



ADVERTISING STANDARDS AUTHORITY

## **ASA RESPONSE TO THE REPORT OF THE REVIEW OF THE CODE FOR ADVERTISING LIQUOR**

### **Acknowledgment and thanks**

The ASA sincerely acknowledges the contribution by submitters and the work of the Panel in reviewing the Code for Advertising Liquor. In particular, the ASA thanks Hon. Sir Bruce Robertson for his chairmanship of the Panel.

In order for the next steps in the process to take place, the recommendations of the Panel were put before the Advertising Standards Authority members and the response of the Authority is noted under each recommendation below. The recommendations have been grouped into matters relating to the overall ASA process and those specifically dealing with matters relating to alcohol and the code under review.

### **Value of advertising self-regulation**

The ASA members re-iterate their commitment to responsible and effective self-regulation and their engagement with the codes and complaints process in creating advertisements, via media placement, responding to complaints and compliance with Complaints Board decisions along with financial support of the overall system.

### **1. ASA Response to the recommendations relating to the overall Complaints Process**

The following recommendations related to the overall Complaints Process:

- That the ASA give consideration to further ways to ensure the complaints process is, and is seen to be, robust and credible for both consumers and industry;
- That the ASA include information about the potential costs flowing from upheld and settled complaints when it publicises its process;

- That the ASA consider the development of additional plain English resources that could be more widely circulated and assist in more people being aware of the complaints process, and the right to complain.

#### ASA response

The ASA agrees that in a complaints-driven process, it is important consumers understand it and are willing to use it. While the ASA considers that consumers do not hesitate to complain when they feel strongly about a particular advertisement, it has agreed to undertake an internal review of resources promoting the complaints process with a view to ensuring this information is clear and accessible.

This will include a review of the online complaints form to ensure that consumers are invited to submit all relevant details with respect to their issues with an advertisement.

As part of promoting a wider understanding of the value of self-regulation, the ASA also agrees information about the cost of compliance with the codes and complaints process could be helpful.

## **2. Recommendations relating to the Liquor Promotions Code and the Liquor Promotions Complaints Board**

- That the ASA commence a process to merge the Code for Advertising Alcohol with the Code for Naming, Labelling, Packaging and Promotion of Liquor;
- That the Advertising Standards Complaints Board become the body to hear complaints about all aspects of alcohol advertising and promotion covered by the relevant ASA Codes of Practice;

#### ASA Response

The ASA accepts the recommendations relating to the development of a single code for the advertising and promotion of alcohol that will include naming, labelling, packaging and promotion. The ASA has agreed that the Code for Advertising and Promotion of Alcohol will be developed, merging the revised Code for Alcohol Advertising and the Code for Naming, Labelling, Packaging and Promotion of Liquor. This will be undertaken shortly to ensure the overarching Code will be available as soon as possible and in place by 1 July 2012.

### **3. Recommendations relating to pre-vetting alcohol advertising and targeting adult audiences**

- That the industry ensures a high level of awareness of the need to utilise the Liquor Advertising Pre-vetting Service (LAPS), to minimise the risk of code non-compliance;
- That the ASA in association with LAPS develop guidance notes for code compliance, including a specific guidance note on the use of new media and social media covering the need to minimise exposure to minors and responsible use of this media.
- That the alcohol industry observes requirements relating to age-verification on website pages along with age-related tags on social media sites.

#### ASA Response

The ASA endorses the value of pre-vetting alcohol advertising and notes there is currently a very high level of compliance with the existing process.

The ASA also supports the development of guidance notes to assist with code interpretation. Work will begin on the development of these as a priority so they will be in place prior to the new code taking effect on 1 July 2012.

In addition, the ASA confirms the importance of a high level of awareness across all interactive and social media platforms with regard to targeting adult audiences and notes that the age verification system on alcohol brand sites is the most commonly used barrier by advertisers. While age related barriers are already in place on alcohol brand websites under the requirements of the Liquor Promotions Code, the ASA supports a consistent approach via an age entry requirement. The ASA also supports the use of age-related tagging in targeting adult audiences via new media.

### **4. Recommendations relating to other matters**

- That the alcohol industry, including alcohol retailers be invited to consider their advertising of heavily discounted alcohol products and whether or not this complies with the Code requirement for a high standard of social responsibility in alcohol advertising

## ASA Response

The ASA notes the recommendation relating to heavily discounted alcohol products but considers it is a matter that is outside the ASA's jurisdiction and further, is addressed in part, within the Alcohol Reform Bill currently before Parliament.

