


**Portman
Group**



Alcohol
Responsibility + Marketing Regulation

Taking responsibility for alcohol regulation **2022**





Written and designed by the Portman Group. With especial thanks to the Regulation Team including Laura Demorais, Alison Munro, Tom Merryweather and Katie Wrighton.

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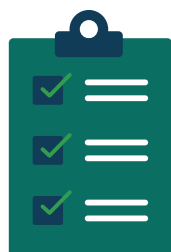
Notes

The statistics used in this report apply to 1st January - 30th November 2022.

In a world of acronyms we have done our best to minimise confusion and where possible we will stick to most commonly understood language. Please note that the Independent Complaints Panel is referred to as the 'Panel' in this report.

EXECUTIVE SUMMARY

313



Pieces of free advice given to the industry

51



Complaints recieved

Top 3 advice requests by Code Rule



29%

Particular Appeal to Under-18s



20%

Immoderate/ Irresponsible Consumption



15%

Bravado, etc.

Top 3 complainant categories



29

Member of the public



10

Competitor



9

Special interest

Top 3 advice requests by alcohol category

30%

Spirits

27%

Wine

19%

Beer



98%

Of advice requests answered within 48 hours

FOREWORD

Welcome to the Portman Group's review of regulation in 2022.

This year has seen an unprecedented level of political and economic change. After the unique challenges that COVID-19 brought to businesses, the industry now potentially faces its most difficult time yet. No business is immune to rising costs, especially energy prices, and a difficult winter lies ahead. It is therefore more critical than ever that the Portman Group continues to deliver a self-regulatory model at no cost to the taxpayer.

We are able to provide efficient and effective alcohol marketing regulation due to the funding by 17 industry leading companies.



Matt Lambert
Chief Executive, Portman Group

I am pleased to welcome Molson Coors Beverage Group, Treasury Wine Estates and Edrington UK to the Portman Group this year. The support of these and other member companies as well as Code Signatories and the wider industry is essential to the health of the self-regulatory system which underlines the socially responsible approach of the majority of the sector. This is most aptly demonstrated by the industry buy-in we received to deliver the updated 2022 best practice Alcohol Labelling Guidelines. The industry continues to show a strong commitment to working in partnership and it is this collective action that facilitates development of higher standards. The updated guidelines advise producers to include the Chief Medical Officers' Low Risk Drinking Guidelines as a minimum requirement and reflect the recent change in branding guidance from Drinkaware. I was particularly pleased that Drinkaware modified their licensing fees to enable smaller players to more easily carry the Drinkaware logo and thereby comply with our guidelines.

FOREWORD

This report highlights our work as a regulator for the past year. It details the important work of the Independent Complaints Panel and the Portman Group's Regulatory Affairs team regarding advice, guidance, training and complaints under the Codes of Practice. This year, we have clarified guidance on the portrayal of drink-driving, amended guidance on sampling activity, introduced a new regulatory blog series and overhauled our CPD accredited training programme. The report also details the 21 rulings made by the Panel and highlights precedent setting decisions from the year.

This year the Panel has made precedent setting decisions regarding particular appeal to under-18s and therapeutic qualities. The Panel has considered some complex cases and it is notable that 85% of all cases were considered under particular appeal to under-18s. Whilst not all cases were upheld, it is a continuous reminder of the importance of the Code and its fundamental purpose; to protect those who are vulnerable.

The Portman Group continues to look forward as a regulator and it is important that we respond to change and innovation in the market to ensure the highest standards of responsible alcohol marketing. We will therefore publish new Alcohol Alternatives guidance in 2023 and launch an out of cycle review of our Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks to seek further protection of individuals under the age of 18. Finally, I want to thank our members, Code Signatories, the Panel and the Portman Group team for their continued support and hard work.



ABOUT THE PORTMAN GROUP

The Portman Group is the social responsibility body and regulator for alcohol marketing in the UK. We are a not-for-profit organisation. On behalf of the whole sector our members* fund the application of the Codes which regulate the sponsorship, naming, packaging and marketing of alcoholic products. Founded in 1989, we have the explicit support of more than 160 Code Signatories including producers, retailers, and member bodies, the latter who recommend adhering to our Code and Guidances to thousands of companies across the UK. We regulate alcohol packaging and promotions primarily targeted at the UK market. Our standards apply equally to our members, Code Signatories and alcohol producers who have no formal relationship with us.

The Portman Group operates two Codes of Practice: the Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks and the Code of Practice on Alcohol Sponsorship.

The Alcohol Sponsorship Code fundamentally prevents sponsorships from having a particular appeal to under-18s and also commits producers to promote responsible drinking and/or support diversionary activities as part of their sponsorship agreements.

The Naming and Packaging Code applies to all alcohol marketing (including naming, packaging, promotions and point-of-sale) which is primarily UK targeted and not already subject to regulation by the Advertising Standards Authority (ASA) or Ofcom. The fundamental purpose of the Code is to ensure that alcohol is promoted in a socially responsible way, only to those aged 18 and over, and in a way that does not appeal particularly to those who are vulnerable.

*The Group is funded by 17 companies: Asahi UK Ltd; Aston Manor Cider; Bacardi; Brown-Forman; Budweiser Brewing Group UK&I; Campari UK; C&C Group; Diageo GB; Edrington UK; Heineken UK; Mark Anthony Brands International; Mast-Jägermeister UK; Molson Coors Beverage Company; Pernod Ricard UK; SHS Drinks; Thatchers and Treasury Wine Estates.

VALUE OF THE SELF- REGULATORY FRAMEWORK



VALUE OF THE SELF-REGULATORY FRAMEWORK

The Portman Group has delivered self-regulation for alcohol marketing for over 25 years with no cost to the taxpayer. The voluntary model allows the Portman Group to act quickly if a complaint is upheld by the Panel and minimises harm to consumers, particularly those who are vulnerable.

Most alcohol producers choose to work with the Portman Group and it is notable that the highest level of sanction, a Retailer Alert Bulletin, has rarely been issued in the past few years despite an increase in overall complaints. This is testament to the industry's voluntary commitment to comply with Panel decisions, work with the Portman Group's Advisory Service and make amends to ensure that packaging can stay on shelf.

The self-regulatory framework operates in an effective and responsive way and at no cost to the tax payer.



- **Effectively** – over 170 products have been amended or removed from the market. Many hundreds more have been helped to adhere to the Code before appearing on shelves through the support of the Advisory Service.
- **Responsively** – there have been five updates to the Code over 25 years responding to changes in public attitudes and expanding its reach; all without recourse to Government or Parliamentary time.
- **Inexpensively** – the 17 leading members of the industry are currently funding the model for all to be protected at no cost to the public purse.

LAUNCH OF NEW ALCOHOL LABELLING GUIDANCE

Best practice guidance for communicating alcohol and health-related information

For over 25 years, the UK alcohol industry has proactively worked to ensure that alcohol labelling is both socially responsible and informative for consumers. As a result of commitments in the Government's 2011 Responsibility Deal, the Portman Group worked with the sector to create Alcohol Labelling Guidance. These decade long commitments demonstrate how to provide consumers with more product and health information than ever before.

In 2022, the Portman Group expanded and updated the Alcohol Labelling Guidance, the best practice on communicating alcohol and health-related information for producers. The guidance was produced with the endorsement and support of the British Beer & Pub Association, National Association of Cider Makers, Scotch Whisky Association, the Wine and Spirits Trade Association and for the first time the Society of Independent Brewers. The Portman Group provides free visual materials and product advice to the entire industry so that it can uphold this best practice for on-pack information. As a minimum, this includes the Chief Medical Officer's Low Risk Guidance, pregnancy warnings, unit information on packaging, and signposting to Drinkaware; the independent alcohol advice charity.

