

Submission on the Commercial Television Industry Code of Practice public consultation

November 2024



About FARE

The Foundation for Alcohol Research and Education (FARE) is a not-for-profit organisation with a vision for an Australia free from alcohol harms- – where communities are healthy and well and where laws, policies and programs are fair, equitable and just.

Every day, people across Australia are negatively impacted by alcohol, through injury, violence, mental ill-health, chronic disease, family violence and disadvantage. Far too many Australians die because of alcohol.

We work collaboratively to build the capacity of people wanting to create change, raise community awareness of alcohol harms, advocate for policy change aimed at preventing alcohol-related harms and increase accountability of companies that fuel harm.

Working with local communities, people with lived experience of alcohol harm, values-aligned organisations, health professionals, researchers and governments across the nation, we are improving the health and wellbeing of everyone in Australia.

To learn more about us and our work visit www.fare.org.au.

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FARE is a registered charity, and every dollar you give helps fund projects keeping our communities healthy and safe. You can make a tax-deductible donation at: www.fare.org.au/donate.

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Executive summary

All Australians should have the opportunity to be healthy, safe and free from the many ways that alcohol causes harm to people, families and communities. Yet tragically, Australia is currently experiencing the highest rates of alcohol-induced deaths in over 20 years.¹ Alcohol is also a significant factor in family and domestic violence.² There are several studies that show that violence involving alcohol increases at the time of football grand finals and the State of Origin.^{3,4} The link is so strong that the Rapid Review of Prevention Approaches for family and domestic violence recommended that “*alcohol advertising be restricted during sporting events*”.⁵

Considering this recommendation and the strong evidence showing that when children are exposed to alcohol advertising, they are more likely to start drinking early and to drink at higher risk levels; broadcast alcohol advertising should be reduced, not increased.

But the draft ‘*Commercial Television Industry Code of Practice*’ (the Code) is proposing extending the hours that alcohol advertising can be shown to children by over 800 hours per year. Even more concerning is the proposal that these ads be shown during the daytime on school holidays, weekends and public holidays, when children are more likely to be watching alcohol advertising. Weekends and public holidays are also times when alcohol harms are more likely to occur.⁶ This is in addition to the existing loophole where restrictions on alcohol advertising do not apply during the broadcast of sports programs on public holidays and weekends.

This loophole increases alcohol advertising at higher risk times – during sporting events which are associated with increases in family and domestic violence. Companies tie these events into their branding during these events to maximise sales and profits during times that are most harmful. They even boast about the increase in sales during these times.⁷

Alcohol marketing influences people’s preferences, attitudes, social norms and use of alcohol products, which subsequently impacts on community health, safety and wellbeing.

Marketing to children also results in use of these products at earlier ages, which leads to higher and more frequent patterns and levels of use.^{8,9,10} While alcohol marketing can impact anyone in the community, some Australians are particularly impacted by alcohol advertising and alcohol harm, including children and young people.¹¹

We strongly oppose the proposed changes to the Code and believe they breach the requirements in the Broadcasting Services Act 1992 that “*broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them*” (s3), and that industry codes “*provide appropriate community safeguards*” (s123, 125, 130).¹²

Recommendations

Recommendation 1. Ensure that any changes to the *Commercial Television Industry Code of Practice* (the Code) do not extend the hours when alcohol advertising is permitted to be broadcast. This can be achieved by:

- a. Retaining the current 'M' classification zone allowances in Section 2.2.2 of the Code that restricts alcohol advertising from being exposed to children during school holidays, public holidays and on weekends, or
- b. Extending the current 'M' classification zone allowances for weekends and school holidays in Section 2.2.2, across all days, if the changes are intended to provide a uniform zone, or
- c. Un-linking alcohol advertising in Section 6.2 from M classification zones, and separately defining times restricting alcohol advertising from being exposed to children during school holidays, public holidays and on weekends, if changes to M classification zones are needed.

Recommendation 2. Remove the exemption in Section 6.2 that allows alcohol advertising during sports broadcasts, due to the known increase in family and domestic violence during sporting events.

