

## 12 Restricting alcohol marketing on social media in Finland

*Marjatta Montonen and Ismo Tuominen*

In January 2015, new restrictions on the advertising of alcoholic beverages entered into force in Finland. The restrictions represent a novel approach as they are focused on techniques used in alcohol advertising, rather than the media used or features of the content of advertisements. The Finnish Alcohol Act prohibits the advertising of beverages containing more than 22% alcohol by volume (abv) and restricts the content and placement of advertising for milder beverages. The new restrictions were intended to and do target primarily alcohol advertising in social media. They prohibit advertising, indirect advertising and sales promotion if 'they involve taking part in a game, lottery or contest' or if

the advertising commercial operator in an information network service administered by itself uses any textual or visual content produced by consumers or places into the service textual or visual content, produced by itself or by consumers, which is intended to be shared by consumers.<sup>1</sup>

The latter, slightly long-winded subsection means that when operating in new media, marketers are not allowed to use any consumer-generated content to advertise alcoholic beverages, or to provide any content for peer-to-peer sharing. This chapter sets the novel approach in the framework of alcohol advertising controls in Finland, reviews justifications for and evidence in support of the new policy, and discusses challenges related to the regulation of alcohol advertising in the digital era.

### Brief history of alcohol advertising controls in Finland

The restrictions that came into force in 2015 were the latest in a series of revisions made in the Alcohol Act concerning alcohol advertising. The policy on alcohol advertising in Finland has gone through various stages since the Prohibition era, which in Finland was from 1919 to 1932. In 1932 the Prohibition was followed by an extensive government monopoly system that covered all aspects of the alcohol business, from production to trade and to the control of pricing and sales promotion. There were no legal statutes for alcohol advertising. The monopoly company followed guidance from the State and the advertising of most alcoholic beverages

emphasised product information. In 1977, a quasi-total ban on alcohol advertising was introduced. Advertising for low-alcohol beer fell outside the ban as beverages with a maximum alcohol content of up to 2.8% abv are not governed by the Alcohol Act. This provided the breweries a way to promote ordinary-strength beer produced under the same brand name. In the late 1980s, expenditure on low-alcohol beer advertising equalled 20% of the value of low-alcohol beer sales, and low-alcohol beer advertisements were commonly interpreted as promoting stronger beer (Montonen, 1996).

When Finland prepared to join the European Union (EU) in 1995, the all-inclusive alcohol monopoly was dismantled and replaced by a licensing system that was separate for production, wholesale, retail and on-premise sale of alcoholic beverages. The retail monopoly remained in place for beverages above 4.7% abv. The availability of beverages up to 4.7% abv, formerly sold in grocery stores, was expanded by allowing kiosks and gas stations to also sell them, and the range of drinks available was extended from beer only to cider and ready-to-drink mixtures.

Other moves towards liberalisation included lifting the advertising ban for 'mild' beverages, defined as beverages up to a maximum strength of 22% abv. The advertising of 'mild' alcoholic beverages was subjected to content limitations adapted from the EU's *Television without Frontiers* directive (discussed below). These liberalisations contributed to an upward trend in alcohol consumption, accelerated ten years later by three coinciding events (Ministry of Social Affairs and Health, 2006). First, quotas on tax-free imports of alcoholic beverages by travellers arriving from other EU countries were abolished. Second, the neighbouring country Estonia joined the European Union. There was concern the markedly lower price level in Estonia would encourage vast private alcohol imports resulting in loss of alcohol tax revenue in Finland. Third, paradoxically the Finnish government's countermeasure was to cut the alcohol tax by 33% on average, which resulted in an immediate increase in domestic sales and total alcohol consumption. In 2007, when alcohol consumption was at a record high of 12.7 litres pure alcohol per capita (15+ years), the time was ripe for corrective measures.

