

Code of Practice



For the Responsible Marketing
and Promotion of
Scotch Whisky

2nd Edition
February 2009

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Introduction

The Scotch Whisky Association (SWA) is the trade organisation that represents distillers, bottlers, blenders, brokers and brand owners of Scotch Whisky. Its members, while making Scotch Whisky brands that are sold to consumers, are primarily within the production sector rather than in retailing. However, as responsible manufacturers, Scotch Whisky producers wish to ensure that their brands are promoted and enjoyed responsibly. Scotch Whisky matures for many years prior to bottling; it deserves to be savoured.

This Code and the Complaints, Adjudication and Appeals process sets out principles and practice that members of the SWA will apply to their marketing and promotion of Scotch Whisky in the European Union.

In due course the Code provisions will cover all Scotch Whisky marketing and promotion activity globally. In the meantime SWA member companies are encouraged to apply the principles of the Code in markets outside the EU either through their own marketing teams and activities, or in discussion with wholesalers and retailers on brand promotional activity which they influence.

The Code of Practice is not meant to supersede any individual code of practice already instituted by member companies which fully respects these principles. Examples of company best practice will be notified to the industry in the hope that others will adopt similar codes.

Objectives

The SWA and its member companies wish to encourage those adults who choose to drink to do so responsibly, and to discourage the misuse of alcohol. The Association and its members also respect consumers' choice not to drink alcohol, and recognise that some individuals should avoid alcoholic drinks at all times, or in particular circumstances, such as for health or religious reasons or when driving or operating machinery.

The objectives of the Code are to secure the responsible marketing and promotion of Scotch Whisky and thereby to ensure continued social acceptance of alcoholic drinks, by encouraging the responsible consumption of Scotch Whisky in a manner which is compatible with a balanced and healthy lifestyle.

While recognising the industry's role in encouraging responsible consumption, SWA members believe that there is an obligation on every consumer who chooses to drink to do so in a responsible manner.

Scope

Nothing in this Code is intended to impose restrictions on price related issues, and its provisions should be read in that context.

The principles of the Code cover all commercial activities and communications in relation to Scotch Whisky, such as, but not exclusively: brand merchandising and promotional material; product labelling and packaging; point of sale material; websites; tastings; sponsorship and press releases. The provisions of this Code also embrace advertising activity including Internet and text message advertising and product placement. But companies should be aware that advertising is often also governed by separate regulations or codes. For example, in the UK the SWA fully endorses and subscribes to the rules and principles of the Advertising Standards Authority/OFCOM and The Portman Group.

As a drink enjoyed around the world, Scotch Whisky companies will need to take account of national differences in legal purchase age; and of differing local cultural, religious, gender, race and regulatory considerations. Scotch Whisky companies should regard the provisions of the Code as setting out minimum standards that the industry should strive to achieve around the world, even where less onerous local regulations exist.

Where codes of practice do not exist in individual markets, or where a local code does not enshrine the principles of this Code, SWA members are encouraged to utilise the principles of the Code and, together with others in the market, promote the message of responsible drinking and the establishment of a comparable local code of practice.

This Code is to be applied in the spirit as well as in the letter.

Responsible Consumption

- The majority of adults who choose to drink alcoholic drinks do so without harming themselves or others. The marketing of Scotch Whisky that depicts responsible drinking as a relaxed, sociable and enjoyable part of life has a role to play in promoting a responsible approach to alcohol consumption.
- Scotch Whisky producers recognise that some people choose not to drink alcoholic drinks. Promotional and marketing activity should not seek to challenge this choice, nor suggest that the decision not to drink alcohol is in any way abnormal or anything other than a legitimate personal choice.
- Promotional and marketing materials should portray Scotch Whisky being consumed and drinkers behaving in a responsible manner.
- Company marketing should never support or condone illegal, irresponsible or immoderate consumption, such as binge drinking or drunkenness, or associate consumption with the use of machinery, driving or undertaking any potentially hazardous pursuit or pastime.
- There should be no suggestion of drinking being associated with bravado, or with violent, aggressive, dangerous or anti-social behaviour; or any association with, acceptance of, or allusion to, illicit drugs.
- A responsible drinking message should be carried on all advertising and print point of sale materials. The content and size of the message is to be determined by the individual company.

