



**Submission by
Free TV Australia Limited**

Review of the *Liquor Control Act 1988*

March 2013

TABLE OF CONTENTS

1	EXECUTIVE SUMMARY	2
2	INTRODUCTION	3
3	REGULATION OF ALCOHOL ADVERTISING ON TELEVISION	4
3.1	COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE	4
3.2	CHILDREN'S TELEVISION STANDARDS	4
3.3	ALCOHOL BEVERAGES ADVERTISING CODE	5
4	NO EVIDENCE OF REGULATORY FAILURE	6
4.1	ADEQUACY OF THE COMMERCIAL TELEVISION INDUSTRY CODE OF PRACTICE	7
4.2	ADEQUACY OF THE ABAC SCHEME.....	9
5	CHANGING MEDIA LANDSCAPE	10

1 Executive Summary

- Australia's commercial free-to-air television broadcasters take very seriously their responsibility to ensure that television content, and the way it is presented, aligns with community expectations, particularly in regards to children and young audiences. Accordingly, there is already an extensive range of restrictions in place governing the content and scheduling of alcohol advertising on free-to-air television.
- Free TV members are bound by the Commercial Television Industry Code of Practice (**Code**) and Children's Television Standard (**CTS**), both of which contain rules on the placement of advertisements for alcoholic products and limit young peoples' exposure to alcohol advertisements. Compliance with the Code and the CTS is regulated by the Australian Communications and Media Authority (**ACMA**).
- Under the Code alcohol advertisements can only be broadcast after 8.30pm, between 12.00pm and 3.00pm on school days, and during live sporting events on weekends and public holidays. In addition, alcohol advertisements cannot be broadcast during any nominated children's programming periods.
- These existing placement restrictions appropriately reflect periods when television audiences are predominately adult. Children and adolescents make up less than 12 per cent of the total viewing audience in these timeslots.
- Commercial free to air broadcasters successfully comply with these requirements and there is very little evidence of community dissatisfaction, with viewer complaint levels consistently very low. Less than 1% of Code complaints received by Free TV members between 2009 and 2012 related to alcohol advertising placement and no breach of the Code was found in these cases.
- In addition to the Code and CTS, Free TV supports the existing Alcohol Beverages Advertising Code (**ABAC**) which is designed to ensure that the content of alcohol advertising is consistent with responsible alcohol consumption and does not encourage under-age drinking.
- Free-to-air television is the only medium subject to such stringent regulatory requirements. Media consumption and usage patterns have evolved rapidly in recent times, particularly among young people. Content can now be accessed over a range of platforms and devices which are not subject to the onerous regulations and restrictions that apply to Free TV broadcasters.
- If further alcohol advertising restrictions were to be placed on free-to-air television 'regulatory bypass' will occur and advertisements will simply move to those platforms which are not subject to any regulation. Therefore, any alcohol advertising restrictions should apply equally across all media platforms.

2 Introduction

Free TV Australia is the peak industry body representing all of Australia's commercial free-to-air television licensees. Free TV welcomes the opportunity to respond to the review of the *Liquor Control Act 1988* and provide the committee with relevant information in its consideration of the advertising of liquor products on television.

The commercial free-to-air television sector is committed to ensuring that television content aligns with community standards and expectations, particularly in regards to children and young audiences. Free TV members are cognisant of community concerns and sensitivities regarding the appropriate advertising of alcohol products.

Accordingly, commercial free to air broadcasters are already subject to an extensive range of measures restricting alcohol advertising, especially in relation to child and youth exposure. These measures do not apply on other media platforms despite research showing that children are spending less time watching commercial free to air TV and more time online.

The regulatory regime for television services is established at the federal level through the *Broadcasting Services Act 1992* (**BSA**) and the regulatory and enforcement powers of the ACMA.

The BSA requires broadcasters to develop a code of practice pertaining to their broadcasting operations¹. The code is co-regulated by industry and the ACMA. The BSA also requires the ACMA to develop program standards for children programming².

