



23 August 2019

S19.18

Submission to the Advertising Standards Authority to the Consultation on the Review and Draft Code on Standards for Advertising and Promotion of Alcohol

Introduction

- 0.1. The National Council of Women of New Zealand, Te Kaunihera Wahine o Aotearoa (NCWNZ) is an umbrella group representing over 200 organisations affiliated at either national level or to one of our 15 branches. In addition, about 450 people are individual members. Collectively our reach is over 450,000 with many of our membership organisations representing all genders. NCWNZ's vision is a gender equal New Zealand and research shows we will be better off socially and economically if we are gender equal. Through research, discussion and action, NCWNZ in partnership with others, seeks to realise its vision of gender equality because it is a basic human right.
- 0.2. NCWNZ welcomes the opportunity to make a submission to the Advertising Standards Authority to the Consultation on the Review and Draft Code on Standards for Advertising and Promotion of Alcohol. This submission was prepared by the NCWNZ Public Issues Standing Committee, after consultation with the NZNCW membership.

1. Executive Summary

- 1.1. NCWNZ has a long history of supporting moderation in the consumption of alcohol, and education about and minimisation of harm caused and protection of groups most at risk, especially children and young people. For example, the NCWNZ submission in 2011 on the Alcohol Reform Bill supported a total, phased-in ban on all alcohol advertising, beginning with sports sponsorship¹. We acknowledge that the subsequent 2012 legislation and Advertising Code, whilst not bringing a complete ban, considerably strengthened the focus on minimising harm and not encouraging excessive drinking, especially towards young people. However, the responses from the membership on this Draft Code confirm their on-going concern about the normalisation of alcohol consumption and excessive and harmful consumption, in which advertising and promotion have played a significant part.

¹ NCWNZ. 2011. Submission to the Justice and Electoral Committee on the Alcohol Reform Bill. S11.05.
<https://www.ncwnz.org.nz/wp-content/uploads/2013/06/S11.05-Alcohol-Reform-Bill2.pdf>

- 1.2. NCW members recommend that the Draft Code is strengthened, along with much stricter enforcement of the current legislation and the Code; especially regarding the protection of children and young people, the strong association between sport and alcohol, and guidelines around supermarket sales, fliers and on-line sales.
- 1.3. Much of the concern from members was about apparent breaches of the current legislation and the Code on the Advertising and Promotion of Alcohol and the extent to which they were being adequately monitored and enforced. NCWNZ suggests that the Alcohol Advertising Standards Authority take the opportunity to review the effectiveness of self-regulation by the industry and how monitoring and enforcement could be strengthened.

2. Recommendations

- 2.1. NCWNZ recommends that:
1. Rule 1a of the Draft code be amended to “targeting adults **only**” to strengthen the message and expectation that targeting children and young people will be actively excluded
 2. The Code includes direction that alcohol advertising is removed from sports fields and club rooms when children and young people are likely to be present at. or viewing sporting events, particularly morning and afternoon games and junior events like prize giving. The Code provides more explicit guidance on sport and alcohol sponsorship, and that advertising and compliance be rigorously monitored
 3. Alcohol advertising on TV should be restricted to after 9.30pm rather than the present time of 8.30 pm
 4. There should be a maximum of one alcohol advertisement per commercial break on both Radio and TV
 5. Time restrictions for alcohol advertisements on radio should be included in the Code, with a ban between 6-9am and 3-9pm
 6. Code Rule 1 (c) be amended to specify that alcohol must be confined to only one area of a supermarket (or grocery store) store and that it should not be placed next to fresh produce
 7. The “under 18” rule for online shopping should be strictly monitored and enforced, along with a requirement that, wherever possible, online delivery companies obtain proof of age at point of delivery
 8. The Advertising Standards Authority takes the opportunity of the Code review to review the effectiveness of self- regulation and consider taking a more proactive role in enforcing current legislation and the new Code, rather than relying on the public to lay complaints.

3. Specific comments and recommendations on the Draft Code

1. Do you agree with the wording of the draft code? If not, please outline the part or parts you disagree with and explain why.

Age restrictive environment

- 3.1. NCWNZ is pleased to see that a section on the definition of “age restricted environment” has been added in the Draft Code. However, this requires strengthening with more direction so that when children and young people are likely to be present, alcohol advertising is removed or covered from sports fields and club rooms. This is specifically for morning and afternoon games and junior events like prize giving.
- 3.2. We recommend that Rule 1a of the Draft code be amended to “targeting adults **only**” to strengthen the message and expectation that targeting children and young people will be actively excluded.
- Watching live and televised sport is very often a family event and cannot be an age restricted environment, with many major events starting between 5.30 and 7.30pm. It is hard to see how the 25% rule can be enforced (Rule 1(a) 3), especially if there is no accurate data. Some sports games (e.g. last season’s Mitre 10 Cup rugby final at Eden Park), provide free entry to attract families and the next generation of players and spectators. The Code should specify that measures be in place to ensure that any alcohol advertising in place at the stadium is removed for an event where young people are specifically targeted for attendance.

