

## 5. Submission on Liquor Advertising

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**Reporting officer** Grant Couchman (Regulatory Services Manager)

**Date** 02 February 2011

### ***Vision, mission and values***

*This item is in accord with Council's vision, mission, and values statement. Council has a statutory role in liquor licensing under the Sale of Liquor Act 1989 as a District Licensing Agency and expertise in developing policy reflective of community expectation about liquor licensing functions. In undertaking the role Council promotes the responsible consumption of alcohol in the community which contributes in some way to ensure that the district is safe and crime free and the community, healthy and educated. Liquor advertising can impact on the manner in which people consume alcohol across the community. Councils involvement in making comment to the Advertising Standards Authority on the Code for Advertising Liquor further enhances this role of protecting community health and safety.*

### **Local Government Act 2002 – The four well-beings**

**Cultural** No direct link.

**Economic** *Liquor advertising can impact on the way that people consume alcohol in the community. Harm caused by liquor abuse can have a negative impact on the district economy.*

**Environmental** No direct link.

**Social** *Liquor advertising can impact on the way that people consume alcohol in the community. Harm caused by liquor abuse can have a negative impact on the health and social well being of people in the community.*

### **Introduction and Background**

The current system for regulating alcohol advertising in New Zealand is voluntary self regulation, using codes of practice and a complaints process.

The Advertising Standards Authority (ASA) is the body responsible for self regulation of all advertising in all media. The ASA comprises 14 representatives from media groups, advertisers and advertising agencies. It is monitored by the Ministry for Culture and Heritage. The ASA receives no Government funding, members pay an annual prescription.

The ASA funds and resources an independent Advertising Standards Complaints Board (ASCB), which hears complaints from members of the public (at no cost to them). There is a right of appeal to the Advertising Standards Complaints Appeal Board which is also funded by the ASA. Additionally there is a separate Liquor Promotions Complaints Board (LPCB) which considers complaints relating to liquor naming, labelling packaging and promotions.

Liquor advertisements must comply with both codes and while the ASA is not reviewing the code for the naming, labelling, packaging and promotion of liquor at this time, the ASA is considering whether it would be more appropriate to have a single code covering both areas.

The ASA has developed a proposed Advertising Codes of Practice including a code for advertising liquor. This code has six principles which aim to ensure that liquor advertising is conducted "*in a manner that neither conflicts with nor distracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by minors*". In summary the six principles are as follows:

1. Liquor advertisements shall neither conflict with nor detract from the need for responsibility and moderation in liquor advertising.
2. Liquor advertising shall observe a high standard of social responsibility.
3. Liquor advertisements shall not depict or imply consumption of alcohol in potentially hazardous situations or unsafe practices.
4. Motor vehicle or boats can not be offered as prizes.

5. Liquor advertisements shall be directed at adult audiences, shall not be directed at minors, shall not be shown on TV between 6am and 8.30pm, and shall not refer to identifiable heroes or heroines of the young.
6. Sponsorship advertisements/credits shall primarily promote sponsored activity - reference to sponsor only in a subordinate manner.
7. Liquor advertisements not to contain any misleading innuendo, claim, etc or suggest some special quality which cannot be sustained.

There have been periodic reviews of the Code for Liquor Advertising since 1994. With the review of liquor laws by the Law Commission and recent decisions made by Government regarding alcohol advertising and promotion, the ASA decided it was appropriate to commence a review of the Code for Advertising Liquor. The review panel is mindful of the current Government review of liquor laws and seeks submissions focused on the content of the code, whether or not it meets community expectations and suggestions on how it may be amended. Submissions must be received by the ASA by Friday 25 February 2011. A draft submission reflective of key elements in this report is attached.

The Law Commission in its final report to Government (*Alcohol in Our Lives: Curbing the Harm*), comprehensively reviewed advertising, sponsorship and promotion of alcohol. The commission raised concerns that, despite the Code for Advertising Liquor stating that the paramount consideration is the spirit and intention of the code, existing content controls in New Zealand do not have sufficient influence on alcohol advertising, particularly when advertisements push the boundaries of the code. The Law Commission noted that during consultation public concern focused on the glamorisation of alcohol through advertising and the extent to which advertising helps to shape a culture where drinking is seen to be the key to social and sexual success. Young adults taking part in the consultation were particularly incredulous when informed that the current voluntary codes supposedly ban advertising that have these effects.