Free TV members are bound by the Code and CTS. Compliance with the CTS is a condition on broadcasting licensees³. The Code and CTS regulate the placement of advertisements for alcoholic products to limit young peoples' exposure to alcohol advertisements.

Broadcasters successfully comply with these restrictions and there is little evidence of community dissatisfaction. Between 2009 and 2012, Free TV members received four viewer complaints relating to the alcohol advertising time zones compared to 7438 complaints under the Code overall⁴. Less than 1% of all public submissions received by Free TV during last Code Review in 2010 related to alcohol advertising time zones⁵.

If broadcasters are found to be in breach of Code requirements, there is a range of strong enforcement mechanisms open to the ACMA.

In addition to the Code and CTS, Free TV supports the existing ABAC and corresponding complaints handling and enforcement schemes in place.

The advertising codes and complaints handling systems for alcohol products provide a robust and efficient process for ensuring alcohol advertisements accord to

¹ Section 123 of the *Broadcasting Services Act 1992*

² Section 125 of the *Broadcasting Services Act 1992*

³ Section 7, Schedule 2 of the *Broadcasting Services Act 1992*

⁴ Free TV Australia Annual Code of Practice Complaints Reports 2009-2012

⁵ Free TV Australia Code Review 2010

community expectations and appropriately restrict child exposure to alcohol advertising.

The Code and CTS ensure that advertisements for alcohol products are broadcast in adult viewing hours. Television viewing data suggests that children and adolescents make up a very small proportion of the viewing audience after 8.30 pm and during weekend live sports.

The ABAC deals with the responsible promotion of alcohol and number of alcohol advertisements which are the subject of viewer complaint through the ABAC Scheme remains low.

3 Regulation of Alcohol Advertising on Television

3.1 Commercial Television Industry Code of Practice

The Code sets down rules relating to the content and placement of advertisements designed to limit young peoples' exposure to alcohol advertisements.

The Code provides that advertisements for alcohol drinks can only be broadcast during 8.30pm and 5am on weekdays and 12.00pm and 3.00pm on school days⁶. In effect, advertisements for alcohol drinks are only permitted during declared adult classification zones where M, MA and AV programs may be shown.

An exception to this rule applies for live sporting events during weekends and public holidays only. This exception allows alcohol advertising as an accompaniment to a "live" sporting broadcast.

In addition, the Code states that advertisements for alcohol drinks cannot be broadcast during nominated children's programming periods.

These restrictions also apply to content within programs that are broadcast in return for consideration, for example product placement.

The relevant provisions of the Code are extracted at Attachment A.

These restrictions have been in place for many years and originate from a Technical Program Standard originally issued by the former Australian Broadcasting Tribunal.

The ACMA is empowered under the BSA to enforce compliance with the Code under a complaints-based scheme (see below) and Free TV members face substantial penalties for a breach of the Code.

3.2 Children's Television Standards

In addition to the requirements of the Code, CTS 36 of the Children's Television Standards states that advertisements for alcoholic drinks may not be broadcast during C periods. The restrictions extend to C or P programs broadcast outside C or P periods, and breaks immediately before and after C and P programs.

⁶ Clause 6.7 and 6.13 of the Commercial Industry Code of Practice

The relevant provisions of the CTS are extracted at Attachment B.

A C period is defined in the Standard as a period nominated by, or on behalf of, a licensee during which the licensee will broadcast C programs. A P period is defined as a period nominated by, or on behalf of, a licensee under during which the licensee will broadcast P programs.

A C program is one that has been classified by the ACMA as being suitable for children other than preschool children and a P Program is one that has been classified by the ACMA as being suitable for preschool children.

No advertisement or sponsorship announcement broadcast during a C or P period may identify or refer to a company, person, or organisation that manufactures, distributes or sells alcoholic drinks.

