



OCTOBER 2014

MINISTERIAL FORUM ON ALCOHOL
ADVERTISING & SPONSORSHIP

As a Forum we believe protecting the young from alcohol-related
harm is paramount

RECOMMENDATIONS ON ALCOHOL
ADVERTISING & SPONSORSHIP

FOREWORD

The members of the Ministerial Forum on Alcohol Advertising and Sponsorship (the Forum) came to this process with diverse backgrounds and experience. Our capacity to present a range of perspectives and understand and represent the interests of the community and other stakeholders was essential to our review. The process has been characterised by robust discussion and debate testing a range of views.

The Forum Members agreed from the outset that this review was a unique and important opportunity to make recommendations targeted toward changing the way New Zealanders drink alcohol. We are conscious that our recommendations will contribute to the broader reform process undertaken by the Government of New Zealand since the Law Commission Report was released in 2010. However, throughout the process we have been mindful that our focus was limited to considering the need for further restrictions on alcohol advertising and sponsorship.

We committed to a broad inquiry hoping to unearth new and innovative ways to respond to alcohol-related harm. We considered published research, and had the privilege of hearing from the public and other stakeholders through the submissions and presentation processes. We appreciated the willingness of invited presenters to engage in open and frank discussions. Responses to our questions about the evidence and potential impact of further restrictions were both passionate and well-considered.

The complexity of our task became increasingly apparent as we negotiated contested evidence and often polarised opinions about the need for further restrictions. Throughout the process our principal concern was identifying opportunities to influence and prevent alcohol-related harm, especially for the young and the vulnerable.

The Forum's work has been supported by a dedicated secretariat chaired by the Ministry of Health and including representatives from the Ministry of Justice and the Health Promotion Agency (the Secretariat). We would like to thank the Secretariat for the information and support provided to the Forum and acknowledge the vital role this has played in enabling us to develop informed recommendations.

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EXECUTIVE SUMMARY

The Ministerial Forum on Alcohol Advertising and Sponsorship (the Forum) was appointed in February 2014. Our task was to assess the appropriateness of introducing new restrictions for regulating alcohol advertising and sponsorship. We were directed to consider existing measures under the Sale and Supply of Alcohol Act 2012 (the Act) and the codes and complaints processes managed by the Advertising Standards Authority.

Our terms of reference required us to focus only on issues associated with advertising and sponsorship. Matters specifically excluded from consideration included labelling requirements, restrictions on the sale and supply of alcohol products, and the effectiveness of counter-advertising. Commissioning new research was also outside our brief. However, where the scope and operation of existing controls on the sale and supply of alcohol were significant and relevant for the development of our recommendations we sought advice from the Secretariat.

The Forum was provided with an overview of research on alcohol advertising and sponsorship published subsequent to the release of the *Law Commission Report no. 114 Alcohol in Our Lives: Curbing the Harm* (Law Commission Report). We invited and received submissions from community members, individuals and organisations expert in public health research and programming, sports and event sponsorship and management, and alcohol industry and media representatives. Where we identified gaps in our understanding, we sought additional information and expert advice.

We were presented with a variety of evidence promoting diverse views on the relationship between alcohol advertising and sponsorship and harm. The submissions analysis report highlights the divergent views of stakeholders about what, if anything further should be done, and how. When submissions from organisations were analysed there was a near 50:50 split between organisations in favour of further restrictions compared to those supporting the status quo. Individual submitters almost unanimously supported the introduction of additional restrictions on alcohol advertising and sponsorship. The arguments made by the submitters reflected the key issues and polarised positions identified in our briefing materials.

Much of the research is focused on the impact of exposure of young people to alcohol advertising via television, print and radio. However, since 2010 an increasing number of published papers have focused on describing the relationship between alcohol sponsorship of sport and alcohol-related harm. In addition, research has focused on understanding how marketing mechanisms blend social media with traditional advertising approaches to engage and influence consumers. In particular there is a strong focus on young people as primary consumers of online media.

From our review we understand that there is no single 'drinking culture' in New Zealand and that many people drink responsibly. We acknowledge that alcohol advertising and sponsorship is just one of many factors that influence alcohol consumption and we accept that it is difficult to quantify the contribution alcohol advertising and sponsorship make to the occurrence of alcohol-related harm. However, we recognise there is an association between exposure to alcohol advertising and sponsorship, earlier age of initiation to drinking alcohol, and increased consumption. In addition, we understand there is also

compelling evidence that early initiation to drinking alcohol and increased consumption are predictive of, and associated with, increased experience of alcohol-related harm.

During our roundtable discussions we heard community frustrations that existing legislation has not yet translated to greater community control of the local environment. Outlet density and associated environmental 'saturation' of alcohol advertising and promotions were a common theme. In particular, community and public health groups seeking to address alcohol-related harm expressed concern at being unable to prevent the daily exposure of children and teenagers to alcohol advertising when travelling to and from school.

We were troubled upon hearing the suggestion that retailers specifically target lower socio-economic areas for advertising and promotion. Greater outlet density and inappropriate location of retail outlets near schools and kindergartens were given as examples highlighting this situation. A lack of resources and capacity to influence and challenge licensing decisions were cited as barriers to changing the situation.

As a Forum we think the total cost of alcohol-related harm is enough to justify further restrictions on alcohol advertising and sponsorship. We feel that, however complex the task, there is a need to change attitudes and behaviours associated with alcohol consumption in New Zealand. We believe that the current level of exposure of young people to alcohol advertising and sponsorship is unacceptable and that this exposure can be reduced. With these factors in mind our recommendations are focused on reducing the exposure of young people to alcohol advertising and sponsorship. Specifically, our focus is protecting minors.

When considering what more could be done we discussed how industry self-regulation of alcohol advertising and sponsorship works in New Zealand and elsewhere. The Forum is aware of the limitations of self-regulation highlighted by the Law Commission Report. We also acknowledge that since 2010 the effectiveness of self-regulation has been the subject of significant scrutiny and criticism by alcohol researchers here and internationally. We understand that the new provisions introduced under the Act shift the balance toward a model of co-regulation and address some of the previously aired concerns. Our discussions considered opportunities to further strengthen the existing system of self-regulation to make it more effective and accountable. We have not recommended fundamental changes.

The overarching objective of our recommendations is reducing the exposure of minors to alcohol advertising. These include a number of measures designed to mitigate potential negative effects associated with introducing further restrictions on alcohol advertising and sponsorship. In particular we noted the fact that the alcohol industry sponsors a number of sports and events, and that restrictions in this area will impact on sustainability. To that end we recommended a number of new initiatives directed toward supporting sporting, cultural and music events that might ordinarily have had access to alcohol sponsorship funds.

OVERVIEW OF RECOMMENDATIONS

We made recommendations that we believe will reduce the exposure of minors to alcohol advertising and sponsorship. In addition, we have recommended measures to make the current system of self-regulation more effective and accountable. We believe a staged approach to implementation is appropriate and should assist with minimising negative impacts for businesses, sports and cultural and music events.

REDUCING YOUTH EXPOSURE THROUGH SPONSORSHIP

1. Ban alcohol sponsorship of all streamed and broadcast sports
2. Ban alcohol sponsorship of sports [long-term]
3. Ban alcohol sponsorship (naming rights) at all venues
4. Ban alcohol sponsorship of cultural and music events where 10% or more of participants and audiences are younger than 18
5. Introduce a sponsorship replacement funding programme
6. Introduce a targeted programme to reduce reliance on alcohol sponsorship funding

REDUCING YOUTH EXPOSURE THROUGH ADVERTISING

7. Ban alcohol advertising during streamed and broadcast sporting events
8. Ban alcohol advertising where 10% or more of the audience is younger than 18
9. Further restrict the hours for alcohol advertising on broadcast media
10. Continue to offset remaining alcohol advertising by funding positive messaging across all media
11. Introduce additional restrictions on external advertising on licensed venues and outlets

STRENGTHENING THE CURRENT SYSTEM OF CO-REGULATION

12. Establish an independent authority to monitor and initiate complaints about alcohol advertising and sponsorship
13. Establish a mechanism to identify and act on serious or persistent breaches of advertising standards
14. Establish a multi-stakeholder committee to periodically review and assess Advertising Standards Complaints Board decisions and pre-vetted advertising

INTRODUCTION

This section of the report includes:

- *an explanation of what the Forum's review is intended to achieve*
- *the issues under consideration*
- *an outline of our approach to information gathering and assessment*

PURPOSE OF THE REVIEW

After an extensive review the 2010 Law Commission Report recommended new restrictions on alcohol advertising and sponsorship as part of a broader programme of legislative and regulatory reform. The Sale and Supply of Alcohol Act 2012 (the Act) implemented only some of the recommended restrictions.

The Ministerial Forum on Alcohol Advertising and Sponsorship (the Forum) was appointed to consider the need for restrictions over and above those included in the Act and to report its findings to the Ministers of Justice and Health¹. We were asked to explore the options for restriction ranging from voluntary action through to mandated government regulation. Our focus was identifying developments in the evidence base linking advertising and sponsorship to alcohol-related harm, and the effectiveness of restrictions to prevent or reduce harm.

Key considerations included the likely effect of further intervention on:

- alcohol consumption, particularly among young drinkers and heavy drinkers
- the perception of alcohol as an everyday commodity, particularly among children and young people
- alcohol-related harm
- businesses such as the alcohol and advertising industries, and the recipients of alcohol sponsorship funds.

Existing controls on alcohol advertising and sponsorship in New Zealand and the recent review² of the current practice of the Advertising Standards Authority (ASA) have also been taken into account.

Importantly, a number of key alcohol policy and regulatory reform areas are specifically excluded from our review including: alcohol labelling requirements, for example volume and standard drink labelling or health warnings³; restrictions on the sale and supply of alcohol products; and the effectiveness of counter-advertising (health promotion campaigns used to counter the effects that alcohol advertising may have on

¹ TOR Appendix 1

² Advertising Standards Authority. *Review of the Code for Advertising Liquor*. November 2011

³ The regulation of labelling requirements for alcohol products is covered by Food Standards Australia New Zealand

alcohol consumption and related harm). Commissioning new research was outside our brief. The Forum routinely consulted with the Secretariat to confirm our deliberations were consistent with the terms of reference (TOR) and to avoid development of recommendations beyond the scope of our review.

The TOR for the Forum is attached as Appendix 3.

IDENTIFYING THE ISSUES

As a Forum we understand the principal argument advanced for restricting marketing of alcoholic drinks is that it contributes to the normalisation of alcohol use. Normalisation is understood to contribute to alcohol-related harm.

We were instructed that our decision making should be evidence informed. Our goal was to review available information on alcohol advertising and sponsorship and hear a range of perspectives. Our discussions explored the types of evidence that might be compelling, influential and useful in developing our recommendations. We also recognised the difficulty in identifying or isolating any single factor as the specific cause of alcohol-related harm.

The Forum worked with a hierarchy of questions to guide our thinking and address the issues. The overarching question we were seeking to answer was:

‘Are further restrictions on alcohol advertising and sponsorship desirable as a means of reducing alcohol-related harm, and if so, what form would they take?’

The underlying questions we sought to answer were:

- Is there significant evidence linking the extent or nature of alcohol advertising and sponsorship to alcohol-related harm?
- Is there evidence that the alcohol advertising and sponsorship environment in New Zealand is contributing to alcohol-related harm?
- If desirable, what options would exist for further restrictions on alcohol advertising and sponsorship considering: what is regulated, who regulates and over what timeframe?
- If desirable, which options for restrictions are most suitable considering: impact on harm, recipients of sponsorship, business interests, feasibility and consistency with legislation, international trade agreements and the New Zealand Bill of Rights Act (NZBORA), and wider government goals?

Our discussions were supported by the following basic assumptions:

- that there is a broad commitment in New Zealand to reducing alcohol-related harm
- alcohol advertising and sponsorship refer to a range of activities that come under the broad banner of ‘marketing’

- the current environment is largely one of self-regulation of alcohol advertising and sponsorship within a wider legislative framework.

APPROACH TO ASSESSING THE EVIDENCE

Our process included background reading on international alcohol policy; reviewing information on the current situation in New Zealand, the conclusions of the Law Commission and new research published since 2010; the opportunity to read all individual submissions and review a summary report analysing the submissions⁴; and hosting presentations and discussions with a range of stakeholders and officials.

The Secretariat provided a range of papers to the Forum during the review and consultation process. These included the relevant chapter in the Law Commission Report, and the Ministerial response to the Law Commission Report. In addition, the Secretariat provided a briefing paper outlining new research and developments on the subject since the Law Commission Report and data on alcohol consumption in New Zealand. We were also provided with copies of the World Health Organization Global Strategy to Reduce the Harmful Consumption of Alcohol (2010); and ASA codes and guidelines.

The Secretariat developed a package of information presenting and summarising approaches to managing alcohol advertising and sponsorship internationally, from no restrictions to legislated measures including full or partial bans. As part of our discussions we also considered the distinction between advertising and sponsorship and how and where any restrictions might be targeted.

The Forum invited submissions outlining new and updated evidence on the relationship between alcohol advertising and sponsorship and harm. Submitters were also asked to comment on whether further restrictions should be introduced on alcohol advertising and sponsorship. The Secretariat provided submitters with a list of questions canvassing issues relevant to the debate. At the end of a six week consultation period we had received 241 submissions (121 organisations; 120 individuals).

A two day workshop provided the Forum with the opportunity to raise further questions and seek clarification from stakeholders. The sessions were clustered by sector and allowed for short presentations by each participating organisation followed by round-table discussions with the whole group. A full list of workshop presenters is included as Appendix 4.

We also had the opportunity to hear presentations from the Health Promotion Agency (HPA) as key content specialists in New Zealand, and Iain Potter, the former Chief Executive of the Health Sponsorship Council, who led the implementation of the tobacco sponsorship replacement initiative under the Smoke-free Environments Act 1990. The Secretariat also developed a range of resources outlining and explaining policy and regulatory mechanisms to improve our understanding of what and how any proposed restrictions might be implemented.

⁴ All submissions and the supporting report are available for download from the Ministry of Health website at: <http://www.health.govt.nz/>

We discussed non-regulatory options that might support reduced exposure of minors to alcohol sponsorship and also assist in mitigating any negative economic impact on sports bodies. Examples include community and club based interventions targeting binge drinking and broader community engagement and expanding sponsorship bases such as the 'Be the Influence' and 'Good Sports' programmes implemented in Australia. Similar initiatives have been trialled, or are currently underway in New Zealand. The Richmond Rovers alcohol free club initiative is a high profile example.

A glossary of key terms and acronyms is provided as Appendix 2.

ALCOHOL ADVERTISING AND SPONSORSHIP AND HARM

This section includes:

- *a high-level overview of the type and estimated cost of alcohol-related harm in New Zealand*
- *a summary of the Law Commission's 2010 recommendations on alcohol advertising and sponsorship*
- *the latest available data on alcohol consumption patterns and trends in New Zealand*
- *examples of evidence describing the relationship between exposure of young people to alcohol advertising and sponsorship and the influence they have on consumption*
- *overview of the limitations and criticisms of the current regulatory approach to alcohol advertising and sponsorship*
- *a brief comment on issues and concerns around the influence of new media on alcohol consumption by young people*

OVERVIEW OF ALCOHOL-RELATED HARM IN NEW ZEALAND

Alcohol is a psychoactive substance (drug) and a restricted product because of the well documented potential for harm associated with its sale, supply and use. It is estimated that the harmful use of alcohol results in approximately 2.5 million deaths worldwide each year.⁵ Available estimates suggest that between 600 and 800 New Zealanders die each year from alcohol-related causes.⁶ This does not capture the full extent of alcohol-related harm with many more people affected by non-fatal alcohol-related accidents, injury, illness, disability, crime, violence, and property destruction.⁷

The Law Commission Report estimated that the cost of alcohol-related harm in New Zealand is in the range of \$735 million to \$16.1 billion per annum.⁸ Further, nearly one-fifth of all deaths for males and one-tenth of all deaths for females aged between 20 and 24 are attributable to alcohol use.⁹ Through direct experience or costs to taxpayers, alcohol-related harm is a burden impacting on the majority of New Zealanders. Importantly, people younger than 15 years are understood to be at greatest risk of experiencing lifetime harm from drinking alcohol.¹⁰

For the reasons highlighted above, the Forum is concerned by the level of alcohol-related harm currently occurring in New Zealand and sought to identify strategies to reduce alcohol-related harm.

⁵ The World Health Organisation (WHO). *Global Status report on Alcohol* (2011)

⁶ Health Promotion Agency. *Alcohol Facts* available at: <http://www.alcohol.org.nz/research-resources/nz-statistics/alcohol-facts> (accessed September 2014)

⁷ Ibid

⁸ New Zealand. *Law Commission Report no. 114 ALCOHOL IN OUR LIVES: CURBING THE HARM: A report on the review of the regulatory framework for the sale and supply of liquor* p.168

⁹ Ibid p.72

¹⁰ Health Promotion Agency available at: http://www.alcohol.org.nz/sites/default/files/alac-magazines/issues/AlcoholNZ_June%202014-single%20page.pdf (accessed September 2014)

Our review started with a focus on the Law Commission's recommendations on alcohol advertising and sponsorship. We considered the continuing relevance of each of these recommendations in light of changes introduced under the Act, new research evidence and information gathered through our submissions process. This included considering the extent to which existing measures such as the current ASA codes restrict alcohol advertising and sponsorship, and the effectiveness of these measures in addressing harm.

