To: Mr Alan Shatter TD
Minister for Justice and Equality

28th September 2012

Dear Minister Shatter,

I hereby submit the fourth 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.

The results of this year’s annual independent audit of compliance (as set out in Part 4 of the attached report) show an overall compliance-rate of 90.30%, which I consider to be satisfactory.

I would respectfully request that a decision be taken as soon as possible on the proposal to implement a strengthened RRAI Code of Practice on a Statutory basis under Section 17 of the Civil Law (Miscellaneous Provisions) Act 2011. An early decision on this issue would give clarity to the RRAI’s members on their future obligations in relation to the display, advertising and sale of alcohol-products. If a decision is made to implement a strengthened and Statutory Code of Practice, it would be desirable that members have adequate time to complete any necessary alterations in their stores in time for the annual audit of compliance in 2013.

Finally, I also wish to refer to the on-going concerns of RRAI-members regarding “proof of age”, whereby a Garda Age Card is the only identification accepted in law as a defence if a licence-holder is prosecuted for the sale of alcohol to a person under the age of 18 years. They consider that there is no good reason for excluding a passport or driver's licence as equally valid proofs of age. They cite, for example, the impracticality of expecting tourists to Ireland to have the Garda Age Card. The RRAI’s members consider that legislation now needs to be introduced to extend “proof of age” to other legitimate forms of identification (such as a passport, driver's licence or E.U. Member State national identity card).

Yours sincerely,

Padraic A White
Independent Chairperson
RRAI Ltd.
FOURTH COMPLIANCE REPORT

TO THE MINISTER FOR JUSTICE & EQUALITY

MR ALAN SHATTER, TD

In accordance with the Code of Practice on the Display and Sale of Alcohol Products in Mixed Trading Premises for the Year to End September 2012

Padraic White, Independent Chairperson
Responsible Retailing of Alcohol in Ireland Ltd
September 2012
# TABLE OF CONTENTS

1. **Introduction**  
   4

2. **Membership of the RRAI**  
   6  
   2.1 List of members  
   6  
   2.2 Associate-membership of the RRAI  
   7

3. **Measures Taken to Strengthen the RRAI Code of Practice**  
   8  
   3.1 RRAI sanctions-policy  
   8  
   3.2 Extension of the RRAI’s advertising rules, and posting of these rules on the RRAI’s website  
   10  
   3.3 Broadening of complaint-mechanisms available to the public  
   10  
   3.4 Improvements in the in-store visibility of the Code-document  
   10  
   3.5 Increase in the standards required to pass the annual audit of compliance  
   11  
   3.6 Staff-training  
   11  
   3.7 Gift-packs and hampers  
   11

4. **Fourth Annual Independent Audit of Compliance**  
   12  
   4.1 Audit methodology  
   12  
   4.2 Audit sample and size  
   12  
   4.3 Outcomes of the 2012 Independent Audit of Compliance  
   16

5. **Complaints and Telephone Hotline**  
   18  
   5.1 Complaints received during the 12-month period from October 2011 to end-September 2012  
   18  
   5.2 Statistics on general enquiries received through the telephone hotline  
   20

6. **Overall Judgement on Compliance**  
   21


# 9. Observations on Other Policy-Related Matters

| 9.1 | Co-operation with An Garda Síochána |
| 9.2 | Report of the Steering Group on a National Substance Misuse Strategy |
| 9.3 | Proof of Age |

# Annex 1 The Voluntary Code and Explanatory Guidelines

# Annex 2 RRAI Sanctions-Policy

# Annex 3 Consolidated Version of the RRAI’s Extended Advertising Rules

# Annex 4 Results of RRAI Annual Independent Audit of Compliance 2012 by Supermarket Sector and Convenience-Store Sector
1. INTRODUCTION

This fourth annual compliance-report is being submitted to the Minister for Justice and Equality in accordance with Section 7 of the Explanatory Guidelines of the Code of Practice on the Display and Sale of Alcohol Products in Mixed Trading Premises, more commonly known as the RRAI Code of Practice.

The RRAI Code of Practice was developed and implemented as an alternative to Section 9 of the Intoxicating Liquor Act 2008, which has not been commenced, and which provides for the structural separation of alcohol-products from other retail items in mixed trading premises such as supermarkets, convenience stores and garage forecourts.

The RRAI Code comprises the following two elements, which taken together, form the full official Code:

i) The Code of Practice document, which is to be displayed in a conspicuous place in all participating retail outlets; and

ii) Explanatory Guidelines, which elaborate on the contents of the publicly displayed Code, and which contain additional aspects such as restrictions on the advertising of alcohol-products in the print and broadcast media by RRAI-members.

The RRAI Code of Practice and the Explanatory Guidelines to the Code are both contained in Annex 1 to this Report.

In addition, the RRAI Code has been strengthened since its introduction through further measures implemented at the request of the then-Minister for Justice, Equality and Law Reform, Mr Dermot Ahern TD, and also through extra measures voluntarily introduced by the RRAI itself. These expansions to the original Code are not contained in the wording of the Code itself, and are summarised in Part 3 of this Report.

It is worth re-iterating that the organisational arrangements and processes established to implement the RRAI Code are fundamentally more transparent and more publicly accountable than normal self-regulation or voluntary codes, in the following ways:

(1) The Code is subject to independent monitoring. An annual independent audit of compliance is carried out nationwide by recognised experts in retail auditing.

(2) The operation of the Code is formally subject to Ministerial review on an annual basis, in that I submit an independent annual compliance-report to the Minister for Justice and Equality on foot of the annual audit. This compliance-report is then published on the website of the Department of Justice and Equality.
(3) The annual compliance-report is independent and is not subject to approval by the Board of the RRAI. This is in keeping with the Company’s Memorandum of Association, which states that one of the Chairman’s principal responsibilities is to generate the annual compliance-report, “the content of which is at the discretion of the independent Chairman”; and

(4) Based on his assessment of compliance with the Code, and taking into account the annual compliance-report submitted to him, the Minister can decide to commence Section 9 or not as he sees fit.

Further information on the RRAI can be seen on its website – www.rrai.ie
2. MEMBERSHIP OF THE RRAI

2.1 LIST OF MEMBERS

The participating members in the RRAI, and their approximate number of licensed stores, are set out in Table 1 below.

**TABLE 1: RRAI-MEMBERS AND THEIR APPROXIMATE NUMBER OF LICENSED STORES**

<table>
<thead>
<tr>
<th>MEMBER</th>
<th>FULL OFF-LICENCES*</th>
<th>WINE-ONLY OFF-LICENCES</th>
<th>TOTAL NO. OF LICENSED STORES</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADM Londis</td>
<td>97</td>
<td>72</td>
<td>169</td>
</tr>
<tr>
<td>Aldi</td>
<td>91</td>
<td>0</td>
<td>91</td>
</tr>
<tr>
<td>BWG (Spar, Eurospar, and Mace)</td>
<td>226</td>
<td>341</td>
<td>567</td>
</tr>
<tr>
<td>Costcutter</td>
<td>41</td>
<td>70</td>
<td>111</td>
</tr>
<tr>
<td>Dunnes Stores</td>
<td>93</td>
<td>8</td>
<td>101</td>
</tr>
<tr>
<td>Eso</td>
<td>30</td>
<td>5</td>
<td>35</td>
</tr>
<tr>
<td>Gala</td>
<td>17</td>
<td>156</td>
<td>173</td>
</tr>
<tr>
<td>Lidl</td>
<td>130</td>
<td>0</td>
<td>130</td>
</tr>
<tr>
<td>Marks &amp; Spencer</td>
<td>7</td>
<td>14</td>
<td>21</td>
</tr>
<tr>
<td>Musgrave (Centra and SuperValu)</td>
<td>522</td>
<td>129</td>
<td>651</td>
</tr>
<tr>
<td>Superquinn</td>
<td>24</td>
<td>0</td>
<td>24</td>
</tr>
<tr>
<td>Tesco</td>
<td>134</td>
<td>4</td>
<td>138</td>
</tr>
<tr>
<td>Topaz</td>
<td>13</td>
<td>91</td>
<td>104</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>1,425</td>
<td>890</td>
<td>2,315</td>
</tr>
</tbody>
</table>

*A full off-licence is a licence for the sale of beers, spirits and wines for consumption off the premises.
All 13 member-groups were the subject of the 2012 independent audit of compliance. Between them, the 13 groups account for approximately 2,315 mixed trading stores, which represents the vast majority of licensed stores in the mixed trading sector.

