



Portman Group

Guidance Note

Interpretation of the Portman Group's Code of Practice on Alcohol Sponsorship

July 2013

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This guidance is intended to help drinks producers comply with the Portman Group's Code of Practice on Alcohol Sponsorship (the Code). This guidance represents the opinion of the PG's Advisory Service. Please note that the Independent Complaints Panel (the Panel) is the final arbiter on how the Code should be interpreted and applied. The rules in this Code are consistent with the Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks; therefore both Codes, and associated guidance, should be read together. The Code contains one additional rule relating to recognisable commitment in alcohol sponsorships. This guidance seeks to anticipate how the Panel may interpret this additional rule and the other rules in a sponsorship context. The guidance will be amended and updated from time to time to reflect the views of the Panel.

Following the advice in this document is no guarantee that your sponsorship will not be found in breach of the Code(s) if a complaint is received.

1. Scope of the Sponsorship Code

See also: Guidance on 'Remit of the fifth edition of the Code' available to download from www.portmangroup.org.uk

Alcohol sponsorship has been regulated by the Portman Group since 2003. In recognising the importance of alcohol sponsorship, we have set out to clarify how the rules in the Naming and Packaging Code apply in a sponsorship context and we have introduced a new rule on recognisable commitment. For the first time, alcohol sponsorship will sit separately from the Code on Naming and Packaging. The actual sponsorship agreement itself is regulated by the Portman Group through the Sponsorship Code but the sponsorship may extend to other areas subject to the Code on Naming and Packaging, for example, point-of-sale material, co-promotional activity or branded merchandise, promoting the sponsorship, therefore, both Portman Group Codes should be read together.

If any part of the sponsorship is in breach of the Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks, enforcement will be consistent with that Code.

To further maximise the value of sponsorship it is often linked to a wider marketing campaign utilising different media. Advertising that promotes sponsorship is regulated by BCAP (broadcast) and CAP (non-broadcast) advertising codes, overseen by the Advertising Standards Authority (ASA).

The Code applies to:

'all new'¹ sponsorships undertaken by the UK alcohol drinks industry for an alcoholic drink which is marketed for sale and consumption in the UK, where such activity is activated in the UK, is primarily UK-focused and is not already subject to regulation through the ASA or Ofcom'.

Sponsorship² is defined as:

'the terms of any commercial agreement or part of an agreement by which a sponsor, for the mutual benefit of the sponsor and the sponsored party (rights holder), contractually provides financing or other support in order to establish an association between the sponsor's image, brands or products and a sponsorship property in return for rights to promote this association and/or for the granting of certain agreed direct or indirect benefits'.

For the purposes of this Code, sponsorship is the agreement to support any specific sporting or cultural event or activity. This primarily includes, but is not limited to, sponsorship of, for example, a team, individual, group, awards ceremony, event, activity, organisation or venue (the '*sponsorship property*') in return for which the sponsored party agrees to be associated with or promote the sponsor's brand(s)³.

2. Code Exclusions

- *International sponsorships*: some major sponsorship deals are international in nature and agreed at a global level outside the control or influence of a UK subsidiary. If that international agreement contains a UK-specific element to be activated by, and under the control of, the UK subsidiary (e.g. the UK leg of a world concert tour) or is referenced in UK promotional material, it has essentially been *activated* in the UK for the purposes of the Code. The UK-controlled element/promotional material will be subject to the Code(s).
- *Outside producer/sponsor's control*: a company cannot necessarily control the action of third parties, including a sponsorship rights holder or some other person associated with the sponsorship (e.g. a participant or spectator). If, therefore, a third party's action is not stipulated under the terms of the sponsorship agreement, it is not subject to the Code. A company should nonetheless use its reasonable endeavours to ensure that its brand is not brought into disrepute through association with irresponsible drinking. Companies are therefore encouraged to work with rights holders to ensure they and any of their other contracted partners, suppliers or agencies are aware of the current regulations and codes applicable to alcohol sponsorship and marketing. This might also include a clause in the sponsorship agreement stating that if the rights holder acts in a way that is contrary to the spirit of the Code, this will constitute a breach of contract.

¹ The Code applies to all agreements agreed, including those periodically reviewed or renewed, after 31 January 2014.

² This definition of sponsorship is consistent with the one used by the International Chamber of Commerce in its Advertising and Marketing Communication Practice Consolidated Code.

³ cf: Sponsorship Code rule 1.4.

