



Alcohol Policy Coalition

SUBMISSION TO FREE TV AUSTRALIA: INVITATION FOR PUBLIC COMMENT ON THE PROPOSED CHANGES TO THE COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE

2 APRIL 2015

Executive summary

The Alcohol Policy Coalition (APC) strongly opposes the proposed changes to the Commercial Television Industry Code of Practice (CTICIP) as they will have the effect of reducing the existing restrictions around alcohol advertising. If adopted, the proposed changes to the CTICIP will:

- allow alcohol advertisements to appear on television from 7.30PM;
- allow alcohol advertisements to appear during all sports broadcasts on weekends and public holidays;
- enable alcohol advertisements to be shown from 6.00PM on Friday evenings as an accompaniment to sports broadcasts because of the introduction of an expanded definition of the “weekend”;
- restrict the definition of “alcohol advertisements” and therefore limit the types of alcohol advertisements that are captured by the restrictions.

The APC submits that the proposed changes to the CTICIP should not be implemented because:

- they are inconsistent with community sentiment and expectations around the necessary and appropriate control of alcohol advertising; and
- they will enable greater exposure of children and young people to the harmful effects of alcohol advertising which is contrary to the current evidence about the need to limit children’s exposure.

The APC reiterates its long standing call to remove the exemption that enables alcohol advertising to be shown during children’s viewing hours and in addition calls for tighter restrictions to prevent alcohol advertising being shown during high viewing periods for children and young people, that is before 9.30PM.

Background

FreeTV Australia is calling for submissions for public comment on a review of the Commercial Television Industry Code of Practice.

The Commercial Television Industry Code of Practice (Code) regulates the content on Australian commercial free-to-air television networks. FreeTV Australia, the industry body that represents the free-to-air Australian TV networks, is proposing changes in the Code that could significantly change when viewers are exposed to programs rated ‘M’ and ‘MA’ and consequently the times when viewers are also exposed to alcohol advertising.

In essence, it appears that FreeTV is proposing that the time period in which programs that have a predominantly adult content and are rated M and MA may be shown, would be brought forward an hour. Therefore, programs rated 'M' could be shown from 7.30pm (instead of 8.30pm) and programs rated MA could be shown from 8.30pm (instead of 9.00pm). There are a number of other changes in the proposed Code that may also impact when and how alcohol advertising may be broadcast.

Currently, alcohol advertising is only permitted during the M or MA classification zones or as an accompaniment to a live sports broadcast on a weekend or public holiday.

Alcohol marketing and promotion: the APC's position

We would like to take this opportunity to reiterate our position on alcohol marketing and advertising previously developed and submitted here in opposition to this proposal by FreeTV:

'The APC supports increased restrictions on where, when and how alcohol can be advertised, to greatly reduce the harmful effects of alcohol marketing on the population and in particular, children and young people.'

'..... there is increasing evidence of an effect of advertising in pushing up drinking among youth. Also, the effects of alcohol advertising and sponsorship go well beyond an individual's drink preferences to influence how we, as a community, perceive alcohol and its place in society.'

'The existing Australian regulatory scheme for alcohol advertising is weak and ineffective. To reduce the harm from alcohol consumption, the framework within which alcohol advertisers operate requires substantive change.'

The APC has also recommended previously that advertising restrictions be consistent with the recommended action (3.1) of the National Preventative Health Taskforce Strategy 2009¹, which states:

In a staged approach phase out alcohol promotions from times and placements which have high exposure to young people aged up to 25 years, including:

- Advertising during live sport broadcasts
- Advertising during high adolescent/child viewing
- Sponsorship of sport and cultural events (e.g. sponsorship of professional sporting codes; youth oriented print media; internet based promotions)
- Consider whether there is a need for additional measures to address alcohol advertising and promotion across other media sources.

The APC submits that Australia's experience of the self-regulatory advertising system is ineffective and inconsistent with international experience, which indicates that attempts to restrict alcohol advertising and promotion primarily through voluntary codes are inadequate. The APC emphasises the compelling need for strong action on alcohol advertising, which has been either self-regulated or unregulated for too long.

