



Report on the review of the Code for Advertising and Promotion of Alcohol

December 2020



CHAIR'S STATEMENT

The Advertising Standards Authority (ASA) Codes Committee (the Committee) is responsible for reviewing and updating the ASA Codes which set the standards for responsible advertising in New Zealand. The Committee has advertiser, agency, media and public representatives. In addition, for the review of the [Code for Advertising and Promotion of Alcohol](#), the Committee was joined by a representative from the Ministry of Health and a marketing and corporate communications specialist.

It is the ASA's policy to regularly review all of its Codes. The review of the Code for Advertising and Promotion of Alcohol was work scheduled for the Committee during 2019/2020, and a new Alcohol Advertising and Promotion Code (the Code) has been developed with principles, rules and guidelines. This was a routine review of the standards for the advertising and promotion of alcohol to ensure they are fit for purpose in 2020 and beyond. Since the last review, advertising restrictions in the Sale and Supply of Alcohol Act 2012 have been enacted and the ASA has re-designed its Codes to provide clearer guidance to consumers and industry.

The ASA consulted with the public and a wide range of organisations and agencies on the draft Code. We acknowledge and thank submitters for their time, expertise and effort taking part in this process to help ensure the Code supports responsible advertising. We received and reviewed 54 submissions. Diverse views were expressed, including maintaining the status quo, a need for more government regulation and the introduction of advertising bans.

The Committee acknowledges the harm misuse of Alcohol causes individuals, their families, their communities and society as a whole. A significant issue raised in the submissions was the need to better protect Minors. Advertisers, agencies and media organisations have access to increasingly sophisticated audience measurement data and tools across a wide range of media platforms to assist targeting their advertising and promotion at Adults and also to reduce exposure to Minors. The changes to the Code reflect this.

The Committee has considered all the issues raised in the submissions and this report provides a summary of these considerations. The final version of the Code incorporates the changes made, including those that relate to many of the issues raised in the submissions.

In making the final recommendations, the Committee recognised the need to find standards that are achievable in the context of the self-regulatory system in New Zealand. The Committee is aware of the extensive legal framework that applies to the sale and supply of Alcohol in New Zealand, including advertising restrictions under the Sale and Supply of Alcohol Act 2012. There are also aspects of Alcohol marketing, including pricing, which are outside the jurisdiction of the ASA.

We accept the new Code will go too far for some and not far enough for others.

The Committee has made every effort in a challenging year to provide a robust set of standards to support responsible advertising and promotion of Alcohol in 2021 and beyond.

Malcolm Swan
Chair, ASA Codes Committee

CONTENTS

CHAIR'S STATEMENT	2
CONTENTS	4
CODES COMMITTEE RECOMMENDATIONS	5
BACKGROUND	6
The Advertising Standards Authority	6
Code review process	9
Complaints to the ASA about Alcohol Advertising and Promotion	11
Submissions	12
Summary of issues raised in submissions with the scope of this review	13
Codes Committee deliberation	14
Major considerations	15
1. Protecting Minors and other vulnerable people	15
2. Individuals, groups or teams popular with or appealing to Minors	17
3. Zero-percent Alcohol products	18
4. Definition of advertising	18
5. Influencers	19
6. Placement of Alcohol Advertising and Promotion	20
7. Saturation	27
8. Industry-funded Alcohol education advertisements	28
9. Inclusion of safety, health or warning statements and bilingual messaging in advertising and promotion	28
10. Definition of marketing	29
11. Definition of social responsibility	29
12. The complaints process	31
Matters outside the jurisdiction of the Codes Committee and the ASA	33
1. Rejection of self-regulation in favour of greater regulation	33
2. Sponsorship arrangements	34
3. Regulatory framework	34
THE PROCESS GOING FORWARD	40
Appendix 1 – Draft Alcohol Advertising and Promotion Code	41
Appendix 2 – Summary of differences between Codes	65
Appendix 3 – List of letters and submissions	69

Please note: The definitions in the Code have been adopted in this report

CODES COMMITTEE RECOMMENDATIONS

1. The ASA accepts this report.
2. The ASA adopts the Alcohol Advertising and Promotion Code (Appendix 1) in place of the Code for Advertising and Promotion of Alcohol.
3. The ASA to refer matters raised in submissions that are outside of the ASA jurisdiction to the appropriate regulator.
4. The ASA to develop and deliver comprehensive training on the new Code to support Code compliance.
5. Advertisers and media to be strongly encouraged to continue to use the established Liquor Advertising and Promotion Pre-vetting Service (LAPPS) for Alcohol Advertising and Promotion to minimise the risk of Code breaches.

BACKGROUND

The Advertising Standards Authority

Self-regulation of advertising in New Zealand is the mandate of the ASA.

The Committee of Advertising Practice was established in 1973 by the Newspaper Publishers Association, the New Zealand Broadcasting Commission and the Accredited Advertising Agencies Association. It became an incorporated society in 1990 and changed its name to the Advertising Standards Authority. It has 14 member organisations representing advertisers, agencies and media organisations. The ASA sets standards and supports compliance in all forms of media, including, but not limited to, television (including on-demand television), radio, print, out of home (for example, billboards, bus shelters and buses), cinema, digital, email, websites, social media (including user-generated content), influencers, video, apps, advergames, addressed and unaddressed mail, brochures and point-of-sale material.

Self-regulation encourages the advertising industry to take responsibility to ensure legal, decent, honest and truthful advertising communications to consumers and respect for the principles of fair competition.

The three main objectives of the ASA are:

1. To seek to maintain at all times and in all media a proper and generally acceptable standard of advertising and to ensure that advertising is not misleading or deceptive by statement or implication.
2. To establish and promote an effective system of voluntary self-regulation with respect to advertising standards.
3. To establish and fund an Advertising Standards Complaints Board (the Complaints Board) and an Advertising Standards Appeal Board (the Appeal Board), both of which have a public member chair and a public member majority.

The [Advertising Standards Code](#) applies to all ads in all media, and there are five sector Codes which apply additional restrictions to advertising where there may be a vulnerable audience or where a product could cause harm if misused. A high standard of social responsibility applies in the sector Codes. They cover advertising to children and young

people, advertising therapeutic and health products and services, gambling, financial services and products and Alcohol Advertising and Promotion.

The Codes are reviewed regularly to ensure they are fit for purpose, reflect changing social norms, and recognise changing technology and the increasingly diverse options for advertisers to target consumer audiences.

Code compliance is supported through a free consumer complaints process and industry training.

ASA's definition of advertising and advertisements states:

Advertising and advertisement(s) mean any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed.

This definition does not apply to content not controlled by the advertiser.

Any member of the public can make a complaint about any advertisement in writing via the ASA website, by email or post. There is no charge. Complaints are initially assessed by the chair of the Complaints Board (a public member) and, if accepted, referred to the advertiser and, where appropriate, other parties to the advertisement, including the advertising agency and the media organisation, for their response. The complaints and responses are referred to the Complaints Board, which meets twice monthly to consider and adjudicate on Code breaches. If it decides a Code has been breached, the advertiser and media are asked to withdraw the advertisement immediately. There is a high level of compliance with the requirement to remove the advertising and enforcement is supported by ASA media members. Written decisions are provided to all parties and released to the media.

Complaints Board decisions may be appealed. The Appeal Board has three members and like the full Complaints Board, has a public member chair and public member majority.

The Complaints Board and Appeal Board are the final arbiters of the interpretation of the Codes.

The ASA process is additional to legislation that restricts advertising. There are many pieces of legislation that apply to advertising, including, for example, the Fair Trading Act 1986, the

Medicines Act 1981, the Sale and Supply of Alcohol Act 2012, the Gambling Act 2003, the Food Act 2014, and the Major Events Management Act 2007.

Code review process

The Codes Committee is responsible for reviewing and updating the ASA Codes to support robust advertising standards. All Codes are subject to a regular review. The Committee is responsible for managing these reviews. The Committee includes advertiser, agency, media and public representatives. The Committee is also able to co-opt members to provide specific expertise. A representative from the Ministry of Health and an industry marketing and corporate communications specialist representative were included in this review of the Code for Advertising and Promotion of Alcohol.

Committee members for this review included:

- Malcolm Swan (Codes Committee Chair), Legal Counsel, McDonald's
- Nick Bulmer, Group Account Director, Saatchi & Saatchi
- Ashleigh Harding, Legal Counsel, New Zealand Media and Entertainment
- Marj Noble, public member and member of the Complaints Board
- Lindsay Mouat, member of the ASA Governance Board and Chief Executive, Association of New Zealand Advertisers
- Dr Harriette Carr, Deputy Director of Public Health, Population Health and Prevention, Ministry of Health
- Jude Walter, Director, Seen & Heard, Marketing and Corporate Communications Specialist
- Hilary Souter, Chief Executive, ASA
- Claire Hofer (Secretariat), Education and Development Manager, ASA

The Committee's work plan for 2019 included a routine review of the standards for Alcohol Advertising and Promotion. The objective of this Code review was to ensure these standards are fit for purpose in 2020 and beyond. The current Code is the [Code for Advertising and Promotion of Alcohol](#).

Prior to embarking on the Code review, the Committee considered information such as relevant Complaints Board decisions and changes to legislation since the current standards were developed. The Committee began the review process in June 2019 and the review was expected to take 12 months. The impact of the COVID-19 pandemic delayed the process by a further six months.

The ASA Governance Board is responsible for approving the Committee work plan, the review process and the final Code.

The Committee directly sought submissions from the public by advertising the review and inviting submissions from a wide range of government agencies, non-government organisations, organisations within the health sector, advertisers, agencies, media and other groups.

Submitters were provided with a [consultation document](#) in June 2019, which included a new draft Code, background information and an outline of matters that are outside the jurisdiction of the ASA. Submitters were asked to respond by 23 August 2019 to the following four questions designed to elicit the greatest amount of information and opinion:

1. Do you think there are any inconsistencies between the draft Code and the current legislation that applies to the advertising and promotion of alcohol? Please provide details.
2. Do you agree with the wording of the draft Code? If not, please outline the part or parts you disagree with and explain why.
3. Are there any aspects of alcohol advertising and promotion standards that are not captured in this draft Code? Please outline any additions you believe are required and why. (Please check Appendix 1 for issues outside the scope of this Code)
4. Please include any current alcohol advertisements or promotions you consider are problematic and explain why. It would be helpful for you to include a copy of the advertisement or promotion, or information on where and when you saw it so that we can source it if you are not able to provide a copy.

