

Submission [REDACTED] on the draft Free TV Code

26 October 2024

Introduction

1. I oppose all permissions for alcohol advertising in the Free TV Code registered by the Australian Communications and Media Authority (ACMA) in 2015 (current Free TV Code) and oppose the increased permission for alcohol advertising during ad breaks in M-rated programs in the draft Free TV Code which is the subject of the current public consultation process.
2. Alcohol advertisements ought not be permitted at all on television. Alternatively, there should be a significantly later watershed time such as 11 pm, and no permission for alcohol advertising before the watershed time, with no exceptions.
3. There should also be no permission for alcohol advertisements during Sports Programs or during advertising breaks during Sports Programs, regardless of when Sports Programs occur.

Alcohol advertisements are obviously harmful to children and adults

4. As outlined below and in the Exhibit to this submission, alcohol advertisements are harmful to both children and adults, and especially to children. This is reflected by section 37 of the *Broadcasting Services (Australian Content and Children's Television) Standards 2020*, made by ACMA under subsection 122(1) of the *Broadcasting Services Act 1992*, prohibits alcohol advertisements during programs made specifically for children of school age younger than 15, or in a break immediately before, during or immediately after such a program. Section 37 is the same in substance as a previous standard made in 2009 and relevant earlier standards.
5. The purpose of such standards was/is to protect children from content or advertising which is unsuitable or inappropriate for them, such as alcohol advertisements. The permissions for alcohol advertising in the current and draft Free TV Codes are at odds with section 37 because children do not only watch programs specifically for them but rather watch a wide range of other programs, including sports programs, during which alcohol advertising is permitted.

Contents of the current Free TV Code in relation to Alcohol Advertising and Alcohol Promotion

6. Section 6.2 of the current Free TV Code relates to the times at which a "Commercial for Alcoholic Drinks" ("**Alcohol Advertising**") may be broadcast. Such a commercial is defined in the current Free TV Code as, in summary, an advertisement scheduled within a program break or between programs that directly promotes the use or purchase of one or more drinks which contain more than 1.15% alcohol by volume.

7. Section 6.2.1(a) of the current Free TV Code permits Alcohol Advertising to be broadcast “in the M and MA15+ classification zones set out in Section 2 (except between 5.00 am and 6.00 am, and 7.30 pm and 8.30 pm)”.
8. Section 2.2.2. of the current Free TV Code provides that the M classification zone is from 7.30 pm to 6.00 am on any day and from 12.00 pm to 3.00 pm on “**School Days**”, defined in the code as a weekday which is not during school holidays and not a public holiday.
9. Section 2.2.3 of the current Free TV Code relevantly provides that the MA15+ classification zone is from 8.30 pm and 5.00 am on any day.
10. Section 6.2.1(b) of the current Free TV Code permits alcohol advertisements to be broadcast “as an accompaniment to a Sports Program on a Weekend (defined to commence at 6.00 pm on a Friday and conclude at midnight on the following Sunday) or Public Holiday”.
11. “**Sports Program**” is defined in the current Free TV Code as a program consisting predominantly of coverage of a sporting event (whether live, replay or highlights); sporting commentary, analysis, interviews, and news; or presentations / awards and ceremonies associated with a sporting event, but not comedy or light entertainment or variety programs with a sports theme.
12. The draft Free TV Code maintains these permissions and extends the permission for Alcohol Advertising during M-rated programs during the daytime when children are watching. Significantly, even children under 15 may legally watch M-rated programs and of course many children do.
13. The current and draft Free TV Codes do not prohibit the display of alcohol brand names and logos at event venues or on uniforms of participants during Sports Programs. In this submission such advertising is referred to as “**Alcohol Promotion**” to distinguish it from advertising during advertisement breaks.

ACMA cannot be lawfully satisfied that the draft Free TV Code contains appropriate community safeguards for alcohol advertising

14. Paragraph 123(4)(b) of the Broadcasting Services Act means that ACMA must include a code of practice on a register if satisfied that the code provides appropriate community safeguards for the matters covered by the code; the code is endorsed by a majority of providers of broadcasting services in that section of the industry; and members of the public have been given an adequate opportunity to comment on the code.
15. The reference to “appropriate community safeguards” in subparagraph 123(4)(b)(i) requires each code to be suitable for protecting the safety of all people in Australia, including children.
16. The current Free TV Code was “registered” by ACMA under subsection 123(4) of the Broadcasting Services Act and commenced on 1 December 2015.

17. No provision of the Broadcasting Services Act and no other law required ACMA to be satisfied about the paragraph 123(4)(b) matters in respect of the Free TV Code and so ACMA was not required by law, either directly or indirectly, to register the code, even if its satisfaction about the paragraph 123(4)(b) matters was lawful, which I say it was not.
18. The same will apply to any decision by ACMA to register the draft Free TV Code in its present form. It is not possible for ACMA to lawfully acquire satisfaction that the draft Free TV Code contains appropriate community safeguards for alcohol advertising due to the extensive permissions for alcohol advertising which it contains.