¹ Preventative Health Taskforce, 'Australia: the Healthiest Country by 2020, National Preventative Health Strategy – the roadmap for action', 2009, p 272.

Harmful effects of alcohol consumption

Firstly, the APC wish to draw attention to the impact that alcohol consumption has in the Australian community. For example, a report released in 2014 by the Foundation for Alcohol Research and Education and VicHealth titled 'Alcohol Burden of Disease Report (2014)' found in 2010 that:

- There were 5,554 deaths attributable to alcohol, including 3,467 male deaths and 2,087 female deaths.
- There were 157,132 hospitalisations attributable to alcohol, including 101,425 for males and 55,707 for females.
- In males, injuries were responsible for the highest proportion of alcohol-related deaths (36%), followed by cancers (25%) and digestive diseases (16%). For females the highest proportion of alcohol-attributable deaths was for cardiovascular diseases (34%) followed by cancers (31%) and injuries (12%).
- Injuries and neuropsychiatric diseases were categories responsible for a substantial proportion of alcohol-related hospitalisations, each being greater than 10% of all alcohol-attributable hospitalisations.²

Drivers of alcohol consumption are multi-faceted, however it is recognised that alcohol advertising is a key contributor to alcohol consumption in young people. Exposure to alcohol marketing is implicated in the age of first drink, as well as harmful drinking patterns later in life.³

In numerous studies, alcohol advertising has been found to significantly impact on young people's decision making and behaviours relating to alcohol use. These studies have shown that exposure to alcohol advertising at a young age is associated with earlier ages of alcohol initiation and increased likelihood of heavy drinking.⁴

Studies that examine the relationship of drinking behaviour, attitudes and knowledge with exposure to alcohol advertising produce interesting and concerning results.⁵

Such studies consistently show a strong association between exposure to alcohol advertising in magazines, television, in-store displays and sports venues and young people's early initiation to alcohol use and/or increased alcohol consumption.⁶

Following a review of thirty-one longitudinal studies exploring the effects of alcohol marketing exposure on the drinking behaviour of young people, researchers concluded that "There is

² Gao, C. Ogeil, R. Lloyd, B. (2014) Alcohol Burden of Disease Report. Foundation for Alcohol Research and Education (FARE) and Victorian Health Promotion Foundation (VicHealth)

³ Anderson P, de Bruijn A, Angus K, et al., Impact of Alcohol Advertising and Media Exposure on Adolescent Alcohol Use: A Systematic Review of Longitudinal Studies. *Alcohol and Alcoholism*, 2009. 44(3): p 229-243.

⁴ Ann M. Roche, et al. *Young People and Alcohol: The Role of Cultural Influences* (2007) National Centre for Education and Training on Addiction, 149.

⁵ Lesley A. Smith and David R. Foxcroft, 'The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: systematic review of prospective cohort studies' (2009).

⁶ Alcohol Concern. Not in front of the Children – Child Protection and Advertising. (2007) <http://alcoholresearchuk.org/alcohol-insights/not-in-front-of-the-children-child-protection-and-advertising/> at 31 March 2014 November 2009.

increasing evidence that alcohol advertising seen by young people is associated with initiation of drinking and with heavy drinking”.⁷

Studies of the long-term impacts of adolescent alcohol use consistently show that early and frequent use of alcohol approximately doubles the risk of alcohol related problems later in life.⁸

Research into lifelong alcohol consumption demonstrates that early initiation of alcohol drinking and heavy drinking in adolescence and young adulthood can have long-term adverse health impacts, including increased risks for a range of diseases.⁹

Alcohol advertising on commercial television

In terms of the specific issues related to promotion and marketing of alcohol products to young people, there are several issues that the APC wish to raise in relation to FreeTV’s proposal.

