



# CODE OF PRACTICE

Report on the Audit of Implementation of the  
SWA's Code of Practice for the Reponsible  
Marketing and Promotion of Scotch Whisky

## Statement from Chairman of Independent Complaints Panel

The Scotch Whisky Association's (SWA) Code of Practice, published in 2005, demonstrates its commitment to responsibility by setting out minimum standards for its members on the marketing and promotion of Scotch Whisky.

While the Code is consistent with other UK self regulatory codes, the SWA's Code has taken on board the frequent criticism of self regulatory codes that they are soft on enforcement, by introducing a fine, naming and shaming and ultimate expulsion from the Association should a member continually breach the Code. This is a welcome dimension to the Code and one which Alcohol Focus Scotland would like to see introduced into the codes of similar bodies.

However, rather than sanctions having to be used to enforce the Code it is infinitely preferable for them to be demonstrably applied by the signatories, and the Association's members should be commended for doing exactly that. The Code is well used by members seeking advice on its application, has been used to assess the compliance of some advertising executions, and enjoys the benefit of having had no official complaints lodged since its introduction. This is a measure of the positive value and effectiveness of the Code.

Of course measuring and assessing the efficacy of the Code is not just about counting the number of complaints received, it's also about how it is absorbed into the organisational culture and behaviour. This is why auditing its compliance in the context of marketing behaviour, labelling, promotional images, tastings and websites are all important. In my view, the audit protocol and procedure followed allowed for a detailed assessment of how well the Code has been adopted by the Scotch Whisky Association's member companies. The findings of the audit have provided the Association's members some issues to consider which can only improve the Code's future effectiveness.

I look forward to the revised Code to be published in 2008 and to its continuing success.

**Jack Law**  
Chief Executive  
Alcohol Focus Scotland

Alcohol Focus Scotland is Scotland's national  
alcohol charity promoting responsible drinking,  
reducing harm and changing culture.

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The Scotch Whisky industry is committed to ensuring that its products are marketed to consumers in a responsible way. Scotch Whisky companies devote considerable time and resources to attracting consumers to choose their brands. They wish people to enjoy and appreciate these brands responsibly.

Scotch Whisky companies support and adhere to the advertising rules and marketing codes applicable in the markets where their brands are sold. In the UK these include the Advertising Standards Authority, OFCOM and the Portman Group, in addition to the SWA's own Code.

The SWA published its own Code of Practice in 2005. This sets out minimum standards for its members on the marketing and promotion of Scotch Whisky, and goes further than UK self-regulatory codes.

### Overview Of The Code

The principles of the Code cover all commercial activities and communications in relation to Scotch Whisky, such as, but not exclusively:

- Brand advertising and promotional material
- Product labelling and packaging
- Point of sale material
- Websites
- Tastings
- Sponsorship and press releases

The provisions of the Code apply in spirit as well as in letter also cover advertising activity, including Internet and text message advertising and product placement. Areas covered by the Code are:

- Responsible advertising
- Discouraging underage drinking
- Alcohol content
- Drinking and driving
- Sexual and social success
- Alcohol and health

The Code has a number of key features:

- It is mandatory in the UK (members are also encouraged to apply it in overseas markets where no local code exists or where the national code's provisions are not as rigorous as those set by the Association).
- It is supported by an Independent Complaints Panel.
- There are a range of sanctions that can be applied in relation to a complaint that is upheld:
  - Impose a fine not exceeding £10,000.
  - Name and shame businesses using a press notice setting out its decision.
  - Advise retailers, local authorities, including local licensing authorities, and other regulators of decisions.
  - Ultimately, failure of a company to take remedial action when found in breach of the Code could result in their expulsion from the Association.

In order to underpin the Association's approach in this area and to assess members' implementation of the Code, the Association initiated an audit in the second half of 2006. We are aware that some critics of the self regulatory approach point out there is no independent monitoring of such Codes. This is the SWA's response to addressing that issue. As far as we are aware this is a unique approach within the drinks industry.

The remainder of this report sets out the process that was adopted, the key findings (including setting out best practice) and recommendations from the audit process.

To date no official complaints have been made under the SWA Code of Practice, although it should be noted the Association has responded to numerous requests for advice and has investigated particular advertising executions brought to our attention, which have been raised with the companies concerned. We believe this is a good indication the principles of the Code have been embedded into our members companies everyday marketing practices.