Complaints to the ASA about Alcohol Advertising and Promotion

Between 1 January 2012 and 30 September 2020, there were 189 complaints about Alcohol Advertising and Promotion, of which 73 have been upheld or settled, with 27 of these decisions in the last two years. Sixty-four of a total of 189 complaints, or 34%, were ruled 'no grounds' for the complaints to proceed. The most common breaches relate to social responsibility, including placement issues, followed by implied or explicit therapeutic benefit claims. Further details about each complaint from 2015 onwards can be viewed on the [Decisions](#) page of the ASA website.

	To 30 Sept 2020	2019	2018	2017	2016	2015	2014	2013	2012
Total complaints	884	698	820	603	586	707	871	792	1067
Total Alcohol complaints	17	21	33	12	17	12	14	27	36
% of total complaints	2.0	3.0	4.0	2.0	2.9	1.7	1.6	3.4	3.4
Decisions									
No grounds to proceed	4	3	9	4	5	5	8	11	15
Upheld/Settled (ad removed)	12	15	16	5	6	4	2	6	7
Not upheld	1	3	8	2	6	3	4	9	10
Other (withdrawn/no jurisdiction)				1				1	4

Submissions

A total of 54 submissions and five letters in support of a submission were received. In addition, letters were received from Health Coalition Aotearoa (represented by 27 organisations and 75 academic leaders), Hāpai Te Hauora Tapui and the Royal New Zealand College of Urgent Care, who chose not to make submissions on this review. See Appendix 3 for the list of letters and submissions.

Of the 54 submissions, 29 were from individuals and organisations in the health sector. Five of these submissions contained identical content. One member of the public provided a submission. Twenty submissions and five letters in support of a submission came from organisations, agencies, groups and companies from the alcohol industry or wider food and beverage sector. Ten of the industry submissions were from organisations representing advertisers, agencies and media placement organisations, including the Communications Agencies Association, which represents agencies that create and deliver national or international advertising campaigns and the Association of New Zealand Advertisers, which represents the majority of New Zealand's major advertisers. A list of submitters, including links to each submission, is included in Appendix 3 of this report.

The Committee wishes to record its appreciation for the time and effort by individuals, organisations and businesses put into providing submissions for consideration. Many of the submissions were comprehensive and provided clear guidance and understanding of the issues involved.

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The majority of submissions – in particular those related to the health sector – advocated for a tougher regime on the advertising and promotion of alcohol. While the ASA had made it clear the Committee was only reviewing its voluntary Code for Advertising and Promotion of Alcohol, many of the health sector submitters sought stronger government-enforced regulation or at least partial regulation, which was outside the scope of the ASA review.

Summary of issues raised in submissions within the scope of this review

The following is a summary of the key issues raised in the submissions which were within the scope of this Code review:

- The draft Code does not adequately protect Minors and other vulnerable people.
- The current Code does not clearly define who is a 'hero or heroine' of the young and when they can be used in Alcohol Advertising and Promotion.
- The definition of zero-percent Alcohol products that are brand extensions or non-alcoholic variants of an Alcohol product is not clear and nor is how the draft Code applies to the advertising and promotion of these products.
- It is not clear in the draft Code which media are included in the ASA's definition of advertising.
- It is not clear in the draft Code how the principles and rules may apply to influencers who advertise Alcohol.
- The placement of advertising and promotion should better target Adults and reduce exposure to Minors.
- The saturation of Alcohol Advertising and Promotion is not controlled.
- Industry-funded Alcohol education advertisements should be subject to the draft Code.
- The draft Code should provide standards for the inclusion of safety, health or warning statements and bilingual messaging in advertising and promotion.
- The draft Code should be extended to cover all aspects of the marketing of Alcohol, not just advertising and promotion.
- The draft Code does not clearly define 'social responsibility'.
- The current complaints process is ineffective because it is voluntary and there is a lack of financial penalties.

Codes Committee deliberation

Following the receipt and consideration of the submissions, the Committee met nine times on the dates listed below to review and discuss possible changes to the draft Code. The COVID-19 pandemic created significant disruption and delays to this review with a new Code originally planned for release mid-2020.

September 26, 2019

November 7, 2019

November 13, 2019

January 30, 2020

February 27, 2020

March–June 2020: COVID-19 delay

July 20, 2020

July 21, 2020

August 2020: COVID-19 delay

September 23, 2020

November 11, 2020

Representatives from media organisations presented information to the Committee on the data and tools that allow them to restrict the timing and placement of advertising and promotion in order to target Adults.

The Committee viewed a range of Alcohol Advertisements and Promotion examples, including advertising and promotion for zero-percent products that were brand extensions or non-alcoholic variants of Alcohol products.

See Appendix 2 for a summary of the differences between the current and new Code.

Major considerations

The Committee acknowledges the harm caused by the misuse of Alcohol to individuals, their families, their communities and society as a whole. The Committee also acknowledges that the advertising and promotion of alcohol is legally allowed, and the Code is intended to ensure this is done in a responsible manner. The Committee identified 12 major considerations arising from the consultation process and the ongoing discussions.

These were:

1. Protecting Minors and other vulnerable people

The Committee acknowledges that the key purpose of the Code is to help ensure all advertising and promotion of alcohol is socially responsible and does not undermine the need for prevention or minimisation of alcohol-related harm, with particular regard to protecting Minors and other vulnerable people.

In the final Code, Principle 1 focuses on a high standard of social responsibility and Rules 1 (a) and (b) of the Code require advertisers to target Adults through the placement and content of Alcohol Advertising and Promotion.

These rules acknowledge that it is impossible to prevent Minors from seeing all Alcohol Advertising and Promotion, and this is not the purpose of the Code. The new rules do mean that the likelihood of Minors being exposed to Alcohol Advertising and Promotion is reduced, and if they are exposed, the content and appeal of such advertising and promotion is clearly targeted at Adults.

Rule 1 (a) acknowledges that a wide range of media organisations have access to sophisticated tools that enable advertisers to select and target an Adult audience with their Alcohol Advertising and Promotion, or restrict access to Adults only. Where those tools are available, advertisers must use them to target Adults, and failure to do so is likely to result in a breach of the Code.

Other media where such tools are not available have access to audience data and are expected to use this data to target Adult audiences.

Where the advertiser or media is not able to adequately predict the likely audience composition of a particular placement option, or there are no tools available to select and

target Adults, this medium should not be used for the placement of Alcohol Advertising and Promotion.

Approximately 24% of the New Zealand population are Minors. Submitters, particularly those with a health perspective, recommended the expected average Adult audience suitable for the placement of Alcohol Advertising and Promotion should be 90–95% in order to avoid Minors represented in the general population.

The Committee carefully considered this recommendation. The Committee noted that the Code sets the standards for advertisers to target Adults with Alcohol Advertising and Promotion and reduce exposure to Minors. The current Code for Advertising and Promotion of Alcohol does not include a specific audience measurement other than Principle 3, Guideline 3 (g) and a guidance note to Principle 3, Guideline 3 (a). Guideline 3 (g) is in reference to the availability of branded merchandise or point-of-sale materials in unrestricted areas. The guidance note to Guideline 3 (a) refers to a 75% audience threshold in relation to the placement of advertisements that include heroes or heroines of the young.

The draft Code included a reference to a 75% audience threshold sourced from the [Children and Young People's Advertising Code](#), which restricts the targeting of advertisements for occasional food and beverages to children and young people. Given that Alcohol is a restricted product and based on the audience composition data provided by a range of media organisations, the Committee concluded the minimum expected average audience for placement of Alcohol Advertising and Promotion should be 80%. The Committee noted that this is the minimum standard expected of advertisers and in many placement decisions, it is possible the audience composition will be well in excess of 80% Adults.

The threshold of 80% or more Adults is designed to reduce the exposure of Alcohol Advertising and Promotion to Minors as it is greater than the percentage of Adults in the general population. The Committee concluded that raising the audience threshold to 90% or more Adults would effectively ban some media organisations from placing Alcohol advertising. This would be difficult to enforce in a voluntary system, and such a ban is outside the scope of this review and the jurisdiction of the ASA.

Other self-regulatory jurisdictions, including Australia ([Alcohol Beverages Advertising Code](#)) and the UK (ASA UK [Non-Broadcast Code](#) and [Portman Group Code of Practice on Alcohol](#)

[Sponsorship](#)), which reference a minimum Adult audience in relation to the placement of advertising and promotion of alcohol, use an Adult audience threshold of 75%.

Rule 1 (b) sets out the expectation on advertisers, agencies and media organisations to develop advertising and promotion content that targets Adults. This rule includes guidelines that Minors and women who are visibly pregnant or are seen breastfeeding must not appear in Alcohol Advertising and Promotion. There are restrictive guidelines regarding the use of individuals, groups or teams who are popular with or have particular appeal to Minors in Alcohol Advertising and Promotion. Rule 1 (b) also provides clear guidance to influencers who post Alcohol Advertising or Promotion content.

In addition to protecting Minors, the Code's rules and guidelines are designed to protect other vulnerable people. Rule 1 (c) expressly prohibits content that portrays or represents irresponsible, harmful or excessive consumption of Alcohol. Rule 1 (d) prohibits content that portrays or suggests that the consumption of Alcohol can improve or enhance a situation or any personal attributes. The Advertising Standards Code Rule 1 (e) Safety and Rule 1 (f) Violence & Anti-social Behaviour prevent advertisers from including representations of unsafe, violent or anti-social behaviour in Alcohol Advertising and Promotion. Issues such as decency, offensiveness and the harmful or offensive use of stereotypes are covered by the Advertising Standards Code, and a high standard of social responsibility will apply in the application of these rules to Alcohol Advertising and Promotion.

The Complaints Board can uphold a complaint based on a principle in the Code without the advertisement necessarily breaching any of the rules. Advertisements deemed to be exploiting vulnerable audiences may be upheld under the principle requiring advertising to meet a high standard of social responsibility without necessarily breaching a specific rule in the Code.

[2. Individuals, groups or teams popular with or appealing to Minors](#)

A number of submitters sought clarification on the definition of 'hero or heroine of the young' in the current Code. The Committee has expanded the definition to include any individual, group of people (e.g. a band) or team (e.g. a sports team) that is currently popular with, or has particular appeal to, Minors. The Committee included references to both 'popular' and 'appealing' to capture those that are popular with a wide range of Minors and those that may appeal to Minors though may not necessarily be considered as 'popular' (e.g. anti-heroes).

Given that popularity and appeal shift over time, advertisers are encouraged to obtain consumer research if they are unsure as to whether or not a chosen individual, group or team fits the guidance provided.

These individuals, groups or teams may only appear in Alcohol Advertising and Promotion when placed in age-restricted media. This means placement is only permitted where either tools are available to select an Adult audience or tools are used to restrict Minors' access to this advertising and promotion.

