

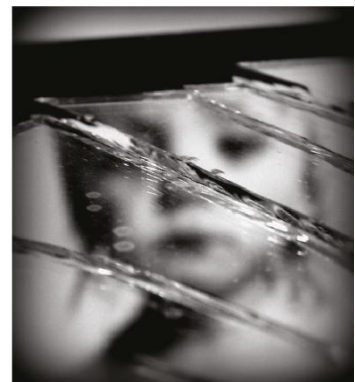
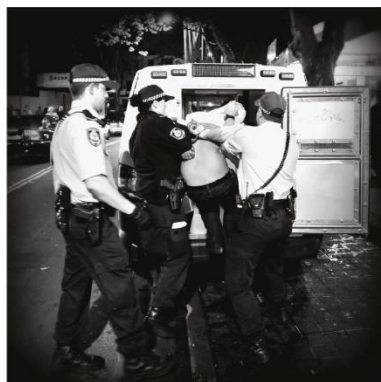
**INQUIRY INTO ALCOHOLIC BEVERAGES ADVERTISING
PROHIBITION BILL 2015**

Organisation: NSW ACT Alcohol Policy Alliance
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Partially
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Submission to the NSW Inquiry into the Alcohol Beverages Advertising Prohibition Bill 2015



November 2017

About the NSW ACT Alcohol Policy Alliance

The NSW ACT Alcohol Policy Alliance (NAAPA) aims to reduce alcohol harms by ensuring that evidence-based solutions inform alcohol policy discussions in New South Wales (NSW) and the Australian Capital Territory (ACT). NAAPA currently has 49 member organisations from a range of fields including health, community, law enforcement, emergency services and research.

To contact the NAAPA secretariat email info@naapa.org.au or for more information about NAAPA visit www.naapa.org.au

The following are the NSW members of NAAPA:

- Network of Alcohol and Drug Agencies (NADA)
- Darlinghurst Resident Action Group (DRAG)
- Newcastle Community Drug Action Team
- Police Association of NSW
- Australian Medical Association (AMA) NSW
- The Royal Australasian College of Surgeons (RACS) NSW
- Public Health Association NSW Branch
- Cancer Council NSW
- National Drug and Alcohol Research Centre (NDARC)
- Centre for Health Initiatives, University of Wollongong
- Hello Sunday Morning
- The Australasian College for Emergency Medicine (ACEM) NSW
- Jewish House
- Inspire Foundation
- The Asia Pacific Centre for Crime Prevention Griffith University (Sydney)
- University of Newcastle
- Ulladulla Community Drug Action Team
- Drug and Alcohol Research and Training Australia (DARTA)
- Bondi Residents Association
- Noffs Foundation (NSW)
- St Vincent's Hospital
- Australian Drug Foundation
- Health Services Union
- Australian Health Promotion Association (AHPA)
- Pedestrian Council of Australia
- The Salvation Army NSW
- Awabakal Newcastle Aboriginal Co Operative Ltd
- The Royal Australasian College of Physicians (RACP) NSW
- Byron Bay Youth Service
- Law Enforcement Against Prohibition
- NSW Nurses and Midwives Association
- 2011 Residents Association
- Bondi beach precinct
- Last drinks in Byron
- CatholicCare Goulburn
- Mental Health Association of NSW
- The Royal Australian College of General Practitioners (RACGP) NSW
- The Potts Point and Kings Cross Heritage Conservation Society
- Thomas Kelly Youth Foundation
- Australian Salaried Medical Officer's Federation NSW (ASMOF) NSW

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Summary

Alcohol is one of the most heavily promoted products in the world.¹ It is encouraging to see that alcohol advertising is becoming a prominent issue on the New South Wales (NSW) Parliament's agenda as alcohol advertising contributes to the normalisation of alcohol use and reinforces the harmful drinking culture that currently exists in Australia.²

In responding to the *Alcohol Beverages Advertising Prohibition Bill 2015* (the Bill) and the Terms of Reference, this submission draws on the research literature about the pervasive nature of alcohol advertising and its contribution to alcohol harm. This includes evidence on the impact of alcohol advertising on young people. Young people experience disproportionate levels of alcohol-related harms. The volume of alcohol advertising young people are exposed to has been demonstrated to impact on their future alcohol consumption behaviour. A child will have seen over 1,300 alcohol ads by the age of 12.³

Audits of alcohol marketing in Sydney found that 27 per cent of unique advertisements at train stations were for alcohol and takeaway liquor stores had an average of 30 point of sale (POS) promotions.^{4,5} Alcohol marketing in Australia is more prolific than ever, with an unprecedented number of platforms for advertising including through social media, on the television, in supermarkets, at bus stops and the sponsorship of sporting and cultural events.

While the regulation of alcohol advertising is largely the responsibility of the Commonwealth, there are numerous actions that can be taken at the state level to reduce the harmful and pervasive nature of alcohol advertising in NSW. These actions are outlined in the NSW ACT Alcohol Policy Alliance (NAAPA) submission.

