

The Voice
of British
Advertisers



Advertising
Association



OUR HOUSE IS IN ORDER:

ANALYSIS OF THE EFFECT OF THE RULE CHANGES ON THE CONTENT OF TV ALCOHOL ADVERTISEMENTS

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Section 1: Introduction and Summary

The purpose of this Report

This Report demonstrates the significant effect the rule changes have had on the style and content of TV alcohol advertisements and provides input to the Government's three-year review of its 2004 Alcohol Harm Reduction Strategy. This Report also contains an independently-commissioned analysis of a broad selection of alcohol advertisements broadcast on television in 2004, before the Code changes, and in 2006, after they had come into effect.

The Report is intended to be illustrative and specifically analyses TV alcohol advertising, rather than all alcohol advertising, to comply with the focus of the Government's 2004 Strategy. However, it is important to note that the industry has also adopted similar rules, of its own initiative, in the CAP¹ Code for non-broadcast advertising, and has therefore gone further than required by the Government's 2004 Strategy.

The role of advertising

Advertising plays an important role in promoting awareness of brand choice and it brings consumer benefits by stimulating competition between brands in the market. Alcohol advertising is only targeted at over 18 year olds, who are entitled by law to purchase alcohol.

While the consumption of alcohol has risen slightly over the past decade, the amount of advertising used to sell brands, in total, has fallen sharply in relation to the volume of drink sold. The data demonstrates unequivocally that levels of advertising and levels of drinking are entirely uncorrelated.

The causes of binge drinking

Various societal factors are the cause of the "binge drinking" culture amongst young people in this country today, including dysfunctional families, lifestyle trends and peer pressure amongst young people.

2004 Alcohol Harm Reduction Strategy

The Government's 2004 Alcohol Harm Reduction Strategy called for a review of the TV Advertising Code, though it also accepted that there is no clear case establishing the effect of advertising on behaviour, and that "the evidence is not sufficiently strong to suggest that measures such as a ban on advertising or tightening advertising restrictions about scheduling should be imposed by regulation".

Accordingly, Ofcom introduced new restrictions in October 2005.

¹ Committee of Advertising Practice – the self-regulatory Committee operating within the ASA system that owns the non-broadcast advertising Code of Practice.

The new Codes are working

What this Report shows is that the Government's objectives, which were to ensure that advertising does not target young drinkers or glamorise irresponsible behaviour, have been addressed. The emphasis of the Codes on reducing the appeal of alcohol advertisements to under-age drinkers has led to a marked shift away from the portrayal in such advertisements of very young-looking people, party scenes, irresponsible drinking, glamorisation and sexual appeal. The examples shown demonstrate unambiguously that advertisers are adhering to the spirit, not just the letter, of the Codes.

A pre-watershed ban is not necessary

Some campaigning groups such as Alcohol Concern are advocating a pre-watershed ban on alcohol advertisements. A pre-watershed ban is tantamount to a complete ban and the Advertising Association, ISBA (The Voice of British Advertisers) and IPA (Institute of Practitioners in Advertising) believe that such measures are unnecessary and disproportionate. They ignore the fact that, in addition to the very stringent Code changes that were made in 2005, there are already scheduling restrictions in place to ensure that alcohol advertisements are not placed in or around programmes watched by a high proportion of under 18's.

Most adults do not think banning advertising would reduce under-age drinking

There is no evidence of public support for the measures proposed by campaign groups. A recent consumer survey commissioned by the BACC² shows that 71% of adults in the UK do not think that banning advertising would reduce under-age drinking. Only 4% think it would have a great deal of influence.

There is a low level of concern by the public

This Report also contains details of complaints and the six published adjudications against alcohol advertisements since 2004. Only a handful of complaints are about alcohol advertisements, even though several hundred are broadcast on TV each year³. These figures demonstrate a low level of concern amongst the general public.

No further regulation is necessary

The overhaul of the alcohol advertising rules is still new, but nearly two years on, the evidence shows they have worked. Certain loopholes have been closed, and the now explicit rule requiring the spirit rather than just the letter of the Code to be upheld, has had a meaningful effect. Combined with scheduling restrictions, the system works to ensure alcohol advertisements are targeted at those who can be law legitimately have a drink. New restrictions in the shape of a pre-watershed ban are unnecessary, disproportionate, and disruptive of a system which has shown itself capable of fundamental change already.

² Broadcast Advertising Clearance Centre

³ In 2006, 386 alcohol ads were broadcast on TV

Section 2: Methodology and scope

Uisdean Maclean, the previous Director of the BACC (Broadcast Advertising Clearance Centre), was engaged as an independent consultant to carry out the analysis of advertisements in this report. The comments represent his own personal view. Uisdean's 20 years of experience in pre-vetting TV advertising commercials for the BACC gives him unique experience to carry out this task.

A sample of 150 TV advertisements was selected from the most heavily advertised brands across all categories (beer, wines, spirits, cider, and RTDs (ready-to-drinks, otherwise known as "alcopops").

The advertisements selected represented the brands with the largest advertisement spend on television in 2004 (before the rule changes) and 2006 (after the rule changes), according to Nielsen advertisement spend data.

