



To: Dermot Ahern TD
Minister for Justice and Law Reform

21st November 2010

I hereby submit the second Annual Compliance Report to you on the operation of the Code of Practice on the Display and Sale of Alcohol Products in Mixed Trading Premises in accordance with Section 7 of the Explanatory Guidelines of the Code.

Padraic A White
Independent Chairperson
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SECOND COMPLIANCE REPORT

TO THE MINISTER FOR JUSTICE AND LAW REFORM
DERMOT AHERN, TD

In accordance with the Code of Practice
on the Display and Sale of Alcohol
in Mixed Trading Premises
for the Year to End September 2010

Padraic White, *Independent Chairperson*
Responsible Retailing of Alcohol in Ireland Ltd
November 2010

1. INTRODUCTION & BACKGROUND

This second Compliance Report is being made to the Minister for Justice and Law Reform in accordance with Section 7 of the Explanatory Guidelines section of the Code on the Display and Sale of Alcohol in Mixed Trading Premises.

It is worth recapping that the Code was negotiated in the second half of 2008 by members of the mixed trade sector represented by Retail Ireland, the Convenience Stores and Newsagents Association (CSNA) and RGDATA with the Department of Justice and Law Reform and the Department of Health & Children. The Code comprises two elements which taken together form the full Code:

- i) The Code to be displayed in a conspicuous place in the premises of a participating outlet.
- ii) Explanatory Guidelines which elaborate on the contents of the publicly displayed Code and contain additional aspects such as limits on the advertisement of alcoholic products in the print and broadcast media.

The Code and the Explanatory Guidelines are contained in Annex 1 to this Report.

The Code emerged as a result of proposals made to the Minister for Justice and Law Reform in June 2008 by representatives of the mixed trade sector, who made the case that the provisions in the Intoxicating Liquor Bill 2008 requiring “structural separation” of alcohol products in mixed trading premises were unduly burdensome in capital and operating costs and that the same policy objectives could be achieved on a voluntary basis.

The Intoxicating Liquor Act 2008 contains in Section 9 the “structural separation” provisions but they have not been activated. The approach of the Minister was set out clearly by him at the public launch of the Code on 12 May 2009 when he stated:

“During the passage of the Intoxicating Liquor Bill 2008, I agreed to allow the mixed trading sector to implement the concept of structural separation on a voluntary basis. If sector-wide compliance to this Code can be demonstrated, I will not commence Section 9 of the Act.

However, I will have no hesitation in taking this step if the Code’s standards are not met.”

The Code formally came into effect on 1 December 2008. The participating mixed trading groups formed the company Responsible Retailing of Alcohol in Ireland Ltd to oversee the implementation of the Code and I was appointed Independent Chairperson of the company with effect from January 2009.

The company established a web-site www.rrai.ie where the text of the Code was made available, members of RRAI are listed and an email facility for conveying complaints of non-compliance to the Chairperson is provided on the site.

2. THE FIRST ANNUAL COMPLIANCE REPORT FOR THE YEAR TO END SEPTEMBER 2009

I submitted the First Annual Compliance Report to the Minister for the period to 30 September 2009 with the observation that:

“the key components of the Code have been implemented and that the compliance rate of over 90% as demonstrated in the independent audit is highly satisfactory”.

The Minister in responding to the First Compliance Report stated his conclusion as follows:

“In the light of the high levels of compliance with the Code outlined in the Compliance Report and the recent increase in RRAI membership..., I have concluded that commencement of the structural separation elements of the Intoxicating Liquor Act 2008 (structural separation) is not necessary at this time”.

The Minister made a number of proposals for enhancement of the Voluntary Code’s effectiveness including the following:

- A copy of the briefing note on compliance should be available in all outlets to ensure that all staff members are adequately trained and familiar with its contents.
- Future audits could usefully enquire into usage of the Garda Age Card for proof-of-age purposes and seek confirmation that alcohol is not sold on a pay-on-delivery basis.
- Additional efforts may be required to improve awareness of the Code and its redress mechanisms.

The response to these proposals is reflected in actions taken by RRAI members in the year to end September 2010 and will influence the design of future audits.

3. GENERAL DEVELOPMENTS IN 2010

3.1 INCREASE IN MEMBERSHIP OF RRAI:

The participating Members in RRAI Ltd are:

- Aldi Group
- BWG Group (Spar/Eurospar /Mace)
- Costcutter Group
- Dunnes Stores Group
- Esso Group
- Gala Group
- Lidl Group
- Londis Group
- Marks & Spencer Group
- Musgrave Group (SuperValu, Centra/Daybreak)
- Superquinn Group
- Topaz Group
- Tesco Group

These 13 Groups were the subject of the 2010 independent sample audit, which was carried out in July of this year. Between them, the 13 groups account for over 2,900 mixed trading stores which represent an estimated 85% of licences in the mixed trading sector and account for approximately 95% of the volume of alcohol sold in mixed trading premises.