Discouraging Underage Drinking

- Scotch Whisky should not be advertised or marketed in any manner directed at or primarily appealing to persons below the legal purchase age.
- Brands should not be advertised or promoted by any person who is below the legal purchase age or who is made to appear to be below the legal purchase age. To help ensure that individuals in advertising are and appear to be above the legal purchase age, models and actors shown drinking should be a minimum of 25 years old.
- When the services of a celebrity are used to advertise or endorse a product, that person should not primarily be associated with or be appealing primarily to persons below the legal purchase age.
- Communications should be placed in print and electronic media outlets only where a clear majority of the audience is reasonably expected to be above the legal purchase age. In countries where a higher threshold is laid down, companies must adhere to that higher percentage.
- Marketing materials and promotions should not depict a child or portray objects or images that primarily appeal to persons below the legal purchase age.
- Brand logos and names should not be used on clothes, toys, games, or other items intended for use primarily by persons below the legal purchase age.
- Products should not be advertised or marketed in a manner associated with the attainment of adulthood or the “rite of passage” to adulthood.
- This Code does not apply to any materials or activities whose purpose is solely and clearly to educate those under the legal purchase age about the use and misuse of alcohol or the industry’s role in society.

Alcohol Content

- The SWA supports efforts to promote responsible consumption such as the UK Government's sensible drinking message (www.dh.gov.uk). In those markets where it is relevant, it encourages members to provide unit information in order that consumers can make informed choices.
- The alcoholic nature of a drink should be communicated on its packaging with absolute clarity, in line with national legal requirements.
- Factual information about the alcoholic strength of a drink may help consumers to make informed decisions, but strength should never be the dominant theme of any communication.
- Undue emphasis should not be placed on high alcohol content as the principal basis of appeal to the consumer. The responsible marketing of cask strength products will not breach this Code.

Drinking and Driving

- Advertising and marketing materials should not portray, encourage or condone driving any motor vehicle after drinking.
- The consumption of Scotch Whisky should not be in any way associated with the operation of potentially dangerous machinery or with undertaking recreational or work-related potentially hazardous activities.

Sexual and Social Success

- Scotch Whisky brands and drinkers may be portrayed as part of responsible personal and social experiences and activities, such as the depiction of persons in a social or romantic setting, persons who appear to be attractive or affluent, and persons who appear to be relaxing or in an enjoyable setting.
- However, no promotional material should contain any claims or representations that individuals can attain social, professional, educational, or athletic success or status as a result of alcohol consumption.
- No impression should be given that the consumption of Scotch Whisky can enhance mental or physical capabilities.
- Promotional material should not suggest that drinking Scotch Whisky enhances sexual capabilities, attractiveness, masculinity or femininity.
- Communications should adhere to generally accepted standards of good taste.

Alcohol and Health

- A considerable body of medical and scientific literature has been published on the benefits and risks of drinking. Much of this indicates that moderate drinking, for most people, can be part of a balanced and healthy lifestyle. Scotch Whisky companies also recognise that some individuals should avoid drinking alcohol completely.
- Companies should comply with national regulations on making health claims where these apply, such as the ban on their use in the EU. Companies should be wary about making health claims in relation to the consumption of alcoholic drinks, and when referring to published scientific or medical research must also note that misuse or inappropriate drinking may lead to health and social problems.
- Companies should not promote Scotch Whisky as having therapeutic qualities or the ability to prevent, treat or cure disease.
- Consumers who wish to take advice on consuming alcohol should consult their doctor.

Tastings (including on-trade promotions)

- Scotch Whiskies each have their own individual characteristics and consumers will from time to time wish to taste different whiskies to broaden their education and to discover brands previously unknown to them.
- All employees and third parties contracted to conduct tastings should be trained in responsible serving and must be of legal purchase age.
- When conducting tastings companies should encourage responsible consumption and discourage activities that reward excessive/abusive consumption.
- When conducting events, companies should recognise government sensible drinking guidelines and not offer to any one individual alcohol exceeding these recommendations. For example in the UK, for men, the recommended daily intake should not exceed 3 to 4 units a day, and for women it should not exceed 2 to 3 units a day.
- Tastings should not promote or encourage drinking in conjunction with reckless and/or irresponsible behaviour, nor involve drinking games or activities that have speed incentives, or that require excessive quantities of alcohol to be consumed within a short time period.
- Scotch Whisky is often drunk straight. But that is not the same as being consumed as a 'shot'. Care should be taken to avoid Scotch Whisky being consumed in a manner that results in excessive consumption.
- Safeguards should invariably be put in place to avoid tastings being undertaken by individuals under the legal purchase age, or by those driving or operating machinery.
- Companies should endeavour to ensure that retailers using their brands to conduct tastings are aware of the principles of this Code and are expected to respect the principles fully.
- As part of the instructions on brand positioning and promotion to bartenders, marketing teams, brand ambassadors and others, companies should consider providing appropriate server training.

Websites

- Company websites should carry in a prominent position a responsible drinking message, with reference to this Code and their own company code, if it exists, linking it to the SWA website. Visitors to company websites should be reminded of the need to adhere to the legal purchase age in the country in which the consumer is located and remind consumers only to enter a site where national legislation allows access to websites for alcoholic drinks.
- Websites which offer online sales are required to use an age verification page (AVP). The AVP must require the visitor to the site to enter their full date of birth and country of residence.
- Websites should encourage responsible consumption. They should not include games and other activities that suggest misuse of alcohol is acceptable.
- Websites should not offer free ringtones, games or downloads that would be of particular appeal to persons under the legal purchase age.

