

Compliance Report

Alcoholic Drinks Advertisements Compliance Survey 2008

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1 Summary

The ASA is the UK self-regulatory body for maintaining standards in advertising. It does this by administering the mandatory advertising Codes and by actively monitoring compliance.

The Codes contain special rules for alcohol, which sit on top of the general provisions that all ads must not mislead, harm or offend. The rules for alcohol advertisements were strengthened significantly in 2005 and are actively promoted and enforced.

The ASA has undertaken this survey to determine the compliance rate of alcohol ads¹ with the British Code of Advertising, Sales Promotion and Direct Marketing (the CAP Code) and with the BCAP TV and Radio Advertising Standards Codes (the BCAP Codes).

The Compliance team monitored and assessed the content of alcohol ads that appeared across all media during 1 - 24 December 2008. The pre-Christmas sample period mirrored that of the December 2007 survey on alcohol ads, which was published in July 2008.

Of the 456 ads assessed, five breached the CAP or BCAP Codes, a compliance rate of 99%. The result is an improvement on the two previous years for which rates of 97% (2007) and 94% (2006) were recorded. The data demonstrates that compliance with the CAP and BCAP Codes remains high and, year-on-year, has improved.

Of the 456 ads assessed, 394 appeared in non-broadcast media (national press, magazines, online and posters) and 62 appeared in broadcast media (TV and radio). Three of the 394 non-broadcast ads (1%) breached the CAP Code and two of the 52 television ads (4%) breached the BCAP TV Code. None of the ten radio ads in the sample breached the BCAP Radio Code.

The number of online ads in the survey almost doubled, which indicates there has been significant growth of alcoholic drinks ads in that medium. Despite that growth, no breaches were recorded against online ads subject to the CAP Code, indicating that where the self-regulatory rules apply, advertisers are adhering to them.

None of the ads surveyed breached the special rules designed to prevent strong or particular appeal of alcohol ads to under 18s.

Three of the 24 cider ads breached a Code, which was a potential cause for concern. However, two of the three breaches were against ads in one campaign and of the same technical nature by suggesting the product was a low energy one (in contravention of Regulation (EC) No 1924/2006 on nutrition and health claims).

¹ 'Ads' is used informally to cover types of marketing communications covered by the BCAP Codes and the CAP Code.

When a breach of the CAP Code or BCAP Code was identified, the Compliance team informed the advertiser of the requirement to comply in full with the relevant Code and, for non-broadcast ads, advised the advertiser to consult the CAP Copy Advice team to obtain pre-publication advice for future campaigns.

The Compliance team will continue to proactively monitor alcohol ads and work with advertisers, media owners and the broadcast advertising pre-clearance bodies - ClearCast (TV) and the Radio Advertising Clearance Centre (RACC) - to ensure compliance with the CAP Code or BCAP Codes remains high.

2 Introduction

2.1 Background

The Advertising Standards Authority (ASA) is the independent body that administers the CAP and BCAP Codes, which set standards for the content, scheduling and placement of non-broadcast and broadcast ads. The ASA is responsible for ensuring that the Codes are applied in the public interest. It achieves that by investigating complaints about ads, proactively identifying and resolving breaches of the Codes, using research to ensure its decisions take account of generally accepted standards and by promoting and enforcing high standards in ads generally.

The Committee of Advertising Practice (CAP) is the body that created and revises the CAP Code. Its members include trade and professional bodies representing advertisers, agencies, media owners and the sales promotion and direct marketing industries. CAP provides a pre-publication copy advice service and co-ordinates the activities of its members to achieve the highest degree of compliance with the CAP Code. CAP's Broadcast Committee (BCAP) is contracted by the communications industry regulator, Ofcom, to write and promote compliance with the Codes that govern TV and radio ads. BCAP comprises major broadcasters licensed by Ofcom and trade bodies representing, advertisers, agencies and satellite and cable broadcasters.

The Compliance team works to ensure that ads comply with the CAP and BCAP Codes and with ASA adjudications. The team follows up ASA adjudications, monitors both broadcast and non-broadcast ads and takes immediate action to ensure ads that breach the Codes are removed from the media. One of the team's objectives is to help create a level-playing field for marketers in each sector and it ensures that by communicating decisions that have sector-wide ramifications. The Compliance team conducts surveys to assess compliance rates for ads in particular industries, sectors or media. The surveys help to identify marketing trends and to anticipate subjects of concern that might need to be addressed by the ASA, in its interpretation of the Codes, or CAP or BCAP, in their setting of standards in the Codes.

