

THE PORTMAN GROUP

Code of Practice

ON THE NAMING, PACKAGING
AND PROMOTION OF ALCOHOLIC DRINKS

Third Edition



ENCOURAGING
RESPONSIBLE MARKETING

The Portman Group

The Portman Group is an independent company, limited by guarantee, currently supported by Bacardi-Martini, Coors Brewers, Diageo Great Britain, Enterprise Inns, H P Bulmer, Interbrew, Pubmaster, Pernod Ricard, Scottish & Newcastle and Six Continents.

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Foreword

Welcome to the Third Edition of The Portman Group's Code of Practice.

This third edition updates, expands and improves on the previous edition of the Code in a number of ways.

In 1996, in response to fierce criticism of the marketing of 'alcopops', we launched our Code of Practice on the Naming, Packaging and Merchandising of Alcoholic Drinks. The aim of the Code was, and still is, to ensure that all alcoholic drinks are promoted in a socially responsible manner and only to those over 18. Thus, although the success of the Code meant controversy about 'alcopops' quickly subsided, the Code has remained in operation as an important reminder to the industry of the need to promote its products with care.

In 1997, the Code was reviewed and a second edition launched under which The Portman Group was given greater 'teeth' to enforce the decisions of the Independent Complaints Panel, in particular through Retailer Alert Bulletins asking retailers not to stock products in breach of the Code unless and until they had been appropriately amended.

A further change in 2000 saw the introduction of a new rule because of the sudden development of alcoholic 'energy' or 'stimulation' drinks. There was concern over the marketing of alcoholic drinks in this way and the new rule, similar to that which already existed in the various advertising codes, disallowed claims by

producers that alcohol could enhance mental or physical performance.

We operate in an ever-changing environment and marketing and product innovation have continued apace over the last five years. One of the characteristics of effective self-regulation, however, is regular review and at the end of 2001 we embarked on a major public review of our Code to ensure that we could continue to regulate the industry's marketing standards effectively in the future. This third edition is the outcome of that review.

The first thing to note is that the name of the Code has changed. No longer does it apply simply to naming, packaging and merchandising. It is now a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks, reflecting that it now covers a broad range of promotional devices, including sponsorship, sampling, websites and press releases. We are not, of course, seeking to prevent drinks companies from using these methods to promote their products. We are simply seeking to ensure that in doing so they adhere to the same standards that already apply to their advertising and packaging.

The Code has also undergone a transformation in style. Written in a simpler, more straightforward style, it is more user-friendly. It is, after all, not a piece of legislation and should not read like one.

Code of Practice

We have introduced a new fast-track procedure under which we may refer a product back to the Independent Complaints Panel if it has been inadequately amended following a finding that it is in breach of the Code.

As well as additions to the Code, some things have been left out. The third edition completely omits the Merchandising Section, aimed particularly at retailers, that was contained within the first two editions of the Code. This is not because retailers no longer have a role to play in tackling the problems of alcohol misuse. Far from it. It is as vital as ever that retailers ensure staff are properly trained and that, if in doubt, customers are asked to prove their age before being served. The main practical rule within the Merchandising Section, however, was that retailers should ensure that alcoholic drinks and soft drinks are not displayed in such a way as to cause confusion with one another (for example, alongside one another in the same chiller cabinet). Retailers are now so aware of this need that we rarely receive complaints and, when we do, the matter can usually be more quickly dealt with by the local licensing police officer or trading standards officer than formally through our Code.

On-trade licensees have greater responsibilities than those in the off-trade because the drinks they sell are for immediate consumption on their premises. This means that they must balance their desire to increase sales against their obligation not to encourage drunkenness. We consulted on whether the Code should apply to on-trade promotions such as 'happy hours'. The weight of opinion, however, was that The Portman Group is a producer-led organisation and that the Code should therefore primarily be aimed at producers.

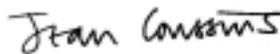
Besides, the British Beer and Pub Association has recently issued guidelines on responsible promotions and the surest way of avoiding problems would be for pubs carefully to observe these.

