

**AlcoholAction**  
Ireland



# Submission to the Broadcasting Authority of Ireland

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## Alcohol Action Ireland

Alcohol Action Ireland is a national charity working to reduce alcohol harm.

We are an independent voice for advocacy and policy change, working to reduce levels of alcohol-related harm in Ireland and improve health, safety and wellbeing for all.

We focus on evidence-based public health policies that will deliver the widest benefits to the greatest number of people within the population.

Alcohol Action Ireland adheres to the World Health Organisation (WHO) guidance that “the alcohol industry has no role in the formulation of alcohol policies, which must be protected from distortion by commercial or vested interests”, (1) and Health Service Executive (HSE) guidance that “there is an inherent conflict associated with the alcohol industry playing a role in providing public health advice”. (2) We therefore do not work with the alcohol industry.

We act as secretariat to the Oireachtas Cross Party Group on Alcohol Harm and are founding members of the Alcohol Health Alliance Ireland. Our organisation is composed of two full-time and one part-time staff members and is run by a voluntary board. Our CEO is Suzanne Costello and the chairperson of our Board is Carol Fawsitt, solicitor.

Other board members include: Professor Joe Barry, specialist in public health medicine with the HSE and Professor of Population Health Medicine at Trinity College Dublin; Dr Declan Bedford, public health specialist; Pdraig Brady, former CEO Pioneer Total Abstinence Association; Catherine Brogan, Mental Health Ireland; Pat Cahill, retired teacher; John McCormack, CEO, Irish Cancer Society, and Tadhg Young, Chief Operating Officer, State Street International Ireland.

Alcohol Action Ireland is funded primarily by the HSE and also through individual public donations. Our governance code and annual accounts are available on our website at [www.alcoholireland.ie/about/funders](http://www.alcoholireland.ie/about/funders)

## Alcohol and health

The harmful use of alcohol is a causal factor in more than 200 disease and injury conditions. Worldwide, 3.3 million deaths every year result from harmful use of alcohol, which represents 5.9% of all deaths. (3)

Harmful alcohol use is the fifth leading cause of death and disability worldwide, up from 8th in 1990, and every 10 seconds somebody dies from a problem related to alcohol and many more develop an alcohol-related disease. (4)

Alcohol is associated with a risk of developing health problems such as mental and behavioural disorders, including alcohol dependence, major non-communicable diseases such as liver cirrhosis, cancers and cardiovascular diseases, as well as injuries and deaths resulting from violence and road traffic collisions. (3)

In Ireland, our harmful drinking has a huge impact on our nation's physical and mental health, causing the loss of 88 lives due to alcohol every month. (5)

The Health Research Board (HRB) published a comprehensive report in June 2016, (6) which set some of the main impacts of alcohol consumption on our health in Ireland:

- Three people died each day in 2013 as a result of drinking alcohol.
- The number of people discharged from hospital whose condition was totally attributable to alcohol rose by 82% between 1995 and 2013, from 9,420 to 17,120. Males accounted for 72% of these discharges and females 28%.
- There has also been a steady increase in the mean length of stay (LOS) for hospital discharges, from 6.0 days in 1995 to 10.1 days in 2013, which suggests that patients with alcohol-related diagnoses are becoming more complex in terms of their illness.
- The rate of alcoholic liver disease discharges grew threefold between 1995 and 2013. The highest rate of increase was observed among 15–34 year-olds, albeit from a low rate.
- The number of people discharged whose condition was partially attributed to alcohol increased from 52,491 in 2007 to 57,110 in 2011. This is approximately three times the number of discharges totally attributable to alcohol.
- In 2014, one- in-three self-harm presentations were alcohol-related.

