

**Submission  
No 34**

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

**Organisation:** Outdoor Media Association

**Date received:** 15 November 2017

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# Inquiry into Alcoholic Beverages Advertising Prohibition Bill 2015

12 November 2017

## Submission from the Outdoor Media Association

### INTRODUCTION

The Outdoor Media Association (OMA) urges the NSW Parliament to immediately dismiss the *Alcoholic Beverages Advertising Prohibition Bill 2015*, and replace it with effective measures to “encourage a healthier lifestyle” and reduce alcohol consumption.

The Bill does nothing to produce positive and tangible measures around alcohol use in society. Its only results will be:

- State Government revenue loss
- A threat to economic contributions and community infrastructure funded by the Out of Home (OOH) advertising industry
- A negative impact on legitimate businesses in NSW, including a barrier to entry for emerging small businesses such as craft breweries and distillers
- An added administrative burden on the NSW public service.

Prohibition has widely been viewed as an ineffective lever for Governments to use to address consumption. For example, the use of illicit drugs has continued to rise, with 43% of people 14 and over having used any illicit drug in 2016, up from 38% of in 2004.<sup>1</sup>

In contrast, during the same time period, the trend for alcohol consumption in young people is positive, with a consistent decline in underage drinking across Australia: in 2016, 82% of 12–17 year olds abstained from drinking, compared with 54% in 2004.<sup>2</sup> This significant drop in underage drinking came at a time when advertising spending by brewers, winemakers and distillers has remained stable.

It is widely accepted that the main influencers of drinking behaviour are parents and

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<sup>1</sup> National Drug Strategy Household Survey 2016

<sup>2</sup> National Drug Strategy Household Survey 2016

peers. Given this, it is our view that education about responsible consumption of alcohol delivers more long-lasting outcomes than prohibitions. That is why the OMA has partnered with DrinkWise to deliver education campaigns on alcohol consumption, and OMA members partner with bodies such as Roads and Maritime Services (RMS) to raise awareness about drink driving, domestic violence and supply of alcohol to minors. See **Attachment 1** for a range of campaigns displayed by OMA members.

The OOH industry takes self-regulation seriously, and abides by strict and regularly updated Codes for alcohol advertising. With Australia's robust system of self-regulation, inconsistent regulation across States and Territories is unproductive and ineffective.

As the peak body representing most of Australia's OOH advertising industry, the OMA is a key stakeholder in a proposal for advertising restrictions. The OMA appreciates the opportunity to provide comment on the proposed Bill. This submission will detail:

1. The OOH advertising industry
2. Australia's system of self-regulation for advertising
3. OMA concerns regarding the rationale and scope of the prohibitions proposed
4. The negative impact the Bill would have on industry and on the NSW economy
5. Recommendations on genuine measures that could go towards achievement of the Bill's stated goals.

The OMA is hopeful that as part of this review process, the NSW Government will not only conclude that the application of this Bill is unnecessary, but also commit to engaging with industry on genuine solutions to its concerns. We believe that early collaboration with industry and treating it as a partner instead of an adversary will lead to better outcomes.

## **01 THE OUT OF HOME ADVERTISING INDUSTRY**

Advertising and marketing play a fundamental role in the Australian economy, and are significant drivers of economic growth, contributing some \$40 billion of value in 2014 and driving approximately 2.5% of Gross Domestic Product. For every person directly employed by advertising, another three people are reliant upon it for their jobs. Over 200,000 people in Australia are employed due to advertising.<sup>3</sup> It is a key part of what keeps Australia's and New South Wales' economies growing.

OOH is still a relatively small piece of the advertising pie, accounting for approximately 5.6% of the advertising spend in Australia.<sup>4</sup> But while traditional media channels like TV and newspapers decline in audience and revenue, and newer mediums like online do not always reinvest their profits into the local community, OOH keeps growing, and shares the proceeds of its growth with the local economy.

OOH advertising is defined as the display of third party products and services on signs across a variety of formats and locations including: airports, bicycle stations, billboards, buses, bus stations, cafes, commercial buildings, doctors' surgeries, free-standing advertisement panels, medical centres, office buildings and lifts, pedestrian bridges, railway stations, shopping centres, trams, universities and street furniture (bus/tram shelters, public toilets, telephone booths and kiosks). It does not include on-premise or first party signage used to identify a business or advertise products for sale on-premise.