NAAPA supports the Bill, but would also like to draw attention to three issues of concern: the overdue review of the 2013 Liquor Promotion Guidelines, alcohol advertising on NSW state property including sports stadiums and public transport and alcohol advertising in sport.

There has been a serious lack of direction by the Government when it comes to these issues. The good thing is that there are actions we can take to address the impact of alcohol advertising on communities. Other states and territories have already recognised this and banned alcohol ads from public transport. Now is the time for NSW to follow. A bold plan of action is required, which recognises the harmful effects of alcohol advertising and it begins with addressing the four key areas canvassed in this submission.

NAAPA welcomes the opportunity to provide comment on the Legislative Council's *Inquiry into Alcohol Beverages Advertising Prohibition Bill 2015*. NAAPA supports the phased removal of alcohol advertising in NSW in order to reduce the incidence of alcohol harm.

Submission format

The NAAPA submission should be read in conjunction with the Bill, the *Liquor Act 2007* and the 2013 Liquor Promotion Guidelines. NAAPA's response will comment on four key areas that the NSW Government can address:

1. Liquor Promotion Guidelines
2. Alcohol advertising on NSW State property
3. Alcohol advertising in sport
4. Matters raised in the Bill

Recommendations

1. That the Committee recommends an immediate review of the Liquor Promotion Guidelines and standardise regulations across all platforms.
2. That the Committee recommends legislating the banning of shopper docket and other harmful price discounting mechanisms under the *Liquor Act 2007*.
3. That the Committee recommends the removal of alcohol advertising from all NSW public property, including sporting facilities, public transport, bus shelters and train stations.
4. That the Committee recommends the phased removal of alcohol sponsorship and advertising from sporting and cultural events.
5. That the Committee recommends, following the completion of the *Rebuilding the Stadia Network Strategy*, the NSW Government not allow sponsorship and advertising of alcohol and other unhealthy industries, such as gambling, at the stadiums.
6. That the Committee recommends that alcohol advertising regulation is standardised, legislated and independent of the alcohol and advertising industries.
7. That the Committee recommends that sponsorship is a form of advertising and subject to alcohol advertising regulation.
8. That the Committee recommends the *Alcohol Beverages Advertising Prohibition Bill 2015* remain the responsibility of the Ministry for Health.
9. That the Committee recommends the regulatory Alcohol Advertising Prohibition Committee be established independent of alcohol and advertising industry involvement.
10. That the Committee recommends that local option areas be considered under the *Liquor Act 2007* and that an independent Community Defenders Office be established to empower and support local communities in licensing matters.
11. That the Committee recommends the introduction of health warning labels, in particular pregnancy warning labels be mandatory for all alcohol products.

Addressing alcohol advertising

In NSW, alcohol is responsible for 13,624 emergency department presentations, 53,924 hospitalisations and 1,300 deaths every year.⁶

Alcohol is also the major contributor to the three leading causes of death among adolescents; unintentional injuries, homicide and suicide.⁷ The social and economic costs to the community as a result of alcohol are insurmountable. Advertising and promotion of alcohol results in the normalisation of alcohol and an increase in consumption, thereby increasing the risk of alcohol harm.

The primary purpose of alcohol advertising is to increase sales, thereby increasing the amount of alcohol consumed either by more people or in greater amounts among drinkers.⁸ The entire premise of alcohol advertising is contrary to community health standards. Vulnerable groups, including children, are the object of direct marketing strategies to promote alcohol, however, a lack of transparency regarding the alcohol industry's marketing strategy limits research on which groups and in what ways groups are targeted.⁹

A review of twelve longitudinal studies of more than 38,000 young people has shown that the volume of advertising they are exposed to influences the age that they start drinking as well as their consumption levels.¹⁰ This review also showed a dose response relationship between the volume of exposure to alcohol advertising and alcohol consumption in young people.

This means that the more alcohol advertising young people are exposed to, the earlier they will begin to drink, and the more they will consume if they already drink.

The alcohol industry claims that their advertising is intended to encourage existing drinkers of legal drinking age to switch products, rather than encourage excessive drinking or non-drinkers to drink. Yet industry documents reveal a different story, where brands have used market research data on 15 and 16 year olds to guide campaign development, target their products and advertising to attract new drinkers and encourage people to drink early and drink often.¹¹

1. Liquor Promotion Guidelines

Current situation

The Liquor Promotion Guidelines (the Guidelines) were written to fulfil the requirement under Section 102 of the Liquor Act 2007, requiring publicly available guidelines detailing the types of promotions or activities that may be restricted or prohibited and subject to notice by the Director General.

The Guidelines provide explanations and examples of unacceptable promotions including those that appeal to minors, are indecent or offensive, involve the use of non-standard measures that encourage irresponsible drinking, use emotive descriptions that encourage intoxication, involve extreme discounting, encourage irresponsible, rapid or excessive consumption and are not otherwise considered in the public interest.

In August 2014 and in response to the review of the *Liquor Act 2007*, the NSW Government stated it would “task the Office of Liquor, Gaming and Racing with reviewing the Liquor Promotion Guidelines every three years commencing 2016”.¹² This review should have commenced in July 2016. To date there has been no public activity on this issue and the review is now a year overdue.