The Government published its Alcohol Harm Reduction Strategy in March 2004. As one element of the package of proposals, the Strategy recommended that Ofcom should oversee a review of the rules for alcohol advertising on TV. The decision to review the rules came from a widespread concern about drinking behaviour among teenagers and young adults, including excessive drinking, binge drinking and anti-social behaviour associated with drinking. As a result, both BCAP and CAP drew up tougher rules on alcohol ads to ensure that those published after 1 October 2005 could not appeal particularly (CAP Code and BCAP Radio Code) or strongly (BCAP TV Code) to people under 18 years of age. As before, ads could not suggest drinking alcohol can result in sexual success or popularity, suggest alcohol is the reason for the success of a relationship or social event or encourage people to act in a daring or unsafe way. But the new strengthened rules also prevented alcohol ads

from being associated with or reflecting youth culture by using music, language or animation or showing people behaving in an adolescent or juvenile way.

Regulation EC No 1924/2006 on nutrition and health claims made on foods (the NHCR) came into force on 1 July 2007. The NHCR is the first piece of specific legislation to deal with nutrition and health claims made on foods and seeks to protect consumers from misleading or false nutrition and health claims. Under the NHCR, the only permitted nutrition claims in alcoholic drink ads are “low alcohol”, “reduced alcohol” or “reduced energy”, or claims likely to have the same meaning for the audience.

2.3 CAP and BCAP Code Rules

The purpose of the Codes is to maintain, in the best and most flexible way possible, the integrity of marketing communications in the interests of both the consumer and the industry. All ads should be legal, decent, honest and truthful. They should be prepared with a sense of responsibility to consumers and society and be in line with the accepted principles of fair competition.

The BCAP Television Codes contain the rules that govern ads on television channels licensed by Ofcom; the BCAP Radio Code contains the rules that govern ads on radio stations licensed by Ofcom and the CAP Code contains the rules that govern ads in non-broadcast media.

The CAP Code and the BCAP Codes each contain restrictions on the advertising of alcohol. Appendices 1, 2 and 3 set out the alcohol clauses for each Code.

2.4 Survey Objectives

The purpose of the survey is to:

- Assess compliance rates for alcoholic drinks ads in the national press, consumer magazines, online, posters, TV and radio;
- Identify breaches of the CAP and BCAP Codes;
- Contact advertisers responsible for ads that seemed to break a Code and obtain an assurance that ads would comply fully with the relevant Code in future;
- Act as a deterrent to bad practice and an encouragement to good practice.

3 Methodology

3.1 Sample Method

The Compliance team used Billetts Media Monitoring, an online provider of ad monitoring in the UK, to identify alcoholic drinks ads for assessment. The sampling period ran from 1 December 2008 to 24 December 2008, a key month for advertising alcoholic drinks, and the media that were examined included national press, magazines, posters, online, TV and radio. Since it was not possible to collect an accurate sample of cinema ads because creative is sometimes withheld from the media monitoring service for confidentiality reasons, cinema ads were not included in the survey.

The Compliance team decided to examine the content of alcoholic drinks ads but not their scheduling. ASA complaints and investigations data suggests the scheduling of alcoholic drinks ads is unproblematic at the present time. The overwhelming majority of complaints about alcoholic drinks ads – some of which have been upheld by the ASA Council - concern their content.

3.2 Determining Code Breaches

The Compliance team recognised that subjective interpretation is sometimes required when considering whether alcoholic drink ads might breach a Code clause. With that in mind, we first identified those ads that might breach a Code clause. We then presented those ads to a panel of CAP Executives and Managers who are experienced in interpreting the relevant Code clauses. Only if all members of the panel agreed, did we record an ad under review as in breach of the relevant Code.

If agreement could not be reached by the Executive panel, we recorded ads as being questionable. We presented all questionable ads to the General Media Panel (GMP), a panel of industry experts that, as part of its function, guides the Executive on CAP and BCAP Code interpretation. We asked the GMP to discuss each of the questionable ads and decide whether in its opinion a Code breach had occurred. The GMP decided that, of the two questionable ads presented to them, one was likely to breach the CAP Code.

4 Findings

4.1 Compliance Rate

The survey sought to establish the proportion of alcohol ads appearing between 1 December 2008 and 24 December 2008 that complied with the CAP and BCAP Codes.

The Compliance team considered 456 ads in total, of which five (1%) breached a Code, a compliance rate of 99%. Of the five ads identified by the Compliance team as in breach of a Code, four were subject to complaint and investigated by the ASA. The ASA upheld those complaints and the ads were found to breach the CAP or BCAP TV Code.

4.2 Compliance Rate by Media Type

Media	No. of ads	No. of breaches	Compliance rate of media
Press	301	2	99%
Outdoor	12	1	92%
Online	81	0	100%
TV	52	2	96%
Radio	10	0	100%

Online and radio ads had the highest compliance rates; we did not identify any breaches although we acknowledge that the sample size for radio was small. The compliance rate of press ads was 99%, and given that over 65% of the scrutinised ads fell into that media group, this is particularly encouraging. The compliance rate of TV ads did not fare quite as well, but the two ads identified were by the same advertiser (though different campaigns). Although the compliance rate of 92% for outdoor ads was the lowest, the sample was again too small to draw meaningful conclusions.

