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# Submission 1



## Submission to the Broadcasting Authority of Ireland

September 2016

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## Alcohol Action Ireland

Alcohol Action Ireland is a national charity working to reduce alcohol harm.

We are an independent voice for advocacy and policy change, working to reduce levels of alcohol-related harm in Ireland and improve health, safety and wellbeing for all.

We focus on evidence-based public health policies that will deliver the widest benefits to the greatest number of people within the population.

Alcohol Action Ireland adheres to the World Health Organisation (WHO) guidance that “the alcohol industry has no role in the formulation of alcohol policies, which must be protected from distortion by commercial or vested interests”, (1) and Health Service Executive (HSE) guidance that “there is an inherent conflict associated with the alcohol industry playing a role in providing public health advice”. (2) We therefore do not work with the alcohol industry.

We act as secretariat to the Oireachtas Cross Party Group on Alcohol Harm and are founding members of the Alcohol Health Alliance Ireland. Our organisation is composed of two full-time and one part-time staff members and is run by a voluntary board. Our CEO is Suzanne Costello and the chairperson of our Board is Carol Fawsitt, solicitor.

Other board members include: Professor Joe Barry, specialist in public health medicine with the HSE and Professor of Population Health Medicine at Trinity College Dublin; Dr Declan Bedford, public health specialist; Padraig Brady, former CEO Pioneer Total Abstinence Association; Catherine Brogan, Mental Health Ireland; Pat Cahill, retired teacher; John McCormack, CEO, Irish Cancer Society, and Tadhg Young, Chief Operating Officer, State Street International Ireland.

Alcohol Action Ireland is funded primarily by the HSE and also through individual public donations. Our governance code and annual accounts are available on our website at [www.alcoholireland.ie/about/funders](http://www.alcoholireland.ie/about/funders)



## Alcohol and health

The harmful use of alcohol is a causal factor in more than 200 disease and injury conditions. Worldwide, 3.3 million deaths every year result from harmful use of alcohol, which represents 5.9% of all deaths. (3)

Harmful alcohol use is the fifth leading cause of death and disability worldwide, up from 8th in 1990, and every 10 seconds somebody dies from a problem related to alcohol and many more develop an alcohol-related disease. (4)

Alcohol is associated with a risk of developing health problems such as mental and behavioural disorders, including alcohol dependence, major non-communicable diseases such as liver cirrhosis, cancers and cardiovascular diseases, as well as injuries and deaths resulting from violence and road traffic collisions. (3)

In Ireland, our harmful drinking has a huge impact on our nation's physical and mental health, causing the loss of 88 lives due to alcohol every month. (5)

The Health Research Board (HRB) published a comprehensive report in June 2016, (6) which set some of the main impacts of alcohol consumption on our health in Ireland:

- Three people died each day in 2013 as a result of drinking alcohol.
- The number of people discharged from hospital whose condition was totally attributable to alcohol rose by 82% between 1995 and 2013, from 9,420 to 17,120. Males accounted for 72% of these discharges and females 28%.
- There has also been a steady increase in the mean length of stay (LOS) for hospital discharges, from 6.0 days in 1995 to 10.1 days in 2013, which suggests that patients with alcohol-related diagnoses are becoming more complex in terms of their illness.
- The rate of alcoholic liver disease discharges grew threefold between 1995 and 2013. The highest rate of increase was observed among 15–34 year-olds, albeit from a low rate.
- The number of people discharged whose condition was partially attributed to alcohol increased from 52,491 in 2007 to 57,110 in 2011. This is approximately three times the number of discharges totally attributable to alcohol.
- In 2014, one- in-three self-harm presentations were alcohol-related.

Alcohol also has a significant impact on our health in relation to cancer - 900 people are diagnosed with alcohol-related cancers and around 500 people die from these diseases every year, according to the National Cancer Control Programme (NCCP). (7)

The NCCP research found that, between 2001 and 2010, 6.7% of male cancer deaths and 4.6% of female cancer deaths in Ireland were attributable to alcohol – 2,823 men and 1,700 women. More than half of all head and neck cancers in Ireland during that period were associated with alcohol consumption, while 12% of all breast cancers were associated with alcohol consumption. (7)

Alcohol also has a significant impact on our mental health. The National Suicide Research Foundation (NSRF) found that alcohol was involved in 35% of all cases of deliberate self-harm in 2014 (8) and it has also been found to be a major contributory factor to suicides in Ireland. (9)

The evidence shows that the health of Irish people will improve if we reduce overall alcohol consumption and address risky drinking patterns. (6)

## Alcohol's cost to society

The World Health Organisation (WHO) has pointed out that, beyond health consequences, the harmful use of alcohol brings significant social and economic losses to individuals and society at large. (3)

In Ireland, the burden of alcohol related harm is often experienced by those around the drinker, such as a family member, friend, co-worker or innocent bystander. Alcohol's harm to others undermines public safety and is experienced in every community, ranging from the nuisance factor, feeling unsafe in public places, drink-driving, to a violent attack by an intoxicated drinker. (10)

Although not often publicly visible, alcohol's harm to others within the family can have very serious consequences for the safety and well-being of family members, with children being the most vulnerable. (10) Life-long damage, in the form of foetal development disorders, can also be caused to the unborn child by alcohol consumption during pregnancy. (4)

Alcohol consumption is a significant road safety issue in Ireland and Road Safety Authority research found that it is a factor in 38% of all deaths on Irish roads, as well as many other collisions resulting in injuries. (11)

A review commissioned by the Department of Health, which outlines the economic costs of deaths, illness and crime attributable to alcohol misuse in Ireland, estimates that the overall cost to Irish society in 2013 was €2.35 billion. (12)

Therefore it's clear that while drinking alcohol is an individual choice, it is one that has significant social and economic impacts, and it is this wide range of harms to others, and costs borne by the State and, ultimately, the taxpayer, that economists define as 'externalities'. (4)

The OECD states that when these 'externalities' exist, consumers typically do not appreciate the full costs of their consumption, because the price they pay when they purchase a commodity does not reflect the external costs of its consumption (4) and in Ireland the costs of alcohol harm to society are huge and complex.

Dr Ann Hope pointed out that just some of these costs can be estimated with some degree of reliability and that problem alcohol use gives rise to three types of costs: direct costs, indirect costs and intangible costs. (12)

Direct costs, such as costs to the health care and criminal justice systems, are borne by the government and therefore by taxpayers. Indirect costs include lost output through alcohol-related absenteeism and premature death or disability. Intangible costs are mainly the pain and suffering experienced by those who experience alcohol-related problems, due to their own drinking or someone else's, and are the most difficult category of costs to measure. (12)

There is no doubt that 'the societal costs of existing levels of alcohol consumption in Ireland far outweigh the employment, trade and tax benefits'. (13)

Harmful alcohol consumption and binge drinking, in particular, carry 'devastating personal and social consequences, they increase health spending and reduce our standard of living'. (4)

## Alcohol marketing

It has now been established beyond all reasonable doubt that alcohol marketing influences drinking behaviour, particularly among children (those aged under-18, as per the BAI Code).

A large number of longitudinal studies from different countries have followed children over time, tracking their exposure to marketing and their subsequent alcohol consumption. Longitudinal studies are important because they allow us to establish if causal relationships exist.

A number of comprehensive, systematic reviews of these longitudinal studies clearly indicate a causal relationship between marketing and drinking behaviour, especially among children, encouraging them to drink at an earlier age and in greater quantities than they otherwise would. (14-17)

*Alcohol in the European Union*, published by the World Health Organisation (WHO), states that 'exposure to alcohol marketing increases the likelihood that young people start to drink alcohol and that among young people who have started to use alcohol, such exposure increases the frequency of drinking and the amount of alcohol consumed'. (18)

The WHO has warned that the 'extent and breadth of commercial communications on alcohol and their impact, particularly on young people's drinking, should not be underestimated' (19) and points out that the accumulated research findings indicate that restricting alcohol marketing is one of the three "best buys" policies for reducing the harmful use of alcohol, along with tackling pricing and availability. (3)

Children are especially susceptible to the influence of marketing due to their relative lack of life experience and their ongoing cognitive development, (20) while they are also particularly vulnerable to alcohol-related harms and risks, as their bodies and brains are still developing.

Far from being a rite of passage, drinking alcohol at a young age may well serve to delay the development of vital coping, personal and social skills; project young people into risky situations and lay the ground-work for future physical and mental health difficulties.

As well as the immediate risks to their health and wellbeing, children who drink alcohol before the age of 15 are at significantly increased risk of alcohol dependence in later life compared to those who delay drinking initiation. (21)

An NUI Galway study, commissioned by Alcohol Action Ireland, provides a recent and important insight into the experience of a large sample of children aged 13 to 17-years-old with alcohol marketing. (22) The findings of *Alcohol marketing and young people's drinking behaviour in Ireland* are in broad agreement with much of the international literature.

The NUI Galway study, as with a previous study commissioned by the National Youth Council of Ireland, (23) also clearly illustrates the weakness of the current regulatory systems in Ireland.

- 91% of the children surveyed reported that they were exposed to traditional (offline) alcohol advertisements, including television, in the week prior to the study and more than half reported that they were exposed to four or more advertisements per day.
- More than three quarters (77%) of the children reported exposure to alcohol marketing online and very large minorities have been specifically invited to engage with alcohol marketers on social media, with 35% reporting that they were invited to "like" an alcohol brand, 29.7% invited to like an event sponsored by an alcohol brand and 21.4% invited to attend such an event.

- 61% of children reported that they owned alcohol branded merchandise and ownership was as high as 71.4% amongst boys.

These findings indicate that the regulatory codes in their present form, including the BAI Code, are not protecting children in Ireland from a large degree of exposure to alcohol marketing.

This situation is clearly at odds with the new Principle (Protection of Children) added to the draft BAI Code, which states ‘children are viewers and listeners with particular needs and broadcasters share a responsibility with parents and guardians for what children listen to and watch. It is expected that broadcasters will protect them from material that is unsuitable or would be likely to cause physical or moral detriment. This principle recognises that children of different ages and maturity require different levels of protection.’

The findings of the international literature – the greater the level of exposure to, or engagement with, alcohol marketing, the more likely young people are to drink alcohol – were also borne out in the NUI Galway study, which found that greater levels of exposure to alcohol marketing increased their likelihood of both drinking alcohol and engaging in risky drinking behaviour, such as binge drinking and drunkenness.

Creating an environment in Ireland where children are protected from alcohol marketing is both a children’s rights issue and a public health issue that requires immediate action.

## BAI Draft General Commercial Communications Code

### Principle 3: Transparency

Alcohol Action Ireland agrees that 'the closer the commercial content is to programme content, through the use of sponsorship and product placement for example, the greater the degree of transparency required.'

With respect to alcohol marketing, this is particularly important where alcohol products have been placed in programmes, through Paid Product Placement or Prop Product Placement, or feature in sponsored segments without explicit acknowledgement of the commercial nature of the communication.

This lack of transparency means the distinction between editorial content and commercial communications is not clear and identifiable for audiences.

### Principle 4: Protection of Children

The addition of Principle 4 is welcome as the protection of children from exposure to alcohol marketing is a key public health goal.

As outlined above, children are especially susceptible to the influence of marketing due to their relative lack of life experience and their ongoing cognitive development. We also know that children in Ireland are exposed to large volumes of alcohol marketing and current regulatory systems are failing to protect them.

Exposure to alcohol marketing has an impact on children's drinking behaviour, with greater exposure to alcohol marketing associated with an earlier age of drinking initiation and greater quantities of alcohol consumption, both of which are a significant risk to their health and wellbeing.

It is essential that broadcasters recognise and accept that alcohol marketing is included in the commercial communications that are considered 'unsuitable or would be likely to cause physical or moral detriment' if this principle is to be effective in terms of achieving its goal of the protection of children.

### Sections 7 and 8: Sponsorship on television and Sponsorship on radio

In relation to changing the restriction in sponsorship announcements from 'calls to action' to 'calls to purchase', this change allows significantly more scope for alcohol marketing to call on consumers directly to drink alcoholic beverages as a part of sponsorship announcements.

