

Guidance Note

Committee of Advertising Practice (CAP)

Broadcast Committee of Advertising Practice (BCAP)

Impact of Alcohol etc. (Scotland) Act on Alcoholic Drinks Promotions



1. Background

CAP offers guidance on the interpretation of the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (the CAP Code), in relation to non-broadcast marketing communications, and BCAP offers guidance on the interpretation of the UK Code of Broadcast Advertising (the BCAP Code) in relation to broadcast advertisements. CAP and BCAP Guidance is intended to help advertisers, agencies and media owners interpret the Codes but is not a substitute for those Codes. Guidance reflects CAP or BCAP's intended effect of the Codes but neither constitutes new rules nor binds the ASA Councils in the event of a complaint about an advertisement that follows it.

For pre-publication advice on specific non-broadcast advertisements, consult the CAP Copy Advice team by telephone on 020 7492 2100, by fax on 020 7404 3404 or by e-mail on advice@cap.org.uk. For advice on specific radio advertisements, consult the Radio Advertising Clearance Centre (RACC), www.racc.co.uk and for TV advertisements, Clearcast, www.clearcast.co.uk.

On 1st October 2011 certain provisions of the Alcohol etc. (Scotland) Act 2010 amending the Licensing (Scotland) Act 2005 come into effect; these place specific restrictions on the pricing and promotion of alcoholic drinks sold in off-licensed premises in Scotland. This legislation primarily affects the retail of alcoholic drinks and places responsibility on the retailer for complying with the law.

This Guidance is published to help advertisers ensure that consumers are not misled or disappointed by advertisements for promotions which may be available in other parts of the UK, but not in Scotland. A single set of guidance is likely to be of most benefit to advertisers, agencies and media owners.

2. Rules and guidance

Misleading advertising

Rule 1.3.1 of the BCAP Code states:

Advertisements must not state or imply that a product can legally be sold if it cannot.

Rule 3.1 of the CAP Code states:

Marketing communications must not materially mislead or be likely to do so.

Guidance

The placement and content of advertisements and other marketing communications for the type of alcoholic drink promotions which will be illegal in Scotland from 1st October 2011 should be given careful consideration by advertisers, agencies and media owners.

Where possible, it would be helpful for advertisers to arrange their media schedule in a way that prevents advertisements for this type of promotion from appearing in Scotland; however CAP and BCAP understand that this may not always be possible and consider that this action alone may not always prevent consumer disappointment.

With this in mind, CAP and BCAP advise that it might be appropriate to include a disclaimer on advertisements and marketing communications which are likely to be seen in Scotland and also those seen in other parts of the UK by consumers who may subsequently travel to Scotland. It may not always be necessary to include disclaimers, for example in non-Scottish regional media where an advertiser or marketer has a strong expectation that their advertisement will be seen or heard in a regional context.

CAP and BCAP intend this guidance to assist advertisers, agencies and media owners in complying with the Advertising Codes; advertisers whose businesses may fall into the broader scope of this legislation are advised to take legal advice.

Full details about the legislation can be found on the Scottish Executive website:

<http://www.scotland.gov.uk/Topics/Health/health/Alcohol/licensing/consultations/ALCOHOLACTGUIDANCE>