All retailers, of course, continue to have a prime role in the enforcement of the Code through their observance of Retailer Alert Bulletins, thus denying shelf space to those products falling short of the Code's requirements.

The safest way for companies to avoid problems is, as before, to seek advice from the Advisory Service in advance of undertaking any activity that may risk infringing the Code. And the Advisory Service must be advocated even more strongly than before, given that the Code will now apply to a whole new range of marketing activities. Indeed, even if you have a query about a matter that does not fall under the Code but nonetheless relates to alcohol marketing and social responsibility, the Advisory Service will be happy to help by offering its view under the principles and spirit of the Code.

The Code has proved to be a valuable safeguard for the public and reflects the industry's determination to make self regulation work. We are confident that the Code will continue to guide producers to maintain high standards in the socially responsible promotion of alcoholic drinks.

The third edition of the Code comes into force on 1 March 2003.



Jean Coussins

Director - The Portman Group

Code of Practice on the naming, packaging and promotion of alcoholic drinks

Third Edition

1

Introduction

1.1 The alcoholic drinks industry is committed to promoting the responsible enjoyment of its products and to promoting sensible drinking and tackling alcohol misuse. To this end, this Code seeks to ensure that alcohol is promoted in a socially responsible manner and only to those over 18.

1.2 The first edition of the Code was adopted in April 1996. This third edition defines best practice in the naming, packaging and promotion of alcoholic drinks and provides a procedural framework for influencing, regulating and controlling industry practice. The Code is supported by virtually the whole industry, including producers, importers, wholesalers, retailers and trade associations.

1.3 The Code complements and is consistent with the Advertising Standards Authority/Committee on Advertising Practice (ASA/CAP), Independent Television Commission (ITC) and Radio Authority (RA) advertising codes¹. All advertisements and

sales promotions should comply fully with the requirements of those codes. TV and radio commercials are cleared by the Broadcast Advertising Clearance Centre (BACC) and the Radio Advertising Clearance Centre (RACC) respectively.

1.4 Companies may indicate their support for the Code and their willingness to abide by the decisions of the Independent Complaints Panel by becoming Code Signatories. Not doing so, however, does not mean that their products are outside the provisions of the Code.

1.5 Drinks industry trade associations may also express their support for the Code by becoming Code Signatories.

¹ Please note that the Communications Bill proposes to establish a new body OFCOM which will take over the functions of the ITC and the RA, though not the ASA.

2

General principles

2.1 This Code applies to all pre-packaged alcoholic drinks with an alcoholic strength above 0.5% abv, including draught drinks and those served from permanent dispenser units, which are marketed for sale and consumption in the UK, including via websites.

2.2 This Code applies to products developed or marketed primarily as alcoholic 'drinks', even if they are classified as foodstuffs rather than drinks for the purposes of licensing or customs and excise legislation, or even if they appear to be solid or heavily textured (or can be made to be, for example by freezing or shaking), rather than liquid.

2.3 This Code applies to a drink's naming and packaging, including the brand name, product descriptor, labelling and any container and external wrapping (all of which are together referred to in this Code as packaging). This Code also applies to point of sale activities and materials (including fonts and dispenser units) generated by the producer or UK distributor.

2.4 A UK distributor is a company that either holds the trademark rights for a brand within the UK or has contractual rights to distribute a brand within the UK to wholesalers and retailers.

2.5 This Code applies to the following UK promotional materials and activities generated by the producer or UK distributor: websites, sponsorship, press releases, branded merchandise, advertorials and sampling. Definitions of these terms for the purposes of this Code are set out in Annex 1. For the avoidance of doubt, this Code does not apply to any broadcast or non-broadcast advertising within the scope of the ASA, ITC or Radio Authority codes. The Code Secretariat may refer a complaint received under this Code to those bodies if it considers that the complaint is more appropriately dealt with under another Code.

