



**THE ANNUAL CODE REPORT 2003**  
**THE PORTMAN GROUP'S CODE OF PRACTICE**  
ON THE NAMING, PACKAGING AND PROMOTION OF ALCOHOLIC DRINKS

## THE PORTMAN GROUP

The Portman Group was established in 1989 by the leading UK drinks companies. It is supported by the following companies: Bacardi Brown Forman Brands; Coors Brewers UK; Diageo Great Britain; Enterprise Inns; Interbrew; Laurel Pub Company; Mitchells & Butlers; Pernod Ricard; Pubmaster; Scottish & Newcastle; Thresher Group and Union Pub Company/Pathfinder Pubs. 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

The big news this year has been the revised Code. The third edition came into force on 1 March 2003, extending the rules to previously unregulated areas of commercial communication such as sponsorship, brand websites and branded merchandise. In addition, some of the existing rules were further tightened up or clarified. We have had the first two complaints about brand websites, which were both upheld.

The acknowledgement of the Code as "an example of a code which works well... [and which] includes a powerful sanction: the Retailer Alert" in the Government's Better Regulation Taskforce's report **Imaginative Thinking for Better Regulation** was welcome and deserved. We continue to achieve excellent compliance levels both by producers whose products fall short of the Code's high standards and by retailers in response to our Retailer Alert Bulletins, which are the principal sanction against offending products.

Less public, but arguably more important an instrument in the self-regulatory armoury, is our pre-launch advisory service, which has had its busiest year ever. By the end of 2003, the number of requests for advice is expected to be 50% higher than in 2002, itself the previous busiest year. Drinks producers are now noticeably more careful to ask for advice not only on the naming and packaging of a new product, but also on a whole range of point of sale and other promotional materials and activities.

This year has also seen a significant expansion in the number of Code awareness training courses provided by The Portman Group, not just to marketing teams within drinks companies, but also to the teams they commission from external agencies.

Not surprisingly, other countries, both in Europe and further afield, have observed the success and effectiveness of the Code and I am pleased that the UK drinks industry has set a high standard for responsible marketing by acting as a model for other markets.

The Independent Complaints Panel, impressively chaired by Lord Condon, has taken on its wider remit under the revised Code and continues to interpret the Code in the interests of responsible drinking by consumers and responsible marketing by the industry. Many thanks to all the Panel members for their hard work and dedication.



Jean Coussins  
Chief Executive, The Portman Group  
December 2003

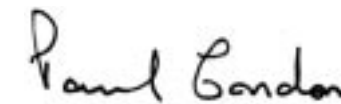
## REPORT OF THE CHAIRMAN OF THE INDEPENDENT COMPLAINTS PANEL

During the year under review, the Panel responded to complaints made under the second and the new third edition of the Code of Practice. The composition of the Panel changed with Diana Whitworth completing her scheduled involvement and I place on record my gratitude for the outstanding contribution she made. Sadly, for the Panel, Patrick Moore left prematurely to take up an exciting new teaching post in Indonesia and I send my best wishes to Patrick and his family. I welcome Morven Proctor who has brought to the Panel the valuable perspective of her role with the National Union of Students and Liverpool John Moores University. I also welcome Callum Jacobs who as head of Personal, Citizenship and Health Education at a large comprehensive brings invaluable insight through his day-to-day contact with young people and Angela Sarkis CBE who brings to the Panel many years of experience in the voluntary, charitable and public sector.

The Panel grappled with a number of complaints which tested the boundaries of both the old and the new Code of Practice. The "fcuk Spirit" decision has implications for potential products which seek to extend brands from other sectors to the alcoholic drinks industry. During the year, the Panel upheld complaints against websites for "Roxxoff" and "WKD" as they contravened relevant sections of the new Code. These decisions give clear guidance on the interpretation of the Code and the need for compliance.

The revised Code, after extensive consultation, changed the threshold test for compliance with the provision that products and promotional material must not suggest **any association** with sexual success. Consequently a complaint against "Shag Lime" was upheld. Panel members should not be arbiters of taste and decency but we do hope that new products will not intentionally or inadvertently trivialise or desensitise views about the potential harm arising from alcohol's ability to impair judgement and affect behaviour.

I thank my fellow Panel members for the time and care they devote to the work of the Panel and I also thank the Portman Group staff who provide administrative support.

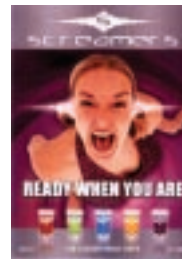


Lord Condon  
Chairman of the Panel  
December 2003



## SCREAMERS

Coors Brewers Limited



Panel Meeting 17 January 2003

### COMPLAINT SUMMARY

"I am appalled at the way the names of the drinks [Screamers] mimic sweet flavours. They convey a harmless sugary sweet image ie. rhubarb and custard, chocolate honeycomb and raspberry and pineapple. I am surprised that a strong alcoholic drink should be marketed obviously to a young audience in such a misleading way."

