

**Submission
No 23**

INQUIRY INTO ALCOHOLIC BEVERAGES ADVERTISING PROHIBITION BILL 2015

Organisation: McCusker Centre for Action on Alcohol and Youth
Date received: 7 November 2017

7 November 2017

Revd the Hon Fred Nile MLC
Committee Chair
NSW Legislative Council Portfolio Committee No. 1

Re: Submission to inquiry into the Alcoholic Beverages Advertising Prohibition Bill 2015

We welcome the opportunity to comment on the Alcohol Beverages Advertising Prohibition Bill 2015. We are very pleased to see alcohol advertising regulation being actively considered by the NSW Government. Restrictions on alcohol marketing during times and in places which have high exposure to children and young people are an important part of the comprehensive approach needed to reduce alcohol-related harms. Our submission summarises the strong evidence of the extent of alcohol advertising in Australia and its impact on children and young people, and highlights areas where the NSW Government can have a substantial impact. We have also attached two reports from the Alcohol Advertising Review Board for further information:

- It's not fair play: Why alcohol must leave sport (2017).
- No way to ignore it: The case for removing alcohol ads from public transport (2016).

Alcohol advertising, promotion, sponsorship and marketing

Alcohol is one of the most heavily marketed products in the world.¹ Australian children and adolescents are exposed to unacceptably high levels of alcohol advertising in a wide range of forms including television, cinema, radio, print (including magazines, newspapers and catalogues), outdoor (including billboards, sporting grounds, bus shelters and on public transport), online (including social media, YouTube, mobile phones and websites), sponsorship of sport and music events, branded merchandise and product placement (including in music videos).

There is a substantial body of Australian research which indicates the extent to which young people in Australia are exposed to alcohol advertising and promotion. A brief summary of just a small selection of the literature shows that:

- Australian teenagers aged 13 to 17 years are exposed to alcohol advertising on television at approximately the same level as young adults aged 18 to 24 years.²
- Half of all alcohol advertising aired on Australian television appears during children's popular viewing times. One in ten beverage advertisements is for alcohol.³
- Over 94% of students aged 12 to 17 report having seen alcohol advertising on television, and the majority report having seen alcohol advertisements in magazines, newspapers, on the internet, on billboards and promotional materials and in bottle shops, bars and pubs.⁴
- Almost a quarter of music videos shown on Australian television on Saturday mornings, a time that is considered suitable for viewing by children, were found to contain legal drug references; alcohol featured in almost all of these.⁵
- One in five young people aged 16 to 24 years reported that they had visited an alcohol brand page on Facebook, including 10% of those aged under 18 years.⁶

There are concerns that many alcohol promotions to which young people are exposed contain features that would be expected to appeal to young people.^{7,8} Children and young people are regularly exposed to advertisements depicting alcohol consumption as fun, social and inexpensive.⁹ Research has found that young people perceive messages in alcohol advertisements regarding social benefits of consuming alcohol, including that the advertised products would make them more sociable and outgoing, help them have a good time and fit in, and be more confident.¹⁰

While alcohol advertisers claim to target their campaigns at the 18 years and older demographic,¹¹ it is impossible for alcohol advertising to target 18 year olds (the legal alcohol purchase age) without also appealing to 17 year olds and younger teenagers. The World Health Organization noted in the *Global Strategy to Reduce the Harmful Use of Alcohol*, “It is very difficult to target young adult consumers without exposing cohorts of adolescents under the legal age to the same marketing”.¹²

Impact of alcohol advertising on young people

The evidence for the impact of alcohol advertising on young people is consistent and comprehensive. Exposure to alcohol advertising influences young people’s beliefs and attitudes about drinking, and increases the likelihood that adolescents will start to use alcohol and will drink more if they are already using alcohol.^{13,14} Research shows strong associations between exposure to alcohol advertising and young people’s early initiation to alcohol use and/or increased alcohol consumption.^{15,16} When looking at the impact of specific media, the evidence shows:

