

The Senate

Standing Committee on
Community Affairs

Alcohol Toll Reduction Bill 2007 [2008]

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42nd Parliament

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ALCOHOL TOLL REDUCTION BILL 2007

THE INQUIRY

1.1 The Alcohol Toll Reduction Bill 2007 (the Bill) was introduced into the Senate on 19 September 2007 by Senator Steve Fielding. On 14 February 2008 the Senate, on the recommendation of the Selection of Bills Committee, referred the Bill to the Community Affairs Committee (the Committee) for inquiry and report by 18 June 2008.

1.2 The Committee received 96 submissions relating to the Bill and these are listed at Appendix 1. The Committee considered the Bill at public hearings in Melbourne on 6 May 2008 and Canberra on 15 May 2008. Details of the public hearings are referred to in Appendix 2. The submissions and Hansard transcript of evidence may be accessed through the Committee's website at http://www.aph.gov.au/senate_ca.

THE BILL

1.3 The purpose of the Bill is to create a culture of responsible drinking, and to facilitate a reduction in the alcohol toll resulting from excessive alcohol consumption.

1.4 The objects of the Bill are to:

- (a) limit the times at which alcohol products are advertised on radio and television for the protection of young people;
- (b) provide for compulsory health information labels for alcohol products; and
- (c) provide for alcohol advertisements to be pre-approved by an Australian Communications Media Authority Division containing experts from the health industry, drug and alcohol support services and motor accident trauma support services.

1.5 The Alcohol Toll Reduction Bill 2007 proposes a number of changes to the way alcohol advertising is regulated in Australia, which are set out in Schedule 1 of the Bill. The Bill provides that a broadcaster must not broadcast, or authorise to be broadcast an alcohol advertisement otherwise than as permitted by Schedule 1 of the Bill. The penalty for infringement is 1000 penalty units.

1.6 The Bill amends the *Australian Communications and Media Authority Act 2005* to establish a Responsible Advertising of Alcohol Division within the Australian Communication and Media Authority (ACMA) to approve the content of alcohol advertisements broadcast and advise broadcasters on the standards and control of alcohol advertising. Under the Bill the associate members chosen by ACMA for the membership of the Division should represent the following groups: the medical

profession; the alcohol and drug support sector; motorist associations and motor accident trauma support groups; and the alcohol retail industry.

1.7 The Bill also amends the *Broadcasting Services Act 1992* to require ACMA to determine standards that are to be observed by commercial television broadcasting licensees in relation to alcohol advertising. These standards limit the times when advertisements for alcohol products can be broadcast to 9pm to 5am each day of the week. The standards also provide for the content of advertisements for alcohol products. Specifically they provide that such advertisements not have strong or evident appeal to children and not suggest that alcohol contributes to personal, business, social, sporting, sexual or other success in life. The Bill voids a commercial television code of practice which is not in accordance with the standards.

1.8 Finally the Bill amends the *Food Standards Australia New Zealand Act 1991* to provide that a standard be made for the labelling of alcohol products and food containing alcohol. The standard would provide for: the consumption guidelines of the National Health and Medical Research Council; the unsafe use of alcohol; the impact of drinking on populations vulnerable to alcohol; health advice about the medical side effects of alcohol; and the manner in which the information may be provided (including provision in text or pictorial form).

BACKGROUND

1.9 The issue of alcohol in Australia (including the advertising and labelling of alcohol products) has been extensively considered in a number of different forums in recent years. These include:

The New South Wales Summit on Alcohol Abuse (2003);

The House of Representatives, Standing Committee on Family and Community Affairs, *Road to recovery: Report on the inquiry into substance abuse in Australian communities* (2003);

The National Committee for the Review of Alcohol Advertising (NCRAA), *Review of the Self-Regulatory System for Alcohol Advertising: Report to the Ministerial Council on Drug Strategy* (2004); and

The Victorian Parliamentary Drug and Crime Prevention Committee, *Inquiry into Strategies to Reduce Harmful Alcohol Consumption* (2006).

1.10 In May 2006 the Ministerial Council on Drug Strategy endorsed the National Alcohol Strategy 2006 – 2009 with the goal to prevent and minimise alcohol-related harm to individuals, families and communities in the context of developing safer and healthy drinking cultures in Australia. To achieve this goal, the Strategy has four aims:

- Reduce the incidence of intoxication among drinkers.
- Enhance public safety and amenity at times and in places where alcohol is consumed.

-
- Improve health outcomes among all individuals and communities affected by alcohol consumption.
 - Facilitate safer and healthier drinking cultures by developing community understanding about the special properties of alcohol and through regulation of its availability.

1.11 The Ministerial Council on Drug Strategy also established a Monitoring of Alcohol Advertising Committee (MAAC) with the role of undertaking continued monitoring of alcohol advertising and the current regulatory system. The terms of reference for the Committee include monitoring of the implementation and impact of the current arrangements and regular reports to the Ministerial Council. These reports are not publicly released. The members of MAAC are Commonwealth and State public servants.

1.12 On 12 March 2008 the Senate, on the motion of Senator Andrew Murray, supported a comprehensive inquiry into the need to significantly reduce alcohol abuse in Australia and what the Commonwealth, States and Territories should separately or jointly do with respect to a range of issues including pricing and taxation, marketing, and regulating the distribution, availability and consumption of alcohol. The comprehensive inquiry should be undertaken by a parliamentary committee, an appropriate body or a specially established taskforce.¹

1.13 The policy approach to alcohol products in Australia has been recently highlighted by government initiatives in relation to binge-drinking and the health costs associated with alcohol. In March 2008, the Council of Australian Governments (COAG) agreed to ask the Ministerial Council on Drug Strategy to report to COAG in December 2008 on options to reduce binge drinking including in relation to closing hours, responsible service of alcohol, reckless secondary supply and the alcohol content in ready to drink beverages.²

1.14 COAG also asked the Australia New Zealand Food Regulation Ministerial Council to request Food Standards Australia New Zealand (FSANZ) to consider mandatory health warnings on packaged alcohol. On 2 May 2008 the Ministerial Council requested FSANZ to 'consider mandatory health warnings on packaged alcohol taking into account the work of the Ministerial Council on Drug Strategy and any other relevant ministerial councils, any relevant guidelines in New Zealand, the relevant recommendations from the soon to be released National Health and Medical Research Council alcohol guidelines for low risk drinking; and to consider the broader community and population-wide context of the misuse of alcohol'.³

1 Journals of the Senate, 12 March 2008, p.209. See also Senator Murray, Media Release: Unanimous support for full alcohol inquiry, 12.3.08.

2 Council of Australian Governments, Communique, 26 March 2008, p.8.

3 Australian and New Zealand Food Regulation Ministerial Council, 'Food Ministers agree to strategic vision for Australian and New Zealand Food Regulation System', Joint Communique, 2 May 2008, p.1.

1.15 The Commonwealth Government's National Strategy on Binge Drinking, also announced in March 2008 includes:

- \$14.4 million to invest in sporting and community level initiatives to confront the culture of binge drinking;
- \$19.1 million to intervene earlier to assist young people and ensure that they assume personal responsibility for their binge drinking;
- \$20 million to fund advertising that confronts young people with the costs and consequences of binge drinking;
- The establishment of a nationally consistent code of conduct on alcohol use for peak sporting bodies and community sports organisations.⁴

1.16 In May 2008 the Ministerial Council on Drug Strategy agreed to fast-track the development of the National Binge Drinking Strategy. Ministers will lead the development of an interim report to the July meeting of COAG which will focus on:

- a national policy framework for Responsible Service of alcohol;
- a preferred regulatory model to address secondary supply of alcohol to minors;
- options for reducing alcohol content in products including those aimed at young people;
- possible standards and controls for alcohol advertising targeting young people; and
- advice regarding the impact of health warnings on drinking behaviours.⁵

1.17 The Ministerial Council on Drug Strategy also agreed to assess late night lock-outs for licensed premises based on analysis across the nation of existing and trial lockouts to recommend a preferred framework. This framework will be used to effectively target police resources to binge drinking hot spots.⁶

1.18 In April 2008 the Commonwealth Government announced the establishment of a new National Preventative Health Taskforce to develop strategies to tackle the health challenges caused by tobacco, alcohol and obesity and develop a National Preventative Health Strategy by June 2009.⁷

1.19 Prior to the Budget, the Commonwealth Government also announced it would increase the excise and the excise-equivalent customs duty rate applying to 'other excisable beverages not exceeding 10 per cent by volume of alcohol' from \$39.36 per

4 Prime Minister, 'National Binge Drinking Strategy', Media Release, 10 March 2008, p.1.

5 Ministerial Council on Drug Strategy, Joint Communique, 23 May 2008, p.1.

6 Ministerial Council on Drug Strategy, Joint Communique, 23 May 2008, p.1

7 Hon Nicola Roxon, Minister for Health and Ageing, 'New health taskforce on prevention – tobacco, alcohol and obesity priorities', Media Release, 9 April 2008, p.1.

litre of alcohol content to the full strength spirits rate of \$66.67 per litre of alcohol content on and from 27 April 2008.⁸ This measure was prompted by concerns about binge-drinking (particularly by younger people) of 'ready-to-drink' (RTD) beverages, also known as alcopops. On 15 May 2008 the Senate referred an inquiry dealing with ready-to-drink alcohol beverages and the effect of the excise increase to the Community Affairs Committee for report by 24 June 2008. Many of the issues and background to the RTD inquiry overlap with this inquiry into the Alcohol Toll Reduction Bill.

1.20 The National Health and Medical Research Council (NHMRC) is currently reviewing the *Australian Alcohol Guidelines: health risks and benefits* in collaboration with the Department of Health and Ageing. The draft revised guidelines, now called the *Australian alcohol guidelines for low-risk drinking*, were made available for public consultation in October 2007. These draft guidelines are intended to give Australians guidelines on how to avoid, or minimise, the harmful consequences of drinking alcohol including the immediate effects of each drinking occasion and the longer-term effects of regular drinking.⁹

1.21 The consumption advice in the draft guidelines differs from the previous NHMRC guidelines from 2001. There is a simplified single guideline level for alcohol intake for all adults which recommends two standard drinks a day or less to minimise immediate and long-term risks of harm. There are also two guidelines with special precautions for children and adolescents, and for women who are pregnant, hoping to become pregnant, or breastfeeding.¹⁰

ALCOHOL IN AUSTRALIA

1.22 While the provisions of the Bill relate to advertising and labelling issues, it is difficult to consider the merits of the Bill without also considering the position of alcohol products in the community more generally. Alcohol is the most widely used psychoactive, or mood-changing, recreational drug in Australia. According to the 2007 National Drug Strategy Household Survey 82.9% of the population aged 14 years and over had consumed at least one full serve of alcohol in the last 12 months, while 9% of Australians drank alcohol on a daily basis.¹¹

1.1 The *National Alcohol Strategy* document notes that per capita alcohol consumption in Australia is relatively high in comparison to many other developed countries, ranked 34th out of 185 countries assessed by the World Health Organisation. While there are difficulties in the availability of reliable data on alcohol

8 Hon Wayne Swan, Treasurer, 'Increased Tax on 'Ready to Drink' Alcoholic Beverages', Joint Media release with Hon Nicola Roxon, Minister for Health and Ageing, No. 41, 13.5.08, p.1

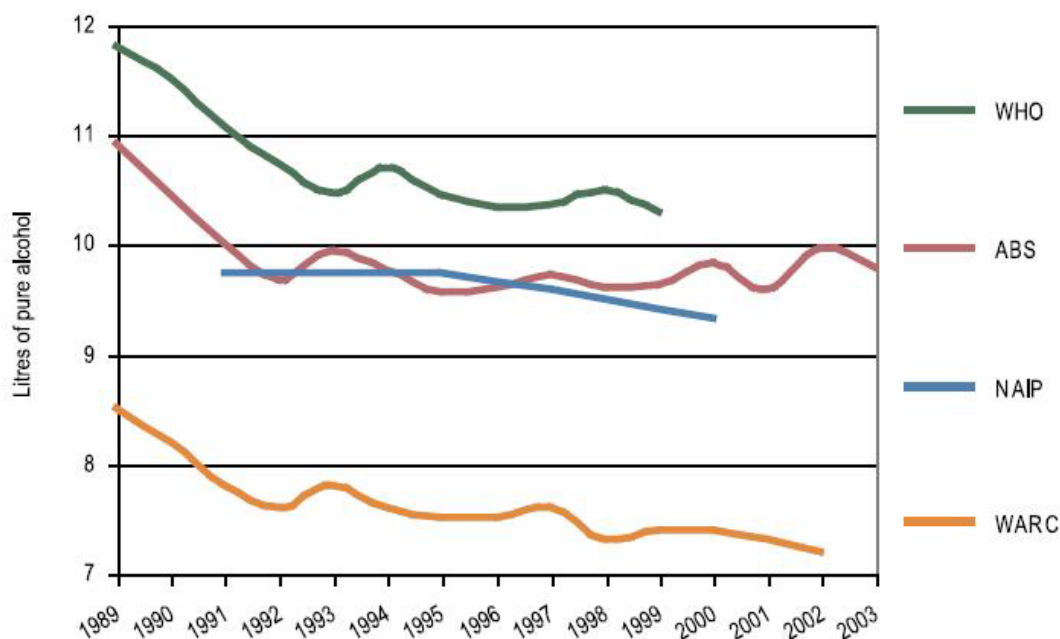
9 National Health and Medical Research Centre, *Submission 58*, p.1.

10 National Health and Medical Research Centre, *Submission 58*, Attachment 2.

11 Australian Institute of Health and Welfare, *2007 National Drug Strategy Household Survey – first results*, April 2008, p.xi.

consumption in Australia, the available data indicates that per capita alcohol consumption in Australia steadily declined from the late 1980s until early 1990s when the consumption began to fluctuate.¹²

Figure 1: Per capita alcohol consumption in Australia, various sources, 1989 to 2003.



Sources: World Health Organisation (WHO) 2005; Australian Bureau of Statistics (ABS), 2005; National Alcohol Indicators Project (NAIP) 2003; World Advertising Research Centre (WARC) 2005.¹³

1.23 In Australia, alcohol is significant for many economic, social, health and cultural reasons. Alcoholic products are enjoyed (largely responsibly) by many millions of Australian adults. Alcohol producing companies create employment for many thousands of people directly, as well as many more indirectly in the areas of agriculture, distribution, retail, hospitality and tourism. Alcohol industry sponsorship and sales contribute to numerous social, cultural and sporting events and institutions. Taxes and excises on alcohol products provide significant revenue to governments to reinvest in the community. While there is scientific dispute, there is evidence to suggest moderate consumption of alcohol may have positive health effects for some people by, for example, contributing to the reduction of cardiovascular disease risk.

1.24 However alcohol is also responsible for or associated with many negative outcomes for society. These negative outcomes include: long term serious health problems for heavy drinkers; fetal alcohol syndrome; sexual and domestic violence;

¹² National Alcohol Strategy 2006- 2009 –Towards Safer Drinking Cultures, p.9.

¹³ Extracted from National Alcohol Strategy 2006- 2009 –Towards Safer Drinking Cultures, p.9.

road accidents; and community disintegration (particularly in remote and indigenous communities).

1.25 Recently released publicly-funded research by Professor David Collins and Professor Helen Lapsley has estimated that the total social cost of alcohol in Australia was \$15.3 billion in 2004-05. This includes \$1.6 billion in crime, \$3.6 billion in lost workplace production, \$2.2 billion in road accidents and \$2.0 billion in health care costs.¹⁴ This made alcohol the second most costly abused drug in Australia after tobacco (\$31.5 billion). Between 1992 and 2001 it is estimated that over 31,000 Australians died from alcohol caused disease and injury including liver cirrhosis, road crash injury and suicide.¹⁵ In 2005-06 alcohol was the most common principal drug of concern reported in closed treatment episodes (39%) tracked by the AIHW, and over half of all treatment episodes included alcohol as a drug of concern.¹⁶

ALCOHOL ADVERTISING

The Current System

1.26 Under the current system for advertising alcohol products, advertisements are subject to a number of different codes of practice. Of particular importance are the Australian Association of National Advertisers (AANA) Advertiser Code of Ethics which sets out general standards for all advertisers and the Alcohol Beverages Advertising Code (ABAC) which sets out additional standards for alcohol advertisers. Other applicable laws and codes include: the Trade Practices Act; jurisdictional fair trading legislation; the Commercial Television Industry Code of Practice; the Commercial Radio Code of Practice; and the Outdoor Advertising Code of Ethics.

