

Legal summary for writing scripts

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ALCOHOL ADVERTISING

Here are some notes on alcohol. Please bear in mind that these notes are guidance only and not legal advice. While we make every effort to ensure they are up to date, regulations do change from time to time so you should always check before relying on the notes.

Alcohol

Please Note: The information below is designed as a general outline only. It is not legal advice and you should not rely on it as such.

Summary

There is now a quasi regulatory system in place for the advertising and packaging of alcohol.

The ABAC Responsible Alcohol Marketing Code is designed to endeavour to ensure that alcohol is marketed in a responsible manner.

The Code implements legislation, the AANA Code of Ethics and media-specific codes relevant to the placement of marketing of alcohol.

Advertisements for Alcohol are also Subject to the Australian Consumer Law (ACL).

The Commercial Radio Code of Practice prohibits the broadcast of a program that "presents as desirable the misuse of alcoholic liquor".

Advertisements for alcohol beverages must:

a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly:

- i) must not encourage excessive consumption or abuse of alcohol;
- ii) must not encourage under-age drinking;
- iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;
- iv) must only depict the responsible and moderate consumption of alcohol beverages;

b) not have a strong or evident appeal to children or adolescents and, accordingly

- i) adults appearing in advertisements must be over 25 years of age and be clearly depicted as adults;
- ii) children and adolescents may only appear in advertisements in natural situations (eg family barbecue, licensed family restaurant) and where there is no implication that the depicted children and adolescents will consume or serve alcohol beverages; and
- iii) adults under the age of 25 years may only appear as part of a natural crowd or background scene;

c) not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment and, accordingly

- i) must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;
- ii) if alcohol beverages are depicted as part of a celebration, must not imply or suggest that the beverage was a cause of or contributed to success or achievement; and
- iii) must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or is a necessary aid to relaxation;

d) not depict any direct association between the consumption of alcohol beverages, other than low alcohol beverages, and the operation of a motor vehicle, boat or aircraft or the engagement in any sport (including swimming and water sports) or potentially hazardous activity and, accordingly

i) any depiction of the consumption of alcohol beverages in connection with the above activities must not be represented as having taken place before or during engagement of the activity in question and must in all cases portray safe practices; and

ii) any claim concerning safe consumption of low alcohol beverages must be demonstrably accurate;

e) not challenge or dare people to drink or sample a particular alcohol beverage, other than low alcohol beverages, and must not contain any inducement to prefer an alcohol beverage because of its higher alcohol content; and

f) comply with the Advertiser Code of Ethics adopted by the Australian Association of National Advertisers.

Alcohol As A Prize In Competitions

If you are considering giving alcohol as a prize in a competition you need to check the laws of your State/Territory. The competition must not target minors and there may be restrictions on the amount of alcohol that you can give away.

In NSW, only a maximum of 20 litres of alcoholic beverage in total can be given away as a prize across a promotion.

In most jurisdictions, trade promotion guidelines require trade promotions featuring alcohol prizes or events prizes at which alcohol is served to be conducted with responsible consumption of alcohol principles in mind. For example, it is likely that a significant cash prize for a winner to spend on alcohol would be seen to be in contravention of these principles.

Vouchers Only

Because giving away alcohol may be seen as “selling” (requiring a license under liquor licensing legislation) you should not give away physical liquor prizes. You can, however, give away vouchers to be redeemed at licensed premises (e.g. liquor stores). All vouchers must incorporate a “Drink Responsibly” message and may only be given to people over the age of 18.

Advertisements For Licensed Premises

Advertising by liquor licensees is regulated by the licenses under which such businesses operate. Liquor licensees must comply with the relevant advertising licence conditions as a trading requirement.

Liquor licences are issued and regulated on a State/Territory basis. All jurisdictions subscribe to the principle of harm minimisation through responsible alcohol promotions. However, there are some

differences of approach in defining what will be considered to be acceptable or unacceptable promotions by liquor licensees.