- Alcohol sponsorship of sport may be associated with increased drinking among school students¹⁷ and increased drinking and hazardous consumption among those sponsored.¹⁸
- Research on the impact of television alcohol advertising found that exposure to alcohol advertising and liking of those ads influences young people’s drinking and the development of alcohol-related problems.¹⁹
- Liking or following alcohol marketing pages on social media is common among young Australians and is associated with riskier alcohol use and an earlier start to drinking.²⁰ Significant associations exist between exposure to internet-based alcohol-related content and intentions to drink and positive attitudes towards drinking among young people.²¹

As noted by leading UK expert on social marketing Professor Gerard Hastings, “It is now been established beyond all reasonable doubt that alcohol advertising – as with advertising for tobacco and fast food – does influence behaviour”.²²

Exposure to alcohol promotion contributes to the normalisation of alcohol use²³ and works to reinforce the harmful drinking culture that exists in Australia.

Given the strength and consistency of independent evidence for the impact of alcohol advertising, those presenting the evidence as inconclusive are now largely limited to those with vested interests in limiting curbs on alcohol promotion and perpetuating ineffective approaches to self-regulation.²⁴ The promotion of doubt by those industries with conflicting interests should not distract from the strength of the independent evidence for the impact of alcohol advertising or the case for effective constraints.

Alcohol advertising regulation in Australia

In Australia, alcohol advertising is largely self-regulated by the alcohol and advertising industries. The Advertising Standards Bureau (ASB) assesses complaints against the Australian Association of National

Advertisers (AANA) Code of Ethics and the Code for Advertising and Marketing Communications to Children. Alcohol advertising complaints are also assessed by the Alcohol Beverages Advertising Code (ABAC) Scheme against an alcohol-specific code of practice.

Recognised weaknesses in the self-regulatory system include that code provisions are narrowly worded²⁵ and important forms of marketing are not covered, including sponsorship.²⁶ The system is voluntary (non-signatories go unregulated), there appear to be no sanctions for advertisers breaching codes, decisions by the ABAC Scheme and ASB are not directly enforceable, and there is no monitoring function. There is also a lack of independence in the ABAC Scheme. The three ABAC Scheme Directors represent the Brewers Association of Australia and New Zealand, the Distilled Spirits Industry Council of Australia and the Winemakers' Federation of Australia.²⁷ These groups jointly fund the ABAC Scheme and form the majority of its Management Committee.²⁸

The ABAC Scheme recently announced their content code will cover the placement of alcohol ads.²⁹ The self-regulatory system's failure to adequately address placement has been a major criticism by health groups; however health experts have publicly criticised the new "Placement Rules", as they are unlikely to reduce young people's exposure to alcohol promotion.³⁰ The provisions use vague, undefined phrasing, such as "primarily aimed at young people", and rely on an audience threshold restriction that limits alcohol ads to places where the audience is "reasonably expected to comprise at least 75% adults". International research has suggested this type of restriction is ineffective in minimising young people's exposure^{31,32}; it is too lenient, difficult and expensive to monitor, and breaches occur.

Existing controls on the placement of alcohol ads are weak and do not adequately protect young people. The Commercial Television Industry Code of Practice restricts alcohol advertisements to 8.30 pm–5 am and 12 pm–3 pm on weekdays, and 8.30 pm–5 am on weekends and school holidays on free-to-air channels. An exemption allows alcohol advertisements during sports programs on weekends and public holidays.³³ This loophole has been heavily criticised by health and community groups as it prioritises commercial interests over the wellbeing of children and young people. An Outdoor Media Association guideline limits outdoor alcohol advertising to outside a 150-m sight line of a school gate, except in the vicinity of a licensed venue. Placement of alcohol advertising in other media is essentially unrestricted.³⁴

The World Health Organization, the Australian Medical Association, the National Preventative Health Taskforce and other expert groups have recommended restricting alcohol advertising during times and in places which have high exposure to children and young people as part of a comprehensive approach to reducing alcohol related harms.^{12,23,35} There is strong community support for effective regulation to protect young people from alcohol promotion; 71% of Australian adults support using legal controls to reduce children's exposure to alcohol promotion, with only 6% opposed.³⁶

Addressing alcohol advertising at a State level

The Australian Government has overarching responsibility for the regulation of alcohol marketing, but to date, has not acted in the areas available to address concerns or strengthen regulation. With high levels of concern about alcohol and young people it is important and necessary for governments to take action to reduce young people's exposure to alcohol promotion. Several opportunities for action at a state level are highlighted in the Alcohol Beverages Advertising Prohibition Bill 2015. We discuss these below.

