



Portman
Group

Alcohol Marketing Regulation Report 2017

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About the Portman Group

The Portman Group is the responsibility body for drinks producers in the UK. Established in 1989 by the UK's leading drinks producers, our role is to:

Lead on best practice on alcohol social responsibility

Regulate the promotion and packaging of alcoholic drinks sold or marketed in the UK through our Codes of Practice

Challenge and encourage the industry to market its products responsibly

Communicate the benefits a responsible alcohol sector brings to the UK

We are a not-for-profit organisation funded by ten¹ member companies who represent every sector of drinks production and collectively account for more than half the UK alcohol market. During the period of this report, members were:

AB InBev UK; Bacardi Brown-Forman Brands UK; Carlsberg UK; Diageo GB; Heineken UK; Mast-Jägermeister; Molson Coors Brewing Company UK; Pernod Ricard UK; SHS Drinks¹; Treasury Wine Estates².

About this Report

This report covers the regulatory activity undertaken by the Portman Group in the period 1 January 2017 to 31 December 2017.

The report includes the five rulings made by the Independent Complaints Panel, analysis of the enquiries to our Advisory Service, our training offers as well as information about communicating alcohol and health related information, and a brief summary of the issues included in the current Code Review.

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¹ SHS Drink resigned from the Portman Group on 31 December 2017
² Treasury Wine Estates resigned from the Portman Group on 30 June 2017



Foreword

Foreword by the Chair of the Independent Complaints Panel, Jenny Watson CBE

There are three particular challenges that we have faced as a Panel during the past twelve months.

First of all I'd like to highlight the use of nostalgia-based elements on packaging and in promotional materials. This has been a popular trend in marketing for a number of years and it connects with consumers on a powerful emotional level. References to the sweets, clothes, and cartoons that we enjoyed in childhood have a strong appeal to us as adults but marketers selling alcohol need to be extremely careful they don't inadvertently also appeal to today's children.

I say this because three of the five cases that came in front of the Panel this year drew on nostalgia and, in each case the complainants believed that the labels would particularly appeal to under-18s. In two cases, the complaints were upheld.

We understand that adults today are enjoying youth culture for longer, and we're not trying to take the fun and creativity out of marketing, but I'd like to remind marketers that if they draw on children's culture, no matter how retro, they need to do it with great care.

If they don't then the consequences could, unfortunately, involve a costly rebrand. This is exactly what Tiny Rebel experienced after a complaint was upheld against their beer Cwtch. The Panel ruled that, although inadvertent, the prominence of the illustrated bear logo played a significant part in the can design appealing to children and the cans have now been redesigned.

The second issue that's been of particular focus from complainants is the perceived lack of clarity from some products when communicating their alcoholic nature.

Great care must be taken to ensure a drink is clearly labelled as alcoholic because sometimes, labels that appeal to children are also not clearly identifiable as alcoholic.

In the case of Mr Gladstone's Curious Emporium Range, it was sold in a typical wine bottle, which many people would assume made clear that it was alcoholic. But the ABV was hard to read on a shiny background and the label contained multiple references to old fashioned sweets and the back label referred to a 'confectionary emporium'. The Panel ruled that the negative cues overwhelmed the positive cues and duly upheld the complaint.

I want to highlight the importance of smaller producers seeking advice on their products – particularly as they grow.

We understand that the Portman Group may not be the first port of call when setting up a business but it should be. The Advisory Service is free and the team can provide an honest view on packaging and promotional materials so that a producer can make an informed decision when choosing how to market their products while being mindful of the Codes.

Finally, I'd like to say thank you to the members of the Panel who have undertaken their roles with thoroughness and integrity, as always. During the year we were joined by two new members Claire Fowler and Graeme McKenzie who have made a significant contribution, and we said farewell to Ron Finlay and Jane Keightley, who have both served the maximum two terms of three years, and who we shall miss.



Report

Report by Chief Executive of the Portman Group
John Timothy

The primary purpose of the Portman Group is to ensure that producers do not overstep the line as they seek to differentiate their brands from the array of competition that exists in the market. Yet, at the same time, we also need to be mindful of the need not to discourage creativity, stifle competition or impinge too heavily on the design freedoms that have enabled UK businesses to create much-loved, and in some cases iconic, brands and products. As I reflect on my first year in post, that critical balance is at the forefront of my mind and will remain a key question for the Portman Group under my direction.

For our regulation to be effective, it must also be kept up-to-date to ensure it reflects inevitable shifts in public opinion. The Code of Practice which sets the parameters for socially-responsible alcohol marketing must remain a live document – open to challenge and debate and regularly reviewed to ensure it remains relevant. In 2018, the Naming and Packaging Code will go under review, with us going out to consultation to ask stakeholders what changes they'd like to see made to the Code rules and guidance. The sixth edition of the Code will be published in 2019. You can read more about the Code Review on page 34.

This year, we will endeavour to ensure that our self-regulation sets the benchmark for others, driving up standards and calling out those that fail to meet our collective expectations.

There are some exciting challenges for us in 2018. But we should also take a moment to pause and reflect on what was achieved throughout 2017. On a personal note, it has been a privilege to have been entrusted with the responsibility to lead the Portman Group. It is a widely respected organisation with a passionate and knowledgeable team in place. My predecessor, Henry Ashworth, has left behind a hugely impressive legacy, having provided dynamic

In 2018, the Naming and Packaging Code will go under review, with us going out to consultation to ask stakeholders what changes they'd like to see made to the Code rules and guidance. The sixth edition of the Code will be published as a result.

John Timothy

leadership to the Portman Group, not least through his work on the alcohol network of the Public Health Responsibility Deal, through which producers removed more than 1bn units of alcohol from their products. I wish Henry every success at the International Alliance for Responsible Drinking.

2017 also saw the publication of Portman Group industry guidance on product labelling, following changes to the Chief Medical Officers' drinking guidelines. We were delighted to work with partners in government, industry and trade associations to agree a new health label which will keep consumers informed about responsible drinking. We expect this voluntary information to replace out-of-date information on packaging by an agreed deadline of 1 September 2019.

We received 491 enquiries last year to our Advisory Service, trained 621 delegates and handled five formal complaints and two Fast Track complaints. I've been struck by how thoughtful and considered the Independent Complaints Panel (ICP) members are in considering complaints and their rigour in reaching

a ruling. There is no doubt they understand fully the implications of their decisions and take seriously the responsibility they have taken on. We're fortunate to have such a dedicated and committed panel and I would like to formally express my gratitude to the Chair, Jenny Watson CBE, and each of the Panel members for their contribution in the last year.

Being a regulator can at times be difficult. But we play a critical role within a functioning and effective alcohol market. We're able to work with producers to offer advice and guidance on how to avoid Code breaches. If needed, we can insist on a product being redesigned to ensure it doesn't breach the industry's Code. It is clear to me that without that supervision – albeit light touch – the industry would suffer and standards would decline.

We're fortunate that most producers share this belief and recognise and value the role we play. I'd like to thank all of our member companies for their continued support and, more importantly, their on-going and demonstrable commitment to the highest standards of social responsibility. I look forward to the exciting and important work that awaits in the months and years ahead.

The Portman Group Codes

The Portman Group operates the **Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks** and the **Code of Practice on Alcohol Sponsorship** to ensure that alcohol is marketed responsibly and only at adults.

Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks



The Code applies to all alcohol marketing (including naming, packaging, sponsorship and point-of-sale) which is primarily UK targeted and not already subject to regulation by the Advertising Standards Authority (ASA) or Ofcom.



First introduced in 1996, the Code is regularly reviewed. The sixth edition will be published following a Code Review in 2018.

The Code is supported by more than 140 drinks producers, trade bodies and retailers and is also commended to licensing officers in the supporting guidance to the Licensing Act 2003.

Anyone can make a complaint against any product or promotion that they consider is in breach of the Code. Complaints are considered by an Independent Complaints Panel and its decisions are published. Effective sanctions are in place to ensure that the Panel's decisions are enforced.

Code of Practice on Alcohol Sponsorship

Football matches and music festivals are just some of the popular events sponsored by alcoholic drinks producers. We expect producers to ensure that their sponsorship agreements comply with the Portman Group's Sponsorship Code.

This Code mirrors the rules contained in the Code of Practice on Naming and Packaging but also goes further to ensure that sponsorships don't have a particular appeal to children. The rules include:

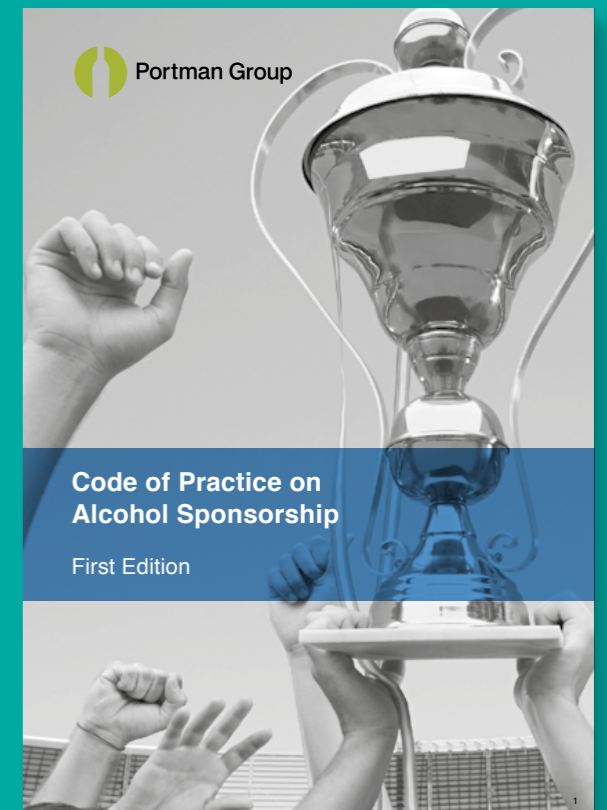
- Not sponsoring or supporting individuals under the age of 18. Companies may, though, sponsor a group in which includes a member who is under-18 as long as the rest of the group are over 18 and that member is not used in promotional material.
- Not sponsoring individuals, activities, teams, events, tournaments, competitions, bands or celebrities which have a particular appeal to, or are primarily aimed at, under-18s.
- Not placing their brand name, logo or trademark on children's merchandise.
- Taking reasonable steps to ensure that at least 75% of the crowd at activities or events are 18 or over.