Sponsorship

- Companies should not engage in sponsorship where those under the legal purchase age comprise more than 25% of either the participants, audiences or spectators.
- Donations made by companies to assist programmes encouraging social responsibility or discouraging underage drinking will not be in breach of this Code.
- Merchandise bearing the brand name or logo should not be aimed at children or have a particular appeal to them.
- Sponsorship of activities which may be hazardous after alcohol consumption (e.g. motor racing, sailing, skiing) is not in breach of this Code, but companies will wish to ensure that no link is made to suggest that alcohol consumption is appropriate while undertaking such activities or that success in these pursuits is enhanced by alcohol consumption.
- All sponsorship activities should include a responsibility element. Further guidance on sponsorship is given in the Annex.

Compliance

The requirements of this second version of the Code come into force from 1 July 2009.

SWA members are required to have in place internal arrangements to regulate compliance with this and other relevant codes of practice. The Association recommends that a senior Director be charged with responsibility for ensuring compliance with the Code. It is suggested, that where possible this Director is separate from the advertising and marketing departments and from the development of promotional materials.

Companies should ensure that external consultants, such as public relations, marketing and advertising agencies and third party distributors are aware of the principles and provisions of this Code.

Companies should also take account of relevant national codes and regulations such as, in the UK, The Portman Group Code on the Naming, Packaging and Promotion of Alcoholic Drinks (www.portmangroup.org.uk), the British Code of Advertising, Sales Promotion and Direct Marketing (www.asa.org.uk) and OFCOM's rules of broadcast advertising (www.ofcom.org.uk). Where national codes of practice do not exist in individual markets, or where a local code does not enshrine the principles of this Code, SWA member companies should follow the principles of this guidance as far as possible. Additionally they should work together with other member companies and others active in the market to develop a local national code consistent with this practice. If this is unachievable, member companies should ensure that they disseminate a consistent message about responsible drinking.

Adjudication of Breaches of the Code

Following investigation by the Executive staff of the Association, complaints raised by industry members or other interested parties, including members of the public, shall be reviewed by the Complaints Committee (the Committee) of the Council of the SWA.

The company which is the subject of the complaint will be notified by letter of the date and place of the meeting of the Committee at which the complaint is to be considered, and will be provided with a statement of the nature of the complaint. The letter will be posted at least 15 days before the meeting and will invite written or if necessary oral representations from the company.

Where a complaint is upheld, and before any public announcement to that effect, the company concerned will be provided with a written statement of the decision and the reasons for it. Within 14 days of receipt of notification of the decision, the company concerned may appeal to the Independent Complaints Panel, failing which the decision of the Committee shall be final. The Independent Complaints Panel shall have the power to review the entire investigation, including the decision of the Committee, and may vary any sanctions imposed by the Committee as it sees fit. Any decision of the Committee which is subject to the appeal period, or to an appeal, shall be treated as provisional pending a final decision by the Independent Complaints Panel or expiry of the appeal period, as the case may be.

The company which is the subject of the complaint will be notified by letter of the date and place of the meeting of the Independent Complaints Panel at which the appeal is to be considered. The letter will be posted at least 15 days before the meeting and will invite written or if necessary oral representations from the company. Following the decision of the Independent Complaints Panel, and before any public announcement, the company concerned will be provided with a copy of the decision in writing, together with the reasons for it.

When enforcing the Code, the Complaints Committee/Independent Complaints Panel shall have regard to the Objectives set out above, and shall not impose any restrictions on companies which are not indispensable to the attainment of those objectives. Where a complaint is upheld, the Complaints Committee/Independent Complaints Panel, as the case may be, may:

- require swift remedial action to be taken to end the conduct which has been found to be in breach of the Code;
- impose a fine payable to The Scotch Whisky Association not exceeding £10,000;
- authorise the issue of a press notice setting out its decision;
- advise retailers, local authorities, including local licensing authorities, and other regulators as seen fit of its determination.

In the event of any company failing to take remedial action to end conduct which has been found to be in breach of the Code, or failing to pay a fine on demand, the Executive staff of the Association shall bring this to the attention of the Council, which may direct that the membership of the company in question be terminated, subject to the normal procedures relating to termination of membership of The Scotch Whisky Association.

Complaints

COMPLAINTS COMMITTEE

The Complaints Committee shall consist of 4 members of the Council appointed by the Chief Executive of The Scotch Whisky Association and drawn from different member companies of the Association. Members of the Council who have an interest in a complaint shall not be eligible for appointment. Each member of the Committee shall have one vote.