1. Outdoor advertising

Outdoor advertising continues to be a major promotional medium for advertisers. Advertising across billboards and outdoor media has increased as a share of industry revenue over the last five years, due to new advertising methods and an increasing number of advertisement locations at bus and train stops, on public transport and at sporting events.³⁷ The Outdoor Media Association reported that Australians are likely to see an average of 26 ads across out-of-home sites each day³⁸ and out-of-home advertising reaches 12.4 million people daily across Australia.³⁹

In 2016, the Outdoor Media Association (OMA) listed alcoholic beverages as ninth in the top 20 advertising categories, with a spend of \$26.8 million on out-of-home advertising.⁴⁰ An analysis of alcohol advertising expenditure in Australia between 1997 and 2011 found outdoor alcohol advertising expenditure on billboards alone increased from 1997 to reach a peak of \$45.8 million in 2007.⁴¹

Outdoor advertising cannot be switched off, avoided or ignored, and it is impossible to control who views outdoor alcohol ads. The advertising industry themselves describe outdoor advertising as "a medium that reaches almost every member of the community" and is "always on, delivering messages 24 hours a day, seven days a week".⁴² Children and young people can be expected to be heavily exposed to outdoor advertising, including ads placed on public transport and at transit stops. These ads are highly visible to those driving and walking past, as well as those using public transport.

Research has shown alcohol advertising on public transport and transit stops is widespread.⁴³ An audit of ads at train stations in Sydney, NSW, found that 21 locations had billboards advertising food or beverages, and of the 81 unique ads identified, the greatest proportion was for alcohol (27%).⁴⁴

The only restriction on outdoor alcohol advertising placement is the OMA Guideline limiting ads to 150m from a school gate.⁴⁵ This guideline does not apply where there is a club, pub or bottleshop in the vicinity of the school, and does not apply to advertising on buses, trams and taxis. There have been many instances where even this modest restriction has been breached, demonstrating the failure of OMA's monitoring and enforcement of the guideline.⁴³ In addition, 150 metres is a very small distance, and buses, trams and taxis drive past schools and other locations where young people congregate every day, further demonstrating that the guideline is inadequate in protecting children and young people from exposure to outdoor alcohol ads.

There is substantial community concern about alcohol advertising on public transport. 65% of NSW adults believe that alcohol advertising should be banned on public transport, and 58% of NSW adults believe that alcohol advertising should be banned at bus and train stops.⁴⁶

This community concern is reflected in complaints submitted to the Alcohol Advertising Review Board (AARB). The AARB was developed by the McCusker Centre for Action on Alcohol and Youth and Cancer Council WA in response to concerns about the effectiveness of alcohol marketing regulation under the current self-regulatory system. The AARB accepts and reviews complaints from the Australian community, free of industry influence. Ads are reviewed against the AARB Code, which sets criteria for acceptable alcohol advertising in Australia.

A small sample of complaints about outdoor advertising received by the AARB from the NSW community are summarised in Table 1.

Table 1: Complaints to the Alcohol Advertising Review Board from the NSW community about outdoor advertising.