The Code also commits producers to promote responsible drinking and/or support diversionary activities as part of their sponsorship agreements. It was launched in January 2014 and formalises much of the activity which was already central to the alcohol industries' sponsorship agreements.

To date, the responsibility initiatives around sponsorship agreements have included responsible drinking messages during sporting or cultural events, the provision of free water and equipment for grassroots sport.

The Code was developed with support from drinks producers, retailers, major sports, music and venue rights holders, who have also formally endorsed it. In addition, the Code has been endorsed by Portman Group Code of Practice signatories.

The Sponsorship Code carries clear sanctions. Producers risk significant reputational damage if they breach the Code both through negative publicity and the financial cost of having to renegotiate a sponsorship agreement or having to withdraw it completely.



How the Codes Work

The Portman Group is one of three regulatory bodies – Ofcom and the ASA - that control the standards of alcohol marketing in the UK. The remit of the Portman Group's Codes of Practice complements that of both the ASA and Ofcom. This ensures that there are no gaps in the regulation of drinks producers' marketing activity. Areas covered by the Portman Codes include:

Naming and packaging of a product

Point of sale materials

Branded merchandise

Co-promotional activity

(between a producer and a retailer/wholesaler)

Press releases

Public relations

Sampling

Sponsorship

Websites³

The Codes impose a minimum marketing standard with which all companies across the industry are expected to comply to ensure that the public is adequately protected. There are many drinks producers that choose to go further than the Codes' requirements to demonstrate their commitment to social responsibility.

³ Areas not covered through the CAP non-broadcast advertising Code.



Acting on Complaints

We act on all complaints that are brought to our attention and are within our remit. We have an open and accessible complaints system allowing anyone to make a complaint. Portman Group staff provide administrative and secretariat support to the Independent Complaints Panel but decisions are made exclusively by the Panel.

Fast Track Resolution

The Fast Track system allows complaints to be dealt with promptly. Complaints are only considered via Fast Track when both the complainant and producer agree to the process and the case is deemed suitable for fast tracking by the Chair of the Panel.

Previously, all complaints to the Portman Group were considered by a full Panel investigation even when the breach was clear-cut and the producer admitted fault with the packaging and/or promotion. If appropriate, we seek to resolve all cases on a Fast Track basis in the first instance.


Under the Fast Track system the producer is given the opportunity to respond to the basis of the complaint. The Chair of the Panel will consider this response, only if the complainant also agrees to take remedial action to address the issue.

In 2017, two complaints were resolved via Fast Track. Details can be found on our website www.portmangroup.org.uk.

Complaints are only considered via Fast Track when both the complainant and producer accept that the product or promotion is problematic under the Codes and the case is deemed suitable for fast tracking by the Complaints Panel Chair.



Investigation Process

COMPLAINT RECEIVED  Anyone can make a complaint against an alcohol product or promotion that they consider is in breach of the Codes. It takes just one complaint to trigger an investigation.


FAST TRACK

Does the complaint meet the conditions necessary for being resolved via the Fast Track process?

NO

YES

RESOLVED

Product or promotion is suitably amended or withdrawn. Cases are published on the Portman Group website. 

FORMAL INVESTIGATION BY THE PANEL

The Panel considers a dossier of information which includes the complaint and a submission from the producer.

Does the product or promotion contain a breach of the Codes?


YES

NO

COMPLAINT NOT UPHELD

A Not Upheld decision is final. Both the complainant and the company will be notified. 

COMPLAINT PROVISIONALLY UPHELD.

If a company does not challenge the provisional decision it becomes final. 

OPPORTUNITY TO APPEAL


The Panel will consider any additional representations from the company and will make a final decision.

Is the Panel persuaded by new evidence?

NO

YES


COMPLAINT NOT UPHELD

A Not Upheld decision is final. Both the complainant and the company will be notified. 

FINAL DECISION PUBLISHED

All final complaint decisions are published by the Portman Group on its website and communicated via press release.

SANCTIONS

The Code Secretariat may issue a Retailer Alert Bulletin which advises licensed retailers not to replenish stocks of products or point of sale material after a specified date (usually 3 months) and not until the producer has changed the problematic packaging, product or point of sale material. 

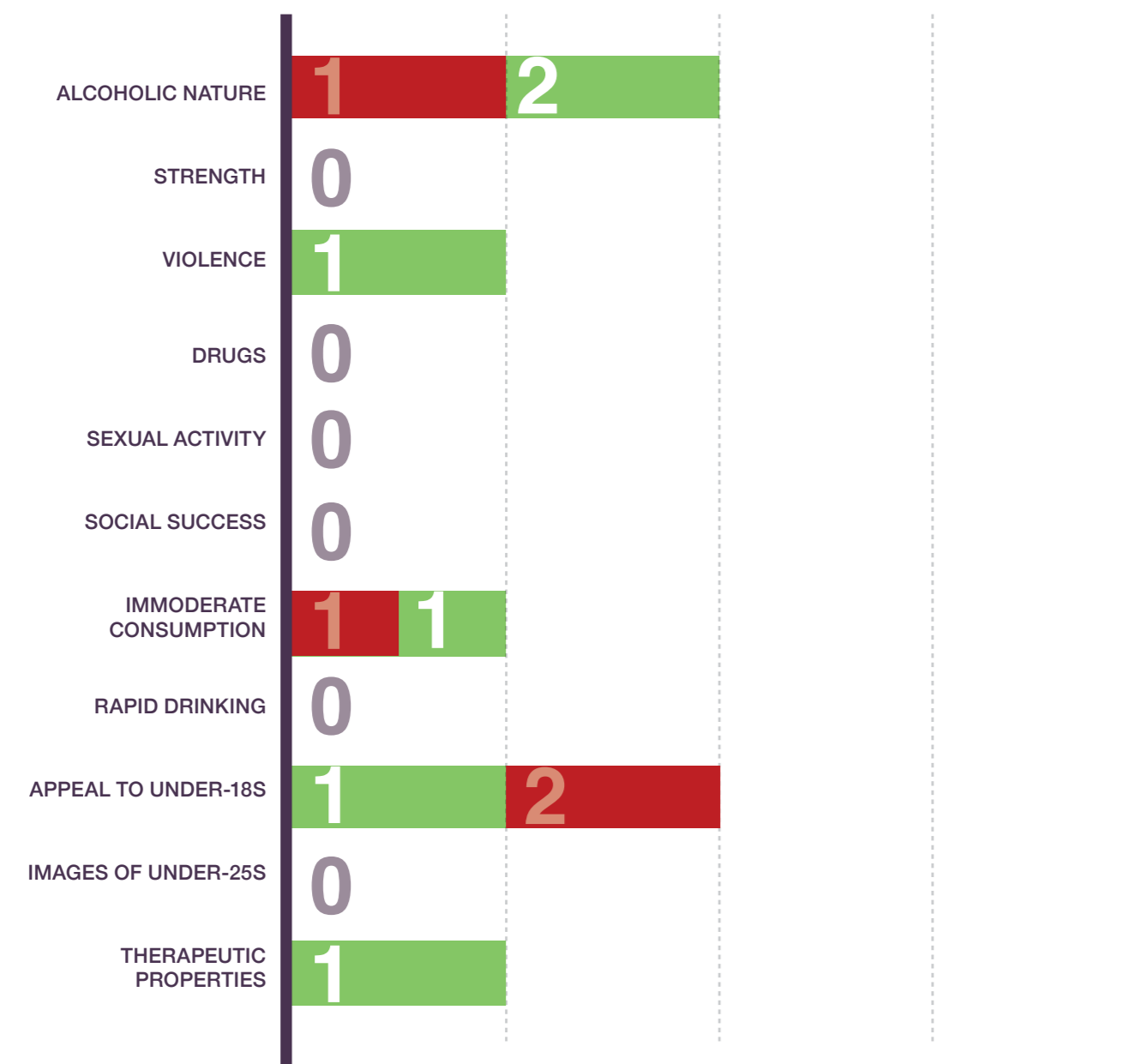
Products investigated by Code rule

If cases are deemed not suitable for Fast Track, they are considered by the full Panel. The Panel will consider a complaint under all of the rules of the applicable Code. During the period covered by this report, the Portman Group investigated complaints about five products under the Naming and Packaging Code. No complaints were investigated under the Sponsorship Code.

The most common rules cited by complainants this year were those for alcoholic nature and particular appeal to under-18s. There was one more complaint upheld about appeal to under-18s than alcoholic nature.

Code Rules cited by Complainants

UPHELD NOT UPHELD



Enforcement

The self-regulatory system is widely-supported and championed by the alcohol industry and by retailers. Its integrity relies on producers, retailers and distributors working with us to ensure the Codes' sanctions are potent and effective, and so keep the self-regulatory system robust. We also work with non-industry partners at a local level to ensure that those organisations at the forefront of public welfare are engaged and informed.

Retailer Alert Bulletins

The Portman Group has the option of distributing a Retailer Alert Bulletin (RAB) if a product's packaging or point-of-sale material is found in breach of the Code. The bulletin asks licensees not to re-order the offending product/materials after a specified period, normally of three months. RABs are published on our website and are sent to stakeholders that can help us enforce decisions made by the Panel. Stakeholders include all Code Signatories, Police Licensing Officers, Trading Standards Officers, local licensing authorities and other interested parties nationwide.

RABs are referenced in the Secretary of State's Statutory Guidance issued under Section 182 of the Licensing Act 2003 which states: *"The Government acknowledges that the irresponsible naming, packaging or promotion of alcoholic drinks may contribute to alcohol related harms. Where there is direct evidence of specific incidents of irresponsible naming, packing or promotion of alcoholic drinks linked to the undermining of one of the licensing objectives, licensing authorities should, in the exercise of their licensing functions (in particular, in relation to an application for the grant, variation or review of a premise licence), consider whether it is appropriate to impose conditions on licences that require the licence holder to comply with the Portman Group's Retailer Alert Bulletins. This condition should be considered on a case by case basis and in the context of the promotion of the licensing objectives."*

During the period of time covered by this report, the following RAB was issued:

Product
CollaGin

RAB issued
August 2017

Compliance Deadline
29 October 2017



Independent Complaints Panel Decisions

Product

Old English Gin

Decision Published: 16 March 2017

Company: Hammer & Son

Breach: No



Complaint Summary:

"I believe this product, Hammer & Son Old English Gin, is in breach of the code provision on encouraging excessive drinking. It is a 750ml bottle of 44% spirit, and is closed with a wine-style cork, instead of a screw-cap or the type of stopper usually found on a spirit bottle. While it is still possible to re-seal the bottle, it is less practical than a more usual spirit closure, and the greater risk of spillage and risk of faster deterioration will encourage purchasers to drink the bottle more quickly than they would otherwise".