Starting from 2008, a series of small incremental alcohol tax raises, together with the economic recession, contributed to reversing the trend in total alcohol consumption, recorded sales and travellers' imports (Karlsson et al., 2013). At the same time, the advertising of alcoholic beverages was restricted, in particular but not exclusively, to protect children and young people. In 2008 alcohol advertising on television was limited to the time period from 21:00 to 07:00. Alcohol advertising in cinemas was prohibited, except for movies rated for an adult audience – that is, an age limit of 18 years applied. Mass media advertising for special price offers was prohibited, unless the price was valid for two months without interruption. As a result, special weekend offers and 'happy hours' could only be advertised in store or within serving premises. In 2014 further restrictions were introduced. The television watershed was pushed to 22:00 and the same time restriction was extended to alcohol advertising on radio. Alcohol advertising in outdoor or indoor public places was prohibited. The ban concerned billboards, bus stops, public transport and commercial transportation vehicles, railway stations

and the like, as well as public areas in shopping malls. As a first attempt to curb alcohol advertising on social media, the use of games, lotteries and contests to advertise alcoholic beverages was prohibited as well as the use of any consumer-generated textual or audiovisual materials and the provision of any promotional content for further distribution by consumers when alcohol advertising is carried out via information networks (Figure 12.1).

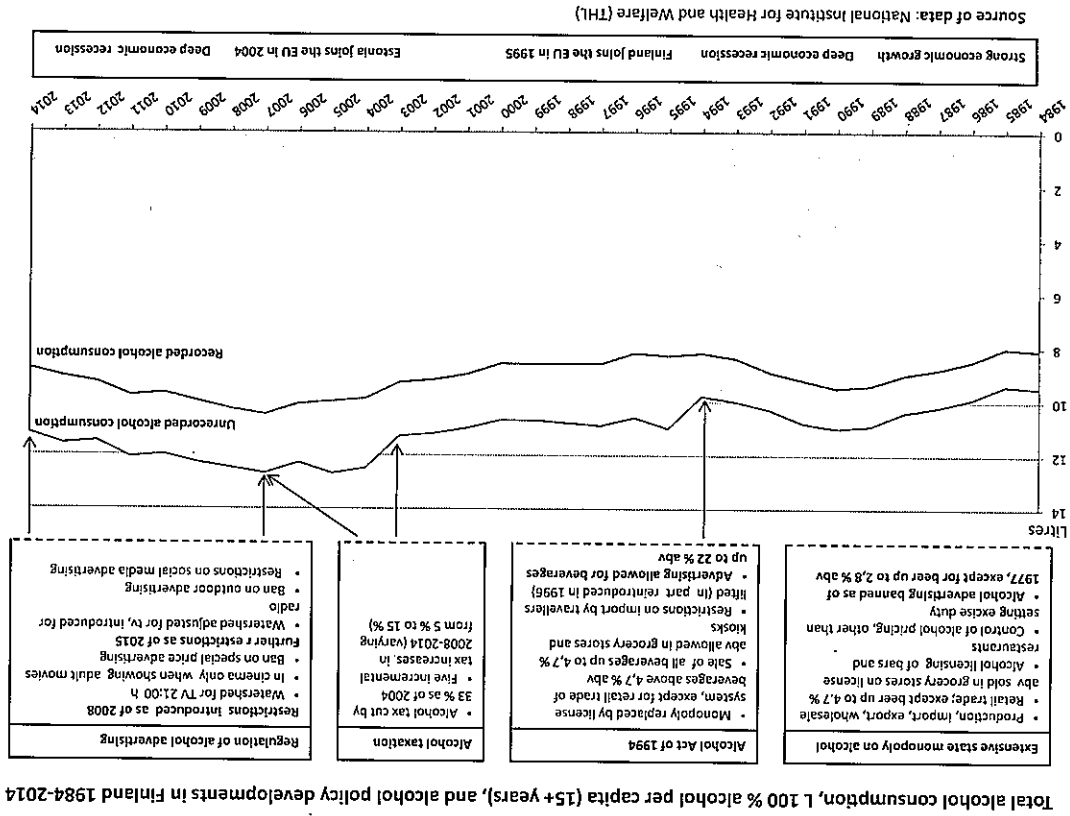
### Different approaches to regulating alcohol advertising

The alcoholic beverages market is highly competitive. With few differences between the products within a category – for example, between lager beers produced by different brewers – the brand image becomes the distinguishing feature and brand advertising becomes central to the commercial success of the product. An argument against the regulation of alcohol advertising is that it does not impact on alcohol consumption but only affects brand shares. Regulation – preferably in the form of self-regulation – would therefore only be needed to weed out content features deemed socially unacceptable, such as portrayal of very young people engaged in drinking or overtly sexual imagery. The downside is, however, that while seeking to increase the market share of their brands, the advertisers collectively disseminate the generic message that alcohol consumption is a pleasurable and rewarding experience without reference to the negative consequences and harms of consumption.

