



**Portman  
Group**

**RESPONSIBLE MARKETING  
OF ALCOHOLIC DRINKS  
IN DIGITAL MEDIA**

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# 1. INTRODUCTION

## 1.1 *Purpose of guidelines*

These guidelines have been produced to ensure high standards of digital marketing by drinks producers, thereby protecting the public and allowing the industry to engage directly with their consumers in a responsible way.

Digital marketing, like all marketing, of alcoholic drinks is regulated by the Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks and the CAP Code (see below). These guidelines should therefore be read in conjunction with those Codes.

The guidelines do not represent new Code rules. Instead, they clarify how the rules apply in the digital arena and offer advice as to how to minimise the risk of being found in breach of these rules. Companies are therefore strongly encouraged to follow the guidelines when undertaking digital marketing activity.

For the avoidance of doubt, these guidelines are focussed primarily on issues of alcohol social responsibility. They are not intended to cover other CAP Code requirements (e.g. concerning protection of privacy) and legal requirements with which companies must comply in respect of digital communications. Companies are responsible for ensuring that their communications comply with all applicable codes and the law.

## 1.2 *Regulation of digital marketing*

Digital marketing of alcohol is regulated through both the CAP Code, overseen by the Advertising Standards Authority (ASA), and the Portman Group's Code of Practice.

The CAP Code applies to all advertising in paid-for space; advertisements in e-mails, text transmissions and other electronic material; and sales promotions.

The Portman Group's Code applies to producer-generated promotional material and activity, including websites. A producer is defined for the purposes of the Code as:

*"a company, including a wholesaler or retailer, which holds the trademark rights for a brand in the UK or has contractual rights to distribute a brand within the UK to wholesalers and retailers".*

A website is defined for the purposes of the Code as:

*"any website, or part of a website, managed by or on behalf of an alcoholic drinks producer for the promotion of their brand(s) primarily to the UK market and over which the producer has editorial control".*

While interpretation of the Portman Group's Code ultimately lies with the Independent Complaints Panel, the view of the Portman Group's Code Advisory Service is that this effectively covers any internet communication used by a drinks producer to promote an

alcoholic drink, which is not otherwise regulated by the CAP Code. As such, it covers among other things brand websites, material placed free-of-charge on third party websites (e.g. social networking sites, video sharing sites) and user-generated content on sites controlled by the drinks producer.

Between them, the ASA and Portman Group therefore effectively regulate all digital marketing by drinks producers in the UK to ensure that it meets exactly the same high standards that apply to marketing in traditional media.

### **1.3 Remit of these guidelines**

These guidelines should be applied to all UK digital marketing which serves to promote an alcoholic drinks brand and which is therefore subject to regulation through either the CAP Code or the Portman Group's Code.

These guidelines do not apply to corporate digital activity which does not serve to promote a brand (for example, financial reports on a company's website). Nor do these guidelines apply to digital communications outside the control of the producer even if these feature particular brands (for example, comments on private blogs). Companies should nonetheless take reasonable steps to prevent their brand names, trade marks and logos from being used by third parties in a manner which violates these standards.

The following are examples of digital marketing technologies, tools and platforms to which these guidelines apply:

- Applications (e.g. iPhone, Google Android)
- Blogs
- Bluetooth
- Brand Websites
- Instant Messaging
- Microblogs (e.g. Twitter)
- Mobile Communications (WAP sites, advertising on mobile devices)
- Mobile Messaging (e.g. SMS, MMS)
- Online Advertising/banner ads
- Online Gaming (e.g. Second Life, World of Warcraft)
- Opinion Sites (e.g. epinions, Yelp)
- Peer-to-Peer File Sharing
- Photo Sharing (e.g. Flickr, Zoomr, Photobucket, SmugMug)
- Podcasts
- POS / Event-based digital experiences
- Relationship Marketing (e.g. consumer email outreach, member get member campaigns)
- RSS feeds
- Search Engine Marketing and Optimization
- Social Networking (e.g. Facebook, LinkedIn, MySpace)
- Social News Sites (e.g. Digg, Mixx, Reddit)
- User Generated Content
- Video Sharing (e.g. YouTube, Vimeo)
- Wikis (e.g. Wikipedia, PBwiki)

## 2. GUIDANCE ON PARTICULAR ISSUES

### 2.1 Targeting of 'direct' digital marketing communications

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 as the perception that it has an under-18s following is likely to damage the value of a brand.

