

## Guidance Note

### How the Code works

March 2019



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## How the Naming, Packaging and Promotion Code works

This guidance is intended to help drinks producers comply with the Portman Group's (PG) Code of Practice on the Responsible Naming, Packaging and Promotion of Alcoholic Drinks. A separate Code exists for Alcohol Sponsorship. Both Codes apply in the same way, except for the enforcement process<sup>1</sup>. This guidance represents the opinion of the Advisory Service. Please note that the Independent Complaints Panel (Panel) is the final arbiter on how the Codes should be interpreted and applied. Following the advice in this document is no guarantee that a product's packaging or promotion will not be found in breach of the Codes if a complaint is received. The guidance will be updated regularly to reflect the views of the Panel.

Regular public consultations are undertaken to ensure that the Codes remain fit for purpose; previous reviews have enabled the Code to adapt in response to public opinion, cultural change and industry innovation. This sixth and latest edition of the Naming, Packaging and Promotion Code came into force on 1 March 2019. Although there are many cross-overs between the Codes, this guidance document focusses specifically on the application of the Naming, Packaging and Promotion Code; a separate guidance document for the Sponsorship Code can be found [here](#).

In the UK, alcohol marketing is subject to strict rules ensuring that alcohol promotion is socially responsible and targeted only at those aged 18 and above and does not appeal particularly to those who are vulnerable. The fundamental principle is that the Code is applied in the spirit as well as in the letter and to both direct and indirect claims (see further explanation below). In judging compliance with the Code, the matter will be looked at broadly and with regard to all the circumstances including, but not limited to, the drink, the overall impression conveyed and any other relevant matters. It is therefore difficult to say whether a particular image or statement on a drink's packaging or in a promotion is acceptable under the Code without seeing/considering it in context. Often a word or image might be acceptable by itself but be problematic when taken in combination with other words or images. Companies are therefore encouraged to make use of the free and confidential Advisory Service (further details in section 4 below) when undertaking promotional activities or launching products to help ensure that they comply with the Code.

The Portman Group is the industry body that administers and enforces the Codes of Practice. Complaints under both Codes, and decisions subsequently made, are considered by an Independent Panel. See page 12 for further details. Below we set out in more detail how alcohol is regulated, and how the rules are applied and interpreted.

### 1) Regulation of Alcohol Marketing

The Portman Group's [Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks](#) was introduced in 1996. It applies to all pre-packaged alcoholic drinks and covers the drink's naming, packaging, point-of-sale material, co-promotional activity, brand websites, sponsorship, branded merchandise, advertorials, public relations activity, experiential and sampling. This applies to activities undertaken by a drink's producer for an alcoholic drink which is marketed for sale and consumption in the UK, or where such activity is primarily UK-targeted. The Code is supported throughout the drinks industry and there are over 140 Code Signatories, including major retailers and drinks producers. Retailers play a vital role in ensuring that irresponsible products are removed from the market.

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<sup>1</sup> Please see Portman Group's Code of Practice on Alcohol Sponsorship; first edition



## a) Remit of the Code

The Portman Group's Code applies to:

'The naming, packaging, marketing and promotional activity undertaken by a drink's producer for an alcoholic drink which is marketed for sale and consumption in the UK, where such activity is primarily UK-targeted, and is not already subject to regulation through the ASA or Ofcom'. (Clause 1.3).

The Portman Group's remit is defined by reference to what is within the ASA's and Ofcom's remit. This seeks to ensure that there are no gaps in the regulation of drinks producers' marketing activity.

Several important points need to be clarified to set out how the Code's remit applies. These are addressed below:

### i) Regulated through the ASA or Ofcom

In the UK there are three regulatory bodies that control standards of alcohol marketing:

- Portman Group [www.portmangroup.org.uk](http://www.portmangroup.org.uk)
- Advertising Standards Authority (ASA) [www.asa.org.uk](http://www.asa.org.uk)
- Ofcom [www.ofcom.org.uk](http://www.ofcom.org.uk)

These three bodies effectively cover all alcohol marketing; a table outlining the different areas of responsibility is attached as Annex A.

The Code does not duplicate the regulation of the ASA and Ofcom; instead it complements and is consistent with the UK Code of Broadcast Advertising (BCAP Code) and the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code), which are independently administered by the ASA. Between them, these Codes cover advertisements on television, radio, press, poster, cinema, direct mail, mobile phone marketing and marketing communications in a digital space.

