

7 August 2018

The Coordinating Officer
Liquor Promotion Guidelines review
Liquor & Gaming NSW
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SYDNEY NSW 2001
By email: policy@liquorandgaming.nsw.gov.au

To whom it may concern,

Review of Liquor Promotional Guidelines

As the peak alcohol industry body, Alcohol Beverages Australia (ABA) welcomes the opportunity to provide a submission in response to a review of the Liquor Promotion Guidelines (the Guidelines), which ABA understands will be designed to help licensed venues in NSW manage the risks associated with promotional activities.

Millions of NSW residents enjoy the responsible and moderate consumption of alcohol beverages each week as part of a healthy, happy and socially engaged lifestyle.

ABA welcomes the consideration of methods to minimise the risks of alcohol related harm. To this end, the alcohol beverages industry has been similarly proactive and determined to achieve the same goal, and liquor retailers across NSW have long taken voluntary targeted measures to actively promote responsible alcohol consumption and continue to reduce underage alcohol consumption.

In particular, the Guidelines are important to NSW licensees to take an informed view of any proposed promotion, in order to better assess risk and apply appropriate controls in their own business environment.

To this end, the provision of the right alcohol advertising framework to convey clear standards, combined with evidence-based measures surrounding promotional activities around the sale and supply of alcohol, will be crucial to the success of this review.

In addition to the above, ABA would like to draw the attention of the review to the following specific issues.

Appropriateness of the current Liquor Promotion Guidelines

ABA broadly supports the current iteration of the Guidelines on the basis that the Guidelines in their current form provide adequate and satisfactory guidance for NSW licensees, and effectively facilitate the responsible promotion of liquor at licensed venues.

NSW licensees have long relied on the Guidelines to inform, manage and address the risks associated with running liquor promotions. Decisions by the Secretary, Department of Industry which allows the restriction or prohibition of activities that are likely to encourage the misuse and abuse of liquor have fallen to an all-time low, with only one decision made so far in 2018¹. This

¹ NSW Department of Industry. (2018). *Merits Review Decisions*. Viewed 6 August 2018, accessed on (<https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/liquor-decisions/merits-review-decisions.aspx>).

shows that the current Guideline format is appropriately assisting licensees by eliminating harmful liquor promotions and practices.

ABA submits that any change to the current Guidelines will have the potential to cause unintended negative impacts on the community and industry by sowing confusion surrounding new standards, as well as creating unnecessary hurdles to adaptation for otherwise already acceptable practices. Changes to the current Guidelines will unfairly punish those who are already compliant and awareness of the current Guidelines has already been proven to be successful.

Illegitimacy of the Alcohol Advertising Review Board

The Alcohol Beverages Advertising Code (ABAC) Scheme is the recognised government approved regulator of alcohol advertising across Australia. ABAC houses a government-recognised Management Committee, including panel membership of an official federal government representative. ABAC's established Code of Practice has been developed in conjunction with government and has been adopted by all ABA members.

The ABAC is designed to be a provider of pre-vetting services for alcohol marketing, which are recognised by the Advertising Standards Bureau to ensure compliance with a code developed by the Management Committee.

The Alcohol Advertising Review Board (AARB) Code has been characterised in the Discussion Paper as a body that is able to "set standards for alcohol marketing and advertising in Australia", in parallel to the ABAC Scheme. This is an incorrect characterisation of AARB and is highly concerning.

In order for a body to set standards for alcohol marketing, it must possess the following characteristics:

- A code or set of standards accepted by government and industry.
- Transparent and open processes.
- A credible and independent panel.

AARB possesses none of these characteristics.

The self-appointed AARB has no official standing, authority or credibility regarding the establishment of standards or the monitoring of alcohol advertising. Unlike ABAC, neither the credentials of panel members nor the details of its decision-making processes are publicly available. As a direct result of its secretive nature, adjudications made by AARB serves little relevant and practical purpose. From AARB's positions, it would suggest that AARB opposes almost all forms of alcohol advertising.