For impersonal communications distributed through mass media channels (e.g. press, posters, website banners, etc) it is usually impossible to separate out under-18s from over-18s. Rather than not use these media at all, the industry instead abides by a requirement in both the CAP Code and Portman Group Code that drinks can be marketed in a particular medium provided that at least 75% of the audience is aged over 18. 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.

For 'direct' communications (i.e. communications sent directly to a specific recipient), however, it is inappropriate knowingly to include any under-18s within the audience. Direct digital marketing communications include e-mail, SMS, MMS, WAP Push, Twitter, etc. To ensure that this is the case, companies are strongly encouraged to abide by the following guidelines when undertaking direct digital marketing:

- Direct digital marketing communications should be sent only to consumers who have affirmed their date of birth to show that they are aged over 18
- This affirmation may have been made in writing or via electronic media
- If the consumer has affirmed they are over 18 but not provided their full date of birth, a company may send the consumer a direct communication to obtain their full date of birth and then, but only then, send them a direct marketing communication
- Over 18 age confirmation details can be provided by third parties. However, the onus is on the drinks company to ensure that the third party has appropriate procedures in place to obtain this information.
- While the drinks company might not retain proof of an individual's electronic age affirmation, it should be able to demonstrate when an individual provided that affirmation.

Bluetooth is not a 'direct' communication in the same way as the examples given above because it generally involves sending messages to a random selection of recipients. It may, however, be perceived as a 'direct' communication by the recipient because it is received as an unsolicited message on one's mobile phone. For this reason, drinks companies are strongly encouraged only to use this medium in situations where they are sure recipients will be over 18; for example, in age restricted venues such as pubs and clubs.

Mechanics such as 'send to a friend' or 'share' capabilities involve users directing other users towards marketing material. Communications by users are outside the control of the drinks company and are not subject to either the CAP/Portman Group Codes or these guidelines. Drinks companies should nonetheless take steps in the

communications within their control to make clear that marketing material is intended for an over-18 audience only and should not be forwarded or drawn to the attention of anyone under 18 (see also the section on “Applications, other downloadable content and streamed content”).

## **2.2 *Deterring under-18s from accessing brand websites – age affirmation pages (AAPs)***

An age affirmation page (AAP) is a website landing page which requires visitors to confirm they are of a certain age before they can enter the website.

Even though website content must not, in any case, appeal particularly to under-18s as a requirement under the Portman Group’s Code, it is incumbent on companies to use their reasonable endeavours to prevent under-18s accessing a brand website. It is impractical, given current technology, to require all visitors to undergo an external check before being allowed entry to a site and it is recognised that self-affirmation is open to abuse by the visitor. Nonetheless, in the interests of deterring underage visitors and demonstrating commitment to best practice, companies are strongly encouraged to require visitors to a brand website to navigate an AAP before being allowed entry to the site. In order to ensure that the age affirmation process is as effective as possible at deterring under-18 access, while minimising the inconvenience to visitors aged over-18, companies are strongly encouraged to adopt the following policies:

- All first-time visitors to the site should be required to navigate the AAP, unless they are being referred from a website which itself is age-protected to a similarly rigorous standard. This includes traffic generated from a pay per click search engine, natural search campaigns and display advertising campaigns.
- The method of age affirmation should require the visitor actively to input their date of birth (e.g. from a drop-down menu) rather than allow access through clicking a default option.
- If access is blocked because the visitor enters an age/date below 18, they should be given an appropriate message and/or directed to an appropriate alternative site. The [drinkaware.co.uk](http://www.drinkaware.co.uk) website has a dedicated landing page for such re-directions ([www.drinkaware.co.uk/about-us/information-for-under-18s](http://www.drinkaware.co.uk/about-us/information-for-under-18s)).
- Repeat visitors may be invited to set-up a “Remember me” option to facilitate easier access to the site in future but this invitation should be accompanied by a reminder to the visitor to consider the appropriateness of this option if the computer is shared with someone aged under-18.
- Direct electronic communications to registered members only may contain a link allowing direct entry to the site (i.e. by-passing the AAP).
- AAPs should carry a Nanny Tag. This is a hidden label, known as meta data, that described the site’s content in a format that software like NetNanny can understand. This software is used by parents to control web browsing activity of their children. More information can be obtained from the Family Online Safety Institute ([www.fosi.org/icra](http://www.fosi.org/icra)).
- Corporate websites, intended to communicate company information rather than to promote a particular brand(s), do not need to feature an age verification page.

## **2.3 Assessing suitability of third party websites as a medium for alcohol marketing**

Both the CAP Code and the Portman Group Code require that alcohol is promoted only in media where at least 75% of the audience is aged over 18. Companies are strongly encouraged to adopt the following policies to safeguard against breaching this requirement:

- In determining whether a particular third-party website is a suitable vehicle for alcohol marketing, companies should refer to the following sources, in order of reliability:
  - *Syndicated data source* – This should generally be seen as the most reliable evidence of a website’s audience profile. The most appropriate indicator is the most recent three months site average of available audience data of unique visitors (where seasonal fluctuations are evident the previous year’s data should also be taken into account, if available). Companies should be aware, however, that some syndicated sources do not cover all ages (for example, some suppliers’ data currently does not include individuals aged under-15). These sources should therefore be used with caution and allowance made for unrecorded visitors aged under-18.
  - *Independent demographic survey* - If a website is not measured by a syndicated data source, or the source does not provide convincing evidence of whether or not the 75% threshold has been met, companies should ask the website publisher to provide evidence of the age profile measured through an independent demographic survey.
  - *“Registered user” database* – If neither of the above sources are available, or these data do not clearly demonstrate whether or not the 75% over-18s threshold has been met, but the website publisher operates a “registered user” database incorporating an age confirmation element, companies should use this as evidence of the likely age profile of overall visitors.
- If a site does not meet the 75% threshold but it operates a registered user database and has the ability to target users demographically with advertisements based on the date of birth they gave when registering, a company may place an advertisement as long as it is seen only by those registered as over 18.
- In the event that none of the above is available, for example because it is a non-permanent (e.g. event-specific) website, a company should place marketing content only if either the website is age-protected to at least a similar standard as that expected of alcohol brand websites or it is entirely satisfied that the website unquestionably is targeting an adult audience and runs no risk of attracting a significant proportion of under-18 visitors following a review of:
  - the (proposed) content of the website;
  - comparable websites;
  - data provided by the publisher regarding the target audience;
  - any other relevant factor

## **2.4 User-generated content on company websites**

User-generated content (UGC) is material (including text, pictures and videos) that has been created not by the company but by a website user. UGC that is on a third-party's website and over which the company has no control is outside the scope of these guidelines (and outside the scope of the CAP and Portman Group Codes) even if it serves apparently to promote a particular alcoholic brand. UGC that appears on a company's website, however, (and for the purposes of the Portman Group's Code, this is defined as any site, or part of a site, which promotes a brand and over which the company has editorial control) is within the scope of the Portman Group's Code and these guidelines.

There are two principal options to manage user-generated content, namely pre-moderation and post-moderation.

Pre-moderation means that the user-generated content is approved by or on behalf of the producer before it appears on the website. It thereby should eliminate the risk of inappropriate content appearing on a website.

