

**Portman  
Group**



**Alcohol**

Responsibility + Marketing Regulation

# Portman Group Consultation

## Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks (Sixth Edition)

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

**May 2023**

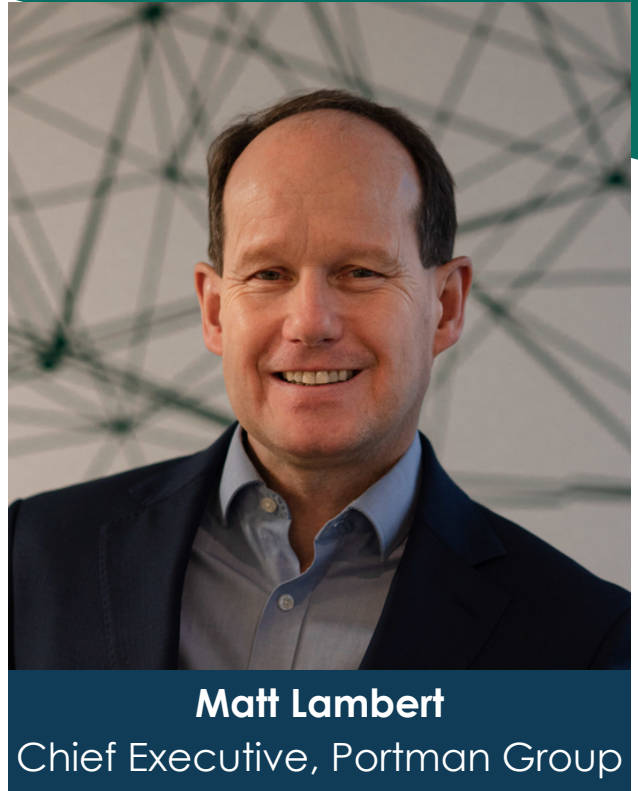
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# CHIEF EXECUTIVE'S INTRODUCTION

## The Code in Action

The Portman Group is the international benchmark for alcohol responsibility and marketing self-regulation. For over 30 years, we have responded to the challenges of alcohol harm and found practical, pragmatic solutions that have a tangible effect. In our self-regulatory capacity, the Naming, Packaging and Promotion of Alcoholic Drinks Code ensures 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 Code was created, in part, as a response to the growth in alcopops in the 1990s. Working in conjunction with other partner bodies, we have played our role in supporting decades of decline across many alcohol harms, including underage drinking. There has been a considerable fall in youth drinking:

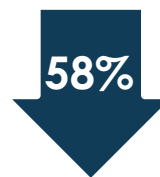
### England



Fall in proportion of pupils who drink at least once a week between 2006 and 2014

1

### Scotland



Fall in weekly drinking amongst 13-15-year olds between 2004 and 2018

2

### Wales

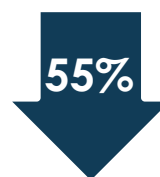


Fall in proportion of 11-15 year olds who drank in the last week between 2010 and 2018

3



### Northern Ireland



Fall in weekly underage drinking between 2007 and 2019

4

# CHIEF EXECUTIVE'S INTRODUCTION

The Portman Group's primary purpose as a self-regulator is to protect consumers from harm, particularly those who may be vulnerable, and a fundamental part of this is protecting those who are under-18. Since the Code was launched in 1996, 30% of all cases considered by the Independent Complaints Panel (Panel) have been under Code rule 3.2(h).

## Rule 3.2(h)

A drink, its packaging or promotion should not have a particular appeal to under-18s (in the case of sponsorship, those under 18 years of age should not comprise more than 25% of the participants, audience or spectators).

In 2022



of advice was under rule 3.2h

Since 2018, more cases have been considered under this rule than any other. In 2022, four in five complaints considered by the Panel related to particular appeal to under-18s, although the majority (76%) were not upheld, reflecting the fact that the majority of the industry abide by the Code and maintain a strong record of compliance in this area.

In 2022



4 in 5

complaints considered by the Panel related to particular appeal to under-18s



76%

of these complaints were not upheld.

While breaches in this area may often be inadvertent, in that a producer has not intentionally set out to target under-18s, it remains the core concern that we deal with in both our complaints system and our free, confidential Advisory Service.