- *Local community support initiatives*: the Code does not apply to local community support initiatives by alcohol brands and drinks producers. Examples of such activity could include the provision of facilities (allowing use of a room for a local charity to hold meetings or an event) or equipment (loan of a branded or unbranded vehicle to help transport personnel or equipment), product to support fundraising activities (donation of a bottle for a raffle or tombola), or funding or patronage which has no commercial benefits to the brand or drinks producer.
- *Pouring Rights*: The Code does not apply to commercial pouring or supplier agreements in their purest form.
- *Drinks below 0.5% ABV*: The Code does not apply to drinks below 0.5%. However, if a drink below 0.5% ABV shares the same brand or very similar branding, or is a variant of a drink that is subject to the Code, then it is the view of the Advisory Service that the spirit of the Code(s) will apply in the same way to that product.
- *Educational materials*: any materials or activities whose sole purpose is to educate about the use and misuse of alcohol are excluded from the Code. Educational materials targeted at under-18s should not be branded with either a company's corporate or product branding; whereas educational materials and responsibility campaigns aimed at over-18s may feature either⁴ unless they are already subject to regulation through the ASA or Ofcom

3. Application of the Code

The Code sets the minimum standards; producers may have their own internal marketing and sponsorship guidelines which go above and beyond what is required of them under the Sponsorship Code.

The Code is to be applied in the spirit as well as in the letter. 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 sponsorship agreement itself and any other relevant matters, including the overall impression conveyed. It is therefore difficult to say whether a particular activity is acceptable under the Code without seeing/considering it in context. Companies are therefore encouraged to make use of the free Advisory Service before undertaking sponsorship, or promotional activity related to the sponsorship, to help ensure it complies with the Code.

The guidance represents the opinion of the Advisory Service; the Panel is the final arbiter of the Code. The guidance below is presented in accordance with section 3 of the Code which sets out the rules that apply to alcohol sponsorship.

⁴ This does not prevent companies from including their company name in material to help protect their copyright.

See also: Portman Group's Code of Practice on Naming and Packaging of Alcoholic Drinks (fifth edition) and associated guidance, available to download from www.portmangroup.org.uk.

3.1 Guidance on recognisable commitment

The rule:

3.1 As an integral part of each new alcohol sponsorship, drinks companies must ensure there is a recognisable commitment to promoting responsible drinking and/or supporting diversionary/community activities; taking into account the size, scale, reach, and length of the sponsorship.

This has been a binding requirement on companies signed-up to the Scottish Sponsorship Guidelines⁵. The Portman Group Code applies to the whole of the UK and by making this requirement binding will ensure all alcohol producers, as standard, look to promote responsible drinking and/or support diversionary activities, in their sponsorships, in some way.

For the purposes of the Code diversionary/community activities are defined as:

'any activity or intervention that diverts people away from anti-social activities into pro-social, organised and constructive activities by either preventing them from falling into such activity or as a route out of such activities towards more positive lifestyle behaviours'.

This could be investment at grass-roots level to encourage more people to get involved in an activity and/or funding to protect public facilities (such as local football pitches or local theatre and music venues).

Our advice is as follows:

- In every case, in judging compliance with the rule, regard will be given to the size, scale, length and reach of the sponsorship. Where a complaint is received it will be up to the company to justify how they have met their commitments with regards to these criteria.
- Promotion of responsible drinking *and/or* support of diversionary/community activities: The rule is not a barrier to companies who wish to focus their efforts on *either* the promotion of responsible drinking *or* supporting diversionary/community activity. However, as alcohol sponsors, it is incumbent on them to promote responsible drinking to some extent as part of the sponsorship.
- We have used real and illustrative examples of sponsorships⁶ and set out the activities each sponsor undertook as part of that sponsorship to promote responsible drinking and/or support community/diversionary activities. These examples feature a range of initiatives and ideas against which others can assess their sponsorships and commitments and, if looking

⁵ Available to download from <http://www.scotland.gov.uk/Resource/0041/00416896.PDF>

⁶ These examples are available to view and download from www.portmangroup.org.uk

to run something similar, can get inspiration as to what might be done. Our aim is to build a library of examples to showcase responsibility initiatives⁷. The Panel will also use the examples as the basis for considering if a company has met its commitments.