**The delineation between 'calls to action' and 'calls to purchase' are not sufficiently clear enough to warrant this new distinction in the draft Code.** Ruling out 'buy now', 'purchase at' etc does not rule out calls to action that effectively amount to the same thing, though perhaps even more effective in terms of commercial communications. For example, 'enjoy a', 'drink a' etc. could be considered 'calls to action' not 'calls to purchase' under the draft Code.

The calls to action can also be used direct consumers to unregulated spaces (e.g. social media) where the BAI Code has no relevance and where content may be completely contrary to its principles. **The restrictions on 'calls to action' should remain in place.**

There is a lack of clarity in respect of what represents 'undue prominence' in relation to 'Audience competitions within programme content'. It states that 'Competition questions, entry mechanisms and prizes shall not give undue prominence to the sponsor in particular its facilities, products or services.'

However, **there is no indication for broadcasters or the general public as to what constitutes ‘undue prominence’** and it is certainly an issue worth clarifying if presenters are reading directly from the script provided by the competition sponsors. This is a particular weakness if, as set out in the draft Code, ‘Announcements in relation to sponsored competitions shall not constitute advertising’.

**Competitions with an alcohol sponsor on television and radio should not be permitted for broadcast during the hours that alcohol advertisements themselves are not permitted.**

**Competitions with alcohol sponsors should not be permitted during sports programmes, in line with the sponsorship and advertising rules set out in the draft Code.**

### Section 9: Product Placement

Product placement should encompass the product and prop placement element of lifestyle, magazine and breakfast television programmes.

Promotion of alcohol products (such as product reviews) currently feature in these programmes, despite the fact that alcohol advertising is not permitted between 6 a.m. and 10 a.m. under the existing Code and as proposed in the draft Code.

These promotional/product review segments for alcohol products should not be permitted between the hours that alcohol advertising itself is excluded. This is especially important as often the product reviewer and programme presenter, taste the product, praise it and generally discuss the merits and benefits of it.

Children are unable to place a context on the comments of the contributors in these slots and the casual nature of the pieces make it difficult to implement standards around the glamorisation of alcohol and links with social success. Therefore the alcohol products are presented to children in a very positive and subjective manner.

**Alcohol products should not be reviewed or promoted via product or prop placement during the hours that alcohol advertisements are prohibited under the regulations.**

**Product and prop placement during sports programmes should also be aligned with the draft Code’s advertising and sponsorship regulations and not be permitted.**

Currently, despite the fact no alcohol sponsorship of sports programmes or whistle break advertising spots for alcohol brands are permitted during sports programmes, alcohol product and prop placement does take place during these programmes (e.g. audience members are given a branded beer to drink).

It is stated that ‘Audiences shall be clearly informed of the existence of product placement. Programmes containing product placement shall be appropriately identified by an announcement at the start and the end of the programme, and when a programme resumes after an advertising break, in order to avoid any confusion on the part of the audience’.

However, this will not apply to a large proportion of material broadcast as this rule does not apply when broadcasting television programmes that have neither been produced nor commissioned by the broadcaster or a company affiliated to the broadcaster.

Due to the large volume of product placement in cinematographic works and the large proportion of programmes bought in by broadcasters, this represents a major omission and **broadcasters should**

**inform the audience of the existence of product placement in all programmes, not just those it has produced or commissioned.**

### Section 10: Rules pertaining to Alcohol

Rule 10.3 states that 'commercial communications for liqueurs or incidental references to the brands of the above listed beverages, for example, where such a brand is associated with an event'.

This rule effectively provides a clear loophole in the Code whereby those alcoholic beverages which cannot advertise can in fact do so via sponsorship arrangements. The sponsorship of an event, for example, by an alcohol product or manufacturer cannot be classified as an 'incidental' reference or an 'association' - it is a clear commercial arrangement and the advertising of such events are commercial communications for alcoholic beverages.

The weakness in this area of the Code not only allows these products, which the Code says cannot advertise, to do so, but to do so at any time and during any programme, thereby putting children at greater risk of exposure to alcohol marketing from products the Code ostensibly prohibits from being advertised at all.

**Title sponsorship of an event cannot be classified as an 'incidental' reference or an 'association' and advertising for such events must be treated as commercial communications for alcoholic beverages under the rules.**

Rule 10.5 states that commercial communications for alcoholic beverages shall comply with the following:

- They shall not be placed in any programme specifically aimed at children.
- They shall not be broadcast in or around programmes primarily intended for children whether as viewers or listeners.
- They shall be broadcast only in or around programmes with an adult audience profile of 75% or greater.
- They shall not be broadcast between 6 a.m. and 10 a.m.

There is no clarity or definition as to what constitutes a programme 'specifically aimed at children' or 'primarily intended for children whether as viewers or listeners'.

Is it intended that this categorisation to be left solely at the discretion of broadcasters? **Rule 10.7**, states that 'Each broadcaster shall identify the programmes in their schedules that do not carry commercial communications for alcoholic beverages, in particular, those programmes specifically aimed at/appealing to children, and shall publish this list on a website maintained by the broadcaster and make a copy of the list generally available.'

**There needs to be criteria to guide the classification of programmes by broadcasters and ensure the adequate protection of children from exposure to unsuitable commercial communications, such as those involving alcohol.**

As with the lack of clarity or definition as to what constitutes a programme 'specifically aimed at children' or 'primarily intended for children whether as viewers or listeners', there is even further ambiguity and room for confusion around what is 'appealing to children' (**10.7**). For example, a major sporting fixture could be defined as 'appealing to children' and, if it is not, on what criteria would that be determined?

**No rationale has been provided in the Code for the rule that commercial communications for alcoholic beverages ‘shall be broadcast only in or around programmes with an adult audience profile of 75% or greater’. This proportion is not satisfactory as it allows young people to be disproportionately exposed to alcohol marketing.**

Census data from the Central Statistics Office shows that, at an audience profile threshold of 25% children, as set out in the previous and draft BAI Codes, children are disproportionately more likely to be exposed to alcohol marketing than adults.

One of the biggest issues is that the proportion of children considered for exposure to alcohol marketing includes all those children from new-borns right up to those aged almost 18.

Even if re-calculated on the basis that only those aged 0 to 2-years-old are not likely to be exposed to and/or influenced by the commercial communications for alcohol covered under the Code, the number of children aged 3 to 17-years-old in Ireland comprise just 20% of the population. It is 10 to 17-year-olds are the age group that are at greatest risk of experimenting with alcohol. However, they represent only half that figure again, or 10% of the population.

Therefore, the current threshold limit allows for alcohol marketing during programmes where a far greater proportion of Irish children than adults are watching. **The audience threshold figure for children should be decreased from 25% to 10% (or increased for adults from 75% to 90%).**

Even if the threshold of 25% were proportionate in respect of the number of children who could be negatively impacted by exposure to alcohol marketing, this still fails to address a situation where if 600,000 people are watching a sporting fixture or other popular programme then 150,000 Irish children can be exposed to alcohol marketing in full compliance with the Code.

This is one of the key weaknesses in the Code and part of the reason why exposure to alcohol marketing is so high for children in Ireland.

The restriction of 6 a.m. to 10 a.m. for commercial communications for alcoholic beverages is completely inadequate and fails to address the key hours when children are exposed to alcohol marketing.

There is no clarification or basis to explain why this very limited, early morning period alone has been selected and the rest of the day and evening time, are considered acceptable for alcohol advertising and promotion.

**There should be a 9 p.m. broadcast watershed for advertisements on television and radio to protect children from exposure to alcohol marketing, in line with the provisions for alcohol marketing set out in the Public Health (Alcohol) Bill.**

Rule 10.8 states that ‘Broadcasters shall enforce a Code of Conduct for their presenters ensuring that speech content that glamorises or encourages over-consumption or misuse of alcohol is prevented’.

This is one of the key areas that must be addressed in respect of alcohol marketing in Ireland. The BAI should ensure that this is a priority area for broadcasters and that adequate efforts are made to ensure that presenters are not just aware of, but understand the Code of Conduct.

The Code of Conduct should also be applicable to contributors to programmes, with the onus on the broadcaster to make them aware of it.



Broader commercial communications, such as those for supermarkets or convenience stores, which also promote alcoholic beverages, must be treated in exactly the same manner as those commercial communications solely for alcoholic beverages.

To what extent does the BAI Code cover commercial communications for alcoholic beverages placed around programmes that are accessible at any time on the playback facilities on broadcasters' websites? This is another important area and the Code's rules should be extended to cover these playback facilities.

It is both important and welcome to see the draft Code confirm that 'once the [Public Health \(Alcohol\) Bill 2015](#) is enacted, the Code will be updated to ensure that it is in line with the Public Health (Alcohol) Bill'.

[What are your views on incorporating into the BAI's draft Code the provisions from the Alcohol Marketing, Communications and Sponsorship Code of Practice?](#)

The Alcohol Marketing, Communication and Sponsorship Code of Practice ("The Code") is a co-regulatory code developed in 2003 in conjunction with the Department of Health and alcohol industry stakeholders including the Drinks Industry Group of Ireland, the Association of Advertisers in Ireland, the Institute of Advertising Practitioners in Ireland, as well as media owners. The primary aim of the code is to reduce young people's exposure to alcohol marketing communications, and it places moderate limits on the timing of alcohol advertising and the amount of alcohol advertising that can be placed in any one medium. The Code is very wide ranging and covers broadcast media; TV and radio, but also cinema, outdoor media, print media, digital media as well as a code of practice for sponsorships by alcohol drink companies.

A monitoring body, the Alcohol Marketing Communications Monitoring Body (AMCMB) was subsequently established in 2005 to monitor the level of adherence by advertisers and media owners to The Code. The Department of Health and industry sit on this body and they report on an annual basis to the Minister. Complaints alleging breaches of The Code are investigated by the ASAI who in turn report their findings to the AMCMB. The outcome of complaints upheld are published in the annual report.

The Code contains sections relevant to TV and Radio broadcasts and are linked to the BAI's General Advertising Codes. Members of the public who wish to make a complaint against the Broadcast elements of The Code can do so either through the ASAI or the BAI.

Under the BAI's Complaints process, a complainant who deems an alcohol advertising broadcast on radio or TV to breach The Code has 30 days to submit his or her complaint to the relevant broadcaster. The broadcaster must reply within 21 days or in the case of RTE, 20 working days. After this time if the complainant is not satisfied they can then take their complaint to the BAI. Here it can take several months for a decision to be reached. The decision of the BAI is published and under Part 5 of the Broadcasting Act 2009, the BAI has certain enforcement powers it can take against a broadcaster who breaches The Code, all the way up to a removal of a broadcaster's licence.

According to the code the ASAI are the investigating body where complaints can be made if a potential breach of The Code is made. However, when you log onto the ASAI website there is no mention of the AMCMB code and no mechanism for making a complaint against it.

Complaints made by members of the public to the ASAI are usually reviewed by a Complaints Committee. The Committee is composed of thirteen people and deals with all incoming complaints.

The process is drawn out and often can take two to three months before a decision is reached. Very often the alcohol advertisement in question can have run its course and have been removed from the media cycle by the time a decision is made by the committee.

If the Complaints Committee decide that there is a breach, details of the case including the name of the advertiser/promoter and the agency and the Complaints Committee's conclusion, but not the name of a consumer complainant, are set out in a Case Report which, at the discretion of the Committee, is released to media for publication and posted on the ASAI's website.

A marketing communication which has contravened the rules of the Code is required to be amended or withdrawn. In the case of a sales promotion, the promoter may be requested to make the necessary changes to the way the promotion is communicated or conducted and, where appropriate, may also be asked to recompense any consumers who have been adversely affected.

### **Conclusion**

It is our view that to incorporate The Code into the BAI draft code without significant strengthening of the existing weaknesses would be a missed opportunity to provide appropriate protection for children in keeping with Principle 4 of the BAI Code. The existing Code does however, provide a framework from which to build greater protection for children and stronger sanction for breaches of the Code.

