



**Submission by
Free TV Australia**

National Alcohol Strategy 2018-2026

Consultation Draft

9 February 2018

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1 Executive Summary

- Free TV represents Australia’s commercial free-to-air television licensees. On behalf of our members, we welcome this opportunity to submit to the consultation draft of the National Alcohol Strategy 2018-2026.
- There is already an extensive range of restrictions in place governing the content and scheduling of alcohol advertising on free-to-air television.
- As a result of these robust and effective regulations, the commercial free-to-air television industry already provides the safest platform for families and children to come together to be entertained.
- Free TV members are bound by the Commercial Television Industry Code of Practice (Code) and Children’s Television Standards (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 subject to a strict enforcement regime by the Australian Communications and Media Authority (ACMA) with significant penalties for non-compliance.
- 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.
- Commercial free-to-air broadcasters successfully comply with these restrictions and there is very little evidence of community dissatisfaction, with viewer complaint levels consistently very low.
- There is evidence, including research referenced in the consultation draft, that the controls that apply to commercial free-to-air broadcasters are working well, in contrast to the impact that advertising on other platforms can have on under-age drinking.
- Therefore, we do not support a single advertising code that would subsume the placement and content restrictions already enshrined and working well in the commercial television code of practice.
- More broadly, we have concerns with the process used to develop the draft National Alcohol Strategy. A best practice approach to public policy development would involve broad stakeholder consultation and a genuine evidence-based process leading to a well-crafted policy.
- In contrast, this strategy appears to have been drafted without proper consultation and with a limited evidential base. Free TV would warmly welcome the opportunity to be involved in a consultative development process that is genuinely evidence-based.

2 Introduction

Free TV Australia is the peak industry body representing Australia's commercial free-to-air television licensees. Free TV welcomes the opportunity to provide comments on the draft 2018-2026 National Alcohol Strategy.

The commercial free-to-air television sector is committed to ensuring that television content aligns with community standards and expectations, particularly in relation to children and young audiences. There has long been recognition of the need to ensure that advertisements for alcohol products are not in any way directed at children and Free TV members are cognisant of community concerns and sensitivities regarding the appropriate advertising of alcohol products.

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 are briefly described below.

2.1 The Commercial Television Industry Code of Practice

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 operations.

The Code is co-regulated by industry and the ACMA. The ACMA is empowered under the BSA to enforce compliance with the Code and Free TV members face penalties for a breach of the Code.

The Code is reviewed regularly and was last updated in 2015. 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, ensuring that 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.

The Code regulates the content and placement of advertisements designed to limit young peoples' exposure to alcohol advertisements. Under the Code alcohol advertisements can generally only be broadcast in the M and MA15+ classifications zones (except between 5am and 6am, and 7.30pm and 8.30pm), or as an accompaniment to a sports program on a weekend or a public holiday. Alcohol advertisements cannot be broadcast during any nominated children's programming periods.

During the last Code review a provision which specifically bans alcohol advertising in the new M classification zone between 7.30-8.30pm was included. This highlights the responsiveness of the existing co-regulatory arrangements and the way the Code review process allows for community concerns to be expressed and addressed.

Free TV endorses the existing processes of review, community consultation and the ACMA registration of the Code as the most appropriate means by which to address any community concerns regarding the scheduling of alcohol advertising.

2.2 The Children’s Television Standards

The CTS prohibit the broadcasting of advertisements and sponsorship announcements that identify or refer to a company, person, or organisation that manufactures, distributes or sells alcoholic drinks, during a C program (a program classified by the ACMA as suitable for children other than preschool children) or a P program (a program classified by the ACMA as being suitable for preschool children).

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

2.3 The Alcohol Beverages Advertising Code

The ABAC applies to advertisements on television, radio and the internet, in print and also to outdoor advertising. It is primarily concerned with regulating the content of alcohol advertisements in order to promote responsible use of alcohol. In addition, the ABAC requires that advertisements must not:

- encourage or promote the excessive alcohol consumption, offensive behaviour, misuse or abuse of alcohol;
- encourage under-age drinking;
- have a strong or evident appeal to children (there are specific rules relating to the inclusion of children in advertisements);
- suggest that alcohol can contribute to personal, business, social, sporting, sexual or other success;
- depict alcohol consumption in relation to the operation of machinery or vehicles;
- challenge or dare people to consume alcohol;
- promote a beverage on the basis of its higher alcohol content; and
- encourage consumption that is in excess of Australian Alcohol Guidelines.

The ABAC scheme is well known and respected by industry. It is co-regulatory, with a government-nominated representative on the management committee in addition to industry and advertising representatives. ABAC’s independent adjudication panel is run at arm’s length from the industry. The Alcohol Advertising Pre-Vetting Service (AAPS) is a helpful tool for advertisers and industry alike. 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. Further, the Code provides that all advertisers on free-to-air television are expected to comply with the ABAC.