The boundary between the different Codes is, however, not always clear. For example, the ASA may regard certain elements of point-of-sale (POS) or sponsorship-related material as advertising for the purposes of the CAP Code.

The ASA's remit effectively covers the vast majority of online activity carried out by alcohol producers<sup>2</sup>. This includes producers' marketing messages on their own websites and other non-paid-for space under the producer's control, such as social networking sites like Facebook, and Twitter, and image-sharing/messaging sites like Snapchat and Instagram.

Producers therefore need to ensure that their online marketing communications (as with any other material that is considered 'advertising') does not mislead, offend or breach any of the general rules of the CAP/BCAP Codes, in addition to complying with the specific rules on alcohol.

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<sup>2</sup> The CAP Code applies to: Advertisements and other marketing communications by or from companies, organisations or sole traders on their own websites, or in other non-paid for space online under their control, that are directly connected with the supply or transfer of goods, services, opportunities and gifts, or which consist of direct solicitations of donations as part of their own fund-raising activities.

ii) Portman Group general remit

The Code applies to the naming, packaging, promotional material and marketing activity undertaken by a drink's producer for an alcoholic drink<sup>3</sup> which is marketed for sale and consumption in the UK, and where such activity is primarily UK-targeted (Code paragraph 1.3). This includes a drink's packaging, various forms of promotional material and marketing activity, including point-of-sale material and activity, sponsorship, press releases, branded merchandise, advertorials, sampling and parts of a website not covered by the ASA. Further details can be found in Section 2 of the Code.

a. Undertaken by a drink's producer

For the purposes of the Code a drink's producer is the company, including a wholesaler or retailer:

- which holds the trademark rights for a brand, or
- who has contractual rights to distribute a brand within the UK, or
- who produces a pre-packaged product which includes an alcoholic drink (i.e. a gift pack containing alcohol) even if they have no rights pertaining to that alcohol brand.

The Code covers marketing material (including packaging) that is produced by, or on behalf of, the producer. The Code does not cover activity that is primarily aimed at a foreign market or is international in scope (see section 4.vi below). For example, a point-of-sale poster using brand imagery, or a promotional offer that has been created by a retailer – but without the approval or agreement of the respective producer - is likely to fall outside of the remit of the Code. Similarly, copy written by a journalist, editor or blogger (even if based on a producer's press release) is not covered unless sanctioned or endorsed by the producer.

b. Marketed for sale and/or consumption in the UK

If a product can be purchased in the UK it will fall within the Code's remit; this includes products sold via online retailers and available to UK consumers. In judging whether a product is 'marketed for sale in the UK' the Panel is likely to consider whether the product is being offered in Sterling and the intended audience for other messaging on the website and in promotional material, for example, if there is a reference to Drinkaware.co.uk, it can be assumed that the product is available for sale in the UK. If it is not available in the UK, then it is unlikely that the marketing communication will be considered inside remit.

c. Primarily UK targeted

The use of integrated marketing campaigns (i.e. those spanning several types of media as opposed to a single platform, like TV) and international platforms mean that producers will be able to target multiple audiences in different countries making it difficult to determine whether marketing material is in remit.

In determining whether the material, including a product, is primarily targeted at a UK audience, a number of factors will be considered, including the level of practical control that the producer has over the product, the content or platform. The overall context of the producer's marketing activity will also be considered. For example, if the campaign features POS material in a foreign language, or images from various PR events that took place outside of the UK – then this will be taken into

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<sup>3</sup> A drink is an 'alcoholic drink above 0.5% abv, packaged for sale and sold in the off-trade to the final consumer. In the on-trade, a drink is any alcoholic drink served as part producer-led promotional activity, or producer approved or agreed co-promotional activity. This includes a product developed or marketed primarily as an alcoholic 'drink', even if it is classified as a foodstuff rather than a drink for the purposes of licensing or customs and excise legislation, or even if it appears to be solid or heavily textured, or an aerosol (or can be made to be, for example by freezing or shaking), rather than liquid. This also includes a barrel (i.e. a draught drink) or permanent dispenser unit'.

consideration. Additionally, if the campaign includes material or other communications that have appeared in the same or similar form as an advertisement in paid-for space (and considered within the remit of the ASA Codes), then this will be considered.

