



THE ANNUAL CODE REPORT 2001

THE PORTMAN GROUP'S CODE OF PRACTICE

ON THE NAMING, PACKAGING AND MERCHANDISING OF ALCOHOLIC DRINKS

THE PORTMAN GROUP



The Portman Group was established in 1989 by the leading UK drinks companies. It is supported by Bacardi-Martini, Campbell Distillers Pernod Ricard Group, Diageo, HP Bulmer, Interbrew UK, Scottish and Newcastle, Seagram and Six Continents Retail. Its purpose is to promote sensible drinking; to help prevent alcohol misuse; and to foster a balanced understanding of alcohol-related issues. Through its Code of Practice, it encourages responsible marketing by the drinks industry.

FOREWORD

After nearly six years, the Code is now thoroughly entrenched as part of the operational equipment of the UK alcoholic drinks industry. New companies are still coming forward to add their names to the impressive list of signatories. Retailers as well as producers take advantage of the pre-launch advisory service. Compliance is expected and compliance is the norm. Use of our training programme by producer companies has grown significantly.

Eight complaints were received in 2001, four of which were upheld and four dismissed. The details are set out in this report. Over the same period, 57 requests were made for pre-launch advice. Although the details of these products are confidential, unlike the products subject to complaints, it is welcome news that the industry is choosing to try and prevent problem products from coming on to the market, rather than take their chances later on and risk an adverse decision by the Independent Complaints Panel. It is clearly understood that an upheld complaint results not only in bad publicity which damages the reputation of the individual company and to the industry as a whole. It can also hurt the company financially, if it has to withdraw the product from the market, invest in expensive re-design, risk lack of retailer confidence in its future products and alienate customers.

The Portman Group has been pleased this year to have been of assistance to the industry and to public authorities in a number of other countries, in the EU and elsewhere, where self-regulation of the marketing of alcoholic drinks is being developed. We are proud of the constructive working relationship we have maintained with the UK Government around the common agenda of social responsibility and sensible drinking. We are indebted to the members of the public as well as the professional groups such as trading standards officers, police, alcohol and health promotion agencies and others, who keep us on our toes, use the Code to help us achieve our shared objectives and continue to raise the problem issues with us. Many of these issues are discussed in detail in the document released this month for public consultation on the second review of the Code. One of the benefits of self-regulation is that it can, more easily than legislation, be flexible and responsive to changes in public opinion, cultural shifts and industry innovation. No doubt we shall see a revised and strengthened edition of the Code in 2002.

The end of 2001 sees the departure of Laurence Shurman as Chairman of the Independent Complaints Panel, after five years' service. I should like to take this opportunity to thank him very much for the enormous amount of work and dedication he has contributed to the Code in its first five years. The effectiveness of the Code is in no small way due to Laurence's ability to balance natural justice, independent thinking and personal commitment to the Code's overriding principles. I know his fellow panel members have all held Laurence in the highest esteem, including Lord Condon who now takes over as Chairman.



Jean Coussins
Director, The Portman Group

REPORT OF THE CHAIRMAN OF THE INDEPENDENT COMPLAINTS PANEL

In April 1996 the Code was adopted to help combat all forms of alcohol misuse and, in particular, irresponsible consumption by those under 18. Later the Independent Complaints Panel was set up and I was invited to chair it. Our task was, and remains, to decide complaints brought by both individuals and organisations about alcoholic drinks which infringe the Code. We seek to do so fairly and in accordance with the principles of natural justice. We ensure that each party knows the case brought by the other. We consider the evidence and the submissions. We then decide each case on its own merits and in accordance with our interpretation of the Code.

Receiving, as we immediately did, complaints about a wide variety of products, our task at first seemed daunting: especially if we were, as we hoped, to achieve consistency in our decision making. Here, the diversity of background and experience amongst the members of the Panel proved immensely helpful. Though sometimes we had a long debate as to whether, for instance, a brand name suggested an association with violence or whether a product label appealed more to under 18s than to adults, we rarely had difficulty in reaching an agreed decision.

What quickly became apparent was that the First Edition of the Code needed to be clarified and strengthened. This was done by successive editions of the Code in 1997 and 2000. Amongst other things, the Second Edition made clear that the Panel was entitled to interpret the Code in spirit as well as in the letter. The Third Edition widened the scope of the Code by prohibiting claims that alcoholic drinks could enhance mental or physical capabilities. Looking ahead, I anticipate further strengthening of the Code.

