

Alcohol Advertising

Consultation document

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Section 1

Summary

- 1.1 Ofcom is reviewing its rules for broadcast advertising of alcoholic drinks and, if it judges changes to be appropriate, currently intends them to be in place by November 2004. However, in order to avoid unnecessary commercial disruption, there is likely to be some lee-way given to any existing commercials which do not comply with any new rules.
- 1.2 The Independent Television Commission began such a review before its responsibilities were transferred to Ofcom at the end of 2003. Ofcom has inherited helpful research commissioned by the ITC. It is widely accepted that the problems associated with alcohol, including those relating specifically to young people, have multiple causes rooted primarily in family and social environment. However, recent research indicates that advertising has some influence on young viewers' attitudes to drinking, albeit at a relatively low level compared to those other factors. The government's Alcohol Harm Reduction Strategy was published in March 2004. As one element of a wide-ranging package of proposals, the Strategy also recommended that Ofcom should oversee a review of the TV rules by the end of the year. (There have been no concerns expressed about alcohol advertising on radio but, although Ofcom's review focuses on TV, it is relevant to consider the radio rules too.)
- 1.3 This consultation ends on 24 September 2004.
- 1.4 Currently, rule 11.8.1 applies to all advertising and deals with any references to or portrayal of alcohol within any advertisement; 11.8.2 contains additional rules which apply only to alcohol advertising. Low alcohol drinks are exempt from some of the rules.
- 1.5 Subject to consultation responses, we propose significant toughening of the rules in the following areas. (The relevant current rule number is given in brackets):
 - Linking alcohol with anti-social or self-destructive behaviour [11.8.1(b) & 11.8.2(b)]
 - Sexual content. [11.8.1(c)]
 - Irresponsible handling/serving of alcohol [11.8.1(g)]
 - "Youth appeal" [11.8.2(a)]
- 1.6 There have been longstanding rules in all these areas but the wording has not proved effective in some cases. We anticipate that these changes, if adopted, would result in a marked difference in the tone of some advertising, particularly to the extent that it relates to or feeds off youth culture.
- 1.7 However, we propose to drop the rule which prohibits alcohol advertising from showing people drinking in the workplace [11.8.2(d)] and, subject to some safeguards, we propose to allow children and teenagers to appear in alcohol advertising **if** they are part of a family group which is eating or socialising calmly and responsibly. [See proposed new rule 11.8.2(a)(3)]

- 1.8 We also propose relatively minor changes or clarifications to a number of other rules. Annex 4 is a comparison of the current and proposed rules.

Section 2

Background

- 2.1 During a review by the ITC of its TV advertising code in 2002, concerns about recent trends in some alcohol advertising emerged. The ITC concluded that, although a review of alcohol advertising policy was needed, it would be a major project, involving research, and could not be fitted into the 2002 time-scale for the general code review. The alcohol advertising review was underway when Ofcom inherited the ITC's responsibilities at the end of 2003.
- 2.2 The government's Alcohol Harm Reduction Strategy was published in March 2004. As one element of a wide-ranging package of proposals, the Strategy also recommended that Ofcom should oversee a review of the TV rules by the end of the year. (We are not aware of any concern about alcohol advertising on radio but, although Ofcom's review focuses on TV, it is considering the radio rules too.)
- 2.3 It has been long-standing public policy that one of the aims of the regulation of TV advertising should be to reduce any negative impact of alcoholic drinks advertising on children and young teenagers. The objectives of the alcohol advertising policy inherited by Ofcom are to prevent TV advertising encouraging children and young teenagers:
- to start to drink sooner than they otherwise would
 - to drink more than they otherwise would
 - to think that drinking alcohol implies status of some kind
 - to treat alcohol in a way which is antisocial or harmful to themselves
- 2.4 The rules also aim to prevent advertising condoning or encouraging self-destructive or anti-social drinking by any age groups.

Research

- 2.5 It is notoriously difficult to probe the actual effect and influence of TV advertising because (a) virtually everybody is exposed to it (so there can be no control group) and (b) it is just one amongst many possible factors including peer pressure, films and TV programmes, family influence, general cultural influences and other forms of advertising. However, to provide a basis for policy decisions which is as objective as possible, research has been used in two ways:

Pre-existing research

- 2.6 Two separate academic "literature reviews" analysed relevant, peer-reviewed research into the possible influence of advertising (and particularly alcohol advertising) on children and young people. One of these was commissioned from the University of Exeter; the other (not directly commissioned) was from the University of Hertfordshire.
- 2.7 The two reports draw marginally different conclusions. Briefly, they can be summarised as follows:

2.8 Exeter:

- There are theoretical grounds to assume that alcohol advertising has a minor role in encouraging young people to start to drink but there is no solid empirical evidence of that. Peer pressure will be a more significant factor.
- Cultural influences, and particularly family environment, are a major influence on children's attitudes to alcohol and drinking. Excessive parental drinking coupled with aggression will have one effect; a family environment of moderate drinking with meals, accompanied by conversation and laughter will have a very different one.
- Media influence (including advertising) will be weaker than those cultural influences and will operate on beliefs already established from infancy onwards. However, it seems that, for example, endorsement by an admired celebrity can influence drinking behaviour or that individuals with drink problems can be prompted to drink by media representations of drinking.
- Although alcohol is advertised in aspirational ways and is enjoyed for its humour, visual effects and style, older children and young people are advertising-literate and cynical about its purpose and so, the author suggests, will "see through it".
- There is no consistent evidence one way or the other on whether the effect of the advertising is limited to brand switching rather than market expansion.

2.9 Hertfordshire:

- Until the early 1990s, research in this area had inconclusive or mixed results but more recently, a number of studies have shown that enjoyment or awareness of alcohol commercials is linked to positive beliefs about alcohol or levels of drinking in young adulthood. (But "direction of causality" continues to be a problem. In other words, do children who already have positive views about alcohol pay more attention to alcohol advertising, or do children who are exposed to more of the advertisements develop more positive views about drinking as a result? Or is there a third, over-arching, element which influences both factors?)
- Children enjoy alcohol advertising because of, for example, humour, music, colour and because the commercials are generally about "image" rather than (boring) product quality.
- At 10-12, children enjoy the advertising but tend to do so despite the product. (At these young ages they tend to have negative views about drinking.) Enjoyment of the advertising generally increases with age.