Recommendation 3. Remove the exemption in Section 8 of '*program sponsorship*' from alcohol advertising, that allows the promotion of alcohol companies during program broadcasts.

Harms from alcohol

Alcohol contributes significantly to Australia’s health burden as well as costing billions of dollars each year in Australia in terms of healthcare and non-healthcare economic costs.¹³ Based on the findings of the Australian Burden of Disease Study 2018, overall health burden attributable to alcohol as measured by disability-adjusted life years (DALYs), was 222,108 DALYs in 2018.^{14,15} Tragically, Australia has been experiencing the highest rates of alcohol-induced deaths in over 20 years.¹⁶

Health impacts of alcohol include hospitalisation and deaths from injury and other acute and chronic diseases, like cancer and mental ill-health. Alcohol is a carcinogen, causing at least seven types of cancer, including mouth, throat, oesophagus, liver, breast and bowel cancer.¹⁷ Alcohol also causes alcohol-related brain injury and Fetal Alcohol Spectrum Disorder (FASD). FASD is a lifelong disability describing a range of neuro-developmental impairments that impact on the brain and body of individuals prenatally exposed to alcohol.

Alcohol use and children and young people

Alcohol use by young people is a major public health concern. The National Health and Medical Research Council (NHMRC) updated the *Australian guidelines to reduce health risks from drinking alcohol* in 2020.¹⁸ To reduce the risk of injury and other harms to health, the guidelines states that “children and people under 18 years of age should not drink alcohol”. Teenagers are identified as a priority population in the *National Alcohol Strategy 2019–2028*, as they are particularly vulnerable to the negative effects of alcohol.¹⁹ Due to their developing brains and bodies, young people are more vulnerable to the physical effects of alcohol and impairment of cognitive performance.

Adolescents undergo significant neural development, particularly in frontal regions of the brain. Adolescents who engage in high-risk alcohol use show changes in brain structures and aberrations in brain activity. These differences relate to poorer neurocognitive performance on tests of attention, working memory, spatial functioning, verbal and visual memory and executive functioning.²⁰ They are more vulnerable to both the short-term and long-term negative effects of alcohol.²¹ Considerable research suggests that alcohol increases the risk of developing alcohol-use disorders.²²

Gendered violence

Alcohol is a significant contributor to gendered violence in Australia, increasing the frequency and severity of gendered violence. Between 2010 and 2018, over half (52 per cent) of male intimate partner homicide offenders used alcohol at high-risk levels at the time of the homicide.²³ Men’s drinking results in direct, indirect and hidden harms to women that are cumulative, intersecting and entrench women’s disempowerment.²⁴ Changes in their partners’ drinking play a central role in women’s journey to safety and can complicate their ability to leave.²⁵ Action on alcohol is an important part of any comprehensive approach to the prevention of violence against women and children.

Following an initial National Cabinet meeting in May 2024 to discuss gendered violence, the Domestic, Family and Sexual Violence (DFS) Commissioner, Micaela Cronin, convened an expert roundtable of ‘*Crisis Talks into Murdered and Missing Women*’. The DFS Commission issued a communique from the roundtable that committed ‘to work with Commonwealth and state and territory governments to urgently consider what role they can play in regulating and responding to factors that can exacerbate domestic and family violence, such as the accessibility of AOD, gambling, and pornography’.²⁶

Subsequently the Prime Minister announced an expert led ‘*Rapid Review of Prevention Approaches to End Gender-Based Violence*’ The Rapid Review report “*Unlocking the Prevention Potential: accelerating action to end domestic, family and sexual violence*” was released in August 2024.²⁷ It included specific recommendations for governments to regulate the sale and marketing of alcohol.