ACMA cannot be lawfully satisfied that members of the public have been given an adequate opportunity to comment on the draft Free TV Code

19. ACMA cannot be lawfully satisfied that the opportunity afforded by the current public consultation process is inadequate because the consultation is for only six weeks. That is not enough time for most members of the public to become aware of the consultation process, let alone to be able to make submissions. Six weeks is particularly inadequate given that the public has had no opportunity to make submissions about the code for nearly ten years.
20. In addition, the invitation for public comment:
 - i. Does not contain information about the effect of the code which is reasonably comprehensible to ordinary members of the public.
 - ii. Contains no information about the increased permission for Alcohol Advertising.
 - iii. Contains no information about the viewing habits of children or about the evidence that Alcohol Advertising and Alcohol Promotion cause children to use alcohol.

What has changed since the current Free TV Code was registered in 2015

21. The current Free TV Code should not have been registered in 2015. Since then, there are further reasons why ACMA could not lawfully be satisfied that the draft Free TV Code contains appropriate community safeguards for alcohol advertising. These include:
 - i. Further convincing evidence that alcohol advertising causes children to use alcohol.
 - ii. Further convincing evidence of public concern about alcohol advertising.
 - iii. Increased evidence, recognition and concern that alcohol use causes domestic violence.

- iv. Increased recognition that no alcohol should be consumed during pregnancy, and implementation of warnings on alcohol products.
- v. Convincing evidence that substantially reducing or eliminating alcohol advertising would have negligible or nil impact on the revenue of television stations.
- vi. Further convincing evidence that alcohol use causes a range of cancers.
- vii. Clearer and more widespread recognition and evidence that “moderate” alcohol consumption causes health problems, including cancer.
- viii. Clearer and more widespread recognition and evidence that there are no health benefits of using alcohol.
- ix. Increased community concern about gambling advertising and about gambling. Gambling losses are fuelled by alcohol use as it causes impaired judgment or disinhibition.

Absence of appropriate community safeguards in the current and draft Free TV Code

- 22. No reasonable person could conclude that either version of the code contains appropriate community safeguards because they contain extensive permissions for Alcohol Advertising and Alcohol Promotion to be broadcast at times when children watch television, as outlined in this submission. The permission for such advertising and promotion during Sports Programs means that both versions of the code are like a safety net with a large hole in the middle and let children down exactly when they need the most protection.
- 23. Further restrictions on Alcohol Advertising and Alcohol Promotion would not prevent adults from consuming alcohol if they wished and, conversely, the absence of further restrictions would continue to make it harder for those wishing to reduce their alcohol use to do so.
- 24. Alcohol use causes much more overall harm to both society and users than tobacco or any other drug. It causes or contributes to domestic violence and all kinds of assaults and homicides; suicides and attempted suicides; cancer of various types; Foetal Alcohol Spectrum Disorder; car crashes, falls, and drownings, and a wide range of other medical, economic, and social problems.
- 25. Additionally, alcohol use, which is increased by Alcohol Advertising and Alcohol Promotion, results in impaired control of gambling. There is considerable community concern about gambling-related harm. Anything which increases gambling-related harm will also be of community concern.

Alcohol Advertising and Alcohol Promotion discriminates against women

26. Alcohol Advertising and Alcohol Promotion disadvantage women more than men because such advertising and promotion increases alcohol use. Alcohol use in turn causes or increases all kinds of violence by men against women and causes other problems, such as financial problems, which also leads to violence against women. Women are further disadvantaged when their children experience domestic violence.

Alcohol Advertising and Alcohol Promotion discriminates against children

27. The current Free TV Code discriminates against children because it permits Sports Programs to be broadcast at any time and permits:
 - i. Alcohol Advertising during advertising breaks in Sports Programs on Weekends and Public Holidays.
 - ii. Alcohol Advertising during advertising breaks in Sports Programs after the watershed time of 8.30 pm on any night.
 - iii. Alcohol Promotion during Sports Programs on any day at any time.
 - iv. Alcohol Advertising during advertising breaks in any program after the watershed time of 8.30 pm on any night.
 - v. Alcohol Advertising from 12.00 pm to 3.00 pm on School Days during programs which have been classified M.
 - vi. Advertising for drinks which contain 1.15% or less alcohol by volume, including low-alcohol beer, without any restrictions on the times at which the advertising can occur.
 - vii. Alcohol Advertising and Alcohol Promotion regardless of the number of children watching. Paragraph 5.7.1 of the Free TV Code says that advertisers “are expected” to comply with the “ABAC Responsible Alcohol Marketing Code” (which cannot be enforced by ACMA), paragraph 4(c) of which limits Alcohol Advertisements to where the audience is reasonably expected to comprise at least 80% adults. However, as adults are more than 78% of the Australian population and at least around 80% of the population aged two or more, paragraph 4(c) makes negligible practical difference because it is unlikely to result in the exclusion of Alcohol Advertising from any programs from which it is not excluded for other reasons. Further, paragraph 4(c) does not apply to Alcohol Promotion.
28. As the evidence in the Exhibit to this submission convincingly demonstrates, when the current Free TV Code was registered, and currently, there was and is evidence that:
 - i. Alcohol Advertising and Alcohol Promotion increase alcohol use by adults, including adults who care for children.