The APC and other key health agencies have previously voiced their concerns about existing approaches regarding the promotion, marketing and sponsorship of alcohol through various forms of media. If the advertising and broadcasting industries are committed to voluntary initiatives and to protecting children from exposure to alcohol marketing then they should be developing a comprehensive code rather than pruning back the existing code.

The preamble and explanatory notes provided with the proposed new Code set out the apparent justification for changes to the current Code. However, the reasons provided fail to acknowledge the substantial and fundamental difference between free-to-air broadcasts and other media content that is actively accessed through subscription services including through online streaming of content. As is recognised in the current Code, commercial television is a freely-accessible medium, open to all Australians.¹⁰ Around 13.6 million Australians watch commercial free-to-air television everyday which is largely accessed through in home TV sets.¹¹ Arguably, this places free-to-air television in an unrivalled and privileged position with almost ubiquitous access to Australian households and viewers. Unlike content that is actively accessed through on-demand subscription services, free-to-air broadcasts beam into Australian homes simply by turning on the television. There is no active selection or request for content. Importantly and in contrast to pay television services such as Foxtel, no special technology, internet connection or payment is required to access free-to-air broadcasts such that electronic content controls including parental locks will not necessarily be available to all viewers. The almost unfettered access that free-to-air broadcasts have to Australian homes, means that content and time zone controls are important and justified to ensure that broadcast content and advertising reflects community standards and is not exposing children and young people to inappropriate material.

⁷ Meier, P, A et al, ‘Independent review of the effects of alcohol pricing and promotion, Part A: Systematic Reviews – Project Report for the Department of Health September 2008, p 93 Available at https://www.sheffield.ac.uk/polopoly_fs/1.95617!/file/PartA.pdf.

⁸ Wendy Loxley, et al. *The prevention of substance use, risk and harm in Australia: a review of the evidence*, (2004) Commonwealth Department of Health and Ageing.

⁹ Amy Z. Fan, et al ‘Association of Lifetime Alcohol Drinking Trajectories with Cardiometabolic Risk’ (2008) 93 (1) *Journal of Clinical Endocrinology and Metabolism*, 154.

¹⁰ Commercial Television Industry Code of Practice – January 2010 (as incorporating amendments to July 2013) clause 2.1.

¹¹ Review of the commercial television industry code of practice invitation for public comment, 20 February 2015, pg 2.

In the APC's submission to Free TV's 2009 (**attached**) review of the CTICP, we recommended:

- 1) the amendment of clause 6.7 to restrict the broadcast of direct advertisements for alcoholic drinks to AV classification periods (clause 6.7.1); and to remove the exception permitting the broadcast of direct advertisements for alcoholic drinks as an accompaniment to the live broadcast of a sporting event on weekends and public holidays;
- 2) the removal of clause 6.8 (further outlining the exception in clause 6.7.1) detailing the conditions under which the broadcast of a direct advertisement for alcohol drinks as an accompaniment to the live broadcast of a sporting event is permitted;
- 3) that the Code be amended to give Free TV greater compliance and enforcement measures, particularly in relation to own motion complaints;
- 4) that the Code be strengthened to give Free TV greater monitoring capacity including:
 - a. the ability to request that the annual actual and budgeted alcohol industry marketing (television advertising) expenditure and all television advertising marketing plans are to be provided to appropriate government authorities; and
 - b. that this information is made available for public access on the Free TV website.

In the intervening period, both the evidence for an effect of alcohol advertising exposure on young people, and the recommendations to address and limit exposure to young people, have strengthened. We take this opportunity to reiterate the recommendations in our 2009 submission.

Strengthening, rather than weakening placement restrictions on alcohol advertising on commercial television is consistent with public opinion. The majority of the Australian public (67%) support restrictions on the television advertising of alcohol before 8.30pm every day.¹² This support has been increasing in recent years.¹³ The majority of Australians (62%) also support removing the loophole that currently allows alcohol advertising to be shown during children's viewing hours as an accompaniment to live sports broadcast.¹⁴ Only 15% oppose a ban to prevent such advertising. This shows that introducing and enforcing stricter regulations in television advertising to reduce children and young people's exposure to alcohol advertising reflects community standards and is likely to be a popular policy option

Proposed changes to the CTICP in relation to alcohol advertising

As set out in Annexure 1, the APC opposes the proposed changes to the CTICP, which in effect, will relax the existing limited restrictions on alcohol advertising on free-to-air TV.