The RRAI’s members fund the operation of the company, including the cost of the annual independent audit, by way of contributions agreed by the Board of directors. The contributions are derived from the agreed Budget, and are allocated in proportion to the number and type of licensed stores affiliated to each member.

In addition, the Musgrave Group has confirmed that its Daybreak chain of stores will join the RRAI with effect from 1 January 2013. The Daybreak brand comprises 17 stores with full off-licences and 141 stores with wine-only licences.

2.2 ASSOCIATE-MEMBERSHIP OF THE RRAI

In 2010, the RRAI explored the viability of integrating independent mixed trading retailers into the Code process. Two hundred non-affiliated independent mixed trading stores were identified, and were invited 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 RRAI Code.

The associate-members are now as follows:

• Cowhigs, Leap Service Station, Droum, Leap, Co. Cork;

• Giles Brothers, Longwood, Co. Meath;

• Letterfrack Country Shop, Connemara, Co. Galway;

• Quality Foods Limited, trading as Egans’ Fine Foods, Egans’ Business Centre, Dargle Road, Bray, Co. Wicklow; and

• Tempside Limited, which operates five stores in the Polonez retail group, as follows – Athlone, Co. Westmeath; Sligo Town, Co. Sligo; Dundrum, Dublin; Mary Street, Dublin; and Moore Street, Dublin.

The RRAI has invited a number of other non-affiliated retailers in the past year to formally sign up to the Code and dialogue with them has not yet concluded.

If the RRAI Code is put on a statutory footing under Section 17 of the Civil Law (Miscellaneous Provisions) Act 2011 [see Part 8 of this Report], then the case for non-affiliated mixed traders to join the RRAI and the ability of the RRAI to encourage greater participation will both be strengthened considerably.
3. MEASURES TAKEN TO STRENGTHEN THE RRAI CODE OF PRACTICE

As alluded to in previous compliance-reports, the RRAI Code of Practice has been strengthened significantly since its introduction through a range of additional measures. Moreover, since the submission of my Third Annual Compliance-Report in September 2011, further initiatives have been introduced by the RRAI Board, such as the formal adoption of an RRAI sanctions-policy, and the posting of the RRAI’s extended advertising rules on the RRAI’s website.

Overall, the strengthening measures introduced since the establishment of the RRAI Code are as follows:

3.1 RRAI SANCTIONS-POLICY

Pending the enactment of a Statutory Code of Practice under Section 17 of the Civil Law (Miscellaneous Provisions) Act 2011, the RRAI Board sought to put additional mechanisms in place, to provide for effective and proportionate sanctions against any individual Member-stores or Member Groups that repeatedly breach the best practice inherent in the Code. Accordingly, in early 2012, the RRAI Board itself decided on an enhanced sanctions-policy that could be feasible under existing legislation.

The potential sanctions agreed upon include the expulsion of a Member Group or an individual store from the RRAI, objections to the renewal of a liquor licence or the granting of a new licence using the legal mechanisms available, and the public naming and shaming of those deemed culpable of persistent, repeated, or systemic serious breaches of the RRAI Code.

The sanctions-policy draws a distinction between:

(a) Member Groups with direct managerial control over their mixed trading stores; and

(b) Member Groups made up of independently-operated mixed trading stores, where the Member Groups in question do not have direct managerial control over the stores concerned.

3.1.1 Member Groups with direct managerial control over their mixed trading stores

The policy is to impose sanctions against any Member Group with direct managerial control over their mixed trading stores in any of the following cases:

(a) Where a Member Group (or any of its stores) commits persistent and/or repeated serious breaches of the Code of Practice over a period of time. The bona fides of the Member Group or store(s) in question will be taken into account; or
Where a Member Group engages in a systemic serious breach of the Code of Practice across a significant number of its stores in a concentrated period, typically during a holiday-weekend or holiday-period; or

Where a Member Group fails to pay its subscription due to the RRAI in full by the absolute cut-off date agreed by the Board in any given year.

3.1.2 Member Groups made up of independently operated mixed trading stores

Where an independently operated mixed trading store (within a Member Group) commits persistent and/or repeated serious breaches of the Code of Practice over a period of time, the policy is to impose sanctions against the store itself. The bona fides of the store in question will be taken into account.

The policy is to impose sanctions against a Member Group made up of independently-operated mixed trading stores in any of the following cases:

(a) Where the number of stores, within a Member Group, that commit persistent and/or repeated serious breaches of the Code of Practice over a period of time represents two per cent (2%) or more of that Member Group’s total number of mixed trading stores. The bona fides of the Member Group in question will be taken into account; or

(b) Where a systemic serious breach of the Code of Practice occurs across a significant number of a Member Group’s mixed trading stores in a concentrated period, typically during a holiday-weekend or holiday-period; or

(c) Where a Member Group fails to pay its subscription due to the RRAI in full by the absolute cut-off date agreed by the Board in any given year.

3.1.3 Posting of the RRAI’s sanctions-policy on the RRAI’s website

The RRAI’s sanctions-policy has been made available to the public and can be seen in full on the RRAI’s website at http://www.rrai.ie/RRAI_Sanctionspolicy/Default.120.html. It is also included herein as Annex 2 to this Report.

In addition, the RRAI’s website includes a page setting out sanctions that have been imposed, which can be seen at http://www.rrai.ie/SANCTIONS_IMPOSED/Default.121.html.

3.1.4 Effectiveness of the sanctions-policy

It is my view that the sanctions-policy has had a positive impact as a deterrent against non-compliance with the RRAI Code. An example of the sanctions-policy working in practice is as follows:
After the adoption of the sanctions-policy by the RRAI, complaints concerning persistent breaches of the Code were received and upheld by me in respect of two particular convenience-stores. As a result, I issued warning letters to the retailers in question, quoting the new sanctions-policy, and raising the possibility of the RRAI seeking the co-operation of An Garda Síochána in it objecting on grounds of character to the renewal of the retailers’ liquor licences. In both cases, the retailer responded positively by providing assurances on future compliance with the Code, and by expressing a renewed commitment to the Code. Since then, no further complaints have been received by the RRAI regarding either store.

3.2 Extension of the RRAI’s Advertising Rules, and Posting of These Rules on the RRAI’s Website

Over time, the RRAI has expanded and fine-tuned its rules on the advertising of alcohol-products, in order to address any practical issues on compliance that had arisen, and to ensure compliance with both the letter and spirit of the Code.

The RRAI has posted a consolidated version of its extended advertising rules on its website in 2012, to make these extended rules readily available and accessible to the public.

The consolidated version of the RRAI’s advertising rules can be seen online at http://www.rrai.ie/RRAI_ADVERTISING_RULES/Default.119.html, and is also included herein as Annex 3 to this Report.