The Law Commission Report concluded that there was sufficient evidence of an association between alcohol advertising and sponsorship, early initiation to drinking, and increased consumption patterns to warrant significant additional restrictions. The submissions received at the time indicated overwhelming support for change to how alcohol advertising and sponsorship are regulated.

The Law Commission recommended legislative change introduced using a staged approach. They included progressively restrictive measures focused on the content of, and exposure to, alcohol advertising, and targeted measures to address potential harm associated with alcohol sponsorship. The first of these stages included clarifying and strengthening existing restrictions targeting the irresponsible promotion of alcohol. The Sale and Supply of Alcohol Act 2012 (the Act) gave effect to this stage. Section 237 of the Act limits discounts, inducements and incentives that alcohol sellers can apply to a product and where such information can be promoted.¹¹

The stage two recommendations focused on reducing exposure to alcohol advertising, particularly for young people. The Law Commission suggested an independent Committee to consider the following measures:

- extending restrictions limiting the times during which alcohol advertising can be shown on television (watershed), and restricting cinema advertising
- banning alcohol advertising on public transport and in and around bus shelters and train stations
- banning the use of alcohol as a prize or incentive
- introducing restrictions on internet-based promotions, and formalisation of the agreement whereby broadcasters who advertise alcohol provide air time free of charge to government agencies for moderation messages (moderation time)
- minimising the use of logos in sponsorship messages
- banning sponsorship of sports or events where 10% or more of the participants are under the legal purchase age for alcohol, and
- banning advertising material at grounds and venues hosting school-age participants.

The stage three recommendations included:

¹¹ Section 237. Irresponsible promotion of alcohol available at: <http://www.legislation.govt.nz/act/public/2012/0120/latest/DLM3339735.html> (accessed September 2014)

- restrictions limiting alcohol advertising including reference to product origin, composition, means of production, and patterns of consumption
- a ban on lifestyle images of alcohol consumption, and
- restricting advertising to press with a majority readership older than 20 years and no alcohol related sponsorship of any cultural or sports event.

The stage two and three restrictions were not adopted, instead there was a decision to monitor and periodically assess the impact of alcohol advertising and sponsorship.

A table comparing the Law Commission's stages two and three recommendations to the Forum's recommendations is provided at Appendix 5.

ALCOHOL CONSUMPTION IN NEW ZEALAND

As a Forum we understand that many people drink alcohol responsibly. We also understand that to identify where and how alcohol-related harm is occurring and target responses accordingly, it is important to have an idea of who is drinking, and how much and how often they are drinking.

We were advised that a range of data is gathered and reported to estimate and understand alcohol consumption and drinking patterns in New Zealand. Data collated annually by Statistics New Zealand is used to estimate consumption trends. In addition, the New Zealand Health Survey conducted by the Ministry of Health (the Ministry) includes core questions on how often respondents have a drink containing alcohol and hazardous drinking behaviour. The Health Promotion Agency (HPA) conducts an annual Alcohol Behaviour and Attitudes Survey, and a New Zealand Alcohol and Drug Use Survey is conducted approximately every 4-6 years.

According to Statistics New Zealand pure alcohol available for consumption rose from about 8.9 litres per person older than 15 years in 1999 to about 9.6 litres in 2010. Since then it has fallen to 9.2 litres per person, and is unchanged since 2012. Beverage consumption levels rose from 1998 to 2008 but have been relatively stable since 2007 with a high point in 2008 and a low point in 2012.

From the Ministry's summary report 'Hazardous Drinking 2011/12' we understand that there is a downward trend in overall alcohol consumption. Importantly, this includes a drop in past year drinking among 15-17 year olds from 75% in 2006/07 to 59% in 2011/12, the largest recorded decrease for any age group. It was also reported that the percentage of New Zealand adults who were past year drinkers was 80% down from 84% in 2006/07.¹² Of all people aged 16-64, 61% drink every week¹³. About three in every

¹² Ministry of Health: Hazardous Drinking in 2011/12: Findings from the New Zealand Health Survey. p.1

¹³ Source: 2007/08 New Zealand Alcohol and Drug Use Survey. p.28. (6.8% drank daily, 22% drank 3-6 times a week, and 32.2% drank 1-2 times a week)

five drinkers¹⁴ consumed a large amount of alcohol¹⁵ in the past year, with one in eight doing this once a week or more.

While the overall picture is one of decreasing consumption, we are concerned by drinking behaviours in New Zealand. We are particularly concerned by 'hazardous drinking' which refers to an established drinking pattern that carries a risk of harming physical or mental health, or having harmful social effects to the drinker or others and continues to be a significant concern. Further we are concerned with if and how, alcohol advertising and sponsorship contributes to this harm.

We understand that overall rates of hazardous drinking have declined. In 2011/12 26% of male and 12% of female drinkers consumed alcohol at hazardous rates.¹⁶ The rate of hazardous drinking among past-year drinkers aged 18-24 years was 49% in 2006/07, this fell to 36% in 2011/12 but increased to 37% in 2012/13. The rate of hazardous drinking among past year drinkers aged 15-17 was 26.3% in 2006/07, this fell to 20.6% in 2011/12 and fell again to 14.7% in 2012/13.¹⁷ However, the Ministry also reported that one in five past year drinkers have hazardous drinking patterns equal to approximately 532,000 people or 15% of all adults.¹⁸

We acknowledge that important progress has been made in reducing the overall rates of alcohol consumption and hazardous drinking in New Zealand. We also understand there are a number of factors that influence alcohol consumption patterns and contribute to reduced levels of alcohol-related harm. However, we acknowledge it is possible that the overall decline in consumption reflects the success of the broad range of public health measures targeted at harmful drinking and that reduced consumption has occurred in spite of alcohol marketing. In addition, the Forum is concerned that current harmful drinking behaviours and overall levels of youth alcohol consumption in New Zealand are still too high. Given the focus of the Forum is on alcohol advertising and sponsorship we were interested in identifying opportunities to reduce the influence they have on overall alcohol consumption and hazardous drinking.

EXPOSURE TO ALCOHOL ADVERTISING AND SPONSORSHIP AND THE RELATIONSHIP WITH HARM

Since 2010 there has been an increasing number of studies internationally, and a few undertaken in New Zealand, that have set out to describe the relationship between alcohol advertising and sponsorship and individual and societal harms.

The research published since the Law Commission report seems to strengthen the case against alcohol advertising and sponsorship. Papers considering issues from the impact of viewer exposure to characters drinking during movies and video clips, through to impact of sponsorship on spectator conduct during

¹⁴ 2007/08 New Zealand Alcohol and Drug Use Survey. P. xxiii

¹⁵ Six or more standard drinks for men and four or more for women

¹⁶ Ministry of Health. *Hazardous Drinking in 2011/12: Findings from the New Zealand Health Survey*. This is a drop from 30% and 13% respectively recorded in the 2006/07 survey

¹⁷ Ministry of Health *Adult data tables: Health Status, health behaviours and risk factors* – a download to New Zealand Health Survey: Annual update of key findings 2012/13. Available at: <http://www.health.govt.nz/publication/new-zealand-health-survey-annual-update-key-findings-2012-13>

¹⁸ Above n.16

sporting events and alcohol brand and logo recall among children, were identified during development of our briefing materials. Much of the peer reviewed research considered if and how exposure to and engagement with alcohol advertising and sponsorship leads to younger age of initiation to drinking alcohol and increased consumption for current youth drinkers. In addition, the research identified how exposure influences attitudes and expectations around drinking alcohol, and the likelihood of young drinkers experiencing adverse alcohol-related consequences in the future. Newly published papers focused on the impact of youth exposure to advertising and sponsorship tended to reinforce the view that there is a strong link between exposure and consumption patterns, and ultimately that these influence lifetime experience of harm.

Early in our discussions it became increasingly clear that the exposure of minors, particularly young children, to alcohol advertising and sponsorship would be a key issue. Our concern mirrored those expressed in a number of the key research papers. Examples of headline findings from some of the more recent studies that influenced our recommendations are listed below:

- positive emotional reactions to advertising messages (about a favourite brand, for example) is a predictor for increased consumption¹⁹
- frequent exposure to alcohol advertising increases the likelihood of early initiation of drinking alcohol²⁰
- increased exposure to alcohol advertising is associated with increased odds of binge drinking²¹
- exposure effects appear cumulative, with levels and frequency of consumption increasing with exposure to advertising messages²²
- awareness of and involvement in alcohol advertising (wearing alcohol branded clothing, for example) is associated with intentions to drink among young people²³
- alcohol-related cultural norms are maintained via advertisements that depict alcohol as fun, social and inexpensive²⁴
- alcohol sponsorship of large sporting events supports the naturalisation of links between alcohol and sport²⁵
- higher outlet density and greater exposure to alcohol advertising at a community level is associated with increased alcohol use by adolescents.²⁶

¹⁹ Lin, E., Caswell, S., You, R. & Huckle, T. (2012). *Engagement with alcohol marketing and early brand allegiance in relation to early years of drinking*. *Addiction Research & Theory*, 20(4), 329-338

²⁰ De Bruijn, A., Tanghe, J., Beccaria, F., Bujalski, M., Celata, C., Gosslet, J., Schreckedberg, D. & Slowdonik, L. (2012). *Report on the impact of European alcohol marketing exposure on youth alcohol expectancies and youth drinking*. Alcohol Measures for Public Health Research Alliance (AMPHORA). Grenard, J. L., Dent, C. W. & Stacy, A. W. (2013). *Exposure to alcohol advertisements and teenage alcohol-related problems*. *Paediatrics*, 131(2), 369-379

²¹ De Bruijn, A. (2012). *Exposure to online alcohol marketing and adolescents' binge drinking: A cross-sectional study in four European countries*. In P. Adderson, F. Braddick, J. Reynolds, & A. Gual (Eds.) *Alcohol policy in Europe: Evidence from AMPHORA*

²² Gordon, R., Harris, F. Mackintosh, A. M. & Moodie, C. (2011). *Assessing the cumulative impact of alcohol marketing on young people's drinking: Cross-sectional data findings*. *Addiction Research and Theory*, 19(1), 66-75

²³ Ibid

²⁴ Pettigrew, S., Roberts, M., Pescud, M., Chapman, K., Quester, P. & Miller, C. (2012). *The extent and nature of alcohol advertising on Australian television*. *Drug and Alcohol Review*, 31(6), 797-802

²⁵ Gee, S., Jackson, S. J. & Sam, M. (2013). *The culture of alcohol consumption and promotion at major sports events in New Zealand*. Wellington: Health Promotion Agency

²⁶ Bryden, A., Roberts, B., McKee, M. & Pettigrew, M. (2012). *A systematic review of the influence on alcohol use of community level availability and marketing of alcohol*. *Health Place*, 18(2), 349-57

During our review we noted that much of the published research focused on the influence of alcohol advertising on consumption patterns. The Forum sought clarification to better understand whether advertising or sponsorship has more influence. It was explained to us that marketing is an umbrella term for the co-ordinated process of getting a product or service to customers that includes advertising and sponsorship and it is often difficult to identify where one ends and the other begins. We noted that there is less information available on the relationship between sponsorship and alcohol consumption, particularly with reference to children and teenagers. However, there is a building body of evidence indicating sponsorship might be more influential.²⁷ Ultimately we agreed with the view that the relationship between the advertising and sponsorship is complex and interconnected presenting a challenge for developing restrictions targeting one without targeting the other.

In addition, many of the criticisms made about the research evidence at the time of the Law Commission Report were repeated by stakeholders opposed to the introduction of further restrictions on alcohol advertising and sponsorship during our consultation. These included challenges to the legitimacy of the research focus and methodology and suggestions of publication bias.²⁸ A common criticism made by alcohol industry and advertising and sponsorship submitters and presenters was that a causal relationship between advertising and sponsorship and harm cannot be demonstrated.²⁹ They also argued that spending on advertising and sponsorship has increased since 1992, at the same time as population level alcohol consumption has declined. This was submitted as evidence that there is limited or no connection between advertising and sponsorship and alcohol-related harm. However, this analysis did not necessarily account for or address the contribution of targeted initiatives to reduce alcohol consumption and related harm to trends during the same period.

In contrast, community and public health sector presenters were in favour of implementing the majority of measures outlined in the Law Commission Report. We flagged the criticisms and arguments outlined above during the presentation and roundtable sessions with community and public health sectors. Some of the public health presenters acknowledged that the evidence demonstrating links between advertising and sponsorship and alcohol-related harm is mixed. However, they emphasised that there is sufficient high-quality evidence to introduce further restrictions. We also understand that there is strong evidence to demonstrate the link between earlier initiation to drinking alcohol, and increased and risky consumption, and that these in turn are predictors of experience of lifetime harm.

Finally, stakeholders in favour of further restrictions emphasised that there has been broad public support for action to restrict alcohol advertising and sponsorship since the Law Commission Report was released. They challenged us to shift the onus of proving that no harm occurs as a result of minors' exposure to

²⁷ For example: Pettigrew S, Rosenberg M, Ferguson R, Houghton S, Wood L. *Game on: do children absorb sports sponsorship messages?* Public Health Nutr. 2013 Dec;16(12):2197-204. Kelly B, Baur LA, Bauman AE, King L, Chapman K, Smith BJ. *Views of children and parents on limiting unhealthy food, drink and alcohol sponsorship of elite and children's sports.* Public Health Nutr. 2013 Jan;16(1):130-5. doi: 10.1017/S1368980012001188. Epub 2012 May 11. Kelly, Bridget; Baur, Louise A; Bauman, Adrian E.; King, Lesley. *Tobacco and alcohol sponsorship of sporting events provide insights about how food and beverage sponsorship may affect children's health.* Health Promotion Journal of Australia. 01/08/2011, Vol. 22 Issue 2, p91-96. 6p

²⁸ For example Nelson, JP. (2011). *Alcohol Marketing, Adolescent Drinking And Publication Bias In Longitudinal Studies: A Critical Survey Using Meta-Analysis.* Journal of Economic Surveys, 25(2), 191-232

²⁹ For example submissions by DB Breweries para 17; Lion p. 19; distilled Spirits Association para.20; Foundation for Advertising Research p 7 available at: <http://www.health.govt.nz/publication/summary-submissions-ministerial-forum-alcohol-advertising-and-sponsorship>

alcohol advertising and sponsorship onto advertisers who stand to make significant financial gains where the status quo is maintained.

Ultimately, the Forum agreed with the view that minors should not be exposed to alcohol advertising and sponsorship. Our view was reinforced during roundtable discussions with representatives from community organisations who presented evidence and experiences from the field. Examples of their work ranged from targeted youth programmes aimed at de-normalising the link between alcohol and good times and ‘creating a new equation for celebration’, to stories of addiction from people who ‘learned to drink’ in their local sporting club. There was a sense of frustration among these presenters that community services work is undermined by pervasive alcohol messaging. There was a clear perception that communities with the greatest concentration of alcohol-related harm also tended to be locations subject to ‘saturation’ advertising particularly from retail outlets and associated outdoor advertising. Community representatives were particularly concerned that this situation makes it difficult for people to avoid being exposed to alcohol advertising as they go about their daily routines. In addition, the struggle of vulnerable people trying to deal with an array of stressors, some of which are caused by alcohol use, was seen to be exacerbated by this exposure.

We believe that the risk and cost of alcohol-related harm is too great not to act. Our recommendations reflect our understanding of the interconnectedness of advertising and sponsorship in the marketing mix. The recommendations recognise that alcohol advertising and sponsorship influence the age of first alcoholic drink and rates of consumption among current drinkers. They are targeted toward minimising exposure of young people to alcohol advertising and sponsorship. In addition, we developed them with a view to ensuring advertisers’ funds are not simply transferred from one marketing channel to another thereby undermining the overall objective of reducing exposure of young people to alcohol advertising and sponsorship.

LIMITATIONS OF THE CURRENT REGULATORY ENVIRONMENT

Understanding how the Act and the ASA codes interact to regulate the sale and supply of alcohol and in particular the impact on alcohol advertising and sponsorship has been an important part of our review. While the scope of our review is limited, if implemented, our recommendations will operate as part of this wider system and therefore need to be compatible. Our review was also framed around the question of what further restrictions might be required and to that end it is important to understand the strengths and limitations of the current regulatory environment.

The Act came into effect in stages starting in late 2012. The object of the Act is to promote the responsible and safe sale, supply and consumption of alcohol. The Act was introduced to provide regulators and policy makers with improved mechanisms to target the causes of alcohol-related harm, and in particular excessive and inappropriate consumption. These mechanisms included changes to licensing regimes and strict requirements around the supply of alcohol to minors.

We discussed how new measures under the Act, in particular those focused on the supply of alcohol to minors, seek to minimise harmful or hazardous drinking by limiting the access young people have to alcohol. We considered how the system aims to give parents and guardians more control of when and how their teenagers consume alcohol, if at all.