The Committee acknowledges that more detailed information on the application of the rules in this area would be helpful, and this is under development. It will be part of the education process undertaken by the ASA following the release of the new Code.

3. Zero-percent Alcohol products

The Committee considered a range of submissions on how these products should be treated in relation to the Code. The Committee discussed the application of the Code and concluded that all the principles, rules and guidelines in the Code will apply to 'zero-percent Alcohol products' that resemble, for example, in look and/or taste, an Alcohol product. The Committee was of the view that the advertising of these products must be targeted at an Adult audience.

A high standard of social responsibility is required for these advertisements to ensure consumers are not confused about the advertising content of zero-percent Alcohol products that has similar branding to Alcohol products that contain 1.15% or more ethanol by volume.

The Code does not extend to, for example, food products that may bear the brand name of an Alcohol product. Advertisements for these products are subject to the rules in the Advertising Standards Code and other Codes, if relevant, such as the Children and Young People's Advertising Code. If advertisements for these products also include a reference to the Alcohol product, they would be subject to the Code.

4. Definition of advertising

Advertising and **advertisement(s)** mean any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed.

ASA's definition of advertising is much broader than what many consider an advertisement. A number of submitters were concerned this definition did not make clear which media were included, despite the definition stating that any message (all ads) in any medium (all media) is covered by the Codes. To this end, the Committee has provided an extensive list of examples in the Code to highlight that any advertisement or promotion in any medium is covered by the Code.

The Code, along with the Advertising Standards Code, applies to all Alcohol Advertising and Promotion placed in any media, including, but not limited to, television (including on-demand television), radio, print, out of home (for example, billboards, bus shelters and buses), cinema, digital, email, websites, social media (including user-generated content), influencers, video, apps, adver gaming, addressed and unaddressed mail, brochures and point-of-sale material.

Including the phrase 'but not limited to' ensures the Code is applicable to new and emerging media platforms that are not included in the above examples.

Some submitters were concerned about non-compliant user-generated content on advertisers' sites. It is the responsibility of advertisers to monitor this content and remove any that is not compliant with the current legislation or ASA Codes. User-generated content appearing on advertiser-controlled pages or sites on digital platforms is considered advertising and is subject to the ASA Codes. The Committee agreed that advertisers cannot be responsible for user-generated content on pages or sites over which they do not have control.

5. Influencers

In recent years, the use of influencers to advertise products and services has become a significant part of some brands' advertising spend. Submitters raised concerns that it was not clear whether the ASA Codes applied to influencers who are advertising Alcohol. An influencer may be an advertiser. For example, they may advertise their own product or service. An influencer may also act as a media platform distributing an advertisement. For example, they may post ad content that is controlled directly or indirectly by an advertiser. In September 2020, the ASA released the [Influencer AdHelp Information](#) to provide the public, influencers, advertisers and other parties to an advertisement with clear direction regarding the responsibilities for influencers to identify their commercial content and to comply with the ASA Codes.

The Committee has included influencers in the list of media the Code applies to. The Code states in the guidelines under Rule 1 (b) that influencers who are advertising Alcohol must be over the age of 25 and must appear to be over 25. Influencers often appear in their own advertising content, hence the inclusion of this guideline. Influencers who advertise Alcohol must comply with the relevant Codes, legislation and the terms and conditions of the platform(s) they use. Both influencers and advertisers must ensure the influencer's audience is 80% or more Adults when advertising Alcohol products or brands.

6. Placement of Alcohol Advertising and Promotion

A key aspect of targeting Adults with Alcohol Advertising and Promotion is placement. Technology and availability of audience data have evolved to provide advertisers, media agencies, media organisations and platforms with sophisticated tools and data to effectively, and cost-effectively, target Adults. The following summary provides some insight into how this can be achieved to reduce exposure to Minors seeing and interacting with Alcohol Advertising and Promotion.

Advertisers are expected to use these tools and data to target Adults. While the Code states that Alcohol Advertising and Promotion may only be placed where audiences are 80% or more Adults and/or using tools that target those aged 18 years and over, advertisers may further refine their target audience based on a range of factors.

Real-time scheduled television (Free-to-Air and Pay TV)

Alcohol advertisements are not permitted on real-time scheduled television between the hours of 6:00 am and 8:30 pm (the watershed). In addition, audience data are collected by channels with viewing times to determine the age distribution of the viewing audience.

The Committee noted that some submissions recommended the current watershed time restrictions be extended.

Data received from TVNZ clearly demonstrated that this was not necessary given that after 8:30 pm, current audience data show over 80% are Adults.

TVNZ Submission: At 8.30pm TVNZ's combined audience across its linear television channels is overwhelmingly aged 18 years and over. The audience percentage aged under 18 years across TVNZ 1, TVNZ2 and TVNZ Duke is 3%, 12% and 4% respectively. At 9pm, those percentages are substantially similar, with the same channels under-18 audience share sitting at 2%, 11% and 4%.

Nielsen data presented in submissions by DB Breweries and Asahi Beverages New Zealand support findings by TVNZ, with those aged between 5 and 17 years comprising only 6.8% of the total viewing population after 8.30pm for the period April 2017 to July 2019 and 5.6% for the period August 2018 to July 2019.

Recent research has also shown Minors are engaging with traditional television less often than their parents or caregivers.

NZ On Air and the Broadcasting Standards Authority (BSA) jointly commissioned Colmar Brunton to conduct research into the media used by tamariki (under 14 years of age) in New Zealand. The report on [Children's Media Use](#) was released in June 2020.

YouTube (51%) and Netflix (47%) have the highest daily reach and children spend the longest time watching content here. Of local options, TVNZ 1 at 16% daily reach and TVNZ 2 at 15% have highest reach.

It is noted that pay-to-view streaming services such as Netflix and Neon do not currently feature any advertising content.

Placement of Alcohol Sponsorship Advertising and Promotion on real-time scheduled television is not subject to the watershed hours noted above for Alcohol Advertising and

Promotion. Rule 3 (a) Guideline 5 in the new Code restricts the placement of sponsorship advertisements on television only to times when the expected average audience is 80% or more Adults.

All Alcohol Advertising and Promotion placed on real-time scheduled television are required to be approved by the LAPPS and the Commercial Approvals Bureau to ensure both the placement and the content target Adults.

On-demand television

Advertising on these platforms is placed according to a combination of the registration or log-on age of the user and/or the content selected for viewing. This is different from the process of placing advertisements within real-time scheduled television content as it is driven by the age of the device owner/logged-in user and can be placed according to the programme selected for viewing.

For on-demand television that requires registration by the viewer, viewers who are 18 years of age or over can be selected to receive Alcohol Advertising and Promotion. Alternatively, Alcohol Advertising and Promotion can target Adults by being placed within on-demand content that is either rated R18, or there is a forecasted likely average audience of 80% or more Adults.

The watershed hours do not apply to on-demand television given that viewers may select content to watch at any time of the day that may otherwise have been restricted to the post-8:30pm time on real-time scheduled television.

Radio

Radio channels collect audience data and are able to place Alcohol Advertising and Promotion on channels and at times when the expected audience is 80% or more Adults. Radio channels are able to avoid placing Alcohol Advertising and Promotion in timeslots where more Minors may be listening than the average audience data suggest, e.g. school drop-off and pick-up drive times.

Print (newspapers, magazines)

Magazines and newspapers use subscription and readership data to determine an Adult audience for placement of Alcohol Advertising and Promotion.

Digital newspaper and magazine campaigns are able to be restricted to the age of the logged-on user or the age of the device owner. Further restrictions are also available, including being able to select the day and time the Alcohol Advertising and Promotion appears and placement of such within relevant content such as articles on food.

Out of home

The Out Of Home Media Association Aotearoa (OOHMAA) represents New Zealand's major out of home media display companies. Collectively, the members contribute approximately 87% of total out of home advertising industry revenue. The OOHMAA has recently released a placement policy which states OOHMAA members will not advertise products that are illegal for sale to Minors within a 300-metre sightline of the main entrance to a primary, intermediate or secondary school.

In addition, the out of home industry is working to develop a universal audience measurement system (AMS), which will allow operators to map audiences against all roadside out of home advertising assets initially, and then ultimately against all assets, including malls and airports, by the end of 2021. The AMS will allow members additional capability when planning campaigns against specific audiences and to minimise exposure of Minors to campaigns advertising those categories included within the OOHMAA [Placement Policy](#).

The Committee noted that some local Councils in New Zealand do not permit Alcohol Advertising and Promotion on their properties, including public transport and some stationary points. For example,

- [Auckland Transport Advertising Policy](#)

Advertisements will not be approved, or permitted to remain on AT's infrastructure, facilities or services if, in AT's sole discretion, the advertisement falls within any of the following categories:

- *The advertisement promotes alcohol brands or products,*
- *Hawke's Bay Regional Council removed alcohol advertising from its goBay buses*
- *Napier and Hastings District councils have removed alcohol advertising from bus shelters in their managed areas*

Placement of Alcohol Advertising and Promotion and Alcohol Sponsorship Advertising and Promotion on sports fields, stadiums and with licensed clubs is subject to the ASA Codes. Where space is shared between Adults and Minors at sporting events, for example, advertisers, clubs and event owners must work together to minimise exposure to Minors.

Cinema

Cinema organisations have access to accurate audience data by movie title, allowing them to determine if 80% or more of the expected average audience will be Adults. Some movie content is rated R18 and Alcohol Advertising and Promotion placed with these movies are automatically targeting an Adult audience because proof of date of birth is required at the time of ticket purchase.

Email advertising

In addition to the [Unsolicited Electronic Messages Act 2007](#), the Advertising Standards Code Rule 1 (b) states that advertisers must obtain consent from consumers before they can engage in personalised direct advertising such as email advertising. Only those people who have provided this consent to Alcohol Advertisers should receive email advertising for Alcohol. The rule also states that advertisers must provide recipients with an unsubscribe or opt-out option so that consumers can choose not to receive Alcohol Advertising and Promotion by email.

Advertisers are able to request a date of birth and are therefore able to target their advertisements at customers who are at least 18 years of age or older.

Websites

Websites that primarily promote Alcohol products and brands are expected to prevent entry by Minors by way of an 'age gate', requiring visitors to confirm that they are over the age of 18 by entering their birth date.

Under the Sale and Supply of Alcohol Act 2012, Section 59, businesses operating online retail sales of Alcohol are required to take 'reasonable steps' to verify the date of birth of the buyer. Deliveries of online Alcohol sales also require, by law, age verification of the receiver.