The problem

During 2012 and 2013 the then Office of Liquor, Gaming and Racing (OLGR) reviewed the Guidelines. As part of this review, OLGR consulted with members of the alcohol industry. It is clear from the documents released that the alcohol industry significantly influenced the development of the Guidelines.

The Guidelines state that:

“Information is provided on each category listed in the Act. Each category is described in these Guidelines as a principle. They are not intended to be a definitive list of what can and cannot be done. Each case must be considered on its merits and against each of the principles.”

This deliberately vague language creates ambiguity and doubt about the meaning and intent of the words.

The current Guidelines are predominately focused on promotions that may take place at an on-licence premise (for example a bar, pub or hotel) and they fail to appropriately regulate promotions within the contemporary advertising market. This can be seen in Case Study 1, which shows a Facebook advertisement by a takeaway liquor store encouraging irresponsible consumption of alcohol. The Guidelines do not adequately address harm minimisation in the promotion of liquor as most Australians consume alcohol in a domestic setting and 80 per cent of all alcohol purchased is from off-licence venues.¹³

In 2013 the Guidelines were watered down and specific restrictions were removed. This included a ban on using “endorsements from celebrities or other role models that primarily appeal to minors as part of the liquor promotion”. This had formed part of a previous version of the Guidelines but has since been replaced and reclassified as “additional information” advising that “care must be taken”.

Case Study 1 – Facebook advertising from Thirsty Camel NSW

The takeaway liquor store is suggesting to women that it is ok to substitute wine for a healthy meal at dinner. This blatant disregard for the health and wellbeing of individuals is in complete breach of the harm minimisation principles of the Liquor Promotion Guidelines. However, because the Guidelines do not cover off-licence promotions this inappropriate ad is deemed acceptable.



Also removed from the draft version of the Guidelines was a statement that banned "promotions which use images that objectify women's or men's bodies or portray women or men as sex objects, including gratuitous use of nudity". Examples of unacceptable promotions were provided and included free drinks for women wearing bikinis and free or discounted drinks to participate in wet T-shirt competitions. However, these have been replaced with a broad and vague ban on promotional activities which "may be offensive to a reasonable adult present...for example encouraging participants to remove items of clothing".

Gender inequality does not operate in a vacuum and failing to appropriately consider other factors ignores a vital part of the solution. For example, alcohol is a product that is particularly associated with sexual appeal. Alcohol advertisements often contain messages that suggest that the irresponsible treatment of women is acceptable in the context of alcohol consumption.¹⁴ This contributes to the objectification of women in society.¹⁵ There are innumerable examples of the sexualisation of women in alcohol advertising.

The Guidelines also contain vague definitions of what constitutes an 'extreme discount'. Interpretation of what constitutes extreme discounting or harmful promotions are largely subject to the judgment of the licensee. As a result of extreme discounting promotions, alcohol can currently be purchased in NSW for as little as 22 cents per standard drink.

The pervasive nature of alcohol marketing is evidence of the ineffective regulation under the current Guidelines. Features that appeal to minors, sexualised advertising and heavy discounting remain problems in NSW. In Sydney takeaway liquor stores there is an average of 30 point of sale (POS)

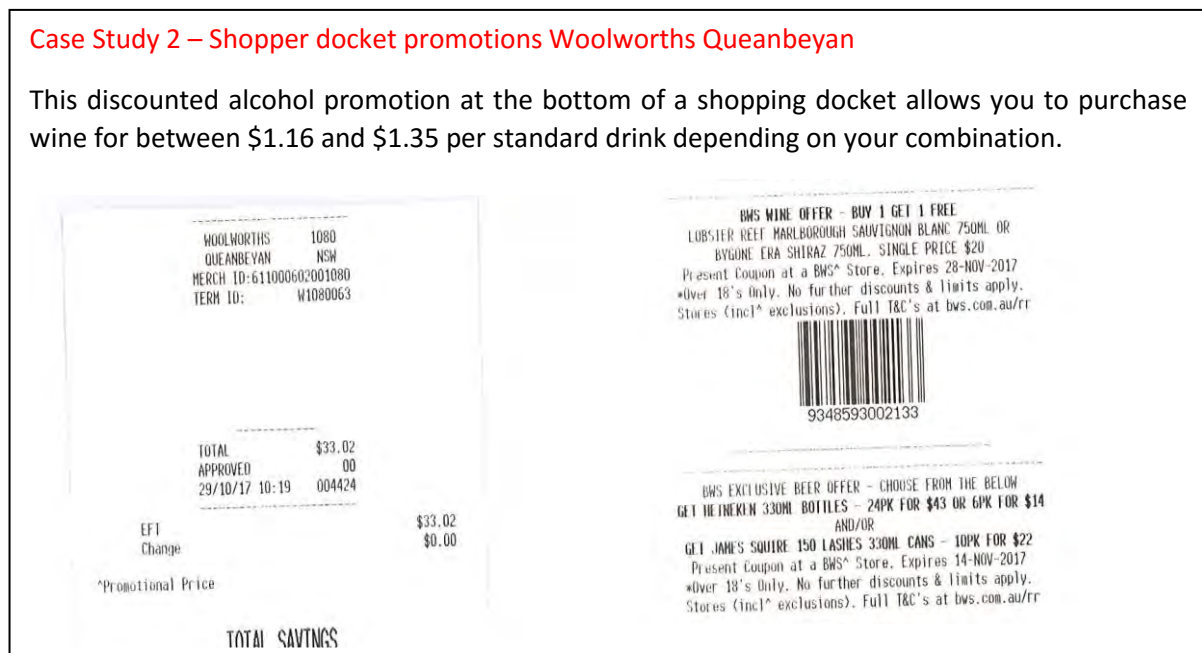
promotions at each outlet.¹⁶ These types of promotions influence purchasing decisions and often result in individuals buying more alcohol than they planned to.¹⁷

