee of Advertising Practice, an industry organisation. Proposed changes to the Codes themselves are subject to public consultation and Ofcom's approval.
14. Ofcom's broadcast licensees have a duty to ensure that advertising complies with BCAP's TV Advertising Standards Code but most television companies delegate the majority of that work to the Broadcast Advertising Clearance Centre (BACC). That is especially true for alcohol brand advertising: virtually all is pre-vetted by BACC.
15. Guidance notes to help interpret and apply the alcohol rules were originally included in Ofcom's proposals but, in response to consultation comments, Ofcom removed most of them and asked BCAP to draft a replacement set, subject to consultation and Ofcom's final approval.
16. The objective of the guidance is to ensure an understanding of the objectives and interpretation of the new rules is shared by Ofcom, BCAP, ASA(B), BACC and the alcohol and advertising industries. It is essential that the guidance does not inadvertently lead to advertising which conflicts with the spirit of the rules. To help achieve that, the draft guidelines have been drafted by, or in close consultation with representatives of the alcohol and broadcasting industries.
17. The AAC discussed an earlier draft and the version below takes account of the Committee's comments.

Proposed guidance notes

18. The rules, and any guidance reproduced from the published rule set, are in bold. The proposed guidance is in normal text.

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:

Research has indicated that alcohol advertising has some influence on young people's attitudes to drinking, although it is probably not a major factor. 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 guidance 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 guidance 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 all alcohol-related public health or safety advertisements by non-commercial organisations.

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 social lubricant but is designed to prevent the suggestion that the successful outcome of a social occasion depends on 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 with alcohol present is allowed but that liveliness must not depend on the presence of alcohol. No behaviour may be juvenile.

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 unsuitable or out of the ordinary and 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”: Threatening or potentially violent attitudes, behaviour or atmospheres are prohibited as is the use of weapons or objects as weapons.

“Anti-social behaviour”: What constitutes anti-social behaviour 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 acts not normally associated with sobriety. This applies to the behaviour of both men and women and care should be taken to avoid immature, adolescent or childish behaviour. The rule, however, is not intended to prevent harmless 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 glances but not to allow sexual contact or an erotic atmosphere. 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 link warm, sensuous images or dialogue to alcohol but they must not seem to be linked to a sexual motive.

The use of alcohol as a 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 provided that it is limited to 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)

[N.B. As proposed in Section 3 of this consultation paper, this rule may be amended. Section 3 contains a draft of the guidance for the proposed amended rule.]

Advertisements must not suggest that alcohol has therapeutic qualities nor offer it as a stimulant, sedative, mood-changer or to boost confidence. There must be no suggestion that physical or other performance may be improved by alcohol or that it might be indispensable.

Guidance Note:

Please refer also to rules 11.8.1(a)(1) and 11.8.1(d).

Advertisements must not suggest that alcohol can improve physical or mental performance or that it is necessary to maintain a normal lifestyle.

Advertisements must not suggest that alcohol is a source of nourishment or goodness.

Although they may contain purely factual statements of the nutritional content of an alcohol product, advertisements must not imply that alcohol is suitable as part of an exercise, fitness, health or weight control regime.

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 bear in mind 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. Nor should they 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.**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 in the following areas:

- 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, juvenile behaviour, immature 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 record which, 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.

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 treatment cannot be used to circumvent the rule and, in any case, juvenile humour must be avoided.

If a potential breach of the rules is foreseen, 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. 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.

If they feature multiple-purchase promotions, advertisements must not imply that those purchases are for anything other than shared consumption and 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 bear in mind 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 11.8.3 – 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

19. The consultation on Section 2 (Guidance notes) ends on **Monday 11 April 2005**.

Section 3

Health and Dietary Claims in TV and Radio Alcohol Advertising

Background

20. Some alcoholic drinks companies are claiming dietary qualities for their products, e.g. describing them on pack and/or in advertising as “low calorie”, “low carbohydrate” or “diet”.
21. Many will regard this as responsible marketing which gives consumers factual information to permit them to make healthier choices. On the other hand, even reduced-calorie alcoholic drinks are high in calories compared with other categories of “diet” products and have few nutrients so some nutritional scientists argue that it is intrinsically misleading to imply that they have a positive role in weight control or to promote them on a health or fitness platform.
22. In its alcohol advertising rules consultation last year, Ofcom proposed to prevent TV advertisements from making any “health or dietary” claims for alcoholic drinks.
23. Industry believed that this approach did not fully reflect the complexity of the issue and asked for more time to suggest an alternative approach. Ofcom accepted this suggestion and, after this consultation and further AAC advice, BCAP will propose a code amendment to Ofcom.