For the purposes of the Code, the UK covers the Isle of Man and the Channel Islands.

### iii) Portman Group online remit

The online sphere is complex to define and regulate. However, as a general rule of thumb, the vast majority of material on brand specific websites, brand sections of corporate websites and producer-controlled (either directly or via a third party) social networking sites or blogs will be covered by the ASA.

The PG Code will however continue to cover any online content that is not covered by the ASA. This includes non-marketing related brand content on websites<sup>4</sup>, including but not limited to, press releases and other public relations material, editorial, blogs and news content.

The PG Code also applies to non-marketing related brand content on producer-controlled social media platforms. In particular, this includes user-generated content (UGC) including written copy, blogs, images and videos that is created and uploaded by consumers where this has neither been solicited nor adopted by a producer as part of their own communications. This will, for example, include a section of a profile that has been made available for users to start their own discussion threads. However, UGC that is generated in response to discussion threads started by the alcohol producer will be covered by the ASA.

In many instances, branding or brand material may appear on a third-party site, often in association with, or to promote, a specific event, activity, product or team<sup>5</sup>. If the material appears in non-paid-for space, where the producer has had no control over the content of that site, then it is unlikely to be considered inside the remit of either the ASA or PG Codes. For example, this would include brand material (that has neither been supplied nor endorsed by a producer) which appears on a website created by and under the control of a promoter of a music festival, event or sports team - of which the producer may be a sponsor.

The exception to this is material appearing on a third-party website that has been supplied or endorsed by the producer, where anything that constitutes a 'marketing communication' would be covered by the ASA, and all other content by the PG code.

If there is any doubt about which regulatory framework applies to producer controlled online content, producers should seek advice from either PG or the ASA.

### iv) Exclusions under the Code

As already discussed, the Code is designed to cover all marketing activity undertaken by a producer that is not otherwise covered by another regulator. However, there will be some instances where the Code does not apply. These include:

- i. Communications that are solely public affairs or government relations materials are unlikely to be covered as these serve to promote a corporate, as opposed to a brand, message.
- ii. Most corporate communications, including annual reports and investor relations communications are likely to be excluded as they convey a corporate, as opposed to a brand, message.

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<sup>4</sup> For the purposes of the Code, a 'website' includes all consumer facing sites, including public facing corporate platforms.

<sup>5</sup> Marketing should only take place in media or with partners where at least 75% of the audience (spectators or audience) is over 18. This is particularly important when considering potential sponsorships or co-promotions.



- iii. A business to business communication that is not a 'marketing communication' for the purposes of the ASA Codes and PG Code and that does not serve to promote a brand is likely to be outside of remit.
- iv. As mentioned earlier, the Code does not apply to content (including copy and images) which is neither producer controlled (i.e. they have no control over that material or the platform on which it appears) nor producer endorsed<sup>6</sup>.
- v. Industry relations communications that serve to provide information to other trade bodies are likely to fall outside of the remit of the Code.
- vi. International campaigns and promotional material are excluded, as are materials not aimed primarily at a UK audience.
- vii. The Code does not apply to any materials or activities whose sole purpose is to educate about the use and misuse of alcohol. Educational materials targeted at under-18s should not be branded with either a company's corporate or product branding; whereas educational materials aimed at over-18s may feature either (this does not prevent companies from including their company name in material to help protect their copyright).
- viii. The Code does not apply to drinks of 0.5% abv or below. However, it remains necessary to prevent the marketing of these products from appealing to under-18s when the  $\leq 0.5\%$  abv product shares the same brand/branding as, or is a variant of, a drink above 0.5% abv. As such, it is the view of the Advisory Service that the spirit of the Code will apply to uphold the Code's fundamental principles that marketing should be socially responsible and not appeal to under-18s.

## 2) Application and Interpretation of The Code

### a. Purpose of the Code

The primary purpose of any regulator is to regulate for the protection of the vulnerable; the same is true for the Portman Group and its Code and this has been a fundamental principle of the Code since its introduction in 1996. However, up until now, we have not specifically referenced 'vulnerability' in the Code as we do the other fundamental principles (social responsibility and protection of under-18s). Therefore, the statement regarding vulnerability was added to Section 1 of the Code in 2019. It strengthens the industry's commitment to social responsibility; and, Section 1 also introduces the procedural framework and sets out who and what the Code applies to.