Full analysis

In order to analyse the effect of the Code changes in practical terms, all 150 advertisements were watched by Uisdean Maclean who then gave his personal opinion as to whether they comply with the new rules, even though the 2004 advertisements would have been produced in compliance with the old 2002 Code, not the new 2005 one.

Section 8 provides his analysis as to how many of these would be questionable if the new Code were applied. The assessment he makes is entirely his own judgement, based on years of experience in pre-clearing advertisements for television.

It is interesting to note that a greater number of those broadcast in 2004 would have been questionable, compared with those broadcast after the rule changes in 2006.

Case studies

A detailed analysis of 24 of these advertisements was carried out by Uisdean Maclean to assess compliance with the new rules. Where possible, the same brand's advertisements are used from 2004 and 2006, in order to demonstrate the contrast.

The 24 case studies that demonstrate the effects of the new content rule changes are contained in this report. The advertisements can be seen on the DVD accompanying this booklet.

The selection of advertisements for the case studies is intended to be illustrative, not comprehensive, but there is a spread of examples across brands and types of alcoholic beverage.

An analysis of data from ASA/CAP relating to complaints, investigations and adjudications was also carried out, and is published in this report.

Adjudications

The report also contains details of published adjudications against alcohol advertisements by Ofcom and then by the ASA since 2004.

Section 3: Background – the success of advertising self- and co-regulation in the UK

The advertising industry in the UK prides itself on taking a responsible approach to self-regulation. It set up the Advertising Standards Authority (ASA) over 40 years ago for this purpose, and funds it through a levy on advertising. The ASA system is the best-funded and longest established in Europe.

The main purpose of the ASA is to promote consumer trust in marketing communications and to ensure that advertising is legal, decent, honest and truthful, and complies with the Advertising Codes. It does this by adjudicating on complaints and publishing its decisions. Compliance is always very high (usually around 97-98%).

Within the ASA system, CAP, the Committee of Advertising Practice, is responsible for drafting the non broadcast Code, the CAP Code, which applies to advertising in all paid-for space in non-broadcast media as well as to direct marketing and sales promotions. It regularly reviews and updates the Code.

Since November 2004, the ASA system has also been responsible for broadcast advertising, acting in a co-regulatory relationship with the communications regulator, Ofcom. The broadcasting codes are owned and administered by the Broadcast Committee of Advertising Practice, BCAP.

The BCAP Code changes took place just before Ofcom contracted out broadcast advertising to the ASA self-regulatory system, and so these were initiated by Ofcom but with active input from the industry itself. However, they have since become part of the BCAP Advertising Code administered by the ASA self-regulatory system.

During 2005, the industry took the initiative and adopted, acting on its own accord without prompting from Government, similar changes to the CAP Code as were implemented in the BCAP Code. The new alcohol advertising code content rules therefore apply across all paid for advertising whatever the media used, demonstrating the commitment of the alcoholic beverages business, along with the advertising industry and media owners, to the concerns clearly expressed in the Government's Alcohol Harm Reduction consultation process conducted in 2003. This highlighted 4 areas including:

- Appeal to under-age drinkers
- Glamorous advertising
- Encouraging excessive consumption
- Encouraging anti-social behaviour.

Section 4: Alcohol Harm Reduction Strategy 2004: Principles for Advertising

In March 2004, the Number 10 Strategy Unit published the Government's Alcohol Harm Reduction Strategy. This was an all-encompassing strategy which looked at all elements of alcohol harm, particularly focusing on the young and under-age drinking.

The section on advertising was relatively small. Although there is no proven link between binge drinking and alcohol advertising, the key focus of the changes to the Codes was to reduce the youth appeal of alcohol advertising.

In the section dealing with Advertising, the guiding principle was stated that:

- "Alcohol advertisements should neither condone nor encourage irresponsible drinking behaviour"

While at the same time acknowledging that:

- "There is no definitive proof of the effect of advertising on behaviour".

However the Strategy Report also concluded that in terms of content regulation of TV alcohol advertisements:

- "the current system is not sufficiently tightly drawn up and enforced"

And therefore

- "on a precautionary basis there is a clear case for tightening existing rules on content of advertising"

And that the new Rules should

- "be systematically and rigorously enforced"

The challenge to the industry and regulators was that:

- "the industry itself has to take a more responsible attitude to prove that self-regulation can be made to work effectively".

This resulted in a significant tightening up of the content restrictions in the Advertising Codes, but also an emphasis in the importance of following the spirit and not just the letter of the new rules.

Section 5: Industry and regulators' response

In July 2004 ITC/Ofcom research found that some alcohol advertisements used treatments that appeal to under 18's, especially alcopop advertisements, otherwise known as "Ready to Drinks" (RTDs), and some advertisements linked alcohol to sex or encouraged excess consumption.

Ofcom carried out extensive consultation with the industry on a new Alcohol Advertising Code throughout the rest of 2004.

The new Alcohol Code rules were published on 1 January 2005 by BCAP, and applied with immediate effect to all new TV advertisement campaigns. A grace period for full application of these Rules was granted until 30 September 2005 to allow for campaigns already on air or in production to finish their run.

