

## **COMPPS RESPONSE**

### **ALCOHOL ADVERTISING: THE EFFECTIVENESS OF CURRENT REGULATORY CODES IN ADDRESSING COMMUNITY CONCERN**

**SUBMITTED TO THE AUSTRALIAN NATIONAL PREVENTIVE HEALTH AGENCY**

**28 MARCH 2014**



## 1. Background

### COMPPS

COMPPS consists of the following organisations:

- Australian Football League (**AFL**);
- Australian Rugby Union (**ARU**);
- Cricket Australia (**CA**);
- Football Federation Australia (**FFA**);
- National Rugby League (**NRL**);
- Netball Australia (**NA**); and
- Tennis Australia (**TA**).

Each of these organisations is the governing body and custodian of a major professional sport in Australia. They are not-for-profit bodies and are responsible for the long-term development and sustainability of their sport in Australia.

One of COMPPS' roles is to provide a collective response on behalf of its member sports where their interests are aligned. Football Federation Australia (FFA) and Netball Australia (NA) acknowledge that they have received sponsorship funds from the Australian National Preventive Health Agency (ANPHA) as part of the "Be the Influence – Tackle Binge Drinking Campaign", along with 15 other National Sporting Organisations. These sponsorship agreements are currently on foot and whilst this remains the case, it is not appropriate for FFA or NA to be a signatory to this submission

COMPPS welcomes the opportunity to provide this response to the ANPHA Draft Report concerning Alcohol Advertising: the Effectiveness of Current Regulatory Codes in Addressing Community Concern (the Draft Report).

## **2. Introduction:**

The COMPPS Member sports are not signatories to any of the Codes that regulate alcohol advertising.

Their interest in the current review arises from the fact that sport is a medium through which alcohol products are advertised and alcohol providers sponsor sport. This extends from the grass roots of sport at community and club level through to national and international competitions. It is a well-established fact that the alcohol industry is a major funder of sport in Australia.

The positive health and other community benefits that flow from sport are clearly recognized. COMPPS does not propose to respond to several of the recommendations that are contained in the Draft Report. These recommendations fall more properly to the industry bodies that are regulated by the Codes. Our submission will focus on three specific recommendations – 1, 2 and 7.

## **3. Alcohol Advertising - Free-to-air Television**

**Recommendation 1 invites Free TV Australia and the free-to-air television industry to apply to ACMA for an amendment to the Commercial Television Industry Code of Practice (CTICP) to remove the exemption for free-to-air television that allows direct advertising of alcohol products before 8:30pm as an accompaniment to live sport broadcasts on public holidays and weekends.**

COMPPS strongly opposes this recommendation.

We have read the Draft Report carefully and taken note of the findings that impact on alcohol advertising where sport is used as a medium. With respect, we are not convinced that the link between alcohol advertising on sports programs and increases in underage drinking has been proved. There is an abundance of other factors involved including parental influence, peer approval and cultural and societal behaviours.

It is respectfully submitted that the current mix of self-regulatory, co-regulatory and legislative provisions serve to protect adequately children and adolescents against exposure to unsuitable content. The framework that supports ABAC operates effectively to regulate the complex interests that are impacted by alcohol advertising. The industry codes are strict, robust, comprehensive and effective in providing a workable framework for alcohol advertising insofar as they relate to sport.

It is important to note the distinction between alcohol advertising and alcohol sponsorship and the impact of each of these on sport in Australia.

Alcohol advertising arises as a result of a contract between an alcohol provider and a media company that charges a fee to broadcast the advertising. The advertising is often shown or heard on sports broadcasts. The sport is almost always not a party to the contract.

Alcohol sponsorship arises where a sporting body or club enters into an agreement with a sponsor to empower the sponsor to use the intellectual property of the sport or club to promote its product. In many cases, the sporting body also benefits from the promotion of the sport as a result of the sponsors' advertising and leverage campaigns.

