

Helen Keefe
Committee of Advertising Practice (Broadcast)
Mid City Place
71 High Holborn
London
WC1V 6QT

6th April 2005

Dear Ms Keefe,

Consultation Response: Broadcast advertising of alcohol (Guidance Notes)

The Music Publishers Association welcomes the opportunity to respond to BCAP's consultation on the guidance notes relating to the advertising of alcohol on television and radio on behalf of our members who together constitute over 90% of music publishers in the UK.

We responded to Ofcom's consultation on alcohol advertising on television last year with concerns about the impact of the proposed changes advanced by Ofcom. We are disappointed and concerned that despite our previous comments with respect to the proposed guidance notes being neither appropriate, nor proportionate, nor justified by the existing research, BCAP has proposed in its guidance notes that music that is likely to appeal strongly to under 18s must be avoided. Specifically, we refer to the recent BCAP guidance note that accompanies Rule 11.8.2 (a)(1):

(d) Avoid music or dance that is likely to appeal strongly to under 18s. But an advertisement that, for example, features an old record which, perhaps as a result of its use in the advertisement, becomes popular with the young once again, will not necessarily be challenged. Announcements of alcohol-sponsored events may be made but the emphasis must be on the event, not the alcohol.

We recognise the importance of addressing the issues of under-age drinking and alcohol abuse and we endorse the introduction of measures which will address these issues effectively. We would expect BCAP to be considering the introduction of some more obvious measures including, for example, restrictions on scheduling of alcohol related advertisements to after 9 pm and requirements for on screen warnings that alcohol is not suitable for people under 18 to the extent that such provisions do not apply already.

On BCAP's own admission, advertising has a relatively low level of influence on young viewers' attitudes towards drinking, particularly as compared to family and social factors. It is only reasonable in such circumstances therefore that the extent to which the rules are to be toughened at the cost of other stakeholders should be proportionate to the actual and effective impact that the rules will have on the problem at hand.

Notwithstanding the tenuous connection between the music used and the influence of the commercial, the application of such a provision gives rise to the following very practical considerations:

- The appeal of music is a very personal and subjective matter. How does one decide that a particular song appeals to someone under 18? What objective criteria are to be applied and who is qualified to decide the issue? It is worth pointing out that experience to date in making any kind of distinction along these lines has proved that it is almost impossible to do. It has challenged those within the music industry itself. It has also resulted in some curious decisions by external regulators such as RTE in Ireland where similar rules apply.
- There is a danger that the rule could inadvertently have a more far reaching effect than is expected and apply to a much broader range of music than might be intended. Music which may be aimed at an older audience may well also appeal to younger people too. Music spans the generations and it is not always possible to isolate music that appeals to a particular age group.
- Fashions in and attitudes to music change constantly and so to try and legislate for the appropriateness or otherwise of a piece of music in this context is unworkable.
- Any attempt to ring-fence certain music as suggested is more likely to encourage an unhealthy sport in trying to get round the rules by placing music which actually does appeal to young people but which somehow slips through the regulatory net, so defeating the objective.

We therefore believe that the BCAP guidance note is overtly prescriptive in nature, whilst at the same time being confusingly ambiguous and could be subjectively and inconsistently interpreted.

We urge BCAP to seriously reconsider the need for music to be specifically included in the guidance note and would like to discuss this matter to explain our concerns before the final approval is granted.

For ease of reference, we have included the responses from ourselves, British Music Rights and British Phonographic Industry (BPI) to Ofcom's consultation on alcohol advertising in order to reiterate our concerns in this area.

Yours sincerely

Sarah Faulder

Chief Executive
Music Publishers Association

CC: Andrew Brown, Director-General, Advertising Association
Marina Palomba, Legal Director, Institute of Practitioners in Advertising
Malcolm Earnshaw, Director General, ISBA
Dr Ian Twinn, Director of Public Affairs, ISBA
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