

**GUIDANCE ON THE IMPLEMENTATION  
OF THE RESPONSIBLE RETAILING CODE  
(3rd Edition January 2018- guidance updated May 2024))**

(i) The alcoholic drinks industry in Northern Ireland is committed to promoting the responsible enjoyment of its products. To this end, in 2012, the industry published a Code of Practice on Drinks Promotions to improve standards and practices in the promotion and sale of alcohol, and to drive irresponsible practices out of the industry. The Code was updated in July 2014, then again in 2017/18 when some provisions were also reordered, so licensees should ensure that these guidelines are read in conjunction with the 3rd Edition of the Code.

(ii) These Guidance Notes have been produced and updated to supplement the Code itself, and to give further examples of how various provisions in the Code are intended to work in practice. They aim to provide pointers on the responsible and effective management of promotions in both the on- and off-trades and they take account of decisions made by the Independent Complaints Panel (ICP) since publication of the Code in 2012.

**INTRODUCTION (paragraphs 1-6)**

(iii) The Introduction simply sets the scene – that responsible and well-managed promotions are an entirely legitimate way of maintaining and developing business, but that there is no place in society for promotions that encourage individuals to drink to excess, or that fuel drunkenness or anti-social behaviour.

(iv) The Code makes clear that it cannot include any provisions relating to the pricing of alcohol due to the provisions of the Competition Act 1988 (paragraph 4). However, paragraph 5 reiterates the fact made elsewhere in the Code that proper training of staff is key, and often vital in demonstrating that a promotion is a responsible one, especially if the price being charged is much lower than the premises' usual offering.

(v) It is very difficult to give definitive guidance for every type of promotion that might be dreamt up – promoters must use common sense – if a promotion doesn't feel right, then it probably isn't.

(vi) It is up to a licensee to ensure that any promotion run on his/her premises, whether designed in-house or run by an outside company, is responsible and complies with this Code. This principle has now been included specifically in paragraphs 11 and 20.

**WHY HOLD PROMOTIONS? (paragraphs 7-8)**

(vii) Self-explanatory. “Specific event” in paragraph 7(g) refers to promotions run alongside, for example, football or rugby World Cups.

### **CODE PRINCIPLES – Promotion of Alcohol (paragraphs 9-13)**

The principles of the Code are set out in detail but no list can ever be exhaustive. Licensees should remember that one of the purposes of the Code is to hold the industry to a high standard, and to ensure that it is held in repute by the general public. Irresponsible promotions can bring the whole industry into disrepute and this must be borne in mind when imaging new promotions.

(ix) Paragraph 10 is self-explanatory.

(x) Paragraph 11 states specifically that a licensee is responsible for ALL promotions run on or in association with his/her premises where the licensee derives some economic benefit (eg entrance fee, bar receipts, room hire etc). This includes lending a premises’ name to a promotion, or a promoter running a promotion “*in association with*” a premises. The licensee is responsible for the actions of the promoter and must ensure that any promotion is run in accordance with the principles of this Code. This is an issue which has led to many complaints being made to the ICP.

(xi) Whilst it is impossible to give a definitive example of “a promotion”, it could broadly be defined as any activity designed to boost the sales of a product or service. It may include an advertising campaign including social media, increased PR activity, a free-sample campaign, offering free gifts or coupons or stamps, arranging demonstrations or exhibitions, setting up competitions with attractive prizes, temporary price reductions, personal letters, texts, e-mails or other methods. More than any other element of the promotional mix, sales promotion is about “action”. It is about stimulating customers to buy a product. It is not designed to be informative – that is what advertising is for.

(xii) A participant in a promotion is basically someone who takes part or shares in the promotion. Most of the broad principles set out in paragraph 12 of the Code are self-explanatory. They have been divided into 3 categories – General, Taste & Decency, and Children.