4.3 Compliance Rate by Product Category

Product Category	No. of ads per product category	No. of breaches per product category	Compliance rate of product category
Alcopops	7	0	100%
Beer and Lager	24	0	100%
Bitters and Ales	12	1	92%
Brandy	7	0	100%
Champagne	24	0	100%
Cider	24	3	87%
Gin	18	0	100%
Liqueur	25	0	100%

Port	3	0	100%
Rum	21	0	100%
Sherry	1	0	100%
Spirits	13	0	100%
Stouts	17	0	100%
Vermouths	0	0	100%
Vodka	33	1	97%
Whisky and Bourbon	93	0	100%
Wine	134	0	100%
Total	456	5	99%

The ads that breached the CAP or a BCAP Code fell into one of three product categories of alcoholic drinks, as described by Billetts Media Monitoring: “Bitters and Ales”, “Cider” or “Vodka”. Most breaches were found in ads for cider; the three breaches gave that category a compliance rate of 87%. But the three ads in question were by the same advertiser and two were from the same campaign and found to be in breach for the same technical reason: the ads suggested the product, which had a calorific content in excess of 20kcal/100ml, was a low energy one (in contravention of Regulation (EC) No 1924/2006 on nutrition and health claims)

As the table shows, the number of breaches in each category was not proportional to the number of ads placed. No breaches were identified in the two categories with the most ads: wine (134 ads) and whisky and bourbon (93 ads).

4.4 Breaches Identified by the Compliance team

4.4.1 Press Breach

- One ad for a bitter described a night out at the pub with friends. Because it alluded to buying repeat rounds of drinks, the ad breached clause 56.2 of the CAP Code by suggesting and encouraging irresponsible consumption of alcohol.

4.5 Breaches Investigated by the ASA

The ASA investigated complaints (all of which can be read in full in Appendix 5) about four ads that the Compliance team identified as breaches from the survey.

4.5.1 Press Breach

- A national press ad by Moët Hennessy UK Ltd, for Belvedere Vodka, showed a man sitting on a couch with a woman on either side of him; both women were looking at his face. One of the women had her arm around his neck.

The ASA considered that the ad implied both women were sexually attracted to the man and suggested alcohol had enhanced the man's attractiveness. The ad breached clause 56.9 of the CAP Code for linking alcohol with sexual success.

4.5.2 Outdoor Breach

- A poster by Wm Magners Ltd, for Magners Light cider, stated "Only 92 calories per bottle. Still 4.5%". A bottle of Magners Light was shown floating above the text "Light by nature". The ASA considered that the inclusion of the word "Only" alongside a description of the calorie content implied the drink was low in energy. Under Regulation (EC) No 1924/2006 on nutrition and health claims, a low energy claim cannot be made for a liquid containing more than 20 kcal/100 ml. Because Magners contained 26.5 kcal/100 ml, but the ad implied it was low in energy, the ASA concluded the ad was misleading and breached clause 4.1 (Legality) and 7.1 (Truthfulness) of the CAP Code.

4.5.3 TV Breaches

- A TV ad by Wm Magners Ltd, for Magners Light cider, showed a woman blowing on a dandelion and dispersing the seeds that made Magners Light cider bottles float off into the air. The voiceover stated "... only 92 calories per bottle but still only 4.5% ... Magners Lights, Light by Nature ...". The TV ad breached clause 1.1 (Legality) and 5.1.1 (Truthfulness) of the BCAP TV Code.
- A TV ad by Wm Magners Ltd, for Magners cider, showed a man walking into a pub and a pint of Magners being poured. The voiceover stated "Magners Draught Cider. It's the perfect ice breaker. Making sure the conversation flows, in the time it takes to create a cool, crisp pint". At the end of the ad, the man picked up the pint and turned to talk to a group of friends. The ASA concluded that the ad breached clauses 11.8.1(a) and 11.8.1(e) of the BCAP Code by suggesting alcohol would boost confidence and lead to the success of a social occasion.

5 Conclusions

Of the alcohol ads picked up in the survey sample between 1 December and 24 December 2008, 1% breached a Code, a compliance rate of 99%. That is an encouraging result and suggests the industry is acting responsibly within the self-regulatory system. The result is an improvement on the compliance rate of 97% from the 2007 survey.

On examining the differences between media, non-broadcast ads (press, outdoor, online) recorded an average compliance rate of 99% while the TV rate was 96%. Radio compliance rate was an impressive 100% although it should be noted that the radio sample was small. Comparing figures with their equivalents from the 2007 survey, the compliance rate of non-broadcast ads improved by 1% from 98% but the compliance rate of broadcast ads dropped 1% from 97%. Although the compliance rate of radio ads last year was only 83%, no breaches were identified in this survey.

