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The Treasury
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Consultation on ACCC's regulatory reform recommendations

We welcome the opportunity to provide a submission to the consultation on ACCC's regulatory reform recommendations. Our submission focuses on the need to protect consumers from harm fuelled by unhealthy marketing on digital platforms.

Digital technologies can provide the community with benefits that support health and wellbeing, including social connectivity, access to learning opportunities, and flexible working opportunities. However, digital platforms are currently operating in a way that enables harmful marketing for unhealthy products, including for alcohol. Higher standards for how unhealthy products are marketed on digital platforms are urgently needed to better protect the community.

About Alcohol Change Australia

Alcohol Change Australia (ACA) is a small group of health and community organisations working to prevent and reduce alcohol harm in Australia. Formerly the National Alliance for Action on Alcohol, ACA encourages policy change to improve the health and wellbeing of our community. While our submission focusses on digital alcohol marketing, our recommendations are applicable to the marketing of other unhealthy products that cause harm including gambling, tobacco, and unhealthy foods.

Alcohol-fuelled harms in Australia are unacceptably high

Alcohol takes a significant toll on our communities, fuelling violence, injuries, and deaths. Every day, 15 people die from alcohol-related harm in Australia.[1] In 2018, alcohol contributed to 4.5% of the total burden of disease and 15% of the overall burden of injury.[2] Alcohol use is causally linked to over 200 disease and injury conditions,[3] and causes at least seven types of cancer. Some of those most at harm from alcohol include children and young people, those living in rural and remote areas, high risk drinkers and people living with mental illness.

Alcohol marketing on digital platforms is harming the community

The expansion of digital platforms has given the alcohol industry the opportunity to market products in ways that are highly targeted, time-relevant, and interactive. Algorithms developed by digital platforms allow the alcohol industry to specifically target heavy users of alcohol, as well as new consumers in a range of markets and demographics.[4]

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[1] Lensvelt, E et al. Estimated alcohol-attributable deaths and hospitalisations in Australia 2004 to 2015. National Alcohol Indicators, Bulletin 16. 2018. Perth: National Drug Research Institute, Curtin University.

[2] Australian Institute of Health and Welfare. Alcohol, tobacco & other drugs in Australia, Health impacts - Australian Institute of Health and Welfare. December 2022. Available from: https://www.aihw.gov.au/reports/phe/221/alcohol-tobacco-other-drugs-australia/contents/impacts/health-impacts

[3] Rehm J et al. The relationship between different dimensions of alcohol use and the burden of disease—An update. Addiction. 2017;112(6):968-1001.

[4] Norman T et al. Regulating alcohol advertising for public health and welfare in the age of digital marketing: challenges and options. Drugs: Education, Prevention and Policy. 2022.

This online tracking, profiling, and data collection enables harmful marketing of alcohol.[5] A clear example was during the height of the COVID-19 pandemic, when the alcohol industry seized opportunities to increase sales by aggressively promoting rapid delivery services and drinking at home online.[6] Of serious concern, digital platforms continue to collect the data of children and young people for marketing purposes. Meta has been found to have flagged children as being 'interested' in harmful products, including alcohol.[7] It has also been found to use personal data collected to create profiles of young people with harmful or risky interests, including 13- to 17-year-olds interested in alcohol, smoking, and gambling. Even worse, Meta allowed advertisers to buy access to the young people profiled as having harmful interests.[8] These are just a glimpse of the harmful marketing practices that occur on digital platforms. The lack of transparency and visibility of online marketing means the true extent of harms is unknown.

Online marketing benefits digital platforms and the alcohol and advertising industries, but comes at a cost to the community. The more children and young people are exposed to alcohol advertising, the more likely they are to start using alcohol products at a younger age, and to drink more if they are already using alcohol.[9] This impact is seen with digital marketing, with young people's exposure to alcohol marketing online linked to increased alcohol use.[10] Research has found 'liking' or following alcohol marketing pages on social media is associated with riskier alcohol use among young Australians.[11]

The constant flow of pro-alcohol messages is confronting and difficult for people with lived experience of alcohol harm. A recent survey of Australians who were trying to reduce or stop their use of unhealthy products found 83% agreed or strongly agreed that digital marketing makes it more difficult for them to reduce their use of alcohol, gambling, and unhealthy foods. Almost 9 in 10 people would prefer to see less or no online marketing for alcohol.[12]

The existing regulatory system is ineffective at protecting the community, particularly children and young people

Regulatory approaches have not kept pace with the increased sophistication and diversity of modern alcohol marketing. Australia continues to rely largely on voluntary, industry-managed codes and practices for managing alcohol advertising. The obvious conflict of interest means the industry-managed processes could never restrict alcohol marketing in a genuinely effective manner. For example, the ABAC Scheme is jointly funded and directed by the Brewers Association of Australia, Australian Grape & Wine, and Spirits & Cocktails Australia Inc.

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[5] Davidson D. Facebook targets 'insecure' young people. The Australian. 2017 May 1. Available from: https://www.theaustralian.com.au/business/media/facebook-targets-insecure-young-people-to-sell-ads/news-story/a89949ad016eee7d7a61c3c30c909fa6- .

[6] Foundation for Alcohol Research and Education and Cancer Council Western Australia: An alcohol ad every 35 seconds. A snapshot of how the alcohol industry is using a global pandemic as a marketing opportunity. May 2020.

