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**The Royal Australasian College of
Physicians' submission to the Advertising
Standards Authority**

Standards for Advertising and Promotion of Alcohol
August 2019

Introduction

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to submit feedback to the Advertising Standards Authority (ASA) on its draft Standards for the Advertising and Promotion of Alcohol (the Standards).

The RACP works across more than 40 medical specialties to educate, innovate and advocate for excellence in health and medical care. Working with our senior members, the RACP trains the next generation of specialists, while playing a lead role in developing world best practice models of care. We also draw on the skills of our members, to develop policies that promote a healthier society. By working together, our members advance the interest of our profession, our patients and the broader community.

Key points

- The Act and the Code have framed alcohol advertising in different ways – the Act from the position of what constitutes irresponsible promotion, while the Code considers what is permissible
- The Code remains out of alignment with key frameworks and governing bodies on the definition of a child
- The Code omits any reference to the harm caused by alcohol, thereby not maintaining a truthful presentation of the product
- The update to the Code fails to accommodate for new media environments and consumption.

1. Do you think there are any inconsistencies between the draft code and the current legislation that applies to the advertising and promotion of alcohol? Please provide details.

The RACP finds s 237 of the Sale and Supply of Alcohol Act 2012 (the Act) and the Code are not so much inconsistent when compared, rather, they are designed for different purposes¹.

The Act is concerned with the actions of a person in the course of conducting business, while the Code is concerned with the content and production of advertisements produced by industry to promote its products. Further, the Act and the Code are positioned from opposing perspectives. The Act details “irresponsible promotion” of alcohol while the Code is positioned from the point of permissiveness, that is, a framing suggesting that the Code reflects responsible and conscientious advertising and promotion of alcohol.

2. Do you agree with the wording of the draft code? If not, please outline the part or parts you disagree with and why.

The RACP sees the draft Code as ineffective, and self-regulation of alcohol advertising and promotion by the advertising industry is insufficient, as there is a lack of legally-enforceable sanctions for instances where regular breaches occur². We recognise alcohol as a drug which in Aotearoa New

¹ Sale and Supply of Alcohol Act. s 237.

² The Royal Australasian College of Physicians and the Royal Australian and New Zealand College of Psychiatrists. Alcohol policy. Sydney, Melbourne: The Royal Australasian College of Physicians and the Royal Australian and New Zealand College of Psychiatrists; 2016.

Zealand enjoys widespread social acceptance – perhaps even inextricably linked to some forms of national identity³ - despite the significant harm it causes.

Definition of a child

The Code continues to apply a definition of a child which is inconsistent with the definition used by the World Health Organization (WHO), the United Nations Convention on the Rights of the Child (UNCRC), and in Aotearoa, the Office of the Children’s Commissioner. The Code defines a child as a person aged 14 years and under; in contrast the WHO, UNCRC and the Children’s Commissioner all define a child as aged under 18 years^{4 5 6}. Further, the Code defines a “young person” as aged between 14 and 18 years of age, with 18 being widely applied in legislation and more generally in society as the ‘age of majority’ in Aotearoa New Zealand. The United Nations defines a young person being people aged 15 – 24 years – and research supports assertions that the adolescent brain is effectively “under construction” until a person reaches age 24, when the prefrontal cortex reaches maturity⁷.

Truthful representation of harm

The Code’s second Principle “Truthful Presentation” states that advertisements and promotions “must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge.”

The RACP contends that advertisements and promotions for alcohol do not present a truthful representation of the harms of consuming alcohol. We note that the Rule 2 (a) Truthful presentation includes reference to “omission”; and we find that alcohol advertising and promotion omits to present any information, depiction or truth attesting to the variety of harms the consumer may experience through use of the product.

To the consumer these harms include over 60 negative health outcomes, with one in three drinkers in New Zealand reporting some extent of alcohol-related harm⁸. An estimated 5.4 per cent of all deaths under 80 years of age in New Zealand can be attributed to alcohol, with common causes of death including injuries (43 per cent) and cancer (30 per cent). Significant disparities exist in the societal distribution of these impacts, including an age-standardised death rate for Māori which is two and a half times the rate for non-Māori. Men are also disproportionately impacted, with twice as many deaths attributable to alcohol as women.

