



To: Mr Alan Shatter TD
Minister for Justice & Equality

30th September 2011

I hereby submit the third 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.

A handwritten signature in black ink, reading 'Padraic A. White', is positioned above the printed name.

Padraic A White
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THIRD 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 2011**

Padraic White, *Independent Chairperson*
Responsible Retailing of Alcohol in Ireland Ltd
30 September 2011

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1. INTRODUCTION AND BACKGROUND

This Third Annual Compliance-Report is being submitted to the Minister for Justice & 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.

By way of background, Section 9 of the Intoxicating Liquor Act of 2008 provides for the structural separation of alcohol from other beverages and food products in mixed trading premises, such as supermarkets, convenience stores and service-stations.

Under Section 9, within a year of its legal commencement, each mixed trading retailer would be obliged to ensure that:

- the display and sale of alcohol are confined to a part of their store that is separated from the rest of the premises by means of a *wall or similar barrier*;
- access can only be gained to this separate structural area *through a door, gate, turnstile or similar means of access*;
- the only place within the store that customers can pay for alcohol is *at a counter or till within this separate structural area*; or
- the only alternative permitted for retailers with a full off-licence is to confine the beers and spirits to an area where customers cannot access the products themselves, such as behind a counter.

The legislation presents a clear picture of what is typically envisaged by “structural separation”: alcohol is to be housed in a special area of the store that is physically separated from the rest of the store by walls or substantial barriers, and this special area can only be entered by its own door/gate/turnstile. Any intended liquor-purchases can only be paid for at a dedicated checkout within this structurally separate area. [Mixed trading stores which only hold a wine off-licence, and do not hold a licence for spirits or beers, are exempt from the provisions of Section 9.]

When the draft legislation was published, the mixed trading retail sector made the case to the then-Minister for Justice, Equality & Law Reform, Mr Dermot Ahern TD that the same policy objectives could be achieved on a voluntary basis. In 2008, the mixed trading retail sector estimated the capital cost of the physical construction and equipment that would be required under Section 9 at some €200 million and operating costs (in particular, the requirement to have dedicated checkout staff within the separate structural area) as costing many millions more in payroll annually.

The Minister authorized discussions to proceed and a Code of Practice on the responsible display and sale of alcohol products in mixed trading premises was agreed with the Minister and Department of Justice, Equality & Law Reform, and the Minister and Department of Health & Children. The mixed trading retail sector was represented in that consultation-process by Retail Ireland, the Convenience Stores and Newsagents Association (“CSNA”) and RGDATA.

The Code of Practice that emerged is now commonly known as the RRAI Code of Practice, and comprises the following two elements, which taken together, form the full 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 Code of Practice and the Explanatory Guidelines are both contained in Annex 1 to this Report.

The Code formally came into effect on 1 December 2008.

The decision of the then Minister for Justice, Equality & Law Reform, Mr Dermot Ahern TD, to proceed with the agreed Code and not commence Section 9 of the Act came with conditions, as he made clear in the Dáil and subsequently at the public launch of the Code in May 2009, when he stated:

“During the passage of the Intoxicating Liquor Bill 2008, I agreed to allow the mixed trading sector to implement the concept of structural separation on a voluntary basis. If sector-wide compliance to this Code can be demonstrated, I will not commence Section 9 of the Act. However, I will have no hesitation in taking this step if the Code’s standards are not met. I look forward to receiving the first report assessing the sector-wide implementation of this Code in September 2009.”

The participating mixed trading groups formed the company, Responsible Retailing of Alcohol in Ireland Limited (“the RRAI”), in order to oversee and monitor the implementation of the Code. I was appointed as Independent Chairperson of the Company with effect from January 2009.

The RRAI established a web-site, www.rrai.ie, where the text of both the Code of Practice and the Explanatory Guidelines are available, along with a list of members of the RRAI. The website also contains a facility that allows members of the public to submit complaints to the Chairperson concerning any perceived breaches of the RRAI Code of Practice.

It is notable that the organizational arrangements and processes created to implement the RRAI Code of Practice are fundamentally more transparent and publicly accountable than normal self-regulation or voluntary codes.

Firstly, the Code is subject to independent monitoring, as an annual independent audit of compliance is conducted nationwide by recognised experts in the field of retail auditing.

Secondly, the operation of the Code is formally subject to Ministerial review on an annual basis. I present an independent Annual Compliance-Report, incorporating the results of the independent audit, to the Minister for Justice & Equality. The Compliance-Report is published on the website of the Department of Justice & Equality.

Thirdly, the Annual Compliance-Report is not subject to approval by the Board of the RRAI. This is in keeping with the provisions of 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".

Fourthly, as part of the agreed process, 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.