The annual volume of complaints is much lower now than initially. This is due to the Code being stronger, to more frequent use of the Pre-Launch Advisory Service and to a wider acceptance on the part of the drinks industry of the benefits of adherence to responsible good practice.

As I have said before, the long-term aim of a good complaints system should be to put itself out of business. However, we are not at that stage: the volume of complaints has previously gone up and down and there are still potential challenges to be met. There are, for instance, products such as alcoholic jellies which may not at present be caught by the Code but perhaps should be. It is likely too that a small number will always remain of those who seek to exploit what they see as loopholes in the Code.

For those reasons, in handing over to Lord Condon as chairman at the end of the year, I am sure that the Panel will continue to have useful work to do under his capable leadership.

Finally, I should like to thank Kate Winstanley and her predecessors as complaints officers for their assistance. Above all, I wish to thank all of the other members of the Panel who have served with me and given me both the benefit of their wisdom and their full support.



Laurence Shurman
Chairman to the Panel



AFTER SHOCK

JBB (Greater Europe) plc

Panel Meeting 10 July 2001

COMPLAINT SUMMARY

"After Shock fails to comply with a number of requirements under part 3 of the Code making it particularly attractive to those under 18. These include the bright red colouring, the name and the get up of the container (the bottle appears to be frosted) especially when the colour is taken into consideration. In addition the name 'After Shock' provides a dominant theme to the high alcohol strength (40%) of the product."

COMPLAINANT

Kingston-Upon-Thames Trading Standards

DECISION

Complaint under Code Paragraph 3.1(b), 3.1(g) and 3.1(h) **NOT UPHOLD**

The Panel did not think that there were any features of the product's packaging which made its strength a dominant theme. The Panel's view was that the name "After Shock" referred predominantly to a taste sensation and that the words "hot & cool" supported this interpretation of the brand name.

The Panel did not think that the product was more likely to appeal to under 18s or encouraged underage purchase and sale. It considered that the bright red colour of the product, the frosted bottle and the words "hot & cool" might appeal to under 18s but considered that the overall presentation of the product was adult in appeal and not designed to appeal to children.

Hence, the Panel DID NOT UPHOLD the complaint.

ACTION BY COMPANY

None required.



BAD JELLY VODKA

Haggards Brewery

Panel Meeting 4 September 2001

COMPLAINT SUMMARY

"Bad Jelly Vodka is in breach of Clause 3.1 of The Portman Group Code of Practice; in particular its use of the word "jelly" clearly has appeal to under 18s."

COMPLAINANT:

Bass Brewers

DECISION

Complaint under Code Paragraph 3.1(g) and 3.1(h) **NOT UPHOLD**

The Panel noted that the packaging of this product had undergone considerable revision since a complaint had had been upheld on 26th May 2001 against a previous version of the product.

The Panel did not think that the brand name, packaging or labelling of the current product were more likely to appeal to under 18s than adults or encourage underage purchase and sale.

The Panel did not think that there was likely to be any confusion as to the alcoholic nature of the product because of the prominence given to the words "vodka" and "alcoholic" on the packaging.

Hence, the Panel DID NOT UPHOLD the complaint.

ACTION BY COMPANY

None required.



JELLYBEAN SHOOTER

Asda Stores Limited

Panel Meeting 10 July 2001

COMPLAINT SUMMARY

"I believe that this product may not comply with part 3.1 of your Code in that the product is more likely to appeal to under 18s than adults."

COMPLAINANT

Kingston-Upon-Thames Trading Standards

DECISION

Complaint under Code Paragraph 3.1(g) and 3.1(h) **UPHELD**

Complaint under Code Paragraph 3.3 **NOT UPHELD**

The Panel found this product IN BREACH of the Code because:

- the jellybeans, which were clearly visible through the external packaging, were more likely to appeal to under 18s than adults and encouraged underage purchase and sale; and
- the name "Jellybean Shooter" was more likely to appeal to under 18s than adults and encouraged underage purchase and sale.

The Panel found that there was no confusion as to the alcoholic content of the product because the alcoholic nature and content of the tequila were clearly communicated on the labelling of the bottle and the shape and size of the tequila bottle were of the type traditionally used for spirit miniatures.

Hence the Panel DID NOT UPHOLD the complaint under Paragraph 3.3 of the Code.

ACTION BY COMPANY

The Panel is pleased to note the company's statement that the product is no longer available and that it would not form part of its Christmas 2001 gift range.



JELLY SHOT

The Vodka Jelly Products Company

Panel Meeting 10 July 2001

COMPLAINT SUMMARY

"The alcohol content does not appear to be clear. The advert on the website suggests getting 'high' on this product. The advert associates the product with energy drinks."