Original research

2.10 In partnership with the British Board of Film Classification and Advertising Standards Authority, the ITC also commissioned qualitative research to investigate what alcohol-related messages, impressions and values young viewers may be absorbing from advertising.

2.11 The research concentrated on 11-16 year olds. (10 year olds and 17 year olds were included in one session each.) It was moderate in scale, using 18 group discussions and six "friendship pairs". The researchers included "projective exercises" (that is, imaginative or creative games) to try, so far as is possible, to

get underneath the conscious attitudes which respondents would be able to express – and indeed may be willing to express in a semi-public environment. A number of TV commercials (as well as press, poster and cinema examples) were shown. This was not a random selection: they were chosen because they represented possible problem areas.

2.12 Although the authors did not claim to have isolated cause and effect (for the reasons mentioned earlier) the study offered extremely useful insights into how young people view and use alcohol and whether the attitudes reflected in some recent advertising may conflict with social policy.

2.13 The conclusions of the qualitative study can briefly be summarised as follows:

- The results of the projective exercises reinforced what respondents consistently said: that they associate alcohol with parties and with having 'a good time'.
- There was a link between alcohol and sex for teenagers over about 15. It was seen as an important element in social gatherings and, for many, it reduces inhibitions in a way that helps when negotiating sex.
- Alcohol advertising was not, unprompted, particularly prominent in respondents' minds and the projective techniques used as part of the methodology produced no firm support for the Literature Reviews' tentative conclusions that advertising could influence young people's ideas about alcohol in undesirable ways.
- Respondents often accepted that alcohol advertising was aimed not at them but at people over 18. Some said this must be the case because it is illegal for them to buy alcohol. The age of the people depicted in the advertising shown to them was often said to make it clear that an audience of people over 18 was intended (although, as reported below, this did not necessarily prevent them engaging with and enjoying advertising featuring older actors).
- However, some of the commercials were not seen as being aimed at over 18s because they used animals or animation rather than real people. This was because the commercials did not contain any signal which young viewers interpreted as "not for me". The advertising could therefore seem particularly relevant to them and may have been more influential.
- The research reinforced the common perception that children and teenagers are passionate and knowledgeable about the specific categories of music they like and that music is probably almost as strong a signal that a commercial is relevant to them as is the age of the cast.
- A significant amount of the advertising, particularly for alcopops, appeared to be closely aligned to youth culture and to be of strong interest to underage drinkers. Many of the advertisements celebrated mocking the older generation, kicking against restraints and getting away with things.
- The researchers formed the tentative impression that the taste and brand values of alcopops may combine to undermine young people's acceptance of society's rules on the minimum legal age for drinking. In other words, in the past, the taste of alcohol has generally been unappealing to children and to many young teenagers; it has been an acquired taste – notwithstanding concoctions like rum and black. Now however, alcopops have made alcohol immediately palatable to the young. The researchers sensed that young people viewed the combination of the products' palatability, their image and the tone of the

advertising as indicating that this form of alcohol is not so clearly targeted at adults.

- The research was, however, reassuring about advertising which does not link to youth culture in any way. Many scenarios involving people in their 30s or 40s were unappealing or of no interest to young respondents. But much of the advertising which featured older people did also appeal to the young by virtue of the characters involved, the humour or the music. (N.B. appeal does not necessarily equate to influence. There is no evidence on this. Only common sense suggests that it is a strong possibility.)
- Much of the advertising shown in the research included sexual references of various kinds. The respondents seemed not to take much notice of the most blatant or adult-oriented of these. However, the researchers sensed that the consistent juxtaposition of sex and alcohol, especially in scenarios which seemed relevant to their age group, might feed into the link most of the respondents already made between the two.
- Some of the advertising examined in the research showed alcohol being poured with reckless abandon. Excess appeared to come across as cool and exciting. (Moderation and self-restraint are, of course, widely regarded as uncool and boring amongst the young.)

The three reports are in Annexes 5 & 6.

Section 3

Proposed revisions to rules

- 3.1 In the past, in the absence of consistent evidence about the influence of alcohol advertising, policy has been purely precautionary. Now, the evidence, though tentative, suggests that alcohol advertising can have some impact on young people's attitudes to alcohol, albeit smaller than other cultural and family influences. It is also important to bear in mind that any negative influence will be the result of the cumulative effect of the behaviour, culture and attitudes reflected in the wide range of campaigns seen during a child's formative years.
- 3.2 The evidence we now have, coupled with recent experience of an increasing number of advertisements which may meet the letter but arguably not the spirit of the Code, indicates that some of the rules are poorly focussed and/or too general to be effective.

Question 1: *Do you agree that there are sufficient grounds to justify tightening policy in some areas?*

- 3.3 The following sections examine the issues and, in some cases, propose a different approach. The current rules are in bold; the proposed alternative rules are in bold italics. Annex 4 compares the current rules with proposed alternatives and includes a draft Introduction which, for the first time, explains the social context of the policies.
- 3.4 Rule 11.8.1 applies to all advertising; 11.8.2 contains additional rules which apply only to alcohol advertising. Low alcohol drinks are exempted from some of the rules. We look first at 11.8.1. Although this applies to all advertising, its main impact is still, of course, on alcohol commercials.

3.5 11.8.1: Rules for all advertising

3.5.1 Social success:

- 3.5.1.1 Current rule 11.8.1(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**

- 3.5.1.2 The current rule has not always successfully prevented suggestions that alcohol contributes to the success of a social occasion (as opposed to being essential to it). Nor has it prevented boisterous partying associated with alcohol brands. Splitting a slightly amended rule in two would allow the addition of guidance notes.

- 3.5.1.3 Proposed:

(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. (Note: Any suggestion of reliance upon alcohol is prohibited as is any suggestion that mood, temperament, confidence, prospects etc. may be improved by it.)

