

11 July 2013

Legislative Council
Parliament of New South WalesBy email: socialissues@parliament.nsw.gov.au**Re: Inquiry into strategies to reduce alcohol abuse among young people in NSW -
Questions on Notice and Supplementary Questions**

Thank you for providing Free TV with the opportunity to appear before the Committee on 17 June 2013. This letter provides Free TV's responses to the questions taken on notice and the supplementary questions set out in the email of 25 June 2013.

Question on Notice

Whether there has been any instance of product placement for alcohol in a "soapie", involving a character consuming a particular alcoholic brand or product and depicted in a favourable manner, and whether this is covered by the Code.

Free TV has consulted with its members and can confirm that there has been no such instance of product placement in *Neighbours* or *Home and Away*.

As stated in evidence, disclosure of commercial arrangements for factual programs (including product placement) are covered by the provisions of the Commercial Television Industry Code of Practice (Code). These provisions do not apply to drama programs such as *Home and Away* or *Neighbours*.

Supplementary questions

1. *In your submission you suggest that time zone restrictions on alcohol advertising should apply to other mediums, for example pay TV and online. Do you have a view on how you would like these restrictions overseen, for example, by the Australian Communications and Media Authority?*

Free TV does not advocate the imposition of time zone or other specific advertising restrictions for pay TV and online. Our position is that any review must consider all the relevant platforms and determine broad principles that can be applied by each industry as appropriate to achieve the desired outcomes (in this case, the reduction of alcohol abuse among young people).

The point in relation to regulatory parity and regulatory bypass was to highlight the fact that free-to-air television is already heavily regulated compared to other mediums, and it is not appropriate to focus on interventions for just one medium (such as television). This will result in advertising moving to alternative platforms that are less regulated.

2. *The Alcohol Working Group of the Australian Government's National Preventative Health Taskforce recommended phasing out alcohol advertising during live sport broadcasts and high children and adolescent viewing times, and removal of sponsorship of sport and cultural events. Do you have a view on this recommendation?*

Free TV is already the most heavily regulated media platform in relation to alcohol advertising. We do not agree that an extension of these regulations is appropriate.

Under the Code alcohol advertisements can only be broadcast after 8.30pm, between 12.00pm and 3.00pm on school days, and during live sporting events on weekends and public holidays. These restrictions have been in place for many years and originate from a Technical Program Standard originally issued by the former Australian Broadcasting Tribunal. They have been maintained through a number of reviews of the Code, which is only registered by the ACMA if they are satisfied that the provisions provide "appropriate community safeguards".

These current restrictions cover "high children and adolescent viewing times". The restrictions have been specifically targeted to ensure that alcohol advertising is only permitted in programs that do not have a substantial child audience.

As noted in our submission to the Committee, the vast majority of Free TV viewers during 8.30pm to midnight are adults. Children aged 5-17 make up less than 9 per cent of the total viewing audience from 8.30pm to midnight. 91% of the audience are adults. Further, of the children watching TV in the evening, at least half are co-viewing with an adult in the room.

Ratings data also shows that Free TV audiences for weekend sport are also predominantly comprised of adult viewers:

- Children aged 5-17 make up less than 12% of the total viewing audience for any of the top 10 sporting events in 2012 (excluding Olympics).
- Adolescents between the age of 13 and 17 make up less than 6 per cent of the viewing audience for the top 20 weekend sport programs in 2012.
- Of those children who were watching the top 10 sporting events, the majority were co-viewing with an adult (around 8 in 10 for the 5-12 age group, and around 7 in 10 for the 13-17 age group).
- Even the event with the highest audience proportion of child viewers (State of Origin 3) was only watched by 13.5% of children aged 13-17. This figure is lower for children aged 5-12 (12.8%). Of those children who were watching, more than 85% were co-viewing with an adult.

This data shows that the existing time zone restrictions in the Code adequately reflect adult and children's viewing patterns. There is very little evidence of community dissatisfaction, with viewer complaint levels consistently very low. Less than 1% of Code complaints received by Free TV members between 2009 and 2012 related to alcohol advertising placement and no breach of the Code was found in these cases.

On this basis, Free TV does not agree with the recommendation of the Alcohol Working Group of the Australian Government's National Preventative Health Taskforce.