FARE's 2017 Annual Alcohol Poll found that 54 per cent of people bought a particular type of alcohol because its price was discounted, 35 per cent bought more alcohol than they planned because the price was discounted and 25 per cent bought a particular type of alcohol because of a discount voucher on the bottom of a shopping receipt.¹⁸ An example of this type of extreme discounting can be seen in Case Study 2.

A report prepared for OLGRC cautioned that promotions which lead people into buying more alcohol than they had originally intended are likely to increase consumption and that this is particularly the case for young people.¹⁹ The report also notes that shopper dockets and other linkages between liquor and everyday grocery items sends a message to consumers, particularly children and young people, that alcohol is a normal everyday product. OLGRC conducted a six month investigation into shopper dockets, concluding that they were "likely to encourage the misuse and abuse of liquor".²⁰ The agency consequently recommended that shopper dockets promoting discounted alcohol should be banned. Regrettably, the Director General of OLGRC decided not to support his agency's recommendations, thus allowing this harmful practice to continue.

Case Study 2 – Shopper docket promotions Woolworths Queanbeyan

This discounted alcohol promotion at the bottom of a shopping docket allows you to purchase wine for between \$1.16 and \$1.35 per standard drink depending on your combination.



Future directions

NAAPA is calling for an immediate review of the Guidelines. Regulation of alcohol marketing and promotions should be standardised, legislated and independent of the alcohol and advertising industries. The current system of self-regulation does not work.

The NSW community (83 per cent) strongly believe that more needs be done to reduce alcohol-related harm. This can be achieved by addressing price, promotions and the availability of alcohol.²¹

However, it is important that any provisions aimed at restricting or prohibiting promotional activity and undesirable liquor products apply to both on- and off-licence premises equally. Such provisions must also cover a range of promotional mediums such as signs, banners, flyers, posters, and

newspapers, as well as SMS text messages and those undertaken online and via social media such as Facebook or Instagram.

Along with strengthening the Guidelines, the *Liquor Act 2007* must also be amended to include provisions that limit harmful price discounting such as banning shopper docket liquor promotions and prohibiting the promotion and sale of alcohol at half or less than half of the usual price. POS promotions that encourage impulse purchases with the intention of ‘up-selling’ should also be restricted. Ceasing harmful price discounting will reduce risky alcohol consumption and discourage risky practices such as preloading by minimising the price differential between on- and off-licence premises.

Recommendations

1. That the Committee recommends an immediate review of the Liquor Promotion Guidelines and standardise regulations across all platforms.
2. That the Committee recommends legislating the banning of shopper dockets and other harmful price discounting mechanisms under the *Liquor Act 2007*.

2. Alcohol advertising on NSW State property

Current situation

The NSW government currently allows the advertising of alcohol products and businesses on state owned property which includes buses, trains, bus shelters and train stations (transit advertising); sports stadiums including ANZ Stadium, Allianz Stadium and the Sydney Cricket Ground (SCG); the Royal Randwick Racecourse and Sydney Motor Park; Sydney’s Lunar Park as well as various buildings throughout the state. These major stadiums (ANZ, Allianz and the SCG) are currently undergoing refurbishment through the *Rebuilding the Stadia Network Strategy*.

Outdoor advertising continues to be a major growth medium for advertisers, including public transport, shopping centres and airports, while traditional media continues to decline in both audience and market share.²² The advertising industry has described outdoor advertising as “always on, delivering messages 24 hours a day, seven days a week”.²³ It cannot be switched off and the entire community is exposed to it making it impossible to control who sees alcohol ads.

Children and young people are extensively exposed to this type of advertising, particularly on public transport.

The problem

Prominent places and landmarks that are used for outdoor advertising are seen by millions of people on a daily basis. The only guideline covering the placement of outdoor alcohol ads is the Outdoor Media Association (OMA) restriction preventing alcohol ads from being displayed within a 150m sight line of a school gate. Once again this voluntary code is largely ineffective. Alcohol advertising on public assets and in public places is clearly visible to minors. This is contrary to regulations requiring that advertising not be visible or directed to people under 18. Young Australians are bombarded with alcohol promotions in a variety of settings, including on billboards and posters, other promotional materials and on the internet.²⁴

Advertising on public transport in particular is seen by large numbers of young people travelling to and from school. About half of all secondary school students in Australia travel to and from school at least once a week on public transport.²⁵ This means that school children are exposed to alcohol ads, like those presented in Case Study 3, on a weekly or even daily basis.