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

Question 2: Is the proposal to tighten 11.8.1(a) (Social success) appropriate, proportionate and/or sufficient?

3.5.2 Bravado, aggression etc:

3.5.2.1 Current rule 11.8.1(b): **Advertisements must not link drinking with daring, toughness, bravado, aggression or anti-social behaviour**

3.5.2.2 This rule has been interpreted in the past as not applying unless, for example, macho behaviour or attitudes have been preceded by drinking alcohol. That narrow approach has not proved capable of preventing TV advertising building undesirable associations into brand images.

3.5.2.3 We also propose to widen the scope of the rule a little to cover associations with masculinity, femininity, maturity etc and to include a new Note.

(See also 11.8.2(b) which applies only to alcohol advertising.)

3.5.2.4 Proposed: **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. [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.]**

Question 3: Is the proposal to tighten 11.8.1(b) (Bravado etc) appropriate, proportionate and/or sufficient? [See also 11.8.2(b)]

3.5.3 Sex:

3.5.3.1 Current rule 11.8.1(c): **Advertisements must not suggest that alcohol can contribute to sexual success or that drinking can enhance sexual attractiveness**

3.5.3.2 This rule has long been interpreted as not applying unless the act of drinking is directly linked to a scene of romantic or sexual success. The result has been a great deal of very sexy advertising in which the advertised brand is not actually drunk before or during the interaction. This has been the cause of some concern and the qualitative research confirmed that sex and alcohol are strongly linked in the minds of many under-age drinkers. We propose revisions to 11.8.1(c) and a

new section (e) within 11.8.2 (which would, of course, apply only to alcohol advertising).

- 3.5.3.3 Proposed revised 11.8.1(c): ***Advertisements must not associate alcohol with sexual activity or success or imply that alcohol can enhance sexual attractiveness.***

Proposed new 11.8.2(e): ***Alcoholic drinks must not be advertised in a context of sexual suggestiveness, flirtation or other sexual interaction. (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))***

Question 4: Are these proposals to tighten 11.8.1(c) (Sex) and to add a new rule 11.8.2(e) appropriate, proportionate and/or sufficient?

3.5.4 Regular or solitary drinking

- 3.5.4.1 Current rule 11.8.1(d): ***Advertisements must not suggest that regular solitary drinking is acceptable or that drinking can overcome boredom, loneliness or other problems***
- 3.5.4.2 The Radio advertising code also prohibits suggestions that drinking might be an essential part of daily routine. We propose to incorporate this in the TV rules although the lack of it has not caused problems in the past.
- 3.5.4.3 Proposed: ***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***

Question 5: Is the proposal for to augment 11.8.1(d) (Regular or solitary drinking) appropriate and proportionate?

3.5.5 Therapeutic qualities:

- 3.5.5.1 Current rule 11.8.1(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***
- 3.5.5.2 We propose some clarification of and additions to this rule, in particular to make clear that that “mood changing” should not be associated with drinking and that alcohol should not be presented as irresistible.
- 3.5.5.3 Proposed: ***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

Question 6: *Is the proposal to clarify 11.8.1(e) (Therapeutic qualities) appropriate, proportionate and/or sufficient?*

3.5.6 Alcoholic strength:

3.5.6.1 Current rule 11.8.1(f): **Advertisements must not suggest that a drink is to be preferred because of its alcoholic content nor place undue emphasis on alcoholic strength. (This does not apply to low alcohol drinks)**

3.4.6.2 We don't propose any changes.

Question 7: *Do you agree that no change is required to 11.8.1(f) (Alcoholic strength)?*

3.5.7 Moderation:

3.5.7.1 Current rule 11.8.1(g): **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)**
(Note: Scenes showing drinks being consumed in one swallow, or a few large swallows, are unlikely to be acceptable.)

3.5.7.2 The qualitative research indicates that some clarification of this rule would be helpful. Although no advertising has shown any excessive drinking, an atmosphere of abandonment and excess has sometimes been created recently by, for example, the way bottles are handled or spirits are sloshed liberally around a crowded party room.

3.5.7.3 Proposed:

(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)

(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.)

(3) Alcoholic drinks must be handled and served in a restrained and responsible way

(11.8.1(g)(1) and (2) do not apply to advertising for low alcohol drinks

Question 8: *Is the proposal to clarify 11.8.1(g) (Moderation) appropriate, proportionate and/or sufficient?*

3.5.8 Danger:

3.5.8.1 Current rule 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.**

3.5.8.2 We don't propose any changes.

Question 9: *Do you agree that no change is required to 11.8.1(h) (Danger)?*

3.6 **11.8.2: Additional rules for alcohol advertising**

3.6.1 Youth appeal

3.6.1.1 Current rule 11.8.2(a): **Advertisements for alcoholic drinks must not appeal particularly to people under 18. Specifically:**

- 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)**
- 2) **advertisements must not include personalities whose example people under 18 are likely to follow or who have a particular appeal to them**
- 3) **children must not be seen or heard**

3.6.1.2 The qualitative research indicates that the current rules are often not effective in preventing appeal to audiences under 18. We believe it would be impossible to fine-tune rules which would allow advertisers to target audiences over 18 whilst preventing the campaigns also appealing to viewers of, say, 14: both groups' tastes and interests are too similar to be differentiated. Indeed, some commentators suggest that "youth culture" is increasingly shared by people in their 20s because, for example, they are settling down and having children later.

3.6.1.3 On the other hand, the research was reassuring in that it suggested there is no need to inhibit advertising based on, for example, brand image appeal to mature audiences. (One of our concerns at the start of this review was that alcohol advertising which promoted adult sophistication might be a problem since children and teenagers typically want to seem more grown up than they are. So long as there is a clear "generation gap" in the advertising's appeal, that does not now appear to be much of a danger.)