We also discussed measures such as Local Alcohol Policies (LAPs) and how, if effectively implemented, they should provide an opportunity for communities to influence and prevent incidental exposure of young people, particularly children to alcohol advertising and promotion on licensed venues. We believe that LAPs should empower communities to build an environment where minors are less exposed to alcohol retailers and associated promotions as they go about daily business. This could be achieved through careful licensing measures to control outlet density and location. However, as LAPs are voluntary and the majority are still to be approved, the effectiveness of this new mechanism is yet to be tested. In addition, we were advised that appeals have been lodged against conditions of the majority of LAPs consulted on to date, and we are concerned that these measures might fail to meet community wishes and expectations.

We understand that measures such as the section 237 restrictions on irresponsible promotion of alcohol represent a change in the regulatory landscape shifting the balance toward a system of co-regulation of alcohol advertising and sponsorship. Our discussions with submitters indicate that people are anticipating the outcome of enforcement decisions under the Act. They are keen to understand if and how these new measures might contribute to reducing alcohol-related harm.

As a Forum we also sought information on how existing agencies support the implementation of the Act and where this intersects with current controls on alcohol advertising and sponsorship. We understand the importance of licensing and the role of other enforcement agencies in ensuring their actions give effect to the intent of the Act. We also noted the large number of agencies involved and the complex coordination this requires. In this respect there is significant responsibility placed on District Licensing Committees, the Alcohol Regulatory and Licensing Authority, the HPA, territorial authorities, medical officers of health, police, licensees and producers to engage with the Act and support its intent and specific provisions.

The primary function of the ASA is to regulate advertising in New Zealand, including alcohol advertising. The ASA has jurisdiction over all media including internet advertising, and social media to the extent that an advertiser has a reasonable degree of control over the platform and is promoting a brand or service to the public. The ASA Code of Ethics provides the framework for advertising self-regulation in New Zealand. It sets out five principles:

- all advertisements must comply with the laws of New Zealand;
- no advertisement should impair public confidence in advertising;
- no advertisement should be misleading or deceptive or likely to mislead or deceive the consumer;
- all advertisements should be prepared with a due sense of social responsibility to consumers and society; and
- all advertisements should respect the principles of free and fair competition generally accepted in business.³⁰

Alcohol advertising and sponsorship are also subject to targeted restrictions as outlined in the Code for Advertising and Promotion of Alcohol (the Code) and have the stated objective to:

³⁰ Advertising Standards Authority. *Code to the Advertising and Promotion of Alcohol* available at http://www.asa.co.nz/code_promo_advert_liquor.php

'...ensure that alcohol advertising and promotion is consistent with the need for responsibility and moderation in merchandising and consumption, and does not encourage consumption by minors. Particular care is also required in the advertising and promotion of products likely to have strong appeal to young adults over the legal purchase age.'

We understand that additional supplementary information published by the ASA supports member compliance with the codes listed above and includes: Guidance Notes for the Code for Advertising and Promotion of Alcohol, and a Guidance Note on Social Media.

Since the Law Commission Report the ASA has reviewed its processes and codes on a number of occasions to keep pace with regulatory reforms, and improve processes in response to past criticisms. During our roundtable discussions, advertising, sponsorship and media presenters spoke to the importance of recognising current regulatory mechanisms and how they already target and contribute to reducing alcohol-related harm. Key benefits of the system have been identified as independence, cost effectiveness, flexibility and responsiveness.³¹ Relatively low numbers of complaints and improved response time are highlighted as examples of effectiveness of the current system. However, our review has also highlighted a number of limitations of the current system of self-regulation.

A key criticism of the current approach to self-regulation is that there are no 'enforceable' penalties for those in breach of the ASA codes.³² We acknowledge that advertisers argue there is significant cost from withdrawing a campaign. However, there is a strong perception by the time an advertising campaign is voluntarily withdrawn, it has usually aired for some time, may already have come to an end, and the damage is already done.

In addition, opponents of alcohol advertising and sponsorship have published findings of independent research highlighting public perceptions that people are being exposed to content that should be restricted.³³ However, we understand that a number of processes are employed to promote code compliance including voluntary approval by the Liquor Advertising Promotion and Pre-vetting Service managed by the Association of New Zealand Advertisers. The system is administered on behalf of all liquor advertisers and an independent adjudicator pre-vets advertisements prior to media receiving it. We also understand that New Zealand has one of the more comprehensive codes restricting alcohol advertising when compared to similar countries.

We also noted that significant effort has been made to ensure the complaints process is clear, transparent and accessible through publication of relevant information on the ASA website. However, from presenters both for and against further restrictions we heard a clear concern that not all advertisements that should come before the ASA necessarily do. We also understand that making a complaint requires time, resources and the capacity to understand the ASA codes.

³¹ *ASA Bugger...it's ok! THE CASE FOR ADVERTISING SELF-REGULATION* available at: http://www.asa.co.nz/pdfs/ASA_Brochure.pdf (accessed September 2014)

³² Jones, S and Gordon R. *Regulation of alcohol advertising: Policy options for Australia*. Evidence base, (2) 1-37 (2013)

³³ *Ibid*

A submission was made to the Forum on behalf of the ASA and they were invited to present to the Forum. During our discussions their presenter noted that the ASA does not have the resources to actively monitor and pursue complaints against alcohol advertising and promotions they consider non-compliant with the alcohol-related codes. Advertising industry stakeholders proposed the idea of introducing additional mechanisms to address this limitation within the current system. It was suggested that this might include a multi-stakeholder committee tasked with periodically reviewing decisions of the Advertising Standards Complaints Board (ASCB) which could address any concerns around how the codes are applied to content restrictions.

A further limitation of the New Zealand system of self-regulation outlined in the Law Commission Report was the focus on content and placement rather than the volume of exposure of young people to alcohol advertising and sponsorship. The current self-regulatory system has a limited number of restrictions focused on exposure levels of young people, for example the television watershed time of 8.30pm. Recent research indicates that the volume and frequency of exposure to alcohol advertising is important and that additional controls should be introduced. Further, the findings indicate that exposure may be equally if not more important than content. Research found a cumulative effect of exposure meaning that the more times young children are exposed to alcohol advertising and sponsorship the greater the impact it is likely to have on their initiation to consumption and patterns of drinking.³⁴

Finally, one of the recommendations under stage two of the Law Commission Report 2010 was that arrangements for moderation time should be formalised in law. Since 1992 the broadcasting of health promotion messages has been assisted by the provision of free airtime from broadcasters. This is known as 'moderation time' and was made possible as a result of an agreement dating back to 1992 between broadcasters and the Broadcasting Standards Authority (BSA). The Forum understands that, at the time, the lifting of alcohol advertising restrictions was conditional on free airtime being provided by broadcasters for moderation messages. However, when the responsibility for broadcast advertising was transferred to the ASA the basis for the arrangement was obscured. To date the arrangement has been maintained on a goodwill basis and there are concerns that it may not continue.

The Forum has taken concerns about the limitations of the existing regulatory environment on board and developed recommendations targeted toward addressing these. Where possible we want to ensure that young people, particularly minors, are not exposed to alcohol advertising and sponsorship. However, we also focused on identifying opportunities to strengthen the current system and promote better compliance with the ASA codes. We have responded to criticisms around accountability by recommending the introduction of independent review mechanisms. In addition, we agree with the Law Commission's view that moderation time should be formalised and have made a recommendation to that effect. Further, we believe the requirement to provide air time/advertising space should be extended to cover all media.

³⁴ Gordon, R., Harris, F., Mackintosh, A. M., & Moodie, C. (2011). *Assessing the cumulative impact of alcohol marketing on young people's drinking: Cross-sectional data findings*. *Addiction Research and Theory*, 19(1), 66-75; Lin, E., Caswell, S., You, R. & Huckle, T. (2012). *Engagement with alcohol marketing and early brand allegiance in relation to early years of drinking*. *Addiction Research & Theory*, 20(4), 329-338.

CONCERNS AROUND NEW MEDIA

The reach of new media is often cited as a key concern when it comes to restricting exposure of young people to alcohol advertising and sponsorship. This is a concern that we as a Forum shared. We understand that young people are key internet and social media users and exposure to alcohol promotions through this channel may create positive expectancies around alcohol, consumption and associated behaviour.

A broad definition of alcohol advertising and promotion is applied but the ASA does not have jurisdiction over what individuals put on their own social media sites. The test the ASA applies regarding jurisdiction over new media relates to whether or not the content is advertising, not where it appears or is displayed. If an action meets the definition of 'advertisement', regardless of what 'platform' publishes, displays or broadcasts it, then the ASA has jurisdiction to apply the Advertising Codes of Practice. This means that all new and emerging media is covered by the codes to the extent the activities can be defined as advertising. However, there are limits on what can be done to prevent young people accessing content generated and hosted in the international market. All paid mediums of advertising and promotion are members of the ASA and accordingly those 'platforms' are required to comply with the codes. However, enforcement of decisions across some mediums present challenges, for example negotiating with an advertiser directly with no media involved.

We recognise regulation is unlikely to prevent young people assuming the role of unofficial alcohol brand ambassadors via social media but accept that this is not necessarily considered advertising. The reality is social media is an example of peer influence on alcohol consumption patterns and while this is a concern it is outside the remit of this review.

OPTIONS FOR ACTION

This section includes overviews of:

- *the range of recommended restrictions commonly applied to alcohol advertising and sponsorship and a discussion on the effectiveness of such restrictions*
- *potential negative impacts of introducing further restrictions on alcohol advertising and sponsorship*
- *potential positive outcomes or introducing further restrictions on alcohol advertising and sponsorship*

OPTIONS FOR REGULATING ALCOHOL ADVERTISING AND SPONSORSHIP

As indicated previously, we focused on the Law Commission report as a starting point to consider what, if any, restrictions should be introduced on alcohol advertising and sponsorship. We then took a broader perspective with a view to identifying new or different strategies targeting alcohol advertising and sponsorship that might contribute to reducing alcohol-related harm.

Early in our review we were provided with a copy of the WHO Global Strategy on Reducing Alcohol-related Harm.³⁵ We noted that the three recommended strategies include: adopting either a regulatory or co-regulatory framework with a legislative basis; development of effective surveillance systems; and establishing an effective administrative regime of deterrence. Actions recommended by WHO to limit or manage exposure of vulnerable populations to alcohol advertising and sponsorship included restrictions on:

- external advertising, e.g. the location of billboards and posters with respect to schools
- cinema advertising for alcohol to films classified as other than R18
- mediums used to advertise alcoholic drinks
- events sponsored by alcohol industry players
- the promotion of alcohol on social networking sites

Additional actions include introducing:

- advertising watersheds on television
- age restrictions on websites that include alcohol promotion
- requirements for alcohol advertising to be balanced by public health messaging

All of the actions listed above were included in the Law Commission Report stage two and three recommendations.

³⁵ Full text of World Health Organisation. *Global Strategy on Reducing Alcohol-related Harm* available at: http://www.who.int/substance_abuse/alcstratenglishfinal.pdf (accessed September 2014)

Through our consultation and review processes we noted that there has been little change in the recommended actions. In fact, a number of submitters referred us back to the Law Commission's recommendations and suggested they be implemented in full. In an attempt to identify new or emerging options for action we requested additional information from the Secretariat on range of restrictions implemented elsewhere in the world. We were particularly interested in options to prevent exposure of young people to alcohol advertising via the internet. We were provided with a number of tables indicating where countries around the world were placed in terms of current regulation from no restrictions at all through to full and partial bans on alcohol advertising in certain media. However, no new interventions of note were identified.

Similar to the 2010 review, one of the common recommendations we received was that New Zealand should adopt the French approach to restricting alcohol advertising and sponsorship given effect by the Loi Evin (Evin Law). The Evin Law attempts to limit exposure to alcohol advertising and restrict content, with the objective of lessening the appeal to at-risk populations. Provisions include:

- all drinks with greater than 1.2% alcohol by volume are considered alcoholic beverages
- no advertising should be targeted at young people, or is allowed on television or in cinemas
- no sponsorship of sports or cultural events is permitted
- advertising is permitted only in the press for adults, on billboards, on radio channels with strict conditions, at special events or places such as wine museums and fairs
- where advertising is permitted it is content controlled meaning that it may refer only to the qualities of products such as degree, origin, composition, production and consumption methods.

The Law also requires that health messages must be included with each advertisement to the effect that 'alcohol abuse is dangerous for health'. We noted that the Law Commission Report considered adopting a largely similar regime of restrictions but ultimately recommended a combination of this and other measures. Given the fact that the Forum was asked to consider the effectiveness of measures restricting alcohol advertising and sponsorship we requested information on whether the Evin Law has been evaluated. We were provided with some commentary on whether this has been effective but again views were mixed. This was a common theme throughout the review process.

Discussions around the effectiveness of restrictions and associated measures to reduce alcohol-related harm were an important focus of our roundtable discussions. A number of presenters to the Forum acknowledged that evidence for effectiveness of interventions around alcohol advertising and sponsorship is limited. Some argued that effectiveness of measures such as bans is limited by virtue of the fact that they have not been widely implemented. However, a number suggested that New Zealand's comprehensive staged introduction of tobacco control initiatives has been effective in promoting societal and cultural change around tobacco consumption. These measures were cited as evidence of how an integrated and multi-faceted approach to restrictions on alcohol advertising and sponsorship might contribute to reduced population level alcohol consumption and experiences of associated harms.

Submitters in favour of increased restrictions tended to be public health professionals and researchers, community services sector organisations and individuals. In their view, self-regulation in its current format has proven ineffective. They expressed concern over the nature and amount of alcohol-related harm in New Zealand and identified evidence linking alcohol advertising and sponsorship to increased alcohol use by young people as the justification for introducing further restrictions. Stakeholders in favour of further restrictions also expressed a range of frustrations with respect to the pace of implementation of reforms

under the Act. We heard a lack of confidence from many community and public health presenters in the commitment to enforcing these new measures. This was particularly highlighted by those who see alcohol-related harm as concentrated in communities with lower socio-economic indicators and where there is less capacity to engage with and influence the Local Alcohol Policies and thereby control outlet density and alcohol promotions in their neighbourhoods.

Those opposed to the introduction of further restrictions tended to be representatives of the sporting and cultural organisations and advertising and alcohol industry representatives. The most common position is that there is no causal link between alcohol advertising and sponsorship and harm and therefore introducing further restrictions will be ineffective and unnecessarily costly. A number of submissions to the Forum highlighted this argument and cited examples of where bans and restrictions on alcohol advertising and sponsorship coincided with stable or increased trends in alcohol consumption and, or, related harm.³⁶ Overall the position of those opposed to further restrictions is that the current system of self-regulation is adequate, alcohol advertising and sponsorship are essential to the sustainability of sport, culture and events in New Zealand and no further changes are necessary. Many of those against further restrictions also emphasised the importance of allowing time for the new legislation to take effect before introducing any further restrictions. However, they also expressed their own frustrations around perceived inconsistencies in the Act including potential loopholes allowing some advertisers, for example internet sellers, to avoid the effect of some restrictions in a way that licensed premises cannot.

We acknowledge that evidence for the effectiveness of restrictions on alcohol advertising and sponsorship is mixed. We also recognise the importance of developing evidence-informed policy and note that our challenge has been to understand and respond to research about the relationship between advertising and sponsorship and alcohol-related harm that is interpreted differently by stakeholders with divergent views. However, we note that the majority of submitters indicated their overall support for the objectives of reducing alcohol-related harm and changing harmful alcohol consumption patterns despite differing ideas about how this might be achieved.

Information presented by the Australian Drug Foundation, in partnership with the New Zealand Drug Foundation, was also important for our discussions on measures to support the effectiveness of restrictions. Key findings from the Australian Good Sports programme were presented as an example of how to support cultural change in sporting clubs and increase sustainability by building a broad sponsorship base and wider community engagement, as well as mitigate potential negative effects where alcohol sponsorship is banned or restricted.

We believe the example of comprehensive tobacco control measures illustrates how additional restrictions on alcohol advertising and sponsorship combined with other measures to reduce alcohol-related harm might contribute to a positive change in how people consume alcohol. In addition, given the research findings linking alcohol advertising to the younger age of initiation to drinking alcohol, and increased consumption among those who reported they were current drinkers, we believe that targeted restrictions have the potential to effect change.

³⁶ For example see submissions from DB Breweries para 17; Lion p. 19; distilled Spirits Association para.20 available at: <http://www.health.govt.nz/publication/summary-submissions-ministerial-forum-alcohol-advertising-and-sponsorship>

NEGATIVE IMPACTS OF RESTRICTIONS

The negative impacts of further restrictions on advertising and sponsorship in New Zealand are difficult to quantify. Many of the options for restriction require legislative change and support for enforcement may have cost implications for the government. However, in the case of tobacco control example the costs of restrictions were largely borne by the industry.

Overall, alcohol industry representatives who made submissions and presented to the Forum indicated they support efforts to reduce alcohol-related harm. However, those we heard from suggested that additional restrictions on advertising and sponsorship are likely to have a blunt edge effect, lack nuance and unfairly disadvantage businesses. A key effect predicted by alcohol industry representatives is that it will negatively impact on business practices with producers and retailers forced to compete on price. They stated that the current approach to marketing is focused on brand awareness and product differentiation and increasing consumption of products through market growth. They indicated that the consequence is likely to be a 'cash grab' scenario as discounting wars ensue and there is significantly less emphasis on brand loyalty and consumption of quality products. They also suggested it would see increased overall consumption in a price sensitive market. We also heard that advertising and sponsorship funds are likely to be diverted to other avenues and restrictions will not reduce exposure to international advertising which will disadvantage New Zealand businesses.

