



Ofcom's decisions on revising alcohol advertising rules

Introduction

1. In July 2004, Ofcom consulted on proposals to revise Section 11.8 of the Advertising Standards Code for television advertising. (Rule 11.8.1 applies to all advertising; 11.8.2 contains additional rules which apply only to advertising for alcoholic drinks; 11.8.3 contains relaxations for low alcohol drinks.)
2. The consultation closed in late September and 64 responses were received. All respondents, including those from the alcohol, advertising and TV industries, supported the overall objectives of the proposals. As far as the detail was concerned, however, the vast majority of reactions were polarised, with the industries holding one fairly similar set of views and all other respondents (including central, devolved and local government, consumer representatives and those concerned to prevent alcohol-related harm) largely supporting Ofcom's proposals. For the sake of simplicity, therefore, this report generally amalgamates the responses of those who took those polarised positions.

Key points

3. Taking account of the comments received, Ofcom has made the following decisions relating to key issues:
 - Wording throughout has been simplified and clarified where it was apparent that there was ambiguity or misunderstanding
 - The rules about reducing the appeal of alcohol advertising to children and young teenagers have been more precisely focussed but Ofcom regards this objective as paramount and the full rigour of the consultation proposal has been retained despite industry objections
 - The rules restricting sexual content and links in alcohol advertising have been strengthened compared to those which previously applied but Ofcom has concluded that it would be appropriate and harmless to allow more creative leeway in this area than the consultation proposed in order to facilitate the move away from advertising styles which will appeal strongly to younger viewers. So long as links to youth culture are avoided as the revised "sex" rules require, Ofcom's view is that there is little potential for social harm in alcohol advertising being linked, in a grown-up way, to romance. The new rules will tone down the sexual content of some recent advertising but would still allow responsible treatments involving flirtation and romance between over-25s
 - Most of the interpretative guidance notes have been removed from the rule-set to be published initially. Many industry respondents objected that the proposed notes were either vague and ambiguous or prescriptive and complicated. The proposed guidance has been removed on the clear understanding that, once day-to-day responsibility for the regulation of broadcast advertising is delegated to the Advertising Standards Authority and the Broadcast Committee of Advertising Practice (BCAP) on 1 November 2004, it will be promptly redrafted by BCAP, taking account of Ofcom's intentions as indicated during the consultation and as amended as a result of comments received. BCAP will then consult publicly on draft guidance notes

but Ofcom will retain the right to final approval in order to ensure that the objectives of the revised rules will be achieved. This approach has been adopted so that the ASA, the alcohol and advertising industries and the BACC* will be applying guidance to which they have made a commitment and of which both they and Ofcom have a shared understanding

[* The BACC is the Broadcast Advertising Clearance Centre - the TV advertising “pre-clearance” body which assesses compliance with Code rules before advertising is broadcast]

- The rules for TV scheduling and sponsorship, and for radio advertising, are unchanged
4. The new rules will come into force on 1 January 2005, and will apply to all advertising campaigns conceived after that date. However, Ofcom accepts that some advertisers are already filming commercials intended for summer 05 and has decided to allow a “grace period” until 30 September 05 for advertisers who will already have committed themselves to campaigns which may not comply with the revised rules. Some consultation respondents recommended a much shorter grace period but Ofcom has concluded that to require a shorter period would cause disproportionate commercial disruption given that the intention of these rule revisions is to assist wider society in efforts to change a harmful drinking culture, and such change will inevitably take a considerable time.
 5. All non-confidential responses can be found at <http://ofcom.org.uk/consultations/past/>

Notes:

- The sections below are laid out so that it is easy to compare (a) the current rule set with (b) the wording proposed in the consultation and with (c) the revised version now approved and published by Ofcom
- Significant changes from a previous iteration are marked bold
- Under each rule, or major part of a rule, there are comments explaining the significant changes from the consultation proposals