3.6.1.4 Our proposals are based on the provisional conclusion that the only way to reduce significantly young viewers' degree of engagement with alcohol advertising is to prohibit any advertising which is likely to have a strong appeal to them. The regulator's traditional approach in areas like this has been to forbid advertising which has a "particular appeal"

to the audience segment in question but not to intervene if the advertising also has wider appeal. Because of the points made in paragraph 3.6.1.2, we do not think that can work for alcohol.

- 3.6.1.5 Whilst this change would involve significant creative limitations, we believe it (and firm enforcement of it) would be necessary to achieve a meaningful reduction in the degree of engagement of viewers under 18 with some alcohol advertising. An alternative to the proposed broad-brush ban on “strong youth appeal” might have to be a set of detailed prohibitions which would inevitably also apply to advertising which is of appeal only to much older age groups. These rules could therefore unnecessarily inhibit creative freedom for those advertisers. Another alternative would be to increase significantly the age that actors must be to appear in alcohol advertising, which, given that the legal age to purchase alcohol is 18, risks being disproportionate.
- 3.6.1.6 Family occasions: We propose a limited relaxation of point 3 of the current rule to allow advertising for alcoholic drinks to include children in, for example, scenes of families enjoying alcohol and soft drinks together in a pub garden. (Such a family scene could currently be used in advertising for a restaurant chain.) The idea is to allow alcohol to be promoted responsibly as a part of a normal family life rather than always as a separate, perhaps exciting, adult mystery. The research, however, indicates that there could be dangers in this approach if young viewers interpreted the presence of their own age groups as a sign that the product is appropriate for them. We therefore propose that children, and people under 25 may appear only incidentally in advertising of this kind but, nevertheless, we also propose that it must be made explicitly clear that anybody who looks under 18 is not drinking alcohol.
- 3.6.1.7 We propose that the “youth appeal” section of the rules would, for the first time, have Notes explaining the sensitivity of this issue and offering guidance on how the “strong appeal” prohibition should be interpreted. A draft of these notes is included below.
- 3.6.1.8 Proposed rules:

11.8.2(a)(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. This does not apply to low alcohol drinks.

Notes:

1. ***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.***

2. *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, 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.*
3. *Advertising is least likely to comply if, for example, it:*
 - a) *includes personalities who are likely to have credibility amongst, or be popular with, people under 18*
 - b) *uses animation, cartoons etc which are likely to be of interest to children and teenagers*
 - c) *includes animals other than incidentally*
 - d) *includes music, or styles of music, which are likely to be popular with children and teenagers*
 - e) *features sport*
2. *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)*

(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

(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) 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.

Question 10: *Are the proposals to tighten 11.8.2(a) (Youth appeal) appropriate, proportionate and/or sufficient?*

3.6.2 Aggressive or anti-social behaviour

- 3.6.2.1 Current rule 11.8.2(b): **Alcoholic drinks must not be advertised in a context of aggressive or antisocial behaviour**
- 3.6.2.2 This rule has not proved effective at preventing undesirable associations with alcohol brands. We propose to broaden it somewhat.

(See also 11.8.1(b))
- 3.6.2.3 Proposed: ***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***

Question 11: *Is the proposal to tighten 11.8.2(b) (Aggression etc) appropriate, proportionate and/or sufficient? [See also 11.8.1(b)]*

3.6.3 Excessive consumption:

- 3.6.3.1 Current rule 11.8.2(c): **Advertisements for alcoholic drinks must not publicise sales promotions entailing multiple purchase which appear to encourage excessive consumption. (This rule does not apply to advertising for low alcohol drinks.)**
- 3.6.3.2 We think this rule can be simplified and should be broadened to prevent any form of encouragement of excessive consumption. A note would draw particular attention to the multiple purchase issue.
- 3.6.3.3 Proposed: ***Advertisements for alcoholic drinks must not appear to encourage excessive or irresponsible consumption. (Note: Particular care is needed with sales promotions entailing multiple purchase.)***

Question 12: *Is the proposal to simplify and broaden 11.8.2(c) (Excessive consumption) appropriate, proportionate and/or sufficient?*

3.6.4 Working environments:

- 3.6.4.1 Current rule 11.8.2(d): **Advertisements for alcoholic drinks must not normally show alcohol being drunk in a working environment**
- 3.6.4.2 The idea of dropping this rule has been suggested before but there was some opposition on the grounds that workplace drinking is often a serious problem. However it seems unlikely that the rule has a

significant beneficial effect on attitudes to drinking. In any case, the rule has only ever prevented workplace drinking being featured in alcohol commercials, not in other advertising (nor, of course, in programmes). Just because something is a social problem, it does not mean that the situation will be improved by excluding it from advertising. (For example, commercials sometimes feature bank robberies but that is unlikely to encourage raids.) So we propose to drop the rule on the grounds that it is an unnecessary restriction on creative freedom.

Question 13: *Do you agree with the proposal to drop rule 11.8.2(d) (Working environments)?*

3.6.5 Low alcohol drinks:

- 3.6.5.1 Current rule 11.8.3: **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)(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)**

- 3.6.5.2 Proposed: ***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)***
 - ***11.8.2(a)(1)***

3.6.6 Scheduling rules

- 3.6.6.1 Currently, alcohol advertising is excluded from programming made specifically for children but also from any programmes which are of particular interest to people under 18.
- 3.6.6.2 We do not propose any change to this position. (Please see section 4.3.3 for more details.)

Question 14: *Do you agree with the proposal to make no changes to the scheduling rules?*

3.6.7 Sponsorship

- 3.6.7.1 Sponsor credits are transmitted in programme time but it is unlikely that the content of credits is likely to influence viewers in a substantially different way to spot advertisements. There is no evidence that it does. Sponsor credits are, therefore, subject to the same content rules as advertising spots:

No sponsor credit may breach the principles or spirit of the [advertising code]. The detailed rules.....should be applied to sponsor credits when appropriate. (Section 11.4 of the Code of Programme Sponsorship)

Any changes to the rules for alcohol advertisements would therefore be applied to sponsor credits produced for alcohol advertisers.

- 3.6.7.2 We do not think there would be any benefit to young viewers from applying additional restrictions to sponsor credits.

