

SUBMISSION ON ALCOHOL TOLL REDUCTION BILL 2007

Commercial Radio Australia (**CRA**) welcomes the opportunity to comment on the Alcohol Toll Reduction Bill 2007 (the **Bill**). CRA is the peak national industry body for Australian commercial radio stations. CRA has 260 members and represents approximately 99% of the commercial radio broadcasting industry in Australia.

CRA acknowledges and supports the rationale behind the Bill and is keen to assist in the development of a culture of responsible drinking in Australia. However, the Bill as currently drafted fails to acknowledge the existing and effective co-regulatory structure already governing the advertising of alcohol on radio.

Summary

CRA's primary comments are:

- The existing framework of co-regulation – through the CRA Codes of Practice (**CRA Codes**), the Alcohol Beverages Advertising Code Scheme (**ABAC**), the Australian Association of National Advertisers Code of Ethics (**AANA**), and State and Territory laws - is working well to ensure the responsible advertising of alcohol on radio.
- Only 5% of alcohol advertisements are broadcast on commercial radio, compared with other forms of media.¹ In these circumstances there is no obvious logic – or benefit - in imposing further regulatory restrictions on radio.
- Industry compliance with the existing co-regulatory structure is excellent. A survey of CRA members has revealed that there have been no recorded complaints in 2007 relating to the advertising of alcohol products on radio. In 2007, only one complaint relating to radio alcohol advertising was upheld by the Advertising Standards Bureau (**ASB**). That complaint related to vilification on the grounds of nationality not to the advertising of alcohol products.
- There is no evidence of a causal effect linking responsible radio advertising with irresponsible drinking patterns among the young. It is also unclear what effect the prohibition or restriction of radio advertisements for alcohol products will have on drinking patterns in Australia. These issues should be investigated fully before any consideration of limitations on alcohol advertising.
- Further restrictions regarding the advertising of alcohol products on radio are inappropriate, given the stringency of the current co-regulatory framework, the high level of compliance within the commercial radio industry, and the absence of any clear evidence to show that the proposed changes will be effective in reducing irresponsible alcohol consumption.

A discussion of these points, together with other comments, follows.

Existing Framework of Co-Regulation

1. A stringent co-regulatory framework already governs the advertising of alcohol products on radio and ensures that such advertisements are responsible and balanced. In particular, it:

¹ Neilson All Media National Summary (31 December 2006 to 30 December 2007) – comparing radio, television, press, cinema, magazine and outdoor advertising.

- (a) prohibits advertisements that encourage excessive consumption of alcohol, encourage under-age drinking, strongly appeal to children or adolescents, or link drinking to the achievement of personal, business, social, sporting, sexual or other success; and
- (b) provides an Alcohol Advertising Pre-Vetting Scheme – administered by individuals who are not employed by the alcohol beverage industry – under which alcohol beverage producers may assess whether their advertisements comply with the ABAC Code.

2. The key parts of the existing framework are summarised below.

(a) *Commercial Radio Codes of Practice*

The CRA Codes provide that a radio station licensee must not broadcast programs (including advertisements) which “*present as desirable the misuse of alcoholic liquor*” (Code 1.3(c)(i)).

The CRA Codes also require that advertisements broadcast by licensees must “*comply with all other Codes of Practice so far as they are applicable*” (Code 3.1(b)). This includes the ABAC scheme outlined below.

(b) *Alcohol Beverages Advertising Code*

The ABAC scheme is a quasi-regulatory arrangement administered by the ABAC Management Committee, consisting of representatives from industry, advertising and government.

The ABAC Code contains detailed provisions aimed at ensuring that alcohol advertising is conducted in a manner that promotes responsibility and moderation, and does not encourage underage drinking. It prohibits advertisements that encourage excessive consumption of alcohol, encourage under-age drinking, appeal strongly to children or adolescents, or link drinking to the achievement of personal, business, social, sporting, sexual or other success. It also prohibits the depiction of any direct association between the consumption of alcohol and the operation of any motor vehicle.

The ABAC also incorporates an Alcohol Advertising Pre-Vetting Scheme. It is compulsory for beer and spirits producers to submit the scripts for their radio advertisements for pre-vetting against the ABAC Code. Wine producers may voluntarily submit scripts for radio advertisements to be pre-vetted. The pre-vetting is carried out by a minimum of two people, who must have been independent of the alcohol beverages industry during the preceding five years.

(c) *Licensed Premises*

Licensed premises are bound by State or Territory legislation which regulates the way in which they advertise on radio. The restrictions vary from one jurisdiction to another, but all have the aim of promoting the responsible service and promotion of alcohol.

No need for a further pre-approval process or new alcohol advertising standards

3. The Bill proposes that all advertisements for alcohol products should be pre-approved by an Australian Communications Media Authority (**ACMA**) Division, containing experts from the health industry, drug and alcohol support services and motor vehicle accident trauma support services.

It further proposes that the ACMA Division should advise broadcasters on the standards and control of alcohol advertising.²

² Schedule 1 to the Bill (new section 49A of Division 3A , Part 4, *Australian Communications and Media Authority Act 2005*).

