



# **The Scotch Whisky Association**

## **CODE OF PRACTICE FOR THE RESPONSIBLE MARKETING AND PROMOTION OF SCOTCH WHISKY**

**THIRD EDITION**  
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# CONTENTS

<b>1</b>	<b>INTRODUCTION</b>	<b>3</b>
<b>2</b>	<b>OBJECTIVES</b>	<b>4</b>
<b>3</b>	<b>SCOPE</b>	<b>5</b>
<b>4</b>	<b>CODE RULES</b>	<b>6</b>
4.1	Responsible consumption	6
4.2	Protecting those under the legal purchase age	6
4.3	Alcohol content	7
4.4	Drinking and driving	8
4.5	Sexual and social success	8
4.6	Alcohol and health	8
4.7	Tastings	9
4.8	Digital marketing	9
4.9	Sponsorship	10
<b>5</b>	<b>COMPLIANCE</b>	<b>12</b>
<b>6</b>	<b>COMPLAINTS PROCEDURE</b>	<b>13</b>
6.1	Informal procedure	13
6.2	Adjudication of breaches of the code	13
6.3	Complaints committee	14
6.4	Independent complaints panel	15
6.5	Competition proviso	15
6.6	Complaints and queries	15

# 1 | 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 engaged in the production and marketing of Scotch Whisky rather than in retailing. As responsible manufacturers, Scotch Whisky producers want their brands to be promoted and enjoyed responsibly.**

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

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 to encourage and assist others.

## 2 | 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 set out the principles and rules for the responsible marketing and promotion of Scotch Whisky. We wish to support a continued positive role in society for alcoholic drinks, by encouraging the responsible consumption of Scotch Whisky in a manner which is compatible with a balanced and healthy lifestyle, thereby contributing to the promotion of economic progress while allowing consumers a fair share of the resulting benefit.

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.

## 3 | SCOPE

**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; tastings; sponsorship and press releases. The provisions of this Code also embrace advertising activity, including digital, social media and product placement. 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.**

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

With Scotch Whisky being 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.

# 4 | CODE RULES

## 4.1 RESPONSIBLE CONSUMPTION

- 4.1.1 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.
- 4.1.2 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 socially unacceptable or anything other than a legitimate personal choice.
- 4.1.3 Promotional and marketing materials that show product consumption should portray Scotch Whisky being consumed and drinkers behaving in a responsible manner.
- 4.1.4 Company marketing communications should never promote, support or condone illegal, irresponsible or immoderate consumption, such as binge drinking or drunkenness. Consumption must not be portrayed or encouraged before or during the use of machinery, driving or undertaking any potentially hazardous pursuit or pastime.
- 4.1.5 Company marketing should never suggest drinking being associated with violent, aggressive, dangerous or anti-social behavior.
- 4.1.6 Company marketing should never suggest drinking being associated with, acceptance of, or allusion to, illicit drugs.
- 4.1.7 A responsible drinking message should be carried on all advertising: traditional and digital, including brand websites, and print point of sale materials. The content and size of the message is to be determined by the individual company.

## 4.2 PROTECTING THOSE UNDER THE LEGAL PURCHASE AGE

- 4.2.1 Scotch Whisky should not be advertised or marketed in any manner directed at or primarily appealing to persons below the legal purchase age. Marketing materials and promotions should not depict anyone under legal purchase age or portray objects or images that primarily appeal to persons below the legal purchase age.

- 4.2.2** 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.
- 4.2.3** 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.
- 4.2.4** Communications should be placed in print and digital media only where at least 70% of the audience is reasonably expected to be above the legal purchase age. In countries where a higher threshold is laid down (e.g. the UK at least 75%), companies must adhere to that higher percentage.
- 4.2.5** 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.
- 4.2.6** Products should not be advertised or marketed in a manner associated with the attainment of adulthood or the “rite of passage” to adulthood.
- 4.2.7** 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. For example, responsibility messages such as those that communicate that the product should not be purchased or used by those under the legal purchase age are not intended to be prohibited by the Code.

