

## Sobering Thoughts

**Ofcom's consultation on the rules for broadcast advertising of alcohol contains significant challenges for advertisers, but will they satisfy the anti-alcohol, anti-advertising lobby?**

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Alcohol advertisers have faced a real dilemma in recent years. With the British Medical Association calling for a ban on alcohol advertising, along with many other less moderate self-appointed guardians of the public good, there has been a stark choice. Either push the existing regulatory boundaries to the limit while you still can, or try to dilute the demands for a ban by a self-denying ordinance. That choice may be about to evaporate, because on 19 July, less than a week after the European Court of Justice upheld France's ban on the advertising of alcohol on television, Ofcom published its consultation paper on alcohol advertising.

Ofcom proposes to "significantly toughen" the rules in four main areas: the association between drinking and anti-social behaviour; sexual behaviour; the irresponsible handling and/or serving of alcohol; and the appeal of alcohol advertising to youth culture. Generally speaking, the changes are subtle and often simply extend the reach of existing prohibitions further than before. In several cases, the rubric of the old rule was to prohibit a 'link' between alcohol and a particular form of activity, such as daring behaviour or sexual success. The new rules, on the other hand, forbid any 'association' between the two. This approach aims to catch those advertisements which breach the spirit but not the letter of the existing code, a concern identified by the government in its Alcohol Harm Reduction Strategy published in March this year.

### **Sex**

Ofcom intends to prohibit all associations between alcohol and sexual activity. Commentators and researchers have been particularly critical of the use of sex, sexuality, and sexually attractive young people in alcohol advertisements. The old ITC Code allowed these advertisements, provided they did not link the **act** of drinking with a romantic scene or sexual success. If the new rules are accepted, however, any treatments that are "sexually charged or imply sexual attraction" (including sexual suggestiveness, flirtation or other sexual interaction) are forbidden fruit. This could catch the highly successful "*Carlsberg don't do night-clubs, but if we did...*" commercial, in which three ordinary lads enter a night-club and attract the affections of three beautiful women. Although there are no explicit sexual references, it is "sexually charged" and features flirtation that for most of us is a distant memory, or the stuff that dreams are made of.

### **Anti-social behaviour**

The scope of daring, toughness, bravado, aggression and anti-social behaviour has been extended to cover associations between alcohol and masculinity, femininity and maturity. It would seem therefore that ‘laddettes’ are as unwelcome in alcohol commercials as boisterous jobs and puerile young men.

The problem for advertisers may be that the threshold for anti-social behaviour is set very low, including “behaviour not normally associated with sobriety” such as “rudeness or harmful practical jokes”. This sits uncomfortably with the 20something humour commonplace in commercials for brands such as *WKD* (the vodka-based alcopop).

### **Moderation**

One could be forgiven for thinking that Ofcom had *Bacardi* in mind when it considered the rules relating to immoderate drinking. The consultation paper adds that alcoholic drinks must be handled and served in a restrained way, noting that “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”. So no flirting, no nasty pranks and no boisterous partying.

### **Youth Appeal**

As far as advertisers are concerned, the proposed changes to the rules protecting children and teenagers are of less concern than the guidance notes that accompany them. The actual rules are substantially based on the old rules, save that the scope is now wider. It is clear from the notes, however, that this is the area that Ofcom sees as the most dangerous. The consultation paper acknowledges the difficulty of creating advertising that will appeal to people aged 18, for whom it is entirely legitimate to purchase alcohol, but also highlights this issue in its introduction. It is reassuring to note that there is the same balanced approach that has characterised Ofcom’s contribution to the debate on advertising and childhood obesity. While the report acknowledges that recent research has indicated that advertising has some influence on the attitude of young viewers to alcohol, it also states that this is at a relatively low level compared to other factors, such as family and social environment.

The greatest concern is raised by the suggestion that advertising may not comply if it includes “personalities who are likely to have credibility amongst, or be popular with, people under 18” or “music, or styles of music, which are likely to be popular with children or teenagers”. Would this have divorced Johnny Vaughan from *Strongbow* or Vinnie Jones from *Bacardi*? Clearly, *Busted* would be out of bounds, but what about the *Beastie Boys*?

The notes also suggest that alcohol commercials “featuring sport” are unlikely to comply. Would it be fair to condemn the classic “Love Football” ad for *Carling* or the award-winning “Surfers” commercial for *Guinness* for this reason? Even if one accepts the argument that animals, such as the *Budweiser* frogs, or cartoons, such as the *Boddingtons* cow, have a potential appeal to children, it is hard to see how sport can be aligned exclusively with youth culture.

The danger of expanding the scope too far is that the line between what is acceptable and what is not becomes increasingly vague. If Ofcom’s changes are adopted, a “marked difference in the tone of

some advertising” is inevitable. Although the majority of advertisers will develop alternative creative strategies, a small number of campaigns may have to be withdrawn and others may seek refuge on the Internet. There will be a transitional period during which existing commercials will be allowed to air, even if they break the new rules, but the last order’s bell will have been rung, loud and clear.

### **Next steps**

The consultation paper can be obtained by visiting [www.ofcom.org.uk](http://www.ofcom.org.uk). Responses should be submitted on the forms provided, and must be received by 5pm on 24 September 2004. The new rules should be in place by November 2004. So if you have not been off on your holidays yet, take a copy of the paper with you to read by the pool with a cold beer, and start drafting your submission. You can be sure that plenty of people who feel that the proposals do not go far enough will be doing the same (although probably without the cold beer).