



Foundation for Alcohol
Research & Education



**FARE's Submission on Issues Paper:
Alcohol advertising: the effectiveness of
current regulatory codes in addressing
community concerns**

For the
Australian National Preventive Health Agency

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About the Foundation for Alcohol Research and Education

The Foundation for Alcohol Research and Education (FARE) is an independent charitable organisation working to prevent the harmful use of alcohol in Australia. Our mission is to help Australia change the way it drinks by:

- helping communities to prevent and reduce alcohol-related harms;
- building the case for alcohol policy reform; and
- engaging Australians in conversations about our drinking culture.

Over the last ten years FARE has have invested more than \$115 million, helped 750 organisations and funded over 1,400 projects addressing the harms caused by alcohol misuse.

FARE is guided by the [World Health Organization's Global Strategy to Reduce the Harmful Use of Alcohol](#)^[1] for addressing alcohol-related harms through population-based strategies, problem-directed policies, and direct interventions.

If you would like to contribute to FARE's important work, call us on (02) 6122 8600 or email fare@fare.org.au. All donations to FARE over \$2 are tax deductible.

^[1] World Health Organisation (2010). *Global strategy to reduce the harmful use of alcohol*. Geneva: World Health Organization.

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Summary

The Foundation for Alcohol Research and Education (FARE) welcomes the opportunity to provide a submission on the Australian Preventive Health Agency's (ANPHA) Issues Paper *Alcohol Advertising: The effectiveness of current regulatory codes in addressing community concerns (ANPHA Issues Paper)*.

Currently in Australia alcohol advertising is 'regulated' predominantly under the Alcohol Beverages Advertising Code (ABAC), which is a voluntary, alcohol industry, self-regulatory scheme that, does not cover all forms of advertising, and has no penalties for non-compliance. In recent years two reviews have found that the ABAC is inadequate. In 2003 the National Committee for the Review of Alcohol Advertising (NCRAA) found that the ABAC "requires specific improvements to ensure that it fulfils the expectation and spirit of the self-regulatory code" and "should this industry fail to implement the recommendations contained in this report, other options, such as regulation by Government should be considered."¹

In 2009 the Preventative Health Taskforce stated that the ABAC had "significant shortcomings to date" and recommended that "it is appropriate to plan the future regulation of alcohol advertising in Australia along a continuum that began with self-regulation, moving towards co-regulation...and then to independent regulation if co-regulation is found to be ineffective."²


While some changes to the ABAC have been made as a result of the 2003 NCRAA report, the Chief Adjudicator of ABAC, Professor the Hon Michael Lavarch has indicated that "It would be fair to say that the underlying model of the scheme has not altered since its commencement in 1998."³ This is despite significant changes to the way that alcohol is marketed over this period. The ABAC could not effectively regulate alcohol advertising in 1998, and is certainly incapable of regulating alcohol marketing strategies that are common place in 2013.

The ANPHA Issues Paper focuses specifically on "the effectiveness of current regulatory regimes in addressing community concerns". This submission will go beyond and focus on alcohol marketing more broadly, as the re-examination of a flawed advertising regulatory system is limited in terms of determining future policy options to appropriately regulate alcohol marketing and reduce in alcohol-related harms.

For the purpose of this submission, the definition of 'alcohol marketing' will follow the broad definition used by the World Health Organization (WHO), which states

Marketing could refer, as appropriate and in accordance with national legislation, to any form of commercial communication or message that is designed to increase, or has the effect of increasing, the recognition, appeal and/or consumption of particular products and services. It could comprise anything that acts to advertise or otherwise promote a product or service.⁴

By focusing on the intended effect of an alcohol promotion or marketing method, the breadth of WHO's definition is useful in its applicability to any form of alcohol marketing and promotion.



It is important to note that in the Government's response to *Australia: the Healthiest Country by 2020* (a report of the National Preventative Health Taskforce), ANPHA was directed to

monitor the compliance of the alcohol industry with voluntary codes of practice and other commitments on responsible alcohol advertising; monitor industry-funded efforts to conduct evidence-based social marketing on responsible drinking; and report annually to the Minister for Health and Ageing on these activities.⁵

However, to date ANPHA has fallen short on completing these tasks. This submission should be complementary to, and not a replacement of, ANPHA's own activities and research into monitoring, reporting and evaluating alcohol marketing in Australia.

It is encouraging to see that ANPHA has started the work of replacing alcohol sporting sponsorship funding through the *Be the Influence: Tackling Binge Drinking* initiative. Be the Influence sponsors 13 national sporting organisations in Australia to enable them to operate without alcohol promotion.⁶ By replacing alcohol sponsorship funding for sport, Be the Influence seeks to reduce the exposure of young people to alcohol marketing.


This submission highlights the following areas in making the case for alcohol marketing reform:

- Alcohol marketing in Australia is pervasive and available in more formats than it has ever has been;
- Alcohol marketing affects young people's attitudes and behaviours;
- The current 'regulatory environment' for alcohol advertising in Australia is flawed;
- Public messages about alcohol are almost entirely those produced by the alcohol industry; and
- Australians are concerned about alcohol marketing and supportive of policy reforms.

This submission will also set out principles for an effective alcohol advertising regulatory regime. ANPHA has not indicated nor discussed what alcohol marketing control policies should aim to address, and this paper seeks to do this using the evidence-base. Five principles have been identified:

1. Alcohol marketing control policies must aim to reduce the overall volume of alcohol advertising;
2. Alcohol marketing control policies must ensure that activities are not targeted at young people and are not in places where children and young people are present;
3. Alcohol marketing control policies must cover all communication formats including advertising, sponsorship, and print and digital, including social media;
4. Alcohol marketing regulation must be independently regulated as self-regulation has consistently been found to be ineffective; and
5. The alcohol industry should be required to report their annual expenditure on alcohol marketing activities to Government to inform future policy directions.

There has been enough time spent discussing the need to develop more effective policies to address alcohol marketing. Now is the time for swift and decisive action. Alcohol marketing control policies



are a shared responsibility between the Commonwealth, state and territory governments. The role for states and territories has not been included in the current ANPHA Issues Paper, but must not be overlooked, as current state and territory liquor legislation include restrictions on alcohol marketing and most jurisdictions have promotions guidelines.