INDEPENDENT COMPLAINTS PANEL

The Members and Chair of the Independent Complaints Panel shall be appointed by the Chief Executive of The Scotch Whisky Association and shall not include any person employed by The Scotch Whisky Association or by any of its Member Companies. The SWA Executive will however provide administrative support.

The Scotch Whisky Association will publish the findings and recommendations of the Independent Complaints Panel, and the action taken by the company concerned.

COMPETITION PROVISIO

The SWA and its member companies undertake that they shall not use the medium of this Code to engage in any acts or omissions (such as the exchange of sensitive trading information) which may breach applicable competition law.

COMPLAINTS AND QUERIES

If you have any questions regarding this Code or the adherence of a particular Scotch Whisky marketing, promotional or advertising activity subject to the Code, please write to:

**The Alcohol Policy Manager
The Scotch Whisky Association
20 Atholl Crescent
Edinburgh EH3 8HF**

**or send an email to
complaints@swa.org.uk**

Annex: Sponsorship Guidelines

These guidelines were developed under the Scottish Government & Alcohol Industry Partnership. A number of the documents/guidance referred to relate to Scotland/UK. Member companies are nevertheless encouraged to apply the principles as set out in this Annex to all sponsorship activities.

The guidelines relate specifically to commercial sponsorship by brands and are not intended to encroach on local community support initiatives undertaken by the drinks industry, e.g. by a village pub or local distillery. Sponsorship means the terms of an agreement or part of an agreement to support a live sporting or cultural product, event or activity, in return for which the sponsored party agrees to be associated with or promote the sponsor's brands.

Core Principles

The following voluntary code of practice seeks to create best practice in this area in both promoting responsible consumption and protecting those below the age of 18.

- As an integral part of each new sponsorship, the sponsor will make a recognisable commitment to activities or events which promote responsible drinking or support diversionary / community activities.
- Alcohol brands must not be used to sponsor teams, brands, celebrities or events with particular appeal to those under the age of 18.
- Alcohol brands will not be used to sponsor or support an individual who is under 18. This does not prevent alcohol brands being used to sponsor teams and events, where the team or event includes participation of a person or persons under 18; although any team members under the age of 18 will not be used individually, in any promotional or brand activation activity.
- Prior to sponsorship of any individual or team, the owners of the alcohol brand should make all appropriate efforts to check if there is any known reason why an association with an alcohol brand would be inappropriate.

- All reasonable effort must be made to obtain historical (or anticipated, if a new event) demographics for the sponsored events. For association with an alcohol brand, demographics must indicate that 75% of the event participants, audience and spectators are over 18.
- Competitions for tickets, which include hospitality involving the service of alcohol, must only be open to those over 18.
- Alcohol branding must not appear on children's replica sports shirts or clothing under sponsorship agreements signed after 1 January 2008.
- At sponsored events or events associated with the sponsorship; event organisers and all on and off trade alcohol providers (where the level of sponsorship and/or contractual relationship allows) will comply with the standards of good practice and advice contained in the 'Social Responsibility Standards for the Production and Sale of Alcoholic Drinks: Scotland' Guide.

Sampling at sponsored events or events associated with the sponsorship

- Sampling should not encourage illegal, irresponsible or immoderate consumption such as binge drinking, drunkenness or drink driving and should not have a particular appeal to under 18s.
- Anyone carrying out sampling activity with consumers must comply with current licensing legislation and be trained in the serving of alcohol.
- Every effort should be made to restrict samples in line with the government sensible daily drinking guidelines, where these exist (i.e. in the UK no more than 3 units for women and no more than 4 units for men) and all reasonable steps taken to ensure that the sample is to be consumed by the person receiving it.

- Challenge 21 principles should be applied and age verification sought if doubt exists as to the consumer's age.
- Samples must not be given to anyone who appears to be intoxicated.
- Water / soft drinks and snacks should be provided wherever possible.

Integrating responsible drinking messages

- All print/paper based point of sale communications should carry prominent and appropriate responsible drinking messaging. For example, the www.drinkaware.co.uk logo or a responsible drinking reminder.
- Any sporting sponsorship activity must not imply that it is acceptable to consume alcohol before, or while playing sport. Nor should it suggest that alcohol enhances sporting performance, social or sexual success.
- There should be no implication that bravado, aggressive, violent, dangerous or anti-social behaviour is advocated or condoned by the brand.

Children

- Alcohol brands will not be applied to children's clothing, toys, games or other items with primary appeal to under 18s.
- Owners of alcohol brands shall not license brand names, logos or trademarks for use on clothing, toys, games, or other materials intended for use primarily by, or have a particular appeal to under 18s.





The Scotch Whisky Association

20 Atholl Crescent

Edinburgh EH3 8HF

t: 0131 - 222 9200 f: 0131 - 222 9237

e: contact@swa.org.uk

w: scotch-whisky.org.uk

