

Ineffective, meaningless, inequitable: analysis of complaints to a voluntary alcohol advertising code

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Aotearoa New Zealand has a vision of being the best place in the world for children and young people: a place where children live in healthy, sustainable environments.¹ Compromising this vision is the harmful ubiquity of alcohol advertising across children's everyday settings.

Exposure to alcohol advertising is shown to increase the likelihood of children and young people initiating drinking earlier and consuming larger amounts of alcohol.²⁻⁴ A recent analysis suggests this relationship is causal.⁴ Exposure is also highly inequitable, with tamariki Māori being five times, and Pacific children three times, more likely to be exposed than other New Zealand children.⁵ One key source of this exposure is alcohol sports sponsorship.⁵ Protection from harm during the adolescent period is of critical importance, given the heightened vulnerability of adolescents to the development of alcohol use disorders (AUD), which has been demonstrated in one New Zealand population-based study showing that almost 50% of cases of AUD had developed by the age of 20 years.⁶

Others particularly vulnerable to the effects of marketing include individuals with AUD. Alcohol advertisements, especially the portrayal of drinking, may induce physiological cue reactivity, increasing cravings and motivation to drink among alcohol-dependent persons.⁷ Advertising therefore hinders the social permission of many New Zealanders to successfully cut down their drinking or remain sober.

Although tobacco advertising and sponsorship has been prohibited in New Zealand for decades, alcohol advertising controls remain weak despite a series of recom-

mendations and strong public support for increasing restrictions.⁸ The main mechanism is a voluntary code of practice, known as the Advertising Standards Authority (ASA) Code for Advertising and Promotion of Alcohol (the 'Code'). The ASA is a self-regulatory body comprising advertisers, agencies and the media.⁹ Advertising complaints are received from the public and determined to be 'settled' if the advertiser does not contest the complaint and voluntarily removes the advertisement without proceeding to a Complaints Board meeting, or 'upheld' or 'not upheld' against the relevant Code principle and/or guideline following an ASA Complaints Board meeting (comprising four industry and five public members). A user-pays Liquor Advertising and Promotion Pre-vetting System (LAPPS) is available to advertisers to check compliance with the Code, but approval is only a prerequisite for broadcasting televised alcohol commercials as part of the Commercial Approvals Bureau process.

The Code centres on advertising content and does little to limit the amount of marketing that New Zealanders are exposed to. It does not attempt to address the inequities in exposure to advertising or harms from alcohol. At the time of writing, controls on exposure include a television watershed and a limit on the number of alcohol advertisements per commercial break. Also, broadcasters are to avoid the impression that alcohol advertisements are dominating the viewing or listening period. There are limited controls on placement; advertising must be directed at adults, not minors. However, the Code permits exposing minors to alcohol marketing where minors make up

less than 25% of the audience. An updated Alcohol Advertising and Promotion Code will come into effect from 1 April 2021. The following analysis highlights results published in a larger report.¹⁰

Methods

ASA complaints were obtained from the ASA's public facing website (<https://www.asa.co.nz/decisions/search-browse-decisions/>). All complaints made to the ASA in relation to the Code from 1 January 2017 through 30 June 2020 (42 months) were identified and assessed. Complaints determined as having 'no grounds to proceed' and 'no jurisdiction' were excluded from analysis, as were appeals to complaints.

Data from each complaint were extracted on alcoholic beverage type, advertising medium, Code principle(s) and complaint outcome. Where possible, the duration from complaint submission to issue of the decision was calculated.

Results

In total, 73 complaints were identified, of which the ASA deemed 17 had no grounds to proceed and one had no jurisdiction. There were two appeals to complaint decisions.

The remaining 55 complaints represented more than 60 individual advertisements, as some complaints featured multiple advertisements. One in eight advertisements featured across more than one media channel. More than one-half (58%) of complaints related to social and digital/electronic media and 30% related to traditional media (eg, TV, radio, print, billboards). Around one-third (38%) of complaints related to beer, 27% to spirits, 13% to pre-mixed spirits and 11% to wine.

