

**Portman
Group**



Alcohol

Responsibility + Marketing Regulation

Guidance Note - 3.2(h): Particular appeal to under-18s



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THE CODE AND GUIDANCE

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 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 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 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 and this is to be welcomed.

INTRODUCTION TO CODE RULE 3.2(H)

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.

Code rule 3.2(h) requires that a drink's naming, packaging and any promotional material or activity does not, in any direct or indirect way, 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).



By 'particular' appeal the test to apply 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. Ultimately, it is possible to state that a marketing element could always appeal to someone in a target market, however, the rule is designed to capture features that are likely to have a particular appeal to under-18s.

Since 2018, more cases have been considered under this rule than any other. In 2022, the majority of advice sought was under this Code rule, with 29% of advice requests reviewed under it. In terms of complaints, 85% of cases were considered by the Panel under this Code rule in 2022 resulting in 15% of cases being upheld.

The rules that form Section 3 of the Code are written as broad principles. This means that the rules are not overly prescriptive and allow the Panel, and Advisory Service, to interpret and apply them on a case-by-case basis. This ensures that the Code, and its rules, are flexible to different scenarios, fit for purpose and responsive to innovation in the market. It is therefore not possible to produce an exhaustive list of possible infringements of this rule, but this guidance document will highlight key areas that have been considered by the Panel in past cases and will also provide advice on how the Code is likely to be applied in different scenarios.

KIDS INDUSTRIES REPORT 2023

In 2023 the Portman Group and the Independent Complaints Panel commissioned the children's marketing agency, [Kids Industries](#), to provide insights on marketing techniques that are used to appeal to children and teenagers outside of the alcohol industry. The full findings can be read [here](#).

The document is divided into four sections which explore the different stages of child development, trends in kids marketing, elements of packaging that may appeal to children in FMCG products and summarises the considerations that products should be mindful of when applying these learnings to alcohol products.

The below table provides a summary of each highlighted key area from the report:

<h2>Colour & Clarity</h2> <p>Is the colour of the beverage or packaging particularly bright e.g. a primary colour or bright secondary colour?</p> <p>Is the outline on aspects of the packaging particularly pronounced?</p>	<h2>Character</h2> <p>Are they using an animal or anthropomorphised product character?</p> <p>Is the character cartoon-like, exaggerated, safe and approachable or funny?</p>	<h2>Name & Logo</h2> <p>Is the name simple, playful, onomatopoeic?</p> <p>Is the logo in a bright colour, chunky cartoon-like font or does it feature high contrast or a thick outline?</p>
<h2>Collectability</h2> <p>Does their packaging incorporate a collectable element which might engage children?</p>	<h2>Licensing</h2> <p>Are they partnering with a brand, character, personality or platform that has particular influence over children e.g. an entertainment character, influencer or gaming platform?</p>	<h2>Flavour</h2> <p>Is the flavour or odour of the beverage particularly sweet e.g. berry or chocolate flavoured?</p>

KIDS INDUSTRIES REPORT 2023

Below, we explore some of these areas from the Kids Industries report in more detail alongside advice from the Advisory Service and precedent setting cases made by the Panel.

This does not mean that inclusion of any of the following elements is inherently problematic under the Code, but rather that these are areas where caution should be exercised. Both the Advisory Service and the Panel will always assess the overall impression of the packaging and/or marketing. This can mean that elements which may be acceptable in isolation, may change when combined with other elements and create an overall impression which is non-compliant.

Colour and Luminance Levels

The inclusion of bright colours will not constitute a breach of the Code when considered in isolation. However, the 2023 Kids Industries report highlighted that young children, who pay little attention to verbal messages, are most attracted to bright primary colours (red, yellow, and blue) as they are particularly stimulating to their developing brains, easier to perceive, evoke feelings of happiness and can attract attention. The younger age group also have an affinity for secondary colours such as green, purple, pink, and orange but are less attracted to muted colours and pastels.

