

SELF-REGULATION AND ALCOHOL

**A TOOLKIT FOR EMERGING MARKETS
AND THE DEVELOPING WORLD**

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This paper was prepared by Ms. Gaye Pedlow, Director of Group Alcohol Policy at Diageo, plc on behalf of the ICAP Board of Directors.

¹ ICAP is dedicated to helping reduce the abuse of alcohol worldwide and to promoting understanding of the role of alcohol in society through dialogue and partnerships involving the beverage alcohol industry, the public health community and others interested in alcohol policy. ICAP is a not-for-profit organization supported by eleven major international beverage alcohol companies.

1. Why advertising and other commercial communications need to be regulated

Advertising is only one element of a wide range of activities that fall under the general heading of 'commercial communications'. These activities include sponsorship, point of sale information, consumer promotions, labelling, packaging and merchandising. All of these activities are undertaken, every day, by just about every company that has one or more consumer brands that it wants to promote. But to the general public, advertising is by far the most conspicuous sign of marketing. It is in the interests of all sectors – advertisers, consumers and governments alike – to ensure that advertising is consistently legal, decent, honest and truthful.

“If bad advertising – dishonest, misleading or offensive – is allowed to go on unchecked, even though it may account for only a small percentage of the whole, it will gradually undermine consumers’ confidence and all advertising will suffer. So it is in the interests of the advertising industry itself to ensure that advertising is properly regulated.”

*The Blue Book*²

This booklet is intended to give the reader an overview of self-regulation, including all the elements that make up an effective self-regulatory system. It is aimed especially at those countries where there are no self-regulatory mechanisms in place, but may also be useful to self-regulatory bodies wishing to modify their codes. References and a model code of practice for the marketing and promotion of alcohol beverages are also included.

2. Self-regulation versus legislation

Self-regulation is a process whereby advertisers work together with advertising agencies and the media to ensure that advertising standards are agreed and adhered to. A system is set up to ensure that complaints about advertising or other promotional activities can be dealt with promptly, fairly and efficiently. The system must be capable of ensuring that advertisements or promotions that fail to meet the agreed standards are amended or removed.

“Ensuring such ‘good’ advertising behaviour requires that the following control tasks be performed: (1) developing standards; (2) making them widely known and accepted by advertising professionals; (3) advising advertisers and agencies beforehand on a voluntary or mandatory basis; (4) monitoring compliance with the norms; (5) handling complaints from consumers, competitors and other interested parties; and (6) penalizing ‘bad’ behaviour in violation of the standards.”

*Advertising self-regulation and outside participation*³

² European Advertising Standards Alliance. (2001). *The Blue Book: Advertising self-regulation in Europe* (3rd Edition). Brussels: author.

³ Boddewyn, Jean J. (1988). *Advertising self-regulation and outside participation : a multinational comparison*. New York: Quorum Books.

Self-regulation has a proven track record in many countries. Its foundations are found in the ICC Code of Advertising Practice first issued by the International Chamber of Commerce in 1937, although some countries had by then already developed their own self-regulatory systems.

“Well-constructed industry self-regulatory efforts offer several advantages over government regulation of legislation. Self-regulation often can be more prompt, flexible and effective than government regulation.”

*FTC report: Self-regulation in the alcohol industry*⁴

This is not to say that there is no role for legislation to play with relation to advertising and other forms of commercial communication. A legislative framework can be helpful in defining the boundaries within which self-regulation has to operate.

“Legislation is well-suited for laying down broad principles, for example that advertising must not mislead and it provides a last resort in the rare cases when all else has failed. It is less effective, however, when dealing with detail; the law is often slow to act, difficult for ordinary consumers to understand and too expensive for them to afford, so the protection it provides in theory may not be so readily available in practice. Also, the content of individual advertisements, although it matters very much to consumers, is often too detailed for the law to concern itself with.”

*The Blue Book*⁵

There is no such thing as the single ‘perfect’ model for self-regulation. Two principal factors are decisive in determining the form that self-regulation takes in any country. The first factor is tradition; each country’s self-regulatory system is likely to reflect its cultural, commercial and legal traditions. The second is opportunity; self-regulation is a flexible instrument, but it can only truly flourish where the legislative framework gives it sufficient scope to do so.

Within Europe, that means that different self-regulation models have evolved in different ways. In the UK and Ireland, the law has relatively little to say about the detail of advertising content, whereas in Germany and Austria, the law covers most aspects of self-regulation and the self-regulatory organisations (SROs) deal only with issues of taste and decency. The Swedish self-regulatory system, developed over eighty years ago, was made redundant in the 1970s by the introduction of the Market Court. In recent years however, the Swedish government has shown signs of renewed interest in the role of self-regulation, not least because of the obvious financial advantages of a system funded entirely by the private sector.

