

## **Alcohol marketing, its impact and its regulation in the UK: A briefing note**

### **Introduction**

Marketing is the process by which companies create customer interest in their products. It encompasses, for example, advertising (via TV, radio, print and electronic media), packaging, point-of-sale (POS) materials, branded promotional merchandise, sponsorship and pricing.

For most product sectors, a company's freedom to market its products (provided it abides by the basic principles of being legal, decent, honest and truthful) is non-controversial. Alcohol, however, is a product that is capable of being misused and causing harm. Its marketing is therefore subject to additional restrictions to minimise the risk of encouraging harmful consumption. The exact relationship between alcohol marketing and consumption, and therefore the extent of the restrictions which should be imposed, is subject to intense debate.

### **Impact of alcohol marketing**

Critics believe that alcohol marketing encourages non-drinkers to start drinking and existing drinkers to drink more, thus having a negative effect on society<sup>1</sup>. Critics are particularly concerned over these alleged effects of alcohol marketing in respect of under-18s<sup>2</sup>. Traditionally, the concern has been around the content and placement of alcohol marketing. More recently, however, concern has been expressed over the sheer volume of alcohol marketing. For example, in its 'Under the Influence' report, the British Medical Association claimed that; "our society is awash with pro-alcohol messaging, marketing and behaviour."<sup>3</sup>

The fact is that in any mature market, advertising and marketing has very limited ability to increase overall demand and alcohol is no different. The primary effect, and intent, of alcohol marketing is therefore to maintain and increase one's brand share at the expense of other brands.<sup>4,5</sup> If alcohol marketing does have an impact beyond this, it is very much a secondary effect. Nonetheless, it is important to seek to identify and limit the potential damage caused by any such secondary effect.

The relationship between marketing and alcohol consumption has been studied using various methodologies, with differing results.

Econometric studies that examine the relationship between marketing expenditure and consumption have found no or only a slight correlation.<sup>6,7,8,9</sup> According to a meta-analysis of 132 international studies, the elasticity of alcohol advertising is very small (0.029), supporting the notion that advertising is primarily concerned with brand share and has only a small impact on overall demand.<sup>10</sup>

Experimental studies have also attempted to examine the impact of marketing (particularly advertising) on drinking but, again, have produced mixed results. While some studies report an effect on attitudes and expectancies around drinking, others

do not.<sup>11,12</sup> Furthermore, these studies tend to have a number of critical shortcomings, in particular that they do not adequately account for the cumulative impact of different factors on the shaping of beliefs, attitudes, and consumption patterns.<sup>13</sup>

Some longitudinal research shows a modest relationship between exposure to marketing and drinking among young people; the strength of the association varies between studies.<sup>14</sup> Any inferences, however, about the effect size are limited by the uneven quality of the studies and inadequate controls for confounders.<sup>15</sup> One of the most vociferous critics of alcohol marketing in the UK has been Professor Gerard Hastings at the University of Stirling. Professor Hastings' team recently concluded a longitudinal study to try to measure the impact of alcohol marketing on 13 year olds in the West of Scotland. Leaving aside the limitations of the study, it found no association between awareness of alcohol marketing at age 13 and either the onset of drinking or the volume of alcohol consumed two years later.<sup>16</sup>

In conclusion, a negative impact of alcohol marketing (i.e. encouraging onset of drinking and/or increased volume of drinking) cannot be ruled out but it has not yet been proved by the research evidence. Furthermore, any such impact, if it exists, is likely to be small and will be outweighed by other factors such as family environment, peer behaviour, socioeconomic status, personal attitudes and personal problems.<sup>17,18,19</sup>

## **Regulation of alcohol marketing**

Although there is only limited evidence for the risk posed by alcohol marketing, the industry has a responsibility to ensure that any such risk is minimised. To this end, a comprehensive framework of regulation is in place to protect the public in the UK.

### **Regulatory framework**

There are two principle organisations involved in regulating drinks marketing: the Advertising Standards Authority (ASA) and the Portman Group. In addition, Ofcom regulates television programme sponsorship. The different regulatory systems, however, while they operate independently of one another, adopt similar standards and complement one another to ensure strict supervision of all drinks producer marketing activity. A summary of the regulatory framework is attached (see appendix).