Reform directions for review are clear and should be implemented in a multifaceted approach; this approach is outlined in detail in the submission. The elements of a multifaceted approach include:

1. Immediately close the loophole in the Commercial Television Code of Ethics;
2. Begin working with state and territory governments to strengthen alcohol promotion provisions under liquor legislations;
3. Implement a counter advertising regime on all alcohol marketing activities;
4. Replace the Alcohol Beverages Advertising Code with an independent regulatory body;
5. Phase out alcohol marketing from time and placements which have high exposure to young people;
6. Extend the Community Sponsorship Fund through an increase in alcohol taxation with a view to phasing out all alcohol sponsorship.

Recommendations

1. There is a compelling case to reform alcohol marketing control policies in Australia, this includes that:
 - I. Alcohol marketing in Australia is pervasive and available in more formats than it has ever has been;
 - II. Alcohol marketing affects young people's attitudes and behaviours;
 - III. The current 'regulatory environment' for alcohol advertising in Australia is flawed;
 - IV. Public messages about alcohol are almost entirely those produced by the alcohol industry; and
 - V. Australians are concerned about alcohol marketing and supportive of policy reforms.
2. ANPHA must establish clear objectives for effective alcohol marketing control policies. These objectives should incorporate the following five principles:
 - I. Alcohol marketing control policies must aim to reduce the overall volume of alcohol advertising;
 - II. Alcohol marketing control policies must ensure that activities are not targeted at young people and are not in places where children and young people are present;
 - III. Alcohol marketing control policies must cover all communication formats including advertising, sponsorship, and print and digital, including social media;
 - IV. Alcohol marketing regulation must be independently regulated as self-regulation has consistently been found to be ineffective; and
 - V. The alcohol industry should be required to report their annual expenditure on alcohol marketing activities to Government to inform future policy directions.
3. Implement a staged approach to alcohol marketing control policy reform in Australia by:
 - I. Immediately close the loophole in the Commercial Television Code of Ethics;
 - II. Begin working with state and territory governments to strengthen alcohol promotion provisions under liquor legislations;
 - III. Implement a counter advertising regime on all alcohol marketing activities;
 - IV. Replace the Alcohol Beverages Advertising Code with an independent regulatory body;
 - V. Phase out alcohol marketing from time and placements which have high exposure to young people;
 - VI. Extend the Community Sponsorship Fund through an increase in alcohol taxation with a view to phasing out all alcohol sponsorship.



The case for alcohol marketing reform

Alcohol marketing in Australia is pervasive and available in more formats than it ever has been

A conservative estimate of total alcohol advertising expenditure in Australia in 2007 was \$128 million.⁷ However, this figure is an underestimate because it does not take into consideration the amount spent on alcohol sponsorship or merchandise.


Marketing strategies adopted by the alcohol industry include a combination of advertising on television, radio, online, print media, sponsorships of sports, cultural teams and events, point of sale and other promotions, and product placement. Marketing also includes the product design, packaging, naming and logos.

Alcohol marketing includes the sponsorship of sport and cultural events which is now common practice. Many sporting events in Australia include sponsorship by the alcohol industry including cricket, the Bathurst 1000 'V8 Supercars' race, the National Rugby League and the Australian Open tennis championships. These sponsorship deals can include field signage, jersey logos and naming rights to events or awards. For example the National Rugby League receives sponsorship from Victoria Bitter. The State of Origin Rugby League series teams – New South Wales and Queensland – are sponsored by Victoria Bitter and XXXX Beer respectively.

Sponsorship also occurs at cultural events, such as music festivals, with minors being exposed to such promotions. The Big Day Out is attended by all age groups including minors. Even though minors are in attendance at the festival, it is heavily sponsored by the alcohol industry, including Carlton Dry (a beer brand), Strongbow (a cider brand), Vodka Cruiser (a ready-to-drink alcohol beverage brand), El Jimador (a tequila brand), and Smash (a frozen cocktail brand).⁸ One of these sponsorship arrangements includes exclusive promotional tents in prime locations on the festival site for alcohol beverage sponsors, such as the El Jimador-sponsored 'Mexican Wrestling Bar' and a Vodka Cruiser-sponsored 'House Party' bar that were present at Big Day Out this year.⁹

There has also been an increasing presence, particularly in print media, of alcohol retailers. One study examined the changes in alcohol product advertising over a 20 year period (1989 to 2009) in two daily newspapers (*The Age* and the *Herald Sun*).¹⁰ The study found that alcohol advertising changes in several ways, including:

- Advertising is now dominated by large-scale alcohol retailers or 'liquor barns'; advertising by small 'boutique' specialist retailers has declined radically.
- There is a noticeable trend towards large, full-page advertisements that feature colour photographs of products and large fonts.
- More prominence is given to the price of products, especially through the promotion of 'special offers' and discounts for 'bulk' purchases.

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- Alcohol advertising often occupies whole pages at the front of the newspaper, making it difficult for the reader to avoid.
 - Advertising of pre-mixed spirits was most prominent in the newspaper with the largest youth audience.

In recent years, there has been a shift in alcohol marketing towards new and interactive technologies, such as using social media and smart phones.¹¹ These new methods for alcohol marketing present new challenges for regulators, as it is not based on the model of promoting a product to an audience, but instead is dependent on user interaction. Mediums such as social media encourage people to promote alcohol brands among their networks and engage in dialogue regarding the brand.