More than one-half (56%) of complaints were assessed against more than one principle of the Code. Principle 1 (high standard of social responsibility) comprised more than one-half (60%) of assessments, followed by Principle 3 (appeal to minors, 22% of complaint assessments) and Principle 2 (consistency with moderation in drinking, 15% of complaint assessments). Although a number of complaints were made against Principle 4 (sponsorship), only one complaint was assessed under this principle, and this complaint was deemed settled.

Other sponsorship-related complaints during this period did not get recorded against this principle, as the Code requires that advertisements found to breach Guidelines 4(a) to 4(e) of Principle 4 are then assessed by the Complaints Board under Principles 1 to 3, and not Principle 4.

A range of issues were described in the complaints, including the promotion of health and lifestyle benefits of alcohol, promoting alcohol as a coping mechanism, sexualisation of women, location on billboards very close to school grounds, promotion of drinking games and use of persons or groups that have strong appeal to minors (known as 'heroes of the young' in the Code).

In total, 196 assessments were made against the Code's principles and guidelines, of which 40% of assessments were settled, 36% were not upheld and 24% were upheld. The duration of time from complaint submission to decision was known for 40% of complaints—these were complaints submitted by the authors or by community members and organisations known to the authors. Among these, the mean duration was 39 days (SD 18). Settled complaints had a shorter average duration (M=29 days; SD 16) than complaints that proceeded to the Complaints Board (M=47 days; SD 15).

Discussion

Firstly, the relatively low number of complaints must be viewed with extreme caution. The ASA runs a complaints-based process that relies on the public's knowledge of the Code as well as their time to submit a complaint. There remains no active or systematic monitoring of alcohol advertisements by the ASA or any other agency, even for advertisers who frequently breach the Code. Secondly, personalised and uniquely targeted advertising now dominates the digital world of alcohol marketing,¹¹ making it impossible for harm reduction agencies to systematically identify and track advertisements and monitor compliance with the Code. This leaves the onus on vulnerable persons uniquely targeted by digital marketing to make a complaint, which risks widening the inequities in harm.

It is unsurprising that digital marketing was the dominant media form in complaints against alcohol advertisements, given their proliferation on digital media in recent times. Digital advertising gives marketers a low-cost and far-reaching means of targeting unique audiences and engaging them through to the point of sale. Studies show an association between engagement with digital alcohol marketing and increased alcohol consumption and hazardous drinking behaviour, particularly in young people.¹² It is suggested that responses to this threat to children's well-being is lagging far behind, with voluntary codes being inflexible in response to the fast-changing nature of digital marketing.^{11,13} Efforts are needed that focus on regulating the online environment at the platform level through a coordinated global response.

Although the majority (64%) of complaint assessments resulted in the advertisement being removed or amended, the length of time to decision often meant that the standard advertising cycle had finished. As an example, the Complaints Board took six weeks to reach a decision on a complaint against an advertisement that featured a sportsperson who had strong appeal to minors, and other decisions took over 60 days. This represents a substantial length of time that vulnerable groups are exposed to marketing violations.

Non-compliant advertisements can also remain permanently in the digital media space. One non-compliant beer advertisement video (a global beer brand's Facebook page featuring user-generated content of a local secondary school student in uniform) continues to be accessible in the social media accounts of private individuals. The complaint (ASA 19/461) notes that the advertisement had been viewed over 110,000 times before the complaint was submitted.

Among advertisers responding to complaints, there was a heavy reliance on using age-verification/age-gating mechanisms on websites and social media to effectively restrict their advertising to adult audiences. Website age-verification processes used by alcohol companies are deemed ineffective because they are easily circumvented.¹⁴ One study of age-limits

on social media advertising found a large number of Facebook and Instagram alcohol advertisements were not equipped with age limit restrictions.¹⁵ In relation to print advertising, an ASA decision considered that newspapers were a restricted medium (for adults) and so permitted the use of, or reference to, identifiable heroes of the young in alcohol advertisements.

It was deeply concerning that some advertisements promoted alcohol as a coping mechanism, using words such as "therapy," "feeling bit under the weather" and "Need a pick-me-up?" Alcohol is well-known as a maladaptive coping mechanism, as it increases the risk of problem drinking and places at risk both dependent drinkers and those that are in emotionally vulnerable situations, due to their heightened susceptibility to alcohol advertising.¹⁶ Of concern was the weak sanction for one wine company, which was found to have displayed a non-compliant label but was able to sell their remaining stock as long as they did not actively promote the product.