2.6 The Code does not apply to wholesaler- or retailer-led promotions, other than where a wholesaler's or retailer's own brand is concerned, and in that case, references in this Code to 'producer' or 'UK distributor' will be deemed to include wholesalers or retailers when promoting their own brands. On-trade promotions, however, should comply with the guidelines issued by the British Beer and Pub Association, which are also supported by the Association of Licensed Multiple Retailers.

The Portman Group

2.7 This Code does not apply to any materials or activities whose purpose is solely and clearly to educate under 18s about the use and misuse of alcohol.

2.8 This Code is to be applied in the spirit as well as in the letter.

2.9 When deciding whether a drink's packaging or promotion infringes the Code, the Independent Complaints Panel shall look at the matter broadly and have regard to all the circumstances including (but not limited to) the drink and any other relevant matters, including the overall impression conveyed.

2.10 It is the responsibility of all companies connected with the alcoholic drinks industry in the UK (whether as producers, importers, wholesalers or retailers) to comply with this Code. This includes the provision of adequate and appropriate briefings to external agencies from whom companies may commission design or promotional work.

2.11 The text of this Code supersedes all previous editions. Complaints received on or after 1 March 2003 will be considered under this Code.

3 Naming, packaging and promotional material

3.1 The alcoholic nature of a drink should be communicated on its packaging with absolute clarity.

3.2 A drink, its packaging and any promotional material or activity (as defined in section 2 and Annex I) should not in any direct or indirect way:

(a) have the alcoholic strength, relatively high alcohol content, or the intoxicating effect, as a dominant theme;

(b) suggest any association with bravado, or with violent, aggressive, dangerous or anti-social behaviour;

(c) suggest any association with, acceptance of, or allusion to, illicit drugs;

(d) suggest any association with sexual success;

(e) suggest that consumption of the drink can lead to social success or popularity;

(f) encourage illegal, irresponsible or immoderate consumption, such as binge-drinking, drunkenness or drink-driving;

(g) have a particular appeal to under 18s;

(h) incorporate images of people who are, or look as if they are, under twenty-five years of age, unless there is no suggestion that they have just consumed, are consuming or are about to consume alcohol;

(i) suggest that the product can enhance mental or physical capabilities.

The Independent Complaints Panel

4.1 The members and Chair of the Independent Complaints Panel are appointed by the Director of The Portman Group and shall not include any person employed by The Portman Group or by any of its Member Companies.

4.2 Details of the Panel's membership are available on request. The Chair plus two members of the Panel constitute a quorum and decisions are made by majority voting. In the case of a tied vote, the Chair shall have a casting vote. Panel members must declare any interest in a case before considering it, whereupon the Chair will decide if it is appropriate for that member to consider that complaint.

4.3 Complaints should be made in writing to the Code Secretariat for consideration by the Independent Complaints Panel.

4.4 The procedure followed for examining a complaint is set out in Annex 2.

4.5 In reaching its decisions, the Independent Complaints Panel shall not be bound by views expressed or advice given by The Portman Group's Advisory Service described in Annex 3.

5

Follow up to Panel decisions and related matters

5.1 Decisions of the Independent Complaints Panel and, where appropriate, timetables for implementation will be published by the Code Secretariat, encouraging companies in breach of the Code to take whatever steps are necessary to ensure that the Code is complied with.

5.2 In the case of a Code breach concerning a product's packaging or point of sale materials, the Code Secretariat may notify retailers of a decision taken by the Independent Complaints Panel and request them not to replenish stocks of any such product or to display any such point of sale material, until the decision has been complied with. For the avoidance of doubt, any such request will not require retailers to dispose of existing product stocks other than by normal retail sale and shall not require retailers to terminate any existing contractual commitment for the purchase or sale of such a product.

5.3 If a retailer continues to stock products or display point of sale material which have been found in breach of the Code by the Independent Complaints Panel, the Code Secretariat may notify the relevant licensing authority and request it to take this into account, subject to legal requirements, when considering whether to grant, transfer, renew or revoke licences.