More widely, self-reported harm from others’ drinking across New Zealand (18 per cent) is more common than harm from own drinking (12 per cent)⁹. Harm from others impacts primarily on women and young people, with most reports describing aggression, crime and unintentional injury from traffic crashes and fires⁹. Fetal Alcohol Spectrum Disorder (FASD) is another common harm from alcohol

³ Willot S, Lyons AC. Consuming male identities: Masculinities, gender relations and alcohol consumption in Aotearoa New Zealand. [Internet] J Community Appl Soc Psychol. 2012; 22(4):330-45. Available from <https://onlinelibrary.wiley.com/doi/abs/10.1002/casp.1115>. Accessed 23 August 2019.

⁴ World Health Organization. Definition of key terms. [Internet]. Available from <https://www.who.int/hiv/pub/guidelines/arv2013/intro/keyterms/en/>. Accessed 24 August 2019.

⁵ United Nations Convention of the Rights of the Child. [Internet]. Available from <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>. Accessed 24 August 2019.

⁶ Office of the Children’s Commissioner. Stats on kids – our work. [Internet] Available from <https://www.occ.org.nz/our-work/statsonkids/>. Accessed 24 August 2019.

⁷ Arain M, Haque M, Johal L, Mathur P, Nel W et al. Maturation of the adolescent brain. Neuropsychiatr Dis Treat. [Internet] 2013; 9:449-61. Available from <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3621648/>. Accessed 24 August 2019.

⁸ Meiklejohn J, Connor J, Kypri K. One in three New Zealand drinkers reports being harmed by their own drinking in the past year. N Z Med J. 2012 Aug 24;125(1360):28-36. Available from http://www.nzma.org.nz/_data/assets/pdf_file/0019/36334/meiklejohn.pdf. Accessed 27 August 2019

⁹ Connor J, Casswell S. Alcohol-related harm to others in New Zealand: evidence of the burden and gaps in knowledge. N Z Med J. 2012 Aug 24; 125(1360): 11-27. Available from <http://www.nzma.org.nz/journal/read-the-journal/all-issues/2010-2019/2012/vol-125-no-1360/article-connor>. Accessed 27 August 2019

which impacts these same groups. It is estimated that over 600 children are born with FASD in New Zealand each year, resulting in life-long disabilities and costs to the Health and Disability sector⁹. Less immediate effects on overall wellbeing and workplace productivity are also significant, with an estimated cost to the New Zealand economy of over \$1.6 billion per year from presenteeism and absenteeism¹⁰.

These impacts are rarely mentioned or included in alcohol advertisements, providing a misleading representation of the physical and societal effects of alcohol.

Framing used in the draft Code

There are several instances in the Code where Principles, Rules and Guidelines are framed to encourage advertisers to develop their material towards adult audiences, for example

- Principle 1: Social Responsibility: Rule 1(a) Targeting adults
- Principle 3: Alcohol Sponsorship Advertisements: Rule 3(a): Targeting adults

The RACP recommends the ASA amends the wording used in the Code and particularly in the above two examples to explicitly emphasise that advertisements and promotions should not target children and/or young people, rather than stating that content should be geared towards adult audiences or placed within predominantly adult settings. Specifically, the focus should be on alcohol advertisements not appealing to children, instead of making them appealing to adults.

The RACP supports public spaces being openly used, accessible and relevant for people of all ages. Advertising on billboards or bus shelters should therefore be viewed as being in environments where children and young people will be present from time to time and will encounter the advertisement, rather than an assumption that children will comprise less than 25 per cent of the potential audience.

3. Are there any aspects of the alcohol advertising and promotion standards that are not captured in this draft code? Please outline any additions you believe are required and why.

Mandatory referral to LAPPS

The RACP notes the Code recommends advertisers use the Liquor Advertising and Promotion Pre-Vetting Service (LAPPS), which reviews advertising and promotional material in advance of release to “minimise the risk of breaching the Code”. The framing here suggests that “risk minimisation” (which could imply that workarounds are used) is adhered to rather than Code compliance – i.e. that the Principles, Rules and Guidelines are sufficiently met.

Given the independent LAPPS adjudicator is appointed by the Association of NZ Advertisers (ANZA), the system remains another instance of self-regulation rather than any truly independent evaluation. In the absence of any alternative, the RACP strongly recommends LAPPS approval is mandated for all alcohol advertising and promotion in New Zealand. Further, the transparency of should LAPPS is improved – including the total numbers of advertisements referred to LAPPS, the number approved, and the number declined should be publicly available.

