

10 October 2024

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Parliament House
Canberra ACT 2600
Via email legcon.sen@aph.gov.au

To the Committee Secretary,

Re: Privacy and Other Legislation Amendment Bill 2024 [Provisions]

The Alcohol and Drug Foundation (ADF) welcomes the opportunity to contribute to the inquiry into the *Privacy and Other Legislation Amendment Bill 2024*. The ADF delivers evidence-based approaches to minimise alcohol and other drug harm. We recognise the power of strong communities and the important role they play in preventing problems occurring in the first place. A community-centric approach is at the heart of everything we do.

Alcohol takes a significant toll on our communities, causing violence, injuries, and deaths. In 2018, alcohol was responsible for 4.5% of the total burden of disease and 15% of the overall burden of injury.¹ Alcohol use is linked to over 200 disease and injury conditions and causes at least seven types of cancer.² The expansion of digital technologies, particularly social media platforms, has given the alcohol industry the opportunity to market products in highly targeted, time-relevant, and interactive ways, which has only amplified the negative impact of alcohol use in Australia. Algorithms developed by digital platforms allow the industry to target people who drink at higher levels as well as new consumers in a range of markets and demographics, including children and young people.³⁻⁵ While digital alcohol marketing poses regulatory challenges that may be difficult to address, it is a significant source of concern, with Australian research suggesting that young people are encountering alcohol advertisements on social media as often as every three minutes.⁶

Amendments to the current *Privacy Act 1988* are essential to modernise Australia's privacy laws in response to emerging risks. The ADF is supportive of several of the proposed amendments in the Bill, including the requirement for a Children's Online Privacy Code to address the misuse of children's data. We urge the Australian Government to commit to the implementation of the second tranche of reforms to the Privacy Act from the [Government Response to the Privacy Act Review Report](#) to limit delays to implementation following the federal election.

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Furthermore, we urge the Australian Government to consider expanding these reforms to also include a regulatory framework with a legislative basis that effectively protects the community from exposure to alcohol marketing, including on online platforms. This framework must include specific provisions which:

- Prohibit the collection, use and disclosure of personal information for commercial marketing purposes unless a person has provided active, informed, voluntary and non-incentivised opt-in consent.
- Prohibit the tracking, profiling, monitoring, or targeting of children for commercial purposes, particularly for use by companies selling harmful products. This should be done as part of the proposed Children's Online Privacy Code, provisions for which are introduced in the Bill.
- Establish mandatory compliance as well as effective administration, surveillance, and deterrence systems for infringements.

Alcohol advertising is a key evidence-based factor in driving alcohol harms. Exposure to alcohol marketing has a causal effect on the trajectory of harm, particularly for young people.^{3, 7-9} There is clear evidence that alcohol advertising and marketing promotes positive thoughts and expectancies towards this harmful product, earlier initiation into drinking and higher levels of alcohol consumption.¹⁰⁻¹²

The lack of transparency and visibility in digital marketing, particularly through social media, makes it difficult to gauge the full extent of its negative impact. There is no public accountability for how individuals' data is used, or how it may be being used to target specific consumers, including children. Advertisements are ephemeral and may only be seen by those being targeted meaning that enforcement of existing regulation is made incredibly difficult if not impossible.¹³ Leaked information from social media corporations has shown that children have been profiled and tagged as 'interested' in harmful products including gambling and alcohol.^{14, 15}

These targeted advertisements are of significant concern as research has shown that young people's exposure to alcohol marketing online is linked to increased alcohol use, and that the constant flow of pro-alcohol messages is challenging for those trying to reduce or stop their use of unhealthy products.^{3,4} A recent survey found that over 90% of participants were concerned about online marketing for products they are trying to reduce, and 83% felt that seeing marketing for these products makes it harder for them to reduce their use or consumption.⁵

The existing regulatory system for alcohol advertising, the Alcohol Beverages Alcohol Code (ABAC), has proven to be ineffective in protecting the community from the negative impact of alcohol marketing. It was created by the alcohol industry and relies largely on voluntary, industry-managed codes and practices despite research showing that such an approach is ineffective and lacks transparency.¹⁶ When complaints are made, they are often dismissed and in rare cases where alcohol companies are found to have breached the code, there are no meaningful consequences.