¹² Foundation for Alcohol Research and Education. Annual Alcohol Poll: Attitudes and Behaviours. Canberra: Foundation for Alcohol Research and Education; 2014.

¹³ Foundation for Alcohol Research and Education. Annual Alcohol Poll: Attitudes and Behaviours. Canberra, Australia: Foundation for Alcohol Research and Education; 2012.

¹⁴ The Essential Report, market research conducted by Essential Media Communications, commissioned by Cancer Council Victoria, 27 January 2015.

Proposed changes to the CTICP in relation to complaints

Further, we note that the proposed code also includes changes to the complaints provisions. In particular proposed clause 7.2.3(b) provides that “A Code Complaint can only be made:...about a matter that the complainant has seen broadcast by the licensee in Australia”.

The summary table on page 6 of the Invitation for Public Comment notes that “Complainants will need to have viewed the broadcast on terrestrial television in order to make a formal Code complaint”. The explanatory notes provide that “Subclause (b) provides that a complainant must have seen the material that is the subject of the complaint on television, as part of a terrestrial television broadcast in Australia”.

On the basis of this material it is not clear whether, under 7.2.3(b):

- (a) it is sufficient that the complainant has seen the relevant material that was broadcast, regardless of whether they saw it on television at the time it was broadcast or via a recording afterwards; or
- (b) whether complainants must have seen the relevant broadcast content on television when broadcasted.

The APC submits that (a) is the preferable approach because it is critical that community members and organisations, that have the relevant material brought to their attention by others and have an interest in advertising practices, are still able to make a complaint where they have seen a copy or recording of the relevant broadcast. Consumers and consumer groups should not be required to monitor television broadcasts in the hope of seeing a particular advertisement so that a complaint may be lodged. Licensees have ready access to information about broadcasts in Australia and are able to confirm that, for example, an advertisement was actually broadcast by the relevant licensee on terrestrial television. We recommend this issue be clarified in any revised Code to make it clear that a complaint can be made about broadcast content, regardless of whether the complainant saw the actual broadcast (as distinct from the broadcast content).

Conclusion

In conclusion, the APC does not support the proposed decrease in restrictions on when and how alcohol can be advertised on free to air television due to the negative and potentially risky impact of advertising on drinking patterns and behaviours among youth. Additionally, the effects of alcohol advertising and sponsorship go well beyond an individual’s drink preferences to influence how we, as a community, perceive alcohol and its place in society. APC further argues that the existing Australian regulatory scheme for alcohol advertising on television is weak and ineffective. To reduce the harm from alcohol consumption, the framework within which alcohol advertisers can operate on television requires substantive change.

About the APC

The Alcohol Policy Coalition is a collaboration of health and allied agencies who share a concern about the level of alcohol misuse and the associated health and social consequences for the community. The Alcohol Policy Coalition develops and promotes

evidence-based policy responses that are known to be effective in preventing and reducing alcohol related problems. The members of the Alcohol Policy Coalition are:

- Australasian College of Emergency Medicine
- Australian Drug Foundation
- Cancer Council Victoria
- Foundation for Alcohol Research and Education
- Inner North West Melbourne Medicare Local
- Jewish Community Council of Victoria
- Public Health Association of Australia (Victoria)
- Royal Australasian College of Surgeons
- Salvation Army
- Turning Point
- Uniting Church, Synod of Victoria and Tasmania
- Victorian Alcohol and Drug Association

All the APC's partners have a strong track record in tackling major health issues in the community. The Alcohol Policy Coalition receives project funding from the Victorian Health Promotion Agency

Annexure 1: Proposed changes to the CTICP (in relation to alcohol advertising)

