

Regulation of alcohol marketing in Australia: A critical review of the Alcohol Beverages Advertising Code Scheme's new Placement Rules

HANNAH PIERCE¹ , JULIA STAFFORD¹, SIMONE PETTIGREW² , CAITLIN KAMERON^{2,3}, DANICA KERIC¹ & IAIN S. PRATT^{2,3}

¹McCusker Centre for Action on Alcohol and Youth, Curtin University, Perth, Australia, ²School of Psychology, Curtin University, Perth, Australia, and ³Cancer Council Western Australia, Perth, Australia

Abstract

Introduction and Aims. Rules concerning the placement of alcohol advertisements (Placement Rules) were added to the industry-managed Alcohol Beverages Advertising Code Scheme in November 2017. This study aimed to critically review the Placement Rules and evaluate their ability to effectively regulate the placement of alcohol marketing and provide safeguards for young people in Australia. **Design and Methods.** An established framework for evaluating the design of an effective self-regulatory system was applied to the substantive content of the Placement Rules and associated regulatory processes. Publicly available documents, including recent Alcohol Beverages Advertising Code Scheme determinations, informed the review. **Results.** The objectives and key terms of the Placement Rules are inadequately defined and narrow in scope, resulting in the dismissal of almost all relevant complaints. Weaknesses identified in the regulatory processes include limited representation from external stakeholders in the development of the Placement Rules, a lack of transparency and independence in the Scheme's administration, and limited monitoring and enforcement options. **Discussion and Conclusions.** The Placement Rules are unlikely to reduce young people's exposure to alcohol marketing and hence fail to meet public health objectives. This review adds to the body of literature that demonstrates that industry-managed systems fail to effectively regulate alcohol marketing. Government intervention is needed if young people's wellbeing is to be prioritised. [Pierce H, Stafford J, Pettigrew S, Kameron C, Keric D, Pratt IS. Regulation of alcohol marketing in Australia: A critical review of the Alcohol Beverages Advertising Code Scheme's new Placement Rules. *Drug Alcohol Rev* 2019;38:16–24]

Key words: alcohol, advertising, young people, regulation.

Introduction

Alcohol marketers use a wide range of media channels to promote their products, including media to which young people are regularly exposed [1,2]. Young people in Australia report seeing alcohol marketing on television, radio, billboards, public transport, social media, at events and in print publications [2]. Around half of all alcohol advertisements on television are aired in children's popular viewing times [3]. Evidence shows that young people find alcohol advertisements appealing [2], and their exposure to alcohol marketing is associated with earlier initiation of alcohol use and risky drinking [4].

The World Health Organization has recommended statutory controls on the content, volume and

placement of alcohol marketing within a comprehensive approach to reduce harm from alcohol [5]. Yet many countries, including Australia, continue to rely largely on voluntary, industry-managed regulatory systems. Concerns about the effectiveness of these systems in regulating the content and placement of alcohol marketing have been raised. A systematic review of international studies evaluating young people's exposure to alcohol marketing found exposure levels are high and have increased over time [6]. Studies examining the effectiveness of Australia's self-regulatory system in regulating the content of alcohol marketing have found decisions on code violations are not in line with community expectations [2] and advertisements often contain themes that appeal to young people [7], a finding consistent with

Ms Hannah Pierce BHLthSc, Research Associate, Julia Stafford BPsych (Hons), Research Fellow, Simone Pettigrew BEc, MComm, PhD, Research Professor, Caitlin Kameron, LLB (Hons), BHLthSc, Legal Policy Advisor and Adjunct Research Associate, Danica Keric BHLthSc, Research Associate, Iain S Pratt GradDip (Diet), Nutrition and Physical Activity Manager and Visiting Adjunct Research Fellow. Correspondence to Ms Hannah Pierce, McCusker Centre for Action on Alcohol and Youth, Curtin University, GPO Box U1987, Perth, WA 6845, Australia. Tel: +61 8 9266 7117; E-mail: hannah.pierce@curtin.edu.au

Received 16 July 2018; accepted for publication 4 October 2018.

international evidence [6]. The introduction of stricter controls on alcohol marketing has been recommended by several government reviews in Australia [8,9].

In Australia, community members submit complaints about alcohol advertisements to the Advertising Standards Bureau, which forwards them on to the Alcohol Beverages Advertising Code (ABAC) Scheme for assessment against the ABAC Responsible Alcohol Marketing Code (the Code) [10]. The ABAC Scheme is jointly funded by the Brewers Association of Australia, Distilled Spirits Industry Council of Australia and Winemakers' Federation of Australia [11]. The three Directors of the ABAC Scheme represent these groups [12]. Introduced in 1998, the ABAC Scheme considered only the content of alcohol marketing for almost two decades. Prior to 2017, it relied on other industry codes to address alcohol marketing placement. However, relevant codes only placed restrictions on outdoor advertisements near schools and advertisements on free-to-air television during some viewing times popular with children. In July 2017, the ABAC Management Committee announced that from 1 November 2017 the Code would include 'Placement Rules', outlined in Table 1, to 'support and bolster existing placement regulation in media specific codes' and provide 'additional safeguards for minors' [13]. A 'no-fault breach' provision was also introduced to accommodate a breach that was 'reasonably unforeseeable by or outside the reasonable control of the Marketer or their agency' [10].