### COMPLAINANT

Member of the public, Cheltenham

### DECISION (under 2nd edition of Code)

Under Code paragraphs 3.1(a), 3.1(g) and 3.1(h) **NOT UPHELD**

Under Code paragraph 3.1(f) **UPHELD**

The Panel noted that the outer packaging featured the product descriptor "flavour vodka shots" as well as a statement of the product's alcoholic strength which was displayed as "alc. 20% vol". In the Panel's view, both were sufficiently prominent to meet the Code's requirement that the alcoholic nature and strength of the product be conveyed with clarity on the outer packaging of the product. The Panel noted that there were some variations across the product range and that while some of the individual container lids carried the word "vodka" above the brand name, others did not do so but instead carried the phrase "flavour vodka shot" above the statement of alcoholic strength. The Panel considered that both variants communicated the alcoholic nature of the product with sufficient clarity. The Panel considered further that the statement of alcoholic strength which appeared on the lid of the individual containers was sufficiently prominent to communicate with clarity the alcoholic strength of the product. Finally, the Panel considered that the shape of the individual containers, which in the Panel's view resembled a traditional shot glass, helped further to communicate the alcoholic nature of the product. Hence the Panel did not find the product in breach of Code paragraph 3.1(a).

The Panel considered that there were no features of the product's naming, labelling or packaging which encouraged immoderate consumption. Hence, the Panel did not find the product in breach of Code paragraph 3.1(f).

The Panel noted that the point of sale material which featured the headline "Serious head fun" had been discontinued and did not therefore make a decision in respect of this material. The Panel considered, however, in respect of the point of sale material which featured the headline "Ready when you are" that this headline, above a picture of five variants of the product lined up on a bar, was likely to be interpreted as a challenge to drink, especially when taken in conjunction with the facial expression of the woman. Furthermore the cartoon-style spiral shapes emanating from the young woman's ears were likely, in the Panel's view, to be interpreted as a reference to the intoxicating effect of consuming excessive quantities of the product. Hence, the Panel found this point-of-sale material in breach of Code paragraph 3.1(f).

The Panel considered that there were no features of the product's naming, labelling or packaging, nor any features of the point of sale material considered, which might encourage purchase by or sale to under 18s. Hence, the Panel did not find the product or point of sale material in breach of Code paragraph 3.1(g).

The Panel considered that there were no features of the product's naming, labelling or packaging, nor any features of the point of sale material considered, which might be more likely to appeal to under 18s than adults. Hence, the Panel did not find the product or point of sale material in breach of Code paragraph 3.1(h).

### ACTION BY COMPANY

Production of point of sale material ceased.



## ZIPPERS

Howe Shedden Associates

Panel Meeting 17 January 2003

### COMPLAINT SUMMARY

"The name 'zippers' is American for your 'flies'. The logo is a pair of half undone flies which is very sexual. The abv is printed in very small type.

The product does not look like a premium shot but more like a kids' pudding pot.

They have launched directly to the off-trade rather than going through the securer on trade."

### COMPLAINANT

Haggards Brewery

### DECISION (Under 2nd edition of Code)

Under Code paragraphs 3.1(a), 3.1(e), 3.1(g) and 3.1(h) **NOT UPHELD**

The Panel noted that the outer packaging featured the product descriptor 'Vodka Jelly Shot' as well as a statement of the product's alcoholic strength which was displayed as '12% vol' (although it noted that the words 'alcohol by volume' had been omitted). The Panel concluded that both were sufficiently prominent to convey the product's alcoholic nature and strength. The Panel noted that the individual containers featured the product descriptors 'Vodka Jelly' and 'Orange flavoured Jelly with Vodka'. The Panel considered these to be sufficiently prominent to meet the requirements of the Code but noted that the statement about the product's alcoholic strength was so small as to be almost illegible. In view of the fact, however, that the containers were always sold as a multi-pack in packaging which, in the Panel's view, clearly communicated both the alcoholic nature and strength of the product, the Panel did not find that the small size of the abv on the individual containers caused the product to breach the Code. Hence, the Panel did not find the product in breach of Code paragraph 3.1(a).

The Panel noted that the word 'zippers' was a US term denoting 'flies' but did not consider that, in a UK context, it had any meaning beyond that of a zip. The Panel concluded that neither the name "Zippers" nor the zip logo on the lids of the containers suggested sexual success or prowess. Hence, the Panel did not find the product in breach of 3.1(e)

The Panel considered that there were no features of the product's naming or packaging that were likely to encourage purchase by or sale to under 18s. Hence, the Panel did not find the product in breach of Code paragraph 3.1(g).

The Panel agreed that, although the shape of individual containers bore some resemblance to those containing childrens' desserts, there was no visual imagery anywhere on either the individual containers or the outer packaging that might appeal to under 18s. The Panel considered it unlikely that anyone would confuse the product with a children's dessert given that the product was sold in clearly labelled multi-packs, the packaging of which obscured the individual containers. Furthermore, the Panel noted that the individual containers were opaque and that the jelly was not clearly visible through the containers. Hence, the Panel did not find the product in breach of Code paragraph 3.1(h).