[7] Hern A, Ledergaard F. Children 'interested in' gambling and alcohol, according to Facebook. The Guardian UK. 2019 Oct 10. Available from: https://www.theguardian.com/technology/2019/oct/09/children-interested-in-gambling-and-alcohol-facebook

[8] Williams D, McIntosh A, Farthing R. Profiling children for advertising: Facebook's monetisation of young people's personal data. Sydney: Reset Australia, 2021.

[9] Jernigan D, Noel J, Landon J, Thornton N, Lobstein T. Alcohol marketing and youth alcohol consumption: a systematic review of longitudinal studies published since 2008. Addiction. 2017; 112 Suppl 1: 7-20.

[10] Noel, J, Babor, T, & Robaina, K. Industry self-regulation of alcohol marketing: a systematic review of content and exposure research. Addiction. 2017;112(Suppl 1), 28–50.

[11] Carrotte E, Dietze P, Wright C, Lim M. Who 'likes' alcohol? Young Australians' engagement with alcohol marketing via social media and related alcohol consumption patterns. Aust NZ J Public Health. 2016; 40(5):474-497.

[12] Foundation for Alcohol Research and Education and VicHealth. Experiences with online marketing of alcohol, gambling, and unhealthy food: A survey. January 2023. Available from: https://fare.org.au/experiences-with-online-marketing-of-alcohol-gambling-and-unhealthy-food-a-survey/

A substantial body of research documents the significant weaknesses and limitations of the industry-led scheme.[13,14] When it comes to digital marketing, existing codes do not adequately restrict alcohol companies from marketing on digital platforms that are heavily used by children. There are concerning examples of alcohol advertising directed to children online, such as before children's videos on YouTube[15] and a vodka ad featuring a child model and children's themes on Instagram and Facebook.[16] The lack of regulations restricting alcohol companies use of personalised data puts the community at risk of harm.

The limited provisions that do exist are poorly adhered to, demonstrating a clear need for effective monitoring and compliance mechanisms. For example, alcohol companies in Australia fail to comply with the industry marketing code requirement for age-restriction controls on social media. One independent study conducted in November 2020 found 28% of Instagram and 5% of Facebook alcohol brand accounts did not have age-restriction controls activated.[17] An ABAC audit published in November 2022 found of more than 300 alcohol brands, 20% of YouTube, 22% of Facebook, and 29% of Instagram accounts were non-compliant with the requirement to activate age-restriction controls.[18]

It is evident the existing framework for regulating unhealthy marketing on digital platforms fails to protect the community, particularly children and young people.[14] Mandatory regulation is required.

Recommendations

While ACCC has identified several consumer harms attributable to digital platforms and existing gaps in current consumer laws, we submit that the online marketing of harmful and addictive products via digital platforms must be addressed in the ACCC's ongoing Digital Platform Services Inquiry. Digital platforms are currently profiting from harmful marketing practices.

We make the following recommendations:

1. In response to Question 8 in the consultation paper, "Are there any other harms that should be covered by targeted consumer measures", we submit that harms from digital marketing of unhealthy products are currently not being addressed. The ACCC should further investigate and consider policy solutions to address consumer harms from digital platform marketing systems in the Digital Platform Services Inquiry.
2. Regulatory reform must ensure that preventing harm from digital platform business activities is a primary consideration. Minimum standards should be set that require digital platforms do not act in ways that put people using platforms at risk of harm, including harm to their health and wellbeing.
3. A regulatory framework is developed to effectively govern alcohol marketing on digital platforms with a legislative basis, surveillance, and enforcement systems that deter non-compliance, and appropriate resourcing to ensure effective implementation. Regulation should be comprehensive and mandatory, with the objective of protecting people from harmful digital marketing practices. While our submission has focussed on alcohol marketing, a regulatory system should include protections for children and

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[13] 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

[14] Reeve B. Regulation of alcohol advertising in Australia: Does the ABAC Scheme adequately protect young people from marketing of alcoholic beverages? QUT Law Review. 2018;18(1):96-123

[15] Amy Corderoy. Bundaberg Rum advertisements on Dora The Explorer videos spark outrage. Sydney Morning Herald. 2015 Sept 24. Available from: https://www.smh.com.au/healthcare/bundaberg-rum-advertisements-on-dora-the-explorer-videos-spark-outrage-20150923-gjte3x.html

[16] The ABAC Scheme Limited. ABAC Adjudication Panel Determination No 88/17, 22 June 2017. Available from: http://www.abac.org.au/wp-content/uploads/2017/07/88-17-Determination-Vodka-Cruiser-22-6-17.pdf

[17] Pierce H, Vidler AC, Stafford J, Keric D. Alcohol brands' use of age-restriction controls on Facebook and Instagram in Australia. Public Health Research & Practice. 2022;32(2).

[18] The ABAC Scheme Limited. Alcohol marketing compliance audit – social media age restriction. 2022. Available from: http://www.abac.org.au/wp-content/uploads/2022/11/J01152-ABAC-Compliance-Audit-Outcomes.pdf

others most at risk of harm from digital marketing of harmful products including alcohol, gambling, tobacco (including e-cigarettes), and unhealthy foods.

4. Mandatory measures are implemented requiring digital platforms to make advertising information accessible, including their data practices and automated decision systems.

Thank you once again for the opportunity to contribute to this consultation. Any questions regarding our submission, please contact Hannah Pierce, Executive Officer – Alcohol Change Australia, at hannah.pierce@adf.org.au.

Yours sincerely,

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