3.3 Broadening of Complaint-Mechanisms Available to the Public

The 24-hour RRAI telephone hotline has been operational since March 2011, on freephone number 1800 84 80 80. It provides an alternative and readily available channel of communication through which members of the public can submit complaints about breaches of the Code, or indeed general enquiries, free of charge.

An extensive national print and radio advertising campaign was also conducted during the summer of 2011 to raise public awareness of the hotline. Furthermore, an updated version of the in-store display-copy of the Code was produced to include reference to the hotline, and this was circulated to Members for in-store display.

3.4 Improvements in the In-Store Visibility of the Code-Document

In 2010, the in-store display-copy of the Code-document was increased from its initial A4 size to a larger A3 size, to make it more clearly visible to customers. In 2011, the RRAI Board determined that two A3 copies of the Code must be displayed in larger stores, namely those with a net retail area of over 4,000 square feet or 372 square metres. The Board also clarified that the A3 Code-document must be displayed in a place and in a manner that make it easily accessible, visible and legible to customers.
3.5 INCREASE IN THE STANDARDS REQUIRED TO PASS THE ANNUAL AUDIT OF COMPLIANCE

The RRAI raised the bar higher for the annual audit of compliance each year from 2009 to 2011.

In 2009, for the first annual audit of compliance, eleven Code-compliance variables were drawn from the provisions of the Code and were measured. In order for a store to pass the retail audit, it had to score all of the first four questions (Q.1-Q.4) positively and also score at least four of the remaining seven questions (Q.5-Q.11) positively.

In 2010, the bar was raised whereby in order for any store to pass the audit, it had to score all of the first seven questions (Q.1-Q.7) positively, which included the core Code-provisions on the display of alcohol-products, and it had to score at least two of the remaining four questions (Q.8-Q.11) positively.

The increase in the variables where non-compliance on any one would result in a store failing the audit was the subject of discussion and agreement with the Department of Justice, Equality and Law Reform in 2010. For ease of reference, such variables are referred to in this report as “automatic fail variables”. The number of automatic fail variables thus increased from four in 2009 to seven in 2010.

In addition, in 2011, the bar was raised higher again to take account of the expanded requirements on the in-store display of the Code-document. In the 2011 audit, it was thus a mandatory requirement for participating retailers to conspicuously display a copy of the Code-document in-store in A3 format. If a store only displayed the Code-document in A4 format, this constituted an automatic fail. Furthermore, to highlight the RRAI’s new telephone hotline, each A3 copy of the Code had to contain the telephone hotline details. Again, failure to do so constituted an automatic fail. Finally, in large stores (with a net retail area of over 4,000 square feet/372 square metres), two A3 copies of the Code had to be clearly displayed. If such stores only displayed one A3 copy of the Code in-store, this resulted in an automatic fail.

The variables measured and the standards required to pass the annual audit in 2012 are the same as they were in 2011. The 2012 audit is considered in detail in Part 4 of this report.

3.6 STAFF-TRAINING

The RRAI produced and circulated an in-store briefing document for staff-members, a detailed core training manual for use by store-owners/store-managers/licence-holders, and a variant of that training manual for the use of front-line staff-members.

3.7 GIFT-PACKS AND HAMPERS

The RRAI Board adopted the position that the in-store display of gift-packs or hampers which contained both alcohol-products and food-products would be in breach of the cross-merchandising provisions of the Code.
4. FOURTH ANNUAL INDEPENDENT AUDIT OF COMPLIANCE

The fourth annual independent audit of compliance was carried out from 16 to 27 July 2012.

4.1 Audit Methodology

In part 2 of the Explanatory Guidelines of the Code, it is clearly stated that:

"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."

This emphasis is fully reflected in the design and implementation of the annual independent audit.

The audit has been carried out each year by FMI Ltd., who are specialists in surveys of the retail trade and were appointed following a tender-process.

I have emphasized both to FMI themselves and to the RRAI Board the independence of FMI in any judgments they make as auditors. However, in any case where a dispute arises between the auditors and a retailer concerning the result of a store in the audit of compliance, I make an independent and objective assessment based on the specific facts of the case.

4.2 Audit Sample and Size

The national sample of stores audited was proportionately allocated to reflect regional, store-category and member weightings. Within these parameters, FMI selected the stores to be visited at random from their national database of stores.

In 2012, it was agreed that a national audit universe of 360 stores would be selected, similar to 2011, although the 2012 audit ultimately covered 361 stores. There was a decrease in the overall number of member-stores from 2,425 in 2011 to 2,315 in 2012. This decrease was primarily caused by a reduction in the number of licensed stores in the convenience sector. Taking this decrease into account, the audit-size of 361 stores in 2012 represents an increase in the overall percentage of RRAI-affiliated stores that were included in the audit, rising from 14.8% of member-stores in 2011 to 15.6% in 2012.

Of the 361 stores included in the 2012 audit, 172 were multiples/supermarkets (representing 24.6% of member-stores in that sector), and 189 were convenience stores (representing 11.7% of member-stores in that sector).

For ease of reference, the audit-form used by FMI in the 2012 audit, and which sets out the 11 variables audited, is illustrated in Table 2 on the next page.
TABLE 2: AUDIT-FORM USED BY THE AUDITORS IN THE ANNUAL INDEPENDENT AUDIT OF COMPLIANCE, 2012

QUESTIONNAIRE FOR ANNUAL AUDIT – JULY 2012

Compliance with the RRAI Code of Practice on the Display and Sale of Alcohol Products in Mixed-Trading Premises

<table>
<thead>
<tr>
<th>CALL INFORMATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Client Ref: FMIACOP __ __ __</td>
</tr>
<tr>
<td>Store Name and Address: ________________</td>
</tr>
<tr>
<td>Store Contact Name: ________________</td>
</tr>
<tr>
<td>Store Contact Position: ________________</td>
</tr>
<tr>
<td>Date of Visit: ________________</td>
</tr>
<tr>
<td>Time of Visit: ________________</td>
</tr>
</tbody>
</table>

Tick appropriate size of store before commencing audit:

- Net retail area of over 4,000 Sq Feet/372 Sq Metres ___
- Net retail area of up to 4,000 Sq Feet/372 Sq Metres ___

7 REDLINE AREAS FOR IMMEDIATE PASS/FAIL

Q1. (a) Is the Code of Practice document on conspicuous display within the store in A3-size?  
   Yes ❑  No ❑

(b) If the store has a net retail area of over 4,000 square feet/372 square metres, is there more than one A3 copy of the Code on display?  
   Yes ❑  No ❑  N/A ❑

(c) Does each copy of the Code display the name and address of the licence-holder? and  
   Yes ❑  No ❑

(d) Does each copy of the Code display the RRAI telephone hotline information?  
   Yes ❑  No ❑