An example of an alcohol company that has focused on social media is Diageo. In recent years Diageo has made a strategic shift by tapping into social media networks including YouTube, Facebook and Twitter, where people are naturally online rather than trying to entice them somewhere outside their normal behaviours.¹²

In September 2011, Diageo announced it would strengthen its partnerships with Facebook by focusing on consumer engagement and aim to “push the existing boundaries of social media...”¹³ Diageo has engaged over 950 employees trained in “Facebook boot camps” to advance their social media capabilities.¹⁴ Since the multi-million dollar partnership between Diageo and Facebook, Diageo’s fan base has grown from 3.5 million to 12 million followers (in 12 months), with Smirnoff becoming the number one alcohol product brand on Facebook.¹⁵ Diageo has stated that “...as a result of Facebook activity”¹⁶ sales have increased by 20 per cent across five key brands.¹⁷

Diageo is also using smartphones to create its projects. Smartphones allow access to a variety of internet applications, such as video, games and social media. Diageo’s *TheBar.com* application (app) includes multiple features, for example catalogues of cocktail recipes, special offers, recommendations of alcohol products and food pairings, and features that allow its user to recommend and share favourite drinks via Facebook and emails.¹⁸ The app also allows users to locate nearby pubs, clubs, and social venues.

These new approaches to marketing challenge existing regulatory approaches which assume that the alcohol advertising is created by the producer and communicated through traditional formats. They also make alcohol marketing available on platforms that are more popular among young people. For example, Smirnoff has one of the top three fastest growing fan page on Facebook.¹⁹

Alcohol marketing affects young people’s attitudes and behaviours

The volume of alcohol marketing that young Australians are exposed to is unprecedented. Not only are they exposed to alcohol marketing through traditional communication mediums such as television, radio, newspapers and magazines, billboards, merchandise and sponsorship; but also through the internet, including social media sites such as Facebook, YouTube and Twitter.




A report titled *They'll drink bucket loads of the stuff*, an analysis of internal alcohol industry marketing documents in the United Kingdom (UK) revealed that alcohol producers and advertisers identified in the documents are keen to recruit new drinkers and establish their loyalty to certain brands. New media channels are used because they appeal to and engage new consumers (young people). Alcohol beverage sponsorship of specific music festivals and/or sporting events is undertaken with the core purpose of reaching young people and demonstrating to young people how well the brand understands and relates to them.²⁰

Of particular concern is the influence of alcohol advertising and sponsorship on young people's perceptions of alcohol, their drinking intentions and their behaviours. Studies have shown that there is a significant relationship between exposure to alcohol advertising, and drinking intentions and behaviours.^{21 22 23} In 2010 a survey of children aged between nine and 15 years in Western Australia found that 75 per cent of children and adolescents recognised Bundy Bear and correctly associate him with an alcoholic product.²⁴ Alcohol sponsorship of sporting events has also been shown to result in children and young people associating alcohol with sport.²⁵

The impact of alcohol advertising on young people is of particular concern because young people bear a disproportionate level of harm from alcohol-related accidents and injury.²⁶ The volume of alcohol advertising young people are exposed to has been shown to impact on their future alcohol consumption behaviour. A review of twelve longitudinal studies of over 38,000 young people have shown that the volume of advertising they are exposed to influences the age that they start drinking as well as their consumption levels.²⁷ This review of longitudinal studies also showed a dose response relationship between volume of exposure to advertising and alcohol consumption in young people. That is the more alcohol advertising that young people are exposed to, the earlier they will start to drink, and the more they will consume if they already drink.

While it is difficult to accurately quantify the impact of the volume of alcohol advertising on young people's alcohol consumption, a study undertaken in the United States showed that in 15 to 26 year olds, each additional advertisement seen increased the number of alcoholic drinks consumed by one per cent.²⁸ In the United States, each additional hour of television viewing per day among school children increased their risk of initiating drinking 18 months later by nine per cent.²⁹ Similarly, a study in New Zealand showed that males who reported being aware of more alcohol advertisements at age 15 drank significantly more beer at 18 years.³⁰ It also showed that in beer drinkers aged 18 years, liking (preference) of alcohol advertising had a positive impact on beer consumed at age 21 years and they were more likely to be heavy drinkers at 26 years.

In the Australian context, one of the largest and most comprehensive studies of alcohol advertising exposure and alcohol consumption patterns among young people found associations between exposure to multiple different forms of alcohol advertising and alcohol consumption.³¹ It studied 1113 adolescents aged between 12 and 17 years and examined their exposure to advertising in television, magazines, billboards/posters, bars/clubs, bottle shops, on the internet and in promotional materials. An Australian study of 1113 adolescents aged between 12 and 17 years found that nearly all (94.2 per cent) of the people surveyed had seen alcohol advertising on television. Young people had also been exposed to alcohol advertising in bottle shops (79.0 per cent); through magazines (74.7 per cent); on billboards or posters (60.7 per cent); on the Internet (55.4 per cent); in



bars/pubs (53.6 per cent); in newspapers (53.1 per cent) and/or on promotional materials (51.4 per cent).³² Other key findings of this study were that:

- Adolescents who had seen alcohol advertising in magazines, bottle shops, pubs/bars, or on promotional materials were significantly more likely to have initiated alcohol consumption;
- Adolescents who had seen alcohol advertising in a bar or pub, internet, or magazine were significantly more likely to have consumed alcohol in the past four weeks; and
- Each these associations remained even after taking into account adolescents' age, gender, country of birth, religion and whether their mother or father drink alcohol.

To date, much of the evidence about the impact of alcohol advertising on young people's alcohol consumption patterns has been based on exposure to more traditional media sources such as television, radio and print media. Emerging evidence suggests that engagement through social media, not only as a source of alcohol advertising, but also as a source of pictures depicting underage alcohol use such as, through Facebook may also influence young people's alcohol use. For instance, a United States study of 1037 teenagers aged 12 to 17 found that the 70 per cent who reported spending time on a social networking site in a typical day were three times more likely to have used alcohol (26 per cent versus 9 per cent of those who did not use social networking).³³

Concern about exposure of alcohol advertising to young people and the effects it has on their consumption and behaviour resulted in the Preventative Health Taskforce recommending in 2009 that

In a staged approach phase out alcohol promotions from times and placements which have high exposure to young people aged up to 25 years.³⁴

This recommendation is still relevant in the current alcohol marketing control policy environment and should be endorsed by ANPHA.


The current 'regulatory environment' for alcohol advertising in Australia is flawed

Alcohol advertising is currently 'regulated' under a number of voluntary codes. This section will focus predominantly on the Alcohol Beverages Advertising Code (ABAC), the Commercial Television Industry Code of Ethics, and state and territory alcohol promotion guidelines as immediate opportunities for alcohol marketing control policy reform.