Post-moderation means that the user is allowed to upload user-generated content without it being checked in advance. This obviously carries a risk that a user may upload unacceptable material. To help ensure that post-moderated user-generated content meets the high standards that are expected in alcohol marketing and to guard against under-18s inappropriately featuring in, or contributing, user-generated material, companies are strongly encouraged to adopt the following policies (companies with pre-moderated sites may also choose to adopt some of these policies as an added safeguard):

- Only registered members of a website should be able to contribute user-generated content to that website.
- To become a registered member, visitors should be required to complete a registration form including name, e-mail address and date of birth; membership should be restricted to over-18s.
- Clear guidelines should be given on what is acceptable versus unacceptable content (example guidelines are provided in Annex A and further advice on acceptable content is in the section below). These guidelines should be readily accessible to users and attention should be drawn to the guidelines in prominent editorial positions. Terms and conditions of membership should include a requirement to adhere to these guidelines.
- Every time a member contributes user-generated content, they should be required to confirm that it meets the guidelines. Specifically, in the case of visual user-generated content, they should be asked to confirm that everyone shown in the contributed material who is associated with drinking is aged over 25.
- The user-generated content section of the website should be monitored at least once every working day. Inappropriate user-generated content should be removed as soon as possible and at most within 24-48 hours.
- Registered members who deliberately post inappropriate or offensive content should lose the benefits of registration and be un-registered (and hence unable to post further un-moderated user-generated content) for a reasonable period of time.

- ‘Alert Administrator’ buttons should be provided in prominent editorial positions to give users the opportunity to notify the producer of any content they consider is unacceptable and an e-mail address should be provided for this purpose.
- The above e-mail address should also be monitored on at least a daily basis and inappropriate content removed within 24-48 hours of the e-mail being received.

## **2.5 Use of images of under-25s on company websites**

Rule 3.2(i) of the Portman Group’s Code of Practice states:

*“A drink, its packaging and any promotional material or activity should not in any direct or indirect way incorporate images of people who are, or look as if they are, aged under twenty-five years of age, unless there is no suggestion that they have just consumed, are consuming or are about to consume alcohol”*

This rule was devised originally to address the age of models and actors in alcohol marketing; a similar rule has applied for many years in the CAP Code. It is intended to protect under-18s from being exposed to images in alcohol marketing of people with whom they might identify. It also serves to protect the industry against criticism that their marketing appeals to under-18s. The threshold of 25 is chosen because it is thought a ‘safety barrier’ of seven years is appropriate to minimise the risk of misestimating someone’s age (i.e. it is highly unlikely that anyone under the age of 18 would be mistaken for a 25 year-old and vice versa).

With the rise of internet marketing, it has become relatively common for companies to feature images of real consumers within marketing material. The application of this rule to images of real consumers significantly restricts a company’s ability to engage with their 18-24 year-old consumers through digital marketing (for example, the company cannot display pictures of them drinking). While acknowledging this, the Portman Group’s current view is that it is appropriate for the rule to be applied to images of real consumers and the Independent Complaints Panel has furthermore interpreted the rule to apply in this way. The inconvenience to the industry in terms of marketing restriction is, in our opinion, outweighed by the risk of inadvertently allowing under-18s, or people who may be mistaken for under-18, being shown drinking on websites. We shall keep this position under review, particularly in light of developing technologies to validate an internet user’s age.

Our advice on the use of images of under-25s on brand websites, including in user-generated content, is therefore as follows:

- Except for the exceptions noted below, anyone shown on brand websites should be, and look, over 25.
- Images of 18-24 year olds may be shown provided that the image does not show them in a context which associates them with drinking (i.e. there is no suggestion that they have just consumed, are consuming, or are about to consume alcohol).
- Under-18s should not be shown in any marketing material unless it is in an incidental context and there is absolutely no suggestion that they are alcohol consumers (e.g. a family photograph).

- If a company creates a Facebook (or similar social network) fan group for a particular brand with membership restricted to users registered as aged over 18, there is a danger that some of those users will have chosen to show a picture of themselves as a child as their Facebook image and this image will be repeated on the fan group's page when that user joins the group. The Portman Group Code Advisory Service considers that in these circumstances, provided there is no suggestion that the child was drinking in the photograph, this should not be seen as a breach of the spirit of the Code. Final interpretation of the Code, however, lies with the Independent Complaints Panel.
- Companies are fully entitled to apply their own stricter standards to marketing material (e.g. to disallow images of anyone aged under 18 or under 25 in any circumstances).