COMPLAINANT

Alcohol Focus Scotland

DECISION

Complaint under Code Paragraph 3.1(a), 3.1(g), 3.1(h), 3.1(i) and 3.3 **UPHELD**

The Panel found this product IN BREACH of the Code because:

- the alcoholic nature and strength of the product was not clearly communicated;
- the product was more likely to appeal to under 18s than adults and encouraged underage purchase and sale through its bright colours and style of lettering and the resemblance of its shape to that of a non-alcoholic ice lolly;
- the word "jelly" was not used with sufficient care to distinguish the product from the food jelly, which is predominantly associated with under 18s; and
- the words "boost" and "shot" on the label, together with the image of a target and statement that the product contained the stimulant guarana, suggested that the product could enhance mental and/or physical capabilities.

ACTION BY COMPANY

The company has informed The Portman Group that the product is no longer available in its present packaging and has undertaken to consult the Pre-Launch Advisory Service if it is re-launched.



RED

Bass Brewers

Panel Meeting 6 March, 10 July 2001

COMPLAINT SUMMARY

"The complaint relates to the use of the descriptor "invigorating" which the complainant believes is in breach of Clause 3.1(i) of the Code."

COMPLAINANT

GBL International Limited

DECISION

Complaint under Code Paragraph 3.1(i) **UPHELD**

The Panel found that the word "invigorating" in the way that is used on the front and rear labels suggests that the product (which the packaging states contains caffeine, guarana and damiana) could enhance mental and/or physical performance in breach of Code Paragraph 3.1(i).

ACTION BY COMPANY

The company has amended the packaging of the product by removing the word "invigorating" on both the front and the rear labels.



SHAG LAGER

The Spirit, Hop and Grape Company

Panel Meeting 10 July 2001

COMPLAINT SUMMARY

"This product's name I believe breaks two clauses of your Code, Clause 3.1(e) by suggesting sexual success or prowess and Clause 3.1(h) as it seems that it is more likely to appeal to under 18s than adults. I think you will find that the company's website strongly shows that this product is not being marketed in a responsible way."

COMPLAINANT

Member of the public from London

DECISION

Complaint under Code Paragraph 3.1(e) and 3.1(h) **NOT UPHELD**

The Panel pointed out that websites were not within its remit. Hence, although it had viewed the company website, the Panel made its decision without taking into account the material contained in it.

The Panel considered that the word "shag" had several meanings, depending on the context in which it was used. Whilst the primary meaning of the word was the name of a seabird, the Panel considered that nowadays the word "shag" was more commonly understood as a reference to sexual intercourse. However, even though the name "Shag" was likely to be understood as a reference to sexual intercourse, it did not suggest sexual success or prowess in this instance.

The Panel did not consider that the name "Shag" or any other feature of the product's packaging were more likely to appeal to under 18s than adults.

Hence, the Panel DID NOT UPHOLD the complaint.

ACTION BY COMPANY

None required.



TURBO WHITE

Bestway Cash and Carry

Panel Meeting 6 March 2001

COMPLAINT SUMMARY

"The name of the product clearly stresses the strength of the product. This is particularly unacceptable as the product is so strong (7.5% abv) and so cheap (around 80p per can). It is clearly being marketed directly to those most vulnerable to alcohol misuse, low income families and underage drinkers."

COMPLAINANT

Member of the public from Cheshire

DECISION

Complaint under Code Paragraph 3.1(b) **UPHELD**

Complaint under Code Paragraph 3.1(g) or 3.1(h) **NOT UPHELD**

The Panel found that the word "turbo" (and in particular the name given to that word on the container) together with the emphasis on the relatively high strength of the product made its alcoholic strength the dominant theme of the product's packaging. However, the Panel did not think that the brand name, packaging or labelling of the product were more likely to appeal to under 18s than adults or to encourage underage purchase or sale.

ACTION BY COMPANY

The company has informed The Portman Group that it is planning to re-name the product.



VK VODKA KICK

GBL International Limited

Panel Meeting 4 September 2001

COMPLAINT SUMMARY

"I am writing to complain about VK Vodka Kick which is in clear breach of rule 3.1(i). The dictionary definition of "kick" extends to :-

- Exciting quality or effect (esp. in "get a kick out of", "for kicks")
- The sudden stimulating effect of strong alcoholic drink or certain drinks (Collins Dictionary)

It is quite clear that this descriptor is being used to build a perception of this product as one which will have both a mental and physical effect on the drinker."