Under the current AMCMC system there are no meaningful sanctions if an advertiser or alcohol brand breaches the code. The Codes themselves are general in nature do not go far enough to protect children from exposure from alcohol advertising and sponsorship. The monitoring body, the AMCMC has not published an annual report since 2013, so we are unable to review how many breaches, investigations and sanctions have been made for the past three years.

Under the BAI codes there would be more meaningful statutory sanctions as set out in the Broadcasting Act, 2009. Part Five of the Act confers significant enforcement powers on the BAI, including the power to impose financial and other sanctions on broadcasters and contractors who breach their codes. As we have set out in our commentary on the BAI draft codes, we would require a strengthening of these codes if children are to be adequately protected from exposure to alcohol marketing. This combined with stricter sanctions may act as a deterrent to the alcohol industry and their media partners and ensure stricter compliance in the longer term.

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# Submission 2



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**Association of Advertisers in Ireland**

**Submission to the BAI Draft General Commercial Communications Code**

**19<sup>th</sup> September 2016**



## **Association of Advertisers in Ireland**

### **Submission to the BAI Draft General Commercial Communications Code**

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## **Appendices**

Deloitte Survey – Advertising: An engine for economic growth

CopyClear - Annual report 2015



## **(i) Introduction**

The Association of Advertisers in Ireland is a members organisation with the members being companies who advertise. At present there are 43 companies in membership, and their advertising expenditure during 2014 represented in excess of 20% of the overall total advertising spend in Ireland.

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The Association of Advertisers in Ireland (AAI) is the **only** association focused single-mindedly on the Interests of Irish Advertisers. The role of the AAI is to promote and defend the reasonable freedom to advertise.

### **Area of Expertise**

So our area of expertise is advertising. Companies join the AAI because they recognise the need to be a responsible advertiser. AAI members understand that the freedom to advertise responsibly is a crucial element of a healthy economy. By informing, educating and enriching our society, advertising adds to the quality of life. A vocal minority disputes this view and governments and regulators are increasingly put under pressure to impose restrictions that are both unjustified and disproportionate.

AAI represents the collective voice of responsible Irish advertisers and works hard to sustain a robust self-regulatory framework to protect advertising freedoms.

Advertising is disproportionately important to the economy – it stimulates consumer demand, promotes innovation, drives competition, enables the digital economy and encourages market growth.

### **AAI Positioning**

The AAI is the voice of Irish Advertisers. The AAI will promote and defend the reasonable freedom to advertise.

### **AAI Representations/Associations**

AAI is actively represented on, and participates in, a number of organisations which involve regular meetings. These are outlined as follows:

- World Federation of Advertisers (WFA)
- Advertising Education Forum (AEF)
- Audit Bureau of Circulation (ABC) Ireland Management Committee
- Advertising Standards Authority for Ireland (ASAI)
- Joint National Readership Survey (JNRS)
- Joint National Listenership Research (JNLR)
- Joint National Outdoor Research (JNOR)
- ODAS/AVMSD

There are many other relationships between the AAI and other groups and initiatives. We would be happy to furnish details of these if requested.

## (ii) **Factual Information for the BAI**

### **Advertising, a Force for Good**

On many critical societal challenges, advertising plays a positive role. All over the world, public service advertising has proven to be a useful policy tool in successfully reducing road accidents, increasing disease awareness, tackling domestic violence, encouraging recycling or promoting water-safety.

Companies too are using advertising to help address societal challenges. They are increasingly conscious that, beyond selling brands and ideas, advertising can be used to show how their products and their initiatives can help make a difference.

### **Deloitte Research Survey – “Advertising: An engine for economic growth”**

The advertising industry commissioned a large scale research study into the impact of advertising on the Irish economy. The findings are based on rigorous and complex analysis conducted by Deloitte, which involved building an econometric model across 18 countries and 15 years of data, in order to isolate the role of advertising. A soft copy of this report is included for your review.

The key facts from this report are as follows:

- The €938 million spent on advertising in 2012 resulted in a €5.3 billion return to the economy
- €1 of adspend generates €5.7 on average for the Irish economy
- Advertising supports 30,000 jobs
- 38% of all revenue to Irish media comes from advertising
- Over 400,000 households would not yet have broadband access without advertising
- €8.3 billion in offline sales are estimated to be researched online on advertising funded sites – advertising enables the internet economy
- Advertising stimulates social change, and has been proven to help save lives on our roads

The report also finds that a 1% increase in advertising leads to 0.062% higher GDP per capita.

## (iii) **Submission to Key Changes in the Draft Code**

The Association of Advertisers in Ireland broadly supports the draft code and welcomes the opportunity to respond to the consultation document.

We are responding to the key changes in the draft code as follows:

- Revisions to the Sponsorship Code
- Modified rules on gambling, and on food that is high on fat, salt or sugar
- Changes to the definitions of product placement and sponsorship
- Additional provisions on alcohol

- **Revisions to the Sponsorship Code**

The AAI agrees with the rules for sponsorship on television. The inclusion of the new rule (7.3) is positive and brings more clarity to the definition of sponsorship and product placement.

The AAI also supports rule 7.5 which allows sponsorship announcements to reference more than one product or service and prohibits the specific “calls to purchase” (e.g. “buy now”, “purchase online at”, etc.) rather than “calls to action” (e.g. “check out our website”, “find more information at”, etc.).

- **Modified Rules on Gambling**

The AAI agrees with the change of heading in this section from “Betting” to “Gambling”. The definition of Gambling as detailed in appendix 2 is comprehensive.

- **Food that is High in Fat, Salt or Sugar**

The AAI agrees with the decision to change the heading from “Food (including HFSS food)” to “Food, Nutrition and Health”.

We are conscious that the guidelines from the current code have been included within these rules. We are comfortable with this decision.

We do need to take this opportunity to reiterate our concerns with regard to the use of the UK Nutrient Profiling Model. Whilst AAI members adhere to this model, we never agreed with the introduction of a UK model and highlighted our concerns from the outset.

AAI do not agree with the introduction of the Nutrient Profiling Model developed by the UK Food Standards Agency. This UK model is unscientific and unfairly categorises foods as “good” or “bad”. There is no such thing as a “good” or “bad” food. We maintain that it is the nutritional balance of a diet, combined with physical activity, which determines weight gain, rather than the composition of any particular food. The UK model is based on the concept of 100g rather than on portion size. As a result, foods which are eaten in smaller portions (e.g. dairy, cereals) are unfairly penalised. This model does not take into account the micro nutrients that are in all products regardless of the level of Fat, Sugars, Salts etc. In addition, the model has not been accepted in any other EU Country. Neither has it been updated in the UK to take account of the Scientific Advisory Committee on Nutrition's recommendations or in light of recent European regulatory developments. Oddly, though the Irish Government funded the IUNA survey meaning we have comprehensive research on the Irish diet, the BAI did not use this model and to further complicate matters, the UK Model, which the BAI did use, obviously does not reflect the Irish diet which is different from the UK diet.



- **Changes to the Definitions of Product Placement and Sponsorship**

The AAI agrees with these changes, namely, “Paid Product Placement” and “Prop Placement”.

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And the decisive criterion distinguishing product placement from sponsorship is a good recommendation.

- **Additional Provisions on Alcohol**

The Association of Advertisers in Ireland favours a co-regulatory approach, where the Government and industry work together to limit the exposure of young people to alcohol advertising.

It’s hard to think of a more high-profile business than advertising. Perhaps that’s why advertising is never too far from debates surrounding society’s problems. According to some of its critics, advertising encourages alcohol abuse. We don’t shirk this topic, but we believe that the freedom to advertise, within a clear and responsible framework, is good for people, good for business and good for the economy.

The following details represent the jointly agreed initiatives which have been developed by the advertising and marketing industries together with the media owners and, more importantly, Government.

**Code of Standards for Advertising and Marketing Communications in Ireland 7<sup>th</sup> Edition. Advertising Standards Authority for Ireland (ASAI)**

The ASAI is an independent self-regulatory body set up and financed by the advertising industry and committed, in the public interest, to promoting the highest standards of marketing communications that is, advertising, promotional marketing and direct marketing.

The ASAI code governs the content of commercial communications including advertising, promotions, sponsorship and marketing campaigns. Self-regulation means the adoption by the advertising industry of standards drawn up by and on behalf of all advertising interests. It involves the enforcement of those standards through the commitment and co-operation of advertisers, agencies and media.

Included in the ASAI code (Section 9) are some of Europe’s most strict content restrictions regarding the promotion of alcohol.

The 7th edition of the ASAI code came into effect in March 2016.

### **Central Copy Clearance Ireland (CCCI)**

The CCCI, trading as CopyClear since March 2014, is unique in that there is only one other similar arrangement in the World and that is in New Zealand. CCCI was set up jointly by the AAI, IAPI (Institute of Advertising Practitioners in Ireland) and the drinks industry in 2003 as a pre-vetting of all advertising for all alcohol brands to show that their advertising complied with codes of practice. The essence of the service is that a brand advertisement will not be published unless it has been vetted by CopyClear and carries a CopyClear number. The media co-operate in this service which makes it possible.

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CopyClear is funded by the alcohol industry but the industry is not involved in the running of it. The organisation and management of CopyClear is jointly carried out by AAI and IAPI – the CEO's of AAI and IAPI are the overall executive managers of CopyClear. The actual vetting of advertising is administered by a team of Copy Clearance Managers who are experienced in advertising but none of whom are or can be involved in doing any work for alcohol brands. IAPI looks after the financial administration side of CopyClear while AAI looks after the secretarial (minutes, formal meetings) side. Within IAPI, the accountant looks after CopyClear's financial administration. This is all done working closely with the CCCI's auditors who look after audit and company registration matters, annual returns, etc,. The CopyClear board comprises 9 people – 4 each nominated by AAI and IAPI (including their respective CEO's) plus an independent Chairman, Fintan Cooney.

Appointment of a Director under the articles of association is for a period of 3 years though this may be extended for a further 3 years. The board meets quarterly, four meetings a year including an AGM. CopyClear produces an annual report, which deals with trends, numbers of submissions, outcomes, etc., but it does not publish its annual accounts – though these are formally audited.

(A copy of the 2015 CopyClear Annual report is attached for your information).

It is important to stress that the CopyClear clearance managers and board representatives are completely independent and have no connection to the alcohol industry. There is no representation from the alcohol industry involved in the day-to-day activities nor is there any representation from the alcohol industry on the board of CopyClear.

It is also worth noting that the compliance rate to the industry codes from the alcohol industry is very high.

The organisation is 12 years in existence. In 2013, the CCCI commissioned research among users of the service to better understand their needs and establish how the service could be improved. One of the issues that was constantly highlighted was the level of compliance that existed among alcohol advertisers. They referred to collaboration, to the significant efforts that are made by the alcohol industry to be best in class and to how the industry fully endorses the principles of co-regulation, compliance and best practice.

## **Alcohol Marketing Communications, and Sponsorship Codes of Practice (AMCMB)**

In 2002 the Minister for Health and Children met with representative organisations from the Advertising Industry, The Association of Advertisers in Ireland (AAI), representing advertisers, the Institute of Advertising Practitioners in Ireland (IAPI) representing the advertising agencies and Drinks Industry Group Ireland (DIGI) representing the Alcohol Drinks industry.

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The discussions centred on the Minister's concerns about some of the content, weight of exposure and placement of alcohol advertising. In addition, issues were discussed on activities involved in the sponsorship of, and activities surrounding music and sports events.

Following on from this, representatives from the Health Promotion Unit in the Department of Health and Children had a series of meetings with all industry stakeholders, including the media owners involved (TV, Radio, Outdoor and Cinema). A number of jointly agreed initiatives were subsequently put in place to deal with the Department's concerns.