5.4 Producers and retailers are encouraged to include a clause in their supply contracts to provide for the amendment of a product's packaging within a three month period following an upheld complaint.

5.5 The Code Secretariat may also notify relevant breaches of the Code to the Local Authorities Co-ordinating Body on Food and Trading Standards (LACOTS); this may in some cases lead to prosecutions under appropriate legislation, such as the Trade Descriptions Act 1968, Food Safety Act 1990, the Food Labelling Regulations 1996, etc.

5.6 Other appropriate third parties may also be notified of a Code breach, for example Internet Service Providers, their trade associations and monitoring organisations.

5.7 Before launching any new product, new presentation or get up of a product onto the market, companies are encouraged to seek in good time the views of the Advisory Service provided by The Portman Group and described in Annex 3. Advice may also be sought about proposals for any other form of promotional material or activity covered by this Code. Any views expressed or advice given by the Advisory Service will not be binding on the Independent Complaints Panel.

5.8 The Code Secretariat may remit to the Independent Complaints Panel any product which has been the subject of an adverse decision and which has been amended by the company concerned, but which, in the opinion of The Code Secretariat, fails to take account of the Panel's objections. In these circumstances, remitted complaints will normally be considered by the Panel within three weeks.

5.9 If the Panel decides that the amended design does not meet the Code's requirements, the Secretariat may immediately issue a repeat notification to retailers, urging withdrawal of the product as soon as possible and an end to further orders with immediate effect.

ANNEX 1: Definitions

Websites

'Websites' refers to a website, or part of a website, managed by or on behalf of an alcoholic drinks producer or UK distributor for the promotion of their brand(s) primarily to the UK market. Producers and UK distributors are responsible for any part of the website over which they have editorial control. Where there is no editorial control, eg on 'message boards' open to the public, steps should nevertheless be taken where possible to remove any inappropriate material posted there which offends against this Code.

Sponsorship

i. 'Sponsorship' refers to any agreement or part of an agreement involving payment by a drinks producer or UK distributor to support a live sporting or cultural product, event or activity, in return for which the sponsored party agrees to be associated with or promote the sponsor's drink(s).

ii. The Code applies to the overall sponsorship agreement, including any material bearing the sponsor's logo or trademark. It does not apply to any use to which that material might subsequently be put, or to the behaviour or activities of sponsored parties, if that is not required or specifically permitted by the sponsorship agreement.

iii. Producers and UK distributors should not engage in sponsorship as defined above where those under 18 years of age comprise more than 25% of either the participants, audiences or spectators.

iv. Companies shall not require sponsored parties to feature alcohol branding on children's size replica sports kit. Should sponsored parties choose to do so, however, for reasons of authenticity, this will not constitute a breach of section 3.2 (g) of the Code, provided that an unbranded alternative is available. No other merchandise bearing the brand name or logo of an alcoholic drink should be aimed at children or have a particular appeal to them.

v. Association through sponsorship of an individual with an alcoholic drink does not necessarily imply personal endorsement of that drink. Any implied endorsement, however, whether intended or not, must be fully compliant with section 3 of this Code.

vi. Sponsorship of activities which may be dangerous after alcohol consumption (eg motor racing, yachting, skiing) is not necessarily in breach of this Code, unless the manner in which it conducted or any aspect of the sponsorship arrangements put it in breach of section 3.2 of the Code.

Press releases

'Press releases' refers to any published statement and attachments, in writing or otherwise, issued by or on behalf of an alcoholic drinks producer or UK distributor to the UK media and which serves to promote an alcoholic drink.

Sampling

This refers to an offer of an alcoholic drink, free of charge, to members of the public in a public place (including licensed premises), unless the premises are being used for a private function.

Branded merchandise

This refers to:

- i. Products available in the UK bearing alcoholic drinks branding which have been produced by, on behalf of, or with the permission of, an alcoholic drinks producer or UK distributor.
- ii. To qualify for exemption under section 2.7 of this Code, educational materials must not include a company's or brand's logo or trademark other than for identification purposes. No information about the brand must be included.
- iii. See also para. iv. of the definition of 'sponsorship', above.