We noted the number of ads assessed in most media remained similar to the 2007 survey. The notable exception was online ads, the number of which doubled in the 2008 survey sample. That statistic is indicative of the strong growth of online advertising in most markets. Although no breaches were identified in any of the online ads included in the sample, we shall continue to monitor online alcohol ads closely.

As in the previous survey, we identified no breaches in the alcopops category, a type of drink traditionally linked with teenagers. Also, no ads were identified as having breached a Code because of their likely appeal to those under the age of 18 whereas two ads were unacceptable for that reason in the 2007 survey.

The Compliance team contacted the advertisers that had breached the CAP Code and sought an assurance that they would not publish the same or similar ads again.

The team will continue to monitor alcohol ads across all media to ensure a continuing high level of compliance with the Codes.

6 Pre-publication Advice

The self-regulatory system puts great emphasis on preventing breaches. CAP supports the industry's commitment and boosts compliance by providing pre-publication guidance to practitioners. CAP CopyAdvice is an essential service for advertisers, agencies and media owners who want to check how their prospective non-broadcast ads or multi-media concepts measure up against the CAP Code. We urge advertisers and agencies to make CopyAdvice an early part of their creative process to avoid potentially costly mistakes later and get campaigns right the first time.

For bespoke advice by phone or email, practitioners can contact the team of specialist advisors who dealt with more than 8,000 enquiries in 2008. Call the team on 020 7492 2100 or send concepts or artwork to advice@cap.org.uk.

For round-the-clock, convenient access to all the available help and guidance on the advertising Code under one roof, practitioners can visit the dedicated website – www.copyadvice.org.uk. Registered users can view features such as an extensive searchable database of advice that is updated following landmark ASA decisions, Help Notes, case studies, frequently asked questions and helpful checklists.

CAP also encourages practitioners to sign up to its regular e-newsletters, *Insight and Update@CAP*, as they provide a convenient and timely reminder of the need-to-know and developments affecting advertising regulation. Sign up to both of these newsletters at www.copyadvice.org.uk.

For TV or radio pre-clearance advice, advertisers are urged to consult Clearcast (www.clearcast.co.uk) for TV ads or the RACC (www.racc.co.uk) for radio ads. Ensuring that broadcast ads comply with the BCAP TV Codes or the BCAP Radio Code is a licence requirement of TV and radio channels licensed by Ofcom.

Appendix 1

CAP Code - Alcohol Section

- 56.1** For the purposes of the Code, alcoholic drinks are those that exceed 1.2% alcohol by volume.
- 56.2** Marketing communications must contain nothing that is likely to lead people to adopt styles of drinking that are unwise. Alcohol must not be handled or served irresponsibly. The consumption of alcohol may be portrayed as sociable and thirst-quenching. Marketing communications may be humorous but must nevertheless conform with the intention of the rules.
- 56.3** **a)** As is implied by clause 2.8, the spirit as well as the letter of the rules in this section apply whether or not a product is shown or referred to or seen being consumed.
- b)** The rules are not intended to inhibit advertising on alcohol-related health or safety themes that is responsible and is not likely to promote a brand of alcohol.
- 56.4** Marketing communications should be socially responsible and should neither encourage excessive drinking nor suggest that drinking can overcome boredom, loneliness or other problems. They should not suggest that alcohol might be indispensable. Care should be taken not to exploit the young, the immature or those who are mentally or socially vulnerable.
- 56.5** Marketing communications should not be directed at people under 18 through the selection of media, style of presentation, content or context in which they appear. No medium should be used to advertise alcoholic drinks if more than 25% of its audience is under 18 years of age.
- 56.6** People shown drinking or playing a significant role should neither be nor look under 25 and should not be shown behaving in an adolescent or juvenile way. Younger people may be shown in marketing communications, for example in the context of family celebrations, but should be obviously not drinking.
- 56.7** Marketing communications should not be associated with people under 18 or reflect their culture. They should not feature or portray real or fictitious characters who are likely to appeal particularly to people under 18 in a way that might encourage them to drink.
- 56.8** Marketing communications should not suggest that any alcoholic drink has therapeutic qualities (for example, stimulant or sedative qualities) or can change moods or enhance confidence, mental or physical capabilities or performance, popularity or sporting achievements. They should not link alcoholic drinks to illicit drugs.