RRAI members fund the operation of the company, including the cost of the independent audit by levies agreed annually by the company. The levies are related to their business scale.

In September 2009, the Dunnes Stores Group (100 licences) who had participated in the original negotiations of the Code formally signed up to the Code and its implementation. Also in September 2009, the Gala Group (206 licences) and Costcutter Group (226 licences) applied for and were accepted as members of RRAI and are now adherents to the Code.

These additions increased the number of store licences within RRAI membership from some 2,300 to over 2,900 and increased the RRAI members estimated share of alcohol volume sold in mixed trading premises from 78% to 95%.

The 2010 independent Audit of store compliance with the Code included for the first time the Dunnes Stores, Gala and Costcutter groups.

3.2 INVITATION TO NON-AFFILIATED RETAILERS THROUGH ASSOCIATE MEMBERSHIP

The RRAI were tasked with exploring the viability of engaging with and integrating the remaining independent retailers into the Code process. The RRAI identified a total of 200 non-affiliated independent retailers who were licensed to sell alcohol and sought to recruit them to participate in the Code. To support this initiative, a provision for associated membership was built into the constitution of the RRAI.

Specific in-store packs were generated which included all relevant materials to support compliance with the Code process. Invitations for RRAI associated membership were then circulated in March and May 2010 to the 200 identified independent retailers. To date, four independent retailers have applied for and been accepted as associate members of RRAI. These are: Giles Brothers, Longwood, Co Meath; Handy Stores, Main Street, Killarney, Co Kerry; Leap Service Station, Droum, Leap, Co Cork; Letterfrack Country Shop, Connemara, Co Galway.

Although the proportion of alcoholic products sold by independent retailers is small (about 5% of the mixed trading sector) the response to the invitation to join the Code process so far is disappointing. The legislative proposals to give a statutory basis to approved Codes, if passed, are likely to have an impact on this group of retailers.

3.3 ACTIVITIES TO INCREASE AWARENESS OF THE CODE

The members sought to increase public awareness of the Voluntary Code in the current year.

Firstly, the Code document was increased from its existing A4 format to a larger A3 format size. Members of RRAI agreed to ensure that all convenience and petrol stores have at least one of these enlarged Code documents on conspicuous display.

Secondly, the RRAI, in consultation with the Department of Justice and Law Reform and the Department of Health & Children, agreed to hold a public awareness event on the Code. This media launch, which was attended by the Minister for Justice and Law Reform, Dermot Ahern TD, was held on 10 March, 2010 and was used to highlight the importance of responsible serving of alcohol in advance of the St. Patrick's Day festival. The event generated considerable media coverage.

3.4 ROLL OUT OF RRAI APPROVED TRAINING MANUALS

The members of the RRAI have committed under the Voluntary Code to ensure that:

"Staff involved in the sale of alcohol products have an adequate knowledge and understanding of relevant areas of licensing law, particularly those relating to the sale and delivery of alcohol to persons under 18 years. The Code commits licence-holders to ensuring that staff members are adequately trained in these matters. A training manual has been prepared by the mixed trading sector to assist licence-holders in this regard. Compliance with the training commitments in the Code reflects good practice in the sector."

During 2009, the RRAI produced and circulated a summary briefing training document for members. During 2010, more detailed and targeted training manuals have been produced as follows:

- A detailed core document for use by the store owner/store-manager/licence holder outlining all relevant legal and Code-related obligations and commitments.
- A front line staff variant, structured to follow the sequence of a normal purchase and sale of alcohol within a mixed trading premises. This document is designed on a pictorial, see/do basis.

Both training documents are supported by Question & Answer sections to confirm that those employees involved in the sale and display of alcohol clearly understand their responsibilities. The training manual also includes a form for the employees to sign to confirm their understanding of serving requirements outlined in the manual. RRAI members are incorporating the use of these training manuals into their normal training procedures for their organisations. Copies of both training manuals are included in the RRAI website.

3.5 GIFT PACKS & HAMPERS

Several stakeholders were of the view that the RRAI policy concerning hampers needed greater clarification. The position adopted by the Board of RRAI during the year is that display of gift packaging/hampers which contained both alcohol and food products would be in breach of the cross merchandising provisions of the Code.

This interpretation was considered to be consistent with the agreements made with the Department of Justice and Law Reform in October 2008.