Question 15: Do you agree with the proposal to make no changes to the sponsorship rules?

3.6.8 Radio

- 3.6.8.1 Once consultation comments have been received, Ofcom will consider whether any new or revised rules for TV advertising should also be applied to radio. Whilst a consistent approach across broadcasting would be tidier, there are arguments against that:
- 3.6.8.2 Neither alcohol advertising nor sponsorships by alcohol brands (of which there are many, especially competitions) have proved problematic on radio, even though the latter often occur in programmes that have a high child audience (i.e. during breakfast and drivetime). Nor have they been criticised by health campaigners or in the Alcohol Harm Reduction Strategy. The regulatory emphasis has always been on the content of the promotions rather than scheduling and the current rules for alcohol advertising on radio state that “advertising must not be aimed at those aged below 18 years or use treatments likely to be of particular appeal to them.” Danger areas such as visuals and the recognition of, and association with, characters etc are very much television issues.
- 3.6.8.3 Rather than risk inadvertently inhibiting harmless promotions, we think at this stage that it would be better not to change the alcohol rules for radio advertising and to live with the apparent anomaly.

Question 16: Do you think any or all amendments which are made to the TV rules should also be applied to radio advertising?

3.7 ISBA/Advertising Association proposals

ISBA (the Incorporated Society of British Advertisers) and the Advertising Association have offered suggestions for tightening the rules on condoning anti-social behaviour etc, on sexual links and on reducing youth appeal.

These appear in Annex 7. Ofcom proposes to adopt some of their wording, particularly in the first two areas, but does not at this stage think the suggestions on youth appeal would be sufficient.

Question 17: *Do you think some or all of the ISBA/Advertising Association suggestions are preferable to the alternative proposals Ofcom is making in this document? If so, why?*

3.8 Possible relaxation of rules for “healthy drinking” advertising

Rule 11.8.1 applies to all advertising, not just advertising for alcoholic drinks. Some of its elements therefore might inhibit advertising aimed at encouraging responsible drinking. This advertising could be on behalf of government departments or Non-Governmental Organisations concerned to counter alcohol abuse. Or it could be “social responsibility” advertising provided or sponsored by alcoholic drinks producers.

11.8.2 contains additional rules specifically for advertising of alcoholic drinks. These rules would therefore be less of an inhibition on advertising which was not aimed at promoting drinks brands and which did not have an incidental brand-promotion effect.

We would welcome views on whether and, if appropriate, how the rules might sensibly and usefully be relaxed.

Question 18: *Which, if any, rules should be relaxed to allow more leeway for advertising aimed at promoting “healthy drinking”? What, if any, constraints should apply?*

3.9 Period of grace

Question 19: *If some of the rules change, would it be appropriate to allow a period of grace during which any advertising which does not comply with new rules could continue to run in order to minimise commercial disruption? If so, how long should this period normally be?*

Section 4

Regulatory Impact Assessment

Introduction

- 4.1 The analysis below is a Regulatory Impact Assessment (RIA) as defined by section 7 of the Communications Act 2003. Please send any comments on this RIA to us by the closing date for this consultation. We will consider all comments before deciding whether to implement our proposals.
- 4.2 RIAs provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making and are commonly used by other regulators. This is reflected in section 7 of the Act, which means that, generally, we have to carry out RIAs where our proposals would be likely to have a significant effect on businesses or the general public or when there is a major change in Ofcom's activities. In producing this RIA in accordance with section 7, Ofcom has had regard to such general guidance as it considers appropriate, including related Cabinet Office guidance.
- 4.3 Ofcom is proposing significant tightening of the rules in the following areas. (The relevant current rule number is given in brackets):
- Linking alcohol with anti-social or self-destructive behaviour. [11.8.1(b) & 11.8.2(b)]
 - Sexual content. [11.8.1(c)]
 - Irresponsible handling/serving of alcohol. [11.8.1(g)]

We also propose less significant changes to, and clarification of, some other rules. Annex 4 compares the current rules with the proposed alternatives.

Benefits and costs of Ofcom's proposals

- 4.4 Estimating the costs of imposing tougher content rules is not straightforward because it is impossible to predict confidently the responses of any advertisers who would be affected. For example, some might feel that their ability to target legitimate 18+ audiences was so severely restricted that they would move some or all of their budgets to other media. However, we have used advertising spend in 2003 to examine the possible impact on advertisers and broadcasters if the proposed rules were introduced.
- 4.5 TV advertising spend on alcohol was £124m in 2003 and represented about 3% of total advertising revenue for all broadcasters. Of this total, roughly £14m of alcopops advertising revenue for broadcasters might be at greatest risk. This is because alcopops advertisers might choose to transfer spend to sponsorship of clubs or events which appeal to young adults, or use viral marketing and the internet, posters etc. Alcopops represent 11% of total alcohol advertising revenue; only 0.4% of total advertising revenue (fractionally more – 0.5% - for Sky 1 for whom alcopops represent ¼ of their alcohol revenue).

- 4.6 A lower risk exists in relation to other drinks categories (e.g. lager and rum, which account for £56m and £5m respectively).
- 4.7 If some current advertising did not comply with revised rules, we anticipate that any, or a combination of the following might happen:
- a) Larger advertisers who have a stable of brands might move the expenditure on the problematic campaigns to other brands where the restrictions would be less relevant. (This is thought unlikely to happen with alcopops.)
 - b) Advertisers might withdraw entire campaigns. (Thought possible for alcopops but unlikely for lager etc.)
 - c) They might reduce their expenditure. (Quite likely for alcopops; possible for some lager brands but probably only to a limited extent.)
 - d) They might develop alternative creative strategies in order to remain on TV. (Most likely for most product categories.)
- 4.8 In case (a), broadcasters would face no reduction in revenue overall.
- In cases (b) and (c), there is a possibility that this loss would be replaced by advertising for a non-alcohol product but Ofcom judges that to be unlikely.
- In case (d), there would be additional costs to advertisers in planning alternative strategies and producing new commercials but this could largely be mitigated by allowing a period of grace for non-compliant commercials.
- 4.9 Ofcom is not in a position to predict what advertisers would do. However, even in the unlikely event that broadcasters lost all alcopops revenue and, say, 25% of lager advertising, that would represent a 0.8% reduction in total advertising revenue.
- 4.10 Ofcom's current judgment is that, given the evidence and consensus that TV commercials can have some negative impact on viewers', and particularly young viewers', attitudes to drinking, the benefits to society from applying a more effective set of rules outweigh the relatively low costs that broadcasters and advertisers are likely to bear.

