

# **Submission to ANPHA - Alcohol Advertising: The effectiveness of current regulatory codes in addressing community concerns**

***February 2013***

## EXECUTIVE SUMMARY

The Winemakers' Federation of Australia (WFA) is committed to working with the Australian Government, health bodies and other stakeholders to minimise "at risk" alcohol consumption and its related harms through collaborative, evidence-based initiatives that target the social and cultural factors behind alcohol misuse. At the same time we strongly defend the right of Australian winemakers to responsibly advertise a legal product that, when consumed in moderation, can be part of a healthy, balanced lifestyle.

As such, we welcome the release for discussion of the Australian National Preventive Health Agency (ANPHA) Issues Paper *Alcohol Advertising: The Effectiveness of Current Regulatory Codes in Addressing Community Concern*. However, we have three main concerns with it as presented.

The first is that it highlights research which argues there is a link between advertising and rates and episodes of alcohol abuse, but not other opinions and research that suggest consumption rates (as opposed to consumer brand/category choice) are not sensitive to alcohol advertising and that there are more effective policy options for governments to consider in reducing misuse. This research is referenced in our submission for further consideration. Effective analysis of all relevant research on all sides of the debate is crucial if the Government's goal of developing evidence-based policy is to be met.

The second is that the Issues Paper discusses "increasing community concern" about the link between advertising and alcohol misuse. The only evidence produced to support this claim is a single study conducted by a leading NGO known for its anti-alcohol advocacy. In response we note findings from the most recent *National Drug Strategy Household Survey* suggesting that community concern is not centred on pursuing further restrictions on alcohol advertising or sponsorship. There is greater public support for other policy prescriptions.

The third is that the Issues Paper questions the adequacy of the current quasi-regulatory framework for alcohol advertising. We argue that the Alcohol Beverages Advertising (and Packaging) Code (ABAC) is in fact operating successfully and benefits greatly from a flexible, non-bureaucratic structure that allows it to adapt quickly to changing consumer expectations and an evolving media environment. This fact has recognised in the Office of Best Practice Guidelines. [Details about the operation and impact of ABAC can be found in the submission to ANPHA from the ABAC Management Committee.] The proposals considered in the Issues Paper, including a shift to full government regulation of alcohol advertising, would represent a radical departure from current arrangements. However, the paper has not demonstrated that a change in the status quo is required and that the ABAC Code is failing. Nor has it referenced the work of ABAC to ensure the Code continues to evolve and meet community expectations.

Further consideration of the potential increased regulatory burden on the industry from the proposals canvassed in the Issues Paper also demands a Regulatory Impact Statement process. Until these dimensions of the proposals to restrict the industry's advertising rights are explored and known, policy reform should not be progressed. The risk is that the Government could indirectly and unnecessarily damage an industry that is recognised – and being supported – as one of Australia's main tourist attractions.

In the meantime, WFA would argue that the vast majority of wine advertising highlights positive social messages about the enjoyment of wine in moderation with food, family and friends. These positive messages and reinforcement of desirable social actions around alcohol consumption are features of an industry that is committed to responsible consumption and advertising. This approach

complements other activities by the wine sector to promote responsible consumption such as voluntary labelling initiatives and support for DrinkWise Australia and its campaigns.

WFA looks forward to continuing to work with the ANPHA on the consideration of this matter and other policy initiatives aimed at reducing alcohol misuse and harm. We would welcome the opportunity to meet with the ANPHA to discuss the issues raised in the attached submission in further detail.

**Paul Evans**  
**Chief Executive, Winemakers' Federation of Australia**

## INTRODUCTION

This submission was prepared by the Winemakers' Federation of Australia (WFA), the peak body representing Australia's wineries. WFA is funded through voluntary memberships and represents small, medium and large producers. Its members produce more than 90% of Australian wine.

In relation to alcohol advertising, all WFA members are bound by the provisions of the Alcohol Beverages Advertising Code (ABAC).

This submission should be read in conjunction with the submission from the ABAC Management Committee, of which WFA is a director. The ABAC submission provides details on Australia's current quasi-regulation of alcohol advertising. This document focuses on the broader hypothesis concerning alcohol advertising canvassed in the ANPHA Issues Paper.