The table below provides a summary of the characteristics that differentiate ABAC and AARB.

Features	ABAC	AARB
Government recognised Management Committee, including panel membership of an official government representative.	✓	✗
Established Code of practice that has been developed in conjunction with government and has been adopted by industry members.	✓	✗
Provider of pre-vetting service for alcohol marketing recognised by the Advertising Standards Bureau to ensure compliance with a code developed by the Management Committee.	✓	✗



Transparent, independent adjudication panel with credentials of panel members publicly available.	✓	X
Transparent, independent adjudication decisions publicly available identifying the complainant, the industry member and adjudication panel members.	✓	X

Table 1. Key characteristics differentiating the Alcohol Beverages Advertising Code (ABAC) and the Alcohol Advertising Review Board (AARB).

To this end, ABA submits that the review of the Guidelines should exclude any reference to the AARB on the premise that it lacks credibility and is unable to set meaningful standards when it comes to alcohol advertising and promotion.

Promotional materials (shopper dockets)

ABA notes that shopper dockets are cited as an example of promotional materials that should maintain compliance with the principles-based approach to the Guidelines. It is therefore appropriate to acknowledge that any potential negative impacts of shopper dockets have been independently assessed prior to this Review, and subsequently determined to neither expose young people to alcohol nor encourage risky drinking behaviours.

Shopper dockets are widely used by retailers to reward the loyalty of shoppers by offering promotions and discounts on products at associated liquor outlets and fuel stations to encourage the trial of new products or brand extensions and foster the sustainable growth of the sector and the jobs it underpins in the economy.

More importantly, shopper-dockets are a well-supported promotional offer by consumers under cost of living pressures who enjoy the opportunity to purchase quality brands at a lower price. There is no evidence to support the assertion that consumers will consume the purchased products in one session.

In 2013, the OLGR thoroughly investigated concerns raised about shopper dockets. After substantial evidence was presented by all concerned parties, the Director-General found the promotional vehicle did not promote the misuse of alcohol and did not support a ban of shopper dockets. The decision was made after taking into account the serious flaws and biases in the evidence presented in support of further regulation^{2,3}.

International evidence recently uncovered that Scotland's ban on multi-buy alcohol failed to reduce alcohol purchasing⁴. The ban effectively made the shopping experience more complex for the consumer, who was inconvenienced by making additional shopping trips in an already time-poor modern lifestyle.

To this end, it is primarily in the public interest for the promotional practice of shopper dockets to continue. ABA submits that the review of the Guidelines should recognise a substantial review on the subject has already been completed and that further regulatory action is unrealistic to reduce

² Furham, A. (2013). *Critique of "Expert Report on 'shopper docket' Alcohol Promotions" by Sandra Jones*. University College London, London.

³ Hanson, D. (2013). *Critique of "Expert Report on 'shopper docket' Alcohol Promotions" by Sandra Jones*. State University of New York, New York.

⁴ Nakamura, R., Suhrcke, M., Pechey, R., Morciano, M., Roland, M., & Marteau, T. M. (2014). Impact on alcohol purchasing of a ban on multi-buy promotions: a quasi-experimental evaluation comparing Scotland with England and Wales. *Addiction*, 109(4), 558-567.



alcohol related harms and will significantly impact the vast majority of responsible consumers. Further to this, using shopper dockets as an example of “Extreme discounts” (Principle 5 in the current Guidelines) should be removed.

Digital Alcohol Marketing including Social Media

As the centrepiece of Australia’s quasi-regulatory framework for alcohol marketing regulation, the ABAC Scheme covers many types of marketing including those that occur in the online space. In the past 24 months alone, ABAC has independently overseen more than 30 adjudications for digital advertising, including on popular online platforms such as Facebook, Instagram, Spotify and YouTube.

ABAC has developed high standards for vetting advertising content through digital platforms, tools and technologies by recognising that digital marketing is evolving rapidly and regularly reviewing best practice guidelines. For instance, many digital platforms now provide comprehensive age targeting controls, the inclusion of a responsible drinking message, as well as placement in media where at least 75% of the audience is reasonably expected to be of legal purchase age or over. ABAC also provides comprehensive guidelines on the moderation of user-generated content.

