

Authority meeting brief

To	Samatha Yorke, Creina Chapman, Autumn Field
Subject	Meeting with Free TV CEO and members regarding progress of the code review
Date/Time	2-3pm, 28 November 2024
Location	Teams meeting
Contact person	Section 22
Contact number	Section 22

Summary and agenda

1. Free TV's public consultation period concluded on 11 November 2024.
2. The ACMA has requested a meeting with Free TV to discuss key issues that were raised in public submissions, Free TV's planned public response, and next steps in the review.
3. The ACMA also seeks information from Free TV about when it will provide public submissions to the ACMA and when, and how, it will make submissions available to the public.
4. Staff propose the following agenda:
 - Overview of consultation process
 - Key preliminary issues in public submissions
 - i. Alcohol advertising and M zone extension
 - Timing and next steps

Attachments

Attachment A	Section 22 of the FOI Act
Attachment B	Section 22 of the FOI Act
Attachment C	Section 22 of the FOI Act
Attachment D	Free TV Code provisions relevant to alcohol advertising
Attachment E	Section 22 of the FOI Act

Key issues

Submissions

- > Free TV conducted a public consultation process on its draft Commercial Television Industry Code of Practice (the draft code) between 30 September and 11 November 2024.
- > To understand community concerns about the code, the ACMA asked Free TV for copies of the public submissions it received. Free TV has not directly responded to this request.
- > Staff have already gained access to some public submissions, either as a result of being sent directly to the ACMA or having been independently published online. Many of these are from health or children's welfare advocacy groups including the Cancer Council, Children and Media Australia, the Australian Medical Association and the Foundation for Alcohol Research and Education (FARE).
- > Based on the 11 submissions currently available to the ACMA, key issues include:
 - concern over harms caused by children's exposure alcohol advertising, driven by existing TV code exemptions for sport and proposed changes to classification zones

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Alcohol advertising

- > Most of the submissions that the ACMA has access to concern the impacts of alcohol advertising on television and during live sporting events.
- > In the draft code Free TV has proposed increasing the number of hours that M classified material would be permitted during the day (between 10am and midday), and removing the carve-out for weekends, school and public holidays. This would have the effect of allowing a further 20 hours of M classified material per week, at a minimum.
- > Free TV did not raise its intent to simplify and expand the M classification zone with the ACMA prior to public consultation. It is unclear whether Free TV had considered the flow-on effects to gambling advertising when proposing this amendment.
- > Noting the lack of transparency around this issue, the ACMA's 3 October public statement highlighted the change would impact on the volume of alcohol advertisements permitted to be shown during the day and noted this could generate community concern.
- > Separately, the Free TV code currently permits alcohol advertising during sport programs, and live sport on the weekend or on a public holiday, and Free TV has not proposed any changes to these existing exemptions.
- > Submissions have raised concerns about both of these issues, highlighting research on the negative health and social impacts of alcohol, and linkages between alcohol and domestic violence, and live sporting events.
- > There has also been some recent media coverage of this issue that have raised concerns following the ACMA's appearance at Senate Estimates on 5 November. Examples include 'Free TV's draft industry code set to increase alcohol, gambling ads' in The Australian on 22 November, and 'Concern for children over proposal for more adult TV content' in The New Daily on 24 November.
- > The ACMA has written to Free TV requesting that it consider its position on alcohol advertising in the draft code, and highlighted the recommendations of the independent Report of the Rapid Review of Prevention Approaches (Unlocking the Prevention Potential: Accelerating action to end domestic, family and sexual violence) which calls for greater restrictions on alcohol advertising (recommendation 17).

Engagement with the sector

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- > On 25 November 2024, the Chair received a letter from the CEO of FARE Caterina Giorgi, enclosing its submission on the draft Code, and asking to meet.
- > In her letter, Ms Giorgi has highlighted the Report of the Rapid Review Expert Panel in particular the recommendation that alcohol advertising be restricted during sporting events, and the ACMA's What Audiences Want Report which notes community concern about alcohol advertising.
- > The ACMA is considering its response to FARE and would like to know Free TV's position on alcohol advertising and what the next steps in the code review will be.

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Sensitivities

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- > The implications of the increased amount of time that M classified material will be permitted under the draft code has also been subject of scrutiny at recent Senate Estimates, with Senator Pocock noting the inconsistency between the amendments proposed by Free TV and the recent recommendations of the Report of the Rapid Review Expert Panel.

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Free TV Code provisions relevant to alcohol advertising

Current Free TV code classification zones

M Classification zone:	
School Days	7.30 pm to 6.00 am
	12 noon to 3.00 pm
Weekends and school and public Holidays	7.30 pm to 6.00 am
MA15+ Classification zone:	8.30 pm and 5.00 am any day

Proposed Free TV code classification zones

M Classification zone:	
Every Day	7.30 pm to 6.00 am
	10:00 am to 3.00 pm

Clause 6.2 of the Free TV code - Alcoholic drinks

6.2.1 A Commercial for Alcoholic Drinks may be broadcast at any of the following times:

- a) 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); and
- b) as an accompaniment to a Sports Program on a Weekend or a Public Holiday; and
- c) as an accompaniment to the broadcast of a Live Sporting Event broadcast simultaneously across more than one licence area, if one of subclauses (a) or (b) is satisfied for:
 - i. the licence area in which the Live Sporting Event being broadcast is held, for an event taking place in Australia;
 - ii. the majority of metropolitan licence areas in which the Live Sporting Event is shown, for an event taking place overseas.

Definition for commercial for alcoholic drinks

Commercial for Alcoholic Drinks means a Commercial that directly promotes the use or purchase of or more Alcoholic Drinks. It does not include:

- a) Program sponsorship announcements which make no direct reference to the price of goods or services.
- b) A Commercial which does not directly promote an Alcoholic Drink for an entity or company that participate in the manufacture, distribution or sale of Alcoholic drinks.
- c) A Commercial where alcohol or a brand associated with alcohol is incidental and any alcohol consumption responsible depicted,
- d) A Commercial for a licensed restaurant or club entertainment venue, tourist attraction or dining establishment.

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