### ACTION BY COMPANY

None required.



## KISS ME

Evolution Enterprise

Panel Meeting 21 February 2003

### COMPLAINT SUMMARY

"The product's packaging:

- a) is confusing about the alcoholic nature of the product;
- b) encourages purchase by under 18s;
- c) appeals to under 18s rather than adults through (i) imagery to under 18s culture and (ii) artificially bright colours and styles of lettering."

### COMPLAINANT

Aquarius Action Projects

### DECISION (under 2nd edition of Code)

Under Code paragraphs 3.1(a), 3.1(g) and 3.1(h) **UPHELD**

Under Code paragraph 3.1(e) **NOT UPHELD**

The Panel noted that the individual containers displayed the product's strength as '14.5% Alc.' but was concerned that this statement was so small as to be almost illegible. The Panel also noted that the display box did not feature a statement of the product's strength on the front and that when the containers were on display, the statement '14.5% Alc.' was hidden from view. It considered that the product descriptors 'Passion Cocktail' and 'Tequila and lime flavour' were ambiguous and did not clearly communicate the product's alcoholic nature. Hence, the Panel found the product in breach of Code paragraph 3.1(a).

The Panel noted that children used test tubes in school science lessons. It therefore considered that the unusual and gimmicky nature of the packaging combined with the bright colours of the product and the wording and style of writing on the containers, was more likely to appeal to under 18s than adults and was also likely to encourage purchase by under 18s. The Panel therefore concluded that the product was in breach of Code paragraphs 3.1(g) and 3.1(h).

The Panel noted the name of the product 'Kiss Me' and one of the product descriptors 'Passion Cocktail' but concluded that there was no direct suggestion of sexual success or prowess. Hence, the Panel did not find the product in breach of Code paragraph 3.1(e).

### ACTION BY COMPANY

Not known.



## SAFeway STORES PLC

Safeway Stores, Worting Road, Basingstoke

Panel Meeting 21 February 2003

### COMPLAINT SUMMARY

The complainant alleged that some alcoholic products were displayed outside the main alcoholic drinks section and were neither specifically marketed as alcoholic nor identified as being for sale to adults only in breach of Code paragraph 4.1(b).

### COMPLAINANT

Member of the public, Basingstoke

### DECISION (under 2nd edition of Code)

Under Code paragraph 4.1(b) **UPHELD**

The Panel noted that the examples of promotions given in the complainant's letter were different from those provided within the photographic evidence. The Panel accepted that the reason for this was the fact that stores frequently change their product displays. The Panel based its decision on the photographic evidence provided.

The Panel noted that there were displays of alcoholic drinks outside the main section for alcoholic drinks. The Panel noted further that these displays did not always have signs to indicate that the products were alcoholic nor were there always signs to indicate that the products were for sale to over 18s only. Hence, the Panel upheld the complaint under Code paragraph 4.1(b).

The Panel noted that section 4.1(b) will be dropped from the Code with effect from 1st March 2003.

### ACTION BY COMPANY

None required.

# Sainsbury's

## J SAINSBURY PLC

J Sainsbury, Wallop Drive, Hatch Warren, Basingstoke

Panel Meeting 21 February 2003

### COMPLAINT SUMMARY

The complainant alleged that some alcoholic products were displayed outside the main alcoholic drinks section and were neither specifically marketed as alcoholic nor identified as being for sale to adults only in breach of Code paragraph 4.1(b).

### COMPLAINANT

Member of the public, Basingstoke

### DECISION (under 2nd edition of Code)

Under Code paragraph 4.1(b) **UPHELD**

The Panel noted that the examples of promotions given in the complainant's letter were different from those provided within the photographic evidence. The Panel accepted that the reason for this was the fact that stores frequently change their product displays. The Panel based its decision on the photographic evidence provided.

The Panel noted that there were displays of alcoholic drinks outside the main section for alcoholic drinks. The Panel noted further that these displays did not always have signs to indicate that the products were alcoholic nor were there always signs to indicate that the products were for sale to over 18s only. Hence, the Panel upheld the complaint under Code paragraph 4.1(b).

The Panel noted that section 4.1(b) will be dropped from the Code with effect from 1st March 2003.

### ACTION BY COMPANY

None required.



## TESCO

Tesco Stores, Chineham Shopping Centre, Basingstoke

Panel Meeting 21 February 2003

### COMPLAINT SUMMARY

The complainant alleged that some alcoholic products were displayed outside the main alcoholic drinks section and were neither specifically marketed as alcoholic nor identified as being for sale to adults only in breach of Code paragraph 4.1(b).

### COMPLAINANT

Member of the public, Basingstoke

### DECISION (under 2nd edition of Code)

Under Code paragraph 4.1(b) **UPHELD**

The Panel noted that the examples of promotions given in the complainant's letter were different from those provided within the photographic evidence. The Panel accepted that the reason for this was the fact that stores frequently change their product displays. The Panel based its decision on the photographic evidence provided.