The Alcohol Beverages Advertising Code (ABAC) Scheme

1.27 Australia has a quasi-regulatory system for alcohol advertising as guidelines for advertising have been negotiated with government and consumer complaints are handled separately but costs are borne by industry. The key components of the Scheme are the Management Committee, the Alcohol Advertising Pre-vetting System (AAPS) and the Alcohol Beverages Advertising Adjudication Panel.

1.28 The ABAC Scheme Management Committee has five members. One from each of the major industry associations: the Australasian Brewers Association; the Distilled Spirits Industry Council of Australia; and the Winemakers Federation of Australia. The other two members represent the Advertising Federation of Australia and the Department of Health and Ageing.

14 David Collins & Helen Lapsley, *The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05*, 2008, p.65.

15 Department of Health and Ageing, *Committee Hansard* 15.5.08, p.29.

16 Australian Institute of Health and Welfare, *Alcohol and Other Drug Treatment Services in Australia 2005-06*, 2007, p.14.

1.29 The ABAC Scheme Management Committee appoints the 'pre-vetters' for the Alcohol Advertising Pre-vetting System (AAPS). Alcohol beverage advertisers can use the AAPS pre-vetting service to assess whether proposed advertisements conform to the Australian Association of National Advertisers Code of Ethics (AANA) or the Alcohol Beverages Advertising Code (ABAC) before they are released publicly. The AAPS is funded on a user-pays basis by those industry members seeking pre-vetting of advertisements.

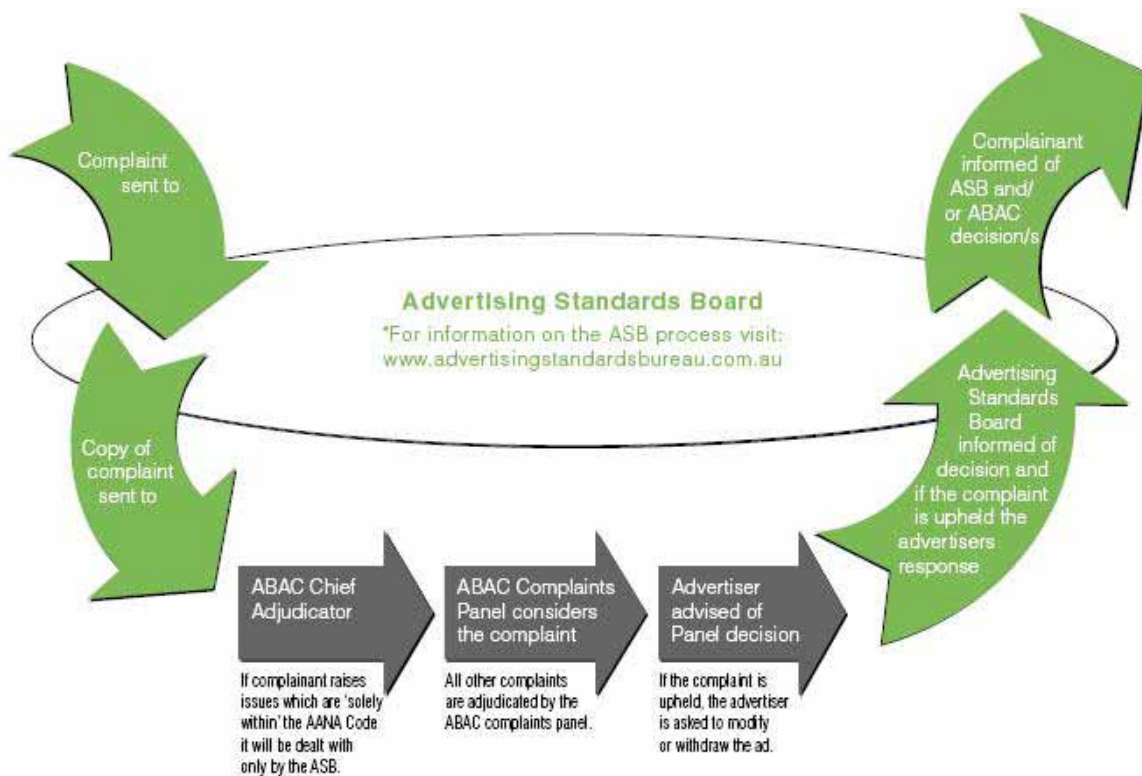
1.30 The ABAC Scheme Management Committee also appoints the members the Alcohol Beverages Advertising Adjudication Panel. The Adjudication Panel adjudicates complaints made concerning advertisements for alcohol beverages which are made to the Advertising Standards Board established by the AANA and referred to the Adjudication Panel for adjudication. The Management Committee must appoint a health sector representative as one of the three regular members of the Panel. This person is chosen from a shortlist of three candidates provided by the Minister for Health and Ageing. Signatories to the ABAC Scheme are required to abide by the provision of the Code, the associated rules and procedures and decisions made by the Adjudication Panel. The costs of the Adjudication Panel are met by the three industry associations.

1.31 No person appointed to the Adjudication Panel or the AAPS pre-vetters may be a current employee or member of the alcohol beverages industry or have been in the five years prior to their appointment.

1.32 The Alcohol Beverages Advertising Code is set out at Appendix 3. In summary, the Code requires that alcohol advertisements:

- must not encourage excessive alcohol consumption or abuse of alcohol;
- must not encourage under-age drinking;
- must not have a strong or evident appeal to children (there are specific rules relating to the inclusion of children in advertisements);
- must not suggest that alcohol can contribute to personal, business, social, sporting, sexual or other success;
- must not depict alcohol consumption in relation to the operation of machinery or vehicles;
- must not challenge or dare people to consume alcohol;
- must not promote a beverage on the basis of its higher alcohol content; and
- must not encourage consumption that is in excess of the NHMRC Australian Alcohol Guidelines.

Figure 2: The ABAC Complaints Management System¹⁷



Commercial Television Industry Code of Practice and the Commercial Radio Code of Practice

1.33 The content of free-to-air commercial television is regulated by the Commercial Television Industry Code of Practice (CTICP) which has been developed by FreeTV Australia and registered with the Australian Communications and Media Authority (ACMA). The Code covers the matters prescribed in section 123 of the *Broadcasting Services Act* and other matters relating to program content that are of concern to the community including: program classifications; accuracy, fairness and respect for privacy in news and current affairs; advertising time on television; and placement of commercials and program promotions and complaints handling.

1.34 Under the CTICP a commercial which is a 'direct advertisement for alcoholic drinks' may be broadcast only in M, MA or AV classification periods; or as an accompaniment to the live broadcast of a sporting event on weekends and public holidays; or where the event is simulcast to a number of licence areas and a direct advertisement for alcohol is permitted in the area where the event is held. The CTICP also provides that advertisements to children must not be for, or relate in any way to, alcoholic drinks or draw any association with companies that supply alcoholic drinks (Clause 2.9).

¹⁷ Management Committee of the ABAC Scheme, *The ABAC Scheme Annual report 2006*, p.2.

1.35 M classification periods are from 8.30 pm to 5.00 am, plus 12.00 noon to 3.00pm on weekdays (excluding school holidays). The MA classification zone covers every day between 9.00pm and 5.00am. In MA zones, any material which qualifies for a television classification may be broadcast, except material classified AV which may only be broadcast after 9.30pm. The exemption for live sport, for weekends and public holidays allows alcohol advertising as an accompaniment to a 'live' sporting broadcast, shown at any time of day.

1.36 The Commercial Radio Code of Practice does not set out restrictions as to the timing of alcohol advertisements but 1.3 (c) of the Code provides that a commercial radio licensee must not broadcast a program which presents as desirable the misuse of alcoholic liquor.

1.37 Under the co-regulatory arrangements set out by the *Broadcasting Services Act 1992* audience complaints regarding the CTICP or the Commercial Radio Code of Practice can be made directly to the broadcaster who must reply within 30 days and inform the complainant of their right to refer their complaint to ACMA for investigation. ACMA can apply penalties to broadcasters for breaches of industry codes of practice.

Specific to children

1.38 Specific protections also exist in relation to children and alcohol advertising. The Children's Television Standard made by ACMA under the *Broadcasting Services Act 1992* also restricts the times when alcohol advertising can be broadcast on television. Complaints about advertising perceived to conflict with the Children's Television Standard can also be made directly to the ACMA who can then investigate. The AANA also recently released a Code for Advertising to Children which provides that:

2.9.1 Advertisements to Children must not be for, or relate in any way to, alcoholic drinks or draw any association with companies that supply alcoholic drinks.

Responsible Advertising of Alcohol Division

1.39 As outlined earlier, the Bill establishes a Responsible Advertising of Alcohol Division within ACMA to pre-approve alcohol advertisements and provides for its membership.

1.40 A number of submissions which supported the creation of the Division suggested alternatives or additions to the membership of the Division. For example the Public Health Association of Australia suggested the Bill be amended to include 'one associate member representing the public health sector'.¹⁸ Dr Susan Dann suggested that the proposed Division needed 'expertise from the marketing and

18 Public Health Association of Australia, *Submission 18*, pp.5-6.

advertising professions' with 'expert knowledge in terms of how different communications strategies and marketing approaches are likely to impact on the consumer behaviour of different target markets'.¹⁹ The Anglicare Victoria and Melbourne Anglican Social Responsibilities Committee suggested that representatives of the alcohol suppliers industry and their advertisers also be included in the Division's membership.²⁰ Professor Sandra Jones recommended the pre-approval body 'include a communications expert and a youth studies expert, or other appropriate representative of young Australians' and also that the process include a mechanism to take into account community perceptions which are likely to change over time.²¹

1.41 The Australian Christian Lobby supported the Bill but noted that the Australian Communications and Media Authority 'causes concerns to many family organisations... [as] the policing of television standards has been too lax, its complaint processes are slow, and its judgements fail to constrain the behaviour of broadcasters'. This concern regarding the role of ACMA was shared by the Festival of Light which noted that 'ACMA is notoriously slow in dealing with complaints'. They also suggested there should be 'an efficient complaints mechanism for members of the public to complain that despite ACMA approval a particular advertisement breaches the standard'.²²

1.42 The alcohol industry raised concerns about the proposed Division. The Distilled Spirits Industry Council of Australia was concerned about the lack of balance in the Division's membership and the lack of clarity as to how the Division would reach decisions. It suggested 'representation of the alcohol industry would be more appropriate by an alcohol manufacturer, rather than a retailer' and also expressed concern the Division will not have a representative to balance out practice concerns of the advertising industry.²³

Dual systems

1.43 A number of submitters were concerned the Bill was replacing the current ABAC Scheme with a less comprehensive system of regulation. However Senator Fielding, who introduced the Bill, noted that the intention of the legislation was that the measures introduced by the Bill would add to and not replace the existing self-regulation measures set up under the ABAC Scheme.²⁴

19 Dr Susan Dann, *Submission 20*, p.1.

20 Anglicare Victoria and Melbourne Anglican Social Responsibilities Committee, *Submission 45*, p.2.

21 Professor Sandra Jones, *Submission 47*, p.2.

22 Festival of Light, *Submission 60*, p.7.

23 Distilled Spirits Industry Council of Australia, *Submission 93*, p.54.

24 Senator Steve Fielding, *Committee Hansard 6.5.08*, p.53.

1.44 Some submissions did not see benefit in a dual system of regulation for alcohol advertising. The Advertising Federation of Australia characterised the proposed Division as creating 'an unwieldy duplication of regulatory function.'²⁵ Similarly the Foundation for Advertising Research stated:

An added complication is that a Government agency would become involved in a highly competitive industry where confidentiality is paramount. This is not an appropriate role for ACMA, as a key stakeholder to be involved in administrative functions.²⁶

1.45 The Distilled Spirits Industry Council argued that the pre-approval role would impose 'severe practical difficulties on the both advertising and alcohol industry'. It suggested that timeframes for advertisement development and production would be lengthened adding to costs; confidentiality would be weakened; the lack of a timely pre-vetting system would restrict creativity; and the government regulation would politicise alcohol advertising.²⁷ FreeTV Australia also noted that regulating alcohol advertisements through ACMA could be a much more inefficient process and ACMA would need to be extensively funded and resourced to fulfil the new role.²⁸

Discussion of the ABAC Scheme

1.46 Many of the assessments regarding the merits of establishing the proposed Responsible Advertising of Alcohol Division concerned the effectiveness of the existing ABAC Scheme.

Self regulation

1.47 A number of criticisms of the ABAC Scheme were raised regarding a perceived inherent conflict of interest in the alcohol industry regulating advertising for alcohol products. Dr Alex Wodak described self-regulated alcohol promotion and advertising as a 'farce', noting that the alcohol beverage industry 'decides the rules, appoints the judge and jury and then runs the system'.²⁹ The Australian Christian Lobby characterised self regulation of alcohol advertising as a 'demonstrable failure' and likened it to leaving 'Dracula in charge of the blood bank'.³⁰ Mr Paul Mason the Tasmanian Commissioner of Children stated there was 'an inherent conflict in an industry which seeks to portray itself as reducing the consumption of alcohol while depending for its sales on the increased consumption of alcohol'.³¹

25 Advertising Federation of Australia, *Submission 35*, p.4.

26 Foundation for Advertising Research, *Submission 23*, p.3.

27 Distilled Spirits Industry Council of Australia, *Submission 93*, p.53.

28 Ms Julie Flynn, *Committee Hansard 15.5.08*, p.22 (FreeTV Australia).

29 Dr Alex Wodak, *Submission 31*, p.3.

30 Australian Christian Lobby, *Submission 33*, p.7.

31 Mr Paul Mason, *Committee Hansard 6.5.08*, p. 81 (Commissioner for Children, Tasmania).

1.48 Professor Sandra Jones described her research of alcohol advertising regulation, from 1998-99 to her most recently published study in January 2008. Her research examined the extent that decisions made by the Advertising Standards Board and Adjudication Panel were consistent with young people's perceptions of the messages in alcohol advertisements and also expert academic judgements on whether alcohol advertisements breached industry codes. Professor Jones characterised these results as consistent despite reforms to the ABAC Scheme over the years stating '[e]ach time there is review of the system, we do another study and find that the system does not work'.³²

1.49 The Salvation Army argued that 'the current self-regulatory approach is not meeting the challenge of protecting the public, particularly young people, from the inappropriate and misleading messages and associations between alcohol and lifestyle and life outcomes'.³³ Similarly the Alcohol Education and Rehabilitation Foundation stated that studies in Australia and overseas have shown that voluntary codes of advertising are an ineffective method of regulating advertising content. They believed that re-regulation of alcohol advertising would enable more effective enforcement of an advertising code.³⁴

1.50 However the ABAC Scheme was defended by advertisers, broadcasters and the alcohol industry associations. For example, the Australasian Associated Brewers (AAB) rejected arguments that the ABAC Scheme was a form of industry self-regulation of alcohol advertising, arguing it was a quasi-regulatory system ie, one that was a result of government influence on business. They noted that the ABAC Scheme had been negotiated with the government and that a government representative was on the ABAC Scheme Management Committee. The AAB highlighted that the members of the Management Committee were not advertisers and did not play a role in assessing any advertisement against the standards set out in the Code.³⁵

1.51 In particular the alcohol industry association stressed the independence of the AAPS pre-vetters and the Adjudication Panel in applying the provisions of the Code. The Distilled Spirits Industry Council of Australia noted that following negotiations, two of the five members of the panel are nominated by the Commonwealth through the Ministerial Council on Drug Strategy. Furthermore each complaint must be dealt with by three panel members and one must have a public health background and be nominated through the Ministerial Council.³⁶

1.52 The independence of the ABAC Adjudication Panel and the AAPS from the Management Committee was supported by Professor Michael Lavarch, the Chief

32 Professor Sandra Jones, *Committee Hansard* 15.5.08, p.3.

33 Salvation Army – Australian Southern Territory, *Submission* 48, p.11.

34 Alcohol Education and Rehabilitation Foundation, *Submission* 27, p.2.

35 Australasian Associated Brewers, *Submission* 36, pp.9-11.

36 Distilled Spirits Industry Council of Australia, *Submission* 93, p.42.

ABAC Adjudicator and Ms Victoria Rubensohn, the Pre-vetting Adjudicator. Professor Lavarch stated:

I can also say from my experience that there has never been an occasion, not once, when I have had any direction, influence or suggestion from the management committee on the decision-making process in relation to looking at a particular complaint in a particular ad. That has never happened. Speaking from the complaint side, I believe that it is an independent process from the industry.³⁷

1.53 Australian Association of National Advertisers highlighted that the separate adjudication under ABAC and AANA Codes meant that alcoholic products advertising in Australia is subject to 'double jeopardy' in needing to meet two sets of standards designed to protect the broadest community interests.³⁸

1.54 FreeTV Australia highlighted the consistently low level of audience complaints in relation to alcohol advertising, stating there was 'very little evidence of community dissatisfaction' with alcohol advertising.³⁹ The Advertising Standards Bureau also noted that the number of complaints submitted to the ASB regarding alcohol advertising is at a five year low and have trended down over recent years.