The key areas of change were:

- A ban on linking sex with a brand
- rules on daring, aggressive, irresponsible or anti-social behaviour were tightened
- rules required that alcohol must be handled and served responsibly
- alcohol advertisements must not have a "strong appeal to people under 18"

The intellectual focus of the above changes was on protecting the young.

The new Code is about following the spirit and not just the letter of the rules. Some loopholes that had emerged were removed, notably that for the rules' full application there was no need for the product to be seen to be consumed in the advertisement. This was a significant step that has had a major impact on the content of alcohol advertisements.

A full copy of the alcohol advertising Section of the BCAP Code is in Schedule One of this Report. Each clause is juxtaposed with the relevant clause from the old ITC Code, so that a comparison can easily be made.

Section 6: Compliance – advertisement complaints, adjudications and complaints upheld by the ASA

The ASA, like Ofcom and the ITC before it, carries out investigations based both on complaints and on internal monitoring. (Following the Code changes, alcohol advertising is one of the sectors the ASA specifically states it is monitoring). Investigations are then referred to the independent ASA Council for a decision. The Council is currently chaired by Lord Borrie QC, a previous Director General of the Office of Fair Trading (OFT). He will be succeeded by Lord Smith of Finsbury, who was Secretary of State for Culture, Media and Sport from 1997-2001.

The ASA receives complaints concerning around 2000 broadcast advertisements a year⁴. Of these, none of the top 10 broadcast advertisements on which complaints were received were alcohol advertisements. Complaints about alcohol advertising are extremely low, though there are hundreds of alcohol advertisements broadcast a year (386 on TV in 2006). There is therefore a low level of public concern.

There are fewer complaints and adjudications about broadcast advertisements than non-broadcast advertisements because of the pre-clearance system, whereby the BACC (Broadcast Advertising Clearance Centre) and RACC (Radio Advertising Clearance Centre) check scripts and advertisements prior to transmission to ensure compliance with the Codes. The broadcasters fund the pre-clearance systems because they are responsible through their licences for ensuring that what is broadcast is fully compliant.

Since January 2004, there have been very few adjudications against TV alcohol advertisements by Ofcom and, since November 2004, the ASA. These follow below. It is interesting to note that there have only been six adjudications since 2004, two as a result of BCAP monitoring, and the rest as a result of complaints. In four cases, the advertisement was required not to be shown again, even though one of the cases had attracted only one complaint.

This is a demonstration of effective regulation in action.

⁴ In 2004: 2,391 broadcast ads were complained about (total number of broadcast complaints received – 9,860)

In 2005: 2,284 broadcast ads were complained about (total number of broadcast complaints received – 13,509) (source: ASA Annual Reports)

Date of Adjudication	Advertisement concerned	Decision
2 August 2004	<p><u>Heineken</u></p> <p><u>Number of Complaints: 1</u></p> <p>Ad showed a stranger arriving at the front door of a beer drinker who had left the dregs of a pint of Heineken in the bar the night before. The stranger said this was a waste since it was now imported from Holland, and is extra strength. The strapline was “we believe in better”.</p>	<p>Ad suspended by Ofcom after a viewer complaint that the advertisement was contrary to Code Rule 11.8.1(f) that states that advertisements “must not suggest that a drink is to be preferred because of its alcoholic content nor place undue emphasis on alcoholic strength.</p>
16 August 2004	<p><u>Department for Transport (Drink Drive campaign)</u></p> <p>(post 19.30 timing restriction)</p> <p><u>Number of complaints: 12</u></p>	<p>Ofcom decided the advertisement did not breach the code though 12 viewers said the commercial was too hard-hitting to be shown, and another 6 said their young children had been upset by the advertisement.</p>
27 September 2006	<p><u>Beverage Brands (UK) Ltd – 2 WKD advertisements:</u></p> <p><u>No complaints. Investigated by BCAP as a result of monitoring.</u></p> <p><u>Shop-keeper waves pricing gun at 2 men in shop looking for WKD; it sprays out price stickers. Shop-keeper rushes out of shop and displays his T-shirt which has “I love my WKD side”.</u></p> <p><u>End caption states “Have you got a WKD side?” and the voice-over says “He’s just not got it, have you?”</u></p> <p><u>Second advertisement features 2 men on sofa finishing bottles of WKD; they rush for fridge where only one bottle left; one dives to catch falling photograph, leaving the other time to grab the bottle. Caption says “Have you got a WKD side?”. Voice over “Oh he has, have you?”</u></p>	<p>BCAP challenged whether the advertisements complied with rule 11.8.2(a) “Ads for alcoholic drinks must not be likely to appeal strongly to people under 18, in particular by reflecting or being associated with youth culture”.</p> <p>The ASA upheld the assessment and required the advertisement not to be shown again.</p>

