

23 August 2019

Advertising Standards Authority Inc
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To the Codes Committee

Re: Submission on the draft Alcohol Advertising and Promotion Code

Thank you for the opportunity to provide a written submission on this consultation document.

Regional Public Health serves the greater Wellington region, through its three district health boards (DHBs): Capital & Coast, Hutt Valley and Wairarapa and as a service is part of the Hutt Valley District Health Board.

We work with our community to make it a healthier safer place to live. We promote good health, prevent disease, and improve the quality of life for our population, with a particular focus on children, Māori and working with primary care organisations. Our staff includes a range of occupations such as: medical officers of health, public health advisors, health protection officers, public health nurses, and public health analysts.

We are happy to provide further advice or clarification on any of the points raised in our written submission. The contact point for this submission is:

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Ngā mihi

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Summary and Recommendations

The goals of the government's National Drug Policy to reduce alcohol harm are not in harmony with the Draft Alcohol Advertising and Promotion Code.

Self-regulation of alcohol marketing in New Zealand has been ineffective. Past reviews on the advertising and promotion of alcohol have provided well evidenced recommendations on the changes necessary to better protect individuals, families and communities from alcohol related harm.

Recent research confirms that greater control on the content of, and the exposure to, alcohol marketing are necessary in line with the recommendations of the Law Commission, the Ministerial Review of Alcohol Advertising and Sponsorship and the Mental Health Addictions Inquiry.

The changes presented in the Draft Code do very little to further restrict alcohol marketing beyond the current code and fails to offer individuals, families and communities protection from the harms associated with its frequent presence.

Regardless of the proposed target audience children, young persons and other vulnerable citizens are regularly and adversely exposed to marketing and it is necessary to further restrict the amount of advertising that New Zealanders are exposed to.

Whilst the review of the ASA Draft Alcohol Code is limited Regional Public Health considers it presents the committee with an opportunity to act with a high degree of social responsibility, to revisit past evidence and recommendations, to consider more recent research and acknowledge and raise the submitted concerns with relevant officials.

Regional Public Health recommend:

- ASA conclude that the self-regulatory approach for alcohol promotion and advertising, even if the code is strengthened, is no longer fit for purpose. In particular the self-regulatory approach tends to favour the status quo and does not adequately protect children and other vulnerable groups.
- Robust statutory regulations be developed based on the recommendations from the Law Commission Alcohol in Our Lives: Curbing the Harm (2010), and of the Ministerial Forum on Alcohol Advertising and Sponsorship (2014).
- These regulations may be implemented in stages but we recommend they be completed within 4 years.
- An independent statutory authority should be appointed to monitor and enforce the new regulations.
- Alcohol advertising should not be broadcast, streamed or otherwise delivered on television, radio, or on any digital online, or mobile platforms between the hours of 5am and 10pm.
- Public transport, movie theatres, sporting events/venues, cultural events/venues and the exterior of alcohol outlets should not be places for alcohol advertising or branding, nor should any other public spaces accessible to young people within 500 metres of any school.

- Alcohol sponsorship of any cultural event, sporting event or activity should not be permitted and alcohol related sponsorship funding be replaced.
- Advertisers and media who are found to breach the regulations should receive significant financial penalties and a meaningful suspension period during which the advertiser cannot place advertisements.

Alcohol Related Harm

Alcohol is the leading behavioural risk factor for death, disease and disability in New Zealanders aged 15 to 49 years¹. It is the direct cause of, or contributes to over 200 preventable health conditions and kills around 800 people per year². Alcohol harm costs New Zealanders \$7.8 billion annually, the equivalent of \$1635 for each person³.

Forty-six percent of alcohol in New Zealand is drunk during heavy drinking occasions, defined as eight or more standard drinks in a single occasion⁴. In 2018 that equated to around 221,904,000 litres of domestic consumption. Eight standard drinks consumed in one session is significantly more than the maximum recommended by the Health Promotion Agency to reduce the risk of injury (5 standard drinks for men and 4 for women). The harm from episodic binge drinking is well recognised but also harmful is low level frequent consumption. The Health Promotion Agency recommends two alcohol free days per week and no more than 2 standard drinks daily for women and 3 daily for men to reduce health risk. For pregnant women and those under 18 years the recommended level is zero. However there is increasing evidence emerging that the ideal level of consumption should be less with alcohol consumption increasing risk of certain diseases particularly cancers, including breast and bowel cancer⁵.