Alcohol also has a significant impact on our health in relation to cancer - 900 people are diagnosed with alcohol-related cancers and around 500 people die from these diseases every year, according to the National Cancer Control Programme (NCCP). (7)

The NCCP research found that, between 2001 and 2010, 6.7% of male cancer deaths and 4.6% of female cancer deaths in Ireland were attributable to alcohol – 2,823 men and 1,700 women. More than half of all head and neck cancers in Ireland during that period were associated with alcohol consumption, while 12% of all breast cancers were associated with alcohol consumption. (7)

Alcohol also has a significant impact on our mental health. The National Suicide Research Foundation (NSRF) found that alcohol was involved in 35% of all cases of deliberate self-harm in 2014 (8) and it has also been found to be a major contributory factor to suicides in Ireland. (9)

The evidence shows that the health of Irish people will improve if we reduce overall alcohol consumption and address risky drinking patterns. (6)

## Alcohol's cost to society

The World Health Organisation (WHO) has pointed out that, beyond health consequences, the harmful use of alcohol brings significant social and economic losses to individuals and society at large. (3)

In Ireland, the burden of alcohol related harm is often experienced by those around the drinker, such as a family member, friend, co-worker or innocent bystander. Alcohol's harm to others undermines public safety and is experienced in every community, ranging from the nuisance factor, feeling unsafe in public places, drink-driving, to a violent attack by an intoxicated drinker. (10)

Although not often publicly visible, alcohol's harm to others within the family can have very serious consequences for the safety and well-being of family members, with children being the most vulnerable. (10) Life-long damage, in the form of foetal development disorders, can also be caused to the unborn child by alcohol consumption during pregnancy. (4)

Alcohol consumption is a significant road safety issue in Ireland and Road Safety Authority research found that it is a factor in 38% of all deaths on Irish roads, as well as many other collisions resulting in injuries. (11)

A review commissioned by the Department of Health, which outlines the economic costs of deaths, illness and crime attributable to alcohol misuse in Ireland, estimates that the overall cost to Irish society in 2013 was €2.35 billion. (12)

Therefore it's clear that while drinking alcohol is an individual choice, it is one that has significant social and economic impacts, and it is this wide range of harms to others, and costs borne by the State and, ultimately, the taxpayer, that economists define as 'externalities'. (4)

The OECD states that when these 'externalities' exist, consumers typically do not appreciate the full costs of their consumption, because the price they pay when they purchase a commodity does not reflect the external costs of its consumption (4) and in Ireland the costs of alcohol harm to society are huge and complex.

Dr Ann Hope pointed out that just some of these costs can be estimated with some degree of reliability and that problem alcohol use gives rise to three types of costs: direct costs, indirect costs and intangible costs. (12)

Direct costs, such as costs to the health care and criminal justice systems, are borne by the government and therefore by taxpayers. Indirect costs include lost output through alcohol-related absenteeism and premature death or disability. Intangible costs are mainly the pain and suffering experienced by those who experience alcohol-related problems, due to their own drinking or someone else's, and are the most difficult category of costs to measure. (12)

There is no doubt that 'the societal costs of existing levels of alcohol consumption in Ireland far outweigh the employment, trade and tax benefits'. (13)

Harmful alcohol consumption and binge drinking, in particular, carry 'devastating personal and social consequences, they increase health spending and reduce our standard of living'. (4)

## Alcohol marketing

It has now been established beyond all reasonable doubt that alcohol marketing influences drinking behaviour, particularly among children (those aged under-18, as per the BAI Code).

A large number of longitudinal studies from different countries have followed children over time, tracking their exposure to marketing and their subsequent alcohol consumption. Longitudinal studies are important because they allow us to establish if causal relationships exist.

A number of comprehensive, systematic reviews of these longitudinal studies clearly indicate a causal relationship between marketing and drinking behaviour, especially among children, encouraging them to drink at an earlier age and in greater quantities than they otherwise would. (14-17)

*Alcohol in the European Union*, published by the World Health Organisation (WHO), states that 'exposure to alcohol marketing increases the likelihood that young people start to drink alcohol and that among young people who have started to use alcohol, such exposure increases the frequency of drinking and the amount of alcohol consumed'. (18)

The WHO has warned that the 'extent and breadth of commercial communications on alcohol and their impact, particularly on young people's drinking, should not be underestimated' (19) and points out that the accumulated research findings indicate that restricting alcohol marketing is one of the three "best buys" policies for reducing the harmful use of alcohol, along with tackling pricing and availability. (3)

Children are especially susceptible to the influence of marketing due to their relative lack of life experience and their ongoing cognitive development, (20) while they are also particularly vulnerable to alcohol-related harms and risks, as their bodies and brains are still developing.

Far from being a rite of passage, drinking alcohol at a young age may well serve to delay the development of vital coping, personal and social skills; project young people into risky situations and lay the ground-work for future physical and mental health difficulties.