(Parts (a), (c), and (d) must all be scored positively for a store to pass Question 1, along with part (b) where applicable.)
<table>
<thead>
<tr>
<th>Question</th>
<th>Text</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Q2.</td>
<td>Is the <strong>in-store advertising of alcohol products</strong> confined to the area in which alcohol products are displayed, and <strong>not</strong> in windows or at other locations where it is intended to be seen from outside the premises?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Q3.</td>
<td>Is the <strong>display of alcohol products</strong> confined to one part of the premises whereby there is only one alcohol display-area in the premises? <em>In addition to the main alcohol display-area, alcohol can also be displayed behind the counter for security reasons, but not in a shop-window.</em></td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Q4.</td>
<td>Is the <strong>position of alcohol products on display</strong>, as far as possible, only in a part of the premises which customers do not <strong>have</strong> to pass through or by, in order to obtain access to other beverages and food products?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td></td>
<td>Please tick one of the following options that best describes where the alcohol products are displayed within the store: (for explanatory purposes)</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>1.</td>
<td>At the entrance to the store.</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Directly opposite or facing food or beverage products primarily consumed by children.</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Directly opposite or facing fresh food or beverage products (fruit/veg, dairy, meat) or preserved/packaged/frozen food or beverage products.</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>Towards the middle of the premises.</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>On a perimeter wall and late in the customer's journey through the store.</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>At the rear of the premises.</td>
<td>☐</td>
<td></td>
</tr>
<tr>
<td>Q5.</td>
<td>As far as possible, are <strong>alcohol products separated</strong> from other beverages and food products?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Q6.</td>
<td>Is a copy of the <strong>in-store briefing document for staff-members</strong> held in-store?</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>Q7.</td>
<td>Have all staff-members engaged in the sale and display of alcohol been <strong>briefed on the Code of Practice</strong>?</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>
## Remaining 4 Retail Audit Questions

2 of these 4 questions must be answered Yes to pass overall audit

### Q8.
Can you confirm that alcohol-related advertising materials produced by the retailer and displayed in-store are **not** aimed at minors, do **not** in any way glamorise the consumption of alcohol, and do **not** encourage the excessive consumption of alcohol?

- [ ] Yes
- [ ] No

### Q9.
Are alcohol products only sold at clearly designated check-out points?

- [ ] Yes
- [ ] No

### Q10.
Are these check-out points or the alcohol display-area monitored by CCTV?

- [ ] Yes
- [ ] No

### Q11.
Is the purchase of alcohol products at unsupervised self-service checkouts **not** permitted?

*Tick “yes” if the purchase of alcohol at unsupervised self-service check-outs is **not** permitted.

- [ ] Yes
- [ ] No

## Photographs and Comments

R  Did you take a photograph of any non-compliance?

- [ ] Yes
- [ ] No

Audit Comments: 

________________________________________________________

________________________________________________________

________________________________________________________

________________________________________________________

________________________________________________________

________________________________________________________

________________________________________________________

## Sign-Off

Auditors Name: 

Store Contact Signature: 

Retail Audit – July 2012
4.3 Outcomes of the 2012 Independent Audit of Compliance

The top-line result of the 2012 audit is that 326 stores passed the audit out of 361, and 35 failed, resulting in an overall compliance-rate of 90.30%.

In the supermarket sector, 166 stores passed out of 172, and 6 failed, giving a compliance-rate of 96.51% in that sector.

In the convenience-store sector, 160 stores passed out of 189, and 29 failed, giving a compliance-rate of 84.66% in that sector.

Table 3: Top-Line Results in the Annual Independent Audit of Compliance, 2012

<table>
<thead>
<tr>
<th>MIXED TRADING SECTOR</th>
<th>COMPLIANCE-RATE</th>
<th>NUMBER OF LICENSED STORES OF RRAI-MEMBERS</th>
<th>NUMBER OF STORES AUDITED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supermarkets</td>
<td>96.51%</td>
<td>699</td>
<td>172</td>
</tr>
<tr>
<td>Convenience-Stores</td>
<td>84.66%</td>
<td>1,616</td>
<td>189</td>
</tr>
<tr>
<td><strong>OVERALL TOTALS</strong></td>
<td><strong>90.30%</strong></td>
<td><strong>2,315</strong></td>
<td><strong>361</strong></td>
</tr>
</tbody>
</table>

In the supermarket sector, those scoring 100% compliance were Aldi, Lidl, Marks & Spencer and SuperValu. In the convenience store sector, where management-control is less direct, particularly good compliance-rates were achieved by Topaz with 100%, Londis with 95%, Centra with 89.09%, Gala with 88.89%, and Mace with 84.62%.
The 2012 overall compliance-rate of 90.30% compares favourably with the rate of 85.56% scored in 2011. A comparative table of the compliance-rates achieved in each annual audit since the RRAI was set up can be seen in Table 4 below.

**Table 4: Overall Results in the Annual Independent Audit of Compliance from 2009 to 2012**

<table>
<thead>
<tr>
<th>Mixed Trade Sector</th>
<th>2009 Compliance-Rate*</th>
<th>2010 Compliance-Rate**</th>
<th>2011 Compliance-Rate</th>
<th>2012 Compliance-Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supermarkets</td>
<td>91.74%</td>
<td>91.45%</td>
<td>94.84%</td>
<td>96.51%</td>
</tr>
<tr>
<td>Convenience Stores</td>
<td>89.62%</td>
<td>79.15%</td>
<td>78.54%</td>
<td>84.66%</td>
</tr>
<tr>
<td><strong>Overall Totals</strong></td>
<td><strong>90.39%</strong></td>
<td><strong>84.30%</strong></td>
<td><strong>85.56%</strong></td>
<td><strong>90.30%</strong></td>
</tr>
</tbody>
</table>

*There were four “automatic fail variables” in 2009, which rose to seven from 2010 onwards. In addition, from 2011 onwards, the requirements for one of those variables (i.e. the in-store display of the Code document) were expanded.

**The 2010 audit included the Dunnes Stores, Gala and Costcutter groups for the first time.

More detailed outcomes of the independent audit are shown in Annex 4 for each of the eleven variables in respect of (a) the multiples/supermarket sector and (b) the convenience store sector.
5. COMPLAINTS AND TELEPHONE HOTLINE

5.1 COMPLAINTS RECEIVED DURING THE 12-MONTH PERIOD FROM OCTOBER 2011 TO END-SEPTEMBER 2012

During the period the subject of this compliance-report, the RRAI received a total of 97 complaints. Five complaints were deemed to be not applicable to the RRAI Code or its members. Accordingly, a total of 92 complaints were actually processed by the RRAI. Over half of the processed complaints came from RRAI-members themselves and the remainder from external sources.

Of the 92 complaints processed, 87 related to alleged breaches of the Code, and five related to licensing law issues, such as the alleged sale of alcohol to under-age persons, or proof of age (e.g. where a customer complained that they were refused the sale of alcohol). Complaints regarding licensing law issues were handled by the RRAI Executive. It is important to stress that in the case of any complaint alleging the sale or supply of alcohol to a minor, the RRAI Executive informed the complainant that this is a legal matter which falls outside the RRAI’s remit, and that the appropriate authority to investigate any such alleged incident is An Garda Síochána.

The 87 Code-related complaints were considered by me and in the vast majority of instances, the member involved agreed to rectify the relevant breach of the Code and/or gave an assurance as to future conduct. In the small number of instances where the initial response from the Member concerned was not satisfactory, the RRAI-sanctions-policy was invoked, which led to a satisfactory resolution.

As indicated in paragraph 3.1.4 of this Report, in two cases, the RRAI invoked the sanction of being prepared to initiate a process leading to an objection against the renewal of a store’s liquor licence. In another case, the RRAI implemented the sanction of publishing on its website its finding of a number of Code-breaches by a member. Following examination of the relevant facts, 12 of the 87 Code-related complaints were not upheld.

In addition, it is interesting to note that a number of complaints have been received in the past two years against retailers of alcohol who are not actually members of the RRAI, be they independent mixed traders or stand-alone off-licences. These complaints were not processed as the RRAI has no mandate to do so.