# CHIEF EXECUTIVE'S INTRODUCTION

## The Sixth Edition

The Code is regularly reviewed to ensure that it is responding to the ever-changing standards of society and responsible alcohol marketing practice. I joined the Portman Group shortly after the Sixth Edition of the Code was published in 2019 and I have been pleased to see how the industry has adapted to the changes, and challenges, of new rules and guidance. To ensure that the sector was adhering to the Sixth Edition of the Code, an independent auditor, Zenith Global, conducted an audit of the market to gauge compliance.

**Just six months after the Code came into force, the extensive audit of 500 products found that**



**of products complied with the rules.**

The Sixth Edition also introduced a new Code rule to prevent serious or widespread offence in alcohol marketing and has been effectively applied by the Panel numerous times since its introduction, showing that it is important for the Code to adapt in order to remain effective and reflect the parameters of socially responsible alcohol marketing.

# CHIEF EXECUTIVE'S INTRODUCTION

## Enhancing protection for under-18s

Despite the extensive public Code review in 2019, it is important to acknowledge that the Code cannot be written to anticipate every eventuality. The Portman Group provides self-regulation for an industry that, at its very heart, is creative and innovative and the parameters of the Code must constantly evolve alongside this. The Portman Group operates an open and transparent complaints process and through the decisions of the Panel, and the Portman Group's Advisory Service that any producer or marketing agency can use free of charge, the rules of the Code are applied in the letter, and spirit, in a vigorous manner. This means that when something is not quite working as it should, we can identify and address the issue in a fast, efficient and proportionate way.

Any regulatory change must be evidence based and proportionate to the issue it is seeking to address. This consultation is therefore a narrow one, in that it is designed to address an issue that has arisen in the daily application of the Code and to ensure alignment with the Sponsorship Code. When an issue is identified, particularly in relation to under-18s, we must act swiftly to ensure that alcohol is not associated with childhood. Self-regulation is at its most effective when it enables robust, proportionate action quickly and in a way that also allows the views of all interested parties to be heard.

I would therefore draw your attention to page 20 of the consultation document which contains the suggested amendment to the Code. We look forward to seeing your responses to this consultation so that the regulation of alcohol marketing remains fit for purpose and ensures that alcohol is promoted in a socially responsible way.

**Matt Lambert**  
**Chief Executive**

# SECTION 1 – INTRODUCTION AND BACKGROUND



# INTRODUCTION AND BACKGROUND

## The Portman Group

- Founded in 1989, the Portman Group is the world leading and first industry regulator committed to moderation and promoting a sensible relationship with alcohol among those who choose to drink. We've worked hard to act as a bridge with industry and government to increase awareness and raise standards. This has helped contribute to over a decade of decline in alcohol harms.
- The Portman Group has more than [170 Code signatories](#) including producers, retailers and membership bodies. The Group is funded by seventeen member companies: Asahi UK Ltd; Aston Manor Cider; Bacardi; Brown-Forman; Budweiser Brewing Group UK&I; Campari; C&C Group plc; Diageo GB; Edrington UK; Heineken UK; Mast-Jägermeister UK; Mark Anthony Brands; Molson Coors Beverage Company; Pernod Ricard UK; SHS Drinks; Thatchers Cider; and Treasury Wine Estates.

## The Self-Regulatory System and Codes of Practice

- The Portman Group forms part of a robust system of marketing and advertising regulation alongside the Advertising Standards Authority (ASA) and Ofcom.
- The Code does not duplicate regulation by the ASA or Ofcom; instead it complements the UK Code of Broadcast Advertising (BCAP Code) and the UK Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code), which are independently administered by the ASA.



