

# PORTMAN GROUP CODE COMPLIANCE HELP NOTE

## **AVOIDING THE ENCOURAGEMENT OF IMMEDIATE CONSUMPTION IN ON-TRADE, MULTI-PURCHASE PROMOTIONS BY DRINK PRODUCERS**

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

### **1. BACKGROUND**

#### **Introduction**

- 1.1 Alcoholic drink producers, like producers of other goods, may occasionally seek to boost sales of their products through point-of-sale promotions (i.e. temporary offers). Whilst there is not necessarily anything wrong with this, it must be remembered that alcohol is not like most other goods in that, if consumed in excess, it can cause harm to the drinker and it can contribute to harm caused by the drinker. Rule 3.2(f) of The Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks requires that a drink's promotional material should not encourage immoderate consumption and drunkenness.
- 1.2 Promotions in the off-trade are less likely to be problematic in this way because even if the promotion encourages the purchase of a large volume of alcohol, that alcohol may be consumed at the purchaser's leisure over many weeks or months. Promotions in the on-trade, however, encourage the purchase of alcohol for immediate consumption and therefore, unless care is taken, may be criticised for encouraging immoderate consumption and/or inciting drunkenness. This is particularly a risk for those promotions which encourage consumers to purchase more than one drink in order to attain a reward (a multi-purchase promotion).
- 1.3 This help note looks at the issues surrounding on-trade, multi-purchase promotions and offers advice on how such promotions

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can be designed so that they do not encourage immoderate consumption and/or drunkenness and thus do not fall foul of the Code.

### **What the Code covers**

- 1.4 The Code applies, among other things, to point-of-sale advertising for alcoholic drinks brands that is produced by either the drink producer or its UK distributor. The Code does not apply to advertising produced by a drinks retailer (unless that retailer is also the brand's producer or UK distributor). This means that point-of-sale advertisements for on-trade promotions that are generated by the drink producer or UK distributor are subject to the Code's requirements. Point-of-sale advertisements for promotions that are generated by the retailer (for example, Happy Hours or a flat-rate entry fee with free drinks all night) are not covered by the Code. In these cases, retailers are advised to follow the guidelines on such promotions issued by the British Beer and Pub Association.

### **Types of promotion**

- 1.5 The most common types of producer-led promotion that are covered by the Code are price-related offers and premium offers.
- 1.6 Price-related offer – This is where the consumer is offered an incentive to purchase a particular product through a price reduction. The reduction could apply to any volume of the drink purchased (e.g. "Half-price bottles of x on Tuesday night") or could apply only when a certain minimum volume of drink is purchased (e.g. "Two bottles of x for the price of one", "Buy four pints of y and get one pint free"). The latter can be described as multi-purchase promotions.
- 1.7 Premium offer – This is where the consumer is offered an incentive to purchase a particular product through the offer of a different product or service free or at a discounted price. Once again, the offer could apply with any volume of drink purchased (e.g. "Free key ring with every bottle of x") or could apply only when a certain minimum volume of drink is purchased (e.g. "Buy three bottles of x and get a t-shirt for only £2", "Enjoy a free trip to the cinema when you buy five pints of y"). Sometimes, the premium offer may involve another alcoholic drinks brand produced by the company (e.g. "buy a bottle of x and get a free shot of y").

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## **2. CREATING RESPONSIBLE PROMOTIONS**

### **Observing sensible drinking guidelines**

- 2.1 The UK government advises that, in general, men can drink up to three or four units of alcohol a day, and women up to two or three, without putting their health at significant risk. A unit of alcohol equates to approximately a half pint of ordinary strength beer (3.5% ABV), half a 175ml glass of wine (12% ABV) or a 25ml serving of spirit (40% ABV). Regular consumption of greater amounts is not advised as it carries a progressive health risk. We would expect the Independent Complaints Panel to take these guidelines into account when deciding whether a promotion is in breach of the Code for encouraging immoderate consumption.
- 2.2 It is not necessarily the case that any promotion which involves the purchase of more than three or four alcohol units is automatically going to be found in breach of the Code. After all, the above amounts are only guidelines. The occasional exceeding of these guidelines does not necessarily represent reckless behaviour on the part of the consumer and might not be regarded as “immoderate drinking” by the Independent Complaints Panel. Nonetheless, in the same way that drinkers who exceed the guidelines face an increasing risk to their health, drink companies that seem to encourage consumption in excess of the guidelines face an increasing risk of breaching the Code.
- 2.3 (The term “purchase”, for the purposes of this guidance, includes any alcohol that is offered free within the promotion for immediate consumption. For example, “Buy two bottles and get a third free” would mean that the consumer is effectively “purchasing” three bottles).