We heard from some submitters that alcohol sponsorship restrictions will have a significant effect on sports, music and cultural events that struggle to source funding. Sporting clubs indicated that they already struggle to identify sponsors and have limited funds to operate. It was suggested that reduced revenue will impact on overall participation as clubs can no longer subsidise uniforms and equipment. Cultural organisations and events shared a similar position indicating that their sponsorship sources are particularly limited and removal of this funding stream would force up ticket prices to cover costs.

During our discussions with sports, culture and music industry representatives we heard how careful event planning and alcohol management practices are an opportunity to positively influence how New Zealanders drink alcohol. Examples included the introduction of targeted programmes aiming to improve culture at sporting clubs, on the sidelines and the field, and event management practices using a harm reduction approach to work with young people at festivals and events. Strong relationships and new engagements with the HPA focused on drinking environments and management practices were cited as examples of how stakeholders and the system adapt to respond to alcohol-related harm without the need for further restrictions on advertising and sponsorship. These relationships and opportunities to develop local talent using alcohol sponsorship funds were highlighted during our discussions of what might be lost if restrictions are introduced.

In light of the often stated potential for a broad range of negative effects from further restrictions, the Forum requested advice from the Secretariat on how restrictions on tobacco advertising and sponsorship in New Zealand impacted on participation in sport, jobs and revenue. We were unable to source any publicly available evaluations, research or analysis quantifying the negative impact resulting from comprehensive tobacco control. This difficulty of attributing any given effect to a specific action, particularly in the health and social policy space, was a recurring theme throughout the review. We understand the quantifying potential costs and consequences of action and inaction is an ongoing issue.

Many of the concerns outlined above are reflected in the way we shaped our recommendations targeted toward reducing youth exposure to alcohol advertising and sponsorship. We considered how restrictions might be framed in a way that ensures New Zealand businesses are not at a disadvantage. In addition we recognise the important place of sport in New Zealand and recommended initiatives that will provide sponsorship replacement funding and the promotion of club sustainability. Finally, while initiatives to prevent alcohol discounting are beyond the scope of this review we were particularly concerned to hear suggestions from some alcohol industry representatives that further restrictions on brand advertising might force a shift toward aggressive alcohol discounting. Action of this type is inconsistent with the stated position of alcohol industry representatives that they support efforts to reduce alcohol-related harm.

POSITIVE IMPACTS OF RESTRICTIONS

The Forum accepts the position that exposure to alcohol advertising and sponsorship influences youth alcohol consumption, in particular age of initiation and alcohol consumption patterns. To that end we anticipate there would be a broad range of health and economic benefits from additional restrictions on alcohol advertising and sponsorship with increasing impact over the longer term. The positive impacts of introducing restrictions to reduce exposure to alcohol advertising and sponsorship might include: delaying the age of consuming the first alcoholic drink, change in cultural perceptions of alcohol and reduced levels of positive expectancies around consumption, less harmful consumption patterns overall and reduced experiences of lifetime harm.

There are potentially economic benefits in terms of health and law enforcement cost savings as a result of reduced harmful drinking but this is difficult to quantify. The Forum also heard examples of sporting clubs going alcohol free leading to a diversified, sponsor, supporter and participant base and the emergence of alternative income generating opportunities. Improved club culture and game conduct were identified as benefits.

The Forum acknowledges that many other factors also influence alcohol consumption. However, we believe that implemented as part of a more comprehensive range of measures targeting alcohol-related harm there is great scope for a range of positive outcomes from the introduction of further restrictions on alcohol advertising and sponsorship.

DECISION-MAKING PRINCIPLES

As a Forum we are committed to developing recommendations that support actions to promote positive societal and cultural changes. These include approaches designed to target action in communities experiencing the greatest burden of harm and to serve the most vulnerable or affected individuals. We have carefully considered our recommendations to ensure they are reasonable and proportionate based on the evidence we have received and likely impact of the associated actions. Based on the information we reviewed we identified and agreed upon a number of headline principles to shape the development of our recommendations. These principles are presented below.

Our focus is protecting the young and vulnerable and we believe this takes precedence over freedom to market alcohol

We are concerned with the short and long term costs of heavy drinking to individuals, their families and communities

We consider that advertising and sponsorship influence alcohol consumption particularly for young people

We agree that the economic, social and personal costs of alcohol-related harm in New Zealand remain at an unacceptable level

Alcohol is a restricted product. The perception of alcohol as an everyday commodity is dangerous because of the health and social impact of its misuse

We believe that reduced alcohol-related harm is likely to be achieved through an integrated approach focused on the health and safety of the young and vulnerable

We acknowledge a range of policy and regulatory measures are employed to address alcohol-related harm with varying levels of evidence for the effectiveness of these measures

We accept that while it is not perfect, at this point in time co-regulation is a cost effective option for managing alcohol advertising and sponsorship

We recognise that alcohol has become an integral part of many sport, cultural and music events. We are concerned with the risk of harm this delivers

We understand that addressing alcohol-related harms will require social and cultural change to influence attitudes and behaviours

We accept that affected people and communities have signalled an appetite for change in the way alcohol advertising and sponsorship is regulated

We acknowledge the potential for a range of intended and unintended impacts both positive and negative on business and communities and have considered these while developing our recommendations

Our recommendations acknowledge that responding to alcohol-related harm is complex. A broad range of actions and initiatives supported by engagement at national, community and individual level have the greatest chance of success

We believe that to have the greatest chance of reducing alcohol-related harm the full range of recommendations need to be implemented

It is essential that existing legislation and regulatory measures targeted toward reducing harm are enforced

RECOMMENDATIONS

Our recommendations are clustered to support two overarching objectives: reducing exposure of minors to alcohol advertising and sponsorship and strengthening measures currently implemented through a combination of legislation and self-regulation. They have a strong focus on reducing the volume, and frequency, of young people's exposure to alcohol advertising and sponsorship. They were developed with a view to avoiding a situation where money currently spent on alcohol advertising and sponsorship in one sector is redirected to another and the same or increased levels of exposure are experienced by young people.

A table of recommendations is provided as Appendix 1.

REDUCING EXPOSURE OF PEOPLE YOUNGER THAN 18 TO ALCOHOL ADVERTISING AND SPONSORSHIP

RATIONALE:

The Forum is concerned with minimising the exposure of minors to alcohol advertising and sponsorship. We acknowledge that many factors influence alcohol consumption. However, there is sufficient evidence identifying an association between exposure of minors to alcohol advertising and sponsorship and the positive alcohol expectancies around associated with excessive alcohol use for us to recommend action in this area.³⁷

Our greatest concern is the association between exposure to alcohol advertising and sponsorship and younger age of initiation to drinking alcohol and increased consumption among current drinkers. The importance of addressing exposure is highlighted in the literature and echoed in the submissions and presentations of public health and community stakeholders.

In addition, breaking the real or perceived cultural connection between alcohol and sport is an important part of this overarching objective. Given the revered status of sport and sporting heroes in New Zealand, the Forum sees implicit association between alcohol consumption and sport³⁸ as unacceptable and too prevalent to leave unattended. However, we also recognise the reality that many sports, teams and clubs and athletes have come to rely upon sponsorship from alcohol producers, brands and retailers and that our recommendations must include actions to mitigate negative impact associated with loss of income or in-kind contributions.

³⁷ De Bruijn, A. (2012). *Exposure to inline alcohol marketing and adolescents' binge drinking: A cross-sectional study in four European countries*. In P. Adderson, F. Braddick, J. Reynolds, & A. Gual (Eds.) *Alcohol policy in Europe: Evidence from AMPHORA*. De Bruijn, A., Tanghe, J., Beccaria, F., Bujalski, M., Celata, C., Gosslet, J., Schreckedberg, D. & Slowdonik, L. (2012). *Report on the impact of European alcohol marketing exposure on youth alcohol expectancies and youth drinking*. Alcohol Measures for Public Health Research Alliance (AMPHORA). Grenard, J. L., Dent, C. W. & Stacy, A. W. (2013). *Exposure to alcohol advertisements and teenage alcohol-related problems*. *Paediatrics*, 131(2), 369-379

³⁸ Gee, S., Jackson, S. J. & Sam, M. (2013). *The culture of alcohol consumption and promotion at major sports events in New Zealand*. Wellington: Health Promotion Agency.

In light of the sophisticated management practices and audience diversity the Forum is less concerned with the current volume, and potential impact of, alcohol advertising and sponsorship at cultural and music events. However, we acknowledge the risk that restrictions on sports sponsorship may see a flood of funds into cultural and music events as an alternative vehicle for brand and product promotion. However, our focus is on reducing exposure of young people to alcohol advertising and sponsorship and we have recommended a restriction to ensure the funds are not redirected to musical or cultural events with a large percentage of young people attending.

RESTRICTIONS ON ALCOHOL SPONSORSHIP

RECOMMENDATION 1: BAN ALCOHOL SPONSORSHIP OF ALL STREAMED AND BROADCAST SPORTS

In New Zealand there is a strong cultural connection between alcohol and sport which needs to be addressed. The Forum is concerned that young people are not protected from exposure to alcohol sponsorship when viewing sport.

This recommendation has two objectives the first of which is to ensure that minors are neither intentionally nor inadvertently exposed to alcohol brands, products and logos through sponsorship arrangements. We believe that minors and young children in particular should not be exposed to alcohol logos while viewing sport. The second is to break what is perceived as the 'natural association' between alcohol consumption and viewing sport. By Broadcast we mean to transmit (a programme or some information) by radio or television. Equally we understand stream to mean to transmit or receive (data, especially video and audio material) over the internet as a steady, continuous flow.

The recommendation recognises that many sporting teams and clubs, and individual athletes are 'heroes of the young' and therefore team kit and equipment with alcohol logos is a tacit endorsement of the product. Further, the association creates positive expectancies around the sponsoring brand or product and the outcome of alcohol consumption. It applies equally to amateur and professional sports, events and athletes where the competition is broadcast. The proposed restriction extends to naming rights, merchandise, uniforms and equipment, and any other element associated with staging the sport where exposure of minors to alcohol advertising might occur via broadcasting or streaming. We intend that this restriction will also prevent alcohol signage of any type on any fixtures and playing surfaces at sporting venues.

We recognise that New Zealand's participation in international and trans-Tasman sporting competitions present a particular challenge for effective implementation of this recommendation. The French Evin Law is a practical example of how local advertising and sponsorship restrictions can be implemented. The Forum also discussed the possibility of including an exception similar to what is found in the Smoke-free Environments Act 1990 which allows the Minister of Health to grant exemptions for craft participating in an international race (s.26) and multi-national sporting events where three or more countries are represented and the events are held in two or more countries including New Zealand (s.26A). The exemption could allow games at venues outside NZ to feature alcohol branding; and possibly allow international teams who are sponsored by alcohol companies to wear have alcohol branding on uniforms. This does not allow NZ teams and venues to have different rules for international games. We believe an arrangement of this type is preferable to introducing a general exemption for international events which risks unfairly

disadvantaging New Zealand companies subject to the restrictions. The Smoke-free Environments Act 1990 also includes an exemption for television transmissions that originate outside New Zealand.

We understand that existing contractual arrangements between sponsors and the affected sports, events, programmes, teams, and athletes will impact upon timing for the introduction of such a ban. In addition, we understand that the legislative process will influence the timing. Recommendations five and six in this report have been included to mitigate negative impacts of loss of sponsorship funds for events, clubs, teams and athletes.

The recommendation should not impact upon 'pouring rights' defined as exclusive permission granted to a beverage manufacturer or bottler to control beverage distribution at a venue, such stadium, or an event, such as a sports tournament.

A ban of this type is likely to require an amendment to the Act. The proposed ban is likely to have the greatest impact on professional sporting teams and events. The rationale for targeting broadcast and streamed sports is that they are most likely source of exposure of minors to alcohol sponsorship and are more likely to be able to source alternative funding given their high profile.

RECOMMENDATION 2: BAN ALCOHOL SPONSORSHIP OF SPORTS (LONG-TERM)

The Forum believes that there is a strong rationale for moving to a ban on alcohol sponsorship of all sports. The basis of this belief is the place of sport in the lives of New Zealanders as participants, fans and supporters. Sport also has a strong association with health and wellbeing and we feel that alcohol has no place in that equation. Alcohol-related harm has a real impact on individuals, families and communities and alcohol cannot be treated as an ordinary commodity.

The objective of this recommendation is to break the connection between alcohol consumption and sport. We believe a 'cultural' association between drinking and sport has been fostered and supported through alcohol sponsorship.

Implementation of the ban will require a change in legislation. This recommendation is linked to recommendation one. We envisage that a legislative mechanism to support the introduction of a ban on alcohol sponsorship of sport in the longer term will be introduced in tandem with other legislative amendments made to give effect to restrictions recommended by the Forum. However, we expect that the restrictions will be introduced as part of a phased approach and therefore will not take effect for five to ten years.

RECOMMENDATION 3: BAN ALCOHOL SPONSORSHIP (NAMING RIGHTS) AT ALL VENUES

It is our understanding that ASA Code for Advertising and Promotion of Alcohol (the Code) does not apply to naming rights on venues. Further, we understand that at the time the Code was drafted the issue of naming venues after alcohol companies was neither contemplated nor has it been an issue.

However, in light of our recommendations for restricting alcohol advertising and sponsorship, the objective of this recommendation is to prevent a situation where alcohol producers and retailers redirect funds to sponsoring venues. The Forum believes this is a real risk. To that end the proposed ban extends to signage visible on and within the vicinity of the stadium.

This recommendation is included to support and ensure the effectiveness of recommendations one and two. This recommendation includes the naming of all venues. The recommendation is consistent with the objectives of breaking or minimising the association between sport and alcohol consumption and reducing exposure of minors to alcohol advertising and sponsorship. Restrictions on event naming rights and perimeter and playing surface advertising are captured under recommendations one, seven and eight.

A ban of this type will require an amendment to the Sale and Supply of Alcohol Act 2012.

RECOMMENDATION 4: BAN ALCOHOL SPONSORSHIP OF CULTURAL AND MUSIC EVENTS WHERE 10% OR MORE OF PARTICIPANTS AND AUDIENCES ARE YOUNGER THAN 18

The current voluntary guidelines for sponsorship outlined in Principle four of the ASA Code for Advertising and Promotion of Alcohol advises that alcohol producers, distributors and retailers should not engage in sponsorship where those younger than 18 years of age are likely to compromise more than 25% of the participants. However, an estimated 25% of the current population of New Zealand is younger than 18 meaning the current limit has a limited effect.

The objective of the recommendation is minimise exposure of people younger than 18 to alcohol advertising and sponsorship at cultural and music events.

The proposed restriction recognises the important and positive culture associated with such events and seeks to protect and maintain opportunities to host them. It also acknowledges that in contrast to sports which tend to have broad appeal, such events are generally targeted toward specific audiences. It also recognises examples of new and innovative approaches to event management described to the Forum during our consultations and promotes a considered approach to alcohol sponsorship and management of music and cultural events.

The recommendation seeks to prevent the situation where alcohol sponsorship is redirected to non-sporting activities of significant interest to young people. Therefore, setting a lower threshold of 10% would require organisers to ensure events with alcohol sponsorship are targeted to an audience older than 18.

Discussion with ASA Members is required to determine if they would agree to the reduced participation benchmark of less than 10% participation of minors for event sponsorship as part of the self-regulatory code. If they did not agree then the recommendation will need to be implemented by legislation.

RECOMMENDATION 5: INTRODUCE A SPONSORSHIP REPLACEMENT FUNDING PROGRAMME

The introduction of a sponsorship replacement programme is a new initiative justified on the basis it will mitigate negative impacts of a ban on alcohol sponsorship of sport.

This recommendation is designed to specifically reduce the impact of funding lost as a direct result of the ban on alcohol sponsorship of sport. Sport sponsorship is the priority but the initiative could be extended to cover music and cultural events if it was appropriate. Replacement funding should be made available to sports clubs, teams, events and athletes that have existing alcohol sponsorship arrangements, and that are unable to access alternative revenue streams. We would encourage clubs, teams and organisations to seek alternative sources of funding but where they are unable to secure this they would be able to seek support for a specified period of time.

The Forum understands that a recommendation of this type has significant cost implications. Funding should be subject to strict eligibility criteria and made available in the first instance to sports and teams with existing alcohol sponsorship arrangements. We discussed access to potential funding at length and agreed securing alternative funding would be significantly easier for high profile teams such as the All Blacks and that the focus should potentially be lower profile sports with fewer options.

A programme of this type should be aligned with existing health promotion activities such as those implemented by HPA. The funding should be made available concurrently with the ban on alcohol sponsorship of broadcast and streamed sports coming into effect or existing contracts expire. The Smoke-free model provides a New Zealand example of how a fund like this could be implemented and managed.