### **5. Recommendations in the revised Code for Advertising Alcohol**

- That the ASA adopt the revised Code for Advertising Alcohol attached to the Report of the Review Panel.

## ASA Response

The ASA acknowledges the significant amount of work that the Panel put into reviewing the detailed wording of the Code and the changes recommended to definitions, principles and guidelines. The amendments recommended by the Panel are accepted, with the exception of minor changes agreed to be the ASA.

The changes agreed to by the ASA are as follows:

1. The insertion of the phrase "the misuse of" in reference to the need for additional restrictions in relation to the promotion of alcohol in the introduction to the Code.
2. Clarification in the definition of "Heroes of the Young" that it continues to refer to groups and teams as well as individuals.
3. Additional wording in the definition of "sponsorship advertising" to make it clear that the inclusion of any product or sales message will mean that the advertisement becomes an alcohol advertisement for the purposes of the Code and principles 1-3 will apply.
4. Removal of the reference to the split purchase age under the definition of "Minors". The ASA notes that the split purchase age is a proposal in the Alcohol Reform Bill which is still before Parliament. The ASA does not consider it is appropriate to include a reference in the Code to a proposal that may or may not become a legal requirement.
5. The word "actively" has been added to Guideline 1(e) to minimise the risk of technical code breaches in this area.

6. Finally, for consistency, the word “liquor” where it appeared has been replaced with “alcohol”; and while the phrase “alcohol advertisement” is used in the principles, the word “advertisement” in the guidelines is deemed to have the same meaning.

The revised Code, recommended by the Panel follows, with the changes agreed to by the ASA underlined.

The next step will be to merge the revised code, as amended, with the the Code for Naming, Labelling, Packaging and Promotion of Liquor and to release the combined Code for Advertising and Promotion of Alcohol in 2012.

## **CODE FOR ALCOHOL ADVERTISING**

### **INTRODUCTION**

All advertising shall adhere to the laws of New Zealand and the Principles and Guidelines set out in this Code. The ASA Code of Ethics and Codes on Comparative Advertising and People in Advertising should also be consulted, where relevant.

Alcohol is a restricted product in New Zealand. Because of the health and social impacts of the misuse of alcohol, this Code requires specific restraints on advertising. There are also a number of restrictions in legislation and in industry-supported initiatives. People involved in marketing alcohol should be familiar with the Sale of Liquor Act, the Gambling Act (Sales Promotions Schemes), and the National Protocol on Alcohol Promotions supported by the Hospitality Association, the Alcohol Advisory Council, the New Zealand Police and Local Government New Zealand. Attention is also drawn to the Standard Drink Guidelines at <http://www.alac.org.nz/alcohol-you/whats-standard-drink>.

This Code is designed to ensure that alcohol advertising is consistent with the need for responsibility and moderation in merchandising and consumption, and does not encourage consumption by minors. Particular care is also required in the marketing of products likely to have strong appeal to young adults.

In interpreting the Code emphasis will be placed on compliance with both the principles and the spirit and intention of the code. The guidelines are merely examples, by no means exhaustive, of how the principles are to be interpreted and applied. It is possible for an advertisement to be in breach of the principle without being in breach of a specific guideline. Upon complaint, the ASCB is vested with discretion to ensure a common-sense outcome. It is important to note that the likely audience (whichever media the advertisement is broadcast, printed, or displayed in) is a key factor in determining code compliance.

This Code covers alcohol advertising, other marketing components including naming, labelling and packaging are currently covered by the Code for Naming, Labelling, Packaging and Promotions of Liquor. See [www.asa.co.nz/codes](http://www.asa.co.nz/codes).

Approval by the Liquor Advertising Pre-vetting System (LAPS) is strongly recommended. See [www.anza.co.nz/pre-vetting](http://www.anza.co.nz/pre-vetting).

## DEFINITIONS

**The following definitions are part of the Code for Alcohol Advertising.**

**"Alcohol advertisement"** means an advertisement, by whatever means it is disseminated, that promotes alcohol by product, brand or outlet, but does not include a sponsorship credit or a sponsorship advertisement or an advertisement in which reference to or the depiction of alcohol or alcohol packaging or an alcohol outlet is incidental to its purpose. An advertisement including a reference to licensed premises is not automatically an alcohol advertisement - the intent of the advertisement must be to promote the consumption of alcohol.

**"Alcohol advertiser"** means an advertiser that markets or sells alcohol and uses its name or any identifying feature to promote the sale of alcohol in any way.

