



SUBMISSION TO AUSTRALIAN NATIONAL PREVENTIVE HEALTH AGENCY
ISSUES PAPER

ALCOHOL ADVERTISING: THE EFFECTIVENESS OF CURRENT REGULATORY
CODES IN ADDRESSING COMMUNITY CONCERNS

February 2013

About Lion

Lion is a group that includes the former Lion Nathan business, which produced, distributed and marketed alcohol beverages in Australia and New Zealand, and the former National Foods food and non-alcoholic beverage business. Lion's head office is located in Sydney with operations in every State as well as New Zealand.

Lion is the largest food and beverage manufacturer in Australia and employs over 7,000 people. In addition to direct employment, Lion makes a significant contribution to the Australian and New Zealand economies, estimated by Access Economics at \$5 billion annually. We are one of the region's largest purchasers of agricultural goods and an integral component of the retail, hospitality and tourism industries.

We are Australia's leading brewer – our portfolio includes brands such as XXXX GOLD, James Boag & Son, Tooheys, Hahn, Corona Extra and Stella Artois. We also have a medium-sized premium wine business and a small spirits joint-venture.

Our Beer, Spirits & Wine business in Australia spans six major breweries, five craft breweries and nine wineries.

Lion is a responsible marketer, complying fully with both the letter and spirit of highly effective legislation and self-regulatory best practice codes. We want our products to be consumed responsibly, both because it's right and because it will help ensure the sustainability of our business for many years into the future.

We are committed to, and actively participate in, community efforts to change unhealthy drinking behaviour. For many years we have supported programs and research to better understand and prevent alcohol misuse and minimise the potential harm associated with alcohol consumption. Our beer business has led the way in developing less-than-full-strength (LTFS) products that contribute significantly to encouraging more moderate consumption within our community.

Lion is also a founding member of DrinkWise Australia and actively supports its efforts to improve the Australian drinking culture through national information and education campaigns. In July 2011 we joined DrinkWise and other major producers to launch new consumer information messages on the labels of alcohol products in Australia.

Executive Summary

Lion believes that an objective review will demonstrate that the current system of regulating alcohol advertising is highly effective and meets community expectations.

The vast majority of Australians consume alcohol responsibly and it is important that Government and all interested parties distinguish between the misuse of alcohol and the moderate consumption of alcohol, which is a normal, enjoyable part of life for many adults.

There is a wealth of scientific evidence demonstrating that the moderate consumption of alcohol may afford many potential health benefits. The evidence suggests that for many people it is more beneficial to drink moderately than to abstain^{1 2}.

This is reinforced in the recently released NHMRC Australian Dietary Guidelines³ which state that *“there is evidence of a probable association between consumption of one standard drink per day for women and one and a half to two per day for men with a reduced risk of cardiovascular disease morbidity and mortality.”*

This is not to suggest there are not negative health consequences that arise from alcohol misuse. What it does highlight is that alcohol policy should not impact moderate drinkers in its efforts to address problem drinkers, as this will result in perverse health outcomes.

Unfortunately it is often the case that the evidence base is either ignored or deliberately suppressed by some anti-alcohol activists who argue that alcohol is the new tobacco⁴ and that the same measures (such as much greater restrictions on marketing and higher taxes) that were applied to tobacco should now be applied to alcohol.

Therefore, in reviewing the marketing of alcohol ANPHA should consider the question of whether there is evidence that responsible advertising either encourages excessive consumption of alcohol or is a major factor in causing minors to take-up drinking. ANPHA should not be concerned if alcohol marketing encourages continued moderate consumption of alcohol by adults.

Lion believes that ANPHA should be careful to distinguish between research that is the best-available, expert, peer-reviewed research and surveys that are produced by anti-alcohol activists that seek to create the impression that misuse of alcohol is a growing problem which is attracting increasing public concern within Australia. The evidence shows this assertion is incorrect, and in fact alcohol misuse has declined in Australia over the last few decades.