- ii. Alcohol Advertising and Alcohol Promotion cause children to use alcohol or to consume it sooner or in larger quantities than they otherwise would have.
- iii. Alcohol Advertising and Alcohol Promotion influence the attitudes towards alcohol of not only a child exposed to it, but also the attitudes of their peers, their peers' parents or carers, and their own parents or carers.
- iv. Alcohol was often available to children, with or without parent or guardian consent.
- v. A significant proportion of Australian children consume alcohol despite it being unlawful to sell alcohol to children and regardless of whether some parents or guardians regulate or prevent alcohol use by children or try to do so.
- vi. Children were influenced by Alcohol Advertisements and Alcohol Promotion regardless of whether they were exposed to it in the company of adults, and regardless of whether they were specifically targeted.
- vii. Many children were exposed to a significant amount of Alcohol Advertising and Alcohol Promotion, to a similar extent to which adults were exposed.
- viii. The size of the child viewing audience for many individual Sports Programs was significant, and millions of children each year watched Sports Programs.
- ix. Alcohol Promotion was visible during many Sports Programs, for a large proportion of the program and / or on many occasions.
- x. Free TV was the main or one of the main mediums for children to watch sport.
- xi. Many children watched free TV after 8.30 pm.
- xii. Many children were absent from school on any given School Day.

Disadvantage to children caused by Alcohol Advertising and Alcohol Promotion

- 29. Alcohol Advertising and Alcohol Promotion disadvantage children. A higher proportion of children aged 14-17 are killed by alcohol compared with the proportion of adults killed by alcohol. Children are more likely to be deceived or influenced by Alcohol Advertising and Alcohol Promotion than adults, due to their lesser age and maturity, lesser ability to distinguish fiction from reality and greater tendency to imitate or strongly admire sportspeople.
- 30. Children are more vulnerable to alcohol use than adults as they are physically smaller, less mature, less experienced or knowledgeable about the effects of alcohol use, more susceptible to brain damage due to alcohol use, more likely to

be influenced by peer pressure to use alcohol and more likely to take risks and have less judgement about risks.

31. Some Alcohol Advertising creates strong links between alcohol and sport as it includes sportspeople, especially sportsmen, consuming or promoting alcohol, is sport-related, and / or create an impression that alcohol consumption is an activity done in conjunction with sport participation. Alcohol Advertising encourages and glorifies alcohol use using themes which are particularly attractive to children such as sport, humour, animals, and friendship.
32. Children are more disadvantaged than adults by alcohol use by others, and are therefore more disadvantaged by Alcohol Advertising and Alcohol Promotion which increases alcohol use by others, because unlike most adults, children must be cared for by adults and must therefore experience substandard care caused by alcohol use by their carer(s), where applicable, and / or other disadvantages where their parents or carers, if women, are subjected to alcohol-fuelled violence by men.
33. Children cannot arrange their own accommodation or transport to remove themselves from a home where alcohol-fuelled violence occurs. Children cannot lawfully drive until at least sixteen in most Australian jurisdictions and are therefore more at risk from drink-driving by others.

SUMMARY OF THE EXHIBIT TO THIS SUBMISSION

A. EVIDENCE THAT TV ALCOHOL ADVERTISING CAUSES CHILDREN TO USE ALCOHOL

34. **Pages 1 to 15 of the Exhibit** are a 2009 article from the journal *Alcohol and Alcoholism*. That journal is co-owned and co-published by the United Kingdom's Medical Council on Alcohol and Oxford University Press. According to the Medical Council on Alcohol's website it is "an independent charity of health professionals from all medical specialities, without links to the government or the alcohol industry".
35. The article has five authors, including Professor Peter Anderson who is an international expert in the impact of alcohol and addictions on health and well-being, trained as a general practitioner and specialises or has specialised in public health medicine at Oxford University.
36. The article is titled *Impact of Alcohol Advertising and Media Exposure on Adolescent Alcohol Use: A Systematic Review of Longitudinal Studies (Anderson article)*. It assessed the impact of alcohol advertising on future adolescent alcohol use and concluded on **page 14** of the Exhibit: "This review found consistent evidence to link alcohol advertising with the uptake of drinking among non-drinking young people, and increased consumption among their drinking peers. This evidence comes from high quality longitudinal studies ... These

findings are not surprising: exactly the same conclusions have emerged from reviews of the impact of tobacco ... marketing on young people”.