Further details on the complaints that were processed can be seen in Tables 5 and 6 on the next page.
**Table 5: Statistics on Complaints Processed, Broken Down by Source of Complaint**

<table>
<thead>
<tr>
<th>Source of Complaint</th>
<th>No. of Complaints/ October '09 to September '10</th>
<th>No. of Complaints/ October '10 to September '11</th>
<th>No. of Complaints/ October '11 to September '12</th>
</tr>
</thead>
<tbody>
<tr>
<td>External</td>
<td>28</td>
<td>36</td>
<td>35</td>
</tr>
<tr>
<td>Internal (RRAI-members)</td>
<td>30</td>
<td>91</td>
<td>57</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>58</strong></td>
<td><strong>127</strong></td>
<td><strong>92</strong></td>
</tr>
</tbody>
</table>

**Table 6: Statistics on Complaints Processed, Broken Down by Nature of Complaint**

<table>
<thead>
<tr>
<th>Nature of Complaint</th>
<th>No. of Complaints/ October '09 to September '10</th>
<th>No. of Complaints/ October '10 to September '11</th>
<th>No. of Complaints/ October '11 to September '12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merchandising (i.e. in-store display of alcohol)</td>
<td>24</td>
<td>82</td>
<td>58</td>
</tr>
<tr>
<td>In-store display of the Code document</td>
<td>3</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>In-store signage at tills</td>
<td>–</td>
<td>1</td>
<td>–</td>
</tr>
<tr>
<td>Advertising/marketing of alcohol</td>
<td>32</td>
<td>36</td>
<td>28</td>
</tr>
<tr>
<td><strong>Total Code-related complaints</strong></td>
<td><strong>58</strong></td>
<td><strong>120</strong></td>
<td><strong>87</strong></td>
</tr>
<tr>
<td>(one complaint covered 2 items)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Complaints re. licensing law issues</td>
<td>–</td>
<td>7</td>
<td>5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>58</strong></td>
<td><strong>127</strong></td>
<td><strong>92</strong></td>
</tr>
</tbody>
</table>
5.2 **Statistics on General Enquiries Received Through the Telephone Hotline**

As previously mentioned, the RRAI telephone hotline is also used to receive general enquiries both from members of the public and from RRAI-affiliated retailers, and it has proven to be a useful tool in that regard.

In the 12-month period the subject of this report, as well as receiving a number of complaints through its hotline (which are incorporated within the complaints-statistics on Page 19), the RRAI also received and processed 54 hotline-queries.
6. OVERALL JUDGEMENT ON COMPLIANCE

The RRAI Code of Practice has many different components, but the cornerstones of the Code remain the provisions governing the display of alcohol-products in participating stores.

In this year’s audit, the overall compliance-rate of 90.30% is commendable. It also compares very favourably with the 2011 compliance-rate of 85.56%, and the 2010 compliance-rate of 84.30% (2010 being the year when the tougher audit-criteria were first introduced).

The compliance-rate of 96.51% in the supermarket sector represents an extremely high degree of compliance.

The compliance-rate of 84.66% in the convenience store sector is a notable improvement on last year’s rate of 78.54%. It represents an enhanced effort at compliance by the individual stores and the central symbol groups, bearing in mind that the RRAI Member Groups have far less direct control over the management and operation of convenience stores, which are independently owned for the most part.

In general, the 2012 audit-results indicate that the RRAI’s Members continue to be firmly committed to the Code, and by and large, high compliance-rates have been successfully attained by the respective members.

As a whole, the complaint-mechanisms operated effectively during the year. In the majority of cases, where issues were raised regarding specific stores or advertisements, the relevant RRAI-member responded promptly and in a positive manner.

The RRAI’s telephone hotline also continued to provide a useful channel of communication for members of the public and retailers alike, both for lodging complaints and for submitting enquiries about the Code.

Furthermore, in the absence of a statutory code, the introduction of the RRAI’s stronger sanctions-policy and subsequent invoking of those sanctions during the year is evidence of the good faith of the RRAI’s members and their commitment to the Code.

The RRAI has also made its sanctions-policy and its expanded advertising-rules easily accessible for the public on its website.

My overall conclusion is that the key components of the Code were implemented by the RRAI’s members in a satisfactory manner in the past year.
7. PUBLIC CONSULTATION-PROCESS ON THE RRAI CODE OF PRACTICE AND SECTION 9 OF THE INTOXICATING LIQUOR ACT 2008

I submitted my Third Annual Compliance Report to the current Minister for Justice and Equality, Mr Alan Shatter TD, in September 2011. In that Report, my conclusions were as follows:

“In general, the 2011 audit-results are indicative of the continued commitment by the RRAI-members to comply with the Code, and by and large, high-compliance rates have been successfully attained by the respective members. Furthermore, the steps taken this year to widen the range of complaint mechanisms available to the public, and to increase public awareness of the Code, constitute further evidence of the good faith of the RRAI’s members and their commitment to the Code.

In my view, through a combination of the RRAI Code of Practice itself, the RRAI’s advertising rules, the supplementary measures adopted by the RRAI’s members since the Code’s inception, and adherence to all of the above by the RRAI’s members generally, the RRAI has achieved significant and positive changes both to the display and sale of alcohol-products in participating mixed trading premises, and to the advertising of alcohol-products by affiliated retailers.

My overall conclusion is that the key components of the Code have been and continue to be implemented by the RRAI’s members in an acceptable manner.”

Following Minister Shatter’s publication of my Third Annual Compliance Report, and prior to making any decision on whether to commence the structural separation provisions in section 9 of the Intoxicating Liquor Act 2008 or not, the Minister launched a public consultation-process in October 2011 to review the RRAI Code of Practice and to seek the views of interested parties on the following matters:

(i) the findings of the my Third Annual Compliance Report; and

(ii) more generally, the effectiveness of the voluntary approach to implementing structural separation in mixed trading premises.

The Minister said that he also intended to seek the views of the Minister for Health and the Joint Oireachtas Committee on Justice, Defence and Equality before reaching any decision on whether to bring the statutory rules in the 2008 Act into operation.

The deadline for receipt of submissions was 20 December, 2011.
8. DISCUSSIONS ON A POSSIBLE STRENGTHENED RRAI CODE OF PRACTICE UNDER SECTION 17 OF THE CIVIL LAW (MISCELLANEOUS PROVISIONS) ACT 2011

Following their review of the submissions received in the aforementioned public consultation-process, and at the request of Minister Shatter, the Department of Justice and Equality referred suggestions for a strengthened Code of Practice to the RRAI in early 2012. The RRAI responded substantively to those suggestions.

Subsequently, during the course of 2012, the RRAI has been engaged in constructive and detailed dialogue with the Department of Justice and Equality regarding a strengthening of the current RRAI Code of Practice, which would form the basis for a statutory Code under Section 17 of the Civil Law (Miscellaneous Provisions) Act 2011.

Section 17 provides a mechanism to give statutory backing to a code of practice, whereby non-compliance by a retailer with an approved Code could provide a ground of objection to the renewal of that retailer’s liquor licence.

A delegation from the RRAI met with Minister Shatter and representatives from the Department of Justice and Equality on 22 June 2012, to discuss the RRAI’s proposals for a strengthened Code of Practice with statutory backing under Section 17. A decision by the Minister and Government is awaited.

Whilst the RRAI’s internal sanctions-policy represents a tangible effort to confront and deter non-compliance with the Code, the RRAI’s proposals for a strengthened Code to be put on a statutory footing would greatly enhance the existing Code. The RRAI’s position is that a statutory Code under Section 17 is required to act as a deterrent against non-compliance, to provide a greater incentive to all mixed traders to sign up to the Code, and to punish the few who commit persistent serious breaches of the Code. The RRAI firmly welcomed the enactment of Section 17, and had in fact canvassed for the introduction of such legislation for a number of years.