However, alcohol misuse remains a serious problem in some at-risk groups, particularly among our indigenous communities. There is also evidence to suggest that while young adults and minors are drinking less than previous generations there is a tendency among a minority to drink more on single

¹ R Doll, R Peto, E Hall, K Wheatley, R Gray, *Mortality in Relation to Consumption of Alcohol: 13 Years' Observations on Male British Doctors* BMJ 1994;309:911-918 <http://www.bmj.com/cgi/content/abstract/309/6959/911>

² Leon A Simons, John McCallum, Yechiel Friedlander, Michael Ortiz and Judith Simons *Moderate Alcohol Intake is Associated with Survival in the Elderly: the Dubbo Study* MJA 2000; 173: 121-124

³ NHMRC, Dietary Guidelines for Australian Adults, 2013, https://www.eatforhealth.gov.au/sites/default/files/files/the_guidelines/n55_australian_dietary_guidelines.pdf

⁴ <http://www.cancerwa.asn.au/articles/news-2012-media-releases/alcohol-in-same-cancer-class-as-tobacco-and-asbest>

occasions than previous generations, and this may be particularly true for young women. Lion is committed to working with ANPHA and others to better understand and develop strategies to address such problems but is unaware of any evidence which suggests that the responsible promotion of our products in any way contributes to such worrying behaviour.

Lion is also concerned that ANPHA's paper appears to give undeserved credence to the Alcohol Advertising Review Board (AARB), when it is clear that it is nothing more than a publicity stunt by a group that is, by its own admission, committed to ending the current co-regulatory approach to alcohol advertising.

Lion has always been, and continues to be, open to genuine collaboration to change Australia's drinking culture. A vibrant drinking culture, where people drink for enjoyment and sociability, is the key to our business success. Contrary to what some believe, misuse is a threat to our business, not a benefit.

We believe that what is good for our business and good for the community are not mutually exclusive. Our investment in the lower alcohol segments of the beer market illustrates this point. We have invested in our mid-strength beer XXXX GOLD for decades, and our advertising activity has encouraged consumers to switch to it from other products. So much so that XXXX GOLD, at 3.5% ABV, is now the country's largest beer – a positive development for Lion and for the community. This development has helped more drinkers to drink moderately and would not have been possible without the very advertising activity many seek to ban.

Lastly, we note the fact that anti-alcohol activists do not believe industry has a role to play in policy development or regulation. We fundamentally disagree and believe this approach is what stifles the development of innovative, whole-of-community solutions to combat misuse.

Alcohol consumption in Australia

In general, alcohol consumption in Australia has been trending down – in 1974, Australians were consuming 13.1 litres of pure alcohol per person, today that figure stands at 10.0 litres of pure alcohol available for consumption, which equates to approximately 2.2 standard drinks per day, per person (down 2.6% from 2009-10)⁵.

A recent World Health Organisation report provides an indication of the levels of consumption in overseas markets (2005 data) for comparison - e.g. Austria (13), Czech Republic (over 16), Denmark (over 13), France (over 13), Germany (nearly 13), Ireland (over 14), Italy (10.7), and the UK (over 13)⁶.

Contrary to the assertion made in ANPHA's discussion paper, which made use of non-peer reviewed research provided by a lobby group, the Cancer Council, rather than official government figures, younger people are also consuming less. The proportion of Australians aged 18-24 that drink any

⁵ Australian Bureau of Statistics, Apparent Consumption of Alcohol, Australia 2010 – 11, 3rd May 2012

<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4307.0.55.001main+features72010-113>

⁶ http://www.who.int/substance_abuse/publications/global_alcohol_report/msbgsruprofiles.pdf page 273

alcohol in an average four week period has progressively decreased each year for the last five years. In the 12 months to June 2012, 72.2% of this age group drank alcohol, down from 74.7%⁷.

Not only did the proportion of drinkers in this younger age group decrease, but the total volume of alcohol consumed by them in an average seven days also decreased, down 11% in five years.

More significantly, more minors (aged 12-17 years) abstained from alcohol (61.6%) than consumed alcohol (38.4%) in the previous 12 months and the proportion abstaining increased significantly from 2007 (from 69.9% of 12-15 year olds in 2007 to 77.2%; from 24.4% of 16-17 year olds to 31.6%)⁸.

Also, the proportion of secondary school students aged 12-17 who drank alcohol in the past week decreased between 1984 and 2008 (from 30% to 17% for those aged 12-15 and from 50% to 38% for those aged 16-17). The percentage of students aged 12-17 who consumed alcohol at levels that could lead to short-term harm in the past week changed little between 1984 and 2008⁹. It is important to also acknowledge that the majority of Australians do not suffer harm as a consequence of their consumption of alcohol.