37. **Pages 16 to 17** of the Exhibit are a 2013 editorial in the *British Medical Journal*, which is a medical journal that I believe has been in existence for about 180 years. The editorial states on **pages 16 and 17** of the Exhibit: “That [alcohol marketing] is harming children is beyond dispute. The impact of alcohol marketing on young people has been the subject of 13 peer reviewed longitudinal studies, which were systematically scrutinised by the Science Group of the European Union Alcohol and Health Forum. The findings were clear cut: “alcohol marketing increases the likelihood that adolescents will start to use alcohol, and to drink more if they are already using alcohol.” This deeply regrettable state of affairs is completely predictable ... Our children urgently need protection from alcohol marketing ... partial measures have all too obviously failed”.
38. **Pages 18 to 26** of the Exhibit are an ABC “fact check” article dated 2 October 2015, a few weeks before the registration of the Free TV Code, about whether alcohol advertising causes children to use alcohol, which states on **page 25** of the Exhibit that an alcohol industry representative’s “claim that the evidence clearly shows there is no or very little causation between alcohol advertising and underage drinking doesn't check out”.
39. **Pages 27 to 40** of the Exhibit are a 2016 article from the journal *Addiction*. *Addiction* publishes peer-reviewed research reports on pharmacological and behavioural addictions, bringing together research conducted within many different disciplines. The publication is an official journal of the Society for the Study of Addiction and has been in publication since 1884. The Society for the Study of Addiction is a registered charity in the United Kingdom.
40. The article is titled *Alcohol marketing and youth alcohol consumption: a systematic review of longitudinal studies published since 2008*. It includes analysis of numerous studies pre-dating registration of the Free TV Code.
41. It concluded on **pages 38 to 39** of the Exhibit: “One of the strengths of the present review is that it has found evidence of an association between marketing exposure and youth drinking behaviour in multiple population groups, cultures and nationalities among a range of younger age groups, and using an array of different measurement methods ... This review has found further evidence of a close association between marketing and youth alcohol consumption. Recent longitudinal studies show additional evidence of a relationship between early marketing exposure and later alcohol consumption, and the results support the conclusions of the earlier reviews. These effects have now been found in a wider range of countries and among children as young as 10 years”.
42. **Pages 41 to 122** of the Exhibit are a 2019 report to the Australian Government Department of Health prepared by Monash University about the consequences of exposing children and young people to alcohol advertising (**Monash Report**). It

states on **page 58** of the Exhibit: “The evidence from more than 30 longitudinal and cross-sectional studies involving close to 100,000 participants finds that greater exposure to alcohol advertising and sponsorship is associated with earlier initiation of alcohol use in children and young people, and riskier consumption in those already drinking”.

43. **Pages 123 to 163** of the Exhibit are the Australian Government Department of Health’s National Alcohol Strategy 2019-2028 which states on **page 144** of the Exhibit: “There is a strong association between exposure to alcohol advertising and young people’s drinking”.
44. **Pages 164 to 179** of the Exhibit are a 2021 article from the peer-reviewed journal PLOS One published by the Public Library of Science. It was written by three researchers from Curtin University and another from the Western Australian Cancer Council. It is titled *An evaluation of the evidence submitted to Australian alcohol advertising policy consultations (PLOS One article)*. The article states on **page 166** of the Exhibit: “The evidence base has developed to a level where it can be concluded that exposure to alcohol advertising is a cause of alcohol use among young people”.

B. EVIDENCE THAT REDUCING ALCOHOL ADVERTISING REDUCES ALCOHOL USE

45. The Monash Report states on **page 44** of the Exhibit: “International research involving multiple countries shows that jurisdictions that have implemented stricter alcohol advertising and sponsorship regulations have lower rates of hazardous drinking”.
46. The Monash Report states on **page 95** of the Exhibit in relation to further restrictions on alcohol advertising: “Primarily, the impact will be upon young people. These impacts may include reductions in exposure to alcohol advertising, reductions in alcohol use, and reductions in alcohol related problems. At a broader level, there is potential for impacts across the whole of the community from stricter controls on alcohol advertising ... Australian research estimates that [the cost of alcohol-related harm] could be reduced by AUD\$2.4 billion with the implementation of partial bans on alcohol advertising”.

C. EVIDENCE OF WIDESPREAD COMMUNITY CONCERN AND OPPOSITION

47. **Pages 180 to 230** of the Exhibit consist of newspaper or internet articles about alcohol advertising or harm which illustrates and evidences the widespread community concern about and opposition to Alcohol Advertising and Alcohol Promotion. See also section G below.

D. VIEWING ALCOHOL ADS WITH ADULTS DOES NOT GENERALLY PROTECT CHILDREN

48. **Pages 231 to 232** of the Exhibit are the Australian Medical Association’s submission (**AMA submission**) to Free TV Australia on the Free TV Code. It states

on page 231 of the Exhibit: “The proposition that alcohol advertising is entirely appropriate because children watch sport in the company of adults, fails to recognise the underlying impacts such advertising has on young people”.

49. **Pages 233 to 252** of the Exhibit are the Foundation for Alcohol Research and Education’s submission to Free TV Australia on the Free TV Code (**FARE submission**). It states on **page 246** of the Exhibit: “Free TV Australia has also rationalised that the children who do watch sports do so “predominantly in the company of adults” ... This infers that children are protected from the effects of alcohol advertising simply because they are in the presence of an adult and is erroneous as co-viewing does not reduce the amount of a child’s exposure to alcohol advertising, which is the factor that contributes to earlier and increased alcohol consumption”.