Date	Ad	Summary of complainant's concerns	Determination
Sept 2017	Jim Beam bourbon ad at Kings Cross train station in Sydney.	Placed at a very busy train station, where many local high school students would be exposed to the advertising every day.	Upheld. Breached section 7 of the Placement Code – Transport advertising: Alcohol ads should not be placed at any train, tram, bus or ferry stops.
Aug 2017	Jack Daniel's whiskey ad at Redfern train station in Sydney.	Placed at the main train station that services University of Sydney, so hundreds of young people would see the ad every day.	Upheld. Breached section 7 of the Placement Code.
Aug 2017	Kirin beer ad placed on a bus stop on the corner of Bayswater Rd and McLachlane Ave in Rushcutters Bay.	Children and young people would be exposed due to placement on a bus stop less than a kilometre from playing fields and Sydney Grammar School Edgecliff Prep.	Upheld. Breached section 7 of the Placement Code.
Jan 2017	Corona bus stop ad in Epping.	Placed at a bus shelter where buses carrying school children stop.	Upheld. Breached section 7 of the Placement Code.
Jun 2016	Hahn beer ads wrapped around pillars and on walls at the Central train station in Sydney.	Placed in the main thoroughfare at the main train station in Sydney where many children and young people would see the advertising. Many posters placed around the station in a way that those who pass by could not avoid them.	Upheld. Breached section 7 of the Placement Code.
Dec 2015	'Beer the Beautiful Truth' billboard in Wollongong.	Placed across the road from Wollongong Youth Centre.	Upheld in part. Breached section 1(i) of the Placement Code – General: Alcohol ads should not be placed in places or at times where young people are exposed. Panel commented that young people walking to the youth centre would see the ad.
Sep 2013	Bundaberg Brewed & Crafted 'Smooth & Shifty' (a ready-to-drink product) billboard in Wollongong.	Placed across the road from Wollongong Youth Centre.	Upheld. Breached section 1(i) of the Placement Code. Panel commented that it was inappropriate for alcohol ads to be placed near a youth centre where young people would gather.

Further information and research on alcohol marketing on public transport is available in the attached Alcohol Advertising Review Board report *No way to ignore it: The case for removing alcohol ads from public transport*.

There is precedent for state and territory governments in Australia taking action on alcohol advertising on public transport:

- The ACT removed alcohol advertising from public buses in 2015.
- Following a review of the Liquor Act in 2016, the South Australian Government announced that it would remove alcohol advertising from public transport vehicles.
- The Western Australian Government, elected in early 2017, has committed to removing alcohol advertising from all public buses, bus stops and train stations.

Recommendation

The Inquiry recommend alcohol advertising be removed from publicly owned assets where young people are likely to be exposed, including buses, bus shelters, trains and train stations.

2. Sponsorship of sporting, music and cultural events

Alcohol companies sponsor sporting events (from local teams through to major national codes), music festivals popular with young people, and other cultural events. Sponsorship is a powerful form of alcohol promotion; it is a way of raising brand awareness, creating positive brand attitudes, and building emotional connections with consumers.⁴⁷ It has been suggested that sponsorship has the potential to reach audiences through less regulated ways than traditional advertising.⁴⁸

Alcohol promotion is prominent in sport. Research has shown:

- There were significantly more alcohol ads per hour in daytime sports programs on Australian TV than in non-sport TV later in the day in 2012.⁴⁹
- In-game alcohol advertising (e.g. ground and uniform signage) can be substantially higher than in-break advertising (e.g. TV ads). For every minute of 'in-break' alcohol advertising, there was about 4.5 minutes of 'in-game' alcohol advertising in Victorian AFL games broadcast in July 2010⁵⁰ and only 5% of marketing in an NRL grand final match was in commercial breaks.⁵¹
- 15 of the 18 AFL teams were sponsored by alcohol companies in 2017.⁵²
- Cricket fans were exposed to nearly 9 hours of alcohol advertising, totalling 4,600 alcohol promotions, in just 3 one-day matches during the 2013/14 season. During another Twenty20 game, 1 in 4 ads was for an alcohol product or retailer.⁵³
- The Formula 1 Monaco Grand Prix final featured 3 alcohol-sponsored teams and had an average of 11 promotional references to alcohol per minute, including on uniforms and team cars.⁵⁴