The introduction of the Placement Rules provides the opportunity to critically review the development and implementation of code provisions by an industry-managed regulatory system. This paper reviews the first 6 months of operation of the Placement Rules against a framework for evaluating the effectiveness of industry regulatory systems. The aim was to evaluate the ability of the Placement Rules to effectively regulate the placement of alcohol marketing and provide additional safeguards for young people.

Methods

Publicly accessible documents and information on the ABAC Scheme website were downloaded and reviewed against Reeve's [14] framework (Table 2). The framework draws on broad principles of responsive regulation and outlines criteria for the design of an effective and accountable self-regulatory system. The framework incorporates three dimensions: the substantive content of codes, the regulatory process and enforcement. It was designed to be applied to the regulation of activities by industries with potentially

Table 1. Placement rules introduced by the ABAC scheme on 1 November 2017

Rule number	Content
Rule (i)	A marketing communication must comply with codes regulating the placement of alcohol marketing that have been published by Australian media industry bodies (for example, Commercial Television Industry Code of Practice and Outdoor Media Association Alcohol Guidelines).
Rule (ii)	If a media platform on which a marketing communication appears has age restriction controls available, the marketer must utilise those age restriction controls to exclude Minors from the audience.
Rule (ii)	If a digital, television, radio, cinema or print media platform does not have age restriction controls available that are capable of excluding minors from the audience, a marketing communication may only be placed where the audience is reasonably expected to comprise at least 75% adults (based on reliable, up-to-date audience composition data, if such data is available).
Rule (iv)	A marketing communication must not be placed with programs or content primarily aimed at minors.
Rule (v)	A marketing communication must not be sent to a minor via electronic direct mail (except where the mail is sent to a minor due to a minor providing an incorrect date of birth or age).

negative public health impacts and has previously been applied to Australian voluntary codes on food marketing to children [14].

In the present review, the framework was applied to the Placement Rules and the associated ABAC Scheme regulatory processes. The ABAC content provisions were not included as they have been critiqued previously [7]. Information on the ABAC Scheme website used in the review included the Code, Guidance Notes, annual and quarterly reports, and media releases. In addition, the 24 determination reports that reviewed complaints about alcohol advertisements against the Placement Rules published prior to 30 April 2018 were considered. Of these, 20 complaints were dismissed and four were upheld, of which three were found to be 'no-fault' breaches. Finally, as Placement Rule (iii) includes a television audience threshold restriction, free-to-air television ratings data for 2017 collected by OzTAM (an official source of television audience measurement in Australia) were accessed to determine the extent to which young people are likely to be exposed to televised alcohol marketing.

Table 2. *Criteria for effective self-regulation (Reeve 2016)*

Regulatory dimension	Component	Recommendation
Substantive content	Objectives	Clear, measurable objectives against which the success or failure of voluntary schemes can be assessed within a given timeframe.
	Terms	Clear definitions of key terms.
	Rules	Clear regulatory rules that are sufficiently expansive to achieve regulatory objectives.
Regulatory processes	Developing code objectives Administration	Representation from multiple interests included in the development of self-regulation. Fair and transparent administration by an accountable, independent body, with the roles and responsibilities of each member outlined in the main code document.
	Monitoring	A comprehensive, transparent and independent monitoring system that includes baseline data on the nature and volume of advertising prior to the code's introduction, as well as a set of measurable, time-bound process and outcome indicators.
	Review	Regular, independent reviews of the scheme's operation, using baseline data and performance indicators.
Enforcement	Complaints-handling	A fast, easily accessible complaints-handling mechanism; complaints determined by an independent body that possesses significant sanctions.
	Enforcement	A wide range of enforcement options, including both incentives and deterrents, as well as promotional and educational activities that raise the profile of self-regulatory schemes.

Results

Objectives

The objective of the ABAC Scheme Placement Rules is limited to 'avoiding the direction of alcohol marketing towards minors' [15]. The Code defines a 'minor' as 'a person who is under 18 years of age and therefore not legally permitted to purchase an Alcohol Beverage in Australia' [10]. The Placement Rules 'do not purport to regulate the placement of alcohol advertisements more generally' [15]. A rationale for the focus on minors is not provided beyond referring to 18 years as being the legal alcohol purchasing age in Australia. There is no reference to the substantial literature highlighting the harms from alcohol experienced by young people and the role of alcohol marketing in influencing these outcomes. No information is provided on how this objective will be measured for effectiveness.