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 RESPECTIVE NUMBERS OF LICENSED STORES

MEMBER	FULL OFF-LICENCES*	WINE-ONLY OFF-LICENCES	TOTAL NO. OF LICENSED STORES
ADM Londis	93	88	181
Aldi	78	2	80
BWG (Spar, Eurospar, and Mace)	208	421	629
Costcutter	43	110	153
Dunnes Stores	93	8	101
Esso	30	5	35
Gala	14	170	184
Lidl	123	0	123
Marks & Spencer	6	15	21
Musgrave (Centra and SuperValu)	515	143	658
Superquinn	25	0	25
Tesco	126	7	133
Topaz	13	89	102
TOTAL	1,367	1,058	2,425

**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 2011 independent audit of compliance. Between them, the 13 groups account for approximately 2,425 mixed trading stores, which represents the vast majority of licensed stores in the mixed trading sector.

In September 2011, the Daybreak chain of some 150 stores which are part of the Musgrave Group, indicated their intention of joining the RRAI and complying with the Code.

The RRAI's members fund the operation of the company, including the cost of the annual independent audit, by way of levies agreed annually by the company. The levies are allocated in proportion to the number and type of licensed premises affiliated to each member.

2.2 ASSOCIATE-MEMBERSHIP OF THE RRAI

In 2010, the RRAI explored the viability of integrating the remaining independent mixed trading retailers into the Code process. Two hundred non-affiliated independent mixed trading stores were identified, using information supplied by the Revenue Commissioners, 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. Only four independent mixed traders applied for associate-membership, and their applications were accepted.

The four associate-members are:

- Giles Brothers, Longwood, Co Meath;
- Handy Stores, Main Street, Killarney, Co Kerry;
- Leap Service Station, Droum, Leap, Co Cork; and
- Letterfrack Country Shop, Connemara, Co Galway.

Although independent retailers' share of the alcohol market within the mixed trading sector is small, the very low level of associate-membership is clearly disappointing.

As a result, in the past year, the RRAI has continued to press for the introduction of legislation to give statutory backing to a voluntary code of practice on the sale and display of alcohol that would apply to all mixed trading premises, and not merely to all RRAI-members.

The RRAI welcomes the recent enactment of the Civil Law (Miscellaneous Provisions) Act 2011. Section 17 thereof allows the Minister for Justice & Equality to formally approve a code or codes of practice on the display, sale, supply, advertising, promotion or marketing of intoxicating liquor, whereby any non-compliance with such an approved code or codes by a licence-holder could lead to an objection against the annual renewal of their liquor licence(s) on the grounds of character.

Currently, the RRAI is participating in consultations initiated by the Department of Justice & Equality regarding approved codes under Section 17 of the new Act. The RRAI advocates that a formally approved code of practice apply to all mixed trading retailers and that a code for non-mixed trading retailers of alcohol – typically, specialised off-licence stores – be put in place.

The Civil Law (Miscellaneous Provisions) Act 2011 is addressed in further detail in part 9.3 of this report.

3. PREVIOUS ANNUAL COMPLIANCE-REPORTS

I submitted my first Annual Compliance-Report to the then-Minister, Mr Dermot Ahern TD, in September 2009, with the observation that:

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

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

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

[the increase in membership referred to above relates to Costcutter, Dunnes Stores and Gala all joining the RRAI in late-2009].

In my second Annual Compliance-Report to the Minister for the period to 30 September 2010, my overall conclusion was that:

“the key components of the Code have been implemented in an acceptable manner”.

Minister Ahern subsequently requested in December 2010 that the RRAI:

“consider measures aimed at raising the profile of the Code, and in particular, establishing a ‘hotline’ which would give customers a more readily available means of access to the complaints system.”

The RRAI acted upon this request and launched a telephone hotline in March 2011 for receiving complaints and general enquiries. Further details on the telephone hotline are contained in part 4.1 of this report.

This report is the first Annual Compliance-Report to be submitted to the current Minister, Mr Alan Shatter TD.

Minister Shatter has previously indicated his intention to seek the views of interested bodies on the findings of this year’s RRAI Compliance-Report, and on the voluntary approach to implementing the objective of structural separation in mixed trading premises, prior to taking any decision on whether to commence the structural separation provisions in Section 9 of the Intoxicating Liquor Act 2008 or not. The RRAI welcomes Minister Shatter’s reasoned approach and will play a positive and constructive role in any such consultation-process.

4. STRENGTHENING OF THE RRAI CODE AND INCREASING PUBLIC AWARENESS OF THE CODE

The RRAI Code of Practice has been strengthened since its introduction through a range of additional measures voluntarily adopted by the members. The requirements of the Code on its members have been made more rigorous from year to year, primarily through the motivation of members to meet the spirit of the Code. The RRAI has also taken major steps to increase public awareness of the Code, and to widen the channels of communication whereby members of the public can submit queries or complaints regarding the operation of the Code. These measures are set out in part 4 of this report below.

The RRAI Board has also defined more clearly and extended the advertising rules, to ensure compliance with the spirit of the Code, and this topic is specifically addressed in part 5 of this report.

Finally, the RRAI Board has raised the bar for the annual audit of compliance higher each year, and this particular issue is examined in more detail in part 6 of this report.

4.1 INTRODUCTION OF THE RRAI TELEPHONE HOTLINE

The RRAI telephone hotline has been operational since March 2011, on free-phone number 1800 84 80 80. It provides an alternative and readily available means for members of the public to submit complaints about breaches of the RRAI Code of Practice, free of charge, for adjudication by the independent Chairperson. Complaints could previously be submitted by post, by email and through the RRAI website, and those avenues of communication remain available to prospective complainants.

