



Responsible Retailing Code NI
Third Edition

**The Joint Industry Code
for the Responsible Promotion
of Retail of Alcohol in NI**



JOINT INDUSTRY CODE FOR THE RESPONSIBLE PROMOTION & RETAIL OF ALCOHOL IN NORTHERN IRELAND

The 1st edition came into force on 1st September 2012. The 2nd edition came into force on 31st July 2014. The 3rd Edition came into force on 1st April 2018.

INTRODUCTION

1. Responsibly served and well-managed promotions and sales practices are a legitimate way of maintaining and developing business. On the other hand, irresponsible promotions and sales practices may encourage or incite individuals to drink to excess, and fuel drunkenness or anti-social behaviour. Whilst the consumption of alcohol in the home is beyond our control, the industry understands the impact that the promotion and sale of alcohol has on the drinking patterns of consumers. Therefore, whether alcohol is for consumption in the home or in on-trade premises, the industry has a responsibility to ensure that the sale and promotion of alcohol is done in a way that promotes responsible consumption.
2. This Code has been produced on a voluntary basis and outlines the basic standards expected of those involved in the production, promotion, retail and service of alcohol in Northern Ireland. It looks to promote best practice, to prevent alcohol being irresponsibly promoted or sold, and offers clear and measurable standards. It applies across the industry including the on and off trades. With complaints about producers referred to the Portman Group in the first instance, this Code will cover any other complaints that do not fall within the Portman Group's remit.
3. In developing this Code, the following have been considered –
 - (a) Views of government and the results of a public consultation on drinks promotion
 - (b) The Licensing (Northern Ireland) Order 1996, the Registration of Clubs (Northern Ireland) Order 1996, the Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2011 and The Licensing (Irresponsible Drinks Promotions) Regulations (NI) 2012
 - (c) Licensing (Scotland) Act 2005 (in relation to alcohol promotions)
 - (d) Alcohol etc (Scotland) Act 2010 and guidance
 - (e) Public Health Responsibility Deal – Alcohol Network Pledges (GB)
 - (f) Responsible Serve Training (NI)
 - (g) Responsible Retail of Alcohol in Ireland Code of Practice (ROI)
 - (h) Portman Group Code of Practice (UK)
 - (i) Competition Act 1998
 - (j) Advertising Standards Authority Broadcast and Non Broadcast Codes
 - (k) Retail of Alcohol Standards Group guidelines (2014)
 - (l) Licensing Act 2003 and section 182 guidance (England and Wales)
 - (m) Participating companies' internal marketing codes
4. Pricing is very strictly regulated in the UK to ensure that companies do not engage in anti-competitive or cartel style practices. Therefore, because of the limitations

imposed by the Competition Act 1998 (see Appendix 1 for more details), the Code cannot –

- (a) set a minimum price for alcohol, nor
 - (b) include any provisions relating specifically to pricing.
5. Licensees must ensure that all members of staff involved in the promotion, sale and service of alcohol are properly trained, both in their legal responsibilities and their responsibilities under this Code (see particularly paragraphs 15-18).
6. The Code does not seek to ban or prevent all promotional activity around alcohol, simply that which is judged to be irresponsible.

WHY HOLD PROMOTIONS?

7. Responsible promotions in the licensed trade are held for a variety of reasons –
- (a) to offer customers value for money;
 - (b) to showcase or introduce a new brand or product;
 - (c) to increase customer awareness of a product;
 - (d) to introduce new customers to a particular product;
 - (e) to provide a special offer to customers for a limited period on a popular or established product;
 - (f) to provide competitive advantage; or
 - (g) to support a specific event.
8. Responsibly run promotions can be a valuable marketing tool for enhancing product awareness amongst customers, and they can also offer customers good value.

CODE PRINCIPLES

9. The Code's detailed principles identify types of promotions and sales practices which should be avoided, as they carry with them a high risk that they may lead to alcohol misuse or abuse, or anti-social behaviour.
10. In addition to damaging the reputation of the industry, irresponsible promotions and sales practices may –
- (a) jeopardise the prospects for individual businesses;
 - (b) drive down quality and standards;
 - (c) expose businesses to action by enforcement agencies and courts through the nuisance and disturbance they can cause;

and such activities should have **no** place in well-managed licensed premises.