3.6 ON-LINE PURCHASES OF ALCOHOL

The Code requires:

“a verification mechanism to ensure that alcohol is not being sold to and delivered to persons under 18 years of age.”

Following the RTE TV Primetime programme in August 2010, two members, Tesco and Superquinn, acknowledged the deficiencies in their compliance procedures and have committed themselves to remedial action.

The members of the RRAI agreed to review their on-line systems with specific reference to proof-of-age verification at both the point of purchase and point of delivery. The Board of the RRAI agreed to keep this matter on the agenda of all subsequent meetings until the matter had been satisfactorily dealt with.

4. ADVERTISING & COMMUNICATION DEVELOPMENTS IN 2010

4.1 REVISED ADVERTISING COMMITMENTS

In respect of advertisements which members place in newspapers and magazines, the Code commits members to devoting at least 75% of any such advertising space to products other than alcohol. Alternatively, alcohol products should not constitute over 25% of any such advertisement. (This can be summarised as the 25% alcohol/75% non alcohol rule.)

Certain ambiguities emerged in the practical application of these provisions and members decided to adopt a more detailed formulation in respect of print advertising in the interests of uniform compliance. The detailed formulation is as follows:

“Any advertisement published in newspapers and magazines must devote at least 75% of any such core advertising space, exclusive of corporate borders, to products other than alcohol, with no more than 25% of such relevant core advertising space exclusive of corporate borders, being allocated to alcohol products. In any spacing calculation products have to be allocated their full and proper proportion of space.”

The Code specifically excludes retailers own publications or trade magazines from this restriction. The Code also prohibits mixed trading retailers from commissioning any alcohol-only radio or TV advertising.

The Board of the RRAI agreed during the period under review to take the initiative of extending the scope of these advertising restrictions in the interest of enhancing the effectiveness and credibility of the Code.

The RRAI members have decided to extend the 25% alcohol/75% non alcohol advertising rule to other media such as:

- Newspaper inserts;
- Outdoor advertising billboards;
- Bus advertisements; and
- Bus shelter advertising.

In addition, the alcohol content of television and radio advertising has been more tightly defined.

4.2 NEWSPAPER INSERTS, ADVERTS, FLYERS AND MAIL-SHOTS

The RRAI has agreed that all inserts and supplements should allocate no more than 25% of space to alcohol products and that at least 75% of space be devoted to products other than alcohol. These spacing provisions apply to the entirety of the insert or supplement.

The RRAI has also agreed that all flyers and mail-shots produced by members should allocate no more than 25% of space to alcohol products and that at least 75% of space be devoted to products other than alcohol. These spacing provisions apply to the entirety of the flyer or mail-shot.

4.3 OUTDOOR COMMITMENTS

RRAI has agreed the following outdoor advertising commitments:

- Any advertisement on billboard, buses or in bus shelters must devote at least 75% of any such core advertising space, exclusive of corporate borders, to products other than alcohol, with no more than 25% of such relevant core advertising space, exclusive of corporate borders, being allocated to alcohol products. In any spacing calculation products have to be allocated their full and proper proportion of space.
- No billboard or bus shelter advertising featuring alcohol will be placed within 100 metres of a primary or secondary school or a premises that is on the list of designated youth sites drawn up by the Department of Health & Children. This is consistent with agreements made between the outdoor media association and the Department of Health & Children and is the current practice of providers used by members companies.

4.4 BROADCAST COMMITMENTS

The Code states that the sector undertakes not to commission any alcohol only radio or TV advertising.

An analysis had been conducted by the Executive of the RRAI of radio & TV advertising broadcast by members during the periods of mid-May to mid-June & mid-June to mid-July. The outcomes for each individual advert were presented in a report to the Board. Members discussed the results and the options open to them in detail and agreed that any advertisements on radio/TV featuring alcohol products would apply the following principles:

- Exclusive of corporate introductions, the alcohol products should not exceed 25% of the net time available for products featured. It was also agreed that 75% of the net time available for featured products would feature product(s) other than alcohol.

- For example, in a standard 20 second radio advertising slot where 5 seconds was used at the beginning or end of the advert for corporate content leaving 15 seconds net time available for product advertising, alcohol products should not exceed 25% of that 15 second period, equivalent to a maximum duration of 3.75 seconds.
- As the minimum practical advertising slot for alcohol within an advert was 3 seconds, the timing restrictions would not apply below this 3 second threshold.