- Other criteria the Panel may consider in addition to the size, scale, length and reach of a sponsorship:
 - Size of company/sponsor: The Code is intended to apply to all drinks companies engaging in sponsorship, regardless of their size; much like the Code on Naming and Packaging, which applies to all drinks producers, regardless of size. However, we recognise that the recognisable commitment requirement may seem onerous to small companies/sponsors. So that it is not, we have suggested examples of responsibility commitments which even small companies/sponsors can promote⁸ (or companies who have focussed their commitment on supporting diversionary/community activities); some of the resources are freely available to download or obtain. A company can choose to do some or all the activity tailored to their specific event.
 - Type of sponsorship: We recognise that all sponsorships are unique, and often a company will tailor the commitments to the type and length of an event and the audience. For example, it might seem particularly appropriate to promote a 'don't drink and drive message' as part of motorsports sponsorship versus a music sponsorship, (that is not to say you could not promote a similar message to festival-goers).
 - Sponsor with several (simultaneous) sponsorship commitments: If a company is engaged in several sponsorships simultaneously it may be impractical to activate all to the same level. It might be more practical to focus efforts on one over-arching responsibility initiative and link each of the sponsorships to the initiative, for greater impact. We would still expect there to be some degree of responsible drinking promotion at each of the sponsorships and for the company to be able to demonstrate they had met their recognisable commitment requirements through the over-arching initiative.
 - One of several sponsors: A company may not be the main sponsor of an event but one of several sponsors that shares equal exposure with other, non-alcohol, companies. Alcohol companies may not therefore activate the sponsorship to the same level if they had been a main sponsor. In such instances, we would still expect the company to promote responsible drinking to some degree (utilising some or all of the examples available from our website⁹).
- As an 'integral part' of each new sponsorship: Any activity should be specific to the sponsorship and should be in addition to what a company has already committed to at a corporate level. For example, a company is unlikely to be meeting the recognisable commitment requirement if it only placed a reference to drinkaware.co.uk on consumer-

⁷ If you have sponsorship activity you would like to share, and be included in our online library, please complete the blank template available (Appendix C) from www.portmangroup.org.uk.

⁸ Examples of commitments available to download from www.portmangroup.org.uk

⁹ See examples of initiatives on www.portmangroup.org.uk

facing point-of-sale material if the company has already made that commitment at a corporate level for all media.

3.2 Rules for the protection of under-18s

This is the fundamental principle of this Code and the Code on Naming and Packaging. The guidance in this section is relevant for rules 3.2 to 3.6:

- In determining whether an individual, activity, team, event, tournament, competition, band or celebrity is suitable for an alcohol sponsor the test to apply is whether the sponsored party has particular appeal to under-18s, and appeals to them in a way that it does not with over-18s. For example, does the event reflect under-18 culture or fashion, etc, is the individual seen as a role model for or particularly appealing to under-18s? - if so the sponsorship should be avoided. It is difficult to give an exhaustive list of individuals, events or activities which could fall into this category.
- To determine the particular appeal of an individual, information can be obtained from the official fan website or the individual's agent, which should show that at least 75% of followers/fans are over the age of 18.
- If historical data for an event is not available, (for a new event, for example) then reasonable proxy data, such as anticipated demographics, data from a comparable event, or the readership or membership demographics should be obtained.
- Some mascots, for example, animal or cartoon character mascots, are more likely to have a particular appeal to under-18s; they should not wear alcohol branded clothing or interact with the brand in any way.
- Companies should use their reasonable endeavours to prevent the indirect appearance of their branding on merchandise or within games or promotional materials which have a particular appeal to under-18s (for example, a photograph of a player in branded kit being re-produced on a child's single duvet cover).
- Particular care should be taken if a permanently alcohol-sponsored venue hosts an event at which less than 75% of the audience is aged over-18; every effort should be made to cover alcohol branding for the duration of that event.

3.3 Preventing any direct or indirect association with bravado, aggression, violence dangerous or anti-social behaviour

The guidance in this section is relevant for Code rule 3.7:

- When promoting sponsorship of sports that focus on aggression, or are inherently dangerous for participants, companies are encouraged to emphasise the positive aspects of individual skills, team work, precision etc.
- If sponsoring a sport which involves the use of a mechanically-propelled vehicle, companies should take great care to avoid associations between their brand and the act of driving. For example, drivers should not interact with the sponsor's brand while engaging with their vehicle. For such sponsorships it would be appropriate to promote a 'don't drink and drive' message.

3.4 Associations with sexual success/activity, social and sporting success

The guidance in this section is relevant for Code rules 3.8 and 3.13:

- Companies should not sponsor individuals, groups or events associated with sexual success/activity; examples would include fetish exhibitions or similar events.
- Companies may sponsor social events where people may meet new friends or partners, for example, speed-dating events, but should be careful to avoid any implication that alcohol can make one more attractive, enhance one's confidence or is essential to have a good time.
- The sponsorship of a sporting individual, team or tournament by an alcoholic drink does not in itself necessarily imply that the sportsperson(s) endorses (i.e. consumes) the sponsor's product. If however, a company does imply that a sportsperson consumes their product, the sportsperson should be aged over 25 (if using their image in promotional material; see below) and should not have a particular appeal to under-18s.
- Companies must make clear that any alcohol consumption by a sportsperson takes place well away from the sporting arena (for example, the sportsperson should not be shown drinking while dressed for sporting activity) and there should be no suggestion that alcohol consumption contributes positively to that person's sporting performance.
- Companies may supply their brand for consumption immediately following sports participation (e.g. in changing rooms) but it should not be a condition of the sponsorship agreement that the sportsperson must consume the product. Any decision to drink should be on the part of the sportsperson.
- Companies should not use images of sportspersons drinking in post-match celebrations in promotional material unless it is absolutely clear that this is occurring after the event is over.

