

SU/DoH Consultation
Room 4.6
Admiralty Arch
The Mall
London SW1A 2WH

BY E-MAIL

10 January 2003

Dear Sir or Madam:

I am writing in response to the Strategy Unit and Department of Health consultation on the proposed National Alcohol Harm Reduction Strategy.

Please accept this as a joint submission by the Advertising Standards Authority (ASA) and the Committee of Advertising Practice (CAP).

Introduction

This submission provides information about the regulation of non-broadcast advertising. The ASA has no role in broadcast advertising (on TV or radio), which is subject to statutory controls administered by the Independent Television Commission and the Radio Authority.

Our submission is prompted by question 50 of the consultation document, which asks: 'Do you have any views on the existing regulation of advertising on alcohol?'

Current controls on non-broadcast alcohol advertising ensure that advertisements contain nothing that is likely to lead people to adopt styles of drinking that are unwise or harmful.

To support our case, we outline current self-regulatory controls on alcohol advertising before looking in detail at the level and type of complaints we deal with.

Non-broadcast advertising self-regulation

The ASA is responsible for ensuring the highest standards in non-broadcast advertising (including sales promotions and direct marketing). The Authority administers the British Codes of Advertising and Sales Promotion, which are written and enforced by CAP (the industry wing of the self-regulatory system).

The Codes require all non-broadcast advertisements to be 'legal, decent, honest and truthful', and prepared with a sense of responsibility to consumers

and to society. Advertisements and sales promotions should also respect the principles of fair competition generally accepted in business.

In 2001 the ASA received 12,600 complaints about 9,945 advertisements. We also dealt with 9,836 telephone enquiries and 2,913 e-mail enquiries. We upheld 1,670 complaints in 2001.

The majority of advertisers who breach the Codes either amend or withdraw their advertisements in accordance with an ASA ruling without further prompting. However, a number of sanctions exist to ensure compliance.

Chief among these is the refusal of media space to advertisers who breach the Codes. CAP members include all of the main media trade bodies (for outdoor, print, cinema and direct marketing), and an Ad Alert can be issued warning media owners against taking an advertisement found in breach of the Codes.

Trading privileges may also be withdrawn. This is particularly effective in the case of direct mail, which relies on Mailsort contracts with Royal Mail in order to be cost effective. Royal Mail is a member of CAP and may be asked to withdraw a Mailsort contract from a company found to breach the Codes.

Since 1999 the ASA has been able to require advertisers whose posters breach the social responsibility or taste and decency clauses to have subsequent poster advertising pre-vetted by CAP for a two-year period. Three alcohol advertisers have been subject to pre-vetting: Whitbread Beer (September 1999-2001), UDV (January 2000-2002) and Halewood (July 2000-2002).

In the case of misleading advertising, the ASA can refer advertisers to the Director General of Fair Trading (DGFT) under the Control of Misleading Advertisements Regulation 1988 (as amended). The DGFT can seek a Court injunction preventing publication of a misleading advertisement. This is a longstop sanction that is rarely used, but it does have a strong deterrent effect. The ASA has only made 19 referrals to the DGFT since 1988.

In addition to the above, all ASA adjudications are published weekly, which can generate adverse publicity for advertisers who have breached the Codes.

As well as acting quickly (in 2001 the average time taken to resolve a complaint was 21 days), the ASA/CAP system is flexible enough to remain in step with changes in media and markets (unlike statutory controls, which require legislative changes that inevitably lag behind developments).

All this is achieved at no cost to the taxpayer. The system is funded by a levy on display advertising, collected by the Advertising Standards Board of Finance (Asbof). The separation of funding collection from complaints handling helps to ensure that the independent judgement of the ASA is not compromised.

The success of advertising self-regulation is widely recognised, as illustrated by the following quotes:

"The Government strongly supports the self-regulatory controls on advertising in the United Kingdom run by the Advertising Standards Authority. These have gained world-wide recognition as a good example of how self regulation can work effectively to address consumer problems" (from **Modern Markets: Confident Consumers**, The Government's Consumer White Paper published by the DTI in July 1999).