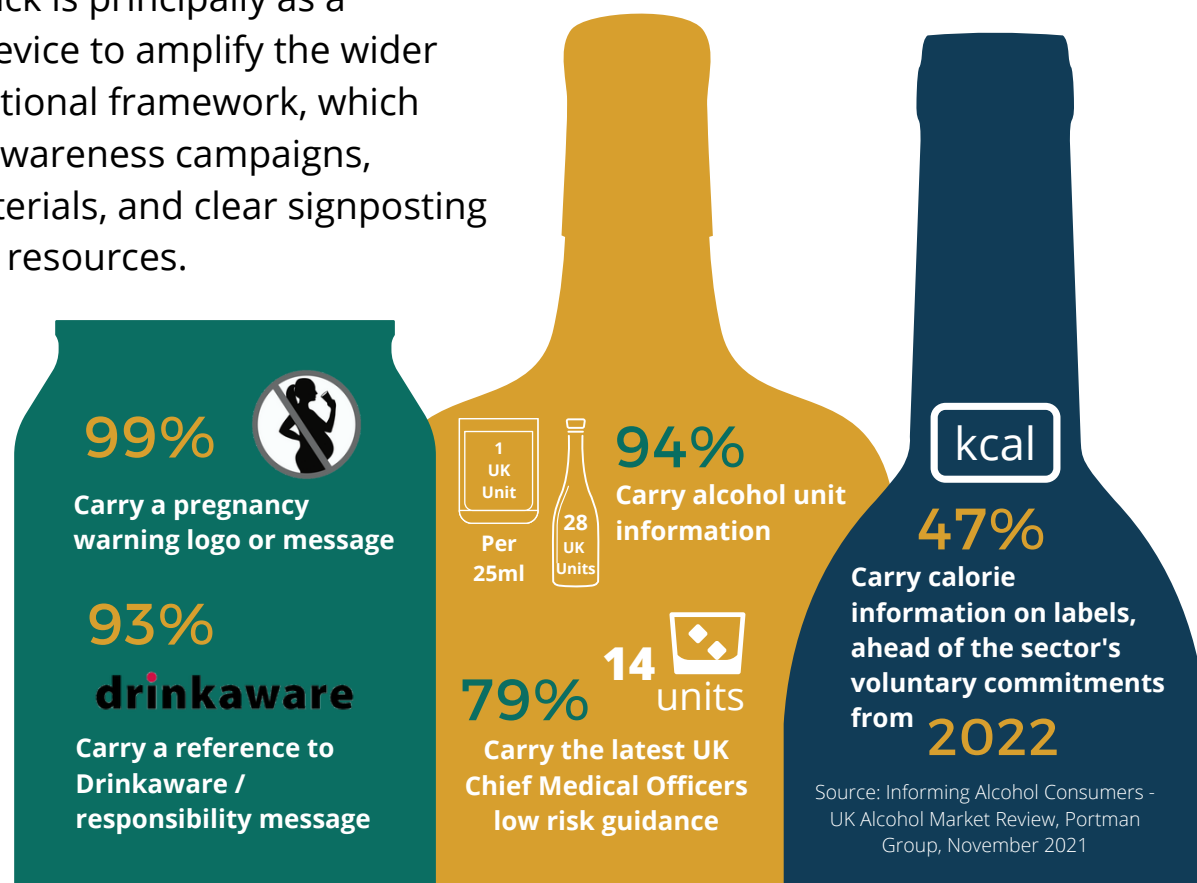
The aim of the updated voluntary best practice initiative is to increase consumer awareness and understanding of alcohol health-related information so that they can make an informed choice about alcohol consumption. The guidance has built on a long standing record of success in improving consumers' access to information. Our most recent study, [Informing Alcohol Consumers: 2021 UK Market Review](#), remains the most comprehensive audit reviewing over 400 of the most widely consumed alcoholic drinks. It showed comprehensive coverage of our then minimum best practice alcohol labelling guidelines including 99% carrying a pregnancy warning, 94% alcoholic unit information and 93% with a reference to a

LAUNCH OF NEW ALCOHOL LABELLING GUIDANCE

responsibility message, or to Drinkaware. In addition, almost four in five (79%) products carry the latest UK Chief Medical Officer low risk drinking guidelines – a big increase on the previous survey. Given the change to our best practice labelling guidelines we will be working hard to continue to narrow the remaining gap and secure greater coverage in the coming years.

The guidance recognises that consumers interact with product information across multiple channels and in different ways; and, with the widespread use of smartphones, increased connectivity and increased use of QR codes during the pandemic. While on pack messaging is still a vital means of conveying important information, there are also benefits to putting the material online for consumers, where more detail can be provided, and it is often quicker and easier to change messaging as required.

Communicating alcohol and health-related information on-pack is still an important element in driving positive behavioural change. The effectiveness of messaging on pack is principally as a reinforcement device to amplify the wider consumer educational framework, which includes public awareness campaigns, promotional materials, and clear signposting to further online resources.



LAUNCH OF NEW ALCOHOL LABELLING GUIDANCE

What are the elements

The updated industry best practice labelling guidance encourages the inclusion of four minimum elements on alcohol packaging:



The guidance also developed further voluntary information for producers to include on labelling, such as:

- Calorie Content
- Responsibility statement
- Drink-driving message
- Age-restricted product information

It is paramount that the information is displayed in a way that is clear, legible, and easy for consumers to read. The Advisory Service recommends that the information is grouped together and displayed in a way that differentiates it from other information on the packaging, such as by outlining it in a box.

While inclusion of the information is voluntary, the Advisory Service strongly encourages producers to include the information on alcohol packaging. To supplement the guidance, the Portman Group has updated the popular '[marketing toolkit](#)' which is free to download from the Portman Group website. The toolkit includes information on how to reflect the revised CMO guidelines on lower risk drinking with wording as agreed with the Department of Health, and a range of other helpful information and logos which producers can use for free.

LAUNCH OF NEW ALCOHOL LABELLING GUIDANCE

All examples and free logos are available to download from the Portman Group's [website](#).

Relaunch of CPD Accredited Training Programme

The Portman Group has offered training under its Codes of Practice for over 20 years to help maintain high standards of responsible marketing. In May 2022, the Portman Group redesigned its Continuing Professional Development (CPD) accredited training programme and we are delighted to now offer four types of engaging, informative, training. To improve the attendee experience, and to ensure our materials are relevant and delivered to the highest standards, three of our seminars are CPD certified.

'General Code training' has been designed to provide a broad and thorough understanding of alcohol marketing regulation in the UK. This training informs delegates of who the Portman Group are and what we do, including how we sit in the wider regulatory framework of the UK. Alongside this, the training includes past Panel decisions so that delegates can understand how the Panel have applied the Code rules through real life case studies.

'Refresher training' has been developed for those individuals who already possess knowledge of the Portman Group Codes of Practice. Refresher training provides a condensed overview of the work of the Portman Group and takes delegates through recent Panel decisions to provide understanding of how the Panel have applied the Codes to recent complaints.

As part of the relaunch, the Portman Group also now offers 'Bespoke training'. This option allows producers to work closely with the Portman Group to tailor the training session to the needs of the team, this includes using company examples to enhance staff understanding of the Codes' application with practical examples and confidential on the spot guidance.

LAUNCH OF NEW ALCOHOL LABELLING GUIDANCE

Members of the Portman Group gain training as part of the membership package, but we wanted to ensure that smaller independent producers, who may have less resource to spend on training, are able to access support. To ensure that all producers have access to training, we launched our first online introductory training seminar. The seminar is free to access for producers with a turnover of less than £2.5 million and is tailored for those starting out in the industry as it provides an overview of who we are, our regulatory remit, the Code rules, the complaints process, and explores some Panel precedent-setting decisions. As it is a pre-recorded seminar it can be viewed at any time to help fit in with a busy schedule.

We have also recognised that the way we all work has fundamentally changed since 2020. On this basis, our training sessions can now be hosted in person as well as virtually to allow maximum flexibility for attendees.

Since May, over 100 delegates have been trained on the Codes of Practice.

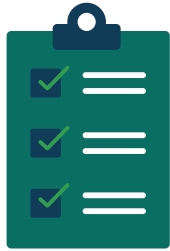
More information about our CPD accredited training programmes can be found [here](#).

Alternatively, please contact training@portmangroup.org.uk for any specific questions.

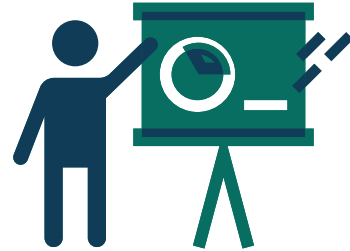


REGULATION IN NUMBERS

In 2022*, the Portman Group has:



Provided over **313** pieces
of free advice to the industry



Trained over **100** delegates
on the Codes of Practice



Received **51** complaints

The Independent Complaints Panel has made **21** rulings:

5 upheld



5 cases have been resolved
via Informal Resolution



16 not upheld

*These figures do not include December 2022

ADDRESSING DRINK DRIVING WITH UPDATED GUIDANCE

The Portman Group publishes free to access guidance as a supplement to the free confidential Advisory Service, to help the industry understand and comply with the Codes. Each Code rule is supported by a standalone guidance note that provides in-depth interpretation of the rule. The Portman Group also publishes information on other areas of interest to ensure all areas of alcohol marketing is responsible.

In 2022, the Portman Group took further steps to strengthen action against drink driving and issued a change to guidance regarding sampling and the Code rule 3.2f (irresponsible/immoderate consumption).