Date of Adjudication	Advertisement concerned	Decision
27 September 2006	<p><u>Diageo Great Britain Ltd - Smirnoff Ice.</u></p> <p><u>No complaints. Investigated by BCAP as a result of monitoring.</u></p> <p>7 Smirnoff Ice advertisements featuring Uri, a chilled-out Eastern European loyal to Smirnoff Ice. (NB the Uri campaign originated under the old rules).</p>	<p>BCAP challenged whether the advertisements complied with rule 11.8.2(a) (see above).</p> <p>The ASA believed the advertisement would resonate with under 18's because the characters were likely to become cult figures with strong appeal to under 18s. The ASA said the advertisements should not be shown again.</p>
21 February 2007	<p><u>Intercontinental Brands Ltd t/a Vodkat</u></p> <p><u>Number of complaints: 32 (TV and poster campaign)</u></p> <p><u>TV advertisement featured a number of women and two men, dressed in club wear, who made statements to the viewer as they crossed the screen, eg "Its not an attitude, it's the way I am"...</u></p> <p><u>The last scene of the advertisement showed a bottle of Vodkat, beside two shot glasses, whilst a female voice-over stated "Vodkats. You've got to be one to drink one".</u></p>	<p>The ASA upheld the complaints on the grounds that the advertisements were likely to appeal to young people, suggest it was cool to drink Vodkat and implied that drinking Vodkat could contribute to popularity, confidence and attractiveness.</p> <p>The ASA said the TV advertisement should not be shown again in its current form.</p>

Date of Adjudication	Advertisement concerned	Decision
2 May 2007	<p data-bbox="544 293 911 327"><u>Coors Brewers Ltd (Carling)</u></p> <p data-bbox="544 344 895 443"><u>Number of complaints: 6 + Alcohol Concern and Institute of Alcohol Studies</u></p> <p data-bbox="544 461 911 864">TV (and cinema) advertisement featured two starlings and then a flock flying together in patterns across the sky. The advertisement featured music with the lyrics “going out tonight”. On-screen text at end of advertisement stated “BELONG” in the same typeface as Carling logo.</p>	<p data-bbox="951 344 1350 613">Complaints about the TV (and cinema) advertisements were for a number of reasons, including targeting under 18’s, and because it implied that alcohol could contribute to an individual’s popularity/confidence.</p> <p data-bbox="951 631 1350 833">The ASA noted that the flight of birds was a group activity but did not consider that it implied alcohol contributed to the popularity of an individual or success of a social event.</p> <p data-bbox="951 851 1350 1115">The ASA considered 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, so the ASA did not object.</p> <p data-bbox="951 1133 1350 1267">The ASA also noted the fan base of Hard-Fi which wrote the lyrics was aged 25-35, not under 18’s.</p> <p data-bbox="951 1285 1350 1384"><u>Therefore the ASA did not find the TV (and cinema) advertisements in breach.</u></p>

Note: The above adjudications were sourced from the Ofcom and ASA websites, in a search from 2004-present.

Section 7: Case studies

For the purposes of this case study, the following alcohol brands were selected, giving in each case an example of an advertisement broadcast in 2004, before the rule changes, followed by an example in 2006, after the rule changes. These are indicative examples only.

All barring the 2004 advertisements for Bacardi Breezer and Red Square have examples after the rule changes for comparison. Although we looked for examples of post change versions of these advertisements, it appears that none were broadcast. However, the 2004 advertisements are good examples that we want to retain in the case studies.

Although the advertisements broadcast in 2004 would have been compliant with the old ITC rules, for the purposes of this case study, all the advertisements have been assessed against the **new** Rules on alcohol advertising.

Where the term NoG is used this refers to the Notes of Guidance employed by the BACC in assessing advertisements before 1/10/2005.

It is interesting to note that, in Uisdean Maclean's personal view, a number of the advertisements broadcast prior to the Code changes would have been questionable under the **new** rules, for reasons explained below.

Key:

Green = Acceptable

Red = Unacceptable

BEER

Guinness:

“Sorry” – first broadcast in February 2004 (before the Code changes)

A man leaves home, crosses fields and reaches a cliff-top. He dives off the cliff and swims the Atlantic arriving in New York where he heads for a bar to meet an old acquaintance and apologises for a past misdemeanour.

The end-line is “The things that matter”.

The NoG 4.9.2(i) prohibited “bravado in association with drinking”. No drinking is seen in the advertisement until the final frame so the bravado displayed could not be as a result of drinking. Also it was probably felt that the acts depicted were so unrealistic and incapable of emulation.

Under the new Rules this advertisement breaches 11.8.1.(b) “Daring and toughness” which now prohibits advertisements which “link alcohol with daring... etc.”

This advertisement would be **unacceptable** under the new rules.

Guinness:

“Noitulove” – first broadcast in October 2005 (after the Code changes)

This advertisement begins with men savouring a pint of Guinness and then regresses through time to show them as prehistoric reptiles drinking and detesting stagnant water.

The end-line is “Good things come to those who wait”.

Under the new Rules there is a potential problem with the use of animals “which likely to inspire strong affection in the young” [(11.8.2.(a)(1)(h)].

However, it would be difficult to argue that the animals depicted in this advertisement would breach this Rule and therefore this advertisement is **acceptable** under the new Rules.

* * * *

Coors:

“Thumb Wars” – first broadcast in August 2004 (before the Code changes)

Two men in bar play “thumb wars”.

To be prohibited under the NoG the aggression depicted here would have had to be “in association with drinking” but since no drinking is seen no objection could be raised by BACC.

Under the new Rules 11.8.1(b) aggression is prohibited if it is linked with alcohol.