### **GENERAL (paragraphs 12(a)-(d))**

(xiii) The first principle in paragraph 12(a) is an overarching one - that excessive or binge-drinking should not be encouraged. Care has to be taken in the use of language in promotions to ensure that a promoter does not unwittingly fall foul of this provision. For example, the use of the term “*Messy Mondays*” and encouraging people to “*get messy*” was found by the ICP to encourage the misuse of alcohol and a complaint was upheld against the venue. Similarly, naming a promotion “*Loko*” was found to breach the Code in encouraging

the misuse of alcohol. Licensees have also been given warnings around the use of the word “hangover” (eg “hangover party”, “hangover food” (where a café voucher was offered as a prize)), as “hangover” is generally taken to refer to the effects of drinking too much alcohol on the following day.

(xiv) Many complaints have been received by the ICP based on the “*encouraging excessive consumption*” catch-all in paragraph 12(a) where pricing is a factor. Given that the Code cannot include provisions on pricing, 12(a) is often used as an alternative to enable complaints to be brought and considered, given that low prices may encourage excessive consumption. The following is a flavour of some of the complaints that have been received and considered by the ICP –

- Loyalty scheme which rewarded customers who purchased 6 pints of beer with 1 free pint – as the scheme was not limited to purchases made during one day, the complaint was not upheld but the ICP recommended the use of clearer wording in the promotional material. This is covered in paragraph 20(d) of the Code.
- Many complaints regarding drinks costing £1 – the ICP will not look at the pricing itself, only at whether responsible serving practices, staff training and monitoring of customers is in place (see also paragraph 5 of the Code and section (iv) above)
- Complaints regarding “3 for 2”, “2 for £5” etc – again, the important issues are responsible serving practices, training and monitoring. In such promotions, there **must always** be a “*share with your mates*” type message (see also paragraphs 14(c) and 16-18).

(xv) Breach of 12(a) is often found in connection with other breaches. Further examples are given throughout this guidance.

### **TASTE & DECENCY (paragraphs 12(e)-(j))**

(xvi) Paragraph 12(f) featured in two complaints to the ICP. Venues gave out packets of sweets designed to look like blue crystal meth, as featured in the TV programme Breaking Bad. In both cases, they were withdrawn immediately before the ICP had a chance to adjudicate, due to public outcry. The ICP did uphold the complaints, even though the promotions were withdrawn.

(xvii) Paragraph 12(h) has also led to venues falling foul of the Code, in relation to falling short of prevailing standards of public decency and gratuitous offence. Examples of promotions which were found to have breached the Code were –

- Language used on venues’ FaceBook pages and promotions have been found to be offensive and/or sexist; for example, “*Sh\*ts about to get crazy*” (this was also found to be in breach of paragraph 12(a))
- A Facebook promotion which contained images of a sexual nature and which alluded to the phrase “*3 Way*” was found to breach paragraph 12(h)

- A licensee whose promoter sent fake eviction letters to students using fake university letterheads was given a warning as it could have caused great distress to the recipients.

### **CHILDREN (paragraphs 12(k)-(o))**

(xviii) Principles relating to “particular appeal” to children or under 18s can prove difficult. Basically, any themes which are likely to appeal strongly to under 18s are unacceptable; for example –

- Avoid the use of personalities who are likely to have a strong appeal to the young - for example, pop stars, sportspeople who command particular admiration from the young, television personalities and cartoon characters from children or youth orientated programmes etc – it is impossible to list what may or may not be acceptable – promoters should use common sense.
- Avoid themes associated with youth culture - for example, teenage rebelliousness, mocking or outwitting authority, immature, adolescent or behaviour and practical jokes.
- Use caution if using sports – certain sports have a strong appeal to the young, for example skateboarding or extreme sports, and these should be avoided. (NB – alcohol sponsorship of sports is important, but alcohol logos have not appeared on children’s replica shirts since 2008.)
- Avoid “cutsey” images that are likely to inspire strong affection in the young. (NB – if using mixed advertising, where alcoholic and non-alcoholic products are being promoted side-by-side, be careful that any non-alcohol advertising logos or characters do not appear too close, or to be linked, to alcohol).
- Avoid give-aways or linking of products that the young would particularly like or which are primarily targeted at a young market, eg Haribo sweets, Easter eggs, cuddly toys, children’s toys in general etc. Context is important however; just because children may like mobile phones or i-pads does not mean that they should not be used – their primary market is not children. A premises advertising and running an “Easter Egg Hunt” was given a warning, and the producer of a Buckfast Easter Egg was found to have breached the Code.
- Do not run “back to school” type promotions around school holidays, or promotions relating to “end of school exams” or “start of the holidays” etc.