National Cabinet then met in September 2024, to again discuss gendered violence, with the Prime Minister acknowledging that tackling the impacts of alcohol on violence was a priority. He acknowledged the role of systems and industries in exacerbating violence. State and Territory First Ministers agreed to review alcohol laws and its impact on family and domestic violence victims to identify and share best practice and reforms and to report back to National Cabinet on progress.²⁸

Alcohol marketing and children

Alcohol marketing impact on children and young people

There is a high level of exposure to alcohol marketing by children, with over 94% of Australian students aged 12 to 17 having seen alcohol advertising on television.²⁹ This is also evidenced by a high level of recognition by Australian children of specific alcohol promotions. A study in 2010, showed a large majority of Australian children were exposed to Bundaberg Rum advertising and were able to associate the character Bundy R. Bear with alcohol.³⁰

More recently, the loophole allowing TV content, (including alcohol advertising), that is broadcast online to escape regulation altogether, was subject to numerous complaints, which were all dismissed because of the loophole. There were 28 complaints made about alcohol being advertised during programs including *Lego Masters*, *Australian Idol* and *The Voice* and during the broadcast of *Carols in the Domain* around segments featuring Disney characters and The Wiggles.³¹

Children are regularly being exposed to advertisements that depict alcohol consumption as fun, social and inexpensive. Around half of all of 2,810 alcohol advertisements in one study appeared during children's popular viewing times.³² The most common themes used were humour, friendship/mateship and value for money. Such messages reinforce existing alcohol-related cultural norms that prevent many Australians from meeting current alcohol use guidelines.

Young people’s exposure to alcohol marketing increases the likelihood they will start using alcohol at a younger age and that they will go on to use alcohol at high-risk levels later in life. A systematic review of twelve longitudinal studies consistently demonstrated that young people who have greater exposure to alcohol marketing are more likely subsequently to initiate alcohol use and engage in high-risk drinking.³³

Consistent with studies from other countries, Australian studies also suggest that exposure to alcohol advertisements among Australian adolescents is strongly associated with drinking patterns.³⁴ Several research studies and reports concluded that the current regulatory arrangements are ineffective in preventing the exposure of children to alcohol marketing.³⁵ The harmful impact of this exposure in increased early uptake and high-risk use, also suggests an urgency to correct this failure.

Changes to ‘M’ classification will expose children to more alcohol marketing

The draft *Commercial Television Industry Code of Practice* (the Code) indicates an intention to ‘simplify’ the ‘M’ classification times in 2.2.2., by removing the restriction on school weekends and school and public holidays. This will significantly increase the number of hours that ‘M’ classified programming and related advertising can be exposed to children. Similar ‘simplification’ could also be achieved by making the current weekend / school holiday restrictions the same for every day.

As indicated by the Australian Communications and Media Authority (ACMA), this proposed change would permit M content over longer periods of the day (including weekends and school holidays). The ACMA said that “viewers may have concerns about any extension of time when alcohol advertising is permitted on television”.³⁶ Such a change would impact the times during which alcohol advertising is permitted. Section 6.2.1 specifies that a commercial for Alcoholic Drinks may only be broadcast in the M and MA15+ classification zones set out in Section 2.

Changes to M Classification zone

Current restrictions	Proposed restrictions
Material that has been classified M may only be broadcast at the following times: a) School Days 7.30 pm to 6 am, 12 noon to 3 pm. b) Weekends and School Holidays 7.30 pm to 6 am. c) Public Holidays 7.30 pm to 6 am	Material that has been classified M may only be broadcast between the following hours: a) 10:00 am and 3:00 pm; and b) 7.30 pm and 6.00am.

Current - School Days (up to 200 days)

	Mon	Tue	We	Thu	Fri
5 am	M	M	M	M	M
6 am					
11 am					
12 noon	M	M	M	M	M
1 pm	M	M	M	M	M
2 pm	M	M	M	M	M
3 pm					
7 pm					
7:30 pm	M	M	M	M	M
8 pm-5pm	M	M	M	M	M

Current – Weekends (104 days), School Holidays (53 days), Public Holidays (8 days)

	Mon	Tue	We	Thu	Fri	Sat	Sun
5 am	M	M	M	M	M	M	M
6 am							
7 am							
7 pm							
7:30 pm	M	M	M	M	M	M	M
8 pm-5pm	M	M	M	M	M	M	M

Proposed - Every day (including at least 165 non-school days)