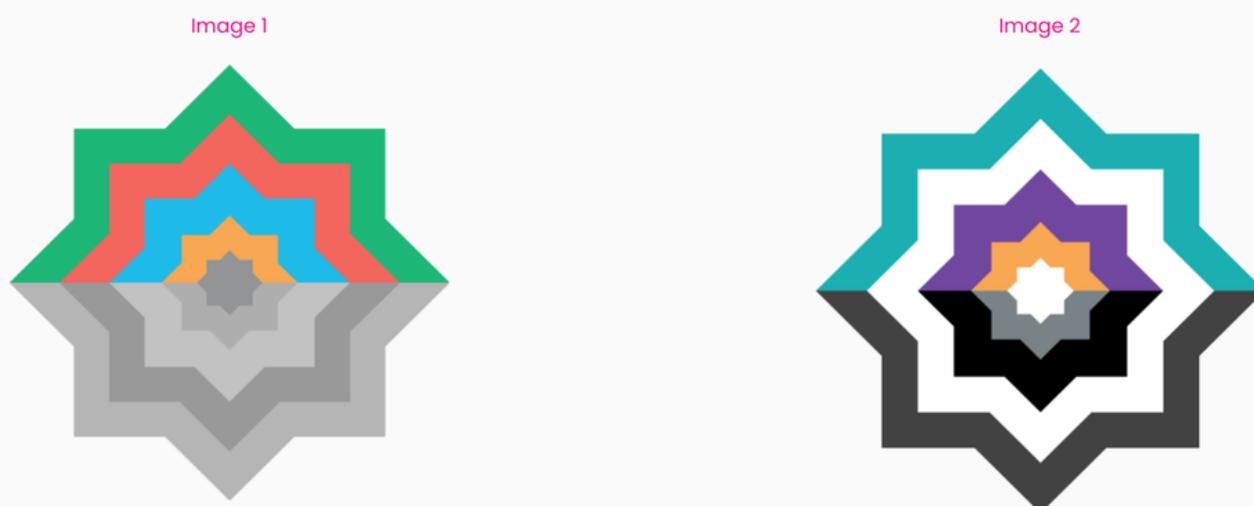


Figure 12 (Image 1; Image2): Contrast

COLOUR AND LUMINANCE LEVELS

The report also highlighted the consideration of luminance levels which are more apparent when grayscaled. This means that muted colours which have higher levels of contrast can attract the attention of children more readily.

Application

Whilst no colour will be problematic in isolation, it has been a factor of consideration in multiple Panel cases.

In 2021, the Panel considered a complaint about [Side Eyes](#) which was found in breach of Code rule 3.2(h). The Panel discussed that the inclusion of bright contrast primary colours, simple child-like cartoon characters and thick bold lines all contributed to the overall impression which had a particular appeal to under-18's. In that case, the Panel warned that inclusion of bright contrast colours could inadvertently appeal to young children and care must be taken when using such elements in alcohol marketing.



In 2022, the Panel discussed colour as part of a case against three [BuzzBallz](#) flavour variants. The Panel noted that bright primary colours were used for two flavours which included yellow and red as the predominant colours. However, the Panel acknowledged that while the packaging was bright in colour, it did not contain contrasting colours with varying levels of luminance, sparkles or cartoon imagery which could create a cumulative effect that may particularly appeal to under-18s and did not uphold the complaint.



TYPOGRAPHY AND FONT

Typography and Font

Alongside colour, Kids Industries highlighted that the keyline (or outline) on font or characters is important for children to distinguish objects as they develop visual perception skills. In these instances, the thicker the keyline, the easier for a child to notice the font or character. Kids Industries noted five common themes in brand logos designed for young children outside of the alcohol industry, which included:

- Simplicity
- Play and fun e.g. onomatopoeic
- Bright primary text
- Chunky/cartoon-like font
- High contrast or thick outline.

Application

In 2017, the Panel upheld a complaint against [Cwtch](#). The label included 'Cwtch' displayed using a bright bubble writing font with a thick bold outline on a colourful contrast design. The Panel concluded these elements all contributed to the packaging having a particular appeal to under-18s.

However, the use of bubble writing font is not always problematic under the Code as evidenced in 2023 with [AU Vodka Bubblegum](#). The Panel noted that the word 'bubblegum' was illustrated with a pink and blue bubble font style and employed thick bold lines around the edge of the font. However, the Panel stated this appeared on a fairly plain bottle, which was bright gold and did not include any other elements, such as cartoon imagery or images of confectionary items. Instead, the product was presented as a premium adult brand with minimalistic design and accordingly the Panel did not uphold the complaint.