Interpretation of subordinate advertising

- 3.3. Much alcohol advertising often appears to target young people, especially young men through its associations with friendship and social success, contrary to Rule 1 (c) of the draft Code. Examples are The *Big Barrel* advertisement “It’s always great to be a mate”,² and the current Speights advertisement on TV showing a young man learning to dance for his wedding and being coached by his mates “Good on yah mate!”.
- 3.4. This is an area particularly subject to interpretation. The Draft Code states: *In interpreting the Code, emphasis must be placed on compliance with both the spirit and intention of the Code. It is possible for advertising or promotion to be in breach of one or more of the Principles in the Code without being in breach of a specific Rule.* We would suggest that the converse can also apply i.e. even though the advertisement may not have breached a rule of the Code it may have contravened the principles or spirit of the Code. Some examples in the Code of what this might look like in practice would be useful.
- 3.5. NCWNZ members consider the association between sport and alcohol as particularly harmful, given New Zealand is a “sports mad” country and sporting stars are seen to be celebrities and role models. There are numerous examples of advertisements linking sporting activities, and by implication

² Appendix 1. Big Barrel advertisement

healthy activities, with alcohol consumption. This is an area where the interpretation of subordinate advertising seems an issue. For example, the Vodafone Warriors 2019 shirt has the Woodstock Bourbon label on the sleeve.³ Further, when you go on-line to the Warriors online store, and scroll left or right on the shirt image, the Woodstock logo is displayed very prominently.⁴ NCWNZ considers that this may breach Guideline 4 (e) of the current Code and would also breach Rule 3(b) of the Draft Code.

We recommend that the Code provide more explicit guidance on sport and alcohol sponsorship and advertising and compliance be rigorously monitored.

Supermarkets

- 3.6. S 237 of the Sale and Supply of Alcohol Act requires supermarkets and grocery stores to limit the display and advertising of alcohol to a single, non-prominent area of their store. However, there is nothing in the Code to reinforce or give guidance on this and as the attached example demonstrates, the law is not being adhered to in a local store of a major supermarket chain, where the wine and beer section is at the main and only entrance, and adjacent to fresh produce.⁵ The message here is that purchasing alcohol is a normal part of supermarket shopping and daily menus.
- 3.7. We recommend that the wording of the Code Rule 1 (c) be amended to specify that alcohol must be confined to only one area of a supermarket or grocery store and that it should not be placed next to fresh produce.

Time periods-Rule 1(a) 3

- 3.8. Many children are still watching TV after 8.30pm, especially in the weekends, and we recommend that the time period for TV alcohol advertising be amended to after 9.30pm. We also recommend that the number of advertisements in any one commercial break be reduced to allow a maximum of one only.

2. Are there any aspects of alcohol advertising and promotion standards that are not captured in this draft code? Please outline any additions you believe are required and why

Online advertising and sales

On-line shopping is increasing, and we consider the Code should include more specific guidance on this.

Supermarkets

³ Appendix 2. Vodafone Warriors uniform shirt

⁴ Video taken from Warriors online store,

<https://www.dropbox.com/s/9sjd5i3crrzxno9/warriors%20online%20video.mp4?dl=0>

⁵ Appendix 3. Photo of a supermarket chain store

The same principles for in-store shopping should apply to online supermarket shopping. In the example attached,⁶ the New World shop online website has alcohol immediately visible on the “specials” page, whereas with the Pak ‘n Save and Countdown websites, alcohol products are “behind” a separate tile.⁷ We recommend that there is an additional section in the Code that deals with Supermarket in store, on-line and flier advertising and placement of alcohol, reinforcing the legislative requirements.

Under 18 rule

- 3.9. The Under 18 rules in the current Code Guidelines 3(h) and 3(i) do not appear to be being adequately monitored and enforced. Some NCW members went online and accessed several alcohol delivery websites and apps. All of them had a warning about it being illegal to sell to under 18-year olds, but then just had a Yes /No button asking if the person was over 18 years old with no request for proof.⁸ In one instance when the member next accessed the Glengarry Wine website from the same device, there was no requirement to confirm age. In another, when setting up an account on the Wine Direct website, there was no requirement to give a date of birth. These examples clearly contravene the current Code and would contravene the advice on the interpretation of “age restricted environment” in the Draft Code.

NCWNZ recommends that the Under 18 rule for online shopping should be strictly monitored and enforced, along with specific advice that, wherever possible, online delivery companies obtain proof of age at point of delivery.

Radio advertising

- 3.10. Time restrictions for radio advertising are not included in the Code, but many radio stations especially appeal to and target a young audience. These should be closely monitored as to ensure compliance with the Code with a ban on alcohol advertising before 9am and between 3 and 9.30pm.

3. Are there any aspects of alcohol advertising and promotion standards that are not captured in this draft code? Please outline any additions you believe are required and why

- 3.11. Examples have been included with the relevant text and are attached as an Appendices.