	Mon	Tue	We	Thu	Fri	Sat	Sun
5 am	M	M	M	M	M	M	M
6 am							
9 am							
10 am	M	M	M	M	M	M	M
11 am	M	M	M	M	M	M	M
12 noon	M	M	M	M	M	M	M
1 pm	M	M	M	M	M	M	M
2 pm	M	M	M	M	M	M	M
3 pm							
7 pm							
7:30 pm	M	M	M	M	M	M	M
8 pm-5pm	M	M	M	M	M	M	M

Key

M Classification zone (alcohol advertising permitted)	M	Alcohol advertising not permitted	
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The result of these proposed changes would be 5 hours (10am to 3pm) of 'M' programming and alcohol advertising being allowed to be shown to children per day, for the (at least) 165 days per year outside of school days, (ie. at least 825 hours per year). It also increases the allowance on the 200 school days by an additional 2 hours (10am to 12 noon). This proposed change would further water down the current arrangements that do not provide community safeguards to effectively restrict alcohol marketing exposure to children and young people.

Recommendation 1. Ensure that any changes to the *Commercial Television Industry Code of Practice* (the Code) do not extend the hours when alcohol advertising is permitted to be broadcast. This can be achieved by:

- Retaining the current 'M' classification zone allowances in Section 2.2.2 of the Code that restricts alcohol advertising from being exposed to children during school holidays, public holidays and on weekends, or
- Extending the current 'M' classification zone allowances for weekends and school holidays in Section 2.2.2, across all days, if the changes are intended to provide a uniform zone, or
- Un-linking alcohol advertising in Section 6.2 from M classification zones, and separately defining times restricting alcohol advertising from being exposed to children during school holidays, public holidays and on weekends, if changes to M classification zones are needed.

Alcohol marketing and sports broadcasts

Alcohol marketing during sporting events is prolific. One study found that the top 10 alcohol companies placed 10,660 alcohol ads during Australian sports broadcasts over a 12-month period. This amounts to an average of 75 minutes of alcohol advertising each week. Almost half (45 per cent) of the ads aired during children's viewing times (before 8.30pm). Most of the advertising (89 per cent) aired during the Australian Football League (AFL), National Rugby League (NRL) and cricket.³⁷ Exposure to alcohol advertisements during national sports broadcasts, significantly increases cravings in people with high-risk alcohol use.³⁸

Alcohol, sports and gendered violence

Broadcast sports events are associated with increased levels of alcohol-related gendered violence. One study found significant increases in violence in New South Wales on State of Origin nights, compared with the surrounding Wednesday nights. These effects were substantial, with an increase of around 40 per cent in domestic assaults.³⁹ This spike in violence against women and children has remained consistent during State of Origin matches from 2012-17, the crime statistics show.

Increases in family violence have also been documented during the AFL Grand Final and Melbourne Cup.⁴⁰ Internationally, there are spikes in domestic violence associated with the World Cup.⁴¹ Statistics show that increases in violence associated with sporting events are roughly the same whether perpetrators' teams win or lose.⁴² A 2022 systematic review of empirical research literature explored the link between major sporting events and incidence of domestic violence. It found that there was an association between major sports events and increased reporting of domestic violence.⁴³

The grand finals of the Australian Football League (AFL) and National Rugby League (NRL) are a time of celebration for many Australians, attracting a TV audience of millions. Yet experts warn they are

also a period of heightened risk for domestic violence. This resulting in women and children who experience intense anxiety and fear across the weekends, in anticipation of assault.⁴⁴

Berry Street, a domestic violence support service, saw a 30 to 40 per cent increase in demand during the AFL and NRL grand final weekend in 2023. Victoria Police has previously reported a 20 per cent increase in domestic violence on AFL grand final day, with alcohol increasing the frequency and severity of the violence.⁴⁵

The Commonwealth Government's Rapid Review Expert Panel report, '*Unlocking the Prevention Potential - Accelerating action to end domestic, family and sexual violence*' included recommendations about regulating alcohol availability and promotions.⁴⁶ Specifically, this included a recommendation "*that alcohol advertising be restricted during sporting events.*" Following these recommendations, the National Cabinet agreed to commit to a review of alcohol laws in each State and Territory, to help prevent gendered violence.⁴⁷

