

# AdHelp Information Service

## COVID-19 and Advertising Alcohol

**Last Updated 24 August 2021 (please discard previous versions)**

Please Note: AdHelp is the ASA's user pays service for advertisers and agencies to support responsible advertising. The ASA is publishing this AdHelp, free of charge, via its website, as a reminder of the importance of code compliance when advertising or promoting alcohol.

It is not legal advice or binding on the Complaints or Appeal Boards. If a complaint is received and accepted, the Complaints and Appeal Boards are the arbiters of code compliance.

### SUMMARY

- COVID-19 has not resulted in any changes to the advertising legislation or codes that alcohol advertisers are expected to adhere to.
- The Alcohol Advertising and Promotion Code (effective for all ads from 1 July 2021) applies to all alcohol advertisements in all media and includes alcohol product names, labels and packaging.

**Prior to preparing and placing their advertisements or developing their product names, labels and packaging, advertisers are expected to;**

- **Be familiar with the relevant legislation and codes; and**
- **Observe a high standard of social responsibility in both the preparation and placement of alcohol advertising and promotion; and**
- **Ensure their advertising and promotion target adults; and**
- **Advertisements must not;**
  - **Feature minors or women who are visibly pregnant or are breast feeding; or**
  - **Feature, imply, condone or encourage irresponsible, harmful or excessive consumption; or**
  - **Depict alcohol as a necessity or that it is required for relaxation or that it has any therapeutic or health benefits (mental or physical); or**
  - **Cause widespread or serious offence; or**
  - **Link alcohol to dangerous or hazardous or unsafe practices; or**
  - **Promote alcohol as a better or more attractive lifestyle; or**
  - **Link alcohol to daring, aggressive, unruly, irresponsible or antisocial behaviour.**

## BACKGROUND

This AdHelp provides alcohol advertisers with information to help them comply with the [ASA Codes](#) during the COVID-19 pandemic.

These are unprecedented times for New Zealand and the rest of the world. To date, however, COVID-19 has not resulted in any changes to the legislation or codes for advertising alcohol that advertisers are expected to adhere to.

Many New Zealanders are experiencing life in lockdown and for some the circumstances of their lockdown will be very challenging. Many are also facing economic hardship.

Take care if you use humour to advertise alcohol relating to COVID-19 and / or the lockdown, or in a way that positions alcohol as a means to help manage the challenges presented by COVID-19. All advertising and promotion must be responsible.

All advertisements in all media must comply with the [Advertising Standards Code](#). Alcohol advertising and promotion is also subject to compliance with the [Alcohol Advertising and Promotion Code](#) (effective for all ads from 1 July 2021). **This code requires advertisers to prepare and place their advertising and promotion to a high standard of social responsibility. This is a higher standard than required from other sectors of advertising.**

## CONTENT and THEMES

The following advertising content and themes (actual or implied) relating to the COVID-19 pandemic may demonstrate a lack of a high standard of social responsibility expected when advertising or promoting alcohol. This is not an exhaustive list.

- *Encouraging irresponsible purchase or consumption. For example;*
  - *Alcohol is necessary or essential to survive lockdown or the pandemic;*
  - *Drinking games with a brand to pass the time while in lockdown;*
  - *Encouraging excessive volume purchases because of limited access during lockdown;*
  - *Encouraging excessive consumption in any way.*
- *Therapeutic or health claims about alcohol. For example;*
  - *Preventing, treating or curing COVID-19;*
  - *Alcohol is necessary to relieve anxiety, stress and depression caused by the lockdown or infection with COVID-19 or from the economic impact of the pandemic;*
  - *Improvement in mood or relief from boredom during the pandemic.*
- *Nutritional claims about alcohol. For example;*
  - *Part of a balanced diet while in lockdown;*
  - *Contains nutrients that are good for the immune system.*

## ADVERTISING STANDARDS COMPLAINTS BOARD DECISIONS

### See Appendix 1 for information about responding to a complaint.

Social responsibility in advertising is embodied in the Principles and Rules of the Codes. In interpreting the Codes, emphasis must be placed on compliance with both the spirit and intention of the Codes. It is possible for advertising to be in breach of one or more of the Principles in the Codes without being in breach of a specific Rule.

In determining whether a Principle has been breached, the Complaints Board will have regard to all relevant matters, including;

- generally prevailing community standards;
- previous decisions;
- the consumer takeout from the advertisement;
- the context, medium and intended audience; and
- the product or service being advertised.

Please note: Generally prevailing community standards shift over time and are impacted by significant events such as terrorist attacks, natural disasters and the COVID-19 pandemic.

## RELEVANT LEGISLATION

The ASA Codes are a part of the regulatory framework that applies to Alcohol Advertising and Promotion. There are a number of Acts that restrict alcohol advertising, promotion and claims. Advertisers must also observe the legal restrictions along with guidelines on alcohol promotion and low-risk drinking provided by the Health Promotion Agency.

Attention is drawn to the;

- [Sale and Supply of Alcohol Act 2012](#) (particularly [section 237 Irresponsible Promotion of Alcohol](#)) administered by the Ministry of Justice and complaints referred to the NZ Police; and
- [Gambling Act 2003](#) (particularly [section 17 Regulations may restrict or prohibit prizes](#)) administered by the Department of Internal Affairs (DIA) and complaints referred to the DIA; and
- [Gambling \(Prohibited Property\) Regulations 2005](#) (particularly [section 4 Prohibited property for gambling](#)) administered by the Department of Internal Affairs (DIA) and complaints referred to the DIA; and
- [Australia New Zealand Food Standards Code](#) (particularly [2.7.1 Labelling of alcoholic beverages and food containing alcohol](#) and [1.27 Nutrition, health and related claims](#)) administered by the Ministry for Primary Industries (MPI) and complaints referred to the MPI; and
- [National guidelines on alcohol promotions](#) administered by the Health Promotion Agency (HPA); and
- [Low-risk alcohol drinking advice](#) administered by the HPA.

### LAPPS (Liquor Advertising and Promotion Pre-Vetting Service)

The ASA strongly recommends advertisers make use of the Liquor Advertising and Promotion Pre-Vetting Service (LAPPS) user-pays service to help minimise the risk of breaching the ASA Codes. Information about LAPPS is available at the [ANZA website](#).

If you have any questions on advertisements outside the scope of LAPPS, you can email us [asa@asa.co.nz](mailto:asa@asa.co.nz).

## APPENDIX 1: Responding to a complaint

Once the ASA has accepted a complaint we write to the advertiser and other parties to the advertisement (such as the advertising agency or the media placement organisation) and ask for a response. The options available to advertisers include;

### Settling the Complaint

There are two options to consider with regard to settling a complaint.

1. Advertisers can **remove** the advertisement or the part of the advertisement that has been raised in the complaint. Advertisers would need to confirm in writing the advertisement has been removed and provide the ASA with an undertaking not to use the advertisement again (or the part of the advertisement that has been removed).
2. Advertisers can **amend** the advertisement to address the issue(s) raised in the complaint. If advertisers choose to amend the advertisement a copy of, or a link to, the changed advertisement is sent to the ASA. The Chair of the Complaints Board considers the amendments and decides whether they are sufficient to settle the complaint. Alternatively, the complaint along with the changed advertisement may be referred to the Complaints Board for a decision.

### Defending the Complaint

Advertisers may choose to defend the complaint, in writing, to the ASA.

Once received, the advertiser's response, the advertisement and the complaint are referred for consideration by the Complaints Board. The Board decision will be sent to parties before it is published on our website.