## **4.3 ALCOHOL CONTENT**

- 4.3.1** The SWA supports efforts to promote responsible consumption, such as, the UK Government’s sensible drinking message ([www.nhs.uk/change4life/Pages/alcohol-lower-risk-guidelines-units.aspx](http://www.nhs.uk/change4life/Pages/alcohol-lower-risk-guidelines-units.aspx)). In those markets where it is defined, the SWA encourages members to provide unit/ standard drink information in order that consumers can make informed choices.
- 4.3.2** The alcoholic nature of a drink should be communicated on its packaging with absolute clarity, in line with national legal requirements.
- 4.3.3** Factual information about the alcoholic strength (alcohol content) of a drink does help consumers to make informed decisions, but alcohol strength should never be the dominant theme of any marketing communication.
- 4.3.4** Undue emphasis should not be placed on higher alcohol content as the principal basis of appeal. The responsible marketing of cask strength products will not breach this Code.

## **4.4 DRINKING AND DRIVING**

- 4.4.1** The Association believes those who choose to drive should not drink. Advertising and marketing materials should not portray, encourage or condone driving any motor vehicle after drinking.
- 4.4.2** The consumption of Scotch Whisky must not be portrayed or encouraged before or during the use of machinery, driving or undertaking any potentially hazardous pursuit or pastime.

## **4.5 SEXUAL AND SOCIAL SUCCESS**

- 4.5.1** 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.
- 4.5.2** However, no marketing communications should contain any claims or representations that individuals can attain social, professional, educational, or athletic success or status as a result of alcohol consumption.
- 4.5.3** Marketing communications should not suggest that drinking Scotch Whisky enhances sexual capabilities, attractiveness, masculinity or femininity, nor suggest any association with sexual activity or sexual success.
- 4.5.4** Communications should adhere to generally accepted standards of good taste.

## **4.6 ALCOHOL AND HEALTH**

- 4.6.1** 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 adults, can be part of a balanced and healthy lifestyle. Scotch Whisky companies also recognise that some individuals should avoid drinking alcohol completely. Consumers who wish to take advice on consuming alcohol should consult their doctor.
- 4.6.2** No impression should be given that the consumption of Scotch Whisky can enhance mental or physical capabilities.
- 4.6.3** Companies should not market Scotch Whisky as having or suggesting that it has health or therapeutic qualities or the ability to prevent, treat or cure illness.



## 4.7 TASTINGS (including on-trade promotions)

- 4.7.1 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.
- 4.7.2 Anyone carrying out sampling must comply with current local licensing legislation. All employees and third parties contracted to conduct tastings should be trained in responsible serving and must be of legal purchase age.
- 4.7.3 When conducting tastings, companies should encourage responsible consumption and discourage activities that reward excessive and/or abusive consumption. When conducting events, companies should recognise government sensible drinking guidelines and not offer to any one individual alcohol exceeding these recommendations.
- 4.7.4 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.
- 4.7.5 Scotch Whisky is often drunk straight. That is not the same as being consumed as a 'shot'. Care should be taken to avoid encouraging rapid consumption or 'downing in one'.
- 4.7.6 Safeguards should be put in place to avoid tastings being undertaken by individuals under legal purchase age, or by those driving or operating machinery.

## 4.8 DIGITAL MARKETING

- 4.8.1 The Code applies to all digital marketing communications produced and/or controlled by the company.
- 4.8.2 Digital marketing communications must include a clearly visible responsible drinking message.
- 4.8.3 All digital marketing communications where possible or appropriate require age affirmation based on full date of birth and country of residence whenever digital marketing communications actively engage a user to interact directly with a brand.
- 4.8.4 Companies should only use media which can reasonably be expected to meet the threshold of at least 70%<sup>1</sup> of the audience being over the legal purchase age.

*1 Or any other local applicable rules on placement.*

- 4.8.5** Companies that create a page or fan group on third party sites must ensure the content complies with the requirements of the Code (i.e. in relation to responsible consumption, protecting those under the legal purchase age, alcohol content, drink & driving, sexual & social success, alcohol & health).
- 4.8.6** User Generated Content (UGC) is material created and uploaded to a site or webpage by an individual and not by the company. UGC that appears on third-party websites over which the company has no control is outside the scope of the Code.
- 4.8.7** UGC which appears on company websites or sites over which the company has editorial control should be monitored and moderated on a regular basis for compliance with the Code.
- 4.8.8** Whenever content is allowed to be shared on a company's owned and/or controlled platform, a Forward Advice Note (FAN) should be included clearly stating that the content not be forwarded to anyone below the legal purchase age in the country of viewing.
- 4.8.9** Digital marketing communications must respect user privacy. Consumer consent is required prior to sending direct digital marketing communications. Consumers must be provided with an easy way to opt out of receiving direct digital marketing communications.
- 4.8.10** Digital marketing communications and product promotions must be transparent and not misrepresent their true commercial purpose.