The Rules in Section 3, written as broad principles, set out how we ensure alcohol is marketed in a socially responsible way, only to those aged 18 and over, and how we protect vulnerable consumers, all through the application of the Code, and thereby fulfil these fundamental principles.

For instance, the Code protects those who are vulnerable by preventing any suggestions that alcohol can be used as a coping mechanism to deal with stress and boredom (Rule 3.2j). The Code protects those who might be vulnerable due to their young age by preventing marketing that has a particular appeal to under-18s (Rule 3.2h). The Code also prevents any suggestion that alcohol can help with loneliness or social success (Rule 3.2e). The Code protects individuals who might have an addiction to alcohol by preventing marketing that places undue emphasis on the high strength of a product (Rule 3.2a) and preventing the encouragement of irresponsible or immoderate consumption (Rule 3.2f).

When considering a complaint, the Panel may have regard to how the overarching principles frame the context in which each of the Code rules apply in any given scenario. However, a product/promotion cannot be found in breach of paragraph 1.1 alone; it must, in the first instance,

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<sup>6</sup> In the case of advertorials, if the producer has paid for the material or content to appear on a certain platform, then the PG Code will apply. Clause 2.1 of the Code defines an advertorial as, "any published material... promoting a drink as a result of payment by the drink's producer, even though that producer has no control over the content of the material... NB If the material's content is within the control of the producer, it is regarded as advertising and within the remit of the CAP Code".

breach the rule(s) as set out in Section 3 of the Code. As always, complaints will be considered on a case by case basis.

b. Minimum standards

The Code sets the minimum marketing standards that all companies across the industry are expected to comply with to ensure that the public is adequately protected from socially irresponsible alcohol marketing. There are many drinks producers that choose to go further than the Code's requirements in their own internal marketing codes to demonstrate their commitment to social responsibility.

c. Broad principles

The rules that form Section 3 of the Code are written as broad principles. This means that the rules are not overly prescriptive and allow the Panel to interpret and apply them on a case by case basis, taking multiple factors into account (overall impression conveyed, producer response, relevant research etc). This ensures that the Code, and its rules, are flexible to different scenarios, fit for purpose and responsive to innovation in the market.

The detail and interpretation of the rules, and how they are applied, is provided in accompanying guidance, which also includes case precedents demonstrating how the rules have previously been applied. It is important to note that guidance is provided by the Advisory Service and will not bind the Panel in the event of a complaint being received.

A full list of the guidance documents can be found [here](#).

d. Direct versus indirect

Marketing materials do not have to explicitly state a message or create an impression in order to convey a meaning. The rules that form Section 3.2 of the Code therefore apply directly and indirectly. Take for example a fictitious wine called SlimDown; the packaging includes a before and after weight-loss illustration of a silhouetted woman. The back label includes text which advises that individuals could consume the product as part of a diet regime. In the opinion of the Advisory Service, the product would be problematic and in direct breach of Rule 3.2(j) for suggesting that it has slimming/health qualities. The Advisory Service would also advise that, indirectly, the product could encourage irresponsible consumption (Rule 3.2f), by suggesting that it could be used as part of a weight loss regime. The product is not directly encouraging individuals to consume it irresponsibly, but it is fair to state that some individuals may think they can, and should, consume more than they would normally if the product could help them to lose weight.

As part of a [case](#) in 2016, the Panel debated whether the brand name 'Psycho' was problematic in and of itself, or whether it was problematic when considered in the context of marketing materials that included an image of Norman Bates (from the movie Psycho). In this instance, the Panel concluded that the name itself had a connotation with violence and being 'out of control'; but noted this to be an indirect association. Accordingly, the Panel upheld the complaint for creating an indirect association with violent and aggressive behaviour, Rule 3.2(b).

e. Letter versus spirit

It is important that producers follow the spirit as well as the letter of the Code. The 'spirit' of the Code is broadly defined by its purpose<sup>7</sup>. For instance, the spirit of the Code encapsulates the general principle that alcohol should be marketed in a socially responsible way. As an example, under the letter of the Code, a socially responsible sampling activity would restrict the amount of alcohol

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<sup>7</sup> This Code seeks to ensure that alcohol is promoted in a socially responsible way, only to those aged 18 and over, and does not appeal particularly to those who are vulnerable.

being given to individuals to sample. Under the spirit of the Code, the sampling activity would need to consider how and when the activity was conducted. If the sampling activity were conducted in a train station, during morning rush hour while people were on their way to work at 7am it would be difficult to state that the activity was socially responsible under the spirit of the Code despite no literal rule preventing alcohol from being sampled at this time of morning.

f. Overall impression conveyed

It is always the overall impression conveyed by a product that will be considered by the Panel and the Advisory Service. Some elements, when considered in isolation, may be acceptable under the Code but when combined with other elements may change the overall message that is being conveyed.