3.5 Associations with irresponsible or immoderate consumption

The guidance in this section is relevant for Code rule 3.9:

Companies should not sponsor individuals, groups or events which encourage immoderate drinking.

- There may be situations in which one member of a group, or participant at an event, has a history of immoderate drinking. In this case, companies are not necessarily prevented from sponsoring the group or event but the individual should not be used either on their own or with undue prominence in any promotional material or activity.
- Companies may supply alcohol, either free or at a charge, at sponsored events and to sponsored parties. Companies should use their reasonable endeavours, however, to encourage responsible consumption.

3.6 Responsible service and consumption of alcohol at sponsored events

The guidance in this section is relevant for Code rules 3.10 and 3.11:

- Sampling is the unconditional giving away of alcohol to the general public in a public place, including licensed premises. It allows consumers to assess, free of charge, the taste and quality of a product while allowing producers to test a new product, or create brand awareness for an established product. An alcohol-sponsored event provides drinks companies with an ideal opportunity to offer sampling of their drinks.¹⁰
- In Scotland, certain types of drinks promotions, both on- and off-trade, are banned e.g. the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks¹¹. If looking to run a drinks promotion in Scotland as part of sponsorship, advice should be sought from the relevant licensing board.
- Challenge 25 is a scheme that encourages anyone who is over 18 but looks under 25 to carry acceptable ID when they want to buy alcohol; Challenge 25 is mandatory in Scotland and companies should adhere to this policy if undertaking sponsorship in Scotland. In the rest of the UK, Challenge 21¹² is still applicable although licensees may choose to implement Challenge 25.

¹⁰ Guidance to assist companies in ensuring alcohol is sampled responsibly and only to people who are over the age of 18 is available at www.portmangroup.org.uk

¹¹ Alcohol Etc. (Scotland) Act 2010

¹² Challenge 21 posters can be downloaded free from the BBPA website http://www.beerandpub.com/industry-briefings/challenge-21?from_search=1

- Restrict samples in line with Government sensible drinking guidelines. At all day events, if the sponsor has control over the service of alcohol, consider closing the bar for a period of time or serve only soft drinks for a while.
- Provide easy access to free water
- Anyone carrying out sampling must comply with current licensing legislation.
- Where possible companies should make available lower/mid-strength drinks, for example, consider the strength of house wine under 12.5% ABV.
- Where possible sponsors should encourage smaller-serves, for example two-thirds of a pint for servings of beer, 25ml as standard for spirits and 175ml for wine.

3.7 The use of under-25s in sponsorship

See also: Guidance on 'The use of images of under-25s in alcohol marketing' available to download from www.portmangroup.org.uk.

The guidance in the above document is entirely applicable and some additional points relevant to sponsorship and Code rule 3.12 are as follows:

- Drinks companies may sponsor individuals aged 18-24; as well as groups, teams or events which feature participants aged under-25 (provided at least 75% are aged 18 or over).
- Any under-25 year old should not be used individually, or in a significant role, in brand promotional material.
- Alcohol companies should not, through the sponsorship agreement, require an 18-24 year old to endorse their product (i.e. suggest they consume it), nor should they imply such endorsement in promotional material. This does not preclude the 18-24 year old from voluntarily drinking the sponsor's product.

4. Pre-launch Advice

This guidance cannot deal with every circumstance and a company may want more detailed advice on a specific piece of sponsorship and marketing. Drinks companies should seek free and confidential guidance from the Portman Group's Advisory Service (see section 6 of the Code for full details). Companies should also consult the topic-specific guidance designed to help communicate the application of the Code and previous Panel decisions. At the time of printing, guidance is available on the following topics:

- General interpretation of the fifth edition of the Code
- Remit of the fifth edition of the Code
- Multi-purchase, on-trade promotions
- Sampling
- Gift packs containing alcohol
- Rapid or 'down-in-one' drinking
- Images of promotional staff and consumers in marketing material
- Communication of alcoholic strength
- Use of images of under-25s in alcohol marketing
- Responsible marketing of alcoholic drinks in digital media

Guidance papers can be downloaded from our website www.portmangroup.org.uk or by emailing info@portmangroup.org.uk.