

Advertising Guidelines

Ferment on Premise and Liquor Delivery Licence Holders and Special Occasion Permit Holders

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Alcohol and Gaming Commission of Ontario

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INTRODUCTION

The regulations enacted pursuant to the Liquor Licence Act allow holders of ferment on premise and liquor delivery licences as well as special occasion permit holders to advertise liquor, the availability of liquor or other services they provide in relation to liquor, in accordance with the Registrar's Advertising Guidelines.

These guidelines focus on specific issues regarding advertising liquor and provide interpretations of the various criteria set out in the regulations. The notes following each guideline assist in interpretation and are by no means exhaustive in their scope.

Although obtaining the prior approval of the Alcohol and Gaming Commission of Ontario (AGCO) for advertising by holders of ferment on premise and liquor delivery licences as well as special occasion permit holders is not necessary, it is their responsibility to ensure that advertising carrying its business or brand name, or endorsed by it, falls within the parameters set out in the regulations and in these guidelines.

Advertising that is beyond the permissible scope may result in disciplinary proceedings being initiated by the Registrar and/or the issuance of an order of cessation by the Registrar. Violations of the LLA or the regulations enacted there under may result in compliance or enforcement action.

Proposed advertising should be considered on the basis of both the express as well as any implied message, which is conveyed. The guidelines apply to all aspects of the advertisement such as the more obvious copy, graphics, lyrics, script and video, as well as the less obvious but influential aspects such as background music, voice inflection, etc.

Holders of ferment on premise and liquor delivery licences, or special occasion permit holders, are responsible for all advertising (including merchandise) bearing their identification including corporate or brand identification that is displayed or distributed by any person. This will include all authorized advertising done on a manufacturer's or sales licensee's behalf. Holders of ferment on premise and liquor delivery licences, or special occasion permit holders, are not responsible where it has not authorized advertising and has been diligent in its efforts at stopping the advertising once it has become aware of it.

Holders of ferment on premise, liquor delivery licences, or special occasion permit holders, must show they have exercised reasonable care and taken suitable precautions to ensure compliance.

Interpretations of the guidelines may be published from time to time.

DEFINITIONS

“Advertising” means any public notice, representation, or activity, including promotional and marketing activities, that is intended to attract attention to liquor, the brand name of liquor, the name of the premises where liquor is available or the opportunity to make liquor is available, the name under which the holder of the licence carries on business or that liquor may be delivered and “advertise” and “advertisement” have corresponding meanings.

“Public Service Advertising” means any advertising carrying a strong message against irresponsible use of liquor where the message does not contain any direct or indirect endorsement of a liquor, the brand name of a liquor, or of the consumption of liquor.

- (i) For the purpose of these guidelines “advertising” refers to the act of making the company or service generally or publicly known. This will include categories previously known as public service advertising, corporate advertising, brand advertising, promotional activities, media buys, and general marketing practices.
- (ii) References to products, manufacturers, licensed establishments, services etc. in editorial material will not be viewed as advertising.

“Liquor” means beer, wine and/or spirits or any combination thereof.

“Registrar” means Registrar established under section 6 of the *Alcohol, Cannabis and Gaming Regulation and Public Protection Act*”.

Guiding Principles for Advertising by Holders of Ferment on Premise and Liquor Delivery Licences and Special Occasion Permit Holders

- 1. A permit holder for a private event special occasion permit is not permitted to advertise or promote liquor or the availability of liquor.**

Except for public service advertising, the holder of a ferment on premise or liquor delivery licence or special occasion permit must ensure that any proposed advertising:

- (1) is consistent with the principle of depicting responsibility in use or service of liquor;**
 - (i) An advertisement cannot promote excessive consumption or depict excessive or prolonged consumption, or excessive quantity of liquor, or occasions of use or drinking situations, which are likely to involve risk to those present. An example of excessive consumption, which cannot be implied, is consumption of more than three drinks on an occasion.
- (2) promotes a general brand or type of liquor and not the consumption of liquor in general;**
 - (i) Advertisements may not promote the merits of consumption.
 - (ii) Advertisements may not make claims, direct or implied, of healthful, nutritive, curative, dietetic, stimulative or sedative benefits of the liquor product. However, factual attributes of the liquor product which are commonly accepted by recognized authorities (such as the Centre for Addiction and Mental Health, Health & Welfare Canada, or national or provincial medical associations) may be stated in the advertisement provided the attributes relate to the particular brand or type of liquor and does not promote the consumption of liquor in general.
- (3) does not imply that consumption of liquor is required in obtaining or enhancing:**
 - (a) social, professional or personal success,**
 - (b) athletic prowess,**

- (c) **sexual prowess, opportunity or appeal,**
- (d) **enjoyment of any activity,**
- (e) **fulfilment of any goal, or**
- (f) **resolution of social, physical or personal problems.**

- (i) Endorsement of a liquor product by well-known personalities shall not directly or indirectly suggest that the consumption of any liquor has contributed to the success of their particular endeavours.