The ABAC

Alcohol advertising in Australia is predominantly 'regulated' under a scheme funded and managed by the alcohol industry, the ABAC. The ABAC is governed by representatives from alcohol industry bodies; as well as a representative from the Advertising Federation of Australia and Government.

Complaints on alcohol advertising must be lodged through the Advertising Standards Bureau (ASB), after which it is sent to the Chief Adjudicator of the ABAC, who may refer the complaint to the full



Adjudication Panel for a determination. The ABAC also provides advertisers with a voluntary pre-vetting service, a user-pays system which checks the advertiser's campaigns against the ABAC.³⁵

The ABAC has existed since 1998 and the scheme was slightly modified in 2004 following recommendations by the National Committee for the Review of Alcohol Advertising (NCRAA).³⁶ The NCRAA made 25 recommendations to strengthen the ABAC, among them:


- That the ASB continue to increase the transparency of the complaints process to the general public, and to make clear that alcohol advertisements subject to complaints will also be considered under the ABAC Scheme;
- That the Management Committee ensures that all smaller industry members become signatories to the ABAC;
- That at least one member of the Adjudication Panel be a public health expert nominated by the MCDS; and that the Management Committee include one Government representative nominated by the MCDS;
- That the Management Committee provide an annual report to the MCDS on ABAC operations, adjudications and potential for improvement in the process; and
- That all alcohol advertising in the broadcast media, billboards, other outdoor campaigns and Australian internet sites advertising alcohol products be subject to pre-vetting.³⁷

While some of the recommendations were adopted by the ABAC, this has not resulted in significant improvements. For example, as per the recommendation to add a public health expert to the Adjudication Panel, Professor Fran Baum was appointed in 2004. However, following her resignation from the Panel in 2012, she revealed that she was essentially a lone voice. Professor Baum stated that:

On a number of occasions the arguments that I presented were not accepted by other members of the panel. On those occasions the decisions were made by a majority of the panel and I was a minority public health voice.³⁸

Another recommendation, that the complaints process be simplified and well-communicated to the general public, has also failed to fulfil its intention. A 2005 Department of Health and Ageing study found that among the 30 per cent of respondents who reported concern about any alcohol advertising they had seen or heard, only a minority (two per cent) had made a formal complaint. The reasons for not complaining included the belief that the complaint would not be upheld, not having time, and not knowing the procedure. Of those who did complain, the majority were not satisfied with the outcome of their complaint.³⁹ The 2012 *FARE Annual Alcohol Poll (2012)* showed that only four per cent of Australians can correctly identify the Advertising Standards Bureau as the body to whom alcohol advertising complaints should be directed.

The Chief Adjudicator of the ABAC, Professor the Hon Michael Lavarch, has also raised concerns that despite the 2003 review, the ABAC has remained unchanged since 1998. The Chief Adjudicator raised this issue in the 2009 ABAC Annual Report, stating that:



The code has been subject to review and revision in the subsequent 11 years, with a significant review conducted under the auspices of the Ministerial Council for Drug Strategy in 2003...it would be fair to say that the underlying model of the scheme has not altered since its commencement in 1998. This basic model makes certain assumptions about the type and style of alcohol beverage advertising to which the code is directed, such as:


- that specific alcohol beverages are being directly advertised
- that this advertising is in the form of a single execution, albeit that the execution might be part of a wider and comprehensive marketing campaign
- that the advertisement is transmitted by a 'traditional' medium of television, radio, print, billboard or via the Internet through a dedicated product website or a banner advertisement on a third party website
- that the advertisement is placed by a member of one of the peak industry associations which sponsor the ABAC Scheme.⁴⁰

These assumptions are becoming increasingly irrelevant now that the alcohol industry is using more innovative approaches to promote its products.

There are many flaws in the current alcohol advertising regulation system, namely:

- The ABAC does not cover the whole alcohol industry, as the system is voluntary;
- The ABAC does not have the authority to penalise code breaches;
- On the rare occasion that a complaint is upheld, the advertiser responsible has no legal imperative to modify or remove the advertisements;
- The ABAC only deals with the content of advertisements, not the placement. Placement issues are handled under other codes but not in a consistent manner;
- The ABAC fails to cover other avenues of alcohol advertising such as event sponsorship, or product placement (e.g. in music videos);
- The ABAC does not effectively address new forms of media, most notably social media, which is a rapidly growing and highly accessible avenue for alcohol advertising;⁴¹
- The ABAC process is entirely contingent on members of the general public making a complaint. This is problematic because many may not have the sufficient motivation, confidence and awareness required to engage with the complaints system;⁴² and
- The ABAC pre-vetting system is not compulsory.⁴³

Importantly, the ABAC fails to adequately protect those who are most at risk from alcohol-related harms – young people. An Australian study found that the majority of young people (aged 15-24 years) perceive existing alcohol advertisements as being designed to appeal to them, with the implication that consumption of the product confers more confidence, greater sociability, and better success with the opposite sex, among other things.⁴⁴ This is in direct violation of the ABAC's own



code, which states that advertisements should not have evident appeal to children or adolescents, and should not convey that consumption of the product will contribute to personal, social or professional success.⁴⁵

The ABAC is perceived as being so ineffective that two public health organisations, the McCusker Centre for Action on Alcohol and Youth and Cancer Council West Australia, developed an advertising regulatory scheme called the Alcohol Advertising Review Board (AARB). The AARB receives and reviews complaints from the community about alcohol advertising. If a complaint is upheld, the AARB notifies the advertiser in question, encouraging them to either amend or remove the advertisement.

While inherent flaws can be seen in the ABAC itself and the management and coverage of the ABAC, decisions made by the ABAC further highlight its ineffectiveness. The two case studies below demonstrate the ineffectiveness of the ABAC.