Complainant: Member of the public

Decision:

Under Code paragraph 3.2(f):

A drink, its packaging and any promotional material or activity should not in any direct or indirect way encourage illegal, irresponsible or immoderate consumption, such as drink-driving, binge-drinking or drunkenness

NOT UPHELD

The company's submission:

The company's response was limited but it did assert that bottles containing alcohol had been sealed with corks for centuries, and that there were thousands of different brands on the market sealing their products in this way. They believed therefore, that their product was in-keeping with this practice; and to support this

provided an image depicting a bottle of their gin which had been opened and then resealed with the cork.

The Panel's assessment

The Panel was presented with a sealed bottle of Old English Gin with cork and wax seal intact. The Panel Secretariat proceeded to open the bottle demonstrating how the wax coating and cork were removed, and the cork inserted back into the neck of the bottle.

The Panel said it was disappointed by the company's short response. The Panel's first observation was that the bottle shape was more typical of a champagne bottle. This however did not cause the Panel to consider the packaging would confuse consumers because they noted that the large descriptor on the packaging, while stylised, very clearly read 'Gin'.

The Panel considered that the company had deliberately chosen to seal the bottle with a cork, and used a champagne-style bottle, to differentiate it from other gins on the market. It also noted that the bottle was designed to be resealed with the cork because the brand name was etched upside down onto the cork so that when it was inserted into the neck the writing would be the right-way-up. The shape of the cork supported this view. In the Panel's view, this was a deliberate design feature and further supported the company's assertion that the bottle was designed to be resealed. It would also be possible for consumers to use a wine bottle stopper to reseat the bottle. The Panel was also of the view that because the bottle contained a spirit it was unlikely to deteriorate quickly,

and thereby encourage consumers to consume the contents more quickly than they would otherwise have done, as asserted by the complainant. Nor did the Panel feel the product was at greater risk of spillage because of the cork stopper.

The Panel therefore concluded that the product did not breach Code paragraph 3.2(f) or any other aspect of the Code.

Action by Company

No further action required

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Product

Cactus Jack's Schnapps: Fruit Salad and Black Jacks Flavour

Decision Published: 27 April 2017

Company: Intercontinental Brands Ltd

Breach: No



Complaint Summary:

"I picked a bottle of the product up expecting it to be non-alcoholic due to the branding, flavouring and logo designs being themed around children's sweets. I was therefore surprised to see that it was a 15% schnapps. The labelling does not communicate the alcoholic nature of the drink clearly enough.

Using children's sweets for the branding of the products is likely to have a particular appeal to under-18s."

Complainant: Member of the public

Decision:

Under Code paragraph 3.1:

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

NOT UPHELD

The company's submission:

The company stated that Cactus Jack's had been on the market since 2014 without any issues.

In response to the complainant's claim that the products did not clearly communicate the alcoholic nature of the

content the producer asserted that there were several cues on the front and back label of the product that clearly indicated the product was alcohol:

- the word 'schnapps' appeared twice on the front label, once directly below the 'Cactus Jack's' main brand name, in 7mm font, and in the same font colour as the brand name. In the producer's view schnapps was a widely recognised and accepted term for an alcoholic product and had never been used to describe a non-alcoholic product;
- the alcohol strength statement "15% vol" appeared on the front label
- the descriptor 'a classic blend of fermented distilled alcohol' also appeared on the main body of the front label;
- the back label also repeated much of the information that was on the front label and, furthermore, included health labelling information.

Turning to the second point of the complaint, that the products had a particular appeal to under-18s, the producer said ICB was not alone in producing alcoholic drinks with confectionery flavour names, and presented a list of competitor products. The producer felt the key question was whether the products had a particular appeal to under-18s and in the producer's opinion they did not. It went on to say that the flavour names were associated with confectionery dating back to the 1920s, and were popular up until early 1990s.

The flavours were considered to be nostalgic, from a bygone age, and were therefore considered to be retro in nature. In designing and branding its products the producer had deliberately reflected the late 1980s

packaging of the confectionary products, because they were deemed to be “classics” rather than being particularly appealing to a modern under-18 consumer.

The Panel’s assessment

The Panel first commented on the location of the product within the retail outlet because the complainant had made a point of saying the product was originally displayed away from the alcohol section. The Panel noted that the location of alcohol within a retail outlet was outside the producer’s control and was the retailer’s responsibility and therefore not subject to the Code.

The Panel noted that the front label of the products featured the word ‘schnapps’, the alcohol strength statement and product descriptor. The Panel considered whether schnapps was a widely recognised alcohol descriptor and concluded that it was. The Panel also noted that ‘schnapps’ was in relatively large font and featured directly beneath the brand name. In light of these indicators, the Panel concluded that the alcoholic nature of the products was communicated with absolute clarity, and accordingly the complaint under Code rule 3.1 was not upheld.

The Panel then went on to consider whether the products had a particular appeal to under-18s. The Panel discussed whether the drink flavours, Black Jacks and Fruit Salad, appealed to children. The Panel noted the producer had deliberately used confectionery names, and not flavours, to describe its products. In the Panel’s view, if the producer had wanted to describe the flavour it would have used liquorice to describe the Black Jack’s variant, but it had chosen not to, and furthermore Fruit Salad was not a flavour, but a sweet. The producer had also deliberately reflected the confectionery colours in the colour of the product, i.e. using a black liquid for Black Jack’s, and a pink liquid to reflect the Fruit Salad variant.

The Panel noted however that the confectionery flavours were retro and were likely to resonate with older consumers, who were most likely to be in their late 20s or 30s. The Panel considered that whilst the confectionery names might have some appeal to under-18s, they did not think that this was strong enough to constitute particular appeal.

The Panel also noted that while the Fruit Salad variant was pink, that alone was not enough to make it particularly appealing to under-18s and the Panel had to consider the product, its naming and its packaging, as whole. Accordingly the Panel found that the products did not have a particular appeal to under-18s and did not find a breach of Code rule 3.2(h), or any other aspect of the Code.

Action by Company

No further action required

The Panel also noted that ‘schnapps’ was in relatively large font and featured directly beneath the brand name. In light of these indicators, the Panel concluded that the alcoholic nature of the products was communicated with absolute clarity, and accordingly the complaint under Code rule 3.1 was not upheld.

Product

Mr Gladstone’s Curious Emporium Range

Decision Published: 20 July 2017

Company: Kingsland Wine and Spirits

Breach: Yes



Complaint Summary:

“I have concerns about Curious Emporium Wine. When shopping my 12 yr old sister grabbed the bottle thinking it was for her. Despite clearly being in a wine bottle, it looked similar to Shloer sparkling. My sister continued to make concerning links. Mr Gladstone resembles Mr Magorium from the children’s film Mr Magorium’s wonder emporium in name and appearance. The film uses the idea of the emporium to amplify a child’s sense of wonder and curiosity. The name of the wine and logo of the wine became instantly more unsettling once this connection was made. As a teacher I use sweet shops in maths as they offer children a context to learn. There are retro sweet shops countrywide now clearly showing a growing popularity. I can only imagine children will think the wine is made for them, extending the retro sweet pocket money trade they enter so frequently due to the clear retro sweet shop design throughout the brand which I feel blatantly encourages children to buy the drink.”

Complainant: Member of the public

Decision:

Under Code paragraph 3.2(h):

A drink, its packaging and any promotional material should not in any direct or indirect way have a particular appeal to under-18s.

UPHELD

The company’s submission:

The company explained that they had used nostalgic rather than currently popular sweets to avoid engaging with under-18s, that no sweets were pictured on the labels and that the branding was ‘steampunk’ themed, which is not targeting children.

The company stated that they were unaware of the Mr Magorium character or film when developing the brand, but having been made aware they did not consider that there was a resemblance.

The company noted that Shloer Sparkling is an adult focused soft drink that is not targeted at children. They also considered that there was no resemblance between Shloer Sparkling and the Mr Gladstone’s product range.

The company stated that they had sought the Portman Group’s advice and acted accordingly to adhere to best practice in alcohol social responsibility.

The Panel’s assessment

The Panel first considered whether the Mr Gladstone character was reminiscent of Mr Magorium. They noted that the first association with Gladstone was of a historic politician and that Gladstone did not sound similar to Magorium. They also noted that Mr Magorium is not associated with a top hat. The Panel agreed that the character was not reminiscent of Mr Magorium.

The Panel also considered whether the character was appealing to under-18s in his own right. They noted

that he was not necessarily a jolly character, and could be considered slightly off-putting. They also noted that that did not preclude appealing to under-18s as characters such as the Child Catcher from Chitty Chitty Bang Bang would fit into that description.

The Panel went on to consider the retro sweet flavour names. The Panel agreed that the flavours 'Rhubarb and Custard', 'Pear Drop', 'Pineapple Cube' and 'Strawberry Bon Bon' were not, in and of themselves, particularly appealing to under-18s. The Panel noted that there was a difference between using a sweet name as a flavour and marketing a drink in the context of sweets.

The Panel then considered the wording on the labels and agreed that the reference to Mr Gladstone's 'Confectionery Emporium' was synonymous with a sweet shop. They considered that this reference put the flavour names and character into a specific context.

The Panel noted the company's statement that Shloer Sparkling was an adult-targeted soft drink, and that there were soft drinks which took on some of the characteristics of alcohol products to appeal to an adult audience. The Panel considered however that if there was the possibility for soft drinks to be confused with alcoholic drinks, it was of utmost importance that alcoholic drinks were labelled with absolute clarity.

The Panel noted that the front label of the non-carbonated drinks showed the ABV in the centre, and off to the side on the carbonated bottles. In all cases the ABV appeared on a gold foil-embossed background, which the Panel considered was difficult to read. Two of the bottles included the wording 'delicious fusion beverage' above the ABV. The Panel considered that consumers would not understand this to mean alcohol.

The Panel noted that the rear labels of the product contained the wording 'mixed alcoholic beverage' and standard alcohol health messaging. The Panel also noted however that one rear label suggested mixing the drink with sparkling wine, which they considered further added to confusion over the alcoholic nature of the contents.