Evolved technology and media landscapes

The ASA website states codes are reviewed every five years, meaning the Advertising and Promotion of Alcohol Code was last reviewed in 2014. Since this time, one of the most significant growth areas

¹⁰ Sullivan T, Edgar F, McAndrew I. The hidden costs of employee drinking: A quantitative analysis. *Drug Alcohol Rev.* 2019. Jul; 38(5): 543-553. Available from <https://onlinelibrary-wiley-com.helicon.vuw.ac.nz/doi/epdf/10.1111/dar.12935>. Accessed 27 August 2019

for media consumption – including some advertising – has been through on-demand video streaming services¹¹.

Children and young people are now consuming media in different ways: accessing content via the Internet (Youtube), through social media (Facebook, Instagram and Snapchat, which all have video capability), and through subscriptions to video on-demand services such as Netflix, TVNZOnDemand, ThreeNow, Lightbox and Neon. As such, more “traditional” modes of media consumption are in decline: one American study found that 17-year-olds watched an hour less television in 2016 than 17-year-olds in 1990¹². Codes which include reference to the broadcast television “watershed” of 8:30pm are less relevant in an environment which is driven by consumer choice and content available on-demand.

Furthermore, significant numbers of upheld complaints to the ASA over alcohol advertisements in recent years have concerned digital marketing. The ASA online decisions database shows that of the 16 complaints which were upheld/settled in 2018, nine concerned digital marketing¹³. This is also reflected in 2017, with both of the two complaints which were upheld/settled concerning digital marketing. These figures reflect a discrepancy between what is found in the consultation documents statistics on the number of complaints in recent years and what can be found in the online decision database. However, this demonstrates alcohol companies increasingly employing digital marketing, and repeatedly pushing the boundaries of what is permitted by the Code.

The RACP sees the absence of specific reference to the internet, online environment and particularly social media platforms in the Code as a significant oversight. Further, we see little regard or consideration from the industry to regulate the online advertising environment and prevent children and young people from exposure to advertising for products which cause social harm, including alcohol.

4. Please include any current alcohol advertisements or promotion you consider problematic and explain why

Steinlager Tokyo Dry

The television advertisement for Steinlager’s Tokyo Dry beer presents a mash-up of New Zealand and Japanese culture through the use of Dave Dobbyn and Herbs’ 1987 song “Slice of Heaven” and settings depicting Japanese cultural tropes: a karaoke club, a capsule hotel, and a traditional Japanese house¹⁴. Japanese cultural products such as anime are very popular with children and young people – the bright lights of Tokyo, costumes and DJs used in the advertisement could all be seen to appealing to children and young people; and despite the song being over thirty years old, it would remain recognisable to viewers of all ages.

Wild Turkey Bourbon

¹¹ PwC. Global entertainment and media outlook 2016 – 2020. [Internet]. Available from <https://www.pwc.co.nz/insights-and-publications/2016-publications/global-entertainment-and-media-outlook-2016-2020.html>. Accessed 26 August 2019.

¹² Twenge JM, Martin GM, Spitzberg BH. Trends in US adolescents’ media use 1976-2016: the rise of digital media, the decline of TV, the (near) demise of print. [Internet] Psychol Pop Media Culture. 2018; epub ahead of print. Available from <https://psycnet.apa.org/record/2018-41062-001?doi=1>. Accessed 26 August 2019.

¹³ Advertising Standards Authority. Decisions. [Internet]. Wellington (New Zealand): [Cited 2019 August 28]. Available from: <https://www.asa.co.nz/decisions/search-browse-decisions/>.

¹⁴ DDB New Zealand. Steinlager Tokyo Dry – Slice of Heaven. April 2019 [Internet]. Available from <https://www.youtube.com/watch?v=D81hu2FwDoY>. Accessed 26 August 2019.

Wild Turkey's creative director is the actor Matthew McConaughey, and he has appeared in several television and internet-based commercials for the brand¹⁵. McConaughey is highly recognisable as an American celebrity and would appeal to many young people. Despite the subtle references in the advertisement to eschewing parties, music and sex in favour of mateship with musician Davie over a whiskey on the rocks, the advertisement contravenes the Code's guideline point "*Current cultural icons, sporting heroes (individuals or teams) or celebrities that are easily recognisable and/or popular with children and young people*".

Conclusion

The RACP thanks the Advertising Standards Authority for the opportunity to provide feedback on this consultation. To discuss this submission further, please contact the NZ Policy and Advocacy Unit at policy@racp.org.nz.

Nāku noa, nā

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¹⁵ Wild Turkey Bourbon. Matthew McConaughey sang our song. [Internet]. 2017 Available from https://www.youtube.com/watch?v=lhA8rK_1Duo. Accessed 26 August 2019.