Alcohol related harm is not limited to the drinker alone. A study found more than 71% of New Zealanders experienced harm from a stranger drinking. Seventeen percent claimed their children experienced harms from others drinking. Exposure to heavy drinkers was associated with reduced personal wellbeing and poorer health status.⁶

Excessive and inappropriate alcohol consumption is one of the most pressing modifiable causes of harm facing our communities. It adversely impacts more keenly on our vulnerable members of the population: children, Māori and the more socioeconomically deprived.

¹ Institute for Health Metrics and Evaluation. (2016). Global burden of disease study (GBD 2016), New Zealand. Retrieved from <http://www.healthdata.org/gbd>

² Connor, J., Kydd, R., Shield, K., Rehm, J. (2013). Alcohol-attributable burden of disease and injury in New Zealand: 2004 and 2007, Research report commissioned by the Health Promotion Agency. Wellington: Health Promotion Agency.

³ <https://www.stuff.co.nz/national/health/106343048/alcohol-harm-more-than-triple-the-cost-of-all-treaty-claims-so-far--economist>

⁴ Pham, C.V., Casswell, S., Parker, K., et al. Cross-country comparison of proportion of alcohol consumed in harmful drinking occasions using the International Alcohol Control Study. *Drug Alcohol Rev* 2018;37: S45–S52.

⁵ Institute for Health Metrics and Evaluation. (2016). Global burden of disease study (GBD 2016), New Zealand. Retrieved from <http://www.healthdata.org/gbd>

⁶ Casswell, S., Harding, You, R. Q., & Huckle, T. (2011). The range and magnitude of alcohol's harm to others: self-reported harms experienced by a representative sample of New Zealand adults. *New Zealand Medical Journal*, 124 (1336).

Alcohol Advertising/Marketing

Increases in Alcohol Marketing

The regulation of alcohol marketing has become progressively more liberal over the past 35 years. Until 1980 alcohol advertising on television and radio only permitted the advertising of outlets and services⁷. Liberalisation along with advances in technology has ensured alcohol marketing has a far greater prominence in our lives.

It is estimated the industry spends around \$73 million annually on alcohol marketing,⁸ which is designed to generate consumer demand via multiple channels in an integrated approach combining:

- print (billboards, post box flyers, ad shells, packaging)
- broadcast (television, radio, cinema)
- internet (social media, websites)
- mobile phone messages (texts), mobile phone applications (apps)
- merchandise (t-shirts, key chains, sport equipment, underwear, radios, wallets, beach umbrellas, jandals)
- point-of-sale displays and product placement
- sponsorship of sport, cultural, music and social events
- give-a-ways and competitions

Alcohol marketing contributes to, and reinforces existing drinking norms through both its **content** and levels of **exposure**.

The Self-Regulatory System

The self-regulatory system has been firmly criticised for its ineffectiveness⁹ and even if strengthened provides no tangible evidence that it could ever meet the degree of protection for children, young people and other vulnerable persons as required. Self-regulatory codes focus primarily on content and previous decisions have shown them to be overly permissive. That any decisions will be based on prevailing community standards and previous decisions within our current alcohol culture will continue to undermine any prevention and harm minimisation actions. The Draft Code does very little to address the high levels of exposure that have occurred with liberalisation and this particularly undermines harm minimisation even if targeted at adult audiences.

Self-regulatory codes despite a call for a high degree of social responsibility suffer from a significant conflict of interest with the alcohol industry and advertisers having a vested interest in maintaining

⁷ ALAC. 2003 The History of Alcohol Advertising in Radio and Television

https://www.hpa.org.nz/sites/default/files/imported/field_research_publication_file/HistoryofalcoholAdverts.pdf

⁸ Law Commission 2010, Alcohol In Our Lives, Curbing the Harm, (NZLC R114). Wellington: New Zealand Law Commission. <http://www.lawcom.govt.nz/project/review-regulatory-framework-sale-and-supply-liquor/publication/report/2010/alcohol-ourlives>, 2010 page 235

<https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC%20R114.pdf>

⁹ Law Commission 2010, Alcohol In Our Lives, Curbing the Harm (NZLC R114). Wellington: New Zealand Law Commission. <http://www.lawcom.govt.nz/project/review-regulatory-framework-sale-and-supply-liquor/publication/report/2010/alcohol-ourlives>, 2010.

the high volumes of and value of advertising. There is no incentive to decrease the levels of exposure.

Reviews on Alcohol Marketing

In 2010 the Law Commission¹⁰ recommended a new marketing regime be in place within five years, this date has now past.

