

Portman Group

Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks (fifth edition)

About SIBA

SIBA, the Society of Independent Brewers, was established in 1980 to represent the interests of the growing number of independent breweries. SIBA currently represents 835 British independent craft breweries and our vision is 'to deliver the future of British beer as the voice of British independent brewing'.

SIBA was instrumental in campaigning for Progressive Beer Duty (PBD), which came into force in 2002. This beer duty system allows smaller breweries to pay progressive rates of tax on their products and has led to an explosion of new breweries in the last decade.

SIBA represents a wide range of business types and sizes but the majority of SIBA members are often small or micro professional brewing businesses making around 1,000 hectolitres (hl) or less of beer in a calendar year. Since SIBA was established, the British beer market has been transformed. The 'craft beer revolution' continues today – with our members outperforming the rest of the beer market in 2017, showing a 1.7% growth in beer production as opposed to a 0.7% growth for the rest of the beer market. In total, SIBA members brewed around 506m pints of beer in 2017, or around 2.87m hl. This translates to around 6-7% of the total beer consumed in the UK.

General Comments

SIBA is pleased to be contributing towards this fifth Portman Group code review consultation. SIBA has been involved in detailed discussions with Portman Group team members both prior to, and during the consultation period. We'd like to thank the Portman Group staff for being generous with their time during this process.

The UK alcohol industry is both in exciting, and turbulent times. Never before has there been so many breweries in the UK and never has the brewing scene been more innovative, exciting and interesting. But as society moves on, so too must the alcohol sector and the bodies that regulate it. We should uphold high standards to reflect what society expects. We recognise that overall consumption of alcohol is decreasing and the habits and tastes of UK drinkers are evolving, too. The 'craft beer revolution' will continue, and SIBA will be the voice of British beer behind it.

For the purposes of this consultation, most of our responses will focus on two areas. Firstly on defining '**immoderate consumption**' and introducing a **new rule on widespread or serious offence**. These two areas are the most significant for SIBA members within this code review, and the areas which prompted the most discussion, debate and thought during the process.

Responses to specific questions

Proposed amendment to rule 3.2(j) in bold italics:

A drink, its packaging and any promotional material or activity should not in any direct or indirect way suggest that the product has therapeutic qualities, ~~or~~ can enhance mental or physical capabilities, ***or change mood or behaviour.***

Questions 1 & 2

- 1. Do you agree that the Code should be amended to prevent alcohol being offered on the basis that it can change mood or behaviour?**
- 2. Do you agree with the proposed drafting of the Code rule?**

SIBA have some concerns about the implications of this rule change and how it might be interpreted by the independent panel within the context of the ways in which craft beer is enjoyed; which are intrinsically linked.

As the consultation document states, *“While consuming too much alcohol can and does change mood or behaviour to some extent, the effects differ for individuals”*.

Alcohol does, of course change mood, behaviour and the perception of a situation for an individual. It acts as a depressant on the central nervous system and has both negative and positive repercussions. That, alongside enjoyment of the flavours it offers, is one of the reasons it is consumed.

Responsible adults have the ability and the freedom to choose to drink alcohol to alter their mood, behaviour and perceptions of a situation should they choose.

SIBA member beer is overwhelmingly consumed in social situations with friends, family and loved ones. It is enjoyed and it is savoured. That is the whole point of craft beer. SIBA member beer is consumed within a social context with the express intention that *socialising* will also improve your mood, and sensible consumption of craft beer is an aide to that enjoyment. If any of us ‘go out for a beer with friends’ we do it to feel better.

The context of consumption

The question then becomes; is promoting alcohol on the basis it changes mood or behaviour responsible? On balance, we probably agree that alcohol shouldn’t be offered alone on the basis it changes mood or behaviour. However, we have concerns about how beer could be marketed with regard to a social situation.

Many brands of beer are marketed with indirect and direct references aimed at the majority who are responsible drinkers. These references include positivity, being positive, socialising and having a 'good time', specifically with regard to enjoying the company of others. Craft beer is after all meant to be enjoyed with friends, family and loved ones in a social environment.

We know that the safest and most beneficial place for individual wellbeing to drink alcohol is in the regulated environment of the pub, bar or tpubroom.

If a beer can't be linked to being social, or be a contributory factor to social benefit and to improve your mood, then that would be a step far too far. This issue goes to the core of self regulation when applied to craft beer – how do we judge the balance between responsible promotion without snuffing out the 'spirit' of, or the innovation and creativity in their packaging? SIBA members feel strongly against this rule change for that reason.