Social Media (includes, but not limited to, Google, YouTube, Facebook, Snapchat, Instagram and TikTok)

Social media platforms have terms and conditions specific to Alcohol advertising and sophisticated tools for targeting Adults. For example,

Facebook

Targeting requirements

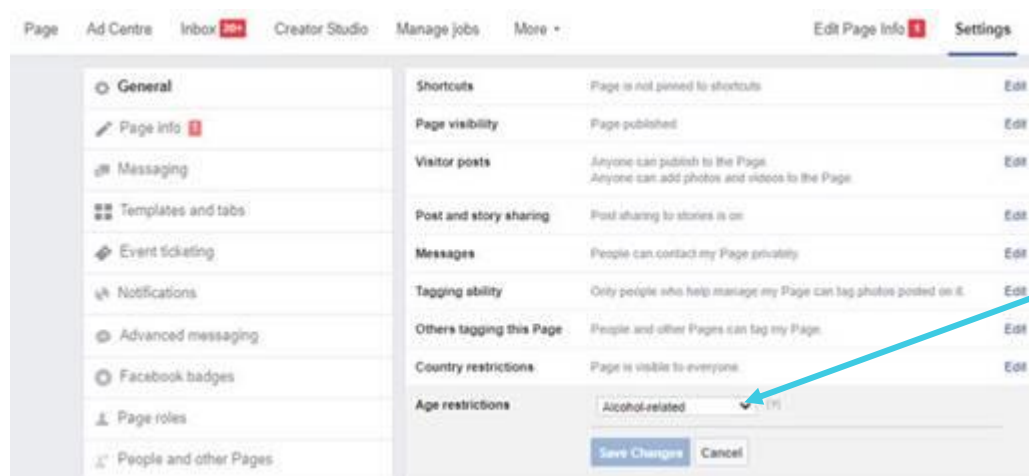
If you choose to run adverts that promote or reference alcohol, you must make sure that you follow local laws and target your adverts appropriately, including targeting your adverts to people aged 18 years or older in all permitted countries.

How do I add or edit country or age restrictions for my Facebook page?

When you add restrictions, only people who meet the requirements will see your Page. Anyone who likes your Page but doesn't fit the requirements will be deleted. You can update your Page's restrictions at any time, but people who were removed won't be added back unless they like your Page again.

Keep in mind that you may not be able to share posts to external sites if your page has country or age restrictions.

Brands and businesses set up on Facebook or Instagram select 'alcohol related' as the option for age restrictions. This option then applies to all activity on and from these pages. That is, all activity is restricted to those registered on the platforms as being 18 years of age or over.



Instagram

Set up a minimum age for your Instagram account

You have the ability to control the age of your Instagram content's viewers by setting up a minimum age for your account. You can choose to set up a default minimum age that will be applied everywhere, or you can set up country-specific minimum ages to follow local policies.

Note that [you must have an Instagram professional account](#) to control your viewers' age.

Businesses who have a presence on these platforms are required to indicate that the advertising is for Alcohol products or brands. This automatically restricts visibility of the advertising page to those registered on the platform as being 18 years of age or older. In addition, sponsored or boosted posts are also restricted to this age range. Minors registered on the platform are therefore unable to see this advertising.

The Committee is aware that some users on these platforms may lie about their age when registering with these platforms. Their registration is therefore in breach of the platform's terms and conditions of use. However, this is outside the control of advertisers and the ASA. It is an important reminder to parents and caregivers that Minors who provide a birth date ahead of their actual age will be served Adult advertising when they turn 18 according to the birth year provided to the platform, not their actual age.

The Committee noted that it is also possible on some platforms for users to reduce their exposure to Alcohol advertisements through settings and by blocking individual advertisements related to Alcohol.

Influencers who use the Instagram professional account option are able to view the age range of their followers to determine whether or not it is appropriate for them to include Alcohol Advertising and Promotion content. In addition, they can exclude Minors from following them using the same tools noted above when they set themselves up on these platforms.

Video, advergaming and apps

The purchase of online video content, advergames and apps can be restricted to users on the relevant platforms who provide a birth date to indicate they are at least 18 years of age or older.

Addressed and unaddressed mail and brochures

Like email advertising, advertisers must have obtained consent from consumers before they can send addressed mail to them. In addition to obtaining personal information such as the individual's address, the advertiser is also able to request their date of birth to be sure the advertising of restricted products such as Alcohol is limited to those who are 18 years of age or over.

The content of Alcohol Advertising and Promotion in unaddressed mail to homeowners and renters is required to target the household shopper and therefore reduce the attraction of the advertising to Minors. This advertising generally follows a price and product format with limited appeal to Minors, who are not legally able to purchase the product. The household shopper, in most situations, will likely be 18 years of age or over.

Advertisers developing printed brochures have control over where and to whom these brochures are distributed. It is the responsibility of the advertiser to determine that the audience composition is 80% or more Adults prior to the distribution of brochures for restricted products such as Alcohol.

Summary

In summary, advertisers, their media agencies and media organisations and platforms have a wide range of sophisticated tools and audience data to target Alcohol Advertising and Promotion and Alcohol Sponsorship Advertising and Promotion at Adults and they are expected to actively use them to minimise exposure to Minors.

Note that advertisers and media organisations are not able to prevent Minors from viewing advertising intended for the age of the registered user if devices are shared or when a Minor is logged in to their parent or caregiver's account. Some platforms are providing 'kids accounts', e.g. TVNZ OnDemand, to help with this issue. As noted above, it is also possible on some platforms for users to reduce their exposure to Alcohol Advertising and Promotion.

7. Saturation

The amount and frequency of Alcohol Advertising and Promotion were raised as issues in some submissions, particularly in relation to protecting Minors. The Code has a limited ability

to provide standards on this matter. The saturation guideline in the Code does place the onus on media organisations, where it is possible, to avoid the impression that Alcohol Advertising and Promotion dominates their medium, taking into account the context. The examples included in the Code relate specifically to real-time scheduled television.

The Committee noted that there are significant challenges in applying this guideline across all media platforms. For example,

- If an Adult is searching Alcohol websites, programmatic placement means they could be served a range of Alcohol ads relevant to their search while using the internet or social media. Neither the advertiser nor the platform would have knowledge of each of these ads as this process is automated. In addition, more than one Alcohol brand could be served but the brands would not know of each other's involvement.
- A saturation approach in outdoor media will be difficult to implement as sites are owned by different media organisations and they will have no knowledge of the advertisers their competitors are selling to until the advertisements are on display.
- Specialist magazines also present a challenge. Titles in the food and beverage sector may include multiple ads for Alcohol brands, particularly if they include features on Alcohol (best wines, etc). While this can be managed by each publisher, these publications do not target Minors.

8. Industry-funded Alcohol education advertisements

Some submitters were of the view that these advertisements should be subject to the rules and standards of the Code. The Committee concluded where advertisements had the sole purpose of educating people about alcohol-related harm, they would be subject to the Advertising Standards Code. If the advertisement also includes anything relating to an Alcohol Advertiser (e.g. company brand, logos, product brand, imagery consistent with the brand, etc.), these advertisements will be considered Alcohol advertisements and subject to the standards and rules of the Alcohol Advertising and Promotion Code as well as the Advertising Standards Code.

9. Inclusion of safety, health or warning statements and bilingual messaging in advertising and promotion

The regulation of health warnings on Alcohol product labels and packaging is a matter covered by Food Standards Australia New Zealand and enforced by the Ministry for Primary Industries. The inclusion of warning information on labels with regard to the dangers of Alcohol consumption while pregnant will be a requirement from mid-2023. Currently, labels on Alcohol products are required to include a statement of the alcohol content and the number of standard drinks.

In addition, many advertisers choose to include messages such as 'drink responsibly' in their Alcohol Advertising and Promotion to support the low-risk drinking guidelines.

The Committee concluded that it was not a matter for the Code to stipulate mandatory health, safety or warning statements in advertising or promotion, or the inclusion of bilingual messaging. It noted that all other mandatory information on labels is required by law, not under a voluntary Code.

The Committee agreed this matter would be referred to the Ministry for Primary Industries and Food Standards Australia New Zealand.

10. Definition of marketing

Some submitters proposed the Code should be extended to include all aspects of Alcohol marketing, not just advertising and promotion.

Marketing includes a broad range of activities in addition to advertising and promotion. These include, but are not limited to, research, sales, pricing, distribution and delivery.

As this report has noted, the ASA Codes are one option of many that restrict the marketing of Alcohol. The Sale and Supply of Alcohol Act 2012 includes a range of restrictions on the sale and purchase of Alcohol and on discounting and incentivising the purchase. The focus of the Alcohol Advertising and Promotion Code is advertising, naming, labelling and packaging.

11. Definition of social responsibility

The Committee noted that some submitters requested clarification on the definition of, and clear parameters for, the meaning of 'social responsibility'.

The Committee agreed that 'responsibility' was an important word to use in relation to the content and placement of advertising and this terminology is used across all the ASA Codes. The Committee was advised that as part of its consideration of complaints, the Complaints Board takes into account the communities likely to be affected by the advertising and that these communities differ, depending on the context, medium, audience and product.

The Committee acknowledged the lack of a definition of 'social responsibility' can present some challenges. However, there is a substantial body of precedent decisions from the Complaints Board providing context for the interpretation of both a due sense and a high standard of social responsibility.

The ASA Codes use principles and rules to describe what responsible advertising is. As the advertising industry is often at the forefront of change and innovation, the Codes tend to take a less prescriptive approach than legislation. This allows the Codes to be applied regardless of the introduction of a new media platform that may not be listed or a new practice that may not be covered, as the Code principles, including social responsibility, give this flexibility.

One of the benefits of the principle-and-rule approach in the advertising Codes is that the interpretation of the Codes can move in response to what the community may find more, or less, acceptable. A simple example is that society today is more tolerant of certain words, such as 'bugger' and 'bloody idiot', which would not have been acceptable 25 years ago in advertising. On the other hand, there is significantly less tolerance of the harmful use of stereotypes in advertisements.

The Committee agreed that the following statement, included in all the Codes, provides some context and interpretation for all users on the application of the Codes and the value of a level of discretion for the Complaints Board in its decision-making.

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

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

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

The Committee acknowledged that while rules are included in the Codes to provide examples of how the principles are applied when assessing a due sense or high standard of social responsibility, the Complaints Board is not restricted by these rules. It is possible for an advertisement to be in breach of a principle without being in breach of a specific Rule.

The Committee noted that when looking at a complaint with regard to social responsibility, the Complaints Board considers a number of factors. These can include the nature of the advertisement, product, medium, timing, demographics of the intended audience, number and nature of complaints received and the requirements of the specific rules in the ASA Codes. In addition, the Committee noted that overlaying these considerations are the views of the Complaints Board members themselves consisting of public (five members) and industry representatives (four members) from a wide range of backgrounds as to whether an advertisement is socially responsible. The Committee supports the intention to vest a level of discretion with the Complaints Board.