The following Codes of Practice were developed, implemented and still apply to the alcohol sector today:

- The development of media weight and placement codes for TV, Radio, Cinema and Outdoor
- Sponsorship code

### **Monitoring Body**

In November 2005, the Department also established an independent monitoring body (AMCMB) under the chairmanship of Peter Cassells. Its function was to monitor the level of adherence by advertisers and media owners to all these codes. The Department, the Broadcasting Authority of Ireland and representatives of the Advertising and Alcohol Drinks Industry are represented on this body. The level of compliance to the AMCMB code is very high.

### **AAI Response to BAI Draft Code on Alcohol**

The Association of Advertisers in Ireland agree with the proposals in Section 10 of the Consultation Document. Whilst we are comfortable with this section, we note that this code will be updated to ensure that this is in line with the Public Health (Alcohol) Bill when this is enacted.

The AAI submitted a detailed response to the general Scheme of the Public Health (Alcohol) Bill 2015 on March 4<sup>th</sup> 2015. The AAI were subsequently invited to appear in an open discussion before the Joint Committee on Health and Children on Tuesday 24<sup>th</sup> of March.

The current Public Health (Alcohol) Bill contains proposals in relation to the prohibition of advertising creative content and the introduction of a 9.00pm broadcasting watershed.

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We are conscious that the purpose of this submission is to address the BAI Draft General Commercial Communications Code, however, we need to take this opportunity to express our concern and note that the wider implications and threats to the advertising sector should these proposals be implemented are extremely serious.

### **Broadcasting Watershed**

The AAI recognises that any proposed TV watershed is not included in the BAI consultation document, however, we would like to take this opportunity to review what we addressed during the open discussion with the Joint Committee on Health and Children on 24/3/15.

Regulation of the broadcast area can only be truly effective if it is universally applicable. The bill would propose regulating five Irish regulated television broadcasters while presently thirty seven television stations not regulated in this jurisdiction broadcast advertising targeting Irish viewers only. It would, as presently intended, allow all of these stations to ignore the provisions of this bill and attract revenues diverted from Irish broadcasters.

A watershed will therefore be unworkable in the context of the Irish media environment.

Legislation imposing watersheds ignores the reality that many children watch television after 9.00pm, and the technological developments that allow audiences to watch programmes at any time, regardless of when they are initially broadcast.

## **Overall Summary**

The Association of Advertisers in Ireland believes that we need policies and codes which strengthen the advertising sector – for brands, for media, for agencies and services.

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We believe that the freedom to advertise, within a clear and responsible framework, is good for people, good for business and good for the economy.

The AAI supports a reasonable, sustainable and viable climate in which it can operate and contribute to Ireland's economy and society. To do that, we like any other industry, rely on stakeholders to work with us in a spirit of partnership.

We believe that everyone should play their part. The industry must act properly. Governments must legislate fairly. Consumers must behave responsibly.

# ADVERTISING:

An engine for  
economic  
growth





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by Alan Cox,  
CEO Core Media



Advertising's contribution to growing sales and profit is well known; all the world's leading brands have been built through consistent marketing, which has created demand and increased revenue for those businesses.

Up to now, much less has been known about advertising's role as a stimulant for economic growth through its capacity to drive demand, spread innovation and foster competition.

We were impressed by the work that Deloitte did for the Advertising Association in the UK last year on this topic and hope that this report on advertising's impact on the Irish economy will provide a valuable contribution to the Irish debate.

The key finding from this study tells a remarkable story about the Irish advertising and marketing industry; on average €1 spent on advertising is estimated to generate

€5.7 in our economy. This phenomenal finding is based on rigorous and complex econometric analysis, conducted by Deloitte, and described in the report.

I would like to thank Google, INM and RTE for co-sponsoring the study with us, and for their contributions. We request that policy makers take note of the disproportionate impact our industry has on the economic performance of this country, and we ask Government to consider the benefits that would accrue from a programme which incentivises and encourages businesses to invest in advertising in order to grow demand and employment in Ireland.

Recognition of this has never been more important, as the economy is still fragile, but poised for growth.

A handwritten signature in blue ink that reads "Alan Cox".

CORE MEDIA<sup>®</sup>

Google

Irish Independent 

RTE

# Foreword

€1 of advertising spend generates €5.7 on average for the Irish economy



Advertising plays a central role in our everyday lives through things as simple as informing about the latest products to funding a wide range of free entertainment.

€938 million<sup>1</sup> was invested in advertising and marketing communications<sup>2</sup> in Ireland in 2012. The industry provides vital funds to the Irish media, enabling its fundamental contribution to society and culture. It provides 1 in 3 euro of revenues to newspapers and a fifth of all TV revenues, facilitating a daily and diverse supply of news and information to one of the most avid reader populations in Europe. It contributes to promoting Irish cultural heritage and supports other sectors, from radio to sports or leisure.

It funds many services at the centre of the internet, where Irish people already spend over 2.5 hours per weekday.<sup>3</sup> These range from online search engines to social media, through which Irish people increasingly shop, research and stay in touch.

In 2012, the Advertising Association of Ireland commissioned a study about the Economic Impact of Advertising, with a focus on its effects in funding the media, and the resulting supply chain and knock-on effects.<sup>4</sup>

However, advertising's role in the economy is wider. This was comprehensively studied in a pioneering study commissioned by the Advertising Association in the UK (the '*Advertising Pays study*'<sup>5</sup>), which quantified advertising's fundamental contribution to the economy, and articulated the mechanisms through which advertising enables markets.

The present study adopts the Advertising Pays innovative method and framework, to quantify and illustrate advertising's impact in Ireland. The Advertising Pays study's cross-country statistical analysis, which covers different markets and years is extended in this study to include Ireland and the most recent data, to measure advertising's effect in the Irish economy.

On this basis, advertising is estimated to contribute €5.7 to Irish Gross National Product (GNP) on average per €1 spent on advertising.<sup>6</sup> With advertising media expenditures in Ireland of €938 million, advertising is estimated to have contributed at least €5.3 billion to Irish GNP in 2012.

This effect results from the fundamental role that advertising has in the economy, ranging from its ability to support innovation and competition, to its role in stimulating exports.

The information contained in advertising allows consumers to make more informed decisions and promotes faster take-up, supporting market efficiency, investment and market expansion. There are various examples of advertising playing such a role in Ireland, from the labour market, to markets from high-tech to fast moving consumer goods.

Advertising enhances competition, by supporting innovation and differentiation, or through the advertising of prices. Advertising's role in informing about the best deals in supermarket groceries in Ireland is just one illustration of this effect.

By nurturing brands, advertising helps create relationships between customers and companies, facilitating choice and creating a platform for international export success. Leading Irish brands such as Jameson and Kerrygold, to name a few, are a testimony to this effect.

Advertising's funding of key online services allows Irish consumers to look for the best deals, and opens new career, educational and social opportunities, driving further productivity in the economy. Advertising's current contribution to growing the Irish digital economy through more efficient online and offline purchases is only likely scratching the surface of the opportunity ahead.

As a catalytic activity promoting innovation, competition and growth, policy makers should enable an environment where advertising's ability to be a driver of the economy is maximised. Policy makers should consider direct forms of support, such as financial incentives, to allow the industry to grow faster and contribute more, given advertising's enabling effects on the economy.

This report illustrates these impacts in Ireland.

# Executive Summary

<sup>1</sup> This includes advertising in newspapers and magazines, television, cinema, radio, out-of-home, direct mail, online advertising and sponsorship. The cost of producing advertising is not included. Source: Core Media estimates (2012) for newspapers and magazines, television, cinema, radio, out-of-home, online advertising and sponsorship. Deloitte estimates for direct mail based on international benchmarks and WARC data (<http://www.warc.com/Topics/ForecastsandData.topic>) provided by Core Media. See appendix B.1, table 6 for a breakdown and details of estimates.

<sup>2</sup> Hereinafter referred to as 'advertising'.

<sup>3</sup> UPC (2012), 'The UPC Report on Ireland's Digital Future'.

<sup>4</sup> AECOM (2012), 'Economic Impact of Advertising in Ireland'.

<sup>5</sup> Advertising Pays: how advertising fuels the UK economy, a study commissioned by the Advertising Association from Deloitte LLP. Available at: [www.adassoc.org.uk/Advertising-Pays](http://www.adassoc.org.uk/Advertising-Pays).

<sup>6</sup> This result reflects the average impact of €1 of advertising across the economy, with advertising having higher or lower effects in specific circumstances.

Advertising is an engine of the economy. It informs consumers of products and prices, and fosters adoption of innovations. It provides the essential bridge between the product and the consumer.



*"Advertising has often been seen as more art than science - even in its impact as well as its content. This report applies new economic models to Ireland to give some real measure of the importance of advertising to business, individuals and the wider economy."*

*Brendan Keenan, Economics Editor  
Independent Newspapers*

### 1.1 Advertising stimulates economic activity

Although advertising is such an integral part of the economy, it is very difficult to measure its impact. This report looks at how differences in the level of advertising across countries contribute to different levels of economic activity, following the approach developed in the UK Advertising Pays study.

The model built covers 18 countries and 15 years, ranging from the G7<sup>7</sup> and Ireland through to developing economies.<sup>8</sup> It identifies the main drivers of GDP differences between countries and isolates the role of advertising, as described in Appendix A. The issue about whether advertising drives higher economic growth, or whether faster-growing economies generate higher levels of advertising, is addressed through the particular statistical methodology used, also described in Appendix A.

The model demonstrates that higher advertising expenditures have a positive impact on GDP. From the model, the following is found in relation to the effect of advertising in Ireland:

- Advertising is estimated to contribute €5.7 to Irish GNP on average per €1 spent on advertising.<sup>9</sup>
- With advertising expenditures in Ireland of €938m, advertising is estimated to have contributed at least €5.3 billion to Irish GNP in 2012.

### 1.2 Advertising smoothes the labour market

Advertising makes the labour market work better.<sup>10</sup> The approximately €15 million Irish recruitment advertising market<sup>11</sup> facilitates the matching of positions and candidates through Irish job boards, printed and social media.

The literature articulates the impact of advertising on recruitment. Advertising provides information to potential recruits, and increases the recruitment pool by raising employer awareness and branding.<sup>12</sup>

- **Reduces search cost.** Recruitment advertising is seen as an effective way of reaching potential candidates.<sup>13</sup> For companies and recruiters, recruitment advertising communicates employment needs to a targeted and self-selected audience, allowing employment opportunities to be communicated faster and more widely to relevant candidates. Likewise, job seekers can learn of targeted and specific job opportunities which they can appraise.<sup>14</sup>

Advertising's contribution to the Irish economy is

**€5.3bn**

# 1 ADVERTISING ENABLES THE ECONOMY

- In Ireland, online job boards are currently the most widely used platform on which recruitment advertising is posted.<sup>18</sup> Sites like Irishjobs.ie can reach over a million visits per month.<sup>19</sup>

Jobs are also advertised through traditional print or broadcasting media in Ireland, including through the job sections of newspapers and magazines. For instance, Kerry Group launched a press release in 2012 that was disseminated by newspaper and broadcasting media announcing 900 new jobs in its research and development facility<sup>24</sup>, prior to the largest graduate recruitment fair in Ireland. This resulted in great success for Kerry in terms of potential employees' attendance to this fair.<sup>25</sup>

For the purposes of senior recruitment, press advertising remains the main advertising medium, with the key national newspapers continuing to carry the lion's share of senior executive recruitment advertising.<sup>26</sup>



7 G7 countries are Canada, France, Germany, Italy, Japan, the United Kingdom and the United States.

8 The model constructed by Deloitte in the Advertising Pays study was extended to include Ireland in the sample of countries and the latest data available. See appendix A.1.1, table 1 for the complete list of countries.