Rule (i)

Placement Rule (i) requires advertisers to meet other industry codes that apply to the placement of alcohol advertising. There are two relevant industry codes: the Commercial Television Industry Code of Practice and the Outdoor Media Association guideline. The Commercial Television Industry Code of Practice restricts alcohol advertisements on free-to-air channels to 8.30 pm–5 am and 12 pm–3 pm on weekdays, and

8.30 pm–5 am on weekends and school holidays. An exemption allows alcohol advertisements during sports programs on weekends and public holidays [16], despite free-to-air television sports audience ratings data, outlined in Table 3, demonstrating that large numbers of young people watch sport on television [17]. The analysis of ABAC determinations reveals that the Placement Rules add no further protections for young people watching sport; in the first 6 months of their operation, the ABAC Panel reviewed and dismissed three complaints about alcohol advertisements during televised sport as the placement complied with the Commercial Television Industry Code of Practice [18–20].

The Outdoor Media Association guideline limits outdoor alcohol advertising on fixed signs to outside a 150 m sight line of a school gate [21]. The ABAC Management Committee has acknowledged that outdoor spaces are areas where there can be higher concentrations of young people [22]. However, the Panel has determined that Placement Rule (i), which merely defers to other existing codes, is the only provision that applies to outdoor advertising [15].

Rule (ii)

Placement Rule (ii) requires age restriction controls to be used when available to exclude minors from the audience. The analysis of ABAC determinations reveals that age restriction controls are not available

Table 3. Top 20 highest reach sport programming for young people in 2017 from OzTAM^a free-to-air television ratings data

Program	Audience aged 0–17 years	% of audience aged under 18 years
Seven's AFL: Grand Final: Adelaide V Richmond	364 594	13.4
Seven's AFL: Grand Final: Presentations	360 990	13.3
State of Origin Rugby League QLD V NSW 3rd—Match	308 179	12.2
State of Origin Rugby League NSW V QLD 2nd—Match	302 694	12.6
Seven's AFL: Grand Final: On The Ground	285 968	14.5
Rugby League Grand Final	284 178	12.3
State of Origin Rugby League QLD V NSW 1st—Match	270 679	11.4
Seven's AFL: Grand Final: Post Match	255 111	13.0
State of Origin Rugby League QLD V NSW 1st—Pre Match	187 634	12.2
State of Origin Rugby League QLD V NSW 3rd—Pre Match	184 464	13.2
State of Origin Rugby League NSW V QLD 2nd—Pre Match	180 195	12.4
2017 Australian Open—Men's Final	171 825	6.4
Rugby League Grand Final Entertainment	157 375	11.8
The 2017 Melbourne Cup Carnival: Melbourne Cup—The Race	143 950	7.9
Seven's AFL: Grand Final: Pre Match Entertainment	140 370	13.7
Rugby League Grand Final Presentation	140 286	10.9
Cricket Big Bash League Big Final—Session 2	135 409	13.0
State of Origin Rugby League QLD V NSW 3rd—Post Match	133 041	11.7
Cricket: Big Bash League Big Final—Session 1	121 435	14.5
Supercars Championship: Bathurst D3 Podium	119 585	11.7

^aOzTAM is an official source of television audience measurement in Australia. AFL, Australian Football League.

for all forms of online marketing [23], not all alcohol marketers are using the available controls [24], and errors can occur even when alcohol marketers do activate them [23].

Rule (iii)

Where media platforms do not have age restriction controls, Placement Rule (iii) stipulates that alcohol advertisements 'may only be placed where the audience is reasonably expected to comprise at least 75% adults' [10]. The ABAC Panel reviewed 13 complaints against this rule, including advertisements aired on radio during after-school hours [25], in the cinema [26] and on Instagram [23]. Twelve complaints were dismissed as the Panel was satisfied that 75% of the audience would be expected to be adults. The one complaint upheld was classified as a no-fault breach [27]. Children and young people aged 0–17 years only account for around 22% of the Australian population [28]. Any program that has broad appeal will likely have an adult audience of at least 75% as this reflects the age breakdown of the viewing audience. For example, free-to-air television ratings data show that of the top 50 highest reach non-sport programs for people aged 0–17 years in 2017, only five had a 0–17 year old

share of audience of over 25% [17]. The analysis of ABAC determinations also highlighted that a 75% adult audience threshold does not restrict alcohol marketing in other media where young people are likely to be exposed including in cinema [26] and online [23].