The main elements of the hotline service are as follows:

- Calls are answered by a person in a call-centre in Ireland, rather than by an automated service, so that the precise details of each complaint or query can be noted;
- The hotline is open to callers 24 hours per day, 7 days per week, 365 days per year;
- The hotline operates on a free-phone number, whereby the caller incurs no charge for calling the hotline;
- The call-centre logs the contact details of each complainant, the premises to which the complaint relates, the date and time of the alleged breach of the RRAI Code of Practice, and the full circumstances of the alleged breach;
- The hotline is also used to receive general RRAI-related queries and enquiries both from members of the public and from affiliated retailers;

- The call-centre relays each complaint/query by email to the RRAI Executive within minutes of the complaint/query being received, enabling the RRAI to process each complaint/query in a timely fashion; and
- The RRAI Chairperson and Executive keep the identities of external complainants confidential.

4.2 PUBLIC INFORMATION CAMPAIGN TO INCREASE PUBLIC AWARENESS OF THE RRAI CODE

In June 2011, the RRAI launched an extensive public information campaign to raise public awareness of the RRAI itself, its Code of Practice, and its new telephone hotline. The main aspects of the campaign were as follows:

- ***Radio Advertising Campaign***

A 30-second radio commercial communicated the message that (a) the RRAI promotes the responsible display and sale of alcoholic drinks in participating convenience stores, supermarkets and service stations, (b) people can view the Code of Practice in participating shops, or on the RRAI website, “rrai.ie”, and (c) people can make a complaint about any breach of the RRAI Code by calling the RRAI’s 24-hour telephone hotline on free-phone 1 800 84 80 80.

To maximise the audience reached, and the duration of the message, the broadcasting of the commercial was spread out over time, during the months of June, July and August 2011, on RTE Radio One, Newstalk, and the UTV Radio Network (7 local radio stations).

Between the various radio stations selected, the commercial was broadcast a combined total of 222 times. Based on the radio-listenership figures available at the time, the RRAI’s media consultant estimates that overall, the radio advertising campaign would have reached a minimum of 55% of “All Adults Nationally” and that they would have heard the commercial at least 8 times each over the full period of the campaign.

- ***Press Advertising Campaign***

A print advertisement was published in colour in a number of national newspapers, to complement the radio campaign, and communicated the following message:



Again, to maximise the audience reached, and the duration of the message, the advertisement was placed a combined total of eleven times in various national newspapers, and was spread out over time during the months of June and July 2011. The advertisement was published three times in the Irish Independent, twice in the Irish Times, twice in the Irish Examiner, twice in the Star, and twice in the Irish Daily Mail.

- ***RRAI Website***

A press release was posted on the RRAI website in June 2011 to highlight the recent introduction of the RRAI telephone hotline. This press release was also circulated to the main national print and broadcast media outlets. In addition, relevant sections of the RRAI's website were updated to reflect the introduction of the RRAI telephone hotline. In both the "Complaints Procedure" and the "Contact Us" sections of the website, the hotline is referred to, with the hotline number itself (**1800 84 80 80**) and the fact that it is a free-phone number both displayed in bold font, to ensure that this information is clearly visible to viewers.

Furthermore, both the in-store display-version of the RRAI Code of Practice and the In-store Briefing Document for Staff-members were updated to include reference to the telephone hotline, and these documents can be freely downloaded and printed from the RRAI website.

4.3 IMPROVEMENTS IN THE IN-STORE VISIBILITY OF THE CODE

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. Whilst stores could continue to display extra copies in A4 size if they wish, there must be an A3 copy of the Code on display in every RRAI-affiliated store.

Furthermore, in 2011, the RRAI Board determined that two A3 copies of the Code must be displayed in larger stores (i.e. stores that are the size of a standard supermarket or greater). The RRAI Board agreed that any store with a net retail area of over 4,000 square feet or 372 square metres constitutes a "larger store" that must display at least two A3 copies of the Code in-store.

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 the customer. It must be clearly displayed either at or near the entrance to the store in a manner that makes the Code clearly visible to the customer when entering or upon entering the store, and/or in or near the alcohol section of the store. The customer's view of the Code must not be unduly obstructed or impeded.

In addition, to highlight the RRAI's telephone hotline, each A3 copy of the Code must also contain the telephone hotline details in the "Complaints Procedure" section of the document. Members have been provided with updated documentation to facilitate this. Reference has been made to the hotline by the insertion of the following text at the end of the complaints section of the Code: "or call the RRAI's 24-hour telephone hotline on **free-phone 1800 84 80 80.**" The word "free-phone" and the number itself are printed in bold font to ensure that they are clearly visible on the in-store copies of the Code.

Finally, the PDF version of the Code on the RRAI's website has also been updated to include the same reference to the hotline.