4. This proposal duplicates several aspects of the existing co-regulatory framework.

The standards already existing under the ABAC Code are detailed and include the content requirements listed in the Bill, namely that advertisements must:

- (a) not have strong or evident appeal to children; and
 - (b) not suggest that alcohol contributes to personal, business, social, sporting, sexual or other success in life.³
5. Under the existing system, all advertisements for beer and spirits are required to be approved under the ABAC Alcohol Advertising Pre-Vetting Scheme, to ensure compliance with the ABAC Code.
 6. Importantly, the ABAC Rules and Procedures already contain safeguards to ensure that alcohol advertising is monitored by individuals who are independent of the alcohol industry. A representative of the Australian Government's Department of Health and Ageing sits on the ABAC Management Committee, and the ABAC pre-vetting scheme may only be undertaken by individuals who have been independent of the alcohol beverages industry for five years preceding their appointment.

No evidence that further restrictions would be effective

7. It is not clear whether the intention of the Bill is to restrict the times at which alcohol products may be advertised on radio, as the specific time restriction provisions in the Bill relate only to television.⁴ These provisions prohibit the advertising of alcohol between 5.00am and 9.00pm on commercial television. CRA would oppose strongly any extension of this provision to radio.
8. Only 5% of alcohol advertisements are broadcast on commercial radio, compared with other forms of media.⁵ In these circumstances there is no obvious logic – or benefit – in imposing further regulatory restrictions on radio.
9. The alcohol related problems faced by communities are caused by the irresponsible consumption of alcohol, rather than alcohol *per se*. Alcohol can therefore be distinguished from substances such as tobacco. A prohibition on advertising alcohol would not be an appropriate or effective means of combating irresponsible drinking patterns.
10. The commercial radio industry is willing to work closely with government to educate the community, and particularly young people, in relation to the effects of irresponsible alcohol consumption. Nevertheless, it has seen no evidence to suggest that an outright ban of alcohol advertising on radio would assist in conveying this message. Indeed, responsible advertisements, which are compliant with the detailed provisions of the ABAC Code, may even help to develop a responsible approach to alcohol consumption in the community.
11. CRA urges the Community Affairs Committee to consider carefully the effect of alcohol advertising on drinking patterns in the community.

CRA's firmly held view is that no further restrictions should be imposed in the absence of any clear evidence linking responsible radio advertising of alcohol with irresponsible drinking behaviour.

³ Schedule 1 to the Bill (new section 122A (2)(c), *Broadcasting Services Act 1992*).

⁴ Schedule 1 to the Bill (new section 122A, *Broadcasting Services Act 1992*).

⁵ Neilson All Media National Summary (31 December 2006 to 30 December 2007) – comparing radio, television, press, cinema, magazine and outdoor advertising.

Disproportionate and unfair burden on the commercial radio industry

12. The burden that further restriction or prohibition of alcohol advertising would have on commercial radio is disproportionate to any benefit that could be gained by the community, particularly as such a small percentage of alcohol advertisements in the community are transmitted by radio.
13. CRA's members include small metropolitan, regional and rural stations, all of whom provide a valuable service to local communities. Alcohol advertising may be part of the revenue for these stations. Commercial radio licensees pay significant amounts of money for their licences as well as yearly licence fees, and they do this on the basis that they will be able to freely operate a commercial business which includes the right to broadcast, within the context and constraints of the Codes, advertisements for a broad range of product categories. To remove a significant source of revenue from these licensees and, therefore, to affect negatively their sustainable earnings into the future, is neither fair nor equitable.
14. Further, a ban on alcohol advertising may do more than simply prevent radio stations from running discrete advertisements for alcohol products during restricted periods. A prohibition could prevent alcohol companies from being involved in any general sponsorship of any radio shows or segments, even if they are not promoting specific products. This could threaten the existence of certain programs and broadcast of sports events on commercial radio.

Excellent compliance record within the commercial radio industry

15. There is no evidence to suggest that the current co-regulatory structure is not working effectively to ensure the responsible advertising of alcohol on commercial radio. CRA's members adhere strictly to the AANA, ABAC and CRA Codes.
16. CRA members received no recorded or formal complaints relating to the advertising of alcohol products on radio during 2007.
17. The ASB made only two determinations relating to the advertising of alcohol on radio in 2007. Both related to vilification based on nationality, in breach of the AANA Codes. One complaint was upheld and the other dismissed.⁶
18. In 2006, only 3.14% of complaints received by the ASB related to alcohol advertising. This represented a decrease of more than 50% from 2005, when alcohol advertising attracted 7.07% of ASB complaints. This suggests that the current co-regulatory system is working effectively.

CRA would welcome the opportunity to discuss or amplify any of these points with Community Affairs Committee. The Committee should contact Joan Warner on 9281 6577 if it wishes to do so.

⁶ *Lion Nathan Aust Pty Ltd (Tooheys New Supercold – Hope & Glory)* (upheld); and *Fosters Australia (The Black Douglas)* (dismissed).