### Communication

A key part of the audit process was the communication of the objectives of the audit. At the Association's 2006 Annual General Meeting (AGM) the Chief Executive announced the Association would be initiating an audit of the implementation of Code of Practice later that year and into 2007. This announcement was followed by a letter to the Chief Executive of all member companies. An Information Circular was also posted on the Association's intranet.

It was important to communicate to member companies the objectives of the audit, which were threefold:

- To understand how the Code had been communicated and embedded into a company's marketing practices.
- To share best practice across the industry.
- To provide an opportunity for members to feed back comments on the Code.

It was stressed the audit would seek evidence of how the Code had been implemented.

### Audit Protocol

An audit protocol was developed and three pilot audits were conducted with a small, medium and large member company to test the protocol and procedure. This allowed minor amendments to be made to the audit protocol.

The Audit Protocol covered the following areas

1. Background
2. Communication and Training
3. Specific Areas Covered by the Code
  - a. Discourage underage drinking
  - b. Alcohol Content
  - c. Sexual and Social Success
  - d. Alcohol and Health
4. Tastings (including on-trade promotions)
5. Websites
6. Sponsorship
7. Compliance
8. International Perspective
9. Awareness
10. Feedback on the SWA Code

## Audit Procedure

The audit protocol was issued two weeks prior to the audit visit. All audits were conducted by the Association's Alcohol Policy Manager. All visits involved an onsite meeting with a representative of the member company's Marketing Department, usually the Marketing Director. Personnel from other functions - often Corporate Relations - were also involved on some occasions. Depending on the size of the company some audits involved the entire marketing team.

Following the visit a draft audit report was prepared setting out the findings of the audit and points for consideration/action. Following discussions with the company involved the audit was finalised and a follow-up date agreed to review progress made in addressing the 'points for consideration/action'.

Audit reports are confidential between the Association and the member company.

The audit visit was also used an opportunity to up-date member companies on developments in the social aspects agenda in Scotland, UK and the EU.

### General

The SWA Code of Practice specifically applies to the marketing and promotion of Scotch Whisky, however, it is recognised that a number of members do have a wider portfolio of brands than Scotch Whisky alone.

A number of our member companies have developed their own Code of Marketing Practice whilst others have adopted the SWA Code as their company standard. For those companies that have their own Code the audit focussed on how that Code had been embedded into the company's everyday marketing practices.

During the course of the audit a number of companies were in the process of launching, developing and updating their own Codes of Practice.

It was noted that while some SWA members are also members of The Portman Group, many more are signatories to The Portman Group Code on the Naming, Packaging and Promotion of Alcoholic Drinks.

For those companies that have their own Code there were no inconsistencies between the SWA Code and their own company code, with one exception. The inconsistencies identified are being discussed with the company concerned.

The audit process was very much welcomed by member companies as a further opportunity to reinforce and focus attention on the importance of responsible marketing and the need to have proper procedures for ensuring the Code's principles are adhered to.

### Communication and Training

Following the launch of the SWA Code in February 2005 the Association held a workshop on the Code at its AGM to facilitate the roll out and communication of the Code.

With one exception, all companies visited were able to demonstrate what actions they had specifically taken to communicate the requirements of the Code to relevant personnel. The company in question has subsequently put in remedial steps to address this.

A number of companies have developed their own Code training programmes. Some companies have requested the Association provides specific training on the Code.

For those companies that were in the process of rolling out their own codes, or updating their code, the importance of a comprehensive communications plan was recognised both for employees, particularly those in marketing, and in any external agencies involved in the promotion and marketing of brands.

In terms of advertising agencies, PR agencies and other external consultants e.g. web designers; again companies were able to demonstrate what action they had taken to communicate the Code. It was noted on a number of occasions that many companies had longstanding relationships with such agencies and that not only were they very familiar

with the various brands, target market, brand image and essence, but also they were fully aware of the requirements of the specific OFCOM rules as they apply to alcoholic beverages.

However, when engaging a new advertising agency etc the importance of ensuring the Code of Practice was an integral part of the briefing was recognised as being fundamental.