The past decade has seen the emergence of self-regulatory systems in the so-called ‘New Europe’, with SROs being established in the Czech and Slovak Republics, Slovenia, Hungary, Russia and Poland. Efforts are being made to establish similar organisations in Romania and Lithuania. Allowances

⁴ Federal Trade Commission (1999). *Self-regulation in the alcohol industry: A review of industry efforts to avoid promoting alcohol to underage consumers*. Washington, D.C.: author.

⁵ EASA, 2001.

have to be made for political, economic and cultural realities and while some of the new SROs are based on Western European ones, others bear little resemblance to any pre-existing model.

“What is perhaps remarkable, in view of the disparity between European national systems, is the degree of similarity to be found between the rules which they apply and the fact that, despite differences of structure and procedure, all these systems set out to achieve the same result: a high standard of consumer protection based on the premise that all advertising should be legal, decent, honest and truthful.”

*The Blue Book*⁶

3. The Code of Practice

There is one fundamental requirement for all self-regulatory systems; the need for consensus amongst the key players on the need to ensure that advertising meets high standards of responsibility. This commitment to responsibility needs to be reflected in the Code of Practice, which sets out the principles that will govern the content of advertisements. They are usually based on the International Code of Advertising Practice of the International Chamber of Commerce. Its basic principles state that all advertising should be legal, decent, honest and truthful and that every advertisement should be prepared with a due sense of social responsibility and respect for the principles of fair competition. Most such Codes of Practice apply to all forms of advertising (defined as paid-for commercial communications), but some also apply to product packaging.

The Code must take into account the legal, economic, social and cultural environment of the country concerned. The scope of the Code will depend on the extent to which advertising is already regulated by law, as there is no point in a Code that simply duplicates existing regulations.

The Code must be reviewed and updated when necessary, to reflect changing circumstances. It must be widely publicised – there is no point of drawing up a Code if consumers do not know it exists. Many Codes include both a general set of principles, that apply to all types of product, and specific guidelines that apply to such subjects as advertising and children, food and nutrition, alcoholic drinks and motor vehicles. Some Codes prefer to apply their general principles to all types of product.

The Codes are usually written by the advertising industry itself, but may also have input from consumer representatives and other interested parties.

“Codes of conduct have the great advantage of offering flexibility and adaptability to shifts in social attitudes and changes in marketing conditions..... However, the benchmark for the appropriateness of self-regulation must be how well it actually works and how widely it is effectively implemented.”

David Byrne, Commissioner, for Health and Consumer Protection, European Commission, in *The Blue Book*⁷

^{6,7} EASA, 2001.

4. Structure of a self-regulatory body

In most European countries where self-regulation is practised, the advertising industry sets up the following organisation to ensure the system works smoothly:

- i. A Code-making body, which writes the Code and is responsible for keeping it up to date. All parts of the advertising industry are represented on such a body, because the Code is voluntary and the whole industry agrees voluntarily to be bound by it.
- ii. A complaints committee, which is responsible for interpreting and applying the Code. To establish its impartiality and credibility, this committee should include at least one member who is independent of the advertising industry and should ideally be chaired by an independent person. The more independent members it has, the greater its authority.
- iii. A secretariat that is responsible for managing the system, for ensuring that consumers know how to complain and for handling consumer complaints.

“In spite of what its name might imply, ‘self-regulation’ is far more than voluntary self-restraint on the part of an individual advertiser or agency. Properly designed and well-administered self-regulatory systems offer a swift, flexible, inexpensive and effective means of enabling the responsible majority of the industry to restrain and prevent irresponsible activities that might otherwise undermine public confidence in advertising and ultimately bring it into disrepute.”

Geoffrey Draughn, Director for Special Issues,
European Advertising Standards Alliance, in *TAG
Report 2001*⁸

The size and remit of the secretariat will depend largely on the funding structure. The Advertising Standards Authority (ASA) in the UK employs over sixty people; other SROs operate with only one or two people. The larger SROs are more likely to offer other services such as copy advice - advice to advertisers and agencies on the acceptability of proposed advertising campaigns. All SROs operate on the principle that prevention is better than cure and copy advice is a helpful way of identifying and resolving possible problems before advertising campaigns are launched. This advice is non-binding, and may not be upheld by the complaints committee in the event of a complaint, but it is usually considered a valuable service.