# INTRODUCTION AND BACKGROUND

- The Portman Group's regulatory remit extends to activity undertaken by a drink's producer for an alcoholic drink which is marketed for sale and consumption in the UK, where such activity is primarily UK-targeted, and is not already subject to regulation through the ASA or Ofcom. This remit ensures consistent and seamless regulation across the alcohol industry.
- The Codes sit alongside the law and the Portman Group's Retailer Alert Bulletins (RABs) are commended in guidance of the 2003 Licensing Act.
- The Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks ([Code](#)) was introduced in 1996. It applies to all alcoholic products marketed for sale in the UK. It covers naming, packaging and promotional activity including product sampling, branded merchandise and point-of-sale advertising. It seeks 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 have particular appeal to vulnerable consumers.
- The Code is written by the Portman Group in consultation with alcohol producers, Government, trade associations, other regulators, retailers and the public. In 2019, following an extensive public consultation, the Sixth Edition of the Code was published. Public review allows the Code to adapt in response to public opinion, cultural change and industry innovation.
- The Code is approved by the Portman Group Council<sup>5</sup> following consultation, including this public consultation.
- The Code has helped create an industry that works effectively within the context of the self-regulatory model, while encouraging design, innovation and creativity. This has been done in an effective, responsive way and at no cost to the public purse.

# INTRODUCTION AND BACKGROUND



**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 resources or Parliamentary time.

**Inexpensively** – the leading members of the industry are currently funding the model for all to be protected at no cost to the public purse.

- The Code is complemented by the Code of Practice on [Alcohol Sponsorship](#) which commits producers to promote responsible drinking and/or support diversionary activities as part of sponsorship agreements.
- In addition to the Codes, the Portman Group also helped develop the industry [Alcohol Labelling Guidelines](#). The guidance provides information to producers on how to communicate alcohol and health-related information to consumers on packaging. The guidance recommends the inclusion of four minimum elements: unit alcohol content per container, pregnancy warning or symbol/logo, active signposting to [BeDrinkaware.co.uk](#), and the Chief Medical Officers' Low Risk Drinking Guidelines 2016.

# INTRODUCTION AND BACKGROUND

- It is worth noting that 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. While it sets a solid foundation for responsible practice there are many drinks producers that choose to go further than the Code's requirements. Indeed, a significant proportion of Portman Group member companies have their own marketing codes to demonstrate their commitment to social responsibility, and this is to be welcomed.



# THE INDEPENDENT COMPLAINTS PANEL

- Complaints received under the Portman Group's Codes of Practice are ruled on by the [Independent Complaints Panel](#) formed of ten lay members.
- The Chair of the Panel is appointed through an open and transparent process, consistent with the Public Appointments Process. All other Panel members are appointed by the Chair.
- The Panel is currently chaired by Nicola Williams who was previously the Service Complaints Ombudsman for the Armed Forces, the first ever Ombudsman in UK Defence. Nicola is currently a part-time Crown Court Judge, co-Chair of the Equality, Diversity and Inclusion Forum for the Association of Chief Executives and sits on the Regulatory Board at the Institute and Faculty of Actuaries, where she also chairs the Disciplinary Committee.
- The Deputy Chair position is held by Rachel Childs, a former headteacher who has also held a Senior Independent Director Role at the ASA and is a Panel Chair for the Nursing and Midwifery Council's Fitness to Practise Committee.
- The Panel has its own independent constitution and members come from a wide range of backgrounds and have a wealth of experience, including public health policy, behavioural science, legal knowledge, alcohol industry experience, experience of youth marketing and licensing knowledge. For transparency, all Panel member backgrounds can be found [here](#).
- The Portman Group provides the Secretariat function to the Panel, but does not make any decisions, or have any influence, over the Independent Complaints Panel. The complaints process laid out in Section Five of the Code details how the Panel's independence is maintained throughout complaint considerations.

# THE INDEPENDENT COMPLAINTS PANEL

- Decisions are made by the Panel after careful consideration of a number of factors, including the basis of complaint, producer response, precedents and related evidence.
- All decisions made by the Panel are transparent, with [decisions](#) published on the Portman Group's website and in an annual regulatory [report](#).