The restrictions extend to advertisements and sponsorship announcements during C or P programs broadcast outside of C or P periods, and breaks immediately before and after C and P programs.

Complaints Processes

The Code and the CTS provide for an efficient and well-managed complaints process.

Complaints about advertising perceived to conflict with the CTS can be made directly to the ACMA who can investigate.

Complaints about the Code can be made directly to the broadcaster who is obligated to respond substantively within 30 working days, and must advise the complainant of their right to refer the matter to the ACMA for further investigation if they are unsatisfied with the broadcaster response.

3.3 Alcohol Beverages Advertising Code

The Alcohol Beverages Advertising Code is the advertising code of the alcohol industry and is primarily concerned with regulating the content of alcohol advertisements in order to promote responsible use of alcohol.

The ABAC has been in operation since 1 July 1998 and was prepared in agreement with the Australian Associated Brewers Inc. and the Distilled Spirits Industry Council of Australia Inc. In April 2004, these bodies as well as the Winemakers' Federation of Australia and the Liquor Merchants Association of Australia Ltd, agreed to abide by an updated ABAC.

These alcohol industry bodies recommend that all of their members comply with the ABAC and due to the consolidation of brands over the years, signatories to the ABAC now comprise of over 98% of the top 50 alcohol advertisers in Australia⁷. This shows that the reach and effect of the ABAC Scheme is extensive.

⁷ <http://www.abac.org.au/about/signatories-to-the-scheme/>

The requirements set out in the ABAC relate primarily to responsible advertising of alcohol, as opposed to issues of taste, decency or community standards (which are addressed under the Australian Association of National Advertisers (**AANA**) Code of Ethics.

The ABAC applies to advertisements on television, radio and the Internet, in print and also to outdoor advertising. In 2008, the ABAC was extended to cover naming and packaging of alcohol complaints.

The ABAC 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 people.

The ABAC requires that advertisements:

- must not encourage or promote the excessive alcohol consumption, offensive behaviour, misuse 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 Australian Alcohol Guidelines.

The ABAC is set out at Attachment C.

Pre-vetting of advertisements

The Alcohol Advertising Pre-Vetting Scheme (**AAPS**) was established in 1992 and is part of the ABAC Scheme.

Proposed advertisements are assessed against the ABAC at an early stage of campaign development.

Where an advertisement is held to be potentially in breach of the ABAC, the AAPS recommends that the advertiser amend the advertisement before running the campaign.

4 No Evidence of Regulatory Failure

Free TV is mindful of the Government's commitment to address the misuse of alcohol. Commercial free-to-air broadcasters take very seriously their responsibility to ensure that television content, and the way it is presented, aligns with community expectations, particularly in regards to children and young audiences.

There is an extensive range of restrictions and placement rules already in place for advertising of alcohol products on Free TV television. The existing pre-vetting and

complaints processes are well established, well known in the industry and provide a robust and efficient complaints handling scheme.

4.1 Adequacy of the Commercial Television Industry Code of Practice

There has long been recognition of the need to ensure that advertisements for alcohol products are not in any way directed at children and are scheduled to avoid peak children's viewing times.

The commercial free to air television placement restrictions prevent the broadcast of advertisements for alcohol products prior to 8.30pm. Research indicates that this accords with community expectations. The 2011 Alcohol Education and Rehabilitation Foundation Survey found that 69 per cent of adults support a ban on alcohol advertising on television before 8.30pm⁸.

The National Preventative Health Strategy's Roadmap for Action recommends that alcohol advertising should be phased out from times and placements which have a high exposure to young people aged up to 25 years⁹. This principle is enshrined in the current Code time zones which restrict alcohol advertising to screening times dominated by adult viewing.

On average, children aged between 5-12 watch 52 minutes a day of commercial free-to-air TV while children aged between 13-17 watch on average of 1 hour and 2 minutes a day. This is considerably less than adults who watch on average 2 hours of television a day¹⁰.

