

**Submission
No 28**

INQUIRY INTO ALCOHOLIC BEVERAGES ADVERTISING PROHIBITION BILL 2015

Organisation: The Coalition of Major Professional & Participation Sports
(COMPPS)

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**THE COALITION OF MAJOR PROFESSIONAL AND PARTICIPATION SPORTS
INCORPORATED**

**SUBMISSION TO THE PORTFOLIO COMMITTEE NO. 1 – PREMIER AND FINANCE
INQUIRY INTO THE ALCOHOLIC BEVERAGES ADVERTISING PROHIBITION BILL
2015.**

NOVEMBER

2017



BACKGROUND

COMPPS consists of the following organisations (**the Sports**):

- Australian Football League (**AFL**);
- Rugby Australia (**ARU**);
- Cricket Australia (**CA**);
- Football Federation Australia (**FFA**);
- National Rugby League (**NRL**);
- Netball Australia (**NA**); and
- Tennis Australia (**TA**).

The Sports play a huge role in developing, promoting and presenting sport in Australia from the grass roots through to the international level. They are not-for-profit bodies and are responsible for the long-term development and sustainability of their sports.

Each of these organisations is the governing body and custodian of a major professional sport in Australia. They are mass participation sports - between them, they have over 9 million participants and 16,000 clubs.

COMPPS members provide a wide range of public benefits through a self-funding business model. A large portion of their revenue is devoted to enhancing, promoting and developing sport for all Australians both at national and 'grassroots' level.

INTRODUCTION

The Sports welcome the opportunity to make a submission to the Portfolio Committee No. 1 – Premier and Finance (**the Committee**) regarding the inquiry into the Alcoholic Beverages Advertising Prohibition Bill 2015 (**the Bill**).

The Sports are not signatories to any of the Codes that regulate alcohol advertising, nor are they manufacturers, distributors or retailers of alcoholic beverages.

Their interest in the current inquiry arises from the fact that alcohol providers sponsor sport and that sport is a medium through which alcohol products are advertised. This extends from the grass roots of sport at community and club level through to national and international competitions. It is a well-established fact that the alcohol industry is one of the major funders of sport in Australia.

The Sports' submission will only deal with the aspects of the Bill that relate to alcohol advertising and sponsorship.

PROHIBITION ON ADVERTISING (SECTION 6)

The Sports strongly oppose the Bill's prohibitions on alcohol advertising.

In particular, the Sports oppose section 6(1) that will make it an offence for any person in New South Wales to derive a benefit (directly or indirectly) from displaying an alcohol advertisement.

Similarly, the Sports oppose section 6(2) that will make it an offence for an individual to broadcast an alcohol advertisement.

While the Sports are not signatories to any of the Codes that regulate alcohol advertising, they are well aware of the regulatory environment in which this sector operates. The current mix of self-regulation, co-regulation and legislation serves to protect the public against exposure to unsuitable content. The industry codes are strict, robust, comprehensive and effective in providing a workable framework for alcohol advertising insofar it relates to sport.

Most alcohol advertising arises as a result of a contract between an alcohol provider and a media company that broadcasts the advertising. The advertising is often shown or heard on sports broadcasts. The sport is almost always not a party to the contract.

The major source of revenue for the Sports (with the exception of Netball) is from the sale of media rights. Free-to air television and subscription broadcasters purchase exclusive rights from sports and then seek to recoup that payment and make a profit from the sale of advertising space on the broadcasts. The proposed amendments mean that a significant amount of advertising revenue would be denied to broadcasters. This will have a corresponding negative impact on sports' rights fees.

The impact of the amendments would be significant for broadcasters and this in turn would impact sports and their ability to deliver their content. Broadcasters would lose the revenue from alcohol advertisers and would seek to replace that advertising from other advertisers in an already difficult market. Unfortunately there is not an unlimited supply of companies that are in the marketplace who wish to advertise on sport broadcasts. It is not possible to quantify the amount by which the rights fees would diminish other than to say that it would be a significant amount for each sport.

The Sports are not-for-profit enterprises. Their revenues consist of a mix of media rights, sponsorship and gate revenues. Some receive funding from government for events, high performance and participation programs but it is generally not a significant percentage of their overall revenue.

Each of the Sports funds its grassroots development programs and other areas of activity that provide community benefits. The positive health and other community benefits that flow from sport are well known and acknowledged. If the revenue streams from media rights are diminished, programs that sports will be able to undertake and deliver will likely need to diminish correspondingly. Unfortunately, history shows that it is usually discretionary spending such as community and grassroots participation programs that are one of the first areas to be cut.