We do, however, recognise that while the proportion of risky drinkers decreased in 2010, the number of people consuming alcohol on a single occasion in quantities that placed them at risk of an alcohol-related injury increased (from 7.1 million in 2007 to 7.3 million in 2010)¹⁰.

We also acknowledge that there are real and legitimate concerns about the consumption habits of certain at risk groups, including young people and especially younger women. That is why Lion is committed to innovation in lower alcohol products, funding culture change initiatives, such as those developed by Drinkwise, and working with ANPHA and governments to identify causes and develop solutions to such problems.

Lion's view is that regulatory and other interventions should be focused on addressing harmful consumption, not the moderate consumption habits of the majority of Australians.

Advertising and alcohol consumption

There is no evidence of a correlation between advertising and problem or harmful drinking. In general, advertising influences the brand choices of confirmed drinkers. We are unaware of any evidence to suggest that responsible advertising influences consumers to drink irresponsibly. In fact, the current regulatory system only allows the promotion of responsible consumption of alcohol and creates awareness for specific brands.

During a 20 year period of progressively increasing marketing activity in Australia (ANPHA's discussion paper quotes a figure of \$128 million expenditure in 2007), there has been a marked

⁷ Younger Australians are now drinking less, Roy Morgan Research, September 27, 2012

⁸ All figures above taken from AIHW 2010 National Drug Strategy Household Survey, released 27/7/11

⁹ Findings of the Australian Secondary Students' Alcohol and Drug Survey, as reported in AIHW, Risk factor trends: age patterns in key health risk factors over time, Sept 2012.

¹⁰ AIHW 2010 National Drug Strategy Household Survey, released 27/7/11

decline in per capita consumption of beer¹¹ – and yet beer is the category with the highest levels of advertising. If there was a correlation between levels of consumption and advertising, this outcome is unlikely to have eventuated.

Nevertheless, Lion would contend that if advertising did contribute to a small increase in per capita consumption that would be much more likely to be as a result of marginal increase in per capita consumption by the majority of those who already drink moderately rather than significant increases in the consumption levels of the small minority who drink excessively, because there is no link between advertising and excessive consumption.

Turning to under-age drinking, Australian and US research indicates that by far the major influences on underage drinking are deep seated cultural factors, most notably, peer group norms and parental drinking behaviour. Advertising is not a significant factor¹².

With few exceptions, research into the impact of advertising bans and restrictions tends to indicate that they either have no effect on consumption or are associated with an increase. Research covering periods of up to 25 years – such as a survey of 17 developed economies in 2007 – reveals that bans do not tend to reduce the number of ‘new’ drinkers¹³. When New Zealand lifted a ban on alcohol advertising in 1992 consumption of alcohol did not increase; in fact, the market continued to decline suggesting there is no meaningful linkage¹⁴.

We note that ANPHA’s discussion paper notes correctly that France’s ‘Loi Evin’ is a ‘commonly cited example of effective alcohol marketing regulation’ and then goes on to also correctly acknowledge that ‘While the Loi Evin is highlighted as successful regulation, the impact of the restrictions on reducing alcohol consumption and alcohol-related harm is difficult to assess.’

Lion and the current regulatory system in practice

Lion goes to great lengths to ensure our marketing does not contribute to alcohol misuse and we have a range of processes in place across to ensure it does not have any unintended consequences.

Our Lion Code for Responsible Marketplace Activity brings together all relevant industry codes into one guideline for our marketers and external agencies, and guides all creative development and placement of advertising.

We are also a signatory to or participant in the wide range of existing codes that regulate alcohol advertising:

- Alcohol Beverages Advertising Code
- The Australian Association of National Advertisers (AANA) Code of Ethics
- The AANA Food and Beverages Advertising and Marketing Communications Code

¹¹ AIHW, *Statistics on Drug Use in Australia* 2006 pp.14-15

¹² Baer, J.S. Student Factors: Understanding Individual Variation in College Drinking, *Journal of Studies on Alcohol (Suppl. 14)*:40-53, 2002. Louise Hayes, Diana Smart, John W. Toumbourou and Ann Sanson, Parenting Influences on Adolescent Alcohol Use, Research Report no.10 2004, Australian Institute of Family Studies.

