

Alcohol Change UK response to the CAP/BCAP consultation on alcohol alternatives

May 2022

Alcohol Change UK is a leading UK alcohol charity, formed from the merger of Alcohol Concern and Alcohol Research UK. With a vision of a society that is free from serious alcohol harm, we work towards five key changes: improved knowledge, better policies and regulation, shifted cultural norms, improved drinking behaviours, and more and better support and treatment. We welcome the opportunity to respond to this consultation.

Alcohol Change UK is the national alcohol charity behind the global phenomenon that is Dry January®. We encourage Dry January® participants to try low-alcohol and alcohol-free alternatives. We also provide reviews of hundreds of alcohol-free and low-alcohol drinks on our website. Finally we work in partnership with alcohol-free brands who sponsor the Dry January® programme.

1. Is the definition of ‘alcohol alternatives’ clear, feasible, and appropriate?

The guidance should consider expanding the definition to include drinks up to 1.2% ABV. Many drinks in this category are above 0.5% but below 1.2% ABV. Regulation 9 in the Soft Drinks Levy 2018 defines these drinks as ‘alcohol substitute drinks’, which “is advertised or sold, it is advertised or sold as a direct replacement for the particular kind of alcoholic beverage to which it is similar.”¹ Some of the wording from that definition (see below) should be adopted in this content, to ensure harmony across the government policies which apply to this drink category. Other regulations apply to drinks up to 1.2% ABV, including the requirement to display full nutritional and ingredient information on the labels. Having the marketing rules apply to the same ABV range for this category would reduce the chance of confusion in having different rules apply for different drinks in this alcohol-free and low alcohol product category. The guidance should also consider using the term ‘alcohol substitute drinks’ as used in the Soft Drinks Levy, rather than create another term: ‘alcohol alternatives’. The phrase ‘alcohol substitute drink’ is more accurate and helpful than ‘alcohol alternatives’. After all, milk, water, juice, kombucha and fizzy soft drinks are all alcohol alternatives, but are not alcohol substitutes.

¹ Soft Drinks Levy 2018. <https://www.legislation.gov.uk/ukSI/2018/41/made>

Exempt soft drinks: alcohol substitute drinks

9.—(1) The conditions specified for the purposes of section 30(4)(b) are—

(a) condition 1; and

(b) one or more of conditions 2, 3 and 4.

(2) Condition 1 is that—

(a) the soft drink—

(i) is in packaging comparable to, and marketed in a way that is comparable to, the particular kind of alcoholic beverage to which it is similar; and

(ii) is not marketed in a way which is directed at, or is likely to appeal particularly to, people under eighteen years of age; and

(b) when the soft drink is advertised or sold, it is advertised or sold as a direct replacement for the particular kind of alcoholic beverage to which it is similar.

(3) Condition 2 is that the soft drink is made from an alcoholic beverage by a process of de-alcoholisation by which the alcoholic strength of the beverage is reduced to 1.2% or lower.

(4) Condition 3 is that—

(a) the soft drink is manufactured using a fermentation or distillation process during which—

(i) alcohol is produced; but

(ii) the alcoholic strength of the product of fermentation or distillation never exceeds 1.2%; and

(b) such product is not diluted or mixed with any other substance, unless, in the case of a product of distillation, that substance has dissolved into the product.

(5) Condition 4 is that the soft drink is manufactured by blending an alcoholic beverage of cider, beer, wine or made-wine with fruit juice, with or without the addition of water or other ingredients, to make a soft drink that is similar to the alcoholic beverage used in its production.

By expanding the definition of alcohol alternatives to include drinks up to 1.2% ABV, it is important that advertisers clearly state the ABV of the drink in all communications, to avoid misleading consumers who do not want to consume any alcohol at all. It is also important that drinks above 0.5% ABV are not shown in advertising communications to be consumed in any context where consuming an alcoholic drink would be inappropriate.