We also have some concerns around individual names or words. Many brands of craft beer contain names or references to playing on hoppy – be it happy, hippy, being a 'hop head' etc. Many brands of beer directly refer to being jolly, jovial, or whimsical and therefore have associations with a positive or upbeat outlook on life. Many brands of beer also have more negative connotations like 'wild' (as in strains of yeast). Simply stating the words 'wild beer' does not imply it will make the person consuming it 'go wild'.

We would like to see this rule amended to make express clarification that:

1. Alcohol in isolation cannot be offered on the basis it changes mood or behaviour, but;
2. Alcohol can be offered on the basis that it is meant to be enjoyed with friends, family or loved ones and in this context it is the best and most beneficial way to consume alcohol.
3. Promotion of alcoholic products can use emotive words like jolly/happy/wild etc, but cannot be *directly and explicitly* appealing to the consumer to elicit that emotion¹.

Questions 3 & 4

3. Do you agree that it is important to have a unit-based definition for immoderate consumption?

4. Do you agree there is enough evidence, as set out in the section above, to introduce a definition of immoderate consumption based on a daily threshold of 4 units?

General Comments on questions 3 and 4

This question generated significant discussion and debate within SIBA. Early on in the consultation process SIBA raised the unintended consequence with the Portman Group that this new piece of guidance to support the immoderate consumption rule would have.

¹ For example, a beer name can contain the word 'happy' like 'Happy Hops' but not the phrase 'this beer will *make you happy*' even though in many cases, it will be an aide to socializing which will, hopefully make you happier.

Specifically – a unit based definition for a single serve, non-resealable container could threaten newer, stronger styles of beer such as Double IPAs, Triple IPAs, Imperial Porters/Stouts and traditional Belgian styles. For the purposes of this response we will refer to this selection of styles (there are many more high gravity, complex beers to name) as ‘our members beers/products’ or by specific example.

We would welcome further discussion with the Portman Group on this issue and would be willing to bring a delegation of brewers who make these beers to discuss the issue at a roundtable, or for Portman Group team members to visit a brewery / taproom where they are for sale.

Clarification of impact

In correspondence between SIBA and the Portman Group following the consultation launch we aimed to clarify exactly what the consequence of this new piece of guidance supporting the immoderate consumption rule would have for our members products.

The Portman Group confirmed that if the new guidance were to be introduced as intended it would consider any single serve non-resealable can containing more than 4 units would, regardless of other factors be deemed unacceptable.

We, as the trade association for brewers took that clarification to be a clear and present threat to new, interesting innovative styles of beer in the marketplace. If brought in, this new guidance would act as an effective ban on these products when complaints are made, as the independent panel would presumably uphold them all. We then acted to raise awareness of this consequence within the industry and with SIBA members to better inform our consultation response. Given the complexity of this issue we have broken down our responses below into a number of sections.

Strengths and sizes of serve

For illustrative purposes, the following sizes and strengths of ABV would constitute four units or more, and potentially be captured by the new guidance:

- ‘Crowler’ can – 946ml 4.2% ABV
- 750ml sharing bottle with mushroom cork and cage – 5.3% ABV or higher
- 660ml - 6.06% ABV or higher
- Pint tin (568ml) - 7.04% ABV or higher
- 500ml - 8% ABV or higher
- 440ml - 9.09% ABV or higher
- 330ml - 12.1% ABV or higher

Problem products

SIBA recognises and understands precisely what this change to the supporting guidance around the promotion of ‘immoderate consumption’ rule is about. Following the change to the Chief Medical Officer guidelines, as the consultation states, the independent panel lost a key metric for

determining whether a product promotes immoderate consumption by the removal of daily-recommended limits².

SIBA's support for reducing harmful drinking

This proposed change is about capturing super strength, super cheap lagers, ciders and spirits products. Previous rulings against these 'problem products' failed to find them in breach of the code because of the change in the CMO guidance. We argue first and foremost that our member's products are not abused in this way, or promote immoderate consumption for the reasons outlined below.

There are of course people who will regularly drink a single bottle of wine, or spirits in one sitting. Some people will consume large volumes of beer or cider. Whilst SIBA recognises this is an issue and wishes to help tackle it, this change does nothing to alleviate that problem.