It should be noted that WFA takes exception to the suggestion in the Issues Paper that wine is characterised by "a few large, multinational companies dominant in the market"<sup>1</sup>. There are, in fact, 2,532<sup>2</sup> Australian wine companies (of which 470 crush less than 10 tonnes of grapes) supported by nearly 6,000 growers who operate across 64 geographically recognised parts of Australia.

Throughout this document, reference to the Australian wine industry includes all aspects of the supply chain and production of wine, including grape production.

## BACKGROUND

### Consumption trends

Most people who choose to consume alcohol do so in moderation (that is, in line with NHMRC guidelines) based on expert opinion and their own informed evaluation of the risks and benefits (social and health). It is also apparent that rates of alcohol misuse in Australia are stable or in decline. The latest (2010) *National Drug Strategy Household Survey*<sup>3</sup>, indicates the following trends.

- There was a statistically significant decline in risky drinking from the 2007 survey.
- Daily consumers of alcohol decreased to 7.2%, the lowest since the survey started in 1991.
- Patterns of frequent risky drinking on a single occasion remained stable between 2007 and 2010.
- There was an increase in abstainers, especially amongst people under the age of 18.
- The average age of initiation was largely unchanged – 17 years of age compared to 17.3 years in 1995.
- Fewer women are consuming alcohol during pregnancy.
- There was a statistically significant decrease in the number of people who drove under the influence or verbally abused someone; and a decline in people undertaking hazardous activities.

It is important to consider issues around community concern of alcohol advertising and exposure to young people with these trends in mind. In our view, the ANPHA Issues Paper does not provide a balanced summary on this key issue. WFA expressed similar concerns in response to ANPHA's Issues Paper on Minimum Pricing proposals.

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<sup>1</sup> Para 30 of ANPHA Issues Paper

<sup>2</sup> The Australian and New Zealand Wine Industry Directory, 2012

<sup>3</sup> AIHW 2011. *2010 National Drug Strategy Household Survey report*. Drug statistics series no. 25. Cat. no. PHE 145. Canberra: AIHW

### Regulatory impact

Any further regulation of alcohol advertising would impact on consumer choice and marketing information available to the majority of consumers who consume responsibly. It would also have the potential to introduce significant market distortion to the competition between responsible producers trying to win market share.

To pass the Regulatory Impact Statement process set through the Office of Best Practice Regulation, any proposals to further regulate alcohol advertising needs to clearly demonstrate that the social and economic cost it potentially introduces are outweighed by the benefits in an environment where rates of “at risk” consumption and harm are either stable or in decline.

### Concerns over process

WFA was concerned to see a significant broadening of the scope of the ANPHA Issues Paper beyond that set out in the Australian Government Response to the Preventative Health Taskforce Report (the “Gold Book”). Page 94 of the Gold Book stated that ANPHA would be tasked to *“monitor the compliance of the alcohol industry with voluntary codes of practice and other commitments on alcohol advertising; and to monitor industry-funded efforts to conduct evidence-based social marketing on responsible drinking; and to report annually to the Minister on these activities”*. This was to happen over a three year period.

However, in place of a third and final report to the Minister (WFA is assuming the Department of Health and Ageing has provided two previously for 2010 and 2011) on the alcohol sector’s compliance with ABAC and how well DrinkWise is doing, ANPHA has instituted an Issues Paper that hasn’t broached these two areas apart from the following small reference: “It is worth noting that that all BAANZ, WFA and DSICA members abide by the Scheme – which represents nearly all advertisers”<sup>4</sup>.

Instead, it appears from the Overview<sup>5</sup> section that ANPHA consulted with its Expert Committee on Alcohol – which, directly or through its collegiate network members of the National Alliance for Action on Alcohol (NAAA), appears to be heavily referenced throughout the Paper) and other unidentified “stakeholders” before changing its Government-directed terms of reference to now become an all-encompassing review into alcohol advertising.

In addition, the Issues Paper almost exclusively cites leading anti-alcohol NGOs and NAAA members, including the Foundation for Alcohol Research and Education (FARE), the Australian Medical Association, Alcohol Policy Coalition and Alcohol Concern, as evidence of “community concern” which challenges the robustness of the Paper’s presumption that reform is required.

