



ADVERTISING STANDARDS AUTHORITY

1 October 2009

CODE FOR THE NAMING, LABELLING, PACKAGING AND PROMOTION OF LIQUOR

Introduction

The purpose of this Code is to ensure that liquor naming, labelling, packaging and promotions will be conducted in a manner that is not inconsistent with the need for responsibility, moderation, minimisation of harm, and minimisation of appeal and exposure to minors.

Application of Code

This Code applies to all pre-packaged and bulk alcoholic drinks with an alcoholic strength above 1.15% abv, which are marketed for sale and consumption in New Zealand, including via websites. These include draught drinks and those served from permanent dispenser units or refilled from bulk tanks or containers (commonly referred to as "fill-your-own"). The Code also applies to homebrew and distillation kits.

This Code applies to products developed or marketed primarily as alcoholic 'drinks', even if they are classified as foodstuffs rather than drinks for the purposes of licensing or customs and excise legislation, or even if they appear to be gaseous, solid or heavily textured (or can be made to be, for example by freezing or shaking), rather than liquid.

This Code applies to a drink's naming and packaging, including the brand name, product descriptor, labelling and any container and external wrapping (all of which are together referred to in this Code as packaging). This Code also applies to point of sale or other promotions, activities and materials (including dispenser units) generated by the producer, distributor or retailer.

This Code applies to all promotional materials and activities generated by the producer, distributor or retailer, for example: User Generated Content on websites and emails, sponsorship, media releases, branded merchandise, competitions, word of mouth marketing, advergames, product displays and sampling. Definitions of these terms for the purposes of this Code are set out in Annex 1. For the avoidance of doubt, this Code does not apply to any broadcast or non-broadcast advertising within the scope of the Advertising Standards Authority (ASA) Advertising Codes. It also does not apply to bona fide news, reviews, editorial and broadcast entertainment and sports programmes. The Code Secretariat may refer a complaint received under this Code to the ASA, the Broadcasting Standards Authority, the Press Council or another organisation if it considers that the complaint is more appropriately dealt with in another jurisdiction.

This Code does not apply to licensed on-premise (including all on, club and special licences) activities and promotions. These activities and promotions are already covered under the Hospitality Association of New Zealand National Protocol on Alcohol Promotions and Section 154A of the Sale of Liquor Act.

This Code does not apply to any materials or activities whose purpose is solely and clearly to educate people about the responsible use and/or misuse of liquor.

In interpreting the Code emphasis will be placed on compliance both with the principles and the spirit and intention of the Code. When deciding whether there is a breach of the Code the Liquor Promotion Complaints Board shall look at the matter broadly and have regard to all relevant matters, including the overall impression conveyed, context and target market and in the case of promotions, their duration, entry mechanism, location, if there is a prize how it is awarded, and application of the ALAC standard drinks guidelines. Accordingly, upon complaint the Liquor Promotion Complaints Board is vested with a discretion to ensure a commonsense outcome.

It is the responsibility of all companies and enterprises connected with the alcoholic drinks industry in New Zealand (whether as producers, importers, wholesalers, distributors or retailers) to comply with this Code. This includes the provision of adequate and appropriate briefings to external agencies from whom the companies/enterprises may commission design or promotional work.

Principles

Principle 1 - Liquor marketing and promotions shall neither conflict with nor detract from the need for responsibility and moderation in liquor consumption.

Principle 2 - Liquor marketing and promotion shall observe a high standard of social responsibility

Guidelines

1 The alcoholic nature of a drink should be communicated on its packaging with absolute clarity, however the alcoholic content should not be unduly emphasised for the purpose of product glorification except where the product is a light (or lite) product (as defined in Annex 1).

2 A drink, its packaging and any promotional material or activity (as defined in Section 1 and Annex I) should not in any direct or indirect way:

- a) breach the laws of New Zealand;
- b) unduly emphasise for the purpose of product glorification the alcoholic strength, except where the product is a light (lite) alcohol product;
- (c) suggest any association with anti-social, dangerous, aggressive or violent behaviour or bravado;
- (d) suggest any association with, acceptance of, or allusion to, tobacco, illicit drugs or volatile substances such as glue and petrol;
- (e) suggest that consumption of the drink can lead to sexual, social, sporting or business success or popularity;
- (f) encourage illegal, irresponsible or immoderate consumption, such as binge-drinking, drunkenness or drink-driving;

(h) have strong or evident appeal to under 18s, for example use of designs, motifs, cartoon characters or other devices that predominantly appeal to under 18s, and confusion with confectionery or soft drinks;

(i) suggest that the product can enhance mental or physical capabilities or produce unrealistic outcomes;

(j) cause widespread or serious offence, taking into account prevailing community standards, context, audience, medium and product;

(k) be directed to pregnant women;

(l) suggest an association with or acceptance of anti-social or dangerous use of motor-vehicles, explosives, fires, or weaponry.