The RRAI’s Members hold the view that Section 9 of the 2008 Act is a blunt instrument which should not be used to address the low levels of non-compliance with the RRAI Code. Their belief is that a statutory Code would be the most effective and proportionate mechanism for penalising the rare individual outlets or members who might persistently – and possibly blatantly – breach the best practice inherent in the RRAI Code.

In addition, the RRAI’s members would point out that of its universe of approximately 2,315 mixed trading stores, an estimated 890 stores hold wine-only licences. Under the wording of Section 9 of the 2008 Act, such stores effectively have a dispensation from the requirements of structural separation. Accordingly, the RRAI’s members argue that it is a major advantage of the Code to have these stores included within the Code-structure. They argue that a statutory Code under Section 17 of the 2011 Act would actually deliver more than the commencement of Section 9, in that a statutory Code would include stores with wine-only licences within its remit, whereas such stores would not be bound by any legal restriction under Section 9.
9. OBSERVATIONS ON OTHER POLICY-RELATED MATTERS

9.1 CO-OPERATION WITH AN GARDÁ SÍOCHÁNA

An Garda Síochána is implementing a campaign for the month of September 2012 to promote public awareness of the Garda Age Card, and at the Gardaí's request, the RRAI Board willingly agreed to support this campaign. The RRAI fully appreciates the valuable role played by the Gardaí in policing the legal sale of alcohol in Ireland, and it is keen to support Garda-initiatives that promote responsible trading.

The RRAI has sponsored 5,000 Garda Age Card posters, which have been distributed to its Members, who have been asked to display the Age Card poster in-store. Again at the Gardaí's request, the RRAI has also emailed all its Member-Groups a document setting out the security features of the Age Card, to assist staff-members when examining the Age Card.

In addition, a link to the Garda Age Card website has been added to the “Links” page of the RRAI’s website.

9.2 REPORT OF THE STEERING GROUP ON A NATIONAL SUBSTANCE MISUSE STRATEGY

The Report of the Steering Group on a National Substance Misuse Strategy was published in February 2012. This Group included representatives from Government Departments (particularly the Department of Health and the Department of Justice and Equality), industry-bodies and interest-groups, and it was chaired by the Chief Medical Officer, Dr Tony Holohan. The Report envisages an integrated approach to substance misuse bringing together policy responses to alcohol use and misuse and to the misuse of other substances.

I comment on some of the Steering Group’s recommendations, in the context of the RRAI Code of Practice, as follows:

• Commencement of Section 9 of the Intoxicating Liquor Act 2008

While the Steering Group acknowledged the visible change achieved in some mixed trading outlets through the implementation of codes of practice, members of the Group maintained their concerns that codes of practice, by their nature, may not be fully adhered to, and they would be in favour of restricting off-sales to specialist off-licences only. Furthermore, whilst the Steering Group noted that the Minister for Justice and Equality was undertaking a review of the voluntary arrangements on structural separation in the mixed trading sector, the majority of the Group nevertheless recommended the commencement of Section 9 of the Intoxicating Liquor Act 2008 in the short term as going some way towards addressing what they see as the easy availability of alcohol.
As already indicated, the RRAI’s members are opposed to the commencement of Section 9 of the 2008 Act, and are convinced that putting a strengthened RRAI Code on a statutory footing would be much more effective.

- **Statutory code of practice for the off-licence sector**

The Steering Group recommended that a statutory code of practice on the sale of alcohol be introduced in the off-licence sector (i.e. specialist or stand-alone off-licences). The Group allocated responsibility for implementing such a Code to the Department of Health. The RRAI Board would urge the Department of Health to proceed with implementing a Code appropriate to the off-licence sector and to putting such a Code on a statutory footing.

**9.3 Proof of Age**

A Garda Age Card is the only identification accepted in law as a defence where a licence-holder is prosecuted for the sale of alcohol to a person under the age of 18 years, even if the licence-holder believed in good faith that a passport, for example, was a valid proof of age.

Whilst the RRAI Code states that the Garda Age Card is the preferred “proof of age” document, in practice, the majority of RRAI-members also accept a passport or driver’s licence as valid proof of age. They do so out of practicality, given that many people in the 18-20 age-bracket do not possess the Garda Age Card, especially young (but adult) foreign tourists.

As highlighted in my Compliance Report last year, the RRAI Board considers that the current legal situation should be amended so that the production of other legitimate proofs of age (such as a passport, driver’s licence or E.U. Member State national identity card) could also provide a licence-holder with a defence in Court if prosecuted for the sale of alcohol to an under-age person. Furthermore, the RRAI Board is gravely concerned that a statutory anomaly continues to exist, whereby these other forms of identification are acceptable under licensing law as proof of age in one instance (i.e. where 18-20 year-olds need to prove their age when in the bar of a licensed premises after 9.00pm), yet they are not acceptable in law as proof of age regarding the purchase of alcohol.

The RRAI re-iterates its view that this is a very significant issue, which is particularly discriminatory towards foreign tourists, and that it now needs to be addressed as a matter of urgency. The RRAI understands that there is a Supreme Court appeal pending in respect of the “proof of age” issue, but this appeal might not be heard until 2015 based on current waiting-times for Supreme Court appeals. Accordingly, the RRAI’s members consider that a short legislative amendment should be introduced to extend “proof of age” status to other legitimate forms of identification (such as a passport, driver’s licence or E.U. Member State national identity card).
ANNEX 1: THE VOLUNTARY CODE AND 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 Lower Baggot Street, Dublin 2  
or by email to: chairman@rrai.ie  
or call the RRAI’s 24-hour telephone hotline on free-phone 1800 84 80 80.

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, Equality 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, Equality and Law Reform, and Health and 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, Equality 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 10.30 a.m. and 10.00 p.m. from Monday to Saturday and between 12.30 p.m. and 10.00 p.m. 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 Justice, 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 SANCTIONS-POLICY

SANCTIONS-POLICY AGAINST MEMBER GROUPS OR MEMBER-STORES THAT ARE IN BREACH OF THE RRAI CODE OF PRACTICE

(As approved by the Board of Directors of RRAI Limited on 13 January 2012)

1. DEFINITIONS

In this document:

The term “Code of Practice” shall encompass the RRAI code of practice and its explanatory guidelines, and the RRAI’s advertising rules (which extend beyond the literal wording of the code and its explanatory guidelines); and

The term “serious breach” is restricted to breaches relating to:

(a) the in-store merchandising or display of alcohol-products, and

(b) the advertising of alcohol-products,

and excludes breaches relating to in-store code-documentation.

Examples of what constitutes a “serious breach” include but are not limited to the following:

(a) having more than one display-area for alcohol-products on the shop-floor (although alcohol-products can in addition be displayed behind the shop-counter, for security reasons, but not in a shop-window);

(b) displaying alcohol-products directly opposite or facing other beverages or food-products, whereby customers cannot get access to those other beverages or food-products without passing through or by alcohol-products (although the “as far as possible” qualification may apply in limited circumstances);

(c) displaying alcohol-products directly adjacent to other beverages or food-products (again, the “as far as possible” qualification may apply in limited circumstances. In addition, the display of alcohol-products back-to-back with other beverages or food-products, or at ninety degrees to other beverages or food-products, can be acceptable);
(d) in larger stores with a net retail area of over 4,000 square feet/372 square metres, displaying alcohol-products within 0.8m of other beverages or food products along a wall, aisle, or row of shelving (once again, the “as far as possible” qualification may apply in limited circumstances, and the display of alcohol-products back-to-back with other beverages or food-products, or at ninety degrees to other beverages or food-products, can be acceptable);

(e) the cross-merchandising of alcohol-products with other beverages or with food-products;

(f) displaying an advertisement for any alcohol-products in the shop-window or at an internal location whereby it is intended to be seen from outside the store;

(g) placing an advertisement in a newspaper, where the amount of space allocated to alcohol-products represents more than twenty-five per cent of the total core-advertising space allocated to products within that advertisement – e.g. placing an alcohol-only advertisement in a newspaper; and

(h) placing an advertisement on radio or television, where the amount of time allocated to alcohol-products represents more than twenty-five per cent of the net time available for products featured within that advertisement – e.g. placing an alcohol-only advertisement with a radio station. As the minimum practical advertising slot for alcohol-products within a broadcast-advertisement is three seconds, the timing restrictions will not apply below this three-second threshold.