5. SECOND INDEPENDENT AUDIT OF COMPLIANCE

5.1 AUDIT METHODOLOGY

As in the case of the First Compliance Report, the audit measured over 20% of the RRAI supermarket universe (representing 40% of stores audited and 65% of alcohol volume sold within the mixed trading sector) and almost 10% of the RRAI Convenience store universe (representing 60% of stores audited and 35% of alcohol volume sold in the mixed trading sector). The audit was carried out in July 2010 by FMI Ltd, who are specialists in surveys of the retail trade. I have re-iterated to FMI Ltd their independent role in making assessments of compliance and emphasized to them and the RRAI Board their independence in any judgments they make as auditors.

5.2 INCREASE IN THE AUDIT SAMPLE AND SIZE

It was agreed that a national audit universe of 363 stores would be selected. This equated to over 12% of the total RRAI store membership and represented a 10% increase in the audit size versus 2009. This national sample was then statistically stratified to reflect regional, store format and member weightings. Within these parameters, FMI selected the stores to be visited at random from their national database of stores.

5.3 INCREASE IN THE STANDARDS REQUIRED TO PASS THE AUDIT

As before, 11 Code compliance variables drawn from the provisions of the Code were measured. In order to pass the retail audit, all of the first 7 questions (1-7), which includes the core alcoholic products display provisions, had to be scored positively and at least 2 of the remaining 4 questions (8-11) had also to be scored positively. Compared with the previous year, this represented an increase in the core variables that had to be scored positively from 4 to 7 questions.

The increase in the variables where non-compliance on any one would result in a store failing the 2010 audit was the subject of discussion and agreement with the Department of Justice and Law Reform.

5.4 INDEPENDENT CODE COMPLIANCE AUDIT OUTCOMES

The top-line result of the audit was that over 90% of Multiple Supermarkets were compliant with the Code and about 80% of the Convenience stores.

Of the 363 stores visited, 306 were found to be compliant with the Voluntary Code of Practice, resulting in an overall percentage compliance rate of 84.30%.

TABLE 1: TOP LINE AUDIT RESULTS

MIXED TRADE SECTOR	% COMPLIANCE	SHARE OF ALCOHOL VOLUME SALES IN MIXED TRADE	NUMBER OF STORES OF MEMBERS	NUMBER OF STORES IN SAMPLE AUDIT
Multiples Supermarkets	91.45%	65%	625	152
Convenience Stores	79.15%	35%	2,291	211
Overall Totals	84.30%	100%	2,916	363

In the Multiple Supermarket sector, those scoring 100% compliance were Aldi, Lidl and Marks & Spencer while Dunnes Stores and Supervalu achieved 95% compliance. In the Convenience stores sector, where management control is less direct, particularly good results were achieved by Esso with 100% compliance and Topaz, Centra and Londis with 85%-90% compliance. It is also to be noted that this was the first year when the number of “must pass” tests was increased from four to seven.

More detailed outcomes of the independent audit are shown in Annex 2 for each of the 11 variables by a) Multiple Supermarket sector; b) Convenience store sector.

5.5 CUSTOMER COMPLAINT PROCESS

An essential element of the Code is the putting in place of a mechanism through which members of the public can complain where it appears that the Codes provisions are not being implemented. With the successful roll out of activities to increase the public awareness of the Code, 2010 has seen a doubling in the number of customer complaints received by RRAI.

In expectation of this increase in the number of complaints the Board of RRAI approved a 12 point complaint mechanism, a copy of which is included in Annex 3 to this report. This new complaint management process seeks to turn around complaints in no more than 15 working days.

During the period the subject of this compliance report, the RRAI received 58 complaints. The complaints received were broken down as follows:

- Complaint sourced externally 28; sourced internally 30.
- Complaint merchandising related 24; Code display related 3; advertising & communication related 32.
(One complaint related to two items.)
- Over 93% of complaints were dealt with within 15 working days.

All complaints were considered by me and were either resolved or commitments were received from members to come into compliance with the Code.

The members intend focusing on further improving the complaint mechanism of the Code and providing a hotline telephone option. The basic principle is that complaints should be brought to the attention of the Store Manager in the first instance.

6. OVERALL JUDGEMENT ON COMPLIANCE

The Code has many different components. However, the cornerstones of the Code are the provisions governing the display of alcoholic products in the stores.

The threshold for compliance with the audit was raised this year as the number of questions where non-compliance would automatically result in the store failing the audit was increased from four to seven.

The compliance rate of the Multiples Supermarkets, which account for some two thirds of the volume of alcoholic sales in mixed trade premises, was over 90% and represents a high degree of compliance.

The Convenience stores (including the Gala and Costcutter stores for the first time) are members of symbol groups and achieved close to 80% compliance which represents a very considerable management outcome.

There were individual breaches of the limit on alcoholic advertising in newspapers and on-line purchasing and delivery of alcoholic products and these have been the subject of discussion with the individual companies in the interests of future compliance.