- 56.9** Marketing communications must neither link alcohol with seduction, sexual activity or sexual success nor imply that alcohol can enhance attractiveness, masculinity or femininity.
- 56.10** Marketing communications may give factual information about:
- a)** product contents, including comparisons, but must not make any health claims, which include fitness or weight control claims. The only permitted nutrition claims are “low alcohol”, “reduced alcohol” and “reduced energy”.
 - b)** the alcoholic strength of a drink or make factual strength comparisons with other products but must not otherwise suggest that a drink may be preferred because of its high alcohol content or intoxicating effect. Drinks may be presented as preferable because of low or lower strength.
- 56.11** Marketing communications should not suggest that drinking alcohol is a reason for the success of any personal relationship or social event. A brand preference may be promoted as a mark of, for example, the drinker’s good taste and discernment.
- 56.12** Drinking alcohol should not be portrayed as a challenge, especially to the young. Marketing communications should neither show, imply or refer to aggression or unruly, irresponsible or anti-social behaviour nor link alcohol with brave, tough or daring people or behaviour.
- 56.13** Particular care should be taken to ensure that marketing communications for sales promotions requiring multiple purchases do not encourage excessive consumption.
- 56.14** Marketing communications should not depict activities or locations in which drinking alcohol would be unsafe or unwise. In particular, marketing communications should not associate the consumption of alcohol with an occupation that requires concentration to be done safely, for example, operating machinery, driving or activity relating to water or heights. Alcohol should not normally be shown in a work environment.

Low alcohol drinks

- 56.15** Low alcohol drinks are those that contain between 0.5% - 1.2% alcohol by volume. Marketers should ensure that low alcohol drinks are not promoted in a way that encourages their inappropriate consumption and should not depict activities that require complete sobriety.

Appendix 2

BCAP TV Code - Alcohol Section

11.8 Alcoholic Drinks

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

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

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

11.8.1 Rules which apply to all advertising.

11.8.1(a)

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

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

11.8.1(b)

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

11.8.1(c)

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

11.8.1 (d)

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

11.8.1(e)

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

11.8.1 (f)

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

11.8.1 (g)

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

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

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

11.8.1(h)

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

11.8.2 – Additional rules for alcohol advertisements.

11.8.2(a)

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

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

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

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

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

11.8.2(b)

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

11.8.2(c)

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

11.8.2(d)

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

11.8.2(e)

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

11.8.2(f)

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

11.8.3 Low alcohol drinks.

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

The exceptions are:

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

(b) The advertisements need not comply with:

11.8.1(f)

11.8.1 (g)(1) or (2)

Appendix 3

BCAP Radio Code - Alcohol Section

11 Alcoholic Drinks

Central copy clearance is required. Alcoholic drink advertisements must comply with the minimum standards set out here. These Rules also apply to low alcoholic drinks, except where otherwise stated.

These Rules apply principally to advertisements for alcoholic drinks and low alcoholic drinks. However, incidental portrayals of alcohol consumption in advertisements for other products and services must always be carefully considered to ensure that they do not contradict the spirit of these Rules.

11.1 Scheduling of Advertisements for Alcohol

Advertisements for alcoholic drinks must not be broadcast in or around religious programming or programming aimed particularly at those aged below 18 years (see also Rule 11.2, below).

11.2 Protection of Younger Listeners

- a) Alcoholic drink advertising must not be aimed at those aged below 18 years or use treatments likely to be of particular appeal to them;
- b) Advertisements for alcoholic drinks must not include any personality whose example is likely to be followed by those aged below 18 years, or who has a particular appeal to those aged below 18 years;
- c) Advertisements for alcoholic drinks must only use voiceovers of those who are, and sound as if they are, at least 25 years of age;
- d) Advertisements for drinks containing less than 1.2% alcohol by volume must only use voice-overs of those who are, and sound as if they are, at least 18 years of age;
- e) Children's voices must not be heard in advertisements for alcoholic drinks.

11.3 Unacceptable Treatments

- a) Advertisements must not imply that drinking is essential to social success or acceptance, or that refusal is a sign of weakness. Nor must they imply that the successful outcome of a social occasion is dependent on the consumption of alcohol;

- b) Advertisements must neither claim nor suggest that any drink can contribute towards sexual success or that drinking can enhance sexual attractiveness;
- c) Advertisements must not suggest that regular solitary drinking is acceptable or that drinking is a means of resolving personal problems. Nor must they imply that drinking is an essential part of daily routine or can bring about a change in mood;
- d) Advertisements must not suggest or imply that drinking is an essential attribute of gender. References to daring, toughness or bravado in association with drinking are not acceptable;
- e) Alcoholic drinks must not be advertised in a context of aggressive, dangerous, anti-social or irresponsible behaviour;
- f) Advertisements must not foster, depict or imply immoderate or irresponsible drinking or drinking at speed. References to buying rounds of drinks are unacceptable;
- g) Advertisements must not offer alcohol as therapeutic, or as a stimulant, sedative, tranquillizer 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;
- h) Advertisements must not suggest that a drink is preferable because of its higher alcohol content or intoxicating effect and must not place undue emphasis on alcoholic strength.