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<sup>3</sup> Deloitte Access Economics, *Advertising Pays - The economic employment and business value of advertising*, 2016

<sup>4</sup> Commercial Economic Advisory Service of Australia (CEASA) half-year update, 2017

In 2014, the OOH industry in Australia paid \$49 million in taxes. It also provided more than 17,600 items of infrastructure to the community, including pedestrian bridges, bus shelters, kiosks, phones and park benches and bicycles.

That year in NSW alone, Deloitte Access Economics found that the OOH industry<sup>5</sup>:

- Made a direct economic contribution of \$122.5 million to the State
- Employed 529 full time staff in NSW
- Delivered and maintained 28,810 items of infrastructure to NSW, including bus shelters, bins and park benches (with a replacement value of \$162.2 million)
- Played an important role in supporting the arts, sports and charitable organisations in the State, and was widely used by government bodies in public awareness campaigns. In 2015, the industry donated advertising space valued at more than \$34 million to more than 160 charitable and community campaigns across Australia.<sup>6</sup>

NSW roads and public transport benefit from OOH. In their 2015-16 Annual Report, RMS reported advertising revenue of over \$22 million and Sydney Trains \$25 million. That \$47 million was reinvested into road safety and public transport.

In addition to economic benefits, as part of the industry's partnership with government, OOH signs are regularly used to deliver road safety and driver awareness campaigns.

### **1.1 The Outdoor Media Association**

The OMA is the peak national industry body representing the majority Australia's OOH media display and media production companies, as well as some media display asset owners. The OMA advocates for reasonable, evidence-based regulation that is fair for governments, the community and the OOH industry.

The OMA has 34 members; its largest five current media display members are: Adshel, APN Outdoor, JCDecaux, oOh!media and QMS Media. OMA's asset-owner members include Roads and Maritime Services, Sydney Airport, Telstra and X-track.

## **02 INDUSTRY COMMITMENT TO STRONG SELF-REGULATION**

All OMA members are committed to responsible advertising. Australia's system of self-regulation is a mature and robust framework that ensures the content of all advertising, across all media including outdoor, meets prevailing community standards.

OMA members only display advertising that complies with the Australian Association of National Advertisers (AANA) Code of Ethics, the Advertising Code for Children and other relevant Codes and policies, including the ABAC Responsible Alcohol Marketing Code. The ABAC Code was designed to ensure that alcohol is marketed in a responsible manner, and compliments Australian legislation, the AANA Code of Ethics and media-specific codes relevant to the placement of marketing. ABAC also offers a pre-vetting service to minimise the display of advertisements that may breach the Code.

The OMA's Code of Ethics confirms that OMA members support all determinations made by the Advertising Standards Board in regards to complaints about outdoor advertising. If a complaint is upheld, OMA members must remove the offending copy immediately. OMA members have a 100% compliance rate with this provision.

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<sup>5</sup> *Signs of Growth*, 2016

<sup>6</sup> 2015 OMA Annual Report

The OMA and its members have undertaken significant work to ensure compliance with the Codes. In 2011, the OMA first conducted Self-Regulation Content Training, and since this time upheld complaints for OMA members have plummeted – two in 2012, one in 2013, one in 2014, two in 2015, one in 2016. With roughly 30,000 advertisements displayed over a year, this is an industry that takes self-regulation seriously.

The nature of the self-regulatory system has allowed the OMA to gauge public opinion and respond accordingly, in a fast and effective manner. This process has seen the OMA establish new systems and policies to address issues as they arise or as community standards shift.

This has seen the OMA introduce Content Review and Copy Advice services under which members and advertisers can refer contentious copy to the OMA for pre-vetting prior to display.

### **2.1 Industry Commitment to responsible alcohol advertising – ABAC Code**

OMA members must only display alcohol advertising that abides by the ABAC Code standards. These standards ensure the content of advertising does not have strong or evident appeal to minors or encourage irresponsible consumption of alcohol. The ABAC system complements the AANA Code of Ethics with significant restrictions on the content of alcohol advertising, including:

- Only portraying responsible and moderate use of alcohol beverages;
- responsibility towards minors (under the age of 18) including that advertisements must not have strong or evident appeal to minors or use actors that may appear to be underage (actors are required to be 25 years or older);
- responsible depiction of the effects of alcohol by not portraying alcohol as a means to sexual or social success, or change in mood;
- not depicting the use of alcohol where it may reduce safety.