Case study one: Bundy Bear

In 2009, a complaint was made to the ABAC that an advertisement featuring the Bundaberg Rum Bear had appeal to young people. The complaint stated that the Bundy Bear appeals to young people on the basis that is a “...large character (bear) which stands out in a friendly, happy, humorous scene...”⁴⁶


The advertiser refuted this argument and stated that the bear did not appeal to young people because of the “...deep gruff voice, sharp teeth and claws with a muscular build. His character, tone and personality are structured around a 25+ year old male.”⁴⁷ The ABAC review panel dismissed the complaint on the basis that “The Panel does not believe the ad, absent the Bundy Bear, has elements that have a strong appeal to children and adolescents. The use of the Bundy Bear does not in the context of the ad, in the Panel’s view, breach the ABAC standard.”⁴⁸

Case study one provides an example of the limited scope of the alcohol industry’s self-regulatory code, and how it fails to protect young people from being exposed to alcohol advertisements with evident appeal.

Case study two: The shot bucket

A complaint was made to the ABAC regarding the Bacchus Shot Bucket due to its appeal to young people because the names and packaging of the shots within the product resemble confectionary. On 13 February 2013 the ABAC found the Bacchus Shot Bucket was to be in breach of the ABAC Code under Part 2.1, Section (a)(ii) which requires the “naming or packaging of alcohol products to present a mature, balanced and responsible approach to the consumption of alcohol beverages and must not encourage under-age drinking”. It was also found to be in breach of Part 2.1, Section (b) which requires the alcohol product “not have a strong or evident appeal to children or adolescents”.⁴⁹

While this decision was made by the ABAC, the Shot Bucket remains on retailers’ shelves across Australia because the Bacchus Distillery Pty Ltd is not a signatory to the ABAC scheme and is not obliged to act on the ABAC’s decision.



Case study two provides an example of how the alcohol industry's self-regulatory body fails to regulate products, even when products are deemed 'harmful' under the ABAC.

Commercial Television Industry Code of Ethics

In Australia, the only measure that restricts the volume of alcohol advertising is the Commercial Television Industry Code of Practice. This code restricts the broadcasting of alcohol advertising to between 12pm and 3pm on weekdays and between 8.30pm and 5am on weekdays and weekends. However, an exemption to this rule applies during the broadcasting of live sporting events on weekends and public holidays.

This loophole is heavily exploited by the alcohol industry with almost 44 per cent of all advertising shown on weekends, public holidays and broadcast during live sporting events.⁵⁰ For example, an analysis of alcohol advertisements during the 2012 Bathurst 1000 showed that it was viewed by 117,000 people aged five to 17 and advertising was extensive.⁵¹ Specifically, those who watched the whole race (which ran from 10.35am until 5.05pm) were exposed to 35 minutes of alcohol advertising including in-break alcohol advertisements and sponsorship.


This loophole in the Commercial Television Industry Code of Practice is problematic because these are times when children and young people may be exposed to advertising and sponsorship. The loophole also results in a surplus of alcohol advertising during these times, therefore increasing the exposure of alcohol advertising to audiences including children and young people.

State and territory alcohol legislation and guidelines

The ANPHA Issues Paper fails to control the regulatory and enforcement role undertaken by states and territories to restrict harmful discounting and promotions under their respective liquor legislation. State and territories have a role in regulating certain promotions, such as those at the point of sale. Point of sale marketing refers to promotional materials that are found within or on the exterior of a licensed store or venue at the point where an alcohol purchase will be made (e.g. happy hours, free gifts with purchase, prominent signage, competitions, price discounts for bulk purchases, and sale prices).

Guidelines on the promotion of alcohol also exist under most state and territory liquor legislation. An example of this is the Promotion Guidelines under the New South Wales (NSW) *Liquor Act 2007*. The NSW Promotion Guidelines state that the "Director of Liquor and Gaming may restrict or prohibit an activity or promotion" if they believe that the activity of promotion:

- uses designs, name, motifs and characters that have special appeal to minors;
- involves the provision of liquor in non-standard measures that encourages irresponsible drinking and is likely to result in intoxication;
- involves free drinks, or extreme discounts or discounts of limited duration, that creates an incentive for patrons to consume liquor more rapidly than they otherwise might; and
- encourages irresponsible, rapid or excessive consumption of liquor.⁵²



More specifically the Promotion Guidelines state activities which pose an “unacceptable risk”. These include those where: “entry, participation or outcome is dependent on the consumption of more than one alcoholic drink”; “prizes of alcoholic beverages are awarded and which involve their consumption on the premises”; “Two for the price of one offers”; and “50% or higher discount for consumption on the premises”.⁵³

Despite state and territory liquor legislation and accompanying guidelines restricting alcohol promotions at point of sale, premises throughout the country continue to hold activities that encourage excessive consumption.

Point of sale marketing is increasingly used as a marketing tool for alcohol products to the point that it has been coined as “ubiquitous” and “aggressive”.⁵⁴ Liquor outlets in Sydney alone host an average of 30.2 POS promotions per outlet.⁵⁵ The prolific nature of point of sale marketing is concerning because it results in young people (including minors) being regularly exposed to advertisements and promotions that depict alcohol consumption as a fun, social and inexpensive activity.⁵⁶

State and territory liquor legislation needs to be strengthened to ensure that reckless alcohol promotions are prohibited. This should commence with the legislative review currently occurring in Western Australia, and those due to commence in NSW and the ACT.

Public messages about alcohol are almost entirely those produced by alcohol industry

There is no comprehensive public education campaign on alcohol in Australia. *The National Health and Medical Research Council Australian Guidelines to Reduce Health Risks from Drinking Alcohol* (the Guidelines) were updated in 2009, and despite this, awareness of these Guidelines is extremely low. Secondary analysis of data from the 2010 National Drug Strategy Household Survey found that fewer than five per cent of people estimated the low-risk levels to avoid short and long term harms that matched those in the Guidelines.⁵⁷

Without a public education campaign on alcohol, the only public messages on alcohol are those being promoted by the alcohol industry. The Preventative Health Taskforce stated that:

One of the most formidable obstacles to effective public education campaigns on alcohol is product advertising by the alcohol industry that intentionally promotes pro-drinking messages to the general population, much of which also reaches young people.⁵⁸

Several countries have adopted counter advertising policies. For example, Sweden requires newspaper advertisements about alcohol to include one of eleven messages about the health consequences of alcohol consumption which are large enough to occupy one-eighth of the advertisement; however it does not appear to have any other forms of counter-advertising. In Mexico, billboard advertisements for alcohol require general warnings to use alcohol with caution and in France all alcohol advertisements must include the warning that alcohol is bad for your health.⁵⁹



In 2009, the Preventative Health Taskforce recommended that:

Require counter-advertising (health advisory information) that is prescribed content by an independent body within all alcohol advertising at a minimum level of 25% of the advertisement broadcast time or physical space.⁶⁰

In addition to regulating alcohol marketing, ANPHA should consider the development of counter advertising policies to ensure that the community receives clear and consistent messaging about alcohol from an independent source.