The Law Commission drew attention to a number of then current television advertisements which had been approved in terms of the codes. One of these was the 'DB Export Gold - over the fence' television commercial which was considered by the ASCB, and a complaint about the advertisement was rejected. The Law Commission stated on that decision "*What becomes apparent from the arguments set out in the ASCB's decision is that the codes are to some extent neutralised by the inventiveness of creative agencies. Like the high-profile series of Tui advertisements featuring improbably beautiful woman and a group of young men performing various antics to steal beer, the DB advertisements rely upon humour, irony and hyperbole.*" This is despite guidelines to Principle 2 of the Code stating that advertisements shall not depict or imply offensive, aggressive or irresponsible behaviour or unduly masculine themes or portray unrealistic outcomes.

The Law Commission was of the view that there is a strong argument that a self regulatory body for alcohol advertising is inappropriate and that greater controls are needed on advertising, sponsorship and other promotions of alcohol.

The Law Commission however, did not favour a total ban on alcohol advertising and sponsorship at this point, and recommended that there should be a programme of progressively more restrictive measures with the final goal being a set of legislative restrictions on advertising and sponsorship which allowed only objective product information.

### **Stage 1**

Stage 1 should introduce immediate interventions targeted at sale promotions and advertising that encourage excessive consumption of alcohol or inappropriately stimulate demand for its purchase.

This has been followed through in the Alcohol Reform Bill in Clause 220 which replaces Section 154A of the Sale of Liquor Act 1989 relating to promotions on licensed premise. The new Clause 220 of the Bill (irresponsible promotions of alcohol) places strengthened restrictions on promotions across all places not only licensed premises.

### **Stage 2**

Stage 2 would require an interdepartmental committee, overseen by the Ministers of Health and Justice to consider legislative measures aimed at reducing the exposure to advertising, particularly for young people.

### **Stage 3**

Stage 3 would require the interdepartmental committee to consider measures with the aim of restricting the promotion of alcohol, including sponsorship, in all media.

No alcohol advertising should be allowed in any media other than advertising that communicates objective product information, including the characteristics of the beverage, the manner of its production and its price.

It will be up to the Government to act on recommendations for Stages 2 and 3.

## **Recommendation**

1. That council receives this report.
2. That council approves the draft submission on the Code for Advertising Liquor as attached to this report along with any amendments made and forwards the submission to the Advertising Standards Authority.

### **Attachment:**

[Submission to the Advertising Standards Authority on Alcohol Advertising.pdf](#)

**Submission on:** The Code for Advertising Liquor  
**From:** Whangarei District Council  
**To:** Advertising Standards Authority  
**Date:** February 2011  
**WDC Contact:** Grant Couchman  
Regulatory Services Manager  
**To Be Heard:** No

Whangarei District Council has experience and expertise as a District Licensing Agency under the Sale of Liquor Act 1989 covering a community of 80,000 residents and welcomes the opportunity to comment on the Code for Advertising Liquor.

There are 200 licensed premises in the district and each year the Agency processes approximately 750 licence applications of various kinds. Whangarei District Council works closely with its enforcement partners (Police, Medical Officer of Health and New Zealand Fire Service) under a memorandum of understanding, and has supported and maintained the long standing Whangarei Liquor Accord to encourage a high level of compliance by licensees with their responsibilities under the Sale of Liquor Act 1989.

Whangarei District Council has over ten years experience in adopting and implementing Liquor Licensing Policies, using the special consultative process of the Local Government Act 2002 to involve its community in liquor licensing policy matters, the most recent in August 2010.

Whangarei District Council is mindful of the view of the Law Commission in its report regarding the regulatory framework for the sale and supply of liquor 'Alcohol in our lives: curbing the harm', that despite the Code for Advertising Liquor stating that the paramount consideration is the spirit and intention of the Code, existing content controls in New Zealand do not have sufficient influence on alcohol advertising, particularly when advertisements push the boundaries of the Code.

The Law Commission noted that during consultation public concern focused on the glamorisation of alcohol through advertising and the extent to which advertising helps to shape a culture where drinking is seen to be the key to social and sexual success.

#### **Whangarei District Council Recommends**

That while the wording of the Code itself may well be adequate, the interpretation of the Code by the Advertising Standards Authority and the Advertising Standards Complaints Board must be undertaken in a precautionary manner so as to be sympathetic with the intent of the reform of liquor laws at this time to bring about real change to the drinking patterns and habits of New Zealanders which currently contribute to significant harm across all communities.

Whangarei District Council thanks the Advertising Standards Authority for the opportunity to comment on the code.