Rule (iv)

Placement Rule (iv) establishes that alcohol advertising 'must not be placed with programs or content primarily aimed at Minors' [10]. While 'primarily aimed at minors' is not defined in the Code, the ABAC Panel has determined that it is a 'more narrowly framed test than "strongly or evidently appealing to minors"' which is used when assessing the content of alcohol advertising [18]. Advertisements must be placed with content that specifically targets minors to breach the Placement Rules; placement with content that has evident appeal to minors but is not primarily aimed at them is deemed acceptable [26]. By way of illustration, the ABAC Panel has determined that Australian cricket [18], the film *Thor: Ragnarok* (a superhero-themed movie rated M) [26] and popular radio stations [25] all have broad appeal and are therefore not primarily aimed at minors. The ABAC Panel, however, acknowledged that the content would appeal to adolescents.

Free-to-air television ratings data demonstrate that the ABAC Panel's interpretation of 'primarily aimed at minors' is unlikely to reduce young people's overall level of exposure. Television ratings data in Table 4 show that the majority of the most popular programs for young people would not be classified as programs primarily aimed at them [17]. Alcohol advertisements placed during these programs are watched by large numbers of young people but will not breach the Placement Rules.

Terms

A 'no-fault breach' is a breach 'that is reasonably unforeseeable' or outside the marketer's 'reasonable control' [10]. The ABAC Panel must be satisfied that a marketer has adequately briefed third parties on compliance with the Code [22]. In the first six months of the Placement Rules, the ABAC Panel found three no-fault breaches. The Panel has put some parameters around what would constitute a no-fault breach, including that having good intentions to comply with ABAC standards is not sufficient [27].

The ABAC Code definition of a 'Marketing Communication' does not include sponsorship and the ABAC Panel has confirmed that this exclusion extends to the Placement Rules [29]. The decision to exclude sponsorship is at odds with complaints to the

ABAC Scheme about sponsorship dating back to 2008 [30].

Developing code objectives

There is limited information in the public domain about how the Placement Rules were developed. It appears the provisions were internally produced; no reference to any form of public consultation was identified. The ABAC Management Committee comprises a representative from each of the Brewers Association of Australia, Distilled Spirits Industry Council of Australia, Winemakers' Federation of Australia, Communications Council and Australian Government. The Management Committee 'considers amendments to the ABAC Code and Scheme' [22], with changes developed with input from and approved by the Government representative [31]. There is no publicly available information as to the extent of Australian Government involvement or what criteria must be met for the representative to approve changes.

Prior to the introduction of the Placement Rules, the ABAC Panel published over 90 determinations that raised concerns about the placement of alcohol marketing, including on public transport [32], sports fields [33] and during televised sport [34]. It is unknown if previous complaints were used to inform the development of the Placement Rules, but the analysis of ABAC determinations reveals the rules do not

Table 4. Top 20 highest reach non-sport programming for young people in 2017 from OzTAM^a free-to-air television ratings data

Program	0–17 year audience	% of audience aged under 18 years
Australian Ninja Warrior—Grand Final	469 742	21.8
Australian Ninja Warrior—Final Stage	411 129	18.5
Australian Ninja Warrior—Launch	381 830	21.5
Australian Ninja Warrior—Sunday	344 394	19.1
Australian Ninja Warrior—Tuesday	314 633	19.3
Australian Ninja Warrior—Monday	309 373	18.9
The Block—Winner Announced	272 357	10.8
The Block—Grand Final	260 715	12.8
The Voice—Launch	220 318	17.3
I am A Celebrity ... Get Me Out Of Here!—Opening Night	204 289	17.8
The Voice—Wednesday	194 630	16.8
I'm A Celebrity...Get Me Out Of Here!—Welcome To The Jungle	190 224	18.5
New Year's Eve 2017: Midnight Fireworks	184 991	12.1
Little Big Shots	184 867	15.4
The Block—Sunday	182 496	12.4
The Bachelorette Australia Grand Finale—The Final Decision	180 592	10.7
I am A Celebrity ... Get Me Out Of Here!—Grand Finale Part 2	173 977	16.8
I'm A Celebrity...Get Me Out Of Here! Wednesday	170 555	19.6
Shrek The Halls	168 017	29.2
I'm A Celebrity...Get Me Out Of Here! The Winner Announced	167 097	14.9

^aOzTAM is an official source of television audience measurement in Australia.

cover advertising on public transport [23], sponsorship [29] or advertisements during televised sport [19].

Administration

The ABAC Management Committee oversees all aspects of the Scheme and develops the Guidance Notes used to assist advertisers in interpreting the Placement Rules [22]. The Management Committee ‘operates on a consensus basis’ [31]. In 2015, an Independent Chair was appointed to the Management Committee (the Chair role was previously filled by industry members of the Committee) [35]. There is no publicly available information outlining the Chair’s role.