The Panel felt that it was important to note that particular appeal to under-18s did not just mean appeal to young children, but also to those just under drinking age. They expressed concern that sweet-tasting drinks branded more as confectionery, than as alcohol, could be seen as a soft introduction to alcohol by teenagers.

The Panel noted that the company had sought guidance from the Advisory Service, and noted that most, but not all of it, had been followed. They also noted that the products did not exactly match the labels considered by the Advisory Service.

The Panel concluded that the flavour names and character in the context of a sweet shop, coupled with the alcoholic nature of the product not being absolutely clear meant that the product was in breach of rules 3.1 and 3.2(h).

The Panel also noted that, as part of the company's response to the provisional decision, it had offered to make changes to the product packaging. Whilst noting this, the Panel felt that the company had not presented any compelling reasons why the Panel should change its view in respect of any of the products. Accordingly, the Panel reaffirmed its previous decision as above.

Action by Company

The company has agreed changes to the product packaging in consultation with the Portman Group's Advisory Service.

Product

CollaGin

Decision Published: 20 July 2017

Company: Young In Spirit

Breach: Yes



Complaint Summary:

"Comments made...regards the anti-ageing properties such as Elixir of Youth on packaging clearly breach 3.2(j)"

"I would like to complain about a new gin on the market, I believe it breaches your code suggesting it offers therapeutic and health and beauty benefits.

Member of the public 1

CollaGin is the product name, collagen.co.uk the website, @colla_gin on social media, #skinandtonic hashtag used on social media. On the front label of the bottle it says "the elixir of youth"...there is numerous social media posts suggesting this gin will make you more beautiful or younger looking, can alcohol do this I don't think so very irresponsible and misleading."

Member of the public 2

Complainant: Two members of the public

Decision:

Under Code paragraph 3.2(j)

A drink, its packaging or promotion should not suggest that the product has therapeutic qualities or can enhance mental or physical capabilities.

UPHELD

The company's submission:

The company stated that 'Skin & Tonic' was not a health claim and did not imply a beauty claim. It also stated that 'The Elixir of Youth' was not a health claim or a 'real' thing. It provided the definition: *'The elixir of life, also known as elixir of immortality and sometimes equated with the philosopher's stone, is a mythical potion and supposedly grants the drinker eternal life and/or youth.'*

The company stated that stories about the product in the media were not based on the company's press materials and were outside the company's control. They asserted that they had paid for neither PR nor advertising.

They stated that they were PR consultants and new to the industry and that they would like to work with the Portman Group's Advisory Service to make changes to the product to bring it in line with the Code.

The Panel's assessment

The Panel noted that the product's label stated that it contained collagen, and the name of the product was a play on words combining collagen and gin. They considered that collagen is often associated with beauty or looking younger.

The Panel noted that material on social media and the company's own website fell under the Advertising Standards Authority's remit rather than the Portman Group. The Panel then noted that while media stories

about the product were not necessarily under the control of the company, some stories featured quotes from the company which made therapeutic claims and had been retweeted via the company’s social media account. The Panel agreed that this created an atmosphere in which the drink was being associated with therapeutic effects and the company’s retweeting of stories was an endorsement of their content by the company.

The Panel went on to consider whether the label on its own created this link. They noted that the words or phrases ‘The Elixir of Youth’, ‘beauty drink’, ‘rejuvenating’, ‘anti-aging botanicals’ and ‘Skin & Tonic’ all appeared on the label, and that the bottle was reminiscent of a perfume bottle. The Panel agreed that the wording on the label suggested that the product had therapeutic effects.

The Panel also considered whether the word ‘collagen’ on its own suggested a therapeutic effect. They noted that drinks that contained a high caffeine content were obliged to state as much on their packaging, even though that ingredient is linked to a physiological effect. They noted that there was no such obligation with collagen. The Panel saw no objection to an ingredient list containing active ingredients providing this was in a purely informative way, was not given undue emphasis and through other text on the packaging neither directly or indirectly suggested the ingredients had therapeutic properties. On the basis that the product packaging contained several references to the beneficial effects of the active ingredient ‘collagen’ the Panel concluded that it should not appear on the product label in its current form.

The Panel also considered the product under rule 3.1
The alcoholic nature of a drink should be communicated on its packaging with absolute clarity

The Panel noted that the product name could be misunderstood by some to be the word ‘collagen’ itself since people would not necessarily know how it was spelt. However the bottle also showed the word ‘Gin’,

the front of the bottle showed the % vol and the rear of the bottle showed the number of units and pregnancy warning. On that basis they concluded that it did not breach rule 3.1.

As part of the company’s response to the provisional decision, it had offered to make changes to the product packaging. Whilst noting the company’s willingness to consult the Advisory Service, the Panel noted that when the Advisory Service had been consulted before about this product the advice given had not been followed. The Panel felt that the company had not presented any compelling reasons why the Panel should change its view in respect of the product. Accordingly, the Panel reaffirmed its previous decision as above.

Action by Company

The company has contacted the Portman Group’s Advisory Service for guidance on appropriate changes to the product and packaging.

Product

Cwtch

Decision Published: 26 October 2017
Company: Tiny Rebel Brewing Company
Breach: Yes



Complaint Summary:

“I came across this product in Budgens in Kimbolton on 25th June 2017. At first I thought it to be a can of fizzy pop. It looks VERY similar to Sunkist?! I then looked closer and saw it to be Welsh Red Ale. This is actually alcohol? In a 330ml can? Surely this packaging is targeting the wrong age group? Concerning that young children would give this to their parents to buy who wouldn’t necessarily take a second look? The can size and packaging is too close to the line for my liking. Appears to be aimed at kids?!”

Complainant: Member of the public

Decision:

Under Code paragraph 3.1
The alcoholic nature of a drink should be communicated on its packaging with absolute clarity
NOT UPHELD

Under Code paragraph 3.2(b)
A drink, its packaging and any promotional material should not in any direct or indirect way suggest any association with bravado, or with violent, aggressive, dangerous or anti-social behaviour
NOT UPHELD

Under Code paragraph 3.2(f)
A drink, its packaging and any promotional material should not in any direct or indirect way encourage illegal, irresponsible or immoderate consumption, such

as drink-driving, binge-drinking or drunkenness
UPHELD

Under Code paragraph 3.2(h)
A drink, its packaging and any promotional material should not in any direct or indirect way have a particular appeal to under-18s.
UPHELD

The company’s submission:

The company stated that Cwtch had been available in various forms since 2012, with the 330ml can version available since February 2017. The company stated that their marketing was aimed at no one group in particular and that they had never received a complaint about the branding of Cwtch up until this point.

In response to the complainant’s claim that the product did not clearly communicate the alcoholic nature of the drink with absolute clarity the company asserted that there were several cues on the packaging that clearly indicated the product was alcohol:

- “Welsh Red Ale” featured prominently on the can;
- the left-hand side of the can featured all the information legally required on an alcoholic beverage; including “Brewed...at Tiny Rebel Brewing Company”;
- the left-hand side also included the alcohol strength statement “Alc 4.6% vol”, the number of units of alcohol in the can and a reference to “drinkaware.co.uk”;
- the word “Beer” was conveyed in 16 languages, including English and Welsh.

The company then addressed the complainant’s claim that the 330ml can size was akin to a can of fizzy pop. The company highlighted that the use of a 330ml can by the alcohol industry was not a recent innovation and was now so popular for alcohol that it was rather a utilisation of the best form of packaging in the industry for craft beer; however, it was not aimed at any group in particular. In addition to this, the product would be stocked in an alcohol aisle with the retail price set far higher than that of a soft drink (RRP £2.30). Finally, the company also noted that the complainant had immediately recognised that Cwtch was an alcoholic beverage; thereby confirming that the alcohol content on the packaging had been communicated with absolute clarity.

Turning to the second point of the complaint, that the product had a particular appeal to under-18s, the company stated that the use of colours and the psychedelic pattern were inspired by 1960s cliché and the Austin Powers film franchise, although there were no direct references on the packaging. The company asserted that the colourful, swirling pattern did not have a particular appeal to under-18s; the colours used were a square colour harmony rather than a set of contrasting colours, which further removed any particular appeal to under-18s. The company went on to say the use of colours in packaging could not be avoided.

The company explained that the Tiny Rebel bear logo was partly a manifestation of the two co-founders’ personalities and a broader reflection of the industrial, urban city of Newport where the beer hailed from. The bear image could not be mistaken for a ‘teddy bear’ as the bear was deliberately designed to be scruffy and a dark, abstract representation of the feel of the city rather than something which was cuddly or fluffy. This was achieved by removing any anthropomorphic features, such as the bear’s eyes, a mouth and open, welcoming arms. The inclusion of the hoodie on the bear was also part of the urban look and feel of Cwtch and, as a clothing item, had no particular appeal to any one group of individuals.

Finally, when considering whether the product had a particular appeal to under-18s, the company emphasised that, on the contrary, it was designed to specifically appeal to over-18s by utilising 20th century urban themes. The company asserted that graffiti culture was a relic of the past and its reference on the front of the product packaging was designed to create a nostalgic-feel to appeal to adults, who recognised it from their teenage years.

The company concluded that as no single element held a particular appeal to under-18s, there were no elements which could combine with the position of the wording, Tiny Rebel, to reinforce a particular appeal to under-18s.

The Panel disagreed with the company’s assertion that the bear had no anthropomorphic features as the bear was dressed in a hoodie and had undertaken human actions, such as using spray cans. Furthermore, the black line drawing presentation of the character made the character take on the resemblance of a toy bear.

As part of the company’s response to the provisional decision, they addressed the Panel’s finding that the product indirectly encouraged immoderate consumption. The company asserted that the Tiny Rebel bear logo did not display any characteristics which would suggest that it was inebriated; the bear on the front of the can was presented in an upright position rather than being ‘slumped’ and the ‘missing eye’ which the Panel had highlighted, was a sad face which

had been designed to reflect an urban, post-industrial image based on the city of Newport. Further to this, the company stated that it was physically impossible for the bear to be intoxicated as it had no anthropomorphic features, i.e., it had no mouth. Therefore, as no individual element depicted drunkenness, there could be no suggestion that the overall impression of the product encouraged immoderate consumption.