SIBA, as a responsible trade association are completely behind efforts to reduce the harmful consumption of alcohol across all segments of society. We support measures that target the harmful use of alcohol where it can be proven that they do so. We actively support measures that encourage the sensible consumption and enjoyment of alcohol, for example in licensed premises.

However we believe that this new guidance as proposed will have unintended consequences for our members products which need to be mitigated. If they are not, then there will be serious consequences for the industry.

The market for 'craft' high gravity beers

The market for craft, high gravity, high strength beers which go above 4 units per non-resealable container made by SIBA members in the UK is a relatively small one.

Based on SIBA data available we estimate it to be less than 0.1% of the beer consumed in the UK. SIBA used YouGov to conduct a survey to find out more about the market for these products in the UK. From a representative sample of 4371 UK adult consumers, 18% would consume a beer stronger than 7% ABV less often than once a month, 3% once every month, 2% once every 2 weeks, 2% once a week and >1% every 2 to 3 days a week. This data shows consumers are treating high gravity, quality craft beers as an occasional treat. They are not an everyday occurrence and they are not consuming them immoderately.

We recognise that given its relative small size in the craft beer marketplace, some may argue that these beers are 'insignificant'. We would argue to the contrary. They are a growing style, with growing interest. Brewers have a right to explore new and traditional styles of beer, and consumers have a right to try them if they so wish. They are often experimental or 'flagship' beers produced by brewers that create huge amounts of interest on launch. They are significant because they push brewers to innovate. Some very well known breweries specialise in higher gravity beers. Some brewer's product ranges would be severely impacted upon if these changes were made. SIBA members noted that global brewers who sell around 88% of the beer in the UK

² SIBA would like to note that we question the validity and scientific basis for the Chief Medical Officer alcohol guidelines recommending no more than 14 units a week for a male or female. We know that the model which was used to determine the changes had in built biases and ignored 40 years of medical research around the 'J shaped curve' of alcohol morbidity for sensible consumption of alcohol.

marketplace do not offer products like Imperial Stouts, Porters and DIPAs. Many SIBA members felt that this rule change on that basis was anti-competitive. It looked to many of our members as though large global brewers were trying to 'snuff out' this piece of the market.

Products over four units

In further consultation with the Portman Group, we were not able to understand why a cheap bottle of wine, or a PET bottle of white cider would not be considered to be promoting immoderate consumption of alcohol, but a 500ml can of double IPA priced at £10, intended to be shared and decanted would. The Portman Group's determination that previous rulings were about cans, rather than bottles (glass or PET) didn't seem to make sense and seemed to be penalising one format without justification. Some SIBA members responding to this consultation felt that this guidance change would be penalising craft beer drinkers and breweries, whilst it was apparent that rules on wine, gin and other spirits were not amended. Many felt this was deeply unfair.

Many SIBA members felt that given their products were 'special' even if an individual decided to consume the whole product to themselves, the relative infrequency of having an imperial stout meant that 4 units in one serving simply wasn't a problem. The 4 units per day guideline was always just that; a guide, not an absolute maximum. Occasionally going over this will do no harm and therefore will not encourage immoderate consumption. 2 pints of average strength beer is more than four units, and also causes no harm, so why should this be any different?

Cans vs. Bottles and single serve

The Portman Group did not make clear in further consultation with us why a mushroom cork and cage 750ml sharing bottle of beer would not be captured (which cannot be re-sealed) but a 500ml can (which also cannot be re-sealed) was captured. Both are intended to be shared and savoured, but both can be drunk in one sitting by one individual if that individual so wishes. From our perspective there is no material difference and no justification for their differentiation. There is nothing inerrant about a can format that suggests it is a 'single serve' and a bottle is intended for sharing. Both can be shared, both can be consumed by one individual. Both can have part of their contents consumed, then part consumed at a later time.

We would welcome further discussion on this issue with the Portman Group to understand their rationale. Specifically why a larger bottle format of any alcohol beverage (including wine) is considered a sharing container, and a larger format can is considered a single serve. In our view, they are not. They are interchangeable.

Practical issues

SIBA members are increasingly canning and bottling more of their beer than ever before³. The proportion of cask and keg beer remains in the majority, but both can and bottle formats are growing rapidly with significant investment from brewers in canning and bottling lines. To threaten those businesses that may have made significant investments in canning lines by restricting a strength (and therefore a size) of a product would be detrimental. Many brewers canning equipment limits them to one specific size; a 440ml for example. The equipment to can beer like this cannot be modified to accommodate smaller serving sizes as the Portman Group

³ SIBA 'Beer Report', page 12, figure 2.2a

suggested to 'get below' 4 units in our consultation with them. This would represent, for some brewers a significant double whammy as they lose revenue from these beers, and are required to make significant investments in new equipment. This would be unacceptable.