One alcohol producer had five complaints over the time period examined. In response to the complaints, the producer stated that they "would strongly encourage" the complainant "to click 'UNLIKE' and stop viewing the page" (ASA 20/056). In response to media attention on another complaint, a spirits producer told the media that "any publicity is good publicity."¹⁷ There are no incentives for advertisers to voluntarily comply with the Code, as the ASA is unable to apply sanctions or penalties to advertisers who are found to breach the Code, even if they are repeat offenders.

The use of pre-vetting by advertisers was rarely noted in ASA decisions, likely reflecting the confidential nature of the pre-vetting process. In Australia, signatories to the self-regulatory alcohol advertising code are required to pre-vet all television, radio, cinema and outdoor advertising.¹⁸ Mandatory pre-vetting is recommended given the potential to reduce non-compliance¹⁹ (as found following the introduction of mandatory pre-vetting for prescription drug advertising in New Zealand)²⁰, but it could never be a solution to reducing harm in the presence of a weak, voluntary advertising code.

Evidence shows self-regulatory approaches are ineffective at addressing the harmful content of, and widespread exposure to, alcohol advertisements.²¹ Protecting communities from the advertising and promotion of alcohol should never be left to an ineffective voluntary code of compliance. Nor should the onus be on the public to submit complaints to a process with ineffective sanctions. Stricter controls on alcohol advertising have been recommended by the Law Commission in 2010,²² the Ministerial Forum on Alcohol Advertising and Sponsorship in 2014²³ and the Government Inquiry into Mental Health and Addiction in 2018.²⁴ The World Health Organization considers restricting alcohol

advertising and sponsorship as one of the most cost-effective measures to reduce alcohol harm.²⁵

Reducing the inequities in exposure to alcohol advertising can only be achieved via equity-promoting marketing restrictions that protect our most vulnerable. Priority should be given to funding the replacement of alcohol sports sponsorship, restricting alcohol marketing on social/digital media platforms and developing an independent statutory system of alcohol marketing surveillance and regulation. Leaving the fox to guard the henhouse is ineffective and only serves to maintain long-standing inequities in harm.

Competing interests:

Nil.

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REFERENCES

1. New Zealand Government. Child and Youth Wellbeing Strategy. Wellington: Author 2019. Available at <https://childyouth-wellbeing.govt.nz/sites/default/files/2019-08/child-youth-wellbeing-strategy-2019.pdf>
2. Anderson P, de Bruijn A, Angus K, et al. Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies. *Alcohol and Alcoholism*. 2009;44:229–43. doi:10.1093/alcalc/agn115
3. Jernigan D, Noel J, Landon J, et al. Alcohol marketing and youth alcohol consumption: a systematic review of longitudinal studies published since 2008. *Addiction*. 2017;112:7–20.
4. Sargent JD, Babor TF. The Relationship Between Exposure to Alcohol Marketing and Underage Drinking Is Causal. *J Stud Alcohol Drugs Suppl*. 2020;113–24. doi:10.15288/jsads.2020.s19.113
5. Chambers T, Stanley J, Signal L, et al. 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*. 2018;53:626–633.
6. Rapsey CM, Wells JE, Bharat MC, et al. Transitions Through Stages of Alcohol Use, Use Disorder and Remission: Findings from Te Rau Hinengaro, The New Zealand Mental Health Survey. *Alcohol and Alcoholism*. 2018;54:87–96.
7. Witteman J, Post H, Tarvainen M, et al. Cue