E. INEFFECTIVENESS OF THE “ABAC RESPONSIBLE ALCOHOL MARKETING CODE”

50. Clause 5.7.1 of the Free TV Code states that television advertisers “are expected” to comply with several other codes, including “the ABAC Responsible Alcohol Marketing Code, where applicable” (ABAC Code).
51. The Monash Report states on **page 83** of the Exhibit that “Numerous studies show that the ABAC Scheme has been particularly ineffective in preventing the publication or broadcasting of alcohol advertisements that appeal to children and adolescents”.

F. EVIDENCE AGAINST THE FREE TV CODE

52. **Page 253** of the Exhibit is a media release by the Royal Australasian College of Physicians titled *Seal the loophole for alcohol advertising and sports* which states: “The Royal Australasian College of Physicians (RACP) has again called upon the Australian Communications and Media Authority (ACMA) to close a loophole that allows alcohol companies to advertise to children during sports broadcasts”.
53. On **page 231** of the Exhibit the AMA submission states: “For health reasons, the AMA does not support the advertising of alcohol during sporting events”.
54. The Monash Report states on **page 70** of the Exhibit that “There are some rules intended to limit children’s exposure to alcohol advertising (e.g. Free TV, 2015), but they do not align with the evidence on when children are watching television”.
55. The FARE submission states on **page 246** of the Exhibit: “The current loophole allowing alcohol advertising during live sports on weekends and public holidays is heavily exploited by the alcohol industry, with 49.5 per cent of all alcohol advertising shown during the broadcast of live sporting events. For example during the Bathurst 1000 in 2012, those who watched the whole race ... were exposed to 35 minutes of alcohol advertising ... This audience included an estimated 117,000 children ... This refutes Free TV Australia’s claim that children “constitute a very

small percentage of audience for sporting events” ... which supposedly justifies the continuation of this loophole”.

56. **Pages 254 to 259** of the Exhibit are a report published in the Drug and Alcohol Review in 2015 titled *Child and adolescent exposure to alcohol advertising in Australia’s major televised sports* which states on **page 258** of the Exhibit: “Sport TV programs attract large viewing audiences nationally and internationally. In Australia, 30 of the top 50 TV programs in 2012 were sport ... The loophole in advertising regulations that permits alcohol advertising during the daytime, and especially in sport TV, should be closed. Additionally, because alcohol advertising exposure peaked between 20:30 and 22:00 h, regulations should prohibit alcohol advertising in sport before 21:30 h to reduce children’s exposure”.

G. WIDESPREAD PUBLIC OPPOSITION TO ALCOHOL ADVERTISING

57. **Pages 260 to 280** of the Exhibit are a report by Alcohol Change Australia, a group of health and community organisations from across Australia working to reduce alcohol harm in Australia. The report is dated November 2023 and titled *Public Opinion on Alcohol in Australia Knowledge, attitudes and support for change*. It says on **page 271** of the Exhibit: “77% of Australians support restricting alcohol advertising on television during times when children are likely to be watching, including during live sports broadcasts; only 6% oppose”.
58. **Pages 281 to 289** of the Exhibit are a submission by the Alcohol Policy Coalition on the Free TV Code before it was registered. It states on **page 285** of the Exhibit: “The majority of the Australian public (67%) support restrictions on the television advertising of alcohol before 8.30pm every day. This support has been increasing in recent years. The majority of Australians (62%) also support removing the loophole that currently allows alcohol advertising to be shown during children’s viewing hours as an accompaniment to live sports broadcast. Only 15% oppose a ban to prevent such advertising”.

H. EVIDENCE THAT WRITTEN SUBMISSIONS DO NOT FULLY REFLECT PUBLIC OPINION

59. **Pages 290 to 294** of the Exhibit are a 2020 article by two researchers at the University of Technology, Sydney titled *Engaging the Public In Codes of Practice* which states on **page 293** of the Exhibit: “... consumer representatives drew attention to “motivational barriers” and other problems that arise when a scheme relies on written submissions. Some obstacles cited were: “submission fatigue”; the perception that consumers were commenting on something that was “already a done deal”; the lack of “trust that if you’re going to put time into doing a submission ... that anything is going to come out of it”; and the absence of feedback from industry following submission of written comments”.

I. EVIDENCE OF ALCOHOL USE BY AUSTRALIAN CHILDREN

60. The Monash Report states on **page 45** of the Exhibit: “The prevalence of underage drinking in Australia (18.5%) remains high compared to cannabis (6.7%) and tobacco use (2.4%), and rates of risky drinking among adolescents and young adults are very high, particularly among males”.
61. The Monash Report states on **page 53** of the Exhibit: “The prevalence of single occasion risky drinking is considerably higher among males than females, with one-in-five ... males aged 17 years reporting past-week single occasion risky drinking compared to one-in-seven females”.