COMPLAINANT

Bass Brewers

DECISION

Complaint under Code Paragraph 3.1(i) **NOT UPHELD**

The Panel did not think that the name and product descriptor suggested that the product could enhance mental or physical capabilities. It considered that the word "kick" denoted a mental or physical reaction or effect but did not necessarily imply a stimulating or energising effect. It noted that the product contained the stimulants taurine and caffeine but did not consider that any functional claims were made on the product's packaging in relation to these ingredients.

Hence, the Panel DID NOT UPHOLD the complaint.

ACTION BY COMPANY

None required.

CODE SIGNATORIES November 2001

Abernethy Foods Ltd
 Adnams plc
 Alcohols Ltd
 Allied Domecq plc
 Arkell's Brewery Ltd
 Ascot Inns
 Association of Licensed Multiple Retailers
 Averys of Bristol Ltd
 Bacardi-Martini Group
 Bass Brewers
 Beverage Brands (UK) Ltd
 Blavod Black Vodka Ltd
 Booker Ltd
 Brewers and Licensed Retailers Association
 BRL Hardy Wine Company
 Brothers Drinks Co Ltd
 Burtonwood Brewery plc
 Campbell Distillers Pernod Ricard Group
 Carlsberg Tetley Brewing Ltd
 Chandler & Co (Buckfast) Ltd
 Charles Wells Ltd
 Co-operative Retail Services (CRS) Ltd
 Co-operative Wholesale Society Ltd
 Coates & Co (Plymouth) Ltd
 Costcutter Supermarkets Group Ltd
 Cott Europe
 Daniel Batham & Son Ltd
 Daniel Thwaites Brewery
 Diageo plc
 Donnington Brewery
 Ehrmanns Group plc
 Eldridge Pope & Co plc
 Elgood & Sons Ltd
 En-Toute-Caisse Ltd
 Enterprise Inns plc
 Everard Brewery Ltd
 FD Brands Ltd
 First Choice Wholesale Foods
 First Quench Retailing Ltd
 Frederic Robinson Ltd
 Fuller Smith & Turner plc
 G T News Ltd
 GBL International Ltd
 George Bateman & Son Ltd
 George Gale & Co Ltd
 Gibbs Mew plc
 Gray & Sons (Chelmsford) Ltd
 Greene King plc
 Greenwich Distillers Ltd
 H&A Wines & Spirits Group Ltd
 Halewood International Ltd
 Hall & Woodhouse
 Hardys & Hansons plc
 Harvey & Sons (Lewes) Ltd
 Hayman Ltd
 Highland Distillers Ltd
 Hook Norton Brewery Co Ltd
 HP Bulmer Holdings plc
 Hyde's Brewery Ltd
 Inntrepreneur Pub Co
 Interbrew UK Ltd
 Intercontinental Brands (ICB) Ltd

Inver House Distillers Ltd
 J Sainsbury plc
 JC & RH Palmer Ltd
 Jennings Brothers plc
 Joseph Holt plc
 JW Lees & Co (Brewers) Ltd
 Kyndal Spirits Ltd
 Lanchester Wine Cellars Ltd
 Landmark Cash & Carry Ltd
 London & Scottish Spirits Ltd
 m-o-b limited
 Maclay Group plc
 Majestic Wine Warehouses Ltd
 Mansfield Brewery plc
 Marks and Spencer plc
 Matthew Clark plc
 McMullen & Sons Ltd
 Mercantile Vintners Ltd
 Merrydown plc
 Metro Discount Stores
 Mitchells of Lancaster (Brewers) Ltd
 Morrell's Brewery Ltd
 Nisa -Today's (Holdings) Ltd
 Northern Ireland Drinks Industry Group
 Oddbins
 Palmer & Harvey McLane - ACE
 Paramount plc
 Pubmaster Ltd
 Ringwood Brewery
 Robert Cain & Co Ltd
 S A Brain & Co Ltd
 Safeway Stores plc
 Scottish & Newcastle plc
 Scottish & Newcastle Retail
 Seagram Distillers plc
 Seagram United Kingdom Ltd