### **Spreading promotions over longer periods**

- 2.4 The easiest way to avoid problems with promotions requiring the purchase of relatively large volumes of alcohol, and possibly the only way if the volume exceeds ten units, is to spread the promotion over a period of days or weeks. This might be done through inviting the consumer to collect proofs of purchase. For example, “Buy 20 pints of x this winter and claim a free jacket”. The consumer collects a coupon each time they purchase a pint and gradually accumulates the required number over a period of time. Of course, some consumers may irresponsibly choose to

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collect the coupons within a timeframe of one or two days and thereby drink excessively – but at least they have not been encouraged to do that by the terms of the promotion. If a promotion is spread over a period of time in this way, thus allowing an individual to benefit from the offer while still maintaining moderate drinking behaviour, it should be acceptable under the Code.

**Making clear that promotions are designed for groups**

- 2.5 If a promotion involves the purchase of relatively large volumes of alcohol and cannot be spread over a longer period of time, another way of reducing potential problems is to make explicit that the alcohol on offer is intended to be shared by more than one person. This might be done through the text or visual of the POS material (e.g. “Buy a bottle of x and get another free for your friend” or “Three shots of x for the price of two” alongside a visual of three people drinking).
- 2.6 There is a danger that this approach could be criticised on the grounds that it is encouraging “round-buying”. Some people feel that the buying of rounds is more likely to lead to excessive consumption because it tends to lead to people drinking at the pace of the fastest drinker in the group. Indeed, round-buying is not allowed to be shown in television advertisements because of this and because there could be an implied expectation that everyone in the group will eventually buy a round (i.e. in a round of six people there is an implied expectation that they will each consume at least six drinks in that session).
- 2.7 Despite this, we consider that it is preferable to indicate that promotions involving relatively large volumes of alcohol are intended for shared consumption than to perhaps leave the impression that such offers are appropriate for, and aimed at, an individual drinker. The term ‘round’, however, should be avoided and there should be no suggestion that each consumer within a group should take advantage of the offer in turn (i.e. round buying).
- 2.8 We would not expect the terms of the promotion to make the shared consumption a condition of the offer; that would be impractical. The important thing is for the drinks company to show that it is doing all that it reasonably can to discourage immoderate consumption.

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### **Including responsibility statements**

- 2.9 It might also be helpful to include a statement encouraging responsible consumption (e.g. "Please drink responsibly"). Such a statement is not mandatory and neither does it excuse a promotion that clearly encourages drunkenness. It does, however, help demonstrate a commitment by the drinks producer to the principle of responsible drinking. In borderline cases, particularly those involving considerably more than four units but which are intended to be shared among a group, the inclusion of a responsibility statement may help to persuade the Independent Complaints Panel that a particular promotion is acceptable under the Code.

### **3. SUMMARY OF CODE ADVICE**

- 3.1 An on-trade promotion which requires the consumer to purchase no more than four units of alcohol in one session is unlikely to be problematic under the Code (though note paragraph 3.5, below). "Purchase" includes any alcohol that is offered free within the promotion for immediate consumption (e.g. "Buy two bottles and get a third free" would mean that the consumer is effectively "purchasing" three bottles).
- 3.2 On-trade promotions which require the purchase of more than four units of alcohol in one session run an increasing risk of being found in breach of the Code, unless the promotional material takes the steps outlined below.
- 3.3 If an on-trade promotion requires the purchase of more than four units, and particularly if it requires the purchase of more than ten units, companies are encouraged to make the promotion a coupon collection scheme whereby consumers are allowed to purchase the alcohol over a reasonable period of time (i.e. days or weeks).
- 3.4 If an on-trade promotion requires the purchase of more than four units in one session, companies should consider making explicit in promotional material that the alcohol purchased is expected to be shared by more than one drinker. This could be done through the text or a visual. There should be no explicit reference, however, to round-buying. Depending on the extent to which the required purchase exceeds four units, companies should also consider including a statement encouraging moderate consumption. Promotions which require the purchase of more than ten units in one session are unlikely to be acceptable under the Code.

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- 3.5 The sensible drinking guidelines for women are lower than for men, reflecting women's lower tolerance of alcohol. If an on-trade promotion is aimed specifically at women, companies should take this difference into account and be more cautious when devising the promotion.
- 3.6 A unit of alcohol is equivalent to approximately a half pint of ordinary strength beer (3.5% ABV), half a 175ml glass of wine (12% ABV) or a 25ml serving of spirit (40% ABV). The number of units in a particular drink can be calculated by multiplying the volume (in ml) by the ABV and then dividing by 1000.

#### **4. THE PORTMAN GROUP'S CODE ADVISORY SERVICE**

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