As well as the immediate risks to their health and wellbeing, children who drink alcohol before the age of 15 are at significantly increased risk of alcohol dependence in later life compared to those who delay drinking initiation. (21)

An NUI Galway study, commissioned by Alcohol Action Ireland, provides a recent and important insight into the experience of a large sample of children aged 13 to 17-years-old with alcohol marketing. (22) The findings of *Alcohol marketing and young people's drinking behaviour in Ireland* are in broad agreement with much of the international literature.

The NUI Galway study, as with a previous study commissioned by the National Youth Council of Ireland, (23) also clearly illustrates the weakness of the current regulatory systems in Ireland.

- 91% of the children surveyed reported that they were exposed to traditional (offline) alcohol advertisements, including television, in the week prior to the study and more than half reported that they were exposed to four or more advertisements per day.
- More than three quarters (77%) of the children reported exposure to alcohol marketing online and very large minorities have been specifically invited to engage with alcohol marketers on social media, with 35% reporting that they were invited to "like" an alcohol brand, 29.7% invited to like an event sponsored by an alcohol brand and 21.4% invited to attend such an event.

- 61% of children reported that they owned alcohol branded merchandise and ownership was as high as 71.4% amongst boys.

These findings indicate that the regulatory codes in their present form, including the BAI Code, are not protecting children in Ireland from a large degree of exposure to alcohol marketing.

This situation is clearly at odds with the new Principle (Protection of Children) added to the draft BAI Code, which states ‘children are viewers and listeners with particular needs and broadcasters share a responsibility with parents and guardians for what children listen to and watch. It is expected that broadcasters will protect them from material that is unsuitable or would be likely to cause physical or moral detriment. This principle recognises that children of different ages and maturity require different levels of protection.’

The findings of the international literature – the greater the level of exposure to, or engagement with, alcohol marketing, the more likely young people are to drink alcohol – were also borne out in the NUI Galway study, which found that greater levels of exposure to alcohol marketing increased their likelihood of both drinking alcohol and engaging in risky drinking behaviour, such as binge drinking and drunkenness.

Creating an environment in Ireland where children are protected from alcohol marketing is both a children’s rights issue and a public health issue that requires immediate action.

## BAI Draft General Commercial Communications Code

### Principle 3: Transparency

Alcohol Action Ireland agrees that ‘the closer the commercial content is to programme content, through the use of sponsorship and product placement for example, the greater the degree of transparency required.’

With respect to alcohol marketing, this is particularly important where alcohol products have been placed in programmes, through Paid Product Placement or Prop Product Placement, or feature in sponsored segments without explicit acknowledgement of the commercial nature of the communication.

This lack of transparency means the distinction between editorial content and commercial communications is not clear and identifiable for audiences.

### Principle 4: Protection of Children

The addition of Principle 4 is welcome as the protection of children from exposure to alcohol marketing is a key public health goal.

As outlined above, children are especially susceptible to the influence of marketing due to their relative lack of life experience and their ongoing cognitive development. We also know that children in Ireland are exposed to large volumes of alcohol marketing and current regulatory systems are failing to protect them.

Exposure to alcohol marketing has an impact on children’s drinking behaviour, with greater exposure to alcohol marketing associated with an earlier age of drinking initiation and greater quantities of alcohol consumption, both of which are a significant risk to their health and wellbeing.

It is essential that broadcasters recognise and accept that alcohol marketing is included in the commercial communications that are considered ‘unsuitable or would be likely to cause physical or moral detriment’ if this principle is to be effective in terms of achieving its goal of the protection of children.

### Sections 7 and 8: Sponsorship on television and Sponsorship on radio

In relation to changing the restriction in sponsorship announcements from ‘calls to action’ to ‘calls to purchase’, this change allows significantly more scope for alcohol marketing to call on consumers directly to drink alcoholic beverages as a part of sponsorship announcements.

**The delineation between ‘calls to action’ and ‘calls to purchase’ are not sufficiently clear enough to warrant this new distinction in the draft Code.** Ruling out ‘buy now’, ‘purchase at’ etc does not rule out calls to action that effectively amount to the same thing, though perhaps even more effective in terms of commercial communications. For example, ‘enjoy a’, ‘drink a’ etc. could be considered ‘calls to action’ not ‘calls to purchase’ under the draft Code.