### **Advertising Standards Authority**

The ASA is the UK body with responsibility for ensuring that all advertising is legal, decent honest and truthful. It does this by administering a set of Advertising Codes, which are written and maintained by two industry bodies; the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP). CAP is responsible for the non-broadcast Code and BCAP is responsible for the TV and radio Codes.

The system is based on a concordat between advertisers, agencies and the media that each will act in support of the highest standards in advertising. It is both self-

regulatory (for non-broadcast advertising) and co-regulatory (there is a co-regulatory partnership with Ofcom for TV and radio advertising). Compliance with the Advertising Codes is not voluntary and all upheld adjudications are strictly enforced.

Complaints under the BCAP and CAP Codes are adjudicated on by the independent ASA Council chaired by the former cabinet minister Lord Smith of Finsbury. Its decisions are published on the ASA's website and in a weekly report.

Advertisers that breach the Advertising Codes face financial loss from having an advertising campaign pulled and damage to reputation through the publication of upheld adjudications, which attract media attention.

Compliance with ASA adjudications is extremely high. For those few advertisers who refuse to comply, industry and other pressures can be brought to bear. For example, poster pre-vetting can be imposed and direct marketing companies can have benefits such as Royal Mail bulk mailing discounts removed. Although very rare, in serious cases of non-compliance, advertisers can be referred to the statutory authorities, for example to the OFT for action for unfair or misleading advertising, or to Ofcom for action against broadcasters.

The vast majority of broadcast advertisements are pre-cleared beforehand by Clearcast (TV) and the Radio Advertising Clearance Centre (radio). Cinema advertisements are all pre-cleared by the Cinema Advertising Association. Pre-publication advice on non-broadcast advertising is available from the CAP Copy Advice team.

The ASA carries out regular monitoring to ensure high levels of compliance with its Codes. In a monitoring survey of alcohol advertisements in December 2009, it found one breach out of 307 advertisements, which equates to a compliance level of 99.7%.<sup>20</sup>

## **The Portman Group**

The Portman Group regulates all drinks marketing in the UK with the exception of advertising, through its Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. This covers, among other things, packaging, sponsorship (excluding programme sponsorship), branded merchandise, press releases and websites\*. The Code is written by the drinks industry following open consultation.

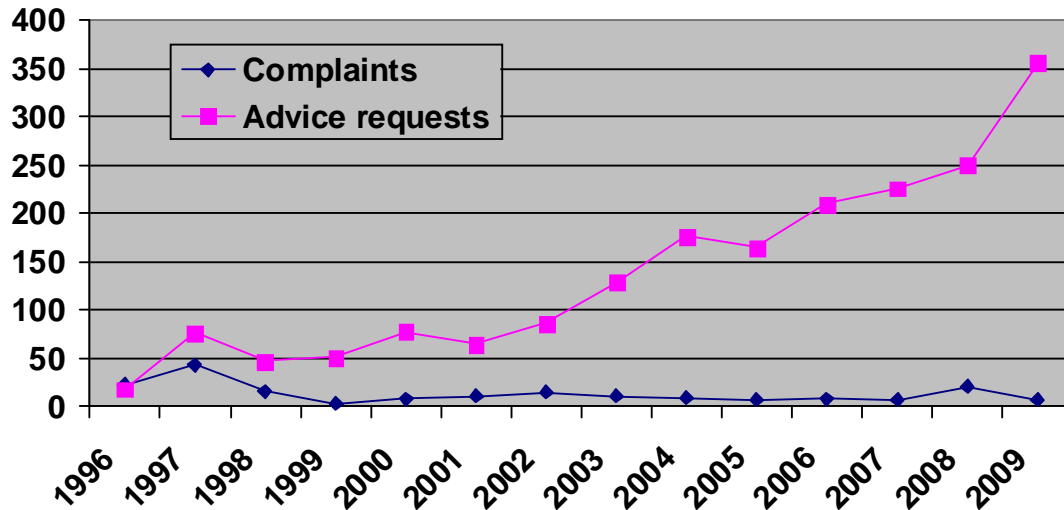
Complaints under the Portman Group Code are adjudicated on by an Independent Complaints Panel chaired by Sir Richard Tilt (formerly Director-General of the Prison Service). Its decisions are published on the Portman Group's website and in an Annual Report.