RECOMMENDATION 6: INTRODUCE A TARGETED PROGRAMME TO REDUCE RELIANCE ON ALCOHOL SPONSORSHIP FUNDING

The introduction of a programme targeted toward building club capacity to attract and sustain funding is a new initiative. The measure is justified on the basis that it has the potential to minimise negative impacts of the ban on alcohol sponsorship of sport. The recommendation should be introduced prior to a ban on alcohol sponsorship of sport to help prepare clubs and minimise the impact on their sustainability.

The objective of this recommendation is to work closely with community sporting clubs and associations to develop the capacity and skills to generate alternate sponsorship funding. This includes building a broad non-alcohol sponsorship base. The intention is to promote sustainability to ensure community sporting clubs are not reliant on alcohol sponsorship or sales as key revenue streams. It is intended that a core element of the support provided via this initiative is a focus on improving the culture of sporting clubs with a particular focus on if/how alcohol is supplied and consumed.

We understand that a number of New Zealand-based sporting clubs have introduced new measures to change and or improve how alcohol is supplied and consumed in and around sporting events and these might provide insight or examples of how the initiative can be implemented. For example the Richmond Rovers have introduced an alcohol free initiative. The Good Sports Program in Australia is another example that might provide useful insights. Engagement with Sport New Zealand will be essential to the process and including providing insight into how the programme can adapt to the diverse needs of each sporting code. Funding and resourcing in terms of personnel to engage directly with the clubs is essential to success.

A programme of this type should be aligned with existing health promotion activities such as those implemented by HPA. It is likely additional funding will be required to implement the programme.

RESTRICTIONS ON ALCOHOL ADVERTISING

RECOMMENDATION 7: BAN ALCOHOL ADVERTISING DURING STREAMED AND BROADCAST SPORTING EVENTS

The ASA Code for Advertising and Promotion of Alcohol (the Code) regulates advertisements. It requires that alcohol advertising and promotions shall be directed at adult audiences. It specifically states that alcohol advertising and promotions shall not be directed at minors nor have strong or evident appeal to minors. This applies to both content and placement.³⁹

Similar to recommendation one this recommendation seeks to prevent exposure of minors to alcohol and promotion through advertising arrangements. It also seeks to break the perceived association between alcohol consumption and viewing sport. It applies equally to amateur and professional sports, events and athletes where the competition is televised. The proposed restriction is intended to extend to all formats including radio, live and on demand television and sport streamed on the internet.

The objective of this recommendation is to support the earlier recommendation objective of preventing exposure of minors to alcohol sponsorship of sport. The Forum recognises there are a number of channels through which minors might be exposed to alcohol and believes that to act only on team sponsorship will risk alcohol marketing moving to the advertising breaks during sports telecasts with alcohol advertisements.

A ban of this type is likely to require an amendment to the Sale and Supply of Alcohol Act 2012 (the Act). We also understand that existing contractual arrangements between advertisers and the media services will impact upon timing for the introduction of such a ban.

RECOMMENDATION 8: BAN ALCOHOL ADVERTISING WHERE 10% OR MORE OF THE AUDIENCE IS YOUNGER THAN 18

Principle three of the ASA Code for Advertising and Promotion of Alcohol (the Code) provides guidance on alcohol 'advertising and promotion'. It requires that alcohol advertising and promotions shall be directed at adult audiences. Further, alcohol advertising and promotions shall not be directed at minors nor have strong or evident appeal to minors in particular. This applies to both content and placement. Guideline number 3(g) limits advertising in unrestricted areas where 25% or more of the audience is younger than 18.

³⁹ The full ASA Code Advertising and Promotion of Alcohol is included as Appendix 6

An estimated 25% of the current population of New Zealand is younger than 18. The Forum is proposing a restriction whereby alcohol advertising is restricted where 10% or more of the participating audience is younger than 18. The objective of this recommendation is to prevent inadvertent or intentional exposure of minors to alcohol advertising. Our intention is that the onus of proving the audience composition, that is achieving compliance with the restriction, rests with media buyers.

The proposed restriction will mean alcohol advertising could not be placed in public areas including billboards and advertisements in transit hubs such as bus stops and train stations. In addition, it is likely to capture some radio audience, readers or print publications and websites with a high youth audience. We have recommended a targeted approach because we recognise that many advertising mediums capture niche market and audiences and blanket restrictions can impact unnecessarily on a much larger group than the target audience.

We understand that the activity of individuals on social media is not captured by the ASA definition of advertising. Further, we note that activities such as individuals posting photos of themselves drinking particular brands or wearing alcohol branded clothing are unlikely to be captured by this recommendation. These activities of private individuals have the similar characteristics to other types of peer influence and are a contributing factor in how alcohol is consumed. This falls outside the remit of our review and we do not expect that this recommendation will have an impact in this space. Nevertheless, any alcohol advertising on these mediums will be subject to the 10% or more audience restriction outlined in this recommendation. In addition, existing restrictions on social media platforms such as age-gating will continue to apply.

The Forum understands that the current restrictions are subject to the ASA Code, and voluntary agreement from members. We propose that the current voluntary arrangements are maintained and invite continued compliance of ASA members. However, the lower threshold may require an amendment to the Act if it is not supported by ASA members.

RECOMMENDATION 9: FURTHER RESTRICT THE HOURS FOR ALCOHOL ADVERTISING ON BROADCAST MEDIA

Guidelines 3 (d) and 3 (f) of the ASA Code for Advertising and Promotion of Alcohol include the current watershed restrictions on alcohol advertising on television between the hours of 6am and 8.30pm, and limit television alcohol advertising to six minutes or less per hour, and there shall be no more than two advertisements for alcohol in a single commercial break.

The objective of this recommendation is to limit the possibility that minors will be exposed to alcohol advertising. The Forum proposes an extension of the 'watershed' to include all live, free to air, subscription, and on-demand television. In addition, we recommend that the hours are extended from 5.00am to 9.30 pm as there are still a large number of young people watching television at 8.30pm. The existing volume restrictions on the number of alcohol advertisements per break and per hour should continue to be applied.

The Forum understands that these restrictions are subject to the ASA Code voluntary agreement from members. The Forum proposes that the current voluntary arrangements are maintained and invites

continued compliance of ASA members. However, the restrictions may require an amendment to the Act if they are not supported by the ASA.

RECOMMENDATION 10: CONTINUE TO OFFSET REMAINING ALCOHOL ADVERTISING BY FUNDING POSITIVE MESSAGING ACROSS ALL MEDIA

HPA currently provides the coordination function for moderation time. The New Zealand Transport Agency (NZTA), Police, Ministry of Health, and HPA are entitled to use the allocated moderation time for targeted campaigns.

The main issue with the current management and allocation of moderation time is that it is not formalised in law and relies on the continued willingness of radio and TV broadcasters to agree to provide it. The dollar amount of moderation time is agreed annually via a contractual arrangement. The estimated value has been around the NZ\$ 2 million mark for some time. However, there has been a decrease in the total dollar value of moderation time since the late 1990's highlighting the risk of the current arrangements. A further concern with the current approach to moderation time is that it applies only to radio and television and not to other media such as the internet.

The objective of this recommendation is to secure the 'moderation time' arrangements in light of the fact that some alcohol advertising, albeit restricted, will still be permitted. In addition the Forum considers that it should be extended to all media that broadcasts or streams alcohol advertising. We therefore recommend that the Law Commissions approach to moderation time is adopted with the volume calculated on the basis that one health promotion advertisement is scheduled for every five alcohol advertisements broadcast. Moderation messages should be of the same or substantially similar value to the alcohol advertisements. Consideration should also be given to including a requirement that a proportion of moderation time is made available during peak viewing times, including prime time, for the key target audiences.

In light of the fact that we have not recommended a total ban on alcohol advertising and sponsorship we see securing ongoing funding for moderation time as essential. The Forum understands the existing arrangement is the subject of an annual contractual agreement between HPA and New Zealand broadcasters. The best approach to formalising and securing this arrangement requires further investigation but it may involve the introduction of new legislation.

RECOMMENDATION 11: INTRODUCE ADDITIONAL RESTRICTIONS ON EXTERNAL ADVERTISING ON LICENSED VENUES AND OUTLETS

We understand that one objective of provisions in the Act allowing for the development and enforcement of LAPs is empowering communities to influence outlet density. However, based on evidence received, including that appeals have been lodged against the conditions of the majority of LAPs consulted on to date, we are concerned that these measures might fail to meet community wishes and expectations. The risk is continued exposure of minors to alcohol promotions despite current restrictions.

The objective of this recommendation is to ensure that all measures available to reduce youth exposure to alcohol are exercised and avoid gaps and loopholes in the system. As signalled by our earlier recommendations, the Forum is concerned with reducing exposure of minors, and in particular children, to

alcohol advertising and sponsorship. During the stakeholder consultation we heard clear concerns that school children are exposed to a large volume of alcohol venue, brand and product advertisements and promotions on the street outside bottle stores and, to a lesser extent, on-license premises, for example pub signage, on a daily basis. We heard from experienced community services sector providers that this is most likely to occur in communities with poorer socio-economic indicators, experiencing the greatest disadvantage and alcohol-related harm. To some extent this was seen as the result of a lack of resources to challenge liquor licenses and influence outlet density.

We are aware that recommending further restrictions on outlet density are outside the scope of this review. However, we do consider that restricting the amount of alcohol advertising visible on licensed venues is within scope and would reduce the exposure of young people. We are particularly concerned with the examples we have seen of licensed outlets in lower socioeconomic areas where the entire window is covered in alcohol advertisements. Recommendation eight would remove alcohol advertising from public places, but we do not expect this to cover the alcohol advertising visible on licensed premises. Therefore we recommend that it is a licensing condition that no more than 50% of windows and buildings visible from the outside licensed premises can include alcohol advertising.

As noted previously, we understand that a range of factors influence youth alcohol consumption and we believe that all of these influences should be addressed. We see further restrictions to prevent environmental exposure to alcohol advertising as one of the many measures available to change the perception of alcohol as pervasive and a normal consumer commodity.

We understand that this recommendation will require legislative change to support implementation and enforcement.

MINORITY VIEW

While the majority of the Forum members agreed to recommendations one and two, the decision was not unanimous. A minority of the Forum did not support the scope of these recommendations. In the minority view, the evidence presented on the link between alcohol sponsorship and harmful consumption was not sufficient to justify the breadth of the bans. The minority considers that a number of factors impact on the level of alcohol consumption at sporting events, and alcohol sponsorship was only one of these. The minority also argued that the way the event was promoted and managed were more significant in determining the behaviour and likely attitude of audiences toward responsible alcohol consumption. In addition, the minority acknowledged the vehicle sport provides for alcohol advertisers to promote their products, but it also took into account the benefits from access to and involvement in sport, often as a result of sponsorship.

Consistent with the view expressed about a sponsorship ban, the minority did not support the recommendation for a total ban of alcohol advertising during streamed and broadcast sporting events (recommendation seven). In the minority view, the threshold of restricting alcohol advertising where 10% or more of the audience is under 18 as applied in recommendation eight, should also be applied to alcohol advertising during these events.

ADDRESS LIMITATIONS IN THE CURRENT SYSTEM OF CO-REGULATION

RATIONALE:

The introduction of the Sale and Supply of Alcohol Act 2012 represents a shift toward co-regulation of alcohol advertising and sponsorship. We accept that the ASA operates as a cost-effective mechanism for dealing with complaints initiated by stakeholders and community members, and that New Zealand is implementing a robust example of this approach. Further, the ASA has a high level of acceptance among its constituents which translates to a reasonable degree of compliance in terms of advertising content.

We recognise criticism levelled at self-regulation of alcohol advertising and sponsorship is often focused on the failure to limit exposure of minors to alcohol advertising and sponsorship. The Forum has addressed issues around volume of, and exposure to, alcohol advertising and sponsorship through its recommendations one to eleven. The overarching objective of the recommendations that follow is to strengthen the capacity of the current system to effectively deal with content-related issues.

IMPROVING MONITORING AND COMPLAINTS MANAGEMENT OF ALCOHOL ADVERTISING AND SPONSORSHIP

RECOMMENDATION 12: ESTABLISH AN INDEPENDENT AUTHORITY TO MONITOR AND INITIATE COMPLAINTS ABOUT ALCOHOL ADVERTISING AND SPONSORSHIP

Complaints about alcohol advertising are heard by the independent Advertising Standards Complaints Board (ASCB). Currently the ASA complaint process relies on individuals or organisations to initiate complaints about inappropriate content or placement. The ASA does not have the capacity or mandate to initiate their own complaints in response to alcohol advertising content it considers breach the codes.⁴⁰

The objective of the recommendation is to improve the compliance of alcohol advertisers with the current ASA code. While significant effort has been made to ensure the complaints process is easily understood and accessible to the public and stakeholders, availability of information does not necessarily translate to action. This recommendation is intended to address this gap in the system.

This recommendation intends that the independent authority will have the expertise to monitor and proactively initiate complaints about alcohol advertising and sponsorship. These may be complaints made to the ASCB for code breaches or to the police where section.237 of the Act is breached. It is envisaged that this process will ensure greater scrutiny of advertising.

The Forum discussed the approach to implementing this recommendation at length. We agreed that the approach to establishing the authority to achieve the objectives of this recommendation requires further investigation.

⁴⁰ Further information on the ASA complaints process can be found at: http://www.asa.co.nz/how_to_make_a_complaint.php (accessed September 2014)

RECOMMENDATION 13: ESTABLISH A MECHANISM TO IDENTIFY AND ACT ON SERIOUS OR PERSISTENT BREACHES OF ADVERTISING STANDARDS

Complaints about alcohol advertising are heard by the independent ASCB. There is also a right of appeal to the independent Advertising Standards Complaints Appeal Board (ASCAB). In the event of a complaint being upheld the advertiser, agency, and media are requested to withdraw the advertisement.

A criticism of the current approach to self-regulation is that there is limited impact from breaching the ASA codes. The logic is that by the time the ASCB has heard a matter the advertising campaign in question has usually aired for some time already and may even have come to an end. There is a strong perception that by this stage the damage from exposure to inappropriate alcohol advertising is already done.

The objective of this recommendation is to improve, and effectively incentivise, Code compliance. We believe that this can be achieved through the introduction of enforceable penalties for advertisers who seriously or persistently violate the ASA codes. The recommendation is purposefully focused on serious or persistent breaches. We were advised that the majority of advertisers currently comply with the Code and we are concerned with those who wilfully and intentionally breach it.

The Forum discussed the approach to implementing this recommendation at length. In particular, we considered including the introduction of an enforceable offence with a strict penalty regime and / or the capacity for the Director-General of Health to issue a 'cease and desist' order.⁴¹ Our conclusion is that the approach to granting the powers necessary to achieve the objectives of this recommendation requires further investigation.

RECOMMENDATION 14: ESTABLISH A MULTI-STAKEHOLDER COMMITTEE TO PERIODICALLY REVIEW AND ASSESS ADVERTISING STANDARDS COMPLAINTS BOARD DECISIONS AND PRE-VETTED ADVERTISING

As noted above the Code for Alcohol Advertising and Promotion regulates the content of alcohol advertising. Among other things there are currently restrictions on portrayal of violent, unruly, or aggressive behaviour, depictions of incidental to a friendly and happy social environment and sexual, business or sporting success.

However, this recommendation responds to the criticism that alcohol advertising self-regulation offers no effective restriction on advertising content. In particular the criticism suggests that advertisers actively find ways to circumvent existing restrictions intended to limit intentional or perceived associations between alcohol consumption and positive outcomes and lifestyles.

The objective of this recommendation is to ensure the content restrictions on alcohol advertising are current, appropriate and complied with. The intention of this recommendation is that a multi-stakeholder

⁴¹ This was a proposal in the Sale of Liquor and Liquor Enforcement Bill which was discharged when the Alcohol Reform Bill was introduced

committee with broad high-level representation, clear terms of reference, and an agreed schedule of meetings is formed. Complaints made to the ASCB and the subsequent decisions along with advertisements approved as part of the existing pre-vetting process would be the subject of the review by the committee. The objective of such reviews is to assess the effectiveness of the codes and recommend changes as required. It is envisaged that health, advertising and alcohol industry representatives would be included on the committee.

The Forum discussed the approach to implementing this recommendation at length. Our discussions focussed on the likely costs associated with convening such a committee where it might be hosted, and who should participate. We understand that an earlier Committee with some similar functions stopped meeting due to challenges in engaging representatives from across the sectors and measuring the intended outcomes. Clear terms of reference for the committee are important to avoid duplication of functions. Our conclusion is that the approach to establishing the committee and granting the powers necessary to achieve the objectives of this recommendation requires further investigation.

REGULATORY IMPACT AND COMPLIANCE ISSUES

The Forum understands that the appropriate Ministries will be required to undertake a regulatory impact analysis of our recommendations as part of any Cabinet decisions. However, as required by our TOR our recommendations have been informed by high level discussions on the potential impacts of the actions we have proposed. This section includes an overview of impacts considered and identifies issues associated with compliance with existing legislation and international trade agreements.

We were specifically advised to consider the implications of introducing further restrictions on alcohol advertising and sponsorship in relation to the New Zealand Bill of Rights Act 1990 (NZBORA). The analysis provided in the Law Commission Report 2010 was our starting point when considering legal issues arising from our recommendations. We then requested additional advice from the Secretariat to understand potential obstacles to implementation of our recommendations and ensure our approach is sound.