We note further that the breadth of the proposed legislation is such that local urban or rural clubs that carry advertising for the local pub will be caught by the offences. This would have a detrimental impact on grassroots sport.

The Sports note that alcohol is a mature advertising market. Advertisers are seeking to promote market share and customer loyalty rather than to grow the overall market.

The COMPPS members acknowledge that misuse and abuse of alcohol cause problems.

The COMPPS sports have sought and will continue to seek to be part of the solution.

With this at the forefront, several of the sports have negotiated with broadcasters to adopt responsible drinking programs as part of the advertising regimes. The consistent message has been to urge sports fans to be responsible for their actions. Examples of these programs from three of the Sports are as follows:

Rugby League

The commercial relationships the NRL hold relevant to this Inquiry are with Carlton United Breweries (CUB), Treasury Wines, and Diageo.

The NRL has negotiated with its partners, both broadcast and commercial, to try to ensure the best outcome for the game, partners and their supporters.

An example of this includes, as part of their agreement with CUB, the “sponsor acknowledges that ARLC places great importance on the responsible consumption of alcohol within the Game and has taken steps to encourage this through the wider rugby league community”.

Further, commercial agreements contain limitations on marketing activities in order to protect persons under the age of 18 from exposure to advertising or promotions. The agreement with CUB also includes support for the following initiatives:

- *Resource for existing Community and Welfare programs to deliver an Alcohol Management Strategy to all NRL players and officials; clubs within the NSW Rugby League and Queensland Rugby League state leagues; Country Rugby League clubs; and clubs within the Affiliated State leagues and NRL junior representative squads*
- *Dedicated branding assets within all ARLC controlled major events including State of Origin and Grand Final including dedicated lines of LED advertising dedicated to responsible consumption messaging*
- *A dedicated responsible consumption of alcohol campaign each year funded by both parties*
- *DrinkWise representation at State of Origin through corner post branding and LED advertising*

Rugby

The commercial relationships that Rugby Australia holds that are relevant to this Inquiry are with Lion (formerly Lion Nathan) and Taylor’s Wines.

Rugby Australia’s agreements with both parties mandate responsible drinking campaigns to

its audiences.

As part of these agreements Rugby Australia provides targeted advertising for DrinkWise through fence signage and official programs at all Wallabies Test matches, Sevens events and Super Rugby matches played in Australia (approximately 60 event days each year).

Cricket

Cricket Australia has long understood its responsibility to advocate a responsible attitude to alcohol and it does this at every international fixture and through a range of partnerships.

For example, in 2009, Cricket Australia launched its innovative responsible drinking program Know When to Declare – a national community service broadcast campaign which was the first of its kind to be introduced by a sporting organization in this country.

It was launched by then Prime Minister, Kevin Rudd, and Minister for Sport, Kate Ellis, and followed Cricket Australia's commitment to support the Government's 2008 National Binge Drinking Strategy to help address the issues of misuse of alcohol, particularly by young Australians.

In 2016, the Know When to Declare campaign was superseded by a new partnership between Cricket Australia and DrinkWise to promote responsible alcohol consumption. By supporting the DrinkWise campaign 'You won't miss a moment if you DrinkWise', cricket fans are reminded of the benefits of pacing themselves and drinking in moderation through a series of broadcast messages and on-ground activations.

You Won't Miss a Moment if you DrinkWise is an integrated initiative supported by an alliance of industry, event sponsors, media and sporting codes who have come together with DrinkWise to present a unified approach to affirming the importance of drinking in moderation, and getting the facts about alcohol consumption out into the public arena. This initiative marked an industry first, conveying a unified moderation message, which encourages sports fans, music lovers and festival-goers to drink responsibly and ensure they don't miss the most memorable moments of an event.

Cricket Australia is also entering the fifth year of a partnership with Red Frogs Australia to deliver a support program for young people that provides a positive environment for them to enjoy the cricket by moderating consumption. At each day of the international summer of cricket, Red Frogs volunteers offer cups of water, sunscreen, icy poles and red frog lollies to fans, as well as spraying the crowd with water when heat becomes an issue.

In 2017, Cricket Australia announced Lion as a new commercial partner noting that the partnership does not include any branding of player clothing. Lion and Cricket Australia both have a relationship with DrinkWise Australia and work collaboratively to promote moderation and a positive drinking culture at games. Lion's XXXX Gold is the most popular mid-strength beer in the country and a great moderation choice for fans attending the cricket.

Alcohol advertising around sports events shows alcohol being consumed in moderation and provides positive role models – it shows that alcohol can be consumed without drinkers

becoming intoxicated and behaving poorly. To that extent it provides positive role models in a society that acknowledges that responsible consumption of alcohol is a choice that many Australians take.