The Panel noted that there were displays of alcoholic drinks outside the main section for alcoholic drinks. The Panel noted further that these displays did not always have signs to indicate that the products were alcoholic nor were there always signs to indicate that the products were for sale to over 18s only. Hence, the Panel upheld the complaint under Code paragraph 4.1(b).

The Panel noted that section 4.1(b) will be dropped from the Code with effect from 1st March 2003.

### ACTION BY COMPANY

None required.



## FCUK SPIRIT

Matthew Clark plc

Panel Meeting 25 April 2003

### COMPLAINT SUMMARY

The complainant alleged that the name 'fcuk' was a brand of fashion clothing sold mainly to teenagers. Therefore, in the complainant's view, the brand offended against Code paragraph 3.1(g) which states that products should not encourage purchase by or sale to under 18s.

The complainant alleged that the alcohol type, which the complainant believed to be "Spirit", was in small insignificant print. This, in the complainant's view, offended against paragraph 3.1(a) of The Portman Group's Code which states that the naming and packaging of a drink should clearly communicate the alcoholic nature of the product and its strength to the purchaser or consumer.

The complainant alleged further that the label offended against Code Paragraph 3.2(i)(b) which states that the common name of the alcoholic ingredient shall be prominent in terms of colour, style of lettering and field of vision.

### COMPLAINANT

Member of the public, Devon

### DECISION (under 2nd edition of Code)

Under Code paragraphs 3.1(h) and 3.1(g) **UPHELD**

Under Code paragraphs 3.1(a), 3.2(i) (a,b) and 3.1(e) **NOT UPHELD**

The Panel considered product samples, the dossier which had been sent to the company and complainant, and the company's responses to the dossier. The Panel heard further arguments from the company during an oral hearing and considered market research information which was provided by the company. In response to the provisional decision, the company submitted written comments and requested a further oral hearing. The Panel granted this and heard oral representations from the company. These arguments, however, did not convince the Panel to reverse its original decision.

The Panel considered whether the product's labelling communicated with sufficient clarity the alcoholic nature and strength of the product. The Panel noted that the product's neck label featured the prominent product descriptor 'Vodka Mix' and the statement 'Alc 5.4% Vol'. In the Panel's view, the alcoholic nature and strength of the product were clearly communicated.

The Panel therefore did not find the product in breach of Code paragraph 3.1(a).

The Panel then considered whether the product's labelling breached Code paragraph 3.2(i) (a,b). It concluded that the common name of the alcoholic ingredient, vodka, was sufficiently prominent on both the product's front and back labels in terms of colour, style of lettering and field of vision.

Hence, the Panel did not find the product in breach of Code paragraph 3.2(i) (a,b).

The Panel next considered whether the brand name suggested sexual success or prowess. Although the Panel noted that the letters of part of the brand name 'fcuk' could be re-arranged to read 'fuck', it concluded that the brand name did not in any direct or indirect way suggest sexual success or prowess.

Hence, the Panel did not find the product in breach of Code paragraph 3.1(e).

The Panel then considered whether the brand name or labelling of the product in any direct or indirect way was more likely to appeal to under 18s than adults.

The Panel was initially concerned that the 'fcuk' brand was likely to be popular amongst under 18s and accordingly asked the company to provide it with specific information as to the 'fcuk' brand's popularity with under 18s. The Panel considered carefully the information provided by the company as a result of that request alongside all of the other evidence that had been submitted.

The Panel noted that although 14-17 year olds had not, over a five year period, spent as much money on average as older age groups on 'fcuk' products, they represented a significant percentage of 'fcuk' customers (for example during 2002, they comprised approximately a quarter of all customers). The expenditure levels amongst 14-17 year olds were also rising fast.

In the Panel's view, the research showed that awareness of the 'fcuk' brand was very high among 14-17 year olds and that it was popular amongst that age group. The Panel also noted that a high number of 14-17 year olds considered 'fcuk' to be a stylish brand and that a higher proportion of 14-17 year olds than any other age group seemed to hold that view. Further, the Panel noted that a high percentage of 14-17 year olds believed the 'fcuk' brand to be for people like them and that a higher percentage of 14-17 year olds than any other age group seemed to believe that the 'fcuk' brand was for people like them.

The Panel therefore concluded in the light of all the evidence that had been placed before it and taking into account the information that the company had provided as a whole, that the brand name of the product was more likely to appeal to under 18s than adults in breach of Code paragraph 3.1(h).

The Panel then considered whether the brand name or labelling of the product in any direct or indirect way encouraged purchase by or sale to under 18s.

For the same reasons as it had found the brand name to be in breach of Code paragraph 3.1(h), the Panel concluded that the brand name would also encourage purchase by or sale to under 18s in breach of Code paragraph 3.1(g).

The Panel wished to convey its appreciation to the company for producing the information the Panel had requested and for the effort the company had gone to in order to do so.