This proposed amendment impacts on alcohol advertising through free-to-air television coverage. The major source of revenue for the COMPPS sports (with the exception of Netball) is from the sale of media rights. Free-to air television broadcasters purchase exclusive rights from sports and then seek to recoup that payment and make a profit from the sale of advertising space on the broadcasts. As is noted in the Draft Report at page 32, "Alcohol advertising ranks in the top ten advertisers on free-to-air television by expenditure."

Section 6.7 of the Commercial Television Industry Code of Practice provides that:

*A commercial which is a direct advertisement for alcoholic drinks may be broadcast:*

- 6.7.1. only in M, MA or AV classification periods; or*
- 6.7.2. as an accompaniment to the live broadcast of a sporting event on weekends and public holidays.*

The proposed amendment seeks to repeal clause 6.7.2. The effect of the proposed amendment is that alcohol advertising will no longer be permitted during live sporting events that are played on weekends and public holidays until after 8:30pm. The most populated part of the week's professional sport offerings occurs during these hours. As is noted in the ANPHA Draft Report, 55% of alcohol advertisements were aired during the day on weekends and on public holidays as an accompaniment to a live sports broadcast between January, and March 2007. (See Draft Report page 102). While it is acknowledged that this finding is now dated, there is no reason to suspect that it is less in 2014 than in 2007. In any event, it is a significant amount of advertising revenue that would be denied to broadcasters with a corresponding negative impact on sports' rights fees.

The impact on sports would be significant. Broadcasters would lose the revenue from alcohol advertisers until 8:30pm and would seek to replace that advertising from other advertisers in an already difficult market. The media rights that are paid to sports would

diminish accordingly. It is not possible to quantify the amount by which the rights fees would diminish other than to say that it would be a significant amount for each sport.

The COMPPS sports are not-for-profit enterprises. Their revenues consist of a mix of media rights, sponsorship and gate revenues. Some receive funding from government for high-performance and participation programs but it is generally not a significant percentage of their overall revenue. Each of these sports funds its grassroots development programs and other areas of activity that provide community benefits. If the revenue stream from media rights is diminished, the programs that sports will be able to undertake will diminish correspondingly. Unfortunately, history shows that it is usually grassroots programs that are one of the first areas to be cut.

If the proposed amendment were to be enacted, it is naive to expect that the volume of alcohol advertising would diminish. Alcohol providers would bypass the regulations and move advertising to platforms that are not subject to regulation. Other advertising outlets would be used such as new media, outdoor signage and print media where the exposure of children and adolescents to the advertising message is just as significant.

We acknowledge and adopt comments made in other submissions to the effect that alcohol is a mature advertising market. Advertisers are seeking to promote market share and customer loyalty rather than to grow the overall market. We note further that alcohol consumption in Australia is declining.

We refer to and adopt those parts of the Free TV Australia submission dated March 2013 that details ratings data for children's viewing habits of free-to-air TV (see pages 6 and 7). We note that current ratings data shows that children and adolescents constitute a very small percentage of overall commercial free-to-air television viewing.

- Only 4.8% of children aged 5-12 and 5.7% of children aged 13-17 watch commercial free-to-air television on any given day;
- Average child audiences from 2008 -2012 have declined by 3% for children aged 5-12 and 5.4% for children aged 13-17;
- Ratings data also shows that the vast majority of Free TV viewers during 8:30pm to midnight are adults:
- Children aged 5-17 make up less than 9% of the total viewing audience from 8:30pm until midnight;
- Of the children watching TV in the evening, at least half are co-viewing with an adult in the room;

- Free TV audiences for weekend sport are predominantly comprised of adult viewers;
- Children aged 5-17 make up less than 12% of the total viewing audience for any of the top 10 sporting events in 2012 (excluding Olympics);
- Adolescents between 13-17 make up less than 6% of the viewing audience for the top 20 weekend sport programs in 2012;
- Of those children who were watching the top 10 sporting events the majority were co-viewing with an adult (around 8 in 10 for the 5-12 age group and around 7 in 10 of children aged 13-17).