The details

PREVIOUS RULES		CONSULTATION PROPOSALS	THE REVISED PROVISIONS
	[There were no relevant introductory notes]	<p>Background</p> <p><i>There is widespread concern about drinking behaviour amongst children and teenagers, including early starting, excessive or binge drinking and harmful or anti-social behaviour associated with drinking. For example, the Department of Health has reported that levels of drinking amongst 11-14 year olds have doubled in the 10 years since 1990.</i></p> <p><i>The balance of evidence indicates that alcohol advertising has some influence on children's and teenager's attitudes to drinking, though it is almost certainly much less significant than other factors such as peer pressure and family environment.</i></p> <p><i>As far as children and young teenagers are concerned, the objectives of the rules in this section are to prevent TV advertising encouraging them:</i></p> <ul style="list-style-type: none"> <i>to start to drink sooner than they otherwise would</i> <i>to drink more than they otherwise would</i> 	<p>Notes</p> <p><i>1. The Notes included with 11.8.1 and 11.8.2 are, in general, simply those which clarify the scope of the rules. Additional interpretative guidance will be produced by the Broadcast Committee of Advertising practice, subject to public consultation and to Ofcom's approval.</i></p>

		<ul style="list-style-type: none"> • <i>to think that drinking alcohol implies status of some kind</i> • <i>to treat alcohol in a way which is antisocial or is harmful to themselves</i> <p><i>Research indicates that the advertising will be most influential on young viewers when it reflects or taps into youth culture or, for example, teenage rebelliousness. Some of the following rules aim to prevent such links. On the other hand, there is no wish to inhibit advertising of alcoholic drinks on the basis of, for example, product qualities such as flavour or brand image appeal to mature audiences.</i></p> <p><i>The rules also aim to prevent advertising encouraging or condoning self-destructive or anti-social alcohol-related behaviour by any age group.</i></p> <p><i>Particular attention is drawn to rule 1.2 which requires that the spirit of the rules, and not just their letter, must be applied.</i></p> <p><i>Where soft drinks are promoted as mixers, rules 11.8.1 & 2 apply in full.</i></p>	<p><i>2. 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)</i></p> <p><i>3. Where soft drinks are promoted as mixers, rules 11.8.1 & 2 apply in full.</i></p>
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Comments:

- Many industry respondents - including a broad-based industry working party under the banner of the Incorporated Society of British Advertisers (ISBA) - objected to the guidance notes throughout the proposals. This was either because they were thought vague and ambiguous or because they were felt to be too prescriptive and complicated.
- Ofcom has decided that most of the guidance notes should be removed from the rule-set to be published initially. This decision has been made on the clear understanding that, once day to day responsibility for the regulation of broadcast advertising is delegated to the Advertising Standards Authority and the Broadcast Committee of Advertising Practice (BCAP) on 1 November 2004, the guidance will be promptly refined, taking account of Ofcom's intentions as indicated during the consultation and as amended as a result of comments received. BCAP will then consult publicly on draft guidance notes but Ofcom will retain the right to final approval in order to ensure that the objectives of the revised rules will be achieved. This approach has been adopted so that the ASA, the alcohol and advertising industries and the BACC* will be applying guidance to which they have made a commitment and of which both they and Ofcom have a shared understanding.
- What has been removed for this stage is the "interpretative" guidance but Ofcom thinks it is necessary and helpful to retain notes which define the scope of a rule, without going deeply into subjective interpretation.
- Turning specifically to the code section above and new note 2, ISBA and the Department of Health and Home Office (in a joint response) requested a note making clear that the rules apply whether or not the product is seen being consumed. This has been added as an additional safeguard to supplement the over-arching requirement in rule 1.2 that all advertising must comply with the spirit, not just the letter of the rules.

* The BACC is the Broadcast Advertising Clearance Centre - the TV advertising "pre-clearance" body