(xix) In relation to the use of images of people (paragraph 12(n)), promoters must ensure that they look as though they are at least 25. However, images uploaded to social media sites, or to promoters’ own websites, from customers themselves **do not** fall into this category – they must look as though they are at least 21 or they **should be removed** from sites. It is the paid actors and actresses who must look 25 – not genuine members of the public. These provisions should be read in conjunction with Code paragraphs 14(d), (f), (g),

(i), (j), (n) & (o) which also relate to young people, and paragraph 19 in relation to social media.

(xx) The restriction on advertising near schools in paragraph 12(o) applies only to outdoor static sites – such as billboards, sites at bus-stops etc. It cannot apply to “moving” ads such as those on the sides of buses, nor to a properly licensed premises’ own premises or windows.

(xxi) In paragraph 13, the Code now ensures that all outlets must operate the “Challenge 25” scheme. This means that where any participant in a promotion looks as though they are under 25, proof must be requested to ensure that they are indeed at least 18. A person only needs to be asked for proof once per visit, so if they have been asked for ID on entering the premises, they do not have to be asked again during that visit. Legislation specifies the only acceptable forms of ID; namely, passport, photo driving licence, NI electoral ID card or BRC proof-of-age card (ie a photo card carrying the PASS logo)

#### **FURTHER COMMITMENTS (paragraph 14)**

(xxii) Again, most of the further commitments are self-explanatory. However –

- Paragraph 14(a) requires adherence to the ASA Codes. A specific provision of those Codes, as they relate to alcohol, is that no medium should be used to advertise alcoholic drinks if more than 25% of its audience is under 18 years of age. This would preclude, therefore, any advertising or promotion of alcohol or a pub or off-licence linked to a YouTube channel with such a market share, or during a TV programme with a large young audience.
- Paragraph 14(c) requires that a “*share with your mates*” type message should be included on any multi-serve or multi-buy promotion. A number of premises have fallen foul of this requirement. It is another useful way, along with responsible serving practices, training and monitoring, of demonstrating compliance with the Code whilst running a legitimate value-added promotion for customers.
- In addition to the points in paragraph 12 relating to young people, there are a number of points in paragraph 14 which relate specifically to the young. Again, most are self-explanatory. Specifically –
  - In common with paragraph 14(g), legislation now requires that signage is displayed at each place in a licensed premises where alcohol is sold, and that it should be easily visible to anyone seeking to purchase alcohol, stating that persons must be at least 18 and listing the types of ID that are acceptable.
  - Paragraph 14(j) ensures that off-sales operating self-service check-out tills must prompt a member of staff to positively ID a customer when seeking to purchase alcohol.
  - Paragraph 14(n) & (o) relate to on-line sales of alcohol. Retailers must ensure that customers confirm that they are over 18 and, most importantly, when

the alcohol is delivered to the home, the person making the delivery (whether the seller's own employee or any other delivery company) should operate the Challenge 25 scheme where possible. However, if the customer has left specific delivery instructions (for example, leave at the back), these should be honoured.