The Panel’s assessment

The Panel began by recognising that the company was trying to be innovative with regard to packaging size and design and noted that the business had grown rapidly over a short space of time. The Panel did not want to stifle creativity in this area. The Panel also praised the company for their social responsibility efforts in their local community and noted that the company had not intentionally sought to create product packaging that had a particular appeal to under-18s.

The Panel was keen to urge producers to be aware that the alcoholic nature of 330ml cans, because they had been long established in the soft drinks market, could be ambiguous, particularly if there was a risk that the product could appeal to children and such products needed to work harder to ensure a distinction with soft drinks.

The Panel noted that the word “ale” featured on the front of the packaging, and that there was a section on the side of the can which contained the word ‘beer’ in several languages, the unit content of the can and the alcoholic strength. The Panel also acknowledged that the complainant had realised the product was alcohol on closer inspection. In light of this, the Panel concluded that the alcoholic nature of the product was communicated with absolute clarity, and accordingly did not uphold the complaint under Code rule 3.1.

The Panel went on to consider the packaging more broadly and discussed the literal interpretation of the design, which appeared to depict a drunken bear, that

had graffitied and then collapsed on the floor looking dishevelled. The Panel acknowledged that graffiti was increasingly seen as an art form and was not necessarily indicative of anti-social behaviour. Therefore, the Panel did not uphold the product under Code rule 3.2(b).

The Panel then focused on the appearance of the bear and its prominence above the company name “Tiny Rebel”. The Panel acknowledged that the company had intended for the bear to be an abstract reflection of Newport’s urban environment but also noted that the bear appeared prominently on the front of the packaging and alongside the word ‘ale’. The Panel considered that the bear, who had a cross-stitch to represent a missing eye, and a slumped posture, appeared intoxicated; and, that this was reinforced by the positioning of “Tiny Rebel” directly below the character. When considered in the context of an alcohol product, the Panel concluded that the combination of the “Tiny Rebel” logo and the dishevelled bear placed so prominently on the packaging indirectly encouraged immoderate consumption and therefore upheld the product under Code rule 3.2(f).

The Panel noted the company’s argument that no individual element on the product packaging encouraged immoderate consumption, or had a particular appeal to under-18s, which meant that, when taken in combination, these elements could not contribute to either Code rule overall. However, the Panel fundamentally disagreed with this point, and sought to remind companies that they will always consider the overall impression conveyed by a product, even if this is unintentional.

As part of the company’s response to the provisional decision, the Panel were presented with alternative images which depicted ‘teddy bears’. The Panel disagreed with the company’s assertion that the bear had no anthropomorphic features as the bear was dressed in a hoodie and had undertaken human actions, such as using spray cans. Furthermore, the black line drawing presentation of the character made the character take on the resemblance of a toy

bear. The Panel noted that the co-founders of the company had created a character which reflected their personalities but concluded that due to the size and prominence of the bear on the packaging this had now inadvertently become part of the product narrative rather than simply a corporate logo.

The Panel then discussed whether toy bears had a particular appeal to very young children. The Panel concluded that this point could not be ignored regardless of whether the product was deliberately aimed at children or not.

The Panel agreed that, when used in combination, the prominence of the hoodie-wearing bear above the wording "Tiny Rebel", graffiti activity in the background and swirling primary colours were likely to have a particular appeal to both younger children and early teenage audiences.

The Panel also considered the overall impression conveyed by the front label, in particular noting the apparent drunken demeanour of the bear wearing a hoodie, slumped on the ground, surrounded by graffiti cans and swirling primary colours in the background. These elements were then discussed in conjunction with the prominence of the bear and "Tiny Rebel" wording on the front label. The Panel reflected that all these elements, in combination, created the impression of a child's bear morphed into something more rebellious and could create an appeal to an older

child who was leaving childhood behind. The Panel acknowledged that while they were not upholding the product under Code rule 3.2(b) both the presence of graffiti and the fact that the bear was wearing a hoodie were cues which were strongly associated with a wide range of products currently marketed to teenagers. The Panel considered this point in the context of the company's assertion that the design of the can was aimed at adults on a nostalgia-based level but concluded that certain elements, such as the bear wearing a hoodie and graffiti in bright swirling colours, were features that would still be used to market to teenagers today. Reinforcing this point, the Panel said that the fact that these elements appealed to adults when they themselves were teenagers, meant that they could still appeal to teenagers today.

The Panel therefore concluded that the prominence, in size and positioning of the bear and "Tiny Rebel", in combination with the other elements on the front label, caused the product to have a particular appeal to under-18s and accordingly upheld the product under Code rule 3.2(h).

Action by Company:

The company has contacted the Portman Group's Advisory Service for guidance on appropriate changes to the product packaging.

Advisory Service

Our free, confidential Advisory Service is here to help drinks producers comply with the Codes. Any company, whether or not they're a member or Code Signatory can ask the Advisory Service for a view on product names, packaging and promotions covered by the Codes. The Advisory Service will offer a swift, informed opinion based on the latest precedents and can be approached as often as needed during the course of product development. The advice, which is given on a 48 hour turnaround, is not binding on the Independent Complaints Panel, or on the company seeking advice.

Since the inception of the Naming and Packaging Code in 1996, we have seen the demand for advice grow significantly. From just 18 advice requests in 1996 there have been more than 400 each year for the last eight years. Many drinks producers also have their own internal marketing codes and in-house checks to ensure products are named, packaged and marketed responsibly.

Seek advice under the Codes by calling 020 7290 1460 or emailing advice@portmangroup.org.uk

Advisory Service Evaluation

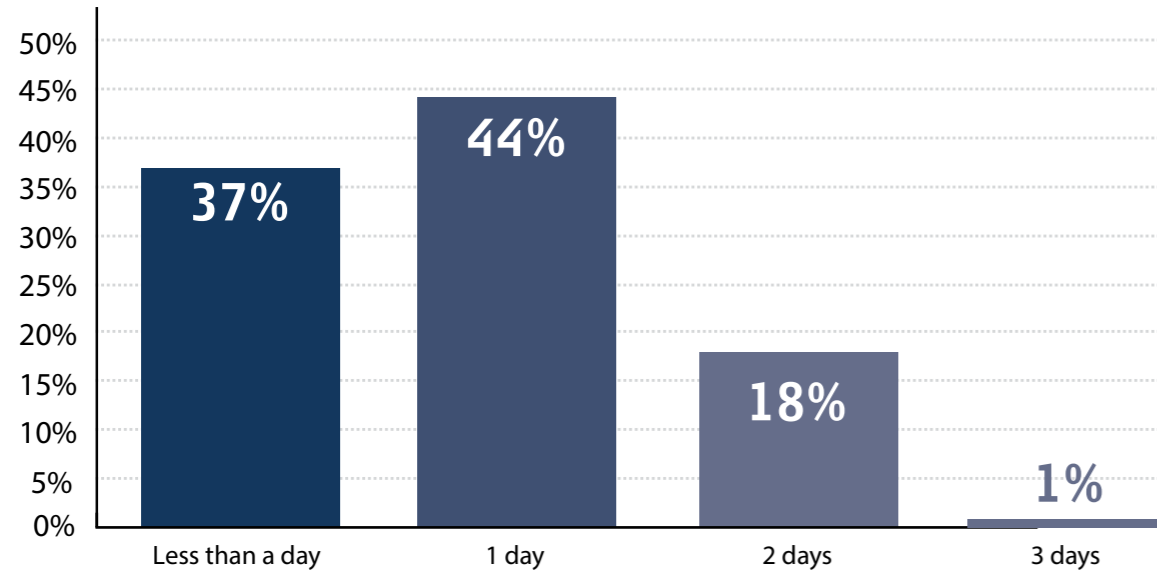
1 Volume of advice requests and complaints

The 2017 calendar year was the fourth busiest the Advisory Service has had since 2012 with a total of 491 advice requests. Seven complaints were made to the Portman Group in 2017, of which two were resolved via Fast Track and five were investigated by the Independent Complaints Panel.



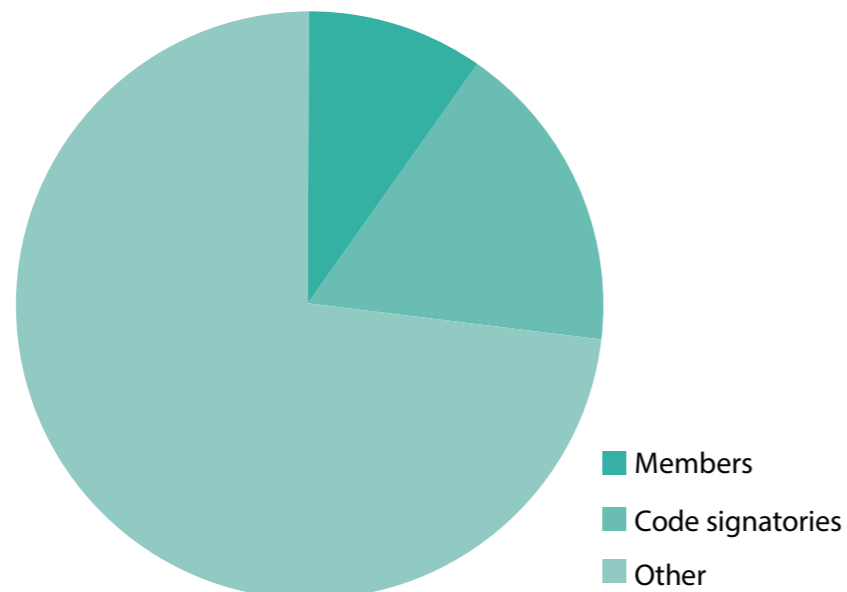
2 Advice Response Time

The Advisory Service aims to respond to 90% of advice requests within two working days. In 2017 we answered every request within this target and 37% of requests were answered on the day they came in.