11. It is up to a licensee to ensure that any promotion run on, or in association with his/her premises, is responsible and complies with this Code, whether -

- (a) designed in-house, or
- (b) run by an outside company, or
- (c) run by an independent promoter, or
- (d) run by someone who hires his/her premises,

A licensee is responsible for every promotion run on or in connection with his/her premises, from which he/she derives an economic benefit (*for example, room hire or bar receipts – see also paragraph 21 below*).

12. Therefore, **NO** alcohol promotion in Northern Ireland will –

GENERAL

- (a) Condone or encourage illegal, excessive or irresponsible drinking such as binge-drinking, drunkenness or drink-driving, nor refer in any favourable manner to the effects of intoxication.
- (b) Focus on the strength of any alcohol product as the principle theme, except in the case of low alcohol products, which is permitted provided it does not encourage irresponsible consumption; factual information on the alcoholic strength of a drink may be given, and promotions are allowed to focus on the broad product or promotional characteristics of the brand.
- (c) Suggest that alcohol consumption leads to sporting or business success, or is a requirement for social acceptance.
- (d) Be linked to or cross-promoted with products that are used as hangover remedies.

TASTE & DECENCY

- (e) Suggest that alcohol consumption enhances sexual attractiveness or include promotional material that is linked to sexual imagery implying sexual success or prowess.
- (f) Have associations with bravado, violence, anti-social or criminal behaviour or make direct or indirect references to drug culture or illegal drugs in promotional material.
- (g) Refer to consuming alcohol to recover from previous over-indulgence, or glamorise excessive or irresponsible drinking, and the effects of intoxication should not be referred to in any favourable manner.
- (h) Be disrespectful of contemporary, prevailing standards of taste and decency or degrade or gratuitously offensive through images, symbols, figures and innuendo.
- (i) Include promotional material which is demeaning to any gender, race, religion, age or minority group.

- (j) Have associations with violent, aggressive, dangerous or anti-social behaviour in connected promotional material.

CHILDREN (UNDER 18s)

- (k) Use any promotional images, symbols, motifs or characters (real or fictitious, including sporting heroes) that have a particular appeal to children and characters should only be used if it is established that their primary appeal is to adults; the use of any cartoon character popular with children is entirely unacceptable.
 - (l) Be linked to or have promotional material that is positioned near to products that particularly appeal to children (*by law, alcoholic products must be displayed in a separate licensed area, separated from general sale products, and with properly functioning partitions, eg gates*) – this should also apply to promotional material such as pop-up stands.
 - (m) Combine alcohol with a gift that has a particular appeal to children (*for example, a box of chocolates would be acceptable; childish sweets or toys would not*).
 - (n) Incorporate images of people who are, or look as though they are, under 25 years of age in promotional material.
 - (o) Be advertised on outdoor poster sites (*for example, dedicated static advertising sites and hoardings such as billboards*) which are within 100m of schools, and all posters must adhere to the Drinkaware brand guidelines to ensure clear and consistent usage.
13. In addition, the terms and conditions of every promotion should state specifically that no-one under the age of 18 years may take part in the promotion. Where any participant appears to look under 25, proof that they are 18 must be requested prior to participation.

FURTHER COMMITMENTS

14. In addition, we commit to the following –

- (a) We will continue to support and adhere to the mandatory UK Advertising Codes administered by the Advertising Standards Authority; in particular ensuring that alcohol marketing is not targeted at children under 18 and does not imply, condone or encourage immoderate, irresponsible or anti-social drinking.
- (b) Existing signatories will continue to support and adhere to the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks (PGC); in particular:
 - i. ensuring that own label products comply with the PGC; and