SFI Group plc
 Shepherd Neame Brewery Ltd
 Somerfield Stores Ltd
 St Austell Brewery Co Ltd
 T M Retail
 TD Ridley & Sons Ltd
 Tesco Stores Ltd
 The Belhaven Brewery Co Ltd
 The Black Sheep Brewery plc
 The Caledonian Brewing Company Ltd
 The Drinks Group Ltd
 The Felinfoel Brewery Co Ltd
 The Heavitree Brewery plc
 The National Association of Cider Makers
 The Wychwood Brewery Co Ltd
 Timothy Taylor & Co Ltd
 Tollemache & Cobbold Brewery Ltd
 Tom Cobleigh plc
 UDV
 Ushers of Trowbridge Ltd
 Venom Drinks UK Ltd
 Vickery Wines Ltd
 Wadworth & Co Ltd
 Waitrose Ltd
 Welsh Distillers Ltd
 WH Brakspear & Sons plc
 Whitbread plc
 Whittalls Wines Ltd
 Wolverhampton & Dudley Brewers plc
 Yates Group plc
 Young & Co's Brewery plc

The Code is also supported by

The Gin and Vodka Association of Great Britain
 Wine and Spirit Association of GB
 and Northern Ireland (Inc.)

THE PRE-LAUNCH ADVISORY SERVICE

Seeking advice before a product is launched can help to avoid the expense and embarrassment of having to make changes in response to an upheld complaint — and it costs nothing.

The Advisory Service can be contacted by telephone on 020 7907 3700 or by fax on 020 7907 3710.

HOW TO MAKE A COMPLAINT UNDER THE CODE

Details of the complaints process are given in our 'A Guide to Complaints' leaflet, available free of charge from The Portman Group (address below). Copies of the Code of Practice are also available from the same address on request. A brief summary of the complaints procedure follows.

You can make a complaint about any drink which exceeds 0.5% abv if you consider that the product contravenes the Code — for example, if you consider that the name, packaging or merchandising of the product:

- is more likely to appeal to under 18s than to adults;
- suggests any confusion as to the product's alcoholic nature or strength, or glamorises its alcoholic strength;
- links the product to illicit drugs or to dangerous or anti-social behaviour, or encourages irresponsible consumption;
- suggests sexual success or prowess.

You can make a complaint about a retailer if you consider that not enough care is being taken to ensure that alcoholic drinks are sold to adults only. For example, you might complain if alcoholic drinks are displayed together with soft drinks and are not clearly identified as alcoholic.

If you wish to make a complaint under the Code, please write to the Complaints Officer at The Portman Group, 7-10 Chandos Street, Cavendish Square, London W1G 9DQ. If you would like to discuss any aspect of the complaints procedure, you are welcome to telephone 020 7907 3700. Alternatively, you can send an e-mail to portmangroup@compuserve.com

THE INDEPENDENT COMPLAINTS PANEL

The Panel's procedures are set out in a Guide to Complaints available from The Portman Group on 020 7907 3700. Each complaint is considered carefully on its own merits.



Laurence Shurman, Panel Chairman

Retired solicitor, formerly managing partner Kingsley Napley; Banking Ombudsman 1989 - 1996; former Chairman of the British and Irish Ombudsman Association; school governor; former Mental Health Review Tribunal member; Council member of JUSTICE.



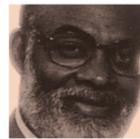
Lord Condon

Director of the Anti-Corruption Unit of the International Cricket Council; Commissioner of the Metropolitan Police 1993-2000; joined the Metropolitan Police in 1967.



Candace Currie

Reader in the Faculty of Education at the University of Edinburgh.



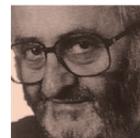
Carlton Duncan

Non-executive Director/Deputy Chairman, Board of Directors, Ashworth Hospital Authority, Liverpool; Home Secretary's Representative; Selection Panel, West Midlands Police Authority; former head-teacher, George Dixon GM School, Birmingham; Chairman, Birmingham Partnership for Change; former Magistrate and Health Authority non-executive Director.



Julie Eason

Private Secretary to the Permanent Secretary, Cabinet Office; management committee member of a Youth Counselling Service, Hastings; founder of "Release", a young people's drug outreach organisation; former Vice President (Welfare) and National Executive Member, National Union of Students.



Winston Fletcher

Chairman, Bozell UK Group; former Chairman, Advertising Association; visiting Professor, Lancaster University Management School; former Council Member of the Advertising Standards Authority.



Susan E. Murray

Group Marketing Director Littlewoods Plc. Former Chief Executive of The Pierre Smirnoff Company. Former Chair of the International Centre for Alcohol Policies.



Diana Whitworth

Chief Executive, Carers National Association. Former Head of Public Affairs, National Consumer Council. Member of Institute of Trading Standards Administration; school governor; former member of ITC's Advertising Advisory Committee.



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