Alternative regulatory options and associated risks:

- 4.11 The policy objectives are to prevent TV advertising encouraging children and young teenagers:
- to start drinking earlier than they should
 - to drink more than they otherwise would
 - to think that drinking alcohol implies status of some kind
 - to treat alcohol in a way which is antisocial or is harmful to themselves

The rules also aim to prevent advertising encouraging anti-social or self-destructive behaviour amongst other age groups.

Ofcom has considered whether other regulatory options might achieve these objectives.

4.12 Apply the current rules more forcefully

- 4.12.1 The evidence we now have, coupled with recent experience of advertisements which may meet the letter but arguably not the spirit of the Code, indicates that some of the rules are poorly focused and/or too general to be effective.
- 4.12.2 As described earlier, this applies particularly in the areas of:
- Linking alcohol with anti-social or self-destructive behaviour
 - Sexual content
 - Irresponsible handling/serving of alcohol
 - “Youth appeal”
- 4.12.3 In the first two of these areas, the rules have been interpreted as not applying unless, for example, macho behaviour or attitudes, or romantic or sexual atmospheres, have clearly been preceded by the drinking of alcohol. That narrow approach has not proved capable of preventing some TV advertising building undesirable associations into brand images. Nor have the rules proved capable of preventing alcohol being handled and served in casual and irresponsible ways or with a sense of abandon.
- 4.12.4 Turning to youth appeal, the qualitative research indicates that the current rules are often not effective in preventing appeal to audiences under 18: the tastes and interests of both under 18s and over 18s are too similar to be differentiated. The current rules forbid advertising which has a “particular appeal” to under-18s but do not bite if the advertising also has wider appeal.
- 4.12.5 Attempts to apply radically different interpretations to some of the current rules would involve a considerable number of interventions which would be regarded as unfair by the advertisers affected. It is likely that there would strong challenges to proposed bans on particular commercials.
- 4.12.6 Adopting this approach would result in the costs to advertisers of replacing an indeterminate number of commercials which were found in breach of the existing rules. In those circumstances, no grace period could be allowed for replacement of the offending advertising.
- 4.12.7 We do not think this approach would achieve the policy objectives very successfully. In addition there is a risk that the significant costs which some advertisers might bear could impact on broadcasters’ revenues (if the advertisers had to withdraw campaigns at fairly short notice).

4.13 Make no changes to the rules

- 4.13.1 It is widely accepted that the problems associated with alcohol, including those relating specifically to young people, have multiple causes rooted primarily in family and social environment. It has also been long-standing public policy that the regulation of TV advertising should aim to minimise any negative impact of alcoholic drinks advertising on the attitudes or behaviour of children and young teenagers and to prevent advertising condoning or encouraging self-destructive or anti-social drinking by any age groups. More recent evidence, though tentative, suggests that alcohol advertising can have some negative impact on young people's attitudes to alcohol, albeit less than other cultural and family influences.
- 4.13.2 Ofcom's qualitative research also suggests that a significant amount of recent advertising, particularly for alcopops, is closely aligned to youth culture and is of strong interest to underage drinkers. And there are indications that the easy palatability and brand values of alcopops may combine to undermine young people's acceptance of society's rules on the minimum legal age for drinking.
- 4.13.3 Given that there already exists a set of rules in the areas of concern and given the relatively low costs to industry of updating some of those rules to meet more recent market and social circumstances, the 'no change' option would carry the risk that Ofcom's policy objectives would not be met. Hence Ofcom does not consider that this option would be an appropriate response to the concerns discussed in this document.

4.14 Apply tougher scheduling restrictions

- 4.14.1 Currently, alcohol advertising is excluded from programming made specifically for children but also from any programmes which are of particular interest to people under 18. (In other words, programmes which attract, or are likely to attract, an audience containing a significantly higher proportion of under-18s than does the population as a whole.)
- 4.14.2 In order to reduce significantly the likelihood of younger viewers seeing any alcohol advertising, Ofcom could, for example, ban alcohol advertising before the 9pm watershed. (However, it is important to bear in mind that any negative influence will be the result of the cumulative effect of the behaviour, culture and attitudes reflected in the wide range of campaigns seen during a child's formative years. Reducing the frequency with which children see a particular brand campaign would still mean that the typical child would see a great deal of alcohol advertising over those years.)
- 4.14.3 The costs of scheduling restrictions of this type would be:
- limitations on the ability to advertise to legitimate audiences during some or all of the peak viewing periods
 - increased costs for alcohol advertisers because airtime in later peak periods is more expensive than earlier peak. ("Peak" is 1800-2230)

- to a small extent, increased costs for all advertisers in late peak because increased demand from alcohol advertisers would tend to harden those rates overall
- loss of revenue to broadcasters (to the extent that advertisers chose to transfer money from TV to other media)

4.14.4 Applying a timing restriction earlier than 9pm would reduce the costs but also reduce the “isolating” effect on children. A later restriction would have the opposite consequences. In addition, timing restrictions would not be an effective way of reducing any negative influence on older viewers (for example in relation to condoning anti-social or self-destructive behaviour.)

4.14.5 For these reasons, Ofcom does not think that further timing restrictions would be an effective or proportionate response.

Conclusion

4.15 Ofcom’s present view is that the policy objectives cannot be achieved effectively or proportionately except by content rule changes similar to those proposed. The revenue lost to broadcasters would be fairly small. The costs to industry, given the proposal to allow a period of grace for advertising which would not comply with new rules, would also be fairly small.