¹³ Quoted in Frontier Economics, *Food for Thought Bulletin*, January 2008

¹⁴ Statistics New Zealand

- The AANA Environmental Claims in Advertising and Marketing Code
- The Free TV Commercial Television Industry Code of Practice
- The ASTRA Codes of Practice for Subscription TV
- The Commercial Radio Codes of Practice

Combined, these Codes cover all aspects of alcohol advertising, including content development and media placement.

Before our alcohol marketing activity is executed externally, it follows the below approval process:

1. Concept creation

Marketing concepts are developed by either our external agencies or internal marketing team – all of whom are required to be regularly trained on the Alcohol Beverages Advertising Code (ABAC) and associated Codes listed above.

2. Internal approval

Materials are submitted at concept stage to our Legal Counsel, to assess against all relevant laws (including liquor licensing laws) and our External Relations Manager, to assess against all relevant Codes. At this stage concepts and placement will be approved, modified or rejected.

3. Further internal reviews as concepts develop

Materials continue to be submitted as per the above process at regular intervals during development.

4. External approval via the Alcohol Advertising Pre-vetting Service

Once internal approval has been granted (and only if), all television, radio, print, digital and outdoor advertising must gain approval from an independent, external pre-vetter, who ensures compliance with the ABAC, before it enters the market. If AAPS approval is not granted the concept does not move forward.

We take our responsibilities very seriously and it shows in terms of community satisfaction. From 2009-2012 we have had a total of 14 complaints through the ABAC about our advertising, and only one of these has been upheld by the ABAC Panel. This advertisement was immediately removed and discontinued¹⁵.

¹⁵ Covers the period 1 October 2009 to 30 September 2012

Alcohol and social media

There is a misconception that social media channels are completely unregulated when it comes to alcohol brands and marketing. The accusation that the current system does not apply or is ineffective in the online space is simply not true. All major alcohol advertisers, including Lion, are bound to apply the ABAC to social media channels and any material developed for these purposes is subject to the same, rigorous approvals process that applies to all other marketing material. The ABAC Panel has determined that social media, including user generated content over which the brand owner has a reasonable degree of control, falls under the Code.

Our social media channels, including all content we create as well as user-generated content, are required to be vetted against our Codes twice a day, with anything deemed to contravene the Codes removed.

Likewise, the assumption that alcohol advertisers use social media to target consumers that are underage is also false, and demonstrates a lack of knowledge about the social media user environment. The fact is the vast majority of social media users are over 18. As an example, Facebook consists of more than 90% 18+ consumers¹⁶. The largest user group is 25-34 years, followed by 35-44 years¹⁷.

Similarly, a 2009 Study of Australian YouTube users found that 14-17 year olds only make up 7% of Australian YouTube users (18-29 = 32%; 30-39 = 20%; 40-49 = 18%; 50-59 = 13%; and 60+ = 10%¹⁸). A 2012 Global Study found that 0-17 year olds make up approx. 9% of global YouTube users (18-24 = 10%; 25-34 = 18%; 35-44 = 20%; 45-54 = 31%; 55-65+ = 12%¹⁹).

To guide marketers engaging in digital media, and particularly in social media, the AANA and ABAC have both developed updated guidelines for advertisers.

Furthermore, an increasing number of digital media platforms, such as Facebook, have advanced age restriction technology available. By way of example, a registered under-18 user of Facebook:

- Cannot access an alcohol brand's page contents via the search function;
- Cannot access content on an alcohol brand's Facebook page from within Facebook or via an external site and cannot opt to 'like' the content;
- Cannot see any interaction with the alcohol brand via their 18+ Facebook connections / friends' activities or newsfeeds.

While age protection mechanisms may be subverted by a determined user, the adoption of these age restricting technologies ensures companies are taking reasonable measures to minimise this risk and are effective when combined with parental supervision and the use of 'nanny tags'. Also, there is no evidence to suggest that such behaviour by minors is prevalent.