Current ratings data shows that children constitute a very small percentage of overall commercial free to air television viewing:

- Only 4.8 per cent of children aged 5-12 and 5.7 per cent of children aged 13-17 watch commercial free to air television on any given day¹¹.
- Average child audiences from 2008 – 2012 have declined by 3 per cent for children aged 5-12 and 5.4 per cent for children 13-17¹².

Ratings data also shows that the vast majority of Free TV viewers during 8.30pm to midnight are adults:

- Children aged 5-17 make up less than 9 per cent of the total viewing from 8.30pm to midnight¹³.
- Adults are the large majority of viewing audience after 8.30pm at 91%¹⁴.

Of the children watching TV in the evening, at least half are co-viewing with an adult in the room¹⁵.

⁸ https://www.pansw.org.au/sites/default/files/public/AER_Foundation_AnnualAlcoholPoll2011%5B1%5D.pdf

⁹ [http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/CCD7323311E358BECA2575FD000859E1/\\$File/nphs-roadmap.pdf](http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/CCD7323311E358BECA2575FD000859E1/$File/nphs-roadmap.pdf)

¹⁰ OzTAM, 5 city metro, 01 Jan - 31 Dec 2008 - 2012, 6am - midnight, children 5-12 and 13-17, average audience, based on consolidated data from 2010

¹¹ Ibid

¹² Ibid

¹³ Ibid

¹⁴ Ibid

Ratings data also shows that Free TV audiences for weekend sport are predominantly comprised of adult viewers:

- Children aged 5-17 make up less than 12% of the total viewing audience for any of the top 10 sporting events in 2012 (excluding Olympics)¹⁶.
- Adolescents between the age of 13 and 17 make up less than 6 per cent of the viewing audience for the top 20 weekend sport programs in 2012¹⁷.
- Of those children who were watching the top 10 sporting events, the majority were co-viewing with an adult (around 8 in 10 for the 5-12 age group, and around 7 in 10 for the 13-17 age group)¹⁸.
- Even the event with the highest audience proportion of child viewers (State of Origin 3) was only watched by 13.5% of children aged 13-17. This figure is lower for children aged 5-12 (12.8%). Of those children who were watching, more than 85% were co-viewing with an adult¹⁹.

This data shows that the existing time zone restrictions in the Code adequately reflect adult and children's viewing patterns. Advertisements for alcohol products after 8.30pm and during weekend live sports are targeted at the majority adult component of the audience.

Free-to-air broadcasters comply with these provisions and there have been very low levels of viewer complaint.

As already noted, of the 7438 Code of Practice complaints received by broadcasters between 2009 and 2012, only four related to a perceived error in the scheduling of alcohol advertisements²⁰. In each of these four cases, no breach of the Code's requirements was found to have occurred.

Ongoing Review of the Code

The Commercial Television Industry Code of Practice is reviewed every three years. As part of each review, it is the role of the regulator to register the Code after ensuring that it reflects community standards.

There are important safeguards built into the Code review process, in which the ACMA is only permitted to register a Code where it is satisfied that:

- it provides adequate consumer safeguards for the matters covered by the Code;
- it is endorsed by the majority of the commercial television stations; and
- members of the public were given an adequate opportunity to comment on it.

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ Free TV Australia Annual Code of Practice Complaints Reports 2009-2012

Under section 125 of the BSA, the ACMA is also empowered to make program standards in circumstances where it is satisfied that a Code has failed to provide adequate community safeguards²¹. Compliance with an ACMA program standard is mandatory²².

The provisions to restrict the scheduling of advertisements for alcohol products have formed part of the Code since its inception in 1993. The ACMA has not at any stage determined that the alcohol advertising provisions of the Code have failed or that a program standard is required.

The Code was last reviewed three years ago. Only 10 of the 1543 submissions received from the public during this Review related to alcohol advertising time zones²³.