Larger SROs may also offer staff training on Code issues for advertisers and agencies and are likely to monitor advertising activities in general. Often such monitoring concentrates on specific media or categories of advertising, particularly those where there may be some public concern. Over 50% of EASA members provide annual reports, that feature complaint statistics and in some cases include details of specific rulings.

⁸ The Amsterdam Group (2001). *The Amsterdam Group Report 2001: Alcoholic Beverages and European Society*. Brussels: author.

5. Handling complaints

No self-regulatory system can operate effectively without a proper and impartial process for handling complaints about advertising and promotional practices.

Complaints are sent to the secretariat, which must first decide if the matter needs to be reviewed by the complaints committee. This may not always be the case – consumers may misunderstand or misread an advertisement, or raise complaints that address issues not covered by the Code. But whatever the complaint, it will be properly considered and the complainant will receive a response from the secretariat.

If the secretariat decides that the complaint warrants consideration by the complaints committee, it first contacts the advertiser and asks him to respond to the complaint. Many complaints result from unintentional mistakes or omissions and often the advertiser immediately agrees to change the advertisement; in this case the secretariat informs the complainant of the outcome.

If the advertiser disagrees with the complaint, or fails to respond, the case is referred to the complaints committee. In reaching its decision, the committee works on the basis of what the average person would understand the advertisement to mean. Each case is judged on its merits - for example, if the complainant believes that an advertisement is offensive, the committee will consider whether the advertisement would be likely to cause serious or widespread offence, bearing in mind the context in which it appeared. The standards that apply to media like posters or billboards, which are seen by everyone, are not necessarily the same as those which apply to magazines with a specialised readership.

Both the complainant and the advertiser are informed of the committee's decision. Some, but not all, self-regulatory organisations also have an appeals system, in the event that either party disagrees with the decision. If the complaints committee upholds the complaint, the advertiser is asked to withdraw the advertisement or to change it. If the breach of the Code is minor, a short period of time may be allowed for the advertisement to be amended, but in cases of serious offence or if an advertisement is considered materially misleading, the committee will require the advertisement to be removed immediately. Most self-regulatory organisations publish the decisions of the complaints committee on a regular basis.

“The ASA works hard to protect consumers. In 2000, we handled more than 12,000 complaints and cut the average time it took to get a result. We proactively checked more than 6,000 advertisements a week, spotting problems and securing changes fast. But where self-regulation was not enough, we referred bad advertising to the Office of Fair Trading for legal action. We also showed our willingness to stand up to big commercial interests, telling advertisers to take down posters that broke the rules and successfully defending our decisions from legal challenge. We ‘fast tracked’ more cases – the ones that caused the most offence or harm – and published our Standards of Service so people knew more about how we work.”

2000 Annual Report of the Advertising Standards Authority⁹

⁹ Advertising Standards Authority (2000). *Annual report of the advertising standards authority*. London: author. From <http://www.asa.org.uk>.

6. Sanctions

Self-regulation has the backing of the advertising industry itself, so in most cases advertisers accept the decision of the complaints committee. However, self-regulation cannot always depend on voluntary compliance with its decisions – it must be able to enforce them. The sanctions available vary from one country to another, depending on the legal framework. They may include:

- Adverse publicity through the publication of the committee findings
- Media refusal of advertisements against which the complaints committee has upheld a complaint
- Imposing compulsory pre-clearance of further advertisements by the offending advertiser

Sanctions like this will only work if the advertising industry is prepared to support fully both the concept and the practise of self-regulation.

“The advantages of self-regulation are numerous and compelling. The most obvious is efficiency. . . Behind the scenes negotiations and settlements are cheaper than subpoenas, depositions and lawsuits.”

*Fear of Persuasion: a new perspective on advertising and regulation*¹⁰

7. Setting realistic objectives for self-regulation

It is important to have clear and realistic expectations of what can and cannot be achieved through self-regulation. All parties need to agree on the criteria on which the effectiveness of self-regulation will be judged. One obvious benchmark is the number of complaints received and/or upheld against advertising in general or against a particular brand or product category. For example, the Advertising Standards Authority in the UK publishes detailed figures that track the number of complaints received year on year. In 1999, of a total of 12,141 complaints received about advertising, 155 complaints (1.3% of the total) related to alcohol beverage advertising. In 2000, a total of 12,262 complaints were received, of which 166 (1.3% of the total) related to alcohol beverages. Further information and more detailed analysis can be found on the ASA web-site.

“Complaints alone cannot be used as an accurate indicator of overall industry compliance with the Codes. However, viewing the figures in the context of some 30 million advertisements and over 4 billion direct mailings each year, it is reassuring that only 851 had to be withdrawn or amended following formal investigation by the ASA.”