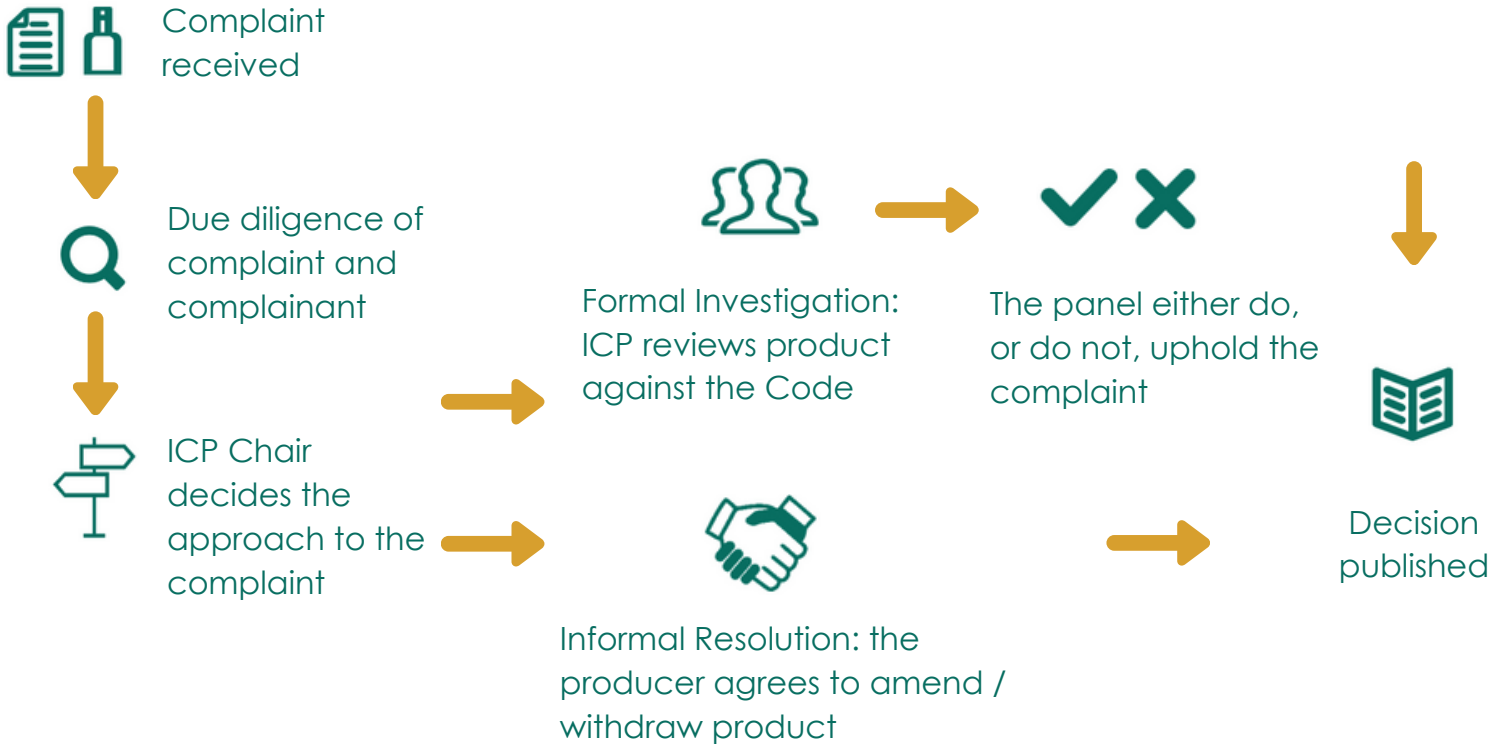


# COMPLAINTS AND ENFORCEMENT

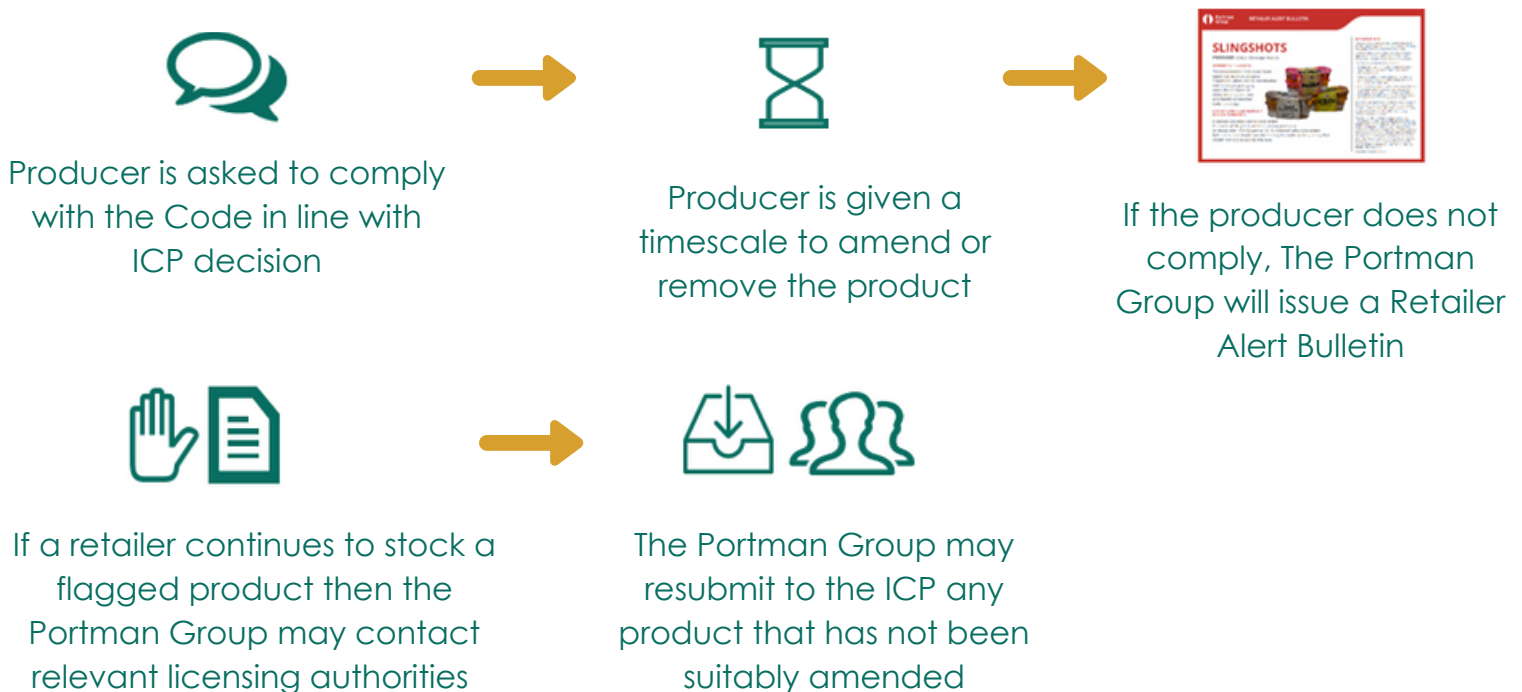
- The Portman Group operates an open and accessible complaints system allowing anyone to make a complaint against a product, promotion or sponsorship agreement that they consider is in breach of the Code/s.
- It only takes one complaint to trigger an investigation, and potentially lead to a formal investigation by the Panel.
- Anyone can make a complaint, including members of the public, non-governmental organisations, specialist interest groups, regulators, trade associations, the police and the alcohol industry.
- All complaints that meet the criteria defined in the Code are considered either by the Chair as part of the Informal Resolution process or formal investigation by the full Panel.
- If the Chair deems a case suitable for Informal Resolution, then a producer is given the option to make changes to the product/promotion in an appropriate timeframe without the need for a full investigation.
- If a case is not deemed suitable for Informal Resolution by the Chair, the case will proceed to investigation by the full Panel.
- If a complaint is upheld and a product or promotion is found in breach of the Code, the producer is asked to take appropriate remedial action. In the event of a breach concerning the naming and/or packaging of a product, the Portman Group, acting to enforce the decision of the Panel, may issue a Retail Alert Bulletin (RAB) asking licensed retailers not to re-stock the offending product until the company has taken appropriate remedial action. The RAB is published in the trade press and also distributed to Code signatories, retailers, trade associations, trading standards officers, licensing magistrates, police licensing officers and local authority licensing officers.