11.8.1 – RULES FOR ALL ADVERTISING			
(a)	Advertisements 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	<p>1) Advertisements must not suggest that alcohol can contribute or is essential to social success, acceptance or confidence, or that refusal is a sign of weakness.</p> <p><i>(Note: Any suggestion of reliance upon alcohol is prohibited as is any suggestion that mood, temperament, confidence, prospects etc. may be improved by it.)</i></p> <p>2) Advertisements must not suggest that the success of a social occasion depends on the presence or consumption of alcohol.</p> <p><i>(Note: This does not prevent showing calm, mature socialising where the drinking of alcohol is restrained and responsible. There should not, however, be any suggestion that the atmosphere of a social occasion improves as a result of the presence or consumption of alcohol. The rule also aims to avoid alcohol being linked with boisterous behaviour.)</i></p>	<p>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.</p> <p>2) Advertisements must not suggest that the success of a social occasion depends on the presence or consumption of alcohol.</p>
<p>Comments:</p> <ul style="list-style-type: none"> It was obvious from consultation responses that the distinction between parts 1 and 2 of the rule had not been made clear. The first part refers to personal social success; only the second part refers to the success of a social occasion. The revisions clarify that. The new sentence in part 1 previously appeared (in a different form) in 11.8.1(b). It has been moved because it fits better here since this rule also deals with personal qualities whereas 11.8.1(b) deals with behaviour. The note to part 2 which was previously proposed has, like most guidance, been removed to be reconsidered by BCAP. However, many 			

industry respondents suggested that the full package of additional restrictions which was proposed was too draconian and could result in some advertisers choosing to abandon TV advertising in favour of unregulated media such as viral marketing (via new technologies). They argued that, as far as the protection of young people is concerned, that could be counter-productive. Ofcom has accepted these arguments to some extent and, when draft guidance is offered to it for comment, proposes (subject to consultation responses BCAP may receive on the subject) not to insist on the full force of this note being adopted because it would have required such restrained behaviour that advertisers would probably have been unable to produce effective advertising showing adults enjoying alcohol, even in a responsible way. Ofcom favours this approach because it thinks it would be appropriate, in parallel with the key issue of the “youth appeal” of alcohol advertising being addressed (see below) to allow advertisers a little more creative leeway than the consultation proposed for the area of “grown up” socialising.

- In this and other rules, the wording has been pruned a little for the sake of simplicity where the meaning would not be distorted. Like other deletions, these are marked []

(b)	Advertisements must not link drinking with daring, toughness, bravado, aggression or anti-social behaviour	Advertisements must not associate drinking with daring, toughness, bravado, aggression or anti-social behaviour, nor suggest that drinking alcohol is a sign of maturity, masculinity, femininity etc. <i>[Note: “Anti-social behaviour” in this context includes behaviour not normally associated with sobriety and is likely to include offensive acts such as rudeness or harmful practical jokes.]</i>	Advertisements must not link alcohol with daring, toughness, [] aggression or anti-social behaviour.
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Comments: (See also rule 11.8.2(b) which applies only to alcohol advertising)

- ISBA proposed that the words “daring, toughness” should be removed so that it would continue to be possible to advertise an alcoholic drink as, for example, a “reward” for a feat of endurance. Ofcom did not accept this suggestion, remaining of the view that it is inappropriate to promote alcohol in a way which suggests that drinkers of a particular brand are “macho” characters.
- A small point, but some respondents suggested that the word “associate” would be slightly ambiguous and preferred the (very similar) alternative “link”. ISBA’s consultation response requested that “associate” should be replaced with “directly link” but this has not been adopted. It

would imply that advertising could **indirectly** link drinking with inappropriate behaviour and that could render the rule ineffective. The word “drinking” has been replaced with “alcohol” to remove further the implication that the rule only applies when drinking is seen to take place.

- As a small contribution to brevity, “bravado” has been dropped since its meaning is very close to “daring”.
- The final phrase of the consultation version of the rule has, as explained above, now been moved to 11.8.1(a)(1) but has been cut down to its bare essentials: i.e. advertising must not “enhance personal qualities”. Any necessary expansion to aid interpretation would best be provided by guidance notes. The basic rule, therefore, has been returned almost to its previous form.

(c)	Advertisements must not suggest that alcohol can contribute to sexual success or that drinking can enhance sexual attractiveness	Advertisements must not associate alcohol with sexual activity or success or imply that alcohol can enhance sexual attractiveness	Advertisements must not link alcohol with sexual activity or success or imply that alcohol can enhance [] attractiveness
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Comments: (See also new rule 11.8.2(e) which applies only to alcohol advertising)

The word “link” has been changed to match (c) above simply so that different wording would not suggest a different intention.