If a company is found in breach of the Codes, it invariably will voluntarily take appropriate remedial action. In the case of product packaging breaches, however, the Portman Group ensures compliance by issuing a Retailer Alert Bulletin. This requests retailers not to stock the product unless and until it has been re-designed appropriately. Since the Code was introduced in 1996, over 70 products have been removed from sale in this way.

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\* The ASA will assume responsibility for regulating brand websites from March 2011

The Portman Group operates an Advisory Service to help companies comply with the Code. The chart below shows the number of complaints per year since the Code was introduced versus the number of requests for advice. In 2009, it can be seen that there were eight complaints versus over 350 requests for advice. This is how the system is meant to operate in that problems are being resolved before products and promotions come to market.



In 2008, the Portman Group commissioned an independent company, PIPC, to conduct an audit of Code compliance in respect of drinks packaging. PIPC assessed 485 products and considered 93% to be definitely compliant with the Code. Producers of 18 products considered potentially non-compliant volunteered to take remedial action. Ten other potentially non-compliant products were referred to the Independent Complaints Panel, only two of which were eventually judged to be in breach of the Code (i.e. a failure rate of 0.4%).<sup>21</sup>

The Portman Group is constantly striving to improve responsibility standards and produces guidance on best practice in particular areas of marketing. In 2009, it issued comprehensive guidance on the responsible use of digital media which advised companies on such matters as how to use social networking sites responsibly; how to protect against downloadable materials being forwarded to minors; and how to decide whether a third-party’s website was an appropriate vehicle for alcohol advertising.

The Portman Group’s Code is highly regarded with its effectiveness recognised by several authoritative and independent bodies. For example, the Better Regulation Taskforce has described our Code as a good example of a Code that works well, demonstrating how effective self-regulation can be<sup>22</sup>. The International Harm Reduction Association includes the Code within its leading 50 global alcohol harm reduction initiatives.<sup>23</sup> In its 2008 review of the industry’s social responsibility standards for the Home Office, KPMG reported that the work of the Portman Group was “highly respected” and had led to a “considerable improvement” in alcohol marketing.<sup>24</sup>

## Issues concerning alcohol marketing

### ***Should there be a complete ban on alcohol marketing?***

The lack of evidence to demonstrate that alcohol marketing causes harm suggests that a complete ban is unnecessary. Instead, the current approach is the right one, namely seeking to minimise any potential harm by ensuring that marketing content is responsible and that communications are targeted at over-18s.

Where they have been introduced, bans have tended to be ineffective. France banned alcohol advertising in 1991 but in 1999 a French Government report found that the ban had not reduced high-risk drinking.<sup>25</sup> The University of Sheffield acknowledged that an advertising ban could create fiercer price competition resulting, perversely, in an increase in overall consumption.<sup>26</sup>

### ***Should under-18s be completely shielded from all alcohol marketing?***

The drinks industry seeks to ensure that its marketing communications are targeted at over-18s. Not only is this socially responsible, it makes commercial sense. First, under-18s cannot legally buy the product. Secondly, the perception that it has a following of under 18s is likely to damage the value of a brand.

For most communication channels, particularly mass media (e.g. TV, radio, press, posters, etc), it is virtually impossible to separate out under-18s from over-18s. If the alcohol industry could not use these media, it would essentially be a complete advertising ban. Given the lack of evidence for the harm caused by alcohol marketing, this would be a disproportionate measure. The industry therefore abides by a requirement that drinks can be marketed in a particular medium provided that at least 75% of the audience is aged over 18 (in the case of TV advertising, the approach is slightly different – see below – but the effect is virtually the same). This is deemed an appropriate benchmark which balances the need to protect young consumers with the industry's desire for reasonable marketing freedom to reach its adult audience.