Updates to 3.2(f) immoderate, irresponsible or illegal consumption guidance and sampling guidance

Promotions which involve product sampling are subject to the rules in the Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Advisory Service regularly provides advice to producers on how to activate sampling activity in a responsible manner and advice tends to focus on guidance under Code rule 3.2(f) due to its requirement not to encourage immoderate, irresponsible or illegal consumption. Sampling is the giving away of free alcohol in small quantities. While the act of sampling tends to involve the giving away of a small amount of a product - just enough to assess the taste and quality - producers and marketing agencies often require further advice regarding how and where such samples can be distributed.

Unlike the sale of alcohol, sampling alcohol in public areas does not require any sort of license, but producers should ideally seek written permission from the relevant Local Authority that no other formal agreement is required. Producers and marketing agencies therefore can have a range of options to choose from when looking to activate a sampling activity. Given the access to purchasing consumers, sampling activity on-site at supermarkets is a popular choice for such activations and these can range from indoor to outdoor depending on the nature of the promotion.

ADDRESSING DRINK DRIVING THROUGH UPDATING GUIDANCE

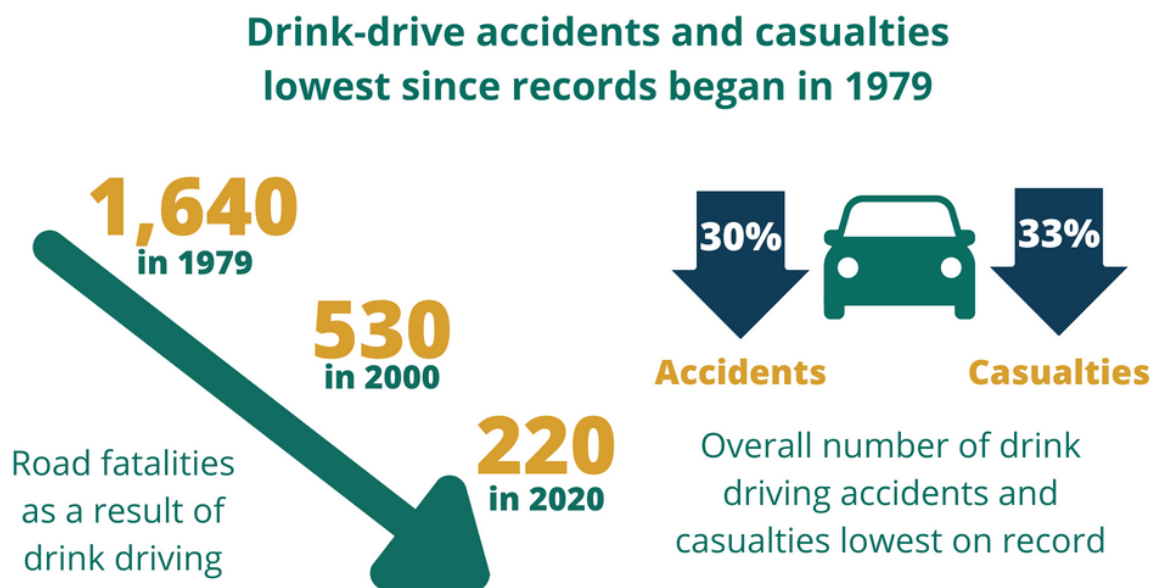
In 2022, the Advisory Service revised guidance regarding unsealed sampling activities in car parks of licensed premises. An unsealed sampling activity involves the offer to a consumer to try a sample of alcohol for immediate consumption. To avoid the inadvertent encouragement of drink driving, the Advisory Service now recommends that producers should avoid targeting sampling activities at drivers, regardless of the amount of alcohol being given away, including if it is well-below the drink-drive limit for best practice purposes. The updated guidance recommends that unsealed sampling should not be held in a car park of a licensed premises (a supermarket or pub for example) to ensure that producers are not encouraging irresponsible consumption, such as drinking before driving.

We launch this as another action in a long and credible set of initiatives by government and the sector to reduce drinking and driving. Public information campaigns including THINK!, coupled with the breathalyser test and the focused efforts of British Transport Police over recent decades have had a palpable effect on drink driving. The industry has run many innovative campaigns to discourage drink driving and there is a huge investment in alcohol alternatives so dedicated drivers have a better option than an orange juice. Our most recent low alcohol research by YouGov said that the most cited reasons for why consumers choose low and no alcohol are to drive home and not drink excessively at social events. Finally, we are incredibly proud of the I'll be Des campaigns which we ran in the 1990's and continue to support the work of Drinkaware as they roll out the Home and Dry campaign.



ADDRESSING DRINK DRIVING THROUGH UPDATING GUIDANCE

In 1979, the number of road deaths attributed to alcohol was 1,640. By 2000, it was 530 and it is now 220. Over the past decade drink driving accidents and casualties have fallen by 30% and 33% respectively (Department of Transport, 2022).



Setting precedents

In 2022, the Panel considered a complaint about Jatt Life's Sponsorship of The Cannon Run under the Code of Practice on Alcohol Sponsorship. Whilst the decision was made under the Code of Practice on Alcohol Sponsorship, the precedent set by the Panel is likely to apply to any sampling activity, including that which is captured by the Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. As part of the discussion, the Panel reviewed a YouTube video which depicted footage of miniature bottles of Jatt Life being handed out by the owner of the company from the boot of a car, in what appeared to be a public carpark. The Panel noted that there were no apparent processes in place to confirm that the recipients were not intoxicated, or that they were over-18. Therefore, the Panel concluded that the sampling activity did not comply with current licensing legislation and accordingly upheld the complaint under Code paragraph 3.10 of the Alcohol Sponsorship Code.

ADDRESSING DRINK DRIVING THROUGH UPDATING GUIDANCE

Producers should be mindful of how sampling activities are carried out and should give due consideration to the location and means of delivery of the samples to participants. It is the view of the Advisory Service that other types of sampling, such as the giving away of sealed containers, are still likely to be acceptable in a licensed premise carpark. This is because a consumer would be able to take the sealed sample away and it is not designed for immediate consumption. Similarly, the giving away of branded merchandise in a carpark of a licensed premise is also likely to be acceptable because it does not encourage a consumer to drink alcohol before driving. However, appropriate checks should be in place, to ensure that participants are not intoxicated, and are over the age of 18.

Both of the updated guidance documents can be found [here](#).



REGULATION IN 2022



REGULATORY INSIGHTS

We aim to make our Code, guidance and wider sector regulations as easy to understand as possible. To that end we have held events and written blogs to better explain our work and the support available.



Responsible retailing

In May 2022, we hosted an event looking at responsible retailing. The session highlighted the systems deployed by retailers to ensure that alcohol is sold responsibly. We were delighted to hear from Hardish Purewal, Chair of the Retail of Alcohol Standards Group (RASG) and Licensing Manager at Tesco, as well as Neil Eccles, Senior Licensing Manager at Asda.

Hardish provided an overview of the Retail of Alcohol Standards Group, which was founded in 2005, and aims to reduce underage drinking and promote high standards among alcohol retailers. RASG consists of all the leading alcohol retailers in the UK. The group is devoted to ensuring alcohol is sold responsibly and especially not to under-18s, through its Challenge 25 scheme.

Neil explained how Asda applies the standards set by RASG and the Portman Group in practice. Asda employs a dedicated beer, spirits and wine compliance manager who provides internal guidance for buying teams, including on Portman Group Retailer Alert Bulletins (RABs) and Challenge 25 messaging. When it comes to the Portman Group's RABs, Asda ensures these are actioned as quickly and efficiently as possible.

The session was well attended by Portman Group members and Code Signatories. You can find out more about the event [here](#) and further information on the huge range of initiatives in off trade retailing [here](#).

REGULATORY INSIGHTS

Spreading alcohol responsibility through new blogs and videos

We introduced a new series of blogs from our Advisory Service to provide further regulatory insights alongside our free advice, guidance and training programme. We understand that most people are time poor, so the new blog series is designed to provide concise, useful information which is easy to digest while offering valuable regulatory insight.

In the summer we published a [blog](#) highlighting how marketers can keep summer promotions in line with the Code. Following this, we released our [top tips](#) regarding caffeinated alcohol beverages, and which Code rules marketers should bear in mind when marketing such products. Finally, in the winter we released a [blog](#) which highlighted the update to our sampling and 3.2f (immoderate/irresponsible consumption) guidance, providing a snapshot of the changes.

Along with our Advisory Service blogs, the Portman Group has also published short videos to complement our library of written resources. Our [video](#) on the Code of Practice on Alcohol Sponsorship for example, provides a short, informative, and useful soundbite of information for marketers, to help them understand the remit of the Portman Group.