The complaint mechanism operated effectively during the year and in all cases where specific issues at store level were raised on my behalf, the RRAI member responded positively.

In general, the members of the RRAI have re-affirmed their commitment to compliance with the Code in recognition of public concern over the adverse effects of excessive consumption of alcohol, especially among young people.

The unilateral decision by the members to voluntarily extend the restrictions on the advertising of alcoholic products to outdoor media such as billboards, buses and bus shelters is an indication of their desire to enhance the Code and will result in much less visible promotion of alcoholic products by the members in the coming year.

My overall conclusion is that the key components of the Code have been implemented in an acceptable manner.

7. OBSERVATIONS ON RELATED MATTERS

7.1 INCORPORATING THE ADDITIONAL RESTRICTIONS INTO THE FORMAL CODE

The Code emanated from discussions between the Department of Justice and Law Reform and the Department of Health & Children, on behalf of their respective Ministers, and representatives of the mixed trading sector. The RRAI members have now unilaterally decided to implement further restrictions on the advertising of alcoholic products in outdoor and broadcast media.

I recommend that these additional restrictions be incorporated into an amended version of the Code in agreement with the two Departments.

7.2 NEW LEGISLATION TO UNDERPIN COMPLIANCE WITH A VOLUNTARY CODE

In my First Compliance Report, I indicated that the members of the RRAI had made the case for an urgent amendment to the law to provide that non-compliance with an agreed Code of Practice would be a basis for objection to the renewal or issue of a new licence for the sale of alcoholic products.

In the absence of such an amendment, and in a situation where the great majority of mixed traders are compliant, there is no effective or proportionate mechanism for penalising individual outlets – whether signatories to the Code or not – which are clearly in breach of the best practice inherent in the Code. To penalise one non-compliant outlet, by invoking Section 9 of the 2008 Act, the Minister would penalise the compliant majority as well.

In May 2009, Minister Dermot Ahern signalled his intention to give legislative backing to the Code in future legislation in the following terms:

“While non-compliance by a retailer with the Code’s provisions will not be an offence under new legislation, non-compliance will constitute a ground on which objection may be made in the District Court to renewal of the retailers licence to sell alcohol.”

The Civil Law (Miscellaneous Provisions) Bill 2010 was published in August last and includes in Section 14 dealing with Codes of Practice legislative provisions to give effect to the Ministers intent. The RRAI Board welcomes the publication of the Bill and looks forward to its early passage into law.

The Bill provides for the preparation of a Code by the Minister or approval by the Minister of a Code drawn up by another body for the purpose of “*setting standards for the display, sale, supply, advertising, promotion or marketing*” of alcoholic products. The Bill sets out a process for public consultation on any such Code before it is finally approved by the Minister and published in the State’s official gazette, *Iris Oifigiúil*.

Non-adherence by the holder of a licence to sell alcoholic products to the standards set out in an approved Code would provide a basis to object to the renewal of the licence for the particular premises concerned on grounds of character.

The RRAI will engage in discussions with the Department of Justice and Law Reform on the inclusion of the key elements of its Voluntary Code in any approved Code under the new legislation.

7.3 PROMOTION AND MERCHANDISING OF ALCOHOL PRODUCTS BY STAND-ALONE OFF-LICENCES

As indicated in my First Compliance Report, the RRAI members regard the exclusion of stand-alone off-licences from compliance with an agreed Code as an increasingly apparent anomaly. They have pointed to the fact that, while the Code prohibits the display or merchandising of alcoholic products in the window of mixed trader’s premises, there is no such restriction on stand-alone off-licence stores.

The RRAI expects that relevant aspects of an approved Code of compliance under the proposed legislation would apply to these off-licences.

7.4 PROOF OF AGE

It is an offence to sell alcohol to anyone under the age of 18 years. The Code states that if there is doubt about the customer’s age or where the customer appears to be under the age of 21 years, the staff should seek confirmation of the customer’s age. The Code then states that the Garda Age Card is the preferred proof-of-age.

In practice, RRAI members generally accept a Passport or Driver’s licence as proof-of-age as well as the Garda Age Card. They do so as a matter of practicality as many of the relevant 18-20 age group do not possess the Garda Age Card. In addition, young foreign tourists will not possess the Garda Age Card.

However, the Garda Age Card is the only age identification accepted under the law as a defence in court to a charge against a mixed trader of sale of alcohol to an underage person, even if the store in good faith believed that a passport, for example, was a valid proof-of-age. This analysis has been borne out in a recent High Court decision which I understand is now the subject of an appeal by the licensee to the Supreme Court.