Case Study 3 – Jim Beam advertisement in Kings Cross Train Station

In a complaint made to the Alcohol Advertising Review Board about a Jim Beam advertisement in Kings Cross train station, the complainant believed that the ad breached the code, saying:

“The ad features a bottle of Jim Beam plus the new Double Serve can, with 'Your bourbon, your way' in large font across the top. The ad is in a very busy Sydney City train station, where hundreds of local high school kids would be exposed everyday (part 7 of placement code). I also believe it's irresponsible given that it's promoting 2 standard drinks in one can (promoting overconsumption), as well as the problem of alcohol-fueled violence in the Cross.”



On an average weekday in Sydney young people aged 11-20 make 205,000 trips by train and 175,000 trips by public bus.²⁶ An audit of ads at train stations in Sydney found that 27 per cent of unique advertisements were for alcohol.²⁷

This is a concern as more young people catch the bus (26.4 per cent) than the train (19.9 per cent).²⁸ This is an enormous amount of alcohol advertising that young people are exposed to on a daily basis when you factor in the rest of transit advertising including ads placed on buses and at bus stops.

Advertising has a powerful influence in shaping how we view the world. Outdoor alcohol advertising is extensive, has features that appeal to children, and instils the idea that consumption of the alcohol product is associated with positive personality traits and success.²⁹

Alcohol is one product where advertising is often highly associated with sexual appeal. The majority of young people (aged 15-24 years) believe that alcohol advertisements are designed to appeal to them and understand that the adverts mean that alcohol consumption will give them more confidence, greater sociability, and better success with the opposite sex.³⁰

Young people experience disproportionate levels of alcohol-related harm. The government should not profit from or facilitate the promotion or advertising of a product that causes insurmountable harm to the NSW community.

Future directions

Remove all alcohol advertising from NSW state property including public transport. The NSW Government needs to align its policies on the promotion of liquor with its strategies to minimise harm. Advertising on public assets is one area where the NSW Government has complete control.

There is strong community support for the removal of alcohol advertising from public property with 65 per cent of NSW residents believing that alcohol advertising should be banned on public transport and 58 per cent believing that alcohol advertising should be banned at bus and train stops.³¹

The NSW Government should look to the ACT Government, who has already removed alcohol advertising from public transport, the Government of South Australian (SA), who is currently reviewing the content standards for advertising on Adelaide Metro vehicles with the intent to phase out alcohol advertising, and the Government of Western Australia (WA) made a commitment during the last election to ban alcohol advertising on all Public Transport Authority property.^{32, 33}

New York City recently announced that the Metropolitan Transport Authority has banned alcohol beverages on New York City buses, subway cars and stations. This densely populated city and major tourist destination hot spot sets an excellent example for not only Sydney, but the entire state of NSW. The removal of alcohol advertising from public assets will not be detrimental to NSW's public profile and international tourism appeal. Rather it will set an example for other jurisdictions and show a clear prioritisation of public health over commercial interests.

In Australia, the ACT Government has already made great progress in banning alcohol advertising from public transport. However, NSW should go one step further and ban alcohol promotions from all NSW Government property. There should also be controls imposed on the placement of alcohol advertisements in public spaces, specifying types of places and distances from such places where alcohol advertising is not permitted.

Ten per cent of young people believe that partner violence can be excused if the offender is heavily affected by alcohol. Prohibiting liquor advertisements from being displayed on public property would reduce the overall presence of alcohol advertising that perpetuates not only positive associations with drinking but also sexist attitudes and behaviours towards women. Removing alcohol advertising from public assets would also reduce the exposure of children to liquor promotions and alcohol advertising.

Recommendation

3. That the Committee recommends the removal of alcohol advertising from all NSW public property, including sporting facilities, public transport, bus shelters and train stations.

3. Alcohol advertising in sport

Current situation

There are virtually no restrictions for alcohol advertising on subscription television or on digital platforms (social media). Free TV is the only media platform with timing controls on alcohol advertising, prohibiting the ads from being displayed between 6am and 8.30pm. However, sport is an exception to the rule with alcohol advertising allowed during live sports broadcasts as well as non-live sports programs on a weekend or public holiday no matter what time of day.

Alcohol advertising across Australia is predominantly self-regulated. The Advertising Standards Bureau (ASB) assesses complaints under the Australian Association of National Advertisers (AANA) Code of Ethics and forwards these complaints to the alcohol industry led Alcohol Beverages Advertising Code (ABAC) Chief Adjudicator.³⁴ This means that the alcohol industry, under the name of ABAC, decide if the complaint comes under their jurisdiction and is worth pursuing. Free to air, pay TV, radio and internet advertising all come under their own codes of practice. This complex arrangement of regulatory codes means that there is no one body with responsibility for the content and placement of alcohol advertising.

