



**CHILDREN
& MEDIA
AUSTRALIA**

Thriving in a digital world

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Dear Ms O'Loughlin

This submission is in response to the public consultation on the *Review into alcohol advertising restrictions in the Free TV Code* (the Code). It has been prepared by our President, Professor Elizabeth Handsley, in consultation with members of our Board. We acknowledge and are grateful for the work of the Foundation for Alcohol Research and Education (FARE), in collating and expressing much of the information referred to in this submission.

Children and Media Australia (CMA) is a peak national NGO whose mission is to support families, industry and decision makers in building and maintaining a media environment that fosters the health, safety and wellbeing of Australian children. CMA membership includes the Alannah and Madeline Foundation, Collective Shout, Early Childhood Australia, the Australian Council of State Schools Organisations, the Australian Primary School Principals Association, the Association of Heads of Independent Schools Australia, the Australian Education Union, the Australian Children's Television Foundation, the Parenting Research Centre, the Council of Mothers' Union in Australia, and the South Australian Primary Principals Association.

CMA's core activities include the collection and review of research and information about the impact of media use on children's development, and advocacy for the needs and rights of children in relation to media use.

In its work, CMA is always guided by child development research and by the rights of the child. Research evidence can keep us mindful of important facts such as children's passage through different stages of development, with strengths and vulnerabilities evolving over time; and not coincidentally the *UN Convention on the Rights of the Child (CRC)*, too, recognises children's evolving capacities as an important principle (articles 5 and 14). The *CRC* is binding on the Commonwealth Government, and it includes an obligation to 'Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being' (article 17(e)). This consultation represents an opportunity to act in compliance with that obligation, so it should be seen as matter of children's rights – a 'must do', not a 'nice to do'.

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Key points

We submit the following key points, which are clearly evidenced in extensive research, community opinion and principles of international law:

1. Children have a right to access a range of media, including free to air television and broadcast video on demand, free of advertising for unhealthy products.
2. Due to their developing cognitive capacities, children are in special need of protection in relation to all advertising, but especially that for unhealthy products such as alcohol.
3. The existing Code exposes the community to significant harm, and it fails to provide appropriate community safeguards.
4. The flaws in the Code are unlikely to be improved in any material way by the commercial television industry.
5. Specific weaknesses in the Code include: a) the generally permissive approach to alcohol advertising; b) the sports programming exemption; c) limited definitions in the Code mean the full breadth of alcohol promotion is not covered.
6. The ACMA should replace the Code by making a new program standard to protect the community in general, and children in particular.
7. The ACMA should include Broadcast Video on Demand (BVOD) services under a new program standard to ensure the community in general, and children in particular, are appropriately safeguarded from harms caused by alcohol advertising.

Children's rights

We have made reference above to article 17(e) in the *CRC*, and the Government's obligation to encourage the development of guidelines to protect children from injurious media content. Much of this submission is taken up with discussion of why alcohol advertising is injurious, and the best ways to protect children from it. Here we discuss some further aspects of the *CRC* that come into play in this consultation, remembering that 'child' in the *CRC* means people under 18:

- Respect for the rights, responsibilities and duties of parents (article 5), including the right to assistance in the performance of their child-rearing responsibilities (article 18)

When advertising restrictions for the protection of children's interests are being discussed, one frequently hears arguments that restrictions are unnecessary because such protection is the responsibility of parents: if you don't want them to see it, don't let them watch it. CMA's position is that such a stance is not just egregiously unfair to parents, it actually supports a breach of children's rights. Protecting children from advertising for unhealthy products might be parents' responsibility, but the Government has an obligation to support them in the discharge of that responsibility. The development of effective restrictions on alcohol advertising is one means of doing so.

- The right to seek, receive and impart information (article 13)

Children rely on a variety of media for information, including broadcast television. If they cannot reasonably access such programming without risking exposure to alcohol advertising, this is a breach of that right.

- The right to 'access to information and material from a diversity of national and international [mass media] sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health' (article 17)

Similarly with article 13, alcohol advertising can interfere with children's ability to access such information and material. They should not be expected to simply 'switch off'.

- The right to the attainment of the highest possible standard of health (article 24)

This submission contains extensive reference to the implications of alcohol advertising for children's health, sufficient to show that effective restrictions on such advertising are imperative. Again, we draw attention to the fact that for the purposes of the *CRC*, childhood extends to 18 years; and that one of the major risks of alcohol advertising is early commencement of consumption.

- The right to rest, leisure, play and recreational activities (article 31)

Such activities include watching television, especially with family. CMA notes that sport is one of the few types of programming families regularly get together for; for this reason the government has an obligation to protect it and make it safe for children. This includes limiting alcohol advertising.

Children and advertising

There is strong research evidence to support two key insights about children and advertising – insights that have been built on in a range of public health and other contexts:

1. Young children do not have a fully developed capacity to differentiate between advertising and other content.
2. It is only in middle childhood that they develop an understanding of the selling intent behind advertising; until this time they are inclined to take advertising messages at face value.

These points explain why we bother having special advertising restrictions in children's name at all. They are true of all advertising, not only that which is purposely designed to get children's attention. Therefore advertising regulation, if it is serious about protecting children's rights and interests, will apply in all contexts where children might be exposed to the content in question.