- Paragraph 14(m) reiterates the UK-wide agreement by the alcohol beverage industry that at least 80% of products on shelves by December 2013 would carry labels with clear unit content and the sensible drinking guidelines. The 80% refers to the industry as a whole – NOT to an individual outlet. For example, an outlet which sources a lot of product from overseas, such as wines or foreign beers, will have no control over the label. The UK's Chief Medical Officers issued new Low Risk Drinking Guidelines in 2016 and the industry, via The Portman Group and Drinkaware, has agreed with government that information on labels –
  - will be clear, legible, displayed on the primary packaging and not be difficult for consumers to find,
  - is grouped together and companies are encouraged to differentiate the information from other information on the packaging, for example by use of a box, spacing and background colour,
  - is not on a part of the primary packaging that is dispensed with before or immediately when the product is opened, and
  - does not contain anything which serves to undermine the health messaging.

The Portman Group has issued new industry agreed guidelines as a result of the new CMO guidelines. A full copy can be downloaded from

<http://www.portmangroup.org.uk/codes/alcohol-marketing/communicating-alcohol-and-health-related-information>

There is a greater emphasis on signposting customers to the Drinkaware website. Drinkaware is the UK's leading independent alcohol education charity which seeks to help people make better choices about their drinking. Drinkaware was created in 2007 by a Memorandum of Understanding (MOU) between the UK Government, the Portman Group and the devolved administrations in Scotland, Wales and Northern Ireland. The MOU positions Drinkaware as the primary non-governmental body for providing consumers with information about alcohol and potential harms.

The use of the Drinkaware logo on packaging is recommended as a best practice. However, should any company wish to use the logo, they will require a licence from Drinkaware. Please contact [logos@drinkaware.co.uk](mailto:logos@drinkaware.co.uk) for further information or call 020 7766 9900 to speak to someone from the Logo Licensing Team.

Therefore, **as a minimum**, packages must contain the following –



OR



The guidance also gives examples of other content which producers may wish to add, including icons for anti-drink driving and 18+, and calorie information etc. A tool-kit can be downloaded which gives many examples of different types of labels.

- Paragraph 13(q) was added to the Code because of the practice of some bus and coach operators promoting the consumption of alcohol onboard their vehicles, transporting customers to and from venues – so-called “*pre-loading*” on buses. The clause means that there is now an additional responsibility on licensees to take steps to ensure that transport provided by them (or someone hiring, or running a promotion at their premises), to or from their premises must not permit, promote or allow the consumption of alcohol on board the bus. It is important to note that, whilst licensees must take all reasonable steps to ensure this, enforcement by PSNI and DVA is important as it is already illegal to consume alcohol on buses. The ICP received a complaint alleging that a licensee had been operating a “*booze bus*” – the complaint was not however upheld as the licensee had taken reasonable steps to ensure that such a bus was not run. However, a licensee should under no circumstances offer alcohol, free or otherwise, on a bus as an incentive to increase trade.

## **RESPONSIBLE SERVING PRACTICES & TRAINING (paragraphs 15-18)**

(xxiii) Various training programmes, such as *Counter Measures*, are available and licensees should ensure that all staff responsible for serving the public are well trained in the principles of responsible service set out in the Code. It is recognised that it will not always be easy for staff to police a customer’s alcohol consumption, as they may have “pre-loaded”, a fact which only becomes clear once they are on the premises or, in the case of a hotel, for example, they may have brought their own alcohol onto the premises.

(xxiv) The “responsible serve” is vital for the licensee or promoter to demonstrate that any promotion is being legitimately and responsibly run. For example, “£6 for 3 pints” would

not be responsible if it was served to 1 customer; it would be responsible if served to a group of 3. Promotions which may on the face of it first appear to be irresponsible may indeed be demonstrated to be responsible if properly served. Training and awareness of all staff is vital, and proper record keeping and evidence of training is essential (see paragraph 5 of the Code). It may not always be practical to ensure that every member of staff is trained specifically in every drinks promotion (for example, a supermarket or off-sales is more likely to have general responsible retailing of alcohol training as the alcohol is not for immediate consumption on the premises), but the licensees generally should be aware that being able to demonstrate specific training on a specific promotion may be of immense assistance in demonstrating to the ICP the responsibility of a promotion. It is now expected that all retailers of alcoholic drinks in NI move to the Challenge 25 Scheme, rather than Challenge 21.