As part of the overall impression conveyed, context is crucial. The Advisory Service would advise caution when including elements that are inherently controversial, for instance, a violent weapon. This is not to say that such elements are inherently problematic under the Code. The Panel will look at a matter broadly and will consider the imagery in context, including factors such as whether the weapon is presented with a fantastical character, the type of weapon being depicted (even if it is fictional), whether it is a prominent feature on the packaging/promotional material, how the weapon is being used, the accompanying name of the product and how strong the overall link to violence is.

It is important to note that the placement of a product in a retail outlet is unlikely to influence a Panel's ultimate decision as to whether a product and/or promotion breaches the Code. Alcohol packaging sold via the off-trade has the potential to end up in a home environment and beers, wines and spirits aisles in retailers are, for the most part, not restricted areas. While we appreciate that alcohol cannot be purchased by those under-18, it should not appeal to them in the first place, therefore the marketing, including product packaging, should not have a particular appeal to under-18s; it is this fundamental principle that the Code seeks to uphold.

The Panel will consider context and audience targeting when considering complaints against marketing materials that appear only in the on-trade. If a producer can demonstrate that entry to a venue is strictly limited to those aged 18 and over this may be taken into consideration by the Panel if it considers marketing may have a particular appeal to under-18s. However, any brand marketing materials that can be taken off-site, such as branded merchandise, and appeal to under-18s are likely to fall foul of the Code. It is also worth noting that restricting marketing materials to an on-trade, age-restricted, environment may be difficult in a digital age as consumers often take pictures of drink serves/marketing materials and upload these onto social media which could be incorporated by a producer into their own marketing. In 2018, as part of a decision against two [SPAR press releases](#), the Panel were keen to urge producers to consider the reach and exposure of marketing materials in a digital age, as it had become almost impossible to restrict brand messaging to exclusively trade-facing channels without the messages being picked up by consumer channels.

### 3) Legal Position

It is the producer's responsibility to ensure that any drinks packaging or promotional activity it has undertaken complies with the applicable laws and regulations<sup>8</sup>.

Promotional activity must comply with the mandatory licensing conditions<sup>9</sup> imposed under the Licensing Act 2003 (England and Wales) and the mandatory licensing conditions<sup>10</sup> imposed under

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<sup>8</sup> Code rule 1.8 states: The Code operates alongside the law. It is the responsibility of a producer to ensure a drinks packaging complies with the Food Labelling Regulations 1996 and all other applicable regulations and legislation.

<sup>9</sup> <https://www.gov.uk/government/publications/licensing-act-2003-amended-guidance-issued-under-section-182>

<sup>10</sup> <http://www.scotland.gov.uk/Topics/Health/health/Alcohol/licensing/consultations/alcoholguidance>

the Licensing (Scotland) Act 2005; both sets of conditions aim to prevent irresponsible on-trade drinks promotions such as free/discounted drinks for specific groups or an unlimited or very high number of drinks for a fixed entry price. Further advice on whether a promotion complies with the mandatory conditions can be obtained from local licensing authorities/licensing boards and/or the police. In Northern Ireland, the Joint Industry Code for Responsible Retail Promotions was launched in May 2012. This Code also aims to prevent irresponsible on-trade promotions and further advice on its application can be obtained from the relevant trade body in Northern Ireland<sup>11</sup>.

#### 4) Preventing Irresponsible Marketing

##### a. Code Advisory Service and Training

The aim of the Portman Group is to prevent irresponsible products and promotions coming to market in the first place. We operate a free, confidential pre-launch Code Advisory Service which receives on average over 500 requests for advice a year. This is supported by Guidance Notes on every Code rule to help companies comply with the Code. In addition to this, we also offer a free CPD certified training programme.