12. The complaints process

A number of submitters were of the view that the ASA's complaints process was ineffective at reducing harm from the advertising and promotion of alcohol. Submitters were also concerned the process is not proactive as an advertisement could remain in the public eye for the time the Complaints Board takes to make a decision and request its removal. The Committee acknowledges the complaints process is reactive. The Complaints Board meets fortnightly to adjudicate on complaints and while the process may take longer than some would like, to be credible, it must observe the principles of natural justice. It is noted that a single complaint can have an advertisement removed if it is in breach of the Codes.

The LAPPS is available to advertisers and they are strongly encouraged to use the service to help reduce the risk of developing and placing advertising and promotion that is likely to

breach the ASA Codes. There is also an onus on advertisers, agencies and media organisations to be aware of Code requirements and endeavour to comply with them.

While there are no direct financial penalties to an upheld decision by the Complaints Board, the Committee acknowledges that the non-direct penalties can be significant. There can be a financial impact from withdrawing or changing an advertising campaign prior to its scheduled conclusion. The public release of a decision also serves a dual purpose. Firstly,

The public release of a decision also serves a dual purpose. Firstly, it shines a light on the complaints process, including the outcome. Secondly, a finding that an advertiser has misled consumers or breached the requirement for social responsibility can have a significant impact on the advertiser's reputation and the sector as a whole.

it shines a light on the complaints process, including the outcome. Secondly, a finding that an advertiser has misled consumers or breached the requirement for social responsibility can have a significant impact on the advertiser's reputation and the sector as a whole.

Matters outside of the jurisdiction of the Codes Committee and the ASA

1. Rejection of self-regulation in favour of greater regulation

The ASA has oversight of self-regulation of advertising in New Zealand. As such, its role is to develop principles, rules and guidelines for advertisers to ensure they meet the requirements of the advertising Codes.

A number of submitters rejected the draft Code and rejected voluntary industry self-regulation of the advertising and promotion of Alcohol. Twenty-one parties made submissions that the current voluntary system should be abandoned, and no Alcohol advertising or sponsorship arrangements should be permitted. They were of the view that robust statutory regulations are required to protect communities. Each submission referred to at least one or more of the reports that are listed below to support their position. In addition, Health Coalition Aotearoa, Hāpai Te Hauora Tapui and the Royal New Zealand College of Urgent Care did not make submissions on the revised Code. They did refer to at least one of the reports below and stated their position was that government regulation to restrict Alcohol marketing is the only appropriate way to protect the public.

2010 [Law Commission](#) *Alcohol in Our Lives: Curbing The Harm. A report on the review of the regulatory framework for the sale and supply of liquor*

2104 [Ministerial Forum](#) *on Alcohol Advertising and Sponsorship: Recommendations on alcohol advertising and sponsorship.*

2014 [Ministry of Justice](#) *The Effectiveness of Alcohol Pricing Policies: Reducing harmful alcohol consumption and alcohol-related harm*

2018 [He Ara Oranga](#) *Report of the Government inquiry into mental health and addiction*

The ASA and the Committee have no authority to require that advertising or sponsorship arrangements be subject to statutory regulation. That is a matter for the Government. The Committee has recommended that issues outside the scope of the review be referred to the relevant statutory authority.

2. Sponsorship arrangements

Sponsorship can play an important role in the life of the community and many sponsorships contribute positively to the lives of people and their families. However, many submitters were opposed to any sponsorship from Alcohol companies or brands.

The Committee noted that it was up to Sponsored Parties to determine whether such commercial relationships were acceptable, balancing the need for funding, and the alternatives, with the responsibility to monitor and control certain types of sponsorship. The ASA does not have jurisdiction to prevent or restrict commercial sponsorship contracts between Alcohol companies and individuals, teams, events and premises. A guideline in Rule 3 (a) of the new Code, consistent with the previous Code, does provide a strong recommendation to advertisers to only engage in Sponsorship Agreements when Adults are 80% or more of the estimated participants and spectators.

3. Regulatory framework

The ASA Codes are a part of the comprehensive regulatory framework that applies to the sale, supply, consumption, advertising and promotion of alcohol. A number of national agencies provide or support the structures for aspects of Alcohol regulation, such as Alcohol licensing. Advertisers, their agencies and media organisations must observe legal restrictions along with relevant guidelines on alcohol promotion and low-risk drinking provided by Te Hīringa Hauora/Health Promotion Agency. Collectively, this regulatory framework includes a range of legislative, code and licensing processes that when applied, help to protect Minors and other vulnerable people from the harms caused by the misuse of Alcohol. Agency roles are summarised below.

3.1. National agencies

- The Ministry of Justice (MOJ) provides advice to the Government on alcohol-related legislation.
- The Ministry of Health (MOH) provides advice to the Government on alcohol-health-related matters.
- Local Government New Zealand (LGNZ) represents territorial authorities (TAs). LGNZ provides training and resources to support local councils to implement the Sale and Supply of Alcohol Act 2012.

- The Department of Internal Affairs (DIA) provides policy advice to the Minister of Local Government and information about local government to ministers, TAs and the public. The DIA is responsible for administering the Local Government Act 2002, which sets out procedures TAs must follow, including in relation to local Alcohol policies.
- ACC is the lead agency for injury prevention, including alcohol-related injuries.
- Te Hīringa Hauora/Health Promotion Agency gives advice and makes recommendations to the Government, government agencies, industry, non-government bodies, communities, health professionals, and others on the sale, supply, consumption, misuse and harm of Alcohol.

3.2. Alcohol licensing

The ASA has no jurisdiction over matters relating to Alcohol licensing. This includes the granting of licences, the density of Alcohol outlets and the monitoring of compliance with the Sale and Supply of Alcohol Act 2012. Issues raised in submissions relating to the density of Alcohol outlets in low socio-economic communities are a matter for TAs and their District Licensing Committees (DLCs).

One or more DLCs are located within each TA and they issue Alcohol licences. DLCs:

- Determine applications and renewals for Alcohol licences, manager's certificates and temporary authorities.
- Refer applications to the Alcohol Regulatory and Licensing Authority (ARLA).
- Conduct inquiries and make reports as required by ARLA.

The ARLA is the national body responsible for ensuring the law is fairly applied. The ARLA:

- Determines matters referred to it by DLCs.
- Determines appeals against
 - licensing decisions
 - local Alcohol policies
- Gives direction or statements, or refers matters to the DLCs.
- Advises people of the appropriate DLC to contact.

- Determines enforcement applications.

Regulatory roles

Three positions have a statutory role in ensuring licensed premises are operating according to the law and with regard to public safety.

Police, Licensing Inspectors (LIs) and Medical Officers of Health (MOoH) have a duty to work together to monitor licences, enforce the Act and implement strategies to reduce alcohol-related harm. LIs are appointed by TAs.

Each role has a particular focus for its input to the licensing process which may include:

- Making enquiries into applications for licences, manager's certificates, and renewals.
- Monitoring licensed premises' compliance with the Act.
- Reporting to the DLC or ARLA.
- Applying to have licences suspended, varied or cancelled.
- Participating in DLC and ARLA proceedings.
- Issuing infringement notices.
- Providing information for the development of LAPs.
- Power to enter licensed premises, which may include a requirement to see the premise's licence or any records to establish compliance with the Act.
- Ordering the closure of licensed premises in the case of a riot or fighting.
- Advising ARLA when a licensee or manager has been convicted of an offence relating to the sale or supply of Alcohol to Minors, unauthorised sale or supply, sale or supply to intoxicated persons, or allowing persons to become intoxicated.
- Seizing Alcohol and containers for the purpose of analysis.

- Application for a suspension of on-licence or club licences where there is evidence of non-compliance with public health requirements.

3.3. Legislation

The ASA has no jurisdiction over matters of law.

Legislation and guidelines that restrict Alcohol Advertising and Promotion include:

1. [Sale and Supply of Alcohol Act 2012 \(SSAA\)](#)
2. [Gambling Act 2003](#) and the [Gambling \(Prohibited Property\) Regulations 2005](#)
3. [Australia New Zealand Food Standards Code](#)
4. [National guidelines on alcohol promotions](#) and [Low-risk alcohol drinking advice](#)

3.3.1. Sale and Supply of Alcohol Act 2012 (SSAA)

SSAA covers the safe and responsible sale, supply, and consumption of Alcohol and the minimisation of harm caused by its excessive or inappropriate consumption. Harm to society generally or the community may be directly or indirectly caused by excessive or inappropriate consumption resulting in any crime, damage, death, disease, disorderly behaviour, illness or injury.

Section 237 of the Sale and Supply of Alcohol Act 2012

This section of the legislation provides the following advertising and promotion restrictions:

- Alcohol promotions are controlled so they do not encourage excessive Alcohol consumption or drinking by people under 18.
- Regulations may be made to ban some Alcohol products.
- Supermarkets and grocery stores are required to limit the display and advertising of Alcohol to a single non-prominent area of their store.

The legislation bans all advertising and marketing that promotes excessive Alcohol consumption or has a special appeal to Minors (s237). Except within licensed premises, you also cannot:

- advertise free Alcohol,
- promote discounts of 25% or more, or
- offer customers free goods, services or opportunities to win prizes if they buy Alcohol, i.e. purchase of Alcohol cannot be a condition of entry into a competition or sales promotion.

The penalty is a fine of up to \$10,000. A business's licence may also be suspended or cancelled.

Enforcement: The NZ Police, LIs and MOoH have a collective responsibility in enforcing the Sale and Supply of Alcohol Act 2012.

3.3.2. Gambling Act 2003

The Gambling Act 2003 is administered by the DIA. Section 17 of the Gambling Regulations may restrict or prohibit prizes from gambling. The Gambling (Prohibited Property) Regulations 2005 (particularly section 4 Prohibited property for gambling) names Alcohol as a prohibited prize from any form of gambling. This includes offering Alcohol as a prize for sales promotions.

Enforcement: Complaints in relation to the Gambling Act 2003 are referred to the DIA.

The definition of 'gambling' in the Gambling Act 2003 is as follows:

gambling

(a) means paying or staking consideration, directly or indirectly, on the outcome of something seeking to win money when the outcome depends wholly or partly on chance; and

(b) includes a sales promotion scheme; and

(c) includes bookmaking; and

(d) includes betting, paying, or staking consideration on the outcome of a sporting event; but

(e) does not include an act, behaviour, or transaction that is declared not to be gambling by regulations made under [section 368](#).