FLAVOUR

Flavour

The Kids Industries report described the shift that can occur through taste as children get older. Children have a genetic predisposition towards sugary or sweet food flavours and initially reject sour and bitter tastes. It is not just flavour, but scents as well like fruit or candy-like odours which also appeal to children.

Whilst some flavours may naturally appeal to children, this does not mean that the same flavours will not appeal to adults. Code rule 3.2(h) is explicitly about particular appeal and when fundamentals are considered, such as colour and flavour, it is difficult to state that such elements could have a particular appeal in and of themselves. As always, it is therefore important to consider the rest of the product packaging and/or marketing to determine compliance under the Code.



FLAVOUR

Application

Over the years, the Panel has considered a variety of flavours in cases with a particular focus on confectionary flavours.

In 2017, the Panel upheld a complaint against [Mr Gladstone's Curious Emporium range](#). The drinks packaging featured names of well-known sweets to help distinguish between the variants, which the Panel considered were acceptable in isolation which included Rhubarb and Custard, Pear Drop, Pineapple Cube and Strawberry Bon Bon. The Panel stated that there was a key difference between using a sweet name as a flavour and marketing a drink in the context of sweets. In this case, the label referred to a 'confectionery emporium' which the Panel judged placed direct emphasis on a sweet shop and therefore were likely to have a particular appeal to under-18s.

Similarly, in 2021, the Panel upheld a complaint against [Cherry Bomb](#). The packaging of the drink included cartoon illustrations of dancing cherries with big smiles and legs, white cursive bubble writing and the flavour descriptor 'Cherry Drop'. The Panel concluded the combination of those elements, in the context of a well-known sweet, was likely to have a particular appeal to under-18s.



CHARACTERS AND IMAGERY

Characters and Imagery

A key part of marketing involves telling a brand story and alcohol producers and marketing agencies sometimes utilise characters to bring these stories to life and to create artwork that stands out on-shelf.

In 2023, Kids Industries stated that cartoons and brand mascots can play a significant role in the marketing of products, particularly for products that are designed to appeal to children outside of the alcohol industry. The report highlighted five common features that are commonplace with such characters:

- cartoon-like
- animal or anthropomorphised
- exaggerated
- safe and approachable
- funny.

Characters are a known way of providing an approachable and relatable element to a brand identity. Whilst not all characters are designed to appeal to children, producers must be mindful that some characters, such as anthropomorphic animals, or characters with large eyes, smiling faces and welcoming stances are all likely to have an appeal to under-18s. Even in an instance where the character itself does not have a particular appeal, a baseline is created where the packaging or marketing is already creating a certain level of appeal, even inadvertently, which can be exacerbated by other elements such as bright colours, flavours, sparkles etc. which could make it more likely to breach the Code.

Incorporating existing characters from well-established franchises introduces another level of complexity as it is not simply how the character is presented as part of the alcohol marketing that will be considered, but the character's overall appeal and use in other media will also introduce inherent connotations to the marketing. Please also see 'Nostalgia' below for further advice.

CHARACTERS AND IMAGERY

Application

The Panel have considered several complaints against products which included anthropomorphic animals and characters on the packaging, which were found to have particular appeal to under-18s.

In 2018, the Panel upheld a complaint against [3 Pugs Bubblegum Gin Liqueur](#). The drinks packaging contained a Willy Wonka like sweet land alongside exaggerated cartoon images of three pugs, which were riding in a hot air balloon and blowing bubbles. The Panel concluded that the combination of these elements, including the fantastical depiction of the pugs which had exaggerated features, and a design that appeared to be similar to imagery used in children's media, had a particular appeal to under-18s.

In 2022, the Panel upheld a complaint about [Mango and Black Pepper Gin](#). The Panel stated that while the tiger and parrot characters were dressed as adults and engaging in adult activities; the colourful illustration, exaggerated features of the animals and prominence of the characters on the packaging meant the overall impression of the label had a particular appeal to under-18s.

However, the inclusion of characters or anthropomorphic animals is not inherently problematic under the Code (see Panel decisions on [Flagingo Electric Blue and Scottish Raspberry Gin Liqueur](#), [Clwb Tropica](#) and [Keller Pils](#)). Compliance will be determined by the prominence, positioning, presentation, and overall impression conveyed.