There are two regulatory bodies that have the jurisdiction to review compliance with the ABAC Code - the Advertising Standards Board and the ABAC Complaints Panel. In their adjudication of advertisements under the ABAC Code, each consider many elements, including whether an advertisement depicts or encourages under age alcohol consumption, and the prevailing community standards on health and safety. In this way, the community is represented by both bodies to ensure community standards are met, particularly with respect to advertising to children, and marketing alcohol in a responsible manner.

In November 2017, the ABAC Code was updated to include placement of advertisements, to exclude the placement of alcohol advertisements where there are age restriction controls. The placement section of the restrictions for OOH expressly refers advertisers to the OMA Alcohol Advertising Guidelines, recognising the OMA and its members' leadership in this area.

## 2.2 OMA Alcohol Advertising Guidelines

OMA members must abide by the OMA Alcohol Advertising Guidelines, which stipulate:

- No alcohol advertising to be displayed by OMA members that has not been pre-  
vetted by ABAC
- No alcohol advertising on fixed sign within a 150m sightline of a primary or  
secondary school.<sup>7</sup>

To check compliance with this Code, the OMA has invested in software to map all primary and secondary schools in Australia, and cross reference these against the locations of all members' signs. OMA can run checks on all signage within 150m of a school.

## 2.3 OMA-DrinkWise partnership

The OMA has also partnered with DrinkWise to deliver an education campaign in conjunction with other media platforms. DrinkWise Australia is an independent, not-for-profit organisation that aims to promote a generational change in the way Australians consume alcohol. The OMA and its members will support this campaign through a co-contribution scheme with DrinkWise and will offer State Governments the chance to collaborate on key messaging for their region in the next iterations of the campaign.

## 03 CONCERNS REGARDING THE RATIONALE AND SCOPE OF THE BILL

### 3.1 Assumed causal relationship between advertising and consumption

The OMA readily acknowledges and shares concerns regarding underage drinking.

However, the OMA considers the assertion that alcohol advertising is a key factor in the drinking behaviour of young people is unsubstantiated, especially given research consistently shows young people to be influenced most by their parents and peers.

The OMA believes education campaigns are considerably more effective than advertising bans. Furthermore, the 2016 *National Drug Strategy Household Survey* shows a sharp decline in underage drinking across Australia: in 2016, 82% of 12–17 year olds abstained from alcohol consumption, compared with 54% in 2004.<sup>8</sup> This is over a period of time when alcohol advertising on OOH remained consistent. It is unclear how an advertising ban would improve existing positive trends.

Research does not demonstrate a causal link between advertising and increased alcohol consumption. *The International Journal of Advertising* published a peer reviewed research paper titled 'Do advertising bans work? An international comparison' which, among other findings, failed to provide evidence that advertising bans have significant negative effects on alcohol abuse outcomes, including cirrhosis mortality and motor vehicle accidents.<sup>9</sup> No research has conclusively linked *Out of Home advertising* to increased alcohol consumption.

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<sup>7</sup> OMA Alcohol Guidelines

<sup>8</sup> *National Drug Strategy Household Survey 2016*

<sup>9</sup> Nelson & Young, 'Do advertising bans work? An international comparison', *The International Journal of Advertising*, 2015

### **3.2 Assumption that advertising targets minors**

OOH advertising is not used to target children, and the existing alcohol advertising standards include prohibitions against advertising being appealing to minors. As noted in a 2010 Productivity Commission report, while governments could implement “more sweeping prohibitions on advertising that might reach children”, when it comes to advertising policies, “arguably the main thrust of this policy should be to address inappropriate content, being mindful of the difficulty of more generally limiting exposure to children... without inadvertently eliminating the capacity for legitimate...marketing”.<sup>10</sup>

With strong self-regulation of alcohol advertising content, alcohol advertising should be able to legitimately occur and still be consistent with community standards.

## **04 NEGATIVE IMPACTS OF THE PROPOSED BAN**

In addition to its concerns regarding the rationale for this proposed ban, the OMA has identified a number of issues that would arise if the Bill was applied.

### **4.1 Government revenue impact**

The NSW government is earning regular and considerable revenue through OOH advertising. In 2015-16, RMS recorded over \$22 million in advertising revenue, and Sydney Trains \$25 million – this was almost exclusively made up of its revenue from OOH. That \$47 million was reinvested into road safety and public transport, and OOH signs were used to deliver road safety and driver awareness campaigns.

The OOH industry is a strong supporter of the purposes of the Bill and is already taking measures to lower road accidents through the provision of free space given to NSW road authorities to promote road safety campaigns. This is provided free of charge.