¹⁶ Facebook, provided December 2012

¹⁷ <https://www.socialbakers.com/facebook-statistics/australia>

¹⁸ Research conducted for Google by Research International in 2009 – can be viewed at <http://anthillonline.com/research-teens-geeks-dont-dominate-aussie-youtube-usage/>

¹⁹ <http://www.ignitesocialmedia.com/social-media-stats/2012-social-network-analysis-report/>

Alcohol brands and sports sponsorship

The target market for beer fits closely with those watching and attending major sporting events – adult males. Therefore, it is natural beer is advertised at these events.

There is no evidence that sponsorship encourages the misuse of alcohol. Car advertisers are also major sponsors of sport, however there is no suggestion that this is what is causing a minority of young people to drive recklessly.

There has been much discussion about the impact of sponsorship of sporting events on young people. There is no evidence that sports sponsorship or advertising during sports events broadcast prior to 8:30pm encourages under-age drinking in any significant way²⁰. Despite claims to the contrary, the overwhelming majority of people watching or attending major sporting events are adult.

For example, the total number of 13-17 year olds viewing live rugby league broadcasts before 8:30pm is 3.4% of the audience and nearly two thirds (62 per cent) of these are viewing the broadcast with an adult. The number of 13-17 year olds viewing rugby league live post 8:30pm is 3.2% of which slightly over two thirds (68 per cent) have adult supervision²¹. It is worthwhile noting there is no major statistical differences in this 'coming of age' audience pre and post the 8:30pm watershed. The statistics tell a similar story for 5-12 yr olds.

Given this low level of viewership and high level of parental supervision, and the fact the content of alcohol advertising is strictly regulated to ensure no appeal to adolescents, the impact of this exposure is highly likely to be minimal. Of much more influence is the behaviour of their parents and other role models, which is why Lion has been investing in cultural changes programs targeted at parental drinking behaviour for many years, including the DrinkWise 'kids absorb your drinking' campaign.

The effectiveness of the current system

Lion supports co-regulation in general (and government representation on ABAC) for advertising and marketing, as it is inherently more flexible, responsive to technological developments (like the advent of social media) and more reflective of community standards than other regulatory options.

The effectiveness of the current system in Australia is evidenced by the fact that less than four per cent of complaints received by the public relate to alcohol advertising²². Community awareness

²⁰ Australian and US research indicates that the major influences on underage drinking are in summary peer group pressure, parental drinking behaviour, availability of alcohol and motives. See Baer, J.S. *Student Factors: Understanding Individual Variation in College Drinking*. *Journal of Studies on Alcohol* (Suppl. 14):40–53, 2002 and Louise Hayes, Diana Smart, John W. Toumbourou and Ann Sanson, *Parenting Influences on Adolescent Alcohol Use*, Research Report no.10 2004, Australian Institute of Family Studies.

²¹ Oztam data 2012

²² http://issuu.com/cre8ive/docs/asb_review_of_ops_2011?mode=embed on page 66

programs receive close to double the amount (7.14%). Furthermore, not one alcohol advertisement featured in the ASB's list of advertisements attracting most complaints in 2012²³.

For consumers who do feel cause to complain, the ASB acts as a 'one stop shop' for all complaints, including alcohol. Making a complaint is as simple as making a call or sending an email, and the ASB is easy to find via search engines.

Suggestions by those who wish to end the co-regulatory system that the current adjudication system is either not independent of industry or reflective of community expectations and standards are simply untrue. There is no industry representation on either the Alcohol Advertising Pre-vetting Service or the ABAC Panel, which is chaired by former Attorney General Michael Lavarch. ABAC and the ASB commission expert, independent research to help ensure that the scope of each Code and the decision making of the adjudicators is not out of kilter with community expectations.

The AARB

From the outset the promoters of the AARB made clear that they sought to undermine and replace the current co-regulatory system.

The AARB's website when it first launched claimed to be an alternative complaints resolution system, a claim that was misleading to the public because without the involvement of brand owners or media organisations the AARB has no ability whatsoever to secure any compliance for its deliberations. The AARB later amended its promotional material but nevertheless it was clear from its original statements and by its behaviour since that it was never a genuine complaints handling mechanism.

That everyone involved in AARB is committed to ending the current co-regulatory system is not disputed. AARB came up with its own 'Code' with no community or other stakeholder engagement or consultation. There has been scant editorial coverage of AARB and no advertising to raise public awareness of its existence, so it is a fair assumption that it has solicited complaints from within its own networks about advertisements that it knows will fall foul of the 'Code' it has concocted. It then has these anonymous complaints adjudicated by people selected from within its own narrow network of like-minded people.

