

**Submission
No 26**

INQUIRY INTO ALCOHOLIC BEVERAGES ADVERTISING PROHIBITION BILL 2015

Organisation: Australian Association of National Advertisers

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Submission to

**NSW Legislative Council's Portfolio Committee
No. 1 – Premier and Finance in relation to an
inquiry into the Alcohol Beverages Advertising
Prohibition Bill 2015**

on behalf of

Australian Association of National Advertisers

November 2017

Introduction

The AANA welcomes the opportunity to provide this submission.

The AANA is the peak body for advertisers and has represented national advertising for over 85 years. It represents the common interests and obligations of companies across all business sectors involved in the advertising, marketing and media industry.

The AANA has a strong ongoing commitment to self-regulation. The AANA designed and delivered the self-regulatory component of regulation controlling advertising and marketing communication in Australia.

The AANA's self-regulatory system applies to all media and virtually all forms of advertising and marketing communication. The AANA protects the rights of consumers by helping to ensure advertising and marketing communication is conducted responsibly, including through its development and administration of industry codes and the overall self-regulatory system.

The advertising, marketing and media industry plays a fundamental economic role in society. It is the driver of consumer choice and, by promoting competition, helps consumers get better value for money. It enables innovation to be brought to market and stimulates economic growth and jobs. It provides substantial funding to support media and a variety of media content.

The AANA self-regulatory system

Self-regulation is an essential part of the Australian business landscape and contemporary society. It flourishes through strong leadership, commitment and cooperation across business, government and the community at large. While the AANA is responsible for developing and maintaining the overarching Codes, self-regulation is not the exclusive domain of any one particular body but the collective concern of many players, large and small.

The current self-regulatory system for advertising and marketing communication in Australia was established by the AANA in 1997. Its establishment was due to advertisers' recognition that they have a responsibility to deliver marketing that is aligned to community standards and expectations. The AANA system of self-regulation sits alongside and complements systems of regulation, co-regulation and self-regulation. Self-regulation of the advertising and marketing communication industry provides a flexible mechanism to meet the challenges of the ever-evolving advertising, marketing and media industry, along with changing community expectations.

The AANA self-regulatory system provides Codes that reflect community standards in relation to the regulation of advertising and marketing and have evolved following public consultation. The Codes are technology and platform neutral and provide a uniform set of self-regulatory standards for advertising and marketing communication.

Complaints about advertising are directed to the Advertising Standards Bureau (ASB) which administers the operation of the independent adjudicators, who comprise the Advertising Standards Board¹.

Brand owners who are found in breach of the standards are required to remove or amend the relevant marketing material, irrespective of the platform.

The Code of Ethics is the cornerstone of the advertising self-regulatory system and is supplemented by a Code of Advertising to Children, a Food & Beverages Advertising Code, an Environmental Claims

¹ <https://adstandards.com.au/about>

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Code and a Wagering Advertising Code.

In evolving and developing the AANA self-regulatory system, the AANA reflects brand owners' intent to continue to meet the community's expectations for ethical standards in advertising and marketing communications. The system is recognised and endorsed through inclusion in other self and co-regulatory systems, and all major media owners have agreed to support the decisions of the Advertising Standards Board.

Platform neutral, national approach

The AANA's self-regulatory system applies to all advertisers and marketers in Australia, regardless of AANA membership. It is also platform neutral and applies in the same way to traditional advertising, outdoor, online and social media.

The AANA Codes reflect community standards in relation to the regulation of advertising and marketing and have evolved following public consultation. The system is recognised through inclusion in other self and co-regulatory systems, and all major media owners have agreed to support the decisions of the Advertising Standards Board. The extent of endorsement of the AANA self-regulatory system is to be contrasted with the arrangement established by the Alcohol Advertising Review Board, which is a self-appointed body that has created its own codes against which it also adjudicates.

The platform neutral self-regulatory model provides for the ASB to receive all complaints without the consumer having to consider the medium, or location, in which the relevant advertisement appeared. Brand owners who are found in breach of the standards are required to remove or amend the relevant marketing material, irrespective of the platform.

The self-regulatory system, including complaints handling, operates at no cost to the consumer or to government.

Restrictions on alcohol advertising

The AANA Code of Ethics is the cornerstone of the advertising self-regulatory system and is supplemented by a range of other Codes including the Advertising and Marketing Communication to Children Code (the Children's Code). The Code of Ethics contains a provision that marketing material must not depict material contrary to prevailing community standards on health and safety, while the Children's Code specifically provides 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".

