

Review into alcohol advertising restrictions in the Free TV Code

Submission by FASD Research Australia, The NHMRC Centre of Research Excellence in Fetal Alcohol Spectrum Disorder, University of Sydney
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This submission is in response to the public consultation on the *Review into alcohol advertising restrictions in the Free TV Code* (the Code).

Acknowledgement

We acknowledge the Traditional Custodians on whose land we live and work, honouring their continued connection to land, sea, sky and water. We pay respects to Elders and Ancestors of Country and celebrate their role in passing down sacred cultural, spiritual and educational practices. We also acknowledge the strength and commitment of First Nations practitioners who work alongside children and young people affected by alcohol and other drugs to support and guide future leaders.

About FASD Research Australia

FASD Research Australia, The NHMRC Centre of Research Excellence in Fetal Alcohol Spectrum Disorder (FASD), is an Australian and international collaboration on FASD research and translation, led by the University of Sydney (2026-30). It brings together experts in epidemiology, implementation science, health economics, Indigenous research, policy development and paediatrics. It will fill knowledge gaps on the epidemiology, diagnosis and management, and burden and costs of FASD through the conduct of high-impact studies that translate directly into better outcomes for individuals and families with FASD.

Our interest in this submission

There is extensive research relating to alcohol, its harmful impacts, and the role advertising plays in these harms. The review of the alcohol advertising restrictions in the Free TV Code (the Code) provides an opportunity to protect the community from alcohol harms that alcohol advertising promotes. Our focus relates to the harms caused to the pregnant woman by alcohol, the harms that prenatal alcohol exposure may cause to the unborn child, and the lifelong impacts of that exposure.

Although these harms are potentially preventable,¹ approximately 48%-60% of Australian women drink alcohol during pregnancy.^{2,3} This is despite NHMRC guidelines to prevent harms from alcohol recommending abstinence in women who are pregnant or planning a pregnancy.⁴ Alcohol use during pregnancy is associated with many adverse child outcomes, including birth defects, developmental delay and Fetal Alcohol Spectrum Disorder (FASD). It is estimated that about 3.6% (95% confidence interval 2.91%, 4.41%) of the general population in Australia has FASD.²

FASD is characterised by severe neurodevelopmental impairment that impacts functional domains including cognition, speech and attention, and is commonly associated with learning and behavioural problems. Facial dysmorphism, congenital anomalies and poor growth may also

occur. Thus, FASD has negative impacts on health, mental health, education, justice, disability and community sectors across the lifespan.⁵⁻⁷ Economic analyses confirm that FASD is expensive to society.^{1, 8}

Table 1 describes the key adverse health effects of alcohol on pregnancy, perinatal outcomes, postnatal outcomes and maternal and paternal outcomes.⁹

Table 1 Adverse health effects of alcohol use in pregnancy and preconception⁹
<i>Pregnancy complications</i>
Miscarriage ¹⁰
<i>Perinatal outcomes</i>
Low birthweight ¹¹ Fetal craniofacial abnormalities ¹² Stillbirth ¹³ Small for gestational age ^{11, 14} Preterm birth ^{11, 14} Fetal growth restriction ¹⁵ Low APGAR scores (appearance, pulse, grimace, activity and respiration) ¹⁶
<i>Postnatal/child health effects</i>
Fetal alcohol spectrum disorder (FASD) ¹⁴ Poor gross motor skills ¹⁷ Growth deficit ¹⁸ Impaired working memory and executive function ¹⁹ Intellectual disability ¹⁴ SIDS (Sudden Infant Death Syndrome) ²⁰ Behavioural disorders/problems - externalising (aggressive and delinquent) and internalising (anxious or depressed and withdrawn) syndromes, poor school attendance ^{14, 21} Ear and hearing abnormalities ²² Cognitive impairment ²³
<i>Maternal health effects</i>
Infertility ²⁴
<i>Effects due to paternal drinking</i>
Birth defects including cleft palate and heart defect. ²⁵

The strategies needed to reduce or prevent harms from prenatal alcohol exposure are multifaceted.¹ High reach of messaging, increased awareness of alcohol harms in pregnancy, and intended and actual behavioural change have been achieved by the Australian Government funded 'Every Moment Matters' campaign (Foundation for Alcohol Research and Education; everymomentmatters.org.au), which targets the public, women of childbearing age, Aboriginal and Torres Strait Islander people and health professionals.