## **2.6 Images of consumers on company websites and association with social success or drunkenness**

If a company shows images of consumers on its website, whether those images are user-generated or company-generated, care must be taken to ensure that the images themselves conform to the Portman Group's Code. There is no objection to images of over-25s drinking responsibly (see the previous section for advice concerning images of under-25s). The Code, however, disallows any suggestion that the consumption of a drink can lead to social success or popularity. It also disallows the encouragement of immoderate consumption or drunkenness.

With regard to social success, it is natural that drinks producers want to associate their brand with consumers having fun and may therefore want to display photographs showing consumers huddled together, enjoying themselves and with the brand prominently positioned. It is also the case that inviting people who are drinking to pose for a photograph may cause a certain amount of 'playing-up' for the camera with funny faces and poses. There is a danger, however, that the effect of the resultant image is to imply close bonding, popularity and a good time, all very closely linked to the brand in question. This is likely to breach the Code. Companies should bear in mind the following:

- It is acceptable to portray drinking as sociable but beware of images which appear to show an exaggerated good time
- Consider the pose, facial expressions and interactions of the people in the photograph and what this says about the brand
- When considering the acceptability of a particular photograph, ask yourself whether consumers would have posed in the same way if they had not been drinking. If the answer is no, it implies the alcohol is an essential ingredient in the good time portrayed and the photograph should not be displayed.

With regard to drunkenness, as noted above, inviting people who are drinking to pose for a photograph may encourage a certain amount of 'playing up' for the camera. This can, however, leave the image open to ambiguous interpretation. Companies should bear in mind the following:

- Avoid images showing a lack of inhibition; they may be interpreted as showing drunkenness
- Avoid images showing consumers apparently being supported, for example with their arm slung around another's shoulders, as this might indicate drunkenness
- Avoid images of consumers looking bleary-eyed
- When considering the acceptability of a photograph, ask yourself whether, bearing in mind the Code, you would be happy to ask models to pose in the same way. If the answer is no, the photograph should not be used.

## ***2.7 Applications, other downloadable content and streamed content***

Downloadable content is content, including applications, which can be saved to the user's hard drive. To protect against downloadable and streamed content being seen by under-18s, companies are strongly encouraged to adopt the following policies:

- Access to downloadable content, including applications, should be either directly or indirectly subject to age affirmation procedures of a similar standard to those that apply in respect of brand websites (see earlier section). Streamed content should, where possible, also be subject to such a procedure.
- All downloadable content should be subject to a Download Advice Notice.
- The Download Advice Notice should advise a visitor wishing to download content that the content is intended/made available only for adults aged over 18 and advising that such content should not, following download, be forwarded or otherwise made available to those under 18.
- The format of the Download Advice Notice may be at the discretion of the company, to allow for communication in brand voice, and may appear either on the face of the page from which the download is offered, or as a pop-up or similar click-dependent advice.
- All downloadable content in video format, and all streamed video content that can be accessed without going through an age-affirmation procedure, should have inserted or embedded at the start a pre-roll film advising the viewer that the content is intended for viewers aged 18 and over.

## ***2.8 Identification of company involvement***

The Consumer Protection from Unfair Trading Regulations 2008 came into force on 26 May 2008. They prohibit a number of commercial practices including the following:

- Using editorial content in the media to promote a product where a trader has paid for the promotion without making that clear in the content or by images or sounds clearly identifiable by the consumer (advertorial)

- Falsely claiming or creating the impression that the trader is not acting for purposes relating to his trade, business, craft or profession, or falsely representing oneself as a consumer

The effect of the above prohibitions is that paid-for promotional material must be identified as such and if a company representative posts something on-line on behalf of that company they must disclose who they work for.