PROVISION	CURRENT CODE	PROPOSED CODE	CONSEQUENCE	APC POSITION
M Classification zone	2.10 The M classification zones are: Weekdays (schooldays) 8.30pm – 5.00am 12.00 noon – 3.00pm (see clause 2.10.3) Weekdays & Weekends (school holidays) 8.30pm – 5.00am	2.2.2 M Classification zone. Subject to clause 2.3.2(a), material that has been classified M may only be broadcast at the following times: a) School days 7.30 pm to 6.00 am 12 noon to 3.00 pm b) Weekends and School holidays 7.30 pm to 6.00 am c) Public Holidays 7.30 pm to 6.00 am	Alcohol advertisements may be broadcast 1 hour earlier from 7.30PM and 1 hour later until 6.00AM.	Proposed amendment should be rejected and the new Code amended so that alcohol advertisements can only be shown after 9.30pm (or during the AV classification zone after 9.30pm).
Sports broadcast exemption	6.7 A commercial which is a “direct advertisement for alcoholic drinks” (as defined in Clause 6.11) may be broadcast: ... 6.7.2 as an accompaniment to the live broadcast of a sporting event on weekends and public holidays.	A Commercial for Alcoholic Drinks may be broadcast at any of the following times: a) ... b) as an accompaniment to a sports broadcast on a Weekend or a Public Holiday;	Alcohol advertisements may be shown in any sports broadcasts, not just live sports broadcasts, this may significantly increase the opportunities for alcohol to be advertised.	The exemption which enables alcohol advertisements to be shown during children’s viewing times should be removed.
Definition of “weekend”	Not currently defined. Generally usage of weekend is understood to be only Saturday and Sunday.	Weekends commence at 6.00 pm on a Friday and concludes at midnight on the following Sunday.	Definition of “weekend” commences at 6.00pm Friday night. This would allow alcohol to be advertised from 6.00pm on Friday during sports broadcasts.	The definition of weekend should not include Friday evenings. Without exception, alcohol advertisements should not be permitted during children’s viewing times.

PROVISION	CURRENT CODE	PROPOSED CODE	CONSEQUENCE	APC POSITION
Definition of “alcohol advertisement”	<p>“Direct Advertisement for alcohol”: means a commercial broadcast by a licensee that draws the attention of the public, or a segment of it, to an alcoholic drink in a manner calculated to directly promote its purchase or use.</p> <p>This does not include the following, <u>provided that their contents do not draw attention to an alcoholic drink in a manner calculated to directly promote its purchase or use:</u></p> <p>6.11.1 a program sponsorship announcement on behalf of a brewing company or other liquor industry company;</p> <p>6.11.2 a commercial for a licensed restaurant; or</p> <p>6.11.3 a commercial for a company whose activities include the manufacture, distribution or sale of alcoholic drinks.</p> <p>(emphasis added)</p>	<p>“Commercial for Alcoholic Drinks”: means a Commercial that directly promotes the use or purchase of one or more Alcoholic Drinks. It does <u>not</u> include:</p> <ol style="list-style-type: none"> Program sponsorship announcements; a Commercial which does not directly promote an alcoholic drink for an entity or company that participates in the manufacture, distribution or sale of alcoholic drinks; a Commercial where alcohol or a brand associated with alcohol is incidental and any alcohol consumption responsibly depicted; a Commercial for a licensed restaurant or club, entertainment venue, tourist attraction or dining establishment. <p>(emphasis added)</p>	<p>The proposed definition expands the categories of alcohol advertisements that are exempt from restrictions by removing the catch all caveat that the exemption only applies if the content of the advertisement does “not draw attention to an alcoholic drink in a manner calculated to directly promote its purchase or use”. For example, arguably under the proposed Code sponsorship announcements are exempt from the restrictions on alcohol advertisements. This exemption applies even if a particular sponsorship announcement directly promotes the purchase of alcohol.</p>	<p>Without exception all advertisements for alcohol should be restricted during children’s viewing times.</p>