### ACTION BY COMPANY

The company disagreed with this decision but nevertheless agreed to withdraw the product.



## ROXXOFF & WWW.ROXXOFF.COM

Yours Alternatively Ltd



Panel Meeting 23 June 2003

### COMPLAINT SUMMARY

"The manufacturers claim that Roxxoff, with its combination of Russian Vodka and the aphrodisiac qualities of ancient Chinese herbs, will enhance the libido. We believe that claims of this sort contravene the code of practice as stated in 3.2 'A drink, its packaging and any promotional material or activity should not in any direct or indirect way: (d) suggest any association with sexual success; (i) suggest that the product can enhance mental or physical capabilities.'

We take the view that promotions of this sort send out a completely irresponsible message to the young drinkers and clubbers it is aimed at, and will only increase the likelihood of binge-drinking and unsafe sex." Alcohol Focus Scotland.

### COMPLAINANT

Alcohol Focus Scotland; The British Beer & Pub Association; The Salvation Army; Diageo Great Britain

### DECISION (under 3rd edition of Code)

Under Code paragraphs 3.2(d), 3.2(i) **UPHELD**

Under Code paragraph 3.2(f) **NOT UPHELD**

The Panel considered that no part of the website in any direct or indirect way encouraged illegal, irresponsible or immoderate consumption, such as binge-drinking, drunkenness or drink-driving. Hence the Panel did not find the website in breach of Code paragraph 3.2(f).

The Panel considered that the website featured several direct and implied claims for both the product "Roxxoff" and its herbal ingredients which associated the product with sexual success. These claims included: "a totally natural blend of herbal aphrodisiacs"; "herbal libido boosters"; "What if we mixed quality Russian vodka with a scientifically blended concoction of the most potent and proven Chinese aphrodisiacs? Would we be creating a race of randy super beings...?"; and "...Horny Goat Weed. This flower's aphrodisiac qualities were first discovered when a Chinese farmer noticed that every time his goats tucked into this particular plant frantic mating sessions followed almost immediately". The Panel considered that the name of the product, "Roxxoff", was a play on the well-known phrase 'to get your rocks off' meaning to achieve sexual satisfaction and therefore a direct association with sexual success. The Panel therefore found both the website and the product as presented on the website in breach of Code paragraph 3.2(d).

The Panel considered that several claims on the website including: "a unique formulation of herbal libido boosters"; "...the Chinese herbal ingredients interact with specific parts of the body - such as the kidneys and liver- to stimulate blood flow"; and "The stimulant effect of the vodka sets the pulses racing while 'RF 10' (the cocktail of herbal libido boosters) goes to work on the blood stream" as well as the name of the product, "Roxxoff", suggested that the product could enhance mental or physical capabilities. Hence, the Panel found both the website and the product as presented on the website in breach of Code paragraph 3.2(i).

### ACTION BY COMPANY

The company agreed to make certain changes to the website following the Panel's decision.



## WWW.WKD.CO.UK

Beverage Brands (UK) Ltd

Panel Meeting 23 June 2003

### COMPLAINT SUMMARY

"The Forum believes the website is aimed at encouraging a tolerance of the 'red-blooded' male agenda, and promotes a 'lad-culture', 'binge-drinking' image. The Forum feels it is irresponsible to promote a mental acceptance that alcohol consumption leads to sexual and social success and popularity, and believe that the 'pole dancing' section and the 'breast matching game' are prime examples of this."

### COMPLAINANT

Stirling Substance Forum

### DECISION (under 3rd edition of Code)

Under Code paragraphs 3.2(d), 3.2(g) **UPHELD**

Under Code paragraph 3.2(b), 3.2(e), 3.2(f) **NOT UPHELD**

The Panel considered that neither a specific part of the website nor the site as a whole suggested any association with bravado, or with violent, aggressive or anti-social behaviour. Hence the Panel did not find the website in breach of Code paragraph 3.2(b).

The Panel considered that neither a specific part of the website nor the site as a whole suggested that consumption of the drink could lead to social success or popularity. Hence the Panel did not find the website in breach of Code paragraph 3.2(e).

The Panel considered that neither a specific part of the website nor the site as a whole encouraged illegal, irresponsible or immoderate consumption, such as binge-drinking, drunkenness or drink-driving. Hence, the Panel did not find the website in breach of Code paragraph 3.2(f).

The Panel considered that the combined effect of specific parts of the website, including a section where users could put together a short film using video clips of a pole dancer 'WKD Wendy' and several electronic postcards including one featuring three pairs of intertwined feet and the caption " Me, your mum and your sister!" and another featuring a picture of a pole dancer with the caption "Baby, you can grease my pole any time you like", was to associate the product with sexual success. Hence, the Panel found the website in breach of Code paragraph 3.2(d).

The Panel considered that the website as a whole, particularly those sections with sexual allusions including the lap dancer film, "the nipple game" (a memory game where users matched pictures of breasts and other objects such as melons) and several electronic postcards, had a particular appeal to under-18s. Hence, the Panel found the website in breach of Code paragraph 3.2(g).