These Regulations are not specific to alcohol but we consider it is worth drawing attention to them in the course of these guidelines. A guidance brochure on the Regulations is available from the Office of Fair Trading:

[www.offt.gov.uk/shared\\_offt/business\\_leaflets/cpregs/oft1008.pdf](http://www.offt.gov.uk/shared_offt/business_leaflets/cpregs/oft1008.pdf)

## **2.9 Promotion of responsible drinking**

As well as taking all appropriate steps to ensure that digital marketing does not target under-18s or encourage any form of alcohol misuse, companies may use their communications to educate consumers and encourage responsible drinking. Although this type of proactive responsibility is not a requirement of either the Portman Group or CAP Code, it helps efforts towards a more responsible drinking culture and furthermore demonstrates the positive role that industry can play.

- The Drinkaware Trust, an independent educational charity funded by the drinks industry, maintains a website, [drinkaware.co.uk](http://drinkaware.co.uk). That website contains comprehensive information and advice on responsible drinking. Companies wishing to promote the website should first sign up to a trademark licence agreement (no cost is involved). Companies should also observe the brand guidelines on the use of the [drinkaware.co.uk](http://drinkaware.co.uk) that form a condition of the licence agreement. For further details, e-mail [logos@drinkaware.co.uk](mailto:logos@drinkaware.co.uk).
- Companies are encouraged to add a prominent link to [drinkaware.co.uk](http://drinkaware.co.uk) on the age affirmation page that a visitor must navigate before gaining access to a brand website.
- Companies are also encouraged to accompany this link with a statement encouraging the consumer to drink responsibly. The statement may be phrased at the discretion of the drinks producer to allow for communication in brand voice.
- Further links to [drinkaware.co.uk](http://drinkaware.co.uk) and responsibility statements may be featured within digital marketing communications as liberally as the drinks producer considers appropriate.
- Companies who are a signatory to the Portman Group's Code of Practice are encouraged to draw attention to this on their corporate website and to add a link to the Portman Group's website ([portmangroup.org.uk](http://portmangroup.org.uk)).

## **2.10 Further advice**

These guidelines are designed to help companies understand what constitutes responsible marketing in digital media. The guidelines, however, cannot deal with every circumstance and a company may want more detailed advice on a specific piece of marketing. Confidential advice is available to companies to help them comply with the CAP and Portman Group Codes.

- For advice under the CAP Code, companies should contact the CAP Copy Advice team on 020 7492 2100 or e-mail [advice@cap.org.uk](mailto:advice@cap.org.uk).
- For advice under the Portman Group Code, companies should contact the Advisory Service on 020 7907 3700 or e-mail [advice@portmangroup.org.uk](mailto:advice@portmangroup.org.uk).

## EXAMPLE GUIDELINES ON STANDARDS OF USER-GENERATED CONTENT

*[Please note that the following example guidelines address compliance with the Portman Group's Code of Practice only. A company may wish to expand its guidelines to address other issues, including legal obligations, taste and decency, etc.]*

We ensure all our marketing communications are socially responsible and in line with industry codes of practice. All material on our brand websites, including material posted by users of the site, must therefore comply with the Portman Group's Code of Practice. This means that all content posted by users of this site must comply with the following rules:

- It must not glorify the alcohol strength, relatively high alcohol content or intoxicating effect of a drink;
- It must not associate a drink with bravado or with violent, aggressive, dangerous or anti-social behaviour;
- It must not suggest any association with, acceptance of or allusion to, illicit drugs;
- It must not associate a drink with sexual success;
- It must not suggest that drinking can lead to social success or popularity;
- It must not encourage illegal, irresponsible or immoderate drinking;
- It must not encourage "down-in-one" consumption;
- It must not have a particular appeal to under-18s;
- It must not suggest that a drink can enhance mental or physical performance;
- Any people shown in pictures or videos who are associated with drinking must be, and look, over 25 years old. 18-24 year olds may be shown provided it is not in a context which associates them with drinking (i.e. there is no suggestion that they have just consumed, are consuming, or are about to consume alcohol). Under-18s should not be shown unless it is in an incidental context and there is absolutely no suggestion that they are alcohol consumers (e.g. a family photograph).