3. *The Alcohol and other Drugs Council of Australia suggest in their submission that there has been a 'failure of industry-based regulatory mechanisms for alcohol advertising'. Would you agree with this view and can you explain your position?*

Free TV does not agree that there has been any failure in the mechanisms in place to restrict alcohol advertising on commercial free-to-air television. There are robust restrictions in place that

substantially limit alcohol advertising on television, particularly at times when children are likely to be watching.

The Code that regulates alcohol advertising for commercial free-to-air broadcasters is a co-regulatory instrument. It is prepared by industry and subject to review every three years. As part of each review, it is the role of the regulator (the ACMA) to register the Code after ensuring that it reflects community standards.

The ACMA is only permitted to register a Code where it is satisfied that, among other things, it provides appropriate community safeguards for the matters covered, and that members of the public were given an adequate opportunity to comment on it.

Of the 1543 submissions received from the public during the last Code review, 10 related to alcohol advertising time zones. As stated in our submission and the response to the previous supplementary question, the number of Code complaints about alcohol advertising on Free TV is very low.

Free TV also supports the Alcohol Beverages Advertising Code (ABAC), which is designed to ensure the content of alcohol advertising is responsible and does not encourage underage drinking.

As noted in our submission, the ABAC has been in operation since 1 July 1998 and was prepared in agreement with the Australian Associated Brewers Inc. and the Distilled Spirits Industry Council of Australia Inc. In April 2004, these bodies as well as the Winemakers' Federation of Australia and the Liquor Merchants Association of Australia Ltd, agreed to abide by an updated ABAC.

These alcohol industry bodies recommend that all of their members comply with the ABAC and, signatories to the ABAC now comprise of over 98% of the top 50 alcohol advertisers in Australia¹. The reach and effect of the ABAC Scheme is extensive.

The requirements set out in the ABAC relate primarily to responsible advertising of alcohol, as opposed to issues of taste, decency or community standards (which are addressed under the Australian Association of National Advertisers (AANA) Code of Ethics). The ABAC applies to advertisements on television, radio and the Internet, in print and also to outdoor advertising. In 2008, the ABAC was extended to cover complaints about the naming and packaging of alcohol products.

The ABAC process is supported by Free TV through its Commercials Advice (CAD) service. Commercials Advice provides an information and classification service for advertisers.

All relevant advertiser information material issued by CAD refers to the Alcohol Advertising Pre-vetting Service (AAPS), and CAD recommends all alcohol manufacturers and retailers have reference to the ABAC. If an advertisement for an alcohol manufacturer or retailer is submitted for a pre-check, CAD will direct the advertiser to the ABAC and the AAPS. Where an advertisement for an alcohol manufacturer is submitted for classification without an AAPS approval, CAD will request an approval, and where an alcohol manufacturer advises that they have not sought AAPS approval, CAD will strongly recommend that AAPS approval be sought.

If an advertisement is found in breach of the ABAC scheme, CAD will withdraw the classification number for a commercial, following formal notification.

These existing arrangements are working well and there is no evidence to indicate that these restrictions or systems are a failure.

¹ <http://www.abac.org.au/about/signatories-to-the-scheme/>

4. *In evidence you suggested that the convergence of media platforms could be addressed by ensuring higher level principles are developed and then applied in ways which are appropriate and meaningful to each platform. What can you recommend that the NSW Government do to facilitate this process? What role can they play to ensure there is greater consistency among media platforms with regard to the regulation of alcohol advertising?*

Broadcasting is regulated at a national level, and any moves to regulate advertising on mediums that include broadcasting should similarly be national. Regulatory consistency is very important to enable commercial free-to-air television broadcasters to function efficiently in an increasingly challenging media environment. Broadcasting is essentially a national activity and accommodating differences in State based regulatory systems presents significant operational challenges.

Free TV therefore supports national, platform-neutral industry-based regulation such as the ABAC as a mechanism for ensuring consistency and parity in advertising across all media.

If the NSW Government is seeking to pursue changes to the rules around advertising of alcohol, Free TV recommends that this be done by engaging with the ABAC Scheme and the Australian Association of National Advertisers (AANA), participation in other relevant national reviews (such as the ACMA's Contemporary Community Safeguards Inquiry, which is currently underway), and COAG processes. Free TV would not support an approach involving the introduction of regulations applying only to one State that was inconsistent with national rules.

Thank you for the opportunity to present this information to the Committee. Please let me know if I can provide any further assistance.

Yours sincerely

Julie Flynn
CEO