



**Submission: Inquiry into the Regulation of Billboard Advertising
House of Representatives Standing Committee on Social Policy and
Legal Affairs
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Cancer Council Western Australia and the McCusker Centre for Action on Alcohol and Youth Joint Submission to the House of Representatives Standing Committee on Social Policy and Legal Affairs Regulation of Billboard Advertising Inquiry

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Cancer Council WA is an independent not-for-profit organisation that conducts research, cancer prevention and support programs and advocacy in order to reduce the burden of cancer on the community. Cancer Council WA is concerned about the level of alcohol consumption in Australia due to the role alcohol consumption plays in increasing people's risks of developing certain cancers. We support measures that effectively regulate alcohol advertising, and consider improved regulation of alcohol advertising an important strategy by which to reduce alcohol-related harm in Australia. Cancer Council WA is particularly concerned about alcohol consumption and related harm in young people.

The McCusker Centre for Action on Alcohol and Youth (MCAAY) is an independent organisation committed to reducing harms caused by alcohol among young people. The work of MCAAY is directed towards raising awareness of the magnitude of alcohol-related harms among young people, the approaches we know can work, other options and the need to act without delay. Indicators of the extent of harmful drinking and alcohol-caused harm among young people are summarized in the attached factsheet, *Alcohol and Young People: the Problem*.

Young people are highly susceptible to alcohol advertising messages, which are frequently effective.¹ Exposure to alcohol advertising shapes young people's beliefs and attitudes about drinking, and their drinking behaviours – indeed, the evidence shows that exposure to alcohol advertising increases the likelihood that adolescents will start to use alcohol, and to drink more if they are already using alcohol.²

The Outdoor Media Association confirms the ubiquity of outdoor advertising in Australia: 'outdoor advertising can be seen at any time of day or night and cannot be turned off, fast-forwarded, put aside or be left unopened'.³ The substantial level of exposure outdoor advertising enjoys begs a strong regulatory approach to ensure that advertising content is of a high standard and that placement of outdoor advertising is appropriate.

Cancer Council WA and MCAAY welcome the opportunity to contribute to the Committee's inquiry into the regulation of billboard advertising. We consider the current arrangements for the self-regulation of outdoor media in Australia ineffective and insufficient, particularly with regard to the regulation of outdoor alcohol advertising. This submission outlines our issues and recommendations.

¹Alcohol Concern. *Not in front of the children – Child Protection and Advertising*. (2007) http://www.aerc.org.uk/documents/pdfs/finalReports/AERC_FinalReport_0046.pdf (Accessed 16 February 2011)

² Anderson, P, Bruijin, A, Angus, K, Gordon R and Hastings, G. (2009) Special Issue: The Message and the Media. Impact of Alcohol Advertising and Media Exposure on Adolescent Alcohol Use: A Systematic Review of Longitudinal Studies. *Alcohol and Alcoholism*, 44(3).

³ Outdoor Media Association Code of Ethics: <http://oma.org.au/code-of-ethics/> (Accessed 16 February 2011)

Summary of recommendations:

- (i) Voluntary regulation to be replaced by a system that applies to all relevant parties;
- (ii) Complete phase-out of outdoor alcohol advertising to occur in stages;
- (iii) Government takes over regulation of outdoor advertising, with jurisdiction over both advertising placement and content;
- (iv) Pre-vetting of outdoor alcohol advertisements to be done by a government regulator, using a new alcohol advertising code;
- (v) All Codes applicable to alcohol advertising are reviewed; and
- (vi) Overhaul of the complaints process to make it simpler and faster.

Issues:

A. A voluntary system does not include all relevant parties

Outdoor media is governed by a voluntary self-regulatory system, and the representative body for outdoor media entities is the Outdoor Media Association (OMA). However, OMA does not represent all of Australia's outdoor media display companies, production facilities, or media display asset owners. A proportion of outdoor media entities is therefore not signatory to OMA's Code of Ethics, which incorporates its Alcohol Advertising Guidelines, other industry codes such as the Alcohol Beverages Advertising Code, and a commitment to abide by decisions made by the Advertising Standards Board (ASB).

