

Your response

Question	Your response
Question 1a: Do stakeholders agree with Ofcom's proposed guidance on control of advertising, including the application of the terms 'marketed, sold or arranged'?	
Question 1b: If you do not agree with the proposed guidance on control of advertising, please explain why, and include any alternative approaches.	
Question 2a: Do stakeholders agree with Ofcom's proposed framework for regulating VSP-controlled advertising?	No

Question 2b: If you do not agree with the proposed framework for regulating VSP-controlled advertising, please explain why, and include any alternative approaches for regulating advertising on VSPs.

Our interest in this consultation on advertising on VSPs concerns how alcohol advertising will be regulated.

We welcome alcohol being classed as a restricted product and the fact that alcohol adverts must not be targeted at minors.

We recognise that modelling on an established approach (i.e. ASA) presents an advantage of being more straightforward to implement. However this is a missed opportunity to reduce children's exposure to harmful content (evidence of harm discussed in answer to question 3b).

Firstly, the proposed framework does not address the well-documented problems with age-gating online (1–3), or explain how VSPs would know if a consumer was an adult or a minor.

Secondly, cross-border advertising is a major consideration for regulating digital platforms. It is not explained whether or how cross-border advertising will be regulated in this framework. For example, will certain adverts on VSPs internationally be blocked for UK consumers, or be eligible for a complaint to the ASA? Or does the framework only regulate services based in the UK, presenting greatly reduced potential

to limit UK children's exposure to harmful content.

Given the complexity and challenges in controlling children's exposure to alcohol marketing on digital platforms, the alternative approach we would advocate for is that alcohol is included in the total online advertising restriction that the Government is recommending for food products high in fat, sugar and salt (HFSS).

In response to the HFSS restriction consultation, the Government recognised that audience-based restrictions would be difficult to implement effectively in this "opaque and potentially porous system, over which the advertiser may sometimes have limited control" (4). The Government also said that in an approach where advertising compliance "relies on the quality and reliability of targeting information and the ability to target certain advertisements away from children, may engage issues of competition" (4). This also applies to alcohol advertising, and therefore including alcohol in the total online advertising restriction for HFSS products is the most effective and practical solution.

This would also be in line with the SAFER recommendations from the World Health Organization.

Regulation of alcohol advertising should be completely independent of both the alcohol and advertising industries (discussed in answer to question 3b).

We note that this Ofcom framework is only intended for an interim period and have considered this in our answer.

(1) Critchlow N, Angus K, Stead M, Saw E, Newberry Le Vay J, Clark M, et al. [Lessons from the digital frontline: Evidence to support the implementation of better regulation of digital marketing for foods and drinks high in fat, salt and sugar](#). Cancer Research UK, 2019

(2) Barry AE, Johnson E, Rabre A, Darville G, Donovan KM, Efunbumi O. Underage Access to Online Alcohol Marketing Content: A YouTube Case Study. Alcohol and Alcoholism. 2015 Jan 1;50(1):89–94.

(3) Jones SC, Thom JA, Davoren S, Barrie L. Internet filters and entry pages do not protect children from online alcohol marketing. J Public Health Policy. 2014 Feb;35(1):75–90.

(4) Department for Digital, Culture, Media & Sport, Department of Health and Social Care. [Introducing a total online advertising restriction for products high in fat, sugar and salt \(HFSS\)](#), 2021

<p>Question 3a: Do stakeholders agree with Ofcom’s proposal to designate the ASA as a co-regulator for VSP-controlled advertising?</p>	<p>No</p>
<p>Question 3b: If you do not agree that it would be appropriate to designate the ASA as a co-regulator for VSP advertising, please explain why, and include any alternative approaches.</p>	<p>We disagree it is appropriate to designate the ASA as a co-regulator for VSP advertising. The ASA is funded by a voluntary levy on advertising, so it is not independent of industry, presenting a conflict of interest.</p> <p>There is a strong academic evidence base that such self-regulation of alcohol marketing is not effective and fails to protect young people from exposure to harmful content (5,6). This was also recognised by the UK Parliament’s Health Select Committee in 2010 (7). Specific problems with self-regulation approaches include:</p> <ul style="list-style-type: none"> • the reactive complaints-led nature, meaning that adverts only begin to be investigated after exposure has occurred • a lack of meaningful sanctions • evidence of inconsistency and subjectivity in decision making (8) <p>Decades of research have found adolescents’ exposure to alcohol marketing leads to subsequent alcohol use (9–11).</p> <p>Such exposure is high among UK adolescents. Under the current self-regulation (ASA) approach to alcohol marketing:</p> <ul style="list-style-type: none"> • 82% of UK adolescents aged 11-19 recall seeing alcohol marketing in the past month, and 27% recall seeing alcohol marketing on social media at least weekly (12) • Alcohol adverts often appeal to underage adolescents, and having a positive reaction to alcohol adverts is associated susceptibility to drink among children who have never tried alcohol (13) • Even primary school aged children commonly recognise alcohol brands (14) <p>To be effective, regulation of alcohol advertising needs to be independent of both the alcohol and advertising industries.</p> <p>The alternative approach we advocate is that alcohol is included in the total online</p>

advertising restriction that the Government is recommending for HFSS products. However, instead of the ASA having responsibility for the day-to-day regulation of the restriction, regulation of alcohol advertising should be on a statutory basis, as recommended in the 2010 WHO Global Strategy to Reduce Harmful Use of Alcohol (15).