It is acknowledged in the Draft Report that alcohol consumption and advertising of alcohol products have long been a part of Australian society. The COMPPS members acknowledge that misuse and abuse of alcohol cause problems. There is no evidence that these problems have been caused or contributed to by sport. The COMPPS sports have sought and will continue to seek to be part of the solution.

Several of the sports have adopted responsible drinking programs as part of the advertising regimes. The consistent message has been to urge sports fans to be responsible for their actions. Two examples of these programs are as follows:

Cricket Australia's "Know When to Declare" promotion was introduced in 2009. The objective is to encourage fans to know when to declare when they have had enough to drink. It is a joint promotion between CA and its alcohol and broadcast partners. The campaign includes radio, print and outdoor advertising, as well as 30-second TV community service announcements featuring popular commentators Michael Slater and Ian Healy as well as star player Mitchell Johnson. These commentators and players were chosen after independent research confirmed their credibility among Australian sports fans, particularly young men. The campaign is designed to demonstrate the benefits of making the right decisions on and off the field and reminds young adults that they are ultimately responsible for their own actions.

In addition, during the recent 2013/14 season CA entered a pilot partnership with Redfrogs for the Commonwealth Bank Ashes Test at the WACA, and for all five One Day International matches. Redfrogs volunteers offered cups of water, icy poles and red frog lollies to fans, and this received very positive feedback from patrons, security, and venue management. Not only this, but it provided an added dimension to the Know When to Declare campaign, which regularly generates in excess of \$1 million in media value every summer.

The AFL has a number of campaigns in place, including the Carlton Draught Substitute initiative that sees the green and red vests worn by each team's 22<sup>nd</sup> man carrying the logos

of Carlton Draught. Whenever a player substitution occurs, fans are asked, “should you sub too?” The AFL and CUB are seeking to remind all patrons to consider their consumption at all AFL fixtures.

Alcohol advertising around sports events shows alcohol being consumed in moderation and provides positive role models – it shows that alcohol can be consumed without drinkers becoming intoxicated and behaving poorly. To that extent it provides positive role models in a society that acknowledges that responsible consumption of alcohol is a choice that many Australians take.

On the other hand, sports players who abuse alcohol and behave badly are treated more harshly than members of the general public. This often involves adverse media comment and fines and suspensions imposed by the Club, League or Sport as well as any penalties imposed by the general law. To this extent, sport provides a valuable example as the public, including adolescents, can see the potentially disastrous outcomes from abuse of alcohol.

Free-to-air Television is the only platform that is subject to time zone restrictions. Since this provision was introduced in 1992, viewing habits have changed enormously. In 1992, viewers only watched free-to-air TV. Since then the landscape has changed to include subscription TV, personal computers, mobile phones, digital tablets, time changing devices and social media in its various forms. Australians now consume content including advertising in a completely different way than when the Act was introduced. Much less content is viewed on TV and much of it is viewed at times other than when it is presented for public consumption.

Section 6.7.2 has been in place for more than two decades. In some of the submissions, there is a sense that it is an oversight or loophole that has been created by the legislature. We suggest that this is not the case. It is very precisely drafted and quite clear in its intent. A counter argument to this is that it is possible that the legislators at the time took the view that funding of sport was a competing priority and acknowledged that as most sport is played at weekends and on public holidays, it was unfair and inappropriate to legislate a ban during those periods that would have as a consequence the diminution of funding for not-for-profit sporting organisations and clubs.