(d)	Advertisements must not suggest that regular solitary drinking is acceptable or that drinking can overcome boredom, loneliness or other problems	Advertisements must not suggest that regular solitary drinking is acceptable or that drinking can overcome boredom, loneliness or other problems. Nor may they imply that drinking is an essential part of daily routine	Advertisements must not suggest that regular solitary drinking is acceptable or that drinking can overcome [] problems.
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Comments:

Although the DoH/Home Office and others supported it, Ofcom has accepted industry objections that the sentence highlighted in bold in the consultation version could prevent advertising simply showing, for example, people going for a drink after work. Ofcom concluded that the essential point is covered sufficiently in the now amended rule 11.8.1(e) below which prohibits suggestions that alcohol is “indispensable”. 11.8.1(d) therefore reverts to the pre-consultation version.

(e)	Advertisements must not suggest that alcohol has therapeutic qualities nor offer it as a stimulant, sedative or tranquilliser. There must be no suggestion that physical or other performance may be improved by alcohol	Advertisements must not suggest that alcohol has therapeutic, health or dietary qualities nor offer it as a stimulant, sedative, mood-changer , tranquilliser or to boost confidence . There must be no suggestion that physical or other performance may be improved by alcohol or that anyone might find drinking alcohol irresistible	Advertisements must not suggest that alcohol has therapeutic [] qualities nor offer it as a stimulant, sedative, mood-changer [] or to boost confidence. There must be no suggestion that physical or other performance may be improved by alcohol or that it might be indispensable .
<p>Comments:</p> <ul style="list-style-type: none"> The proposed prohibition on “dietary” claims has been dropped for the time being because consultation responses showed that it may not be a simple issue. The issue will be addressed separately over the next few months for the following reasons: <ul style="list-style-type: none"> (i) It may be preferable to have a common policy across broadcast and non-broadcast advertising since this is unlikely to be an issue where media-specific concerns arise (ii) Brand name extensions such as “Light” (“Lite”), “Diet”, “Lo-cal”, “Weight-Loss” and “Slimline” raise particular problems (iii) If some forms claim relating to reduced calorie or carbohydrates continue to be permitted, the inclusion of the usual disclaimers such as “Can help only as part of a calorie-controlled diet” could imply a slimming claim by association and this might be inappropriate for drinks which, in fact, are likely to have quite high absolute calorific content, even if lower than normal alcoholic drinks (iv) There may be legal issues in relation to the Food Labelling Regulations 1996 Ofcom is, however, currently minded to support a policy which would allow purely factual statements about calorie or carbohydrate content so long as there was no other suggestion that a product is a useful aid to dieting. The industry proposed “indispensable” as more precise than “irresistible” and less likely to prevent harmless advertising which simply promoted the taste of a product. This has been accepted. 			
(f)	Advertisements must not suggest that a drink is to be preferred because of its alcohol content nor	No change proposed	No change proposed

	place undue emphasis on alcoholic strength. (This does not apply to low alcohol drinks. See 11.8.3)		
No comment			
(g)	<p>Advertisements 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)</p> <p>Note: Scenes showing drinks being consumed in one swallow, or a few large swallows, are unlikely to be acceptable.</p>	<p>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. (Note: Scenes showing drinks being consumed in one swallow, or a few large swallows, are unlikely to be acceptable)</p> <p>2) References to buying 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. The intention is to avoid condoning situations in which individuals may be encouraged by peer pressure to drink more than they otherwise would.)</p> <p>3) Alcoholic drinks must be handled and served in a restrained and responsible way</p> <p>(11.8.1(g)(1) and (2) do not apply to advertising for low alcohol drinks)</p>	<p>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.</p> <p>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.)</p> <p>3) Alcoholic drinks must be handled and served [] responsibly</p> <p>(11.8.1(g)(1) and (2) do not apply to advertising for low alcohol drinks)</p>