"The Codes are clearly written, publicly available...and reasonably well known...Because of industry ownership of the regime, the rules appear to be well known and understood by advertisers, agencies and publishers" (from **Alternatives to State Regulation**, published by the Better Regulation Task Force in July 2000).

The Communications White Paper (**A New Future for Communications**, published by the DTI and DCMS in 2000) makes reference to "the strengths and effectiveness of the Advertising Standards Authority (ASA) system for self-regulation of non-broadcast media, which is well-regarded here and overseas".

Alcohol

Alcohol is legally available under licence in the UK and it is perfectly legitimate for companies to advertise their products provided they do so responsibly and in accordance with commonly agreed standards.

Advertisers should not condone or encourage excessive or solitary drinking or encourage people to adopt styles of drinking that would be unwise.

Whilst the Codes do not prevent advertisers from linking alcohol and sex, advertisements should not imply that drinking makes people socially or sexually successful, more attractive or improves their physical capabilities.

Advertisements should not place undue emphasis on the high alcoholic strength of a product by making it the dominant theme of any advertisement. Alcoholic drinks should not be presented as preferable because of their high

alcohol content or intoxicating effect.

Drinking alcohol should not be portrayed as a challenge, nor should it be suggested that people who drink are brave, tough or daring for doing so.

Advertisers should take care if using celebrities to promote their product; the use of sports people could result in an unacceptable association between alcohol and sporting achievement.

Alcohol ads should not be aimed at, or use an approach that would appeal to, under 18s. Anyone shown drinking must be and look over 25.

Advertisements should not depict activities or locations where drinking alcohol would be unsafe or unwise. In particular, advertisements should not associate the consumption of alcohol with operating machinery, driving, any activity relating to water or heights, or any other occupation that requires concentration to be done safely.

Sales promotions involving alcoholic products must not be addressed to under 18s. If multiple purchases of an alcoholic product are required, the promotion should not encourage excessive drinking.

Advertisers should not promote low alcohol drinks in a way that encourages their inappropriate consumption and should not depict activities that require sobriety.

The relevant Clauses are as follows:

- 46.1 For the purposes of the Codes, alcoholic drinks are those that exceed 1.2% alcohol by volume.
- 46.2 The drinks industry and the advertising business accept responsibility for ensuring that advertisements contain nothing that is likely to lead people to adopt styles of drinking that are unwise. The consumption of alcohol may be portrayed as sociable and thirst-quenching. Advertisements may be humorous, but must still conform with the intention of the rules.
- 46.3 Advertisements should be socially responsible and should not encourage excessive drinking. Advertisements should not suggest that regular solitary drinking is advisable. Care should be taken not to exploit the young, the immature or those who are mentally or socially vulnerable.

- 46.4 Advertisements 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.
- 46.5 People shown drinking should not be, nor should they look, under 25. Younger models may be shown in advertisements, for example in the context of family celebrations, but it should be obvious that they are not drinking.
- 46.6 Advertisements 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.
- 46.7 Advertisements should not suggest that any alcoholic drink can enhance mental, physical or sexual capabilities, popularity, attractiveness, masculinity, femininity or sporting achievements.
- 46.8 Advertisements may give factual information about the alcoholic strength of a drink or its relatively high alcohol content but this should not be the dominant theme of any advertisement. Alcoholic drinks should not be presented as preferable because of their high alcohol content or intoxicating effect.
- 46.9 Advertisements should not portray drinking alcohol as the main reason for the success of any personal relationship or social event. A brand preference may be promoted as a mark of the drinker's good taste and discernment.
- 46.10 Drinking alcohol should not be portrayed as a challenge, nor should it be suggested that people who drink are brave, tough or daring for doing so.
- 46.11 Particular care should be taken to ensure that advertisements for sales promotions requiring multiple purchases do not actively encourage excessive consumption.
- 46.12 Advertisements should not depict activities or locations where drinking alcohol would be unsafe or unwise. In particular, advertisements should not associate the consumption of alcohol with operating machinery, driving, any activity relating to water or heights, or any other occupation that requires concentration in order to be done safely.