The Sports have reviewed the Bill's Explanatory Note, the purpose of the Bill under section 6 and Reverend the Hon. Fred Nile's Second Reading Speech. With respect, the Sports are not convinced that a prohibition on alcohol advertising, in particular during sports programs, will affect the rates of underage drinking. There is an abundance of other factors involved including parental influence, peer approval and cultural and societal behaviours that impact on underage drinking.

The Sports also note that according to the Australian Institute of Health and Welfare's 2016 National Drug Strategy Household Survey, Australian's are drinking less than they once did and rates of underage drinking are falling. This further supports the contention that the current mix of self-regulatory, co-regulatory and legislative provisions serve to protect the public against exposure to unsuitable content.

The Sports also note that the presumptions under paragraphs (7) and (8) of section 6 mean that the onus is on those accused of an offence to disprove certain elements of an offence. The Sports submit that this reverse onus is a significant degradation of the rule of law as many of the local sporting clubs and members would be unlikely to have the funds necessary to defend the charges that might arise from the Bill becoming law. The Sports submit that, in the event that the government supports the Bill, the presumptions be removed from the Bill.

In summary, the Sports oppose the prohibition on alcohol advertising because:

- such an offence will have a detrimental effect on the revenues of grassroots sporting clubs across the state and, as a result, the positive health and other community benefits that flow from these clubs will be diminished;
- the current mix of self-regulatory, co-regulatory and legislative provisions serve to protect the public against exposure to unsuitable content;
- the proposed amendment would have a significant adverse impact on the value of rights fees paid to sports organisations and as shown above could have significant flow-on effects;
- if the proposed amendment were to be enacted, it is naïve to expect that the volume of alcohol advertising would diminish, and in fact rates of alcohol consumption in Australia are falling; and
- the Sports have adopted responsible drinking programs as part of the advertising regimes, including restrictions on marketing to minors. The consistent message has been to urge sports fans to be responsible for their actions.

PROHIBITION ON SPONSORSHIP (SECTION 9)

The Sports note that there are currently no restrictions on the sponsoring of sport by alcohol companies in Australia.

The Sports do not seek to change this position and do not believe that it is necessary to introduce regulations to deal with this or any other area of sport sponsorship. Sport in Australia is a mature industry and the sporting bodies should be trusted to act in the best interests of their stakeholders as they demonstrate through current initiatives and agreements with commercial partners. Further, alcohol is a mature market and the objective of sponsorship is to compete for share of market and customer loyalty rather than increase consumption.

The earlier examples from the Sports sponsorship arrangements include restrictions on campaigns to protect minors from exposure; commitments to run responsible consumption messaging; and a contribution towards the delivery of Alcohol Management Strategies.

Alcohol sponsorship arises where a sporting body or club enters into an agreement with a sponsor to empower the sponsor to use the intellectual property of the sport or club to promote its product. In many cases, the sporting body also benefits from the promotion of the sport as a result of the sponsors' advertising and leverage campaigns.

The sponsorship fees paid by alcohol companies to sporting organisations are critical to the ongoing viability of many sporting events and programs, including grassroots activities. If this sponsorship were not available it would have a detrimental impact on grassroots sporting clubs and subsequently reduce participation in sport, thereby having a negative impact on the overall health and wellbeing of the community. It is important to highlight many rural and suburban sports clubs and leagues are often sponsored by the local pub or alcohol retailer and in numerous cases, they are the only significant sponsors. It is impossible to quantify the value of this type of sponsorship.

For these reasons, the Sports strongly reject the proposed prohibitions on sponsorships under section 9.

EXEMPTIONS (SECTION 10)

The Sports note that the Minister can exempt certain sporting events from the operation of sections 6 or 9. While sporting events should be exempt from the prohibition on alcohol advertising and sponsorship, the process set out for exemption under section 10 is ambiguous.

The Sports submit that the exemption process will add a significant level of difficulty and uncertainty to broadcasting and sponsorship arrangements between sporting bodies, broadcasters and alcohol companies. The Sports submit that this uncertainty will cause a diminution of value in the Sports' sponsorship agreements and broadcasting rights agreements. This will impact on the ability of the Sports to provide services and programs that are valuable to the community.

The Sports also note that the exemption process elapses after the fifth anniversary of the Bill being introduced to Parliament. This significantly reduces any flexibility in the Bill and negates any positive outcomes to the community from the revenue that sporting bodies receive from advertising and sponsorship.

CONCLUSION

The Sports value the opportunity to make this submission to the Committee.

We are happy to provide further information if required.

We wish the Committee well in its deliberations.

Mr Malcolm Speed AO
Executive Director
The Coalition of Major Professional and Participation Sports