In summary, the people who set the rules with no stakeholder or community engagement then set out to solicit – from its networks – complaints it knows will breach these rules and then pronounces the verdict. AARB then claims that its processes show that the ABAC system is a failure.

AARB flies in the face of established self-regulatory principles, which include genuine involvement of all stakeholders in code making and independence in adjudication.

On this basis, we challenge ANPHA's characterisation in its discussion paper of AARB thus "an independent review board... to consider consumer complaints in relation to alcohol advertising".

²³ <http://post.cre8ive.com.au/t/ViewEmail/r/B7B067F3912C9953>

We also urge ANPHA to accord no validity to any of the AARB's conclusions and claims about the effectiveness of the current system, other than its commitment to bring to an end the current system of regulating alcohol advertising which is safe to take at face value.

Responsible advertising has benefits

Advertising has three macro benefits – firstly, it increases consumer choice, secondly, it stimulates economic growth and thirdly it is a critical characteristic of an open and democratic society. New market entrants will find it much more difficult to establish a presence if advertising is restricted, creating significant competition implications.

Without the ability to advertise, producers will be significantly restricted from innovating and establishing new brands in the market. This is particularly true for the lower-than-full-strength segments.

While climatic conditions have played a role in developing the mid-strength and light markets, the real key to driving uptake is building the brand itself and making it relevant to consumers. Taking XXXX GOLD as an example, through our advertising we are able to communicate that consumers do not have to sacrifice flavour with a lower alcohol choice.

We have continued to innovate under the XXXX trademark and introduced XXXX Summer Bright Lager (SBL) as our next generation offering in 2009. It is full strength, but at only 4.2% ABV it is a significant step down from your standard full-strength beers that used to sit at 5% (SBL is only 1.1 standard drinks – only 0.1 more than a mid-strength beer). This is a product more suited to younger adults who may be less likely to engage with mid-strength, and here we have been able to encourage a positive shift down in ABV through the strength of the brand alone.

This is not a phenomenon restricted to Lion alone. The beer industry as a whole has been trending down in ABV for many years.

And it is not just a matter of ABV reduction. The burgeoning craft segment is contributing to a valuing of quality over quantity, as consumers are introduced to new beer styles and encouraged to explore more challenging flavours that do not lend themselves to sessionability.

One of the common criticisms from anti-alcohol activists is that alcohol advertising 'normalises' alcohol consumption. We do not feel there is anything wrong with moderate, responsible consumption being seen as 'normal'. Reinforcing images of positive sociability is one way of contributing to a more responsible drinking culture. We believe this is in line with community expectations, and the experiences of the vast majority of people who consume alcohol as part of a normal and balanced life.

What should not be normalised is irresponsible drinking, which is fundamentally at odds with achieving a positive drinking culture, and this is exactly what the current regulatory system addresses.

In conclusion

Lion takes the view that further regulatory restrictions should only be imposed where there is a risk to public health and safety or to correct market failure; and mandatory regulation should only be imposed where self-regulation has proven to have failed.

We ask ANPHA to consider whether in fact there is a body of expert, peer reviewed evidence that shows that further restrictions in the marketing of alcohol will reduce **harmful** consumption to any significant extent. We ask that ANPHA consider that it is not a legitimate aim (as argued by many anti-alcohol groups) to seek to reduce moderate and responsible consumption of alcohol. And we ask ANPHA to reconsider according legitimacy to the activities of the AARB by suggesting that the AARB's purpose is to consider genuine complaints from non-aligned members of the public.

It should also be noted that all beer is low alcohol and that advertising and sponsorship has been critical to the successful introduction of the less-than-full-strength segment of the beer market, to the point where XXXX GOLD, a mid-strength beer, has become the best-selling brand in Australia. Lion intends to continue leading both the mid strength and light segments of the beer market and intends to invest significantly in advertising and sponsorship campaigns to continue to grow this category and encourage consumers to consider lower alcohol beer alternatives.

Placing further, more onerous restrictions on advertisers will have a serious commercial impact on a wide range of industries and would severely restrict our ability to introduce new brands, while having a negligible to zero impact on alcohol misuse.