The legal position

24. Food Law is administered by Local Authorities Coordinators of Regulatory Services (LACORS) through local trading standards. “Low” and “reduced energy” labelling claims are subject to Schedule 6 Part II of the Food Labelling Regulations 1996. LACORS have told us that they regard “low calorie” and “reduced calorie” claims as synonymous for low energy and reduced energy claims, respectively. LACORS believes the Regulations should also be applied to “low” and “reduced carbohydrate” claims.
25. Under the Regulations, to make a “reduced energy” or “reduced calorie” claim, a product must not have more than $\frac{3}{4}$ of the energy value of the equivalent volume of a comparable drink. A reduced calorie beer could have up to 90 calories per half pint. Currently, they have approximately 85 calories per half pint compared with approximately 120 calories in a normal beer. Reduced calorie “Ready To Drink” products (RTDs, a category which includes alcopops) could have up to 99 calories per 275ml serving and currently have approximately 96 calories per 275ml bottle, against around 198 calories in the normal product².

² Based on figures for the approximate calorie content of different types of drink supplied by The Portman Group.

26. To make a “low energy” or “low calorie” claim, a product’s energy value must not be more than 40kcal per 100ml or 40kcal per typical serving, whichever is lower. LACORS’ opinion is that alcohol products with more than 40kcal should not use a “low energy” or “low calorie” claim.
27. Alcoholic drinks generally have only 0g – 2g of carbohydrates and therefore are already very low carbohydrate under the Regulations: to make a “low” claim, an alcoholic drink can contain up to 10.6g (40kcal) of carbohydrates per 100ml or typical serving. The question here is whether they are “reduced carb”, because a reduced carbohydrate product should contain 25% fewer carbohydrates than another, otherwise equivalent product to make this claim under the Regulations. (A 25% reduction is the accepted standard for any “lower” claim.) Manufacturers are therefore effectively making “ultra low carb” claims, creating a new category. If advertising claims that a product is “low” in carbohydrates, this could be taken to imply that other comparable alcoholic drinks are “high” in carbohydrates - and they are not.
28. Most alcoholic drinks fall into the “low sugar” category. The term “low” in terms of drinks is usually less than 5g/100ml. The Food Standards Agency uses the term “a little sugar” to mean 2g/100g or /100ml. Bitter beer contains 2.2g/100ml; ordinary lager contains, on average, trace amounts of sugar; premium lager typically contains 2.4g sugars/100ml. The JHCI proposes that “low sugar” should mean 5g/100ml.

Other UK Codes

29. The CAP non-broadcast advertising Code and The Portman Group’s³ Codes do not expressly refer to dietary claims in the context of alcoholic drinks. They prevent advertising encouraging immoderate or irresponsible consumption or suggesting that an alcohol product can enhance physical performance.
30. In a non-broadcast adjudication in 2004, the ASA found, because it contained images of joggers, that a poster for Michelob Ultra “low-carbohydrate” and “low-calorie” beer was irresponsible, because it implied that drinking the beer could help maintain health.

The U.S. Approach

31. Pending the making of a rule, the US Alcohol and Tobacco Tax and Trade Bureau (TTB) has issued industry guidance warning against claims that imply an alcoholic drink can play a part in weight control.
32. Factual statements of calorie and carbohydrate content are allowed in labelling and advertising provided they include a “statement of average analysis”. This must disclose the calorie, carbohydrate, protein and fat content per standardised serving, so that consumers have complete nutritional information.

³ The Portman Group (TPG) is an alcohol industry self-regulatory organisation.