We found the Portman Group's suggestion that brewers should simply amend their can sizes to 'get below' 4 units an irresponsible solution to the problem of harmful drinking which would do nothing to address the issues and would result in significant costs for Britain's brewing businesses for no benefit.

Individual Responsibility

Many SIBA members felt that ultimately, it was a matter for the individual to decide their own levels of alcohol consumption. When the ABV and the units are clearly printed on the side, it is ultimately up to the individual to decide. As stated above, if an individual chooses to consume 4 units in one sitting in one drink on an infrequent and occasional basis, it will do no harm. It was also clear therefore that despite the fact many brewers intend high gravity beers to be shared (many brewers say they shared 330ml cans, as well as larger serving sizes) it was ultimately up to the consumer to decide whether or not they consume a drink on one sitting, or not, alone or with friends.

Why these products are different

We argue that all double IPAs, imperial stouts/porters, Belgian styles of beer and others in this higher gravity craft category made by small brewers are inherently and intrinsically **different** to the 'problem products' we believe this guidance change is targeting. The following sections explore this difference.

Quality

The beers that we are discussing are made in small batches, with expensive, high quality ingredients and are made with immense love and care. Brewers within industry know this first hand. 'Problem products' which encourage immoderate consumption couldn't be further away from that ethos. They contain the high levels of alcohol produced from the cheapest possible ingredients. Their quality is inferior in every way and are produced in enormous batches.

Taste

The higher alcohol content of Imperial Stout or any style of beer in this category is an intrinsic component to enjoying the complex layers of flavour within the beer. We'd like to dispel the myth that beers in this category are all about the high alcohol content. It is the complex flavour and aroma profiles that are the primary characteristic and the main reason why consumers choose them. They are interesting, different and out of the ordinary. But given their history, style and complexity, the high alcohol content is an absolutely critical (but secondary overall) component to the enjoyment of them. The high alcohol content brings out flavours which wouldn't be detectable otherwise.

Super strength, super cheap lagers and ciders are not complex products and are not designed with taste, flavour and aroma as the starting point. We argue that our member's products are the opposite of that. We would also argue that given the highly complex and often powerful flavours contained within a DIPA or imperial stout, most people would find it difficult to drink more than one by themselves, let alone to immoderately consume them.

Time

Our evidence shows that with stronger, quality beers consumers drink them much more slowly than a normal beer in the range of 4% ABV. This is for a number of reasons, not least consumers recognise that they are a stronger ABV and will drink them slower, much like they will with wine at 14% ABV. Consumers also drink them more slowly so they can savour the flavour and aroma. We would argue that the products which we believe this guidance is targeting are not consumed in that way and by definition SIBA members products do not encourage immoderate consumption because of this difference.

Price

Every off license and supermarket in the country has cans of super strength, super cheap lagers and ciders that contain more than 4 units per can. These are often priced (in England, Wales given minimum unit pricing) very low at around £1 a can.

Double IPAs, DDHs, Imperial Porters, Imperial Stouts, strong sour beers and Gose made by SIBA members retail for around £5-6 a can and upwards in the off-trade, with no real upper limit. We know of many specialty beers that can retail at £50 and upward. We have provided examples of SIBA member's products in confidence to the Portman Group to highlight the kind we are discussing.

We argue that with such a significant price difference between SIBA member's products and 'problem products' that alone confirm they are inherently and intrinsically different and could not be seen to be promoting immoderate consumption. One is very unlikely to 'immoderately consume' if they are priced in a range which makes them specialty products.

Food pairing / matching

Beers in this category are often paired with specific foods, just like wine is. The work of the campaign "*There's a Beer for That*" as part of Britain's Beer Alliance highlighted just this. Consumption with food, hence increasing the enjoyment of the product is an argument against their immoderate consumption and an argument for their sensible consumption where enjoyment of flavour comes first, alcohol comes second.

Sharing and decanting/pouring

In discussions with the Portman Group we argued that high gravity SIBA members products are designed, intended and are indeed often consumed between two or more people. They are often shared so are therefore not, by automatic definition, 'single serve'. Just as a bottle of wine is not within scope of this guidance, neither should these products be.