4.4 CLEARER DEFINITIONS OF THE DISPLAY PROVISIONS OF THE RRAI CODE

The Code has three separate but inter-related provisions which govern the physical display of alcohol products in members' stores:

- Alcohol products will be confined to one part of the premises (although alcohol products may also be displayed behind the counter for security reasons);
- Alcohol products will, as far as possible, be separated from other beverages and food products; and
- 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.

A great deal of experience has been accumulated since December 2008 in the practical application of these display provisions in stores large and small and with a vast range of existing store-formats.

In 2011, the RRAI finalized updated guidelines based on this experience. These guidelines comprise the relevant extracts of the Code documents along with illustrative drawings that depict specific instances of compliance and conversely, non-compliance, in order to help retailers ensure that their specific store-layouts comply with the Code.

4.5 STAFF-TRAINING

The RRAI Code of Practice stipulates that:

“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.”

Compliance with the training commitments in the Code reflects good practice in the sector. To this end, the RRAI has produced and circulated a briefing document for its members’ staff and more detailed and targeted training manuals as follows:

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

Both training documents are supported by “Question & Answer” sections to confirm that those employees involved in the sale and display of alcohol clearly understand their responsibilities. The training manual also includes a form for the employees to sign to confirm their understanding of the sale-of-alcohol requirements outlined in the manual. RRAI-members have incorporated the use of these training manuals into their own internal training procedures for their organisations. Copies of both training manuals are available for download from the RRAI’s website.

The annual audit specifically checks if the in-store briefing document for staff-members is held in-store and whether all staff-members have been briefed on the Code.

4.6 GIFT-PACKS AND HAMPERS

Several stakeholders held the view that the RRAI’s policy concerning gift-packs and hampers, particularly cheese and wine hampers displayed in-store at Christmas, needed greater clarification. The RRAI Board adopted the position that the display of gift-packs or hampers which contained both alcohol and food products would be in breach of the cross-merchandising provisions of the Code. This interpretation was considered to be consistent with the negotiations with the Departments leading up to the implementation of the Code.

5. MEMBERS' DECISIONS TO TOUGHEN CODE-PROVISIONS ON ADVERTISING AND MARKETING

5.1 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, 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.

5.2 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.

5.3 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.

5.4 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.

6. THIRD INDEPENDENT AUDIT OF COMPLIANCE

The third annual independent audit of compliance was carried out from 11 to 22 July 2011.

6.1 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 independent annual 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 re-iterated to FMI their independent role in making assessments of compliance, and I have emphasized both to FMI themselves and to the RRAI Board the ultimate independence of FMI in any judgments they make as auditors.

6.2 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 2011, a national audit universe of 360 stores was selected. This means that the overall number of stores included in the 2011 audit represents almost 15% of the total number of RRAI-affiliated stores.

The 2011 audit of 360 stores covered 155 multiples/supermarkets (representing almost 23% of member-stores in that sector) and 205 convenience stores (representing almost 12% of member-stores in that sector).

6.3 INCREASE IN THE STANDARDS REQUIRED TO PASS THE AUDIT

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 positively and also score at least four of the remaining seven questions 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 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 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 & Law Reform in 2010. For ease of reference, such variables are labelled herein as “automatic fail variables”. The number of automatic fail variables thus increased from four in 2009 to seven in 2010.

In 2011, the bar was raised higher again to take account of further measures implemented by the RRAI in the intervening 12-month period. In the 2011 audit, the automatic fail variables regarding the in-store display of the Code document were expanded.

For ease of reference, the audit-form used by FMI in the 2011 audit, and which sets out the 11 variables audited, is illustrated in the table overleaf.

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 did not display the Code document or only displayed it 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. In addition, 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.

TABLE 2: AUDIT-FORM USED BY THE AUDITORS IN THE 2011 AUDIT OF COMPLIANCE

QUESTIONNAIRE FOR ANNUAL AUDIT – JULY 2011

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

CALL INFORMATION	
Client Ref:	FMIACOP _ _ _
Store Name and Address:	_____

Store Contact Name:	
Store Contact Position:	
Date of Visit:	
Time of Visit:	
Tick appropriate size of store before commencing audit:	
Net retail area of over 4,000 Sq Feet/372 Sq Metres	<input type="checkbox"/>
Net retail area of up to 4,000 Sq Feet/372 Sq Metres	<input type="checkbox"/>
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 <input type="checkbox"/> No <input type="checkbox"/>
(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 <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
(c) Does each copy of the Code display the name and address of the licence-holder?; and	Yes <input type="checkbox"/> No <input type="checkbox"/>
(d) Does each copy of the Code display the RRAI telephone hotline information?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<i>(Parts (a), (c), and (d) must all be scored positively for a store to pass Question 1, along with part (b) where applicable.)</i>	

Q2. 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?

Yes ☐ No ☐

Q3. Is the display of alcohol products confined to one part of the premises whereby there is only one alcohol display-area in the premises?

Yes ☐ No ☐

**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.*

Q4. 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?

Yes ☐ No ☐

Please tick one of the following options that best describes where the alcohol products are displayed within the store: (for explanatory purposes)

1. At the entrance to the store.

☐

2. Directly opposite or facing food or beverage products primarily consumed by children.

☐

3. Directly opposite or facing fresh food or beverage products (fruit/veg, dairy, meat) or preserved/packaged/frozen food or beverage products.