The final Code as registered by the ACMA included several changes to respond to community concerns raised in these submissions.

This highlights the responsiveness of the existing co-regulatory arrangements, and in particular, the way the Code review process allows for community concerns to be expressed and addressed.

The next scheduled review of the Code is about to commence. Free TV endorses the existing processes of review, community consultation and the ACMA registration of the Code as the most appropriate means in which to address any community concerns regarding the scheduling of alcohol advertising.

4.2 Adequacy of the ABAC Scheme

Free TV also supports the approach taken in the ABAC Scheme for ensuring the content of alcohol advertisements is consistent with the need to ensure responsibility and moderation in alcohol consumption.

In March 2006, the Victorian Government received the report of the Inquiry into Strategies to Reduce Harmful Alcohol Consumption. This inquiry was conducted by the Drugs and Crime Prevention Committee and considered the regulation of alcohol advertising. The report noted the significant strengthening of the ABAC Scheme that had occurred in recent years and concluded that there was insufficient evidence at that time to suggest that any changes were necessary to the ABAC Scheme²⁴.

The level of complaints received under the Scheme has remained fairly constant over recent years²⁵.

The very low proportion of alcohol advertisements complained against in relation to appropriate promotion of alcohol (i.e., as distinct from complaints made in relation to taste and decency issues and dealt with under the AANA Code), suggests that the ABAC has kept pace with community standards on these issues. Indeed, the

²¹ Section 125 of the *Broadcasting Services Act 1992*

²² Section 7, Schedule 2 of the *Broadcasting Services Act 1992*

²³ Free TV Australia Code Review 2010

²⁴ http://www.parliament.vic.gov.au/images/stories/committees/dcpc/alcoholharmreduction/DCPC-Report_Alcohol_Vol1_2006-03.pdf

²⁵ ABAC Annual Report 2011: <http://www.abac.org.au/uploads/File/ABAC2011AnnualReport.pdf>

number of complaints made to ABAC in relation to television reduced by 37% in 2011²⁶.

The ABAC Scheme is well known and respected by industry. Determinations made by the ABAC adjudication panel carry significant weight in the industry and the vast majority of advertisers have withdrawn or modified advertisements relating to upheld complaints.

5 Changing Media Landscape

Media consumption and usage patterns have evolved rapidly in recent times, particularly among young people. Content can now be accessed over a range of platforms and devices which are not subject to the kinds of regulations and restrictions that apply to Free TV broadcasters. A single device (such as a connected TV) can be used to view substantially similar content that is subject to very different levels of regulation.

Despite this, commercial free to air television is the only media platform subject to proscribed and enforceable time zone restrictions for the advertising of alcohol products.

These restrictions do not apply to commercial radio, Pay TV and online. The Publisher's Advertising Advisory Bureau's "Guiding Principle for Alcohol Beverages", which is a self-regulatory instrument, provides that advertisements are to be placed where at least 70% of the audience is reasonably expected to be above the legal purchase age²⁷.

It is important that any alcohol advertising restrictions apply equally across all media platforms. Otherwise 'regulatory bypass' will occur, and the relevant advertisements will simply move to those platforms which are not subject to any regulation or have less onerous regulation.

Young people are driving the use of these emerging technologies in the new media environment. Nielsen reports that over a third (34.8%) of people aged 13-17's total TV screen time from January to September 2012 was dedicated to "other screen usage" (such as non-broadcast activities (gaming), online activity on the TV screen or playback beyond 7-days). This is more than double that of people 40-54 (14.2%) and four times more than people 55+ (8.3%)²⁸. The same report notes that approximately 18% of all homes now have internet-enabled televisions²⁹.

The table below from the same Nielsen report shows the penetration of various technologies and demonstrates the rapid rate that of growth in these new content delivery platforms.