## **4.9 SPONSORSHIP**

- 4.9.1** As an integral part of each new alcohol sponsorship, companies must ensure there is a recognisable commitment to promoting responsible drinking and/or supporting diversionary/community activities; taking into account the size, scale, reach and length of the sponsorship.
- 4.9.2** Companies must not sponsor individuals, activities, teams, events, tournaments, competitions, bands or celebrities which have a primary appeal or are primarily aimed at, those under the legal purchase age.
- 4.9.3** Prior to sponsoring an event, team or activity, drinks companies must use their best endeavours to obtain data on the reasonably anticipated participants, audience or spectator profile to ensure that at least the aggregate of 70% are aged over the legal purchase age. If historical data is not available, (for a new event, for example) then anticipated data, or data from a comparable event, should be obtained.

- 4.9.4** Companies must not sponsor or support individuals under the legal purchase age. A company may sponsor a team, band or group which features a player or member who is aged under the legal purchase age, provided that at least 70% of the overall participants are over the legal purchase age and that the team, band or group does not primarily appeal to underage audiences. Any participants under the legal purchase age should not be used individually in any promotional material or brand activation activity.
- 4.9.5** Sponsorship at events or tournaments which do not meet the 70% threshold are permitted but only if restricted to defined areas to which at least 70% of attendees are aged over the legal purchase age. However, a member company must not be the main sponsor but could be one of a number of sponsors.
- 4.9.6** Competitions for sponsored event tickets, which include the service of alcohol, must not be open to those under the legal purchase age.
- 4.9.7** Prior to entering a sponsorship agreement, companies must take reasonable steps to establish whether an association with alcohol and/or the sponsored party would be inappropriate under this Code.
- 4.9.8** 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.
- 4.9.9** Donations made by companies to assist programmes encouraging social responsibility or discouraging underage drinking will not be in breach of this Code.

# 5 | COMPLIANCE

*The requirements of this third version of the Code come into force from 1 July 2015.*

**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 working on marketing for the Company 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](http://www.portmangroup.org.uk)), the British Code of Advertising, Sales Promotion and Direct Marketing ([www.asa.org.uk](http://www.asa.org.uk)) and OFCOM's rules of broadcast advertising ([www.ofcom.org.uk](http://www.ofcom.org.uk)). Where national codes of practice do not exist in individual markets, or where a local code does not enshrine all of the principles of this Code, SWA member companies should follow the principles of this Code. Additionally they should work together with 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 message about responsible drinking consistent with this Code.

# 6 | COMPLAINTS PROCEDURE

## 6.1 INFORMAL PROCEDURE

Any company member or other interested party may contact the Association on an informal basis to raise a query relating to a particular marketing execution and its compliance with the Code. Executive staff of the Association shall review the issue and, where required, will raise it with the member company concerned.

The company or interested party raising the query shall be kept informed, including of any decision to take remedial action with regard the marketing execution in question.

If a company or interested party raising the query is not content with the outcome they are encouraged to bring a formal complaint in accordance with the procedures set out below.

## 6.2 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 email 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 and the complaining party 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 or the complaining party 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 email of the date and place of the meeting of the Independent Complaints Panel at which the appeal is to be considered. The email will be sent 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;
- authorise the issue of a press notice setting out its decision;
- take action to recoup any reasonable cost incurred during the remediation action taken by the SWA up to a maximum of £50,000.

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.

### **6.3 COMPLAINTS COMMITTEE**

The Complaints Committee shall consist of 3 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.

## 6.4 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.

## 6.5 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.

## 6.6 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 at The Scotch Whisky Association, or send an email to "[complaints@swa.org.uk](mailto:complaints@swa.org.uk)"



**THE SCOTCH WHISKY ASSOCIATION**

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