In 2016, alcohol beverages made up \$71.5 million of the OOH advertising spend, or 3.4% of all OOH revenue. A significant proportion of OOH advertising contracts are with national advertisers. The application of advertising restrictions to NSW would jeopardise \$1.6 million of RMS and Sydney Trains revenue per annum, not to mention its impact on the broader Tourism, Hospitality and Events industries across the State.

### **4.2 Impact on OOH community infrastructure and economic contributions**

The OOH sector makes significant investments into cities and towns according to an advertising-funded infrastructure business model. In NSW, OMA members of the have built and continue to maintain over 28,810 items of infrastructure, including 3,765 bus shelters, 1,191 bins, 801 park benches, telephone booths, kiosks and public toilets. These items have a replacement value of \$162.2 million. Much of this infrastructure does not display advertising. The revenue from infrastructure that displays advertising funds the construction, upkeep and maintenance of the non-advertising infrastructure. The industry also works to ensure all this public infrastructure complies with disability access requirements, which are evolving and expensive. This advertiser-funded infrastructure model represents a multi-million-dollar investment in NSW.

The conditions in the Bill, in particular Part 2 Clause 9 “any contract for activity now prohibited is void” would have a massive impact on the industry and local governments across NSW, given it would significantly undermine existing contracts that fund swathes of infrastructure as it erodes the original revenue base.

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<sup>10</sup> Productivity Commission 2010, *Gambling*, Report No. 50, Canberra

Alcohol advertising bans will reduce the potential revenue for the OOH industry – a sector that employs more than 3,100 Australians and makes an overall economic contribution of almost \$650 million. Any decision that limits what advertising the industry can display, will impact on the business sustainability. OOH forms part of the property value of various sites in NSW, with some businesses kept afloat by the rental payment made to them by OOH signs. Investment in OOH signs occurs because of the levels of revenue experienced in the industry.

#### **4.3 Threat to existing and emerging small businesses**

With Tourism Research Australia estimating that wine related visitor expenditure (both domestic and international) totalled \$9.2 billion, prohibitions applied to this industry threaten Australian businesses.

There is an increasing number of small boutique businesses selling craft beers, wine and liquor that rely on brand advertising to create their market. These businesses often generate local tourism. Advertising is required for emerging businesses to reach potential customers and build awareness. Advertising bans make it incredibly difficult for small businesses to compete with existing well-known brands.

Furthermore, while the Bill refers to traditional advertising channels, it ignores online advertising as part of its definition of a “telecommunication medium”. In this way, the Bill demonstrates an inability or unwillingness to regulate online platforms while targeting ASX listed businesses that pay tax in Australia.

#### **4.4 Additional administrative burden on the Public Service**

The Bill will create new burdens on the public service. The Department of Health will need to be restaffed to develop a team with understanding of advertising to make determinations on whether an advertisement is acceptable or not.

Furthermore, they will need to patrol the local area laws – the regulation and funding for this proposal will be immense and would see a huge amount of work for an option that may not be favoured by the vast majority of a local population.

### **05 RECOMMENDATIONS**

The OMA makes the following recommendations:

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.