These guidelines should follow the current Department of Health and Social Care definitions, where the descriptor 'alcohol-free' can only apply to drinks containing 0.05% ABV or below. In the wider context we would like there to be a clearer system

for alcohol alternative ABV definitions, where 0.5% ABV products and below could be described as ‘ultra-low alcohol’, and 1.2% ABV and below as ‘low alcohol’. This is to protect those who do not wish to consume any alcohol at all, even in a 0.5% drink, such as people who are pregnant, or people avoiding alcohol for religious reasons.

To summarise, we believe that the following descriptors best balance the needs and expectations of consumers with the demands of producers:

- “zero” – 0.0%
- “alcohol-free” – less than or equal to 0.05% but greater than 0.0%
- “ultra-low” – less than or equal to 0.5% but greater than 0.05%
- “low” – less than or equal to 1.2% but greater than 0.5%

We would recommend making these descriptors compulsory – that is, they must be used when advertising any product with an ABV in this range. This is the best way to build consistency and, therefore, consumer confidence.

We strongly disagree with moves by certain parties to have extremely high definitions of ‘low’, based on the drink type, e.g. the idea that one could use “low” to describe a wine at 8.0% or to describe a spirit at 22.0%. This is a recipe for complete confusion – descriptors should be based on a standard ABV across drinks types.

2. Do respondents agree with the principles and/or wording of the proposed rules and guidance, whether individually or in general?

In general, yes, we agree with the principles of the proposed rules and guidance. One exception is for the sections about driving. There is a difference between an advertisement showing a person consuming an alcohol alternative before they drive and consuming it while driving. Consuming an alcohol alternative while driving should fall into the ‘inappropriate situations’ category as it is not a time when one would usually be drinking an alcoholic drink. Indeed, even drinking water while driving can be considered a motoring offence.

However, alcohol alternatives are a good option for someone who needs to subsequently drive. We would recommend adding ‘while driving or in charge of a vehicle’ to Sections 18.22 and 19.22, which outline a list of situations where alcohol alternatives should not be shown being consumed in marketing communications, as it would be inappropriate. In essence, marketing for low alcohol drinks should only show the drink being consumed in a situation where it replaces a full-strength alcoholic drink, or would reduce alcohol harm in situations where drinking is not recommended but is still common, for example, drinking before driving.

This proposed guidance sufficiently takes into consideration the potential ‘gateway effect’ of alcohol-free and low-alcohol drinks, whereby these drinks could introduce children and young people to the taste of alcohol drinks.

3. Do respondents have any comments on the circumstances under which the full, standard alcohol rules would and would not apply?

There is a potential gateway effect of encouraging positive brand recognition. This draft guidance does not sufficiently address the problem of ‘alibi marketing’², where alcohol producers promote their alcoholic brands through the promotion of their alcohol alternative version. The full rules which apply to alcohol marketing should apply to alcohol alternatives with a parent company which produces alcoholic drinks, where the advertisement displays or mentions the parent company brand in their advertising, to prevent brands from using alibi marketing to circumvent existing rules that apply to alcohol drinks.

As stated in our initial response to last year’s consultation, we would also welcome consideration on separate rules allowing producers to emphasise the relative merits of lower strength alcoholic products in their marketing. For example, allowing a beer advert to favourably compare a 4% beer to a 5.5% beer because of its lower alcohol content, or a winemaker to advertise their 8% wine as a less harmful alternative to a 13% wine. This would require careful guidance to ensure products were not erroneously described as ‘low-alcohol’. It would, however, encourage producers to nudge their consumers to choose lower strength – and therefore less harmful – alcoholic drinks.

We also support moves to change the definition of ‘wines’ and ‘spirits’ so that these drinks can contain much less alcohol without losing the ability to call themselves ‘wines’ and ‘spirits’ respectively. We are aware that the European Commission is consulting on this issue at the moment. We support the UK ending the extremely damaging current system whereby drinks must be above a certain strength to be described as ‘wine’ or ‘spirits’ (or ‘rum’, ‘gin’, ‘whiskey’ etc.).

² Murray, R., Breton, M.O., Britton, J. et al. Carlsberg alibi marketing in the UEFA euro 2016 football finals: implications of Probably inappropriate alcohol advertising. BMC Public Health 18, 553 (2018). <https://doi.org/10.1186/s12889-018-5449-y>