Recommendations reducing **exposure** were:

- A watershed hour of 10pm for television and radio. No alcohol marketing should exceed six minutes per hour with no more than two advertisements in a single break.
- No alcohol advertising on public transport, in railway stations or in bus shelters.
- No alcohol advertising in cinemas except for R18 films.
- Advertisements should be moderated with compulsory placement of more frequent harm reduction messages.
- Greater restriction on interactive internet-based promotions.
- No press advertising unless a majority readership of over 20 years of age.
- No producer or retailer to provide alcohol-related branding, equipment or merchandise for any activity or event where more than 10% of the participants are under the legal purchase age.
- No alcohol related sponsorship for sports, cultural events or activities.

Recommendations reducing **content** were:

- Greater restriction on interactive internet-based promotions.
- A ban on all images of drinkers or the depiction of a drinking atmosphere.
- Ultimately leading to a regulatory regime allowing only communication of objective product information in any media.

The Ministerial Review 2014¹¹ recommended a ban on all alcohol advertising and sponsorship in sport (broadcast and streamed events and in all sporting codes), as well as in cultural and music events, where 10% or more of the audience were younger than 18 years. The review also recommend the advertising hours on broadcast media were further restricted. Problems with the self-regulated system were also identified and further regulations proposed.

Both reviews analysed international and New Zealand research and consulted widely with industry and the public. The recommendations are therefore reflective of a thorough process ensuring high validity in the recommendations. There is public support for greater restrictions, around 78% of nearly 3,000 submissions to the New Zealand Law Commission review mentioned problems with

¹⁰ Law Commission, Alcohol In Our Lives, Curbing the Harm, (NZLC R114). Wellington: New Zealand Law Commission. <http://www.lawcom.govt.nz/project/review-regulatory-framework-sale-and-supply-liquor/publication/report/2010/alcohol-ourlives>, 2010 page 235

<https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC%20R114.pdf>

¹¹ 2014 Ministerial Forum on Alcohol Advertising and Sponsorship: Recommendations On Alcohol Advertising and Sponsorship

<https://www.health.govt.nz/system/files/documents/publications/ministerial-forum-on-alcohol-advertising-and-sponsorship-recommendations-on-alcohol-advertising-and-sponsorship-dec14.pdf>

alcohol advertising and sponsorship and 86% of those were supportive of a ban on advertising or tighter restrictions¹².

The Mental Health Addictions Inquiry report 2018¹³ urged strong action be taken on alcohol marketing and that action be informed by the 2010 Law Commission Review, the 2014 Ministerial Forum on Alcohol Advertising and the 2014 Ministry of Justice report on alcohol pricing.

Recent Research

Recent research further concludes that the current controls of self-industry regulation do not protect our communities from harmful alcohol advertising and sponsorship^{14 15}. Digital marketing is proving more successful than traditional methods at reaching target groups and is strongly associated with increased frequency of heavy episodic binge drinking¹⁶. Alcohol branding has been revealed as taking up as much as 50% of broadcast time during sporting events¹⁷ reinforcing our drinking culture to both heavy drinkers and children. Children are exposed to alcohol marketing and brand exposure multiple times per day via retailers, at sporting venues, sports sponsorship and merchandise with Māori and Pacific children, and boys more than girls with higher levels of exposure¹⁸. These findings reinforce the need to implement strict legislative reforms on alcohol marketing to reduce the total volume of exposure.

An Example of Harmful Integrated Marketing

Diageo International through Lions Management New Zealand has marketed the Smirnoff brand under the Pure Potential Campaign since 2014. It integrates billboards, social media and localised promotions.

¹² New Zealand Law Commission. Alcohol in Our Lives: Curbing the Harm (NZLC R114). Wellington: New Zealand Law Commission. <http://www.lawcom.govt.nz/project/review-regulatory-framework-sale-and-supply-liquor/publication/report/2010/alcohol-ourlives>, 2010.

¹³ He Ara Oranga: Report of the Government Inquiry into Mental health and Addiction 2018. <https://mentalhealth.inquiry.govt.nz/inquiry-report/he-ara-oranga/recommendations/>

¹⁴ Noel, J.K., Babour, T.F., & Robaina. (2017). Industry self-regulation of alcohol marketing: A systemic review of content and exposure research: Systematic review of alcohol advertisement content. *Addiction*, 112, 28-50. <https://doi.org/10.1111/add.13410>

¹⁵ Noel, J.K., & Babour, T.F. (2017). Does industry self-regulation protect young people from exposure to alcohol marketing? A review of compliance and complaint studies: Self-regulation complaint process. *Addiction*, 112, 51-56

¹⁶ Nathan Critchlow, Crawford Moodie, Linda Bauld, Adrian Bonner & Gerard Hastings (2016) Awareness of, and participation with, digital alcohol marketing, and the association with frequency of high episodic drinking among young adults, *Drugs: Education, Prevention and Policy*, 23:4, 328-336, DOI: [10.3109/09687637.2015.1119247](https://doi.org/10.3109/09687637.2015.1119247)

¹⁷ Chambers T, Signal L, Carter M, McConville S, Wong R, Zhu W. Alcohol sponsorship of a summer of sport: a frequency analysis of alcohol marketing during major sports events on New Zealand television. *The New Zealand Medical Journal*.