### **06 CONCLUSION**

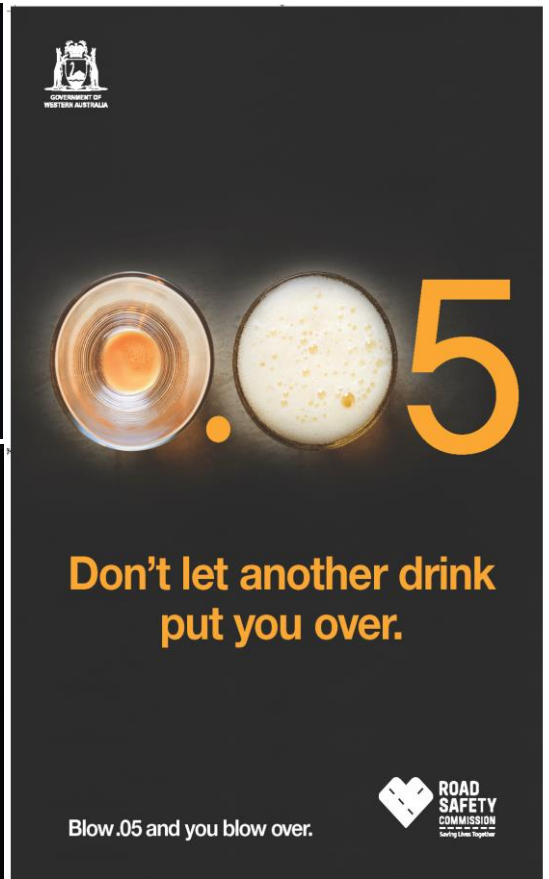
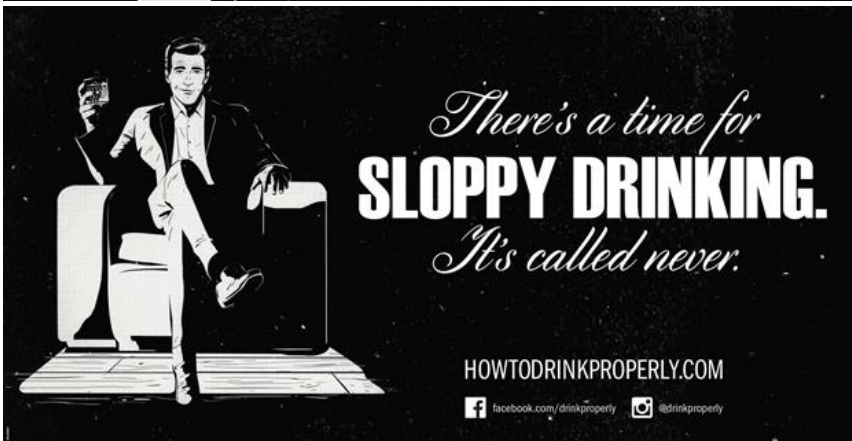
In summary, the OMA submits that the proposed Bill is ill-considered, and will have measurable negative impacts on communities across NSW, without achieving any positive outcomes.

The OMA thanks the NSW Government for the opportunity to participate in this process, and is eager to engage further on this discussion.

To discuss the contents of this submission, please contact Tess Phillips, General Manager, OMA on



## How to Drink Properly & Don't Drink and Drive

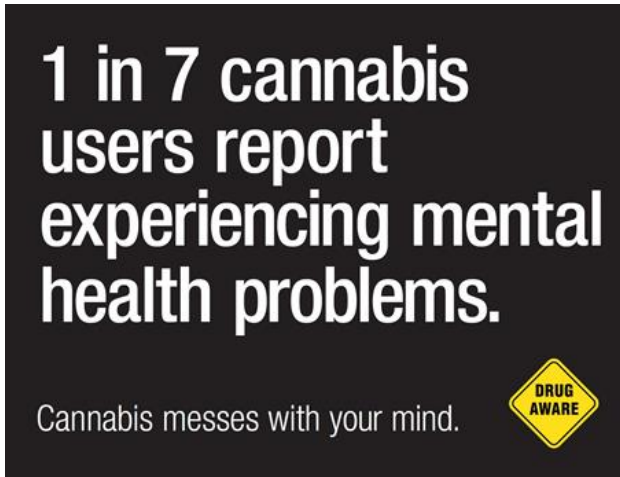


**drink  
driving?**

**GROW UP.**



## Drug Awareness



## Domestic Violence Awareness



Supply of Alcohol to Minors & Don't Drink and Drown

This area indicates windows that may open during display

**No one should supply alcohol to under 18s.**

**alcoholthinkagain**

I see the harm alcohol does to young people.

Dr. Gerwise Cheney  
Pediatrician

**STOP** the supply of alcohol to minors.

**Here's your drink, it cost me \$1,100.**

**SUPPLYING ALCOHOL TO MINORS**  
.....IT'S AGAINST THE LAW.....

Secondary Supply of alcohol to a person under 18 years is against the law and results in a minimum on the spot fine of \$1,100 or fine of up to \$11,000 and/or 12 months imprisonment. NSW Liquor Act 2007

**NORTHERN BEACHES CDAT**  
Community Drug Action Team  
Community Working Together

www.supplymeanssupply.org.au

**STOP** the supply of alcohol to minors.

**You're a parent, not a mate.**

**SUPPLYING ALCOHOL TO MINORS**  
.....IT'S AGAINST THE LAW.....

Secondary Supply of alcohol to a person under 18 years is against the law and results in a minimum on the spot fine of \$1,100 or fine of up to \$11,000 and/or 12 months imprisonment. NSW Liquor Act 2007

**NORTHERN BEACHES CDAT**  
Community Drug Action Team  
Community Working Together

www.supplymeanssupply.org.au

**DRINKING MAKES WATER DEADLY**

**DON'T DRINK AND DROWN**

Royal Life Saving