We also argued that given their quality, the majority of consumers recognise that they are best enjoyed when poured out into a glass. When drinking directly from the can, a consumer cannot enjoy the full range of flavours and aromas that come from these styles of beer. It is widely accepted and recommended that quality craft beer should be poured into a glass rather than consumed direct from the container. Drinking direct from the container was one of the characteristics the Portman Group argued encouraged immoderate consumption. We do not accept this premise, but nevertheless the evidence does not bear out this claim anyway.

A 700ml sharing bottle or a 500ml can of Double IPA at 9% ABV, we argued was often enjoyed by two or more people, in smaller quantities than consumed by a single person in the same way

wine is. We know this from our own knowledge and experience as craft beer drinkers. We commissioned YouGov to conduct a survey of regular UK beer drinkers on these two elements.

Of a representative sample of 4371 UK consumers, 1151 drink craft beer of 7% ABV or over on a regular basis.

12% of respondents would always share a strong craft beer with someone else. 67% of respondents would tend to drink the can by themselves, but many within this category would also share on a regular basis. 61% of respondents would tend to pour their beer out into a glass. Only 24% would drink a beer in this range directly from the can or bottle.

Resealability

Many SIBA members argued that a bottle of wine or champagne with mushroom cork and cage cannot be resealed properly before it loses taste or quality, therefore a bottle of wine could be considered a 'single serve' container that is intended to be shared. If that is so with wine, but wine is out of scope of this guidance change, then why should it not be applicable to artisanal, high quality beer?

Some SIBA members questioned the validity of the claim that a can cannot be resealed. The technology to do this exists and this may become more prevalent over the next few years, although is not widespread at the moment.

Conclusion

For reasons set out above, we do not believe a unit based definition for immoderate alcohol consumption is reasonable. We ask the Portman Group to consider the factors set out above in drafting the new guidance and to accept the premise that SIBA member products are not by virtue of their alcohol content alone the 'problem products' that this guidance is targeting.

We believe a much better way of determining whether a product encourages immoderate consumption is to see, following a complaint if it is indeed being consumed immoderately and work backwards from that. Examining the quality, taste, price, sharing, decanting/pouring and resealability will give a better determination of whether or not a product is being immoderately consumed and if a product encourages this consumption rather than basing a judgment on the alcohol content alone.

Given so many products on the market contain more than 4 units in a single container, but are intended to be shared, are not resalable and would not (as we currently understand) be targeted or captured by this guidance SIBA members categorically cannot support this change.

Consuming a product that contains more than 4 units on an occasional basis (as our YouGov polling shows) would do no lasting harm to an individual and is not by the alcohol content alone, promoting immoderate consumption.

Proposed amendment to rule 3.2(b) shown in bold italics:

A drink, its packaging and any promotional material or activity should not in any direct or indirect way suggest any association with bravado, or with violent, aggressive, dangerous, anti-social ***or illegal*** behaviour.

Questions 5 & 6

5. Do you agree that the Code should be amended to prevent any associations with illegal behaviour?

6. Do you agree with the proposed drafting of the Code rule?

SIBA agrees that the promotion of alcohol should not be connected to, or promote illegal behaviour. To do so is completely anathema to SIBA's responsible business guidelines, handbook and ethos. We agree with both the need for this to be updated, and the wording as proposed.

We propose the following amendment to paragraph 1.1:

This Code seeks to ensure that alcohol is promoted in a socially responsible manner, and only to those aged over 18; ***care should be taken not exploit those who are mentally or socially vulnerable.***

Questions 7 & 8

7. Should the Code be amended to offer protection to vulnerable individuals?

8. If so, do you agree this should be an overarching principle of the Code, and as drafted?

General Comments on questions 7 and 8

We have some concerns around the failure to define a vulnerable individual, and exactly how a producer of alcohol could take care (or *reasonable* care) not to exploit or appeal to them. Given neither of these are defined or are defined by other organisations we would encourage the Portman Group to do more work on this for inclusion in the next code review.

We are concerned as to how the independent panel would determine to what level of care would be deemed sufficient, and how an objective decision could be reached that a producer actually took reasonable care, or could produce evidence for it. Both these determinations are

very subjective by nature and without supporting guidance and definitions; individual decisions could vary wildly and be at the 'whim' of the panel. The first decision would 'set the precedent' and we believe this to be dangerous. A particularly contentious or high profile example may prejudice an objective ruling by the panel.