The Panel raised no objection to the producer seeking to promote its brand in a cheeky and irreverent way. It considered, however, that the producer should take greater care to ensure that, in doing so, it did not adopt such an overtly sexual and/or puerile approach that is caused the website either to associate the product with sexual success or to appeal to under 18s.

### ACTION BY COMPANY

The company agreed to make certain changes to the website following the Panel's decision.



## SHAG LIME (AND VARIANTS)

Spirit Hop And Grape Holdings Ltd

Panel Meeting 12 September 2003

### COMPLAINT SUMMARY

"The name Shag suggests sexual intercourse, as this is a common use of the word (Concise Oxford Dictionary - 'have sexual intercourse with; an act of sexual intercourse')."

### COMPLAINANT

The Wine and Spirit Association

### DECISION (under 3rd edition of Code)

Under Code paragraphs 3.2(f) **UPHELD**

The Panel first noted that in July 2001, it had considered a complaint about Shag Lager, also produced by this company, under the 2nd edition of the Code. It had ruled that 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 that instance.

The Panel noted that the wording of the relevant paragraph in the 3rd and latest version of the Code had changed to state that a drink, its packaging and any promotional material or activity should not in any direct or indirect way suggest any association with sexual success. The Panel therefore considered that the threshold test for compliance with the Code was different to the earlier version and that the Code had been revised specifically to discourage any association with sexual success.

The Panel noted the producer's arguments that they were no longer using 'traditional British postcard humour' in their promotional material and packaging, that the brand had undergone a facelift to appeal to its target market of 18-35 year old clubbers and that a "shag" was a type of seabird, a cartoon visual of which was featured on the neck label.

However, the Panel also noted that "shag" was a commonly used slang word for sexual intercourse, particularly among the product's target market, and considered this was how consumers were most likely to interpret the brand name. It also considered that in view of alcohol's potential to impair judgement and affect behaviour, to link alcohol and sexual activity in a product's name, packaging or promotional material was undesirable because it might encourage potentially harmful attitudes and behaviour. It considered that paragraph 3.2(f) of the new Code was designed to prevent such marketing approaches and therefore concluded that the brand name of Shag Lime and the other flavour variants in the range were in breach of this paragraph.

### ACTION BY COMPANY

Not known.



## BUZZPOTS

The Tubular Drinks Company Ltd

Panel Meeting 21 November 2003

### COMPLAINT SUMMARY

"Our complaint is focused around two areas: the visibility of the product, which we are required to obscure, and the youth oriented logo (style and font)."

### COMPLAINANT

The Bad Jelly Company

### DECISION (under 3rd edition of Code)

Under Code paragraphs 3.2(a) and 3.2(i) **NOT UPHELD**

Under Code paragraph 3.2(g) **UPHELD**

The Panel considered that the product's packaging did not have the alcoholic strength, relatively high alcohol content, or intoxicating effect, as a dominant theme. Hence, the Panel did not find the product in breach of Code paragraph 3.2(a).

The Panel considered that the product's packaging did not suggest that the product could enhance mental or physical capabilities. Hence, the Panel did not find the product in breach of Code paragraph 3.2(i).

The producers believed that the font and style of the packaging was not particularly youthful or distinctly attractive to a youthful audience. The Panel considered, however, that the combination of the lettering on the containers, the fact that the bright colours of the product were visible through the transparent containers, the product name and the instruction 'wobble it and gobble it' meant the product had a particular appeal to under 18s. Hence the Panel found the product in breach of Code paragraph 3.2(g).

### ACTION BY COMPANY

Not known at time of going to press.



## TUBZ

Strelley Enterprises Ltd

Panel Meeting 21 November 2003

### COMPLAINT SUMMARY

"...we feel that the alcoholic nature is not clear"

"...we also believe that the packaging should be opaque... and that the type style and font is too 'kiddy'."

### COMPLAINANT

The Bad Jelly Company

### DECISION (under 3rd edition of Code)

Under Code paragraph 3.1 **NOT UPHELD**

Under Code paragraph 3.2(g) **UPHELD**

The Panel considered that the alcoholic nature of the drink was communicated clearly on its packaging. Hence, it did not find the product in breach of Code paragraph 3.1.

The Panel noted the producers' arguments that the product was not sold in the off-trade and that the brand name, style and font used on the packaging was 'Sixties' in feel and had been designed specifically for the 18-30s market. It also noted that the packaging featured the phrases 'Warning Keep Out of Reach of Children' and 'For Adults Only'.

The Panel noted that the product was not intended for sale through the off-trade but considered that once it had been sold to a third party the producers could not guarantee this. Furthermore, the Panel considered that even if the product were available only through the on-trade, it could still be seen by, and appeal to, under 18s. The Panel concluded that the product had a particular appeal to under 18s because of the combination of comic-book style lettering on the containers and the fact that the bright colours of the product were visible through the transparent containers. Hence the Panel found the product in breach of Code paragraph 3.2(g).