11.3.1 Health, Diet and Nutritional Claims

(See the BCAP Help Note on Health, Diet and Nutritional Claims in Radio Alcohol Advertisements)

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

11.4 Safety

- a) Nothing may link drinking with driving or with the use of potentially dangerous machinery, except in drunk driving messages (see also Section 3, Rule 18 Motor Vehicles);
- b) Nothing may link alcohol with a work or other unsuitable environment.

11.5 Sales Promotions

Advertisements for alcoholic drinks must not publicise sales promotions (including competitions) that appear to encourage excessive consumption.

11.6 Cut-price Offers

References to 'cut-price/happy hour drinks', 'buy two and get one free', 'money-off coupons' and the like must be considered with caution. References which encourage excessive or immoderate consumption are unacceptable. However, off-licences and alcoholic drink retailers may advertise price reductions for their stock.

11.7 Low Alcohol Drinks

Provided they comply generally with the Code and reflect responsible consumption and behaviour, advertisements for drinks containing less than 1.2% alcohol by volume will not normally be subject to Rules 11.3f), 11.4b) and 11.5. However, if a significant purpose of an advertisement for a low alcoholic drink could be considered to promote a brand of stronger alcoholic drink, or if the drink's low alcohol content is not stated in the advertisement, all the above Rules are applicable.

Appendix 4

Media Examined in the Survey

Billetts Media Monitoring captured ads for assessment from these newspapers:

Financial Times	Daily Mail	Express
Daily Record Scottish Edition	Daily Sport	Daily Star
Daily Mirror	Racing Post	The Sun
The Daily Telegraph	Guardian	The Independent
The Times	Mail on Sunday	Sunday Express
Daily Star Sunday	News of the World	People
Sunday Mail Scottish Edition	Sunday Mirror	Sunday Mirror Belfast Edition
Sunday Post	The Independent on Sunday	The Observer
The Sunday Telegraph	The Sunday Times	City A.M.
Evening Standard	London Lite	Metro-London
Standard Lite	thelondonpaper	Scotsman
Nottingham Evening Post	Yorkshire Evening Post	Manchester Evening News
Liverpool Echo		

And from over 300 magazines including:

BBC Music Magazine	Classic Rock	Empire
Kerrang	Mojo	Q
The Face	Time Out	Total Film
BBC Good Food Magazine	Decanter	Delicious
Olive	BBC Wildlife	The National Trust Magazine
Amateur Gardening	BBC Gardeners' World	BBC Good Homes
Country Living	Good Housekeeping	Homes & Gardens
House Beautiful	Ideal Home	Living Etc
Arena	Bizarre	Esquire
FHM	Front	GQ
Loaded	Maxim	Men's Health
Stuff for Men	Nuts	Zoo Weekly
Asda Magazine	Boots Health & Beauty	Sainsbury's Magazine
Somerfield Magazine	Tesco Magazine	Waitrose Food Illustrated
Your M&S Magazine	All About Soap	Radio Times
TV Choice	What's On TV	Company
Cosmopolitan	Dazed & Confused	Easy Living
Elle	Eve	Family Circle
Glamour	Hair	Harpers & Queen
InStyle	Marie Claire	New Woman

Prima	Red	She
Tatler	Top Santé Health & Beauty	Vanity Fair
Vogue	Yours	Zest
Bella	Best	Chat
Close	Grazia	Heat
Hello	Inside Soap	More
Now	OK!	Pick Me Up
Reveal	Take a Break	Woman
Woman's Own	Woman's Weekly	

And from over 550 websites including:

upmystreet.co.uk	viewlondon.co.uk	handbag.co.uk
ivillage.co.uk	empireonline.co.uk	gq-magazine.co.uk
vogue.co.uk	mirror.co.uk	dailyrecord.co.uk
people.co.uk	sundaymirror.co.uk	skymovies.com
lottery.co.uk	shopperuk.com	pricerunner.com
blueyonder.co.uk	propertiestoday.co.uk	supanet.com
virginmedia.com	skysports.com	closerdiets.com
orange.co.uk	tiscali.co.uk	guardian.co.uk
orange.co.uk	arsenal.com	myoffers.co.uk
channel4.co.uk	findarticles.com	gmtv.com
thetimes.co.uk	itv.com	sundaymail.co.uk
thesun.co.uk	city-visitor.com	allinlondon.co.uk
scotsman.com	onthebox.com	style.com
independent.co.uk	belfasttelegraph.co.uk	aol.com
glamourmagazine.co.uk	myvillage.com	asos.com
babyworld.co.uk	countryliving.co.uk	getlippy.com
hellomagazine.com	uk.horoscopes.yahoo.net	arsenal.com
redirect.co.uk	gardeners-world.com	manutd.com
oddschecker.com	taste.co.uk	amazon.co.uk
baa.com	bargainholiday.com	ebookers.co.uk
lastminute.com	lonelyplanet.com	tesco.net
countrylife.co.uk	insuresupermarket.com	moneyexpert.com