# COMPLAINTS AND ENFORCEMENT

## Complaints process



## Retailer Alert Bulletin process



# COMPLAINTS AND ENFORCEMENT

- Guidance issued under Section 182 of the Licensing Act 2003 states that licensing authorities should, in the exercise of their licensing functions, consider whether it is appropriate to impose conditions on licences that require the licence holder to comply with the Portman Group's RABs. This condition should be considered on a case-by-case basis and in the context of the promotion of the licensing objectives.
- In the event of a retailer ignoring a RAB and continuing to stock a product or display point-of-sale material that has been found in breach of the Code, we may report that retailer to their local licensing authority for it to consider the impact of such a breach upon one or more of the licensing objectives set out in the Licensing Act 2003 and Licensing (Scotland) Act 2005.
- In recent years, the number of RABs issued has dramatically decreased, with the last one issued in January 2021. This is because the vast majority of the industry make the necessary changes to a product/promotion after a Panel decision and work with the Portman Group's Advisory Service to do this.



# SUPPORTING THE INDUSTRY

- To assist companies in complying with the Code, we offer a free Advisory Service. Companies can approach the Advisory Service for confidential guidance in advance of launching a product. Portman Group staff, who provide the Advisory Service, will give their opinion on whether the proposed product or activity raises any potential problem under the Code. However, the Advisory Service's opinion is not binding on the Panel in the event of a subsequent complaint.
- In 2022, over 300 pieces of advice were provided to the industry, with 98% of requests answered within 48 hours.
- Supplementary guidance documents provide further interpretation of the various Code rules, areas of marketing and regulatory remit, all free of charge and accessible to all.
- The Portman Group also offers training on its Codes of Practice. We offer three training courses that are Continuing Professional Development (CPD) accredited and attendees are awarded the Alcohol Marketing Accreditation certification upon completion. In addition to our charged courses, we also offer a free training session for small producers and start up producers to ensure that the Codes are well-understood in the alcohol industry.



# **SECTION 2 – RULE FOR REVIEW**

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

- We have conducted an internal examination of the Code rules and we are satisfied that the majority of the Naming, Packaging and Promotion of Alcoholic Drinks Code is working well and as intended. However, a Code can never be written to cover every eventuality or circumstance. Broad rules and a principles-based Code allow the Panel greater flexibility in interpretation.
- We have identified that Code Rule 3.2(h) needs further clarification to ensure the protection for those under the age of 18 is delivered as intended. We do not propose to revise any other rules of the Code given the recent extensive public consultation in 2019 which included the review of process, overarching principles, rules and every guidance document related to the Code.
- Rule 3.2(h) of the Code of Practice states: A drink, its packaging and any promotional material or activity should not in any direct or indirect way have a particular appeal to under-18s.
- As noted, the Portman Group provides accompanying guidance documents for each Code rule to help the industry understand how the rules have been applied by referencing precedents set by the Panel and, where these precedents are not available, advice on how the rules may be applied based on the expertise of the Advisory Service.
- Guidance for 3.2(h) can be found [here](#).
- The test for this rule is not one of quantity i.e. appealing to more under-18s than over-18s, but the way in which it appeals i.e. the packaging/promotion appeals to/resonates with under-18s in a way that it does not with over-18s.

# RULE FOR REVIEW

- In July 2022, the Panel considered a complaint against an [alcohol branded babygrow and bib](#). The Panel discussed whether the clothing would have a particular appeal to under-18s as it was predominantly aimed at adults purchasing the clothing and therefore designed to fundamentally appeal to adults. The Panel considered the wording of rule 3.2(h) which required a 'particular' appeal to under-18s and noted that due to the nature of clothing, the intended wearer was unlikely to have the faculties to choose its own clothing. On that basis, the Panel found that the branded merchandise did not constitute a technical breach of the Code and did not uphold the complaint under rule 3.2(h).
- While a technical breach did not occur, the Portman Group believes it is appropriate to tighten the wording of Code rule 3.2(h) to prevent such marketing from creating a link between alcohol and childhood.
- The Portman Group's Code of Practice on Alcohol Sponsorship includes the following rule:

*3.4 Drinks companies must not allow the placement of their brand names, logo or trademark (including the non-alcoholic version of the alcohol brand) on merchandise which has a particular appeal to/ **intended for use primarily by** under-18s*
- The rule prevents any branded merchandise which is intended for use primarily by under-18s as part of a UK alcohol sponsorship agreement and does not capture branded merchandise that falls outside of this definition.