3 Origin of Advice Requests

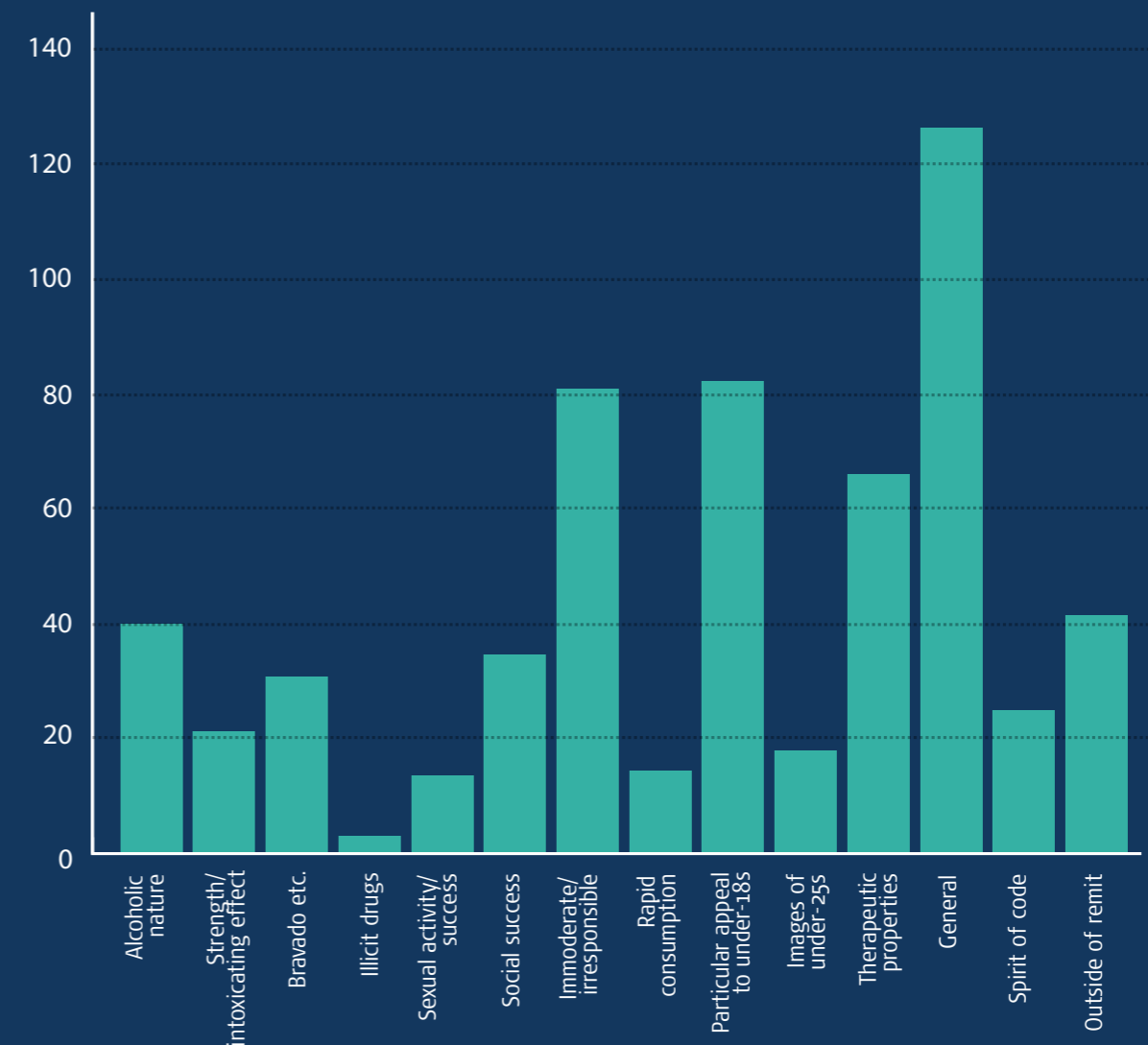
As in previous years, the majority of advice requests originated from non-member companies. With the rise of craft brewing and distilling we're as happy to hear from start-ups as well as established producers.



4 Cases by Code Rule

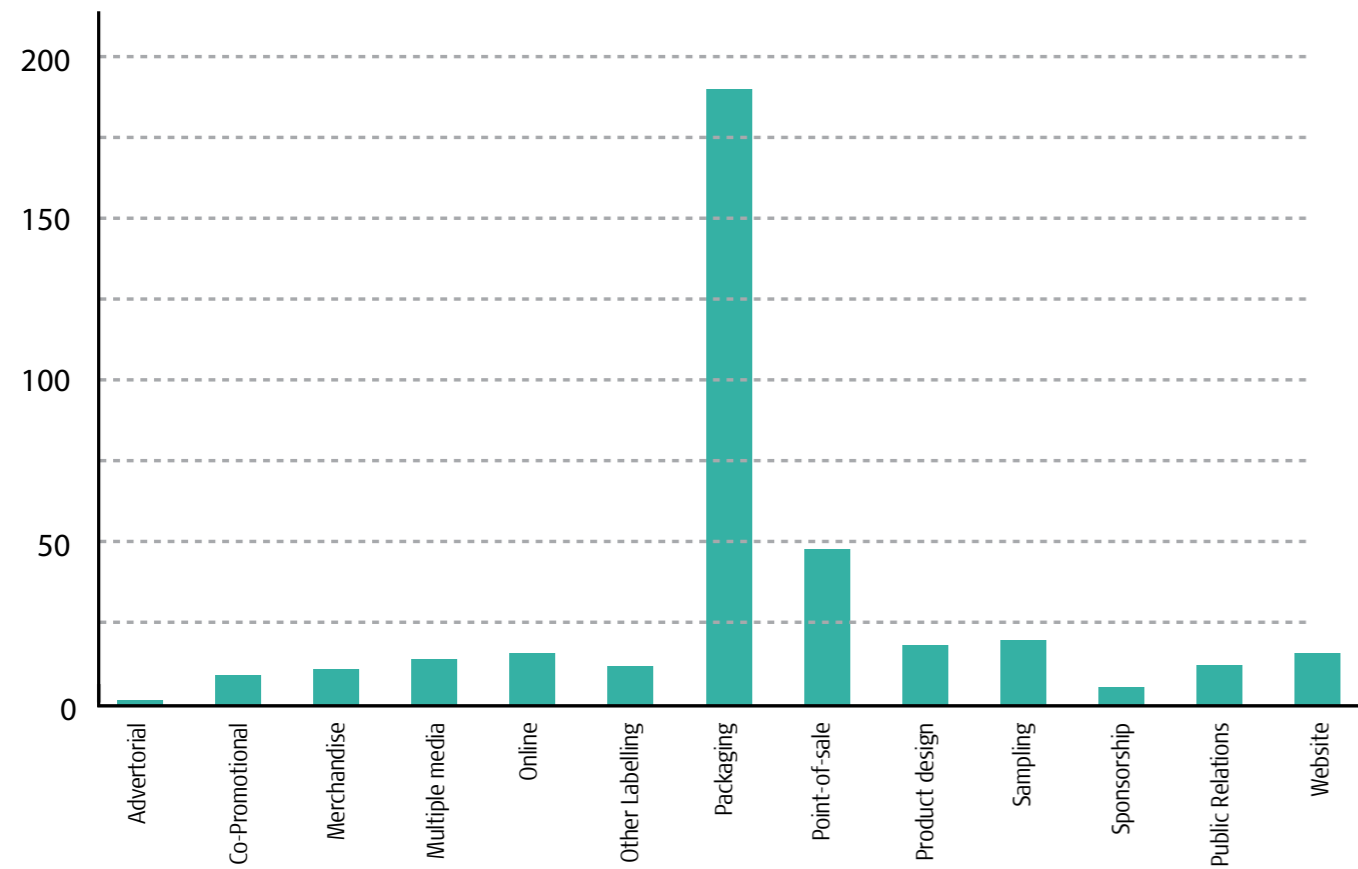
This graph shows how many Code rules related to each case in 2017. In addition to the Code rules we measure 'general' queries, which most frequently relate to labelling issues, cases which are considered against the Spirit of the Code rather than any one rule, and cases which are outside our remit, for example, if a TV ad or billboard is submitted it would fall within the remit of the CAP Code and we would refer the enquirer to the Committee of Advertising Practice. The number of general queries remains high, as has been the case in previous years, and this is mainly due to producers seeking advice under the best practice guidance we published in September 2017 relating to communicating alcohol and health-related information.

The number of enquiries about other Code rules was similar to trends we have seen in previous years with a strong focus on particular appeal to under-18s, immoderate consumption and therapeutic qualities. There was a particular increase in advice requests relating to health and nutrition claims on alcohol packaging. Our general guidance note contains useful advice on this topic, and if a marketer is in any doubt they can send the Advisory Service an email for fast, free, confidential advice.



5 Cases by media type

As always, packaging enquiries formed the majority of cases considered by the Advisory Service. This year the proportion of packaging enquiries was even higher due to the publication of our best practice guidance on communicating alcohol and health-related information in September.



Communicating Alcohol and Health-Related Information

This year, we launched the new best practice guidance for drinks producers on communicating alcohol and health-related information across multiple channels, including on-pack and online. We did this in consultation with the sector trade associations for drinks producers, (BBPA, NACM, SWA and WSTA).

It follows the publication, in August 2016, of the Chief Medical Officers' (CMOs') Guidelines on Low Risk Drinking. The UK CMOs replaced the daily guidelines, of not exceeding 2-3 units daily for women and 3-4 units daily for men, with a weekly guideline of no more than 14 units for both men and women.

The guidelines also recommend that if consumers regularly drink 14 units they should spread the drinking evenly over 3 or more days. They also emphasised health risks from drinking alcohol.

To communicate this change, the Portman Group developed best practice guidance for drinks producers on communicating alcohol and health-related information to consumers. The new guidance supersedes the 2011 guidance agreed under the Department of Health Responsibility Deal Alcohol Network Labelling Pledge.

The guidance provides icons and best practice options for on pack labelling including three minimum elements:

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



In addition to the above elements we provide guidance on how to reflect the revised CMOs' guidelines on lower risk drinking with wording as agreed with the Department of Health, and we have suggested a range of other helpful information which producers could communicate.

We have agreed, with the Department of Health and Food Standards Agency, a deadline of 1 September 2019 for the removal of out-of-date information.

The guidance document, and all the icons used within it, are available to download via our website.

If you have any questions about utilising this guidance please contact the Portman Group advisory service on 020 7290 1460 or advice@portmangroup.org.uk.

CODE REVIEW

The Portman Group's Code of Practice has been setting the standards for alcohol marketing for more than two decades. Our system is internationally recognised as a gold standard of self-regulation and has been commended by government.

Since its introduction, the Code has undergone four major revisions following public consultation exercises. These reviews have enabled the Code to adapt in response to public opinion, cultural change and industry innovation. Each review allows us the opportunity to learn where, if at all, the Code can be improved to meet the requirements of industry and other stakeholders.