There is varied and robust evidence of the impact of the volume of alcohol marketing – usually measured in terms of exposure – on young people's attitudes and drinking behaviour. The strongest evidence of causal effects comes from longitudinal studies which have found that exposure to alcohol marketing increases the likelihood that adolescents start to drink or, if they have already started, to drink more (Anderson et al., 2009; Gordon et al., 2010a; Gordon et al., 2010b; Jernigan et al., 2016). These studies have taken into account various forms of alcohol advertising – including print, broadcast, outdoor, cinema and branded merchandise – and have examined the cumulative effect of exposure to marketing messages, whether their content is in line with regulatory or self-regulatory guidelines or not. Similarly, studies into the effectiveness of alcohol advertising policies have assessed the impact of reductions in the volume of alcohol advertising rather than modifications of its content (Saffer, 2000; Saffer and Dave, 2006; Sassi, 2015). In contrast, there is no published research available on the effectiveness of content restrictions in influencing young people's attitudes or alcohol consumption.

There is a need for public policy to intervene. The *Global Strategy to Reduce the Harmful Use of Alcohol*, endorsed by WHO member states in 2010, highlights the marketing of alcoholic beverages as a key area of action, in particular to reduce its impact on young people and adolescents (World Health Organisation, 2010). In 2011, the high-level meeting of the United Nations General Assembly called for action by all member states to reduce the burden from non-communicable diseases by addressing their common modifiable risk factors, including the use of alcohol and tobacco (United Nations General Assembly, 2011).

Figure 12.1 Total alcohol consumption L 100% alcohol per capita (15+ years) and alcohol policy developments in Finland 1984–2014



In order to curb the public health harm caused by tobacco, the signatories of the WHO Framework Convention on Tobacco Control have agreed on a clear objective: to eliminate tobacco advertising, promotion and sponsorship effectively at both domestic and international levels (Article 13). This policy aim will become a comprehensive ban that applies to all forms of commercial communication, recommendation or action and all forms of contribution to any event, activity or individual with the aim, effect, or likely effect of promoting a tobacco product or tobacco use either directly or indirectly (World Health Organisation, 2013).

One can ask whether a comprehensive ban on alcohol advertising, promotion and sponsorship would be the most effective for protecting children and young people from alcohol-related harms. While the answer is probably 'yes', when it comes to political feasibility, alcohol and tobacco are not on a par – yet. The most common approaches to regulating the advertising of alcoholic beverages are to prohibit advertising for certain beverage types (typically spirits), to prohibit the placing of advertising messages in certain media (e.g. in youth magazines) or in certain locations (e.g. close to schools), or to restrict the content permitted in the messages (World Health Organisation, 2014). While extensive bans may reduce the exposure to alcohol advertising for the whole population, partial restrictions usually aim at protecting children and young people. Watersheds that limit alcohol advertising on television to time periods where adults are assumed to form the majority audience are a typical example of the latter.

Restrictions on the content of advertising messages have tended to either establish what is prohibited, by giving a 'negative list', or what is permitted, by giving a 'positive list'. The more widely used negative list approach usually aims to protect minors and rule out specific features such as presenting alcohol consumption as a means for social or sexual success. Such restrictions were included in the European Communities' *Television without Frontiers* directive of 1989 (Art. 15)<sup>2</sup> and were integrated in 2010 into the European Union's directive on audiovisual media services (Art. 22),<sup>3</sup> as outlined below:

In the European Union, television advertising and teleshopping for alcoholic beverages shall comply with the following criteria:

- a) it may not be aimed specifically at minors or, in particular, depict minors consuming these beverages;
- b) it shall not link the consumption of alcohol to enhanced physical performance or to driving;
- c) it shall not create the impression that the consumption of alcohol contributes towards social or sexual success;
- d) it shall not claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative or a means of resolving personal conflicts;
- e) it shall not encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light;
- f) it shall not place emphasis on high alcoholic content as being a positive quality of the beverages.