To further complement ABAC’s approach, the current Guidelines already provide ample flexibility to effectively capture new forms of marketing and developing technologies, including social media. The seven principles of undesirable liquor promotions and activities are broad enough to capture the types of promotional practices, which are clearly contrary to any of the principles and are appropriate even in the context of digital marketing.

To this end, ABA submits that ABAC regulations, of which all ABA members are signatories to, adequately provides a suitable framework for monitoring the online space because not unlike other marketing mediums, ABAC strictly regulates digital marketing content. The placement of age-gating measures on websites are widely adopted, or in its absence, ABAC rules that alcohol advertisement in Australia can only be used on media platforms where there is at least a 75% adult audience.

The significance of this is that in combination with the resilience of the current Guidelines, there are now tangible and measurable placement rules firmly in place when it comes to ensuring that alcohol advertisement is not aimed at people under the legal drinking age.

Liquor Promotions and Consumption

ABA submits that it is crucial for the review of the Guidelines to concurrently recognise that the greatest influence on responsible alcohol consumption is by far an individual’s personal environment⁵, as well as socioeconomic⁶ and individual⁷ factors that determine their attitude towards alcohol consumption.

⁵ Miller, P., & Plant, M. (2010). Parental guidance about drinking: Relationship with teenage psychoactive substance use. *Journal of adolescence*, 33(1), 55-68.

⁶ Hamilton, H. A., Noh, S., & Adlaf, E. M. (2009). Perceived financial status, health, and maladjustment in adolescence. *Social Science & Medicine*, 68(8), 1527-1534.

⁷ Shortt, A. L., D. M. Hutchinson, R. Chapman and J. W. Toumbourou (2007). Family, school, peer and individual influences on early adolescent alcohol use: First-year impact of the Resilient Families programme. *Drug and Alcohol Review* 26(6): 625-634.



The biased theory that alcohol advertising is the primary influence on an individual's experience with alcohol is unsubstantiated by credible evidence and represents a significant obstacle towards addressing the root causes of alcohol-related harm in NSW society.

The following data from the most recent iteration of the National Drug Strategy Household Survey (NDSHS) shows Australia's drinking behaviour is improving dramatically⁸:

- 83% of Australians are either drinking in moderation or abstaining from alcohol altogether.
- 81.5% of 12-17 year-olds are abstaining from alcohol, with as little as 1.3% in that age group drinking at lifetime risky patterns.
- One in two recent drinkers has undertaken moderating behaviour such as reducing the number of days they drank.
- The proportion of Australians exceeding the lifetime risk guidelines declined between 2013 and 2016 from 18.2% to 17.1%.

These consistent long term positive trends during a period where alcohol beverages advertising has increased and expanded onto new platforms, like online, prove conclusively that present liquor promotion practices in NSW accurately comply with the aims of the seven key principles covered in the existing Guidelines. It also shows the industry's work in identifying and tackling harmful consumption is working and helping to improve the way our products are consumed.

ABA submits that the seven principles outlined in the Guidelines effectively capture issues surrounding promotional activities and practices. The alcohol beverages industry in NSW has by and large a proven track record of responsible and efficient self-regulation and the promotion of moderate alcohol consumption, as well as adherence to the ABAC code.

The alcohol beverages industry's ongoing commitment to self-regulation represents an efficient and effective method to implement positive change without the need for red tape, government intervention or inefficient regulation. Any considerations from the Guidelines to further complement this approach is welcomed.

Your team is welcome to contact me at fergus@alcoholbeveragesaustralia.org.au or on 0408 200 078 with any queries about the issues raised in this letter or to arrange a suitable time for a meeting.

Yours sincerely,



Fergus Taylor
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⁸ Australian Institute of Health and Welfare 2017. National Drug Strategy Household Survey 2016: detailed findings. Drug Statistics series no. 31. Cat. no. PHE 214. Canberra: AIHW.