Evidence shows children absorb sports sponsorship messages. Australian research found 76% of children aged 5 to 12 years were able to correctly match at least one sport with its relevant sponsor.⁵⁵

Alcohol sponsorship of sport also sends conflicting messages to the community. The public, including young people, could reasonably assume that by accepting sponsorship from alcohol companies, sporting and other organisations are endorsing their products. Sporting organisations' close ties with the alcohol industry also mean that groups who would be expected to be natural allies of the health field may support alcohol industry positions. Research shows elite athletes are receptive to supporting health promotion through sport, and nearly three quarters disagree that athletes should promote unhealthy foods and alcohol.⁵⁶ Alcohol sponsorship of sports and children's sporting heroes deprives health groups of supporters, advocates and role models.

As noted previously, alcohol sponsorship of sport, music or other cultural events is not covered by the industry’s self-regulatory system, the Alcohol Beverages Advertising Code (ABAC) Scheme. Leading health organisations including the World Health Organisation and the Australian Medical Association have recommended addressing alcohol sponsorship as part of a comprehensive approach to reducing alcohol-related harm. Several government committees and inquiries in Australia have previously recommended phasing out alcohol sponsorship.^{35,57}

Internationally, countries including France, Iceland, Mauritius, Norway, and Turkey have legally binding regulations on alcohol sponsorship.⁵⁸ France has one of the strictest systems of alcohol marketing regulation through the ‘Loi Evin’. This legislation applies to the marketing of all alcoholic products over 1.2% alcohol by volume, and includes a ban on alcohol sponsorship of sport, alcohol ads on TV, and advertising that associates alcohol with sport.⁵⁹ This has not impeded France’s ability to host major sporting events, with the country hosting the final of the Heineken Cup rugby competition several times between 1997 and 2014 (it was renamed the H Cup in France).

There is significant public concern about alcohol sponsorship of sport. In five years, a third of all complaints received by the AARB were related to sport. Around two-thirds of these were about sponsorship (further detail is available in the report *It’s not fair play: Why alcohol must leave sport*). A small sample of complaints to the AARB about alcohol sponsorship of sport in NSW are summarised in Table 2.

Table 2: Complaints to the Alcohol Advertising Review Board regarding alcohol sponsorship of sport in NSW.

Date	Ad	Summary of complainant’s concerns	Determination
Sep 2017	Post on the Smirnoff Vodka Facebook page stating: "Nothing like the feeling of hitting that finish line and celebrating with a Smirnoff Pure. Cheers to everyone who joined us at The Bucket List - Bondi Beach for our City 2 Surf after-party."	Inappropriate for an alcohol brand to promote finishing off a running event with an alcoholic beverage.	Upheld. Panel found the ad was not prepared with a sense of responsibility to the audience, and promoted the consumption of alcohol as a reward for completing a running event, a concept which contradicts the purpose of health and fitness activities.
Jul 2017	Corona Sunsets DJ sessions at Merritts Mountain House in Thredbo, NSW. Promotion included the line “No dream run down the mountain is complete without stopping by Merritts Mountain House, taking in the panoramic surrounds of Thredbo while enjoying a Corona and a free gig”.	Event associates snow sports, a dangerous activity, with alcohol.	Upheld. Breached section 4(h) of the Content Code: Alcohol advertisements should not associate alcohol products with the operation of any vehicle or with any activity requiring a significant degree of skill, care or mental alertness, including sporting and physical activities.
May 2017	VB sponsorship of the Country Rugby League team during the Country v City Origin match in	Logos were visible on the Country teams’ shirts, on and around the field and around the goal posts during the game. Kids at the	Upheld. Breached section 9 of the Placement Code – Sponsorship: Alcohol ads should not appear at cultural or sporting events that appeal to young