The ABAC Panel, responsible for adjudicating complaints, is appointed by the Management Committee [22]. The Panel consists of:

- A chief adjudicator with legal qualifications and experience.
- Two health sector panelists with public health expertise.
- Two general panelists with marketing-related experience [22].

At least three panelists review each complaint, including one health sector panelist. Annual reports note that the panel’s deliberations ‘are conducted independently of the ABAC Management Committee and the broader alcohol and advertising industry’ [22]. However, panelists are appointed by a committee with alcohol industry representatives and two panelists have marketing backgrounds.

Monitoring

The ABAC Scheme monitors the number of complaints received. Annual and quarterly reports developed by the Management Committee often state that alcohol marketers are meeting their obligations [23] and complying with ABAC Panel determinations [22]. However, the first report following the implementation of the Placement Rules did not include baseline data on the volume of marketing or young people’s exposure levels prior to their introduction, nor include measurable indicators for marketers to assess their activity against [23]. There appears to be no active monitoring of alcohol marketing; the system is reliant on complaints from the community to identify potential breaches. Given the lack of monitoring, the level of compliance with the Placement Rules is unknown.

Review

The ABAC Management Committee has committed to periodically reviewing the Placement Rules [23], but it is unclear if these reviews will be conducted by an independent body or if performance indicators will be used. It is unknown if the available research about alcohol marketing and its impact on young people will be considered in the review process.

Complaints-handling

The ABAC Scheme does have a complaints-handling mechanism, but weaknesses in the process have been identified. Advertisements continue to run while complaints are being reviewed and campaigns may have ended by the time a determination is made. The ABAC Panel has limited access to audience composition data to inform decisions and relies on information supplied by the complainant, alcohol marketers and publicly accessible sources [25]. The ABAC Panel only reviews complaints against the provisions that are raised by the complainant [11], and does not review complaints against the Placement Rules without complete information from the complainant regarding the content the advertisement was shown with, even when the advertiser knows those details [36].

Enforcement

If a complaint is upheld, marketers are required to ‘withdraw, discontinue or modify marketing material as soon as possible’ [22]. However, the system provides no sanctions for marketers who breach the codes.

Discussion

In applying Reeve’s [14] evaluation framework, this review has highlighted substantial flaws in the substantive content and regulatory processes of the Placement Rules. From the outset, the objective of the Placement Rules is narrow and unambitious. It fails to address health authority recommendations to regulate the placement of alcohol marketing to reduce young people’s overall level of exposure [5]. The use of undefined terms such as ‘avoiding’ compromises the clarity of the objective and the ability to assess the extent to which it is achieved.

The rules and definitions of key terms are not adequately expansive to achieve a meaningful reduction in exposure levels. Firstly, to reduce young people’s exposure, a regulatory system should not exclude key

forms of promotion such as sponsorship. This decision conflicts with evidence that shows exposure to alcohol sponsorship of sport influences drinking behaviours [37]. Sponsorship is a form of promotion heavily used by alcohol companies [9], and its exclusion from the Placement Rules allows advertisements to be placed where young people will be exposed.

Secondly, allowing for no-fault breaches provides alcohol marketers with an acceptable excuse if their marketing is placed where children are highly likely to be exposed. The ABAC Panel claims that a no-fault breach finding would ‘impact on a company’s social licence’ [27]. However, with limited community awareness of the complaint review system [22], this impact is likely to be minimal.

Thirdly, the Placement Rules rely on weak existing industry codes. The exemption in the Commercial Television Industry Code of Practice that permits alcohol advertisements to be broadcast during weekend sport has been heavily criticised by health groups as it permits alcohol marketing at times when young people would be exposed. The narrow scope of the Outdoor Media Association guideline leaves outdoor advertising largely ignored by the Placement Rules.

Fourth, the analysis of ABAC determinations demonstrated that age restriction controls and voluntary audience thresholds are ineffective in reducing alcohol marketing in times and places where children are likely to be exposed. At face value, age restriction controls could be expected to reduce young people’s exposure to alcohol marketing in online media. However, research indicates that age verification controls on websites are largely ineffective [38]. While the ABAC Management Committee has described the 75% adult threshold as ‘international best practice’ [23], in reality it places minimal restrictions on marketers. International research examining the impact of voluntary audience threshold restrictions suggests they are inadequate to protect large numbers of children from exposure to alcohol advertising on television as they are too permissive, difficult and expensive to monitor, and breaches occur [39].

Finally, the narrow interpretation of ‘primarily aimed at minors’ is inadequate for reducing young people’s overall level of exposure. Provisions regulating placement should cover alcohol marketing placed where young people are likely to be exposed or alongside content that appeals to them, not just content that is primarily aimed at them.