It should also be noted that these same bodies support the establishment and operation of the Alcohol Advertising Review Board (AARB), and in this context WFA suggests that the Issues Paper should clarify its reference (Para 25) to the AARB as “independent”. The self-appointed AARB has found wrongdoing in all but eight of 94 recent “complaints”, and the Australian Association of National Advertisers (AANA) “responded to the findings by claiming that the AARB falsely generated complaints they cannot substantiate or adequately resolve...AANA has also stated that there is no need for greater regulation of alcohol advertising, and that there are sufficient regulatory protections in place to address messaging and placement of ads”<sup>6</sup>.

<sup>4</sup> Para 81 of the Issues Paper

<sup>5</sup> Para 2 and Para 3 of the Issues Paper

<sup>6</sup> <http://mumbrella.com.au/booze-ad-watchdog-more-than-90-of-australian-booze-ads-should-be-banned-135115> [25 January 2013]

## DISCUSSION

Given our concerns on process, WFA has chosen to limit its response to two key themes that challenge the notions underpinning the Paper itself.

### **The claim of increasing public concern is unsubstantiated**

The Issues Paper states there is “increasing concern about the proliferation of alcohol marketing into new media and the promotion of alcohol consumption as part of everyday life”<sup>7</sup>. As evidence it cites “research papers” by international and Australian public health advocates and researchers that are on the public record supporting the banning of alcohol advertising, marketing and sponsorship. These same groups are referenced as “stakeholders” in their criticisms of the ABAC Scheme<sup>8</sup>.

While the views of these groups and their “concern” over alcohol in general are well known, they do not necessarily reflect the views or concerns of the community at large or to any extent that the community is *increasingly* concerned.

In Para 79, ANPHA does provide some evidence of community attitudes to alcohol advertising when it notes that complaints in relation to alcohol advertising are low, but then dismisses it by suggesting that the reason is poor public awareness about the ABAC Scheme. WFA submits that a more reasonable hypothesis is that the public is in fact well aware of its power and ability to complain about advertisements and that the lack of complaints about alcohol advertising shows a general acceptance that the industry’s marketing practices are aligned with community expectations.

The FARE paper referenced in Para 80 is only one study of “self-selecting” people (indicating they already hold strong views on alcohol in general) with a highly questionable methodology. It could not be considered compelling evidence of community concern.

It is clear from Australian Government surveys<sup>9</sup> that the Australian public supports policy measures other than banning alcohol marketing or sponsorship (banning alcohol sponsorship was actually the fourth *least* supported policy measure). The three most supported policy measures are:

1. More severe penalties for drink driving,
2. Stricter enforcement of laws against serving drunk customers,
3. Strict monitoring of late night licensed premises.

### **Links between exposure to advertising, consumptive behaviour and influencing young people**

The ANPHA Issues Paper introduces the hypothesis that alcohol advertising is an influencer of alcohol-related harm. It is based on two assumptions:

1. Alcohol advertising influences drinking behaviours by volume
2. Exposure to alcohol advertising by young people is detrimental to their future drinking habits and behaviours

These assumptions are actively debated among researchers and certain research and data sets<sup>1011121314151617</sup> suggest that advertising is not associated with increasing consumption in young

<sup>7</sup> Para 31 of the Issues Paper

<sup>8</sup> Para 65 of the Issues Paper

<sup>9</sup> Australian Government. AIHW. National Drug Strategy Household Survey 2010. 2012. P174.

<sup>10</sup> Doresett & Dickerson. Advertising and alcohol consumption in the UK., 2004

<sup>11</sup> Grube. Alcohol in the media: drinking portrayals, alcohol advertising, and alcohol consumption among youth, 2003



people or over 25s, but is used to drive greater market share<sup>1819</sup> within existing beverage sales. The Issue Paper's suggestion that an academic consensus exists on this contested matter is disappointing and prejudicial.

The crucial question is whether advertising in any of its new or old guises influences individuals' current or future levels of consumption (either directly or as an unintended by-product) as opposed to their brand choices. The Issues Paper's handling of these issues is particularly curious. The Paper implies that the alcohol industry's success in creating brand strength and awareness among adults is somehow a social negative. Alcohol is a legal product and individual producers are well within their rights to use advertising for commercial gain provided the activities do not promote misuse and meet ABAC requirements. The claim that the industry's marketing success among adults influences young and underage consumers is a heroic leap and no evidence is provided.

