

PORTMAN GROUP CODE COMPLIANCE HELP NOTE

RAPID OR “DOWN-IN-ONE” DRINKING

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. Please note that the Independent Complaints Panel (ICP) 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 of a complaint is received.

INTRODUCTION

Code paragraph 3.2(g) requires that a drink’s naming, packaging and promotion does not urge consumers to consume a drink rapidly or “down-in-one”. This is because this is a functional style of drinking whereby alcohol is consumed for its effect rather than its taste. It is a style of drinking that can easily lead to intoxication and is not readily associated with sensible and moderate consumption.

Because, at the time of writing, this is a new Code rule, there are no precedents to show how the Independent Complaints Panel (ICP) has interpreted it in the past. This Help Note, however, seeks to anticipate how the ICP may interpret the new rule in the future. The Help Note may in future need to be amended and updated in light of decisions by the ICP.

It should be remembered that the Code regulates the industry’s marketing behaviour to ensure it is responsible. It cannot, and does not seek to, regulate consumer’s drinking behaviour. This rule therefore seeks to ensure that drinks producers do not advocate an unwise style of drinking. If consumers nonetheless choose to drink particular products in an irresponsible way, that is their personal responsibility. It does not necessarily mean that the products themselves are in breach of the Code.

APPLICATION OF RULE

The rule applies to all alcoholic drinks. It might be expected, however, to impact more on the marketing of certain types of product than others. In particular, it might impact on the marketing of single-measure spirit drinks because it is these that may occasionally have been marketed in such a way as to urge rapid or “down-in-one” consumption by the consumer.

The wording of the rule means that breaches are perhaps most likely to occur through the language that is employed on packaging and in promotional

material, rather than through visuals or packaging design. This is because it is easier to urge consumers to adopt a particular drinking style through words rather than through an image or style of packaging.

Words

The name or descriptor of a drink may cause a problem under the Code. For example, we consider that the terms “shooter” or “slammer” so strongly imply a particular style of consumption that their use on a drink’s packaging is likely to cause the ICP to find the product in breach of the Code. We would therefore advise companies not to describe their products in this way or to use variants that could be interpreted similarly (e.g. “shooter”, “shuter”).

We appreciate that this might cause particular problems for companies who incorporate the words “shooter” or “slammer” within their company name and who therefore are obliged to feature this word on their packaging for legal reasons. If this is the case, our advice would be to feature the company name with as little prominence as possible and avoid any exacerbating features.

The term “shot” might also be argued sometimes to imply rapid or “down-in-one” consumption. We believe that “shot” is more ambiguous than “shooter” or “slammer” in that it might also be taken to imply a small measure of drink rather than a particular style of consumption. Although there is an undoubted risk in the use of the term, we consider that the description “shot” should not, in itself, cause a product to breach the Code.

Phrases

Obviously, explicit advice to adopt this style of drinking would be expected to be found in breach of the Code. For example, instructions on the side of a container stating “Open lid, tip back head and consume” or a strapline on a point-of-sale poster saying “Knock it back” alongside a pack shot are likely to be a problem under the Code.

Images

It is less likely, but by no means impossible, that the ICP will find a product or promotion in breach of this Code rule because of an image. However, an image on a point-of-sale poster of, for example, someone drinking with their head tilted far back could well provide the ICP with sufficient reason to find the poster in breach of the Code.

Product design

It is even less likely, though again by no means impossible, that a product is found in breach of the Code because of its inherent design. There has, for example, been criticism in some quarters of drinks in test-tube containers on the grounds that they cannot be set down on a flat surface and are therefore designed to be consumed in one go. In our opinion, however, even these drinks cannot be said to be urging a particular style of consumption. The consumer can choose to hold the test-tube and sip from it and some products have a re-sealable lid which would allow them to be tucked into a pocket

between sips. Consumers may choose to drink the entire contents in one go but in our opinion this is a matter of choice and they have not been incited to do so through the packaging design. We therefore consider that products in test-tubes, or in other single-serve containers such as shot glasses, should not, in themselves, be found in breach of the Code. (Once again, however, it should be emphasized that there is a risk that the ICP will view it differently, particularly in the case of non-resealable products that do not have a flat surface.)

There could be other instances in which a product, by virtue of its design, is found in breach of the Code. For example, if there were a single-serve container that contained a device which caused a novelty reaction shortly after opening (e.g. foaming) and therefore required the consumer to drink the product quickly before this occurred.

Point-of-sale activities

Provided that a drink conforms to the above guidelines, there is no reason why it should not be promoted at point-of-sale. Drinks producers should be careful, however, that activities at point-of-sale do not urge consumers to drink rapidly or “down-in-one”. For example, promotional staff offering samples should not “countdown” in expectation of the consumer ‘downing’ the drink. Furthermore, activities where the consumer does not have control of the alcohol being consumed (for example, shot luges or squirt guns) risk being found in breach of the Code.

Overall context

Drinks producers are reminded that, as ever, products or promotions will be judged under the Code on their overall appearance and in their overall context. Therefore, a product descriptor and a product design may not individually be a problem under the Code but in combination they convey such a strong impression that a drink is to be consumed rapidly that the ICP regards it as in breach of the Code.

THE PORTMAN GROUP’S ADVISORY SERVICE

The above guidance should help you to avoid problems under the Code. If you are in any doubt, however, as to whether your proposed product or 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 7907 3700 and ask for the Advisory Service. Alternatively, email your request to kgill@portmangroup.org.uk, with full details of the proposed product or activity.

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