There is a lack of transparency and independence in the regulatory processes. While the alcohol and advertising industries were well-represented in the development of the Placement Rules through the Management Committee, the process was not informed by consultation with external stakeholders. It

would have been appropriate to gauge community concern by using previous complaints to inform the development of the Placement Rules, but it appears this did not occur.

The administration is managed by a body with significant conflicts of interest. The Australian Government representative on the Management Committee is outnumbered by industry representatives and their ability to influence decisions is unclear. Given the representation of industry groups among the Directors and Management Committee, it seems there is little independence in the Scheme’s operation. The Chair is appointed by the Directors of the Scheme, all of whom represent the alcohol industry [22]. While the inclusion of panelists with public health expertise may allow for the consideration of a public health perspective in determinations, their ability to protect public health is hampered by the identified weaknesses in the Placement Rules. In addition, the pool of public health experts willing to be panelists may be limited given well-recognised concerns about industry self-regulation.

There is limited monitoring of alcohol marketing and weaknesses were identified within the complaints-handling process. Of concern is the limited access to audience composition data to inform panel decisions. The Chief Adjudicator of the ABAC panel has presupposed that advertisers are well placed to provide data [40], but there is an inherent conflict of interest in relying on information provided by advertisers.

There is limited information about the review process. It seems unlikely that the available alcohol marketing research will be adequately considered in the review process given the industry groups involved in the ABAC Scheme have publicly dismissed the evidence that alcohol marketing impacts on young people [9].

Finally, there are no sanctions for marketers who breach the rules, providing limited motivation for alcohol marketers to abide by the Placement Rules. The ABAC Management Committee claims that the high level of compliance with decisions is reflective of the Scheme’s effectiveness [31]. However, virtually all of the 24 placement-related determinations published in the first 6 months of the Placement Rules were either dismissed (83%) or classified as no-fault breaches (15%), and as such there was little need for demonstrated compliance with the verdicts.

As such, the Placement Rules do not meet criteria for effective self-regulation and do not appear to have introduced any additional safeguards for young people. The Rules may be achieving the ABAC Scheme’s objective of prohibiting alcohol marketing that is directed to minors, however a regulatory system that aims to regulate the placement of alcohol marketing to

reduce actual levels of exposure would better protect young people.

The issues identified in the review are not isolated to the ABAC Scheme. Weaknesses in the substantive content of industry-managed alcohol marketing codes have been identified in other jurisdictions [41]. The ABAC Management Committee has noted that ‘attempts to circumvent the provisions of the Code threaten the industry’s reputation of responsible regulation’ and conflict with industry interests [22]. It could be argued that rather than to effectively regulate the placement of alcohol marketing, one of the main objectives of the Placement Rules was to delay the introduction of stricter controls. This has been identified as a plausible explanation for the continued promotion of self-regulation by the alcohol industry [41].

This review adds to the growing body of literature that identifies substantial weaknesses in regulatory codes and processes when unhealthy industries are trusted to regulate their own marketing practices in a socially responsible way [14,41]. However, it was by necessity limited to publicly available information due to a lack of transparency in the ABAC scheme and a lack of access to any internal documents relating to the Placement Rules. More comprehensive assessment could be achieved by accessing relevant internal documents.

Conclusion

The introduction of the Placement Rules provided an opportunity for the ABAC Scheme to respond to criticisms of self-regulation [7,9] and introduce provisions that would prioritise the wellbeing of young people. However, as highlighted by this review, the Placement Rules have been drafted and applied in such a way that meaningful change is unlikely. This review strengthens existing evidence that industry-managed systems fail to effectively regulate alcohol marketing, and government intervention is needed if young people’s wellbeing is to be a priority of the regulatory system. Of particular concern is that the Australian Government’s continued reliance on the ABAC Scheme and its representation on the Management Committee may delay the introduction of more effective statutory regulations designed to protect young people.

Conflict of Interest

The authors declare no connection with the tobacco, alcohol, pharmaceutical or gaming industries or organisations funded by these industries.

Authors HP, JS and DK were funded by the McCusker Charitable Foundation. Authors SP, CK and IP have no relevant funding to declare.