Cancer Council WA and MCAAY contend that the existing voluntary system does not extend to all entities involved in the production and display of outdoor advertising and that it will therefore never adequately regulate outdoor advertising. We recommend a government-led regulatory system that affects all of the relevant outdoor media entities.

B. Outdoor alcohol advertising and young people's exposure

OMA's Alcohol Advertising Guidelines place only one restriction upon the placement of outdoor alcohol advertising; its display is limited to outside a 150 metre sight line of a school gate. This restriction does not apply if there is a bottle shop, club or pub in the vicinity, and it does not extend to advertising on public transport that passes by schools.

Outdoor advertising is a medium to which all members of the community, including young people, are highly exposed; it dominates our public spaces, is visible 24 hours a day and it cannot be ignored. Indeed, young people are especially likely to be exposed to alcohol advertising on public transport and in transit stations, as younger people, particularly those ages 18-24, are more likely than older people to use public transport.⁴

⁴ Australian Bureau of Statistics (2008) Public Transport Use for Work and Study. *Australian Social Trends*. See: <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Chapter10102008> (Accessed 16 February 2011).

Recommendations:

Cancer Council WA and MCAAY recommend that advertising of alcohol products in outdoor media⁵ is completely phased out through legislation over time, starting with an initial ban on outdoor alcohol advertising within 500 metres of schools, universities and youth-centred facilities, within 500 metres of public transport stations, bus, train and tram stops, and on public transport. No loopholes, such as the 'sightline' exception, should be allowed. A phase out of outdoor alcohol advertising is in keeping with the key recommendations of the National Preventive Health Taskforce, which advises phasing out alcohol promotion in placements which have high exposure to young people.⁶

C. Regulation of outdoor alcohol advertising placement and content is ineffective:

(i) Placement regulation

Currently, breaches of the Alcohol Advertising Guidelines, such as placement of alcohol advertising close to schools, must be identified and reported by the public. There are no formal checks in place to monitor compliance with the Guidelines. This major flaw in the current system is compounded by the public's lack of knowledge of the Alcohol Advertising Guidelines and of the complaints process. Further, there exists no body with the power to enforce the placement restriction upon outdoor alcohol advertising.

It is no surprise that with no compliance monitoring or meaningful sanctions in place, breaches of the placement restriction occur. Between August and October 2010, Cancer Council WA identified three separate outdoor alcohol advertisements directly opposite (well within a 150 metre sight line) Shenton College, a high school in Shenton Park, Western Australia. Photographs of the offending advertisements are attached to this submission, along with media articles demonstrating community concern about this issue. In each case, the advertiser or outdoor media entity removed the advertisement after community displeasure became evident, not because it was required to by OMA. Since then, Cancer Council WA staff have found at least three more examples of alcohol advertising opposite two different local schools. Two were within 70 metres of a primary school, but were not removed as the advertiser exploited the 'sight line' exception.

⁵ 'Outdoor Media' is defined as including Roadside Billboards, Roadside Other (bus/tram shelters, kiosks, bus/tram exteriors, phone booths, taxis, free standing panels and mobile billboards), Transport advertising (airport externals, rail platform and concourse, bus interchange, bus/tram interiors, airport externals and airport internals), and Retail/Lifestyle advertising (shopping centres, malls and universities). See <http://oma.org.au/outdoor-formats/#Glossary> for more information (Accessed 16 February 2011).

Cancer Council WA and MCAAY do not intend the definition to extend to visual advertising displays around retail liquor outlets that observe the applicable regulations. We are willing to further discuss the definition of 'outdoor media' with the Committee.

⁶ National Preventative Health Taskforce (2009) Australia: The Healthiest Country by 2020 – National Preventative Health Strategy – the roadmap for action. Canberra: Commonwealth of Australia.

(ii) Content regulation

Under the current system, OMA members may only display outdoor alcohol advertisements that have been approved through the Alcohol Advertising Pre-vetting System (AAPS). The AAPS is a user-pays system which evaluates proposed advertisements against the Alcohol Beverages Advertising Code (ABAC). Membership of the ABAC Scheme is voluntary.