46.13 Low alcohol drinks are those that contain between 0.5% - 1.2% alcohol by volume.

Advertisers 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.

In addition, all general provisions of the Codes apply to alcohol advertising (see www.asa.org.uk for a full copy of the Codes).

Complaints and compliance figures

Only a very small proportion of complaints received by the ASA involve alcohol advertisements (about 1.2% in 2001).

The table below gives details of the level of complaints in 2000 and 2001.

	2000	2001
Total number of complaints received by the ASA	12,261	12,600
Total number of alcohol complaints	149	154
Total number of ads complained about	8,457	9,945
Total number of alcohol ads complained about	61	55
Total number of complaints upheld	2,439	1,670
Total number of complaints about alcohol upheld	10	55
Total number of alcohol ads with complaints upheld	4	6

Complaints about alcohol advertisements usually involve Clause 46.3 (social responsibility) and Clause 46.7 (positive benefits of alcohol). Nearly half of all complaints about alcohol advertising involve either one or both of these Clauses.

The appeal of alcohol advertisements to young people, covered by Clauses 46.4, 46.5 and 46.6, is less likely to feature in complaints.

In addition to complaints handling, the ASA/CAP system operates 'upstream' in an effort to minimise the number of advertisements that breach the Codes. The CAP Copy Advice service, which offers free pre-publication advice to advertisers, dealt with 87 enquiries about alcohol advertising in 2000, increasing to 100 in 2001.

In 1996 the CAP Compliance team undertook a survey of alcohol advertisements. Ninety-eight per cent of alcohol advertisements were found to comply with the Codes. A copy of the research is available on the ASA web site (http://www.asa.org.uk/research/documents/upl_3.pdf).

Compliance rates more generally are encouraging. In the most recent survey of poster advertising, covering all product sectors, 99% of ads were found to comply with the Codes. The full research can be found online at http://www.asa.org.uk/research/documents/upl_14.pdf. Similarly high compliance rates have been found for press advertisements (96%) and direct mail (91%).

Conclusion

'Most adults in England drink and the majority drink sensibly. For them, drinking is part of a pleasurable social experience which causes no harm, either to themselves or to others. Government has no need to intervene in this enjoyable aspect of life'.

**Hazel Blears MP, Parliamentary Under-Secretary of State,
Department of Health**

Foreword, National Alcohol Harm Reduction Strategy

Self-regulation exists to ensure advertisements are socially responsible, leaving advertisers free to inform the 'pleasurable social experience' of drinking enjoyed by many adults.

The vast majority of alcohol advertisements meet the high standards expected of them, and the relatively small number of complaints received by the ASA suggests a high level of public confidence in alcohol advertising.

However, the Government is right to be concerned about alcohol misuse and the problems it can cause to individuals and society at large.

We remain committed to ensuring advertisers are aware of their responsibilities and the rules that apply, and that our decision-making remains in touch with public attitudes to alcohol and the portrayal of alcohol consumption in non-broadcast advertising. That is why our Council devoted time at its December meeting to review our record in this area, and to decide whether we were being too liberal in our interpretation of the Codes.

We concluded that the ASA was getting things right most of the time, although the Executive was asked to add more Authority challenges to complaints that might otherwise be judged simply on taste grounds.

If you would like any further information about the work of the ASA, please do not hesitate to contact me. My direct line is 0207 291 3062. You may also find

our web site useful (www.asa.org.uk). It contains a database of all ASA adjudications since 1997.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Barratt', written in a cursive style.

Dr Jim Barratt
Head of Policy