The most recent statistics of complaints relating to alcohol show that in 2007 alcohol advertising attracted 2.44% of complaints, while the percentage of complaints in the previous four years were respectively 3.14%, 7.07%, 21.38%, and 11.6%.⁴⁰

1.55 The ASB contended the current system met the 'gold standard' of regulation as set out by the World Federation of Advertisers. These criteria were:

- Universality (covering all advertising and backed by advertisers/agencies and media)
- Sustained and effective funding
- Efficient and resourced administration
- Universal and effective codes
- Advice and information
- Prompt and efficient complaint handling
- Independent and impartial adjudication
- Effective sanctions
- Efficient compliance and monitoring

37 Professor Michael Lavarch, *Committee Hansard* 6.5.08, p.43 (ABAC Adjudication Panel).

38 Australian Association of National Advertisers, *Submission* 51, p.3.

39 Mr Wayne Goss, *Committee Hansard* 15.5.08, p.17 (FreeTV Australia).

40 Advertising Standards Bureau, *Submission* 50, p.5.

- Effective industry and consumer awareness.⁴¹

1.56 The Foundation for Advertising Research acknowledged the ABAC Scheme possibly needed improvement in the areas of independent monitoring and audit but argued the 'the best way forward is to ensure it meets best practice principles rather than throwing the baby out with the bath water'.⁴²

Compliance

1.57 Another area of criticism of the ABAC Scheme was in relation to compliance. Professor Sandra Jones highlighted the lack of consequences for advertisers when they are found to have breached the Code. She argued that where the ABAC finds a breach, 'all that happens is that they ask the advertiser to withdraw it' and that there should be a penalty for advertiser or manufacturers who breach the Code.⁴³ VicHealth also highlighted that Adjudication Panel decisions are not enforceable and described this as a significant weakness in compliance under the ABAC Scheme.⁴⁴

1.58 Professor Michael Lavarch acknowledged that the ABAC Adjudication panel did not have any power to sanction advertisers which breached the Code. However he noted:

Any self regulatory system has, at its heart, the commitment of the participants of the system to comply with it. That is the nature of a self-regulatory system.⁴⁵

1.59 Mr Dominic Nolan, the Winemakers Federation of Australia member of the ABAC Management Committee, argued that the consequences of having an advertisement withdrawn encouraged compliance by advertisers. He stated:

...it is in the interests of the members of the alcohol industry to run their ads through the pre-vetting system, because if they run an advertising campaign, there is a complaint, it is upheld and they have to withdraw the campaign, then there are major financial repercussions; it does cost those people a significant amount of money. There are examples where ads were approved under the pre-vetting system, there was a complaint made and upheld, and the ad was subsequently immediately withdrawn, and it did cost the companies involved a very large amount of money, which demonstrates the efficacy of the scheme in place.⁴⁶

41 Advertising Standards Bureau, *Submission 50*, pp.1-2.

42 Foundation for Advertising Research, *Submission 23*, p.5.

43 Professor Sandra Jones, *Committee Hansard 15.5.08*, p.3.

44 VicHealth, *Submission 37*, p.12.

45 Professor Michael Lavarch, *Committee Hansard 6.5.08*, p. 42 (ABAC Adjudication Panel)

46 Mr Dominic Nolan, *Committee Hansard 6.5.08*, p. 45 (ABAC Management Committee)

Audience awareness

1.60 VicHealth highlighted recent research which indicated 'very limited public awareness and confidence in the ABAC scheme'. The research estimated that only 3 per cent of the total adult population are aware of the existing ABAC scheme and know what it relates to. Most people surveyed did not know how to make an effective complaint and the few people who had complained were not satisfied with the result.⁴⁷

1.61 The alcohol industry did not consider that high public awareness was critical to the success of the ABAC Scheme. Mr Dominic Nolan stated:

I think the important thing is that, if someone has a concern and wishes to raise a complaint about anything to do with an alcohol advertisement that they see, they should be able to easily find out how they can do that. The number of avenues available for that to occur through the internet, through the ASB and through the relevant television stations clearly demonstrates that anyone who was searching for a way to make a complaint could very easily find one. Whether or not they are specifically aware of the ABAC scheme or otherwise I do not think is particularly relevant, given that that complaint can always be made and that people can always find out information if they are so motivated.⁴⁸

Limiting Alcohol Advertising Times

Advertising and Sport

1.62 The Bill aims to limit the broadcasting of television and radio alcohol advertisements to the period 9pm and 5am each day. Professor Sandra Jones noted that the primary impact of this would be to 'remove the current anomaly which allows alcohol advertising during live sporting telecasts, which is a big problem in this country'. She stated:

Our research and the research of others clearly shows that children have a very high awareness of and liking for alcohol brands, particularly due to their exposure to them during sporting telecasts and the links that those children make between those products, their sporting heroes and the codes.⁴⁹

1.63 Mr Todd Harper of VicHealth also described current regulations allowing alcohol advertising during sports as an 'anomaly' inconsistent with the broader goals of harm reduction and the spirit of the frameworks which seek to limit alcohol advertising exposure to children.⁵⁰ Similarly Mr Geoffrey Munro of the Australian Drug Foundation told the Committee:

47 VicHealth, *Submission 37*, p.11.

48 Mr Dominic Nolan, *Committee Hansard 6.5.08*, p.47 (ABAC Management Committee).

49 Professor Sandra Jones, *Committee Hansard 15.5.08*, p.1.

50 Mr Todd Harper, *Committee Hansard 6.5.08*, p. 2 (VicHealth).

No-one is challenging the need for alcohol advertising not to be shown during children's viewing hours. That restriction is placed there deliberately to protect children from alcohol advertising. It makes no sense at all to allow that advertising restriction to be undermined when alcohol brands sponsor sport, which is televised and which means that promotions and advertising of alcohol brands can be shown from 9 am or earlier right through the day. It makes no sense at all. We do not understand why that loophole exists.⁵¹

1.64 The Bendigo Community Health Services highlighted a number of benefits in restricting television advertising between 9 pm and 5 am. These included: reducing the impact of visual reinforcement; reducing the number of young people viewing alcohol advertisements; reducing the sensationalising of alcohol to young people and reducing the message that alcohol is a form of entertainment.⁵²

1.65 The Australian Christian Lobby argued that despite ABAC provisions to the contrary, alcohol is often linked with sporting success. It noted:

Alcohol manufacturers are prominent sponsors of sporting contests, which are usually screened throughout the day, meaning that such advertisements are inevitably seen by children and the use of celebrities, humour and mascots often appeals to them. This is all the more disturbing as the people featured in such ads are often sports stars, who children may seek to emulate.⁵³

1.66 Sporting organisations raised concerns about limiting alcohol advertising during sports coverage. The Australian Sports Commission indicated that many sports, particularly professional codes receive a large proportion of their income from alcoholic beverage sponsorship agreements or associated income. It estimated that sponsorship of sporting events in Australia is worth approximately \$1.25 billion per year and alcohol companies are represented among the top 40 sport sponsors. The Commission suggested that if the Bill was passed there would 'need to be a phasing in period that would allow sports the opportunity to attempt to seek alternative revenue streams'.⁵⁴

1.67 The Coalition of Major Professional Sports stated:

The hours of the proposed restriction on alcohol advertising have a strong overlap with the television and radio broadcasting coverage of all of the major professional sports – as much as 100% overlap of airtime in some instances. The professional sports business model in Australia is heavily underpinned by investment in the media rights of sports by free-to-air and pay television broadcasters. The business model of free-to-air broadcasters

51 Mr Geoffrey Munro, *Committee Hansard* 6.5.08, pp.9-10.

52 Bendigo Community Health Service, *Submission* 42, p.2.

53 Australian Christian Lobby, *Submission* 33, p. 6; also Festival of Light, *Submission* 60, p.6.

54 Australian Sports Commission, *Submission* 68, p.6.

is almost exclusively reliant on advertising and restrictions such as those proposed in this Bill have the potential to significantly reduce advertising income derived from alcohol producers. This has the potential to lead to a reduction in the rights fees payable by broadcasters to some sporting organisations, thus there is a possibility of compromising the primary commercial driver in modern professional sporting business models.⁵⁵

1.68 The Confederation of Australian Sports argued that sport has the potential to provide strong leadership in the area of responsible alcohol management and public education. It highlighted the involvement of many sporting clubs with the 'Good Sports' program organised with the Australian Drug Foundation. It argued that the measures in the Bill could result in significant financial cost to sporting clubs and associations and this may be 'counter productive as the financial cost to sport may affect its capacity to effectively implement programs that work to change the culture of drinking across the country'.⁵⁶

1.69 However it was noted in a number of submissions that tobacco had successfully been phased out of sports advertising and sponsorship. Professor Sandra Jones commented:

If you watch the tennis, for example, you almost never see an alcohol advertisement because they are sponsored by things like shampoo companies, razor companies. There will be other sponsors out there. It would need to be carefully managed to make sure it did not have a major impact on sporting codes and some sort of funding would need to be provided while that transition is occurring.⁵⁷

Advertising and consumption

1.70 The Committee received conflicting evidence regarding the link between the advertising of alcohol products and harmful consumption of alcohol, particularly by children and young people. This was seen as an important issue in consideration of the Bill as the measures to reduce the harms associated with alcohol consumption by restricting advertising assumes a link exists.

1.71 Submissions from alcohol industry groups, advertisers and broadcasters argued that there should be clear evidence that alcohol advertising is contributing to the misuse of alcohol before the current regulatory scheme is changed. The Distilled Spirits Industry Council of Australia argued that alcohol companies advertise in order to increase market share and influence consumer choice towards products with higher margins rather than to increase overall consumption of alcoholic products. They provided information indicating that despite a large increase in the amount of

55 Coalition of Major Professional Sports, *Submission 53*, p.3.

56 Confederation of Australian Sports, *Submission 46*, p.4.

57 Professor Sandra Jones, *Committee Hansard 15.6.08*, p.8.

advertising expenditure in Australia, the overall levels of alcohol consumption have remained relatively stable over the past decade.⁵⁸

1.72 Ms Flynn of FreeTV Australia also noted that a range of advertisements may attract the attention of children but that 'exposure' does not mean the advertisement is targeted to children or that, even if a child remembers an advertisement he or she is necessarily interested in the product being sold.⁵⁹ Similarly Ms Joan Warner of Commercial Radio Australia believed 'there is no evidence of a causal effect linking responsible radio advertising with irresponsible drinking patterns among the young'.⁶⁰

1.73 Australian Association of National Advertisers referenced research by Frontier Economics which suggested 'in a wide range of studies ...notably on alcohol ads ... (advertising bans) are ineffective in reducing harmful consumption and may even have perverse effects.' This research cited studies that suggest little evidence of a significant link between advertising and total sales of alcoholic drinks, or consumption per head or 'where a positive link has been found, it tended to be very slight'. The AANA also indicated that bans or restrictions on advertising alcohol had the potential for unintended or even perverse consequences such as driving advertising into less regulated media.⁶¹

1.74 However Professor Sandra Jones told the Committee there is 'clear evidence from both experimental studies and longitudinal research, exposure to alcohol advertising is clearly associated with drinking intentions and drinking behaviours among young people'.⁶² She described recent longitudinal studies from the United States which 'conclusively show that there is a very, very strong link with exposure to advertizing and drinking' and have found a strong association between the amount of alcohol advertising and marketing children are exposed to and the age they commence drinking and how much alcohol they consume.⁶³

1.75 Similarly the Festival of Light emphasised a recent review of seven international research studies which concluded:

The data from these studies suggest that exposure to alcohol advertising in young people influences their subsequent drinking behaviour. The effect was consistent across studies, a temporal relationship between exposure and drinking initiation was shown, and a dose response between amount of exposure and frequency of drinking was demonstrated.⁶⁴

58 Distilled Spirits Industry Council of Australia, *Submission 93*, p.47.

59 Ms Julie Flynn, *Committee Hansard 15.5.08*, p.22 (FreeTV Australia).

60 Ms Joan Warner, *Committee Hansard 15.5.08*, p.25 (Commercial Radio Australia).

61 Australian Association of National Advertisers, *Submission 51*, pp.3-4.

62 Professor Sandra Jones, *Committee Hansard 15.5.08*, p.1.

63 Professor Sandra Jones, *Committee Hansard 15.5.08*, p.2.

64 Festival of Light, *Submission 60*, p.4.

1.76 The Committee notes that the Victorian Parliamentary Drugs and Crime Prevention Committee examined this issue in detail during the *Inquiry into Strategies to Reduce Harmful Alcohol Consumption* in 2006. It concluded:

The Committee acknowledges that the issues and debates pertaining to alcohol advertising and its regulation are complex ones. Notwithstanding the highly persuasive sources and arguments in favour of stricter (statutory) interventions, the Committee believes any firm links between alcohol advertising and increased or harmful alcohol consumption (particularly among young people) remain inconclusive.⁶⁵

Advertising Standards

1.77 The Bill requires ACMA to determine standards to be observed by commercial television broadcast licensees which provide that the content of any advertisement for an alcohol product must not have strong or evident appeal to children and not suggest that alcohol contributes to personal, business, social, sporting sexual or other success in life. These terms appear to have been modelled on part of the ABAC Code. A number of submissions supported these provisions of the Bill as they believed the AAPS and the Adjudication Panel had not applied these standards effectively.

1.78 The Australian Christian Lobby noted that advertisements 'aimed at children or which link drinking or personal, business, social, sporting, sexual or other success are supposedly already banned by the Alcohol Beverage Advertising Code'. They argued that since the ABAC Scheme had not been successful in preventing infringing advertisements 'it is time for a legislative ban as proposed in this bill'.⁶⁶

1.79 Mr Brian Vandenberg outlined VicHealth's concerns that it had been very difficult for the ABAC Adjudications to adhere to the Code as terms such as 'promoting sexual or social success' were ambiguous and not defined.⁶⁷ The South Australian Government also noted that 'the interpretive nature of the Code has meant that in some cases advertisements that passed the pre-vetting process were later the subject of a complaint upheld through the complaints process'.⁶⁸

1.80 The Australian Drug Foundation argued that crucial concepts of the Code are not defined (eg. sexual success or offensive behaviour) so there is not a clear guide for the Adjudication Panel to determine whether an advertisement does breach the code. They argued the Panel had used a black letter approach to the Code and 'has interpreted advertisements most literally although advertising evokes and conveys

65 Victorian Parliamentary Drugs and Crime Prevention Committee, *Inquiry into Strategies to Reduce Harmful Alcohol Consumption*, Final report, Volume 1, March 2006, p.425.