We attach the recent ABAC Determination 76-10 as an example of the fundamental flaws of the voluntary system for content regulation. The subject of the complaint was a series of outdoor advertisements on public transport for the alcoholic product Three Kings. The advertisements were not pre-vetted because the advertiser is not an ABAC signatory. OMA's requirement for pre-vetted content was evidently ignored by the outdoor media provider, which had no fear of an enforceable or meaningful sanction, and displayed the advertisement on public transport. The ABAC Adjudication Panel considered and upheld a subsequent complaint and found multiple breaches of ABAC, namely the advertisement appealed to adolescents, featured models who were not adults and not depicted as adults, and showed evidence of product consumption. However, the Panel could do no more than 'encourage the advertiser to become a signatory to the ABAC Scheme'. The advertiser and outdoor media provider flouted both the OMA requirement for pre-vetting and the ABAC content provisions, no sanctions ensued, and the advertisements remained in place until the campaign had run its course.

Recommendations:

Cancer Council WA and MCAAY recommend the government takes over the regulation of outdoor advertising, and allocates the regulator role either to an existing government agency or to a new, independent government body. There is a clear need to ensure all outdoor media entities and advertisers are subject to the same rules, and to remove the gaps, loopholes and misconduct a voluntary, industry-based regulatory system allows.

The government regulator should have jurisdiction over both the placement and content of outdoor advertising. It should have active monitoring duties and the power to take action on offending advertisements without waiting for a complaint. It should offer pre-publication advice, complaint resolution, and research and action on existing advertising, including spot checks, trend monitoring and swift action to handle identified breaches. Importantly, it should be given the power to impose meaningful, timely penalties for breach of advertising regulations.

Cancer Council WA and MCAAY reiterate our previous recommendation for a complete phase-out of outdoor alcohol advertising. In the meantime, however, it is essential to continue to pre-vet outdoor alcohol advertising content. We recommend a complete overhaul of the pre-vetting process and the standards against which the proposed alcohol advertisements are pre-vetted, namely the ABAC Scheme.

Firstly, we contend that industry involvement in the ABAC Scheme precludes the possibility of truly impartial judgment of alcohol advertising. We therefore restate our recommendation for the establishment of a government regulator independent of industry to regulate the content of all outdoor advertising, and so replace the ABAC Scheme's current role in pre-vetting outdoor alcohol advertising.

Secondly, we recommend replacing the Alcohol Beverages Advertising Code with legislation that aims to ensure the content of marketing and advertising communications about alcohol products pays heed to public health and safety objectives and is socially responsible.

Replacing the alcohol advertising code will ensure alcohol advertisements are pre-vetted against a higher standard, but alcohol advertisements may still be judged against other applicable Codes after they are released. Cancer Council WA and MCAAY contend that the other applicable Codes, in particular the AANA Code of Ethics, are weak and skewed in favour of advertisers. We therefore recommend a comprehensive review of all of the Codes applicable to alcohol advertising. We are willing to consult further with the Committee on this matter.

D. Complaints process

The current complaints resolution process administered by the Advertising Standards Bureau is complicated and protracted. Often, a determination is not reached until after an advertising campaign subject to complaint has run its course. The complaints process should be swift, and operate to meet the needs, expectations and rights of all complainants.⁷ Importantly, the complaints procedure should be easy to use, and accessible to all.

We recommend that the previously proposed government regulator handles complaints in a simple and swift manner. We also propose the identification or establishment of the new advertising regulator is accompanied by a public education campaign about outdoor advertising placement and content restrictions, and about complaints processes.

Conclusion

Cancer Council WA and MCAAY submit to the Committee that the current arrangements for regulation are ineffective and do not manage outdoor advertising, particularly alcohol advertising, in line with the Australian community's expectations. It is vital to note that the issues relating to outdoor advertising outlined in this submission are symptomatic of the fundamental weaknesses of the self-regulatory approach to advertising regulation in Australia. We strongly recommend that approaches to strengthening outdoor advertising regulation are introduced as part of a comprehensive overhaul of advertising regulation in Australia. Cancer Council WA and MCAAY are willing to present on these matters to the Committee.

⁷ 'Key features of an effective complaint handling process' (2009) Ombudsman Victoria, <http://www.ombudsman.vic.gov.au/www/html/99-key-features-of-an-effective-complaint-handling-process.asp> (Accessed 16 February 2011).