2. **UPON WHOM MAY SANCTIONS BE IMPOSED, AND IN WHAT CIRCUMSTANCES?**

2.1 **Distinction between different types of member**

A distinction is to be drawn between:

(a) Member Groups with direct managerial control over their mixed trading stores; and

(b) Member Groups made up of independently-operated mixed trading stores, where the Member Groups in question do not have direct managerial control over the stores concerned.
2.2 Member Groups with direct managerial control over their mixed trading stores

The policy is to impose sanctions against any Member Group with direct managerial control over their mixed trading stores in any of the following cases:

(a) Where a Member Group (or any of its stores) commits persistent and/or repeated serious breaches of the Code of Practice over a period of time. The bona fides of the Member Group or store(s) in question will be taken into account; or

(b) Where a Member Group engages in a systemic serious breach of the Code of Practice across a significant number of its stores in a concentrated period, typically during a holiday-weekend or holiday-period; or

(c) Where a Member Group fails to pay its subscription due to the RRAI in full by the absolute cut-off date agreed by the Board in any given year.

2.3 Member Groups made up of independently operated mixed trading stores

2.3.1 Sanctions against an individual mixed trading store

Where an independently-operated mixed trading store (within a Member Group) commits persistent and/or repeated serious breaches of the Code of Practice over a period of time, the policy is to impose sanctions against the store itself. The bona fides of the store in question will be taken into account.

2.3.2 Sanctions against a Member Group

The policy is to impose sanctions against a Member Group made up of independently-operated mixed trading stores in any of the following cases:

(a) Where the number of stores, within a Member Group, that commit persistent and/or repeated serious breaches of the Code of Practice over a period of time represents two per cent (2%) or more of that Member Group’s total number of mixed trading stores. The bona fides of the Member Group in question will be taken into account; or

(b) Where a systemic serious breach of the Code of Practice occurs across a significant number of a Member Group’s mixed trading stores in a concentrated period, typically during a holiday-weekend or holiday-period; or

(c) Where a Member Group fails to pay its subscription due to the RRAI in full by the absolute cut-off date agreed by the Board in any given year.
3. WHAT SANCTIONS MAY BE IMPOSED?

3.1 Debt-recovery proceedings

Where a Member Group fails to pay its due subscription in full by the absolute cut-off date agreed by the Board in any given year, the Chairperson may write a formal letter to that member indicating that legal proceedings will commence if full payment is not received by the RRAI within a certain time-frame.

Should the subscription or any portion thereof remain unpaid after the deadline set out in the Chairperson's letter, legal proceedings may be instigated against the Member Group concerned for the recovery of the lawful debt due to the RRAI.

The RRAI may also seek to recover its costs for any such legal proceedings from the Member Group against whom the proceedings are taken.

3.2 Expulsion of a non-compliant Member Group, and removal of their representative(s) from the Board of Directors

The RRAI Board may consider expelling any Member Group for serious breaches of the Code of Practice under headings 2.2 and 2.3.2 above.

Under Article 5 of the Articles of Association of RRAI Limited (“the Company”, and/or “the RRAI”), the membership of any Member may be terminated at the Directors’ discretion. Any decision to terminate a membership is subject to the voting requirements set out in Article 61 of the Articles of Association.

Article 61 sets out the Company’s internal rules on voting at board meetings, whereby any questions voted upon require a two-thirds majority in order to be passed.

In addition, Articles 50 and 55 provide the mechanisms for removing a Director of an expelled Member from office. Under Article 50.7, the office of Director shall be vacated if a Director is required in writing by all his co-Directors to resign. Under Article 55, the Company may remove a Director by way of ordinary resolution (provided extended notice of that resolution has been given). Any appointment of an alternate Director automatically comes to an end once the appointer ceases to be a Director.
3.3 Objections to the renewal of the licences and/or to the licence-applications of non-compliant members

Objections to the granting of new licences or to the renewal of existing licences are heard in the District Court.

The main objects clause in the Memorandum of Association of RRAI Limited (the “RRAI”) is to encourage, oversee, promote and verify compliance with the Code of Practice. There is also a general objects clause to do all such things as are incidental or conducive to the aforementioned objects.

It is a reasonable assessment that objecting to the licences of a non-compliant member comes within the remit of the RRAI’s objects clauses, and that therefore, under its own constitution, the RRAI is authorised to make such objections.

(a) Objection to the renewal of an existing off-licence of a non-compliant member

Under the District Court Rules, an objection to the renewal of an off-licence must be made at the Annual Licensing Court for the Court area that the relevant off-licence is situated in. Annual Licensing Courts take place in September in District Courts nationwide.

The Civil Law (Miscellaneous Provisions) Act 2011 became law on 17 June 2011. Section 17 thereof provides for formal approval by the Minister for Justice and Equality of a code or codes of practice to regulate the display, sale, supply, advertising, promotion and marketing of alcohol. Any code of practice that is formally adopted can apply to a chosen class or classes of intoxicating liquor, class or classes of licensed premises, or type of licence. A licence-holder who is not compliant with an applicable approved code may face objections to the renewal of their liquor licence on the grounds of character. The RRAI is engaging with the Department of Justice and Equality on the inclusion of the key elements of its voluntary code within any formally approved code that would apply to mixed trading off-licences.

Under statute-law, including the Civil Law (Miscellaneous Provisions) Act 2011, the Superintendent of the Garda Síochána for the licensing area in which an off-licence is located is the only statutory objector to the renewal of that licence. The RRAI has engaged positively with the Gardaí in the past regarding objections on the grounds of character. It will renew its previous contacts at Commissioner-level, with a view to full co-operation by the Gardaí in any such objections-process.

The RRAI may also send a warning letter to any mixed trading store that persistently or repeatedly commits serious breaches of the Code of Practice. The warning letter will advise the store in question that unless it rectifies existing serious breaches and refrains from further serious breaches, the RRAI may formally recommend to the Gardaí that an objection to the renewal of the store’s licence(s) be lodged in Court on the grounds of character.

(b) Objection to any application by a non-compliant member for a new off-licence

The grounds of objection will depend upon the statutory provision under which an application is made for a new off-licence.
In any application for a full new off-licence, objection can be made on the grounds of the character of the applicant and the suitability of the premises. Moreover, the vast majority of applications for new off-licences are made under section 18 of the Intoxicating Liquor Act 2000, where the grounds of objection are wider again, as follows – the character, misconduct or unfitness of the applicant; the unfitness or inconvenience of the premises; the unsuitability of the premises for the needs of persons residing in the neighbourhood; and/or the adequacy of the existing number of licensed premises of the same character in the neighbourhood.

Likewise, the list of competent objectors is wider in applications for a new off-licence than for the renewal of an existing licence. The following persons can object to an application for a new off-licence:

- Any resident or owner of property in the parish in which the proposed off-licence is located;
- The Garda Superintendent for the area in which the proposed off-licence is located; and
- Any person who would be affected by the decision to grant the licence – the RRAI would presumably fall under this category.