In summary, COMPPS opposes the proposed amendment because:

- The link between alcohol advertising on sports programs and increases in underage drinking has not been proved.
- The current mix of self-regulatory, co-regulatory and legislative provisions serve to protect adequately children and adolescents against exposure to unsuitable content;

- The proposed amendment would have a significant adverse impact on the value of rights fees paid to sports organisations;
- The diminution of rights fees will impact on the ability of the sports to provide services and programs that are valuable to the community;
- Ratings data shows that children and adolescents constitute a very small percentage of overall commercial free-to-air television viewing;
- If the proposed amendment were to be enacted, it is naïve to expect that the volume of alcohol advertising would diminish.
- Sports have adopted responsible drinking programs as part of the advertising regimes. The consistent message has been to urge sports fans to be responsible for their actions.
- The sports provide both positive and negative role models for children and adolescents and reinforce the message that alcohol must be consumed in a responsible manner;
- Australians now consume content including advertising in a completely different way than when the Act was introduced.

We suggest that repeal of Section 6.7.2 will have minimal if any effect on the level of underage drinking. It is respectfully submitted that it should not be amended unless there is a compelling case and clear cause-effect evidence to do so.

#### **4. Subscription Television**

**Recommendation 2 invites the Australian Subscription Television and Radio Association (ASTRA) and the subscription television industry to apply to ACMA for an amendment to the Australian Subscription Television Broadcast Code of Practice to restrict direct advertising of alcohol products on subscription television before 8:30pm and after 5.00am.**

COMPPS strongly opposes this recommendation.

We refer to and repeat those parts of our response in relation to free-to-air television that are relevant to this recommendation.

## **5. Sport Sponsorship;**

**Recommendation 7 invites the ABAC Scheme Ltd members to review and revise the ABAC Code and Guidance documents to include and provide specific guidance on sponsorship of sporting events.**

We note that there are currently no restrictions on the sponsoring of sport by alcohol companies in Australia.

The COMPPS sports do not seek to change this position and do not believe that it is necessary to introduce regulations to deal with this or any other area of sport sponsorship. Sport in Australia is a mature industry and the sporting bodies should be trusted to act in the best interests of their stakeholders.

The sponsorship fees paid by alcohol companies to sporting organisations are critical to the ongoing viability of many sporting events and programs, including grassroots activities. Sponsorship by alcohol companies is widespread and multi-faceted. At the professional level, we see naming rights sponsorships and prominent branding of alcohol products as part and parcel of top-level matches. Alcohol sponsorship does, however, provide another valuable resource for sport. Many rural and suburban sports clubs and leagues are often sponsored by the local pub or alcohol retailer and in numerous cases, they are the only significant sponsor. It is impossible to quantify the value of this type of sponsorship.

It is noted that ANPHA has actively engaged in this area and it is commended for doing so. It has replaced alcohol sponsorship for 17 national sports (including FFA and NA) with government funding, replicating earlier tobacco sponsorship buyout strategies and seeking to use sport and positive sporting models to change behaviours. We understand that the ANPHA program is for 2 years with an option in ANPHA's favour to extend it for two years and that while no decision has been formally communicated to the participating sports, recent media has reported a spokesman for the Federal Minister for Health and Sport advising that funding will not be included in the forthcoming budget and the government support will cease.

It is also noted that the funding offer did not extend to the larger participation sports where alcohol sponsorship funding is several millions of dollars and could not be included in the amounts available for buyouts of sponsorship by government.

We do not support the recommendation but if it finds favour with the government, we respectfully suggest that sport be included as an active participant in the review. After all, it is the sports that are currently being sponsored and that will be impacted by any change to the current position. Accordingly, it is appropriate that sport has a place at the table.

We are happy to provide any further information that is requested and value the opportunity to make this submission.

Signed for and on behalf of the COMPPS' Members.

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**Malcolm Speed**

**Executive Director**

For further queries, please contact:

Mr Malcolm Speed

Executive Director

The Coalition of Major Professional and Participation Sports

Suite 1108, The Exchange Tower

530 Little Collins Street

MELBOURNE VIC 3000

Phone: (03) 9909 7262

Email: [mspeed@compps.com.au](mailto:mspeed@compps.com.au)