And from these TV stations:

ABC1	Anglia TV	Animal Planet
At the Races	Border ITV	Bravo
Carlton ITV	Central ITV	CH4
Dave	Discovery	E4
Eurosport	Extreme Sports	Film 4
Five	Five Life	Five US
Five USA	Fiver	Flaunt
Grampian ITV	Granada +	Granada ITV
Hallmark	HTV ITV	ITV 2

ITV 3	ITV 4	Kiss TV
Meridian ITV	More4	MTV
Paramount	Q	Reality TV
Sci-Fi Channel	Scottish ITV	Sky News
SKY SPORTS 1	SKY SPORTS 3	SKY1
SW England TV	The Box	TMF
Tyne Tees ITV	UK Gold	UK Living
UTV ITV	Virgin 1	Watch
Yesterday	Yorkshire ITV	Zone Reality

And from these radio stations:

Absolute AM	Absolute FM	Beat 106
BRMB	Capital Gold	Capital Radio
Century 105.4 FM	Classic FM	Clyde 1 102.5
Clyde 2 1152 AM	Cool FM	Essex FM
Galaxy Birmingham	Galaxy Manchester	Galaxy Scotland
Galaxy South Coast	Galaxy Yorkshire	Heart 100.7
Heart 106.2 FM	Invicta FM	Jazz FM 102.2
Key 103 FM	Kiss 100 FM	LBC FM
LBC News	Magic 105.4	Mercia 97.0 FM
Metro City	Power FM	Radio 1
Radio City	Radio Wave 96.5	Real Radio FM
Real Radio Scotland	Smooth FM	TalkSPORT
Virgin AM	Virgin FM	XFM Scotland

Appendix 5

ASA Adjudications



Wm Magners Ltd

Date: 25 March 2009

Media: Transport

Number of complaints: 1

Ad

A poster, on London buses, promoted Magners Light. White text on a sky-blue background stated "Only 92 calories per bottle. Still 4.5%". A bottle of Magners Light was shown floating above the text "Light by nature." Further text stated "ENJOY MAGNERS SENSIBLY".

Issue

1. The complainant challenged whether the ad was irresponsible because she believed the claim "Only 92 calories" could encourage excessive drinking.
2. The ASA challenged whether the claim "Only 92 calories" implied the drink was low in energy.

Response

1. The agency Young Euro RSCG responded on behalf of Magners Ltd (Magners). They said they had been socially responsible by including the text "Enjoy Magners Light sensibly" in the ad. They said they strove to encourage responsible drinking and the reference to the calorie content was a statement of fact that clarified the product proposition.
2. The agency said they would remove the word "Only" from the ad.

Assessment

1. Not upheld

The ASA noted the agency's comments. We considered that consumers would understand the claim "Only 92 calories. Still 4.5%" to mean that the alcohol content remained at 4.5%, whilst the calorie content had been reduced, and would not see it as an incitement to drink excessively. Furthermore, we considered that the restrained style and treatment of the ad, with its plain text and single image of a bottle of Magners cider, did not present the product in a way that would encourage excessive drinking. We concluded the ad was not irresponsible.

On this point we investigated the ad under CAP Code clauses 2.1 and 2.2 (Principles) and 56.2 (Alcoholic drinks) but did not find it in breach.

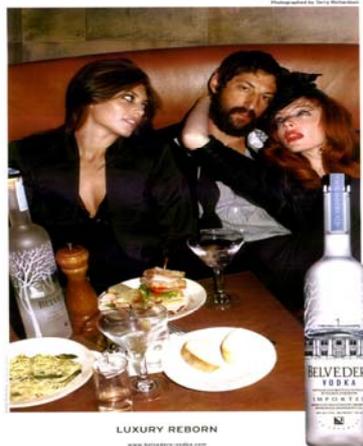
2. Upheld

We welcomed Magners' willingness to amend the ad. We considered that the inclusion of the word "Only" alongside a description of the calorie content implied the drink was low in energy. We noted that under Regulation (EC) No 1924/2006 on nutrition and health claims a low energy claim could not be made for a liquid containing more than 20 kcal/100ml. Because Magners contained 26.5 kcal/100ml, but the ad implied it was low in energy, we concluded the ad was misleading.

On this point the ad breached CAP Code clauses 4.1 (Legality) and 7.1 (Truthfulness).

Action

The ad must not appear again in its current form



Moet Hennessy UK Ltd

Date: 17 December 2008

Media: National Press

Number of complaints: 1

Ad

A national press ad, for Belvedere vodka, showed a man sitting on a couch with a woman on either side of him. Both women were looking at the man's face and the woman on his left had her arm around his neck. On a table in front of them were plates of food, glasses of drink and a half full bottle of Belvedere vodka. Text stated "LUXURY REBORN".