J. EVIDENCE OF THE POPULARITY OF SPORTS PROGRAMS ON FREE TV

62. **Pages 295 to 297** of the Exhibit are a report titled *Winning the race: TV ratings top 50 2023 all about sport, what about 2024?* It says it was posted on the “Mediaweek” website on 16 January 2024. It states on **page 295** of the Exhibit that “TV ratings were dominated by sport. Just two non-sport programs make the top 20, with the whole top 10 exclusively sport”.
63. **Pages 298 to 299** of the Exhibit are a Sydney Morning Herald article dated 9 February 2024 titled *Free-to-air sport enjoys bumper summer as Foxtel struggles* and states on page 298 of the Exhibit that “an average metro audience of 1.347 million” watched the 2024 men’s Australian Open singles final.
64. **Pages 300 to 301** of the Exhibit are an article titled *Live sport still most watched TV in Oz, data confirms* which says it is by Mediaweek and that it was posted on 16 August 2016. It states on **page 300** of the Exhibit: “Whether it be AFL, rugby league, cricket, tennis or the race that stops the nation – The Melbourne Cup – Australia is characterised and united by our love of sport. Over the past 15 years, live sport has dominated as Australia’s highest ranked programs on free-to-air TV, according to data released this week by Nielsen ... 16 of the top 20 TV programs were live sport”.

K. EVIDENCE OF CHILD EXPOSURE TO ALCOHOL ADS IN SPORTS PROGRAMS

65. The Monash Report states on **page 45** of the Exhibit: “Sport is the leading single entertainment genre for advertising alcohol to children and young people”.
66. The Monash Report states on **page 66** of the Exhibit: “Alcohol companies are aggressively marketing their brands to boost sales to existing drinkers, and are using a multitude of traditional and novel marketing tactics to recruit the supply of new drinkers (next generation) needed for continuing profit growth”.
67. The Monash Report states **pages 70-71** of the Exhibit: “Alcohol advertising on free-to-air commercial television has traditionally been the most heavily used media channel by alcohol marketers in Australia. While advertising is now increasingly dispersed and integrated across other media channels, television continues to be a key platform for alcohol promotions today” and “... the ACMA research found

that live broadcasts of sporting events are the most popular television programs among Australian children, during which the revised rules also allow alcohol advertising ... live sport is one of the few categories they continue to watch on live broadcast television”.

68. The Monash Report states on **page 72** of the Exhibit: “Research also shows that alcohol advertising and sponsorship in Australian sport is heavily embedded within the nation’s largest sporting codes, and this increases the exposure of children to alcohol promotions. A study by Carr et al (2016) found that three national sporting codes alone accounted for 60% of all alcohol advertising in sport: AFL (1,942 advertisements); cricket (941); and, NRL (661). Because young people in Australia watch a great deal of these sports on television, the study found that Australian children and adolescents received a total of 51 million exposures of alcohol advertising in the one year, and almost half (47%) of this exposure occurred during the daytime (6am-8.29pm).”
69. **Pages 302 to 317** of the Exhibit are an article titled Alcohol Advertising in Sport and Non-Sport TV in Australia, during Children’s Viewing Times. It was published in 2015 in the peer-reviewed journal PLOS ONE published by the Public Library of Science. It was written by several authors, including for example Professor Kerry O’Brien of, I believe, Monash University, who was one of the authors of the Monash Report.
70. The article (**O’Brien article**) states on **page 307** of the Exhibit: “For all categorised alcohol advertisements (23,936) for sport and non-sport TV for the five metropolitan regions, the majority (86%) were in non-sport TV between the hours of 8.30pm and 11.59pm ... From 6am till 8.29pm there was a reversal in the proportion of alcohol advertisements in non-sport (13%) vs. sport TV (87%). This pattern was similar across all metropolitan regions”.

L. EVIDENCE OF CHILD VIEWING OF FREE TV AFTER 8.30 PM

71. The Monash Report states on **page 70** of the Exhibit: “analysis of children’s television viewing over 2001- 2013 by the Australian Media and Communications Authority (ACMA) found that one of the most popular times for Australian children aged 0-14 years to view free-to-air television on weekdays and weekends is between 8:00pm and 8:59pm (ACMA, 2015); yet under the revised 2015 rules, alcohol advertising is allowed during ... 8:30pm-9:00pm ...”.

M. EVIDENCE OF ABSENCES FROM SCHOOL OF MANY CHILDREN ON SCHOOL DAYS

72. **Pages 318 to 344** of the Exhibit are a 2019 University of Melbourne report about the number of Australian children not attending school. It states on **page 322** of the Exhibit: “Conservative estimates are that at least 50 000 children and young people of school age have detached from any educational program or institution, across the country at any given time”.

73. **Pages 345 to 349** of the Exhibit are an article from the Guardian Australia dated 26 September 2022 which states on **page 347** of the Exhibit: “Detached children are no longer enrolled in any kind of school at all – the [above Melbourne University] report conservatively estimated that “at least 50,000 children and young people of school age have detached from any educational program or institution”. That was pre-pandemic. Megan O’Connell, a co-author of the [above Melbourne University] report ... says current data “points to nearly 100,000 children not in education and many more ... not attending regularly”.