Advertorials

This refers to any published material, including websites, promoting a drink as a result of payment by the drink's producer or UK distributor, even though that producer or UK distributor has no control over the content of the material. (NB If the material's content is within the control of the producer or UK distributor, it is regarded as advertising and within the remit of the Advertising Standards Authority).

ANNEX 2: Guide to Complaints

Making complaints

i. Complaints should be sent in writing to The Complaints Officer, The Portman Group, 7 - 10 Chandos Street, Cavendish Square, London W1G 9DQ. If possible, evidence to support the complaint should be enclosed, such as a product sample or details of the outlet or activities involved. The Portman Group keeps names of members of the public who make complaints confidential, except in exceptional circumstances, when permission would first be sought from the complainant. Complaints from competitors, however, are dealt with on a named basis. For the avoidance of doubt, The Portman Group may itself be a complainant, in which case it would be named.

What happens when a complaint is made?

ii. The Code Secretariat informs the company which appears to be responsible. The Code Secretariat will highlight the Code section under which the particular complaint appears to fall. The Code Secretariat may also highlight any other Code section which may be relevant (see clause iv, below). The company is given 14 working days to respond in writing.

iii. The Code Secretariat prepares a 'dossier' of information for and against the complaint. This is sent to both the company and the complainant, who both have up to 7 working days to make any additional comments. If the complainant raises any further points, the dossier is amended to include them. The company is given an opportunity to respond and any response is incorporated into the dossier. The final version is then sent to both the complainant and the company.

iv. The Panel meets to consider the product's packaging or promotion after having an opportunity to study the dossier. The Panel is not bound to restrict its consideration of the product's packaging or promotion to the narrow terms of the complaint but may consider the packaging or promotion under any section of the Code that it considers relevant, regardless of whether this section relates to the specific complaint or has been highlighted in the dossier by the Code Secretariat or otherwise.

v. The Panel may seek expert assistance at any stage. Should this be required, the name of the expert and details of his or her opinion are made available to the company, which will be given 14 days to respond in writing.

vi. If the Panel does not find a product's packaging or promotion in breach of the Code, the decision is final, and both the complainant and the company will be notified of the Panel decision. For the avoidance of doubt, in cases where the Panel decides that there has not been a breach of the Code, the Panel may consider other complaints against the same product which may be made in the future, provided that they are based on different grounds or relate to amended or new packaging or promotional material or activity.

vii. If the Panel decides that a product's packaging or promotion is in breach of the Code, the decision is provisional. The company is advised of the provisional decision and, if it wishes to contest the provisional decision, it can do so by submitting further written representations to support its case within 14 working days of notification of the provisional decision. If a company does not challenge a provisional decision, that decision will become final.

viii. The Panel will consider any additional representations from the company and will make a final decision. The complainant and the company will be informed of the final decision. When the Panel has reached a final decision it will not consider further representations from the company unless the company presents fresh information which became available to it after the final decision.

ix. Subject to the above points, the Panel will determine its own procedures, having regard to the principles of natural justice. In particular, the Panel will not be bound by any enactment or rule of law relating to the admissibility of evidence in legal proceedings.

x. All decisions are published via a press notice issued by The Portman Group shortly after decisions have been made final and in an annual report which is submitted to the Government, alcohol interest groups, police, licensing authorities, the media and members of the public who request it.

xi. In the case of packaging or promotions found in breach of the Code, the company will be asked to make appropriate changes and to comply with the Code in line with the Panel's decision.

xii. The time limits set out above may be extended or shortened at the discretion of the Code Secretariat.