### **SOCIAL MEDIA (paragraph 19)**

(xxv) This section is completely new to the 3<sup>rd</sup> Edition. Social media continues to play a huge role and many licensees are using social media as a forum for providing information to customers about new promotions, drinks and entertainment. It is a valuable tool as it is free, easy to use, can generate conversations with customers and a buzz about an event, products or promotions. However, licensees must ensure that what they are promoting on social media is promoted responsibly. In addition, on-going monitoring of a venue's social media platforms is very important if they encourage or make it easy for customers to post their own comments or photos on it. For example, the ICP received a complaint which was based on a screen-grab from a premises' social media page which purported to show irresponsible drinking – the complaint was not upheld at the time as it became clear that the photos were from a private party which was nothing to do with the premises; however, the photos were on the premises' **own** site. Obviously, had the premises simply been tagged in an image on the customer's **own** platform there would be nothing they could do about that. It is only content on the premises' own platform that will concern the ICP. In this third edition of the Code, however, and as the use of social media is now a lot more common, there is a requirement that a premises' own platforms are monitored on a regular basis, if they do encourage customers to post on there (paragraph 19(d)). 24 hour a day monitoring is obviously not expected, but premises should be able to demonstrate that they have procedures and systems in place to monitor their platforms on a regular basis, and to remove any inappropriate posts.

(xxvi) Most of the provisions relating to social media reiterate the Code's main principles in relation to the fact that a licensee is responsible for content relating to his/her premises where he receives a financial benefit, not using images or graphics with a particular appeal to under 18s, and the need to contain responsible consumption and age restriction information.



## EXAMPLES OF IRRESPONSIBLE PROMOTIONS (paragraphs 20 & 21)

(xxvii) Most of those examples listed are taken from the Licensing and Registration of Clubs (Amendment) Act (Northern Ireland) 2011. The provisions of that Act have not been brought into force, on the understanding that this Code will outlaw such promotions. However, 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.”* Previous editions of this Code had included this provision in this section; however, given that to carry out such a promotion is already unlawful, the provision has been removed from the Code. If the ICP receives complaints relating to such promotions, they will be returned to the complainant as they are outside the scope of the Code and the ICP. However, neither the law nor this Code prohibits an entry fee with one free drink. This Regulation is referred to in paragraph 28(a) and Appendix 2 of the Code.

(xxviii) Most are self-explanatory examples of activities that are clearly unacceptable; however, a few require explanation –

- In paragraph 20(a), retailers should be careful not to require drinks to be downed in one, for example, by serving them in receptacles which cannot be set down (eg test tubes with rounded bottoms). Such receptacles should be redesigned to ensure that they can be set down between sips. The ICP received a complaint based on a Facebook promotion referring to *“drinking a pint in 5 seconds”* – evidence provided led to the complaint being not upheld, but it is this type of promotion which this provision is designed to outlaw.
- Paragraphs 20(b) and (d) are similar. Paragraph 20(d) is aimed at promotions such as *“all drinks 90p/night”* as such a discount would clearly leave people with more money in their pockets with which to buy more alcohol, and all has to be consumed that night. This could therefore mean that a person consumed more alcohol than they had originally intended to do. This is not aimed at off-sales multi-buys which can be consumed over a longer period of time; neither paragraph 20(b) nor 20(d) are aimed at a *“3 pints for £6”* type promotion, provided it is clearly aimed at 3 friends (for example, by including a *“share with your mates”* type message) and responsibly served. Use common sense.
- In paragraph 20(c), although alcohol should generally be offered as a reward or a prize only if it is in a sealed container for consumption off the premises, the volume of alcohol is important here. A bottle of vodka as a prize should clearly be taken home for consumption; however a pint as a spot prize during a quiz could legitimately and reasonably be offered for consumption on the premises provided it is responsibly served. Similarly, a scratchcard promotion to win a free pint would be

acceptable provided controls were in place to ensure that no-one could redeem more than 1 per occasion, unless clearly for sharing for friends. A premises which encouraged customers to play “Rock, Paper, Scissors” with bar staff to win free drinks was given a warning (investigation showed that limits were in place).