The problem

These self-regulated codes and timing control exemptions mean that millions of children are exposed to alcohol advertising during TV viewing hours when alcohol is not normally allowed to be advertised. Why should sport be the exception?

An Australian study of 164 children aged 5 to 12 years found that 76 per cent were able to correctly match at least one sport with its relevant sponsor.³⁵ This is not surprising given an estimated cumulative audience of 26.9 million Australian children and adolescents watching Australia's major televised sporting codes, AFL, Cricket and NRL are exposed to 51 million instances of alcohol advertising, with nearly half (47 per cent) of these broadcast during daytime programming between 6am and 8.30pm.³⁶

Alcohol sponsorship of sport has an impact on both players and spectators. It is associated with hazardous drinking by those playing the sport³⁷ and communicates strong messages about alcohol brands and drinking that are absorbed by children. Alcohol sponsorship of sporting events is resulting in children and young people associating alcohol with sport.^{38,39}

Furthermore, ABAC specifically states that sponsorship is not considered a form of advertising and therefore is not included under the code. It is therefore necessary for the NSW Government to step in and protect children from the exposure of alcohol advertising during sport. Alcohol ads are seen on player's jerseys, on signage, the field and even the replay screen. Alcohol sponsorship of sport means that alcohol ads are everywhere and do not come under any restrictions or regulations.

Due to alcohol sponsorship of sporting teams, government-owned stadiums such as the Allianz and ANZ stadiums are plastered with alcohol advertisements for every game. As seen in Case Study 4, sponsorship is clearly a form of advertising and its pervasive nature extends beyond the funding of a sporting team and promotes the unhealthy relationship of alcohol and sport.

Case Study 4 – VB advertisement in the Daily Telegraph

Sponsorship is a clear form of advertising, marketing and promotion of a brand or product. Victoria Bitter has sponsored the NSW State of Origin Team for the past seven years. The alcoholic beverage and the football team have become so synonymous with one another that the team is now referred to as the VB NSW Blues.

The Origin team is used as an advertising tool to promote the alcoholic beverage Victoria Bitter. This ad supports the notion that beer and sport are essential elements of everyday life. This has become so pervasive to the point where you can receive a free can of VB in support of the NSW Blues with your local NSW newspaper. This is an example of not only inappropriate alcohol advertising but also the unhealthy relationship between alcohol and sport.



Future directions

The NSW Government can stop this problem by phasing out alcohol sponsorship from sporting and cultural events and advocating at the Federal level to end advertising exemptions that allow alcohol advertising during sports broadcasts.

There is strong community support for the removal of alcohol advertising during sport with 61 per cent of NSW adults believing alcohol advertising should be phased out of sporting broadcasts and 53 per cent believing that alcohol sponsorship should not be allowed at sporting events.⁴⁰ Three-quarters of parents support the introduction of policies to restrict unhealthy food, beverage and alcohol sponsorship of children's and elite sports.⁴¹

While the playing of sport should be encouraged among children, the promotion of alcohol in association with sport should not. NAAPA proposes the phasing out of alcohol sponsorship and advertising associated with sporting or cultural events. A transitional approach will provide industry with enough time and flexibility to amend current contractual arrangements and other business practices before the implementation of legislation. This will ensure that there is no significant economic disadvantage and allows plenty of time to look for new socially responsible sponsors.

Many countries have already successfully removed alcohol sponsorship from sport without any significant impact including France, Qatar, Norway, Denmark, Croatia, Russia and more.⁴² France successfully held the Heineken Cup Rugby competition, renamed H-Cup in France, as well as the UEFA Euro 2016. Furthermore, the upcoming Football World Cups to be hosted in Russia (2018) and Qatar (2022) suggest that the removal of alcohol sponsorship does not diminish sport or the capacity to host international sporting events.

The NSW Government is currently rebuilding major stadiums including Allianz Stadium (Sydney Football Ground) and the ANZ Stadium (Stadium Australia) through the \$1 billion *Rebuilding the Stadia Network Strategy*. Following the redevelopment of these government owned assets NSW should ban alcohol and other unhealthy sponsors (such as gambling) from advertising within the stadiums. This is within the state's power and would reduce the harmful impacts of alcohol advertising and is in the public interest of the NSW community's health and wellbeing.

Sport is a health promotion activity and its association with an unhealthy product such as alcohol is counter-intuitive at best and harmful at worst. This type of alcohol marketing is visible to children and young people, as sporting events are often held or televised during times when they are likely to be watching or in attendance at the event.

Recommendations

4. That the Committee recommends the phased removal of alcohol sponsorship and advertising from sporting and cultural events.
5. That the Committee recommends, following the completion of the *Rebuilding the Stadia Network Strategy*, that the NSW Government not allow sponsorship and advertising of alcohol and other unhealthy industries, such as gambling, at the stadiums.
6. That the Committee recommends that alcohol advertising regulation is standardised, legislated and independent of the alcohol and advertising industries.
7. That the Committee recommends that sponsorship is a form of advertising and subject to alcohol advertising regulation.