**"Alcohol packaging"** means a recognisable representation of an alcohol bottle, can, cask, pack or other container.

**"Heroes and/or heroines of the young"** means a person or character (and includes groups / teams) whose example is likely to be followed by minors or who has strong appeal to minors.

**"Light (or lite) alcohol"** means liquor containing a maximum of 2.5% alcohol by volume.

**"Minors"** are people who are under the age at which they are legally entitled to purchase liquor. ~~For the avoidance of doubt, in the case of a split purchase age, the definition will apply to the older of the split ages.~~

**"Sponsorship credit"** means an acknowledgment of an alcohol advertiser's sponsorship.

**"Sponsorship advertisement"** means an advertisement which only indicates that the advertiser is sponsoring a person, competition, activity or event. Any advertisement referring to a sponsorship that does not comply with Guidelines 4(a) to 4(e) of Principle 4 ~~and featuring alcohol products~~ is deemed to be an alcohol advertisement.

**Principle 1 - Alcohol advertisements shall observe a high standard of social responsibility.**

**Guidelines**

1(a) Advertisements shall not link alcohol with daring, aggression or unruly, irresponsible or antisocial behaviour.

1(b) While advertisements may depict the consumption of alcohol as incidental to a friendly and happy social environment, they shall not promote drinking alcohol as a better or more attractive lifestyle choice nor imply that the success of a social occasion depends on the presence or consumption of alcohol.

1(c) Advertisements shall not suggest that alcohol can lead to sexual, social, sporting or business success or popularity or is necessary to achieve social status with peers.

1(d) Advertisements shall not depict alcohol as a necessity, nor required for relaxation nor suggest it offers any therapeutic benefit.

1(e) Advertisements shall not actively link alcohol with the use of potentially dangerous machinery or driving or any other hazardous or unsafe practices. Advertisements may feature sporting or other physical activities but shall not imply that those activities have been undertaken after the consumption of alcohol.

1(f) Where it is necessary to purchase alcohol as a condition of entry, advertisements shall not offer any potentially hazardous prizes in any competition. Examples include motor vehicles, boats or any other potentially dangerous machinery.

**Principle 2 - Alcohol advertisements shall be consistent with the need for responsibility and moderation in alcohol consumption.**

**Guidelines**

2(a) Advertisements shall not emphasise a product's alcoholic strength, except where the product is a light (or lite) alcohol product but can include factual information about the alcoholic strength

2(b) Advertisements shall not feature, imply, condone or encourage irresponsible or immoderate drinking. That applies to both the amount of drink and the way drinking is portrayed.

**Principle 3 - Alcohol Advertisements shall be directed at adult audiences. Advertisements shall not be directed at minors nor have strong or evident appeal to minors in particular. This applies to both content and placement.**

**Guidelines**

3(a) Advertisements shall not use or refer to identifiable heroes or heroines of the young.

3(b) Minors may appear in advertisements only in situations where they would naturally be found, for example in a family barbecue, provided that there is no direct or implied suggestion that they will serve or consume alcohol

3(c) Advertisements shall not be shown on television between 6.00 am and 8.30 pm.

3(d) Broadcasters shall avoid the impression that alcohol promotion is dominating the viewing or listening period when broadcasting alcohol advertisements, including alcohol sponsorship advertisements and/or alcohol sponsorship credits taking into account the context of the programme.

3(e) Television alcohol advertising shall not exceed six minutes per hour, and there shall be no more than two advertisements for alcohol in a single commercial break.

3(f) Anyone visually prominent in an alcohol advertisement depicting alcohol being consumed shall be, and shall appear to be, at least 25

years of age with their behaviour and appearance clearly appropriate for people of that age or older.

**Principle 4 - Sponsorship advertisements and sponsorship credits shall clearly and primarily promote the sponsored activity, team or individual. The sponsor, the sponsorship and items incidental to them, may be featured only in a subordinate manner.**

**Guidelines**

Sponsorship advertisements and sponsorship credits:

4(a) Shall not contain a sales message.

4(b) Shall not show a product or product packaging.

4(c) Shall not imitate or use any parts of product advertisements from any media.

4(d) Shall not portray consumption of alcohol

4(e) Shall only briefly and in a subordinate way mention or portray the sponsor's name and/or brand name and/or logo orally and/or visually.

4(f) Sponsorship advertisements and sponsorship credits may be broadcast at any time except during programmes intended particularly for minors.