References

- [1] White V, Faulkner A, Coomber K *et al.* How has alcohol advertising in traditional and online media in Australia changed? Trends in advertising expenditure 1997–2011. *Drug Alcohol Rev* 2015;34:521–30.
- [2] Aiken A, Lam T, Gilmore W *et al.* Youth perceptions of alcohol advertising: are current advertising regulations working? *Aust NZ J Public Health* 2018;42:234–9.
- [3] Pettigrew S, Roberts M, Pescud M, Chapman K, Quester P, Miller C. The extent and nature of alcohol advertising on Australian television. *Drug Alcohol Rev* 2012;31:797–802.
- [4] Jernigan D, Noel J, Landon J, Thornton T, Lobstein T. Alcohol marketing and youth alcohol consumption: a systematic review of longitudinal studies published since 2008. *Addiction* 2016;112:7–20.
- [5] World Health Organization. Global strategy to reduce the harmful use of alcohol. Geneva: World Health Organization, 2010.
- [6] Noel J, Babor T, Robaina K. Industry self-regulation of alcohol marketing: a systematic review of content and exposure research. *Addiction* 2016;112:28–50.
- [7] Jones S, Hall D, Munro G. How effective is the revised regulatory code for alcohol advertising in Australia? *Drug Alcohol Rev* 2009;27:29–38.
- [8] Education and Health Standing Committee. Alcohol: reducing the harm and curbing the culture of excess. Perth: Legislative Assembly, Parliament of Western Australia, 2011.
- [9] Australian National Preventive Health Agency. Alcohol advertising: the effectiveness of current regulatory codes in addressing community concern – final report. Canberra: Commonwealth of Australia, 2014.
- [10] The ABAC Scheme. ABAC responsible alcohol marketing code. Stirling: ABAC, 2017 Available at: http://www.abac.org.au/wp-content/uploads/2017/07/ABAC_CodeofConduct_2017_web.pdf (accessed 21 May 2018).
- [11] The ABAC Scheme. Frequently asked questions. Stirling: ABAC 2018 Available at: <http://www.abac.org.au/about/faq/> (accessed 21 May 2018).
- [12] Australian Securities & Investments Commission. Current and historical company extract: The ABAC Scheme Limited. Received 12 Feb 2018.
- [13] The ABAC Scheme. Media release – New restrictions on placement of alcohol marketing. Stirling: ABAC, 2017 Available at: <http://www.abac.org.au/wp-content/uploads/2017/07/Final-ABAC-media-release-19-July-2017.pdf> (accessed 21 May 2018).
- [14] Reeve B. Self-regulation of food advertising to children: an effective tool for improving the food marketing environment? *Monash Univ Law Rev* 2016;42:419–57.
- [15] The ABAC Scheme. ABAC adjudication panel determination no. 115/17. Stirling: ABAC, 2017 Available at: <http://www.abac.org.au/wp-content/uploads/2017/12/115-17-Determination-8-12-17.pdf> (accessed 21 May 2018).
- [16] Free TV Australia. Commercial television industry code of practice. Sydney: Free TV Australia, 2016 Available at: http://www.freetv.com.au/content_common/pg-commercial-television-industry-code-of-practice-2015.seo.
- [17] OzTAM. Free- to-air television ratings data from 1 January 2017 to 31 December 2017. Sydney: OzTAM, 2018.
- [18] The ABAC Scheme. ABAC adjudication panel determination no. 121/17. Stirling: ABAC, 2017 Available at: <http://www.abac.org.au/wp-content/uploads/2017/12/121-17-Determination-21-12-17.pdf> (accessed 21 May 2018).
- [19] The ABAC Scheme. ABAC adjudication panel determination No. 9/18. Stirling: ABAC, 2018 Available at: <http://www.abac.org.au/wp-content/uploads/2018/02/9-18-Determination-6-2-18.pdf> (accessed 21 May 2018).
- [20] The ABAC Scheme. ABAC adjudication panel determination no. 14–15/18. Stirling: ABAC, 2018 Available at: <http://www.abac.org.au/wp-content/uploads/2018/03/14-15-18-Determination-14-3-18.pdf> (accessed 21 May 2018).
- [21] Outdoor Media Association. OMA alcohol advertising guidelines. Sydney: OMA, 2016 Available at: http://www.oma.org.au/_data/assets/