- ii. supporting the principles of the PGC by not restocking any products which fall foul of the code and are the subject of a Retailer Alert Bulletin.
- (c) We will include a “*share with your mates*” type message on any multi-serve or multi-buy promotion or competition designed for immediate consumption.
- (d) We will not offer prizes for competitions where it is not possible to ensure that the recipient is over 18.
- (e) We will support, where possible, schemes in local communities developed to reduce alcohol related harm (for example Purple Flag).
- (f) We will ensure that point of sale materials and promotions are not targeted at under 18s.
- (g) We will include signage in any premises where alcohol is sold to state that persons must be 18 to purchase alcohol.
- (h) We will rigorously enforce the provisions in the Licensing (NI) Order 1996 with regard to the placing of alcohol products in stores for consumption off the premises.
- (i) We will ensure that all premises adopt the Challenge 25 Scheme, provide sufficient training and support to staff to implement it, and follow government guidelines on acceptable forms of ID.
- (j) We will ensure that all in-store sales of alcohol are verified by a member of staff. This includes ensuring that off-trade self-service checkouts have alcohol alert prompts, which prevent purchase until physically confirmed by a member of staff.
- (k) We will refuse alcohol sales to people suspected of buying for people underage.
- (l) We will ensure that appropriate health labelling is displayed on all own brand alcohol products.
- (m) We will, wherever possible, have labels with clear unit content, Chief Medical Officers’ guidelines and a warning about drinking when pregnant, in accordance with industry guidelines.
- (n) We will ensure that all retailers have in place a policy to prevent online sales of alcohol to under 18s, and require a purchaser to confirm that they are over 18.
- (o) We will ensure, as far as possible, that all home deliveries of alcohol are received by a person who is at least 18 years of age or in accordance with the customer’s delivery instructions.
- (p) The on-trade will ensure that small servings, ie half-pint, 35ml spirits and 187.5ml wine, will be available.

- (q) If we, or someone hiring our premises (*as in paragraph 11 above*), provide transport to or from our premises (*for example, a bus which collects customers from various pick-up points*), we will take all reasonable steps to ensure that alcohol is not supplied, promoted and/or consumed on that transport.

RESPONSIBLE SERVING PRACTICES & TRAINING

15. All outlets should ensure that all members of staff are properly trained in the responsible sale and service of alcohol.
- **BE ALERT** – be aware of customers who may be underage or drunk, monitor your customers when drinking on the premises, and be cautious about customers in the off-trade making repeat purchases within a short space of time.
 - **BE FIRM** – refuse to serve someone who is drunk, and do not serve excessive amounts of alcohol to customers for immediate consumption.
 - **BE LEGAL** – refuse service if you think the person is underage, drunk or buying for others who are underage (proxy purchasing), and keep an incident log and a written proof of age policy for your protection.
 - **BE CAREFUL** – how you communicate with the customer.
16. When considering complaints about promotions which may breach the Code, the Independent Complaints Panel (*see paragraph 24*) may consider **how** a promotion is managed, sold or served. In such cases, the Panel may request evidence of staff training. The Panel may also consider complaints relating to how a **compliant** promotion is managed or served. Again, the Panel may request evidence of staff training relating to their legal responsibilities and, in particular, the operation of the promotion under consideration.
17. Therefore, all staff must be trained, as a minimum, in –
- (a) their legal responsibilities when selling and serving alcohol;
 - (b) their responsibilities under this Code;
 - (c) the operation of the Challenge 25 Scheme;
 - (d) proxy purchasing;
 - (e) acceptable forms of ID; and
 - (f) how to monitor and be aware of customers' consumption on the premises.
18. Whether a particular promotion is irresponsible will often depend on its context and how it is managed. For example, a promotion which offers 3 drinks for the price of 2 may be responsible if it is served to a group of 3 friends, but could be irresponsible if served to 1 individual. In all cases, it will be up to the promoter to demonstrate that the promotion is responsible, for example, by including a message such as “*share with your mates*” and monitoring by staff.