	Mudgee, NSW, on Sunday 7 May 2017.	match would have been “bombarded with huge VB logos”.	people. A Panel member commented that in NSW, rugby is played and watched by many people under 18 years.
Jan 2017	VB ads around the scoreboard at the SCG during a test cricket match.	Inappropriate given the many children that would be watching the sport, both at the SCG and on TV; need to remove alcohol from sport.	This was the fourth complaint received about VB ads at cricket – the previous complaint was upheld. Panel believed the ads around the scoreboard associated VB with sport, and would have been visible to children and young people both at the game and watching it on TV. A Panel member commented that the placement of the signs around the scoreboard ensured maximum exposure to cricket fans.
Jun 2016	Limited-edition VB can. Product packaging based on the State of Origin NSW Blues team’s 2016 jersey.	Product packaging was based on the jersey of NRL role models so was likely to appeal to young people. Associates alcohol with rugby league, a popular sport among young people.	Upheld. Panel believed the design of the can would appeal to young people and associated the product with sport.
May 2015	“Tooheys New Footy Fund” – buy a Tooheys New carton or block during the promotion, donate ‘rewards points’ to favourite senior footy club in regional NSW and go in the draw to win \$10,000. Footy club could also win Tooheys New branded sports equipment.	Promotion supported senior AFL clubs in regional NSW, a group of sports clubs that are highly likely to include young players. The branded equipment is likely to be used at local AFL games where children, young people and young families will be attending.	Upheld. Breached section 4(h) of the Content Code.
Dec 2014	Coopers Mild signage at the Sydney NRMA 500 Dunlop Series V8 Supercars event.	Associated motor sport with alcohol.	This was the fifth complaint received about Coopers Mild signage at a V8 Supercars event. The previous complaint was upheld. The Panel believed that advertising alcohol during a motor racing event links alcohol with daring behaviour and toughness and the activity of driving motor vehicles. A Panel member commented that given the very real dangers of drink-driving on Australian roads, it is irresponsible for an alcohol company to associate their products with driving in such an obvious way.

A recent community survey also showed strong public concern about alcohol sponsorship of sport, as well as support for stronger regulation of alcohol marketing³⁶:

- 60% of Australian adults think it is not acceptable for alcohol to be promoted in connection with sport; only 20% think it is acceptable.

- 71% of Australian adults think it is not appropriate for alcohol ads to feature sport stars that are popular with children; only 12% think it is appropriate.
- Less than 30% of Australian adults think popular sports such as AFL, NRL and cricket are doing enough to promote healthy messages to the community.
- Less than a quarter of Australian adults think motor sports should be able to promote alcohol.
- 63% of Australian adults support phasing out the promotion of alcohol through sports sponsorship, with only 13% opposed.

Sponsorship of music events in NSW that have strong appeal to young people have also been the subject of complaints to the AARB.

Table 3: Complaints to the Alcohol Advertising Review Board regarding alcohol sponsorship of music events in NSW.

Date	Ad	Summary of complainant's concerns	
Aug 2017	Captain Morgan sponsorship of Splendour in the Grass music festival in Byron Bay. Sponsorship included the 'Captain Morgan Bermuda Triangle Bar'.	Young people would be exposed to the alcohol promotion at the all age event.	Upheld. Breached section 9 of the Placement Code. A Panel member commented that the Captain Morgan logo is pirate themed, and the entry to the Captain Morgan bar at the festival looked like a pirate ship, which they believed would be very appealing to young people.
Feb 2017	Carlton Dry sponsorship of Falls Festival in Byron Bay. Sponsorship included the 'Carlton Dry Hotel'.	Event would be really popular with people under 25 and this age group would be heavily exposed to alcohol marketing by CUB.	Upheld. Breached section 9 of the Placement Code.
Mar 2014	Jack Daniel's White Rabbit Saloon (a stage area featuring popular DJ's) at Future Music Festival in Sydney.	Young people were highly likely to be exposed to the Jack Daniel's advertising as the festival had many popular bands/artists performing that would appeal to young people.	Upheld. Breached section 9 of the Placement Code. A Panel member noted that the Jack Daniel's White Rabbit Saloon promotion itself was likely to appeal to young people, as it was designed as a music hangout which would have created an appealing social atmosphere. They noted that sponsorship of music festivals by alcohol companies seems to be moving beyond the provision of signage to much more engaging promotions that encourage attendees, including young people, to interact with their brand and product in a carefully constructed social setting.