The last comprehensive review was in 2012, with the 5th edition coming into effect on 31 May 2013. It brought in tougher rules to protect children and tightened any direct or indirect associations with sexual activity. Rule 3.2(j) was expanded to include therapeutic qualities, meaning producers cannot claim that alcohol is an aid to relaxation.

Additionally, young people who look or are under the age of 25 could no longer be featured in a significant role or be seen drinking or holding alcohol. The Code was changed to give producers greater freedom to promote lower alcohol drinks. The Portman Group also took on the regulation of alcohol marketing not otherwise regulated by the ASA or Ofcom was brought under the remit of the Code, including public relations, co-promotional materials and online content such as blogs.

This year's review will result in the publication of the sixth edition of the Code in 2019. We are seeking a wide range of views from producers, retailers, public health professionals, charities and all other interested parties. There will be a grace period of six months to allow transition to the new Code during which period products and promotions will continue to be subject to the 5th edition of the Code.

The consultation document was published in April 2018 and focuses on some key areas, including:

Changes in Mood or Behaviour

Rule 3.2(j) disallows "any suggestion that a product has therapeutic qualities, or can enhance mental or physical capabilities". We are seeking views on whether we should amend this rule to state that alcohol should not be offered on the basis that it can change mood or behaviour. This will also ensure the rule is consistent with the rules in the CAP Codes. The suggestion amendment could read:

A drink, its packaging and any promotional material or activity should not in any direct or indirect way suggest that the product has therapeutic qualities, can enhance mental or physical capabilities, or change mood or behaviour.

In the event that the rule is revised Code guidance will be produced to support and clarify the new rule.



Defining Immoderate Consumption

In August 2016, the Chief Medical Officers' (CMOs') Guidelines on Low Risk Drinking were published. The guidelines replaced the previous daily guidelines, with the same weekly guideline for men and women if drinking regularly.

Since the inception of the Code, the industry's measure of immoderate consumption has been by reference to the daily guidelines. By moving from daily to weekly guidelines, the Panel has lost one of its critical reference points when assessing immoderate consumption on a single drinking occasion.

We are seeking views on whether we should re-establish a daily drinking threshold to help define immoderate consumption, and, if there is a reasonable basis for that threshold to be four units on a single drinking-occasion applicable to single-serve non-resealable containers, and promotions.

Associations with Illegal Behaviour

Rule 3.2(b) of the Code prohibits "any association with bravado, or with violent, aggressive, dangerous or anti-social behaviour"

The Code already prohibits any association with illegal consumption in relation to drink-driving, but not illegality and illegal behaviour more broadly. As the Advisory Service is seeing increasing numbers of cases linking alcohol, directly and indirectly to illegal behaviour we are seeking views on whether we should amend the Code to specifically prohibit any such link.

We are seeking views on changing rule 3.2(b) to:

A drink, its packaging and any promotional material or activity should not in any direct or indirect way suggest any association with bravado, or with violent, aggressive, dangerous anti-social or illegal behaviour

In the event that the rule is revised Code guidance will be produced to support and clarify the new rule.

Vulnerable Individuals

We are seeking views on whether we should broaden the scope of the Code so that it not only continues to ensure that alcohol is marketed in a socially responsible manner and only to those aged over 18, but also protects those that are socially or mentally vulnerable.

We propose the following amendment:

This Code seeks to ensure that alcohol is promoted in a socially responsible manner, and only to those aged over 18; care should be taken not to exploit those who are mentally or socially vulnerable.

As drinks marketers are already subject to this requirement under the CAP alcohol rules, and other regulatory instruments offer vulnerable people protection, we are seeking views on whether to broaden the scope of the Portman Group Code so that it not only continues to ensure that alcohol is marketed in a socially responsible manner and only to those aged over 18, but also protects those that are socially or mentally vulnerable; this would also align with the CAP alcohol rules.

Serious or widespread offence

Within the alcohol industry, some stakeholders, and public commentators, have raised concerns about alcoholic drinks labels using images and text which they consider to be offensive because they are sexist and demeaning to women. While we recognise that the significant majority of producers market their products responsibly with due regard to prevailing standards of decency there are some that do not; and while not reflective of the majority they manage to draw attention to the industry for the wrong reasons.

Now seems like the right time to ask whether it would be worthwhile to explicitly state that it is not acceptable for any producer in the alcohol industry to cause serious or widespread offence on the grounds of race, religion, gender, sexual orientation, disability

or age. This would also further align the Code's requirements with the CAP Code.

We are seeking views on whether we should introduce a new rule on serious or widespread offence. The rule, aligned with the CAP Code could read:

A drink, its packaging and any promotional material or activity should not cause serious or widespread offence. Particular care must be taken to avoid causing offence on the grounds of race, religion, gender, sexual orientation, disability or age.

In the event that a new rule is introduced Code guidance will be produced to support and clarify the new rule.

These reviews have enabled the Code to adapt in response to public opinion, cultural change and industry innovation. Each review allows us the opportunity to learn where, if at all, the Code can be improved to meet the requirements of industry and other stakeholders.

The Code consultation is running from the 27th April to the 6th July. If you would like to comment on the consultation document you can go to: **www.portmangroup.org.uk**. We prefer to receive responses as e-mail attachments. Please send your response to consultation@portmangroup.org.uk. If you are unable to reply by e-mail, you may submit your response by post to:

**Code Consultation Team
Portman Group
4th Floor
20 Conduit Street
London W1S 2XW**

We are conducting this consultation in accordance with the principles of effective consultation developed by the Better Regulation Executive⁴. In the interests of transparency, we intend to publish all consultation responses on our website, **www.portmangroup.org.uk**. If all or any specified part of your response is confidential and should not be disclosed, please state this clearly at the beginning of your response document.

⁴Better Regulation Executive: Code of Practice on Consultation, July 2008



Training

The alcohol industry can be proud of creating products with high levels of compliance with the Codes of Practice. To maintain this standard, we complement the help offered by our Advisory Service with a comprehensive training offer to stakeholders.

We believe that the more people are familiar with the Codes, the lower the risk of creating a product or promotion that breaches the Codes.

Anyone working within the industry – whether at a producer, agency, retailer as well as staff working in Trading Standards and NGOs – can receive face-to-face training or complete our online training module.

All our training is Continuing Professional Development (CPD) certified so all delegates are awarded the independently accredited 'Portman Group Alcohol Marketing Accreditation' and receive a formal certificate.

The face to face sessions last between 90 minutes and two hours and are interactive and engaging. Delegates are encouraged to discuss the decisions made by the ICP and decide whether they consider the products to be in breach of the Codes. Following one of our informative and interactive sessions, delegates report that they develop a better understanding of the Codes and feel more equipped to produce marketing campaigns that are both eye-catching and compliant.

We have also run 'deep dive' sessions with companies, encouraging employees working with alcohol to explore their own campaigns and identify potential issues under the Code.

This year, we trained 529 delegates in face to face sessions and 92 people sat online training, a total of 621 people, which is an increase on the 561 stakeholders trained in 2016 and the 497 stakeholders trained in 2015.

We ran 30 sessions for delegates working in varied areas of the alcohol industry:

- 7** sessions with Portman Group member companies
- 8** Marketing agencies
- 3** Code Signatories
- 4** Conferences
- 2** Trade bodies
- 1** Higher education college
- 1** Trading Standards department
- 1** Alcohol consultant
- 1** Retailer

Online Training

If face-to-face training is best suited to beginners, our online training module offers experienced practitioners a stimulating refresher of the Code rules.

It is made up of three sections: Packaging; Point-of-Sale and Promotional Activity. Users can refresh their understanding of the Code in the Knowledge Centre before completing the multiple choice questions for each section.

In 2017, 92 delegates undertook online training with 81 passing and 11 failing. This number is a drop from the 149 who sat training in the previous 12 months, which was also its first year of operation. There were:

- 53** delegates from alcoholic drink producers
- 34** delegates from agencies
- 5** delegates from other bodies

To ensure our training materials remain relevant we will refresh the content of our online training and continue to publicise the service over the course of the next year



All Portman Group training materials have been certified by Continuing Professional Development (CPD). Independent certification ensures that all of our training is structured, educational and relevant for the improvement of professional and industry standards.

All delegates who complete training through any of our three routes will now be awarded the independently

accredited 'Portman Group Alcohol Marketing Accreditation' and will receive a formal certificate.

For more information or to arrange training please call **020 7290 1460** or email **training@portmangroup.org.uk**

Code Governance



Jenny Watson CBE is Chair of the Independent Complaints Panel, which rules on complaints and cases under the Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks and Code of Practice on Alcohol Sponsorship.

Jenny Watson CBE sits on the board of the Financial Ombudsman Service, and is a governor at Mossbourne Parkside Academy. She was formerly the Chair of the Electoral Commission, a role which she left in December 2016.



Sir Martin Narey is Chairman of the Portman Group Council, the Portman Group's governing body which is responsible for ensuring the Codes of Practice are fit for purpose and supported by both government and industry. The Council consists of the most senior UK representative from each member company.

Sir Martin advises the Department for Education on issues relating to child neglect and the care system. He chairs the Brain Tumour Charity and is a Board Member of The Sage, Gateshead and Unilink Ltd. He is a former chief executive of Barnardo's and Director General of the Prison Service in England and Wales.

Sir Martin and Jenny were both appointed following an open, nation-wide recruitment campaign, consistent with the Public Appointments Process.



John Timothy is Chief Executive of the Portman Group and provides Secretariat services to the Independent Complaints Panel. The Secretariat carries out the day to day administration of the complaints system.



The Independent Complaints Panel

The Chair of the Independent Complaints Panel is appointed through an open and transparent process, consistent with the Public Appointments Process. The Chair appoints the other Panel members. Panel members must not be employed by the Portman Group or any of its member companies.

Panel members must declare any interest in a case before considering it, whereupon the Chair will decide if it is appropriate for that member to consider the complaint.



Chair

Jenny Watson CBE sits on the board of the Financial Ombudsman Service, and is a governor at Mossbourne Parkside Academy. She was formerly the Chair of the Electoral Commission, a role which she left in December 2016.



Rachel Childs is Head of English for the Home Education Service in West Berkshire and brings significant experience of working with children and young people. During her last 20 years in education she has been a teacher, literacy adviser, head teacher, governor, examiner and child protection officer, working professionally with children from the ages of 4 up to 16. Rachel has been a member of the ASA Council since April 2011 and was appointed as the Senior Independent Lay Member in April 2015 and as a Standards Investigation Panellist for IPSO in July 2017.