The calls to action can also be used direct consumers to unregulated spaces (e.g. social media) where the BAI Code has no relevance and where content may be completely contrary to its principles. **The restrictions on ‘calls to action’ should remain in place.**

There is a lack of clarity in respect of what represents ‘undue prominence’ in relation to ‘Audience competitions within programme content’. It states that ‘Competition questions, entry mechanisms and prizes shall not give undue prominence to the sponsor in particular its facilities, products or services.’

However, **there is no indication for broadcasters or the general public as to what constitutes ‘undue prominence’** and it is certainly an issue worth clarifying if presenters are reading directly from the script provided by the competition sponsors. This is a particular weakness if, as set out in the draft Code, ‘Announcements in relation to sponsored competitions shall not constitute advertising’.

**Competitions with an alcohol sponsor on television and radio should not be permitted for broadcast during the hours that alcohol advertisements themselves are not permitted.**

**Competitions with alcohol sponsors should not be permitted during sports programmes, in line with the sponsorship and advertising rules set out in the draft Code.**

### Section 9: Product Placement

Product placement should encompass the product and prop placement element of lifestyle, magazine and breakfast television programmes.

Promotion of alcohol products (such as product reviews) currently feature in these programmes, despite the fact that alcohol advertising is not permitted between 6 a.m. and 10 a.m. under the existing Code and as proposed in the draft Code.

These promotional/product review segments for alcohol products should not be permitted between the hours that alcohol advertising itself is excluded. This is especially important as often the product reviewer and programme presenter, taste the product, praise it and generally discuss the merits and benefits of it.

Children are unable to place a context on the comments of the contributors in these slots and the casual nature of the pieces make it difficult to implement standards around the glamorisation of alcohol and links with social success. Therefore the alcohol products are presented to children in a very positive and subjective manner.

**Alcohol products should not be reviewed or promoted via product or prop placement during the hours that alcohol advertisements are prohibited under the regulations.**

**Product and prop placement during sports programmes should also be aligned with the draft Code’s advertising and sponsorship regulations and not be permitted.**

Currently, despite the fact no alcohol sponsorship of sports programmes or whistle break advertising spots for alcohol brands are permitted during sports programmes, alcohol product and prop placement does take place during these programmes (e.g. audience members are given a branded beer to drink).

It is stated that ‘Audiences shall be clearly informed of the existence of product placement. Programmes containing product placement shall be appropriately identified by an announcement at the start and the end of the programme, and when a programme resumes after an advertising break, in order to avoid any confusion on the part of the audience’.

However, this will not apply to a large proportion of material broadcast as this rule does not apply when broadcasting television programmes that have neither been produced nor commissioned by the broadcaster or a company affiliated to the broadcaster.

Due to the large volume of product placement in cinematographic works and the large proportion of programmes bought in by broadcasters, this represents a major omission and **broadcasters should**

**inform the audience of the existence of product placement in all programmes, not just those it has produced or commissioned.**

### Section 10: Rules pertaining to Alcohol

Rule 10.3 states that 'commercial communications for liqueurs or incidental references to the brands of the above listed beverages, for example, where such a brand is associated with an event'.

This rule effectively provides a clear loophole in the Code whereby those alcoholic beverages which cannot advertise can in fact do so via sponsorship arrangements. The sponsorship of an event, for example, by an alcohol product or manufacturer cannot be classified as an 'incidental' reference or an 'association' - it is a clear commercial arrangement and the advertising of such events are commercial communications for alcoholic beverages.

The weakness in this area of the Code not only allows these products, which the Code says cannot advertise, to do so, but to do so at any time and during any programme, thereby putting children at greater risk of exposure to alcohol marketing from products the Code ostensibly prohibits from being advertised at all.

**Title sponsorship of an event cannot be classified as an 'incidental' reference or an 'association' and advertising for such events must be treated as commercial communications for alcoholic beverages under the rules.**

Rule 10.5 states that commercial communications for alcoholic beverages shall comply with the following:

- They shall not be placed in any programme specifically aimed at children.
- They shall not be broadcast in or around programmes primarily intended for children whether as viewers or listeners.
- They shall be broadcast only in or around programmes with an adult audience profile of 75% or greater.
- They shall not be broadcast between 6 a.m. and 10 a.m.

