

ADVERTISING ASSOCIATION RESPONSE TO THE PORTMAN GROUP CONSULTATION ON THE RESPONSIBLE ALCOHOL MARKETING CODE

January 30 2012

1) The Advertising Association

The Advertising Association (AA) is the only organisation that represents all sides of the advertising and promotion industry in the UK - advertisers, agencies and the media. In the UK, the advertising industry directly employs over 300,000 people. In 2010, advertising expenditure was £15.5bn.

We promote and protect advertising. We communicate its commercial and consumer benefits and we seek the optimal regulatory environment for our industry. Our goal is that advertising should enjoy responsibility from its practitioners, moderation from its regulators, and trust from its consumers.

2) Overview

The AA supports any moves towards less and better regulation. As such, we welcome the Portman Group's clear intention to reduce regulatory (and self-regulatory) duplication as set out in the consultation document.

The Advertising Association has been a big supporter of both the Portman Group and the codes that it governs since their creation, and we believe that the Portman Group has been an effective force in ensuring that the alcohol industry remains an industry which recognises its responsibilities in society. We believe that it is integral that the Advertising Association, as well the Advertising Standards Authority (ASA), maintain a close working relationship to ensure that the level of responsibility in relation to alcohol marketing is not only incredibly high, but also consistent. Specifically, we wholeheartedly support Section 1.3 of the Portman Group's Code which states that the Portman Group Code is consistent with the broadcast and non-broadcast advertising codes administered by the ASA. With this in mind, we welcome any moves to ensure that the Portman Group code rules align with those rules in the CAP and BCAP Codes.

3) Response to specific questions

Question 1a): Do you agree that we amend the remit of the Code to seek to cover all drinks producer marketing activity, including co-promotional activity with retailers (i.e. which has been agreed by the producer) and public relations, which is not otherwise regulated by either ASA or Ofcom?

We welcome the Portman Group's intent to reduce regulatory duplication. Following the ASA online remit extension, it is clearly sensible for the Portman Group to give up regulatory responsibility in favour of the ASA in the online marketing space. We wholeheartedly support the principle that if marketing activity is already subject to regulation through the ASA or Ofcom, then it should not be covered by the Portman Group Code.

It is important that the Portman Group marketing code is able to ensure that there is a consistency in responsible marketing activity across different marketing platforms and through different marketing techniques. Therefore, the broad principle that the Portman Group Code is expanded to cover all UK marketing activity (other than that which is covered by the ASA or Ofcom) should be welcomed. However, any changes should be done carefully and with full consultation with the relevant industries, for example the PR and retail industries when considering extending coverage to co-promotional activity with retailers and public relations companies working for third parties.

Furthermore, any Code extension should recognise and be consistent with the various other industry codes that are in existence or in development. For example, the Institute of Promotional Marketing (IPM) is developing an Experiential Marketing Code of Conduct. The IPM is developing its own code as it is not possible for the CAP code to cover significant elements of experiential marketing – particularly live oral communications. We believe that it is important that such a code is delivered and we support its development – and we want to ensure that the Portman Group Code is aligned with it.

Question 3): Do you agree with the proposal to broaden the rule relating to associations with sexual success?

We support the Portman Group proposal that the sexual success rule should be slightly broadened to bar any association with sexual success or sexual activity. This is consistent with the CAP code which states that marketing communications must neither link alcohol with seduction, sexual activity or sexual success nor imply that alcohol can enhance attractiveness.

Question 4a): Do you agree with the proposal to amend the Code to make clear that exemption to the under-25 rule rests on whether the under-25 is seen to be a consumer of, or otherwise endorsing, the brand?

The Advertising Association supports the rules set out in the CAP code that allow a limited exemption to the under-25 rule. The CAP code ensures that people who are or appear to be under 25 are not shown drinking or playing a significant role in alcohol advertisements. This is an important principle which allows under-25 year olds to be shown in alcohol advertisements only in the context of family celebrations and other incidental contexts. In light of this, the Advertising Association supports the Portman Group proposal to allow a person under 25 to be shown in an alcohol advertisement only if it is in an incidental context and there is no suggestion that they are a consumer of, or otherwise endorse, the brand being advertised.