# RULE FOR REVIEW

- [How the Code Works guidance](#), which underpins the Naming and Packaging Code, states the following:

*The Code does not apply to drinks of 0.5% abv or below. However, it remains necessary to prevent the marketing of these products from appealing to under-18s when the ≤0.5% abv product shares the same brand/branding as, or is a variant of, a drink above 0.5% abv. As such, it is the view of the Advisory Service that the spirit of the Code will apply to uphold the Code's fundamental principles that marketing should be socially responsible and not appeal to under-18s.*

- As guidance under the Naming and Packaging Code already prevents products at 0.5% ABV and below that share the same branding, or is a variant of an alcoholic drink, from creating marketing that particularly appeals to under-18s, there is no need to repeat the provision that appears in the Alcohol Sponsorship Code for non-alcoholic brand extensions in the wording of Code rule 3.2(h)<sup>6</sup>.
- We therefore propose the following amendment to Code rule 3.2(h), shown in bold italics:

*A drink, its packaging and any promotional material or activity should not in any direct or indirect way have a particular appeal to under-18s. **A producer must not allow the placement of brand names, logos or trademarks on merchandise which has a particular appeal to under-18s or is intended for use primarily by under-18s.***

- The proposed rule amendment would therefore create consistency between the Naming, Packaging and Promotion of Alcoholic Drinks Code and the Alcohol Sponsorship Code, with the intention to prevent any link between alcohol and childhood.

# RULE FOR REVIEW

## QUESTIONS

1. Do you agree that the Code should be amended to prevent promotional material and activity that is intended for use primarily by under-18s?
2. Do you agree with the proposed drafting of the Code rule?

# SECTION 3 - THE CONSULTATION PROCESS



# THE CONSULTATION PROCESS

## 3. How to respond

Thank you for taking the time to read this document. We will consider all responses carefully and with an open mind. We are committed to maintaining a strong and effective Code of Practice for the responsible marketing of alcoholic drinks. If you share these aims, then please share your views.

We prefer to receive responses as a PDF e-mail attachment. Please send your response to [consultation@portmangroup.org.uk](mailto: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**  
**The Office Group**  
**201 Borough High Street**  
**London**  
**SE1 1JA**

When responding, please state if you are doing so as an individual or a representative of an organisation. It will be helpful if you explain fully and clearly why you hold your opinion.

In the interests of transparency, all responses and comments will be treated as non-confidential and unless there is a good reason, we intend to publish all consultation responses on our website, [www.portmangroup.org.uk](http://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. If part of a response is confidential, please put that in a separate annex so that non-confidential parts may be published with your identity. Confidential responses will be included in any statistical summary.



# THE CONSULTATION PROCESS

The consultation ends on 5pm 7 July 2023.

In light of the comments received, the Portman Group may prepare a revised Code of Practice. If changes are agreed, it is hoped that the sixth edition (amended) of the Code will be published in summer 2023 alongside revised accompanying guidance.

Whenever the new edition of the Code is published, there will be a grace period of at least six months before products and promotions are required to comply with the new Code.

If you have any questions about this consultation or need advice on the form of the response please contact us [consultation@portmangroup.org.uk](mailto:consultation@portmangroup.org.uk).

# FOOTNOTES

1. [NHS Digital, September 2022](#)
2. [Scottish Schools Adolescent Lifestyle and Substance Use Survey](#), November 2019 / [Scottish Health and Wellbeing Census](#), February 2023
3. The proportion of 11-15 year olds who drank in the last week has declined by 73% from 29.5% to 8% in 2018. [Health Behaviour in School-aged Children and 2018 survey, May 2019](#)
4. The proportion drinking a few times a week has declined by 55%, from 9.6% in 2007 to 4.3% in 2019, whilst those drinking a few times a month has declined by 21.8%, from 25.2% to 19.7%. [NI Young Persons Behaviour & Attitudes Survey, September 2020](#)
5. The Portman Group Council consists of Portman Group members, which is currently chaired by Philip Rycroft
6. The Portman Group will also shortly publish new category guidance for alcohol alternative products at 0.5% ABV and below that will introduce a set of best practice marketing principles for the category

# Portman Group



Alcohol

Responsibility + Marketing Regulation

**May 2023**