¹⁸ Tim Chambers, James Stanley, Louise Signal, Amber L Pearson, Moira Smith, Michelle Barr, Cliona Ni Mhurchu, Quantifying the Nature and Extent of Children's Real-time Exposure to Alcohol Marketing in Their Everyday Lives Using Wearable Cameras: Children's Exposure via a Range of Media in a Range of Key Places, *Alcohol and Alcoholism*, Volume 53, Issue 5, September 2018, Pages 626-633 <https://doi.org/10.1093/alcalc/agy053>

The initial campaign grew Smirnoff RTD sales by more than 58% and it became the most socially engaged liquor brand in NZ in the 14/15 campaign period¹⁹. The campaign coincided with Smirnoff being identified as one of the core brands contributing to heavy episodic binge drinking by young people in Wellington, the straight Vodka at 37.5% ABV causing the most concern.

Core to the campaign was a digital media promotion where people were encouraged to Instagram the contents of their fridge in return for personalised cocktail recipe videos²⁰. This had appeal to the general population and would pass the current draft standards, yet was considered key to the growth in sales. The promotion also encouraged people to use a certain app to create and share different cocktails by combining different emoji²¹. Their branding was supported by additional community visibility. A cement truck was transformed into the world's largest functioning cocktail mixer branded with Smirnoff colours and name which travelled the country. The concrete mixer appeared at the 2014 BW Summer Festival where events took a turn for the worse with 68 arrests and 83 injuries²². It also appeared at the Rhythm and Vines Festival. Rhythm and Vines has a young audience, its target market is identified as 20 - 24 years although its core market is 18 - 20 years (40%) and just 15% is over the age of 25²³. Given those figures a significant portion of the captured audience would have been under 18 years.



Figure 1. Instagram Your Fridge

¹⁹ <https://www.dandad.org/awards/professional/2016/digital-marketing/25273/instagram-your-fridge/>

²⁰ <https://www.youtube.com/watch?v=jx4T9INqqIQ>

²¹ <http://justtaco.nz/smirnoff-emojitails>

²² <http://www.scoop.co.nz/stories/AK1501/S00001/63-arrests-in-gisborne-bw-festival-riot.htm>

²³ <https://www.rhythmandvines.co.nz/studyrv>



Figure 2. The Smirnoff cocktail mixer

The pure potential campaign is now in its fifth year. It continues to use social media to engage its target market, the party culture. The participatory methods encourage engagement and are clearly effective in influencing consumption behaviours.

The current campaign 'Smirnoff Pure Sounds Like' targets the 'party crowd' who are drinking away from on-licences. It encourages participants to engage with and prepare music playlists to enhance their night²⁴. It is supported by location specific digital and social communications, targeted radio ads and out of home stickers that users scan to discover their local playlist. Prizes are offered for participation. They continue to sponsor music festivals the latest being SPLORE. SPLOREERS are described as; *"a mindful tribe of party animals – people who know how to have a damn good time while respecting the environment and our Splore family."*²⁵

The marketing plays into the existing culture of heavy drinking and continues to promote excessive consumption by targeting the most susceptible. Digital media use and mobile devices now means exposure happens 24 hours a day, every day.

²⁴ <https://theregister.co.nz/news/2019/07/smirnoff-pure-helps-kiwis-discover-local-artists-spotify-partnership>