9 This is estimated from the econometric model. The sum of the GDP effect of advertising across all countries and all periods is divided by the total advertising expenditures across the sample, providing an average multiplier effect of €6.8 economic impact per €1 of advertising spend. The GDP effect for each country and period is estimated based on the coefficient from the econometric model. This shows that 1% increase in advertising spend generates on average 0.062% GDP per capita within one year. The Irish multiplier is then estimated based on the share of Irish GNP to GDP across the period of analysis, and the GDP multiplier effect of €6.8 across the sample, giving a multiplier of €5.7. GNP is seen as a better measure of Irish national income than GDP. The difference between GDP and GNP is the net transfer of factor incomes. While in many countries the two numbers may broadly cancel out, Ireland's GNP is about 85% of its GDP over the period of this analysis, because of the significant presence of foreign companies with European headquarters in Ireland. Advertising spend in Ireland is unlikely to impact income generated by headquarters from non-Irish operations. Accordingly, advertising's impact on GNP only is estimated and reported here. The use of GNP as a more accurate national income metric in Ireland is widely established. See for example GDP and GNI: OECD Observer, No. 246-247, December 2004-January 2005.

10 Johansen, D. (2007), 'The impact of advertising and marketing on recruitment and retention'. Final Report of Research Task Group HFM-107. NATO Science and Technology Organization.

11 Publicis Engage estimation for 2012.

12 Johansen, D. (2007), 'The impact of advertising and marketing on recruitment and retention'. Final Report of Research Task Group HFM-107. NATO Science and Technology Organization.

13 Publicis Engage (2012), 'Why advertising should be part of your recruitment strategy', August.

14 Barber, A.E. (1998). *Recruiting Employees: Individual and organisational perspectives*. Thousand Oaks, CA: Sage.

15 Cable, D.M. and Graham, M.E. (2000). 'The determinants of job seekers' reputation perceptions'. *Journal of Organisational Behaviour*, 21, 929-947.

16 Publicis Engage (2012), 'Just how important is your Employer Brand?', November.

17 Publicis Engage.

18 Publicis Engage.

19 Figure by ABC Electronic for January 2012, Audit Bureau of Circulation.

20 Publicis Engage (2012), 'Social recruitment-on time and on budget', November.

21 Ibid.

22 Publicis Engage (2012), 'Why advertising should be part of your recruitment strategy', August.

23 Kilcar M. (2012), 'The impact of social media on recruitment in Ireland 2012' CCP recruitment.

24 See, for instance: RTÉ (2012), 'Kerry Group to create up to 900 jobs in Kildare'.

25 Publicis Engage.

26 Publicis Engage.

Jobs are sustained in the media and creative industries, and the wider economy, as a result of advertising spend.



In 2012, 3,000 people were estimated to be employed in creative and media agencies and the production of advertising. Advertising also supports the jobs of those involved in the commissioning of advertisements within advertisers' organisations across all sectors. It is estimated that an extra 4,000 people are employed in those activities.

- Overall, a total of 7,000 people are estimated to be employed in advertising activities in Ireland in 2012.

Beyond these, advertising also supports jobs in organisations funded by advertising spend. For example, this includes a share of the employment in newspapers, magazines or radio stations as a result of the revenues that those industries generate from advertising.

- Over 7,500 jobs are supported by the revenue from advertising space.

Further employment is supported in those sectors' supply chains. For example, a broadcaster's advertising revenues will fund the wages of many of its staff and contribute to the broadcaster's content and distribution

costs. Further economic activity and employment will be supported as the broadcaster's and content suppliers' staff spend their wages.

- Approximately 15,500 jobs are estimated to be supported across the supply chains of the creative industries and throughout the wider economy from employees spending their wages.

The total employment which is supported directly or indirectly by approximately €1 billion of advertising media spend in Ireland is estimated to be in the order of 30,000 jobs. Appendix B provides a detailed description of the approach used to establish all job estimates in this section.

A much larger number of jobs are also created as a result of advertising's role as an enabler of markets, which are not captured here, although an example of such types of impacts is illustrated in the case study opposite.

30,000  
Irish jobs are supported by advertising

## 2 ADVERTISING SUPPORTS JOBS



## Case study: Advertising of Ireland as a tourist destination helps boost domestic travel and employment

In 2006, Fáilte Ireland, the National Tourism Development Authority, launched the campaign 'Right Here, Right Now', which resulted in the successful repositioning of Ireland as an attractive aspirational destination.<sup>27</sup>

Along with the change in economic conditions, the launch of the first campaign in 2006 has contributed to the increase of the domestic travel share of total Irish travel. The number of domestic trips and the expenses by domestic tourists increased by 26% and 33% respectively, between 2006 and 2011.<sup>28</sup>

This has helped to cope with the effects of the recession that has reduced the total revenues of the Irish tourism sector by 5%, since 2006.<sup>29</sup>

In 2011, over 10,000 jobs (6,400 in the sector, 3,800 in the supply chain and the rest of the economy) are estimated to have been supported by the increase in domestic tourism in Ireland.<sup>30</sup>



<sup>27</sup> IAPI AdFx (2008), 'Right Here, Right Now'.

<sup>28</sup> Deloitte analysis based on Fáilte Ireland: Tourism facts 2007, 2008, 2009, 2010 and 2011.

<sup>29</sup> Ibid.

<sup>30</sup> This figure is estimated based on the incremental revenue generated by domestic tourism, which increased by 33% since 2006, and 2011 Fáilte Ireland estimation of employment (latest available). Using I-O information, the impact that this increment has on supporting direct employment in the sector is estimated, as well as associated indirect and induced effects in the Irish economy.



Without advertising,  
some enterprises may  
not be viable.

The revenue generated by selling advertising supports the Irish media, from the internet, to print, to broadcast and beyond. 38% of Irish media industry's revenues are estimated to come from advertising.<sup>31</sup> In the absence of advertising these industries would look very different. Firms would have to charge consumers and some enterprises may not be viable.

The role of advertising in funding the newspaper and magazine sector is particularly critical, given the traditional importance of newspapers as a source of information for the Irish population. Newspaper readership is regarded as one of the highest per capita in Europe with 81% of the Irish adult population reading printed newspapers regularly.<sup>32</sup> One third of newspaper revenues come from advertising, providing a vital source of funding.<sup>33</sup>

Advertising spend contributes one fifth of all Irish TV revenues.<sup>34</sup> It contributes to RTÉ's revenue<sup>35</sup> and it funds other major free-to-air broadcasters such as TV3 and subscription channels, such as those broadcast through Sky or UPC, contributing to a diverse range of quality programming. These broadcasters in turn sustain creative Irish industries such as the film and video sector.

The media in Ireland contributes to the diffusion of the Irish language helping to promote Irish cultural heritage. For instance, 55% of TG4's broadcasting schedule is provided in the Irish language<sup>36</sup> and is part-funded by advertising.

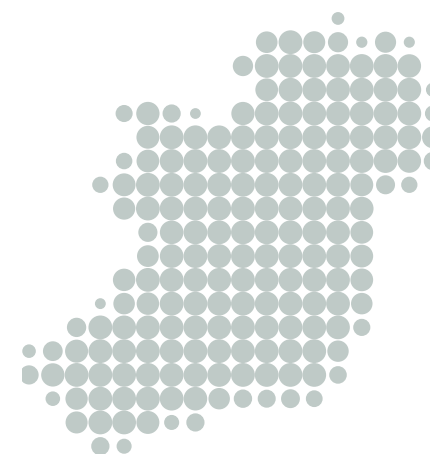
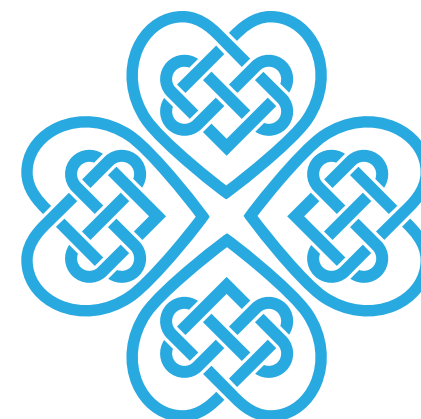
It also supports local heritage by funding local printed media and radio, including 50 local and regional newspapers<sup>37</sup>, read by 1.5 million people a week<sup>38</sup>, and nearly 60 local and community radio stations.<sup>39</sup>

Advertising funds the internet, enabling access to a wealth of information, and providing extensive educational, social and cultural opportunities, further supporting heritage. This contribution is described further in section 5.

Advertising funds a range of other leisure and sports activities, such as Dublin's bike rental scheme.

**38%** of all revenue to  
Irish media comes  
from advertising

## 3 ADVERTISING FUNDS IRISH MEDIA AND HERITAGE



# Case study:

## dublinbikes

Dublinbikes is often regarded as one of the most successful bike rental schemes in the world, and is supported by advertising. Launched in 2009, advertising company JCDecaux provides and operates a network of 550 bicycles at 44 locations on behalf of Dublin City Council. The cost of installation and maintenance of the bikes and their stations is covered by JCDecaux, providing a valuable service for Dubliners and visitors, in return for advertising space in the city.

With over 31,000 active long-term subscribers, dublinbikes has been a key contributor to Dublin's sustainable transportation policy. It is estimated that over 5 million journeys have been made under the scheme.<sup>40</sup> In 2013, JCDecaux signed a new contract with Dublin City Council to carry out an expansion of the scheme.<sup>41</sup>

Furthermore, it was recently announced that similar bike schemes will be launched in Cork, Limerick and Galway in 2014. These schemes are being part-funded by Coca-Cola Ireland.<sup>42</sup>

But advertising's role in the economy is much wider as the next sections illustrate.



- 
- <sup>31</sup> Estimates based on data provided by Core Media.
  - <sup>32</sup> National Newspapers of Ireland, <http://nni.ie/about-us/latest-news/>.
  - <sup>33</sup> See Appendix B, Table 6
  - <sup>34</sup> See Appendix B, Table 6
  - <sup>35</sup> According to RTE Annual report (2012), advertising contributed to 58% of all RTE commercial revenues.
  - <sup>36</sup> TG4 estimation provided by Core Media.
  - <sup>37</sup> Local Newspaper week, <http://www.localnewspaperweek.ie>.
  - <sup>38</sup> Regional Newspapers and Printers Association of Ireland, 'Facts and figures'.
  - <sup>39</sup> Broadcasting Authority of Ireland, [www.bai.ie](http://www.bai.ie).
  - <sup>40</sup> Murphy et al (2013). "The role of bicycle sharing in the city: analysis of the Irish experience". International Journal of Sustainable Transportation. <http://www.tandfonline.com/doi/abs/10.1080/15568318.2012.748855>.
  - <sup>41</sup> JCDecaux (2013), 'dublinbikes expansion'.
  - <sup>42</sup> Core Media.

Advertising fuels innovation, competition and market expansion, leading to more efficient markets and wealth creation.

Advertising provides vital information to consumers about the availability, features or price of products and services. It supports innovation by accelerating the speed at which product improvements are adopted, reducing barriers to market penetration.

It can lead to significantly expanded markets, with more consumers having access to products at lower prices; and to enhanced product value, supported by investment.

By nurturing brands, advertising reinforces the commitment to quality, facilitates product choice, and helps project companies successfully onto international markets.