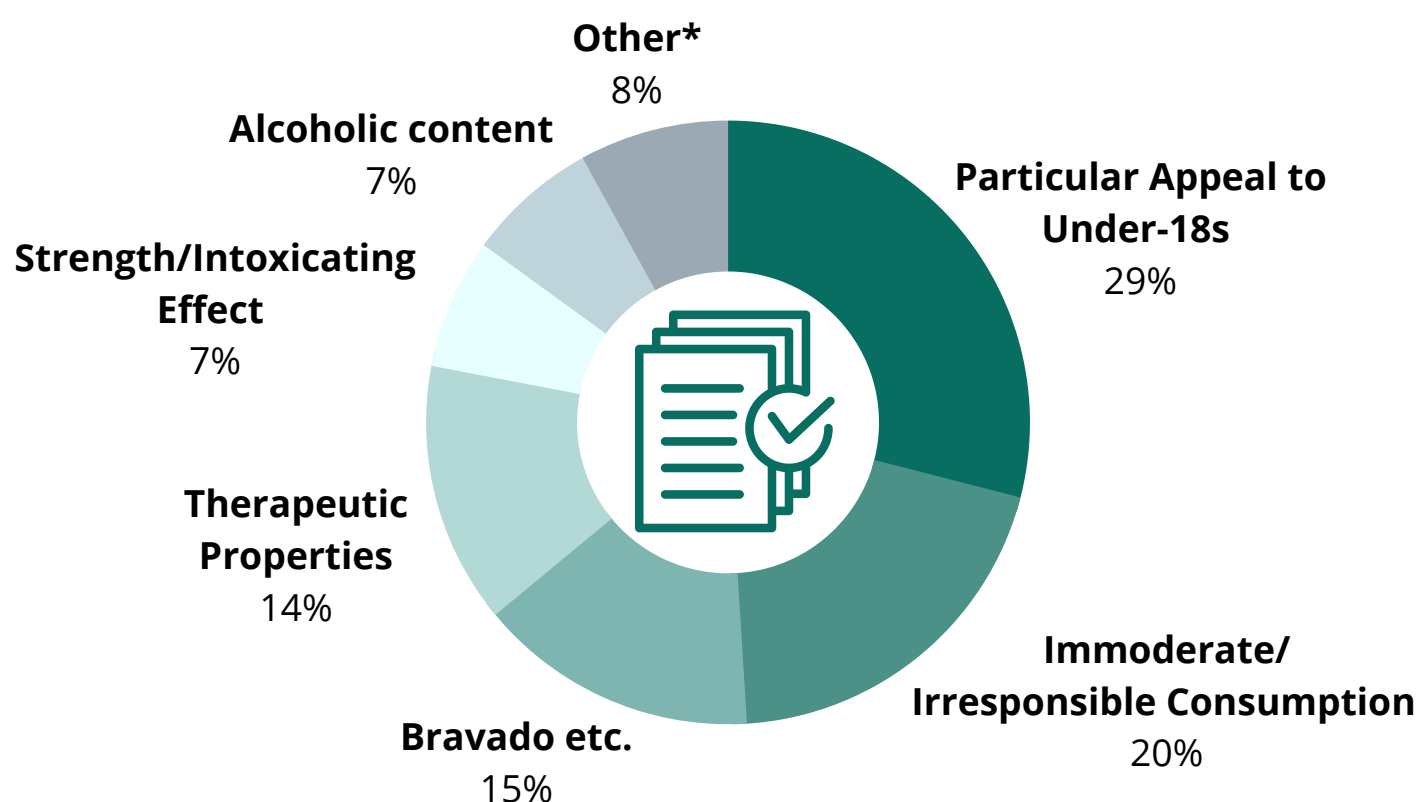
In a climate where people are often stretched in time and resource, the Portman Group remains dedicated to providing informative, simple information, that is free to access for the whole industry. To that end, in the coming year, as well as further videos and blogs, we are developing case studies from real life producers to get their view on alcohol regulation and how the Portman Group Codes of Practice have become an integral part of their internal compliance process.

THE ADVISORY SERVICE - FREE TO ALL USERS

The Portman Group operates a free, confidential Advisory Service to help the industry comply with the Codes. The Portman Group is committed to maintaining high standards of responsible alcohol marketing so any company can use the Advisory Service, regardless of whether they are a member, and can use it as often as required. The success of the Advisory Service is reflected in its high numbers in comparison to the number of complaints that we receive, with the majority of producers seeking advice on how to comply with the Codes in advance of a product's launch in order to mitigate the risk of an upheld complaint decision by the Panel.

In 2022 we provided over 259 pieces of free advice on the Codes of Practice and industry labelling best practice guidelines.

Recorded advice requests featuring Code Rule



*(Sexual Activity/Success 3%, Serious or Widespread offence 3%, Social Success 2%)

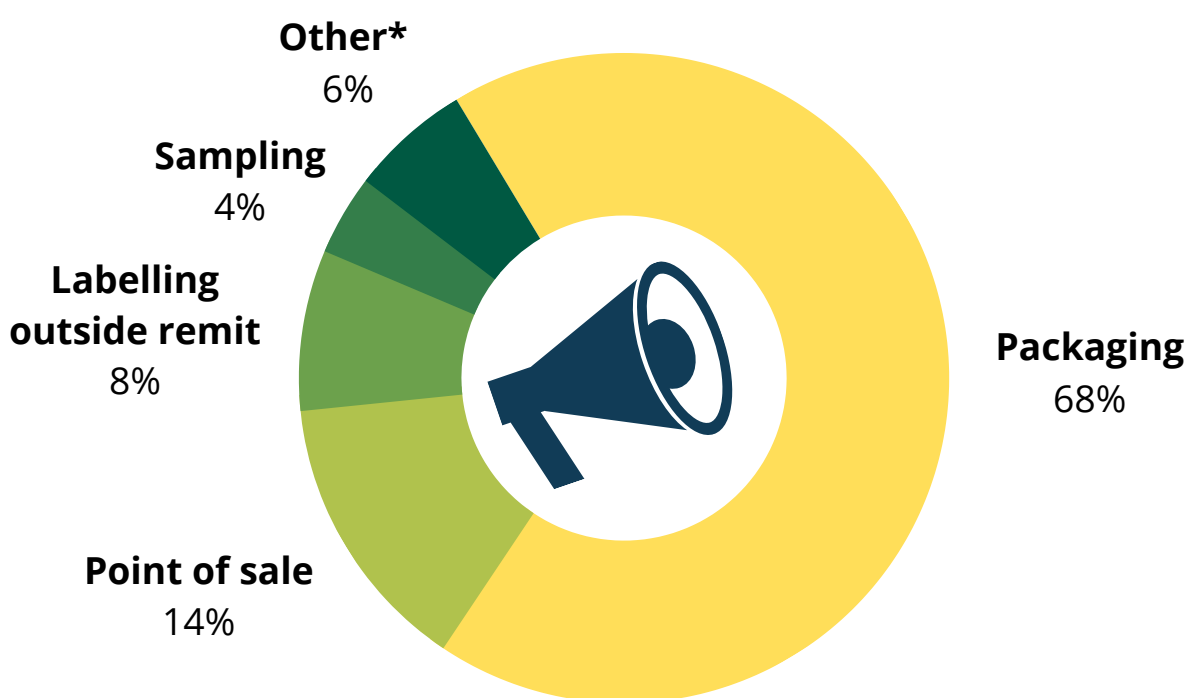
THE ADVISORY SERVICE

Unsurprisingly, Code rule 3.2h (Particular appeal to under-18s) was the most popular Code rule in which to seek advice. The protection of under-18s is a fundamental principle of the Code and was also the most often cited Code rule in complaints assessed by the Independent Complaints Panel in 2022. There has been a significant and sustained fall in underage drinking over the last 30 years. Producers and retailers have played a significant part in ensuring their products do not encourage underage drinking which the Portman Group Codes support.

We saw a rise this year in advice requests relating to rule 3.2f (Irresponsible/immoderate consumption) with a fifth of all advice seeking to ensure that the product marketing was compliant with this Code rule.

The majority of advice requests related to packaging (68%). In 2022, we saw a rise in the number of producers seeking guidance regarding point-of-sale material, which made up 14% of all requests received.