In summary, payment to gamble is required for the definition of gambling to apply. Free entry into a competition or draw where Alcohol is a prize is therefore permitted.

3.3.3. Australia New Zealand Food Standards Code

The Australia New Zealand Food Standards Code includes Standard 2.7.1 Labelling of alcoholic beverages and food containing alcohol which regulates the labelling of alcoholic beverages and food that contains Alcohol. Standard 1.27 Nutrition, health and related claims regulates the nutrition, health and other related claims permitted on labels and in advertising. The regulation of health warnings on Alcohol products is a matter covered by [Food Standards Australia New Zealand](#).

Enforcement: Complaints about compliance with the Food Standards Code are referred to MPI.

THE PROCESS GOING FORWARD

The Committee was appointed by the ASA Governance Board:

1. To undertake a routine review of the current Code for Advertising and Promotion of Alcohol to ensure the standards are fit for purpose in 2020 and beyond.
2. To receive and review submissions on a new draft Code.
3. To take into account legislative changes since the release of the current Code, complaints to the ASA, international standards and best practice.
4. To recommend the final draft Code to the ASA Governance Board with a view to approve and release the final Code.

The Committee is required to report to the ASA Governance Board. The Committee's report, the new Code and related recommendations will be provided to the Governance Board for action.

Appendix 1 – Alcohol Advertising and Promotion Code



Alcohol Advertising and Promotion Code

Effective 1 April 2021 for new ads
Effective 1 July 2021 for all ads

Every ad a responsible ad
www.asa.co.nz

Advertising Standards Code

The Principles and Rules set out in the [Advertising Standards Code](#) apply to all advertising in all media. When applying the Advertising Standards Code to Alcohol Advertising and Promotion, and Alcohol Sponsorship Advertising and Promotion, a high standard of social responsibility is required.

Alcohol Advertising and Promotion Code

In addition to the Advertising Standards Code, Principles 1 and 2 of the Alcohol Advertising and Promotion Code (the Code) apply to all Alcohol Advertising and Promotion, and Principle 3 applies to all Alcohol Sponsorship Advertising and Promotion. The purpose of the Code is to ensure that all facets of advertising and promotion are conducted in a manner that demonstrates a high standard of social responsibility.

The Code requires all Alcohol Advertising and Promotion and all Alcohol Sponsorship Advertising and Promotion to be socially responsible and not undermine the need for the prevention or minimisation of alcohol-related harm, with particular regard to protecting Minors and other vulnerable people.

The Code gives consideration to Alcohol products and brands, and the content, timing and placement of advertising and promotion and alignment of such with the [Low-risk alcohol drinking advice](#).

All Alcohol Advertising and Promotion and all Alcohol Sponsorship Advertising and Promotion must be legal, decent, honest and truthful, and respect the principles of fair competition. The Advertising Standards Authority (ASA) Codes are a part of the regulatory framework that applies to the advertising and promotion of alcohol. There

are a number of Acts that restrict advertising and promotion, and these are enforced by government agencies. Advertisers must observe the legal restrictions along with guidelines on alcohol promotion and low-risk drinking advice provided by the Health Promotion Agency (HPA).

Attention is drawn to:

- the [Sale and Supply of Alcohol Act 2012](#) (particularly [section 237 Irresponsible promotion of alcohol](#)), and
- the [Gambling Act 2003](#) (particularly [section 17 Regulations may restrict or prohibit prizes](#)); and
- the [Gambling \(Prohibited Property\) Regulations 2005](#) (particularly [section 4 Prohibited property for gambling](#)); and
- the [Australia New Zealand Food Standards Code](#) (particularly [2.7.1 Labelling of alcoholic beverages and food containing alcohol](#) and [1.2.7 Nutrition, health and related claims](#)); and
- the [National guidelines on alcohol promotions](#); and
- [Low-risk alcohol drinking advice](#).

Application of the Alcohol Advertising and Promotion Code

The Code, along with the Advertising Standards Code, applies to all advertising and promotion of Alcohol placed in any media including, but not limited to: television (including on-demand television), radio, print, out of home (for example, billboards, bus shelters and buses), cinema, digital, email, websites, social media (including user-generated content), influencers, videos, apps, advergamming, addressed and unaddressed mail, brochures and point-of-sale material. For the avoidance of doubt, the Code also applies to the naming, labelling and packaging of Alcohol.

Advertisements whose purpose is solely and clearly to educate people about alcohol-related harm are subject to the [Advertising Standards Code](#).

Ultimately, the responsibility to comply with all aspects of advertising regulation is shared between all the parties to an advertisement or promotion, including the advertiser, agencies and media organisations.

The Code is made up of three parts:

- Principles: the standards expected in advertising and promotion
- Rules: how the principles are to be interpreted and applied
- Guidelines: information and examples to explain a rule

Interpreting the Alcohol Advertising and Promotion Code

Social responsibility is embodied in the Principles and Rules of the Code. In interpreting the Code, emphasis must be placed on compliance with both the spirit and intention of the Code.

It is possible for advertising or promotion to be in breach of one or more of the Principles in the Code without being in breach of a specific Rule.

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

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

NOTE: Approval of Alcohol Advertising and Promotion by the Liquor Advertising and Promotion Pre-vetting Service (LAPPS) is strongly recommended. LAPPS is a user-pays service available to all Alcohol Advertisers and Promoters to help minimise the risk of breaching the ASA Codes as well as other industry codes and relevant legislation. Information about LAPPS is available at <http://www.anza.co.nz>

Definitions for the purposes of this Code

Alcohol means a consumable product as defined in the Sale and Supply of Alcohol Act 2012, Section 5, [Interpretation](#).

In addition, a consumable product which contains less than 1.15% of ethanol by volume will be considered as 'Alcohol' for the purpose of the Code if marketed as a non-alcoholic variant or brand extension that resembles, e.g. in look and/or taste, a product that contains 1.15% or more ethanol by volume.

Alcohol Advertising and Promotion

means any message, including naming, labelling and packaging, the content of which is controlled directly or indirectly by the Alcohol Advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed and is for the purpose of promoting Alcohol:

- products or brands, including the use of the colour scheme, aural, visual or linguistic device or motif associated with the product or brand; or
- producers, importers, distributors, wholesalers, licensing trusts, licensed clubs, retailers or premises.

For the avoidance of doubt, this definition:

- applies to an advertisement that includes a reference to licensed premises only when the intent of the advertisement is to promote the consumption of Alcohol;
- does not apply to Alcohol Sponsorship Advertising and Promotion;
- does not apply to an advertisement in which reference to or the depiction of Alcohol or Alcohol packaging or an Alcohol outlet is incidental to its purpose.

Alcohol Advertiser means any person or entity that markets, promotes or sells Alcohol or the consumption of Alcohol.

This may include, but is not limited to, all producers, importers, distributors, wholesalers and retailers, licensing trusts, licensed clubs and other entities such as influencers when they are marketing, promoting or selling Alcohol or the consumption of Alcohol.

Alcohol Sponsorship Advertising

and Promotion means any message the content of which is controlled directly or indirectly by the Alcohol Advertiser, expressed in any language and communicated in any medium with the purpose of promoting the Sponsored Party.

Alcohol Sponsorship Agreement means any agreement or part of an agreement involving payment, or other consideration in lieu of payment, by an Alcohol Advertiser to support the Sponsored Party. In return, the Sponsored Party agrees to be associated with and/or promote the Alcohol Advertiser's brand, products or outlet. The Code applies to any advertising or promotional material bearing the Alcohol Advertiser's logo or trademark in the context of the Alcohol Sponsorship Agreement. It does not apply to any use to which that material might subsequently be put, or to the behaviour or activities of Sponsored Parties if that is not required or specifically permitted by the Alcohol Sponsorship Agreement.

Sponsored Party examples include, but are not limited to:

- Individuals, groups of people or teams
- Competitions
- Events

Minors means people who are under the age of 18 years.

Adults means people who are of or over the legal age to purchase Alcohol (18 years of age or over).

Principle 1

Social Responsibility

Alcohol Advertising and Promotion must be prepared and placed with a high standard of social responsibility to consumers and society.

Rule 1 (a)

Targeting Adults – Timing and placement

The timing
and placement
of Alcohol
Advertising and
Promotion must
target Adult
audiences.

Guidelines

1. The extent to which Alcohol Advertising and Promotion targets Adults is determined by a combination of the timing, placement (Rule 1 (a)) and content (Rule 1 (b)).
2. Advertisers must be able to demonstrate they have used appropriate tools and/or have taken care in evaluating audience composition to select and target Adult audiences prior to the placement of Alcohol Advertising and Promotion in any media.
3. Age-restricted media

Alcohol Advertising and Promotion may be placed in age-restricted media only when appropriate tools are used to select Adult audiences and/or access is restricted to Adults only.

 - i. Tools to select Adult audiences may include, but are not limited to:
 - a) selecting Adults using the registered age or date of birth of the device owner and/or the logged-in user;
 - b) platforms with terms and conditions that require Alcohol Advertising and Promotion to be restricted to Adults;
 - c) selecting nominated sites or pages based on content or audience data that demonstrates viewing by Adult audiences or exclusion of Minors.
 - ii. Tools that create a barrier to entry for Minors may include, but are not limited to:
 - a) age-gated access to online Alcohol Advertising and Promotion on brand websites, brand social media pages or apps where visitors are required to enter a date of birth before accessing Alcohol Advertising and Promotion;
 - b) age verification for entry to online Alcohol retail sites to confirm visitors are 18 years of age or over;
 - c) age verification required for entry into R18+ events and cinema movies classified R18.

4. Audience composition

Where tools are not available to select Adult audiences and/or restrict access to Adults only, Alcohol Advertising and Promotion may be placed in other media only when recognised industry-standard audience composition data are available and 80% or more of the expected average audience are Adults. These may include, but are not limited to:

- i. viewing, reading or listening audience composition data;
- ii. physical premises where entry to a designated supervised area which Minors are permitted to enter, providing they are accompanied by a parent or guardian.

5. Saturation

The media must avoid, where possible, the impression that Alcohol Advertising and Promotion dominates their medium taking into account the context. Examples include, but are not limited to:

- i. no more than six minutes per hour of the viewing or listening period; and
- ii. no more than two advertisements per commercial break.

6. Out of home

Alcohol Advertising and Promotion may be placed in locations only when available tools and/or audience data (Guidelines 3 or 4 above) are used to target Adults. In addition, Advertisers must not place Alcohol Advertising and Promotion on fixed sites within a 300-metre sightline of the main entrance to a primary, intermediate or secondary school.