The clearest evidence against causality is the comparison between France, which banned TV advertising of alcohol in the early 1990s, and New Zealand, which allowed it at about the same time. As the graphs on the following page clearly show, alcohol consumption subsequently declined in both markets at about the same rate. It is therefore hard to understand the Issues Paper's suggestion (unreferenced) that France is "a commonly cited example of effective alcohol marketing regulation<sup>20</sup>". It should be noted that in Australia marketing spends are increasing, but average consumption levels by standard drink are in slow decline.

The Issues Paper also suggests that any "exposure" of young people to alcohol advertising is a negative, whether it be paid branded advertising or through acquaintance in music videos, movies or television programs, or the mere act of walking past a bottle-shop<sup>21</sup>. Again it fails to provide any evidence that "youth exposure" contributes to later at-risk drinking behaviours.

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<sup>12</sup> Crawford, C. T., and Gramm, W. L. K. Cover memo to Omnibus Petition for Regulation of Unfair and Deceptive Alcoholic Beverage Advertising and Marketing Practices Docket No. 209-46. Washington, DC: Federal Trade Commission, March 6, 1985, p. 2.

<sup>13</sup> U. S. Department of Health and Human Services. Seventh Special Report to the U. S. Congress on Alcohol and Health. Rockville, MD: U. S. Department of Health and Human Services, 1990

<sup>14</sup> Saffer. Alcohol Advertising and Youth. National Bureau of Economic Research, 365 Fifth Avenue, 5th floor, New York, New York 10016-4309

<sup>15</sup> Wilcox, G. B., Franke, G. R., and Vacker, B. Alcohol Beverage Advertising and Consumption in the United States: 1964-1984. Austin, TX: University of Texas, Department of Advertising Working Paper, January, 1986, p. III; Sanders, James. Alcohol Advertisements Do Not Encourage Alcohol Abuse Among Teens. In: Wekesser, Carol (ed.) Alcoholism. San Diego, CA: Greenhaven Press, 1994. Pp. 132-135, p. 133.

<sup>16</sup> Ogbourne, A. C., and Smart, R. G. Will restrictions on alcohol advertising reduce alcohol consumption? The British Journal of Addiction, 1980, 75, 296-298; Smart, R. G., and Cutler, R. E. The alcohol advertising ban in British Columbia: Problems and effects on beverage consumption. The British Journal of Addiction. 1976, 7, 13-21; Waterson, M. J. Advertising and Alcohol Abuse. Advertising Association, p. 10.

<sup>17</sup> Shoup, Harold, and Dobday, Christine. Alcohol Advertising Restrictions without Due Cause. In: Engs, Ruth C. (ed.) Controversies in the Addictions Field. Dubuque, IA: Kendall/Hunt, 1990. Pp. 130-135, p. 131

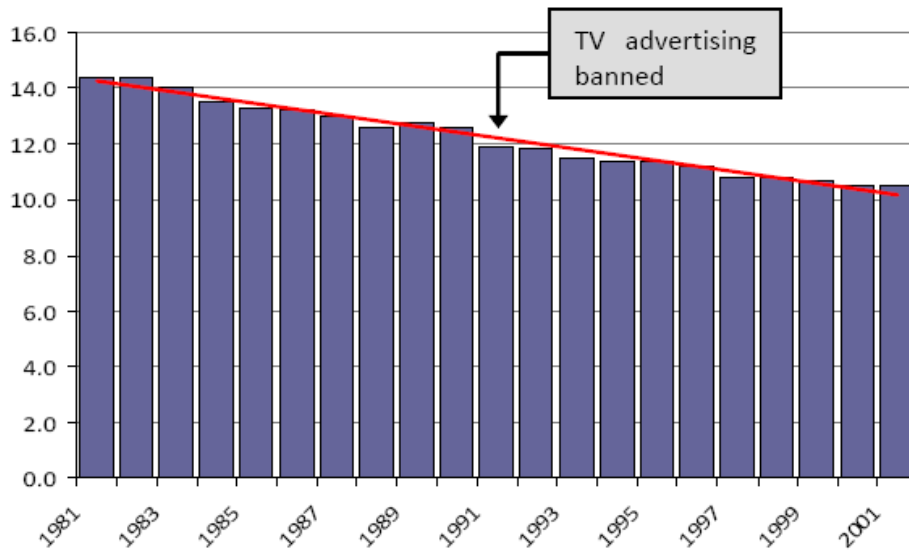
<sup>18</sup> Nelson, Jon P. Broadcast Advertising and U. S. Demand for Alcoholic Beverages. University Park, PA: Pennsylvania State University, 1977; Nelson, Jon P. and Moran, J. R. Advertising and U. S. alcoholic beverage demand: a growth-accounting analysis. Empirical Economics, 1995, 22, 1-20.