The content restrictions closely resemble the principles set out in the self-regulatory advertising guidelines issued in the early 1980s by alcohol industry organisations in the United States and in Europe. The approach of enumerating unacceptable types of alcohol advertising content has been found to be ineffective in eliminating youth-appealing content – or has been found to be impossible to objectively assess due to lack of documentation (Jernigan and O'Hara, 2004; STAP, 2007, 2012; Winpenny et al., 2012).

As mentioned above, in Finland the content restrictions of the *Television without Frontiers* directive were incorporated into the Alcohol Act of 1994 and their application extended to all alcohol advertising irrespective of the medium. The 'negative' list approach is a remarkable challenge for any serious attempt at enforcement. The presumption is that what is not forbidden is allowed. In Finland, it is up to the supervisory authority to monitor alcohol advertising in different media and react when needed. If an advertisement appears to be in breach, it is for the authority to point out which content features lead to an 'impression' prohibited by the law – for example, by referring to the screenplay of a television commercial – and to argue intent by the advertiser, rather than unjustified or overzealous 'interpretation' by the authority. If the advertisement in question is found in breach and removed, the same procedure needs to be repeated for the next one. The Finnish supervisory authority has put together guidance for advertisers based on case rulings. The guidance is updated whenever a case lacking precedent emerges and has over the years grown into a 60-page document (Valvira, 2014). Despite the authority's efforts, lifestyle imagery with attractive models, humour, sports and celebrities is common in alcohol advertising in Finland.

French and Swedish legislation governing alcohol advertising takes the 'positive' list approach. In Sweden advertising is only allowed in print media and only for beverages with a maximum strength of 15% alcohol by volume. The size of the print advertisement is limited and 20% of the area has to be reserved for text alerting to health and safety risks. The visual content in the advertisement is limited to the brand logo, a picture of a single consumer package and of raw materials (e.g. grapes as raw material for wine).<sup>4</sup>

In France, advertising of aperitifs and of beverages containing more than 45% alcohol was prohibited in 1941.<sup>5</sup> In 1987, advertising any alcoholic beverages was prohibited on television, in print media for youth, in sports facilities and in the premises of youth associations.<sup>6</sup> In 1991, the so-called Evin law prohibited all direct and indirect mass media advertising for all alcoholic beverages, including alcohol sponsorship, but excluding certain media specified in the law. The permitted media were: print media, except publications directed to youth; radio, in defined time periods; catalogues and brochures issued by alcohol producers and distributors; and billboards, initially only in production areas, and later more widely. Alcohol advertising on television and in cinema is thus prohibited. The content permitted in alcohol advertisements was limited to information about the product: alcoholic strength, origin, composition, taste and aroma, production method, awards received and mode of consumption. All alcohol advertisements are required to carry a text warning about health risks.<sup>7</sup>

The definition of what is allowed is considerably more enforceable than the 'negative' list approach implemented in Finland that requires the assessment of subtle associations created through the interplay of visual, audio and textual elements. The 'positive' list approach can be used in an elegant and economical manner to protect children from alcohol marketing regarding both the media used and the messages transmitted. If a comprehensive ban on alcohol advertising is not feasible, it should be quite possible to limit alcohol advertising to media reaching adults but not children, and to limit the promotional messages to factual and verifiable information on the products to help adult consumers make their choice of drink.

### **Technological innovation is a challenge for regulation**

Alcohol industry has been in the vanguard in taking advantage of the internet and social media to advertise their products (Chester et al., 2010; McCreanor et al., 2013; Nicholls, 2012). Few impact studies so far have examined the effects of these new forms of advertising on young people's alcohol consumption (de Bruijn, 2013; Lin et al., 2012; McClure et al., 2016). Measurement of the volume of alcohol advertising in new media is a challenge because of the multiplicity of websites, social media platforms, mobile applications, virtual communities and varying forms of messaging used. Assessing the scale of youth exposure would require access to website traffic or similar data on content usage and user characteristics (Wimpenny et al., 2012).