Comments: <ul style="list-style-type: none"> ISBA recommended the addition of the word “repeat” to part 2 of the consultation version to help clarify the intention of the rule and Ofcom agrees that is appropriate. The addition of “or suggestions of” has also been added to help clarify the intention and prevent possible circumvention by showing rather than using “references to” a pattern of round-buying The industry suggested that the word “restrained” in part 3 is unnecessary and could be interpreted to prohibit normal human interaction. Ofcom agreed that the objectives of the rule will be equally served without it 			
(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	No change proposed	No change proposed
No comment			
11.8.2 – Additional rules for alcohol advertisements			
(a)	Advertisements for alcoholic drinks must not appeal particularly to people under 18.	(1) Advertisements for alcoholic drinks must not be likely to appeal strongly to people under 18. Alcoholic drinks must not be presented as other than a mature, adult pleasure and the style and content of advertisements must reflect this.	(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

	<p>Specifically:</p> <p>(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)</p> <p>(2) advertisements must not include personalities whose example people under 18 are likely to follow or who have a particular appeal to them</p> <p>(3) children must not be seen or heard</p>	<p>This does not apply to low alcohol drinks.</p> <p>Notes:</p> <ul style="list-style-type: none"> • <i>There is widespread concern about drinking behaviour amongst children and teenagers. For example, the Department of Health has reported that levels of drinking amongst 11-14 year olds doubled in the 10 years from 1990. Problems include excessive or binge drinking, harmful or anti-social behaviour associated with drinking, and starting to drink younger.</i> • <i>Research indicates that alcohol advertising will be most attractive to young viewers when it reflects or taps into youth culture or, for example, teenage rebelliousness. (For further guidance in this area, please see the research report Alcohol Advertising and Young People, available at www.ofcom.org.uk.) It is not possible to fine-tune rules which would allow advertisers to target audiences over 18 whilst preventing an equal appeal to viewers of, say 15: both groups have fairly similar tastes and interests. Indeed, some commentators suggest that “youth culture” is increasingly shared by people in their 20s because, for example, young adults are settling down and having children later. Therefore, in order to minimise the risk of alcohol advertising inadvertently appealing to those under 18,</i> 	<p>[]</p>
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		<p><i>little leeway or benefit of the doubt can be given in relation to this rule. There is, however, no need or wish to inhibit advertising of alcoholic drinks on the basis of, for example, product qualities such as flavour or brand appeal to mature audiences. The following guidance aims to help interpretation and compliance with the rule.</i></p> <ul style="list-style-type: none"> • <i>Advertising is least likely to comply if, for example, it:</i> <ul style="list-style-type: none"> a) <i>includes personalities who are likely to have credibility amongst, or be popular with, people under 18</i> b) <i>uses animation, cartoons etc which are likely to be popular with children and teenagers</i> c) <i>includes animals other than incidentally</i> d) <i>includes music, or styles of music, which are likely to be popular with children and teenagers</i> e) <i>features sport</i> • <i>The use of humour always requires great care but, in particular, advertising should avoid jokes, situations and behaviour of types typically associated with children or teenagers. (Examples are practical jokes, slapstick, outwitting authority, ignoring responsibilities, “generation gap” references or puerile behaviour)</i> 	
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		<p>(2) Children must not be seen or heard, and anyone who is, or appears to be, under 25 years old must not play a significant role in advertisements for alcoholic drinks. No-one may behave in an adolescent or juvenile way</p> <p>(Notes: (1) See the exception in 11.8.2(a)(3) (2) <i>In advertising for low alcohol drinks, anyone associated with drinking must be, and appear to be, at least 18 years old)</i></p> <p>(3) An exception to 11.8.2(a)(2) is made for advertisements in which family groups are eating or 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 made explicitly clear that anyone who appears to be under the age of 18 is not drinking an alcoholic drink.</p>	<p>(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</p> <p>Notes: (1) See the exception in 11.8.2(a)(3) (2) <i>In advertising for low alcohol drinks, anyone associated with drinking must be, and appear to be, at least 18 years old</i></p> <p>(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.</p>
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Comments:

- The “youth appeal” issue was the most contentious, with the alcohol, advertising and TV industries arguing strongly that the proposals went too far. All other respondents (including consumer and health representatives, “alcohol abuse” groups and local and national government) either supported the draft or argued that it was not strong enough. The DoH and Home Office, for example, suggested that 11.8.2(1)(a) should quite simply prohibit all “appeal to people under 18”. In Ofcom’s view, this would be draconian and would probably be either unworkable or, effectively, a complete ban since almost any advertising, except the most technical, will usually have some appeal to young people
- Industry respondents were either very uneasy about, or firmly opposed, the proposed strengthening of the previous rule so that it would prohibit “strong appeal” to under 18s rather than just “particular appeal” (which meant that advertising which would appeal as much to over 18s as to younger people passed the test and could appear). ISBA objected to the proposal strongly although they stressed that they do want to ensure a responsible approach to the youth appeal issue. They suggested that the rule should instead state that “alcoholic drinks must not be presented as an adjunct to youth culture”. Ofcom has decided that the “strong appeal” approach is essential if there is to be meaningful change in the level of appeal of alcohol advertising to children and younger teenagers
- However, the most widely expressed strong industry objection was to the second sentence of 11.8.2(a)(1). Respondents argued that this could well be interpreted to require all advertising to be staid and dull. This was a misreading of the wording which actually said that the advertising shouldn’t **undermine** the idea that alcohol is a mature, adult pleasure but Ofcom has accepted that the wording was complex and the rule has now been re-focussed so that it explicitly refers to youth culture which, as the draft Introduction made clear, was always the essential target
- Industry respondents expressed concern that application of the proposed rules would require unreasonable levels of subjective judgement. (This criticism was made in other areas too but was mainly focussed on the youth appeal rule.) Ofcom does not accept that these rules would need a different kind of judgement from that required to apply the previous ones. The “cut-off point” of acceptability would be in a different place but it was just as hard, and just as subjective, to make a judgement about “particular appeal” as it will be to judge “strong appeal”. Such difficulties are unavoidable in regulating broadcast content
- Low alcohol products cannot, of course, legally be sold to under 18s. Ofcom has been convinced that it would not be appropriate to disapply (a)(1) to advertising for those products as it would imply that they may be targeted at under 18s
- The DoH/Home Office were virtually alone in objecting to the proposed exception (in 11.8.2(a)(3)) which would, in some limited circumstances, allow children to appear in responsible family environments. The proposal has been adopted.

(b)	Advertisements for alcoholic drinks must not be advertised in a context of aggressive or anti-social behaviour	Advertisements for alcoholic drinks must not show, imply or refer to acts or impressions of daring, toughness, bravado, aggression or boisterous, irresponsible or anti-social behaviour	Advertisements for alcoholic drinks must not show, imply or refer to [] daring, toughness, [] aggression or unruly , irresponsible or anti-social behaviour
Comments: (See also 11.8.1(b)) <ul style="list-style-type: none"> As above, “bravado” has been dropped as a (marginal) contribution to brevity The industry objected to the word “boisterous” on the grounds that it is ambiguous. It could mean either unruly or simply lively. Ofcom agreed and has adopted “unruly” as being more precise 			
(c)	Advertisements for alcoholic drinks must not publicise sales promotions entailing multiple purchase which appear to encourage excessive consumption. (See 11.8.3 for exceptions for low alcohol drinks)	Advertisements for alcoholic drinks must not appear to encourage excessive or irresponsible consumption. <i>(Note: Particular care is needed with sales promotions entailing multiple purchase.)</i>	Advertisements for alcoholic drinks must not appear to encourage [] irresponsible consumption.
Comments: Again in the interests of brevity, “excessive” has been dropped since it is simply a form of irresponsible drinking			
(d)	Advertisements for alcoholic drinks must not normally show alcohol being drunk in a working environment	We proposed dropping this rule.	Advertisements for alcoholic drinks must not normally show alcohol being drunk in a working environment