*ASA: Explanation of the 1999 figures*¹¹

¹⁰ Calfee, John E.(1997). *Fear of persuasion: a new perspective on advertising and regulation*. La Vergne, TN: AEI Press.

¹¹ ASA (1999). *Explanation of the 1999 figures*. London: author. From <http://www.asa.org.uk>.

One example of how to apply realistic benchmarks to self-regulation relates to motor vehicle advertisements. In the late 1980s and early 1990s, concern was being expressed by consumers, lobby groups and Governments across Europe about undue emphasis on speed and performance claims in motoring advertisements. In the UK, an ASA survey in 1990 found that 20% of car advertisements were making unacceptable references to speed. The Authority issued new guidelines to the industry and the ASA's Director General wrote to the Chief Executives of all major car manufacturers outlining the requirements of the Code and emphasising that the Authority would uphold all complaints against advertisements found to be in breach of the Code. A follow-up survey in 1999 found that 91% of car advertisements were considered acceptable.

"The ASA has kept a close watch on this area over the last decade. It is clear that motor manufacturers have made significant improvements since the late 1980s when this sector regularly generated the highest number of complaints.... In particular, advertisers appear to be moving away from excessive claims of speed and performance and concentrating on issues such as safety."

ASA Survey of the standards of advertising in motoring advertisements¹²

The realistic aim of self-regulation in this case was to radically reduce the percentage of car advertisements that placed undue emphasis on speed. It was not expected that effective enforcement of this part of the Code would lead to, for example, a reduction in the number of drivers exceeding the speed limit or being involved in speed-related accidents.

When it comes to self-regulation for alcohol beverage advertisements, it is equally important to set out what self-regulation can and cannot be expected to achieve. Effective application of the self-regulatory process can be expected to ensure that advertisements are not targeted at young people below the legal drinking age and that they do not encourage excessive or irresponsible drinking. It can be expected to demonstrate its effectiveness by providing evidence that the number of complaints or advertisements that are considered unacceptable reduces over time and/or remains at a very low level. It is neither appropriate nor reasonable to expect self-regulation, on its own, to reduce the number of underage drinkers or the number of people drinking excessively or irresponsibly.

Self-regulation has an important role to play within the broader context of policies to reduce alcohol misuse; it is one of the most visible ways whereby producers, retailers and the advertising industry can demonstrate their commitment to promoting responsible drinking. But if the objective is to tackle alcohol misuse, self-regulation must be seen as one small part of a comprehensive framework of strategies and initiatives drawn up by governments, the public health community and all those parties with an interest in promoting healthy lifestyles and responsible drinking patterns, including the alcohol beverage industry.

One little known fact is that most of the world's alcohol sales are of locally made, unbranded products, and the second largest segment consists of cheap branded products that are in the main not advertised. Even in developed markets such as the U.S. the majority of distilled spirits sales are of brands that are not advertised. In other words, alcohol advertising affects the sales of a surprisingly small percentage

¹² ASA (1999). *Survey of the standards of advertising in the motoring industry*. London: author. From <http://www.asa.org.uk>.

of total alcohol sales. Stated differently, it is unrealistic to expect self-regulation, on its own, to address issues related to public health.

“Self-regulation must be kept in perspective –its value understood, but also its limitations and its potential for the creation of misunderstanding. We regulate our industry, in part at least, in order to maintain responsibility for our performance- to keep the intrusive and often heavy hand of government at a reasonable distance. To do so intelligently, we anticipate government policies in many fields – from public health to cultural diversity – and work to reflect such policy before being forced to do so.”

J.J. Boddewyn, Chairman of the Association of Canadian Advertiser¹³

8. Self-regulation and alcohol

In many countries, advertising for alcohol beverages, as for many other products and services, has been subject to self-regulatory rules for many years. A recent survey of 22 European countries found that 21 countries, including all EU Member States and an increasing number of other European countries have developed self-regulatory systems that govern alcohol advertising. Of these, 18 countries have developed a sector specific Code for alcohol advertising. 16 countries have legislation affecting alcohol advertising in addition to the self-regulatory Codes. Further information about the self-regulatory systems that exist in Europe can be found on the website of The Amsterdam Group. The European Advertising Standards Alliance also provides some very helpful links at their website to SROs in Europe and further afield.