²⁶ Ibid

²⁷ <http://www.publishersbureau.com.au/resources/pdf/PAAB%20-%20Alcohol%20Advertising%20Guidelines.pdf>

²⁸ Nielsen (2012) *Australian Multi-screen report Q3 2012*, 6 December 2012: <http://www.nielsen.com/au/en/news-insights/reports-downloads/2012/australian-multi-screen-report-q3--2012.html>; pp. 3

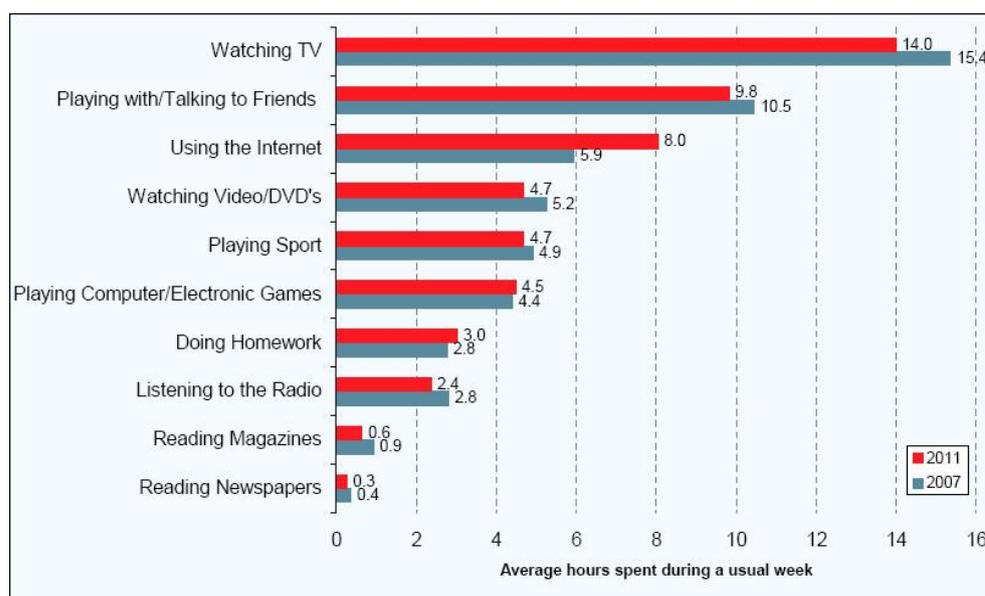
²⁹ Ibid.

TABLE 1: TECHNOLOGY PENETRATION

	Q3 2011	Q4 2011	Q1 2012	Q2 2012	Q3 2012
Digital terrestrial television (DTT): Penetration within TV households ¹	94%	95%	96%	97%	97%
Completely DTT: Penetration within TV households (Homes capable of receiving DTT on each working TV within the home)	65%	70%	74%	77%	79%
Personal video recorder (PVR): Penetration within TV households	42%	44%	47%	49%	50%
Internet Connection: Household penetration ²	76%	77%	78%	78%	78%
Tablets: Household penetration	N.A.	N.A.	15%	19%	22%
Internet Connected TV in Home	N.A.	N.A.	15%	16%	18%
Smartphones: People 16+ ³	46%	45%	48%	52%	56%

A 2012 study by Roy Morgan Research on the media habits of children aged 6-13 from 2007 to 2011 shows children are spending more time using the internet³⁰. The study also shows a decline in the number of hours children are watching TV during the week.

Children's time spent in 2011 compared to 2007



This trend is reflected in ratings data which shows that children and teens watching commercial free to air TV is on the decline. Free TV audiences year on year declined by 3 per cent for children aged 5 – 12 and 5.4 per cent for children aged 13-17³¹.