66 Australian Christian Lobby, *Submission 33*, pp.9-10.

67 Mr Brian Vandenberg, *Committee Hansard 6.5.08*, p.7 (VicHealth).

68 South Australian Government, *Submission 92*, p.11.

meaning through allusion and inference rather than linear logic'.⁶⁹ They suggested that 'practice guidelines' be provided to guide the ABAC pre-vetters and the Adjudication Panel as to the interpretation of the Code.⁷⁰

1.81 The ABAC Management Committee have developed Guidance Notes to assist advertisers, agencies and decision makers under the ABAC Scheme including the AAPS pre-vetters and the Panel Adjudicators in interpreting the essential meaning and intent of the ABAC by providing clarifications through definition, explanations, or examples.⁷¹

1.82 Professor Lavarch, the Chief Adjudicator, gave evidence to the Committee that advertisements which come to the Adjudication Panel via a complaint are generally ones which two reasonable people 'looking at the ad—who are trying to apply it against the code, against the backdrop of community standards, and who have an understanding of the public policy considerations of why we are concerned about alcohol regulation and advertising—might come to different conclusions about'.⁷²

Scope of the legislation

1.83 A concern repeatedly raised in submissions was that the scope of the Bill should be expanded from television and radio advertising, and should form part of a comprehensive approach to address the harms caused by alcohol. Many submissions noted that alcohol advertising occurs via a number of media rather than just through television and radio such as posters, magazines, newspapers, internet, mobile phone SMS social marketing and promotional offers and events. The National Centre for Education and Training on Addiction commented that 'the largest part of a company's marketing budget is often invested into other promotional activities...'⁷³

1.84 FreeTV Australia stated that when beverage and retail advertising of alcohol products is considered, television advertising accounts for less than 25% of all annual advertising expenditure.⁷⁴ Commercial Radio Australia estimated only 5% of all annual advertising expenditure is via radio and highlighted that it did not broadcast children's programming.

1.85 FreeTV Australia argued for a media neutral approach to alcohol advertising:

Any proposed regulatory action to address alcohol advertising must take a consistent approach across media platforms, and not unduly focus on free-to-air television. Experience shows that if advertising is restricted on one

69 Australian Drug Foundation, *Submission 52*, p.11.

70 Mr Geoffrey Munro, *Committee Hansard* 6.5.08, p.20 (Australian Drug Foundation).

71 ABAC Scheme Management Committee, *Submission 70*, Attachment 2.

72 Professor Michael Lavarch, *Committee Hansard* 6.5.08, pp.41-42 (ABAC Adjudication Panel).

73 National Centre for Education and Training on Addiction, *Submission 26*, p.3.

74 FreeTV Australia, *Submission 56*, p.3.

platform, the advertising expenditure redistributes to other, competing media. There would therefore be no overall reduction in alcohol advertising.⁷⁵

1.86 The Foundation for Advertising Research also argued that the best practice approach was for advertising restrictions to apply to all media to ensure 'a level playing field'. Otherwise 'advertising will migrate to other media with no reduction in the total amount of advertising'.⁷⁶ Similarly the Advertising Federation of Australia argued the Bill 'will do nothing more than swill advertising spend necessarily away from those media into other channels that are not restricted in the same way' and that 'marketing spend on alcohol would remain the same, but radio and television spend would form a smaller percentage of the overall investment in alcohol advertising'.⁷⁷

1.87 Dr Alex Wodak questioned the priority given to regulating alcohol advertisements in the Bill compared to other strategies to address the harms caused by risky alcohol consumption. He highlighted the effectiveness of other policy approaches such as raising the price of alcohol products via taxation and restricting availability. He noted:

At best, restricting alcohol advertising and ending self regulation should be regarded as supportive but not primary strategies.⁷⁸

Labelling

The current system

1.88 Part 2.7 of the Australia New Zealand Food Standards Code (the Food Standards Code) provides specific labelling requirements for alcoholic beverages and food containing alcohol. Part 2.7 also sets out definitions of beer, fruit and vegetable wine, wine and wine products and spirits. Part 2.7 requires a declaration of alcohol by volume and 'standard drink' labelling and sets out labelling rules for representations of 'low alcohol' and 'non-intoxicating' and provides that food containing alcohol not to be represented as non-alcoholic.

1.89 In general, under the Food Standards Code the label on a package of food or a beverage must include a nutrition information panel in the following format (unless otherwise prescribed under the Code).

75 FreeTV Australia, *Submission 56*, p.3.

76 Foundation for Advertising Research, *Submission 23*, p.2.

77 Advertising Federation of Australia, *Submission 35*, p.4.

78 Dr Alex Wodak, *Submission 31*, p.2.

Figure 3: Nutrition information panel

NUTRITION INFORMATION		
Servings per package: (insert number of servings)		
Serving size: g (or mL or other units as appropriate)		
	Quantity per Serving	Quantity per 100g (or 100mL)
Energy	kJ (Cal)	kJ (Cal)
Protein	g	g
Fat, total	g	g
– saturated	g	g
Carbohydrate	g	g
sugars	g	g
Sodium	mg (mmol)	mg (mmol)
(insert any other nutrient or biologically active substance to be declared)	g, mg, µg (or other units as appropriate)	g, mg, µg (or other units as appropriate)

1.90 However the Standard 1.2.8 of the Code makes an exemption for alcoholic beverages standardised in Standard 2.7 from being required to display a nutrition information panel. A number of other foods and beverages are also exempted from the nutrition label requirements, often where they are standardised in other parts of the Code, including vinegar, tea, coffee, prepared filled rolls, where items they are sold at fund-raising events, or where they are in small packages.

1.91 In 2000, the then Australian New Zealand Food Authority (ANZFA) rejected an application from the Society Without Alcohol Trauma to amend the Food Standards Code to include a requirement that all alcoholic beverages be labelled with the statement: *This product contains alcohol. Alcohol is a dangerous drug.*

1.92 In the statement of reasons for the rejection of the application the ANZFA noted that the costs associated with alcohol were high, but stated:

Scientific evidence for the effectiveness of warning statements on alcoholic beverages shows that while warning labels may increase awareness, the increased awareness does not necessarily lead to the desired behavioural changes in ‘at-risk’ groups. In fact, there is considerable scientific evidence that warnings statements may result in an increase in the undesirable behaviour in ‘at risk’ groups.

In the case of alcoholic beverages, simple, accurate warning statements, which would effectively inform consumers about alcohol-related harm, would be difficult to devise given the complexity of issues surrounding

alcohol use and misuse, and the known benefits of moderate alcohol consumption.⁷⁹

1.93 ANZFA also noted that while the costs to industry of labelling alcoholic beverages with warning statements was not expected to be high, the scientific evidence did not show that warning statements were effective in modifying at risk behaviour in relation to consuming excessive amounts of alcohol. It noted the other public health and education initiatives already in place and the trend of decreasing alcohol consumption and decreasing alcohol-related costs and harm in Australia and New Zealand. In terms of regulatory impact, ANZFA concluded that requiring labelling of alcoholic beverages with warning statements 'would offer no clear benefits to government, industry and consumers but would introduce costs to government, industry and consumers'.⁸⁰

Label content

1.94 While a number of countries mandate warning labels on alcohol products, there is no international consensus or specific Codex standards on the use of warning labels on alcoholic beverages nor consistency of format and/or wording.⁸¹ Since 1989, all alcoholic beverage containers sold or distributed in the United States have been required to bear the following statement:

GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects.

(2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.

1.95 The Bill requires FSANZ to make a standard for labelling alcohol products which would include the NHMRC guidelines on the unsafe use of alcohol; the impact of drinking on populations vulnerable to alcohol; health advice about the medical side effects of alcohol; and the manner in which the information may be provided (including provision in text or pictorial form).

1.96 The labelling provisions received significant support in a number of submissions. For example the Alcohol Tobacco and Other Drugs Council of Tasmania Inc stated 'appropriate labelling can only improve consumers' awareness of safe drinking limits, the risks of excessive use, and help vulnerable people to avoid harm'.⁸²

79 Australia New Zealand Food Authority, *Statement of Reasons – Rejection of Application A359– Requiring Labelling of Alcoholic Beverages With a Warning Statement*, 01/01, 5 July 2000, p.1.

80 Australia New Zealand Food Authority, *Statement of Reasons – Rejection of Application A359– Requiring Labelling of Alcoholic Beverages With a Warning Statement*, 01/01, 5 July 2000, p.3.

81 Department of Health and Ageing, *Submission 96*, p.12.

82 Alcohol Tobacco and Other Drugs Council of Tasmania, *Submission 55*, p.2.

Other submissions supported the addition of labels to alcohol products but made suggestions as to the best method of implementation.

1.97 VicHealth recommended that the revised NHMRC guidelines for low-risk drinking should be the basis for the messages in the health information labels; that the labels should be both textual and graphic for ease of comprehension; and there should be strict guidelines on the wording, format and legibility standards relating to health information labels.⁸³

1.98 While Professor Sandra Jones supported the components of the Bill related to health information labels, she also noted the need for research into what the content and format of those labels should be. She argued that labels should be tailored to target relevant audiences and gave the example of 'labelling alcopop beverages with warnings about issues associated with the harms of binge-drinking' rather than other long-term health effects of consumption.⁸⁴

1.99 Industry groups objected to the proposed changes to labelling. The Distilled Spirits Industry Council of Australia described the measure as 'difficult to implement and in some cases unfeasible'. They argued that the size and complexity of the current NHMRC guidelines precluded their use on alcohol product labels and that the labelling requirements would impose a 'significant and recurring cost' on the industry.⁸⁵ Similarly the Winemakers Federation of Australia argued:

To include all of the above information is impractical or impossible and would require a label of considerable size and detail, making it unworkable for most packaging and ineffective in delivering a simple and accurate message for consumers.⁸⁶

1.100 The Northern Territory Government considered it debatable whether labels on alcohol products should be based on the NHMRC safe drinking guidelines. They commented:

This arises from factors such as the changing nature of the guidelines, the complexities associated with individual differences, the balancing of benefits and risks, the distinctions between long-term and short-term harms, and the relevance to different sub-groups of drinkers. It would be better to have more targeted approaches to the information generated by the NH&MRC so it can be delivered in more meaningful and engaging ways.⁸⁷

1.101 The Anglicare Victoria and Melbourne Anglican Social Responsibilities Committee raised their concern that the proposal for health warning labels on alcohol

83 VicHealth, *Submission 37*, pp.12-13.

84 Professor Sandra Jones, *Committee Hansard 15.5.08*, p.1.

85 Distilled Industry Council of Australia, *Submission 93*, pp.30-33.

86 Winemakers' Federation of Australia, *Submission 28*, p.6.

87 Northern Territory Government, *Submission 89*, p.4.

products contain information regarding 'the impact of drinking on populations vulnerable to alcohol' could inappropriately stigmatise or disproportionately target Australia's Indigenous communities.⁸⁸

1.102 A number of submissions argued that adding additional information or warning labels to alcohol products would assist consumers to make informed choices. For example the Network of Alcohol and Drug Agencies argued that labels provided a way for consumers to be informed at the 'point-of-drinking' that the product they are consuming can have a serious impact on their health and well-being.⁸⁹

1.103 The Australian Drug Foundation noted that adding labels to alcohol products does not interfere with a person's right to drink. They stated:

We see it as a basic consumer right to health information. We also see labels as being very important in reinforcing messages delivered through other mediums such as the media, schools, community education et cetera. We see labels as a very important way to educate the consumer, and the best time to do that is as they are consuming the product.⁹⁰

1.104 Several submissions also noted that Australian alcohol prepared for export often already includes a health warning label. Mr Scott Wilson of the Alcohol Education and Rehabilitation Foundation stated:

In 2008 I cannot understand why Australian consumers do not have the same rights as consumers of Australian alcoholic products that are exported right around the world. For example, if you are in the US, Canada, the UK or Europe and you pick up a bottle of Jacob's Creek or other Australian products, they have warning labels about consumption whilst pregnant, drinking and driving and using heavy machinery, but the same product here, which is produced in Australia, does not have a warning label.⁹¹

Consumer and nutritional information

1.105 The Alcohol and Other Drugs Council of Australia suggested that alcoholic products should also include nutritional information as part of the health information requirements noting that presently 'many young women who drink highly sweetened RTDs are unaware of how many calories they consume'.⁹² With young women being especially sensitive to their calorie intake, the ADCA emphasised the point by using an analogy of a young woman at a party who may have consumed six glasses of champagne being told that she had eaten six doughnuts:

88 Anglicare Victoria and Melbourne Anglican Social Responsibilities Committee, *Submission 45*, p.2.

89 Network of Alcohol and Drug Agencies, *Submission 43*, p.2.

90 Mr John Rogerson, *Committee Hansard 6.5.08*, p.9 (Australian Drug Foundation).

91 Mr Scott Wilson, *Committee Hansard 15.5.08*, p.10 (Alcohol Education and Rehabilitation Foundation).

92 Alcohol and Other Drugs Council of Australia, *Submission 9*, p.7.

'if you really looked at exactly what the calorific content is of what you've consumed, you'd know that it was the equivalent of six doughnuts and I don't think you'd have been eating six doughnuts.' So it is that sort of message that can also help people to get a better appreciation of some of the other associated harms of alcohol.⁹³

1.106 Similarly the Public Health Association of Australia suggested that the labelling requirements for alcohol products also outline information regarding food content as required by other food products sold in Australia. They commented:

The PHAA is keen to ensure that alcohol falls under the same banner as other foods with regard to identifying content. Foods and beverages other than alcohol are required to have this information so that consumers have the ability to assess the health impact that foods and additives might have on their own health and well-being. There is simply no good reason why alcohol should be exempt.⁹⁴

Efficacy of labelling alcohol products

1.107 Several submissions questioned the effectiveness of health warning labels on alcohol products. The Winemakers Federation of Australia described mandatory health warning labels as a 'simplistic and ineffective approach to public policy' and stated there was 'no evidence that shows that warning labels on alcohol products lead to behavioural changes amongst those groups that are at risk'.⁹⁵

1.108 Lion Nathan doubted the effectiveness of warning labels on alcohol products describing research from the United States conducted since the introduction of US federal labelling legislation in 1989 which found no strong evidence that labels have modified drinking behaviour. They noted that:

Disturbingly, there is also evidence that warning labels may have unintended consequences, with a survey of young American college students suggesting warning labels actually increased the attractiveness of alcohol.⁹⁶

1.109 The National Centre for Education and Training on Addiction noted that a number of other countries have introduced mandatory health warnings on the labels of alcoholic beverages. However while there was 'some evidence of consumer awareness of the messages conveyed by the warning labels, there is very little research evidence to suggest that a change in alcohol consumption has occurred as a result of these warnings'.⁹⁷ VicHealth argued that while evidence regarding the effectiveness of health information labels in altering drinking behaviour is inconclusive, there is

93 Mr David Templeman, *Committee Hansard* 6.5.08, p.48 (ADCA).

94 Public Health Association of Australia, *Submission* 18, p.6.

95 Winemakers' Federation of Australia, *Submission* 29, p.5.

96 Lion Nathan, *Submission* 53, pp.3-4.

97 National Centre for Education and Training on Addiction, *Submission* 26, p.1.

evidence to suggest a degree of increased awareness of alcohol related harms due to advisory labels, combined with the effects of other public health measures, may translate into a change in drinking behaviour.⁹⁸

Health information

1.110 The health benefits of moderate consumption were seen by some as making the case for health warnings on alcohol products more complex. Lion Nathan argued that 'alcohol, unlike many other drugs, can be consumed safely in moderate quantities and that moderate drinking can provide protection against a range of health problems'. It listed these as including cardiovascular disease, adult onset diabetes (type 2), cognitive function and dementia, and osteoporosis. Lion Nathan recommended a full review of the health benefits of moderate alcohol consumption be conducted before further consideration is given to health information labels.⁹⁹