- Paragraph 20(d) does not preclude “*share with your mates*” type promotions outlined elsewhere in this guidance.
- Paragraph 20(e) does not preclude the sale of a “party pack” or similar, where a bottle of spirits plus an appropriate number of mixers is sold for a fixed price and sold to a group of an appropriate size for the volume being sold, and which is clearly designed to be consumed over the course of an evening. However, it does state that glassware should be “appropriate”. Premises must bear in mind how something might appear to the public and how something may look inappropriate – always keep in mind the reputation of the industry and the over-arching principles of the Code. For example, the ICP received a complaint about a promotion showing a couple of people drinking a cocktail from a large round fishbowl. It looked like the bowl contained many measures of alcohol and appeared to be encouraging excessive consumption. In fact, it contained only a little alcohol and a lot of juice, but it looked wrong. Hence, this new requirement that glassware should be appropriate.
- Paragraph 20(f) is designed to get rid of the traditional “happy **hour**” where customers might be encouraged to drink more than they should in a short period of time to “beat the clock”. However, it should not stop special offers such as a “pensioner’s pint” at lunchtime - provided that the service is responsible and can be demonstrated as such. This is reiterated in the 1<sup>st</sup> example of responsible promotions in the Code (see paragraph 22(a) below). The ICP received a complaint based on a “*Beat the Clock*” promotion which sold drinks at a reduced price within a 2 hour period – the complaint was not upheld as the advertising and marketing left room for confusion but, generally, such a promotion would **not** be acceptable. Please also see paragraph 22(a) for examples of promotions which are responsible under this provision. A general happy hour, for example 5pm-7pm, is no longer acceptable but any period of 4 hours or more is, as this would generally be longer than the typical customer’s stay in the premises. Previous editions of the Code had required the reduced prices to be available for a 24 hour period; experience in Scotland has shown that such requirements do not work and lead only to a general across-the-board reduction in prices.
- Paragraph 20(i) should not outlaw legitimately organised and responsible tours such as the Belfast Historical Pub Tour or Food & Drink Tour.
- Paragraph 20(j) has also been the subject of a complaint – the promotion showed super soaker water pistols being used to dispense alcohol directly into people’s mouths in a direct breach of the Code.

(xxix) Paragraph 21 reiterates the principle inherent in paragraph 11 – that a licensee is responsible for any promotion run on or in association with his/her premises from which he/she receives an economic benefit – the Code gives an example of this; namely, a promoter organises entertainment at a premises and keeps the door receipts. The licensee keeps the bar takings. If the promoter runs a competition contrary to the Code, for example, the fastest time to down a pint, it is the licensee who is in breach of the Code – not the promoter. The ICP has received and upheld complaints about promotions where they felt that the licensee had not sufficient knowledge about, nor kept sufficient control over, the actions of a promoter using his/her premises. Again, to reiterate, it is the licensee who is responsible for promotions happening on his/her premises – **NOT** the promoter. **Paragraphs 11, 19 and 21 are all concerned with the licensee’s responsibility for the actions of others on the licensee’s own premises or on their own social media platforms. This is central to the Code and to licensing legislation.**