☐

4. Towards the middle of the premises.

☐

5. On a perimeter wall and late in the customer's journey through the store.

☐

6. At the rear of the premises.

☐

Q5. As far as possible, are alcohol products separated from other beverages and food products?

Yes ☐ No ☐

Q6. Is a copy of the in-store briefing document for staff-members held in-store?

Yes ☐ No ☐

Q7. Have all staff-members engaged in the sale and display of alcohol been briefed on the Code of Practice?

Yes ☐ No ☐

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?

Yes ☐ No ☐

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

PHOTOGRAPHS AND COMMENTS

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

Yes ☐ No ☐

Audit Comments: _____

SIGN-OFF

Auditors Name:

Store Contact Signature:

6.4 OUTCOMES OF THE 2011 INDEPENDENT AUDIT OF COMPLIANCE

The top-line result of the 2011 audit is that 94.84% of multiples/supermarkets and 78.54% of convenience stores passed the audit. Of the 360 stores audited, 308 passed and 52 failed, resulting in an overall compliance-rate of 85.56%. This compares favourably with the overall compliance-rate of 84.30% in 2010, particularly considering that the audit requirements were more stringent this year.

TABLE 3: TOP-LINE AUDIT RESULTS

MIXED TRADING SECTOR	COMPLIANCE-RATE/%	NUMBER OF LICENSED STORES OF RRAI-MEMBERS	NUMBER OF STORES IN SAMPLE AUDIT
Supermarkets	94.84%	675	155
Convenience-Stores	78.54%	1,750	205
OVERALL TOTALS	85.56%	2,425	360

In the supermarket sector, those scoring 100% compliance were Aldi and Lidl, while Tesco achieved 96.55% compliance, Supervalu (Musgrave Group) achieved 93.33% compliance, and Dunnes Stores achieved 91.67% compliance. In the convenience-stores sector, where management-control is less direct, particularly good results were achieved by Esso with 100% compliance, Topaz with 92.31% compliance, Centra (Musgrave Group) with 84.91% compliance, Londis with 82.61% compliance, and Spar (BWG Group) with 82.22% compliance. It should also be noted, as mentioned earlier, that the automatic fail variables were expanded this year in respect of the in-store display of the Code document.

I would draw attention to two other analyses of the audit-results:

(i) Display Provisions

Questions 2-5 inclusive deal with the core display provisions, and the overall compliance-rate for Questions 2-5 combined was 91.94%, with the multiples/supermarkets achieving 97.42% and the convenience-stores 87.80%;

(ii) Documentation

If all stores had the required documentation in-store (Questions 1 and 6), the overall compliance-rate would have risen from 85.56% to 93.61%. Thus, with more focus in future on this aspect, members can enhance the compliance-rate very significantly.

More detailed outcomes of the independent audit are shown in Annex 2 for each of the eleven variables in respect of (a) the multiples/supermarket sector and (b) the convenience-store sector.

7. PROCESS FOR HANDLING COMPLAINTS AND ENQUIRIES

7.1 COMPLAINTS-HANDLING PROCESS

An essential element of the Code is the complaints-handling process, whereby members of the public can formally submit a complaint where they feel that a provision of the RRAI Code is being breached by an RRAI-member or an RRAI-affiliated retailer. The basic principle relating to in-store issues is that complaints should be brought to the attention of the store-manager in the first instance. However, if the issue is not resolved to the customer's satisfaction, the customer can submit a formal complaint to the RRAI. Complaints may also be filed internally by RRAI-members themselves regarding perceived breaches of the Code by other members. Complaints are adjudicated on by the Independent Chairperson, who has complete autonomy in this area.

As alluded to earlier, this year has seen the launch of the RRAI's telephone hotline and the roll-out of an extensive public information campaign to raise awareness of both the Code itself and the new telephone hotline. The hotline can be used by callers to register complaints and/or general enquiries.

In 2011, the RRAI Board also made minor adjustments to the complaints-handling process, in order to streamline the process, and a copy of the revised process is included in Annex 3 to this Report. The complaints-handling process seeks to turn around complaints in no more than 15 working days (i.e. generally three weeks).

7.2 STATISTICS ON COMPLAINTS FOR 12-MONTHS UP TO 30 SEPTEMBER 2011

During the period the subject of this compliance-report, there has been a substantial increase in the number of complaints received when compared with the previous year's total of 58 complaints. Over two-thirds of the complaints came from RRAI-members themselves and the remainder from external sources, such as individuals and licensed-trade sources.

From the beginning of October 2010 to the end of September 2011, the RRAI received 143 complaints in total. Of these, 16 complaints were deemed to be either invalid or not applicable to the RRAI Code, 120 complaints specifically related to the Code, whilst 7 complaints primarily concerned licensing law issues (namely the sale of alcohol outside the legally permitted hours, the sale of alcohol to under-age persons, and the sale of alcohol without a licence), but were processed nonetheless. Accordingly, a total of 127 complaints were actually processed by the RRAI.