The ABAC process is further supported by Free TV through its Commercials Advice (CAD) service that provides an information and classification service for advertisers.

CAD directs manufacturers and retailers of alcoholic drinks to have their advertisements pre-vetted by AAPS for compliance with the ABAC Code prior to being classified and approved by CAD. Where an advertisement for an alcoholic drink is submitted for classification without an AAPS approval, CAD will request that the advertiser seek approval.

If an advertisement is found in breach of the ABAC Code, CAD will withdraw the classification number for the advertisement, following formal notification from the ABAC Scheme Limited.

These existing arrangements are working well and there is no evidence to indicate that these restrictions or systems are a failure.

Further, in November 2017, a new provision was inserted into the ABAC to require that marketing communications in relation alcoholic beverages only be placed where the audience is reasonably expected to comprise at least 75% adults. The impact of these changes should be given sufficient time to take effect before being evaluated.

2.4 The AANA Code of Ethics

The AANA Code of Ethics contains a provision that marketing material must not depict material contrary to prevailing community standards on health and safety, while the AANA Code for Advertising & Marketing Communications to Children (Children’s Code) specifically provides that “advertising or marketing communications to children must not be for, or relate in any way to, alcohol products or draw any association with companies that supply alcohol products”.

The AANA’s self-regulatory system applies to all advertisers and marketers in Australia, regardless of AANA membership. It is also platform neutral and applies in the same way to traditional advertising, outdoor, online and social media.

As with the ABAC, the Code provides that all advertisers on free-to-air television are expected to comply with the AANA Code of Ethics and Children’s Code.

3 Evidence that existing controls are working well

3.1 Television advertising not linked to under-age drinking

The consultation draft appears to base much of the need for a single advertising code on statistics from a study undertaken in 2011 that showed that most Australian students reported seeing alcohol advertising on TV. Further, that half of all alcohol advertising was screened during “children’s viewing times.”

Free TV has reviewed the full studies from which these statistics were drawn. The results of the first study are instructive and should be carefully considered by policy makers.

The study examines the links between exposure to alcohol advertising and under-age alcohol initiation (having consumed one or more full drinks) and ongoing under-age alcohol consumption over various time periods. The study shows:

- exposure to TV advertising of alcohol was associated with slightly reduced odds of under-age alcohol initiation (better than any other platform)
- having seen an alcohol advertisement on TV was associated with reduced odds of under-age regular alcohol consumption.¹

The impact of television alcohol advertising does not feature in the conclusions of the study:

Overall, exposure to alcohol advertising in magazines, bottleshops, pubs/bars and via promotional materials was associated with alcohol initiation. Alcohol advertising in pubs/bars was associated with regular consumption in the previous 12 months; and magazine, Internet and pub/bar advertising was associated with consumption in the past 4 weeks.²

Similarly, the assertion that half of all alcohol advertising occurs during children’s viewing times is also incorrect and draws on outdated 2007 data.³ This defines all prime-time hours, ie. 7am-9am and 3:30pm to 10:30pm as “children’s viewing times”. The cut-off of 10.30pm is clearly well after children’s viewing hours. Further, in the eleven years since the initial study, children’s TV viewing time has decreased, as discussed below.

Free TV notes that the consultation draft indicates that an “evidence-based” and “practice-informed” approach will be used in developing policy responses under the National Drug Strategy.

It is critical that policy makers put this approach into practice. A proper reading of the evidence adduced so far points to television being the safest platform for children and families. It would be a policy failure to introduce further restrictions on a well-functioning sector that will drive advertising to other platforms that do not have the same protections.

As set out in section 4, Free TV has strong concerns with the process used in developing the draft strategy. The use of the evidence in relation to alcohol advertising is a neat illustration of the problems with developing a strategy and then seeking out evidence that supports it.

¹ Jones, S.C & Magee, C.A. (2011). Exposure to Alcohol Advertising and Alcohol Consumption among Australian Adolescents. *Alcohol and Alcoholism* 46 (5): 630–637, pp

² Ibid, pg 16

³ King L, Hebden L, Grunseit A, Kelly B, Chapman K, Venugopal K. Industry self-regulation of television food advertising: responsible or responsive? *Int J Pediatr Obes* 2010;6:1–9.

3.2 Very low complaint levels

Further evidence on whether the current controls on alcohol advertising on television are in line with community standards can be seen in the number of viewer complaints. Viewer complaint numbers demonstrate that there is very little community dissatisfaction with regards to the amount and placement of alcohol advertising on TV.