The ADF thanks the Committee for the opportunity to contribute to this important inquiry. Please do not hesitate to contact us about any aspect of this letter.

Sincerely,

Dr Erin Lalor

CEO

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References

1. Australian Institute of Health and Welfare. Alcohol, Tobacco & other drugs in Australia Canberra; 2022. Available from: <https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia>.
2. Rehm J, Baliunas D, Borges GLG, Graham K, Irving H, Kehoe T, et al. The relation between different dimensions of alcohol consumption and burden of disease: an overview. *Addiction*. 2010;105(5):817-43. Available from: <https://dx.doi.org/10.1111/j.1360-0443.2010.02899.x>.
3. Jernigan D, Noel J, Landon J, Thornton N, Lobstein T. Alcohol marketing and youth alcohol consumption: A systematic review of longitudinal studies published since 2008. *Addiction*. 2017;112:7-20.
4. Alen GD, Riordan B, Anderson-Luxford D, Kuntsche E. Chapter Two - Alcohol on social media – Why does it matter, what do we know, and how do we collect better evidence? In: Federmeier KD, editor. *Psychology of Learning and Motivation*. 79: Academic Press; 2023. p. 41-108.
5. Foundation for Alcohol Research and Education, VicHealth. Experiences with online marketing of alcohol, gambling, and unhealthy food: A survey. 2023.
6. Rutherford BN, Leung J, Stjepanović D, Chan GCK. Through the looking glass: An alcohol advertisement every 3 minutes. *Drug and Alcohol Review*. 2024;n/a(n/a). Available from: <https://onlinelibrary.wiley.com/doi/abs/10.1111/dar.13886>.
7. Hastings G, Anderson S, Cooke E, Gordon R. Alcohol marketing and young people's drinking: A review of the research. *Journal of Public Health Policy*. 2005;26(3):296-311.
8. Smith LA, Foxcroft DR. The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: Systematic review of prospective cohort studies. *BMC Public Health*. 2009;9(1):51.
9. Sargent JD, Babor TF. The Relationship Between Exposure to Alcohol Marketing and Underage Drinking Is Causal. *Journal of studies on alcohol and drugs Supplement [Internet]*. 2020 [05.04.2023]; 19:[113-24 pp.]. Available from: <https://adf.on.worldcat.org/oclc/8536247579>.
10. Stautz K, Brown KG, King SE, Shemilt I, Marteau TM. Immediate effects of alcohol marketing communications and media portrayals on consumption and cognition: a systematic review and meta-analysis of experimental studies. *BMC Public Health*. 2016;16(1):465. Available from: <https://doi.org/10.1186/s12889-016-3116-8>.
11. Stautz K, Marteau TM. Viewing alcohol warning advertising reduces urges to drink in young adults: an online experiment. *BMC Public Health*. 2016;16(1):530. Available from: <https://doi.org/10.1186/s12889-016-3192-9>.
12. Stautz K, Frings D, Albery IP, Moss AC, Marteau TM. Impact of alcohol-promoting and alcohol-warning advertisements on alcohol consumption, affect, and implicit cognition in heavy-drinking young adults: A laboratory-based randomized controlled trial. *British Journal of Health Psychology*. 2017;22(1):128-50. Available from: <https://bpspsychub.onlinelibrary.wiley.com/doi/abs/10.1111/bjhp.12221>.
13. Carah N, Brodmerkel S. Regulating Platforms' Algorithmic Brand Culture: The Instructive Case of Alcohol Marketers on Social Media. In: Flew T, Martin FR, editors. *Digital Platform Regulation: Global Perspectives on Internet Governance*. Cham: Springer International Publishing; 2022. p. 111-30.

14. Williams D, McIntosh A, Farthing R. Profiling children for advertising: Facebook's monetisation of young people's personal data. Sydney: Reset Australia; 2021 2021 .
15. Hern A, Ledergaard F. Children 'interested in' gambling and alcohol, according to Facebook. The Guardian UK2019.
16. Reeve B. Regulation of alcohol advertising in Australia: Does the ABAC scheme adequately protect young people from marketing of alcoholic beverages? QUT Law Review. 2018;18(1):96-123.