1.111 However several submissions argued the harms caused by risky alcohol consumption significantly outweighed any health benefits of moderate consumption. For example the Salvation Army stated:

A popular argument against the introduction of warning labels is the believed health benefits of moderate consumption of alcohol. But in fact it is well established that the health benefits of alcohol consumption are limited to specific circumstances and sub-populations which do not include women of child-bearing age. According to various studies show... the protective factors apply only to men over 45 and women over 49, and protect only against atherosclerosis and thrombosis in these groups. Even in these groups the protective benefits are not likely to outweigh the risks.¹⁰⁰

Alcohol and Pregnancy

1.112 The health advisory labelling of alcohol products was supported by the National Organisation for Fetal Alcohol Syndrome and Related Disorders (NOFASARD). It noted that there is no research that has established a safe lower limit of alcohol exposure to a developing foetus but there is a significant body of accepted research that links excessive alcohol consumption by pregnant women with permanent physical and neurological birth defects, known as Fetal Alcohol Syndrome (FAS).¹⁰¹

1.113 NOFASARD also highlighted there was a very low level of awareness of FASD in Australia and that the lack of a warning label on alcohol products relating to the harm their use may cause, is a contributing factor to this low level of awareness. They stated that:

98 VicHealth, *Submission 37*, pp.12-13.

99 Lion Nathan, *Submission 53*, p.5.

100 Salvation Army – Australia Southern Territory, *Submission 48*, p. 8.

101 National Organisation for Fetal Alcohol Syndrome and Related Disorders, *Submission 24*, p.2.

We acknowledge that labelling alone may not be sufficient to help prevent all cases of FASD, however we believe a health advisory label on all alcohol products will raise awareness about alcohol's potential harm to the unborn baby and this is the critical first step in any programme designed to inform, influence and effect behaviour change.¹⁰²

1.114 The Committee notes that FSANZ is currently considering an application from the Alcohol Advisory Council of New Zealand to require health advisory labels on alcohol products advising women concerning the risks of consuming alcohol when planning to become pregnant or during pregnancy.¹⁰³ FSANZ is assessing the impact of low maternal alcohol consumption on the developing foetus and evaluating information on the incidence of FASD, the drinking patterns of women of childbearing age and pregnant women in Australia and New Zealand, and their knowledge of the risks to the foetus associated with consuming alcohol during pregnancy.¹⁰⁴

Food Standards Australia New Zealand (FSANZ)

1.115 FSANZ noted that it had been requested to consider mandatory health warning on packaged alcohol by the Australian New Zealand Food Regulation Ministerial Council and would need to undertake consumer and economic research to progress this report. In relation to developing a broader alcohol labelling system for consumers, FSANZ stated that work beyond what had been requested by the Ministerial Council would need to be in response to an application to amend the relevant alcohol labelling standard or via a proposal to do the same at the request of the Ministerial Council. It commented:

The Ministerial Council is responsible for the formulation of policy guidelines which FSANZ must have regard to in developing food regulatory measures. At present no policy formulation exists on the subject of alcohol labelling. In the absence of such policy it would be very difficult for FSANZ to develop a comprehensive alcohol labelling system.

The development of an alcohol information labelling system would also need to be guided by an assessment of costs versus benefits through a regulatory impact statement (RIS).

This further work would be resource intensive and without additional funding FSANZ would need to reprioritise its current work plan.¹⁰⁵

102 National Organisation for Fetal Alcohol Syndrome and Related Disorders, *Submission 24*, p.3.

103 Food Standards Australia New Zealand, *Initial Assessment Report – Application A576 – Labelling of Alcohol Beverages with a pregnancy health advisory label*, December 2007.

104 Food Standards Australia New Zealand, 'Pregnancy health advisory labels on alcoholic beverages', Factsheet, December 2007, p.1.

105 Food Standards Australia New Zealand, additional information received 6.6.08, p.1.

Constitutional limitations

1.116 Possible constitutional limitations with the amendments the Bill proposed to the *Food Standards Australia New Zealand Act 1991* were highlighted in the Department of Health and Ageing submission.

Food standards are mandated in the Australia New Zealand Food Standards Code (the Code) and not in the legislation that establishes Food Standards Australia New Zealand (FSANZ), its functions and powers and the process by which the Code may be amended. Therefore, the amendment proposed in the Bill is not appropriate.

The FSANZ Act is enabling legislation designed to provide FSANZ with powers to develop food standards within the framework of an inter-governmental agreement and a Treaty between Australia and New Zealand. The FSANZ Act has no effect on State or Territory food law due to Commonwealth Constitutional restraints. As a consequence States and Territories are responsible for enforcement of the Code. Therefore there would be no capacity for the States or Territories to enforce the proposed section 87A if it were to be inserted into the Act as it would not be considered a food standard for the purposes of the Code.

Proposed section 87A goes well beyond the enabling legislative scheme by suggesting to [impose an] obligation on FSANZ to make a standard for the labelling of alcohol and effectively imposing a law on the States, Territories and New Zealand.¹⁰⁶

1.117 The Australia New Zealand Food Standards Code is a compilation of individual standards which acquire legal force through an intergovernmental agreement, the Food Regulation Agreement, between the Commonwealth, states and territories. Clause 23 of the Food Regulation Agreement sets out the adoption process for those standards which FSANZ develops and approves. In effect, jurisdictions will only adopt or incorporate into their domestic food law standards that have been developed and approved by FSANZ. The proposed amendment in the Bill to the FSANZ Act does not contemplate the development process by FSANZ, so the Food Regulation Agreement would not enforce it.¹⁰⁷

1.118 This issue was also raised by the Federation for Advertising Research:

The procedures for establishing a new FSANZ standard are in the Act. There is extensive consultation and final adoption of the standard requires the agreement of the Governments of the States and Territories as well as New Zealand. Thus no one Government can impose a standard unless all of the other Governments agree.¹⁰⁸

106 Department of Health and Ageing, *Submission 96*, p.11.

107 Mr John Fladun, *Committee Hansard 15.5.08*, pp.32 – 33.

108 Federation for Advertising Research, *Submission 23*, p.3.

Similarly the South Australian Government noted there was an existing process for changes to labelling through FSANZ. It suggested 'any changes to food labelling should be pursued through an application to FSANZ for consideration'.¹⁰⁹

OTHER ISSUES

1.119 There are some apparent drafting issues with the Bill in the additional provisions amending the *Food Standards Australia New Zealand Act 1991*. The Australasian Associated Brewers noted that 'proposed Section 122A(3) of the Bill is poorly drafted as its intention is to void the entire 'commercial television industry code of practice' including provisions not relating to alcohol at all, while the equivalent radio code is not similarly threatened'.¹¹⁰

1.120 Similarly the objects of the Bill include '(a) to limit the times at which alcohol products are advertised on *radio and television* for the protection of young people' (*italic added*). However, the proposed Section 122A only refers to 'commercial television broadcasting licensees' rather than including commercial radio broadcasting licensees.

CONCLUSION

1.121 While the Committee supports the broad aims and objectives of the Alcohol Toll Reduction Bill 2007, it does not agree that the provisions of the Bill represent the best approach to address the harms caused by alcohol in the community. The inquiry highlighted some deficiencies with the current ABAC Scheme for pre-vetting alcohol advertisements and adjudicating complaints. However the Committee also notes the relatively low number of public complaints recorded concerning alcohol advertising in recent years.

1.122 The Committee does not agree there is a compelling case for a dual system of industry quasi-regulation and government regulation of alcohol advertising on television and radio through a new Division in the Australian Communication and Media Authority. Additional restrictions placed on radio and television advertisements are likely to simply shift the advertising of alcohol products to other media markets.

1.123 A consistent argument in evidence and from witnesses was that the measures in the Bill (restricting radio and television advertising and the labelling of alcohol products) would be most effective if they were part of a comprehensive strategy to address the harms associated with alcohol consumption. In Australia a broad national policy approach currently exists in the Ministerial Council on Drug Strategy and the National Alcohol Strategy 2006-2009. The Committee notes that the Ministerial Council on Drugs Strategy is currently developing a report for the Council of Australian Governments which will include consideration of possible standards and

109 South Australian Government, *Submission 92*, p.9.

110 Australasian Associated Brewers, *Submission 36*, p.9.

controls for alcohol advertising targeting young people. The Committee considers this policy framework is the appropriate means to develop and implement changes to alcohol advertising.

1.124 One area of alcohol advertising which particularly concerned the Committee is the exception for advertising of alcohol products during coverage of live sport on commercial television. This exception clearly results in children being exposed to alcohol advertising. The Committee notes that the members of the ABAC Scheme Management Committee have generally been receptive to suggestions for reform and improvement in the past. The Committee also notes the on-going monitoring and reform of the ABAC Scheme through the Ministerial Council on Drugs Strategy and the Monitoring of Alcohol Advertising Committee (MAAC). The Department of Health and Ageing gave evidence to the Committee that the issue of alcohol advertising during sports coverage had not been discussed with the ABAC Scheme Management Committee or at MAAC.¹¹¹ The Committee recommends that this subject should be raised in those forums and an appropriate strategy agreed between the parties to ameliorate concerns regarding alcohol advertising to children during sport coverage on television.

1.125 The Committee notes the industry initiatives regarding labelling and packaging of alcohol products including the uniform 'standard drinks' logo and the inclusion of responsible consumption messages on wine labels. It is encouraging that these measures have been developed voluntarily by the industry and have been implemented across a wide range of products. However the Committee remains concerned about the lack of consistent regulation in relation to the labelling, packaging and naming of alcohol products. Therefore, the Committee is recommending that the Ministerial Council on Drugs Strategy, the MAAC and the ABAC Scheme Management Committee consider the development of uniform rules in relation to the labelling, packaging and naming of alcohol products to be incorporated into the Alcohol Beverages Advertising Code and ABAC Scheme. Consistent with the Code, these rules should be designed to ensure that the labelling, packaging and naming of alcohol products does not conflict with 'the need for responsibility and moderation in liquor merchandising and consumption' and does not 'encourage consumption by underage persons'.¹¹²

1.126 The Committee recognises the limits on the Commonwealth Government in relation to food law and the existing regulatory framework set up under the Food Standards Agreement. The appropriate pathway for any proposed change to the labelling of alcoholic products is through assessment by Food Standards Australia New Zealand (FSANZ). The Committee notes the Australia and New Zealand Food Regulation Ministerial Council has already asked FSANZ to consider mandatory health warnings on packaged alcohol and supports this action. The Committee also

111 Department of Health and Ageing, *Committee Hansard* 15.5.08, p.53.

112 ABAC Management Committee, *Alcohol Beverages Advertising Code*, 2007, p.1.

recognises that the framework allows an applicant to propose amendments to food standards which can then be assessed by FSANZ.

1.127 This being said, the Committee does not believe that there is any reasonable argument for alcohol products to be treated differently to other food and beverages in terms of being required to display a nutritional information label. Consumers should be able to make informed choices about a particular alcoholic product.

RECOMMENDATIONS

Recommendation 1

1.128 The Committee recommends that the Ministerial Council on Drugs Strategy, the Monitoring of Alcohol Advertising Committee and the ABAC Scheme Management Committee consider:

- **additional safeguards to ensure that alcohol advertising during sport coverage, if it continues, does not adversely influence children and young people; and**
- **developing uniform rules in relation to the labelling, packaging and naming of alcohol products and incorporating them into the Alcohol Beverages Advertising Code and the ABAC Scheme.**

Recommendation 2

1.129 The Committee recommends that the Commonwealth Government through the Australian and New Zealand Food Regulation Ministerial Council request Food Standards Australia New Zealand consider whether to develop standards in relation to nutritional information panels for alcohol products.

Recommendation 3

1.130 While the Committee supports the broad aims of the Alcohol Toll Reduction Bill 2007, it does not agree that the provisions in the Bill represent the best approach to addressing the serious harms caused by alcohol in the community. Since the introduction of the Bill, the Commonwealth Government has announced a National Binge Drinking Strategy and there have been specific initiatives from the Ministerial Council on Drug Strategy on alcohol advertising and from the Australian New Zealand Food Regulation Ministerial Council on alcohol product health warning labels. In the opinion of the Committee, these policy initiatives represent more comprehensive and effective means to tackle the problems associated with alcohol. Consequently, the Committee recommends the Bill not be passed.

Senator Claire Moore
Chair

18 June 2008

Family First

Dissenting Report

Inquiry into the Alcohol Toll Reduction Bill 2007

The abuse of alcohol is a serious problem causing long-term health problems, injury, assaults and death. It is estimated to cost Australia \$15.3 billion a year.

Family First believes that solving the binge drinking problem requires a broad range of approaches, with action required from all levels of government. Family First's *Alcohol Toll Reduction Bill 2007* focuses on a number of key elements:

- Providing compulsory health information labels on all alcohol products;
- Limiting the times alcohol can be advertised on television and radio to after 9pm and before 5am; and,
- Ensuring broadcast alcohol advertisements are pre-approved and regulated by the Australian Communications and Media Authority, rather than by an industry-run group.

Family First is disappointed that the Committee has ducked the important issues raised in the *Alcohol Toll Reduction Bill*. The Bill identifies key deficiencies in the regulation of alcohol advertising and the lack of consumer health information labels on products that are known to be dangerous if misused.

The Committee's recommendations do not even set out a clear position on whether the loophole that allows alcohol advertising with daytime live sports broadcasts should remain. The Committee should have recommended this loophole be deleted from the code, so that children are protected. There is clear evidence of the harm this loophole causes.

By adopting Family First's changes, the Federal Government could encourage a healthy drinking culture and cut the human and financial toll of alcohol on the Australian community.

The alcohol problem

The Royal Australasian College of Physicians says Australia's binge drinking problem is serious, with "far more years of life ... lost to alcohol in the form of death and

disability than for tobacco or other illegal drugs ... Each year there are an estimated 3,500 alcohol related deaths."¹

The Alcohol and other Drugs Council of Australia pointed out that:

... another 10 000 [people] need ongoing medical treatment through alcohol-related harm. The annual cost in alcohol related absenteeism is 7.5 million working days and the economic impact of its abuse is \$15.3 billion. Alcoholic beverages cause substantial health and social harm to the drinker and to others.²

The World Health Organisation has also identified alcohol as a major problem, saying "... alcohol is the third most important avoidable cause of death and disability in developed societies like Australia. Given this finding, alcohol is not an ordinary commodity and should not be treated as one."³

A report published by the Australian Institute of Health and Welfare last year stated that:

... binge drinking is highly prevalent among teenagers and young adults in Australia. In short, the report found that in the case of alcohol:

- 84% aged 14 years and over had consumed alcohol in the year prior to the survey
- 9% drank alcohol on a daily basis
- 41% on a weekly basis
- 33% on a less than a weekly basis
- the proportion of daily drinkers in the 12 months prior to the survey, 10% of Australians aged 14 years and over drank alcohol at risky or high levels; and
- the average age of initiation to alcohol was 16 years for males; 18 years for females.

The report noted that in 2003 some 3430 deaths were attributable to alcohol, compared with 1705 deaths as a result of illicit drug use (AIHW 2007).⁴

A counselling centre gave a picture of the human cost of alcohol abuse:

... we see the terrible end result of alcohol abuse [in] ... marriage breakdown, physical abuse related to alcohol or simply parents sharing their deep concern about one of their teenagers who is drinking too much. We facilitate support groups for families struggling with this and hear the

1 Royal Australasian College of Physicians, submission 67

2 Alcohol and other Drugs Council of Australia, submission 9

3 Alcohol and other Drugs Council of Australia, submission 9

4 Alcohol and other Drugs Council of Australia, submission 9

stories. It is time government stepped in and took this issue seriously for the sake of the community. It is time the government listened to those affected by alcohol abuse and not just the alcohol industry.⁵

Effect of alcohol advertising

Alcohol advertising is a very powerful method used by the alcohol industry to influence the consumption of alcohol in the Australian community.