N. DISADVANTAGE CAUSED TO CHILDREN BY ALCOHOL ADVERTISING

N.1 Evidence that children are more likely to be influenced by alcohol ads than adults

74. **Pages 350 to 362** of the Exhibit are a 2010 article from the *Journal of Children and Media*, which I believe is peer-reviewed, titled *Comparing Children’s and Adults’ Cognitive Advertising Competences in the Netherlands*. It states on **page 357** of the Exhibit that “Our results demonstrated that even at 12 years of age, children had still not acquired an adult level of understanding of advertising’s selling and persuasive intent.”
75. **Pages 363 to 382** of the Exhibit are a 2005 article from the *Journal of Public Policy and Marketing* titled *Impulsive and Self-Conscious: Adolescents Vulnerability to Advertising and Promotion*. I believe that the *Journal of Public Policy and Marketing* is a peer-reviewed journal published by the American Marketing Association.
76. The article states on **page 373** of the Exhibit: “Our review of the neuroscience, psychology, and marketing literature has demonstrated three adolescent vulnerabilities: (1) impulsivity, (2) self-consciousness and self-doubt, and (3) an elevated risk from product use for both alcohol and tobacco ...These vulnerabilities likely cause adolescents to be more susceptible to certain marketing influences. Adolescent impulsivity may cause them to use risky, addictive products ... It appears that adolescents are particularly likely to act impulsively when they are in negative mood states and that adolescents ... experience negative mood states more frequently and intensely than ... adults. Furthermore, adolescent self-consciousness and self-doubt may lead them to rely on consumption symbols for self-expression and self-worth and to manifest materialism to a greater extent than adults ... Alcohol and cigarettes are of particular concern ...”.
77. **Pages 383 to 388** of the Exhibit are a 2022 article by Deakin University researchers in the *Australian and New Zealand Journal of Public Health* (**Deakin article**). That journal is a peer-reviewed, multidisciplinary journal produced by the Public Health Association of Australia.
78. The article is titled *Potential financial impact on television networks of a ban on alcohol advertising during sports broadcasts in Australia*. It states on **page 384** of

the Exhibit that “Exposure to alcohol marketing during sports broadcasts can be particularly problematic for children aged 8-12 years, who tend to become fascinated with real-life heroes, such as sport stars. Children are highly aware of sports celebrity endorsement of alcohol brands, and often link alcohol products with positive characteristics ... there is evidence that alcohol sponsorship of sports contributes to ... a positive attitude towards alcohol in children”.

79. The Monash Report states on **page 62** of the Exhibit: “A key social and psychological mechanism through which alcohol advertising influences young people’s drinking is by normalising alcohol use, and portraying appealing images and consequences associated with drinking ... Alcohol advertisements often use young models and actors and portray alcohol as fun and exciting and part of social, sexual and sporting success. Young people are often highly susceptible to alcohol advertisements that project such images because of a preoccupation with personal image and identity ...”.
80. The O’Brien article states on **page 311** of the Exhibit: “Research suggests that ... boys like beer ads more when placed within sport TV programming, and this greater liking is associated with stronger drinking intentions and higher alcohol use”.

N.2 Evidence that children are more vulnerable to alcohol use than adults

81. **Page 389** of the Exhibit is a guidance document by the Commonwealth’s National Health and Medical Research Council. The document says that children should not drink alcohol. It does not make that recommendation for adults except pregnant or breastfeeding adults.
82. The Anderson article says on **page 1** of the Exhibit: “Children and adolescents have greater vulnerability to alcohol than adults. As well as usually being physically smaller, they lack experience of drinking and its effects. They have no context or reference point for assessing or regulating their drinking, and, furthermore, they have built up no tolerance to alcohol ... During adolescence, alcohol can lead to structural changes in the hippocampus (a part of the brain involved in the learning process) ... and at high levels can permanently impair brain development ...”.
83. The National Alcohol Strategy states at **page 133** of the Exhibit: “due to their developing brains and bodies, young people may be more vulnerable to the physical effects of alcohol and impairment of cognitive performance. Data has also highlighted that 13% of deaths among 14–17 year olds can be attributable to alcohol”.
84. The Monash Report states at **page 49** of the Exhibit: “The most recent (2013) global burden of disease study estimates that alcohol is responsible for 7.4% of the total health burden among males aged 15-19 years, and 2.2% among females in this age group ... Among young people in Australasia (Australia and New Zealand), the

estimated health burden from alcohol is even higher, accounting for 10.2% and 3.8% of the total burden among males and females in this age group, respectively”.

O. EVIDENCE ABOUT THE HARMFUL IMPACTS OF ALCOHOL USE

O.1 Evidence alcohol use causes more than 200 medical and social diseases and harms

85. The Monash Report states on **page 50** of the Exhibit: “In addition to a wide range of social harms, alcohol is causally linked to more than 200 different diseases, conditions, and injuries ... Especially pertinent for young people are the short-term harms from drinking ... such as road accidents, falls, and drownings, as well as suicides and violence”.