Question 4b): Are there circumstances in which it is acceptable for images of 18- 24 year olds who are likely to be seen as consumers of the brand to nonetheless appear in drinks marketing? If so, what are these circumstances? In particular, what safeguards should apply to the age of the subject (i.e. the person in the picture) and what safeguards should apply to the age of the viewer?

As a member of CAP, the Advertising Association is already engaged in discussions taking place between industry and CAP about the applicability of the advertising codes for new marketing techniques in the online space, and particularly with regard to advertising in social media.

As a starting point, we believe that the Code should not prevent alcohol companies from allowing 18-24 year olds to access their Facebook brand sites even if these users' Facebook profile pictures will appear on the top of the screen. We believe that the simple appearance of the profile in this way is not a marketing communication for the purposes of the CAP Code, as the profile image has not been incorporated or adopted by the marketer into their own marketing communications.

However, the issue becomes more complex when considering "Sponsored Stories". A user may engage with a brand and this activity will be shown to that user's friends, with their profile picture associated with that activity. This activity appears organically as users interact with each other and with brand pages. "Sponsored Stories" allow a brand to pay to give that interaction greater prominence on a user's page or news-feed. These sponsored stories are highly personalised and targeted but the association of the profile picture is entirely out of the control of the marketer or brand.

CAP has discussed the issue of Sponsored Stories and currently holds the view that a profile picture included within a Sponsored Story may be considered part of the marketing communication. CAP has also noted that some Facebook users who are over 25 have opted to use profile pictures of them when they were under 25. As such, profile pictures within Sponsored Stories are likely to be bound by the advertising codes that do not allow for the image of anyone under 25 to play a prominent role in an alcohol brand's advertising. CAP has however noted that it must continue to consider the applicability of its rules to the changing online landscape. Additionally, the Incorporated Society of British Advertisers (ISBA) is currently consulting its alcohol members on their use of social media, and particularly sponsored stories. The outcome of this action will help inform discussions about whether further scrutiny of this issue by CAP and the wider industry is required.

Furthermore, the World Federation of Advertisers is working with alcoholic beverage producers to develop a common industry approach to applying, enforcing and monitoring self-regulatory rules on social media. They recognise, as does the Advertising Association, that it is vital that all social media companies work with the advertising industry and alcohol industry to devise new solutions as new advertising techniques emerge in social media. It is essential that industry fully understands social media and ensures that advertising codes are sufficiently future-proofed to adapt to allow new business models to flourish, while ensuring that advertising is undertaken in a responsible way.

Question 5): Do you agree that the Code should be amended to prevent alcohol from being offered on the basis of its therapeutic properties?

The Advertising Association supports the Portman Group proposal to amend the Code to state that alcohol should not be offered on the basis of its therapeutic properties. This is consistent with the CAP code which states: "Marketing communications must not imply that alcohol has therapeutic qualities."

Question 6a) Should we produce more detailed instructions on what constitutes responsible sponsorship? If so, should this be in the form of binding rules within the Code or of non-binding advice?

As a signatory to the pledge on alcohol advertising in the Department of Health's Responsibility Deal initiative, the Advertising Association agrees that the Portman Group Code would benefit from having more detailed sponsorship rules. We would support these new rules if they are absolutely in line with the Alcohol Sponsorship Guidelines for Scotland. The Scottish Guidelines are effective and we support them. We would be nervous of the creation of any new sponsorship guidelines which are not based on the Scottish Guidelines and we do not support any strengthening of the Scottish Guidelines.

We would also like to make it clear that when considering "sponsorship", this relates to events such as football matches, and should not be confused with sponsorship of TV programmes, which is covered by the Ofcom Code.

6b) Are there other areas of activity covered by the Code which would benefit from more detailed, binding rules to clarify what is acceptable and, if so, what are these areas?

With regard to new binding rules in relation to digital marketing, branded merchandise and sampling, we believe that there is not a pressing need for such rules, particularly as the ASA's online remit extension already covers digital marketing. The issue of sampling will be covered in the IPM's code on experiential marketing and, as discussed above, we urge the Portman Group to work with the IPM to ensure that its approach to experiential marketing is consistent with the IPM's.

We believe that it is essential that any moves to create binding rules for a particular medium or activity are fully consulted on.

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