(4) does not appeal, either directly or indirectly, to persons under the legal drinking age, or is not placed in media that are targeted specifically at people under that age;

- (i) No well-known personality may be used in liquor advertising who may reasonably be expected to appeal, either directly or indirectly, to persons under the legal drinking age if the advertisement contains any direct or indirect endorsement of liquor or the consumption of liquor. This may include historical, political, religious and cultural figures as well as celebrities and sports figures. (This would not apply to public service advertisements provided there is no direct or indirect endorsement of liquor or consumption of liquor by the well-known personality.)
- (ii) Children's songs, fictional characters etc., or the imitation thereof, may not be used in advertising.
- (iii) A holder of a licence or a special occasion permit may donate corporate or brand identified scholarships, bursaries and scholastic prizes to be awarded to post secondary school students.
- (iv) The use of a medium that is targeted at persons under the legal drinking age is not permitted. For example advertisements may not appear in magazines targeted specifically at people under the legal drinking age. Advertisements may run in conjunction with movies in movie theatres or on videos which have a "Restricted to persons 18 or older" (R) rating and may not run in conjunction with movies which have a "Suitable for All" (G) rating. Subject to the Ontario Film Review Board guidelines, movies with "Parental Guidance Recommended" (PG), "Persons younger than 14 must be accompanied by an adult" (14A) and "Persons younger than 18 must be accompanied by an adult" (18A) ratings will have to be dealt with cautiously to ensure the movie itself is not targeted

specifically at persons under the legal drinking age. Stationary outdoor advertising should not be placed within 200 metres of a primary or secondary school.

- (v) Advertisements should not be placed within areas which are specifically targeted at persons under the legal drinking age if the advertisement directly or indirectly endorses liquor or the consumption of liquor. Statistics indicating that 51% of the audience are above the legal drinking age may not in itself avoid the targeting restriction since a medium or venue may be targeted at persons under the legal drinking age and still have an audience which is predominantly above the legal drinking age. An example of this would be a children's concert which is attended by a large number of parents.
 - (vi) Songs, which have a specific appeal to persons under the legal drinking age, shall not be used for advertising.
 - (vii) Portrayals of well-known personalities which would generally be prohibited due to the potential that the personality may appeal to persons under the legal drinking age may be used provided the use of the personality is incidental to the advertisement and the use of the personality does not make the advertisement appealing to persons under the legal drinking age.
 - (viii) Notwithstanding this subsection, any advertising, which does not refer to the availability of liquor, may appeal to persons under the legal drinking age and may be placed in media targeted specifically at people under the legal drinking age.
- (5) does not associate consumption of liquor with driving a motorized vehicle, or with any activity that requires care and skill or has elements of danger;**
- (i) Persons should not be depicted with liquor prior to, in anticipation of, or while engaging in any activities which involve care and skill or elements of physical danger. (An activity includes work, sports, recreation, crafts, and hobbies.) Some examples of activities, which are considered to be activities, which involve care and skill or elements of physical danger, are:

skiing	swimming	hockey	child care	hunting
football	baseball	working	volleyball	racing
studying	boating	carving	surfing	etc.

- (ii) Consumption should not be associated with the performance of any aspect of any activity, which calls for a high degree of skill if imitation by the unskilled or underage could be considered dangerous.
 - (iii) The depiction of an activity which involves care and skill or elements of physical danger must clearly establish that the individuals shown with liquor are merely spectators or have completed that activity for the day and are then depicted with the product.
 - (iv) Vehicles involved in races, competitions, contests, exhibitions, or public displays may be used as a medium for liquor advertising; however, graphics of the product (i.e. bottles, cans, glasses, etc.) and specific references to alcohol content (% alcohol / volume) are not permitted.
- (6) does not depict motorized vehicles in motion in advertising showing consumption of liquor, unless the motorized vehicle is a form of public transportation;**
- (i) Persons should not be depicted with liquor prior to, in anticipation of, or while operating a motorized vehicle. There cannot be any indication, direct or implied, that an individual who has been depicted with liquor will then be operating a motorized vehicle.
 - (ii) Motorized vehicles should not be shown in motion in an advertisement, which includes a consumption scenario unless the vehicle is a form of public transportation. Parked vehicles, or vehicles such as buses, trains, planes, taxicabs, licensed boats, etc., in motion, may appear in advertisements with consumption scenarios.
 - (iii) Motorized vehicles involved in races, competitions, contests, exhibitions, or public displays may be used as a medium for liquor advertising, however, graphics of the product (i.e. bottles, cans,

glasses, etc.) and specific references to alcohol content (% alcohol / volume) are not permitted.

(7) does not suggest any illegal sale, illegal purchase, illegal gift, illegal handling or illegal consumption of liquor.

- (i) An advertisement may not depict a licensee gifting any patron with liquor, or an individual gifting a person under the legal drinking age with liquor.
- (ii) The illegal handling of liquor may not be depicted. For example smuggling liquor across a border may not be depicted.
- (iii) The consumption of liquor may not be depicted or implied in settings where this would not be legal in Ontario such as public beaches, public parks, private boats without sleeping accommodations, etc.
- (iv) Liquor may be depicted in a setting where consumption is not permitted provided it is clearly a beauty shot with no evidence of people or of previous or imminent consumption.

2. The holder of a licence to operate a ferment on premise or liquor delivery service or special occasion permit shall not offer a gift or the opportunity to receive a gift that requires the purchase of liquor.

- (i) Offers linked to a single purchase of services or ingredients are permitted but not linked to multiple purchases such as a frequent buyer's club.