Marketing Type

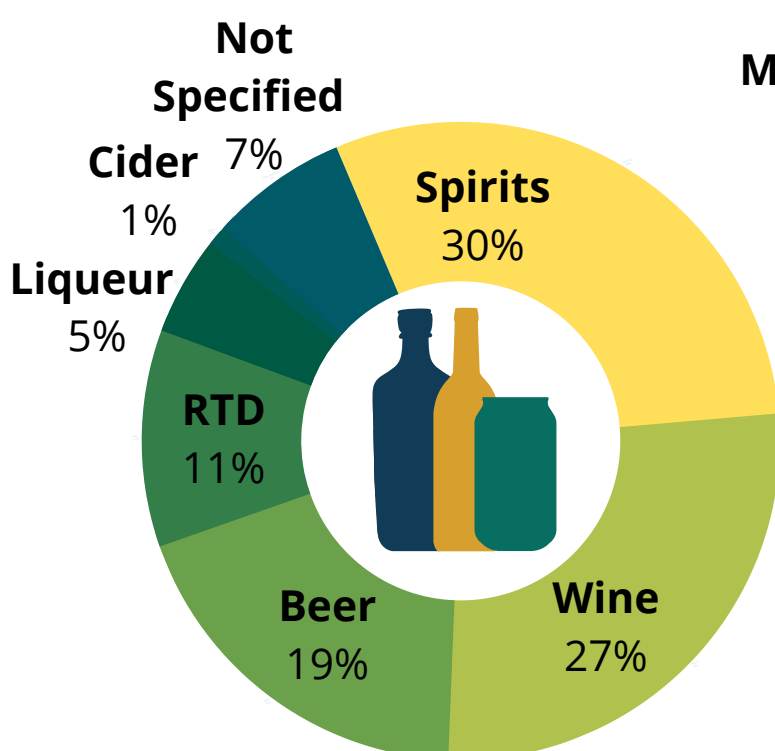


*(Advertorial 2%, Online/Website 2%, Product design 2%)

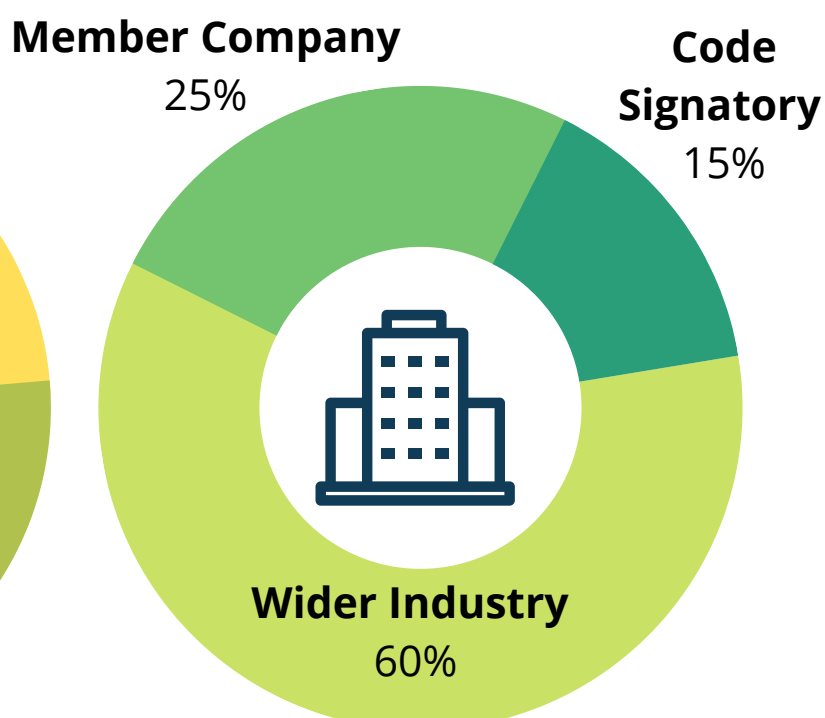
THE ADVISORY SERVICE

Continuing the trend from 2021, the majority of advice requests related to the spirits in 2022. Advice requests relating to wine increased in 2022, with the Advisory Service providing nearly double the amount of advice to this category compared to 2021.

Alcohol Category

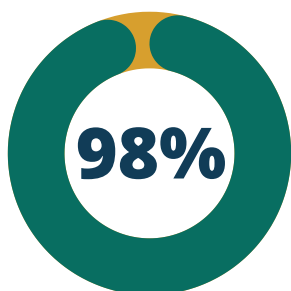


Company Status

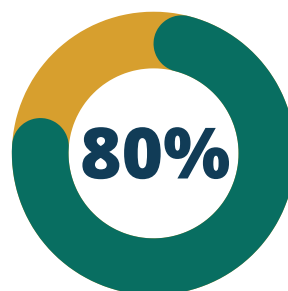


While the Advisory Service is predominantly used by non-member companies (75%) nearly a quarter of all requests this year came from member companies. As membership of the Portman Group has grown substantially in recent years this is to be expected, with the additional benefit of priority response from the Advisory Service. The support of our members means that we can continue to provide free, confidential and non-binding advice to the entire industry. We remain one of the last organisations to provide this free service to all; a reflection of our members' long-standing commitment to protect responsible marketing standards for the entire UK alcohol industry.

THE ADVISORY SERVICE



**of advice requests
answered within 48 hours**



**of advice requests
answered within 24 hours**

The Portman Group's Advisory Service is a small team which provides free advice to the entire UK alcohol industry and those importing into the market. We understand that companies are working to tight deadlines and require a quick turnaround for marketing advice. The Advisory Service aims to respond to the majority of advice requests within 48 hours. In 2022, nearly all advice was provided within the service level agreement response time, with over 80% of all advice requests answered in 24 hours or less. You're welcome!

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Advice [əd'vɑɪs]
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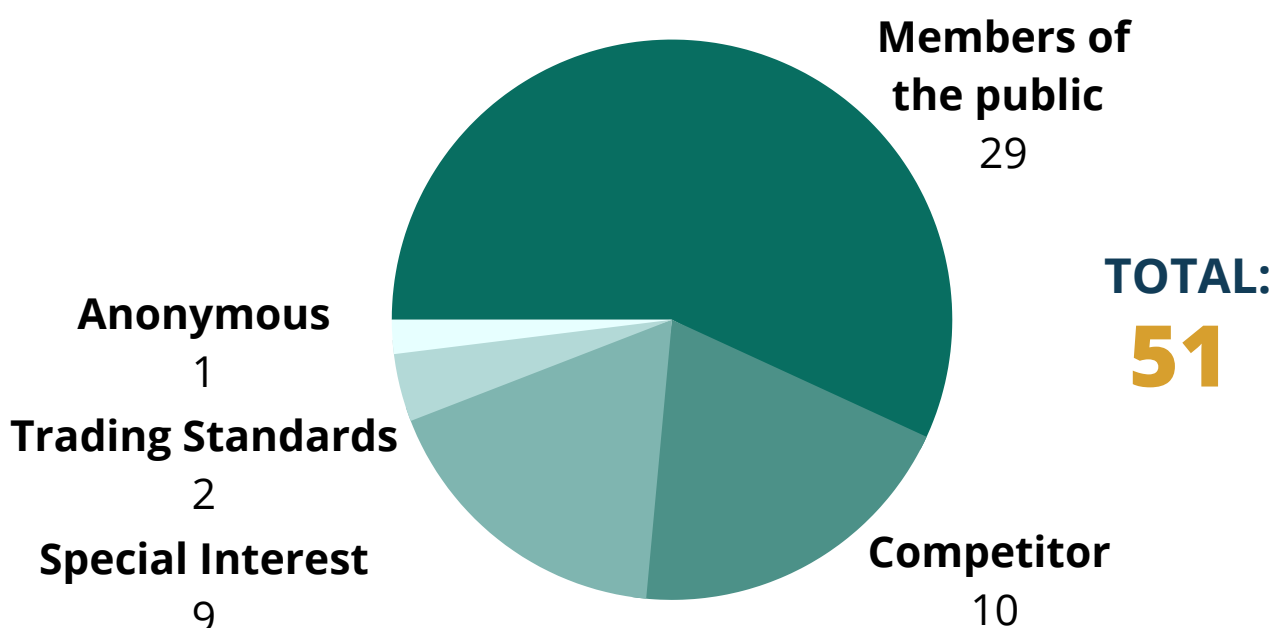
COMPLAINTS

The Codes of Practice apply to all alcohol products and sponsorship agreements that target a UK audience. We operate an open and transparent complaints process and anyone can make a complaint where there is concern that alcohol marketing does not meet the high standards of the Codes.

The Portman Group provides Secretariat support to the Panel and our role is to ensure that complaints follow due process and are handled fairly and transparently. The Code Secretariat is not involved in the complaint decision-making process.