The RRAI considers that the current legal situation should be amended to permit other legitimate proofs of age (such as a Passport, Drivers Licence or Identity Card issued by an EU Member State) to be also accepted by the Courts as a valid proof-of-age and has made a proposal to the Department of Justice and Law Reform to seek a corresponding amendment to the law. The submission to the Department of Justice and Law Reform has referred to the fact that these other forms of age identification are acceptable in law as proof-of-age where young persons are in the bar of a licensed premises after 9.00pm.

7.5 DIALOGUE WITH MEAS AND AMCMB

MEAS is the organisation established in 2002 by the principal companies and trade organisations in the Drinks Industry and which stands for the Mature Enjoyment of Alcohol in Society. We have maintained a dialogue with the Chairman of the Independent Complaints Panel of MEAS Dr Gordon Holmes and Fionnuala Sheehan, Chief Executive of MEAS on areas of mutual interest, for example, legislative underpinning of agreed Codes of Practice.

During the year, we discussed areas of mutual relevance with Peter Cassells, Chairman and Orla Twomey, Executive support of the Alcohol Marketing Communications Monitoring Body (AMCMB). It is an independent monitoring body established by the Department of Health & Children to monitor the level of adherence by advertisers and media owners to Codes of Practice which they have adopted.

7.6 EXECUTIVE SUPPORT

Since the commencement of the Voluntary Code on the Sale and Display of Alcoholic Products in Mixed Trading Premises, executive support has been provided by Jerome White on an agreed consultancy basis. He pioneered a most effective contribution for such executive support involving a new Board and many stakeholders. Jerome moved on to a new position from October 2010. We wish him well in his new role and we convey our deep appreciation to him for the first class service he provided to the RRAI.

We are pleased to have secured the services of a replacement for Jerome. Darragh McElligott will provide Executive support to the RRAI with effect from 1st November 2010.

Padraic White
Independent Chairperson
RRAI Ltd
21st November 2010

ANNEX 1

THE VOLUNTARY CODE AND ITS EXPLANATORY GUIDELINES RRAI CODE OF PRACTICE

DISPLAY OF ALCOHOL

- Alcohol products will, as far as possible, be displayed only in a part of the premises through which customers do not have to pass in order to obtain access to other beverages and food products (except where, for security reasons, such products are displayed behind the counter but not in a window).
- Alcohol products will be confined to that one part of the premises and will, as far as possible, be separated from other beverages and food products.

ADVERTISING

- In-store advertising of alcohol products is confined to the area in which they are displayed and will not be placed in windows or at internal locations where it is intended to be seen from outside the premises.
- Advertising materials produced by retailers will not be aimed at minors and will not seek to glamorise alcohol consumption or encourage excessive consumption.

SALE OF ALCOHOL

- The sale of alcohol products is permitted only between 10.30am and 10.00pm on weekdays & Saturdays and between 12.30pm and 10.00pm on any Sunday or St. Patrick's Day (sales are not permitted on Christmas Day and Good Friday).
- Alcohol products will be sold only at clearly designated check-out points by persons over the age of 18 years.
- Check-out points at which alcohol products are sold, or alternatively the display area, will be monitored by CCTV.

- The sale of alcohol products by unsupervised self-service means is not permitted.
- The sale of alcohol products on a “pay-on-delivery” basis is not permitted.

PROOF OF AGE

- Production of a proof-of-age document will be demanded in all cases where the customer appears to be under the age of 21 years or otherwise where there is a doubt about his or her age.
- The Garda Age Card is the preferred proof-of-age document.

STAFF TRAINING

- Licence holders will ensure adequate training of staff members engaged in the sale of alcohol products and, in particular, that such staff members have an adequate knowledge and understanding of relevant areas of licensing law.

INDEPENDENT AUDIT

Compliance with this Code of Practice is subject to independent audit and verification on an annual basis. The Code will be up-dated from time to time.

COMPLAINTS PROCEDURE

Complaints regarding implementation of this Code should, in the first instance be made to the licence holder named below, or to the Store Manager and if this does not result in a successful resolution, then to:

The Chairman
Responsible Retailing of Alcohol in Ireland (RRAI)
84-86 Baggot Street Lower
Dublin 2
or email: chairman@rrai.ie

Name and address of licence holder: _____

EXPLANATORY GUIDELINES OF THE RRAI CODE OF PRACTICE

BACKGROUND

Section 9 of the Intoxicating Liquor Act 2008 provides for the structural separation of alcohol products from other beverages and food products in premises which are engaged in mixed trading, such as supermarkets, convenience stores and petrol stations. This Code of Practice for the display and sale of alcohol products in mixed trading premises is intended to achieve the policy objectives of Section 9 of the 2008 Act on a voluntary basis. The Code provides for an independent audit and verification mechanism to oversee compliance and the provision of an annual report on its implementation to the Minister for Justice and Law Reform.