In fact, complaint levels have been consistently very low. In 2017, just 0.18% of all Code complaints received by Free TV members related to alcohol advertising placement. Additionally, there were no ACMA investigations in relation to alcohol advertising reported in the 2015-16 or 2016-17 ACMA Annual Reports.⁴

Free TV would have welcomed the opportunity to provide recent complaints data had the consultation process allowed prior to the drafting of the strategy.

3.3 Low children audiences in live sport

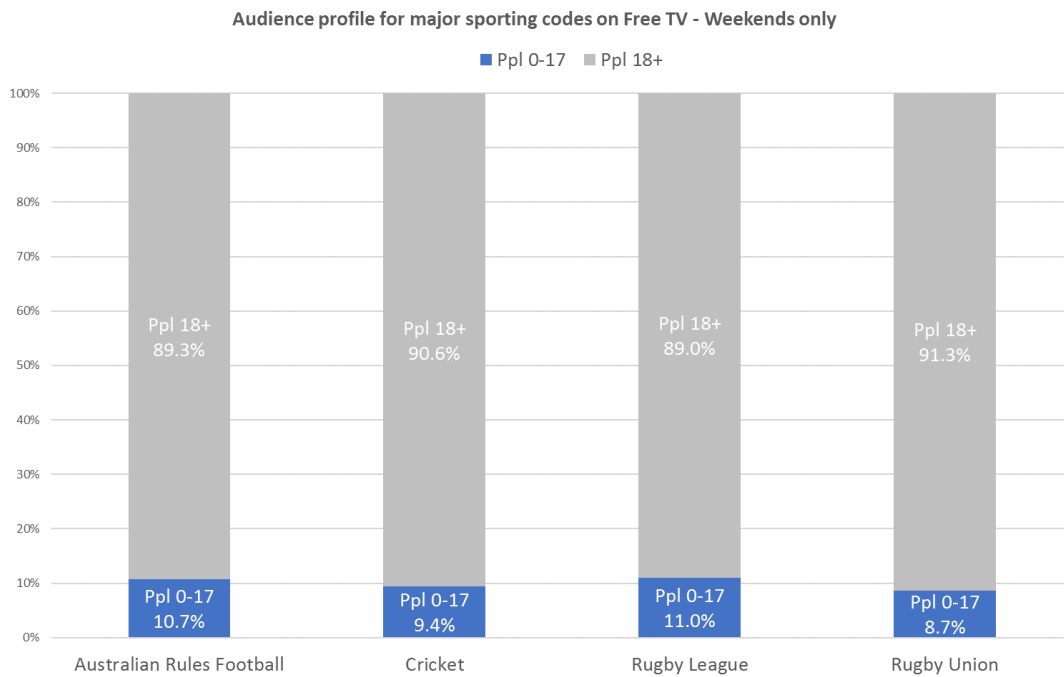
The draft strategy briefly sets out an “opportunity for action” to implement regulatory measures to reduce alcohol advertising, including in sport. This is another area of the draft strategy that departs from its stated aim of being evidence-based.

The Commercial Television Industry Code of Practice includes a narrow allowance for alcohol advertising to be shown as an accompaniment to a sporting event on a weekend or public holiday. This gets the balance right between protecting children and enabling commercial broadcasters to continue to provide all Australians access to their favourite sports for free.

The fact that the current arrangements strike the right balance is borne out by children viewing statistics that demonstrate that the audience of weekend major sporting events on television is overwhelming adult. This is shown in the graph below.

On average, less than 10% of the audience of weekend sporting events are under the age of 18. In total, only 0.5% of Australian children (less than 18 years old) watch weekend sporting events on commercial television.

⁴ ACMA Annual Report, 2015-16, 2016-17, Appendix 6.