Comments: In general, there was no support from either side of the debate for dropping the rule. It has therefore been retained			
(e)	[There was no additional rule for alcohol advertising. Only 11.8.1(c) applied]	<p>Alcoholic drinks must not be advertised in a context of sexual suggestiveness, flirtation or other sexual interaction.</p> <p><i>(Note: This rule is not intended to prevent the attribution of style or elegance to a product. Nor is it intended to prevent scenarios that show affection between established, mature couples. Treatments that are sexually charged or imply sexual attraction are, however, forbidden and there must be no suggestion that alcohol can aid sociability or contact between potential sexual partners. See also 11.8.1(a) and (c))</i></p>	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)
Comments: (See also 11.8.1(c)) This rule, which applies only to alcohol advertising, is new. It supports 11.8.1(c) which applies to all advertising but which, in its previous form, proved incapable of limiting sexual content and links in alcohol commercials. The version of the rule on which Ofcom consulted would have almost completely removed any sexual elements in alcohol advertising. It was opposed by industry respondents (who argued that 11.8.1(c) would be sufficient) but was supported by most other respondents. The rule which has been adopted will prevent the stronger sexual elements which have appeared in some recent advertising but Ofcom has concluded that it would be appropriate and harmless to allow more creative leeway than the consultation proposed in order to facilitate the move away from advertising styles which will appeal strongly to younger viewers. (See also the comments on 11.8.1b and 11.8.2b above.) So long as links to youth culture are avoided as the revised “sex” rules require, Ofcom’s view is that there is little potential for social harm in alcohol advertising being linked, in a grown-up way, to romance. The new rules will tone down the sexual content of some recent advertising but would still allow responsible treatments involving flirtation and romance between over-25s			

11.8.3 – Low alcohol drinks		
<p>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)</p> <p>The exceptions are: (a) 11.8.2(a)(1): Anyone associated with drinking must be, and must look, at least 18 years old (b) The advertisements need not comply with 11.8.1(f) and (g) or 11.8.2(c)</p>	<p>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)</p> <p>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:</p> <ul style="list-style-type: none"> • 11.8.1(f) 11.8.1(g)(1) or (2) 11.8.2(a)(1) 	<p>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)</p> <p>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:</p> <ul style="list-style-type: none"> • 11.8.1(f) 11.8.1(g)(1) or (2) <p>[]</p>
See the comments under 11.8.2(a)(1)		

The following are Ofcom's conclusions on other questions posed in the consultation:

Q14 (Scheduling rules):

Some non-industry respondents argued that alcohol advertising should be restricted to post-9pm transmissions but Ofcom remains of the view that this would be disproportionate (given that research indicates that the advertising is a relatively small influence on young people's attitudes to drinking compared to other social, family and market factors) and that it would be ineffective (given that teenagers and most older children watch a significant amount of post-watershed TV).

Q15 (Sponsorship):

Although ITV, Channel 4 and Five (in a joint response) raised some general concerns about the way the spirit of the advertising rules may be applied to sponsorship by Ofcom once the regulation of advertising itself is delegated to the ASA (and these will be considered) there were no concerns which related to alcohol specifically.

Q16 (Radio):

Most respondents, including the DoH and Home Office, thought that the rules which apply to television should also apply to radio. Advertisers and the radio industry generally disagreed strongly. Ofcom remains of the view that the issues which arise with alcohol advertising on TV are not a problem on radio. On that basis, it is satisfied that the existing radio rules are effective and, given the potential disruption of apparently harmless commercial arrangements which alignment could bring, sees no good grounds to change them.

Q17 (ISBA proposals):

The industry generally preferred the ISBA proposals. An exception was Allied Domecq who supported Ofcom's approach, as did the non-industry respondents. For the consultation draft, Ofcom had adopted those of ISBA's suggestions and wording which it thought were appropriate and would be effective and the consultation responses did not lead it to change that judgement.

Q18 ("Healthy drinking" advertising):

Most of the consumer lobby did not support any relaxation of the rules to facilitate healthy drinking campaigns. Alcohol Focus Scotland cited a successful campaign by Carling which involved Celtic and Rangers footballers calling on youth to drink responsibly and said the new rules should still allow this sort of campaign. The DoH, Home Office and the Mayor of London's office said that the current rules had proved no inhibition to healthy drinking campaigns and didn't think Ofcom's proposals would either. They did not support any relaxations.