This Code of Practice has been drawn up by Retail Ireland, the Convenience Stores and Newsagents Association (CSNA) and RGDATA representing the mixed trading sector and the Departments of Justice and Law Reform, and Health & Children. It represents a commitment by the mixed trading sector to adhere on a voluntary basis to the standards and procedures set out in the Code.

The credibility of the Code depends on the effectiveness of the independent audit and verification system set up to oversee its implementation. If the audit and verification process reveals that implementation of the Code is achieving the goal of structural separation, it may not be necessary to bring Section 9 of the 2008 Act into operation. However, if voluntary measures are not successful, the Minister for Justice and Law Reform has stated that the statutory provisions will be activated.

The basic principle underpinning this Code of Practice is that alcohol is not an ordinary household product despite being sold in many supermarkets, convenience stores and petrol stations. The sale of alcohol products requires a District Court certificate and a licence issued by the Revenue Commissioners. Renewal of the licence is also subject to District Court supervision. Moreover, the conditions of sale and consumption of alcohol is governed by extensive statutory provisions set out in the Licensing Acts 1833 to 2008.

CONTENTS OF THE CODE

1. DISPLAY OF CODE

All mixed trading premises involved in the display and sale of alcohol must display a laminated copy of the Code in a conspicuous place in the premises. It must contain the name and address of the licence holder of the premises concerned. Display of the Code represents the commitment of the licence holder to implement and abide by its provisions. It also alerts customers to the standards which they are entitled to expect.

2. DISPLAY OF ALCOHOL

Under the Code, licence holders commit to displaying alcohol products, (including spirits and spirit based beverages; beer; cider; wine and wine based products), separately from other beverages and food products in one part of the premises. The part of the premises chosen for the display of alcohol should, as far as possible, be such that customers do not have to pass through or by it unless they intend purchasing alcohol products. Ideally, it should be at the rear of the premises. Separate display need not, of necessity, involve a physical wall or other such physical barrier. Cross-merchandising of alcohol with other food products is precluded.

However, while the Code provides that alcohol products must be located in a separate area away from other beverages and food products, it is recognised that certain mixed trading premises specialise exclusively in beverages and food products. For this reason the words 'as far as possible' have been included; in such cases, the licence holder is expected to comply as far as possible with the display provisions. It is also recognised that separation of alcohol products from other beverages and food products may present insuperable difficulties for small premises. Here also, the commitment of the licence holder is to ensure compliance as far as possible with the separation provisions.

In short, it is expected that all mixed trading premises, irrespective of size or level of specialisation, will endeavour as far as possible to implement the separation provisions.

The Code permits the display of alcohol products behind the counter in the interest of security. Alcohol products may not, however, be displayed in the windows of the premises.

The display provisions are the cornerstone of the Code and for this reason, the independent audit and verification system will focus in particular on whether or not the licence holder is complying with them. A failure to implement and abide by these standards may result in activation of Section 9 of the 2008 Act.

3. ADVERTISING

The Code provides that in-store advertising of alcohol products is confined to the area in which such products are displayed. Advertising materials should not, therefore, be placed in windows or at internal locations where they are intended to be seen from outside the premises. Moreover, advertising materials produced by retailers should not seek to glamorise alcohol, or encourage excessive consumption, and should not be directed at minors.

As a complementary measure, the mixed trading sector has given a commitment that any advertisement published in newspapers or magazines must devote at least 75% of any such advertisement to products other than alcohol. This commitment does not apply to a retailer's own publications or to trade magazines. In addition, the sector undertakes not to commission any alcohol-only radio or television advertising.

4. SALE OF ALCOHOL

The law specifies that off-sales of alcohol are permitted only between 10.30am and 10.00pm from Monday to Saturday and between 12.30pm and 10.00pm on any Sunday or St Patrick's Day (such sales are not permitted at all on Christmas Day and Good Friday). These details are included in the Code for the information of the public and for the convenience of sales staff in dealing with customers. It is advisable to block alcohol sales at cash registers outside of these times.

Alcohol products may be sold only at clearly designated check-out points by persons over the age of 18 years. Check-out points at which alcohol products are sold, or the display area, will be monitored by CCTV as an aid to enforcement of the statutory provisions prohibiting the sale of alcohol to persons under 18 years of age.