### **EXAMPLES OF RESPONSIBLE PROMOTIONS (paragraphs 22 & 23)**

(xxx) Again, mostly self-explanatory, but –

- Paragraph 22(a) is designed to show how paragraph 20(f) could be responsible in certain circumstances, for example, where the price for pensioners is reduced for a short period of time, it may be shown to be responsible for social reasons, and early evening cocktails for example to encourage trade at quiet times could be responsible **IF PROPERLY POLICED AND SERVED**. As paragraph 22(a) states, no price reduction is reasonable if it encourages irresponsible consumption. This is a difficult provision – the ultimate test is not whether the customer is being offered value, but whether they are being encouraged to drink immoderately or irresponsibly. The onus is on the licensee to prove that it is responsible and monitored. Promotions designed simply to offer value are acceptable, for example –
  - Selected drinks £2.50 on Mondays and Thursdays
  - Cocktails £5 on selected nights
  - During the Euros in France, bottles of French wine £10
  - Free mixers with purchase of a standard measure of spirits
  - “Wine of the Week” £10
  - Free soft drink/tea/coffee for drivers
  - Beer/wine/cider of the month offered at a discount for the month
  - New product offered at a discount to encourage it to be tried and for customers to switch
  - Pool Offer – 2 games, meal and beer of the week (or soft drink) £5
  - Early evening cocktails £3
  - Early evening pints £3

**The test is how the offers are policed and served.** It is up to the licensee to demonstrate that the promotion is responsible (for example, by showing that staff have been properly trained and are aware of the provisions of this Code).

- In paragraph 22(d), there is nothing wrong with offering a free gift on the purchase of a number of drinks, for example, a branded rugby shirt in return for buying 8 pints. However, this should be done by way of loyalty card or similar, and be run over a sufficiently long period of time for those drinks to be purchased responsibly. In the case of off-trade products such as those stamped on individual bottles or cans, the promoter must ensure that offers are sensibly limited (for example, 1 redemption per week).
- Bottomless Brunch / Dinner or similar ‘Bottomless’ promotions  
Whilst the Responsible Retailing Code recognises that these types of promotion are a novel way of providing consumers with a ‘value’ offer, it is important that they do not encourage people to consume more alcohol than they would have otherwise intended.  
Therefore, any such promotion should include Terms & Conditions that outline the limitations of the offer and the responsible service measures in place. Customers should be made aware of the terms & conditions within the promotion i.e., Text stating T&Cs apply should be included on any promotional material and social media posts.  
It should be noted that ‘Pay-in all you can drink’ promotions are illegal and a promotion that offers unlimited alcoholic drinks for a single payment may fall within this legislation.

#### Sample Terms and Conditions

Whilst not an exclusive list, the Terms & Condition should include clauses similar to the examples below:

1. “Bottomless” does not mean an unlimited supply of alcoholic drinks.
2. We reserve the right to refuse service to customers who in our opinion appear to be intoxicated.
3. Drinks included in the offer must be served with food. Customers cannot use the promotion for drinking purposes only.
4. During the promotion drinks will only be served in standard measures.
5. All drinks included in the offer are served by table service only, or with alternative management controls that ensure responsible consumption.
6. Customers are only allowed to have one drink at a time under the promotion. A customer will not be served until he/she has finished the drink they have.
7. Post promotion drinks are sold at the prevailing price.

#### NOTE:

Such an offer should be limited to a time period, and this should be conveyed to the customer. Staff should be trained in responsible service with training records retained.

- Sampling activity in paragraph 22(e) is acceptable provided it is done so responsibly. The following are guidelines that are deemed to be responsible –

## ON-TRADE

- Customers are to be asked whether they would like to sample a product, thereby leaving the choice to the customer.
- Strictly one sample per person per sitting/occasion. Under no circumstances is the same person to receive more than one measure, as defined below, to sample on the same occasion.
- Do not give a sample to anyone who appears to be intoxicated, or to anyone on his behalf.
- All sampling must be conducted in accordance with the principles of responsible serving.
- Sample size should be appropriate to the product being sampled and should not exceed the normal measure of the product. In practice, this means the following sample sizes –
  - Beer/Cider                    1 pint (568ml)
  - Wine                            1 quarter bottle (187.5mls)
  - Sherry/Port                   1 glass (71ml)
  - Ready-to-drink               1 bottle (275ml or 330ml)
  - Spirits                          1 single measure (35.5ml)