³⁰ Roy Morgan Research Press Release 2012 *TV Still Dominates for Kids* <http://www.roymorgan.com/news/press-releases/2012/1748/>

³¹ OzTAM, 5 city metro, 01 Jan - 31 Dec 2008 - 2012, 6am - midnight, children 5-12 and 13-17, average audience, based on consolidated data from 2010

Attachment A

Commercial Television Industry Code of Practice July 2010 (Extract)

Commercials which Advertise Alcoholic Drinks

- 6.7 A commercial which is a “direct advertisement for alcoholic drinks” (as defined in Clause 6.11) may be broadcast:
- 6.7.1 only in M, MA or AV classification periods; or
 - 6.7.2 as an accompaniment to the live broadcast of a sporting event on weekends and public holidays.
- 6.8 Notwithstanding Clause 6.7, a commercial which is a “direct advertisement for alcoholic drinks” may be broadcast as an accompaniment to the live broadcast of a sporting event if:
- 6.8.1 the sporting event is broadcast simultaneously across a number of licence areas; and
 - 6.8.2 Clause 6.7 permits direct advertisements for alcoholic drinks in the licence area in which the event is held or, if the event is held outside Australia, direct advertisements for alcoholic drinks are permitted in a majority of the metropolitan licence areas in which the event is simulcast.
- 6.9 A commercial which is a direct advertisement for an “alcoholic drink” or a “very low alcohol drink” (as both are defined in Clause 6.10) may not be broadcast during a C classification period, as defined in the Children’s Television Standards.
- 6.10 An “**alcoholic drink**” means any beer, wine, spirits, cider, or other spirituous or fermented drinks of an intoxicating nature, and is generally understood to refer to drinks of 1.15% or more alcohol by volume. The view of the Commonwealth Department of Health is that drinks of less than 1.15% alcohol by volume should be classified as “**very low alcohol**” drinks.
- 6.11 “**Direct advertisement for alcoholic drinks**” means a commercial broadcast by a licensee that draws the attention of the public, or a segment of it, to an alcoholic drink in a manner calculated to directly promote its purchase or use. This does not include the following, provided that their contents do not draw attention to an alcoholic drink in a manner calculated to directly promote its purchase or use:
- 6.11.1 a program sponsorship announcement on behalf of a brewing company or other liquor industry company;
 - 6.11.2 a commercial for a licensed restaurant; or
 - 6.11.3 a commercial for a company whose activities include the manufacture, distribution or sale of alcoholic drinks.

6.12 **“Live sporting event”** means:

- 6.12.1 live-to-air sporting broadcasts, including breaks immediately before and after the broadcast;
- 6.12.2 sporting broadcasts delayed for time zone reasons and broadcast as plausible “live”, without reformatting;
- 6.12.3 sporting broadcasts delayed in the licence area in which the event is being held pursuant to a requirement of the relevant sporting organisation (known in the industry as “delay against the gate”);
- 6.12.4 replay material where a scheduled live-to-air sporting broadcast has been temporarily suspended (e.g. during rain breaks in cricket coverage), provided that normal or stand-by programs have not been resumed.

6.13 **“Public holidays”** are those days proclaimed, Gazetted, or nominated in a statute as public holidays under the relevant State or Territory legislation. These holidays generally affect either an entire State or Territory (such as the various Queen’s Birthday holidays) or a particular city or region (such as Melbourne Cup Day in Melbourne).

- 6.13.1 Where a licence area covers areas in which different public holidays are observed, the station should schedule according to the public holidays in the area which contains the majority of the licence area population.

**Children's Television Standards 2009
(Extract)****CTS 36 Advertising of Alcoholic Drinks**

- 1) Advertisements for alcoholic drinks may not be broadcast during a C period.
- 2) No advertisement or sponsorship announcement broadcast during a C period 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.
- 3) No advertisement for alcoholic drinks may be 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 any C program or P program.
- 4) 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 distribution or sale of alcoholic drinks. This requirement is in addition to the requirements of the Commercial Television Industry Code of Practice.

ATTACHMENT C

ALCOHOL BEVERAGES ADVERTISING CODE (Extract)

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 (egg 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.
- 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.