

National guidance on alcohol promotions

Off-licensed premises

The Sale and Supply of Alcohol Act 2012 creates offences and penalties for certain 'irresponsible' alcohol promotions or activities. Irresponsible promotions can result in fines and licence suspensions, increase alcohol-related harm, and also damage the reputation and prospects of a business.

This guideline is intended to aid understanding of the advertising, promotions, activities and events that are likely to be considered acceptable or unacceptable.

The determination of an unacceptable promotion or event will always be decided on an individual basis.

The Sale and Supply of Alcohol Act 2012

New measures to regulate irresponsible alcohol promotions came into force on 18 December 2013. Under the Act it is an offence to do any of the following:

- Encourage excessive consumption of alcohol. This applies anywhere – not just on licensed premises.
- Promote or advertise discounts on alcohol of 25% or more, anywhere that can be seen or heard from outside the licensed premises.
 - It is not an offence to promote or have a discount on licensed premises of 25% or more if it cannot be seen or heard from outside the premises.
 - It is not an offence to promote or have a discount that can be seen from outside the premises if it is less than 25%.
 - It is not an offence to promote or advertise a discount of 25% or more in a catalogue or similar price-list if the off-licence is endorsed for remote selling of alcohol under Section 40 of the Act.
- Promote or advertise free alcohol.
 - This does not apply to promotions inside licensed premises if they cannot be seen or heard from outside the premises and providing excessive consumption is not encouraged.
- Offer goods, services or prizes on condition that alcohol is purchased.
 - However, this does not apply to offers made only on licensed premises relating to the buying of alcohol.
 - Loyalty programmes where rewards or discounts are not primarily applied to the purchase of alcohol are allowed.
- Promote alcohol in a way that is aimed at or likely to have special appeal to minors.

Advertising Standards Authority

All advertising and promotions should also comply with the Advertising Standards Authority's Code for Advertising and Promotion of Alcohol. The Sale and Supply of Alcohol Act 2012 does not affect the self-regulatory system for alcohol advertising, which remains in place.

The Advertising Standards Authority's Code for Advertising and Promotion of Alcohol identifies principles by which the acceptability of alcohol advertising, promotions and sponsorship should be judged.

Alcohol advertising and promotions shall:

- observe a high standard of social responsibility
- be consistent with the need for responsibility and moderation in alcohol consumption
- be directed at adult audiences both in content and placement
- sponsorship advertisements shall promote the sponsored activity, team or individual. The sponsor may be featured only in a subordinate manner.

Advertising, promotions and sponsorship that are the subject of a complaint may breach these principles and may be referred to the Advertising Standards Complaints Board for a decision.

Additional compulsory conditions for supermarkets and grocery stores

From 18 December 2013, all new and renewed licences (as they are renewed after this date) must contain a condition describing one area within the premises as a permitted area for the display and promotion of alcohol ("the single area"). The purpose is to limit (as far as is reasonably practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol and advertisements for alcohol. Businesses renewing a licence may be granted additional time (up to 18 months) to make any necessary layout changes.

The single area must not contain any part of (or all of):

- any area of the premises through which the most direct pedestrian route between any entrance to the premises and the main body of the premises passes; or
- any area of the premises through which the most direct pedestrian route between the main body of the premises and any general point of sale passes.

Once a single area condition is in place, all advertising, display and promotion of alcohol within the store must occur within the single alcohol area. Non-alcohol products must not be displayed, advertised or promoted within this area except for low or non-alcoholic beer, wine, or mead.

The restriction on the promotion and advertising of alcohol to within the single area does not apply to:

- signs locating the alcohol area
- promotions or advertisements in newspapers, magazines or catalogues.

Other relevant legislation

Gambling Act 2003

Under the Gambling (Prohibited Property) Regulations 2005 it is an offence to offer or use alcohol as a prize for gambling activities (eg, raffle prizes).

Fair Trading Act 1986

False or misleading representations about goods or services are a breach of the Fair Trading Act 1986.