Advertising in Ireland has these effects across markets, from the top spending sectors such as retailing or food manufacturing to others such as financial services or telecommunications where advertising plays an equally significant role.<sup>43</sup>

#### 4.1 Facilitates Market Growth

The information contained in advertising helps raise awareness of new products, and supports market growth.<sup>44</sup>

The scope for advertising to perform this role will vary according to the state of the market. Advertising is likely to help accelerate the growth of markets where there is breakthrough change.<sup>45</sup>

An example is provided by Samsung, which has heavily used advertising<sup>46</sup> to expand smartphone markets. Continued growth in Samsung sales has contributed to the increase in smartphone penetration in Ireland from 39% to 50% between 2012 and 2013.<sup>47</sup>



Over  
**400,000**  
households would not yet have  
broadband access without advertising

## 4 ADVERTISING POWERS MARKETS



Samsung has also used advertising extensively to promote new market segments such as big display smartphones (phablet) through its Galaxy Note range, positioning the company as Apple's main competitor. With the recent launch of the Galaxy Note 3, the Galaxy Note is now in its third generation. Samsung's positioning in Ireland with campaigns for its tablet range such as the Galaxy Tab and the Galaxy Note 10.1 contributed to an annual 25% growth in tablet penetration. By the end of 2013, it is forecast that there will be 1.2 million tablets in Ireland.<sup>48</sup>

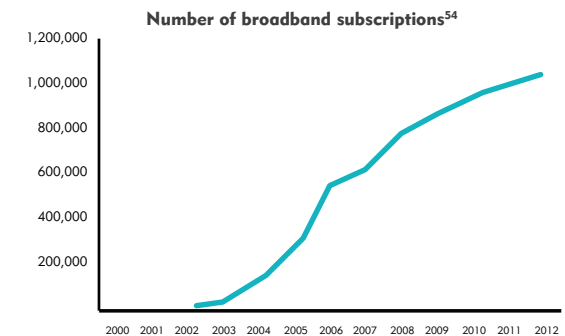
In the fast-moving consumer goods segment, advertising helped Lucozade to create and expand the Irish sports drinks market. Before its launch in 1995, sports drinks were virtually unknown in Ireland.<sup>49</sup> After two decades of targeted advertising through several award winning campaigns<sup>50</sup>, advertising helped Lucozade to establish a market for sports drinks in Ireland, placing the company in the leading position in sports drinks sales. In 2013, Lucozade was the 4th biggest selling brand in Irish grocery.<sup>51</sup>

Advertising has also contributed to the expansion of new products within traditional markets. Ireland is in the top 10 countries in fortified milk consumption as a proportion of total milk consumption in the world. This has been supported by advertising. For example, the award winning Super Milk campaign in 2010 contributed to Ireland becoming the market with highest growth in fortified milk sales in the world.<sup>52</sup>

### Case study: Advertising has played a key role in supporting the growth of broadband, helping to connect rural communities in Ireland

The broadband market has grown remarkably in the last decade, with nearly two in three<sup>53</sup> Irish households currently having fixed residential broadband connections. Advertising has played an important role in supporting this market expansion with campaigns focused on broadband service launches by new operators, faster speed broadband services, or triple play promotions. Without advertising, it is likely that market growth would have been slower, and the market would be less competitive. Over 400,000 Irish households, approximately 40% of current total broadband households, would likely not yet have broadband access in 2012 without advertising.<sup>55</sup>

The boost in connections supported by advertising has also benefited rural areas in Ireland, where broadband penetration already reaches 56.5% of rural households.<sup>56</sup> This enables rural economic development by facilitating e-businesses, improving communications between farms and national and international markets<sup>57</sup>, and attracting young families to ensure availability of a skilled and vital labour force in rural areas.<sup>58</sup>



<sup>43</sup> Nielsen (2013) Ad Dynamix: Advertising spend by category in Ireland provided by Core Media.

<sup>44</sup> See for example, Bagwell, K. (2007), 'The economic analysis of advertising', Handbook of Industrial Organization, Volume 3, for an explanation of the role of advertising in supporting the development of economies of scale.

<sup>45</sup> Dr Simon Broadbent for Economics Committee, Advertising Association (1997), Does Advertising Affect Market Size?

<sup>46</sup> It is estimated that Samsung spent \$12 billion in marketing, being the top advertising spender globally in 2012. Source: CNN Money (2012): 'Samsung's galactic marketing budget'.

<sup>47</sup> Eircom (2013), Home Sentiment Survey 2013 and Red C (2012), 'Connecting the world: Mobile and social media trends, Ireland'.

<sup>48</sup> Ibid.

<sup>49</sup> IAPI AdFx Awards (2008), 'Lucozade Sport: Longitudinal Case Study'.

<sup>50</sup> Ibid.

<sup>51</sup> Checkout and Nielsen (2013), 'The Checkout Top 100 Brands'.

<sup>52</sup> IAPI AdFx Awards (2010), 'Form Super Milk to Super Brand'.

<sup>53</sup> Comreg (2013) 'Quarterly Report Q2 2013'.

<sup>54</sup> Economist Intelligence Unit (2013).

<sup>55</sup> This is based on broadband advertising elasticity of 0.4, sourced from "Advertising and price elasticities of ADSL Access", John Nankervis, University of Essex, February 2004. The elasticity is applied to the annual increase in broadband connections since the year 2002, to estimate the reduction in new connections without advertising. The source for the number of current fixed residential broadband connections is Economist Intelligence Unit.

<sup>56</sup> CSO (2012), 'Census 2011 results'. June. <http://www.cso.ie/en/census/census2011reports/census2011thisisirelandpart2>.

<sup>57</sup> European Commission (2006), 'Broadband Internet access: the territorial divide'. <http://europa.eu/scadplus/leg/en/lvb/l24190c.htm>.

<sup>58</sup> Oireachtas Library & Research Service (2009), 'Broadband'. No. 4.

## 4.2 Supports Exports

Exports are an important driver of economic growth. The academic literature illustrates the role of advertising in supporting exports.<sup>59</sup> Main findings include:

- Greater brand recognition in overseas markets supports market entry and helps to build larger market shares;
- A 2003 study found a strong positive link between the level of brand recognition and financial performance of that brand in export markets.<sup>60</sup>

The power of advertising and brands is exemplified by world-renowned Irish brands such as Jameson and Kerrygold:

- Whiskey brand Jameson is one of the most successful Irish brands.<sup>61</sup> In 2012, Jameson reached 4 million cases sold. It is the number one Irish whiskey in sales in the world<sup>62</sup> with a 64% global market share of Irish whiskeys.<sup>63</sup> Since the late 80's, Jameson has multiplied its sales by approximately 750%, mostly overseas, with around one quarter of its total sales in the US. This export success is based on strong and targeted marketing coupled with premiumisation and innovation.<sup>64</sup>

Jameson's marketing strategy has helped Irish whiskey and Jameson in particular to globally compete with other premium whiskey brands. For instance, in October 2011, Jameson invested heavily on its first TV campaign centred on the legend of John Jameson. Jointly with its high profile short film online contest, this has backed an increase of 29% of sales in the US in 2012, contributing to Jameson being in the Top 20 spirits brands by value in the world.<sup>65</sup>

- Another prominent example is butter brand Kerrygold, regarded as one of Ireland's truly internationally known food brands.<sup>66</sup> Since the early 60's, advertising has contributed to the butter brand's expansion in foreign markets and to the image of Ireland abroad.<sup>67</sup> It is, for example, the top selling butter in Germany with 50% of branded butter market share.<sup>68</sup> Kerrygold's advertising also contributes to promote its premium positioning in foreign markets. In 2012, for instance, its food magazine advertising and first time ever TV campaign contributed to it becoming the number one imported butter brand in the US.<sup>69</sup>



The importance of marketing to support export sales is also acknowledged by the government. Enterprise Ireland, the government agency responsible for supporting Irish businesses, has developed a programme aiming to help export-focused Irish companies across all sectors. In particular, online marketing is seen as one of the most

cost effective tools for small and medium sized companies to develop export markets given its ability to reach wide audiences abroad.<sup>70</sup> Enterprise Ireland offers support aiming to maximise the potential of small and medium sized companies' online presence to support sales in overseas markets.

<sup>59</sup> See, for example, Cavusgil, S.T. and Zou, S. (1994), 'Marketing strategy-performance relationship: an investigation of the empirical link in export market ventures', *Journal of Marketing*, Vol. 58, No.1, pp. 1-21.

<sup>60</sup> Zou, S. and Zhao, S. (2003), 'The effect of export marketing capabilities on export performance: an investigation of Chinese exporters', *Journal of International Marketing*, Vol. 11, No. 4, pp. 32-55.

<sup>61</sup> Jameson's brand estimated value is \$540 million. Brand directory. [www.branddirectory.com](http://www.branddirectory.com).

<sup>62</sup> Jameson hits four million cases, Irish Whiskey news, November 29, 2012 <http://www.whiskyintelligence.com/2012/11/jameson-hits-four-million-cases-irish-whiskey-news/>.

<sup>63</sup> Pernod 2011-2012 Annual Report.

<sup>64</sup> Jameson hits four million cases, Irish Whiskey news, November 29, 2012 <http://www.whiskyintelligence.com/2012/11/jameson-hits-four-million-cases-irish-whiskey-news/>.

<sup>65</sup> Brand directory (2013), 'World's Top 50 spirits brands in 2013'.

<sup>66</sup> Irish Co-operative Organisation Society (2012), 'Co-operative Alliance Ireland Yearbook'.

<sup>67</sup> Bolger, M (2012), 'Buttering up the British: Irish exports and the tourist gaze'. In/Print, 1, 2012. Dublin Institute of Technology.

<sup>68</sup> Irish Dairy Board (2012), 'Annual report'.

<sup>69</sup> Ibid.

<sup>70</sup> Enterprise Ireland (2013), 'E-marketing support'.

### 4.3 Fosters Price Competition

Advertising stimulates competition by supporting innovation and differentiation, through the advertising of prices, or by helping new entrants raise awareness of their products.

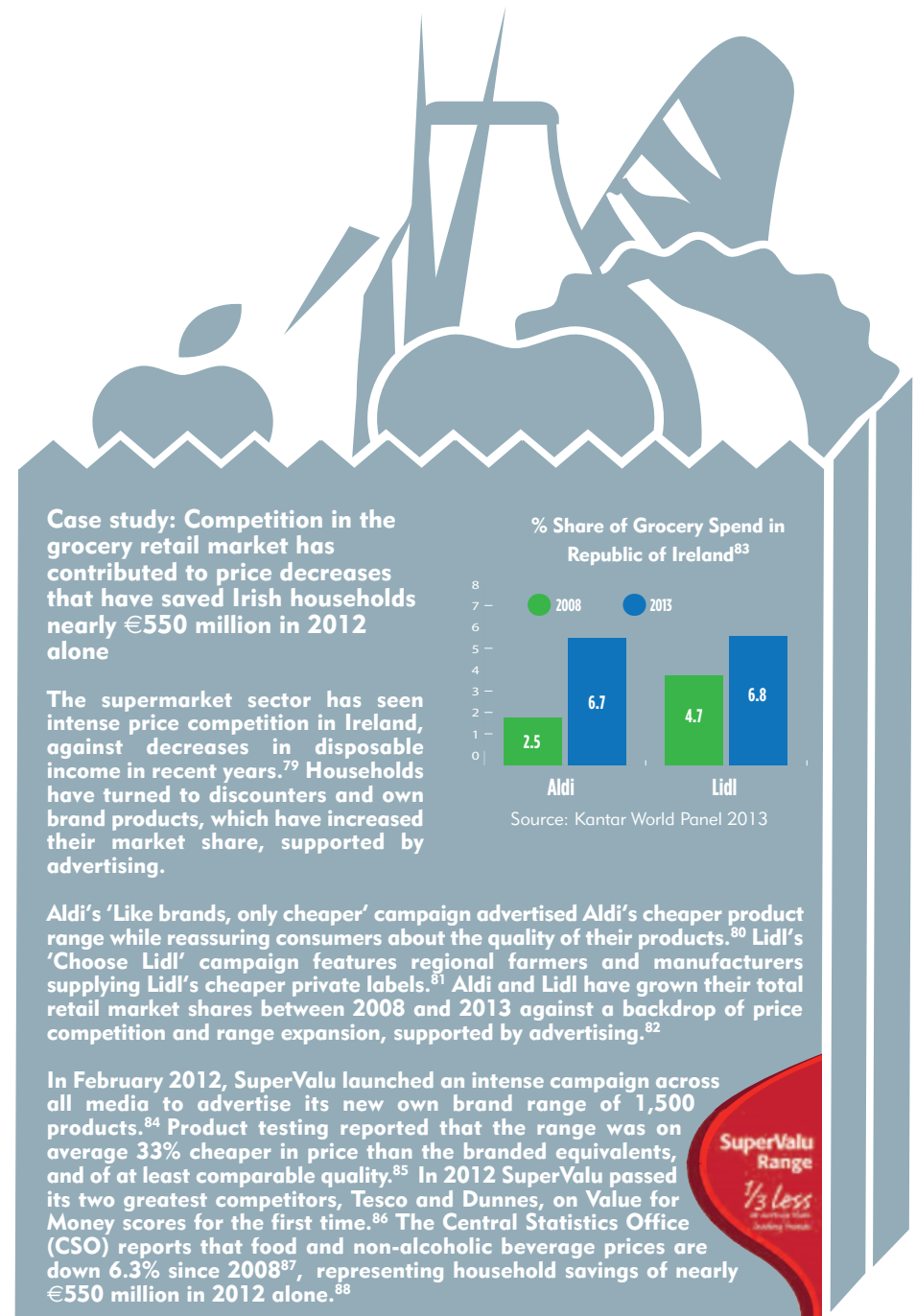
A study, for example, which examined the impact of the advertising of staple products such as detergent, toothpaste and toothbrushes, found that increases in advertising made consumers more price sensitive and led to higher overall demand.<sup>71</sup> This effect is recognised in the wider academic literature.<sup>72</sup>

Advertising's contribution to stimulating price competition is present in many markets in Ireland, from energy, to mobile phones or supermarkets.