This advertisement breaches 11.8.1(b) “aggression” and therefore it would now be **unacceptable** under the new 2005 rules.

Coors:

“Wolf chase” – first broadcast in July 2006 (after the Code changes)

The advertisement opens on a man awaking on a snow covered mountain to discover a wolf making off with his baggage. He chases the wolf to a ridge overlooking a beautiful vista and decides this will be where he will build his Coors brewery.

It could be argued that the wolf may inspire “strong affection” in the young [11.8.2(a)(1)(h)] but Uisdean Maclean thinks unlikely and so this advertisement is **acceptable** under the new rules.

* * * *

Fosters:

“Bungee jump” – first broadcast in March 2004 (before the Code changes)

A bungee jump goes wrong and a man’s head is bitten of by a crocodile.

Breach of 11.8.1(b) of the new Rules “daring /toughness”.

It would now be **unacceptable** under the new 2005 rules.

Fosters:

“Cloud dance” – first broadcast in April 2006 (after the Code changes)

Two men follow the shade of a cloud across a beach in order to keep their beer cool.

Drinking beer in the proximity of water could be a danger [11.8.1(h)]. However, to object to this treatment would effectively bar any beach scene in alcohol advertising. This would be excessively harsh.

This advertisement is **acceptable** under the new rules.

* * * *

Stella Artois:

“Good Samaritan” – first broadcast in February 2004 (before the Code changes)

A man is seen progressing through rural France performing good deeds but when he arrives at an inn at the end of the day his expectations are dashed when Stella is regarded as too expensive a reward for his deeds. The next day he is obliged to repair the inn roof as the price of his drink.

End-line is “Stella Artois: reassuringly expensive.”

NoG 4.9.2(f) would have prohibited the Samaritan from drinking the beer and immediately scaling the roof to effect the repairs. However it is clear that the man returns at dawn the next day, so the NoG was not breached.

Similarly, under the new Rules 11.8.1(h) the time lapse depicted after drinking means that this advertisement is **acceptable** under the new rules.

Stella Artois:

“Priests on Ice” – first broadcast in February 2006 (after the Code changes)

A group of ice-skating priests persuade a novice to go and buy some beer with the money collected from a “whip-round”. Upon his return he falls through the ice losing

the case of beer. He is then prevailed upon to dive back into the water to retrieve the beer and reluctantly does this.

This advertisement could be seen to be a breach of 11.8.1(b) “daring etc” because the novice priest dives back into icy water to retrieve the lost beer. However the novice is leant upon to try and retrieve the beer rather than electing to do this himself therefore it is not “daring” on his part.

There are also potential health and safety issues but it is unlikely that this advertisement would encourage emulation.

The advertisement is **acceptable** under the new rules.

WINE

Jacobs Creek:

“Proudly poured at Wimbledon” – first broadcast in June 2004 (before the Code changes)

Three bottles of wine in a fridge are cast in the role of spectators at Wimbledon with sound effects in the background highlighting that Jacobs Creek is the official wine supplier to the tournament.

This advertisement is **acceptable** under new rules.

This example touches on the problem of using sports personalities in alcohol advertising. They will be generally prohibited from being associated with alcohol under Rule 11.8.2(a)(1)(a) so were the bottles identified as Tim Henman and Roger Federer then the advertisement would be prohibited.

Jacobs Creek:

“Our place” – broadcast in April 2006 (after the Code changes)

This advertisement describes the area in which Jacobs Creek is made.

This advertisement is **acceptable** under the new rules.

SPIRITS

Bacardi:

“Podium power” - broadcast in 2004, (before the Code changes); (first in July 2002)

This advertisement features a young woman being raised on a revolving platform surrounded by a partying crowd and, with outstretched arms, pouring Bacardi over eager recipients holding glasses aloft.

There is accompanying loud music and a frenetic party atmosphere.

Under the NoG, an advertisement could be rejected if it were proved to have “... a particular appeal to under 18’s “. This advertisement was considered to appeal to a wider audience rather than particularly under 18s. Neither were there existing NoG relating to handling and serving of alcohol.

Under the new Rules this advertisement breaches 11.8.2(a)(1) “Youth appeal” & 11.8.1(g)(3) “handling and serving of drink”.

This advertisement would be **unacceptable** under the new 2005 rules.

Bacardi:

“Fun before fashion” – first broadcast in October 2005 (after the Code changes)

Features young people in outlandish garb making their way through town to what is revealed as a fancy dress party.

The end-line is “The way it should B”.

This advertisement signals a tonal change in advertising; none of the reckless/youthful abandon that characterised previous advertising is now featured. This is an altogether more sedate treatment which is unlikely to “appeal strongly” to under 18’s or reflect youth culture.

The advertisement is **acceptable** under the new rules.

* * * *

Baileys:

“Float” – first broadcast in March 2004 (before the Code changes)

This advertisement features young people floating weightless in a bar catching in their mouths globules of Baileys floating in the air accompanied by funky music.

The end-line is “Infectious”.

Under the NoG this treatment was not considered to appeal particularly to the under 18’s and neither were there specific guidance relating to the handling and serving of drink.

It is also debatable whether the actors appear over 25.

Under the new Rules this advertisement breaches 11.8.2(a)(1) “youth appeal” and 11.8.1(g)(3) “handling and serving” (cf Bacardi above).