33. The TTB introduced definitions for “low carbohydrate” and “reduced carbohydrate” to achieve consistency. “Low carbohydrate” products may have no more than 7 grams of carbohydrate per serving (equivalent to 28kcal). Products with more than 7 grams of carbohydrates per serving can make a “reduced” or “lower carbohydrate” claim only as part of a statement giving the number of carbohydrates per serving size, as compared with the number of carbohydrates in another product by the same producer. E.g. “Reduced carbohydrate – 10 grams of carbohydrates per 12 fl. oz. serving – 40% fewer than in our [Brand name] malt beverage”.
34. Some U.S. industry representatives have wanted to use “net carbohydrates” or “effective carbohydrates”, which are meant to refer to carbohydrates that have a demonstrated effect on blood sugar levels. This is scientifically controversial so the TTB considers the claims misleading.
35. Labels and advertisements are reviewed on a case-by-case basis in the US to evaluate whether any numerical references, fanciful names, or terms such as “light”, “thin” or “lean” refer to health.

Other considerations

36. TPG has recommended TV advertisements should be allowed to “include purely factual statements of nutritional content (e.g. low calorie, low carbohydrate etc) but...not otherwise imply that an alcoholic drink has any suitability as part of an exercise, fitness or weight control regime”. In support of this recommendation, they argued that “the marketing of an alcoholic drink on a health, slimming or “functional food” platform by emphasising, in isolation, a particular nutritional quality is misleading and potentially irresponsible”. TPG also recommended that the same rule should be applied to radio and non-broadcast advertising.
37. BCAP were convinced by TPG’s arguments and sought advice from senior independent health specialists on what type of factual statements should be allowed. The key points of their advice were:

Calories

- a) Most of the calories in alcoholic drinks come from the alcohol content.
- b) The calories supplied by alcohol are “empty” calories, which have little or no nutritional value.
- c) Calories from alcohol are absorbed before more nutritious calories from other foods. Heavy drinkers risk malnutrition as a consequence.
- d) A woman (for example) drinking her three units RDA is likely to save only about 90 kcals if she chooses a reduced calorie beer.
- e) Because it suppresses fat oxidation, alcohol consumption is not helpful for weight loss.

- f) Alcohol may well reduce the will-power required to restrict food intake.

Carbohydrates

- g) To date, there is no convincing evidence that reducing carbohydrate intake independently of calorie intake has an effect on body weight.
- h) In an alcoholic drink, the alcohol contributes many more calories per gram than the carbohydrate content. Furthermore, in some products containing alcohol, a reduction in carbohydrate is accompanied by an increase in alcohol content (particularly for wines).

38. A summary of this and other advice we have received on calories and carbohydrates in relation to alcohol is in Annex A.

AAC advice

39. We asked the AAC to consider these issues. In the light of the background information on alcohol, carbohydrates and calories, the AAC agreed that factual information about calorie content could be useful to consumers but concluded that “low” or “lower” claims would be potentially misleading to those people, probably the vast majority, who do not fully understand that alcohol is, by nature, relatively high in calories, that the calories in alcohol are “empty” in terms of nutritional value and that the body metabolises calories from alcohol and food differently. The Committee unanimously recommended that claims should be purely factual, only in numerical form and expressed per unit of alcohol. If a statement of the number of carbohydrates is made, the number of calories should also be stated.
40. The AAC recommended that advertisers should be allowed to make comparisons between their own products (for example, when they have reduced the calorie content in a brand) but should not compare their own and competitors’ products. BCAP believes there would be advantages to consumers in allowing both “internal” and competitor comparisons and, if the comparisons are purely factual and carry no further dietary implication, there would be no disadvantages in that approach. The draft rule below includes that safeguard and BCAP therefore proposes that both types of comparison should be allowed.
41. The AAC agreed with TPG’s view that there should be no health implications in alcohol advertising. In line with the recent ASA non-broadcast adjudication on Michelob Ultra, the Committee agreed that alcohol advertising should carry no fitness implications.
42. The AAC recommended that a new rule should explicitly refer to weight maintenance, weight loss and weight gain, because that would be clearer than “weight control”.