Elsewhere, self-regulation, on its own or in combination with statutory legislation, is the standard that is applied to alcohol advertising in the USA, Canada and Australasia. In other parts of the world, self-regulation as a system is less commonly applied to alcohol advertising. There are examples of self-regulatory systems in Africa, Asia and Latin America; not all Codes however, have a specific set of rules for specific products and alcohol advertising may be covered by the principles set out in the general Code of practice.

“It is interesting to note that liquor (alcohol beverages) now attract less than 5% of all complaints. A decade ago in 1991, 48% of complaints were about alcohol beverage advertisements. Over the last ten years the ASA has been particularly vigilant ensuring that liquor advertisements meet a high standard of social responsibility. Changes included a revised Code and the introduction of the Liquor Advertising Prevetting System (LAPS) in 1993. Consequently, the controversy which used to surround liquor advertising has virtually disappeared.”

Advertising Standards Authority of New Zealand,
*Annual Report, 2000*¹⁴

¹³ Boddewyn, J.J. (1985, July 11). From the chairman. ACA Newsletter, 1423, 3.

¹⁴ Advertising Standards Authority of New Zealand (2000). *Annual Report 2000*. Wellington: author. From <http://www.asa.co.nz>.

In addition to the formal self-regulatory systems, most of the major alcohol beverage companies have their own internal Codes of practice for advertising and promotional activities. These can have a particularly important role to play in countries where there are no Codes of practice and/or few regulatory controls, but unless all the alcohol beverage companies in any particular country abide by similar Codes, their effectiveness will inevitably be limited. They are a useful and necessary first step for countries where no Codes exist, although it is preferable to have full industry support for an agreed common Code.

Internal company Codes will be most effective if backed up by an in-house training scheme that gives brand teams the opportunity to learn about Code issues. This training can be extended to cover advertising and PR agencies that handle company or brand accounts. Case studies based on real advertising or promotional campaigns can be included. An internal compliance procedure, setting out the steps that need to be taken to ensure that Code standards are met, is essential. It is a useful idea for alcohol beverage companies to carry out audits of their Codes from time to time, to check on levels of compliance and to raise awareness of the issues. Audits of this kind should preferably be carried out by an independent third party, not by anyone directly associated with the company or its brands.

A typical Code of practice for alcohol beverages will include provisions prohibiting the promotion of excessive or irresponsible consumption and prohibiting advertising or promotional activities that are targeted at young people below the legal purchase age for alcohol. Other provisions will vary according to the cultural and social environment of the country concerned. Even within Europe, an advertisement that is completely acceptable in one member State may be controversial in another.

Whilst the majority of Codes of practice deal primarily with brand advertising, it is now increasingly common for Codes to cover aspects such as brand naming and packaging, internet promotional activities and point-of-sale promotions at retailer level. This is a good way of ensuring that all forms of commercial communication are in fact covered. When dealing with alcohol beverages, promotional activities at point-of-sale are particularly conspicuous, which only emphasises the need to involve retailers in the self-regulatory system if at all possible.

In Australia, the drinks industry has voluntarily established a pre-vetting system for alcohol advertising. AAPS (the Alcohol Advertising Pre-vetting System) was established by the Australian Associated Brewers (AAB) and the Distilled Spirits Industry Council of Australia (DSICA) in July 1992. A panel of three independent adjudicators evaluates advertisements for all beer and spirits brands at the concept or story-board stage, to ensure that they abide by the spirit and the letter of the alcohol beverages advertising code. In its first full year of operation, complaints about alcohol advertising dropped from 35 in 1990 to zero in 1993.

In Europe, The Amsterdam Group, in association with the European trade associations, has developed a set of guidelines intended to act as common standards for all types of commercial communication throughout the member states of Europe. The definition of 'commercial communications' is deliberately broad: "all brand advertising or marketing communications to consumers regardless of the medium used (e.g. print, broadcast media, labelling, packaging, internet) and including consumer promotion, merchandising, point of sale material and sponsorship".

Almost all self-regulatory systems apply equal standards to advertisements for beer, wine and spirits, although individual trade associations representing beer, wine or spirits producers also produce Codes for their own specific sectors in some countries. The provisions of these Codes are usually very similar.

“Self-regulation is a realistic, responsive and responsible approach to many of the issues raised by underage drinking. It can deal quickly and flexibly with a wide range of advertising issues and brings the accumulated experience and judgement of an industry to bear without the rigidity of government regulation.”

*FTC report: Self-regulation in the alcohol industry*¹⁵

9. Emerging markets and the developing world

As mentioned earlier, there are some examples of self-regulatory systems for alcohol beverages in Central and Eastern Europe, Africa, Asia and Latin America, but support for the concept is by no means universal. Where self-regulation does exist, alcohol beverages may be covered by the principles set out in a general Code of Practice, rather than having their own specific rules. In some countries, regulations and legislation governing alcohol beverage advertising is so stringent that there is no scope for self-regulation to flourish.