Sports broadcast loophole exposes children to alcohol marketing

While Free TV wants to extend the hours that children and young people are exposed to alcohol marketing, the existing rules are already inadequate. Section 6.2 of the Code provides a loophole where a commercial for alcoholic drinks may be broadcast as an accompaniment to a Sports Program on a Weekend or a Public Holiday, or an accompaniment to the broadcast of a Live Sporting Event broadcast. These provisions breach the requirements in the Broadcasting Services Act 1992 that "*broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them*" (s3), and that industry codes "*provide appropriate community safeguards*" (s123, 125, 130).⁴⁸

Alcohol ads not being permitted to be shown before 7.30pm, recognises the fact that alcohol ads are harmful to children. It makes no sense for the same rules not to apply during sports broadcasts. There is ongoing community concern about alcohol promotion in sport. Of those surveyed by Essential Media for the Royal Australasian College of Physicians (RACP), 69 per cent were concerned by influence of alcohol promotion on children and 54 per cent were concerned by the loophole.⁴⁹

The exposure facilitated by this loophole is significant. One study found that alcohol advertising during sporting broadcasts had the potential to reach a significant number of children and young people; and that this exposure is facilitated by the sports exemption. They estimated that 117,000 people aged 5-17 watched a sports broadcast, and that there were 106 instances of visual alcohol sponsorship across the broadcast. This means that children and young people who watched the whole race were potentially exposed to 35 minutes of alcohol marketing.⁵⁰

A significant majority of Australians want governments to do more to protect young people from alcohol advertising. Over three-quarters (77 per cent) of Australians support restricting alcohol advertising on television during times when children are likely to be watching, including during live sports broadcasts.⁵¹

Alcohol sponsorship of programs

Alcohol sponsorship of programs including sporting events also increases the exposure of young people to alcohol advertising.⁵² Sponsorship of sporting events or teams is a particularly powerful way for alcohol companies to market their products to a mass audience.⁵³ Sponsorship creates positive associations between players, teams or sporting codes that are respected by the public, and the products that they endorse. People are less conscious of brand promotion that occurs via sponsorship rather than traditional advertising.⁵⁴

The Code provides an exception for commercial for alcoholic drinks for ‘*program sponsorship announcement which make no direct reference to the price of goods or services*’ (Section 8).⁵⁵ This is another broadcast loophole, that allows alcohol companies to promote their brand, and by association, their products, through alcohol sponsorship of broadcast programs. This allows well-known alcohol brands to promote themselves, including with sports sponsorship, during times when they would have otherwise been prevented from doing so.

Once again, the exposure facilitated by this loophole is also significant. One study found that just under 120,000 people aged 5 to 17 watched a sports telecast that had 106 instances of visual alcohol sponsorship, equating to just less than one per minute, for one 2-hour period. Including in-break alcohol ads, children and young people who watched the whole event were potentially exposed to 35 minutes of alcohol marketing.⁵⁶

Companies know the influence of successful sporting teams and personalities and pay significant money in sponsorship deals, expecting them to promote messages that cause harm to people’s health and wellbeing. Some major sporting professionals, such as Kylian Mbappé, Paul Pogba and Usman Khawaja have been calling out this conflict of interest between promoting health and the promotion of harmful products and brands.⁵⁷

Recommendation 2. Remove the exemption in Section 6.2 that allows alcohol advertising during sports broadcasts, due to the known increase in family and domestic violence during sporting events.

Recommendation 3. Remove the exemption in Section 8 of ‘*program sponsorship*’ from alcohol advertising, that allows the promotion of alcohol companies during program broadcasts.

Conclusion

FARE’s submission to the Free TV Industry Code consultation has reviewed the broadcasting regulation as it relates to alcohol marketing and looked at the impact on children of this marketing. The Code already has loopholes that exposes children to alcohol marketing during sports broadcasts, and yet Free TV is now seeking to increase that exposure by over 800 hours per year.

This submission has highlighted the failure of the current Code to prevent the exposure of alcohol marketing to children. Our recommendations outline the restrictions needed to protect children from exposure to alcohol advertising.

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