In 2022, we received **51 complaints**; an increase from 45 in 2021 and 38 in 2020. As has been the case over recent years the majority of complaints were from concerned members of the public, who accounted for nearly half of the complaints received. In comparison to 2021, 'specialist interest' complaints rose from 1 to 21 in 2022. Specialist interest is defined as a company which has an interest in the alcohol industry such as a non-governmental organisation (NGO) or public health body and included complaints from the Northern Ireland Alcohol and Drugs Alliance (NIADA) and the Aberdeenshire Alcohol & Drug Partnership.

Complainant Categories



COMPLAINTS

Complaints unable to progress

17 

Outside of
remit

11 

Not enough
information provided

8 

Vexatious and/or
withdrawn

TOTAL: 36

In instances where a complaint is outside of remit, we will refer the complainant to the appropriate body to deal with the complaint. Often a marketing complaint can include online elements and we then refer the complainant to the Advertising Standards Authority. If enough information has been provided, or a complaint is referred by another regulator, the Portman Group can act in lieu of the original complainant to progress the complaint, and this is made clear in the final decision. Occasionally, a complainant may wish to withdraw their complaint during the preliminary investigation stage and so the complaint does not progress.



THE INDEPENDENT COMPLAINTS PANEL



THE INDEPENDENT COMPLAINTS PANEL

Formal complaints are considered by the Independent Complaints Panel (Panel). The Panel are a diverse lay group who represent a broad cross section of UK civic society. The Panel currently consists of nine members plus the Chair and each member brings a wide range of experience and expertise including backgrounds in public health, law, licensing, education and marketing. Panel members are appointed and led by the Independent Chair, a role currently held by Nicola Williams, with the support of a new position introduced this year of a Deputy Chair in Rachel Childs.



Nicola Williams
Chair



Rachel Childs
Deputy Chair



Jon Collins



Claire Fowler



David McDonald



Graeme McKenzie



Angela McNab



Amanda Orchard



Shireen Peermohamed



Claud Williams

STRENGTHENING THE PANEL

As the second year of my time as Chair of the Independent Complaints Panel draws to a close, I find myself once again reflecting on a remarkable year with pride. The Panel has continued to demonstrate the value it contributes to the self-regulatory system through its diligent, insightful, and independent decision-making.



Nicola Williams
Independent Complaints Panel
Chair

In the wider world, 2022 has been a tempestuous year for many and at a time of uncertainty, we are reminded of the importance of consistency and stability in our work. Stringent governance procedures are essential and in order to improve the good governance and professional working practices of the Panel, a Deputy Chair position was created for the first time in the Panel's history providing us with greater resilience and support as our case load has increased. I was delighted to appoint Rachel Childs. Rachel is the longest-serving member of the Panel and brings a wealth of experience and knowledge to the position. I know that Rachel will ensure consistency of experience and decision-making as well as much welcome support in my duty as Chair. It is essential that the Portman Group, and the Panel, can always fulfil their joint purpose to protect consumers from irresponsible alcohol marketing and provide a complaints framework where such harm is addressed as quickly as possible, and I am confident that this change further strengthens our ability to do so.

It is vital that the Panel draws upon different areas of expertise to ensure our decision-making is robust, reasonable, and fair. Therefore, in addition to Rachel's appointment, I welcomed three new Panel members in January of this year. I am pleased to state that the addition of the new Panel members not only better reflects the diversity of UK society but their skills also deepen and enrich the collective experience of the Panel. The addition of [Amanda Orchard](#), [Shireen Peermohamed](#) and [Claud Williams](#) has already strengthened the Panel and I look forward to continuing to work closely with them.

STRENGTHENING THE PANEL

As ever, the protection of vulnerable consumers is a fundamental principle of both the Codes of Practice and this consideration is at the forefront of Panel decisions. This year, 85% of the cases which the Panel assessed were to determine whether alcohol marketing had a particular appeal to under-18s. While only a small section of the complaints resulted in an upheld decision, it is vital that producers are mindful that alcohol marketing does not, directly, or indirectly, have a particular appeal to under-18s. The Panel has assessed cases this year which included interactive elements, such as lights and glitter, and detailed illustrations alongside eye-catching designs. Quite often as a Panel we discuss how cumulative elements can lead to a breach of the Code and I urge producers to be mindful of this consideration process when designing products.

This year, the Panel set a precedent under the Alcohol Sponsorship Code, demonstrating the importance for any producer engaging in an alcohol sponsorship to ensure it is carried out in a responsible way. The case considered this year was multi-faceted and due to the nature of marketing campaigns the Panel was able to assess much of the sponsorship via recordings online. While the Code does not disallow sponsorship of activities such as driving events, it is critical that sponsorships do not link consumption of alcohol and driving. I am pleased to see that the Portman Group's Advisory Service has also updated guidance on this topic and encourage producers to consider this carefully. Additionally, we said goodbye to Daniel Jourdan after six years on the Panel. I want to personally thank him for his contributions, dedication and support throughout his time with us. Finally, I also want to extend my gratitude to all my colleagues on the Panel for their unwavering commitment and dedication in service.

THE INDEPENDENT COMPLAINTS PANEL

Case figures for the Panel differ to those of complaints received in a calendar year as cases must be processed through various stages as outlined in the Code of Practice. Case turnaround can therefore vary depending on the complexity of the complaint and the decision made by the Panel Chair at the Informal Resolution stage.

This year, five complaints were resolved through our Informal Resolution process. The Panel Chair has the discretion to allow complaints to be resolved through the Informal Resolution process. The Panel Chair may consider this route suitable, where there is a possible breach of the Code/s and the case can be categorised under at least one of the following criteria:

- The possible or apparent breach is clear cut;
- Is not a case that will result in a precedent setting decision;
- Action had already been taken to resolve the issue before or immediately when contacted by the Portman Group;
- There is no significant history of non-compliance with the Codes of Practice by the company.

If a company that is subject to a complaint proceeds with the Informal Resolution route, the Panel Chair will pass the responsibility for resolving the matter to the Portman Group who will work with the company through the Advisory Service to agree amendments to bring its marketing in line with the Code/s. Once resolved, the case will be published on the Portman Group's website.



INDEPENDENT COMPLAINT PANEL DECISIONS - 2022

INDEPENDENT COMPLAINT PANEL DECISIONS

The Panel considered 21 cases in 2022, an increase from the 16 reviewed in 2021. Of these, five were upheld, including one under the Code of Practice on Alcohol Sponsorship.

To ensure transparency, all Panel decisions are published on the Portman Group's website and released to the media. The Panel consider all matters broadly and always consider the overall impression conveyed by a product and/or promotion.

In this section, we delve into some of the key themes from this year's decisions, sharing both upheld and not upheld decisions in order to show all of the reasoning by the Panel.



INDEPENDENT COMPLAINT PANEL DECISIONS

Alcohol Sponsorship

The Panel set precedent under the Code of Practice on Alcohol Sponsorship this year, when considering a complaint about [Jatt Life's Sponsorship of the Cannon Run](#). The Cannon Run was a centrally run series of luxury events for supercar owners that travelled to different locations and often included parties.



Code rule 3.1 states that before entering into a sponsorship agreement there should be a recognisable commitment to promoting responsible drinking and/or supporting diversionary/community activities. The Panel clarified that the Code would not disallow sponsorship of activities which involved vehicles or driving, however as part of the commitment, producers engaging in this type of activity should promote responsible drinking, for example by requiring anti drink-driving messaging to be present. The Panel noted in the case of Jatt Life, no such responsibility commitment was included in the sponsorship agreement with the Cannon Run. Accordingly, this element of the complaint about the sponsorship was upheld.

The Panel also considered the wider marketing material which promoted the sponsorship. While the Panel acknowledged that such content itself was not within the remit of the Portman Group, it was taken into consideration because it was indicative of how the sponsorship was enacted. When considering such material, the Panel noted there were several instances which linked the brand with socially irresponsible behaviour, particularly in the context of an alcohol sponsorship activity. The Panel reviewed social media videos which insinuated a link between drinking alcohol and driving; footage which featured those who were, or looked as if they were under-25, and evidence that suggested that consumption of Jatt Life could lead to social success or popularity. Accordingly, the Panel upheld the complaint under several paragraphs of the Code.

INDEPENDENT COMPLAINT PANEL DECISIONS

The Panel also reviewed a video which depicted the producer conducting a sampling activity which involved giving away miniature bottles of Jatt Life to members of the public in a public carpark to promote the sponsorship. The Panel noted that there were no apparent checks on individuals who were being given the product, for instance to check if they were intoxicated, nor was there any evidence of an age identification process. The Panel concluded that the sampling did not comply with current licensing legislation, and the complaint was upheld.

The Codes do not prohibit alcohol producers from featuring vehicles in marketing, or from entering into a sponsorship with activities which involve driving. However, it is imperative that producers take care to ensure that there is no suggestion, implied or otherwise, that alcohol has been consumed before or during driving.