### ACTION BY COMPANY

The company agreed to make changes to the product's packaging following the Panel's decision.



## X-PLODE

Pinsight Financial Services Ltd

Panel Meeting 21 November 2003

### COMPLAINT SUMMARY

"...its packaging contravenes the Portman Group Code of Practice 3.2(d) in suggesting an association with sexual success. "

### COMPLAINANT

Licensee, Brighton

### DECISION (under 3rd edition of Code)

Under Code paragraphs 3.1, 3.2(d), 3.2(f) and 3.2(g) **UPHELD**

The Panel noted that the label tagged on to the product featured the descriptor 'cream liqueur' and that its reverse stated that the product's strength was 15% abv. It considered, however, that these references were not sufficiently prominent to communicate with absolute clarity the alcoholic nature of the product. It also noted that the container itself featured no reference to the product's alcoholic nature. Hence, the Panel found the product in breach of Code paragraph 3.1.

The Panel noted the importers' arguments that although the shape of the product's packaging had a sexual reference, both it and the phrase on the label 'Keep 'em coming', were intended to be humorous and did not suggest sexual success. The Panel considered that the product's sperm-shaped packaging in particular but also the label claim 'Keep 'em coming' linked the product with sexual activity. In view of alcohol's potential to impair judgement and affect behaviour, it considered that such an approach was undesirable. The Panel therefore concluded that the product was in breach of Code paragraph 3.2(d).

The importers argued that the product's labelling and packaging did not encourage binge-drinking or immoderate consumption because the containers held only 20ml and the label claim 'Keep 'em coming' was intended to be a humorous sexual double entendre, not an encouragement to binge drink. The Panel was concerned, however, that the reference 'Keep 'em coming' was likely to encourage irresponsible or immoderate consumption such as binge-drinking or drunkenness. Hence, the Panel found the product in breach of Code paragraph 3.2(f).

The importers asserted that cream liqueurs were an acquired taste and that the product therefore would not appeal to under 18s. They also believed that the product's sexual references were mild and humorous and no more likely to appeal to under 18s than to adults. The Panel was concerned that the novelty sperm character container and cartoon-style illustration of a sperm on the label had a particular appeal to under 18s. Hence, the Panel found the product in breach of Code paragraph 3.2(g).

### ACTION BY COMPANY

Not known at time of going to press.

## CODE SIGNATORIES November 2003

Aberness Foods Ltd	Greene King plc	TD Ridley & Sons Ltd
Adnams plc	Greenwich Distillers Ltd	Ringwood Brewery
Alcohols Ltd	H&A Wines & Spirits Group Ltd	Fredric Robinson Ltd
Allied Domecq Spirits & Wines (UK) Ltd	Halewood International Ltd	SABMiller plc
Arkell's Brewery Ltd	Hall & Woodhouse Ltd	Safeway Stores plc
Association of Licensed Multiple Retailers	Hardys & Hansons plc	J Sainsbury plc
Avery's of Bristol Ltd	Harvey & Sons (Lewes) Ltd	Scottish & Newcastle plc
ASDA Stores Ltd	Hayman Ltd	SFI Group
British Beer & Pub Association	Joseph Holt plc	Shepherd Neame Brewery Ltd
Bacardi Brown Forman Brands	Hook Norton Brewery Co. Ltd	Somerfield Stores Ltd
George Bateman & Son Ltd	Hyde's Brewery Ltd	St Austell Brewery Co. Ltd
Blavod Drinks Ltd	Interbrew UK	Timothy Taylor & Co.Ltd
Beverage Brands (UK) Ltd	Intercontinental Brands (ICB) Ltd	Tesco Stores Ltd
S A Brain & Co.Ltd	Inver House Distillers Ltd	The Belhaven Brewery Co.Ltd
Brothers Drinks Co. Ltd	Jennings Brothers plc	The Black Sheep Brewery plc
Burtonwood Brewery plc	Kyndal Spirits Ltd	The Caledonian Brewing Company Ltd
Booker plc	Lanchester Wine Cellars Ltd	The Co-operative Group
WH Breakspear & Sons plc	Landmark Cash & Carry Ltd	The Drinks Group
Robert Cain & Co. Ltd	Laurel Pub Company	The Felinfoel Brewery Co. Ltd
Carlsberg Tetley Brewing Ltd	London & Scottish International Ltd	The Heavitree Brewery plc
J Chandler & Co (Buckfast) Ltd	Maclay Group plc	The National Association of Cider Makers
Matthew Clark plc	Majestic Wines Warehouses Ltd	The Union Pub Company
Coates & Co (Plymouth) Ltd	Marks and Spencer plc	The Wine and Spirit Association
Coors Brewers Ltd	McMullen & Sons Ltd	Thresher Group
Costcutter Supermarkets Group Ltd	Mercantile Vintners Ltd	Daniel Thwaites & Co. Ltd
Daniel Batham & Son Ltd	Merrydown plc	T M Retail
Diageo Great Britain	Metro Discount Stores	Tollemache & Cobbold Brewery Ltd
Ehrmanns Ltd	Mitchells & Butlers plc	Vickery Wines Ltd
Elgood & Sons Ltd	Mitchells of Lancaster (Brewers) Ltd	Charles Wells Ltd
Enterprise Inns plc	MOB Ltd	Western Wines Ltd
Everards Brewery Ltd	Morrells Brewery Ltd	Wadworth & Co.Ltd
The Edrington Group	Nisa-Today's (Holdings) Ltd	Waitrose Ltd
FD Brands Ltd	Northern Ireland Drinks Industry Group	Whiskynet
First Choice Wholesale Foods	JC & RH Palmer Ltd	Whitbread Group plc
Fuller Smith & Turner plc	Palmer & Harvey McLane Ltd	Whittalls Wines Ltd
G T News Ltd	Pathfinder Pubs	Wolverhampton & Dudley Breweries Ltd
George Gale & Co Ltd	Pernod Ricard UK	Yates Group plc
GBL International Ltd	Pubmaster Ltd	Young & Co's Brewery plc
Gin & Vodka Association of Great Britain	Rank Group	
Gray & Sons (Chelmsford) Ltd	Refresh UK	