<sup>19</sup> Connolly, G. M., Casswell, S., Zhang, J-F., and Silva, P. A. Alcohol in the mass media and drinking by adolescents: A longitudinal study. Addiction, 1994, 89, 1255-1263

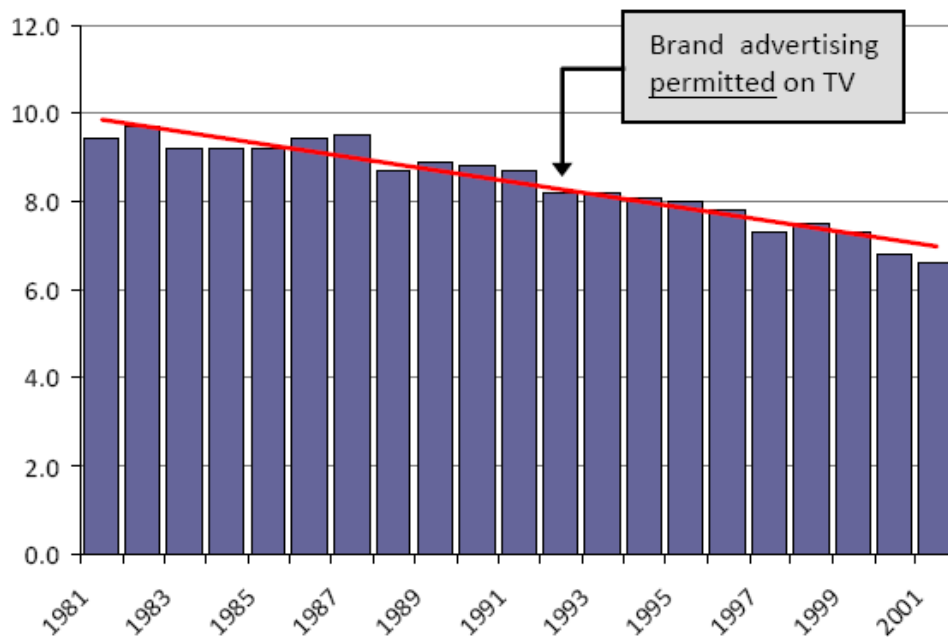
<sup>20</sup> Para 62 of the Issues Paper

<sup>21</sup> Para 66 of the Issues Paper

France per Capita (pure) Alcohol Consumption (litres)



New Zealand per Capita (pure) Alcohol Consumption (litres)



## CONCLUSION

The ANPHA Issues Paper does not make a compelling case to suggest there is increasing community concern about alcohol advertising and that change to the quasi-regulatory ABAC scheme is needed. It must do so if any change is to be contemplated. Important areas of contention, such as the link between advertising and misuse, require further analysis and for a clear consensus to emerge in the relevant research. The success of the ABAC system also must be acknowledged.



The Australian wine industry is already facing a number of significant market challenges. The introduction of further regulation or restrictions as canvassed as being “effective alcohol marketing regulation<sup>22</sup>” outlined in the Issues Paper would introduce a significant distortion with unknown consequences. A more complete assessment of the impact on responsible consumers and industry and the efficiency of other policy alternatives is required before policy reform should be contemplated.

The Australia wine industry supports the Government’s commitment to address problems of alcohol abuse in Australia, and we welcome the opportunity to continue working with ANPHA on broader policy development aimed at reducing alcohol misuse and harm.

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<sup>22</sup> Para 62 of the Issues Paper