Recommendation

The Inquiry recommend alcohol sponsorship and advertising be phased out from sporting, cultural and music events in NSW. Appropriate funding opportunities should be made available to support the transition of sport, music and other events and activities away from alcohol sponsorship.

3. Advocating at a national level for stronger regulation

The NSW Government can play an important role in encouraging the Australian Government to introduce strong, independent, legislated controls on all forms of alcohol marketing. If state governments are taking steps towards reducing children and young people's exposure to alcohol marketing, it's vital that the Australian Government also takes action to maximise the impact and act in areas not available to state and territory governments.

The importance of State and Territory Governments advocating for action at a Federal level has been recognised. The recent final report of the Alcohol Policies and Legislation Review in the Northern Territory recommended:

"2.10.1 The Northern Territory Government advocate at the national level for independent, legislated control on the content, placement and volume of all forms of alcohol advertising and promotion. There should be a comprehensive code and enforceable decisions with sanctions that act as a deterrent to inappropriate alcohol advertising.

2.10.2 The Northern Territory Government advocate that the issue of alcohol advertising during telecasts of live sports events be considered at a national level, with a view to prohibiting, or at least restricting, such advertising.

2.10.3 The Northern Territory Government advocate nationally for initiatives that provide for alternatives to sports sponsorship by the alcohol industry."

In 2016, following his independent review of South Australia's *Liquor Licensing Act 1997*, the Hon T.R Anderson QC stated:

"19.2.19 In my view, there is merit in considering a ban on advertising on public transport and for live sporting television broadcasts. This should be on the agenda of a government looking to minimise harm through excessive consumption or misuse of liquor, and the prevention of influential material by publication to minors...

19.2.25 In my view, serious consideration should be given to a joint State, Territory and Federal effort to reduce the impact of alcohol advertising during televised sporting events and at sporting arenas."

He recommended that the issue of alcohol advertising during telecasts of live sporting events be considered at a national level.⁶⁰

Recommendation

The Inquiry recommend the NSW Government advocate at a national level for effective, independent regulation of alcohol marketing. Efforts could focus on encouraging the Australian Government to remove alcohol sponsorship from sport and close the loophole in the Commercial Television Industry Code of Practice that allows alcohol advertisements during sports programs, to complement action at a state level.

Comments on the Alcoholic Beverages Advertising Prohibition Bill 2015

We strongly support action to improve alcohol advertising regulation, and appreciate that the Bill has been drafted to be as comprehensive as possible. However, we have concerns that some parts of the Bill may impede progress towards stronger regulation. We comment on specific aspects below,

highlighting areas of concern or suggestions for amendments to ensure the NSW Government can take strong action, while recognising that some areas may be more appropriate to be dealt with separately.

Purpose of the Act

The Purposes of the Act highlighted in Part 1 of the Bill are comprehensive. It is very important for governments to implement policies that will reduce risky alcohol consumption and alcohol-related harm in the community. However, we believe the Purpose of the Act would have more of an impact if it were narrowed to limiting exposure of young people and children to alcohol promotion. This is what legislation addressing alcohol marketing should be aiming to achieve, and it is important for the Purpose of the Act to reflect that.

Local option areas

We strongly support the principle that the views of communities should be well-represented when it comes to the availability of alcohol in their local area. However, it may be more appropriate for the 'local option areas' to be considered separately to the issue of alcohol advertising regulation. We understand that section 115 of the *Liquor Act 2007 (NSW)* allows for the declaration of restricted alcohol areas and it is unclear to us how the proposal for 'local option areas' would fit with the broader liquor licensing laws and regulations. While we understand the importance of appropriate controls on the availability of alcohol, we encourage the 'local option areas' to be considered separately from the alcohol advertising issues.