We have taken a measured approach to the development of our recommendations. We note that the evidence highlights an issue with exposure of young people to alcohol advertising and sponsorship and influence on consumption patterns. This is our primary concern. To that end we have recommended targeted bans and restrictions with a view to minimising the exposure of minors to alcohol advertising and sponsorship on the basis of audience composition and the capacity to control who is exposed.

We understand that our proposed recommendations raise a number of NZBORA issues. In particular, recommendations one, two, three, four, seven, eight, nine and eleven introduce limits on section.14 Freedom of Expression which has been deemed to include commercial advertising. As a Forum we spent a considerable amount of time discussing what restrictions are reasonable and proportionate in view of the evidence we received. We believe restrictions targeted toward protecting young people, who potentially face the greatest risk from alcohol advertising and sponsorship, are justifiable. Nevertheless, based on the

advice we received we realise these recommendations will need to be more fully assessed to test if they meet the justified limitations test outlined in section five of the NZBORA.⁴²

The Forum was also advised to take into account whether options for further restrictions are consistent with other relevant legislation and international obligations including the Commerce Act 1986, the Trade Marks Act 2002, and relevant World Trade Organization agreements. Again we sought advice from the Secretariat. It is our view that the Ministries of Health and Justice are better equipped to obtain advice on how our recommendations might comply with existing legislation and trade agreements. This is particularly the case for recommendations where we have indicated further investigation into the best approach to implementation is required. However, we have tried to ensure that our recommendations are balanced and would not create an environment of unfair competition.

Finally, we do not have the expertise to undertake a costing analysis and were not empowered to commission research to assist an exercise of this type. To that end we have only provided an indication of where we expect additional funding will be required to implement our recommendations.

MEASURING THE IMPACT OF THE RECOMMENDATIONS

The Forum understands that if implemented our recommendations form part of a broader strategy to reduce alcohol-related harm. As indicated throughout our report we recognise that a range of factors influence alcohol consumption. We also note that it is an ongoing challenge to measure the impact any single intervention makes to reducing alcohol-related harm. Nevertheless, we feel that where it is possible interventions implemented as a result of our recommendations should include a mechanism for evaluation. This might need to occur at intervention level and would ideally be scheduled within an identified timeframe. The Forum understands that the effectiveness of these measures to reduce alcohol-related harm is dependent on the willingness and capacity of the responsible agencies to support implementation of the Act and supporting regulations and restrictions.

⁴² Source. Report of the Attorney General under the NZBORA 1990 on the Liquor Advertising (Television and Radio) Bill - presented to the House of Representatives pursuant to Section 7 of the NZBORA 1990 and Standing Order 261 of the Standing Orders of the House of Representatives para 5-8, 12; Sale of Liquor (Youth Alcohol Harm Reduction) Amendment Bill

APPENDIX 1: TABLE OF RECOMMENDATIONS

Proposed strategy	Scope of restriction/measure	Mechanism for implementation	Potential impact	Indicative timing
Restrictions on alcohol sponsorship				
<p><i>Recommendation 1: Ban alcohol sponsorship of all streamed and broadcast sports.</i></p>	<p><i>Includes:</i> sponsorship agreements with televised amateur sports and professional sports.</p> <p><i>Naming rights:</i> no alcohol brand should be associated with or included in the name of a sporting event, team or athlete.</p> <p><i>Merchandise:</i> should be free of all alcohol advertising (e.g. logos, copyrighted colours, patterns, slogans); no alcohol brand specific merchandise should be available at events (e.g. tickets, memorabilia, programmes, prizes, pens, key rings, cups).</p> <p><i>Uniforms & equipment:</i> should be free of all alcohol advertising (e.g. cars, boats, team kit playing and training, banners, game balls, crash pads, water bottles).</p> <p>The ban does not affect pouring rights.</p>	<p>Amendment to the Sale and Supply of Alcohol Act 2012</p>	<p><i>Positive:</i> the cultural connection/association between sport and alcohol is broken; individual expectancies/perceptions around sporting events and intoxication are broken/changed and alcohol consumption becomes secondary to the event; no distinction between children’s and adult kit eliminating perceptions around authenticity re kit with logos. Potential longer-term health and economic benefits in terms cost savings as a result of reduced harmful drinking.</p> <p><i>Negative:</i> there is a risk that sponsorship money is diverted to other channels leading to the same or increased exposure of minors to alcohol advertising although we have developed a number of supporting recommendations to mitigate this risk; some clubs / event may have difficulty finding alternative sponsorship although recommendation five would help mitigate this initially</p>	<p>Restrictions should apply immediately but timing for introduction may be impacted upon by existing contractual arrangements.</p>
<p><i>Recommendation 2: Ban on alcohol sponsorship of sport (long-term).</i></p>	<p><i>Includes:</i> all alcohol sponsorship of sport.</p> <p>The ban does not affect pouring rights.</p>	<p>Amendment to the Sale and Supply of Alcohol Act 2012</p>	<p><i>Positive:</i> the positive outcomes achieved under recommendation one (above) are likely to be increased/enhanced. Longer-term we expect to see an overall change in alcohol consumption patterns similar to those experienced subsequent to the introduction of the comprehensive tobacco control regime. This should ultimately translate to economic benefits associated with an overall reduction in experience of alcohol related harm in New Zealand.</p>	<p>Introduced as part of a phased approach (five to ten years) but with the legislative changes necessary to give effect to the recommendation made at the same time as changes made to implement other recommendations outlined</p>

Proposed strategy	Scope of restriction/measure	Mechanism for implementation	Potential impact	Indicative timing
			<i>Negative:</i> these are likely to be similar to those outlined under the potential impact of recommendation one above; some clubs / events may have difficulty finding alternative sponsorship although recommendation five and six would help mitigate this initially	in this report.
<i>Recommendation 3: Ban alcohol sponsorship (naming rights) at all venues.</i>	<p><i>Naming rights:</i> no stadia in New Zealand should be named for alcohol companies, producers, wholesalers, retailers, product or brands.</p> <p>Pouring rights are not affected by the proposed ban.</p>	Amendment to the Sale and Supply of Alcohol Act 2012.	<p><i>Positive:</i> avoids alcohol sponsorship shifting from sporting events to venues.</p> <p><i>Negative:</i> limited, as the Forum is unaware of any venues with alcohol (naming) sponsorship currently</p>	Introduce restrictions immediately.
<i>Recommendation 4: Ban alcohol sponsorship of cultural and music events where 10% or more of participants and audiences younger than 18.</i>	<p><i>Includes:</i> televised/streamed/broadcast events where the combined live and viewing audience is more than 10%. In addition, events subject to the restrictions will need to be defined, for example is a networking/promotional event sponsored by a Vineyard or alcohol company captured.</p> <p><i>Naming rights:</i> where alcohol is part of the title/headline.</p> <p><i>Merchandise & promotional items:</i> should be free all alcohol advertising (e.g. logos, copyrighted colours, slogans); no alcohol brand specific merchandise should be available at events (e.g. pens, key rings, cups)</p> <p><i>Equipment:</i> should be free of all alcohol advertising (e.g. banners, posters)</p> <p>Pouring rights are not affected by the</p>	Requires discussion with ASA Members to determine if they will agree to the reduced participation benchmark of less than 10% participation of minors for event sponsorship. There is the potential that ASA Members will not agree to support the change to the voluntary code and the recommendation will need to be supported by legislation.	<p><i>Positive:</i> events are focused on entertainment; people younger than 18 are not inadvertently exposed to sponsorship. Longer-term health and economic benefits similar to those outlined under recommendation one might also occur.</p> <p><i>Negative:</i> there is a risk events will be made adults only thereby limiting the opportunity for young people to participate.</p>	Introduce restrictions for all new events immediately. Phased implementation might be necessary where existing contractual obligations are a factor.

Proposed strategy	Scope of restriction/measure	Mechanism for implementation	Potential impact	Indicative timing
	proposed ban.			
<i>Recommendation 5: Introduce a sponsorship replacement funding programme.</i>	<p><i>Funding eligibility:</i> focus on sports with existing alcohol funding and unable to source alternative funding; modelled on Health Sponsorship Council (now part of HPA) approach to tobacco sponsorship substitution.</p> <p><i>Competitive sponsorship funding:</i> this could include a second stream of funding that cultural and music events organisers can bid for if they meet fixed criteria.</p>	The approach to funding and implementation should be confirmed by the government. Ideally a programme of this type would be aligned with existing health promotion activities such as those implemented by HPA. They might also be implemented by Sport NZ or some similar organisation.	<p><i>Positive:</i> reduces the impact on clubs / events of the proposed ban on alcohol sponsorship of sports</p> <p><i>Negative:</i> the potential cost of implementation.</p>	The programme should be implemented during the transition between the televised sport ban and the total ban for a limited time. The approach should be confirmed with reference to past programmes.
<i>Recommendation 6: Introduce a targeted programme to reduce reliance on alcohol sponsorship funding.</i>	<p><i>Focus:</i> from the outset the program should be made available to all clubs willing to participate, with a focus on community clubs. The programme could potentially prioritise clubs in locations where rates of alcohol-related harm are the highest. The long-term goal should be national scale-up of the programme.</p> <p><i>Resourcing:</i> success requires ongoing support (e.g. resources, mentoring) from skilled professionals who can attract sponsorship.</p> <p><i>Activities:</i> should include developing a diverse non-alcohol sponsorship base, broad based of community engagement, promotes whole of family participation, identified alternative revenue streams e.g. kiosk sales. It should also provide direct support/resources to build in-house capacity to attract a diverse sponsorship base (non-alcohol), and develop codes of conduct and alcohol</p>	As indicated under recommendation five, the approach to funding and implementation should be confirmed by the government and aligned with existing health promotion activities of a similar nature.	<p><i>Positive:</i> provides the opportunity for clubs to engage with the wider community; see broader supporter base financially and via participation; creates family atmosphere; builds management capacity of club members many of whom are volunteers.</p> <p><i>Negative:</i> that if not properly resourced it will fail to get buy in from clubs; the potential cost of implementation.</p>	The programme should be implemented in the short-to medium term commencing with a pilot phase and strategy for evaluation and scale-up.

Proposed strategy	Scope of restriction/measure	Mechanism for implementation	Potential impact	Indicative timing
	management policies and practices.			
Restrictions on alcohol advertising				
<i>Recommendation 7: Ban alcohol advertising during broadcast and streamed sporting events.</i>	<p><i>TV Free to air, On-Demand, and subscription (live and repeat):</i> no alcohol advertising during sports streaming or broadcasting of events, live or on delay.</p> <p><i>Venues:</i> should be free of all alcohol advertising.</p> <p><i>Internet:</i> no alcohol advertising during screening of sports events, live or on delay; also consider if this extends to sport and team specific websites.</p>	Amendment to the Sale and Supply of Alcohol Act 2012.	<p><i>Positive:</i> people younger than 18 will not be inadvertently exposed to alcohol advertising when watching sport; the cultural link between sport and alcohol will be broken down; all formats are captured by the restriction thereby preventing 'leakage' to alternate formats and creating a more equitable approach to restrictions.</p> <p><i>Negative:</i> enforcement costs for government.</p>	Existing contractual obligations may mean that a phased approach is necessary but restrictions should be introduced as soon as possible.
<i>Recommendation 8: Ban alcohol advertising where 10% or more of the audience is younger than 18.</i>	<p>The onus of proving that less than 10% of the consuming audience is younger than 18 will rest with the advertiser/media buyer (the current estimate NZ population younger than 18 is approximately 25%)</p> <p><i>Outdoor advertising:</i> includes posters, sandwich boards, billboards, transport hubs/interchanges and vehicles.</p> <p><i>Print:</i> based on readership data.</p> <p><i>Cinema:</i> informed by rating and audience composition</p> <p><i>Interactive/internet:</i> Social media where used as an advertising platform is included by this restriction. Also includes banner displays, pop-up advertising and vouchers such as group on, grab one etc. Advertisers/media</p>	Requires discussion with ASA Members to determine if they will agree to the reduced benchmark of less than 10% audience is minors. There is the potential that ASA Members will not agree to support the change to the voluntary code and the recommendation will need to be supported by legislation.	<p><i>Positive:</i> immediate effect of reducing exposure overall exposure to alcohol advertising; alcohol industry can still advertise in a more targeted way.</p> <p><i>Negative:</i> enforcement costs for government if regulatory approach is adopted; requires agreement from ASA members (voluntary code) is self-regulatory approach; may be costs to the alcohol Industry of changing its marketing strategy</p>	The timing for implementation of this recommendation will depend on the agreed mechanism to implement the recommendation but should be as soon as possible.

Proposed strategy	Scope of restriction/measure	Mechanism for implementation	Potential impact	Indicative timing
	<p>buyers must comply with best practice around age gating and other technology as it emerges. Note that all online content that meets the ASA definition of advertising is captured by this restriction.</p> <p>The restriction excludes product and price flyers.</p>			
<p><i>Recommendation 9: Further restrict the hours for alcohol advertising on broadcast media.</i></p>	<p><i>Watershed extension on TV:</i> restrict alcohol advertising on television and between 5am and 9.30pm (i.e. alcohol adverts can only appear between the hours of 9.30pm and 5am). Note: recommendation seven, ban on advertising during all streamed and broadcast sport at any time.</p> <p><i>Includes:</i> Free to air, On-Demand, subscription (live and repeat) services</p> <p><i>Volume restrictions:</i> limits to advertisements per break and total amount of advertising time per programme will still apply.</p>	<p>Requires discussion with ASA Members to determine if they will agree to the extended period. There is the potential that ASA Members will not agree to support the change to the voluntary code and the recommendation will need to be supported by legislation.</p>	<p><i>Positive:</i> people younger than 18 will not be inadvertently exposed to alcohol advertising; all television formats are captured by the restriction thereby preventing 'leakage' to alternate formats and creating a more equitable approach to restrictions will be more equitable</p> <p><i>Negative:</i> enforcement costs if regulatory approach required</p>	<p>The timing for implementation of this recommendation will depend on the agreed mechanism to implement the recommendation but should be as soon as possible.</p>
<p><i>Recommendation 10: Continue to offset remaining alcohol advertising by funding positive messaging across all media.</i></p>	<p><i>Formalise and extend to all formats:</i> focus has been radio and TV, this should be extended to include internet and printed media.</p> <p><i>Index for inflation:</i> The current commitment is approximately NZ\$ 2 million of moderation time on television and radio and the actual value has declined over time for a variety of reasons. The focus is on in-kind advertising/promotion space/time on</p>	<p>The Forum understands the existing arrangement is the subject of an annual contractual agreement. The best approach to formalising and securing this arrangement requires further investigation but it may involve the introduction of new legislation.</p>	<p><i>Positive:</i> the arrangement will ensure access and balance i.e. time is compensation for revenue generated from advertising; enforced approach across all media will be more equitable</p> <p><i>Negative:</i> Broadcasters may have a poor response to a shift from voluntary to enforced approach; cost of administration (e.g. calculating rates)</p>	<p>The timing for implementation of this recommendation will depend on the agreed mechanism to implement the recommendation but should be as soon as possible.</p>

Proposed strategy	Scope of restriction/measure	Mechanism for implementation	Potential impact	Indicative timing
	<p>television and radio this should be extended to all paid advertising and promotion; indexed to inflation or set as a percentage of overall spend.</p> <p><i>Formalise coverage/scheduling:</i> prime time coverage - need to confirm if this is the best approach/time; issue with the rate card rate.</p>			
<i>Recommendation 11: Introduce additional restrictions on external advertising on licensed venues and outlets.</i>	<p><i>Licensing requirements:</i> It should be a condition that no more than 50% of windows and buildings visible from the street should be covered with alcohol advertising. Note it is intended that sandwich boards and other non-fixed advertising are captured by recommendation eight.</p>	Amendment to the Sale and Supply of Alcohol Act.	<p><i>Positive:</i> people younger than 18 will not be inadvertently exposed to alcohol advertising when going about their daily business; this should also support local level good order and amenity</p> <p><i>Negative:</i> potential cost of enforcement.</p>	The timing for implementation of this recommendation should be as soon as possible.
Address limitations in the current system of Co-regulation				
<i>Recommendation 12: Establish an independent authority to monitor and initiate complaints about alcohol advertising and sponsorship.</i>	<p><i>Pro-active monitoring:</i> the authority would be mandated to undertake independent review of alcohol advertising and sponsorship compliance.</p> <p><i>Initiation of complaints:</i> authority would be empowered to make complaints to ASCB and the police.</p> <p><i>Complaints notification system:</i> details of decisions are reported to agencies required to report on licences and factored into future licensing approvals.</p> <p><i>Community advocacy:</i> to promote monitor and support enforcement of the SSAA (as an additional function).</p>	The best approach to establishing the authority and granting the powers necessary to achieve the objectives of this recommendation requires further investigation.	<p><i>Positive:</i> will fill the gaps in the current system which is reactive; will lead to the development of expertise in the complaints process; successful complaints in high profile settings improve overall compliance in a system of self-regulation.</p> <p><i>Negative:</i> cost of establishment and implementation depending on the model adopted; need to avoid duplication of functions.</p>	The timing for implementation of this recommendation will depend on the agreed mechanism to grant the powers required for the committee to function but we agree it should be as soon as possible.