Given that the CAP non-advertising code already makes provision for vulnerable adults does not mean that the Portman Group should.

Whilst we agree in principle alcohol producers shouldn't be promoting their products to vulnerable people explicitly as that would be irresponsible, we feel the proposed changes, wording and supporting guidance are too woolly and poorly defined at this stage to be effective.

We recommend that the Portman Group suspend this change until the next code review.

Proposed new Code rule 3.3:

A drink, its packaging and any promotional material or activity should not cause serious or widespread offence. Particular care must be taken to avoid causing offence on the grounds of race, religion, gender, sexual orientation, disability or age.

Questions 9 & 10

9. Do you agree that the Code should be amended to protect individuals and/or groups from serious or widespread offence?

10. Do you agree with the proposed wording of the new rule?

Background and context

SIBA's existing line is clear; there is no place in SIBA for sexist, misogynistic or deliberately offensive marketing of beers. Every business should be looking at this and aware of the issue. This makes sense from a business perspective too; to create an offensive beer will be cutting off a huge number of potential consumers. Beer is for everyone, should be accessible to everyone and is for all occasions⁴.

The SIBA competitions team screens all entries into SIBA beer competitions. If they see an issue, it is flagged to the competitions committee for referral and the committee decide if the beer should be allowed.

This element of the code review has also generated a significant amount of debate and discussion. Following a motion put to SIBA's AGM in March 2018 SIBA is moving ahead with its own marketing code of practice. SIBA has also consulted its members in regional meetings around the country and conducted an industry debate at BeerX 2018, on which the Portman

⁴ #AskSIBA session on sexism in beer <https://www.youtube.com/watch?v=4jgFgTpjZXA&t=71s>

Group participated on the panel. This consultation and drafting is on-going. We have not yet reached firm conclusions but we do have proposals.

SIBA's own Code of Marketing Practice

For the purposes of this question response, we would like to submit SIBA's draft code of practice for information and guidance to the Portman group. As of July 2018, we'd like to stress that this code is in draft, may be subject to change, is not fully signed off by SIBA membership and awaits approval by SIBA's board of directors.

SIBA's marketing code of practice mirrors many of the requirements and guidelines as set out in the Portman Group code of practice already and is an update of SIBA's existing codes. A full version of the paper has been shared with the Portman Group by email, but the relevant section with regards to offence is repeated below and highlighted in Appendix 1.

Free Speech vs. responsible marketing

Many SIBA members feel very strongly about this issue on both sides of the argument. Advocates of free speech argue they should be able to name a beer whatever they like and that humour, history and provocative images are an integral part of their brands and as we are adults, we should all be able to deal with that. They argue that someone, somewhere will find something offensive and that it isn't the responsibility of the brewer to moderate their emotions for them. They argue that to restrict their activities constitutes a restriction of their fundamental rights of expression and free speech that they should be able to exercise without fear of retaliation, censorship or sanction. They argue that this issue is important for everyone, because once you start to restrict freedoms; everyone is threatened, not just those producing potentially 'offensive' beers.

They argue that to restrict beer names would set a dangerous precedent and that if consumers don't want to buy them or interact with them, then they simply don't have to. They also argue that as alcohol should only be consumed by those over 18, they should be able to deal with offence much in the same way they do with film and television, comedy and literature.

The opposite view say that a small group of brewers gives craft brewing a bad reputation. They say that beer would be more accessible if offensive branding didn't put off so many people, or had a history of appealing only to men. They say that they are being progressive and bringing the beer industry into the 21st Century by improving the standards brewers should be expected

to meet. They say that a minority of brewers bring the rest of the profession into disrepute, tarring the majority with the same brush.

The core issue that this comes down to is that something one person may find offensive, another will not. Beers are judged individually and opinions will vary. Is the offence taken by the individual, or a group of individuals ever sufficient to restrict the freedoms of the offender?

Key questions for the sector

1. Is offensive marketing in beer (and alcohol generally) a sufficient problem to take action?
2. If so, then what should the rules be?

3. If we have rules, who enforces them?
4. Once the rules are enforced, what are the repercussions?

In SIBA's determination as directed by SIBA's board, the draft code of practice as outlined in appendix 1 places SIBA firmly within this debate. SIBA's board has taken a view on 1. and is beginning to take a view on 2. SIBA's draft code sets simple 'school house' guidelines on expected standards of behaviour. The principle of a 'reasonable adult consumer' is at its core.