- reactivity and its relation to craving and relapse in alcohol dependence: a combined laboratory and field study. *Psychopharmacology*. 2015;232:3685–96. doi:10.1007/s00213-015-4027-6
8. Health Promotion Agency. Alcohol-related attitudes overtime: Results from the Health and Lifestyles Survey. 2018. Available at <https://www.hpa.org.nz/research-library/research-publications/alcohol-related-attitudes-over-time-infographic> (accessed 20 Aug 2019).
 9. Advertising Standards Authority. Code for Advertising and Promotion of Alcohol. 2013. Available at <https://www.asa.co.nz/codes/codes/code-for-advertising-and-promotion-of-alcohol/>
 10. Alcohol Healthwatch. Analysis of complaints made to the Advertising Standards Authority Code for Advertising and Promotion of Alcohol: 2017-2020. 2020. Auckland, New Zealand: Author.
 11. World Health Organization, Regional Office for Europe, World Health Organization. Monitoring and restricting digital marketing of unhealthy products to children and adolescents. Copenhagen, Denmark: World Health Organization 2019. Available at https://www.euro.who.int/_data/assets/pdf_file/0008/396764/Online-version_Digital-Mktg_March2019.pdf?ua=1 (accessed 21 Sep 2020).
 12. Noel JK, Sammartino CJ, Rosenthal SR. Exposure to digital alcohol marketing and alcohol use: A systematic review. *Journal of Studies on Alcohol and Drugs, Supplement*. 2020;57–67.
 13. Babor T, Caetano R, Casswell S, et al. Alcohol: No ordinary commodity: Research and public policy. Oxford: Oxford University Press 2010.
 14. Barry AE, Primm K, Russell H, et al. Characteristics and Effectiveness of Alcohol Website Age Gates Preventing Underage User Access. *Alcohol and Alcoholism*. 2020; 56(1),82–88, doi:10.1093/alcalc/agaa090
 15. Kauppila, E., Lindeman, M., Svensson, J., et al. Alcohol marketing on social media sites in Finland and Sweden: A comparative audit study of brands' presence and content, and the impact of a legislative change. University of Helsinki, Finland: 2019. Available at <https://blogs.helsinki.fi/hu-ceacg/files/2019/04/Alcohol-marketing-on-social-media-sites-in-Finland-and-Sweden-2019.pdf> (accessed 10 Oct 2019).
 16. Babor TF, Jernigan D, Brookes C, et al. Toward a public health approach to the protection of vulnerable populations from the harmful effects of alcohol marketing: Conclusion. *Addiction*. 2017;112:125–7. doi:10.1111/add.13682
 17. Nadkarni, A. Scapegrace Gin pulls ad suggesting gin is therapeutic. 2018. Available at <https://www.stuff.co.nz/business/109354689/scapegrace-gins-pulls-ad-suggesting-gin-is-therapeutic> (accessed 21 Sep 2020).
 18. The Alcohol Beverages Advertising Code: Rules and Procedures. 2020. Available at <http://www.abac.org.au/wp-content/uploads/2020/09/ABAC-Rules-and-Procedures-approved-24-9-20.pdf> (accessed 12 Jan 2021).
 19. Reeve B. Regulation of Alcohol Advertising in Australia: Does the ABAC Scheme Adequately Protect Young People from Marketing of Alcoholic Beverages?. *QUT Law Review*. 2018; 10;18(1):96-123.
 20. Hoek J, Gendall P, Calfee J. Direct-to-consumer advertising of prescription medicines in the United States and New Zealand: an analysis of regulatory approaches and consumer responses. *International Journal of Advertising*. 2004;23:197–227. doi:10.1080/02650487.2004.11072880
 21. Noel J, Lazzarini Z, Robaina K, et al. Alcohol industry self-regulation: who is it really protecting?: History of alcohol self-regulation. *Addiction*. 2017;112:57–63. doi:10.1111/add.13433
 22. New Zealand Law Commission. Alcohol in our lives: curbing the harm. Wellington, NZ: Author 2010.
 23. Ministerial Forum on Alcohol Advertising and Sponsorship. Ministerial Forum on Alcohol Advertising and Sponsorship: Recommendations on alcohol advertising and sponsorship. 2014.
 24. Mental Health and Addiction Inquiry. He ara oranga: Report of the Government Inquiry into mental health and addiction. Wellington, New Zealand: Author 2018. <https://mentalhealth.inquiry.govt.nz/assets/Summary-reports/He-Ara-Oranga.pdf> (accessed 20 Aug 2019).
 25. World Health Organization. Tackling NCDs: 'best buys' and other recommended interventions for the prevention and control of noncommunicable diseases. Geneva: World Health Organization, 2017.