The move from 'old' to 'new' media presents a challenge for policies to control alcohol advertising. Watersheds set for television advertising lose their meaning when television programming is accessible any time on demand. Rules regarding alcohol advertising in print media may not be applicable when versions of the same content are distributed online. In online shopping, banners have been found to compensate for real-life billboard advertising for alcoholic beverages in jurisdictions where outdoor alcohol advertising is not allowed (Goldfarb and Tucker, 2011). Principles established in the pre-digital era may not automatically be valid for new media or new forms of marketing.

In France, court cases in 2007 and 2008 ruled that the ban on alcohol advertising also applies to alcohol brand websites, non-existent at the time the Evin law was passed.<sup>8</sup> In 2009, however, online communication services were added to the list of permitted media, excluding websites directed to young people or run by sports associations (alcohol sponsorship of sports not being allowed in the first place). The law specifies that online commercials may not be 'interstitial' or 'intrusive'.<sup>9</sup> While interstitials, web pages displaying advertisements during transitions between content pages, are a specific tool of online advertising, 'intrusive' is a characterisation applicable to a broader range of techniques. In 2011, the use of personal Facebook walls to promote a mobile application that enabled the viewing of alcohol advertisements was ruled unlawful; the court considered it an intrusive method used specifically to target a youth audience.<sup>10</sup>

Alcohol is marketed through increasingly sophisticated techniques and increasingly through media that reach across national borders, such as satellite

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television and the internet (World Health Organisation, 2010). The pace of technological innovations used for commercial promotion of alcoholic beverages is such that regulators have a hard time in catching up. Only a few countries have alcohol advertising regulations specifically for controlling alcohol advertising on the internet or in social media (World Health Organisation, 2014).

### **Focus on advertising techniques**

Focusing on the techniques commonly used to promote alcoholic beverages in digital media is an alternative to regulating media-specific features or the content of advertisements. A number of such techniques have been identified by analysts (Chester et al., 2010; Jernigan, 2010; Mart, 2011; Nicholls, 2012). In social media, interactivity provides the basis for distinct but interlinked and mutually reinforcing techniques, many of which are designed to enhance consumer engagement with the imagery and events created around the brand and with real or imaginary fellow consumers.<sup>11</sup> The techniques are not peculiar to alcohol advertising but are used to market a variety of products, and some of them are common in other areas too – for example, the prominence of contests and games or the merging of 'real' and fictional in television entertainment. Neither are the techniques totally novel in alcohol advertising – for example, testimonials or the bandwagon appeal are familiar from the early days of mass media advertising. Social media platforms and mobile applications have, however, opened up unforeseen dimensions for their use, not least by enabling behavioural targeting, that is personalised messaging based on information gathered on media users' background characteristics and their media content preferences.

'Gamification' is one common technique, apparent in the range of contests, quizzes, surveys and interactive games offered to website visitors and brand followers. Rewards and giveaways used to enhance engagement may have a linkage to real-life events – for example, a chance to win a ticket to a concert – or may require the visitor to disseminate marketing messages to their social network. The reach of branded real-life events – clubs, concerts sports events and the like – is expanded through online sharing of experiences.

Interaction between consumers in the form of conversations and sharing pictures, videos or stories contributes to creating virtual communities. Virtual communities and social networks provide the ground for peer-to-peer recommendations and for conceiving the brand as a means for belonging and identity building. The marketing messages are fed in by advertisers as viral content or created by the consumers themselves. Mobile technologies and applications that provide suggestions for use or enable users to locate people, events and services linked with the brand contribute to integrating alcoholic beverages as a normative part of daily life.

Young people are at the centre of these interactive digital advertising activities because of the penetration and heavy use of new media among them (Jernigan and Rushman, 2014). Young people tend to be the most savvy when it comes to using digital communication media but this does not protect them from the impacts of

marketing, in particular when commercial promotion of products and brands is no longer easily recognisable as such. Alcohol marketing in the digital space reaches under-age youth but mostly stays under the radar of parental awareness and control. Online age check mechanisms used by alcohol advertisers usually require visitors to confirm being of legal age but include no attempt at verification, not even in countries where online identity verification services are available (Winpenney et al., 2012).