The Industry Association for Responsible Alcohol Use (ARA) in South Africa set up a self-regulatory Code in 1989 to regulate advertising, packaging and promotional activity. In 1996, the Advertising Standards Authority of South Africa (ASASA) accepted the advertising clauses of the ARA code as their own code, thus making it applicable to the whole drinks industry, not just ARA members. Code disputes relating to the packaging and promotional clauses in the full ARA code are resolved by an external ombudsman.

In 2000, ARA took the concept of self-regulation one stage further by developing a Code of Practice that applied specifically to practices in the licensed trade, including the need to avoid sales to minors and to discourage excessive or irresponsible consumption. Many of its provisions are included in the Model Code that appears later in this document.

The Advertising Practitioners Council of Nigeria has been responsible for administering self-regulation in Nigeria since it was established, by governmental enabling decree, in 1988. The Code includes both general provisions and separate guidelines for particular types of product, including alcohol beverages.

Hong Kong operates a voluntary Code of Advertising Practice, administered by the Association of Accredited Advertising Agents in tandem with statutory laws specific to individual media.

Singapore introduced a self-regulatory system in 1976. The Code was updated in 1994 to address concerns that advertising for western goods in general was undermining Asian values.

Alcohol advertising in Uruguay is subject to a Code of Ethics administered by the Association of Publicity Agencies.

The Chilean Association of Advertisers (ANANDA) operates a Code of Advertising Ethics, which is applicable to all forms of advertising.

¹⁵ FTC, 1999.

10. Starting from scratch – setting up a self-regulatory system

The first precondition for setting up a self-regulatory system is a good degree of consensus amongst the key players that such a system is needed. Multi-national advertisers, agencies and media in any country are likely to be supportive because they will already have experienced the benefits of self-regulation elsewhere.

Achieving full consensus may not be easy, particularly if there is no established tradition of self-regulation in the country concerned, but it may be possible to get things moving by establishing a core-group of important players who are prepared to lead the initiative.

As a general principle, it is preferable to have a specific set of rules for alcohol beverages rather than have them covered by a more general Code of Practice that applies to all products. This makes it much easier to ensure that specific, important issues, such as drinking by young people or excessive consumption, can be addressed.

If there is a clear need for a Code to be developed, but no obvious body to act as the secretariat, a trade association or social aspects organisation may appoint a Complaints Officer and establish a Complaints Panel to adjudicate and report on complaints. If at all possible, the Complaints Panel should ensure that some members (including perhaps the Chairman) are independent of the advertising or alcohol beverage industry.

This was the approach adopted by The Portman Group in the UK when it revised its Naming and Packaging Code for alcohol beverages in 1997. This is a particularly interesting example of self-regulation 'with teeth'. Complaints under the Code are considered by an Independent Complaints Panel. The alcohol beverage industry is not represented on the Panel, although there is a requirement that one member should have had previous experience in the industry, and one member should come from an advertising industry background. The Panel's decisions are published in quarterly Code Reports. Retailers are notified of products which break the Code through a Retailer Alert Bulletin which will request that, after existing stocks have been exhausted, these products are not re-stocked unless and until they have been amended to comply with the Code. The Portman Group offers a free pre-launch advisory service to retailers and producers to help them assess whether new products are likely to breach the Code.

Effective application of the Code and the support of over 200 retailers and manufacturers who are Code signatories has led to a significant decline in the number of complaints received about drinks labelling and packaging since the Code was first adopted in 1996. This successful track record has in turn led to The Portman Group Code being used as a model for Codes being developed elsewhere, particularly where there is a need for retailer support and compliance.

"The numbers of complaints and upheld complaints have both fallen; the findings of the Independent Complaints Panel...have enjoyed a high degree of compliance and the [Portman] Group's Retailer Alert Bulletins, advising retailers not to stock offending products in their original packaging, has reduced their availability to the public".

Comments of the Secretary of State for the Home Office¹⁶

¹⁶ UK Home Office (2000, October 23). *Comments of the Secretary of State for the Home Office, House of Commons Written Answers*. London: author.