SOCIAL MEDIA

19. The use of social media brings both opportunity and responsibility. Social media allows businesses to grow lasting relationships with their customers. However –

- (a) Licensees are responsible for all alcoholic promotions –
 - (i) advertised on their own social media platforms, and
 - (ii) on social media platforms operated by 3rd parties where there is a financial gain to the licensee (as outlined in paragraphs 11 and 21); regardless of who is running the promotion, the licensee will be held responsible.
- (b) Licensees should be aware that social media content can be shared and read by children under 18. Therefore, no content or graphics should be included that have a particular appeal to children (*see also paragraph 12(k-o)*).
- (c) All promotions advertised on social media must state either age restrictions and responsible consumption messages, or provide a clear link to the terms and conditions where these messages are clearly visible.
- (d) Licensees who actively encourage customers to post images and messages on the licensee's or outlet's own social media platform should ensure that these posts are monitored on a regular basis to ensure the provisions of this Code are not breached.

EXAMPLES OF IRRESPONSIBLE PROMOTIONS

20. In general, promotions should **NOT** –

- (a) involve drinking games or speed incentives that require excessive quantities of alcohol to be consumed within a short time, or to be “downed” in one;
- (b) encourage a person to consume a larger measure of alcohol than the person had otherwise intended to consume;
- (c) offer alcohol as a reward or prize, unless it is either in a sealed container for consumption off the premises (if larger than a single standard drink) or a single standard drink (*for example, a pint as a spot prize in a pub quiz*);
- (d) involve the supply of free or reduced price alcohol for immediate consumption on the purchase of one or more drinks or measures (for example, Buy One Get One Free, or Two for One etc)
- (e) involve a serving of more than 2 full measures of alcoholic products in a single glass for immediate consumption (this will preclude triple servings), except in the case of cocktails served in a cocktail glass or glass of equivalent capacity, and glassware used should be appropriate;

- (f) involve a reduced price of alcohol for a short period of time (this will generally be taken to be less than 4 hours – *but see paragraph 22(a) below*) in a way that is designed to encourage excessive or immoderate consumption;
 - (g) that are an incentive to rapid drinking (for example, 50p off drinks for 5 minutes after every Northern Ireland goal);
 - (h) encourage or reward the consumption of large quantities of alcohol in a single session;
 - (i) encourage either an excessive drinking session or pub crawl;
 - (j) dispense alcohol in a manner such that the customer cannot regulate the amount of alcohol consumed (*for example, where alcohol is dispensed directly into a person's mouth – so-called "dentist's chair", or by a water-pistol*).
21. In addition, as referred to in paragraph 11 above, a licensee is responsible for any promotion run on or in association with his/her premises from which he/she receives an economic benefit. *For example, a promoter organises entertainment on a premises and in return keeps the door receipts. The licensee keeps the bar takings. If that promoter runs a competition on the premises which is deemed to fall foul of this Code (eg a person downing a pint in the fastest time gets a free drink – contrary to paragraph 20(a) or 20(h)), it is the licensee who is held responsible.*

EXAMPLES OF RESPONSIBLE PROMOTIONS

22. The following are examples of promotions which are generally regarded as reasonable –
- (a) Whilst it will generally be irresponsible to reduce the price of alcohol for a period of time shorter than 4 hours (*paragraph 20(f)*), reduced prices for a shorter period of time may be responsible in certain cases. However, no price reduction is reasonable if it encourages irresponsible consumption. It is up to the outlet to demonstrate how any price reduction is responsible through responsible serving and monitoring practices. In addition, prices may be increased within the time period if any concerns about the responsibility arise and the licensee acts in good faith. Neither does "promotion" in this sense include the discounting of damaged stock, which can be legitimately reduced as compensation for an inferior product.
 - (b) To offer a free mixer is acceptable, provided the offer is not limited to a part of a day.
 - (c) Kit bag promotions involve the promotion of a particular brand in an outlet over a specific period of time, usually around 2 hours. Branded prizes are normally distributed among customers to increase consumer awareness of the brand and to encourage trial of the promoted brand. Such promotions are acceptable, provided that participation in the promotion is not dependent on the purchase of the brand.