Proposed strategy	Scope of restriction/measure	Mechanism for implementation	Potential impact	Indicative timing
<i>Recommendation 13: Establish a mechanism to identify and act on serious or persistent breaches of advertising standards.</i>	<i>Non-compliance:</i> create an enforceable offence for serious and/or persistent breaches e.g. power to refer to Director General of Health to prosecute. This should include a strict penalty regime.	The approach to implementation of this recommendation requires further consideration.	<i>Positive:</i> increase transparency and accountability in current system. <i>Negative:</i> cost of establishment and implementation depending on the model adopted.	The timing for implementation of this recommendation will depend on the agreed mechanism to grant the powers required for the committee to function but we agree it should be as soon as possible.
<i>Recommendation 14: Establish a multi-stakeholder committee to periodically review and assess Advertising Standards Complaints Board decisions and pre-vetted advertising.</i>	<i>Independent review of advertising content review:</i> an independent multi-stakeholder committee would periodically convene to review ASCB processes and decisions and code interpretation, and provide advice on areas for improvement. It will also review the alcohol advertising pre-vetting processes and outcomes.	The approach to implementation of this recommendation requires further consideration. Important considerations include: development of clear terms of reference to avoid duplication of functions, agreement on which agency will host the committee and what mechanism will be used to grant the necessary powers.	<i>Positive:</i> increase transparency and accountability in current system and potentially strengthened opportunities for engagement with key stakeholder agencies. <i>Negative:</i> cost of establishment implementation (depends on model adopted) the risk of duplicating functions of existing agencies.	The timing for implementation of this recommendation will depend on the agreed mechanism to grant the powers required for the committee to function but we agree it should be as soon as possible.

APPENDIX 2: GLOSSARY

Advertising	From the ASA code: 'The word advertisement is to be taken in its broadest sense to embrace any form of advertising and includes advertising which promotes the interest of any person, product or service, imparts information, educates, or advocates an idea, belief, political viewpoint or opportunity. The definition includes advertising in all traditional media and new media such as online advertising, including websites. Emails and SMS messaging that are selling or promoting a product, service, idea or opportunity are also covered by the codes, as are neck labels and promotions attached to a product. Other examples include posters, pamphlets and billboards (whether stationary or mobile) and addressed or unaddressed mail.'
ARLA	The Authority was established under the Sale and Supply of Alcohol Act 2012. It replaced the Liquor Licensing Authority. ARLA responsibilities include: applications or renewals for licences and manager's certificates that are referred to it by district licensing committees; applications to suspend or cancel licences or manager's certificates; appeals against decisions of district licensing committees; and appeals against provisional local alcohol policies.
ASA	Advertising Standards Authority. The prime function of the Advertising Standards Authority (ASA) is to self-regulate advertising in New Zealand. Advertising Codes of Practice provide the rules by which all advertisements in all media should comply. Members of the public may complain at no cost about any advertisement in any media which they believe breaches the Codes.
ASCB	Advertising Standards Complaints Board. Complaints to the ASA are heard by an independent ASCB and there is a right of appeal to the independent Advertising Standards Complaints Appeal Board (ASCAB). In the event of a complaint being upheld the advertiser, agency, and media are requested to withdraw the advertisement. These requests are invariably complied with. All decisions are released to the public via this website and the media and are widely reported. More information on the complaints process can be found at: http://www.asa.co.nz/how_to_make_a_complaint.php
Be the influence campaign	Programme targeting binge drinking in sports by engaging clubs to participate - http://www.tacklingbingedinking.gov.au/internet/tackling/publishing.nsf
Broadcast	Transmit (a programme or some information) by radio or television
BSA	Broadcasting Standards Authority was set up under the Broadcasting Act 1989 to oversee the broadcasting standards regime in New Zealand. This is done by deciding complaints that broadcasts have breached standards, doing research, and providing information about broadcasting standards. BSA is essentially an appeal body.
DLC	District Licensing Committee: the Sale and Supply of Alcohol Act 2012 (the Act) requires each territorial authority (TAs) to establish a district licensing committee (DLC). TAs can have more than one DLC for their area. DLCs are committees of the TA, they replaced district licensing agencies on 18 December 2013
The Forum	The Ministerial Forum on Alcohol Advertising and Sponsorship

Good Sports	A programme working with sporting clubs to promote change around alcohol consumption and identify alternative sponsorship funding. Good Sports clubs promote a responsible attitude towards alcohol. They aim to provide a safe environment for players, members, families and supporters. The goal is for players and members to celebrate wins commiserate losses and share a drink with each other safely and responsibly. More information is available at: http://goodsports.com.au/
HPA	The Health Promotion Agency (HPA) is a Crown entity established under the New Zealand Public Health and Disability Amendment Act 2012. It has a Board that is appointed by the Minister of Health. HPA was formed on 1 July 2012. It combines the functions of the former Alcohol Advisory Council (ALAC) and Health Sponsorship Council (HSC) and includes some health promotion functions previously delivered by the Ministry of Health. HPA is funded from Vote Health, the levy on alcohol produced or imported for sale in New Zealand and part of the problem gambling levy.
Independent facilitator and report writer	<i>Allen+Clarke</i> (writer) and the Emmerson Group (facilitator) provided the independent report writing and facilitation services to support the Forum to develop their recommendations and the final report.
Law Commission Report 2010	New Zealand. Law Commission. Report ; no. 114 ALCOHOL IN OUR LIVES: CURBING THE HARM: A report on the review of the regulatory framework for the sale and supply of liquor 2010.
LAPs	Local Alcohol Policies; under the Act Territorial Authorities have the option of developing an LAP. The Act outlines a process for consultation and review.
Loi Evin	Refers to the French Evin Law, passed in 1991. The Law attempts to limit exposure to alcohol advertising and restrict content, with the objective of lessening the appeal to at-risk populations.
Marketing	Marketing is an umbrella term for the co-ordinated process of getting a product or service to customers. The elements are called the Four Ps of marketing: product, price, place and promotion.
The Ministry	Ministry of Health
Moderation time	Process whereby gratis allocations for alcohol moderation messages are provided by TV and radio broadcasters who advertise alcohol.
MoT	Ministry of Transport
NZTA	New Zealand Transport Agency
The Act	The Sale and Supply of Alcohol Act 2012
Pouring rights	Exclusive permission granted to a beverage manufacturer or bottler to control beverage distribution at a venue, such as a school or stadium, or an event, such as a sports tournament.

Richmond Rovers Alcohol-free club programme	The Richmond Rovers recently implemented a programme making it an alcohol free club. More details about the initiative can be found at: http://www.richmondroversrugbyleague.com/news/category/100%20club
Secretariat	The Secretariat for the Ministerial Forum on Alcohol Advertising and Sponsorship lead by the Ministry of Health and supported by the Ministry of Justice and Health Promotion Agency.
Sponsorship	The ASA code applies to: ‘any agreement or part of an agreement involving payment or other consideration in lieu of payment by a liquor producer, distributor or retailer to support a sporting or cultural property, event or activity, in return for which the sponsored party agrees to be associated with or promote the sponsor’s drink(s) or outlet.’
Stream	To transmit or receive (data, especially video and audio material) over the Internet as a steady, continuous flow.
Watershed	The point in time after which programmes with adult content may be broadcast. In this context applies to the period during which alcohol advertising can be screened.

APPENDIX 3: TERMS OF REFERENCE

Ministerial Forum on Alcohol Advertising and Sponsorship: Terms of Reference

Purpose

1. The Ministerial Forum on Alcohol Advertising and Sponsorship (the Forum) will consider the effectiveness of further restrictions on alcohol advertising and sponsorship to reduce alcohol-related harm as directed by Cabinet [CAB Min (11) 25/2 refers].
2. The Forum will report to the Ministers of Justice and Health with advice on whether further restrictions on alcohol advertising are desirable, and if so, will recommend what form they might take. The Forum's report must be completed and submitted to Ministers and its recommendations reported through to the Cabinet Social Policy Committee by December 2014.

Background

3. The Sale and Supply of Alcohol Act 2012 (the Act) was enacted in December 2012. The Act aims to promote the responsible sale, supply and consumption of alcohol, and to minimise alcohol-related harm.
4. The Act expands existing offence provisions relating to the promotion and advertisement of alcohol. For example, on 18 December 2013, it became an offence to:
 - promote or advertise free alcohol or discounts of more than 25% below the normal price (except within licensed premises);
 - offer any goods or services, or the opportunity to obtain any goods or services, or the opportunity to win a prize, on the condition that alcohol is bought (except within licensed premises); and
 - promote or advertise alcohol in a manner aimed at, or that has, or is likely to have, special appeal to minors.
5. The Forum is being established to assess whether further restrictions to alcohol promotion and advertising, over and above those already included in the Act, are needed to reduce alcohol-related harm.

Functions

6. The functions of the Forum are to:
- consider evidence on the impact of alcohol advertising and sponsorship from affected stakeholders and experts in public health and alcohol advertising and sponsorship;
 - determine whether additional restrictions to advertising and/or sponsorship are needed and will significantly reduce alcohol-related harm;
 - if changes are recommended, produce advice on appropriate alcohol advertising and sponsorship practices that are consistent with the object of the Act;
 - direct the work of the secretariat having regard to the duties of the secretariat as outlined below; and
 - report to the Ministers of Justice and Health by 1 October 2014. This will allow time for the Forum's recommendations to be reported through to the Cabinet Social Policy Committee by December 2014.

Context

7. Wider Government objectives are to:
- reduce the harm caused by alcohol use, including crime, disorder and negative public health outcomes;
 - target the key drivers of harm, with a focus on reducing heavy drinking and the impact on young people;
 - implement an efficient and sustainable solution to addressing alcohol-related harm;
 - minimise the regulatory impact of alcohol law reform on New Zealand's economic performance overall; and
 - minimise the impact of alcohol law reform on low and moderate drinkers.

Scope

8. The scope of the Forum's work in considering further restrictions on alcohol advertising and sponsorship includes consideration of a range of models of regulation and restriction, (i.e. voluntary through to regulatory measures).

9. The Forum's work follows on from that undertaken on the Sale and Supply of Alcohol Act 2012. The Forum is being established to consider evidence and assess whether further restrictions to promotion and advertising of alcohol, over and above those included in the Act, are needed.
10. Previous submissions to the Law Commission and to the Justice and Electoral select committee are to be taken into account. However, the Forum's focus will be on receiving new evidence and expert advice (rather than general opinion) about the types of advertising and/or sponsorship controls (if any), that may help to reduce alcohol-related harm.
11. The Forum is expected to consider the current framework for alcohol advertising in New Zealand, including the relevant provisions in the Sale and Supply of Alcohol Act 2012 and the outcome of the Advertising Standards Authority's 2010/11 Review of the Code for Advertising Liquor. The Forum is also expected to consider the harm minimisation framework in the National Drug Policy.
12. The Forum's assessment of options for further restrictions on alcohol advertising and sponsorship should include the likely effect of any changes on:
 - alcohol consumption, particularly among young drinkers and heavy drinkers;
 - the perception of alcohol as an everyday commodity, particularly among children and young people;
 - alcohol-related harm;
 - businesses, such as the alcohol and advertising industries; and
 - the recipients of alcohol sponsorship funds.
13. The Forum should also take into account whether options for further restrictions are consistent with the New Zealand Bill of Rights Act 1990, and other relevant legislation and international obligations (including, but not limited to, the Commerce Act 1986, the Trade Marks Act 2002, relevant World Trade Organization agreements and the World Health Organization's Global strategy to reduce the harmful use of alcohol).
14. The following areas are specifically excluded from the scope of the Forum:
 - labelling requirements for alcohol products, e.g. volume and standard drink labelling, health warnings⁴³;
 - restrictions on the sale and supply of alcohol products;

⁴³ The regulation of labelling requirements for alcohol products is covered by Food Standards Australia New Zealand.

- the effectiveness of counter-advertising (advertising that is used to counter the effects that alcohol advertising may have on alcohol consumption and related harm); and
- commissioning of new research.

Composition

15. The Forum will comprise six members (including the Chair) who are perceived to be fair, impartial and open. Composition of the Forum will be balanced, including representation of women and mana whenua.
16. There will be a process put in place to check and, where necessary, manage conflicts of interest in accordance with the Ministry of Health's *Conflicts of Interest Rules and Guidelines*.
17. Members will bring a collective mix of relevant skills, knowledge and experiences from academia, advertising, sport, the community and business.
18. The chairperson will have considerable standing in the community, mana and credibility.
19. At each meeting, two members plus the Chair shall constitute a quorum. If the Chair is unavailable, the Secretariat may arrange for another member to serve as Acting Chair.

Process and meetings

20. The Government will call for written submissions in March and April 2014, for a period of approximately six weeks. Members of the Forum will receive copies of all submissions as well as a summary of submissions and a background paper to inform their work.
21. Meetings will be held in a location convenient to the majority of members and will comprise:
 - an introductory meeting to discuss the Forum's role and receive background information
 - a two-day independently facilitated workshop, with an independent report-writer present
 - an additional day-long meeting and/or 2-3 two-hour follow up meetings/teleconferences to consider the draft report, finalise changes and approve the final report.

Additional meetings to be held if necessary.

22. The workshop will include an opportunity for Forum members to receive presentations or clarify matters to inform their deliberations. The timing and format of these presentations, and the need for any additional meeting time, will be subject to input of the Chair.
23. The Chair may be asked to meet with Ministers to present the recommendations in the report.

Communications

24. Statements to the media about the Forum's work will be addressed by the Chair.
25. The Chair will liaise with the Secretariat regarding statements to the media.

Remuneration

26. The Chair and members will be remunerated within the 'Group 4, Level 2' band of the *Fees framework for members appointed to bodies in which the Crown has an interest* [CO (12) 6]. Daily remuneration is likely to be \$750 for the Chair and \$400 for the members.

Secretariat

27. The Secretariat will be made up of officials from the Ministry of Health, supported by the Ministry of Justice, and the Health Promotion Agency.
28. The Secretariat will:
 - prepare agendas and draft minutes of meetings;
 - arrange travel, accommodation, meeting venues and catering;
 - appoint, with input from the Chair, an independent facilitator and report-writer to prepare the final report to Ministers;
 - prepare discussion/background papers, and provide policy advice as required;
 - prepare communications material (e.g. Forum information for Ministry of Health website) and provide advice on communications protocols as required.

APPENDIX 4: LIST OF PRESENTERS

Name	Title	Organisation
SESSION 1: PUBLIC HEALTH		
Sally Liggins George Mita	Coordinator	National Public Health Alcohol Working Group
Ross Bell	Executive Director	New Zealand Drug Foundation
Rebecca Williams	Director	Alcohol Healthwatch
Dr Denise Barnfather Angela Culpin Jane Dudley	Public Health Medicine Specialist Medical Officer of Health Health Promoter Policy Analyst	Auckland Regional Public Health Service
John Rogerson	Chief Executive	Australian Drug Foundation
SESSION 2: COMMUNITY ORGANISATIONS		
Commissioner Alistair Herring Major Campbell Roberts	National Manager of Addictions, Supportive Accommodation and Reintegration Services Director, Social Policy & Parliamentary Unit	The Salvation Army, New Zealand, Fiji and Tonga Territory
Philip Siataga	Coordinator	Community Action Youth and Drugs (CAYAD), Otautahi
Althea Hanna (accompanied by Doug Hanna)	Health Coordinator	New Zealand Pacific Union Conference of the Seventh-day Adventist Church
Lydia Sosene Fa'anana Efeso Collins	Chair Chair	Mangere-Otahuhu Local Board Otara-Papatoetoe Local Board
SESSION 3: ALCOHOL INDUSTRY		
Matt Wilson	Corporate Relations Manager	DB Breweries Limited
John Barker Nicola Crennan	General Counsel External Relations Manager	New Zealand Winegrowers
Liz Read	External Relations Director	Lion
Martin Bremner	Chief Executive	Super Liquor Holdings

Name	Title	Organisation
Lynda-Anne Bodger	Marketing Manager	
Belinda Symon	Franchise Manager	
Ralph Bunguard	President	Brewers Guild
Jenny Cameron	Executive Committee member	
Robert Brewer	Chief Executive	Distilled Spirits Association of New Zealand
Dr Eric Crampton		
SESSION 4: ADVERTISING, SPONSORSHIP AND MEDIA		
Glen Wiggs	Director	Foundation for Advertising Research and also on behalf of the Advertising Standards Authority
Lindsay Mouat	Chief Executive	The Association of New Zealand Advertisers Inc.
Lindsay Mouat	Chairman	New Zealand Sponsorship Association
Professor Peter Thirkell	Professor-Marketing, School of Marketing and International Business	Victoria University
SESSION 5: SPORTING ORGANISATIONS AND CULTURE, EVENTS, ARTS		
Mark Wright	Event organiser	<i>Homegrown Music Festival and Coromandel Gold</i>
Ian Long	Stakeholder and Community Relations Manager	New Zealand Rugby
Brent Anderson	General Manager Community and Provincial Union Rugby	
Phil Holden	Chief Executive	New Zealand Rugby League
Diane Field	Corporate Development Manager	Royal New Zealand Ballet
Lauren Whitney	Associate Director	New Zealand Comedy Trust and NZ International Comedy Festival
Professor Steve Jackson and Dr Michael Sam	School of Physical Education	University of Otago

APPENDIX 5: COMPARISON WITH LAW COMMISSION RECOMMENDATIONS

	Law Commission	Forum
STAGE 1		
Legislative change	Strengthening section 154A of the Sale of Liquor Act 1989 regarding excessive and irresponsible promotion of alcohol (discounting, incentives, inducements).	In 2013 the Sale and Supply of Alcohol Act 2012 Section 237 provisions on the irresponsible promotion of alcohol came into force. Recommendation eleven seeks to extend the scope of these provisions to formalise restrictions on external advertising on licensed venues and outlets.
STAGE 2		
	Television and radio watershed of 10pm including: maximum six minutes per hour and no more than two advertisements per commercial break.	Recommendation nine seeks to further restrict the hours during which alcohol advertising can be broadcast. The proposed watershed is 9:30pm. This time was selected on the basis that programmes are scheduled on the half hour and advertising blocks are sold the same way. This restriction is intended to apply to all television formats including subscription, on demand, free to air. It is supported by restrictions on the time limits and volume of advertising that can be scheduled per break and programme respectively. Radio was not included in this recommendation because it is considered media that it is more targeted to specific (niche) audiences.
	There should be no cinema alcohol advertising of alcohol except around films with an R18 rating.	Recommendation eight bans alcohol advertising where 10% or more of the audience is younger than 18. Cinema advertising would be captured by this recommendation. It is intended that the onus be placed on the media buyer to prove the audience composition.
	There should be no advertising on public transport or in around bus shelters and train stations.	Recommendation eight bans alcohol advertising where 10% or more of the audience is younger than 18. It is intended that the onus be placed on the media buyer to prove the audience composition. It is likely that the proposed recommendation will have the same effect as the Law Commission recommendation.