CELEBRITIES AND PERSONALITIES ADMIRER BY UNDER-18S

Celebrities and Personalities Admired by Under-18s

Personalities that are particularly admired by under-18s, or partnerships with real people that are known to under-18s, such as celebrities, sports people and influencers should also carefully be considered. Whilst the activation of such targeted marketing is unlikely to fall within the Portman Group's regulatory remit, it's important to note that the [Advertising Standards Authority](#) contains the same rule for advertising and we'd recommend reading its guidance [here](#).

Marketing should only take place in media or with partners where at least 75% of the audience (spectators, participants or fan base) is over 18. This is particularly important when considering potential sponsorships or co-promotions. For further information please see our [Sponsorship Guidance](#).

Code rule 3.2(i) states that marketing must not incorporate images of people who are, or look as if they are, under 25 years of age, where there is any suggestion that they are drinking alcohol, or they are featured in a significant role. Images may be shown where people appear only in an incidental context. The rule is designed to protect those under-18 by ensuring that they do not relate to those appearing in alcohol marketing, or mistake individuals for being under-18. For further information please see our full guidance document [here](#).

NOSTALGIA

Nostalgia

Over the years, the use of nostalgia as a theme in alcohol marketing has become more popular, whether it be using well-known franchise links or artwork that evokes a memory and feel of a particular time. Marketing that is based on nostalgia is used to appeal to an adult age group and ultimately remind the target demographic of a well-loved theme, story, character, series, game etc. from when they were teenagers or children. However, care should be taken if including childhood nostalgia in alcohol marketing as inclusion of elements which were popular with children many years ago may still hold an appeal to children today. When designing a product based on nostalgia, producers should consider the following:

- Is the theme based on a well-known franchise that still holds appeal to children today?
- Has the franchise been subject to a reboot in recent times, and if so, what media channels were used that may have expanded its target audience age?
- If it is not an official partnership with a franchise, but the artwork bears a strong resemblance, or has a recognisable link to a franchise, be mindful that it could still invoke a similar appeal to the official franchise and producers should conduct due diligence on the audience/fan demographic.
- If using original artwork that has been created solely for an alcohol product, consider the colours, font, depiction of characters and the activity that the characters may be engaged in. Cartoon-like artwork is at higher risk of having potential appeal to children and care should be taken to ensure that the overall impression does not have a particular appeal to under-18s.

NOSTALGIA

Application

Two previous cases, [Cwtch](#) (2017) and [Gamma Ray](#) (2015), have seen the Panel debate at length nostalgia-based appeal in the broader context of how this may influence a particular, potentially inadvertent, appeal to under-18s.



In the Gamma Ray case, the Panel discussed whether nostalgia-based appeal could create an unintentional appeal to under-18s. In particular, the Panel considered whether the product could have an inadvertent appeal to aspirational teenagers in the 16 – 17-year-old bracket, who wanted to emulate adult behaviour. In this particular case, while the Panel acknowledged that there was an element of inadvertent appeal, they ruled that the images were of an adult nature and did not find the product in breach of the Code.

As part of its response to a complaint from a member of the public, Tiny Rebel Brewing Company asserted that its Cwtch 330ml can was designed to create a nostalgic-feel to appeal to adults, who would recognise the urban themes from their teenage years. The Panel considered the point 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. The product was upheld for having a particular appeal to under-18s.

INTERACTIVE, CUSTOMISABLE OR NOVEL PRODUCT DESIGN

Interactive, Customisable or Novel Product Design

Producers should be careful when using a novelty shape container or interactive packaging. Elements such as shaking or spinning the bottle to elicit an effect such as sparkling liquid, flashing lights or music all have the potential to appeal to children because of the similarities with children's toys or entertainment items. As always, this will be considered alongside the product's overall theme and the Advisory Service would recommend avoiding any links to children's toys or toy shops.

The Advisory Service has seen an increase in advice requests asking for advice on customisable labels, either through a QR code application or by placing an order directly with the producer for a customisable element. Producers should be mindful that they will still be held responsible for the content appearing on the product label and should consider putting due diligence checks in place to ensure that no label is produced which may have a particular appeal to under-18s or feature anyone who is, or appears to be, under the age of 25.

Application

The Panel have discussed whether interactive elements, such as incandescent liquid which shimmers when shaken or light up features on packaging, could have particular appeal to under-18s.