## THE PORTMAN GROUP'S CODE ADVISORY SERVICE

Seeking advice before a product is launched or when creating promotional material 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 and telephone number below). Copies of the Code of Practice are also available from the same address on request.

The Portman Group's Code of Practice encourages drinks producers to market their products responsibly. A product might contravene the Code if its name, packaging or marketing:

- does not make it clear that it's an alcoholic drink;
- appeals particularly to under 18s;
- emphasises the alcoholic strength unduly;
- links the product with illicit drugs;
- associates the product with sexual success;
- suggests bravado, violence, dangerous or anti-social behaviour;
- makes you think that drinking it will help you become popular or successful;
- encourages illegal or irresponsible drinking, such as binge drinking or drink-driving;
- uses inappropriate images of people under 25;
- suggests it can improve your mental or physical performance.

The Code applies to a drink's packaging, (including its brand name) and also to point-of-sale advertising, websites, sponsorship, branded merchandise, press releases, advertorials and sampling.

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 email to [info@portmangroup.org.uk](mailto:info@portmangroup.org.uk)

## 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.



### Lord Condon (Chairman)

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



### Angela Sarkis CBE (from October 2003)

An independent consultant with wide experience of voluntary organisations, the public sector, faith communities and charitable trusts. A BBC Governor since October 2002. Chairs the National Council for Voluntary Organisations Diversity Project and is a member of the Home Office Active Community Unit Advisory Panel and the Vice-President of the African Caribbean Evangelical Alliance. Currently a non-executive director on the Home Office Correctional Services Board. Former Chief Executive of the Church Urban Fund 1996-2002.



### Hugh Burkitt

Chief Executive of The Marketing Society since April 2003. Spent twenty years working on the advertising of alcoholic drinks, and retired as Chairman of the Burkitt DDB agency in October 2002. He was a member of the Advertising Standards Authority Council from 1995 to 2001 and Chairman of the IPA's Advertising Controls Group from 1994 to 2001.



### Dr Candace Currie

Director of the Child and Adolescent Health Research Unit at the University of Edinburgh. International Coordinator of Health Behaviour in School-Aged Children: WHO Collaborative Cross-National Study (HBSC).



### Callum Jacobs (from October 2003)

Head of Personal, Citizenship and Health Education and also teacher of sociology and psychology at Copthall School, a comprehensive secondary school in Barnet, London. Worked with Barnet Local Education Authority producing drug education resources for schools. Currently works with young people, specialising in drug and alcohol education.

Panel members continued overleaf..

## THE INDEPENDENT COMPLAINTS PANEL continued



**Patrick Moore** (until August 2003)

Head of the Science Faculty at Churchill Community College, North Somerset.



**Susan E. Murray**

Chief Executive High Street of Littlewoods Retail Ltd since April 2002. Former President and Chief Executive Officer of The Pierre Smirnoff Company. Former Chair of the International Centre for Alcohol Policies. Advertising Standards Authority Council member since May 2003.



**Morven Proctor**

Welfare Advisor at Liverpool John Moores' University Student Union. Former Women's Officer, National Union of Students Scotland. Former Vice-President (Welfare), Stirling University Students' Association.



**Diana Whitworth** (until October 2003)

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 Advisory Committee.

**The Portman Group**  
7-10 Chandos Street  
Cavendish Square  
London W1G 9DQ

**Tel** +44 (0) 20 7907 3700  
**Fax** +44 (0) 20 7907 3710  
**Email** [info@portmangroup.org.uk](mailto:info@portmangroup.org.uk)  
**Visit** [www.portmangroup.org.uk](http://www.portmangroup.org.uk)

Typeset by Paula Sayer +44 (0) 20 8881 7379  
Printed by Belmont Press +44 (0) 1604 596 500