The Committee was told that there is clear evidence "... that links the advertising and promotion of alcoholic beverages and hazardous and harmful use of alcohol. This is of particular relevance to the youth market (both underage as well as young adults)."⁶

Professor Sandra Jones told the inquiry that:

... we have clear evidence that young people are exposed to alcohol advertising and we have clear evidence, from small-scale studies in Australia, that children are very much aware of it and that it influences their drinking. We also have evidence ... from some very extensive longitudinal studies in the US that that exposure leads to increased drinking amongst underage drinkers.⁷

Further to that, Professor Jones said that the "... longitudinal studies from the US ... have been able to put specific numbers on [the very strong link with exposure to advertising and drinking] through the number of advertisements that children see and the direct link to their increased alcohol consumption—they consume alcohol earlier."⁸

The National Centre for Education and Training on Addiction states that:

Image advertisements ... attempt to engage the target audience by developing an idealised image or lifestyle associated with the product that reflects the target audience's goals. For young people, the goals are generally focused on fun, relaxation, romance, adventure and sexual or social acceptance. Importantly, it is these same themes and appeals that appear most prominently in alcohol advertising, particularly in youth-oriented television programs and magazines. Young people find meaning in their lives through their patterns of consumption, and alcohol marketing is believed to influence the formation of their social identity. In addition, the pervasiveness of alcohol advertising is likely to have a cumulative effect not only on the target audience, but also on others who may be incidentally exposed to it.⁹

5 Someone Who Cares Inc, submission 21

6 Centre for Behavioural Research in Cancer Control, submission 30

7 Professor Jones, Committee Hansard, 15 May 2008, page 5

8 Professor Jones, Committee Hansard, 15 May 2008, page 2

9 National Centre for Education and Training on Addiction, submission 26

It is clear that alcohol advertising can influence alcohol consumption and in particular can have an effect on young people including those who are under the legal age for drinking alcohol.

Current regulation of alcohol advertising

Alcohol advertising is regulated by a number of voluntary industry codes including the Australian Association of National Advertisers Code of Ethics, the Commercial Television Industry Code of Practice, the Commercial Radio Code of Practice and the Alcohol Beverages Advertising Code (ABAC).¹⁰

For example, the Commercial Television Industry Code of Practice puts restrictions on the broadcast of alcohol ads during the day in children's viewing times, but permits an "... exemption for live sport, for weekends and public holidays [which] allows alcohol advertising as an accompaniment to a 'live' sporting broadcast, [to be] shown at any time of day."¹¹

The main code dealing with alcohol advertising is the Alcohol Beverages Advertising Code (ABAC). The code sets out detailed requirements for alcohol ads with the aim of supporting "... the responsible use of alcohol and ensuring that alcohol advertising does not encourage irresponsible use of the product."¹² The Australian Associated Brewers offered a summary of the operation of the ABAC scheme:

... there are four potential decision points to test compliance with the standards of the Code:

1. Proposed advertisements are checked by company and advertising agency staff against the Code, then;
2. Pre-vetted by non-company assessors using the Alcohol Advertising Prevetting Service (AAPS).
3. Any complaints (by consumers or non-consumers, e.g. the Community Alcohol Action Network - CAAN) are referred to the ABAC Chief Adjudicator.
4. Where a complaint is upheld, the company is asked to withdraw or modify an advertisement ...¹³

Free TV Australia notes in addition to these points that complaints to the Advertising Standards Board (ASB) on alcohol advertising are sent to ABAC, but some are determined to be taste and decency matters and are returned to the ASB.¹⁴

10 Department of Health and Ageing, submission 96

11 Free TV Australia, submission 56

12 ABAC Scheme Management Committee, submission 70, Attachment 1

13 Australian Associated Brewers, submission 36

14 Free TV Australia, submission 56

Pre-vetting or pre-approval of advertisements

The Department of Health and Ageing notes that pre-vetting of alcohol advertisements is not universal and that 20 per cent of the top 50 alcohol advertisers are not members of the ABAC scheme:

Pre-vetting of alcohol advertisements is encouraged under the Scheme for all ABAC signatories. Of the top 50 alcohol advertisers, 40 are ABAC signatories. Pre-vetters consider proposed advertisements against the ABAC at an early stage of campaign development to assess their compliance with the Code before they are published or broadcast.¹⁵

Further, the ABAC Management Committee notes that "individual alcohol beverage producers may use the AAPS [Alcohol Advertising Pre-vetting Scheme] pre-vetting service"¹⁶, rather than *must* use the service.

It is difficult to determine the detail of how pre-vetters make their judgements given "... any opinion expressed by a pre-vetter in respect to a matter which is submitted for pre-vetting is confidential to the producer, the pre-vetter and the representative of their respective industry association."¹⁷

The Committee received evidence that "... the current industry prevetting system is ineffective in protecting young people from inappropriate messages about alcohol ...".¹⁸ Professor Jones noted that:

We have recently completed a series of studies assessing the apparent compliance of alcohol advertising with the revised ABAC code which show no improvement since its introduction in 2004, either in terms of expert assessment of board decisions (Jones et al. 2008) or young people's perceptions of messages in alcohol advertising (Jones et al. under review).¹⁹

Family First believes the pre-vetting system is not effective in screening out all advertisements that breach the ABAC.

Complaints from the public

Regulation of alcohol advertising in Australia is also a complaints-based process that implies that if there are no complaints, or if a complaint is rejected, there is no problem. Some submissions emphasised pointed to a lack of complaints as proof that the system is running well.

15 Department of Health and Ageing, submission 96

16 ABAC Scheme Management Committee, submission 70, Attachment 1

17 ABAC Scheme Management Committee, submission 70, Attachment 1

18 Professor Sandra Jones, submission 47

19 Professor Sandra Jones, submission 47

But it is clear that the number of complaints does not reflect the level of community disquiet with alcohol advertising. Free TV Australia says "... there is little evidence of community dissatisfaction ... the number of alcohol advertisements which are the subject of viewer complaint through the ABAC Scheme remains low"²⁰ but admitted in the hearings "lots of people do not want to make a formal complaint; they just want to make sure that someone has heard them and listened to what they had to say."²¹

The National Centre for Education and Training on Addiction noted that:

The current ABAC system depends upon complaints being made and upheld before advertisements are withdrawn. Nevertheless, by the time a complaint is made and subsequently upheld, the intended period of advertising for the product is usually completed. In 2006 a total of 53 complaints (relating to 26 adverts) were received by the ABAC Adjudication Panel. The Panel considered that 9 of these complaints fell within the Code and ultimately upheld 2 of the complaints.²²

The Committee also received evidence from VicHealth that only three per cent of adults know about the ABAC scheme and therefore few have the opportunity to complain. Of the 30 per cent of people concerned about alcohol ads, only two per cent had lodged a complaint. The main reason people gave for not lodging a complaint was they did not think it would make a difference.²³

The Royal Australasian College of Physicians emphasised the importance of "promoting an advertising system which encourages people to complain ...".²⁴

There are however concerns about how complaints are examined once they reach the ABAC Complaints Adjudication Panel:

The Complaints Panel has interpreted advertisements most literally although advertising evokes and conveys meaning through allusion and inference rather than linear logic ... Although the preamble says the spirit of the code is as important as the letter, the Complaints Panel interprets advertisements according to the "black letter" of the code.²⁵

Professor Sandra Jones has co-authored a number of published studies on the ABAC scheme which demonstrate that in many cases both experts and young people believe the code is being breached, while the ABAC complaints panel does not agree:

We have recently completed a series of studies assessing the apparent compliance of alcohol advertising with the revised ABAC code which show

20 Free TV Australia, submission 56

21 Ms Flynn, Committee Hansard, 15 May 2008, page 23

22 National Centre for Education and Training on Addiction, submission 26

23 VicHealth, submission 37, page 11

24 Royal Australasian College of Physicians, submission 67

25 Australian Drug Foundation, submission 52, page 11

no improvement since its introduction in 2004, either in terms of expert assessment of board decisions (Jones et al. 2008) or young people's perceptions of messages in alcohol advertising (Jones et al. under review).²⁶

For instance, the makeup of some advertisements was found to appeal more to people under the drinking age than to adults:

Despite the ABAC scheme's rules which discourage advertising that has "strong or evident appeal to children or adolescents", research shows that a substantial amount of alcohol advertising is communicated to young people. For example, several advertisements for alcoholic beverages screened on television in metropolitan Melbourne were found to be more likely to reach 13 to 17 year olds than adults ...²⁷

Even in cases where advertisers are found to be in breach of the ABAC, advertisers cannot be forced to stop the ad and there are no sanctions.²⁸ The Australasian Faculty of Public Health Medicine is concerned that this means advertisers can breach ABAC without any consequences.²⁹

Family First believes the ABAC complaints system is not working effectively to screen out all alcohol advertisements that breach the code.

Exemption for alcohol ads screened with live televised sport

The large number of codes that cover the area of alcohol advertising sometimes means that what one says is overridden by the other. Someone reading the Children's Television Standards, for example, would see that:

No advertisement or sponsorship announcement broadcast during a C program or P program that is broadcast outside a C period or P period, or in a break immediately before or after such a C program or P program, may identify or refer to a company, person or organisation whose principal activity is the manufacture, distribution or sale of alcoholic drinks. This requirement is in addition to the requirements of the Commercial Television Industry Code of Practice.³⁰

Given the Standards state C programs and P programs are broadcast between 7am and 8.30pm, parents might think their children are protected from alcohol advertising between those times.

26 Professor Sandra Jones, submission 47

27 VicHealth, submission 37, page 10-11

28 Australian Drug Foundation, submission 52, page 11

29 Australasian Faculty of Public Health Medicine, submission 57, page 3

30 Paragraph 23(4), Children's Television Standards, compilation dated 1 July 2005, see: http://www.acma.gov.au/webwr/aba/contentreg/codes/television/documents/chstdvarn_03.pdf

But the Australian Drug Foundation points out that these Standards are overridden by the Commercial Television Industry Code of Practice, which removes that protection for children and:

... allows alcohol advertising during the day 'as an accompaniment to the live broadcast of a sporting event on weekends and public holidays' and 'may be broadcast as an accompaniment to the live broadcast of a sporting event if the sporting event is broadcast simultaneously across a number of licence areas'.³¹

As a result of this special exemption for alcohol ads during live weekend and public holiday sporting broadcasts:

... children are exposed to alcohol advertising on television between the hours of 5.00 am and 8.30 pm, when watching live sport broadcast on weekends and public holidays or when sport is broadcast live from a different time zone. Given the popularity of sport in Australia, and the amount of sport broadcast on weekends and across time zones, this is a significant fault in the current regulatory code.³²

This means that "... Australian children who watch televised sport are potentially exposed to a large number of alcohol advertisements – further enhancing the perceived association between alcohol consumption and sport (and between drinking and sporting success)."³³

Australian Television Audience Management (OzTAM) figures show that more than 12 per cent of the audience for weekend television sport is under 18 and two thirds of that number is 12 or younger.³⁴

Professor Jones gave evidence to the Committee at the Canberra hearing that exposing children to alcohol ads does have an impact:

Our research and the research of others clearly shows that children have a very high awareness of and liking for alcohol brands, particularly due to their exposure to them during sporting telecasts and the links that those children make between those products, their sporting heroes and the codes.³⁵

In Family First's second reading speech for the *Alcohol Toll Reduction Bill* it was pointed out that David Boon was a great cricketer, but he is just as well remembered for knocking off 52 tinnies on a flight to London. That made him the logical choice to

31 Australian Drug Foundation, submission 52, page 5

32 Australian Drug Foundation, submission 52, page 5

33 Professor Sandra Jones, submission 47

34 Free TV Australia, submission 56, page 15

35 Professor Jones, Committee Hansard, 15 May 2008, page 1

promote beer. 'Boonie' is held up to be a hero so of course Victoria Bitter used him in their ads. But is this the message we want to send to children?

The National Drug Research Institute states that:

- "children under the age of 12 were exposed to 1 in every 3 alcohol ads seen on average by mature adults";
- "under-age teenagers (13-17 years) were exposed to [alcohol advertising] levels that were virtually identical to that of young adults (18-24 years)";
- that teenagers are in particular danger from binge drinking with "over 80% of all alcohol consumed by 14-17 year olds ... drunk at risky/high risk levels for acute harm"; and,
- "about 50 teenagers a year die from alcohol related injury or disease."³⁶

Yet, despite the evidence of the impact television alcohol ads can have on children and teenagers, it has not even been a blip on the ABAC Management Committee's radar. The Federal Government's representative told the Committee "I do not think that during my time on the [ABAC management] committee there has been any discussion on [alcohol advertising during sport programs]."³⁷

The 2007 National Drug Strategy Household survey reveals that "72% of the population support restricting TV advertising of alcohol products until after 9.30pm ..."³⁸

Family First believes the special exemption which allows alcohol ads to be broadcast with live sport during the day on weekends and public holidays should be abolished.

The effectiveness of voluntary industry codes

The evidence from a range of studies is that industry self-regulation of alcohol advertising, as occurs in Australia, does not work:

- "Various studies both in Australia and internationally have shown that voluntary codes of advertising are an ineffective method of regulating advertising content. It is apparent from such studies and our own observations that the current regulation of alcohol advertising in Australia is seriously inadequate."³⁹

36 National Drug Research Institute, submission 25

37 Ms Hart, Committee Hansard, 15 May 2008, page 32

38 Australian Institute of Health and Welfare, *2007 National Drug Strategy Household Survey: first results*, 27 April 2008. See: <http://www.aihw.gov.au/publications/index.cfm/title/10579>

39 Alcohol Education and Rehabilitation Foundation, submission 27

- "A recent review of the self-regulatory framework for alcohol advertising in New Zealand concluded that alcohol advertising contributes to the drinking culture in that country."⁴⁰
- "The Alcohol & Public Policy Group report that countries with greater restrictions on advertising have fewer alcohol-related problems (International Centre for Alcohol Policies 2001). Further, they conclude that industry self-regulation tends to be largely ineffective, and that an effective system requires an independent body with the power to veto advertisements, rule on complaints and impose sanctions (International Centre for Alcohol Policies, 2001)."⁴¹

Dr Alex Wodak, who daily sees the impact of alcohol abuse as Director of the Alcohol and Drug Service at St Vincent's Hospital in Sydney, stated:

Advertising promotes the view that alcohol can be consumed without risk. The alcohol beverage industry in Australia decides the rules, appoints the judge and jury and then runs the system ... Government regulation of alcohol advertising has been found to be effective whereas voluntary codes are ineffective.⁴²

Professor Jones stated that there is a need for "... an externally imposed and monitored ban [on messages which the industry themselves have already stated to be unacceptable] as the industry appears to have been unable or unwilling to enforce their own code despite several reviews and repeated assertions that they would do so."⁴³

The evidence is that under industry self-regulation, state and federal governments have largely taken a back seat.

The submission of the Queensland Government revealed that a "Monitoring of Alcohol Advertising Committee" (MAAC) was established by the Ministerial Council on Drug Strategy in May 2006⁴⁴, but this Committee has disappeared without trace, not having issued any public assessments of the effectiveness of the regulation of alcohol advertising.⁴⁵

There is an administrative inertia caused by multiple committees, multiple codes and no central point of responsibility for overall alcohol marketing. The haze of this sort of ineffective regulation suits an industry that would prefer no outside interference.

40 National Centre for Education and Training on Addiction, submission 26

41 Professor Sandra Jones, submission 47

42 Dr Alex Wodak, submission 31

43 Professor Sandra Jones, submission 47

44 Queensland Government, submission 94; also noted by the Winemakers' Federation of Australia, submission 28

45 Ms Hart, Committee Hansard, 15 May 2008, page 30-31

The Federal Government should take control of regulation of this important area, to ensure an effective, publicly accountable system to protect the Australian public.

Health information labels

Family First wants health information labels on all alcohol products so that all Australians are aware of the dangers of abusing alcohol.