Unsupervised self-service purchases of alcohol are not to be permitted. In the case of 'on-line' purchases of alcohol products, it is a requirement that the customer pays for alcohol at the time of placing the order. Payment on delivery of alcohol products is an offence under licensing law. Moreover, the control systems in place for delivering alcohol products purchased and paid for in advance must include a verification mechanism to ensure that alcohol is not being sold and delivered to persons under 18 years of age.

The inclusion of these provisions regarding the sale and delivery of alcohol are intended to assist licence holders to comply with existing law.

5. PROOF OF AGE

It is an offence to sell or deliver alcohol to a person under 18 years of age. Where a customer appears to be under the age of 21 years, or where there is a doubt about his or her age, staff members should seek confirmation of the customer's age. The Garda Age Card is the preferred proof-of-age document for this purpose.

6. STAFF TRAINING

It is important that staff involved in the sale of alcohol products have an adequate knowledge and understanding of relevant areas of licensing law, particularly those relating to the sale and delivery of alcohol to persons under 18 years. The Code commits licence holders to ensuring that staff members are adequately trained in these matters. A training manual has been prepared by the mixed trading sector to assist licence holders in this regard. Compliance with the training commitments in the Code reflects good practice in the sector.

7. INDEPENDENT AUDIT

An independent body selected by the representative bodies of the mixed trading sector will monitor implementation of the Code and report to a Director appointed by the sector with the agreement of the Minister for , Equality and Law Reform. The Director will submit an annual compliance report to the Minister.

8. COMPLAINTS MECHANISM

The Code contains provision for a complaints mechanism which will permit customers to lodge complaints where it appears that the Code's provisions are not being implemented. It is envisaged that complaints may be resolved locally in consultation with the licence holder or be submitted to the Director. For this reason, the copy of the Code on display must contain contact details of the licence holder and the body responsible for monitoring the implementation of the Code.

IMPLEMENTATION

The Code is effective 1 December 2008 and applies to all premises with off-licences which are engaged in mixed trading. These guidelines expand on some of the standards which are set out in the Code and are intended to give practical guidance for their application. They should be read in conjunction with the Code of Practice for the Sale and Display of Alcohol Products in Mixed Trading Premises.

ANNEX 2

RRAI RETAIL AUDIT FINDINGS, JULY 2010, BY MULTIPLE SUPERMARKET SECTOR AND CONVENIENCE STORE SECTOR

RETAIL AUDIT QUESTION/VARIABLE MEASURED	SUPERMARKET COMPLIANCE	CONVENIENCE STORE COMPLIANCE
Q1. Code of Practice document on conspicuous display within the store	98.03%	91.94%
Q2. Alcohol advertising materials confined to the one area in which alcohol products are on display	100%	97.16%
Q3. Display of alcohol products confined to one part of the premises only	100%	98.1%
Q4. Position of alcohol products on display, as far as possible, only in part of premises which customers do not have to pass through in order to obtain access to other beverages & food products	98.68%	95.26%
Q5. Alcohol products as far possible separated from other beverages & food products	92.76%	89.1%
Q6. Copy of code of practice briefing document held in-store	100%	100%
Q7. Relevant staff engaged in sale & display of alcohol, briefed on the Code of Practice	100%	98.1%
Q8. In-store advertising materials produced by retailer are not aimed at minors or glamorize alcohol consumption	99.34%	99.53%
Q9. Alcohol products only sold at clearly designated check-out points	90.79%	78.2%
Q10. Check-out points or the alcohol display area monitored by CCTV	100%	99.53%
Q11. Purchase of alcohol at unsupervised self-service check-outs not permitted	100%	100%

If a member store fails any one of Questions 1 to 7, the store will fail the audit.

Questions 5-7 inclusive were classified as “must pass” tests for the first time in the 2010 audit.

In relation to the remaining four variables (Questions 8-11 inclusive), and where compliance required satisfying at least two of the four questions, there was no instance of failing the audit on these questions.

ANNEX 3

12 point complaint process

- Complaint arrives at RRAI website/address.
- RRAI logs details of complaint (form).
- RRAI acknowledges receipt of complaint – 1 working day.
- RRAI conducts preliminary screen review – 2 working days.
- If complaint appears to be not valid versus Code/Explanatory Guidelines RRAI replies to complainant – 3 working days.
- If complaint appears to be valid complaint, passed to member. Member notified of complaint details but not source and asked to investigate.
- Member acknowledges receipt of complaint to RRAI and proceeds to investigate – 7 working days.
- Upon conclusion of investigation member replies back to RRAI with their response and possible corrective actions.
- Chairperson reviews response and will make adjudication on details – 2 working days.
- Member notified of Chairperson's judgement – 2 working days.
- Complainant notified of Chairperson's judgement – no more than 15 working days.
- Total exchange logged by Executive for Compliance Report.



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