Law Commission	Forum
Sport and cultural events such as music festivals should not be venues for alcohol advertising.	Recommendation nine restricts alcohol advertising where 10% or more of the audience is younger than 18. Music and other cultural events would be captured by this recommendation. It is intended that the onus be placed on the media buyer to prove the audience composition. Alcohol advertising at sporting events is subject to the ban under recommendations seven .
No producer or retailer should be able to provide alcohol-related branding, equipment, or merchandise for any school, social or sporting club or activity or event where 10% or more of the participants are under the legal purchase age. This includes no advertising material in a sports club bar and no sponsorship messages displayed at sports grounds or other public venues hosting school-age participants.	Recommendation two is a total ban on alcohol sponsorship of sport. The proposed ban is intended to capture alcohol-related branding, equipment, or merchandise. This is supported by recommendation five introducing a sponsorship replacement funding programme and recommendation six to introduce a targeted programme to assist clubs to reduce reliance on alcohol sponsorship funding.
The provision of moderation time should be formalised in law and for every five alcohol advertisements broadcast, the broadcaster should provide for one broadcast of moderation message of substantially similar value (in terms of placement) by ALAC or NZTA.	Recommendation ten seeks to formalise and secure existing moderation time arrangements for health promotion messages. The Forum has adopted the Law Commission recommendation in full including the proposed formula for one moderation message for every five alcohol advertisements broadcast. In addition the requirement that the moderation message of the same or substantially similar value applies and should be extended to all media platforms. The rationale for maintaining moderation time arrangements is offsetting remaining alcohol advertising by funding positive messaging across all media.
Restrictions on internet-based promotions should be considered, for example, restrictions on interactive elements of producer websites such as uploading photographs and entering slogan competitions.	The ASA has jurisdiction over all web-based content that meets the definition of advertising and members are required to comply with the Codes irrespective of what platform it appears on. The recommendation eight ban on alcohol advertising where 10% or more of the audience is younger than 18 applies to internet advertising and promotion.
Sponsorship messages should not depict products. The use of logos in sponsorship	Recommendation one seeks to ban alcohol sponsorship of all streamed or broadcast

Law Commission	Forum
messages should be minor.	sports events, related broadcast programmes, teams and athletes. Recommendation two proposes a total ban on alcohol sponsorship of sports in the longer term.
Alcohol should not be allowed to be used as a prize or incentive (for example in competitions and raffles).	No further recommendation. The Sale and Supply of Alcohol Act 2012 (s.237) and the Gambling Act restrict the use of alcohol as a prize of incentive to purchase.

STAGE 3

Messages and images may refer only to the qualities of products, such as origin, composition, means of production, and patterns of consumption.	Recommendation one bans alcohol advertising during broadcast and streamed sporting events. The intention is that alcohol is no longer associated with sport in any location or media. In addition, recommendation eight bans alcohol advertising where 10% or more of the audience is younger than 18.
The banning of images of drinkers or the depiction of a drinking atmosphere.	No recommendation.
Only allowing advertising in press with a majority readership over 20 years of age.	Recommendation eight bans alcohol advertising where 10% or more of the audience is younger than 18. Printed press will be captured by this restriction. It is intended that the onus be placed on the media buyer to prove the audience composition (i.e. that less than 10% of the audience is younger than 18).
No alcohol related sponsorship of any cultural or sports events or activities. NB It is critical that if all sponsorship is banned there is a mechanism to replace these funds for example increase in the alcohol levy or hypothecated tax.	Recommendation one seeks to ban alcohol sponsorship of all streamed and broadcast sports, related broadcast programmes, teams and athletes. Recommendation two proposes a total ban on alcohol sponsorship of sports in the longer term. Recommendation four bans alcohol sponsorship of cultural and music events where 10% or more of the audience is younger than 18. Recommendation five is for a sponsorship replacement funding programme

STRENGTHENING THE SYSTEM OF SELF-REGULATION

No recommendation.	Recommendation 12 seeks to establish an independent authority to monitor and initiate complaints about alcohol advertising and
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	Law Commission	Forum
		sponsorship.
	No recommendation.	Recommendation 13 seeks to establish a mechanism to identify and act on serious or persistent breaches of advertising standards.
	No recommendation.	Recommendation 14 seeks to establish a multi-stakeholder committee to periodically review and assess advertising standards complaints board decisions and pre-vetted advertising.

APPENDIX 6: ASA CODE FOR THE ADVERTISING AND PROMOTION OF ALCOHOL



ADVERTISING STANDARDS AUTHORITY

CODE FOR ADVERTISING AND PROMOTION OF ALCOHOL

January 2013

INTRODUCTION

All alcohol advertising and promotion shall adhere to the laws of New Zealand and the Principles and Guidelines set out in this Code. The ASA Code of Ethics and Codes on Comparative Advertising and People in Advertising should also be consulted, where relevant. This Code should also be read with its Guidance Notes – see www.asa.co.nz.

Alcohol is a restricted product in New Zealand. Because of the health and social impacts of the misuse of alcohol, this Code requires specific restraints on advertising and promotion. There are also a number of restrictions in legislation and in industry-supported initiatives. People involved in marketing alcohol should be familiar with the Sale of Liquor Act, the Gambling Act (Sales Promotions Schemes), and the National Protocol on Alcohol Promotions supported by the Hospitality Association, the Alcohol Advisory Council, the New Zealand Police and Local Government New Zealand. Attention is also drawn to the Standard Drink Guidelines at <http://www.alac.org.nz/alcohol-you/whats-standard-drink>.

This Code is designed to ensure that alcohol advertising and promotion is consistent with the need for responsibility and moderation in merchandising and consumption, and does not encourage consumption by minors. Particular care is also required in the advertising and promotion of products likely to have strong appeal to young adults over the legal purchase age.

In interpreting the Code emphasis will be placed on compliance with both the principles and the spirit and intention of the code. The guidelines are merely examples, by no means exhaustive, of how the principles are to be interpreted and applied. It is possible for advertising or promotions to be in breach of the principle without being in breach of a specific guideline. Upon complaint, the ASCB is vested with discretion to ensure a common-sense outcome and have regard to all relevant matters, including the overall impression conveyed, context and target market and in the case of promotions, their duration, entry mechanism, location, if there is a prize how it is awarded, and application of the ALAC low risk drinking advice. It is important to note that the likely audience (including the media advertisements are broadcast, printed, or displayed in) is a key factor in determining code compliance.

APPLICATION OF CODE

This Code covers advertising and promotion of all pre-packaged and bulk alcoholic drinks with an alcoholic strength above 1.15% abv, which are advertised and promoted for sale and consumption in New Zealand.

This Code applies to products promoted primarily as alcoholic 'drinks', even if they are classified as foodstuffs rather than drinks for the purposes of licensing or customs and excise legislation, or even if they appear to be gaseous, solid or heavily textured (or can be made to be, for example by freezing or shaking), rather than liquid.

For the avoidance of doubt, this Code does not apply to bona fide news, reviews, editorial and broadcast entertainment and sports programmes. This code also does not apply to any advertising materials or activities whose purpose is solely and clearly to educate people about the responsible use and / or misuse of alcohol.

This Code does not apply to activities and promotions (other than advertising) for licensed on-premise (including all on, club and special licences) businesses initiated by those businesses. These activities and promotions are already covered under the Hospitality Association of New Zealand National Protocol on Alcohol Promotions and Section 154A of the Sale of Liquor Act. Promotions that may appear on licensed premises but that are controlled by producers or distributors are covered by this Code.

It is the responsibility of all companies and enterprises connected with the alcoholic drinks industry in New Zealand (whether as producers, importers, wholesalers, distributors or retailers) to comply with this Code. This includes the provision of adequate and appropriate briefings to external agencies from whom the companies/enterprises may commission design or promotional work. Approval by the Liquor Advertising Pre-vetting System (LAPS) is strongly recommended. See www.anza.co.nz/pre-vetting.

DEFINITIONS

“Alcohol advertising and promotion” means an advertisement, packaging, point of sale or other promotions, activities and materials (including dispenser units) generated by an alcohol producer, distributor or retailer that promotes alcohol by product, brand or outlet. This includes media releases, branded merchandise, competitions, word of mouth marketing, adver gaming, product displays and sampling, but does not include a sponsorship advertisement or an advertisement in which reference to or the depiction of alcohol or alcohol packaging or an alcohol outlet is incidental to its purpose. An advertisement including a reference to licensed premises is not automatically an alcohol advertisement - the intent of the advertisement must be to promote the consumption of alcohol.

“Alcohol advertiser” means an advertiser that markets or sells alcohol and uses its name or any identifying feature to promote the sale of alcohol in any way.

“Branded merchandise” means products available in New Zealand bearing liquor or outlet branding which have been produced by, on behalf of, or with the permission of, a liquor producer, distributor or retailer.

“Heroes and/or heroines of the young” means a person or character (and includes groups / teams) whose example is likely to be followed by minors or who has strong appeal to minors (see Guidance Notes, www.asa.co.nz).

“Light (or lite) alcohol” means liquor containing a maximum of 2.5% alcohol by volume.

“Minors” are people who are under the age at which they are legally entitled to purchase liquor.

“Sponsorship” means any agreement or part of an agreement involving payment or other consideration in lieu of payment by a liquor producer, distributor or retailer to support a sporting or cultural property, event or activity, in return for which the sponsored party agrees to be associated with or promote the sponsor's drink(s) or outlet. The Code applies to the overall sponsorship agreement, including any material bearing the sponsor's logo or trademark. It does not apply to any use to which that material might subsequently be put, or to the behaviour or activities of sponsored parties, if that is not required or specifically permitted by the sponsorship agreement.

“Sponsorship advertisement” means an advertisement which clearly indicates that the advertiser is sponsoring a person, competition, activity or event. Any advertisement referring

to a sponsorship that does not comply with Guidelines 4(a) to 4(e) of Principle 4 is deemed to be an alcohol advertisement.

“Websites” means a website, or part of a website, managed by or on behalf of a liquor producer, distributor or retailer for the promotion of their brand(s) or outlets primarily to the New Zealand market. Producers, distributors and retailers are responsible for any part of the website over which they have editorial control.

“User Generated Content” means content on websites or emails where the public contributes to the content, such as the YouTube and Facebook websites and viral emails. The Code applies to promotions on such websites and emails where the producer, distributor or retailer provides a platform for, or distributes the user-generated content or endorses the user-generated content.

Principle 1

Alcohol advertising and promotions shall observe a high standard of social responsibility.

Guidelines

1(a) Alcohol advertising and promotions shall not link alcohol with daring, aggressive, unruly, irresponsible or antisocial behaviour nor suggest any association with, acceptance of, or allusion to, tobacco, illicit drugs or volatile substances such as glue and petrol; explosives and weaponry.

1(b) While alcohol advertising and promotions may depict the consumption of alcohol as incidental to a friendly and happy social environment, it shall not promote drinking alcohol as a better or more attractive lifestyle choice nor imply that the success of a social occasion depends on the presence or consumption of alcohol.

1(c) Alcohol advertising and promotions shall not suggest that alcohol can lead to sexual, social, sporting or business success or popularity or is necessary to achieve social status with peers.

1(d) Alcohol advertising and promotions shall not depict alcohol as a necessity, nor required for relaxation nor suggest it offers any therapeutic benefit.

1(e) Alcohol advertising and promotions shall not actively link alcohol with the use of potentially dangerous machinery or driving or any other hazardous or unsafe practices. Alcohol advertising and promotions may include sporting or other physical activities but shall not imply that those activities have been undertaken after the consumption of alcohol.

1(f) Where it is necessary to purchase alcohol as a condition of entry, alcohol advertising and promotions shall not offer any potentially hazardous prizes in any competition. Examples include motor vehicles, boats or any other potentially dangerous machinery.

1(g) Alcohol advertising and promotions shall not cause widespread or serious offence, taking into account prevailing community standards, context, audience, medium and product.

1(h) Alcohol advertising and promotion shall not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive or is likely to deceive or mislead the consumer. Obvious hyperbole, identifiable as such, is not considered to be misleading.

Principle 2

Alcohol advertising and promotions shall be consistent with the need for responsibility and moderation in alcohol consumption.

Guidelines

2(a) Alcohol advertising and promotions shall not emphasise a product's alcoholic strength, except where the product is a light (or lite) alcohol product but can include factual information about the alcoholic strength.

2(b) Alcohol advertising and promotions shall not feature, imply, condone or encourage irresponsible or immoderate drinking. That applies to both the amount of drink and the way drinking is portrayed.

2(c) Where the prize in an alcohol promotion is a large quantity of alcohol, it should not be supplied in one delivery and any such prize should be consistent with the Alcohol Advisory Council's standard drink guidelines.

Principle 3

Alcohol advertising and promotions shall be directed at adult audiences. Alcohol advertising and promotions shall not be directed at minors nor have strong or evident appeal to minors in particular. This applies to both content and placement.

3(a) Alcohol advertising and promotions in non-restricted areas shall not use or refer to identifiable heroes or heroines of the young. See Guidance Notes at www.asa.co.nz.

3(b) Alcohol advertising and promotions shall not use designs, motifs, or cartoon characters that have strong or evident appeal to minors or that create confusion with confectionary or soft drinks.

3(c) Anyone visually prominent in alcohol advertising and promotions depicting alcohol being consumed shall be, and shall appear to be, at least 25 years of age with their behaviour and appearance clearly appropriate for people of that age or older. Minors may appear in alcohol advertising and promotions only in situations where they would naturally be found, for example in a family barbecue, provided that there is no direct or implied suggestion that they will serve or consume alcohol.

3(d) Alcohol Advertisements shall not be shown on television between 6.00 am and 8.30 pm.

3(e) Broadcasters shall avoid the impression that alcohol promotion is dominating the viewing or listening period when broadcasting alcohol advertisements, including alcohol sponsorship advertisements taking into account the context of the programme.

3(f) Television alcohol advertising shall not exceed six minutes per hour, and there shall be no more than two advertisements for alcohol in a single commercial break.

3(g) Alcohol branded merchandise, point of sale materials and other promotions for alcohol must not be available in unrestricted areas at events or activities where more than 25 per cent of the expected audience is minors.

3(h) Websites that provide online retail sale of alcohol products shall require purchasers to certify that they are 18 years of age or over.

3(i) Websites that primarily promote an alcohol brand and contain games, competitions or other interactive activities shall have an Age Verification Page at entry. Verification shall be by way of input of the visitor's date of birth.

Principle 4

Sponsorship advertisements shall clearly and primarily promote the sponsored activity, team or individual. The sponsor, the sponsorship and items incidental to them, may be featured only in a subordinate manner.

Guidelines for sponsorship advertisements

4(a) Shall not contain a sales message.

4(b) Shall not show a product or product packaging.

4(c) Shall not imitate or use any parts of product advertisements from any media.

4(d) Shall not portray consumption of alcohol

4(e) Shall only briefly and in a subordinate way mention or portray the sponsor's name and/or brand name and/or logo orally and/or visually.

4(f) May be broadcast at any time except during programmes intended particularly for minors.

Guidelines for sponsorship

4(g) Alcohol producers, distributors or retailers should not engage in sponsorship where those under 18 years of age are likely to comprise more than 25% of the participants, or spectators.

4(h) Sponsors shall not require or permit sponsored parties to feature alcohol branding on children's size replica sports kit or on any promotional material distributed to minors.