Current rules

43. The broadcast rules are:

Radio

11.3.g: *Advertisements must not offer alcohol as therapeutic, or as a stimulant, sedative, tranquilliser or source of nourishment/goodness, or link the product to illicit drugs. While advertisements may refer to refreshment after physical performance, they must not give any impression that performance can be improved by drink.*

TV

11.8.1(e): *Advertisements must not suggest that alcohol has therapeutic qualities nor offer it as a stimulant, sedative, mood-changer or to boost confidence. There must be no suggestion that physical or other performance may be improved by alcohol or that it might be indispensable.*

Conclusions

44. On the basis of the information and advice received, BCAP proposes:

- to amend the rules to prevent alcohol being advertised in a context of health or fitness
- to use the same wording in both the radio and television advertising Codes
- to ensure (by incorporating wording from the radio Code) that there is no doubt that TV advertising may continue to promote alcoholic drinks as refreshment
- to limit nutritional content claims in line with AAC advice

45. The proposed rule for both radio and TV follows. Significant wording that is drawn from neither of the current rules is marked in bold below.

1) 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.

2) **Advertisements may state the number of calories per unit of alcohol. They may state the number of grams of carbohydrates per unit but only if the number of calories per unit is also made clear. Factual comparisons with other products are acceptable but no other statements of nutritional content are permitted. Alcohol must not be advertised in a context of health or fitness.**

Proposed Guidance Notes to help broadcasters and advertisers interpret and apply the rules are:

Notes to part 1:

- 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).

Notes to part 2:

- Numerical statements of calorie or carbohydrate content should not be qualified, for example by words such as “only”. A statement of carbohydrate content should be no less prominent than the statement of calorie content.
 - Factual comparisons of calorie content, or of carbohydrate and calorie content, may be made either “internally”, between an advertiser’s own products (for example, where calorie content has been reduced) or between the advertiser’s product and its competitors’. If an internal comparison relates to a reduction of calories, or calories and carbohydrates, words such as “reduced” are acceptable but those claims may be used only for a reasonable period after the product formulation has changed.
 - Advertisements should not imply that an alcoholic drink may be suitable as part of an exercise, weight loss, weight maintenance or weight gain regime.
 - If a brand name implies a dietary or health claim, the advertisement should make clear that the product is not suitable for exercise, health, fitness, weight loss, weight maintenance or weight gain purposes, as appropriate. Words such as “light”, “lite”, etc can be used in ways that do not necessarily imply dietary qualities, for example to refer to light colour, body or flavour. The use of such words as part of a brand name is therefore acceptable unless some other element, such as a logo, implies an unacceptable claim. In that case, the advertisement should make clear that the product is not suitable for exercise, health, fitness, weight loss, weight maintenance or weight gain purposes.
46. The Guidance notes apply to both TV advertisements and to radio advertisements. For both media they are identical but the requirement for the statement of carbohydrate content to be no less prominent than that of calorie content, although needed, does not have to be spelt out in the Guidance notes for the radio Code rule.
47. The consultation on Section 2 (Health and dietary claims) ends on **Monday 6 June 2005**.

Section 4

Responding to this Consultation

How to respond

46. We invite written comments on the proposals contained in this document.

The consultation on Section 2 (Guidance notes) ends on **Monday 11 April 2005**.

The consultation on Section 3 (Health and dietary claims) ends on **Monday 6 June 2005**.

47. We prefer to receive responses as e-mail attachments, in Microsoft Word format, because that helps us to process the responses. Please state whether you want us to regard your response as confidential.

48. Please send your response to consult@cap.org.uk. Alternatively, post or fax your response, marked with the title of the consultation, to this address:

Helen Keefe
Committee of Advertising Practice (Broadcast)
Mid City Place
71 High Holborn
London
WC1V 6QT
Fax: 020 7404 3404

49. If you send a response, please explain why you hold your opinion and, if relevant, how BCAP's proposals would affect you.

More information

50. If you have any questions about this consultation or need advice on your response, please contact Helen Keefe on 020 7492 2119.

Annex A

Nutrition and alcohol

This Annex summarises BCAP's understanding of the nutritional aspects of alcohol consumption.