4. Matters raised in the Bill

NAAPA supports the *Alcohol Beverages Advertising Prohibition Bill 2015* (the Bill) and would like to make comment on the following:

4.1 Regulation of alcohol within public health

Current situation

This Bill highlights the importance of alcohol being a health issue by allocating responsibility to the Ministry of Health, thereby prioritising harm minimisation as opposed to industry profit.

While several states and territories have now introduced the principle of harm minimisation within their legislation, the interests of business are still elevated above this principle in the NSW *Liquor Act 2007*, as it does not include harm minimisation as a Primary Object.

The Objects of the Act are as follows:

- a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community
- b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality, and
- c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.⁴³

Harm minimisation is included merely as a requirement to secure the Objects of the Act, stating that particular regard be given to:

- a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour)
- b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor, and
- c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.⁴⁴

The problem

The 2013 review of the *Liquor Act 2007* considered proposed amendments to the Act, but decided against taking the opportunity to prioritise harm minimisation. This places the interests of business ahead of the interests of the community and of public health.

Alcohol is first and foremost a health issue. Yet business interests continue to be prioritised over the interests of public health and community wellbeing.

Future directions

The *Alcohol Beverages Advertising Prohibition Bill 2015* provides an opportunity for the NSW Parliament to prioritise harm minimisation and the health and wellbeing of the NSW community. This legislation should remain the responsibility of the Health Minister to align alcohol with principles of harm minimisation as seen in tobacco control.

The NSW Government should look to the example of tobacco which is managed by the health portfolio under the *Public Health (Tobacco) Act 2008* and *Public Health (Tobacco) Regulation 2016*.

Recommendation

8. That the Committee recommends the *Alcohol Beverages Advertising Prohibition Bill 2015* remain the responsibility of the Ministry for Health.

4.2 Alcohol Advertising Prohibition Committee

Current situation

It is important that a regulatory committee provide an independent statutory authority to regulate alcohol advertising practices. The Bill proposes the newly established Alcohol Advertising Prohibition Committee prepare a code which outlines the reasoning for prohibited promotions and the grounds on which advertising or sponsorship be removed, obscured or terminated.

It is proposed that the committee consist of five members, three of whom are to be nominated by the Secretary of the Ministry of Health and one to be nominated by the Chief Executive Officer of the Outdoor Media Association of Australia.

The problem

The proposed code has the potential to duplicate relevant provisions within the *Liquor Act 2007* and the subordinate Liquor Promotion Guidelines. While the Guidelines have been watered down and are overdue for review, they are linked back to legislation thereby providing a means through which the Guidelines can be appropriately enforced.

Given the title of the committee, NAAPA would like to reinforce the inherent conflict of interest in having alcohol industry members serving on the committee. The current proposal that one member of the committee be nominated by the Chief Executive Officer of the Outdoor Media Association of Australia is unwarranted.

The Director-General of the World Health Organization (WHO) Dr Margaret Chan has stated:

“When industry is involved in policy-making, rest assured that the most effective control measures will be downplayed or left out entirely. This, too, is well documented, and dangerous. In the view of WHO, the formulation of health policies must be protected from distortion by commercial or vested interests.”

Industry should not be involved in any form of policy development or regulation.

Future directions

The independent statutory authority in the form of a committee should remain independent. The desired regulatory model must be truly independent and beyond political and industry interference. Rather than an administrative function that exists to facilitate a particular political agenda, it must be given the power and respect to act as a quasi-judicial system. Independent regulation requires a separation of power between those who can make, change and enact laws, and those who have a responsibility to make judgement about such laws.⁴⁵ The regulation of alcohol advertising should also

be independent of the alcohol and advertising industries as their primary concern is increasing their profit margin, not the health and wellbeing of communities.

Recommendation

9. That the Committee recommends the regulatory Alcohol Advertising Prohibition Committee be established independent of alcohol and advertising industry involvement.

4.3 Reintroduce local options

Current situation

A local option area allows a local community or local government authority to prohibit alcohol sales and restrict the number of liquor licences within a designated area. Local option provisions were first introduced in 1888 and were suspended in 1920 and later repealed entirely in 1946.⁴⁶ The original intent of local options was to allow ratepayers in the community to vote on whether the number of liquor licences should be allowed to increase, decrease or remain the same over the next few years.

The problem

It is extremely difficult for local communities to engage in liquor licensing and regulatory processes in their local area. The current system is not adequately addressing or assessing community impact. The majority (83 per cent) of NSW adults believe more needs to be done to address alcohol harm.⁴⁷ The regulatory systems are complicated, outdated and don't properly inform the community or provide them with sufficient opportunity to engage in the planning and development processes let alone the licensing processes.

The current system is flawed and is not adequately addressing the social impact of liquor licences, and community members are not being genuinely consulted. There are numerous examples where community concerns have been ignored, including Dan Murphy's Mosman (1-4027289017), approved by ILGA^{48, 49} despite overwhelming opposition from the local council, local police, fire services and residents. A recent study conducted by the Australian Prevention Partnership Centre found that courts favoured the alcohol industry in more than 75 per cent of cases across Australia.⁵⁰

Future directions

NAAPA strongly supports the principle of empowering and engaging local communities in licensing matters, however this goes beyond the Bill and should be addressed more broadly in the *Liquor Act 2007*.