- (d) A promotion which offers a gift upon the purchase of a standard drink or package is acceptable, provided it is clear that they are strictly limited to 1 per person. If the gift is dependent on the purchase of a number of drinks or packages, this **MUST** be by way of loyalty card or equivalent over a sufficiently long period of time.
- (e) Sampling activity is acceptable within the following guidelines –
 - i. All sampling to be conducted within the principles of responsible service (ie ID checked etc).
 - ii. Strictly 1 sample per person per sitting/occasion.
 - iii. Do not give samples to any person who appears to be intoxicated. (*The accompanying guidance to this Code details the volumes of samples that may be given.*)
- (f) “Meal Deals” are acceptable, for example, a drink and a main course for £10. However, outlets should ensure that the deal also includes the offer of a non-alcoholic or low alcohol drink.
- (g) Serving a pitcher of alcohol to a customer is acceptable provided it is clearly established that it is to be shared by an appropriate number of customers (ie assuming no one customer will be drinking more than 2 standard servings at a time, and including a “*share with your mates*” type message).

23. Additionally, if a licensee, retailer or promoter has had an advertisement or accompanying promotion pre-approved by the Committee for Advertising Practice or sought guidance from the Portman Group, then it will be deemed to be responsible without further investigation.

MONITORING & COMPLIANCE

24. The Independent Complaints Panel is charged with investigating all complaints that fall within the remit of the Code. For the avoidance of doubt, the Panel is entitled to examine any drinks promotion about which it becomes aware which, on the face of it, the Panel deems may be irresponsible, even when a formal complaint has not been made. However, if a Panel member themselves makes a complaint to the Panel, he/she will not then take part in the consideration process. The Panel is independent of the alcohol industry. Further details on members of the Panel can be found on the Code’s website.

HOW DO I MAKE A COMPLAINT?

25. If you think that an alcoholic drink promotional activity or sales practice might breach this Code, then you can complain to the Independent Complaints Panel.

26. All you have to do is to send the Panel a letter or email enclosing a flyer, photograph, screenshot or link showing the promotion and/or describe the promotion or practice in as much detail as possible. Complaints should be sent to –

Responsible Retailing Code
Independent Complaints Panel
c/o 91 University Street
Belfast BT7 1HP
responsibleretailingcodeni@gmail.com

27. When you make a complaint, your name and address will be treated as confidential and will not be given to the licensee about whom you are complaining, or made public, unless you have a competitive interest in the matter (ie you are a licensee) or you are making a complaint in an official capacity on behalf of a public body (for example, on behalf of a Council, a Government Department or the PSNI). In such a case, only the name and address of the public body and/or department will be made public – the name of the individual making the complaint on behalf of the public body will still be treated as confidential. Therefore, please ensure that you enclose your name and contact details, so that we may contact you if necessary. **The Panel is unable to consider anonymous complaints.**

WHAT HAPPENS WHEN A COMPLAINT IS RECEIVED?

28. When the Panel receives your complaint –

- (a) You will be notified within 7 working days if your complaint is one which can be dealt with under the Code. If it is, it will be investigated by the Panel which generally meets monthly. If it is not, you will be given an explanation. A complaint regarding an illegal promotion will not be considered by the Panel. In such cases the complainant will be advised that the promotion is not within the remit of the Code and that the complainant should report it to the appropriate authority (see Appendix 2).
- (b) The Panel will inform the licensee that a complaint has been made and ask for their response and/or additional information.
- (c) The complaint and the licensee's response are then considered by the Panel. You will be informed when the Panel is meeting to consider your complaint.
- (d) If the Panel **does not** uphold the complaint, you will be given an explanation. That decision is final.
- (e) If the Panel **does** uphold the complaint, or is minded to do so, at that stage the decision is provisional as the licensee is given the opportunity to make further representations or provide additional evidence. This is because finding against a licensee may have serious business and reputational repercussions. The Panel will usually invite the licensee to a Panel meeting so that they can further explain the promotion and any measures they have in place to ensure the responsible promotion of alcohol. The licensee may be accompanied by

a friend or legal representative if they so wish. As the Code is a Joint Industry Code, the “friend” cannot be a representative of an associated trade body.