Alcohol Advertising Prohibition Committee

We support the notion of a committee being tasked with implementing alcohol advertising regulations. A dedicated committee could ensure regulations are introduced in a timely manner; for example, the committee could ensure that the removal of alcohol advertising from NSW public property and the phasing out of alcohol sponsorship are completed within a specified time period. It is appropriate to have a dedicated team that can work through the intricacies of introducing new regulations, and handle any issues that may arise in the implementation phase.

In order to prevent young people's exposure to alcohol advertising, it is important for regulatory systems to include a monitoring function to ensure compliance. A committee responsible for implementing regulations could also be tasked with monitoring alcohol companies and retailers' promotional activities to ensure regulations are being adhered to. Meaningful sanctions for advertisers found to breach regulations will act as a deterrent and are an important feature of a monitoring system.

The Bill states that one member of the Committee is to be a person nominated by the Chief Executive Officer of the Outdoor Media Association. The alcohol and advertising industries should not be a part of any committee or process where there is the potential for them to weaken or delay action. The industries' commercial interests and fiduciary duty to their shareholders to maximise returns on their investments necessarily means that the objectives of the alcohol and advertising industries are inconsistent with public health objectives. We appreciate that industry groups may be expected to support the implementation of relevant regulations. However, the Outdoor Media Association have demonstrated over a number of years that they're unable or unwilling to develop, implement and monitor effective controls on outdoor alcohol advertising.⁴³ Therefore, we believe it would be highly inappropriate for the OMA to be represented within an Alcohol Advertising Prohibition Committee. The committee should be free of any vested interests that may deter progress.

Warning labels

Warning labels are an effective public health tool to inform consumers of harms associated with a product. Provision of strong, specific, government-regulated health warning labels on alcohol products is an important and necessary element of a comprehensive approach to prevent harm from alcohol. We welcome leadership from states and territories on this issue. The NSW Government can play an important role in advocating for effective, research-based health warning labels to be implemented nationally.

This is particularly important at the moment, as the pregnancy warnings on alcohol labels are currently under review by the Australian and New Zealand Ministerial Forum on Food Regulation. Two NSW Ministers are members of the Forum. The current pregnancy warning labels on alcohol products were developed and implemented, on a voluntary basis, by the alcohol industry – led by DrinkWise, a social aspects/public relations organisation (SAPRO) established and funded by the alcohol industry. Public health experts have strongly criticised the alcohol industry's use of DrinkWise to create an impression of social responsibility while opposing effective policy measures.^{61,62} Implementation of a voluntary alcohol labelling scheme by DrinkWise was found to be a tactic by the alcohol industry for delaying mandatory, independent labelling.⁶³ Earlier reviews of the DrinkWise labels found that the size, placement and message content of the labels did not appear to be consistent with best practice, and there was a low uptake of the labels.⁶⁴ Research has found low awareness of the pregnancy warning labels among consumers.⁶⁵

Warning labels should be developed by governments with advice from relevant experts free of commercial interests, and should be designed to get through to the target group/s. The alcohol industry, which spends hundreds of millions of dollars each year promoting its products, with much of this promotion having a clear appeal to young people and to women of child-bearing age, should not be responsible for developing health warning labels. Through its representatives on the Australian and New Zealand Ministerial Forum on Food Regulation, the NSW Government is in a position to support the implementation of strong, government-regulated health warning labels on alcohol products, as an important component of a comprehensive approach to address alcohol-related harm.

We thank the NSW Legislative Council Portfolio Committee No. 1 for the opportunity to comment on the Alcohol Beverages Advertising Prohibition Bill 2015. Restrictions on alcohol marketing are an important part of the comprehensive approach needed to reduce alcohol-related harms. We strongly support action on alcohol marketing to protect children and young people, and aspects of this Bill present the NSW Government with the opportunity to prioritise the health and wellbeing of the NSW community. Should you wish to clarify any matter raised in this submission, please contact the McCusker Centre for Action on Alcohol and Youth on (08) 9266 9079.

Yours sincerely,

Julia Stafford

Executive Officer, McCusker Centre for Action on Alcohol and Youth

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