Further details on the complaints received can be seen in tables 4 and 5 below.

TABLE 4: COMPLAINTS-STATISTICS BROKEN DOWN BY SOURCE OF COMPLAINT

SOURCE OF COMPLAINT	NO. OF COMPLAINTS/ OCTOBER '09 TO SEPTEMBER '10	NO. OF COMPLAINTS/ OCTOBER '10 TO SEPTEMBER '11
External	28	36
Internal (RRAI-members)	30	91
TOTAL	58	127

TABLE 5: COMPLAINTS-STATISTICS BROKEN DOWN BY NATURE OF COMPLAINT

NATURE OF COMPLAINT	NO. OF COMPLAINTS/ OCTOBER '09 TO SEPTEMBER '10	NO. OF COMPLAINTS/ OCTOBER '10 TO SEPTEMBER '11
Merchandising (i.e. in-store display of alcohol)	24	82
In-store display of the Code document	3	1
In-store signage at tills	0	1
Advertising/marketing of alcohol	32	36
Licensing-law issues	0	7
TOTAL	58 (ONE COMPLAINT COVERED 2 ITEMS)	127

Complaints were considered by me and in the vast majority of instances, they were either resolved or commitments were received from members to rectify the breaches of the Code that were the subject of complaint. Following examination of the relevant facts, so far, 12 of the 127 complaints in 2011 were not upheld.

7.3 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 also from RRAI-affiliated retailers, and it has proven to be a useful tool in that regard. To date, the RRAI has received (and processed) the following number of enquiries through the hotline since its introduction – 10 external queries from third parties and 53 internal queries from RRAI-affiliated retailers or persons acting on their behalf.

8. 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.

As detailed in part 6 of this report, the threshold for passing the annual independent audit has been raised higher each year since the commencement of the audits in 2009. In this year's audit, the compliance-rate of the supermarket sector was 94.84% and represents a very high degree of compliance. The compliance-rate of 78.54% for the convenience-store sector is in my view acceptable, given that member groups have far less direct control over the management and operation of convenience-stores which are all independently owned.

There were individual breaches of the limits on alcohol-related advertising in both print and broadcast media, and these have been the subject of discussion with the individual companies in the interests of future compliance.

On the whole, the complaint mechanisms operated effectively during the year, and in most instances where specific issues at store level were raised on my behalf, the RRAI-member concerned responded in a positive fashion. It must be noted, nonetheless, that during the 12-month period in question, a very small minority of members were inordinately slow to respond adequately to complaints made against them, and moving forward, the RRAI Board is to consider its options in how to best deal with unduly slow or inadequate responses by members to complaints. The recent enactment of the Civil Law (Miscellaneous Provisions) Act 2011 should assist in that regard, as this law treats non-compliance with any code formally approved under it as a ground for objecting to the renewal of a liquor licence on the grounds of character.

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.

The recent enactment of Section 17 of the Civil Law (Miscellaneous Provisions) Act 2011 is also highly relevant, as it will provide a tangible means of sanction in the event of non-compliance with a formally approved code of practice (this Act is considered in further detail in paragraph 9.3 below). This new legislation provides a mechanism to discipline non-compliant retailers in isolation, whereas the commencement of Section 9 of the Intoxicating Liquor Act 2008 would apply to all mixed-traders and would thereby unjustly penalise the overwhelming majority that comply with the RRAI Code of Practice. The RRAI had pressed strongly for providing a statutory basis for agreed Codes of conduct relating to the sale of alcohol, and it looks forward to the implementation of the new statutory Code-regime.

In a membership base of over 2,400 stores, there will in any year be one-off breaches of the RRAI Code which are inadvertent and once identified, there is a bona fide commitment to avoid a repeat, for example, where a particular print-advertisement breaches the limit of 25% of alcohol product content.

There will also be individual small stores where it is extremely difficult to meet all the display criteria to a satisfactory level due to space constraints.

However, the RRAI-members are also looking at the range of sanctions open to it as a company against a multiple group, convenience-store group or individual convenience-stores in the following circumstances:

- persistent or repeated breaches of the Code;
- systemic breaches of the Code across a significant number of stores in a concentrated period of time.

The possible sanctions being examined include expulsion of the Group or an individual convenience-store from the RRAI, and objections to the renewal of a liquor licence or to the granting of a new licence using the legal mechanisms available.

This initiative by RRAI-members reflects a collective desire to sustain and enhance the credibility of the Code into the future.

9. OBSERVATIONS ON RELATED MATTERS

9.1 THE RRAI CODE IS ONE ELEMENT OF A MORE COMPREHENSIVE APPROACH TO ALCOHOL-ABUSE

The RRAI Code of Practice has achieved visible and manifest changes in the way alcohol is displayed, sold and advertised among the 2,400 participating stores in counties and towns across Ireland. As a general rule, no longer do participating stores advertise or display alcohol in the windows, have multiple displays of alcohol throughout a store, or place advertisements dominated by alcohol products in the Sunday newspapers. Alcohol-only advertisements on billboards and at bus shelters by member-retailers are a thing of the past. (Individual instances of non-compliance are dealt with under the RRAI-procedures.)