INDEPENDENT COMPLAINT PANEL DECISIONS

Therapeutic Qualities

During the course of the year, the Panel also reviewed a complaint about [Prescription Gin](#). The Panel noted that the packaging included an exact replica of a pharmacy cross, and the vessel was a small medicinal bottle shape that contained liquid which was a medicinal colour. The Panel considered that the packaging was deliberately, and overtly, designed to look like prescription medicine and such medicines were synonymous with being used to cure and relieve physical and/or mental ailments. The label also had the phrase “POSSIBLE SIDE EFFECTS: MAY INCLUDE EXTREME RELAXATION, GIDDINESS AND HAPPINESS”.



The Panel considered that this statement directly suggested that the product could help a consumer to relax and that it would also result in happiness after consumption. In response to the complaint, the company explained that this element was an example, and consumers could personalise the text before purchase. However, the Panel noted that while the product design enabled each one to be personalised, the production of the final label and packaging was fundamentally still within the control of the producer. Therefore, the Panel concluded that the phrase suggested that the drink could provide therapeutic properties and could change a consumer's mood.



INDEPENDENT COMPLAINT PANEL DECISIONS

In 2022, we have seen a rise in the number of products which have been considered by the Panel under this Code rule. Through decisions, the Panel have reminded producers that while it may be acceptable to highlight ingredients, particularly those which are recognised stimulants, this should be communicated on packaging in a factual and non-emotive way. It is imperative that producers take care to ensure that they do not market products in a way that implies therapeutic properties, can enhance mental or physical capabilities, or change mood or behaviour. When including customisable elements in product designs, it is important that producers bear in mind that the responsibility for printed messaging on the label will remain with them and it should be compliant with the Code.



INDEPENDENT COMPLAINT PANEL DECISIONS

Particular Appeal to Under-18s

As a core principle of the Code, it is vital that alcohol marketing does not have a particular appeal to under-18s. Year on year this is the most used Code rule in terms of complaints received, and consideration by the Advisory Service in 2022 was no different. Of the cases reviewed by the Panel, 85% were considered under this Code rule and 15% resulted in an upheld ruling.



In the spring, the Panel considered [Realm of the Unicorn Premium Gin Liqueur](#) and assessed whether the packaging was likely to have a particular appeal to under-18s. The Panel assessed the individual design elements of the packaging as well as the overall impression conveyed. When considering the artwork on the front label of the product, the Panel noted that the illustration was a sophisticated fine line drawing, with a muted pastel colour palette and did not employ the use of bold thick lines; elements that had previously been found to have particular appeal to children. The Panel reiterated that unicorns could hold a broad appeal for all age groups given their symbolism, and that compliance would be determined by the presentation of the unicorn and overall impression conveyed by the product. When considering these elements alongside the shimmering pink liquid content, the Panel concluded that the label was unlikely to have a particular appeal to under-18s. Accordingly, the complaint was not upheld.

INDEPENDENT COMPLAINT PANEL DECISIONS

In contrast, a complaint about [Mango and Black Pepper Gin](#) was upheld by the Panel in July, as it was deemed to have a particular appeal to under-18s. When considering the design, the Panel noted that the label included two anthropomorphic animals which were prominently featured on the front of the bottle. The Panel discussed the characters in more detail and noted the large eyes on the tiger and parrot. The Panel discussed how the 'large eye' technique was reminiscent of children's films, where large eyes were used to make children connect with, and illicit sympathy for, the characters shown. The Panel considered that the prominence and illustrative style of the tiger and parrot, particularly with exaggerated large eyes, would have a particular appeal to children.



The Panel also discussed the gift-wrapped nature of the product, which included a ribbon at the top that when taken off revealed a replica label on the product's bottle. The Panel noted in the context of the artwork, that this element further contributed to the product having a particular appeal to under-18s as it was reminiscent of a gift that children may unwrap. On this basis, the complaint was upheld.

Again this year has shown that producers need to be continuously mindful of the overall impression that packaging conveys. A cautious approach should be taken when incorporating folk lore creatures, anthropomorphic animals or bright contrasting colours and illustrative styles, to ensure that they are presented in a mature and sophisticated manner and do not have particular appeal to under-18s.

INDEPENDENT COMPLAINT PANEL DECISIONS

Enforcement and Retailer Alert Bulletins

In the event of an upheld decision, the majority of producers voluntarily agree to work with the Advisory Service so that action can be taken quickly to amend the product and transition to a new label. This route often ensures that any potential harm is addressed as quickly as possible without the need for stronger enforcement measures.

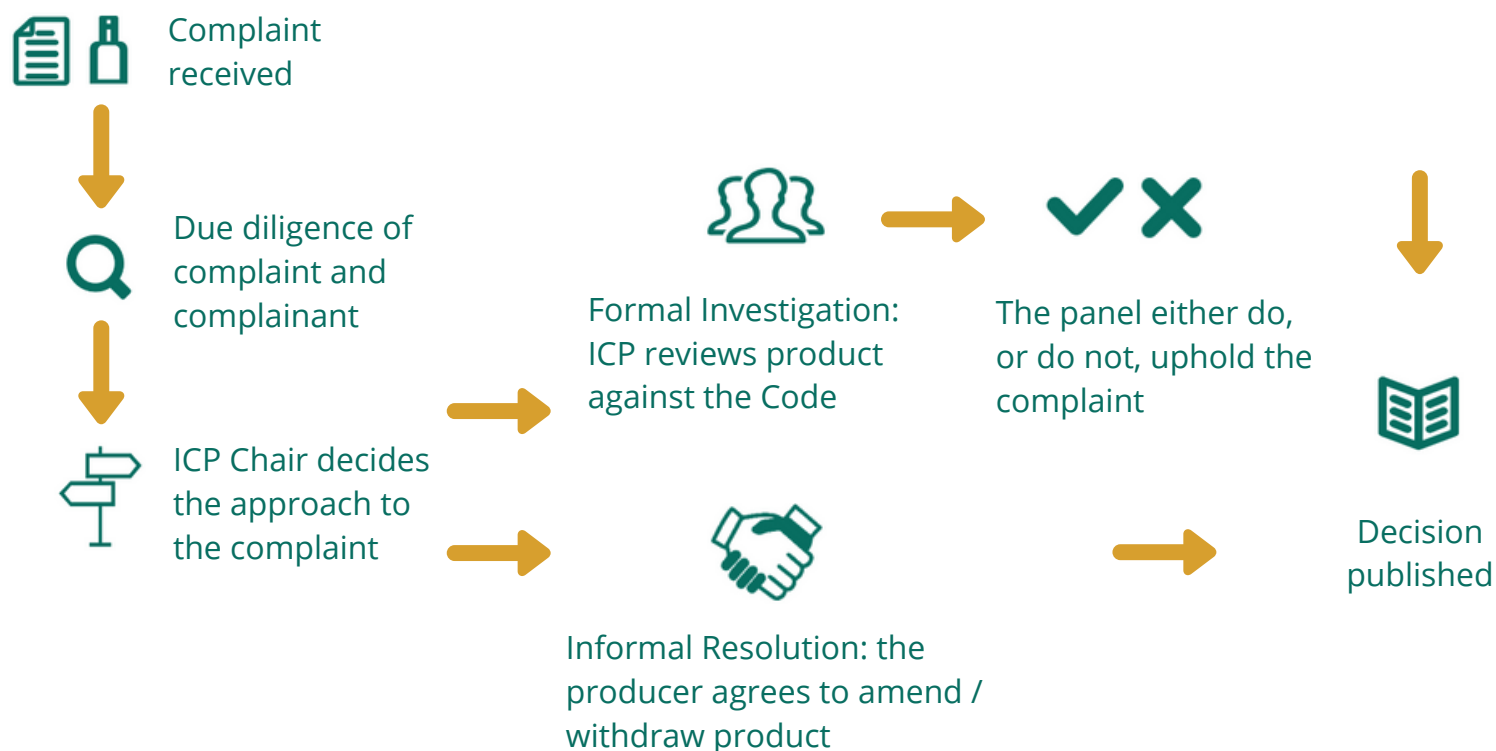
On the rare occasion when a producer will not work with the Advisory Service or change the product to bring it in line with the Code, we will issue a Retailer Alert Bulletin (RABs). A RAB will request retailers not to replenish stocks of any product whose packaging has been found in breach of the Code, after the date specified on the RAB (this will not normally exceed three months). The RAB is published in the trade press and also distributed to Code Signatories, trade associations, police licensing officers and local authority licensing officers. The Code is commended to licensed retailers in Guidance issued by the Home Office under Section 182 of the Licensing Act 2003.