Harms of alcohol and alcohol advertising

Australians deserve to live healthy and safe lives, free from the wide-ranging harms that alcohol inflicts on 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.ⁱ Millions of Australians watch commercial broadcast television – over 50 per cent of adults, according to ACMA's latest data.ⁱⁱ The Code, and the extensive alcohol advertising it permits on commercial TV, is directly contributing to serious harms in the Australian community.

Given these harms, it is critical that the ACMA recognise alcohol as a unique and harmful commodity, regulate it appropriately, and prevent harm in the Australian community.

Alcohol harms include the following:

- Recently, Australia experienced the highest rates of alcohol-induced deaths in over 20 years.ⁱⁱⁱ
- Alcohol contributes to and exacerbates domestic, family and sexual violence (DFSV),^{iv} with women and children most impacted by family and domestic violence.^v Over half of male intimate partner homicide offenders used alcohol at high-risk levels at the time of the homicide.^{vi}
- Alcohol is a carcinogen, causing at least seven types of cancer, including mouth, throat, oesophagus, liver, breast and bowel cancer.^{vii}
- Alcohol continues to be the most common principal drug of concern that leads people to receive treatment across Australia^{viii}, and causes alcohol-related brain injury and Fetal Alcohol Spectrum Disorder (FASD).
- Almost half of Australians are negatively affected by another person's alcohol use.^{ix}

Weaknesses in the Code

The Code has proved to be ineffective in protecting the community from harm 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.^x 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.^{xi} Further, as noted above, the ability to watch sport safely on broadcast television engages children's rights under the *CRC*.
- The Code's general restrictions on alcohol advertising (which allow it from 8:30pm-5am every day of the week, and also between 12pm-3pm Monday to Friday on school days) are weak and insufficient for a product that is understood to cause such harm.
- The Code is also undermined because it fails to capture many types of alcohol-related marketing, allowing this content to continue appearing 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. The National Centre for Education and Training on Addiction has found a high recall of zero alcohol advertisements among 12-17 year olds, with television reported as the largest exposure avenue. The products were found to be appealing to young people, many of whom associate the zero alcohol product to its parent alcohol brand.^{xii} This raises a strong suggestion that such products should be covered by at least some of the restrictions applying to alcoholic products. Parents have also expressed concern 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 earlier in life.^{xiii}

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, 2022 research showed that young people (12 to 17 years) reported frequent exposure to alcohol advertising on television (17.1% daily).^{xiv} 2022 research shows there are around 11,000 alcohol ads during sports broadcasts on free to air TV during a year – 45% of which were shown during children’s viewing hours.^{xv} Children are also particularly susceptible to alcohol advertising through the medium of sport, and the Code’s sports program exceptions are facilitating this exposure.

In addition to the provisions of the *CRC*, discussed above, 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 the ACMA to act on this issue.

Failure to improve the Code

There is strong evidence that relying on the existing Code-making process will not adequately 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 the ACMA.^{xvi}

Leaving regulation of alcohol advertising to the industry is clearly insufficient. The ACMA must make a program standard in the interests of the community and to ensure appropriate safeguards from harm.

Lack of regulation for video on demand (VOD) in the Code

Broadcast video on demand (BVOD) services, including catch-up and streaming services, 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 advertising during programs aimed at children and young people. To date, the commercial broadcasters have been unwilling to extend the Code to cover their BVOD services, despite the ACMA requesting them to do so in public statements in 2024^{xvii} and 2025.^{xviii} There is nothing formally preventing the commercial television broadcasters from extending the Code to BVOD to address this lack of action by commercial broadcasters that is consistent with a long history of failures in voluntary industry-led codes.

Community complaints have been lodged across a number of years for ads appearing during family friendly shows on BVOD services. These complaints report alcohol advertising being placed during shows like *Lego Masters*, *Carols in the Domain* and *Home & Away*. We understand that the submission from the FARE has an attachment listing numerous other examples.

This is an environment requiring urgent attention given the growing viewer numbers 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.

The 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).^{xix}

Conclusion

CMA has been involved in submissions relating to broadcasting regulation for many years, and it was heartening to see the ACMA take a strong line and reject the proposed Code in 2024. The history of co-regulation has been deeply disappointing, from a children's rights point of view, with relentless winding-back of the protections needed to support their healthy development. We very much help that this consultation marks a turning point, where the developmental needs of children take centre stage in the regulatory arena.

We reiterate our call for the ACMA to respond to the evidence of harm and to the government's human rights obligations, and to replace the failing Free TV Code with a strong program standard that puts children's rights, health and wellbeing first.

Yours sincerely

Professor Elizabeth Handsley FAAL
President
Children and Media Australia
30 April 2026

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ⁱⁱ ACMA (2026) *Communications and media in Australia: Trends and developments in viewing and listening 2024-2025* <https://www.acma.gov.au/publications/2026-03/report/trends-and-developments-viewing-and-listening-2024-25>

ⁱⁱⁱ AIHW (2024) *Alcohol, tobacco & other drugs in Australia* <https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia/contents/impacts/health-impacts>

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- ^v AIHW (2023) *Family and domestic violence* <https://www.aihw.gov.au/family-domestic-and-sexual-violence/types-of-violence/family-domestic-violence>
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- ^{xix} Unpublished data available upon request through info@fare.org.au