In the residential electricity market in Ireland, market liberalisation triggered price competition. Advertising has played a key role in informing customers of new supply options available. For example, Bord Gáis launched in 2009 an intensive award winning campaign advertising a 10% discount in prices. Bord Gáis gained 300,000 clients in only one year through its market entry strategy, equivalent to 20% of the residential electricity market share.<sup>73</sup>

In the Irish mobile phone market, average revenue per user has nearly halved since 2005<sup>74</sup>, attributable in part to lower price mobile plans<sup>75</sup>, promoted through advertising.<sup>76</sup> Nearly 3 million numbers have ported to another operator since 2005.<sup>77</sup> The average post-paid mobile basket in Ireland is currently more than 20% cheaper than the OECD average basket.<sup>78</sup>

- <sup>71</sup> Erdem et al. (2008), 'The impact of advertising on consumer price sensitivity in experience goods markets', *Journal of Quantitative Marketing and Economics*, Vol 6.
- <sup>72</sup> For example a study on Austrian advertising taxation found that the tax increased overall consumer prices but with very diverse effects across different markets - the reduction in advertising expenditure as a result of the tax led to increased prices for food products but falls for others (See Rauch, F. (2011), 'Advertising expenditure and consumer prices', CEP discussion paper 1073). The literature suggests that the overall effect of advertising on prices will depend on the net effect on economies of scale, the firm's unit cost and consumers' sensitivity to price. When advertising increases the price sensitivity of demand, it works to reduce prices. In contrast, advertising may create higher intrinsic value when it helps promote innovation and differentiation (See Bagwell, K. (2007), 'The economic analysis of advertising', *Handbook of Industrial Organization*, Volume 3).
- <sup>73</sup> IAPI. AdFx Awards (2010) Bord Gáis: 'Making the big switch'.
- <sup>74</sup> Comreg (2013) 'Summary statistical data on the Irish mobile market'.
- <sup>75</sup> Comreg (2013), 'Quarterly Key Data Report'.
- <sup>76</sup> Telecommunications companies in Ireland spent c. €63 million in advertising in 2012, telecommunications being a top five sector by advertising spend in the country. Source: Nielsen (2013), Ad Dynamix: Total "telecommunications" category advertising spend in Ireland in 2012 provided by Core Media.
- <sup>77</sup> Comreg (2013) 'Summary statistical data on the Irish mobile market'.
- <sup>78</sup> Out of 21 countries benchmarked, Comreg (2013), 'Quarterly Data Report'.
- <sup>79</sup> Nielsen (2013), 'Ireland Private Label Report'.
- <sup>80</sup> Ibid.
- <sup>81</sup> Private Label Manufacturers Association, e-scanner, [www.plmaininternational.com/EsScannerInt/october2012En.html](http://www.plmaininternational.com/EsScannerInt/october2012En.html).
- <sup>82</sup> Kantar World Panel (2013), '5 year trend in retailer share across the Republic of Ireland', October provided by Core Media.
- <sup>83</sup> Ibid.
- <sup>84</sup> For instance, almost 800 TV ratings were delivered in the first two weeks, reaching 80% of the population according to IAPI AdFx (2012), 'From last resort to first port of call: Say 'Hello' to the new SuperValu'. According to Nielsen Ad Dynamix (2013) provided by Core Media, SuperValu was the top advertising spender among supermarkets brands.
- <sup>85</sup> Red C provided by Core Media.
- <sup>86</sup> IAPI AdFx (2012), 'From last resort to first port of call: Say 'Hello' to the new SuperValu'.
- <sup>87</sup> Retail Ireland based on CSO's CPI figures. Food and drink prices down 6% since 2008: Retail Ireland. Monday 11, February 2013. <http://www.ibec.ie/IBEC/Press/PressPublicationsdoclib3.nsf/vPages/Newsroom~food-and-drink-prices-down-6-since-2008-retail-ireland-11-02-2013?OpenDocument?OpenDocument>
- <sup>88</sup> This is estimated based on consumers' spend estimate on food and non-alcoholic drinks assuming prices would have been 6.8% higher. Consumer spend on food and non-alcoholic drinks is sourced from Consumption of Personal Income, CSO (2012), 'National Income Expenditure Report'.



## 4.4 Stimulates Innovation and Differentiation

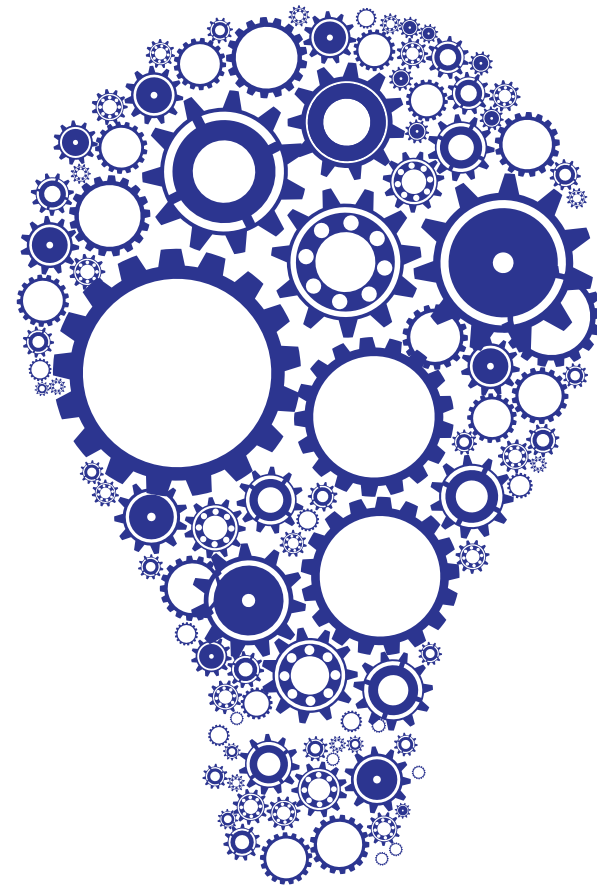
Advertising stimulates investment by fostering adoption and reducing investment risks. It supports innovation and new product launches across practically any market, from pharmaceuticals to fast-moving consumer goods, or cars:

- An example is the market for electric cars. Advertising campaigns from giants such as Nissan and Renault have contributed to their standardisation as an alternative to regular cars. Nissan introduced in 2011 the first purpose-designed fully electric car, Nissan LEAF, with advertising helping to grow sales and promote it as a zero-emissions vehicle.<sup>89</sup> In Ireland alone, car manufacturers spent nearly €3.5 million over the last five years<sup>90</sup> in promoting new models like these.
- The case study opposite in relation to Personal Computers (PCs) exemplifies further the role that advertising can play in supporting investment in new products.

Advertising helps companies differentiate, and build association with customers, by leveraging their brand or promoting innovative features:

- Love Irish Food is a syndicated group of Irish food brands, ranging from tea to chocolate.<sup>91</sup> It has used advertising campaigns to differentiate the group's products by stressing their Irish origin, and linking them to Irish values, quality and employment in Ireland. Its award-winning advertising campaigns have been recognised for their ability to differentiate the relevant products by associating the brands with Irish heritage, quality and family.<sup>92</sup>
- Electric Ireland, for example, launched the first Appliance Calculator App in Ireland in 2011. This app allows customers to calculate how much energy their various home appliances are using, and the cost. Electric Ireland promoted the app, through advertising, as a way to help their customers control energy costs at home. Since its launch, the app has been downloaded over 70,000 times.<sup>93</sup>

The empirical literature of advertising supports this view. Research finds that firms which differentiated their products received higher returns from their innovations, particularly where those innovations were pioneering.<sup>94</sup>





## Case study:

**Computer manufacturers & retailers' Irish revenues would be reduced by €27 million without advertising.**

In the €95 million Irish business-to-consumer computer equipment market<sup>95</sup>, manufacturers and retailers create awareness of new model launches through advertising. Advertising helps promote new releases and their features, reach interested consumers and generate demand faster. This improves overall investment returns and helps to reduce the investment risk. In 2012, nearly €5 million was spent on advertising of computers in Ireland facilitating product promotion.<sup>96</sup>

Advertising helps manufacturers to differentiate their equipment by raising awareness of their relative benefits. A prominent example is Apple's "Get a Mac" campaign, awarded as one of the best campaigns of the new century<sup>97</sup>, which compared the capabilities and attributes of Mac against PC. Another example is Samsung's "For everyone" campaign, jointly with Google, which promoted its PCs' ultra-portable features available at an affordable price.<sup>98</sup>

Through advertising, computer manufacturers and retailers promote the launch of disruptive, innovative products. An illustration is Lenovo's campaign introducing its hybrid PC tablet, which aimed to define the new convertible PC market. One year after the launch of this campaign, Lenovo is one of the world leaders, with 45% market share of the Windows 8 convertible PC market.<sup>99</sup>

Computer manufacturers would find it more difficult to maintain the speed of innovation in the absence of advertising, since their innovations would be less likely to be acknowledged by consumers.

Computer manufacturers and retailers' Irish revenues from business-to-consumer sales would have been an estimated 29% lower in 2012 without advertising in that year, equivalent to over €27 million.<sup>100</sup> Along with similar effects of advertising globally, this could have a substantial impact on the range of new computer models that could be developed and commercialised.

<sup>89</sup> [www.nissan.ie](http://www.nissan.ie)

<sup>90</sup> Core Media analysis based on Nielsen (2013) Ad Dynamix : Electric, Hybrid and innovative cars advertising spend in Ireland, 2008-2012.

<sup>91</sup> <http://www.loveirishfood.ie/>

<sup>92</sup> IAPI AdFx Awards (2010). "Love Irish Food: Makes all the difference".

<sup>93</sup> iTunes store and Google Play download statistics (2013).

<sup>94</sup> Srinivasan, S. et al. (2009), 'Product innovations, advertising and stock returns', Journal of Marketing (January).

<sup>95</sup> This is a Deloitte estimate that is based on Irish government and business computer equipment spending from Forrester Research, Inc., (June, 2012): "European Information And Communication Technology Market 2012 To 2013" and an estimated proportion of computers sold for business and government based on industry consultations.

<sup>96</sup> Core Media estimation based on Nielsen (2013), Ad Dynamix.

<sup>97</sup> Adweek (2009): Adweek's Best of the 2000's.

<sup>98</sup> Both Apple and Samsung's campaigns were global campaigns with some exposure in Ireland through inspill.

<sup>99</sup> ZDNET.com (2013) "Lenovo doubles down on convertible PC bet".  
<http://www.zdnet.com/lenovo-doubles-down-on-convertible-pc-bet-yoga-tizes-lineup-7000020187/>

<sup>100</sup> This is based on a durable goods advertising elasticity estimation in Sethuraman et al. (2011) 'How well advertising works? Generalization from a Meta-Analysis of Brand Advertising Elasticities', Journal of Marketing Research. This report estimates that a 1% change in advertising leads to a 0.29% change in durable goods revenues. Assuming a 100% decrease in advertising expenditure implies an estimated 29% decrease in computer sales.



Across shopping, social networking, searching, or consuming news, video or music, the main activities that Irish people engage with online<sup>101</sup> are either directly funded or enabled by advertising.