Calories

1. Most of the calories in alcoholic drinks come from the alcohol content.
2. Alcohol is an important source of calories, providing 700 kcal/100ml. Even "low calorie" alcoholic drinks are high in calories compared with other categories of "diet" products.
3. We have been advised that alcohol consumption is not helpful for weight loss or weight maintenance as it suppresses fat oxidation. Furthermore, alcohol may well affect the will-power required to restrict food intake; and will-power is essential for any weight loss or maintenance regime.
4. The calories supplied by alcohol are "empty" calories, which have little or no nutritional value. Calories from alcohol are metabolised differently from calories from other food. This means that the body absorbs nutrient-poor calories from alcohol before more nutritious calories from other foods. Heavy drinkers risk malnutrition as a consequence.
5. Although alcoholic drinks are not well-suited to weight loss, if slimmers are going to drink, it is better that they drink products providing fewer calories although the benefit is marginal if they stick to the Recommended Daily Amounts of alcohol. A woman drinking her three units per day is likely to save only about 90 kcals if she chooses a reduced calorie beer; the Estimated Average Requirement (EAR) for calorie intake for a woman is 1940 kcals per day.

Carbohydrates

6. To lose weight, it is necessary to consume fewer calories than the body eliminates. We understand that, to date, there is no convincing evidence that reducing carbohydrate intake independently of calorie intake has an effect on body weight.
7. In an alcoholic drink, the alcohol contributes many more calories per gram than the carbohydrate content. Furthermore, in some products containing alcohol, a reduction in carbohydrate is accompanied by an increase in alcohol content (particularly for wines). For example, a typical sparkling white wine contains 5.1g carbohydrate, 7.6g alcohol and 74 kcal/100ml and a typical dry white wine contains 0.6g carbohydrate, 9.1g alcohol and 66 kcal/100ml. Also, the calorie content of a low carbohydrate, higher alcohol beer (e.g. 5% proof) can be the same as in a normal carbohydrate beer that has 3% alcohol.

8. It is arguably of little real value to the weight-conscious consumer to know merely that a product has 2g less carbohydrates. BCAP has been advised that a claim for low or reduced carbohydrate content is likely be misleading if the drink does not also contain significantly (i.e. 25%) fewer *calories*. Therefore, it is useful for the consumer to always have *calorie* content information per unit.

Annex B

List of consultees

Academy of Medical Sciences
Advertising Association
Advertising Producers Association
Alcohol Concern
Alcohol Education Research Council
Alcohol Focus Scotland
Alcohol in Moderation
Allied Domecq
Association of Chief Police Officers in Scotland
Bacardi Martini
BACC
Beverage Brands
Board of Science & Education
British Beer & Pub Association
British Dietetic Association
British Liver Trust
British Medical Association
British Nutrition Foundation
British Society of Gastroenterology
Brown-Forman
Cabinet Office
Childrens Society
CRCA
DDB
Department for Trade and Industry
Dept. for Transport
Dept. of Health
Diabetes UK
Diageo
Dumbarton Area Council on Alcohol
Edrington Group
Greater Glasgow Alcohol Action Team
Home Office
Institute of Alcohol Studies
International Centre for Health & Society
IPA
ISBA
Lanarkshire Alcohol & Drug Action Team
Local Authorities Coordinators of Regulatory Services (LACORS)
Mayor of London
McCann Erickson
Medical Council on Alcohol
Miles Calcraft Briginshaw Duffy
National Assembly for Wales
National Heart Forum
National Kidney Research Fund
National Obesity Forum
Northern Ireland Assembly
Ofcom
Office of the Deputy Prime Minister
Office of Fair Trading

Portman Group
RACC
Royal College of General Practitioners
Royal College of Paediatrics & Child Health
Royal College of Physicians
Royal Institute of Public Health
Royal Society for the Promotion of Health
RTE
Scotch Whisky Association
Scottish & Newcastle
Scottish Executive
Substance Misuse Advisory Service
Swindon Borough Council
TBWA / London
Turning Point
UK Joint Industry Working Group on Social Issues
UK Public Health Association
Vintry Wine
West Lothian Drug Action Team
Western Isles Alcohol Drug Smoking Action Team
Wine & Spirit Association

Plus: Radio and TV broadcasters
Members of BCAP's Advertising Advisory Committee