

**Submission
No 10**

**INQUIRY INTO STRATEGIES TO REDUCE ALCOHOL
ABUSE AMONG YOUNG PEOPLE IN NSW**

Organisation: Advertising Standards Bureau

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The Director
Standing Committee on Social Issues
Parliament House
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1 March 2012

Dear Sir/Madam,

Advertising Standards Bureau submission: Inquiry into strategies to reduce alcohol abuse among young people in NSW

The Advertising Standards Bureau (Bureau) appreciates the opportunity to provide a submission to the Inquiry into strategies to reduce alcohol abuse among young people in NSW (the Inquiry).

The Bureau administers the complaint resolution component of the advertising self-regulation system and receives all complaints relating to advertising, including alcohol advertising.

The current advertising self-regulation model is working well to maintain high advertising standards and ensure consumer trust and protection is met for the benefit of all of the community. This submission provides a general overview of the advertising self-regulation system and the role of the Bureau in that system, as well as a brief outline of the Bureau's role as it relates to alcohol advertising and aspects of the process aimed at addressing the impact of alcohol advertising on young people.

The comments in this submission are limited to the role of the Bureau in relation to administering complaints about alcohol advertising and the role of the Advertising Standards Board (Standards Board) in considering the compliance of alcohol advertising with the Australian Association of National Advertisers (AANA) advertising codes. Information about the Alcoholic Beverages Advertising Code (ABAC) and the adjudication process specific to the ABAC is not within the Bureau's remit and is not covered in this submission.

1. The advertising self-regulation system

Australia's system of advertising self-regulation is recognised as world class. The current system was established by the AANA in 1998. It recognises that advertisers share an interest in promoting consumer confidence in and respect for general standards of advertising.

Self-regulation of the advertising industry has been achieved by establishing a set of rules and principles of best practice to which the industry voluntarily agrees to be bound. These rules are expressed in a number of advertising codes and industry initiatives. The rules are based on the belief that advertisements should be legal, decent, honest and truthful, prepared with a sense of social responsibility to the consumer and society as a whole and with due respect to the rules of fair competition.

The system is funded by advertisers agreeing to a levy being applied to their media expenditures and is well supported by all parts of the industry – advertisers, advertising agencies, media buyers, media operators and industry associations.

High standards of advertising are maintained through the interaction of the various parts of the self-regulation system:

- through the existence and development of appropriate codes and initiatives relating to advertising standards;
- the voluntary compliance of advertisers;
- the efforts of other industry stakeholders in ensuring compliance, supporting industry education and public awareness programs, and supporting enforcement where required; and
- the operation of the complaint resolution process.

2. Role of the Bureau

The Bureau administers the advertising complaint resolution service that supports the regulation of advertising standards in Australia. The Bureau is secretariat for the Standards Board and the Advertising Claims Board (Claims Board), the bodies appointed to adjudicate public and competitor complaints and to ensure compliance with the relevant codes and industry initiatives.

Members of the Standards Board are community representatives, independent of the industry and appointed following a publicly advertised application and interview process. Members of the Claims Board are legal practitioners sourced from a register of lawyers experienced in advertising and/or competition and consumer law.

The complaint resolution process managed by the Bureau is an effective and efficient way to respond to consumers' concerns about advertising. The complaint process is transparent and accessible to all consumers, with easy to follow steps provided on the Bureau website and support throughout the process provided by Bureau staff. Members of the public without access to the internet are able to contact the Bureau and request information about the complaint process.

The Bureau, as secretariat for the Standards Board, responds to all complainants, informing them of the status of their complaint and keeps complainants and advertisers informed of the progress of complaints throughout the process via written correspondence.

Determinations of the Standards Board are published in case reports made publicly available on the Bureau website promptly after determination. Case reports contain details about the complaint, a description of the advertisement, the advertiser response and the Standards Board's determination, along with a summary of the reasons for its decision.

The vast majority of advertising and marketing communications in Australia comply with the relevant codes and do not receive any complaints, while the majority of those complained about are not found to be in breach of the codes. Where a breach is found, the Bureau has a record of nearly 100 per cent compliance by industry with Standards Board determinations – demonstrating the commitment of the vast majority of advertisers to the system and to maintaining high standards of advertising.

If required, the Bureau is supported in enforcing compliance with Standards Board determinations by the various sectors of the media.

The work of the Advertising Standards Bureau is not underpinned by any Government legislation.

3. Alcohol advertising regulation

Australia has a quasi-regulatory system for alcohol advertising. Guidelines have been negotiated with government, consumer complaints are handled independently, but all costs are borne by industry.

The Bureau is the one-stop-shop for all complaints relating to advertising and is the appropriate point of contact for all alcohol advertising complaints.

The Bureau assesses complaints relating to alcohol advertising against the AANA Advertiser Code of Ethics (Code of Ethics) and the AANA Code for Advertising and Marketing Communications to Children (Code for Children). If the complaint raises issues under these codes, the complaint is considered by the Standards Board, which will make a decision as to whether to uphold or dismiss the complaint.

On receipt of a complaint relating to alcohol advertising, the Bureau also sends a copy of the complaint to the ABAC Chief Adjudicator. The Chief Adjudicator determines whether the complaint also raises issues with the ABAC. If the complaint raises issues with the ABAC, the complaint is also considered by the ABAC Complaints Panel.

A complaint about alcohol advertising that raises issues within both jurisdictions will therefore be considered by both the Standards Board and the ABAC Complaints Panel against the relevant codes.

If the ABAC Complaints Panel upholds the complaint, the advertiser is asked to modify or withdraw the advertisement in question. The Bureau is informed of the ABAC Complaints Panel decision and, in the case of an upheld complaint, the advertiser's response.

The complainant is informed of the decisions of both the Standards Board and the ABAC Complaints Panel, as relevant. Case reports are prepared separately for both decisions and made available publicly.

It is possible for the Standards Board and the ABAC Complaints Panel to arrive at different decisions about the same advertisement as each body assesses the advertisement against different codes.

4. Addressing the impact of alcohol advertising on young people

The ABAC is "designed to ensure that alcohol advertising will be conducted in a manner which neither conflicts with nor detracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by underage persons". It sets out the standards to be applied to advertisements for alcohol beverages, including provisions requiring that advertisements must not encourage under-age drinking and must not have a strong or evident appeal to children or adolescents.

In addition to the specific provisions contained in the ABAC that are aimed at reducing the exposure of alcohol advertising to children, the Children's Code also contains a provision requiring that advertising or marketing communications to children must not be for, or relate in any way to, *alcohol products* or draw any association with companies that supply alcohol products. Alcohol products is defined to mean "products which have some association with alcohol including alcoholic beverages, food products that contain alcohol or other Products that are associated in some way with alcohol including in the sense of being branded in that way".

The Standards Board also considers the application of the Code of Ethics when considering advertising or marketing communications relating to alcohol products. For example, the Standards Board may have regard to Section 2.6 of the Code of Ethics if complainants raise the issue of depictions of underage drinking. Section 2.6 provides that "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

I trust this information will be of use to the Committee in understanding the current processes in place relating to the regulation of alcohol advertising. If you would like further information about the Bureau's role in the regulation of alcohol advertising, I would be happy to discuss this with you.

Yours faithfully,

Fibna Jolly
Chief Executive Officer