Australians are concerned about alcohol marketing and supportive of policy reforms

Results from FARE's Annual Alcohol Polls¹ as well as other national surveys have consistently demonstrated that Australians are concerned about alcohol advertising, promotion and sponsorship, particularly in relation to their negative impacts on young people. Many Australians also support policy changes that impose tighter controls on alcohol advertising, promotion and sponsorship.

Concern regarding the impact of alcohol advertising on young people


According to the 2012 FARE Annual Alcohol Poll, the majority of Australian adults (68 per cent) believe that alcohol advertising and promotion influences the behaviour of people under the age of 18, while 18 per cent believe that alcohol advertising does not influence the behaviour of young people, and 14 per cent are unsure.⁶¹

These findings echoed those demonstrated in the Department of Health and Ageing 2005 survey on *Consumer perceptions of alcohol advertising and the revised Alcohol Beverages Advertising Code*, where 69 per cent of Australian adults believed that alcohol advertising encourages people under 18 to consume alcohol, including 42 per cent who strongly agreed (20 per cent somewhat disagreed and 9 per cent strongly disagreed). The survey also asked whether alcohol advertising encouraged people under 18 years to drink alcohol to excess, and over half (52 per cent) of the respondents agreed that it did (31 per cent somewhat disagreed and 14 per cent strongly disagreed).⁶² The table below depicts people's perceptions on alcohol advertising and its effects on young people.

Support for policy changes around alcohol advertising, promotion and sponsorship

The 2012 FARE Annual Alcohol Poll found that almost two-thirds (64 per cent) of Australian adults support a ban of alcohol advertising before 8.30 pm, seven days a week, while 24 per cent oppose this measure and 12 per cent are undecided.⁶³ Again, similar levels of support for restricting the times that alcohol advertising is shown on television were found in the *2010 National Drug Strategy*

¹ FARE has commissioned Galaxy Research to carry out polling in 2011 and 2012 to inform the development of the Annual Alcohol Poll. The Poll is a nationally representative survey of over 1,000 Australians aged 18 years and over. The 2013 Annual Alcohol Poll is being released on 18 April 2013.



*Household Survey (NDSHS), which showed that 71 per cent of Australians (over 14 years of age) believe that alcohol advertising should be banned after 9.30 pm.*⁶⁴

The 2011 FARE Annual Alcohol Poll also found that 55 per cent of Australians believed that shots and promotions that encourage excessive alcohol consumption should be banned, and 58 per cent of Australians supported a move to establish an independent regulatory body on alcohol advertising, while 26 per cent did not support this and 17 per cent were unsure.⁶⁵

FARE's 2011 Annual Alcohol Poll also found that almost half (47 per cent) of Australians believed that alcohol sponsorship should not be allowed at sporting events, 39 per cent believed that they should be allowed and 13% were unsure. The reasons cited for this included that it suggests alcohol is part of the game (83 per cent), it encourages the consumption of alcohol (82 per cent), and it is visible to young people (73 per cent).⁶⁶ This finding is again similar to the 2010 NDSHS which showed that 48 per cent of Australians believe that alcohol sponsorship at sporting events should be banned.⁶⁷

Another example of community support for reform of alcohol marketing is the recent campaign for Cricket Australia to remove alcohol and fast food advertising. The campaign was started by Tasmanian father of two, Aaron Schultz who believes that alcohol and junk food advertisements aired during coverage of the cricket "sends the wrong message to children".⁶⁸ As at, 22 March 2013, the campaign has received over 800 signatures of people in support for the removal of alcohol and junk food advertising from cricket events.⁶⁹



Principles for effective alcohol advertising and sponsorship policy


ANPHA should clearly specify policy principles for changes to policies relating to alcohol marketing. This will assist in determining the most appropriate course of action in reforming the inadequate alcohol advertising regulatory environment. FARE has developed six principles, based on the existing evidence-base of what constitutes effective alcohol advertising and sponsorship policies. These principles should be used to inform future directions in developing alcohol marketing control policies.

1. Alcohol marketing control policies must aim to reduce the overall volume of alcohol advertising.

Longitudinal studies of the relationship between alcohol advertising and alcohol consumption demonstrate that the volume of alcohol advertising exposure is the strongest predictor of future consumption patterns in young people, including initiation of alcohol consumption, and heavier consumption among people who already drink.⁷⁰ It is therefore vital that alcohol marketing control policies include mechanisms to reduce the overall volume of alcohol advertising in Australia. Given that hundreds of millions of dollars is spent on alcohol advertising in Australia each year, the volume of alcohol advertising in Australia is substantial and exposure to adolescents and young adults is as high as almost 90 per cent. Furthermore, advertising through online mediums has skyrocketed in recent years with evidence suggesting expenditure has quadrupled from 2005 to 2009.⁷¹

There is good evidence to suggest that increases in expenditure on alcohol advertising are associated with increases in expenditure on alcohol for consumption. Economic modelling undertaken at Sheffield University examining this association found that for every 10 per cent increase in advertising expenditure, expenditure on alcohol consumption increases by between 0.2 and 0.8 per cent depending on the beverage.⁷²

The only measure that restricts the volume of alcohol advertising in Australia is the Australian Commercial Television Industry Code of Practice. This code restricts the broadcasting of alcohol advertising to between 12pm and 3pm on weekdays and between 8.30pm and 5am on weekdays and weekends. However, an exemption is made during the broadcasting of live sporting events on weekends and public holidays. This loophole is heavily exploited by the alcohol industry with almost 44% of all advertising shown on weekends and on public holidays broadcast during live sporting events.⁷³ An analysis of alcohol advertisement during the 2012 Bathurst 1000 showed it was viewed by 117,000 people aged 5 to 17 and advertising was extensive.⁷⁴ Specifically, those who watched the whole race (which ran from 10.35am until 5.05pm) were potentially exposed to 35 minutes of alcohol advertising including in-break alcohol advertisements and sponsorship. Government regulation is necessary to reduce the volume of alcohol advertising in Australia and must prioritise closing this loophole.