EXAMPLES OF PROMOTIONS THAT CAN BE SEEN OR HEARD FROM OUTSIDE OFF-LICENSED PREMISES

Acceptable	Unacceptable
<p>Promotion of a particular brand of alcohol that provides incentives to purchase that brand, as long as the promotion does not encourage the consumption of alcohol to an excessive extent.</p>	<p>Any promotion that encourages the excessive consumption of alcohol.</p>
<p>Promotion of discounts of less than 25%.</p> <p>For example:</p> <ul style="list-style-type: none"> • \$15.99 save 20% • \$15.99 save \$4 • Was \$19.99 now \$15.99 • Save 20% on all x branded beer. 	<p>Promotion of alcohol at a discount that leads people, or is likely to lead people, to believe the price is 25% or more below the price at which the alcohol is ordinarily sold.</p>
<p>Promotion of a single price that does not lead people to believe it is a discount of 25% or more.</p>	<p>Promotions that do not mention a discount but that customers are likely to believe will involve discounts of 25% or more because of the use of words describing discounts (eg, promotions that use words such as 'crazy prices' or 'massive discounts').</p>
<p>Promotion and advertising of loyalty programmes that provide rewards or discounts, as long as the rewards or discounts are not primarily redeemed for alcohol.</p>	<p>Promotion of discounts that lead people, or are likely to lead people, to believe the price is 25% or more below the price at which the alcohol is ordinarily sold, in, but not limited to, print, broadcast and social media, including Facebook.</p>
<p>Promotion of complimentary sampling of alcohol in off-licensed premises (eg, wine tasting).</p>	<p>Promoting alcohol as a prize for a competition or reward for purchasing a certain amount of alcohol.</p>
<p>Promotion of a wine and food match.</p>	<p>Promotion of free alcohol.</p>
	<p>Promotions which offer goods, gifts, prizes or services on condition alcohol is purchased.</p>
<p>Promotion of a 'wine week', or 'beer sale'.</p>	<p>Promotions that are aimed at or have special appeal to minors.</p>
<p>Promotions involving competitions that do not require alcohol to be purchased.</p>	<p>Promotions involving competitions that require alcohol to be purchased.</p>

EXAMPLES OF PROMOTIONS THAT CAN BE SEEN OR HEARD FROM **INSIDE OFF-LICENSED PREMISES**

Acceptable	Unacceptable
Any promotion that is acceptable outside the premises.	Any promotion, signage or activity that encourages the consumption of alcohol to an excessive extent.
Promotion of discounts of up to and greater than 25%.	Promotions that are aimed at or have special appeal to minors.
Promotions that do not mention a discount but that customers are likely to believe will involve discounts of 25% or more because of the use of words describing discounts (eg, promotions that use words such as 'crazy prices' or 'massive discounts').	<p>Once a supermarket or grocery store has a single area restriction as a condition in its licence:</p> <ul style="list-style-type: none"> • Display, promote or advertise alcohol outside the single alcohol area. • Display, promote or advertise non-alcohol products (eg, food or general merchandise) within the single alcohol area except for non and low alcoholic beer, wine, or mead.
Promotions involving free alcohol, providing they do not encourage the consumption of alcohol to an excessive extent.	
Promotion of complimentary samples (eg, wine tasting or samples).	
Promotions that have alcohol as a prize for a competition, providing they do not encourage the consumption of alcohol to an excessive extent.	
Promotions that offer a prize to people who buy more than a certain quantity of alcohol, providing they do not encourage the consumption of alcohol to an excessive extent.	
Offers of goods or services on the condition alcohol is purchased (eg, free towel with a dozen beer).	

ACCEPTABLE PROMOTIONS must still be suitably monitored, managed and controlled to ensure excessive consumption of alcohol is not encouraged.



Disclaimer

The information contained in this resource is intended as a general guide. All reasonable measures have been taken to ensure that the information is current and accurate. It is not intended to constitute legal advice and you should not rely on this guidance when taking legal or other actions. The Signatories will not accept liability for any action taken in reliance on this document.

**Health Promotion, Health New Zealand
– Te Whatu Ora**

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