Where the industry is readily able to separate its over-18 target audience from under-18s (for example, in direct digital marketing communications such as e-mail, SMS, Twitter, etc.) it ensures that under-18s are not exposed to marketing communications.

### ***Should the 75% threshold be raised, for example to 90%?***

As mentioned above, the industry abides by a requirement that drinks can be marketed in a particular medium provided that at least 75% of the audience is aged over 18. Raising the 75% threshold would significantly reduce the channels through which alcohol could be marketed. For example, it would prohibit any outdoor advertising. This would be a disproportionate restriction, particularly given the lack of evidence that such advertising has any impact on under-18s' drinking behaviour. Under-18s would still be exposed regularly to non-marketing portrayals of drinking, for example in television programmes. These portrayals are not subject to the strict controls that apply to advertising and thus are more likely to glamorise drinking and encourage misuse. The existing threshold is a proportionate restriction.

***Should television advertising of alcohol should be banned before 9pm?***

The current regulations prevent companies from advertising on television during or around children's programmes or any show that attracts a disproportionate number of under-18 viewers (although calculated differently, the impact is virtually the same as the 75% threshold that applies to non-broadcast advertising). These restrictions apply 24 hours a day, seven days a week. This system of audience profiling is a more reliable mechanism for assessing if a programme has particular appeal to children than a ban on advertising before 9pm. Furthermore, a watershed is less relevant in today's TV-on-demand media environment which allows people to record and watch what they like, when they like.

***Should drinks companies be allowed to use social networking sites to promote their brands?***

The Portman Group's Code obliges all producers to ensure that they place marketing only on websites where at least 75% of visitors are aged 18 or over. This restriction is consistent with the threshold that applies to other forms of drinks producer marketing. In fact, as mentioned above, digital media offers advantages over traditional media in that it enables companies to target their products more tightly. Some social networking sites (e.g. Facebook), for example, allow communications to be restricted to those members who have pre-registered as over-18, thus protecting children from exposure to marketing not intended for them and allowing drinks companies to eliminate 'wastage' of messaging.

It should be acknowledged that sometimes a drinks brand may be featured on a social networking site in a totally inappropriate way by a third party without the knowledge or consent of the brand owner. While this is to be condemned, a company generally has no control over unauthorised references to its brand, whether these take place verbally, in print or through a digital medium.

***Should sports sponsorship by drinks companies be banned?***

Sponsorship (excluding TV programme sponsorship) is regulated through the Portman Group's Code. Sponsorship can only be undertaken if at least 75% of the audience or participants are aged over 18. This is a proportionate restriction and in line with the rule on placement of alcohol advertising contained in the CAP Code.

Furthermore, the Portman Group's Code now prevents drinks companies from putting their logos on children's replica shirts. Although there was no evidence to link this marketing with under-age drinking, drinks companies were concerned about the negative perception surrounding their logos appearing on children's shirts. The rule change applies to any new sponsorship signed after 1 January 2008.

Some critics object that sports sponsorship inappropriately associates an alcohol brand with sporting success. Many alcohol companies, however, sponsor amateur sports teams and those in the lower leagues not known for their success on the field. It would be an impractical and unfair restriction to prevent companies from sponsoring the more successful teams. Furthermore, consumers are sophisticated enough to realise that even though a team is sponsored by a company that does not mean that their players personally endorse a sponsor's product. If a team is a mobile phone company, fans do not assume that the player uses one of their phones.

Similarly if a team is sponsored by an alcohol brand, supporters do not assume the players drink that alcohol.

***How do companies seek to deter under-18s from accessing brand websites?***

It is impractical, given current technology, to require all visitors to undergo an external check before being allowed entry to a site. Drinks companies, however, use their reasonable endeavours to discourage under-18s from accessing brand websites and therefore voluntarily apply an age affirmation page (AAP) to act as a deterrent. An AAP is a website landing page which requires visitors to affirm they are of a certain age before they can enter the website.

