

Guidance Note

Rule 3.2(b) Bravado, violent, aggressive, dangerous, anti-social and illegal behaviour

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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. This guidance represents the opinion of the Advisory Service. Please note that the Independent Complaints Panel (Panel) is the final arbiter on how the Code 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 Code if a complaint is received. The guidance will be updated regularly to reflect the views of the Panel.

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. 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 product name, image or statement on a drink's packaging or in a promotion is acceptable under the Code without seeing/considering it in context. Companies are therefore encouraged to make use of the free Advisory Service before undertaking promotional activities or launching products to help ensure that they comply with the Code.

The Code sets the minimum standards; producers may have their own internal marketing guidelines which go above and beyond what is required of them under the Code.

Introduction

Code paragraph 3.2(b) requires that a drink's naming, packaging and any promotional material or activity does not, in any direct or indirect way, suggest any association with bravado, or with violent, aggressive, dangerous, anti-social and illegal behaviour (though sponsorship of activities which may be dangerous after alcohol consumption, such as motor or yacht racing, are not in themselves in breach of this clause). Because, at the time of writing, the illegal behaviour requirement is a new addition to the Code rule, there are no precedents to show how this element of the rule has been interpreted by the Panel. This guidance, however, seeks to anticipate how the Panel may interpret the new rule in the future. The guidance will be amended and updated in light of future decisions by the Panel.

Application of the Rule

- Packaging should not suggest that one has to be tough or daring to drink a particular product. Nor should it be suggested that consumption of the product will make the drinker tough or daring.
- Consumption of the product should not be presented as a 'challenge'. Asking whether drinkers can 'handle it' or are 'up for it', and thereby presenting consumption of a product as a 'challenge' (including warnings about the product's strength; see advice under rule 3.2a) will be problematic under the Code.
- There should be no association with violent, aggressive, anti-social behaviour or illegal behaviour that has any contemporary relevance (for example, brand names such as 'Gangsta' and 'Taser').
- The inclusion of weapon imagery is not necessarily, of itself, 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. Any imagery that is inextricably linked to violent behaviour is likely to breach the Code.

- The sixth edition of the Code now requires that producers do not create an association with illegal behaviour. The new addition to the rule disallows any link between alcohol marketing and contemporary illegal behaviour and the glamourising of criminal activity.
- As always, the Panel will consider the overall impression conveyed by a product and will make decisions on a case-by-case basis.
- Marketing which seeks to glamourise gang culture and crime is likely to be problematic under the Code. The severity of the crime will be considered by the Panel, but it is worth noting that any type of crime could be captured by this rule if a product uses an arbitrary link to illegal behaviour as a dominant theme on its packaging or in its promotional materials.
- The Panel will consider the scope of illegal behaviour on a case-by-case basis. A good example of this is the act of graffiti. Locations where graffiti has been permitted by the local council, or graffiti on private property, is legal and depictions of this is likely to be acceptable under the Code. However, in other scenarios graffiti can be considered an act of criminal. The Panel will consider all marketing in context and the overall impression conveyed.
- Some products can trace their brand heritage to moments in history where the sale of alcohol was prohibited or where illicit distillation was commonplace due to other historical events (such as Scottish whisky in the 18th and 19th centuries). Historic associations with illegal behaviour will be reviewed in context and their contemporary relevance will also be considered when determining compliance under the Code. The new rule will not prevent marketing based on brand heritage, but such marketing should be contextualised.
- Products which create an association with illicit alcohol production for no other reason than to glamourise criminal activity are unlikely to be acceptable under the Code. References to historical events, such as prohibition, are likely to be fine. In the case of prohibition, this specifically relates to a period of history in the United States where the production, sale and distribution of alcohol was illegal but is no longer in effect. However, some of the language from this period still holds contemporary relevance and should be avoided; for instance, 'moonshine' is still a word directly associated with illicit alcohol in the present day.
- Similarly, brand stories which incorporate characters from folklore who are well-known for their illegal exploits, like Robin Hood, or more generic fictional characters like pirates, smugglers and highwaymen, are likely to be acceptable when presented in an historical context. The Panel will consider all mitigating factors in these instances, such as how much time has passed since the illegal activity and whether the story is based on fact or fiction. All such depictions will also need to be mindful of the requirements under rule 3.2(h) (see separate guidance).

Case Studies

- In 2005, the Panel upheld a complaint against a product called [Kalashnikov Vodka](#) because it felt that first and foremost, UK consumers would associate the name Kalashnikov with a gun and that many would associate it specifically with the assault rifle the AK-47. Having considered the product as a whole, including its packaging and overall presentation, the Panel concluded that a name that primarily evoked an image of a contemporary gun, namely the AK-47 which is the most widely used firearm in the world, was an unacceptable choice of brand name for an alcoholic drink because it indirectly suggested an association with violent and dangerous behaviour.

- Similarly, in 2014, the Panel upheld a complaint against a product called [Red Army Vodka](#) which was a vodka product in a glass AK-47 gun-shaped container in a green wooden ammunition presentation box, together with hand-grenade shaped flasks. The Panel concluded that the packaging and the name Red Army, in the context of the product's AK47 shape packaging, were unacceptable for an alcoholic drink because they suggested a direct association with violent and dangerous behaviour.
- In 2012, a complaint against a beer called [Dark Conspiracy](#) was upheld, not because of the product name, but because the image used on the bar fount was of the Kray twins. The Panel considered the Krays were intrinsically linked with violence and aggression and were still relevant and contemporary, and consumers would make the connection with them and the level of violence they used; the image had direct associations with violence and aggression and, accordingly, the Panel found the image in breach of Code paragraph 3.2(b).
- As part of a case in 2016, the Panel considered the use of an image of a pistol on a [limited-edition bottle of Heineken](#) which was linked to the James Bond film Spectre. The Heineken bottle incorporated the well-known silhouette motif of the James Bond character holding a silenced pistol in a pose that was established in the first film in 1962. The Panel considered that the pistol was displayed in a stylised pose and was not depicted as being Rule 3.2(b): Bravado, violent, aggressive, dangerous, anti-social and illegal behaviour 5 | Page used to shoot or to cause harm, nor was the pistol a prominent feature on the packaging. The Panel agreed that including an image of a gun on packaging will naturally carry a high risk of creating an association with violent behaviour; however, on balance, the Panel was satisfied that the stylised motif of James Bond in his trademark silhouette stance served mainly to draw attention to the wider James Bond brand rather than violent behaviour. Accordingly, the Panel did not uphold the complaint under Code paragraph 3.2(b).
- The Panel will take various factors into account when considering whether a product or promotion suggests any association with dangerous behaviour. All products are considered in context, but it is important to note that even fantastical imagery can breach the Code if an inherent link to dangerous behaviour is present. In 2018, the Panel considered [Disco Forklift Truck Mango Pale Ale](#) which incorporated an image of a character dancing on a raised forklift arm on the front of the packaging. The Panel expressed concern when presented with an alcohol product named after dangerous building-site machinery and although the artwork was stylised and fantastical, concluded that the act too closely mirrored real-life and was problematic under rule 3.2(b).
- Due to potential associations with drink driving, any product which creates a link with driving, manually operated transportation or dangerous machinery is at an increased risk of breaching the Code. In 2018, the Panel upheld a complaint against the product packaging of [Cronk Y Voddy](#) which depicted a driver's eye view of the Cronk Y Voddy straight road, a visible RPM dial registering a high speed, a road sign which read 'Welcome to Cronk Y Voddy, please drink with care' and text referring to red-lining taste buds, as the packaging created a direct association with drink-driving and dangerous behaviour.



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, 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.