The advertisement would now be **unacceptable** under the new Rules.

Baileys:

“Low Key Christmas” – first broadcast in November 2005 (after the Code changes)

This advertisement features a couple in an apartment festooned in crystal Christmas decorations. While adding an ice cube shaped like a Christmas tree to a glass the man muses that he thought they were having a low-key Christmas and she agrees adding the thought that maybe they should have a bigger tree.

There could be health and safety issues with the woman on the ladder were she drinking (but she is not).

This advertisement is **acceptable** under the new rules.

* * * *

Gordons:

“Strip chess” – broadcast in 2004 (first April 2002) (before the Code changes)

Based loosely on the chess scene in the Thomas Crown affair this advertisement is set in a chalet in the Artic wastelands using chess pieces made out of ice. However this is “strip chess”. Just in time, the man manages to check-mate the woman thus ending the game.

This advertisement was not considered to breach NoG 4.9.2(g) “drink contributing to sexual success, etc” as the drink only played a peripheral role. This illustrates a loophole and the difficulty with some of the subjective judgements that were required.

Under the new Rules this loophole has been closed: the Rules now prohibit “linking alcohol with sexual activity”.

This advertisement breaches 11.8.1(c) and 11.8.2(e): “sexual activity or implying that alcohol can enhance attractiveness”

The advertisement would now be **unacceptable** under the new 2005 rules.

Gordons:

“Geisha bubbles” – first broadcast in October 2006 (after the Code changes)

This advertisement features bubbles containing geisha girls floating about in a glass. The end-line is “the G in G&T”.

This advertisement is **acceptable** under the new 2005 rules.

RTD'S (READY TO DRINK)

WKD:

“Locker room” – broadcast in 2004 (before the Code changes)

Set in a locker room team mates indulge in juvenile banter against one member who is eventually tricked into adopting a “tea-pot” position much to the amusement and derision of his team-mates.

The end-line is “Have you got a WKD side”?

The NoG prevented advertising “likely to be of particular appeal to the under 18s” This advertisement was judged to have a wider appeal. No specific NoG on juvenile/immature behaviour existed.

There is also the issue of offence to the Gay/Lesbian community though this would be a breach of the general Code rather than specifically the alcohol Code.

Under the new Rules this advertisement would be **unacceptable**. It breaches principally 11.8.2(a)(1) (b) “themes associated with youth culture”, “immature behaviour”, etc.

WKD:

“Dog walker” – first broadcast in August 2006 (after the Code changes)

This advertisement features a man who is watching a football game on TV being harassed by his dog to take him for a walk. The dog is then seen apparently being walked but in reality it is on a treadmill while the man continues to watch the match.

This advertisement is **acceptable** under new rules.

This is much less of an immature/juvenile treatment that tended to characterise previous advertising for this product before the Rule changes.

* * * *

Bacardi Breezer :

“Flashbacks” – broadcast in 2004 (before the Code changes)

A young man is introducing his new girlfriend to his parents over tea in posh surroundings. The mother has been briefed by the son on his girlfriend’s interests but these are ambiguous descriptions revealing by flashbacks that rather than being a paragon of virtue she is in fact a bit of a hell-raiser.

This advertisement was not considered to appeal “particularly to the young”. This loophole re “particular appeal” is now closed in the new Rules.

Also the new Rules have been strengthened regarding the linking of alcohol with sexual activity, with the serving and handling of drink, linking alcohol with juvenile behaviour”, and youth appeal.

This advertisement breaches many of the new rules, notably 11.8.1(c),”link with sexual activity”; 11.8.1(g)(3) “handling and serving of drink”; 11.8.2(a)(1) “youth appeal” & 11.8.2(e) “sexual activity “

It would now be **unacceptable** under the new 2005 rules.

Bacardi Breezer:

No post rule-change examples for 2006 have been sourced, and it appears Barcardi Breezer did not advertise during that year.

* * * *

Red Square:

“Beach” – broadcast in 2004 (before the Code changes)

This advertisement features a beach party in Kavos at 02.48 am which is being watched remotely over the internet by clubbers in Brighton where the time is 00.48. A young man in the club is enraptured by a young lady on the beach.

Whether or not proof had been supplied that the actors in this advertisement were over the age of 25 it appears that they were judged to be so. In addition the advertisement was not considered to appeal “particularly to the young. While these judgements might be generous, it illustrates the difficult subjective decisions that the BACC were sometimes called upon to make on these issues.

This advertisement breaches Rules11.8.2(a)(1)&(2)”strong appeal and youth culture “& “ages “.

The advertisement would now be **unacceptable** under the new 2005 rules.

Red Square:

No post rule change example appears to have been broadcast in 2006.

CIDER

Magners:

“Love is in the air” – first broadcast in March 2004 (before the Code changes)

Features natural Spring scenes and people in a pub with the backing track “Love is in the air”. A man catches the eye of a young woman and the voice-over says “What is it about Spring that seems to awaken our interest in nature?”

This advertisement was not considered to breach the NoG 4.9.2(g) since the drink was not seen to contribute towards sexual success or enhance sexual attractiveness.