Where serious breaches of the Code of Practice are committed by a Member Group under headings 2.2 or 2.3.2 above, or by an individual store/retailer under heading 2.3.1 above, the RRAI may consider:

(a) formally objecting to any Court-application for a new off-licence by the Member Group or individual retailer in question; and/or

(b) formally recommending to the Gardaí that an objection to the renewal of the licence(s) attaching to the store in question be lodged in Court on the grounds of character.

### 3.4 “Naming and shaming”

With a view to publicly “naming and shaming” any persistently non-compliant Members, the RRAI may:

- Publish details on its website of any finding made by the Board of persistent, repeated, or systemic serious breaches by any of the RRAI’s Members; and
- Issue press releases to the same effect.

The Mature Enjoyment of Alcohol in Society (MEAS) adopts this practice in respect of breaches of its code of practice, and we understand that this garners a certain amount of media coverage, thereby generating negative publicity for the non-compliant Member in question.
4. **Voting at Meetings of the Board of Directors**

In respect of any action proposed herein that would require a vote of the Board of Directors, the RRAI’s internal rules on voting at Board meetings are set out in Article 61 of the Articles of Association of the Company. Article 61 stipulates that any questions voted upon require a two-thirds majority in order to be passed, on the following basis:

<table>
<thead>
<tr>
<th>Number of Directors Present</th>
<th>Number of Votes Required for a Valid Majority</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>7</td>
<td>5</td>
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<tr>
<td>8</td>
<td>6</td>
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<td>9</td>
<td>6</td>
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<td>10</td>
<td>7</td>
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<td>11</td>
<td>8</td>
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<td>12</td>
<td>8</td>
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<tr>
<td>13</td>
<td>9</td>
</tr>
<tr>
<td>14</td>
<td>10</td>
</tr>
<tr>
<td>15</td>
<td>10</td>
</tr>
</tbody>
</table>

Where it is proposed to take any decision on sanctions at a Board meeting, the necessary quorum required to be present is a majority of the Directors.
ANNEX 3: CONSOLIDATED VERSION OF THE RRAI’S EXTENDED ADVERTISING RULES

RRAI ADVERTISING RULES

1. EXTRACT FROM THE RRAI CODE OF PRACTICE

“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.”

2. EXTRACT FROM THE EXPLANATORY GUIDELINES OF THE RRAI CODE OF PRACTICE

“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.”
3. **MEMBERS’ DECISIONS TO TOUGHER CODE-PROVISIONS ON ADVERTISING AND MARKETING** (as set out on pages 16 and 17 of the RRAI Independent Chairperson’s Third Annual Compliance Report, 30 September 2011)

Over time, in the course of implementing the Code, and as certain practical queries on compliance arose, the RRAI Board took a series of decisions to toughen its advertising rules. These decisions were taken in the interests of consistency with the letter and spirit of the original Code, as follows:

(a) **Revised print-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” advertising rule.)

Over time, certain ambiguities emerged in the practical application of these provisions. As a result, the RRAI’s 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. As mentioned in my Compliance-Report last year [i.e. 2010], the Board of the RRAI took the initiative of extending the scope of these advertising restrictions in the interest of enhancing the effectiveness and credibility of the Code. The RRAI Board 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, as set out below.

(b) **Newspaper inserts, supplements, flyers and mail-shots**

The RRAI 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 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.
(c) **Outdoor advertising**

The RRAI agreed the following commitments regarding outdoor advertising:

- Any advertisement on billboards, 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 the RRAI’s member-groups.

(d) **Broadcast-advertising**

The Code stipulates that the RRAI’s members undertake not to commission any alcohol-only radio or television advertising. To avoid ambiguity, the RRAI Board agreed that any advertisements featuring alcohol products commissioned by its members and broadcast on radio or television 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, the time allocated to 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 is three seconds, the timing restrictions do not apply below this three-second threshold.

- In 2011, in consultation with the Alcohol Marketing Communications Monitoring Body, the RRAI Board agreed that alcohol-related advertising for RRAI-members should not be broadcast during “family breakfast time”, which runs from 6:00am to 10:00am daily. This mirrors the existing broadcasting industry codes, which already prohibit the broadcast-advertising of alcohol during family breakfast time. As RRAI-members do not have direct control over broadcasters’ advertising schedules, the onus is on the broadcasters themselves to ensure that this rule is adhered to, but RRAI-members nonetheless support the principle that alcohol-related advertising should not be broadcast during family breakfast time.
## ANNEX 4: RESULTS OF RRAI ANNUAL INDEPENDENT AUDIT OF COMPLIANCE 2012 BY SUPERMARKET SECTOR AND CONVENIENCE STORE SECTOR

<table>
<thead>
<tr>
<th>Retail Audit Question/Variable Measured</th>
<th>Supermarket Compliance</th>
<th>Convenience Store Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Q1.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Is the Code of Practice document on conspicuous display within the store (in A3 size)?</td>
<td>99.42%</td>
<td>96.30%</td>
</tr>
<tr>
<td>(b) If the store has a net retail area of over 4,000 sq feet, is there more than one A3 copy of the Code on display?</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>(c) Does each copy of the Code display the name and address of the licence–holder?</td>
<td>99.42%</td>
<td>97.35%</td>
</tr>
<tr>
<td>(d) Does each copy of the Code display the RRAI telephone hotline information?</td>
<td>99.42%</td>
<td>94.71%</td>
</tr>
<tr>
<td><strong>Q2.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is the in-store advertising of alcohol products confined to the area in which alcohol products are displayed, and not in windows or at other locations where it is intended to be seen from outside the premises?</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td><strong>Q3.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is the display of alcohol products confined to one part of the premises whereby there is only one alcohol display-area in the premises?</td>
<td>100%</td>
<td>98.41%</td>
</tr>
<tr>
<td>(* In addition to the main alcohol display-area, alcohol can also be displayed behind the counter for security reasons, but not in a shop-window.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Q4.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is the position of alcohol products on display, as far as possible, only in a part of the premises which customers do not have to pass through or by, in order to obtain access to other beverages and food products?</td>
<td>98.84%</td>
<td>94.18%</td>
</tr>
<tr>
<td><strong>Q5.</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>As far as possible, are alcohol products separated from other beverages and food products?</td>
<td>98.84%</td>
<td>94.18%</td>
</tr>
<tr>
<td>Question</td>
<td>Compliance Rate</td>
<td></td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>-----------------</td>
<td></td>
</tr>
<tr>
<td>Q6. Is a copy of the in-store briefing document for staff-members held in-store?</td>
<td>98.84%</td>
<td></td>
</tr>
<tr>
<td>Q7. Have all staff-members engaged in the sale and display of alcohol been briefed on the Code of Practice?</td>
<td>99.42%</td>
<td></td>
</tr>
<tr>
<td>Q8. Can you confirm that alcohol-related advertising materials produced by the retailer and displayed in-store are not aimed at minors, do not in any way glamorise the consumption of alcohol, and do not encourage the excessive consumption of alcohol?</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>Q9. Are alcohol products only sold at clearly designated check-out points?</td>
<td>92.44%</td>
<td></td>
</tr>
<tr>
<td>Q10. Are these check-out points or the alcohol display-area monitored by CCTV?</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>Q11. Is the purchase of alcohol products at unsupervised self-service checkouts not permitted? (*Tick “yes” if the purchase of alcohol at unsupervised self-service check-outs is not permitted.)</td>
<td>100%</td>
<td></td>
</tr>
</tbody>
</table>

If a member-store failed any part of Question 1, or any of Questions 2 to 7, the store failed the audit.

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