- (f) The Panel will consider these further representations before a final decision is made. If the licensee does not challenge the provisional decision, then that decision becomes final.
- (g) You and the licensee will then be informed of the Panel’s final decision. The decision will be notified to the press, and the licensee’s local PSNI and council, as well as being published on the website and in the Panel’s next Report, by way of a statement outlining the breach and the context within which the breach took place. This will indicate if a licensee sought advice in advance of the promotion and if this advice was followed.
- (h) Alternatively, the Panel may, in cases it feels appropriate, give the licensee an “official warning”. Under the terms of this warning, the licensee must accept the conditions of the warning, to include –
 - i. The licensee accepts the decision of the Panel that the promotion broke the Code.
 - ii. The licensee accepts responsibility for the breach.
 - iii. The licensee understands and accepts the reason for the breach of the Code and that the defence or mitigation used in this instance will not be accepted in the case of any future complaints. *NB – proactive monitoring of licensees and premises is outside the remit of the Code and the Panel.*

Further information on how to make a complaint and the timescales involved can be found on our website – www.responsible-retailingNI.org

INDUSTRY GUIDANCE

- 29. The Code and the associated guidance are available to download from the website.
- 30. When a supplier or licensee is planning a promotion not covered in the guidance, further pre-promotion guidance and help can be obtained from their trade body. It must be noted that if suppliers and/or licensees take advice in advance of running a promotion, this may help them to avoid breaching the Code. However, the Panel will not accept this as a complete defence if any promotion is found to breach the Code.

CONTACT DETAILS

Responsible Retailing Code
Independent Complaints Panel
91 University Street
Belfast BT7 1HP
responsibleretailingcodeNI@gmail.com
<http://www.responsibleretailingcodeni.org>

APPENDIX 1 – COMPETITION ACT 1998 & LIMITATIONS IN DRAFTING

There are a number of policies not discussed in this development of this Code due to the potential breach of The Competition Act 1998. These would therefore need to be subject to separate legislation. The Competition Act 1998 states that it is illegal to form agreements which prevent, restrict or distort competition within the UK. The Act states:

- (1) Subject to section 3, agreements between undertakings, decisions by associations of undertakings or concerted practices which—
 - (a) may affect trade within the United Kingdom, and
 - (b) have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom, are prohibited unless they are exempt in accordance with the provisions of this Part.
- (2) Subsection (1) applies, in particular, to agreements, decisions or practices which –
 - (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
 - (b) limit or control production, markets, technical development or investment;
 - (c) share markets or sources of supply;
 - (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
 - (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.
- (3) Subsection (1) applies only if the agreement, decision or practice is, or is intended to be, implemented in the United Kingdom.
- (4) Any agreement or decision which is prohibited by subsection (1) is void.
- (5) A provision of this Part which is expressed to apply to, or in relation to, an agreement is to be read as applying equally to, or in relation to, a decision by an association of undertakings or a concerted practice (but with any necessary modifications).
- (6) Subsection (5) does not apply where the context otherwise requires.
- (7) In this section “the United Kingdom” means, in relation to an agreement which operates or is intended to operate only in a part of the United Kingdom, that part.
- (8) The prohibition imposed by subsection (1) is referred to in this Act as “the Chapter I prohibition”.

Therefore the following policies were outside the scope of this Code:

- (a) Restriction on the sale of alcohol for below the cost price (duty plus VAT).
- (b) Restriction on the sale of alcohol for below a minimum unit price.
- (c) Restriction on the sale of alcohol products for a reduced price.
- (d) Restriction on the sale of products for a reduced price on the purchase of one or more product for consumption off the premises.
- (e) Restriction on the sale of alcoholic products in a package that is cheaper than the sum of the products individually for consumption off the premises.

Penalties for breaching competition law are severe and so the industry is unable to discuss pricing or minimum prices collectively, without further legislation.

APPENDIX 2 – ILLEGAL PROMOTIONS

Regulation 2 of The Licensing (Irresponsible Drinks Promotions) Regulations (NI) 2012 states –

“A holder of a licence or a licence holder’s servant or agent shall not carry on an irresponsible drinks promotion (which involves the supply of unlimited amounts of intoxicating liquor for a fixed charge (including any charge for entry to the premises)) on or in connection with the licensed premises.”

Complaints about such activities should be made directly to the PSNI.