Interactive digital advertising is inherently engaging, and immersive virtual environments may be even more so. In research to develop marketing tools, methods such as eye movement tracking are being rivalled by innovations such as neuroimaging to gauge brain activation (Ariely and Berns, 2010). It has been suggested that the 'consequences of interacting with products and brands in cyberspace might be even more profound than the known risks of exposure to traditional alcohol marketing' (Chester et al., 2010).

Although much of the nature of digital alcohol marketing and its effects remains unknown, a precautionary approach was deemed justified in Finland. The restrictions adopted focus on two key techniques used in digital alcohol advertising: gamification and social influence advertising where consumers become promoters of the product. The prohibition on the use of games, lotteries or contests to advertise alcoholic beverages is media neutral: it would also apply, for example, to an alcohol-branded trivia quiz on TV or radio. The prohibition concerning the use of consumer-generated content and peer-to-peer sharing (viral advertising) refers specifically to 'information network services'. This allows the restrictions to apply to any digital technology or mode of electronic communication that may be introduced in the future.

Advertising techniques are commonly the focus in consumer protection legislation. In the Finnish Consumer Protection Act, for example, hidden advertising, aggressive marketing, and the use of false claims or misleading information are singled out as inappropriate conduct. Comparative advertising and advertising using raffles, competitions or games are subject to specific provisions. Advertising targeted to under-18s or commonly reaching them is deemed inappropriate if it makes use of the recipient's inexperience or gullibility, or may harm their development or seeks to reduce the opportunity for parents to protect and guide their children.<sup>12</sup> The Finnish Information Society Code highlights that digital direct marketing messages shall be recognisable as marketing, shall indicate the identity of the sender and shall include an address through which the recipient can decline to receive such communications.<sup>13</sup>

The Finnish Consumer Ombudsman has issued guidelines (Kuluttaja-asiamies, 2015) on the use of the 'share this with your friends' technique in marketing. The Ombudsman stresses that when a marketer urges or enables sharing the purpose is always to influence consumer decisions and actions, thereby this is subject to the Consumer Protection Act and to the Information Society Code. As this legislation does not apply to private communication between individuals, a key question for the Ombudsman concerns distinguishing between marketing communication and private sharing. Upholding the Consumer Protection Act's principle that

'marketing must clearly show its commercial purpose and on whose behalf marketing is implemented' may become even more challenging with the move towards 'native' advertising where marketing messages are embedded in digital communication streams – for example, where web articles are formatted to resemble the surrounding editorial content or Twitter is used to disseminate advertiser-generated messages (Lieb et al., 2013).

### The issue of impact

There are important points to note about the Finnish restrictions concerning the advertising of alcoholic beverages in information networks. First, the restrictions only apply to commercial communications. To make it clear that private free speech is not being restricted, the Constitutional Committee of the Finnish parliament added to the Bill an explicit mention that it only concerns commercial operators' advertising activities. Marketers can no longer use any material produced by consumers or offer material to be shared by consumers. Consumers' private communications about an alcoholic beverage brand, for example in their own Facebook-page or in a chat service, is by definition not considered advertising. Any private person can share a picture showing them drinking beer or email to friends suggestions on drinks or places to drink. For alcohol marketers, on the other hand, the law allows them to continue using, for example, 'conventional' banner advertisements and run brand websites stripped of games and contests and of anything created by consumers.

Second, the restrictions only apply to domestic advertising and, additionally, to advertising of foreign origin which is targeted to Finnish consumers. With a language such as Finnish, practically not spoken outside Finland, it is quite easy for the supervisory authority to distinguish between alcohol brand websites or social media communications directed to Finns – which are not allowed – and commercial activities targeting markets in other countries – which are not affected by the Finnish ban.

No attempt has been made in Finland to measure how the four new restrictions on alcohol advertising might affect young people's perceptions, attitudes or drinking behaviour and it would, in fact, be extremely difficult to disaggregate each of their roles. The adjustment of the television watershed and the introduction of the same watershed for radio were minor changes. The other two measures do make a difference in the way alcoholic beverages are present in young people's lives: all outdoor advertising for alcoholic beverages has been removed, and the range of techniques available for consumer engagement in social media has been restricted.