Alcohol companies now publish information on the number of standard drinks in a bottle or can. That's great, but how can people make use that information without knowing how many standard drinks they can have without impacting on their health?

The Australian Drug Foundation argued that:

... access to information on how to use a product (such as alcohol) as safely as possible is a basic consumer right which should accompany the sale and supply of the product. It is especially relevant to products such as alcohol which have known health and safety risks when used inappropriately. Labelling alcohol products is efficacious because the information will be available to those in most in need of it - purchasers and consumers - and at the time when it is most relevant to them.⁴⁶

The Alcohol Education and Rehabilitation Foundation pointed out that alcohol should have at least equal treatment to food products:

Labelling of food products is clearly designed to provide information so that consumers can make an informed choice about using or consuming a particular product. No less a standard should be applied to alcohol.⁴⁷

There has been considerable public support over time for the introduction of alcohol warning labels. The National Drug Strategy Household Surveys for 2001, 2004 and 2007 have shown public support of 71, 69.9 and 71 per cent respectively.⁴⁸

It was also noted that:

A public opinion poll of Victorians found that 68% of those surveyed support the idea of all alcohol products, by law, carrying health warnings with phrases such as "Drinking alcohol regularly whilst pregnant can harm your unborn child" or "Alcohol is a drug and it can be addictive". Thirteen percent of respondents also told the interviewers that they would buy less alcohol if warnings were on products."⁴⁹

46 Australian Drug Foundation, submission 52

47 Alcohol Education and Rehabilitation Foundation, submission 27

48 Australian Drug Foundation, submission 52; Australian Institute of Health and Welfare, 2007 *National Drug Strategy Household Survey: first results*, 27 April 2008. See: <http://www.aihw.gov.au/publications/index.cfm/title/10579>

49 Australian Drug Foundation, submission 52

Professor Jones from the University of Wollongong pointed out that alcohol warning labels would be useful if there was enough work done on identifying effective messages:

Messages that resonate very clearly with young people involve things that do happen to them. That sort of thing would be effective ... The other thing that is very clear from our research and from other research that has been done by other organisations is that young people are very concerned about their friends. They need a message that would assist them and empower them to communicate with their friends to raise those things in discussion. That is something that came up very clearly. 'If I was with my friends and I saw those labels on the drinks, it would enable me to bring up that discussion.' Messages like 'Drinking excessive alcohol can lead to unsafe behaviour' and that it can lead to hangovers—that is one they like, though it does not have a particularly negative health consequence in the long-term.⁵⁰

Australian alcohol producers already print warning labels on alcohol exported to the United States⁵¹ and by the end of the year will have to do the same for alcohol exported to Britain.⁵²

It is also important to integrate the health information messages into a broader alcohol information campaign, in much the same way as the successful campaigns on smoking:

There are important lessons to learn from the longstanding campaign for tobacco control. The tobacco labelling experience offers strong evidence that warning labels can be effective not only in increasing information and changing attitudes, but also in changing behaviour ...

Labelling will also act to reinforce the messages, information and education being delivered through other strategies such as media campaigns, school and community education programs, websites etc. It is, therefore, important that the wording of the health advice be compatible and consistent with the broader health messages being delivered.⁵³

But it is not clear if a coordinated campaign linking health information labels to broader television, radio and print campaigns is possible under the current system of regulation which appears inflexible.⁵⁴

In reply to a question on notice, FSANZ stated that in response to the Council of Australian Governments' request that it "... consider mandatory health warnings on

50 Professor Jones, Committee Hansard, 15 May 2008, page 4

51 Australian Drug Foundation, submission 52

52 National Centre for Education and Training on Addiction, submission 26

53 Australian Drug Foundation, submission 52

54 Mr Fladun, Committee Hansard, 15 May 2008, page 33

packaged alcohol ..." it "... may only go part way towards a 'best alcohol information labelling system'".⁵⁵ This is very disappointing.

FSANZ's response indicated a cumbersome, under-funded system that could get in the way of best practice health information labels for alcohol products:

The Ministerial Council [Australia New Zealand Food Regulation Ministerial Council] is responsible for the formulation of policy guidelines which FSANZ must have regard to in developing food regulatory measures. At present no policy formulation exists on the subject of alcohol labelling. In the absence of such policy it would be very difficult for FSANZ to develop a comprehensive alcohol labelling system.

The development of an alcohol information labelling system would also need to be guided by an assessment of costs versus benefits through a regulatory impact statement (RIS).

This further work would be resource intensive and without additional funding FSANZ would need to reprioritise its current work plan.⁵⁶

FSANZ provided the Committee with a table of food labelling requirements it has already mandated, but these set basic requirements for information that must be provided and do not appear to provide for prominent health information labels like those that apply to cigarettes.⁵⁷

Family First wants best practice prominent health information labels on alcohol products. These labels could be part of a broader coordinated government alcohol information campaign. This appears unlikely to happen with FSANZ as the responsible agency and it may be appropriate to move the responsibility for alcohol to a more responsive agency.

Scope of the bill

A number of submissions suggested the scope of the bill should be widened to cover all forms of alcohol advertising.⁵⁸ Family First would welcome the chance to work with the government to expand the coverage of the bill.

Conclusion

Family First is disappointed that the Committee has ducked the important issues raised in the *Alcohol Toll Reduction Bill*. The Bill identifies key deficiencies in the

55 FSANZ response to questions on notice asked by Senator Fielding at the hearing on 15 May 2008, received 6 June 2008

56 FSANZ response to questions on notice, received 6 June 2008

57 FSANZ response to questions on notice, received 6 June 2008

58 Eg Foundation for Advertising Research, submission 23; Free TV Australia, submission 56

regulation of alcohol advertising and the lack of consumer health information labels on products that are known to be dangerous if misused.

The Committee's recommendations do not even set out a clear position on whether the loophole that allows alcohol advertising with daytime live sports broadcasts should remain. The Committee should have recommended this loophole be deleted from the code, so that children are protected. There is clear evidence of the harm this loophole causes.

Instead the Committee has recommended referring the problem for consideration by two more committees, both of which have failed to act on this problem in the past.

The Committee received good evidence on how alcohol health information labelling might be effective. It should have made an in principle recommendation for warning labels and called on the government to commit the necessary resources to this important public health problem.

Family First recommends that the *Alcohol Toll Reduction Bill 2007* be passed, with amendments to address the scope of the bill and to ensure that the objectives of the bill are achieved.

Senator Steve Fielding
Family First Leader

Alcohol Toll Reduction Bill 2007

Minority Report by the Australian Greens

Senator Rachel Siewert

The Australian Greens are concerned by the consistently high levels of alcohol-related harm experienced in Australia over the last two decades. This is not the sudden crisis some would have us believe. It has been an issue of great concern for decades that imposes significant costs upon the whole of the community. In 2005 the estimated cost was \$15.2 billion, while the estimated revenue was \$5 billion.

We note the evidence to the committee that the real rapid growth in risky drinking occurred predominantly during the 1980's, and that rates of alcohol consumption and risky drinking behaviour have remained at high and relatively stable levels since then.

The Australian Greens are disappointed that this report did not go further in its findings and recommendations given the strength and breadth of the evidence presented. We note that similar evidence of the costs and impacts of problem drinking, and of the need for a comprehensive and integrated approach to tackling these issues is also being presented to another ongoing Senate inquiry.

We agree with the committee report that the measures proposed within the Alcohol Toll Reduction Bill are flawed and do not constitute an approach which is either comprehensive enough or has been sufficiently thought through to prove an effective remedy to reducing the incidence of alcohol-related harm, particularly for young Australians.

The Australian Greens support the intention of this Bill to close the loophole that allows alcohol advertising during live daytime sports telecasts. We agree that this clearly contradicts the logic and the intent of the restrictions on advertising alcohol to children as contained within the code and there is no justification for this loophole. However, we also note the evidence on the viewing patterns of 14-19 year olds suggests that merely restricting television alcohol advertising until after 9pm at night (and failing to address pay TV) will do little to reduce their exposure to these ads and more comprehensive advertising and sponsorship bans are clearly needed.

There has been a consistent theme throughout the evidence presented to this inquiry that an integrated and sustained national campaign similar in the scale and longevity to previous Australia-wide campaigns addressing the harms caused by tobacco is required to change our drunken culture and reduce the level of alcohol-

related harm and violence, especially among the young and those at greatest risk of harm.

The measures proposed within the Alcohol Toll Reduction Bill demonstrate the limitations of a populist approach to addressing one aspect of a complex problem, and would be unlikely to have any significant impact on problem drinking should they be implemented in their current form. Even if the government were to take up the intent of these recommendations and put forward amendments to correct their legislative failings, these measures would still be unlikely to have any impact of consequence in isolation.

The Australian Greens do not agree with recommendation 3 of committee report, to the extent that it suggests that the current approach being taken by the Commonwealth Government through its National Binge Drinking Strategy and the initiatives of Ministerial Councils on alcohol advertising and health warnings constitute a sufficiently comprehensive strategy.

In particular, the activities of the Monitoring of Alcohol Advertising Committee as directed by the Ministerial Council on Drug Strategy are merely to monitor alcohol advertising and the current regulatory system. This is clearly insufficient as there was substantial evidence presented to the committee that the current system of industry self regulation is not working, despite several reviews and promises of reform. The evidence from the research undertaken by Professor Sandra Jones is particularly compelling on this point.

We believe that there is already sufficient evidence on which to act, and the high levels of alcohol-related harm mean that we should act quickly and comprehensively. We also note in passing the failure of the previous government to act on this pressing issue during its eleven years in office.

In light of a decade of evidence that attempts to reform the process of self-regulation have made little difference to the preponderance of inappropriate advertising of alcohol, we believe that as a minimum course of action the Government should move to enforceable regulation of alcohol advertising, sponsorship and promotions, not simply to recommend more monitoring.

The Australian Greens believe that the most appropriate course of action is to ban alcohol advertising, sponsorship and promotions altogether – as part of a wider, well-resourced and sustained community education campaign and harm minimisation strategy.

In relation to the issue of health warning labels, there was substantive evidence to the committee that, for labelling to be effective, it needs to be well targeted and

designed and to work as part of a comprehensive public education strategy. Australia has an excellent international record in this regard in relation to reducing tobacco-related harm and in tackling drink-driving. The evidence is clear that a long-term, sustained, well-resourced evidence-based campaign is required to make a real difference.

We remain concerned that the evidence from FSANZ suggests that there will be substantial delays before a new food standard for alcohol is developed, and it is not at all clear whether the approach they will take will deliver the kind of labelling standards required. A number of witnesses, including VicHealth, AER, DrinkWise Australia & Professor Jones presented evidence of the kind of labelling required ... and pointed out the limitations of data derived from studies of small, low quality labels not supported by a wider education campaign. An effective labelling strategy is one where the information and images on the label seeks to remind and reinforce drinkers of the well-targeted messages they have already been exposed to through a wider community education campaign.

The Australian Greens are also concerned by the limitations of an approach which is based on treating and labelling alcohol as a food rather than as a drug of addiction, and believe that a more effective approach to alcohol labelling would be based on the approach taken to tobacco under the consumer protection provisions of the Trade Practices Act.

The Australian Greens consider that the introduction of the National Alcohol Strategy 2006-2009 by the Ministerial Council on Drug Strategy was a step in the right direction and concur with its aims (to reduce the incidence of intoxication, enhance public safety and amenity, improve health outcomes and facilitate safer and healthier drinking cultures). However, we do not believe that the strategy has been sufficiently resourced to effectively achieve its ambitions, and remain concerned that its three year operational horizon is insufficient – particularly now that it is half way through 2008 with little to show for its efforts.

The Australian Greens advocate a sustained, comprehensive, long-term strategy to reduce alcohol-related harm, decrease the incidence of underage drinking and alcohol-related violence, improve referral, treatment and support for problem drinkers, and promote a culture of safe and responsible alcohol consumption.

We believe that a total ban on alcohol advertising, sponsorship and promotional activities should be supported by volumetric tax on alcohol that sends a clear price signal to young and problem drinkers and supports greater resources for alcohol treatment and rehabilitation through hypothecation.

We believe that large, well designed health warning labels with strong and well-targeted messages can play a key role in reminding drinkers at the point of consumption of strong health and safety messages that have been promoted through well-resourced community education and social marketing campaigns.

The Australian Greens believe that reducing the availability of alcohol through restricting the number of alcohol outlets and trading hours should be backed up by place-based strategies to reducing alcohol-related harm and violence and improve the safety and public amenity of late night entertainment precincts and other problem areas.

We believe that we need a more joined-up and better resourced approach to referral, treatment and rehabilitation services for problem drinkers that maximises the benefits of early intervention, and ensures that those seeking help can access appropriate support in a timely and effective fashion.

Recommendations:

- 1. A total ban on all alcohol advertising, sponsorship and promotional activities in Australia.**
- 2. Consider additional excise measures on specific products which are attractive to under-age drinkers, such as RTDs.**
- 3. Support well-resourced and targeted evidence-based public education and social marketing campaigns to educate at-risk groups of the risks associated with problem drinking and promote a culture of responsible drinking.**
- 4. Institute alcohol labelling regulations that stipulate distinctive, graphic and well-designed health warning labels under the consumer protection provisions of the Trade Practices Act comparable to the current regulations relating to tobacco.**
- 5. Ensure that alcohol labels also contain nutritional information including additives and calorific levels – and trial the use of doughnut equivalents as a strategy to reduce binge drinking among younger women.**
- 6. Work with state and local governments to introduce place-based strategies in late-night entertainment precincts and other problem drinking areas to reduce alcohol-related harm and violence and improve public safety and amenity.**
- 7. Support a joined-up client-focussed approach to alcohol referral, treatment and rehabilitation that ensures that those seeking services can access them in a timely fashion and are seamlessly supported throughout their rehabilitation process.**
- 8. Develop identification and referral services for at-risk drinkers to maximise the benefits of early intervention, particularly among younger drinkers.**
- 9. Put in place processes to collect better data on alcohol related harms and costs.**

- 10. Introduce a volumetric tax on alcohol at a rate that sends a strong price signal, with this excise hypothecated to fund substantive alcohol education, treatment and rehabilitation services.**
- 11. Reduce the availability of alcohol through tighter restrictions on the number of alcohol outlets and tighter limits on trading hours.**

**Senator Rachel Siewet
Australian Greens**

APPENDIX 1

Submissions received by the Committee

- 1 W & L Phillips Pty Ltd T-A Flow FM (SA)
 - 2 Wilding, Mr Phillip (NSW)
 - 3 Clark, Mr Bruce (VIC)
 - 4 Malcolm, Emeritus Professor Ian (WA)
 - 5 Woolley, Mrs Erin (TAS)
 - 6 Beattie, Mr Steve (VIC)
 - 7 Association of Children's Welfare Agencies (ACWA) (NSW)
 - 8 Family Drug Support ()
 - 9 Alcohol and other Drugs Council of Australia (ADCA) (ACT)
 - 10 Williams, Mr Troy ()
 - 11 Woman's Christian Temperance Union of Australia Ltd (VIC)
 - 12 Strategic Planning Command – Northern Territory Police ()
 - 13 General Kids Free 2B Kids (VIC)
 - 14 Finnigan, Ms Judy (NSW)
 - 15 The Australian Family Association (VIC)
 - 16 Name withheld
 - 17 Woods, Mr John (NSW)
 - 18 Public Health Association of Australia ()
 - 19 Catholic Women's League - Archdiocese of Canberra/Goulburn Inc (ACT)
 - 20 Dann, Dr Susan (QLD)
 - 21 Someone Who Cares Inc (VIC)
 - 22 Drug Awareness (NSW) (NSW)
 - 23 Foundation for Advertising Research (QLD)
 - 24 National Organisation for Fetal Alcohol Syndrome and Related Disorders
(NOFASARD) (SA)
 - 25 National Drug Research Institute (WA)
 - 26 National Centre for Education and Training on Addiction (NCETA) (SA)
 - 27 Alcohol Education and Rehabilitation Foundation (ACT)
- Supplementary information*
- Alcohol taxation chart, Research paper list and media releases tabled at hearing 15.5.08
- 28 Winemakers' Federation of Australia (SA)