In 2022, the Panel upheld two cases regarding [Spiced Sugar Plum Light Up Snow Globe Gin Liqueur](#) and [Clementine Light Up Snow Globe Gin Liqueur](#). The packaging of both drinks included a light-up element that was activated on the base of the product. The liquid of both drinks included gold flakes designed to produce a 'snow globe' effect when the bottle was shaken. The packaging for Spiced Sugar Plum Light Up Snow Globe Gin Liqueur included the image of a ballerina, which the Panel noted was similar to a child's music box figurine. Similarly, the label on Clementine Light Up Snow Globe Gin Liqueur included a retro style toy soldier.

INTERACTIVE, CUSTOMISABLE OR NOVEL PRODUCT DESIGN



The Panel considered that the interactive elements of the design, particularly the snow globe effect, could have a strong appeal to under-18s because of the interactive nature. The Panel did state that while a 'snow globe' element could be acceptable under the Code, because of its strong appeal to children it could also contribute to an overall impression which had particular appeal to under-18s and would be determined on a case-by-case basis. When considering the overall impression of Spiced Sugar Plum Light Up Snow Globe Gin Liqueur and Clementine Light Up Snow Globe Gin Liqueur, the Panel concluded that the combination of toy imagery, the interactive features and use of contrasting colours did have a particular appeal to under-18s.

It is important to note, that interactive elements are not inherently problematic under the Code (see the Panel's decision regarding [Realm of the Unicorn Premium Gin Liqueur](#) in 2022 which had an incandescent liquid which sparkled when shaken or turned). However, caution should be exercised when including such elements to ensure that they do not contribute to the packaging having a particular appeal to under-18s.

EVENTS AND EXPERIENTIAL MARKETING

Events and Experiential Marketing

Events and experiential marketing campaigns are an engaging way in which drinks brands can connect with their audience and build brand recognition. Experiential marketing has grown in recent years to include pop-up stores, immersive experiences, and virtual reality. Such marketing often includes the use of innovative technology to engage with audiences to create excitement about the brand. While using such marketing is not inherently a problem under the Code, it is vital that it does not particularly appeal to under-18s.

Themes and activities

Events which include any element which is likely to have some appeal to under-18s will need to ensure that the overall impression of the activity is mature, and this will extend beyond the activities. For example, if running a fun fair themed event, food could be chosen to appeal to a more adult palette in place of a heavy focus on sweets or other confectionary items usually found at a fun fair, which may increase the appeal to children. Similarly, the colours chosen could be pastel and muted as opposed to bright contrasting primary colours. This is not to advise in those instances that each element would be problematic, but as highlighted above, the overall impression of the activity will always be considered and it is advisable to carefully consider each element individually, and then consider how all elements may be perceived in terms of particular appeal when combined.

EVENTS AND EXPERIENTIAL MARKETING

Mitigating Factors

The Advisory Service is often asked about mitigating factors that can be put in place for events to reduce the risk of particular appeal to under-18s, such as age-gating an event. In modern marketing, photos of the event taken by either the brand or consumer are often shared online, through social media or other channels. It is therefore difficult to control who is exposed to marketing which may feature alcohol branding next to activities or themes which could have a particular appeal to under-18s. The wording of the rule also focuses on appeal, as opposed to exposure, and it is therefore the view of the Advisory Service that if the event itself has a particular appeal to under-18s, it is unlikely to be acceptable even with such mitigating factors in place.





The Portman Group is the responsibility body and regulator of the naming, packaging, promotion and sponsorship of alcohol. The above guidance should help you to avoid problems under the Portman Group's Code of Practice.

The Portman Group's Advisory Service



If you are in any doubt as to whether your proposed activity complies to the Code you can seek free, fast, and confidential advice from the Portman Group's Advisory Service. To obtain advice, please email your request to advice@portmangroup.org.uk, with full details of the proposed activity.

The Portman Group's Code Training Programme



We also provide CPD accredited training to ensure that the Code is widely understood and applied; as well as providing details on the wider regulatory landscape. Should you wish the Portman Group's training sessions can be tailored to suit your organisation or individual needs. To book a training session or to find out more, visit our website <https://www.portmangroup.org.uk/training/> to find out more. Alternatively, email your booking request or query to training@portmangroup.org.uk.