More importantly, restrictions on alcohol advertising are just one component of wider public health policies on alcohol and are meant to work in concert with measures to influence alcohol pricing. Advertising is only part of the integrated marketing mix where the bottom line also depends on the consumer appeal of the product, as such, as well as its price and retail accessibility (BMA, 2009). The accumulated evidence on the potential for impact of alcohol control policies

combination with other measures to reduce alcohol-related harm (Booth et al., 2008; Nelson et al., 2005).

Among 16-year-old students in Finland, the prevalence of drinking and binge drinking and the amounts of alcoholic beverages consumed have decreased throughout this millennium (Raitasalo et al., 2015). Contributing factors may have included tighter enforcement of minimum age limits, more restrictive attitudes among parents, and changes in the way drunkenness is valued among youth. Restrictions on alcohol advertising were meant to and likely have played a role in the shift in attitudes among both adults and young people.

### **The future for alcohol marketing regulation**

The *Global Strategy to Reduce the Harmful Use of Alcohol*, endorsed by WHO member states in 2010, highlights that 'alcohol is being marketed through increasingly sophisticated advertising and promotion techniques, including linking alcohol brands to sports and cultural activities, sponsorships and product placements, and new marketing techniques such as e-mails, SMS and podcasting, social media and other communication techniques.' A precautionary approach would address both the content and the volume of alcohol marketing and would regulate new forms of marketing.

The move from 'old' media to 'new' digital media has profoundly changed both interpersonal and mass communication. While communication technology has become more personal, its uses have become more social in the sense that individuals are able to publish their own content. The distinction between producer and consumer of communication is blurred when the masses have access to means of mass communication. The distinction between editorial content and advertising is fading away with phenomena such as blogging or 'native' advertising. 'Old' mass media are forced to transform themselves, and categories such as print and broadcast media become obsolete when content is being disseminated through multiple technologies and platforms. Even the distinction between online and offline media is melting away.

The parameters of regulation and control have also changed. Established standards are losing their validity in many areas: open sourcing challenges intellectual property rights and crowdsourcing undermines control by the funder. Once released on the internet, content keeps circulating in an uncontrollable fashion. Filtering and blocking content is possible to some extent and has been done on political or moral grounds.

Paradoxically, while keeping track of communication content has become difficult, monitoring users of communication has become easier than ever. Electronic surveillance is being used by governments for social control and by companies to gather data for behavioural targeting of marketing messages. The practices of internet, social media and other digital communication have evolved without public scrutiny or regulatory oversight (van Dijk, 2013).

All these changes require a rethinking of how to regulate the advertising of alcoholic beverages to protect young people and the wider population against

commercial pressure to drink. Technological development and the ways people integrate communication technologies into their lives will continue to provide opportunities for commercial communication, the forms of which are hard to anticipate. One possibility is to identify techniques that are used in communication services – such as gamification – and regulate their use in a neutral manner. Supervision and enforcement will remain a challenge, so long as advertisers of alcoholic beverages do not refrain from looking for loopholes stretching the limits of the rules. If commitment to responsible business in this area is lacking, no enforcement machinery can guarantee that the objective of the law is realised. Probably the only effective way to prevent cross-border advertising from undermining national restrictions is to follow the model of the Framework Convention on Tobacco Control, that is, having signatories agree to apply the same restrictions to domestic and out-flowing advertising and recognise the right of other countries to take action to limit in-flowing advertising (World Health Organisation, 2013).

The factual and political 'degree of difficulty' for regulating alcohol advertising with an international agreement is apparently higher than for banning tobacco advertising. Apart from constitutional restrictions for some countries to limit (commercial) speech, it is in the producer's interest to inform consumers at products offered for sale and in the consumer's interest to obtain fact-based information for purchasing decisions.

If some alcohol advertising is to be allowed in order to allow product information to be communicated to adult customers, based on the Finnish experience and recommended approach should consist of a 'positive list' of content restrictions. The law could, for example, limit the content to a still photograph or sketch of the beverage or the package and to the following factual information, part of which may be mandatory label information:

- 1 The name, price and distribution channel of the beverage;
- 2 Basic information on the product as indicated on the package, such as alcohol content and quantity in the package;
- 3 The name and contact information of the manufacturer or distributor;
- 4 Information on the geographical origin of the beverage, the method of production and ingredients;
- 5 Specific instructions for use and health hazards; and
- 6 Characterisation of the colour, taste and aroma of the beverage, as well as awards the product may have received.