There is no clarity or definition as to what constitutes a programme 'specifically aimed at children' or 'primarily intended for children whether as viewers or listeners'.

Is it intended that this categorisation to be left solely at the discretion of broadcasters? **Rule 10.7**, states that 'Each broadcaster shall identify the programmes in their schedules that do not carry commercial communications for alcoholic beverages, in particular, those programmes specifically aimed at/appealing to children, and shall publish this list on a website maintained by the broadcaster and make a copy of the list generally available.'

**There needs to be criteria to guide the classification of programmes by broadcasters and ensure the adequate protection of children from exposure to unsuitable commercial communications, such as those involving alcohol.**

As with the lack of clarity or definition as to what constitutes a programme 'specifically aimed at children' or 'primarily intended for children whether as viewers or listeners', there is even further ambiguity and room for confusion around what is 'appealing to children' (**10.7**). For example, a major sporting fixture could be defined as 'appealing to children' and, if it is not, on what criteria would that be determined?

**No rationale has been provided in the Code for the rule that commercial communications for alcoholic beverages ‘shall be broadcast only in or around programmes with an adult audience profile of 75% or greater’. This proportion is not satisfactory as it allows young people to be disproportionately exposed to alcohol marketing.**

Census data from the Central Statistics Office shows that, at an audience profile threshold of 25% children, as set out in the previous and draft BAI Codes, children are disproportionately more likely to be exposed to alcohol marketing than adults.

One of the biggest issues is that the proportion of children considered for exposure to alcohol marketing includes all those children from new-borns right up to those aged almost 18.

Even if re-calculated on the basis that only those aged 0 to 2-years-old are not likely to be exposed to and/or influenced by the commercial communications for alcohol covered under the Code, the number of children aged 3 to 17-years-old in Ireland comprise just 20% of the population. It is 10 to 17-year-olds are the age group that are at greatest risk of experimenting with alcohol. However, they represent only half that figure again, or 10% of the population.

Therefore, the current threshold limit allows for alcohol marketing during programmes where a far greater proportion of Irish children than adults are watching. **The audience threshold figure for children should be decreased from 25% to 10% (or increased for adults from 75% to 90%).**

Even if the threshold of 25% were proportionate in respect of the number of children who could be negatively impacted by exposure to alcohol marketing, this still fails to address a situation where if 600,000 people are watching a sporting fixture or other popular programme then 150,000 Irish children can be exposed to alcohol marketing in full compliance with the Code.

This is one of the key weaknesses in the Code and part of the reason why exposure to alcohol marketing is so high for children in Ireland.

The restriction of 6 a.m. to 10 a.m. for commercial communications for alcoholic beverages is completely inadequate and fails to address the key hours when children are exposed to alcohol marketing.

There is no clarification or basis to explain why this very limited, early morning period alone has been selected and the rest of the day and evening time, are considered acceptable for alcohol advertising and promotion.

**There should be a 9 p.m. broadcast watershed for advertisements on television and radio to protect children from exposure to alcohol marketing, in line with the provisions for alcohol marketing set out in the Public Health (Alcohol) Bill.**

Rule 10.8 states that ‘Broadcasters shall enforce a Code of Conduct for their presenters ensuring that speech content that glamorises or encourages over-consumption or misuse of alcohol is prevented’.

This is one of the key areas that must be addressed in respect of alcohol marketing in Ireland. The BAI should ensure that this is a priority area for broadcasters and that adequate efforts are made to ensure that presenters are not just aware of, but understand the Code of Conduct.

The Code of Conduct should also be applicable to contributors to programmes, with the onus on the broadcaster to make them aware of it.

Broader commercial communications, such as those for supermarkets or convenience stores, which also promote alcoholic beverages, must be treated in exactly the same manner as those commercial communications solely for alcoholic beverages.

To what extent does the BAI Code cover commercial communications for alcoholic beverages placed around programmes that are accessible at any time on the playback facilities on broadcasters' websites? This is another important area and the Code's rules should be extended to cover these playback facilities.

It is both important and welcome to see the draft Code confirm that 'once the [Public Health \(Alcohol\) Bill 2015](#) is enacted, the Code will be updated to ensure that it is in line with the Public Health (Alcohol) Bill'.