Issue

The complainant objected that the ad was irresponsible, because it linked alcohol with sexual success.

Response

Moet Hennessy UK (MHUK) said the ad depicted a group of three people enjoying an informal social occasion in a lounge bar in 'Downtown' New York. They argued that, while the people were glamorous in appearance, they were also relaxed and comfortable; they believed the informality of the occasion was indicated by the casual nature of the pose and the food on the table. They believed the occasion could be any time of day, such as a weekend lunch, a meeting before going out, a casual dinner, or food after a club. MHUK argued that there was no suggestion that there was any relationship other than friendship between any of the three people, apart from the mildly flirtatious gesture of the girl who had reached upwards with her arm to put it around the man's neck.

MHUK believed the ad fully complied with the CAP Code. They asserted that the characters shown were not a couple and believed there was no suggestion of sexual contact or an erotic atmosphere; they said they were fully clothed in a public place, eating a meal and sharing a cocktail. They argued that, while the image was intentionally glamorous and there was a touch of sensuality in the pose of the girl on

the right, there was no suggestion of any sexual motive. They believed the body language of the three suggested affection between them, but argued that there was nothing to imply that sexual activity had taken, or was about to take, place.

Assessment

Upheld

The ASA noted MHUK's comments but also noted one of the women had her arm around the man's neck and was staring up at him. We noted all three of the people were sitting in very close proximity and that the man's shirt and bow tie were undone. We considered that the expressions of the women and the close physical contact of all three people, particularly the woman with her arm around the man's neck, implied that both women were sexually attracted to the man. We noted the bottle of Belvedere on the table in front of them and considered that the image implied that Belvedere had enhanced the man's attractiveness; we concluded that the ad linked Belvedere with sexual success and therefore breached the Code.

The ad breached CAP Code clause 56.9 (Alcoholic drinks).

Action

The ad must not appear again in its current form.



Wm Magners Ltd

Date: 25 February 2009

Media: Television

Number of complaints: 1

Ad

A TV ad, for Magners cider, showed a man walking into a pub and a pint of Magners being poured. The voiceover stated "Magners Draught Cider. It's the perfect ice breaker. Making sure the conversation flows, in the time it takes to create a cool, crisp pint. No ice, just pure, premium taste. Magners Draught Cider, time dedicated to you". At the end of the ad, the man picked up the pint and turned to talk to a group of friends.

Issue

A viewer objected that the ad breached the Code by suggesting Magners would boost confidence and lead to the success of a social occasion.

Response

Wm Magners (Magners) believed the ad did not portray Magners as boosting a person's confidence or leading to any success in a social situation. They believed the scene portrayed was typical of any ad where the product was used in a social setting. They said there was no sexual innuendo and there were no changes in behaviour. They believed the setting was relaxed, consistently slowly paced, and not excitable in any way.

Magners asserted that the words "It's the perfect ice breaker" were a play on words used to reference the fact that the draught variant of Magners had no ice, unlike the normal pint bottle serving of Magners. They said the 'no ice' proposition was something that was important for them to communicate in order to address any confusion about it for their consumers. They argued that the line "Making sure the conversation flows" was a visual pun on the word 'flows' as the apples were shown flowing. They said the viewer would hear the voice and see the picture as working together. They argued that, in most alcohol ads, as with any bar in real life, it was

natural to see conversation between friends in a social setting. They believed that did not contravene the Code provided there was no sexual innuendo or reward.

Magners pointed out that they had included the text "Enjoy Magners sensibly" which they always included to encourage responsible drinking.

Clearcast also believed the ad was compliant with the Code. They considered that both the reference to Magners being a "perfect ice breaker" and "making sure the conversation flows" were respective metaphors for communicating that the draft cider was served without ice, unlike the bottled variant, and the visual reference to the apples flowing. They also considered that the visuals did not imply that the character was either lacking confidence or needed to succeed at the featured social occasion. They said the man was shown as a confident individual and the social setting was neither created, nor improved, by the cider. They said the atmosphere remained constant and was not improved either by the central character or by him consuming the alcohol.

Assessment

Upheld

The ASA noted Magners' comments that the claims were a play on words. We considered, however, that although the visual images did not show excessive drinking, the claims "It's the perfect ice breaker" and "Making sure the conversation flows" in the voiceover, at the moment the man entered the room and moved to join the group, were likely to be understood by viewers to carry the clear implication that drinking Magners could help start a conversation in a social setting and help the conversation flow, thereby leading to the success of a social occasion. We concluded that the ad breached the Code by suggesting alcohol would boost confidence and lead to the success of a social occasion.

The ad breached CAP (Broadcast) TV Advertising Standards Code rules 11.8.1(a) and 11.8.1(e) (Alcoholic drinks).

Action

The ad must not be broadcast again in its current form.