Under the new Rules this advertisement breaches 11.8.1(c) and would be **unacceptable** in that it goes beyond “mild flirtation”. That decision is, however, laden with subjectivity.

Magners:

“Apples gathering” – first broadcast in September 2006 (after the Code changes)

Features workers gathering apples from the field and later enjoying a drink in the pub.

There is a potential problem with the sound track **“In the night time, it’s the right time”** which might imply excessive consumption: Rule 11.8.1(g)(1).

However UM regards this advertisement as **acceptable** under the new rules.

* * * *

Strongbow:

“Blue whale’s tongue” – first broadcast in June 2004 (before the Code changes)

A young man in a bar wishes he were a Blue whales’ tongue which has giant taste-buds and would love the taste of Strongbow. They are both transported to this imaginary setting to experience the wish and then back to the bar.

There could be a potential breach of 11.8.1(b) “daring” but the treatment is so far fetched it is acceptable.

This advertisement was not considered to breach NoG for the same reasons as it was not found to breach the new Rules.

There is also the issue of the arrows at the end shot maybe triggering a breach of 11.8.1(b) “aggression – weapons”. Again the advertisement was not considered in breach of the new Rules.

The advertisement is **acceptable** under the new Rules.

Strongbow:

“C-list” – first broadcast in March 2006 (after the Code changes)

A spoof advertisement for a celebrity magazine: a copy of C-List magazine lies on a table while the voice over says that the issue reveals the secrets of the stars. Two arrows thud into the magazine thus effectively trashing the “advertisement”.

There is again the issue of the “weapons” point above. The same was conclusion reached; no breach of Rules.

The advertisement is **acceptable** under new Rules.

* * * *

Section 8: Analysis of 150 Alcohol Advertisements against new Code rules - Uisdean Maclean's personal view

Ads broadcast pre-1 October 2005				
Category	Total	Likely to pass new Code	Questionable	
Beers	44	33	11	
Wine	5	5	0	
Spirits	14	7	7	
Rtd's	9	2	7	
Cider	5	2	3	
Total	77	49	28	
Ads broadcast post-1 October 2005				
Category	Total	Likely to pass new Code	Questionable	Explanation
Beers	23	23	0	Of the 8 questionable advertisements: - 2 would fail - 2 are questionable under general advertising rules
Wine	8	8	0	
Spirits	20	16	4	
Rtd's	5	3	2	
Cider	17	15	2	
Total	73	65	8	

Summary of data

- 77 advertisements before Rule changes: 49 **likely to pass** under new Rules and 28 **questionable**.
- 73 advertisements after Rule changes: 65 **likely to pass** under new Rules and 8 **questionable**.

Conclusions of analysis of 150 advertisements

There was a significant reduction in the number of advertisements found questionable after the Rule changes.

Uisdean Maclean has applied the new Rules very rigorously (and possibly more harshly than ASA/CAP would seek to do) and this may explain why he found that there may have been eight questionable advertisements transmitted after the Rule changes. In most cases, however, he found that the infringements were not serious, and none have been investigated by the ASA.

In detail, his findings were that:

- Two advertisements could be deemed offensive and would be questionable under the generality of the Code rather than specifically under the Alcohol rules;
- Two further advertisements featured promotions which might appeal strongly to youth, one of which, in his opinion, would definitely fail under the new Rules;
- Another two advertisements featured youthful themes one of which was questionable and the other would definitely fail;
- Of the remaining two advertisements, one was questionable in that it tended to imply social success linked to alcohol and the other questionable in that it implied dependence on alcohol.

Therefore he found that of the eight advertisements he found questionable only two, in his opinion, would have definitely failed.

Thus one could extrapolate a compliance rate of over 97%.

The fact that he found eight advertisements questionable may be due to uncertainty between ASA/CAP and BACC as to the application and interpretation of the new Rules.

As more experience of the application of the new Rules is gained by both parties and the industry it can be expected that the number of questionable transmitted advertisements will decrease.

The essence of a flexible Code is that it still allows flexibility and scope for creativity. 100% compliance rates are therefore not achievable nor desirable, in that creativity could be stifled.

Section 9: Conclusions

The challenge of this Report was to demonstrate that alcohol advertising can deliver a sea change in lifestyle advertising to meet the Government concerns about anti-social behaviour and binge drinking. This it has done.

It has been an industry view that alcohol advertising is a much less potent marketing instrument than promotional or pricing activity, when presenting the consumer with a choice of drinks. However, it is an important tool in raising brand awareness as part of an overall communications strategy in which word of mouth is particularly important.

Alcohol advertising in all media accounted for around £220 million in 2005 (of which 55% - £121m was on TV), covering around £27 billion of retail sales⁵. Together with non-broadcast expenditure, this represents less than £1 billion, ie 4% of total consumption.

Advertising expenditure has been falling over the last ten years, though consumption has increased. The market has got more competitive due to the consolidation of the retail sector and the growth in private label products such as wines which, broadly speaking, do not invest in advertising. The spirits market has also seen consumption rise in recent years, but the trend for advertising expenditure per litre has been, in contrast, one of decline. And advertising expenditure of beer has fallen steeply over the last decade, whereas consumption has remained fairly static, only declining in the two years to 2005.