4. Conclusion

- 4.1. NCWNZ member responses confirm our long-held support for measures that promote moderate and responsible drinking and educate about the harm misuse of alcohol causes. We are especially concerned about harmful impacts on children and young people who are particularly susceptible to advertising and peer and social pressures.

⁶ Appendix 4. New World online shopping website

⁷ Appendix 5. Pak ‘n Save online shopping website

⁸ Appendices 6 and 7. Laithwaite’s wines website age check, Newspaper advert for alcohol delivery app

- 4.2. Whilst the Draft Code has some clear and useful provisions and guidance, we believe it requires considerable strengthening as set out in our recommendations, including more rigorous monitoring and enforcement.
- 4.3. The Advertising Standards Authority is a self-regulatory body. The examples NCW members have provided, demonstrate that the “letter” as well as the spirit of the legislation and current Code are not being adhered to in some instances. We recommend that the Advertising Standards Authority take the opportunity of the Code review to also review the effectiveness of self- regulation and consider taking a more proactive role in enforcing current legislation and the new Code, rather than relying on the public to complain.



Pip Jamieson
NCWNZ Board

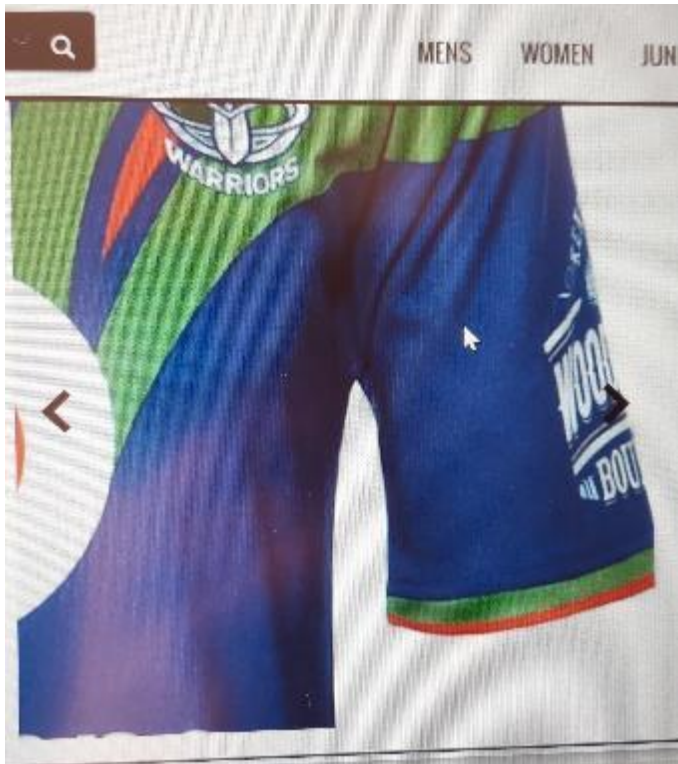


Raewyn Stone
Public Issues Convenor

APPENDIX 1: Big Barrel advertisement



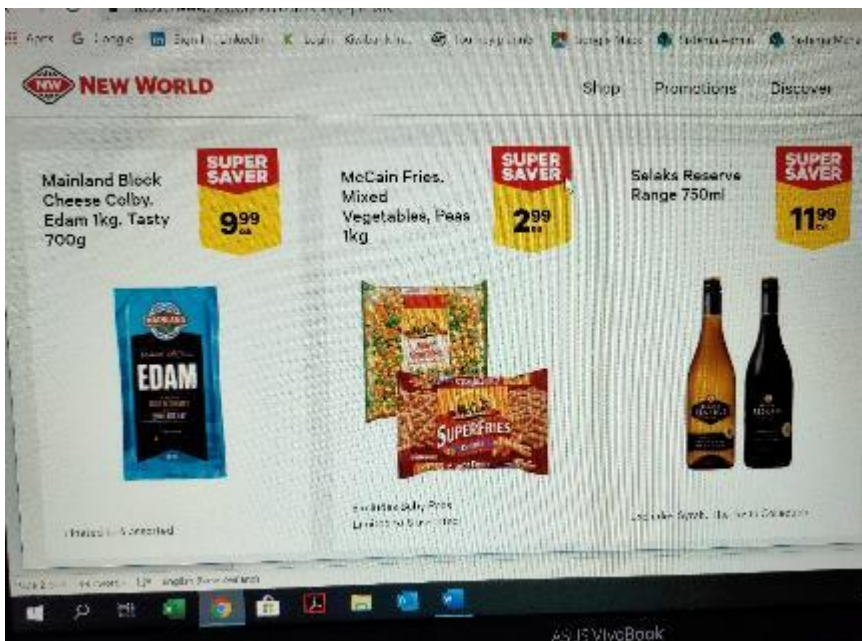
APPENDIX 2: Warriors uniform shirt



APPENDIX 3: Photo of supermarket chain store



APPENDIX 4: New World online shopping website



APPENDIX 5: Pak 'n Save online shopping website



APPENDIX 6: Laithwaite's wines website age check



APPENDIX 7: Newspaper advert for alcohol delivery app