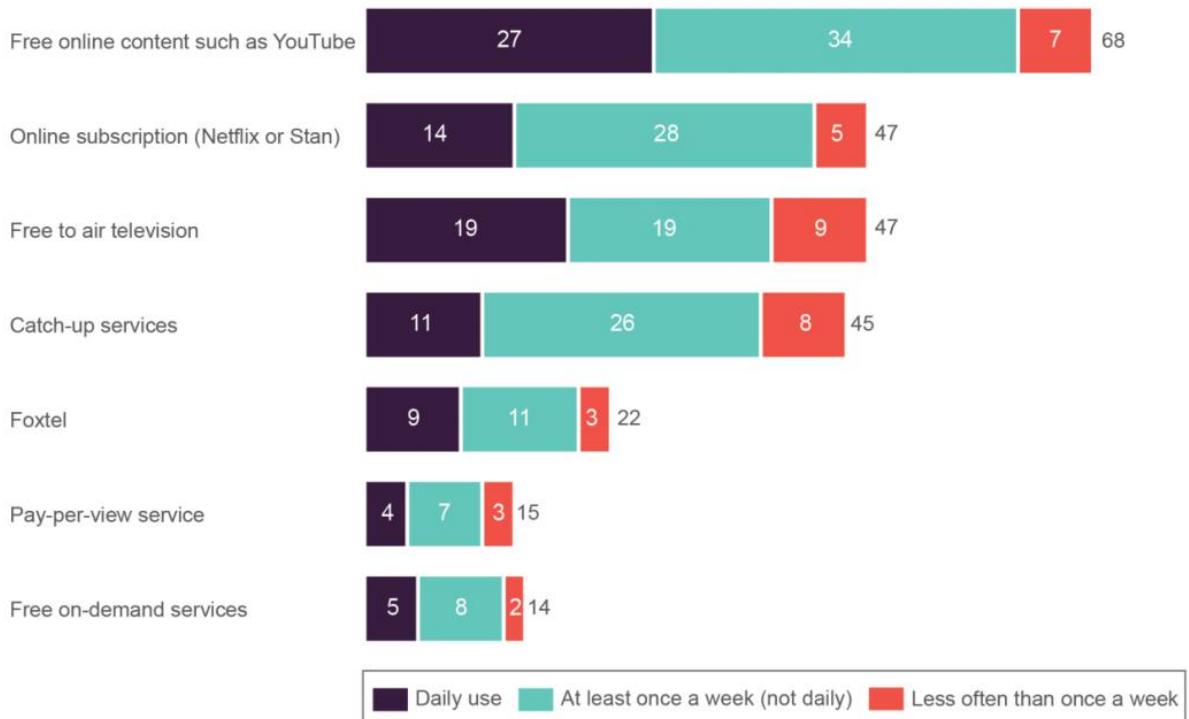


Source: OzTAM, 5 capital cities, based on all sports events coded as Australian Rules Football, Cricket, Rugby League and Rugby Union on Free TV, Saturday and Sunday's only from 01 Jan - 31 Dec 2016, consolidated data, variable: average audience, TARP, profile and universe.

3.4 Children predominately using other platforms

There has been a marked shift in the viewing patterns of children in recent years. The Australian Communications and Media Authority (ACMA) has commissioned a survey to understand children’s regular usage of various media platforms.

Platforms used to watch children’s programs by frequency (%)



ACMA, Children’s television viewing and multi-screen behaviour, pg. 20

As shown above, the predominant platform for children was free online content, such as YouTube.

This again demonstrates that an approach that is focussed on television, which is already heavily regulated, is out of date and will be ineffective in achieving the policy aim.

4 Process for developing draft strategy

Free TV has concerns regarding the process used to develop the draft National Alcohol Strategy.

It is noted that the draft strategy was informed by a national consultation process in 2015. However, the document includes only passing reference to this consultation process. It does not include the views of submitters, nor any indication of how these views were taken into consideration during the development of the strategy.

A best practice approach to public policy development would involve broad stakeholder consultation, with a demonstrable link between that consultation process and the policy prescriptions that eventuate. This has not occurred in this draft strategy.

Borrowing from the overarching *National Drug Strategy* principles, the paper sets out a reasonable set of principles for the development of a national alcohol policy:

- Evidence-based where possible and where not possible be based on the best available information and practice
- Coordinated and collaborative approach between government, non-government organisations and community groups
- Preparedness to investigate and trial innovative approaches to preventing and minimising alcohol-related harm where best-practices approaches are still being developed
- Be focussed across the whole population and be proportionate to the potential for harm.

However, the draft of the National Alcohol Strategy has failed to adhere to these principles.

There also appears to be a lack of cohesion between this strategy, other governments' policies (as a COAG process) and previous harm-minimisation strategies. It would be expected that the draft alcohol strategy would set out clear links to the broader health policies and strategies of governments and include recognition of the success (or otherwise) of earlier strategies. The lack of this prior recognition means that the statistics in the "where are we now" section lack context and any sense of whether existing policies are working.

In addition to the lack of demonstrable link between consultation and the draft strategy, there appears to be a concerningly thin evidential base. Many of the source documents listed are dated and, as set out above, not all support the policy prescriptions set out in the strategy.

In summary, Free TV is concerned that where processes appear to have abstracted from a consultative and evidential base there is a real risk of a loss of credibility.

We suggest that the Ministerial Drug and Alcohol Forum undertake further thorough consultation on genuinely evidence-based approaches to alcohol harm-minimisation, including a review of the existing policy frameworks before drafting a revised strategy for further consultation. Free TV would welcome the opportunity to be involved in such a process.