As explained in their Information Paper, this ban on directing alcohol advertising to children is supported by the Alcoholic Beverages Advertising Code (ABAC). The ABAC is co-regulatory, with a government-nominated representative on the management committee in addition to industry and advertising representatives. ABAC's independent adjudication panel is run at arm's length from the industry. The key ABAC requirements in relation to children are that advertisements for alcoholic products must not have a strong or evident appeal to children or adolescents, and adults appearing in advertisements must be over 25 years of age so that they can be clearly identified as adults.

In addition to the AANA and ABAC, there are a range of other media-specific regulatory codes of conduct, including for outdoor media, commercial free to air television, commercial free to air radio and subscription television. These restrictions, together, provide a comprehensive landscape of regulation of alcohol products in Australia to ensure alcohol advertising and messaging does not have strong appeal to children and is not directed primarily to them.

Complaints in relation to advertising

As ABAC has noted, the ASB accepts all complaints in relation to all types of advertising. This avoids a duplication of entry points for advertising related complaints. All alcohol related complaints received by the ASB are provided to the ABAC Adjudication Panel and the Panel considers all complaints that raise ABAC Code issues.

In the past three years the complaints received by the ASB in relation to the alcohol category have been less than 2% of all complaints. This rate is lower than complaints about a range of other industries over the same period – the complaints in relation to motor vehicle or insurance advertising for example, have been higher than those in relation to alcohol advertising.

Research conducted for the ASB in 2012 showed there is a high level of understanding within the community about the ability to make a complaint to the ASB.

The resulting commercial consequences of breaching the AANA and ABAC Codes include:

- the direct and indirect costs of withdrawing an advertisement; and
- the reputational cost when a non-compliance decision is made public, including possible adverse media coverage.

Impact of advertising

The key question in relation to alcohol advertising is whether such advertising encourages the misuse of alcohol. In general, advertising influences the choices of confirmed drinkers and does not influence consumers to begin to drink before the legal age, or to drink irresponsibly. Australian and US research indicates that by far the major influences on underage drinking are deep seated cultural factors, most notably, peer group norms, parental drinking behaviour and availability of alcohol. Advertising is not a major factor².

Research into the impact of advertising bans tends to indicate that they have minimal effect on consumption. A survey of 17 developed economies which revealed that bans do not tend to reduce the number of 'new' drinkers is one of many examples of such research results produced over the past 25 years³.

Impact of regulation

The advertising, marketing and media industry plays a fundamental economic role in society and contributes around \$40 billion to the Australian economy annually. It is the driver of consumer choice and, by promoting competition, helps consumers get better value for money. It enables innovation to be brought to market and stimulates economic growth and jobs.

When dealing with an industry that operates across a range of media, and particularly where consumers can access the same or similar material across a range of platforms, it is an expensive burden on industry to impose different regulatory requirements depending on the media used, the product category or the geographical location of the material. The national, platform neutral coverage

²Baer, J.S. Student Factors: Understanding Individual Variation in College Drinking, *Journal of Studies on Alcohol (Suppl. 14)*:40–53, 2002.
Louise Hayes, Diana Smart, John W. Toumbourou and Ann Sanson, Parenting Influences on Adolescent Alcohol Use, Research Report no.10 2004, Australian Institute of Family Studies.

³ Quoted in Frontier Economics, *Food for Thought Bulletin*, January 2008

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the self-regulatory system delivers is far preferable to delivering protections and benefits for consumers than a fragmented regulatory approach.

There is also a need to consider whether there is a clear rationale to increase commercial and regulatory burden on the advertising industry when there is no substantive evidence to show that responsible advertising drives harmful consumption. It is vital to consider the potential negative impacts and unintended consequences of increasing regulation and to weigh the costs against what are questionable potential benefits.

Support for OMA submission

The Outdoor Media Association (OMA) is the peak national industry body representing most of Australia's OOH media display and media production companies. The AANA supports the submission made by the OMA and echoes its recommendations that the:

1. NSW Government to dismiss this Bill
2. NSW Government to partner with industry and support the system of self-regulation rather than override it.

The AANA is also willing to work with government and industry in support of the self-regulatory system for advertising standards in Australia.