

INDUSTRY STANDARDS AND PRACTICES CODE

Ontario

Brewers Association of Canada

October 1995

INTRODUCTION

The brewing industry recognizes the need to regulate marketplace activities to ensure that the rules and policies of all provincial liquor authorities are met. Concurrently, the industry wishes to retain its existing rights in the marketplace to attract new customers and to maintain the loyalty of current consumers of its brands.

In order to provide guidance to its employees and to meet the requirements of provincial regulators, the brewers have prepared this Industry Standards and Practices Code, including a list of both allowable and unacceptable activities. Failure to comply with this Code will result in severe penalties for both the individuals and the brewing companies involved and, therefore, representatives of each company are asked to comply with both the spirit of this Code and the specific terms outlined below.

As a general statement of the intent of the Code, the brewing industry believes that marketing and promotion programs should be focused directly on the individual consumers of our products, and not primarily on the licensees or retailers who provide the final link in the distribution chain.

In order to meet the objectives of the liquor licence authorities across the country, the Code is intended to cover the domestic brewing industry and those who, either as individual companies or as agencies, import and market beer on behalf of other manufacturers.

The brewing industry has a long history of encouraging the responsible use of its products. Therefore, any promotions carried out by the industry will ensure that:

- Those who participate will be of legal drinking age.
- Promotions will discourage the excessive consumption of alcohol.
- Participants in any contest will not be required to purchase or consume the products.
- Promotions will encourage brand switching among consumers and not an increase in overall consumption of alcoholic beverages.
- No activities will result in a direct personal gain to the Licensee.

PROVISIONS OF THE CODE:

Administration

The Code has been prepared by the brewing industry at the request of the Canadian Association of Liquor Jurisdictions and the Association of Liquor Licence Authorities of Canada. These two organizations participated in development of the Code through a Steering Committee of their members and both support its introduction and its provisions. However, under law the ultimate

authority over marketplace activities will continue to rest with the regulatory agency, in this case the Liquor Licence Board of Ontario. Provisions of the Code do not apply in Quebec or Newfoundland, which have traditionally taken the position not to regulate these marketplace activities.

The Code has been approved by the Brewers Association of Canada through motion of its Board of Directors and members agree to comply with its provisions. Other brewers and suppliers of beer to the Ontario market will be encouraged to participate in the Code by the LLBO. Participants and non-participants would still face the provisions of the Liquor Board.

Provisions of the Code shall be administered by a regional Standards Review Board with administrative and secretariat services provided by the Brewers Association of Canada and/or Brewers of Ontario. Financing of Board operations will be on a cost-recovery basis. Any person or organization launching a complaint will be required to pay the costs of an investigation if the complaint is found to be without merit by a Standards Review Board. The offending party will be required to pay the costs if the complaint is upheld by a Board.

The Board will manage the process, carry out consultations, initiate investigations into serious allegations, allocate costs and report its findings with or without recommendations for action to the regulator. The Board will submit an annual report on its operations to regulators through the CALJ/ALAC.

Sampling

Gifting of beer for sampling purposes to licensed premises and for home consumption shall only be permissible where allowed by provincial regulation and

shall be governed by the rules as set down by those provincial regulations. In the case of Ontario, the rules for sampling are set out in Sections 9 and 10 of the Liquor Licence Board of Ontario Advertising Guidelines. The relevant sections are attached to the Code.

Trade Practices

The brewing industry has drafted a list of prohibited and allowable practices on a voluntary national basis. However, such practices are subject to provincial regulation. In the event of a discrepancy between this Code and provincial regulations, the provincial regulations will take precedence.

Prohibited Practices

The following trade practices between a licensee (or his employees, agents or contractual associate, collectively "Licensee") and manufacturer (or his employees, agents or contractual associates, collectively "Manufacturer") are expressly forbidden under the Code:

- Any direct or indirect financial benefit including but not restricted to cash, cheques, rebates or credit arrangements that have a financial impact on the Licensee either through their Canadian or international operations.

Examples of such practices include:

- Price discounts
- Provision of equipment (new and used)
- Unaccompanied, non-business related trips, vacations
- Unvouchered products
- Renovation or other construction
- Furniture
- Carpeting

- Staff uniforms
- Cleaning
- Washroom supplies
- Principle or special function lighting
- Menus/menu printing
- Cable TV
- Painting
- Decorating
- Other direct personal benefits

Allowable Practices

The following practices, which may be adjusted as required in consultation with regulators, are permitted under the terms of the Code:

- A brewer may provide a Licensee with items targeted at the consumer for the purpose of raising the profile of the company or brand. However, such items must not be essential to the operation of the licensed premise and must identify the manufacturer or brands. By way of example, acceptable items would include: tent cards, coasters, place mats, posters, draught tap handles, mirrors, clocks, ashtrays, serving trays, bottle openers, hats, sweatshirts, aprons, patio umbrellas, a small quantity of glassware, a portion of menu printing and signs.
- Brewers may support off-premise promotions run or organized by a Licensee and/or local community or charitable groups which are directed towards patrons or consumers in general, including community events, ball tournaments or fund raisers.

- Theme nights can be provided within licensed premises as long as they meet the overall objective of the Code in that such events are targeted to consumers and not to the Licensee. Records must be kept of costs for review at the discretion of liquor licence authorities. Price discounting is not permitted within licensed premises.

Penalties

Any violation of this Code, as determined by a Standards Review Board following an investigation and review, will result in recommendations for sanctions against the individuals and/or the company involved.

These sanctions include:

- Delisting of a product for a specified period of time.
- Suspension without pay or dismissal of the individuals depending on the severity of the violation.
- Loss of product promotion privileges for the company for a specified period of time.
- Loss of advertising rights for the product.
- Other penalties as may be deemed appropriate by the provincial regulator following consultations with a Standards Review Board.