O.2 Evidence that alcohol is a major risk factor for suicides

86. **Pages 390 to 395** of the Exhibit are an article from the *Australian and New Zealand Journal of Public Health* titled *Alcohol-related suicide across Australia: a geospatial analysis* which says on **page 390**: “The acute effects of alcohol consumption are a major risk factor for suicide ... blood alcohol concentrations are present in almost one-third of all suicides ...”.

O.3 Evidence that alcohol is a reinforcing factor which increases domestic violence

87. **Pages 396 to 397** of the Exhibit are a letter to me from the Branch Manager of the Women’s Safety Response and Behaviour Change Branch in the Australian Government Department of Social Services dated 18 October 2022 which states on **page 396** of the Exhibit that “alcohol is a reinforcing factor that can increase the probability, frequency or severity of violence against women and their children”.

O.4 Some types of alcohol harms have increased in recent years

88. Data from the Australian Institute of Health and Welfare states “alcohol-related hospitalisations increased in 2020-21 compared with 2019-20, and alcohol-induced deaths increased by 7.4% in 2021 compared with 2020, and “the alcohol-induced death rate is the highest in 10 years”.

O.5 Evidence that alcohol use has no health benefits

89. **Pages 398 to 414** of the Exhibit are an article published on the “JAMA Network Open” site which is a network of peer-reviewed journals published by the American Medical Association. The article is titled *Association Between Daily Alcohol Intake and Risk of All-Cause Mortality A Systematic Review and Meta-analyses*.
90. The article is an analysis of 107 studies on the health impacts of alcohol use and says on **page 398** of the Exhibit: “This systematic review and meta-analysis of 107 cohort studies involving more than 4.8 million participants found no significant

reductions in risk of all-cause mortality for drinkers who drank less than 25 g of ethanol per day (about 2 Canadian standard drinks compared with lifetime nondrinkers) after adjustment for key study characteristics such as median age and sex of study cohorts”.

O.6 Evidence that there is no safe level of alcohol use

91. **Page 415** of the Exhibit is information from the Cancer Council Victoria’s website which states “when it comes to cancer risk, there is no safe level of drinking”.

O.7 Evidence of the adverse economic impacts of alcohol use

92. **Pages 416 to 426** of the Exhibit consist of the title pages and the executive summary of a study by the National Drug Research Institute at Curtin University titled *Examining the Social and Economic Costs of Alcohol Use in Australia: 2017/18* which concluded on **page 424** of the Exhibit: “The use of alcohol has extensive social, health and economic costs to Australia, which were conservatively estimated at \$66.8 billion in 2017/18, despite the exclusion of significant costs where it was not possible to either produce reliable estimates or avoid double counting across domains”.

P. LESS ALCOHOL ADS WOULD NOT HARM BROADCASTERS OR SPORT BODIES

93. The Deakin article concluded on **page 386** of the Exhibit: “Our study indicates that removal of alcohol advertising in sports broadcasts is likely to reduce each network’s advertising revenue by a maximum of 1% (\$A10 million) in total ... [and the] impact ... is likely to be substantially lower, given that replacement advertisers are highly likely to be found ... Accordingly, the removal of alcohol advertising during sports broadcasts would likely result in minimal (if any) negative financial impact for television networks ..., whilst substantially reducing the exposure to alcohol advertising on television for children and adults”.
94. **Pages 427 to 444** of the Exhibit are a report by FARE titled *Advertising Industry Advertising Partnerships with ARL and NFL Teams 2019* which concludes on **page 442** of the Exhibit: “... alcohol advertising deals are not a prerequisite for sporting success. One team in each league has no commercial partnerships with alcohol companies, namely the Melbourne Storm (winner - 2017 NRL Grand Final, runner up - 2018 NRL Grand Final), and the Western Bulldogs (winner - 2016 AFL Grand Final)”.

Q. EVIDENCE OF SELECTIVE CITATION OF DATA BY THE ALCOHOL INDUSTRY

95. The Monash Report states on **page 60** of the Exhibit that the alcohol industry selectively cites flawed studies to argue against advertising restrictions: “Most importantly, using total advertising expenditure as a proxy measure for advertising exposure will not accurately reflect exposure among young people. Several of these methodological shortcomings are present in econometric studies that report alcohol advertising has no significant effect on population level alcohol

consumption ... the findings of such econometric studies are [therefore] often selectively cited by the alcohol industry to argue against advertising restrictions ...”.

96. The PLOS One article states on **page 173** of the Exhibit: “First, the strategy of omitting evidence was demonstrated by [a] substantial number of industry actor submissions ... Second, the selective citation of favourable evidence can be seen in industry actors’ substantial use of industry-linked publications and dated sources of evidence ... Third, industry actors appear to have sought to change the evidential landscape within which the alcohol advertising policy debate was conducted via their greater reliance on less relevant evidence ...”.