However, the damage to public health from alcohol-abuse remains severe and unacceptable in Ireland.

The trends and the health effects have been well charted by the Department of Health and voluntary organisations such as Alcohol Action Ireland.

The RRAI-initiative by the retail sector is one, although an important, part of a more comprehensive approach to mitigating the public health effects of alcohol-abuse.

The stand-alone off-licences, the vintners, and the drinks companies are other significant trade participants. There are related issues outside the scope of the RRAI Code which are part of the national discussion on ways to combat alcohol-abuse, for example, special promotions of alcohol products and minimum-pricing options.

9.2 INCORPORATING ADDITIONAL MEASURES ADOPTED BY THE RRAI'S MEMBERS INTO THE FORMAL CODE

The RRAI Code of Practice emanated from discussions between the Department of Justice, Equality & Law Reform and the Department of Health & Children, on behalf of their respective Ministers, and representatives of the mixed trading sector. Since the activation of the Code, the RRAI Board has extended the restrictions on the advertising of alcohol products by its members. I recommend that these additional restrictions be incorporated into an amended version of the Code in agreement with the two Departments. This could be done by way of an approved code under Section 17 of the Civil Law (Miscellaneous Provisions) Act 2011, which is considered further in part 9.3 overleaf.

9.3 CIVIL LAW (MISCELLANEOUS PROVISIONS) ACT 2011

Under Section 17 of the Act, where a licence-holder fails to comply with an applicable code of practice that has been formally adopted by the Minister for Justice & Equality, this will constitute a ground of objection to the renewal of their intoxicating liquor licence(s), on the grounds of character.

Under the Act, any objection on the grounds of character due to an infringement of an approved code of practice could only proceed with the involvement of the Gardaí. The RRAI will therefore renew its previous contacts at Commissioner-level, with a view to full co-operation by the Gardaí in any such objections-process.

A consultation-process is currently underway between the Department of Justice & Equality and interested parties, to determine the most appropriate format and content of a code or codes of practice relating to the display, sale, supply, advertising, promotion or marketing of intoxicating liquor. The RRAI is participating in this consultation-process in a constructive way, and will propose the inclusion of the key elements of its Voluntary Code in any approved code applying to the off-licence sector under the new legislation.

9.4 CODE OF PRACTICE TO APPLY TO STAND-ALONE OFF-LICENCES AND TO INDEPENDENT MIXED TRADING RETAILERS

As indicated in my previous Compliance-Reports, the RRAI's members regard the exclusion of stand-alone off-licences and various non-participating independent mixed trading retailers from an agreed code of practice as an increasing anomaly.

For example, the RRAI Code of Practice prohibits the display or advertising of alcohol products in the shop-windows of participating stores, yet there is no such restriction imposed on stand-alone off-licences or on independent mixed traders who are not part of the RRAI.

The RRAI advocates that if and when the Minister formally adopts a code or codes of practice under Section 17 of the Civil Law (Miscellaneous Provisions) Act, the stand-alone off-licence sector and the independent mixed trading sector would be included within the scope of such code or codes.

9.5 PROOF OF AGE

It is a criminal offence to sell alcohol to anyone under the age of 18 years. The RRAI Code states that if there is doubt about the customer's age or where the customer appears to be under the age of 21 years, the staff-member in question should seek confirmation of the customer's age. The Code further states that the Garda Age Card is the preferred proof of age.

In practice, RRAI-members generally accept a passport or driver's licence as valid proof of age as well as the Garda Age Card. They do so as a matter of practicality as many of the relevant 18-20 age group do not possess the Garda Age Card. Moreover, young (but adult) foreign tourists will not possess the Garda Age Card.

However, 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 an under-age person, even if the store in good faith believed that a passport, for example, was a valid proof of age.

The RRAI considers that the current legal situation should be amended to permit other legitimate proofs of age (such as a passport, driver's licence or E.U. Member State national identity card) to also be accepted by the Courts as a valid proof of age. In 2010, the RRAI made a proposal to the Department of Justice, Equality & Law Reform to seek a corresponding amendment to the law. The submission to the Department referred to the fact that these other forms of age identification are acceptable in law as proof of age where young persons are in the bar of a licensed premises after 9.00pm.

The RRAI understands that there is a Supreme Court appeal pending at present in respect of this very issue. The RRAI acknowledges that no legislative changes will (or should) be introduced pending the outcome of that appeal, but asks that appropriate steps be taken following the determination of the appeal.

ANNEX 1 THE VOLUNTARY CODE AND ITS EXPLANATORY GUIDELINES

RRAI CODE OF PRACTICE

DISPLAY OF ALCOHOL

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

Alcohol products will be confined to that one part of the premises and will, as far as possible, be separated from other beverages and food products.

ADVERTISING

In-store advertising of alcohol products is confined to the area in which they are displayed and will not be placed in windows or at internal locations where it is intended to be seen from outside the premises.

Advertising materials produced by retailers will not be aimed at minors and will not seek to glamorise alcohol consumption or encourage excessive consumption.