[What are your views on incorporating into the BAI's draft Code the provisions from the Alcohol Marketing, Communications and Sponsorship Code of Practice?](#)

The Alcohol Marketing, Communication and Sponsorship Code of Practice ("The Code") is a co-regulatory code developed in 2003 in conjunction with the Department of Health and alcohol industry stakeholders including the Drinks Industry Group of Ireland, the Association of Advertisers in Ireland, the Institute of Advertising Practitioners in Ireland, as well as media owners. The primary aim of the code is to reduce young people's exposure to alcohol marketing communications, and it places moderate limits on the timing of alcohol advertising and the amount of alcohol advertising that can be placed in any one medium. The Code is very wide ranging and covers broadcast media; TV and radio, but also cinema, outdoor media, print media, digital media as well as a code of practice for sponsorships by alcohol drink companies.

A monitoring body, the Alcohol Marketing Communications Monitoring Body (AMCMB) was subsequently established in 2005 to monitor the level of adherence by advertisers and media owners to The Code. The Department of Health and industry sit on this body and they report on an annual basis to the Minister. Complaints alleging breaches of The Code are investigated by the ASAI who in turn report their findings to the AMCMB. The outcome of complaints upheld are published in the annual report.

The Code contains sections relevant to TV and Radio broadcasts and are linked to the BAI's General Advertising Codes. Members of the public who wish to make a complaint against the Broadcast elements of The Code can do so either through the ASAI or the BAI.

Under the BAI's Complaints process, a complainant who deems an alcohol advertising broadcast on radio or TV to breach The Code has 30 days to submit his or her complaint to the relevant broadcaster. The broadcaster must reply within 21 days or in the case of RTE, 20 working days. After this time if the complainant is not satisfied they can then take their complaint to the BAI. Here it can take several months for a decision to be reached. The decision of the BAI is published and under Part 5 of the Broadcasting Act 2009, the BAI has certain enforcement powers it can take against a broadcaster who breaches The Code, all the way up to a removal of a broadcaster's licence.

According to the code the ASAI are the investigating body where complaints can be made if a potential breach of The Code is made. However, when you log onto the ASAI website there is no mention of the AMCMB code and no mechanism for making a complaint against it.

Complaints made by members of the public to the ASAI are usually reviewed by a Complaints Committee. The Committee is composed of thirteen people and deals with all incoming complaints.

The process is drawn out and often can take two to three months before a decision is reached. Very often the alcohol advertisement in question can have run its course and have been removed from the media cycle by the time a decision is made by the committee.

If the Complaints Committee decide that there is a breach, details of the case including the name of the advertiser/promoter and the agency and the Complaints Committee's conclusion, but not the name of a consumer complainant, are set out in a Case Report which, at the discretion of the Committee, is released to media for publication and posted on the ASAI's website.

A marketing communication which has contravened the rules of the Code is required to be amended or withdrawn. In the case of a sales promotion, the promoter may be requested to make the necessary changes to the way the promotion is communicated or conducted and, where appropriate, may also be asked to recompense any consumers who have been adversely affected.

### **Conclusion**

It is our view that to incorporate The Code into the BAI draft code without significant strengthening of the existing weaknesses would be a missed opportunity to provide appropriate protection for children in keeping with Principle 4 of the BAI Code. The existing Code does however, provide a framework from which to build greater protection for children and stronger sanction for breaches of the Code.

Under the current AMCMB system there are no meaningful sanctions if an advertiser or alcohol brand breaches the code. The Codes themselves are general in nature do not go far enough to protect children from exposure from alcohol advertising and sponsorship. The monitoring body, the AMCMB has not published an annual report since 2013, so we are unable to review how many breaches, investigations and sanctions have been made for the past three years.

Under the BAI codes there would be more meaningful statutory sanctions as set out in the Broadcasting Act, 2009. Part Five of the Act confers significant enforcement powers on the BAI, including the power to impose financial and other sanctions on broadcasters and contractors who breach their codes. As we have set out in our commentary on the BAI draft codes, we would require a strengthening of these codes if children are to be adequately protected from exposure to alcohol marketing. This combined with stricter sanctions may act as a deterrent to the alcohol industry and their media partners and ensure stricter compliance in the longer term.

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