7. Television

In addition to Guidelines 3, 4, 5 and 6 above, Alcohol Advertising and Promotion during real-time scheduled television content must not be broadcast between 6:00 am and 8:30 pm.

Rule 1 (b)

Targeting Adults – Content

The content of
Alcohol Advertising
and Promotion must
target Adults.

Guidelines

1. As outlined above in Rule 1 (a), the extent to which an advertisement or promotion is targeted to Adults is determined by a combination of the timing, placement (Rule 1 (a)) and content (Rule 1 (b)).
2. Advertisers must be able to demonstrate that they have taken care in the development of the content of Alcohol Advertising and Promotion to only target Adults. Advertisers must exercise particular caution with the timing and placement of Alcohol Advertising and Promotion when the presentation and content could appeal to a wide age range (see Rule 1 (a)).
3. The theme, images, wording, music and language used in Alcohol Advertising and Promotion must only target Adults. Advertisers must take care when Alcohol Advertising or Promotion content may have appeal to Minors, including, but not limited to, the following examples:
 - i. content that creates confusion with confectionery, soft drinks or other non-alcoholic products; or
 - ii. use of names similar to those that primarily appeal to Minors; or
 - iii. animation, bright colours, toys, music, animals, cartoons, play scenes/playgrounds, juvenile or adolescent behaviour; or
 - iv. designs, motifs, items, colloquial words and phrases or activities primarily connected to youth culture; or
 - v. use of real or fictitious characters.
4. Individuals, groups or teams, including, but not limited to: cultural and sporting heroes or icons, celebrities and social media influencers that are currently popular* with Minors, and/or have particular appeal to* Minors, may only be used in Alcohol Advertising and Promotion that is:
 - i. placed in media where appropriate tools are used to select Adult audiences and/or access to the advertising and promotion is restricted to Adults only (Rule 1 (a) Guideline 3);

-
- ii. placed inside premises whose primary purpose is to sell Alcohol, e.g. on-premise Alcohol outlets, cellar doors and single-permitted Alcohol areas in supermarkets and grocery stores, and provided:

- a) the advertising and promotion is only visible after entry into the premises or single-permitted Alcohol area and it is not visible to passers-by, for example, through a window, entrance or end-aisle displays; and
- b) people in the premises or single-permitted Alcohol area are likely to be 80% or more Adults.

** Consumer research by Alcohol Advertisers may be appropriate to determine who or what is 'currently popular' or has 'particular appeal'.*

- 5. Minors must not appear in Alcohol Advertising or Promotion.
- 6. Women who are visibly pregnant or seen breastfeeding must not appear in Alcohol Advertising or Promotion.
- 7. Adults in Alcohol Advertising and Promotion
 - i. Adults who are visually prominent in Alcohol Advertising and Promotion must:
 - a) be at least 25 years of age; and
 - b) appear to be at least 25 years of age with their behaviour and appearance clearly appropriate for people of that age or older.
 - ii. The following exceptions apply where Adults who are 18 to 24 years of age may be visually prominent in Alcohol Advertising and Promotion:
 - a) they are not a paid model or actor and are real people in real situations; or
 - b) they are employed by the Alcohol Advertiser or its agent for the purposes of serving, sampling or merchandising Alcohol; or
 - c) they are part of a crowd scene from an R18+ event with behaviour and appearance appropriate for people of that age and older.

iii. The extent to which an Adult who is visually prominent in Alcohol Advertising or Promotion does or does not demonstrate behaviour and appearance clearly appropriate for people of that age or older is determined by having regard to an assessment of the following criteria:

- a) The Alcohol Advertiser
- b) The Alcohol brand or product
- c) The setting
- d) The overall presentation of the advertisement
- e) Time and placement

8. Influencers

Influencers with Alcohol Advertising and Promotion content must be at least 25 years of age and appear to be at least 25 years of age with their behaviour and appearance clearly appropriate for people of that age or older. Placement of Alcohol Advertising and Promotion with influencers is only permitted if Rule 1 (a) Guidelines 3 or 4 can be met.

Rule 1 (c)

Alcohol consumption

Alcohol Advertising and Promotion must demonstrate responsibility and low-risk Alcohol consumption.

Guidelines

1. Alcohol Advertising and Promotion must not portray or represent irresponsible, harmful or excessive consumption of Alcohol, for example, but not limited to:
 - i. Rapid, heavy or frequent consumption
 - ii. Peer pressure to consume
 - iii. Refusal of Alcohol is portrayed negatively as a weakness
 - iv. Drinking games
 - v. Serving sizes greater than the recommended standard serving size guidelines
 - vi. Daily consumption or regular consumption that is portrayed as healthy or safe

Rule 1 (d)**Alcohol effects**

Alcohol Advertising and Promotion must not portray or suggest that the effects of consuming Alcohol can improve or enhance a situation or any personal attributes.

Guidelines

1. Alcohol must not be portrayed or represented:
 - i. As indispensable or that it should take priority in life.
 - ii. In a way that suggests it enhances confidence, popularity, attractiveness, sexual success, performance, physical ability, the ability to resolve conflict, or any other desirable social or personal quality or benefit.
 - iii. As necessary for the enjoyment of an activity by participants or spectators.
 - iv. As necessary post-activity to enhance enjoyment by participants and supporters.
2. Alcohol Advertising and Promotion must not portray those who are not consuming Alcohol as not fully participating or 'missing out'.
3. Consumption of Alcohol may be portrayed as incidental to a social environment where the responsible serving of Alcohol would not be unexpected by the intended audience.

Advertising Standards Code

Additional Guidelines for Alcohol Advertising and Promotion

Rule 1 (e)

Safety

Alcohol Advertising and Promotion must not, unless justifiable on educational or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.

Guidelines

See full Guidelines for this Rule in the [Advertising Standards Code](#).

In addition

1. Alcohol Advertising and Promotion must not:
 - i. Link Alcohol consumption with hazardous or unsafe practices or behaviour that is risky, for example, but not limited to:
 - a) the use of potentially dangerous machinery, equipment or when driving;
 - b) swimming and other water sports which would be unsafe when combined with Alcohol consumption.
 - ii. Associate, allude to or portray Alcohol with tobacco, vaping, drugs or volatile substances such as glue, petrol, explosives and weaponry.
2. Sporting or other physical activities may be represented in Alcohol Advertising and Promotion, providing there is no implication that Alcohol will be consumed before or during the activity, or after endurance events or injury.

Rule 1 (f)

Violence and anti-social behaviour

Alcohol Advertising and Promotion must not, unless justifiable on educational or social grounds, contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property.

Guidelines

See full Guidelines for this Rule in the [Advertising Standards Code](#).

In addition

1. Alcohol Advertising and Promotion must not promote Alcohol or Alcohol consumption in a manner that supports violent or anti-social behaviour. Examples include, but are not limited to, aggressive, unruly or bravado behaviour.

Principle 2

Truthful Presentation

**Alcohol Advertising
and Promotion must be
truthful, balanced, and
must not be misleading.**

Advertising Standards Code

Additional Guidelines for Alcohol Advertising and Promotion

Rule 2 (b)

Truthful presentation

Alcohol Advertising and Promotion must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. Misleading may be by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise.

Obvious hyperbole identifiable as such is not considered to be misleading.

Guidelines

See full Guidelines for this Rule in the [Advertising Standards Code](#).

In addition

1. Generally, hyperbole describes representations that are exaggerations which are so obvious that they are unlikely to mislead anyone.

Whether representations can be considered obvious hyperbole will depend on their context.
2. Alcohol Advertising and Promotion must not state or imply therapeutic, health benefit, mental or physical enhancement or weight claims. Examples are claims that Alcohol:
 - i. Is necessary or required for relaxation.
 - ii. Positively changes mood, physical condition or behaviour.
 - iii. Enhances mental or physical capabilities, such as contributing to professional or sporting achievements.
3. Factual information about the alcohol content may be included providing it can be substantiated.

Principle 3

Alcohol Sponsorship Advertising and Promotion

**Alcohol Sponsorship
Advertising and Promotion
must target Adults and
primarily promote the
Sponsored Party.**

Rule 3 (a)

Targeting Adults

Alcohol Sponsorship Advertising and Promotion must target Adult audiences.

Guidelines

1. Sponsored Parties who are also individuals, groups or teams, including, but not limited to, cultural and sporting heroes or icons, celebrities and social media influencers that are currently popular* with Minors and/or have particular appeal to* Minors, may be used in Alcohol Sponsorship Advertising and Promotion providing all the requirements set out in Rules 3 (a) and (b) of this Code are met.

** Consumer research by Alcohol Advertisers may be appropriate to determine who or what is 'currently popular' or has 'particular appeal'.*

2. To ensure Alcohol Sponsorship Advertising and Promotion targets Adults, Alcohol Advertisers should not engage in Sponsorship Agreements unless Adults are at least 80% or more of the estimated participants or spectators.
3. Alcohol Advertisers may only permit Sponsored Parties to feature Alcohol branding on adult-size clothing and accessories.
4. Alcohol Advertisers must not feature Alcohol branding on any promotional material that is primarily appealing to, or is likely to be distributed to, Minors.
5. Placement

Advertisers must be able to demonstrate they have used appropriate tools and/or have taken care in evaluating audience composition to select and target Adult audiences prior to the placement of Alcohol Sponsorship Advertising and Promotion.

Alcohol Sponsorship Advertising and Promotion may be placed in:

- i. age-restricted media when appropriate tools are used to select Adult audiences and/or access is restricted to Adults only; or
- ii. any media only when recognised industry standard audience composition data are available and 80% or more of the expected average audience are Adults; or
- iii. places/premises only when the expected average audience are or are likely to be 80% or more Adults.

6. Out of home

In addition to Guideline 5 above, Advertisers must not place Alcohol Sponsorship Advertising and Promotion on fixed sites within a 300-metre sightline of the main entrance to a primary, intermediate or secondary school.

Rule 3 (b)

Content

Alcohol Sponsorship Advertising and Promotion must only feature the Alcohol Advertiser and the sponsorship in a subordinate manner.