SALE OF ALCOHOL

The sale of alcohol products is permitted only between 10.30am and 10.00pm on weekdays & Saturdays and between 12.30pm and 10.00pm on any Sunday or St. Patrick's Day (sales are not permitted on Christmas Day and Good Friday).

Alcohol products will be sold only at clearly designated check-out points by persons over the age of 18 years.

Check-out points at which alcohol products are sold, or alternatively the display area, will be monitored by CCTV.

The sale of alcohol products by unsupervised self-service means is not permitted.

The sale of alcohol products on a "pay-on-delivery" basis is not permitted.

PROOF OF AGE

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

The Garda Age Card is the preferred proof-of-age document.

STAFF TRAINING

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

INDEPENDENT AUDIT

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

COMPLAINTS PROCEDURE

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

The Chairman
Responsible Retailing of Alcohol in Ireland (RRAI)
84-86 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 10.30am and 10.00pm from Monday to Saturday and between 12.30pm and 10.00pm on any Sunday or St Patrick's Day (such sales are not permitted at all on Christmas Day and Good Friday). These details are included in the Code for the information of the public and for the convenience of sales staff in dealing with customers. It is advisable to block alcohol sales at cash registers outside of these times.

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

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

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

5. PROOF OF AGE

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

6. STAFF TRAINING

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

7. INDEPENDENT AUDIT

An independent body selected by the representative bodies of the mixed trading sector will monitor implementation of the Code and report to a Director appointed by the sector with the agreement of the Minister for 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: RESULTS OF RRAI ANNUAL INDEPENDENT AUDIT OF COMPLIANCE 2011 BY SUPERMARKET SECTOR AND CONVENIENCE- STORE SECTOR

RETAIL AUDIT QUESTION/VARIABLE MEASURED	SUPERMARKET COMPLIANCE	CONVENIENCE- STORE COMPLIANCE
Q1. (a) Is the Code of Practice document on conspicuous display within the store (in A3 size)? (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? (c) Does each copy of the Code display the name and address of the licence-holder? (d) Does each copy of the Code display the RRAI telephone hotline information?	100% 98.06% 99.35% 99.35%	93.66% 98.54% 95.12% 88.78%
Q2. 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?	100%	99.02%
Q3. Is the display of alcohol products confined to one part of the premises whereby there is only one alcohol display-area in the premises? <i>(*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.)</i>	100%	98.54%
Q4. 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?	99.35%	97.07%
Q5. As far as possible, are alcohol products separated from other beverages and food products?	98.06%	93.17%

Q6. Is a copy of the in-store briefing document for staff-members held in-store?	98.71%	90.73%
Q7. Have all staff-members engaged in the sale and display of alcohol been briefed on the Code of Practice?	100%	99.02%
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?	100%	100%
Q9. Are alcohol products only sold at clearly designated check-out points?	94.19%	85.37%
Q10. Are these check-out points or the alcohol display-area monitored by CCTV?	100%	100%
Q11. Is the purchase of alcohol products at unsupervised self-service checkouts not permitted? <i>(* Tick “yes” if the purchase of alcohol at unsupervised self-service check-outs is not permitted.)</i>	100%	100%

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 questions.

It should also be noted that the automatic fail variables were expanded this year in respect of the in-store display of the Code document (under Question 1).

ANNEX 3: COMPLAINTS-HANDLING PROCESS

THE FOLLOWING REVISED 10-POINT PROCESS WAS ADOPTED BY THE RRAI DURING THE COURSE OF 2011	
1. A complaint arrives in to the RRAI, either by email, through the telephone hotline, or by post.	Day zero of 15*
2. The RRAI Executive acknowledges receipt of the complaint, and logs the details of the complaint on the RRAI complaint-form.	By end of day 2 of 15
3. The Executive conducts a preliminary review of the complaint, and if necessary, requests further information from the complainant.	By end of day 3 of 15
4. Following the Executive's preliminary review, if the act complained of is not a breach of the RRAI Code of Practice, the Executive will inform the complainant that their complaint cannot be upheld.	By end of day 3 of 15
5. If the complaint appears to be a potentially valid one that may be upheld, the Executive will pass the details of same onto the RRAI-member in question for them to investigate, but will not disclose the source of the complaint.	By end of day 4 of 15
6. The member acknowledges receipt of the complaint to the Executive.	By end of day 6 of 15
7. The member conducts an investigation into the complaint, and reverts to the Executive with their findings and response, including details of any corrective action that has been and/or will be taken.	By end of day 11 of 15
8. The Independent Chairperson reviews the complaint, and the member's findings and response. The Chairperson adjudicates on the complaint and communicates this adjudication to the Executive.	By end of day 13 of 15
9. The Executive notifies the complainant and the member of the Independent Chairperson's adjudication.	By end of day 15 of 15
10. The entire exchange is logged by the Executive for the purposes of the Independent Chairperson's Annual Compliance Report.	By end of day 15 of 15

**Note: The period of 15 working days within which complaints are to be fully processed excludes weekends, public holidays, and bank holidays. Accordingly, in the normal course of events, 15 working days will equal a period of three weeks.*



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