However, knowledge alone will not shift behaviour sufficiently to prevent the impacts of prenatal alcohol exposure, including FASD. We must disrupt the distal pathway to alcohol use in pregnancy by advocating for practices and policies that are evidence-based and known to minimise alcohol harms. These include legislation that underpins pricing and taxation, warning labels on alcohol, community-led alcohol restrictions, limits upon opening hours and alcohol outlet density, controls on online sales, and restrictions on alcohol advertisements and promotions.

To assist with behavioural change and the reduction of alcohol harms, the Free TV code requires reform with regard to alcohol advertising.

Key points

1. The existing Code exposes the community to significant harms and fails to provide appropriate community safeguards.
2. The flaws in the Code are unlikely to be voluntarily improved in any material way by the commercial television industry and changes to the code must be mandated.
3. Specific weaknesses in the code, including the generally permissive approach to alcohol advertising, the sports programming exemption, and limited definitions in the Code, mean that the full breadth of alcohol promotions and advertising is not covered.
4. ACMA (the Australian Communications & Media Authority) should replace the existing Code with a new program standard to protect the community.
5. ACMA should include Broadcast Video on Demand (BVOD) services under a new program standard to ensure the community is appropriately safeguarded from harms caused by alcohol advertising.

Harms of alcohol and alcohol advertising

Australians deserve to live healthy and safe lives, free from the wide-ranging harms that alcohol causes individuals, families and communities. Yet tragically, Australians are suffering extensive and worsening harms from alcohol.

Alcohol advertising, which is facilitated by the existing Free TV Code, is contributing to this harm. Marketing is a key driver of alcohol use.²⁶ Millions of Australians watch commercial broadcast television - over 50 per cent of adults, according to ACMA's latest data.²⁷ Thus the Code, and the extensive alcohol advertising it permits on commercial TV, is directly contributing to alcohol use and serious harms in the Australian community.

Given this, it is critical that ACMA recognises alcohol as a unique and harmful commodity and regulates its advertising appropriately to prevent harms in the Australian community.

Alcohol harms include the following:

- Recently, Australia experienced the highest rate of alcohol-induced deaths in over 20 years.²⁸
- Alcohol contributes to and exacerbates domestic, family and sexual violence (DFSV),²⁹ with women and children most impacted by family and domestic violence.³⁰ Over half of male intimate partner homicide offenders used alcohol at high-risk levels at the time of the homicide.³¹
- Alcohol is a carcinogen, causing at least seven types of cancer, including mouth, throat, oesophagus, liver, breast and bowel cancer.³²
- Alcohol continues to be the most common principal drug of concern that leads people to receive treatment across Australia.³³
- Prenatal alcohol exposure causes alcohol-related brain injury in the fetus and FASD, which is estimated to affect 3.6% of the general population.²
- Almost half of Australians are negatively affected by another person's alcohol use.³⁴

Weaknesses in the Code

The Code has proved to be ineffective in protecting the community from harms and in providing appropriate safeguards.

One significant weakness is the sports exemption, which permits alcohol advertising from 6pm Friday to midnight Sunday for a broad category of "sports programs". Weekends and public holidays are times when alcohol harms are more likely to occur.³⁵ ACMA should be guided by the Federal Government's 2024 Rapid Review of Prevention Approaches for family and domestic violence, which recommended that alcohol advertising be restricted during sporting events due to the connection to DFSV.³⁶

The Code's general restrictions on alcohol advertising (which allow this from 8:30pm-5am every day of the week and between 12pm-3pm Monday to Friday on school days) are weak and inadequate for a product known to cause such harm.