## OFF-TRADE

- There is a fundamental difference between sampling in the on- and off-trade. In the off-trade, the customer is thinking about purchasing and not consuming, unlike in the on-trade. Sampling in the off-trade is therefore a spontaneous decision based on the offer presented at the time, and the majority of customers are likely to be driving.
- All sampling must be conducted in accordance with the principles of responsible serving.
- Alcohol should not be left unattended in the designated area, and water should be provided on sampling stands.
- Sampling should only be done in the licensed area.
- A total limit equivalent to 1 standard drink (10g of pure alcohol) is the **MAXIMUM** which should be offered in the off-trade –

No. of samples	1	2	3	4
Product	Maximum Sample Size in ml			
Beer/Cider	284	142	95	71
Spirits	35.5	18	12	9
Wines	100	50	33	25
Sherry	71	36	24	18

Sampling personnel should advise consumers that the total alcohol in all the samples combined does not exceed a maximum of 1 standard drink.

(1 standard drink = half a pint of beer/cider = 1 pub measure spirits= 1 small glass wine)

- In paragraph 22(f), meal deals are a sensible way to encourage trade at quiet times and to encourage the consumption of food with alcohol. It is acceptable for such deals to be time limited, for example, available between 5pm and 7pm.
- Paragraph 22(g) makes it clear that multiple servings of products in a single serving need to be served responsibly. Serving more than 2 full standard servings of an alcoholic product(s) in a single container (as contrary to paragraph 20(e) of the Code) to a customer is likely to lead to rapid and immoderate consumption. Thus, the sale of triple servings should not take place (like the so-called Fat Frog – 1 bottle Smirnoff Ice, 1 bottle Bacardi Breezer, 1 bottle WKD Blue). Traditional cocktails served in a traditional cocktail glass are not precluded. Serving a pitcher of alcohol to a customer in circumstances where it cannot be 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, must be precluded. So, sales of jugs of beer, pitchers of cocktails etc are acceptable but only where care is taken. See also guidance in xxviii above.

## **MONITORING & COMPLIANCE (paragraphs 24-28)**

(xxxi) These provisions set out the role of the ICP, how to make a complaint and what happens when a complaint is received. It is worth reiterating that those making complaints will have their details kept confidential UNLESS they have a competitive interest or are making the complaint on behalf of a public body (for example, a PSNI officer or a council official – in such cases, individual names will not be disclosed – only that the complaint comes from the PSNI or the Council). It is important that names and contact details of complainants are provided so that the ICP can ask for clarification if necessary. **Anonymous complaints will not be accepted by the ICP.** This is to ensure that competitors cannot make complaints and hide behind anonymity. The ICP received one such complaint and gave the complainant the opportunity to provide their details. None were forthcoming and so the complaint was not considered. In addition, any illegal promotions under the 2012 Regulations will be sent back to the complainant for them to contact the PSNI if they wish (see also xxvii above).

(xxxii) Paragraph 28 sets out the ICP's procedures when investigating a complaint. The most important clause is paragraph 26(b) – when the ICP receives a complaint, they will inform the licensee and ask for their response. **The fuller a response the licensee makes at this early stage, the better.** In many cases, if information had been received from the licensee at an early stage, the complaint could have been dealt with quickly and easily. Such information could include details of how the promotion was run, arrangements in place for monitoring, evidence of staff training etc. It is better to provide full information at an early stage, rather than receiving a notification that the ICP is "*minded to uphold*" the complaint,

and then having to make further representations to the ICP. The ICP can, in certain circumstances, give a licensee an “official warning” rather than find against them. The benefit of this for the licensee is that it is not publicised; however, the licensee will have to have extremely good reasons/mitigating circumstances why the ICP might consider this course of action – and those reasons will only be able to be used once.