An independent authority should be responsible for the day-to-day regulation, monitoring and enforcement of the restriction. This authority should report directly to Parliament with cross-party buy-in and no political or industry interference. This would avoid conflict of interest and ensure effectiveness of the restrictions, protecting children from exposure to harmful content.

(5) Noel JK, Babor TF. Does industry self-regulation protect young people from exposure to alcohol marketing? A review of compliance and complaint studies. *Addiction*. 2017;112(S1):51–6.

(6) Noel JK, Babor TF, Robaina K. Industry self-regulation of alcohol marketing: a systematic review of content and exposure research. *Addiction*. 2017;112(S1):28–50.

(7) House of Commons Health Committee. Alcohol, First Report of Session 2009-10 (Volume I). London: House of Commons Health Committee; 2010.

(8) Alcohol Concern, Alcohol Research UK. [Fit for Purpose? An analysis of the role of the Portman Group in alcohol industry self-regulation](#). Alcohol Change UK. 2018

(9) Smith LA, Foxcroft DR. The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: systematic review of prospective cohort studies. *BMC Public Health*. 2009 Feb 6;9:51.

(10) Jernigan D, Noel J, Landon J, Thornton N, Lobstein T. Alcohol marketing and youth alcohol consumption: a systematic review of longitudinal studies published since 2008. *Addiction*. 2017;112 Suppl 1:7–20.

(11) Sargent JD, Babor TF. The Relationship Between Exposure to Alcohol Marketing and Underage Drinking Is Causal. *J Stud Alcohol Drugs Suppl*. 2020 Feb 23;(s19):113–24.

(12) Critchlow N, MacKintosh AM, Thomas C, Hooper L, Vohra J. Awareness of alcohol marketing, ownership of alcohol branded merchandise, and the association with alcohol consumption, higher-risk drinking, and drinking susceptibility in adolescents and young adults: a cross-sectional survey in the UK. *BMJ Open*. 2019 Feb;9(3):e025297.

(13) Boniface S, Critchlow N, Severi K, MacKintosh AM, Hooper L, Thomas C, et al. Underage Adolescents' Reactions to Adverts for Beer and Spirit Brands and Associations with Higher Risk Drinking and Susceptibility to Drink: A Cross-Sectional Study in the UK. *Alcohol and Alcoholism* 2021 Apr 23;(agab018).

(14). Alcohol Focus Scotland. [10 year olds more familiar with beer brands than biscuits](#)

(15) World Health Organization. [Global strategy to reduce the harmful use of alcohol](#). WHO. 2010

Question 4a: Do stakeholders agree with Ofcom's proposed guidance on non-VSP-controlled advertising?

No

Question 4b: If you do not agree with the proposed guidance on non-VSP-controlled advertising, please explain why, and include any alternative approaches.

Children using video-sharing platforms risk being influenced by both branded alcohol marketing, and user-generated alcohol content and influencer alcohol marketing. The latter two more often non-VSP controlled.

In relation to alcohol marketing there are grey areas in the proposed guidance.

Firstly, it is proposed that terms and conditions should state *'a person must not upload to the service a video containing advertising for an alcoholic drink unless it meets the general advertising requirements and the requirements in relation to restricted products'*. It is not clearly defined what constitutes 'advertising' from the above terms and conditions, so it is unclear how will it be communicated to users uploading videos that this covers product placement. It is also not clear whether this would include only paid-for content, or unpaid placement (e.g. props in videos) as well. There is no consideration given to how a user uploading a video is supposed to know who is going to watch it, and therefore whether it meets the requirements around children.

Secondly, it is proposed that users declare whether there is advertising to the VSP as a mandatory part of the video upload process, and use identifiers such as #ad. But it's not explained how these features will in practice prevent children being prevented from exposure to alcohol marketing.

The alternative approach we advocate is that alcohol is included in the total online advertising restriction that the Government is recommending for HFSS products, and regulated by an independent body. This would cover some aspects of user-generated content on VSPs, such as brand-created content shared by users, and product placement by social media influencers if the marketer has editorial and/or financial control over the content.

Question 5a: Do stakeholders agree with Ofcom's proposed approach to regulating non-VSP-controlled advertising?

No

Question 5b: If you do not agree with the proposed approach to regulating non-VSP-controlled advertising, please explain why, and include any alternative approaches.

The proposed approach where videos containing advertising are flagged do not adequately address the high levels of children's exposure to alcohol marketing, or the documented problems with age-gating online.

As with VSP-controlled advertising (question 2b), cross-border advertising is not addressed in the proposed approach. It is not explained whether the approach for non-VSP controlled advertising applies to people uploading videos based in the UK, marketers based in the UK, or VSPs based in the UK.

The alternative approach we advocate is that alcohol is included in the total online advertising restriction that the Government is recommending for HFSS products, and regulated by an independent body.

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