The Royal Society of Physicians had no problem with a relaxation, but said the promotion of healthy drinking should not be linked to particular brands.

The Advertising Association argued that the same rules should apply to all advertisers who promoted sensible drinking messages, whether they were the DoH or commercial companies (so long as the latter did not present the message in a partial way). Diageo suggested that "all the rules should be relaxed in relation to healthy/responsible drinking campaigns. E.g. the Diageo Irish commercial shows a

young man in a bar getting drunk. It is very effective but may arguably fall foul of these proposed rules”.

The consensus of other respondents, on both sides of the debate, was that no particular relaxations were needed and Ofcom has made none.

Q19 (“Period of grace”):

The industry would generally be content with 1 year although some thought longer is needed. However, the advertising agency Publicis felt that six months would be sufficient.

ITV/C4/C5 argued that most airtime is sold on an annual basis, with most deals taking place in autumn for the following year. Therefore, because they suggested some advertisers may not wish to proceed under the proposed rules, they proposed an effective date of 1 January 2006.

The non-industry respondents generally wished to allow no more than six months and the DoH/Home Office would like to see all advertising compliant by 1 January 2005.

The new rules will come into force on 1 January 2005, and will apply to all advertising campaigns conceived after that date. However, Ofcom accepts that some advertisers are already filming commercials intended for summer 05 and has decided to allow a “grace period” until 30 September 05 for advertisers who will already have committed themselves to campaigns which may not comply with the revised rules. Some consultation respondents recommended a much shorter grace period but Ofcom has concluded that to require a shorter period would cause disproportionate commercial disruption given that the intention of these rule revisions is to assist wider society in efforts to change a harmful drinking culture, and such change will inevitably take a considerable time.

Q20 (Regulatory Impact Assessment):

1. ITV/ Channel 4/ Channel 5 stated that the total revenue they receive from alcohol advertising is around £100m, which represents approximately 3% of their total advertising income. However, due to the existing constraints on when and how alcohol can be advertised, they argued that alcohol advertising is of much greater financial importance in supporting certain parts of their schedules. They stated that in some soaps and sport, alcohol advertising can deliver up to 30% of all advertising impacts and they would be concerned if any tightening of the rules led to a significant reduction in this source of revenue or impacted on their ability to deliver their public service broadcasting obligations. Flextech said that the loss in revenue would be more than the 0.8% estimated by Ofcom but did not offer an alternative figure or supporting arguments.
2. An industry respondent argued that:
 - (a) There are significant costs in developing new advertising; production of one new commercial costs around £0.5m in addition to the cost of management time.
 - (b) If the new rules were implemented, it would be harder to reach their legitimate target audience and they would therefore have to spend more to achieve the same level of advertising impacts. They estimate that such costs could be several million pounds.

- (c) Given the tighter rules, they said they would be likely to move advertising out of television to other media.
3. In relation to point (b), it was not clear to Ofcom why increased TV spend would be a solution if an advertiser's problem was caused by creative limitations. However, such additional spend by advertisers who did decide to remain on TV would help compensate the broadcasters for any loss of revenue due to other advertisers reducing TV spend.
 4. The broadcasters did not provide evidence or arguments that, if alcohol revenue was lost, it could not be replaced by advertising in other categories. Nevertheless, Ofcom accepts that this could be the case. But Ofcom did note that ITV/C4/C5 did accept that there is a case for tightening the alcohol rules even if this means a limited drop in their revenues
 5. The judgement of Ofcom's economists is that the tighter rules are not likely to drive a major proportion of alcohol advertising into other media, particularly as a significant "grace period" is being allowed for non-compliant commercials. As the consultation's RIA stated, the greatest risk is likely to be to alcopop advertising with a much smaller risk to some lager advertising. There may also be a risk in the small rum category. Barb-Nielson data shows that 63% of advertising spend on alcohol is on television and this helped reassure Ofcom that tightening the rules will not lead to a significant withdrawal of advertising from a medium to which the alcohol industry appears to attach much importance. Ofcom therefore concluded that any potential loss of revenue from the withdrawal of some advertising would, as the provisional RIA concluded, be outweighed by the social benefits of the revised rules.

22 October 2004