The Code is also undermined because it fails to capture many types of alcohol-related marketing, allowing this content to appear on television at any time. For example, the alcohol advertising rules do not apply to low-alcohol or zero-alcohol products, even though these often use identical branding to full-strength alcohol.³⁷ The National Centre for Education and Training on Addiction has been exploring the effect of zero alcohol product marketing on teenagers. Researchers found a high recall of zero-alcohol advertisements among 12-17 year olds, with television reported as the largest exposure avenue.³⁸ The products were found to be appealing to young people, many of whom associate the zero alcohol product to its parent alcohol brand.³⁸ At the same time, community concern is growing, with parents concerned about exposure to zero alcohol products among children and the potential for these products to act as a gateway to early initiation while also normalising alcohol use early in life.³⁹

Alcohol advertising is harmful to children – exposure makes them more likely to begin drinking at a younger age and more likely to drink at harmful levels later in life – yet the Code frequently exposes children to this advertising. For example, recent research shows that young people aged 12 to 17 years report frequent exposure to alcohol advertising on television (17.1% report daily exposure).⁴⁰ Additionally, research shows there are around 11,000 alcohol ads during sports broadcasts on free-to-air TV each year,³⁹ 45% of which are shown during children's viewing hours.⁴¹ Children are also particularly susceptible to alcohol advertising through the medium of sport, and the Code's sports program exceptions are facilitating this exposure.

The objects of the *Broadcasting Services Act*, which include ensuring that “providers of broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them,” obligate ACMA to act on this issue.

Failure to improve the Code

There is strong evidence that relying on the existing processes to revise the Code will not adequately safeguard the community. The commercial television industry has made it clear that it relies on advertising revenue and wishes to expand alcohol advertising. This conflicts with ACMA's mandate to safeguard the community. Examples include:

- Changes made to the alcohol advertising rules in the Code in its 2015 revision have weakened regulation. For example, the 2015 Code introduced a much wider concept of a sports program that goes beyond a live sports broadcast and extends the “weekend” to include Friday evenings. The result is more alcohol advertising and more harm.
- The latest Code revision put forward by Free TV sought to weaken the regulation of alcohol advertising by proposing changes to the Code that would have allowed a potential 800 additional hours of alcohol advertisements per year – a proposal rejected by ACMA.⁴²

Leaving the voluntary regulation of alcohol advertising to the industry is clearly insufficient. ACMA must establish a legislated program standard in the interests of the community and to ensure appropriate safeguards against harm.

Lack of regulation for Broadcast Video On Demand (BVOD) in the Free TV Code

Broadcast Video On Demand (BVOD) services, including catch-up and streaming services via channels 7Plus, 9Now and 10Play, are not bound by the alcohol advertising rules in the Code, despite the services being operated by the same broadcasters.

This lack of alcohol advertising regulation has resulted in the placement of alcohol ads during programs aimed at children and young people. To date, commercial broadcasters have been unwilling to extend the Code to cover their BVOD services, despite ACMA making public

statements requesting that they do so in 2024⁴³ and 2025.⁴⁴ There is nothing formally preventing commercial television broadcasters from extending the Code to BVOD.

Community complaints have been lodged over several years about advertisements appearing during family-friendly shows on BVOD services such as 7Plus, 9Now and 10Play. These complaints report alcohol advertising being placed during shows like Lego Masters, Carols in the Domain and Home & Away.

This is an environment requiring urgent attention, given the growing number of viewers on digital platforms. With the legislative exclusion of BVOD services from the Act due to sunset in September 2027, the timing of this change is suitable for BVOD services to be brought into a new program standard developed by ACMA over the next year. ACMA should include BVOD services under a new program standard to ensure the community is appropriately safeguarded from harms caused by alcohol advertising.

Community expectations

The Australian community wants to see stronger protections on alcohol advertising. Representative polling from January 2026 showed 75% of Australians support less alcohol advertising on television (only 8% oppose) and 82% of Australians agree that alcohol advertising should be restricted during children's viewing hours, even during live sports broadcasts (only 6% disagree; unpublished data available upon request through info@fare.org.au). This is in addition to the strong community response against Free TV's proposed new Code in 2024, which was rejected by ACMA.

Conclusion

We urgently need to minimise harms from alcohol use, including in pregnancy, by legislating and implementing policies that will result in major behaviour change and lead to improved obstetric, childhood and lifelong outcomes. Proven measures to reduce access to, consumption of, and harms from alcohol include restrictions on alcohol advertising and promotions (including online and in particular to children and young people).¹ For future generations - and our nation's prosperity - we must act now. In keeping with international practice, Australia must adhere to the dictum that the alcohol industry should have no role in developing or influencing public health policy.

We reiterate our call for ACMA to respond to the evidence of harm and to community concern, and to replace the failing Free TV Code with a strong program standard that puts community health and wellbeing first.

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