The Advisory Service also proactively monitors the Trade Marks Registry for new alcoholic products and offers advice to producers before problematic products are launched in the UK market. To obtain advice, please telephone 020 7290 1460 and ask for the Advisory Service. Alternatively, e-mail your request to [advice@portmangroup.org.uk](mailto:advice@portmangroup.org.uk), preferably including a colour layout of the proposed packaging or promotional materials, or full details of the proposed activity.

To request free training, please telephone 020 7290 1460 and ask for the Training Team. Alternatively, email your request to [training@portmangroup.org.uk](mailto:training@portmangroup.org.uk) with your proposed delegate numbers and preferred location of the training session.

##### b. The Independent Complaints Panel

The Code is administered, not by the Portman Group or its Board, but by an Independent Complaints Panel ("Panel"). The Chair of the Panel is appointed through an open and transparent process, consistent with the Public Appointments Process. The Panel is currently chaired by Jenny Watson CBE. There are eight other members of the Panel; these are appointed by the Chair of the Panel. The Panel has its own constitution which requires that the membership represents a diversity of backgrounds and experience. The Panel does not include any person currently employed by the Portman Group or any of its member companies. The Panel's decisions are published on the Portman Group's website and in an annual Code report.

The Portman Group provides the Secretariat function to the Panel; this involves managing the administrative side of the complaints process (Section 5 of the Code) to ensure that complaints follow due process and can be considered in a timely manner by the Panel. The Panel are the final arbiters of the Code. The Code Secretariat is not involved in the complaint decision-making process. The Panel does, occasionally seek clarification about the interpretation of a Code rule and/or Code guidance. As an independent Panel it is not bound by the views expressed by the Advisory Service (if advice had previously been given to a producer). It is the Portman Group's responsibility to publish the Panel's decisions and provide advice and guidance to the industry in line with these case precedents.

##### c. Complaints and Sanctions

The Code has an open and accessible complaints system allowing anyone to make a complaint against a product or promotion that they consider is in breach of the Code. An alleged breach of the Code is referred to the Independent Complaints Panel. Where complaints are upheld, the Portman Group will publish the decision on its website and in a press release. It may also choose to

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<sup>11</sup> <http://www.responsibleetailingcodeni.org/>



notify retailers via a Retailer Alert Bulletin (RAB) and will request them not to replenish stocks of any product whose packaging has been found in breach of the Code, after the date specified on the RAB (this will not normally exceed three months). The RAB is published in the trade press and also distributed to Code signatories, trade associations, police licensing officers and local authority licensing officers. The Code is commended to licensed retailers in Guidance issued by the Home Office under Section 182 of the Licensing Act 2003 (10.11)<sup>12</sup>.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705588/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003\\_April\\_2018\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf)



## 5) Frequently Asked Questions

Q: I'm not a member or Code Signatory of the Portman Group, does the Code still apply to my products?

Yes, the Code applies to the naming, packaging and promotional activity undertaken by any drinks producer for an alcoholic drink which is marketed for sale and consumption in the UK.

Q: My company is not based in the UK, but my products are available for sale in the UK; does the Code apply to my products?

The Code applies to any product that is available for sale and consumption in the UK, including products that have been brought into the UK from overseas. It also applies to products imported by a third party (both the producer and distributor would be named in a decision).

Q: My brand name is trademarked, is this exempt from the Code?

The Code applies to the name of a product, even if it is registered as a trademark. The Portman Group offers a free, confidential Advisory Service where you can discuss brand names prior to trademarking them.

Q: Can you help me with the legal labelling requirements in the UK?

The Advisory Service can provide advice under the Portman Group's Codes of Practice. However, the Food Standards Agency has a dedicated [web page](#) with more information on legal labelling requirements in the UK.

Q: Does the Code apply to the on-trade?

The Code applies to producer-led activity, including producer-led activity in the on-trade. However, the Code will not apply to wholesaler or retailer-led promotional materials<sup>13</sup>.

Q: How many complaints are required for an investigation?

It only takes one complaint to trigger an investigation.

Q: Why has the Portman Group targeted my product/promotion as a matter of complaint?

The Portman Group provides the secretariat function for the Independent Complaints Panel and does not itself raise complaints against products<sup>14</sup> or target individual sectors. Complaints can be made by anyone, including the alcohol industry, who might consider a product or promotion is in breach of the Code.