Ron Finlay is a PR and public affairs consultant with a special interest in public health. He advised the Department of Health on its Know Your Limits alcohol campaign and has also worked in the fields of tobacco control, drug misuse and gambling. With over 35 years' experience in marketing and communications, he runs a consultancy business focusing on the public and voluntary sectors. He is a trustee of charity Addaction, has an MA in Economics, is a Fellow of the RSA and a Member of the Chartered Institute of Marketing.

Ron left the Panel in February, at the end of his second term.



Claire Fowler has 20 years of experience as a senior marketer within the drinks industry, working with some of the UK's leading brands in both soft and alcoholic beverages. Having sat on the Portman Group Public Affairs Directors committee for several years, she played an active role in shaping guidance for digital marketing within the industry. Claire also led her employer's corporate social responsibility programmes, including working closely with Drinkaware and Community Alcohol Partnerships. She was closely involved with other trade bodies such as WSTA, NACM and BSDA, giving her broad awareness of the issues across the drinks market, from a consumer and trade point of view. Claire now works for an independent marketing consultancy.



Daniel Jourdan is a Professional Youth Worker with over nine years' experience of working with young people across London and the United Kingdom in face-to-face, leadership and advisory roles. Currently working as a Youth Centre Manager for a voluntary sector organisation in Central London, he specialises in working with 13-19 year olds from at-risk groups such as teenage parents, looked after children, young offenders and young people with mild to moderate difficulties.



Jane Keightley is a Branding & Communications specialist with over 25 years' experience in Marketing. She worked in the drinks industry for 16 years, having held senior UK and global roles at International Distillers & Vintners UK and Diageo working across wines, beer and spirits. Now freelance, she specialises in advising charities, corporate foundations and businesses on branding and communications strategies, including: the Diageo Foundation, The Prince's Charities, Against Breast Cancer, Thrive, Street Kids International, Alnwick Castle & Garden, CARE International UK, Pub is The Hub, Alport UK and the Alcohol Education Trust. She is Director of Communications and on the Senior Management Team at Child Bereavement UK. She has a WSET Diploma in Wine, and an MA from Oxford University.

Jane left the Panel in February, at the end of her second term.



Prof. Roy Light is a barrister based at St John's Chambers, Bristol, and professor emeritus, Bristol Law School. He has researched, taught and written on alcohol-related matters for some 30 years. At the Bar he specialises in licensing and related criminal matters.



Doreen McIntyre has over 25 years' experience in health promotion and public health, combining consumer programmes with health professional training and advocacy for effective policy. Having held CEO roles in the national and international non-profit sector she is now a freelance consultant in international development and active volunteer in her local community. She has a Masters in Public Health from Glasgow University, a Masters in Hispanic Languages from St Andrews University and is also a qualified teacher.



Graeme McKenzie has over 20 years' marketing experience in the food and drinks industry, having held senior roles at Scottish & Newcastle, Bulmers, Heineken and Bidvest Foodservice. Graeme now operates his own independent Marketing Strategy consultancy, advising companies on brand and corporate positioning, communication strategies and customer experience management. Graeme is also a guest marketing lecturer on the MBA, MSC and Executive Education programmes at Loughborough University.



Elisabeth Ribbans has been a journalist for more than 25 years, working on local, national and specialist magazine titles, as well as providing consultancy services to publishers. She is a former managing editor of the Guardian (2008-2013) and was previously a writer and associate editor for the international corporate social responsibility magazine, Tomorrow. Elisabeth sat as a member of the complaints committee at the Independent Press Standards Organisation (2014-17), and currently serves on the code adjudication panel at the Phone-paid Services Authority.



Phil Wright was educated at UCL, SOAS and Durham University and has previously worked in East and Central Africa and the Falkland Islands in the health and education fields. He has over a dozen years' experience in the education, child protection and housing sectors. Working in social inclusion Phil has seen first-hand the challenges many young people and families face. Phil is currently working in the Middle East working with vulnerable young people to try and help them overcome barriers and reach their potential.

Phil left the Panel in April 2017 due to other work commitments



Isabelle Szmigin is Professor of Marketing and Deputy Dean at Birmingham Business School, the University of Birmingham. Her research interests lie primarily in the areas of consumer research, services, ethical and social marketing. She has held ESRC, Alcohol UK, European Foundation for Alcohol Research and British Academy research grants.

Code Signatories

10 International Ltd

A

AB InBev

Accolade Wines

Adnams plc

Alcohols Ltd

Ampleforth Abbey Trading Ltd

Arkell's Brewery Ltd

Asda Stores Ltd

Association of Convenience Stores

Association of Licensed Multiple Retailers

Aston Manor Brewery Company Ltd

Averys of Bristol Ltd

B

Babco Europe Ltd

Bacardi Brown-Forman Brands

Beam Suntory

Blavod Black Vodka Ltd

Bodegas y Viñedos Codorníu Raventós

Booker Group plc

BBPA

Brothers Drinks Co Ltd

Burn Stewart Distillers

C

C&C Group

Cains Beer Company PLC

Caledonian Brewing Company Ltd, The

Carlsberg

Carnivale Brands

Castle Brands Spirits Group GB Ltd

Cellar Trends

Cocktail Mania Ltd

Concha y Toro UK Ltd

Continental Wine & Food Ltd

Co-operative Group Ltd

D

Daniel Batham & Son Ltd

Daniel Thwaites Brewery

Diageo GB

Direct Wines International

Douglas Laing & Co

Drinkwise

E

Ehrmanns Ltd

Elgood & Sons Ltd

Enfield Brewery

Enterprise Inns plc

Everards Brewery Ltd

F

Federation of Wholesale Distributors

Felinfoel Brewery Co Ltd, The

First Choice Wholesale Foods

First Drinks Brands

First Quench Retailing

Frederic Robinson Ltd

Fuller, Smith and Turner

G

G&J Greenall

George Bateman & Son Ltd

Global Brands Ltd

Gray & Sons (Chelmsford) Ltd

Greene King Brewing and Retailing Ltd

GT News Ltd

H

H&A Prestige Packing Company Ltd

Halewood International Ltd

Hall & Woodhouse Ltd

Harvey & Sons (Lewes) Ltd

Hayman Ltd

Heavitree Brewery plc, The

Heineken UK Ltd

Hi-Spirits Ltd

Hook Norton Brewery Co Ltd

Hyde's Brewery Ltd

I

Ian Macleod Distillers Ltd

Ignite Spirits

Intercontinental Brands (ICB) Ltd

Inver House Distillers Ltd

J

J D Wetherspoon plc

J Sainsbury plc

J Wray & Nephew (UK) Ltd

J. Chandler & Co (Buckfast) Ltd

JC & RH Palmer Ltd

John E Fells & Sons Ltd

Joseph Holt Ltd

JW Lees & Co (Brewers) Ltd

K

Kingsland Wine and Spirits

L

Lanchester Wine Cellars Ltd

Landmark Cash & Carry Ltd

Lawlabs Ltd

Liberty Wines

London & Scottish International Ltd

London Glider

M

Maclay Group plc

Mason, Marques et Domaines

Majestic Wine Warehouses Ltd

Marblehead Brand Development Ltd

Marks and Spencer plc

Marston's Beer and Pub Company

Martin Miller's Gin

Martin McColl Ltd

Mast-Jägermeister

Matthew Clark Wholesale Ltd

Maxxium UK Ltd

McMullen & Sons Ltd

Meantime Brewing Company Ltd

Merrydown plc

Mitchells & Butlers plc

Mitchells of Lancaster (Brewers) Ltd

mmm ...food and drink ltd

Molson Coors Brewing Company (UK) Ltd

Morrison Bowmore Distillers

MX Vodka

N

National Association of Cider Makers, The
Nisa-Today's (Holdings) Ltd
Northern Ireland Drinks Industry Group

P

Palmer & Harvey McLane Ltd
Pernod Ricard
Pol Roger
Proximo Spirits
Punch Taverns

R

Rank Group
Real Wild 1
Reformed Spirits Company
Remy Cointreau UK Distribution Ltd
Rubicon Research

S

SA Brain & Co Ltd
SAB Miller
Scotch Whisky Association
Sharp's Brewery
Shepherd Neame Brewery Ltd
Shooters UK Ltd
SHS Drinks
Somerfield Stores Ltd
Sovio Wines Limited
SPAR UK
Speyside Distillers Co Ltd
St Austell Brewery Co Ltd
Starjump Food

T

Tesco
Test Tube Products Ltd
The Black Tomato Agency
The Edrington Group Ltd
The F&B Partnership Ltd
Timothy Taylor & Co Ltd
Toast Ale Ltd
Treasury Wine Estates

U

Umbrella Risk Management

V

Vickery Wines Ltd

W

Wadworth & Co Ltd
Waitrose Ltd
Wells & Young's Ltd
Welsh Whisky Company Ltd, The
WH Brakspear & Sons plc
Whiskynet Ltd
Whitbread Group plc
Whittalls Wines Ltd
Whyte & Mackay Ltd
William Grant & Sons Distillers Ltd
Wm Morrison Supermarkets plc
WSTA
Wye Valley Brewery

Y

Young & Co's Brewery plc





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E: advice@portmangroup.org.uk

W: www.portmangroup.org.uk

Advisory Service

Our free, confidential Advisory Service is here to help drinks producers comply with the Code. Any company, whether or not they're a member or Code Signatory can ask the Advisory Service for a view on product names, packaging and promotions covered by the Code. The Advisory Service will offer a swift, informed opinion based on the latest precedents and can be approached as often as needed during the course of product development. The advice, which is given on a 48 hour turnaround, is not binding on the Independent Complaints Panel, or on the company seeking advice.

Since the inception of the Code in 1996, we have seen the demand for advice grow significantly. From just 18 advice requests in 1996 there have been more than 400 each year for the last eight years. Many drinks producers also have their own internal marketing codes and in-house checks to ensure products are named, packaged and marketed responsibly.

Seek advice under the Code by calling 020 7290 1460 or emailing advice@portmangroup.org.uk

Advisory Service Evaluation

1 Volume of advice requests and complaints

The 2017 calendar year was the fourth busiest the Advisory Service has had since 2012 with a total of 491 advice requests. Seven complaints were made

to the Portman Group in 2017, of which two were resolved via Fast Track and five were investigated by the Independent Complaints Panel.