In terms of best practice the following points emerged:

- It is important to explain a company's overall approach to the issue of social aspects, responsible marketing and encouraging responsible drinking. This should be stated on the company's internet site.
- For companies that operate an intranet site there should be specific section on social aspects and responsible marketing.
- All new employees must be made aware of the company's approach as part of their induction.
- All marketing, commercial and sales teams personnel should be given a copy the Code as part of their induction.
- Specific training should also be given on the Code.
- Consideration should be given to incorporating into relevant staff's contract of employment a requirement to undergo training on the SWA Code or a company's own Marketing Code.
- Once a year there should be refresher training on the Code.
- As standard procedure, any new agency engaged in the promotion of a brand should be briefed on the Code's principles.
- Compliance with the Code should be written into the contracts of suppliers involved in the marketing of the brand.

#### a) Discouraging underage drinking

The Code has clear rules on ensuring Scotch Whisky brands are not marketed, promoted or advertised in a way that is particularly appealing to persons below the legal purchase age. The audits clearly demonstrated that the target market for Scotch Whisky brands was consistently well above the legal purchase age e.g. 25 years old. As such it would be highly unlikely that any marketing or advertising material would target underage consumers or appear in media of primary appeal to them. Any such activity would be a waste of resource as it would not be focusing on the target market for a specific brand.

The importance of using demographic data when selecting media to reach a brands' target market was seen as a fundamental requirement.

All companies demonstrated clear understanding of the requirements not to use models/actors that were below the 25 year old threshold and the need to ensure that actors, even if they were over 25, looked over 25 years old.

In terms of merchandise offered in Distillery Visitor Centre shops or online, this was identified as a potential area where companies could fall short of the Code in terms of the merchandise offered, including how it is described in associated literature. For example, teddy bears with brand logos would be considered to be incompatible with the Code.

### b) Alcohol Content

The SWA Code encourages members to provide unit information on their labels. The audit revealed the majority of member companies were including responsibility messages and unit information on their labels.

No examples of labelling or advertising were observed where high alcohol content was used as the principal basis of appeal to consumers.

The Association is actively encouraging member companies to adopt the voluntary labelling standard set out in the Memorandum of Understanding with the UK Department of Health and to incorporate as many elements, where feasible, when redesigning/refreshing their labels.

The [www.drinkaware.co.uk](http://www.drinkaware.co.uk) website was also being extensively used by members on label and on print, TV advertising and printed POS materials. Responsibility messages such 'please enjoy brand x responsibly' or similar such wording was also being used.

The issue of readability of responsibility messages on some advertising was identified as an area that companies should consider addressing.

### c) Sexual and Social Success

None of the advertising materials viewed as part of the audit was considered to be in breach of this section of the Code.

The Code states that communications should adhere to the generally accepted stands of 'good taste'. This had not been specifically defined by any company. It was recognised that good taste was something that was culturally sensitive. Companies require to specifically aware of this.

### d) Alcohol and Health

No member was making a health claim in relation to any of their Scotch Whisky brands.

During the audit process members were advised that a new EU Regulation on Nutrition and Health Claims had been adopted and was published in 2007.

This new regulation includes a general prohibition on health claims being made in relation to alcoholic drinks with a strength greater than 1.2% vol., with nutrition claims only permissible if they refer to a reduction in alcohol or energy content.

## Tastings

Members are involved in conducting tastings in a variety of settings - on and off trade - as part of Brand Ambassador presentations, distillery tours, and exhibitions.

All companies emphasised the focus of such tasting events was on tasting - not drinking.

All companies had in place measures to ensure tastings were conducted in a responsible way, some more detailed than others. All companies who had not already done so were encouraged to develop a written procedure, especially as some tastings may involve third parties delivering the event.

This was an area that was identified where the Association could usefully develop a best practice guide.

## Websites

A selection of each company's websites was reviewed as part of the audit.

It was observed that many members are including a link to the Drinkaware Trust website from their brand/corporate websites.

There was inconsistency with the approach taken with websites, both across and sometimes within companies. A number of the requirements set out in the Code of Practice were not being rigidly applied:

- Lack of a responsibility message, or where present not placed in a prominent position.
- No reference to the SWA Code or a company's own Code if they had one.
- No reminder to users to adhere to the legal purchase age of the country from which they were accessing the site or a reminder that they should only enter sites where national legislation allows access to websites for alcoholic beverages. (This latter point was addressed on a number of sites through the use of gateway pages which only allow access to sites if the users enters their country of residence and year or date of birth).

A number of the websites reviewed offered online sales. Typically they used age verification entry requirements, in accordance with the Code.