Q: Do you impose a fine if a product/promotion is in breach of the Codes?

The Portman Group does not issue financial penalties in the event of a Code breach. The Portman Group will publish the decision on its website and issue a press release. A press release reporting the decision can lead to adverse media coverage for a producer. The Portman Group may also choose to notify retailers via a Retailer Alert Bulletin (RAB) and will request retailers not to replenish stocks of any product whose packaging has been found in breach of the Code, after the date specified on the RAB (this will not normally exceed three months).

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<sup>13</sup> Unless a wholesaler/retailer is promoting their own label products; or they are part of any co-promotional activity that has the approval or support of the producer.

<sup>14</sup> The Portman Group may act in lieu of a complainant where it has been provided with sufficient information. Please see clause 5.7 of the Code.



Q: Do you ban products?

We do not 'ban' products. A product has to have been subject to an upheld decision before we can issue a RAB. The RAB will request that a retailer stops replenishing stocks of any product whose packaging has been found in breach of the Code after a certain period of time. The producer can amend the problematic packaging, preferably with the help of the Advisory Service, so that the compliant packaging can be sold in the UK market.

Q: The complainant didn't complain about my product under a Code rule so why was it raised by the Panel?

The Panel is not restricted to the issues raised in a complaint and can consider any Code rule that it deems relevant.

Q: Is there a right of appeal against a Panel decision?

If the Panel decides that a product's packaging or promotion is in breach of the Code, the decision is provisional. The producer will then have a further opportunity to respond to the provisional decision and the points raised by the Panel. The Panel will then consider these additional representations at its next meeting and will make a final decision.

Q: What if I followed advice from the Advisory Service and a complaint is received?

Advice from the Advisory Service is provided in good faith with the aim of ensuring that a product/promotion is likely to be compliant under the Code and to minimise the risk of complaint.

If a complaint is received, remember that this is not necessarily the view of the Portman Group and you will be given a chance to defend your product/promotion if you disagree with the complaint.

Ultimately, the Panel is not bound by the advice provided by the Advisory Service as it is just advice.

Q: What if I amend my product following a complaint and another complaint is received?

A producer may choose to amend a product with the help of the Advisory Service during the Informal Process or after receiving an upheld decision under the Formal Process. In both instances, if a complaint is received against the new packaging this will be treated as a new product complaint.

Q: Trading Standards has approved my product; am I exempt from complaints?

The Code sits alongside the law and it is a producer's responsibility to ensure that their product complies with the relevant food regulations and does not mislead consumers. The Portman Group's regulatory remit is distinct from Trading Standards so the Code will still apply in its entirety.

Q: If I seek advice from the Advisory Service, and I decide to ignore the advice, will my product be referred to the Panel?

All advice between producers and the Advisory Service is confidential and no complaints are ever raised by the Portman Group as a result of these discussions.

Q: Do I have to include alcohol health-related information on my back labels?

The alcohol drinks industry has committed to ensure that key alcohol and health-related information is made available to consumers. As a minimum, alcohol-health related information includes:

- Unit alcohol content per container (and optional per typical serve)
- Pregnancy logo/message
- Active signposting to Drinkaware.co.uk



And can also include:

- Chief Medical Officers' Low Risk Drinking Guidelines 2016
- Calorie content
- Drink-driving message
- Responsibility statement
- Age-restricted product

The Chief Medical Officer's guidelines were reviewed and updated in 2016 and we have agreed a deadline of 1 September 2019 for the removal of out-of-date information with the Department of Health.

To be clear, including any alcohol health-related information on labels is considered industry best practice and is a voluntary measure which we encourage.

Our labelling toolkit can be found [here](#).

Q: Can I use the Drinkaware logo?

Companies should, wherever possible, feature the website address on brand labels, advertising and websites so that consumers are readily directed to an authoritative source of advice and information on responsible drinking.

Drinkaware.co.uk is a registered trademark. Anyone wishing to use this needs to purchase a valid licence agreement from Drinkaware. For further information on use of the Drinkaware logo or to obtain a trademark agreement, email [logos@drinkaware.co.uk](mailto:logos@drinkaware.co.uk).

Q: Does your Code apply to competitions on neck labels/hangers?

Promotions on neck hangers/labels are considered advertising and fall under the remit of the Advertising Standards Authority.