This kind of 'positive list' would by itself eliminate much of the advertising content and techniques that contribute to the appeal of alcoholic beverages to children and young people. If only still pictures of the product are allowed, there is no room for any audiovisual content or in fact for anything interesting enough to be shared with friends. If only truthful product information is allowed, there is no possibility to organise contests or games for the promotion of the beverage.

According to the evidence there is a dose-response relationship between young people's exposure to alcohol marketing through multiple marketing channels:

the likelihood that they will start drinking (Anderson et al., 2009; Babor et al., 2010; Jernigan et al. 2016). While the direction of the causal association has been confirmed by longitudinal studies, findings regarding its strength and consistency vary, not least due to variation in ways of operationalising exposure, ranging from measurement of (subjective) advertising recall (Unger et al., 2003) to measurement of (objective) advertising expenditure (Saffer and Dave, 2006).

Optimal regulation would in any case curtail at least the most visible forms of alcohol marketing. In order to balance the need to minimise the harmful effects of alcohol advertising on the one hand, and the commercial needs of alcohol industry and the needs of adult consumers on the other, the legislation should cover both different media and techniques. For example the following restrictions, which for the most part are currently in place in Finland, could serve as a model for legislation on alcohol marketing in other countries:

- 1 advertising on television (except from 23:00 to 07:00)
- 2 advertising in cinemas (except when showing films with an 18-year age limit)
- 3 advertising in public places indoors or outdoors (except in retail and on-premise sites)
- 4 using sponsorship
- 5 using games, lotteries or contests
- 6 using consumer-created content
- 7 using consumers as distributors of advertising.

Although such steps towards optimal regulation would enable marketers to reach adult consumers through print media and alcoholic beverage outlets, they would not be easy or painless. The alcohol industry will oppose any attempts to restrict one of the core elements of their business. Even the best legislation needs credible surveillance and meaningful sanctions. Until a sufficient number of countries are willing and capable of protecting their young ones from the harmful effects of alcohol advertising, cross-border advertising, which cannot be completely governed by national legislation, will remain a challenge. However difficult it may be, the only way to proceed is for countries one by one to begin to regulate alcohol advertising in a way that makes a difference. This will also be the way to build political pressure towards international treaties to curb alcohol advertising.

Legislation to control alcohol advertising and marketing mainly dates from the period before the advent of the World Wide Web and social networking services. Examples of regulation that specifically take into account the nature of new digital media are scarce. Whereas laws should ideally be precise and straightforward, the rapid pace of innovation and technological development in this area means that there will continue to be room for different interpretations in the application of advertising restrictions in the borderline between commercial and non-commercial communication.

## Notes

- 1 [Alkoholiilaki] The Finnish Alcohol Act, No. 1143/1994, as amended by act No. 152/2014.
- 2 Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.
- 3 Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive).
- 4 Alkoholiag 1622/2010, Kapitel 7.
- 5 Loi du 24 septembre 1941 modifiant la loi du 23 août 1940 contre l'alcoolisme, Article 9.
- 6 Loi n°87-588 du 30 juillet 1987 portant diverses mesures d'ordre social, Article 97.
- 7 Code de la santé publique, Articles L3323-2, L3323-4.
- 8 Tribunal de grande instance de Paris: Ordonnance de référé 02 avril 2007: Anpa / Bacardi Martini France, Bacardi Martini Production; Tribunal de grande instance de Paris: Ordonnance de référé 08 janvier 2008: Anpa / Heineken.
- 9 Loi n°2009-879 du 21 juillet 2009, Article 97.
- 10 ANPAA: Publicités illicites. Loi Evin. Décisions rendues en 2013. <http://www.anpaa.asso.fr/agir/publicites-illicites-loi-evin>.
- 11 For further discussion and examples, see DigitalAds ([digitalads.org](http://digitalads.org)), a website operated by the Center for Digital Democracy and Berkeley Media Studies Group.
- 12 [Kuluttajansuojalaki] The Consumer Protection Act 38/1978/38, as amended by the act 561/2008.
- 13 [Tietoyhteiskuntaaki] The Information Society Code 917/2014.

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