2. Alcohol marketing control policies must ensure that activities are not targeted at young people and are not in places where children and young people are present.

There are many ways that alcohol advertising currently appeals to young people, which needs to be addressed through policy reforms and ideally, government regulation. One way is through targeting mediums that are known to have substantial adolescent audiences. As well as targeting broadcasting times known to have high adolescent audiences, this is achieved by tapping into online and social media known to be frequented by young people such as Facebook, Twitter and Youtube, devising online alcohol related games likely to be appealing to young people and investing in merchandise such as shirts and caps.

In addition alcohol producers' websites are a common online source of advertising and novelty games and are often linked to Facebook and Youtube. The mechanisms in place to prevent young people from accessing these sites appear to be limited. Jones and colleagues' analysis of a sample of 25 alcohol producer websites found that only half had a process in place to block entry by underage users, and users were not prevented from re-entering by using a different birth date.⁷⁵ Furthermore, they found that commercial internet filters are not effective in preventing young people from accessing such sites, with the best of these filters allowing access to one third of all alcohol producer websites examined in the study.


Another way of appealing to young people is through having content that is inherently appealing to or memorable with children, adolescents and young adults. For instance, Bundaberg Rum is advertised with Bundy Bear, a character that has been shown to be well recognised by young children and associated with Bundaberg Rum. Alcohol advertisements appeal to adolescents and young adults by normalising drinking and implying that it is associated with fun, social acceptance, confidence, success and sexual attractiveness. This is despite the fact that such messages are explicitly prohibited by the ABAC. This further reinforces the inadequacies of self-regulation of alcohol advertising and the need for independent regulation of all forms of advertising which is embedded in legislation.

The alcohol industry frequently argues that it does not seek to target new consumers or young consumers. However, a report titled *They'll drink bucket loads of the stuff*, an analysis of internal alcohol industry marketing documents in the UK found that this was not the case.

Key findings from the report include:

- Advertisers mentioned in the report use market research data on 15 and 16 year olds as a guide in campaign development and deployment, and there is a clear acknowledgement that particular alcohol products appeal to children;⁷⁶
- Alcohol brand strategies are routinely built around increased consumption as a promotional aim. For example, Lambrini (a British fruit wine brand owned by Halewood International Ltd) is seeking "more light users that they can move up the consumption scale".⁷⁷

Many of the alcohol brands whose documents are discussed in the report are owned by multinational corporations. These multinational entities market and distribute the same or similar



brands and products in Australia as are found in the UK. In light of their global reach, it is likely that similar strategic marketing tactics that target young people are being used in markets across the globe – including Australia.

3. Alcohol marketing control policies must cover all communication formats including advertising, sponsorship, and print and digital, including social media

Alcohol marketing strategies are diverse and include television, radio, newspapers and magazines, billboards, merchandise and sponsorship; but also through the internet, including social media sites such as Facebook, Youtube and Twitter. The current alcohol advertising ‘regulatory’ scheme, the ABAC, does not cover the range of marketing activities that the alcohol industry engage in such as point of sale advertising, in-store promotions, sponsorship agreements, viral and emerging media.

This means that there is a significant gap in the forms of marketing that are covered by the ABAC. For example, the ABAC does not appropriately cover alcohol retailer promotions where a particular brand promotion is not featured, surrogate marketing such as alcohol branded foods, new media such as social media, and sponsorship of events.

To be successful, policies need to cover all forms of alcohol marketing, including all forms of marketing currently being used by the alcohol industry to promote their products including traditional advertising avenues, online media as well as in store/point of sale advertising, and sponsorship agreements. Only once alcohol marketing control policies cover all forms of alcohol marketing then success can be achieved in regulating the volume and content of this marketing and in turn result in reductions in harms.

4. Alcohol marketing regulation must be independently regulated as self-regulation has consistently been found to be ineffective.

In Australian self-regulation of alcohol advertising by the alcohol industry has consistently been shown to be ineffective. The *National Preventative Health Strategy: The roadmap for action* highlighted that:

Considering the significant shortcomings of the ABAC Scheme to date, it is appropriate to plan the future regulation of alcohol advertising in Australia along a continuum that began with self-regulation, moving towards co-regulation...and then to independent regulation if co-regulation is found to be ineffective.⁷⁸

A more recent journal article published in *The Lancet* and co-authored by the Deputy Chair of the Preventive Health Agency and Chair of the Preventative Health Taskforce, Professor Rob Moodie, said that:

Despite the common reliance on industry self-regulation and public-private partnerships to improve public health, there is no evidence to support their effectiveness or safety.⁷⁹



The article also said that:

In view of the present and predicted scale of non-communicable disease epidemics, the only evidence-based mechanisms that can prevent harm caused by unhealthy commodity industries are public regulation and market intervention.

The significant shortcomings of the ABAC including that it does not cover all of the alcohol industry and does not impose penalties for non-compliance, demonstrates that self-regulation is ineffective. In addition the ABAC is a voluntary system, managed and predominantly overseen by members of the alcohol industry. However, there are no sanctions or repercussions if alcohol producers and distributors decide not to be part of the scheme or decide to not acknowledge the judgments passed down by ABAC. This means that the ABAC has little to no influence on the advertising behavior of the alcohol industry.