Responses to specific questions

We would recommend that the Portman Group consider inserting the word or phrase 'reasonable adult consumers' somewhere to strengthen the ruling, mirroring SIBA's draft code.

We'd also like to see the Portman Group define 'widespread'. Would this be based on existing guidelines of discrimination as set out in the protected characteristics within the Equality Act? Would this simply be judged based on the amount of feedback and discussion a product receives via social media? We do not believe this to be a suitable mechanism so would like to see the Portman Group be more specific in this regard.

We have some concerns around the word 'serious' and its definition. If one person is 'seriously' offended then that shouldn't be cause for a panel ruling against a brand because of vexatious or isolated cases. Much like television advertising, a threshold should be set on the number of complaints before the independent panel considers an investigation. We believe the principle of a 'reasonable adult consumer' fits better in this context.

Two levels of regulation

This is not a major concern but we do think it would be useful in on-going discussions to ensure that SIBA's guidelines and the Portman Group guidelines do not create two 'levels' of differing regulation with two different outcomes. We would be keen to avoid the situation where a SIBA member may be subject to two differing codes where one may rule in favour, one against.

We believe on-going dialogue can solve this issue as at present as the two guidelines are worded slightly differently.

Question 11

11. Are there any other areas in which you think the Code might benefit from revision or ways in which you think it could be made to operate more effectively?

Representation on the Independent Panel

There is a small, but significant contingent amongst the independent brewing community that perceives the Portman Group, and the Independent Panel do not exist to the betterment of the industry. There is a general and widespread negative perception of the Group, and the panel. This is based largely on some of the more controversial decisions that have recently taken place. The corporate structure and funding arrangements of the Portman Group also create the perception that the Group has unforeseen agendas, which is unhelpful for both SIBA members, craft brewers, the Group and for the industry as a whole.

To improve this image, and to improve engagement with the craft beer industry we recommend that the Portman Group and the Independent Panel appoint an industry representative or consultant to the panel to bring craft beer industry expertise and perspective to decision making.

This would allow the independent panel to be more effective when ruling, and also improve the reputation of the group and of the panel. The craft beer industry needs to feel it is part of the discussion, not simply subject to it.

In rulings where the industry representative has a conflict of interest (for example has brewed in collaboration with a company under scrutiny) this would obviously need to be declared.

SIBA is keen to work more closely with the Portman Group going forward to improve relations between it, and the craft brewing community.

Appendix 1

SUGGESTED DRAFT CODE OF MARKETING PRACTICE for SIBA members

The marketing of beer and the materials produced to brand and promote the product should be responsible, acceptable to the majority of reasonable people and devoid of any demeaning or discriminatory messages or imagery. This Code of Practice is intended to guide SIBA members in branding their products, producing their marketing materials and enacting their marketing plans.

General Guidelines

1. Beer should at all times be portrayed in a socially responsible way. This could include depicting adults enjoying their lives and socialising while beer is being consumed in a responsible manner.

2. Marketing materials should not promote illegal or irresponsible behaviour such as by

- portraying, encouraging, or condoning drinking and driving
- promoting underage drinking;
- depicting situations where beer is being consumed excessively, involuntarily or as part of a dare or game
- portraying persons lacking or losing control over their behaviour as a result of consuming beer
- portraying or implying illegal activity as a part of drinking beer

3. Marketing materials should not imply unsubstantiated and irresponsible benefits such as by

- making representations about unsubstantiated health benefits

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- claiming or representing that individuals may obtain social status, professional, educational, sporting or financial success as a result of beer consumption
- claiming or representing that individuals can solve social, personal, or physical problems as a result of beer consumption;

3. Marketing materials should never be offensive so the following should be avoided

- The use of sexually explicit or crude brand names, language, text, graphics, photos, video, or other images in print, film or digital media that reasonable adult consumers would find inappropriate
- The use of otherwise derogatory, discriminatory or demeaning brand names, language, text, graphics, photos, video, or other images in print, film or digital media that reasonable adult consumers would find inappropriate

4. Beer advertising and marketing materials should not disparage competing beers. Any comparisons or claims distinguishing competing beers should be factual.

Procedure for Complaints / Non-Compliance with the Code of Marketing Material

A draft for the 'Procedure for complaints / non-compliance with the Code of Marketing Material' has not been included in this document and will follow this consultation and feedback.