It is recognised that self-affirmation is open to abuse by the visitor. It should be borne in mind, however, that these are intended to provide an additional protection rather than act as a foolproof guarantee. It is a proportionate deterrent; under-18s are not able to get drunk from visiting a brand website. Regulation instead focuses on ensuring that the site content does not have a particular appeal to under-18s. Additionally, many alcohol websites also carry a hidden 'tag' so that if parents have appropriate software installed it will block access by children.

***Why are companies allowed to advertise alcohol in the cinema alongside films rated other than "18"?***

Cinema advertising is subject to the CAP Code and therefore alcohol can be advertised provided at least 75% of the audience is aged over 18. Many films rated "15", for example, nonetheless attract a predominantly adult audience. The Cinema Advertising Association determines which films meet the 75% criteria and ensures that alcohol advertising is not carried with other films.

***Why are the Codes written by the industry and are they strong enough?***

It is a basic principle of self-regulation that industry should set its own standards (though subject to Ofcom's approval in the case of the BCAP Code). The Codes are, however, subject to regular revision through an open process in which members of the public and other interested parties are invited to comment. Industry ultimately must ensure that the rules are extremely strict to meet the expectations of Government and other stakeholders. It is only through the operation of strict Codes that the industry can maintain high standards and resist demands for potentially damaging statutory regulation. The result is proportionate regulation that has the strong support of industry.

***Why don't the Codes address pricing?***

First, while a drinks producer determines the price at which they supply their product to a wholesaler or retailer, they do not determine the price at which the retailer chooses to sell it to the consumer. Secondly, if the industry colluded to seek to influence the price of its products, it would almost certainly find itself in breach of competition law.

***If there is no need for tighter restrictions on marketing, what actions will make a difference in tackling alcohol misuse?***

The way to reduce alcohol misuse is through sustained education coupled with strong enforcement of laws applying to drinkers and drinks retailers. It was these twin measures of education and law enforcement that made a huge difference to drink-driving in the UK, changing both attitudes and behaviour significantly over the last 30 years. Consequently, the number of people killed annually in drink-drive accidents has fallen by over 60%, despite huge growth in the volume of traffic. We now need to achieve the same transformation in attitudes towards public drunkenness.

***Can alcohol marketing actually help to promote responsible consumption?***

Companies are increasingly using their brand marketing to educate consumers and encourage them to drink responsibly. All Portman Group member companies are now committed to supporting the Department of Health by voluntarily including comprehensive health information on their drinks packaging. This will amount to approximately 3 billion containers each year. In addition, they voluntarily promote the educational website, [www.drinkaware.co.uk](http://www.drinkaware.co.uk) (maintained with industry funding), in all brand advertising which is worth approximately £150 million each year. This widespread promotion has made Drinkaware the most popular source of consumer information on responsible drinking in the UK.<sup>27</sup>

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## References

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- <sup>2</sup> [www.ias.org.uk/resources/factsheets/advertising.pdf](http://www.ias.org.uk/resources/factsheets/advertising.pdf)
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- <sup>22</sup> Thinking for Better Regulation, *Better Regulation Taskforce* 2003
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**Appendix: Summary of UK regulatory system applying to drinks producers' marketing activities**

Regulator	Ofcom	Advertising Standards Authority	Portman Group
Remit:	Television programme sponsorship  [Also broadcast editorial standards]	All advertising, e.g.: <ul style="list-style-type: none"> <li>• television</li> <li>• radio</li> <li>• press</li> <li>• poster</li> <li>• cinema</li> <li>• direct mail</li> <li>• paid-for internet advertising</li> <li>• mobile phones (SMS and Bluetooth)</li> </ul>	All other alcohol producer marketing activities, e.g.: <ul style="list-style-type: none"> <li>• naming</li> <li>• packaging</li> <li>• sponsorship (excluding TV programme sponsorship)</li> <li>• sampling</li> <li>• press releases</li> <li>• brand websites</li> <li>• producer-generated point-of-sale materials</li> </ul>
Nature of system:	Statutory	Co-regulatory (broadcast) Self-regulatory (non-broadcast)	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 the Rt Hon Lord Smith of Finsbury	Independent Complaints Panel chaired by Sir Richard Tilt
Funded by:	Government	Advertising industry	Drinks producers