11. Conclusions

Some key points to remember about effective self-regulation are as follows:

- Prevention is better than cure – a good self-regulatory system will aim to pre-empt and resolve possible problems before they arise, for example through copy advice and internal company compliance activities.
- Self-regulation needs to have teeth – penalties and sanctions have to be meaningful.
- The credibility and overall effectiveness of any self-regulatory system will be enhanced by ensuring that there is independent representation on the complaints panel.
- Specific rules for alcohol beverages are preferable, where possible, to general principles applicable to all products. This enables specific issues to be addressed, in particular, ensuring that alcohol beverages are only marketed to adults and that advertisements only promote responsible consumption.
- It is **never** a good idea to delay setting up a self-regulatory system because 'there is no real concern about advertising' in any particular country. It is much more effective to put such systems in place before problems arise, not afterwards.
- It is important to ensure that the objectives set for self-regulatory systems are realistic and achievable – the essential purpose is to ensure that advertising and promotional activities are responsible.

Annex A

A model Code of Practice for the marketing and promotion of alcohol beverages

Basic Principles

All advertising and marketing communications should:

- Be legal, decent, honest and truthful and conform to accepted principles of fair competition and good business practice;
- Be prepared with a due sense of social responsibility and be based on principles of fairness and good faith;
- Not in any circumstances be unethical or otherwise impugn human dignity or integrity.

Shared responsibilities

- Alcohol beverage producers should take the overall responsibility for the naming, packaging, merchandising, advertising and promotion of their brands. In particular, they must ensure that their marketing and promotional activities do not condone or encourage excessive or irresponsible drinking and are not targeted at minors.
- Advertising and PR practitioners or agencies, and agencies involved in the naming or packaging of alcohol beverages should be familiar with the Code and should operate in such a way as to enable advertisers to fulfil their responsibilities under the Code as set out below.
- Publishers, media-owners or contractors who publish, transmit or distribute advertisements or other promotional materials relating to alcohol beverages should exercise due care in the acceptance of advertisements and their presentation to the public.
- Retailers and others involved in the distribution and sale of alcohol beverages should not in any way encourage irresponsible or excessive consumption, or consumption by young people below the legal purchase age for alcohol beverages.

Self-regulation and alcohol

- It is the responsibility of alcohol beverage producers, in association with advertising agencies and media-owners, to support national self-regulatory systems for commercial communications where these exist, either as an alternative to, or a supplement to, national legislation or statutory regulations.
- Where a self-regulatory body does not exist, it may be necessary to create one for this purpose; alternatively, an industry trade association may take on the role of secretariat. At a minimum, a Complaints Officer is required, on a full or part-time basis, to service and act as secretary to a Complaints Panel.
- To establish impartiality and credibility, it is important for at least one independent person, not related to the alcohol beverage or the advertising industry, to sit on, or act as Chairman of the Complaints Panel.

- The self-regulatory system should, preferably, be capable of dealing with all forms of brand advertising or marketing communications, regardless of the medium used (e.g. both print and broadcast media, labelling, packaging, internet promotional activities and consumer promotions in the on and off-trade.) Where it is not possible for the self-regulatory body to handle all forms of such communications, the boundaries of its responsibilities should be clearly defined and communicated to consumers.
- Funding for the self-regulatory system should come from all parts of the advertising industry – advertisers, agencies and the media. Where Codes of practice also cover trade promotions, it is preferable to have funding support from the trade as well.

Young people *

(* Refers to minors below the legal purchase age for alcohol beverages; or to under 18s in countries where no minimum age is set.)

- It is of fundamental importance that alcohol beverage producers should not target (or appear to target) minors through their advertising or promotional activities. These activities must be reviewed on a continual basis to ensure that this is the case.
- Marketing managers employed by alcohol beverage producers should be aware of the importance of this; and should ensure that their marketing and promotional teams understand what it means in practice for them.
 - (i) Brand advertising or promotional activities for alcohol beverages should not be placed in media directed primarily at minors.
 - (ii) Events and competitions directed primarily at minors should not be linked to alcohol beverage brands through sponsorship.
 - (iii) No minor should be directly associated with, or depicted drinking, alcohol beverages in any branded communication.
 - (iv) The naming and packaging of alcohol beverages should be clearly adult in terms of their appeal.
 - (v) As a minimum standard, models used in advertisements for alcohol beverages should be, and appear to be, 21 years of age or older.
- Advertising and PR agencies working with alcohol beverage producers should understand these requirements and operate in such a way as to enable advertisers to fulfil them. This applies, in addition, to agencies that work on the naming and packaging of alcohol beverage brands and to those who assist with promotional activities in the off- and on-trade.
- Traders and retailers to ensure that minors are not supplied with alcohol beverages. Where possible, proof-of-age identity should be requested.