In terms of best practice the SWA recommends the following:

- There should be a prominent responsibility message on all sites clearly stated in a visible position on the front/landing page of all brand websites. This is not required for corporate websites; however, companies may wish to include detailed information on their corporate websites of their overall approach to promoting responsible drinking.
- Consideration should be given to including responsibility messages at other relevant points on the site, for example, where products are described in taste notes sections.
- All sites should include a link to the SWA website. This could be achieved, for example, by incorporating a pop-up message when clicking on the responsibility message which states something along the lines 'Company x is committed to the responsible marketing and promotion of its brands. We have developed our own Code of Practice. We are also members of the Scotch Whisky Association and comply with the SWA Code of Practice, for more information go to [www.scotch-whisky.org.uk](http://www.scotch-whisky.org.uk)' An alternative approach would be to place on the company's corporate website, a page on social responsibility setting out the company's approach to responsible marketing and its support for sensible drinking, referencing their own marketing code, and SWA Code with a link to the SWA website. Clicking on the responsibility message on individual brand sites could also direct users to this page.

For sites that offer online sales then an age verification page (AVP) must be used. This will require users to enter the country from which they are accessing the site plus their full date of birth - drop down menus can be used. The AVP will block entry to those who enter a date of birth below the legal purchase age in their country of residence. On such occasions a pop-up message should appear explaining the reason for blocking their access. The placement of the AVP is left to the discretion of the member company. It could be placed on the landing/gateway page to the site, but when not appearing on the gateway page an AVP must be built into any online sales/shop section of the site.

A number of the website sites reviewed offered the ability to download screen savers or wallpaper for PC desktops. These tended to be brand logos, pictures of the brands i.e. product shots, and in some cases pictures of the distillery in question or the stills. At the time of the audit a number of sites were running competitions: caption competitions or prizes draws, for example. None were considered to breach the Code and all required entrants to be 18 years old and over. One site offered users the ability to download its brand signature tune.

A minority of the sites reviewed offered online games. None of those observed suggested misuse of alcohol is acceptable or encouraged irresponsible consumption. It could be argued that any form of online game may be considered appealing to those under the legal purchase age, but they should not be strongly appealing to or targeted at that group. None of the online games observed were considered to breach the Code. One site that did include online games, which when considered in relation to the target market for the brand, were considered to be simple and unsophisticated. The Company in question was requested to consider these games in the light of the spirit of the SWA Code.

One site was identified where the phraseology in one section, in one paragraph, on the site could have been interpreted as encouraging immoderate consumption. It also suggested in the description of one piece of branded merchandise, available for online purchase, that it was suitable for those under the legal purchase age. The site has been amended removing these references.

Some sites offered the ability for users to make comments or upload their own pictures on to a particular section of the site. When this facility is offered there should be a vetting system in place to ensure inappropriate material is not uploaded on to the site.

## Sponsorship

A number of member companies were involved in a range of sponsorship activities: art, sport and cultural, whilst others were not involved in any sponsorship activity at the time of the audit. These latter companies do however recognise the importance of reviewing the Code requirements in this area when assessing any potential sponsorship opportunity.

All companies demonstrated a clear understanding of the 25% rule; avoiding any sponsorship opportunity where those under the legal purchase age comprise more than 25% of participants, audiences or spectators. Demographic data was considered as being fundamental to assessing potential sponsorship activity to ensure compliance with this Code requirement, as well as ensuring it will reach the target market for the brand and be cost effective.

Those member companies developing their own codes of practice were encouraged to include the points set out in the SWA Code into their own Code.

Since the Code was published, the SWA Council has taken the decision to extend the Code's provisions and agreed to prohibit alcohol branding on children's replica sports kit. The existing exemption will be removed from the revised Code when published.

A recommendation made to all those currently involved in sponsorship activities was to incorporate a responsibility element into their sponsorship initiatives.

## Compliance

Due to the different nature and size of companies, different businesses have adopted different approaches. All marketing/promotional activities undergo an approval process controlled by the Marketing Department. This is as much to do with controlling budget and value for spend as it is to do with ensuring compliance with the Code. The importance of meeting mandatory and self regulatory requirements is widely recognised. Training of marketing personnel and having a clear approval process are crucial for embedding the Code into a company's everyday marketing practices.

Companies were able to provide examples of advertising executions which had been rejected or modified during internal clearance procedure as not being in full compliance with the SWA or their own internal Code.