International research supports the Australian experience with regards to the inefficiency of self-regulation in alcohol advertising.⁸⁰ Voluntary codes tend to be characterised by under-enforcement and are biased towards the corporations represented on the decision-making boards. An effective system requires an independent body with full monitoring and enforcement powers.

An analysis in the UK found that self-regulation by the alcohol industry was not an effective change catalyst towards good practice.⁸¹ Voluntary self-regulated codes have been found to be subject to under-interpretation and not enforced; it has also been shown that there is often bias in favor of companies represented on the decision-making board/panels.⁸² Poor compliance and instability is also often reported as key elements of industry self-regulated codes.⁸³ A report by EuroCare has also reported that the alcohol industry self-regulated has consistently broken its own codes with no evidence that this behavior from industry has changed over recent years.⁸⁴

Given the consistent international and national evidence that self-regulated codes are ineffective, it is essential that alcohol advertising and sponsorship is independently regulated.

5. The alcohol industry should be required to report their annual expenditure on alcohol marketing activities to Government to inform future policy directions.

A key action area identified in the National Alcohol Strategy 2006-2009 was to monitor and review alcohol promotions. Various analyses have reported on the expenditure on alcohol promotions, particularly television advertising over the last decade. An analysis published in 2005, looked at expenditure during the period of 2003 to 2005,⁸⁵ and another was published in 2009 looked at the years 2005 to 2007.⁸⁶

Both analyses involved secondary analysis of purchased data from Nielsen Media Research, and focused on advertising through television, radio, magazines, newspapers, at cinemas and on billboards. Young people's exposure to advertising was only examined with respect to television advertising.



Analysis of promotions expenditure and exposure is needed across all forms of media and sponsorship, and a more detailed examination of the placement and timing, audience demographics, regional and seasonal variation of such promotions is required. Jones and Magees' (2011) study highlighted that while television remains the most common medium of alcohol advertising viewed by adolescents (94.2%), posters in bottle shops (79%), magazines (74.2%), billboards (60.7%), and the internet (55.4%) are also common sources of advertising.⁸⁷

With the rapid expansion of alcohol promotion into social and online media, undertaking analyses of promotions expenditure and exposure will become increasingly expensive and difficult unless alcohol producers and retailers are required to report on their promotional activities. Furthermore, if alcohol promotion becomes government regulated, it will be necessary to mandate the publication of alcohol promotions expenditure and coverage in order to evaluate alcohol retailers' and producers' compliance with the regulation.



A multifaceted approach to achieving a comprehensive alcohol marketing control policy

A plan for alcohol marketing control policy reform must be established by Government to replace the current inadequacies in the various ‘regulatory’ schemes currently in place. This plan needs to prioritise closing the loophole in the Commercial Television Code of Ethics. Other aspects of the plan should include working with state and territory governments to strengthen liquor legislation in relation to alcohol promotions, introducing counter advertising, developing an independent alcohol marketing regulatory scheme, and examine phasing out alcohol promotions in times and places where children and young people are present. A range of alcohol marketing control policies are required to address alcohol-related harms, for this reason a staged approach to reform is recommended. This multifaceted approach is outlined below.

1. Immediately close the loophole in the Commercial Television Code of Ethics.

The current loophole in the Commercial Television Code of Ethics allows the alcohol industry to advertise before 8:30pm, during live sporting events on weekend and public holidays. It is clear that the alcohol industry take advantage of the loophole with almost 44 per cent of all advertising shown on weekends and on public holidays broadcast during live sporting events.⁸⁸ The loophole in the Commercial Television Code of Ethics should be removed so that the alcohol industry can only advertise their products during shows that are rated M, MA and AV.

2. Begin working with state and territory governments to strengthen alcohol promotion provisions under liquor legislations.

State and territory governments should strengthen alcohol promotion provisions under their respective liquor legislation. Strengthening these provisions, should be accompanied by further efforts to enforce these regulations. These provisions should include restrictions to point of sale promotions in places where children are present, which are prolific.

3. Implement a counter advertising regime on all alcohol marketing activities.

Action needs to occur at a national level to counter the current prolific marketing activities of the alcohol industry. The only messages communities are currently receiving in regards to alcohol are from the alcohol industry. Counter advertising is needed and must take up at least 25 per cent of the advertisement broadcast time or physical space, as recommended by the Preventative Health Taskforce.

4. Replace the Alcohol Beverages Advertising Code with an independent regulatory body.

The current regulatory system is inadequate, this has been documented in two separate reviews and explored further in this submission. The self-regulated system needs to be replaced by an independent regulatory body that is compulsory, covers all alcohol marketing activities, includes penalties for non-compliance, is transparent and accountable.

5. Phase out alcohol marketing from time and placements which have high exposure to young people.

Young people are regularly exposed to alcohol advertising which impacts on their perceptions of alcohol, drinking intentions and attitudes. A long term plan for an alcohol marketing control policy must include the phase out of alcohol marketing from time and placements which have high exposure to young people. The phase out should involve a staged approach that phases out alcohol promotions from times and placements which have high exposure to young people aged up to 25 years, as recommended by the Preventative Health Taskforce.

6. Extend the Community Sponsorship Fund through an increase in alcohol taxation with a view to phasing out all alcohol sponsorship

Alcohol sponsorships of sporting and cultural events are prolific. The current Community Sponsorship Fund is working to reduce the association between alcohol and sporting and cultural events. Funding for the Community Sponsorship Fund should be extended beyond the four years and include in its objective to phase out all alcohol sponsorship of sporting and cultural events. The funding for the Community Sponsorship Fund should be funded by the revenue gained from an increase in alcohol taxation.

The current objectives of the Community Sponsorship fund are:

- reduce the exposure of young people and children to alcohol imagery and branding
- reduce the links between alcohol and sporting and cultural activities that young people are often involved in, and to provide support for community-based organisations to educate their members about responsible drinking
- provide support for community-based organisations to provide alcohol-free environments for minors
- reduce harmful consumption of alcohol through appropriate responsible service of alcohol provisions at sporting and cultural events.⁸⁹

To strengthen these objectives, extending the Community Sponsorship Fund to include the phase out of all alcohol sponsorship will reduce the exposure of young people to alcohol marketing.

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