²⁵ <http://www.splore.net/values#sustainability-intro>

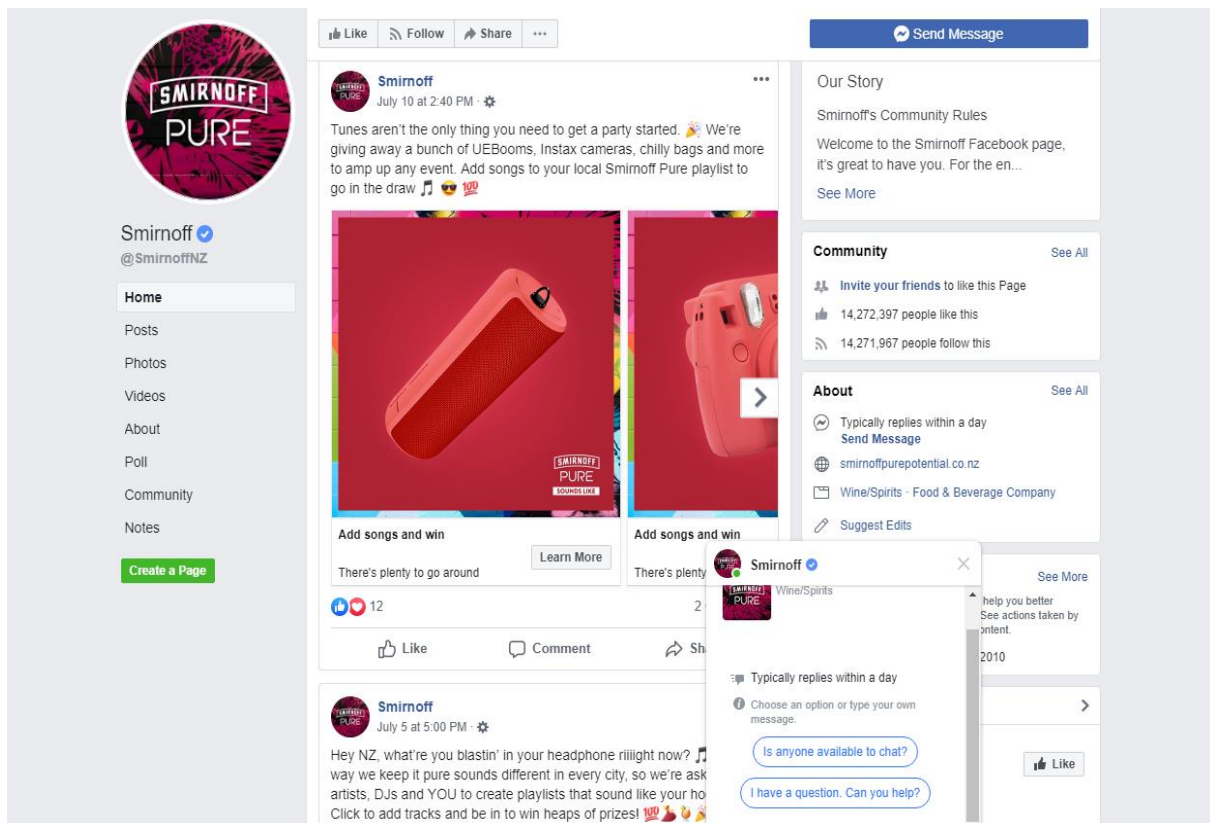


Figure 3. Smirnoff Pure Sounds Like Facebook

An Example of Harmful Brand Influence

Advertising on retail stores was highlighted as a place of exposure to children²⁶. RPH laid a complaint with the Advertising Standards Authority regarding the franchise brand name “Thirsty Liquor” proposing that it was inappropriate to associate ‘thirst’ with ‘liquor’ and that this then breached the code for naming, labelling, packaging and promoting liquor. The Medical Officer of Health stated this was an irresponsible name for a liquor store brand and its use was not consistent with the promotion of moderation and nor was it likely to contribute to the minimization of harm.”

A decision regarding the matter on 15 March 2012 stated the code only applied to marketing of products and specific promotions, not a brand name. Thus they had no jurisdiction to proceed with the complaint.

At the time of the complaint there were 35 stores in the country under this franchise, there are now at least 166. The name/brand is highly visible and is a promotional tool for the entire business model. This is clearly evidenced by inspection of the franchise website www.thirstyliquor.co.nz which we encourage you to view.

²⁶ Tim Chambers, James Stanley, Louise Signal, Amber L Pearson, Moira Smith, Michelle Barr, Cliona Ni Mhurchu, Quantifying the Nature and Extent of Children’s Real-time Exposure to Alcohol Marketing in Their Everyday Lives Using Wearable Cameras: Children’s Exposure via a Range of Media in a Range of Key Places, *Alcohol and Alcoholism*, Volume 53, Issue 5, September 2018, Pages 626–633, <https://doi.org/10.1093/alcalc/agy053>



Figure 4. Thirsty Liquor Silverstream, Upper Hutt

Conclusions

The marketing of alcohol and its influence on consumption and alcohol related harm have been well researched internationally and in New Zealand. This research along with three separate public consultations in New Zealand from 2009 to 2014 has led to changes being recommended in the controls governing marketing which has been further supported by more recent research. The changes outlined in our recommendations are supported by research and consultation with the public and need to be adopted.