It was highlighted to companies, in particular larger members, the need to ensure that experience from such modifications are communicated across the company to relevant personnel i.e. all brand groups, commercial teams.

Companies were asked to report any complaints they had received from consumers, customers or regulatory bodies with regard to their marketing activities over the preceding 12 months of the audit specifically in the UK. Some companies did report that they had received complaints, all of which had been effectively dealt with, none applied to Scotch Whisky brands.

Key elements of ensuring compliance:

- A clearly identified champion(s)/guardian of the Code who can be approached to give advice.
- Independent - from the Marketing Department - input to the approval process at an appropriate stage, whether that be, for example, the Managing Director, another senior director, member of the legal or corporate team.
- There should be an escalation procedure in cases of dispute/disagreement.
- The importance of having a collegiate/committee approach to discussing potential 'grey' issues.
- A mechanism for ensuring experience from different campaigns/activities are shared across the company.

### International Perspective

Although the SWA Code is mandatory in the UK, members are also encouraged to apply it in overseas markets where no code exists or where the national code's provisions are not as rigorous as those set by the Association.

In overseas markets members operate in a variety of different ways: through their own in-market companies, joint ventures, or third party distributors.

For companies who have developed their own marketing code then these are applied globally.

In relation to third party distributors, this was identified as an area where companies require to focus more attention to ensure the principles of the Code have been fully communicated. As well as understanding the brand, the brand values, and the target market, the requirements of the Code should be built into any briefing/commercial arrangement.

Relationships with third party distributors tend to be managed through commercial teams within a company. Any marketing/promotional activity executed through third parties must go through the marketing approval process of which Code requirements are an integral part.

The degree of autonomy given to third parties in conducting marketing/promotional activity on behalf of a member company will determine the level of training necessary on the Code requirements.

Any annual/regular review with third party distributors should include a reminder of the Code principles. Companies should ensure any distributor who has conducted a piece of marketing/promotional work subsequently found to be incompatible with the Code loses their autonomy in developing marketing/promotional executions.

## Awareness

With smaller SWA members there was the opportunity to meet the entire marketing team which gave the opportunity to assess their understanding of the principles of the Code and their company's own internal procedures for obtain marketing approval, and how potential grey areas are dealt with.

For the larger companies there was less opportunity to drill down to this level and this is something that will be covered as part of the audit follow-up process.

## Feedback on the SWA Code

In general, the Code is recognised as being a useful, straightforward user-friendly document. A number of auditees commented the Code would benefit from having additional guidance notes, with examples, particularly in 'grey' areas to help guide members and further underpin the principles of the Code.

### 1. Amendments to the Code

It is recommended that the following sections of the Code be updated:

- **Responsible Consumption**

Include a requirement to carry a responsibility message on all advertising (not radio) and print POS. This will ensure SWA members meet the requirement of the European Spirits Organisation - CEPS Charter, of which the Association is a signatory, that 75% of advertising material will have a responsibility message by the year 2010.

- **Sponsorship**

As already agreed by the SWA Council, remove the exemption that permits branding on children's replica sports.

Include a requirement to include responsibility elements into all future sponsorship activities. A specific annex will be included in the Code incorporating the Sponsorship guidelines being developed under the Scottish Government/Alcohol Industry Partnership.

- **Websites**

Specific requirements on the use of age verification pages (AVPs) should be set out, so that where an AVP is used both country of residence and full date of birth are required.

- **Geographical Scope**

Extend the mandatory requirement of the Code to apply to the EU.

- **Revised Code**

The revised Code will be published in 2008 following a consultation with members and discussion with the Independent Complaints Panel. The provisions of the revised Code will apply six months after launch. A communication and roll out plan will be put in place to communicate the new requirements and highlight the up-dated guidance.

Incorporated into this roll out will be clear guidance aimed at consumers on how to make a complaint under the Code.

The SWA website will be updated to set out clearly the complaints procedure.

## 2. Additional Guidance

Provide additional guidance note to assist with underpinning the principles of the Code and to give more specific guidance on 'grey' areas.

Develop a good practice guide on responsible tastings.

## 3. Audit Follow-Up

As part of the audit follow-up, each member company has been requested to submit an update on progress in implementing the identified 'points for consideration/action'.

The Association will prepare and offer a training course highlighting the new and current Code requirements.