- 29 NSW Centre for Overweight and Obesity (NSW)
- 30 Howat, Professor Peter; Jalleh, Mr Geoffrey and Fielder, Ms Lynda (WA)
- 31 Wodak, Dr Alex (NSW)
- 32 Church & National Committee – Presbyterian Church of Australia (SA)
- 33 Australian Christian Lobby (ACT)
- 34 Australian Catholic Bishops Conference (ACT)
- 35 Advertising Federation of Australia (AFA) (NSW)
- 36 Australasian Associated Brewers (ABA) (ACT)
- Supplementary information*
- Additional information provided following hearing concerning existing and proposed advertising, dated 8.5.08
- 37 VicHealth (VIC)
- Supplementary information*
- Tabled at public hearing 6.5.08
- Reports and article:
- *The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05*, DoHA Monograph Series No.64, 2008
 - Ingredient and nutrition information labelling of alcoholic beverages: do consumers want it? Kypry et al, MJA v187 No11/12, 3/17.12.2007, p669
 - *Australian Alcohol Beverage Advertising in Mainstream Australian Media 2003 to 2005*, DoHA Research Report, October 2005
 - *2007 National Drug Strategy Household Survey: First results*, AIHW, April 2008
- 38 Department of Sport and Recreation of WA (WA)
- 39 DrinkWise Australia (VIC)
- Supplementary information*
- Research report by National Centre for Education and Training on Addiction 'Young People and Alcohol – the role of cultural influences' 2008
- 40 Victorian Alcohol & Drug Association (VAADA) (VIC)
- 41 Commercial Radio Australia (NSW)
- 42 Bendigo Community Health Services (VIC)
- 43 Network of Alcohol and Drugs Agencies (NADA) ()
- 44 Internet Industry Association (ACT)
- 45 Anglicare Victoria and Melbourne Anglican Social Responsibilities Committee (VIC)
- 46 Confederation of Australian Sport (CAS) (SA)
- 47 Jones, Professor Sandra (NSW)
- Supplementary information*
- Response to submission no.50, dated 15.4.08
 - Articles relating to aspects of alcohol advertising tabled at hearing 15.5.08

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- 48 Salvation Army – Australia Southern Territory (VIC)
- 49 Willetton & District Local Drug Action Group (WA)
- 50 Advertising Standards Bureau (ASB) (ACT)
- 51 Australian Association of National Advertisers (AANA) (NSW)
- 52 Australian Drug Foundation (ADF) (VIC)
- Supplementary information*
- Examples of alcohol and non-alcohol sporting advertisements tabled at hearing 6.5.08
 - T. Chikritzhs, P. Catalano, R.Pascal and N. Henrickson, *Predicting alcohol-related harms from licensed outlet density: A feasibility study*, National Drug Law Enforcement Research Fund, received 6.5.08
- 53 Lion Nathan ()
- 54 Coalition of Major Professional Sports (COMPS) (VIC)
- 55 Alcohol, Tobacco & other Drug Council of Tasmania (ATDC) (TAS)
- 56 Free TV Australia (NSW)
- Supplementary information*
- Additional information provided following hearing 6.5.08 relating to various aspects of alcohol advertising and the regulatory framework, dated 23.5.08
- 57 Australasian Faculty of Public Health Medicine (AFPHM) ()
- Supplementary information*
- Response to questions provided following hearing 6.5.08 concerning alcohol consumption and health effects, received 14.5.08
- 58 National Health & Medical Research Council (ACT)
- 59 Office of Road Safety, Government of Western Australia (WA)
- 60 Festival of Light Australia (SA)
- 61 Young Media Australia (SA)
- 62 DMG Radio (Australia) Pty Ltd (SA)
- 63 Australian Association of Microbrewers (VIC)
- 64 WCTU Drug-Free Lifestyles of Victoria (VIC)
- 65 Salvation Army Tasmania Division (TAS)
- 66 Australian Medical Association (ACT)
- 67 Royal Australasian College of Physicians (NSW)
- 68 Australian Sports Commission (ACT)
- 69 Australian General Practice Network (AGPN) (ACT)
- 70 ABAC Scheme, Management Committee (VIC)
- Supplementary information*
- Response to questions following hearing 6.5.08, received 16.6.08
- 71 ACT Health (ACT)

72 Wenitong, Mr John

73 Rowe, Ms Sue

74 Pryor, Mr Malcolm (VIC)

75 Commissioner for Children Tasmania (TAS)

Supplementary information

- Additional information provided following hearing concerning celebrity endorsement of a product and the influence on young people, dated 20.5.08

76 King Edward Memorial Hospital for Women (WA)

77 Drum, Ms Nola (NSW)

78 Duke, Mr Garry (VIC)

79 Rogers, Ms Marion

80 Attwood, N E

81 Ramsay, Mr William (VIC)

82 No submission

83 Amos, Mrs Glenda (NSW)

84 Torpy, Ms Helen (VIC)

85 Bloomfield, Mr Greg (NSW)

86 Spencer, Mrs Beryl (QLD)

87 Tully, Rev John (QLD)

88 Western Australian Government (WA)

89 Northern Territory Government (NT)

90 Oldfield, Ms Betty (SA)

91 Clarke, Mr Brian (VIC)

92 South Australian Government (SA)

93 Distilled Spirits Industry Council of Australia (VIC)

Supplementary information

Tabled at hearing 6.5.08:

- Alcohol consumption patterns among Australian 15-17 year olds from 2000 to 2004, DoHA Research Report, March 2005
- Graph: Consumption risk levels by 14-19 year olds, 2001 to 2007

94 Queensland Government (QLD)

95 ASTRA (NSW)

96 Department of Health and Ageing (ACT)

Supplementary information

Tabled at hearing 15.5.08 copies of reports:

- *Alcohol in Europe: A public health perspective*, A report for the European Commission, Peter Anderson and Ben Baumberg, June 2006;
- Risk of harm in the Short Term and the Long Term, Background note

- *Australian secondary school students' use of alcohol in 2005*, DoHA Monograph Series No.58, June 2006;
- *2007 National Drug Strategy Household Survey: First results*, AIHW, April 2008;
- *The prevention of substance use, risk and harm in Australia: A review of the evidence*, The National Drug Research Institute and Centre for adolescent Health, January 2004

Additional information

Food Standards Australia New Zealand

Responses to questions asked by Senator Fielding at the hearing 15.5.08, received 6.6.08

APPENDIX 2

Public Hearings

Tuesday, 6 May 2008

St James Court Conference Centre, Melbourne

Committee Members in attendance

Senator Claire Moore (Chair)
Senator Gary Humphries (Deputy Chair)
Senator Simon Birmingham
Senator Sue Boyce
Senator Carol Brown
Senator the Hon Richard Colbeck
Senator Steve Fielding
Senator Rachel Siewert

Witnesses

VicHealth – Victorian Health Promotion Foundation

Mr Todd Harper, Chief Executive Officer
Mr Brian Vandenberg, Senior Program Advisor, Tobacco Control & Alcohol Harm Reduction

Australian Drug Foundation

Mr John Rogerson, Chief Executive Officer
Mr Geoff Munro, Director, Community Alcohol Action Network

Public Health Association of Australia

Mr Michael Moore, Chief Executive Officer (*via teleconference*)
Professor Helen Keleher, Board Member and President, Victorian Branch

Alcohol and Other Drugs Council (ADCA)

Mr David Templeman, Chief Executive Officer
Dr Ken Pidd, Board Member
Mr Mark Buckingham, Board Member

Alcohol Beverages Advertising Code (ABAC)

Mr Gordon Broderick, Chairman
Professor Michael Lavarch, Chief Adjudicator
Ms Victoria Rubensohn AM, Pre-vetting Adjudicator
Mr Dominic Nolan, Member

Australasian Associated Brewers (AAB)

Mr Stephen Swift, Executive Director

Ms Natalie Toohey, Representative

Winemakers' Federation of Australia

Mr Stephen Strachan, Chief Executive

Mr Dominic Nolan, General Manager

Distilled Spirits Industry Council of Australia

Ms Eleanor Craig, Chair

Mr Gordon Broderick, Executive Director

Mr Stephen Riden, Manager, Information and Research

Mr Warwick Ryan, Adviser

Australasian Faculty of Public Health Medicine

Dr Steven Skov, Policy and Advocacy Committee (*via teleconference*)

National Drug Research Institute (NDRI)

Professor Steve Allsop, Director (*via teleconference*)

Dr Tanya Chikritzhs, Senior Research Fellow

Commissioner for Children, Tasmania

Mr Paul Mason, Commissioner (*via teleconference*)

Thursday, 15 May 2008

Parliament House, Canberra

Committee Members in attendance

Senator Claire Moore (Chair)

Senator Gary Humphries (Deputy Chair)

Senator Judith Adams

Senator Simon Birmingham

Senator Sue Boyce

Senator the Hon Richard Colbeck

Senator Steve Fielding

Senator Rachel Siewert

Witnesses

Professor Sandra Jones, Director, Centre for Health Initiatives, University of Wollongong

Alcohol Education and Rehabilitation Fund

Mr Daryl Smeaton, Chief Executive Officer

Mr Scott Wilson, Deputy Chair

Free TV Australia

Mr Wayne Goss, Chair

Ms Julie Flynn, Chief Executive Officer

Commercial Radio Australia

Ms Joan Warner, Chief Executive Officer

Ms Sarah Herbert, Manager Legal and Regulatory

Department of Health and Ageing

Mr David Learmonth, Deputy Secretary

Ms Jenny Bryant, First Assistant Secretary, Population Health Branch

Ms Virginia Hart, Assistant Secretary, Drug Strategy Branch

Food Standards Australia and New Zealand

Mr John Fladun, General Counsel

APPENDIX 3

ALCOHOL BEVERAGES ADVERTISING CODE

Preamble

Australasian Associated Brewers Inc, the Distilled Spirits Industry Council of Australia Inc and the Winemakers Federation of Australia are committed to the goal of all advertisements for alcohol beverages, other than point of sale material, produced for publication or broadcast in Australia complying with the spirit and intent of this Code.

The Code is designed to ensure that alcohol advertising will be conducted in a manner which neither conflicts with nor detracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by underage persons.

The conformity of an advertisement with this Code is to be assessed in terms of its probable impact upon a reasonable person within the class of persons to whom the advertisement is directed and other persons to whom the advertisement may be communicated, and taking its content as a whole.

Definitions

For the purpose of this Code –

adult means a person who is at least 18 years of age;

alcohol beverage includes any particular brand of alcohol beverage;

adolescent means a person aged 14-17 years inclusive;

Australian Alcohol Guidelines means the electronic document ‘Guidelines for everyone (1-3)’ published by the National Health & Medical Research Council (NHMRC) as at 1st January 2004.

child means a person under 14 years of age; and

low alcohol beverage means an alcohol beverage which contains less than 3.8% alcohol/volume.

Advertisements for alcohol beverages must –

- (a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly –
 - (i) must not encourage excessive consumption or abuse of alcohol;
 - (ii) must not encourage under-age drinking;
 - (iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;

- (iv) must only depict the responsible and moderate consumption of alcohol beverages;
- (b) not have a strong or evident appeal to children or adolescents and, accordingly –
 - (i) adults appearing in advertisements must be over 25 years of age and be clearly depicted as adults;
 - (ii) children and adolescents may only appear in advertisements in natural situations (eg family barbecue, licensed family restaurant) and where there is no implication that the depicted children and adolescents will consume or serve alcohol beverages; and
 - (iii) adults under the age of 25 years may only appear as part of a natural crowd or background scene;
- (c) not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment and, accordingly –
 - (i) must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;
 - (ii) if alcohol beverages are depicted as part of a celebration, must not imply or suggest that the beverage was a cause of or contributed to success or achievement; and
 - (iii) must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or is a necessary aid to relaxation;
- (d) not depict any direct association between the consumption of alcohol beverages, other than low alcohol beverages, and the operation of a motor vehicle, boat or aircraft or the engagement in any sport (including swimming and water sports) or potentially hazardous activity and, accordingly –
 - (i) any depiction of the consumption of alcohol beverages in connection with the above activities must not be represented as having taken place before or during engagement of the activity in question and must in all cases portray safe practices; and
 - (ii) any claim concerning safe consumption of low alcohol beverages must be demonstrably accurate;
- (e) not challenge or dare people to drink or sample a particular alcohol beverage, other than low alcohol beverages, and must not contain any inducement to prefer an alcohol beverage because of its higher alcohol content; and
- (f) comply with the Advertiser Code of Ethics adopted by the Australian Association of National Advertisers.

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- (g) not encourage consumption that is in excess of, or inconsistent with the Australian Alcohol Guidelines issued by the NHMRC.
 - (h) not refer to The ABAC Scheme, in whole or in part, in a manner which may bring the scheme into disrepute.

Internet advertisements

The required standard for advertisements outlined in (a) to (h) above applies to internet sites primarily intended for advertising developed by or for producers or importers of alcohol products available in Australia or that are reasonably expected to be made available in Australia, and to banner advertising of such products on third party sites.

Retail Advertisements

Advertisements which contain the name of a retailer or retailers offering alcohol beverages for sale, contain information about the price or prices at which those beverages are offered for sale, and which contain no other material relating to or concerning the attributes or virtues of alcohol beverages except –

- (i) the brand name or names of alcohol beverages offered for sale;
- (ii) the type and/or style of the alcohol beverages offered for sale;
- (iii) a photographic or other reproduction of any container or containers (or part thereof, including any label) in which the alcohol beverages offered for sale are packaged;
- (iv) the location and/or times at which the alcohol beverages are offered for sale; and
- (v) such other matter as is reasonably necessary to enable potential purchasers to identify the retailer or retailers on whose behalf the advertisement is published,

must comply with the spirit and intent of the Code but are not subject to any process of prior clearance.

Promotion of alcohol at events

Alcohol beverage companies play a valuable role in supporting many community events and activities. It is acknowledged that they have the right to promote their products at events together with the right to promote their association with events and event participation. However, combined with these rights comes a range of responsibilities. Alcohol beverage companies do not seek to promote their products at events which are designed to clearly target people under the legal drinking age.

This protocol commits participating alcohol beverage companies to endeavour to ensure that:

- All promotional advertising in support of events does not clearly target underage persons and as such is consistent with the ABAC standard; and
- Alcohol beverages served at such events are served in keeping with guidelines, and where applicable legal requirements, for responsible serving of alcohol (which preclude the serving of alcohol to underage persons); and
- Promotional staff at events do not promote consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines; and
- Promotional staff do not misstate the nature or alcohol content of a product; and
- Promotional staff at events are of legal drinking age; and
- Promotional materials distributed at events do not clearly target underage persons; and
- Promotional materials given away at or in association with events do not connect the consumption of alcohol with the achievement of sexual success; and
- Promotional materials given away at or in association with events do not link the consumption of alcohol with sporting, financial, professional or personal success; and
- Promotional materials given away at events do not encourage consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines; and
- A condition of entry into giveaways promoted by alcohol companies at or in association with events is that participants must be over the legal drinking age; and Prizes given away in promotions associated with alcohol beverage companies will only be awarded to winners who are over the legal drinking age.

Third Parties

At many events alcohol companies limit their promotional commitments to specified activities. This protocol only applies to such conduct, activities or materials associated with events that are also associated with alcohol beverage companies.

Alcohol beverage companies will use every reasonable endeavour to ensure that where other parties control and/or undertake events, including activities surrounding those events, they comply with this protocol. However non-compliance by third parties will not place alcohol beverage companies in breach of this protocol.

Public Education

This protocol does not apply to or seek to restrict alcohol beverage companies from being associated with conduct, activity or materials that educate the public, including underage persons, about the consequences of alcohol consumption and the possible consequences of excessive or underage consumption.

Source: *Submission 70, Attachment C (ABAC).*