Irresponsible or excessive drinking

- Alcohol beverage producers should review all their advertising and promotional practices on a continuous basis to ensure that they do not encourage excessive or irresponsible consumption, nor present abstinence or moderation in a negative way.

- Marketing managers employed by alcohol beverage producers should be aware of the importance of this and should ensure that their marketing and promotional teams understand what it means in practice for them.
 - (i) Marketing and promotional activities for alcohol beverages must depict only moderate and responsible consumption.
 - (ii) Marketing and promotional activities should not suggest any association with violent, aggressive, dangerous, illegal or anti-social behaviour.
 - (iii) Marketing and promotional activities should not suggest that alcohol beverages may be consumed immediately prior to, or during, the operation of a motor vehicle, boat or aircraft or other machinery; or engagement in activities such as swimming or any other potentially hazardous activity.
 - (iv) Marketing and promotional activities should not encourage consumers to prefer a particular brand of alcohol beverage because of its higher alcohol content or intoxicating effect.
- Advertising and PR agencies should understand these requirements and operate in such a way as to enable advertisers to fulfil them. This applies, in addition, to agencies that work on the naming and packaging of alcohol beverage brands and to those who assist with promotional activities in the off- and on-trade.
- Traders and retailers in bars and licensed premises should discourage the rapid and/or excessive consumption of alcohol beverages; care should be taken to avoid promotions that have this objective. Where possible, food and non-alcoholic drinks should be available.
- Traders and retailers should guard against the supply of alcohol beverages to intoxicated persons. Disorderly or offensive behaviour on the part of customers should not be tolerated.
- Where possible, server-training schemes should be developed to help retailers address issues related to excessive consumption or disorderly behaviour. It is in the interests of both alcohol beverage producers and the trading/retailing community to work together on server-training programmes that address this need.

Annex B

Resource materials and examples of Codes of Practice

Organizations with an interest in self-regulation

EASA -European Advertising Standards Alliance

A co-ordinating body for 28 self-regulatory organisations within Europe. It co-ordinates and administers a cross-border complaints procedure. EASA publishes the 'EASA Guide To Self-Regulation' and *The Blue Book*. The website also has links to most of the other worldwide SROs and is a useful resource on all aspects of self-regulation. <http://www.easa-alliance.org/>

Examples of Self-Regulatory Codes

ICC -International Chamber of Commerce

The ICC Code of Advertising Practice was first issued by the International Chamber of Commerce in 1937 and has been updated regularly since then. It laid the foundations for the development of self-regulatory systems. <http://www.ftc.gov/bcp/icpw/comments/icccodes.htm>

UK Advertising Standards Authority Code: 'Specific Rules' for alcohol beverages <http://www.asa.org.uk>

The Portman Group Code of Practice on the Naming, Packaging and Merchandising of Alcoholic Drinks (UK) <http://www.portman-group.org.uk/code/rules.asp>

The Distilled Spirits Council of the United States (DISCUS) Code of Good Practice for Distilled Spirits Advertising and Marketing <http://www.discus.health.org/industry/code/code.htm>

The Beer Institute (USA) operates its own Advertising and Marketing Code

<http://www.beerinstitute.org/whoweare.htm>

The Wine Institute (USA) has developed its own guidelines. <http://www.wineinstitute.org/fedlaw/>

The Amsterdam Group, an alliance of Europe's leading producers of beer, wines and spirits has produced a set of common standards for commercial communications in Europe.

<http://www.amsterdamgroup.org/18.htm>

The Advertising Practitioners Council of Nigeria administers the self-regulatory Code of Practice in Nigeria. The section dealing specifically with alcohol is available through ICAP.

The Industry Association for Responsible use of Alcohol in South Africa (ARA) operates a code for the Advertising, Packaging and Promotion of alcoholic beverages in South Africa. ARA has also developed a Code of Practice for retailers of alcohol beverages which can be found at this site:

<http://www.asasa.org.za/rules/ruleDisplay.pl?ruleID=7>

In Australia, The Alcohol Beverages Advertising Code (ABAC) and Complaints Management System is endorsed by all the major beer, wine and spirits trade associations. The Distilled Spirits Industry Council of Australia website has a detailed section on Alcohol Advertising, including the Code, the pre-vetting system and complaints mechanism. It can be found at:

<http://www.dsica.com.au/sections/issues/adv.html>

The following examples of individual company codes produced by the alcohol beverage industry can be obtained through ICAP:

Allied Domecq company advertising code

Brown Forman Responsible Marketing and Advertising Guidelines

Coors Global Commitment0

Diageo Code of Marketing Practice

Heineken Rules and Guidelines for Commercial Communications

SABMiller