(m) show anyone visually prominent in a liquor promotion or on packaging depicting or engaging in liquor being consumed unless they look and are at least 25 years of age with their behaviour and appearance clearly appropriate for people of that age or older.

3 Producers, distributors or retailers should not engage in sponsorship (as defined in Annex 1) where those under 18 years of age are likely to comprise more than 25% of the participants, audiences or spectators;

(a) Sponsors shall not require sponsored parties to feature liquor branding on children's size replica sports kit or on any promotional material distributed to children or persons under 18.

(b) Liquor branded merchandise should not aimed at children or persons under the age of 18 or have particular appeal to them, nor should it be given away or sold at events where under 18s are likely to comprise more than 25% of the audience.

4 Websites that provide online retail sale of liquor products shall require purchasers to certify that they are 18 years of age or over.

5 Websites that primarily promote a liquor brand and contain games, competitions or other interactive activities shall have an Age Verification Page at entry. Verification shall be by way of input of the visitor's date of birth.

6 All alcoholic drinks must be clearly distinguishable as such, when on display.

7 Point-of-sale materials and promotions for liquor must not be targeted at an under 18s audience or be available in unrestricted areas at events or activities where more than 25 per cent of the expected audience is under 18.

8 Care should be taken with promotions (including prizes) to ensure that there is no encouragement of immoderate consumption. Where the prize is a large quantity of liquor it should not be supplied in one delivery.

ANNEX 1

DEFINITIONS

Advergaming

This refers to instances when advertising of any product, and specifically liquor with reference to this Code, is incorporated into a game of any kind.

Advertorials

This refers to any published material, including websites, promoting a drink as a result of payment by the drink's producer, distributor or retailer, even though that producer, distributor or retailer has no control over the content of the material. (NB If the material's content is within the control of the producer, distributor or retailer it is regarded as advertising and within the remit of the ASA).

Branded merchandise

This refers to:

- i. Products available in New Zealand bearing liquor or outlet branding which have been produced by, on behalf of, or with the permission of, a liquor producer, distributor or retailer.
- ii. To qualify for exemption under this Code, educational materials must not include a company, brand or outlet logo or trademark other than for identification purposes.
- iii. See also the definition of 'sponsorship', below.

Distributor

A 'distributor' is a company that either holds the trademark rights for a brand within New Zealand or has contractual rights to distribute a brand within New Zealand to wholesalers and retailers.

Light (or lite) alcohol

'Light (or lite) alcohol' means liquor containing a maximum of 2.5% alcohol by volume (abv).

Media releases

'Media releases' refers to any published statement and attachments, in writing or otherwise, issued by or on behalf of a liquor producer, distributor or retailer to the New Zealand media and which serves to promote an alcoholic drink or brand.

Sampling

This refers to an offer of an alcoholic drink, free of charge, to members of the public in a public place (including licensed premises).

Sponsorship

- i. 'Sponsorship' refers to any agreement or part of an agreement involving payment or other consideration in lieu of payment by a liquor producer, distributor or retailer to support a sporting or cultural property, event or activity, in return for which the

sponsored party agrees to be associated with or promote the sponsor's drink(s) or outlet.

ii. The Code applies to the overall sponsorship agreement, including any material bearing the sponsor's logo or trademark. 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 sponsorship agreement.

iii. Association through sponsorship of an individual with an alcoholic drink does not necessarily imply personal endorsement of that drink. Any implied endorsement, however, whether intended or not, must be fully compliant with this Code.

iv. Sponsorship of activities that may be dangerous after liquor consumption (eg motor racing, yachting, skiing) is not necessarily in breach of this Code, unless the manner in which it is conducted or any aspect of the sponsorship arrangements put it in breach of Guideline 3 (a and b) of the Code.

Websites

'Websites' refers to a website, or part of a website, managed by or on behalf of a liquor producer, distributor or retailer for the promotion of their brand(s) or outlets primarily to the New Zealand market. Producers, distributors and retailers are responsible for any part of the website over which they have editorial control.

User Generated Content

User Generated Content is content on websites or emails where the public contributes to the content, such as the YouTube and Bebo websites and viral emails. The Code applies to promotions on such websites and emails where the producer, distributor or retailer provides a platform for, or distributes the user-generated content or endorses the user-generated content.