Question 20: What additional costs or savings, if any, would you expect to result from any of Ofcom’s proposals? Please give as much detail and explanation as possible.

Section 5

Responding to this consultation

How to respond

- 5.1 Ofcom invites written views and comments on the issues raised in this document, to be made by **5pm on Friday 24 September 2004**.
- 5.2 Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 2) to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the 'Consultations' section of our website.
- 5.3 Please send your response to alcohol.consult@ofcom.org.uk. Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Andy Wilson
Content & Standards
5th floor
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Fax: 020 7981 3806

- 5.4 Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.
- 5.5 It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 3. It would also help if you can explain why you hold your views, and how Ofcom's proposals would impact on you.

Further information

- 5.6 If you have any questions about the issues raised in this consultation, or need advice on the appropriate form of response, please contact Andy Wilson on 020 7981 3891.

Confidentiality

- 5.7 Ofcom thinks it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, as soon as possible after the consultation period has ended.
- 5.8 All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed.

Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

- 5.9 Ofcom reserves its power to disclose certain confidential information where this is necessary to fulfil its functions, although in practice it would do so only in limited circumstances.
- 5.10 Please also note that copyright in responses will be assumed to be assigned to Ofcom unless specifically retained.

Next steps

- 5.11 Following the end of the consultation period, Ofcom intends to publish any revisions to the Code of Advertising Standards which are judged appropriate in early November.
- 5.12 Please note that you can register to get automatic notifications of when Ofcom documents are published, at http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom's consultation processes

- 5.13 Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 1) which it seeks to follow, including on the length of consultations.
- 5.14 If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.
- 5.15 If you would like to discuss these issues, or Ofcom's consultation processes more generally, you can alternatively contact Philip Rutnam, Partner, Competition and Strategic Resources, who is Ofcom's consultation champion:

Philip Rutnam
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
Tel: 020 7981 3585
Fax: 020 7981 3333
E-mail: philip.rutnam@ofcom.org.uk

Annex 1

Ofcom's consultation principles

Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

1. Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

2. We will be clear about who we are consulting, why, on what questions and for how long.
3. We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.
4. We will normally allow ten weeks for responses, other than on dispute resolution.
5. There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.
6. If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

7. We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 2

Consultation response cover sheet

- A2.1 In the interests of transparency, we will publish all consultation responses in full on our website, www.ofcom.org.uk, as soon as possible after the consultation period has ended, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, unless we are asked not to.
- A2.2 We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don't want to be published. We will keep your completed cover sheets confidential.
- A2.3 We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the 'Consultations' section of our website.
- A2.4 Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don't have to edit your response.

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: Alcohol Advertising

To (Ofcom contact): Andy Wilson

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing

☐

Name/contact details/
job title

☐

Whole response

☐

Organisation

☐

Part of the response

☐

If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

Yes

☐

No

☐

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet. If I have sent my response by email, Ofcom can disregard any standard email text about not disclosing email contents and attachments.

Name

Signed (if hard copy)

Annex 3

Consultation questions

Question 1: Do you agree that there are sufficient grounds to justify tightening policy in some areas?

Question 2: Is the proposal to tighten 11.8.1(a) (Social success) appropriate, proportionate and/or sufficient?

Question 3: Is the proposal to tighten 11.8.1(b) (Bravado etc) appropriate, proportionate and/or sufficient? [See also 11.8.2(b)]

Question 4: Are these proposals to tighten 11.8.1(c) (Sex) and to add a new rule 11.8.2(e) appropriate, proportionate and/or sufficient?

Question 5: Is the proposal for to augment 11.8.1(d) (Regular or solitary drinking) appropriate and proportionate?

Question 6: Is the proposal to clarify 11.8.1(e) (Therapeutic qualities) appropriate, proportionate and/or sufficient?

Question 7: Do you agree that no change is required to 11.8.1(f) (Alcoholic strength")?

Question 8: Is the proposal to clarify 11.8.1(g) (Moderation) appropriate, proportionate and/or sufficient?

Question 9: Do you agree that no change is required to 11.8.1(h) (Danger)?

Question 10: Are the proposals to tighten 11.8.2(a) (Youth appeal) appropriate, proportionate and/or sufficient?

Question 11: Is the proposal to tighten 11.8.2(b) (Aggression etc) appropriate, proportionate and/or sufficient? [See also 11.8.1(b)]

Question 12: Is the proposal to simplify and broaden 11.8.2(c) (Excessive consumption) appropriate, proportionate and/or sufficient?

Question 13: Do you agree with the proposal to drop rule 11.8.2(d) (Working environments)?

Question 14: Do you agree with the proposal to make no changes to the scheduling rules?

Question 15: Do you agree with the proposal to make no changes to the sponsorship rules?

Question 16: Do you think any or all amendments which are made to the TV rules should also be applied to radio advertising?

Question 17: Do you think some or all of the ISBA/Advertising Association suggestions are preferable to the alternative proposals Ofcom is making in this document? If so, why?

Question 18: Which, if any, rules should be relaxed to allow more leeway for advertising aimed at promoting “healthy drinking”? What, if any, constraints should apply?

Question 19: If some of the rules change, would it be appropriate to allow a period of grace during which any advertising which does not comply with new rules could continue to run in order to minimise commercial disruption? If so, how long should this period normally be?

Question 20: What additional costs or savings, if any, would you expect to result from any of Ofcom’s proposals? Please give as much detail and explanation as possible.

Annex 4**Comparison of current v. proposed rules 1**

Significant proposed changes are marked bold.