Community participation and input into regulatory processes including licensing, sales and promotions is extremely important. It enables local autonomy and informed community choice in the direction of local health, safety and amenity issues related to alcohol.

The reintroduction of local option areas gives communities back their voice and allows them to have a say in the number of licensed venues in the community. However, there is currently no targeted support for communities interacting with liquor licensing or planning systems. This results in unsuccessful but valid objections and complaints, or community members not engaging with these systems at all. The development and funding of an independent Community Defender's Office (CDO)

based on the Alcohol Community Action Project (ACAP) pilot would help individuals and communities to navigate and interact with the liquor licensing system.

The lessons from the ACAP serve as a clear case study to help inform the development and requirements of the CDO. For the CDO to be as successful as possible there are two main functions that must exist within the service:

1. An advisory service that provides communities with free and timely access to skilled personnel.
2. A central information service, or 'Knowledge Bank'.

The advisory service function of the CDO would provide further support to supplement the information available through web-based platforms. Specific supports that may be provided by the CDO include, but are not limited to: developing the public profile of the issues and public engagement options within the community; and the provision of in-house legal and related advice, communications and researchers.

The information needs of community members must be supported to empower and facilitate community participation in licensing matters. Community members seeking to submit objections or complaints in relation to licensing matters need guidance on where to source information resources. This can be provided through a central information service.

The reintroduction of local option areas should occur in conjunction with the establishment of a CDO. This will empower the community and remove favouritism towards the alcohol industry.

Recommendation

10. That the Committee recommends that local option areas be considered under the *Liquor Act 2007* and that an independent Community Defenders Office be established to empower and support local communities in licensing matters.

4.4 Health warning labels

International research has found that health warning labels are effective both in raising awareness of health risks and changing health behaviours, when applied in accordance with specific guidelines that are known to increase prominence. Labels provide an opportunity to promote health warnings and nutritional information at the point of sale and the point of consumption in a way that other health promotion initiatives do not.

Current situation

The Bill makes mention of health warning labels on the packaging of alcoholic beverages. Currently the Liquor Promotion Guidelines do not include any information regarding health warning labels on alcohol products. There is also no legislation in Australia that regulates or encourages their use. Currently a voluntary scheme exists where messages that have been developed by the alcohol industry are placed on some alcohol products.

In 2010, the Australian and New Zealand Food Regulation Ministerial Council undertook a comprehensive review of food labelling law and policy in Australia. The final report, entitled *Labelling Logic*, was released in January 2011 and recommended that pregnancy warning labels be mandated on individual containers of alcoholic beverages and at the point of sale for unpackaged alcoholic beverages. This was not implemented. Instead the alcohol industry was allowed to trial a voluntary labelling scheme for two years which was further extended to four years.

An evaluation of the implementation of these labels found that just 38.2 per cent of all products had a health warning label more than two years after the voluntary scheme started.

The problem

On 24 November 2017, the Forum meets to consider the future of alcohol pregnancy warning labels. This comes after a four year trial of voluntary labelling on alcohol products by alcohol industry members to determine if this has been sufficient to inform consumers about the risks of alcohol consumption during pregnancy.

Alcohol consumption during pregnancy is associated with a range of adverse consequences including miscarriage, stillbirth, low birth weight and Fetal Alcohol Spectrum Disorder. These harms are preventable and warning labels on alcohol products are a cost-effective method of inform consumers about these risks.⁵¹

There is a perception that everyone knows not to drink alcohol during pregnancy.⁵² However, this is not borne out by evidence. The 2016 Australian National Drug Strategy Household Survey found that 44.4 per cent of women drink alcohol during pregnancy.⁵³ This equates to around 75,000 women (based on the number of pregnancies published by Australian Bureau of Statistics Births)⁵⁴, a large number of pregnancies with some level of alcohol exposure.

It is important to note that an effective label and labelling standards have not yet been determined. This is critical. A label that does not raise awareness about health harms is irrelevant to consumers and a mere promotion exercise for the alcohol industry. Further, it is imperative that labels on products do not confuse consumers or encourage them to believe that alcohol consumption during pregnancy is acceptable. This is highly dangerous and harmful to future generations.⁵⁵ However, this is the situation we are in.

Future directions

These voluntary pregnancy consumer messages are currently the only labels on alcoholic beverages. As NSW is a member of the Forum, its representatives who will be attending the meeting on 24 November 2017 should advocate for adopting a mandatory labelling system. The NSW Government should support mandating alcohol pregnancy warning labels on all alcohol products and point of sale material by 2019 and immediately task Food Standards Australia and New Zealand to develop a standard for an effective label that addresses the wording, placement and size of the label.

Recommendation

11. That the Committee recommends the introduction of health warning labels, in particular pregnancy warning labels be mandatory for all alcohol products.

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