Guidelines

1. Alcohol Sponsorship Advertising and Promotion must not:
 - i. contain a direct or implied sales message;
 - ii. show Alcohol or the product label or packaging;
 - iii. imitate or use any parts of Alcohol Advertising or Promotion from any media;
 - iv. portray consumption of Alcohol;
 - v. state or imply therapeutic, health benefit, mental or physical enhancement or weight claims;
 - vi. include Minors;
 - vii. include women who are visibly pregnant or seen breastfeeding.
2. Alcohol Sponsorship Advertising and Promotion must:
 - i. only mention or portray the Alcohol Advertiser's name and/or brand name and/or logo, orally and/or visually, briefly and in a subordinate manner and, as a guide, 15% of the space/time available. It may not always be possible to apply the 15% guide, and consideration will be given to the overall look and feel of the advertising.
 - ii. focus on the clear association between the Alcohol Advertiser and the Sponsored Party. Examples of words that may appear in Alcohol Sponsorship Advertising and Promotion that indicate an Alcohol Sponsorship Agreement include, but are not limited to:
 - a) proud sponsors/supporters of
 - b) official sponsor/supporter of
 - c) official partner of
3. For the avoidance of doubt, Alcohol Sponsorship Advertising and Promotion that does not comply with Rule 3 (b) will be deemed to be Alcohol Advertising and Promotion. Principles 1 and 2 of this Code, and the accompanying Rules and Guidelines will therefore apply.

About the Advertising Standards Authority (ASA)

The ASA is the organisation that sets the standards (Advertising Codes) for responsible advertising in New Zealand. The ASA also runs the advertising complaints processes. The ASA is funded by the advertising industry and has 14 member organisations representing advertisers, agencies and the media.

Making a complaint

Anyone can complain about any advertisement.

All complaints must be received using our online complaints form, via email or via post. Our process requires that we deal with the consumer's concerns in their own words. Our online complaint form is available at www.asa.co.nz. Complaints can be emailed to asa@asa.co.nz or posted to PO Box 10675, Wellington 6143.

Competitor complaints

Competitor complaints are dealt with via a user-pays process with adjudication hearings. Costs for a hearing range from \$10,000 to \$15,000 excluding GST. The process aims to give fast and thorough consideration to conflicts between competitors.

Responding to a complaint

All parties associated with an advertisement are expected to respond to the ASA following a complaint. This includes the advertiser and may also include the agency and the media where the advertisement was placed. The ASA website www.asa.co.nz provides guidance on how to respond to a complaint.

Decisions

The Advertising Standards Complaints Board makes decisions about complaints following responses from parties. Decisions may be appealed and if there are grounds for an appeal, the Appeal Board will re-consider the complaint. The ASA membership has no involvement in the work of the Complaints and Appeal Boards.

Decision outcomes have the following meanings:

No Grounds to Proceed: This means the Chair of the Complaints Board has reviewed the complaint and has ruled a Code has not been breached, and there are no grounds for the complaint to proceed. This outcome may occur when a complaint is based on an extreme interpretation or is trivial or vexatious, or if there is a precedent decision that relates to the same or similar advertising

Upheld: This means the Complaints Board agreed with the issues raised by the complainant and the advertiser is asked to amend or remove the advertisement.

Settled: When an advertiser either withdraws an advertisement or makes immediate changes (that the Chair considers satisfactory) to address the issues raised by the complainant the complaint can be settled by the Chair. A settled decision achieves the same outcome as an upheld decision – removal or amendment of the advertisement.

Not Upheld: This means the Complaints Board does not find the advertisement in breach of the Advertising Codes in relation to the complainant's concerns.

No Jurisdiction: Sometimes a complaint is outside the jurisdiction of the ASA. The ASA deals with complaints about any advertisement that is targeted at NZ audiences. Matters of law or complaints about advertisements from outside of NZ, which are not targeting NZ consumers, are outside the ASA's jurisdiction.



All ads, all media

Appendix 2 – Summary of differences between Codes

Code for Advertising and Promotion of Alcohol (2011)	Alcohol Advertising and Promotion Code (2020)
Advertising Standards Code should be consulted.	Explicit statement that the Advertising Standards Code applies, and a high standard of social responsibility is expected.
Reference to the Sale and Supply of Alcohol Act 2012, National Guidelines on Alcohol Promotions and the Standard Drink Guidelines.	Reference to the Sale and Supply of Alcohol Act 2012, the Gambling Act 2003, the Australia New Zealand Food Standards Code, National Guidelines on Alcohol Promotions and the Low-risk Alcohol Drinking Advice.
Applies to all Alcohol Advertising and Promotion and all Alcohol Sponsorship Advertising and Promotion, in all media.	Applies to all Alcohol Advertising and Promotion and all Alcohol Sponsorship Advertising and Promotion, in all media. Examples include but are not limited to television (including on-demand television), radio, print, out of home (for example, billboards, bus shelters and buses), cinema, digital, email, websites, social media (including user-generated content), influencers, video, apps, adver gaming, addressed and unaddressed mail, brochures and point-of-sale material.
Definition of ‘Alcohol’ for the purposes of applying the Code: All pre-packaged and bulk Alcohol drinks with an Alcohol strength above 1.15% abv. Light (lite) Alcohol (contains a maximum of 2.5% abv).	Definition of ‘Alcohol’ for the purposes of applying the Code: ‘Alcohol’ means a consumable product as defined in the Sale and Supply of Alcohol Act 2012. For the purposes of the Code, it also includes products which contain less than 1.15% ethanol by volume if marketed as a non-alcoholic variant or brand extension that resembles, e.g. in look and/or

No reference to zero-percent non-alcoholic variant or brand extension products.	taste, a product that contains 1.15% or more ethanol by volume.
Targeting Adults Target Adult audiences through the selection of media, placement, style of presentation, content and context where ads appear.	Rule 1 (a) Targeting Adults with the timing and placement of advertising and promotion The guidelines include specific and detailed reference by medium to the placement of Alcohol Advertising and Promotion to target Adults. Advertisers must use all available tools (Guideline 3) to select and target Adults. Where tools are not available, advertisers must only target an Adult audience when 80% or more of the expected average audience are Adults (Guideline 4).
Targeting Adults Alcohol Advertising and Promotion in non-restricted areas shall not use or refer to identifiable heroes or heroines of the young. Some may be suitable for use in media where there is an Adult audience of at least 75% Adults.	Rule 1 (b) Targeting Adults with the content of advertising and promotion Individuals, groups or teams that are currently popular with Minors and/or have particular appeal to Minors may only be used in advertisements and promotion placed in age-restricted media and premises whose primary purpose is to sell Alcohol.
Minors Minors may appear in Alcohol Advertising and Promotion only in situations where they would naturally be found, for example, in a family barbecue, provided that there is no direct or implied	Minors Minors must not appear in Alcohol Advertising or Promotion.

suggestion that they will serve or consume Alcohol.	
	<p>Women (new guideline)</p> <p>Women who are visibly pregnant or seen breastfeeding must not appear in Alcohol Advertising or Promotion.</p>
<p>Age of Adults in advertising and promotion</p> <p>Adults visually prominent in Alcohol Advertising and Promotions depicting Alcohol being consumed shall be, and shall appear to be, at least 25 years of age with their behaviour and appearance clearly appropriate for people of that age or older.</p>	<p>Age of Adults in advertising and promotion</p> <p>Adults visually prominent in Alcohol Advertising and Promotion depicting Alcohol being consumed shall be, and shall appear to be, at least 25 years of age with their behaviour and appearance clearly appropriate for people of that age or older.</p> <p>Adults who are 18–<25 years of age may appear in Alcohol Advertising and Promotion under certain circumstances (e.g. not a paid actor, present at an R18 event, or employed by the Alcohol Advertiser for activities such as sampling).</p>
	<p>Influencers (new guideline)</p> <p>Influencers must be at least 25 years of age and appear to be at least 25 years of age with their behaviour and appearance clearly appropriate for people of that age or older. Placement of Alcohol Advertising and Promotion with influencers is only permitted if Rule 1 (a) Guidelines 3 <u>or</u> 4 are able to be met (i.e. placement is targeted at Adults).</p>

<p>Sponsorship Agreements</p> <p>The Code recommends that Alcohol producers, distributors or retailers do not engage in sponsorship where those under 18 years of age are likely to comprise more than 25% of the participants or spectators.</p>	<p>Sponsorship Agreements</p> <p>The Code recommends that Alcohol Advertisers should not engage in Sponsorship Agreements unless Adults are at least 80% or more of the estimated participants or spectators.</p>
<p>Placement of Alcohol Sponsorship Advertising and Promotion</p> <p>May be broadcast at any time except during programmes intended particularly for Minors.</p>	<p>Placement of Alcohol Sponsorship Advertising and Promotion</p> <p>May be placed in any media only when audience composition data are available and 80% or more of the expected average audience are Adults and must not be placed on fixed sites within a 300-metre sightline of the main entrance to a primary, intermediate or secondary school.</p>

Appendix 3 – List of letters and submissions

Please note: Consistent with ASA's Privacy Policy, people's names and other personal information have been removed from submissions received from organisations.

Letters	
1	Royal New Zealand College of Urgent Care
2	Health Coalition Aotearoa
3	Hāpai Te Hauora

Submissions	
1	New Zealand Medical Association
2	Communities Against Alcohol Harm
3	Radio Broadcasters Association
4	Dr C. Penaflor
5	Families Overcoming Addiction
6	Dr A. Towers
7	Vizeum
8	P. Hansen
9	New Zealand Food Safety
10	Southern District Health Board
11	Pegasus Health
12	New Zealand College of Public Health Medicine
13	Wanaka Alcohol Group
14	Women's Christian Temperance Union
15	Association of New Zealand Advertisers
16	Waikato District Health Board

17	Active West Coast
18	New Plymouth Injury Safe Trust
19	Council of Medical Colleges in New Zealand
20	G. Wiggs
21	Regional Public Health
22	Canterbury District Health Board
23	Royal Australasian College of Surgeons
24	Auckland Regional Public Health Service
25	Pernod Ricard Winemakers
26	Raydar
27	Hustle and Bustle
28	Ministry of Health
29	Spirits New Zealand
	Brown Forman – Letter in support
30	Brewers Association of New Zealand
	Hospitality New Zealand – Letter in support
31	Asahi Beverages
32	Ashburton Community Alcohol and Drug Service
33	Alcohol Healthwatch
34	New Zealand Winegrowers
35	The Royal New Zealand College of General Practitioners
36	WellSouth Primary Health Network
37	Foodstuffs
38	Nelson Marlborough Health
39	Television New Zealand

40	Lion NZ Limited
	Lion NZ Limited – Appendix 1
	Zenith – Letter in support
	The Enthusiasts – Letter in support
	DDB – Letter in support
41	Health Promotion Agency Te Hīringa Hauora
42	Te Rūnanga o Ngāti Whātua
43	Retail NZ
44	MediaWorks
45	New Zealand Food & Grocery Council
46	Wellington City Council
47	New Zealand College of Midwives
48	DB Breweries
49	National Council of Women of New Zealand
50	Glengarry Wines
51	The Royal Australian and New Zealand College of Psychiatrists
52	Woolworths New Zealand
53	Commercial Communications Council
54	Royal Australasian College of Physicians