CURRENT RULES		PROPOSED RULES	COMMENT
		<p><u>Background</u></p> <p>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.</p> <p>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.</p> <p>As far as children and young teenagers are concerned, the objectives of the rules in this section are to prevent TV advertising encouraging them:</p> <ul style="list-style-type: none"> • to start to drink sooner than they otherwise would • to drink more than they otherwise would • to think that drinking alcohol implies status of some kind • to treat alcohol in a way which is antisocial or is harmful to themselves <p>Research indicates that the advertising will be most influential on young viewers when it reflects or taps into youth culture or, for example,</p>	<p>We propose to add this introduction to the alcohol section of the code in order to explain the policy and social context.</p>

			<p>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.</p> <p>The rules also aim to prevent advertising encouraging or condoning self-destructive or anti-social alcohol-related behaviour by any age group.</p> <p>Particular attention is drawn to rule 1.2 which requires that the spirit of the rules, and not just their letter, must be applied.</p> <p>Where soft drinks are promoted as mixers, rules 11.8.1 & 2 apply in full.</p>	
11.8.1 – Rules for all advertising				
(a)	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>(Note: Any suggestion of reliance upon alcohol is prohibited as is any suggestion that mood, temperament, confidence, prospects etc. may be improved by it.)</p> <p>2) Advertisements must not suggest that the success of a social occasion depends on the presence or consumption of alcohol.</p> <p>(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.)</p>	

(b)	must not link drinking with daring, toughness, bravado, aggression or anti-social behaviour		<p>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.</p> <p>[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.]</p>	See also rule 11.8.2(b) which applies only to alcohol advertising
(c)	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	See also new rule 11.8.2(e) which applies only to alcohol advertising
(d)	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	
(e)	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	
(f)	must not suggest that a drink is to be preferred because of its alcohol content nor place undue			No change proposed

	emphasis on alcoholic strength. (This does not apply to low alcohol drinks. See 11.8.3)			
(g)	<p>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. (<u>Note:</u> 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>	
(h)	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
11.8.2 – Additional rules for				

alcohol advertisements		
<p>(a) must not appeal particularly to people under 18. 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>(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. This does not apply to low alcohol drinks.</p> <p>Notes:</p> <ul style="list-style-type: none"> • 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. • 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 <i>Alcohol Advertising and Young People</i>, 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, 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. • Advertising is least likely to comply if, for example, it: <ol style="list-style-type: none"> a) includes personalities who are likely to have credibility amongst, or be popular with, people under 18 	<p>The four elements of the current rule have been split into separate, stronger rules with Notes to help interpretation.</p>

			<p>b) uses animation, cartoons etc which are likely to be popular with children and teenagers</p> <p>c) includes animals other than incidentally</p> <p>d) includes music, or styles of music, which are likely to be popular with children and teenagers</p> <p>e) features sport</p> <ul style="list-style-type: none"> 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) <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) In advertising for low alcohol drinks, anyone associated with drinking must be, and appear to be, at least 18 years old)</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>	
(b)	must not be advertised in a context of aggressive or anti-social behaviour		<p>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</p>	See also 11.8.1(b)

(c)	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. (Note: Particular care is needed with sales promotions entailing multiple purchase.)	
(d)	must not normally show alcohol being drunk in a working environment			We propose dropping this rule.
		(e)	<p>Alcoholic drinks must not be advertised in a context of sexual suggestiveness, flirtation or other sexual interaction.</p> <p>(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))</p>	A new rule for alcohol advertising only. See also 11.8.1(c)
11.8.3 – Low alcohol drinks				
	Exceptions to 1.8.1 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		<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:</p> <p>(a) 11.8.2(a)(2): Anyone associated with drinking must be, and appear to be, at least 18 years old</p> <p>(b) The advertisements need not comply with:</p>	

	<p>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>		<ul style="list-style-type: none"> • 11.8.1(f) • 11.8.1(g)(1) or (2) • 11.8.2(a)(1) 	
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Annex 5

Academic reviews of the research literature:

- a) University of Exeter
- b) University of Hertfordshire

Annex 6

Qualitative research report: *Alcohol Advertising and Young People*

[Download Annex 5a, 5b and 6](#) (when consultation is current) or
[Download Annex 5a, 5b and 6](#) (when consultation is closed).

Annex 7

ISBA/Advertising Association Alcohol Advertising Working Group

Proposals for revisions to the alcohol advertising rules

(Proposed changes are marked in bold)

Current Notes to rule 11.8

- (1) 11.8.1 applies to any advertising which features or refers to alcoholic drinks.
- 11.8.2. contains additional rules for advertising alcoholic drinks.
- 11.8.3 contains relaxations which may apply to low alcoholic drinks.
- (2) Please refer to the ITC Rules on the Amount and Scheduling of Advertising for details of scheduling restrictions.

Proposal: To add a new Note (3):

(3) The spirit as well as the letter of these rules applies whether the product is seen being consumed or not.

Current rule 11.8.1(b) Advertisements must not link drinking with daring, toughness, bravado, aggression or anti-social behaviour

Proposal: To amend the rule and add a Guidance Note:

Advertisements must not **associate** drinking with **acts of** daring, toughness, bravado, or aggression. **Alcohol advertising must not show, imply or encourage irresponsible or anti-social behaviour.**

Note to 11.8.1(b): Anti-social behaviour for the purposes of this rule includes behaviour not normally associated with sobriety and may include offensive acts such as rudeness or practical jokes harmful to others.

Current rule 11.8.1(c) Advertisements must not suggest that alcohol can contribute to sexual success or that drinking can enhance sexual attractiveness.

Proposal:

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

Current rule 11.8.1(g) 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)

Proposal:

Advertisements must not show, imply, **include reference to** or encourage **excessive or immoderate drinking. This applies to any context in which**

alcohol is dispensed or consumed. References to buying **repetitive** rounds of drinks are **also** not acceptable.

Current rule 11.8.2(a)(1) [In advertising for alcoholic drinks,] anyone associated with drinking must be, and look, at least 25 years old. (See 11.8.3 for exceptions for low alcohol drinks)

Proposal:

...anyone **participating in the act of** drinking must be, and **appear to be**, at least 25 years old **and must not behave or be presented in an adolescent or juvenile manner.**

Current rule 11.8.2(a)(2) advertisements [for alcoholic drinks] must not include personalities whose example people under 18 are likely to follow or who have a particular appeal to them

Proposal:

Advertisers [of alcoholic drinks] must not include personalities **or characters who have particular appeal to under 18s or whose example they are likely to follow.** Nor may advertising use themes which would particularly appeal to under 18s.