Additional action in relation to packaging and point of sale materials

xiii. In the case of Code breaches concerning packaging or point of sale materials, a timetable for implementing the necessary changes will be notified in writing to the company concerned. The timetable will not ordinarily exceed three months after notification to the company of the final decision and may be shorter, if appropriate.

xiv. Retailers will be asked not to replenish stocks of either any product whose packaging has been found in breach of the Code, or any point of sale material found in breach of the Code, after the date specified by the Code Secretariat. Licensing authorities, licensing officers and trading standards officers will be informed of the Panel's decisions and may also be made aware of any retailers who choose not to comply; the Code Secretariat may also notify the media.

xv. In the case of a product remitted to the Panel following re-design which in the opinion of the Code Secretariat has not adequately taken into account the Panel's findings (see section 5.8 of the Code), the company will be notified and invited to make any further written representations within 14 days. A decision will normally be taken by the Panel within three weeks of the complaint being remitted.

xvi. In the event that a Portman Group member company chose not to make the required changes to their product, representatives would be asked to explain their position to The Portman Group Council and the company may be expelled from membership. Should any Code Signatory other than a member company not adhere to a Panel decision, it may be removed from the list of Signatories.

ANNEX 3: Advisory Service

i. As part of its responsibility in operating the Code of Practice, The Portman Group offers a free, fast and confidential Advisory Service.

ii. The Advisory Service offers drink producers and importers an opportunity to seek advice, in advance, about the packaging, including naming and labelling, of any alcoholic drink that they are planning to launch or re-launch or any promotional material or activity that they are intending to undertake that is covered by the Code. This enables any concerns about possible breaches of the Code to be discussed and dealt with at an early stage.

iii. Requests for advice should be addressed to the Code Compliance Advisor at The Portman Group and should be accompanied by visuals of the product and/or full details of the promotional activity. Advice is normally given within five working days of the request being received.

iv. Although The Portman Group's Advisory Service is intended to help the industry avoid problems, there are a number of important points that must be emphasised.

v. First, the Advisory Service does not constitute any kind of approval or endorsement by The Portman Group.

vi. Secondly, whilst it is meant to reduce the risk of complaints subsequently being received, the Advisory Service offers no guarantee that complaints will not be received. The Advisory Service is independent of The Portman Group's Panel that considers complaints under the Code and advice offered by the Advisory Service does not bind the Complaints Panel to a decision either to uphold or to dismiss a subsequent complaint.

vii. Thirdly, advice is non-binding and in no way affects a company's own obligation to ensure that its products and promotional materials and activities comply with the Code. Any reliance placed on the advice is at the company's own risk. The advice is given without liability on the part of The Portman Group for any loss suffered as a result, howsoever arising. The advice is given for the sole use of the company to whom it is addressed and no responsibility is accepted to any third party for its contents.

viii. Finally, advice is offered on a confidential basis. The Portman Group therefore will not disclose to any third party any advice that has been given and a company must not use or mention The Portman Group's advice as part of any advertising or promotional message or present it as an endorsement of the product.

Useful Contacts

The Advertising Standards Authority

2 Torrington Place

London

WC1E 7HW

Tel: 020 7580 5555

The ASA deals with non-broadcasting advertising and sales promotions.

The Independent Television Commission

33 Foley Street

London

W1W 7TL

Tel: 020 7255 3000

The ITC deals with television advertising.

The Radio Authority

Holbrook House

14 Great Queens Street

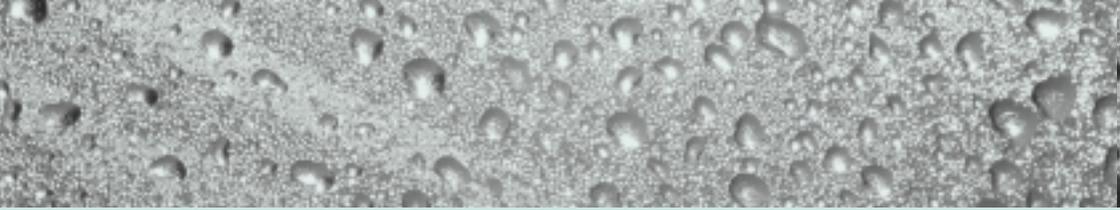
Holborn

London

WC2B 5DG

Tel: 020 7430 2724

The Radio Authority deals with radio advertising.



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