## Summary of UK Marketing Regulation For Drinks Producers

Regulator	Ofcom	Advertising Standards Authority	Portman Group
Codes	Ofcom Broadcasting Code	UK Code of Broadcast Advertising (BCAP Code); and, the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code)	Code of Practice on the Responsible Naming, Packaging and Promotion of Alcoholic Drinks; and the UK Alcohol Sponsorship Code
Remit	<ul style="list-style-type: none"> <li>Television programme sponsorship</li> <li>(Also broadcast editorial standards)</li> </ul>	<p>All advertising, e.g.:</p> <ul style="list-style-type: none"> <li>television</li> <li>radio</li> <li>Print, including advertising in newspapers, brochures, leaflets, emails, texts;</li> <li>poster, including moving images in public spaces (unless unlawful)</li> <li>paid-for non-broadcast electronic media -including banner or pop-up ads, viral ads, in-game ads and sales promotions in paid-for space and non-paid-for space online</li> <li>'marketing communications' on websites and other non-paid-for space online under a producer's control including social media platforms like Facebook and Twitter (except un-adopted or unsolicited content)</li> </ul>	<ul style="list-style-type: none"> <li>All other alcohol producer marketing activities, e.g.:</li> <li>naming</li> <li>packaging (including gift-packs containing alcohol)</li> <li>sponsorship-excluding TV programme sponsorship</li> <li>sampling</li> <li>public relations-including press releases, press packs, press tool kits, publicity stunts and media relations activity</li> <li>experiential activity</li> <li>producer-generated point-of-sale materials</li> <li>content on websites and other non-paid for space on third party sites under a producer's control (except those areas covered by the ASA)</li> <li>Un-adopted or unsolicited user generated content (including copy, blogs, images and video)</li> </ul>



		<ul style="list-style-type: none"> <li>• Cinema, DVD and Blu-ray ads</li> <li>• Direct mail</li> <li>• Mobile phones (SMS and Bluetooth)</li> <li>• Sales promotions in non-broadcast media</li> <li>• Advertorials<sup>15</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Co-promotional activity (including retailer-led)</li> <li>• Advertorials<sup>16</sup></li> </ul>
Nature of system	Statutory	<ul style="list-style-type: none"> <li>• Co-regulatory (broadcast)</li> <li>• Self-regulatory (non-broadcast)</li> </ul>	Self-regulatory
Rules written by	Ofcom	BCAP, but approved by Ofcom (broadcast) CAP (non-broadcast)	Portman Group
Adjudicating body	Ofcom	Independent ASA Council chaired by Lord Currie of Marylebone	Independent Complaints Panel chaired by Jenny Watson CBE
Funded by	Government	Advertising industry	Drinks producers

<sup>15</sup> The CAP Code defines an advertorial as, 'an advertisement feature, announcement or promotion, the content of which is controlled by the marketer, not the publisher, that is disseminated in exchange for a payment or other reciprocal arrangement'.

<sup>16</sup> The PG Code defines an advertorial as 'any published material, including websites, promoting a drink as a result of payment by the drink's producer, even though that producer has no control over the content of the material. (NB If the content is within the control of the producer, it is regarded as advertising and within the remit of the CAP Code, administered by the Advertising Standards Authority).'



The Portman Group is a responsibility body and regulator of the naming, packaging, promotion and sponsorship of alcohol. The above guidance should help you to avoid problems under the Portman Group's Code of Practice.

### The Portman Group's Advisory Service

If you are in any doubt as to whether your proposed activity conforms to the Code you can seek free, fast and confidential advice from the Portman Group's Advisory Service. To obtain advice, please telephone the Portman Group on 020 3295 5704 and ask for the Advisory Service. Alternatively email your request to [advice@portmangroup.org.uk](mailto:advice@portmangroup.org.uk), with full details of the proposed activity.

### The Portman Group's Code Training Programme

We also provide free CPD accredited training to ensure that the Code is widely understood and applied; as well as providing details on the wider regulatory landscape. Should you wish the Portman Group's training sessions can be tailored to suit your organisation or individual needs. To book a training session or to find out more, please telephone the Portman Group on 020 3925 5704 and ask for the Training Manager. Alternatively, email your booking request or query to [training@portmangroup.org.uk](mailto:training@portmangroup.org.uk).