As demonstrated, there are very few consumer complaints about alcohol advertising, as consumers tend to be entertained by drinks advertising rather than directly influenced by it. Alcohol advertisements have not figured in the top ten most complained-about advertisements published by the ASA in its Annual Report. This shows a low level of public concern. Even the NGOs have not made many complaints.

Advertisers are adhering to the new stricter rules quite assiduously and the ASA is ruling against offenders. The co-regulatory system is also actively monitoring alcohol advertisements and launching investigations if necessary.

In other words, the regulatory system is tough, and it works.

Therefore, in presenting this Report, the Advertising Association, ISBA and IPA firmly believe it would be disproportionate, unnecessary and hugely damaging to broadcasters and legitimate business to introduce any further changes to the existing content and scheduling restrictions, which ensure that alcohol advertisements are not placed in or around programmes watched by a high proportion of under 18's.

⁵ Nielsen Media Research – Advertising Statistics Yearbook 2006

Schedule one

Contrast of Current BCAP Code Rules with Old ITC Code

Alcohol and popularity/confidence

BCAP (Current) Television Advertising Standards Code

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.

ITC Advertising Standards Code (2002)

11.8.1

must not imply that drinking is essential to social success or acceptance or that refusal is a sign of weakness. Nor may they imply that the success of a social occasion depends on alcohol.

Alcohol and daring/aggression

BCAP (Current) Television Advertising Standards Code

11.8.1(b)

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

ITC Advertising Standards Code (2002)

(b) must not link drinking with daring, toughness, bravado, aggression or anti-social behaviour.

Alcohol and sexual success

BCAP (Current) Television Advertising Standards Code

11.8.1(c)

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

ITC Advertising Standards Code (2002)

(c) must not suggest that alcohol can contribute to sexual success or that drinking can enhance sexual attractiveness.

Alcohol and social success

BCAP (Current) Television Advertising Standards Code

11.8.1 (d)

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

ITC Advertising Standards Code (2002)

(d) must not suggest that regular solitary drinking is acceptable or that drinking can overcome boredom, loneliness or other problems.

Alcohol as means to improve performance

BCAP (Current) Television Advertising Standards Code

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.

ITC Advertising Standards Code (2002)

(e) must not suggest that alcohol has therapeutic qualities nor offer it as a stimulant, sedative or tranquillizer. There must be no suggestion that physical or other performance may be improved by alcohol.

Alcoholic strength

BCAP (Current) Television Advertising Standards Code

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).

ITC Advertising Standards Code (2002)

(f) 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).

Immoderate drinking

BCAP (Current) Television Advertising Standards Code

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.

ITC Advertising Standards Code (2002)

(g) must not show, imply or encourage immoderate drinking. This applies both to the amount of drink and to the way drinking is portrayed. References to buying rounds of drinks are not acceptable. (See 11.8.3 for exceptions for low alcohol drinks)

Note to 11.8.1(g):

Scenes showing drinks being consumed in one swallow, or a few large swallows, are unlikely to be acceptable.

Alcohol and the use of machinery

BCAP (Current) Television Advertising Standards Code

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.

ITC Advertising Standards Code (2002)

(h) 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.

Alcohol and young people

BCAP (Current) Television Advertising Standards Code

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.

ITC Advertising Standards Code (2002)

(a) must not appeal particularly to people under 18. Specifically:

(1) anyone associated with drinking must be, and must look, at least 25 years old.

(See 11.8.3 for exceptions for low alcohol drinks)

(2) advertisements must not include personalities whose example people under 18 are likely to follow or who have a particular appeal to them.

Schedule two

Advertising Association Members

The Advertising Association is a federation of 31 trade bodies and organisations representing the advertising and promotional marketing industries including advertisers, agencies, media and support services.

Advertisers

[ISBA](#)

[Proprietary Association of Great Britain \(PAGB\)](#)

Agencies

[Institute of Practitioners in Advertising \(IPA\)](#)

Media

Television:

[BSkyB](#)

[Channel Four Television](#)

[Five](#)

[GMTV](#)

[ITV plc](#)

[Satellite and Cable Broadcasters' Group \(SCBG\)](#)

[Virgin Media Television](#)

Print:

[Newspaper Publishers Association \(NPA\)](#)

[Newspaper Society \(NS\)](#)

[Periodical Publishers Association \(PPA\)](#)

[Scottish Newspaper Publishers Association \(SNPA\)](#)

[Yell \(Yellow Pages\)](#)

Posters:

[Outdoor Advertising Association of Great Britain \(OAA\)](#)

Radio:

[RadioCentre](#)

Cinema:

[Cinema Advertising Association \(CAA\)](#)

Direct Marketing:

Direct Marketing Association (UK) Ltd (DMA)
Data Publishers Association (DPA)
Direct Selling Association (DSA)
Mail Order Traders' Association (MOTA)
Royal Mail

Internet:

Internet Advertising Bureau (UK) (IAB)

Other organisations

Marketing Communication Consultants Association (MCCA)
Communication Advertising and Marketing Education Foundation
Institute of Sales Promotion
International Advertising Association - UK Chapter
Marketing Society
MRS (Market Research Society)
Point-of-Purchase Advertising International