In 2022, we are pleased to confirm that no RABs were issued because all producers concerned chose to work voluntarily with the Advisory Service to make changes to products in the shortest timeframe possible and without the need for stronger enforcement action.

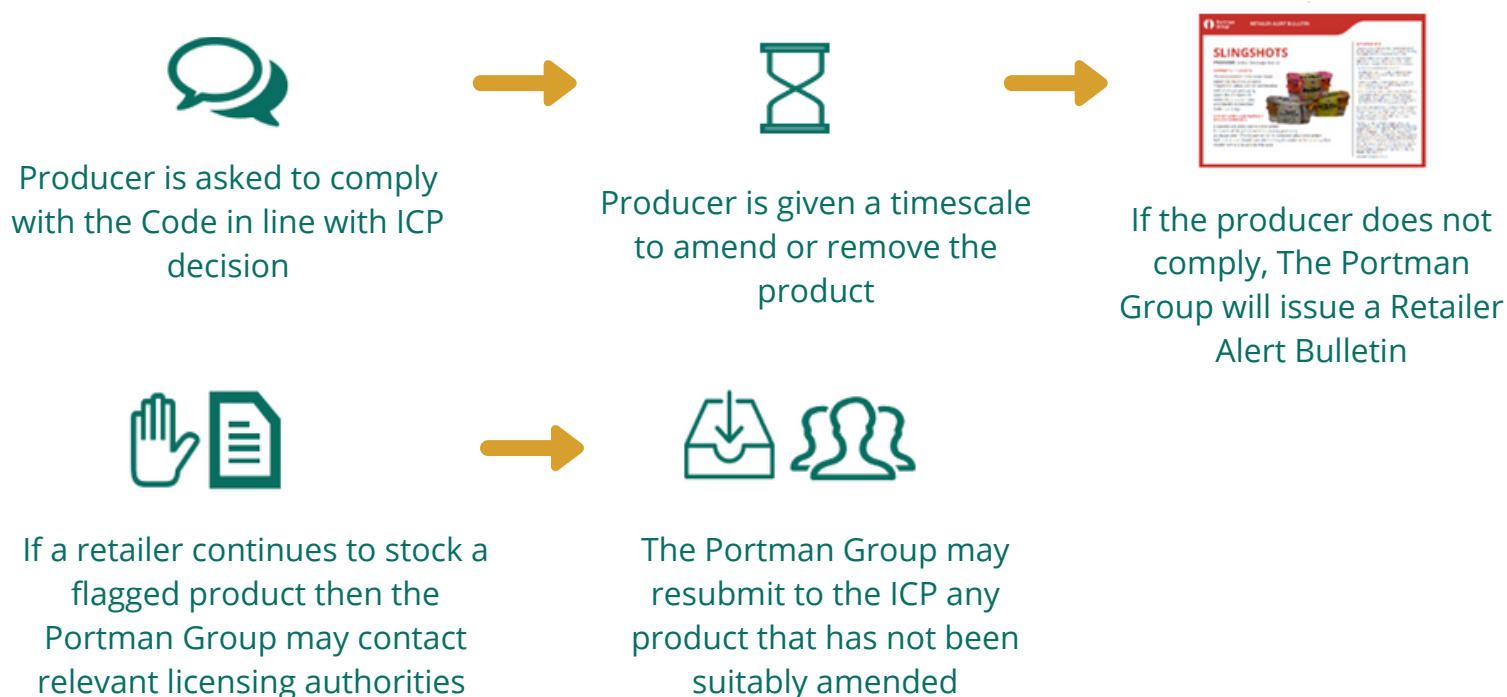
If you are interested in learning more about the Panel's decision-making process, you can read all complaints and Panel assessments on the website.

INDEPENDENT COMPLAINT PANEL DECISIONS

Complaints process



Retailer Alert Bulletin process



LIST OF DECISIONS





M&S CLEMENTINE SNOW GLOBE GIN LIQUEUR

UPHELD:

Rule 3.1 - Communicate alcoholic nature with absolute clarity

Rule 3.2 (h) - Particular appeal to under-18s



M&S SPICED SUGAR PLUM SNOW GLOBE GIN LIQUEUR

UPHELD:

Rule 3.1 - Communicate alcoholic nature with absolute clarity

Rule 3.2 (h) - Particular appeal to under-18s



MANGO AND BLACK PEPPER GIN

UPHELD:

Rule 3.2(h) - Particular appeal to under-18s



PRESCRIPTION GIN

UPHELD:

Rule 3.2 (f) - Encourage irresponsible/immoderate consumption

Rule 3.2 (j) - Suggest therapeutic qualities, enhance mental/physical capabilities, change mood or behaviour

NOT UPHELD



DEAD MAN'S FINGERS TEQUILA REPOSADO

NOT UPHELD:

Rule 3.2(b) - Association
with bravado, violence or
dangerous behaviour



DEAD MAN'S FINGERS SUPER SPICED RUM

NOT UPHELD:

Rule 3.2(a) - Undue emphasis to
higher alcoholic strength and Rule
3.2(b) - Association with bravado,
violence or dangerous behaviour



REALM OF THE UNICORN PREMIUM GIN LIQUEUR

NOT UPHELD:

Rule 3.2 (h) - Particular
appeal to under-18s



FLAMINGO ELECTRIC BLUE AND SCOTTISH RASPBERRY GIN LIQUEUR

NOT UPHELD:

Rule 3.2 (h) - Particular
appeal to under-18s

NOT UPHELD



JATT LIFE ORIGINAL VODKA

NOT UPHELD:

- Rule 3.2(b) - Association with bravado, violence or dangerous behaviour
- Rule 3.2(d) - Sexual activity or success,
- Rule 3.2(e) - Social success
- Rule 3.2(f) - Encourage irresponsible/immoderate consumption
- Rule 3.2(g) Rapid consumption, Rule 3.2(h) - Particular appeal to under-18s
- Rule 3.3 - Serious or widespread offence.



DRAGON SOOP RANGE + DRAGON SOOP WICKED WATERMELON (11 PRODUCTS)

NOT UPHELD:

- Rule 3.1 - Communicate alcoholic nature with absolute clarity
- Rule 3.2(a) - Undue emphasis to higher alcoholic strength
- Rule 3.2(b) - Association with bravado, violence or dangerous behaviour, Rule 3.2(f) - Encourage irresponsible/immoderate consumption
- Rule 3.2(h) - Particular appeal to under-18s
- Rule 3.2(j) - Suggest therapeutic qualities, enhance mental/physical capabilities, change mood or behaviour

Informally resolved: 5 cases, three of which related to rule 3.2(h) Particular appeal to under-18s

UPHELD UNDER THE SPONSORSHIP CODE



JATT LIFE SPONSORSHIP OF THE CANNON RUN

UPHELD:

- Rule 3.1 - Drinks companies must ensure there is a recognisable commitment to promoting responsible drinking as part of a new sponsorship agreement.
- Rule 3.7 - No implication that bravado, aggressive, violent, dangerous or anti-social behavior is advocated or condoned.
- Rule 3.9 - Must not sponsor individuals, groups or events which encourage illegal, irresponsible or immoderate consumption.
- Rule 3.10 - Sampling must comply with current licensing legislation.
- Rule 3.12 - Must not use images of people who are, or look as if they are, under twenty-five
- Rule 3.13 - Must not imply it is acceptable to consume alcohol before or while playing sport or suggest alcohol enhances sporting performance or social success.

NOT UPHELD:

- Rule 3.3 - Must not sponsor individuals, activities, teams, events, tournaments, competitions, bands or celebrities which have a particular appeal to, or are primarily aimed at, under-18s.
- Rule 3.4 - Must not allow the placement of their brand names, logo or trademark on merchandise which has a particular appeal to/intended for use primarily by under-18s.
- Rule 3.8 - Must not sponsor individuals, groups or events associated with sexual activity or sexual success.
- Rule - 3.11 Sampling must not encourage illegal, irresponsible or immoderate consumption.

CODE RULES AT A GLANCE

In the sixth edition of the Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks, there are 12 rules.



Alcoholic nature should be communicated with clarity



Undue emphasis to higher alcoholic strength



No association with bravado, violence or aggression



No association with illicit drugs



No association with sexual activity or success



No suggestion of social success or popularity



No encouragement of immoderate consumption



No encouragement of rapid drinking



No particular appeal to under-18s



No depiction of under-25s



No suggestion of therapeutic qualities or physical enhancement



No cause of serious or widespread offence

Portman Group



Alcohol
Responsibility + Marketing Regulation

December 2022

For more information please contact:
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Designed by Joseph Meaden