- pdf_file/0003/13449/OMA_Alcohol_Guidelines_2016_Update.pdf (accessed 21 May 2018).
- [22] The ABAC Scheme. Annual report 2017. Stirling: ABAC, 2018 Available at: <http://www.abac.org.au/wp-content/uploads/2018/04/ABAC-Annual-Report-2017.pdf> (accessed 21 May 2018).
- [23] The ABAC Scheme. Alcohol beverages advertising code – Australia’s responsible alcohol marketing scheme – 2018 first quarter update. Stirling: ABAC, 2018 Available at: <http://www.abac.org.au/wp-content/uploads/2018/04/ABAC-Quarterly-Media-Update-31-March-2018.pdf> (accessed 21 May 2018).
- [24] The ABAC Scheme. ABAC adjudication panel determination no. 33/18. Stirling: ABAC, 2018 Available at: <http://www.abac.org.au/wp-content/uploads/2018/04/33-18-Determination-Premix-King-Ascot-Vale-April-2018.pdf> (accessed 21 May 2018).
- [25] The ABAC Scheme. ABAC adjudication panel determination no. 123/17. Stirling: ABAC, 2018 Available at: <http://www.abac.org.au/wp-content/uploads/2018/01/123-17-Determination-Cellarbrations-10-January-2018.pdf> (accessed 21 May 2018).
- [26] The ABAC Scheme. ABAC adjudication panel determination no. 118/17. Stirling: ABAC, 2017 Available at: <http://www.abac.org.au/wp-content/uploads/2017/12/118-17-Determination-14-12-17.pdf> (accessed 21 May 2018).
- [27] The ABAC Scheme. ABAC adjudication panel determination no. 117/17. Stirling: ABAC, 2018 Available at: <http://www.abac.org.au/wp-content/uploads/2018/01/117-17-Determination-4-1-18.pdf> (accessed 21 May 2018).
- [28] Australian Bureau of Statistics. Census of population and housing – general community profile. Canberra: ABS, 2016, 2017 Available at: http://www.censusdata.abs.gov.au/census_services/getproduct/census/2016/communityprofile/036?opendocument (accessed 21 May 2018).
- [29] The ABAC Scheme. ABAC adjudication panel determination no. 32/18. Stirling: ABAC, 2018 Available at: <http://www.abac.org.au/wp-content/uploads/2018/04/32-18-Determination-XXXX-Gold-9-4-18.pdf> (accessed 21 May 2018).
- [30] The ABAC Scheme. Annual report 2014. Stirling: ABAC, 2015 Available at: http://www.abac.org.au/wp-content/uploads/2015/06/ABAC_AR_14_2.pdf (accessed 21 May 2018).
- [31] The ABAC Scheme. NSW Legislative Council’s Portfolio Committee No. 1 – premier and finance in relation to an inquiry into the alcohol beverages advertising prohibition bill 2015 Supplementary Submission. Available at: <https://www.parliament.nsw.gov.au/committees/DBAssets/InquirySubmission/Body/59779/0020a%20The%20ABAC%20Scheme%20Limited.pdf>
- [32] The ABAC Scheme. ABAC Adjudication Panel Determination No. 107/17. Stirling: ABAC, 2017 Available at: <http://www.abac.org.au/wp-content/uploads/2017/11/107-17-Determination-7-11-17.pdf> (accessed 21 May 2018).
- [33] The ABAC Scheme. ABAC adjudication panel determination no. 44/14. Stirling: ABAC, 2014 Available at: <http://www.abac.org.au/wp-content/uploads/2014/08/44-14-Determination-Wild-Turkey-12-August-2014.pdf> (accessed 21 May 2018).
- [34] The ABAC Scheme. ABAC adjudication panel determination no. 103-4/17. Stirling: ABAC, 2017 Available at: <http://www.abac.org.au/wp-content/uploads/2017/11/103-4-17-Determination-7-November-2017.pdf> (accessed 21 May 2018).
- [35] The ABAC Scheme. The Hon Alan Ferguson appointed as the inaugural Independent Chair of ABAC – media release. Stirling: ABAC, 2015 Available at: <http://www.abac.org.au/wp-content/uploads/2015/06/ABAC-Media-Release-Independent-Chair-1-July-2015.pdf> (accessed 22 May 2018).
- [36] The ABAC Scheme. ABAC adjudication panel determination no. 2/18. Stirling: ABAC, 2018 Available at: <http://www.abac.org.au/wp-content/uploads/2018/02/2-18-Determination-Carlton-6-2-18.pdf> (accessed 22 May 2018).
- [37] Brown K. Association between alcohol sports sponsorship and consumption: a systematic review. *Alcohol Alcohol* 2016;51:747–55.
- [38] Jones S, Thom J, Davoren S, Barrie L. Internet filters and entry pages do not protect children from online alcohol marketing. *J Public Health Policy* 2014;35:75–90.
- [39] de Bruijn A, van den Wildenberg E, van den Broeck A. Commercial promotion of drinking in Europe - Key findings of independent monitoring of alcohol marketing in five European countries. Utrecht: Dutch Institute for Alcohol Policy (STAP), 2012 Available at: http://eucam.info/wp-content/uploads/2014/04/ammie-eu-rapport_final.pdf.
- [40] New South Wales Legislative Council. Report on proceedings before portfolio committee no. 1 – premier and finance – alcoholic beverages advertising prohibition bill 2016 1 December 2017. Sydney: NSW Legislative Council, 2017 Available at: <https://www.parliament.nsw.gov.au/committees/DBAssets/InquiryEvent/Transcript/Transcript/10101/Transcript%20-%201%20December%202017%20-%20Corrected.pdf>.
- [41] Noel J, Lazzarini Z, Robaina K, Vendrame A. Alcohol industry self-regulation: who is it really protecting? *Addiction* 2016;112:57–63.