



## Guidance Note

### **Rule 3.2(d): Sexual activity or sexual success**

**March 2019**

## Rule 3.2(d): Sexual activity or sexual success

*This guidance is intended to help drinks producers comply with the Portman Group's (PG) Code of Practice on the Responsible Naming, Packaging and Promotion of Alcoholic Drinks. This guidance represents the opinion of the Advisory Service. Please note that the Independent Complaints Panel (Panel) is the final arbiter on how the Code should be interpreted and applied. Following the advice in this document is no guarantee that a product's packaging or promotion will not be found in breach of the Code if a complaint is received. The guidance will be updated regularly to reflect the views of the Panel.*

*The fundamental principle is that the Code is applied in the spirit as well as in the letter and to both direct and indirect claims. In judging compliance with the Code, the matter will be looked at broadly and with regard to all the circumstances including, but not limited to, the drink, the overall impression conveyed and any other relevant matters. It is therefore difficult to say whether a particular product name, image or statement on a drink's packaging or in a promotion is acceptable under the Code without seeing/considering it in context. Companies are therefore encouraged to make use of the free Advisory Service before undertaking promotional activities or launching products to help ensure that they comply with the Code.*

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

### Introduction

Code paragraph 3.2(d) requires that a drink's naming, packaging and any promotional material or activity does not, in any direct or indirect way, suggest any association with sexual activity or sexual success.

### Application of the Rule

- The reference to 'sexual activity' was incorporated into the fifth edition of the Code. It not only disallows claims which imply a link between alcohol and sexual success but also categorically disallows any reference to types of sexual activity.
- This guidance document should be read in conjunction with guidance on Rule 3.3 (serious or widespread offence). Both rules will prohibit marketing which objectifies and/or overly sexualises an individual. For the avoidance of doubt, any image or illustration which unnecessarily focuses on someone's body or body parts (i.e. focusing on a person's torso) is likely to be problematic for objectifying someone based on their gender and sex. Similarly, any image or illustration which depicts someone in a highly sexualised manner is likely to be problematic for creating a direct link to sexual activity.
- Graphic sexual references and sexual slurs, particularly when used as strong insults, are likely to be problematic.

- Allusions to romance are acceptable under the Code providing there is no suggestion that the alcohol has been the catalyst for the behaviour, is essential to the success of the relationship, and/or has played a role in the outcome of the event.
- As always under the Code, it is the overall impression conveyed that is important, both explicitly and implicitly.
- Strong sexual images will breach the Code even if nothing directly suggests that the drink enhances the drinker's sexual capabilities. The context of an image will be important in determining whether the image is in breach of the Code, for example, an image of a person in sexy underwear lying on a bed will be viewed as more gratuitous (and therefore unacceptable) than an image which depicts people in swimwear in a beach scene.
- Allusions to a person being attractive are likely to be fine, unless it is suggested the person has become *more* attractive because of the alcohol.
- In 2007, the Panel upheld a complaint against a product called [Rubbel Sexy Lager](#) whose label featured a young woman apparently wearing a swimsuit. The swimsuit, however, could be scratched off by the consumer to reveal the woman naked. The Panel considered that both this feature and the product's brand name, Rubbel Sexy Lager, suggested an association with sexual success and therefore caused the product to be in breach of Code paragraph 3.2(d).
- In 2009, a complaint about a promotional poster for a test-tube product called [Rampant](#), which featured a provocative image of a woman in a bikini with her fingers inside the bikini bottom, was upheld. The Panel noted that rampant had various meanings, including 'unrestrained' which in itself was not necessarily in breach of the Code. In the context of the poster, however, the term 'rampant' carried sexual connotations and accordingly was found in breach of Code rule 3.2(d).
- Marketers should be responsive and sensitive to changes in society and, in particular, to the more cautious attitudes that exist towards alcohol promotion. In 2004, a complaint against a product called [Stiffy's](#) was considered by the Panel on the basis that the complainant felt the word 'stiffy' could only be used in a sexual context. At the time the Panel concluded that the brand name did not suggest an association with sexual success. In 2011, a similar complaint was considered by the Panel. The Panel, however, decided that, in view of the length of time that had since elapsed and the fact that society's attitude to alcohol promotion had become more conservative; it should not necessarily be bound by its previous decision. The Panel noted that 'stiffy' was a common slang term for an erection and considered that the brand name therefore had strong sexual connotations; indeed, it noted that in the Panel's decision on the previous complaint the company had been criticised for playing on these connotations in some of its marketing activity. It therefore concluded that the brand name suggested an association with sexual success and accordingly found the product in breach of Code paragraph 3.2(d).

### **The Portman Group's Advisory Service**

The above guidance should help you to avoid problems under the Code. If you are in any doubt, however, as to whether your proposed activity conforms to the Code you can seek free, fast and confidential advice from The Portman Group's Advisory Service. To obtain advice, please telephone The Portman Group on 020 7290 1460 and ask for the Advisory Service. Alternatively, email your request to [advice@portmangroup.org.uk](mailto:advice@portmangroup.org.uk), with full details of the proposed activity.