The internet is pervasive in Irish daily life. 8 in 10 adults now use the internet in Ireland<sup>102</sup>, spending more than 2.5 hours per weekday online, on activities ranging from entertainment to shopping to simply keeping in touch.<sup>103</sup>

The ability to make smarter purchasing decisions is a key driver for the Irish going online. Price is a key driver for Ireland's 2.6 million internet shoppers<sup>104</sup>, while the importance of convenience rises with age. Across categories such as travel, clothing and books<sup>105</sup>, the internet allows the Irish to purchase the best deal. Its success is reflected in the value of online shopping in Ireland nearly doubling since 2009, to become a €4.4 billion market currently.<sup>106</sup>

Search and social media, largely funded by advertising, generate the majority of traffic directed to online shopping sites.<sup>107</sup> Google and Facebook are among the most visited websites in Ireland.<sup>108</sup> The economic benefit from incremental online shopping sales resulting from referrals from advertising funded sites is estimated at €34 million.<sup>109</sup>

Beyond online shopping, the Irish increasingly research products online before buying offline, with over 80% of smartphone users having researched online a product they intended to buy in 2012<sup>110</sup>. They also used the internet to switch providers, from insurance to utilities or communications. Over half of internet users say they have used the internet to switch car insurance provider, for example.<sup>111</sup> In these ways the internet allows more informed and efficient purchase decisions. €8.3 billion in offline sales are estimated to be researched on advertising funded websites prior to offline purchase, resulting in €420 million in consumer savings.<sup>112</sup>

This is evidence that online's economic impact extends beyond the internet itself.

Another example of the internet's wider economic reach is the high-street sales that online advertising stimulates, some of which may not have occurred without it. Irish retailers are spending increasing amounts on online advertising, which has doubled in only four years<sup>113</sup>, testifying to its impact in driving footfall into retail stores. Approximately €300 million in economic benefit is generated per annum through the incremental effect of online advertising on high street sales.<sup>114</sup>

**€8.3bn**  
in offline sales are estimated to  
be researched online on  
advertising funded sites



# 5 ADVERTISING ENABLES THE INTERNET ECONOMY



The benefits described above are only some examples of the impact that advertising has on the internet. This excludes, for example, the economic value of the new career, educational and social opportunities the internet opens, these being some of its main benefits, often supported by advertising. As such the actual benefit of advertising in supporting the digital economy is likely to be greater.

Further, the economic contribution of the internet economy, supported by advertising, is expected to continue to rise as internet penetration and the number of smartphones and tablets continue to grow in Ireland, opening further opportunities for Irish consumers and businesses, nationally and internationally.



<sup>101</sup> UPC (2012), 'The UPC Report on Ireland's Digital Future'.

<sup>102</sup> As described in Section 4.1, 2 in 3 Irish households have broadband.

<sup>103</sup> UPC (2012), 'The UPC Report on Ireland's Digital Future'.

<sup>104</sup> Ibid.

<sup>105</sup> Ibid.

<sup>106</sup> Indecon for the Department of Communications, Energy and Natural Resources (2013), 'Assessment of the Macro-Economic Impact of Internet/Digital on the Irish Economy'. Online Shopping Expenditure - Midpoint estimates. February.

<sup>107</sup> Experian (2012), 'Experian Hitwise reveals latest UK search engine and social analysis', January and Enders (2011), 'UK consumer e-commerce trends', July.

<sup>108</sup> ComScore (2013), 'Europe Digital: Future in Focus, Ireland, Top 20 sites in Ireland, December'.

<sup>109</sup> See Appendix C. It is assumed that three quarters of online shopping sales value flows outside of Ireland, based on industry conversations.

<sup>110</sup> Google (2012), 'Our Mobile Planet: Ireland'.

<sup>111</sup> <http://www.thinkwithgoogle.com/insights/emea/library/studies/our-mobile-planet-Ireland/>

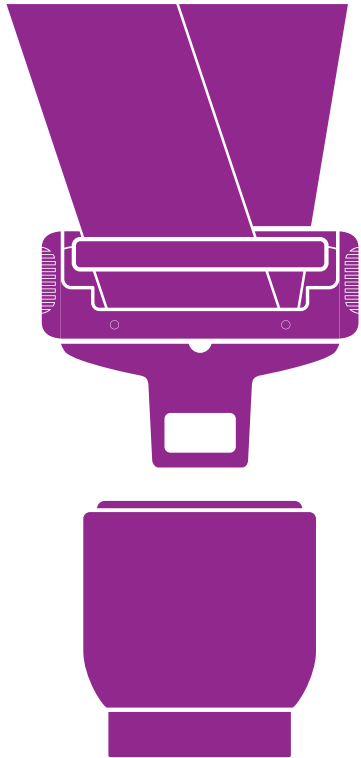
<sup>112</sup> UPC (2012), 'The UPC Report on Ireland's Digital Future'.

<sup>113</sup> See Appendix C.

<sup>114</sup> WARC, <http://www.warc.com/Topics/ForecastsandData.topic> provided by Core Media.

<sup>115</sup> See Appendix C.

## Advertising's role in driving social action can have economic benefits.



In the six years post-launch of a seatbelt awareness campaign in Ireland, the overall wearing rate increased by more than 30%. This contributed to a decrease in people being killed or seriously injured while not wearing a seatbelt of 56%, helping to reach the second lowest level of road deaths in 44 years. A study calculated an economic saving of €492 million in the Republic of Ireland and Northern Ireland, with the TV campaign accounting for €86 million of those savings.<sup>115</sup>

Similarly, in 2009, the Road Safety Authority launched an aggressive campaign to reduce road deaths in Ireland. In 3 years, the number of deaths has decreased by 33%. The Irish government estimates the value of a life in Ireland to be €2.1 million.<sup>116</sup>

In 2009, an award winning campaign to promote blood donation was launched in Ireland. In the first year of the campaign, the number of total donations increased by 4% helping to sustain a consistent national supply by reducing the scarcity shortage "crisis" days by 76%. The increase in donations due to the campaign also contributed to reduce by €233,000 the required spend by the Irish Blood Transfusion Service, a quarter of the total spend.<sup>117</sup>

Dublin's bike rental scheme described in section 3, supported by advertising, promotes a healthier life style among Dubliners. Widespread use of bikes supports sustainable transport, helping to reduce traffic congestion and carbon emissions.



# 6 ADVERTISING STIMULATES SOCIAL CHANGE

<sup>115</sup> IAPI. AdFx Awards (2008). 'The long term effect of seatbelt advertising'.

<sup>116</sup> Project Appraisal Guidelines (2011), 'Unit 6.1.1. National Parameter Values Sheet'.  
<http://www.nra.ie/Publications/ProjectAppraisalGuidelines/FileContentforPAG/file,17980,en.pdf>.

<sup>117</sup> IAPI. AdFx Awards (2012). 'Irish Blood Transfusion-From Crisis To Consistency'.

Advertising helped  
to increase seat  
belt usage





# APPENDICES

# APPENDIX A

## THE IMPACT OF ADVERTISING ON GDP

This appendix presents the details of the econometric estimation carried out in order to assess the impact of advertising on economic activity.

As noted in Section 1, this report follows the approach developed in the *Advertising Pays* study, which looks at how differences in the level of advertising across countries contribute to different levels of economic activity. The model constructed by Deloitte in that study was extended for this report, to include Ireland in the sample of countries and the latest data available. A comprehensive description of the model is presented here.

### A.1 Advertising and economic growth

This section describes the analysis framework to assess the aggregate impact of advertising on GDP.

#### A.1.1 The dataset employed

The analysis used a dataset to estimate the relationship between GDP per capita (the dependent variable of interest), advertising expenditure (the main explanatory variable) and a number of other variables determining GDP growth (e.g. aggregate capital investment, volume of international trade for the country and level of government spending).

An initial dataset of countries was constructed by collecting publicly available data from the World Bank's World Development Indicators.<sup>118</sup> This was supplemented by data from WARC provided by Core Media, as well as by data from the International Labour Organisation (KILM and LABORSTA) and OECD. This generated a panel of 18 countries including the world's largest economies as well as some developing economies, spanning a 15-year period from 1998 to 2012.

**Table 1: List of countries included in the analysis of advertising and GDP**

#### Countries

Argentina, Australia, Brazil, Canada, Chile, China, France, Germany, India, Ireland, Italy, Japan, Peru, Russia, Singapore, United Kingdom, United States, Vietnam

Source: Deloitte analysis

An additional key factor that influenced the choice of countries, especially the less developed nations, was the availability of relevant data for the analysis. Table 2 presents the variables included in the econometric model with their definitions.

**Table 2: Variables used in the analysis of advertising and GDP per capita**

Variables	Description	Source
<i>GDP per capita</i>	Real GDP per capita (constant USD, PPP adjusted)	<i>World Bank World Development Indicators</i>
<i>Trade/GDP</i>	Annual trade volume as a share of GDP (proxy for the 'degree of openness' of a country)	<i>World Bank World Development Indicators</i>
<i>Investment/GDP</i>	Annual share of aggregate investment to GDP	<i>World Bank World Development Indicators</i>
<i>GovExp/GDP</i>	Annual government consumption expenditure for goods and services as a share of GDP	<i>World Bank World Development Indicators</i>
<i>Advertising Expenditure</i>	Annual advertising expenditure (constant USD, PPP adjusted)	WARC
<i>Total hours worked</i>	Annual average hours worked multiplied by the total labour force in the economy	<i>ILO/KILM/LABORSTA/OECD and World Bank World Development Indicators</i>

Source: Deloitte analysis

The majority of developed countries in the sample cluster towards higher advertising intensity levels, whereas the less economically developed countries cluster towards lower levels of advertising intensity.

<sup>118</sup> Available from: <http://data.worldbank.org/indicator>.



### A.1.2 The approach

The approach adopted, including variables used, follows the work conducted by Aiginger and Falk (2005)<sup>119</sup>, who set out to investigate determinants of economic growth. The final specification used in this study is very similar to that used by Aiginger and Falk, with certain variations due to data availability or correlation between explanatory variables. The Aiginger and Falk paper was supplemented by advanced literature from the mobile Information and Communication Technologies sector, such as those of Andrianaivo and Kpodar (2011)<sup>120</sup> and Lee, Levendis and Gutierrez (2009).<sup>121</sup>

The Aiginger and Falk paper uses OECD data over the period 1960–2002. The latter two papers adopt a standard economic growth model using a sample of 44 African countries over the periods 1988–2007 and 1975–2006, respectively.

The approach to testing and quantifying the impact of advertising builds directly on this literature by including advertising as an additional potential driver of economic growth.

This analysis does not reflect the full transformational impact of advertising, as in all countries and all periods in the sample there is some advertising. Nonetheless it captures impacts on GDP from changes in advertising expenditure that are more significant than small marginal changes in the amount of advertising within one country.<sup>122</sup>

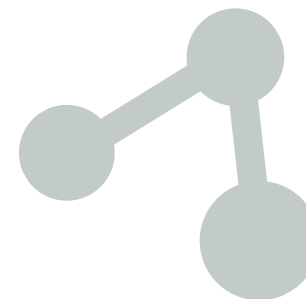
The impact of advertising on GDP per capita is complicated by the likely existence of reverse causality. Specifically, higher levels of advertising are expected to lead to higher GDP per capita; however, conversely, higher GDP per capita is expected to be associated with firms increasing advertising expenditure in order to capture a share of the larger market. Because of this complex relationship, isolating the causal impact of advertising on GDP is difficult and requires careful econometric analysis.

An alternative specification to the form used here would have been to estimate the model in growth rates. However, the postulated impact of advertising is transformational and gradual. The dynamic panel data specification used here better reflects the nature of the effect advertising is thought to have.

The issue of reverse causality between advertising expenditure increases and economic growth is addressed by specifying a dynamic panel data model and estimating the parameters using the Generalised Method of Moments (GMM) techniques developed by Arellano and Bover (1995) and Blundell and Bond (1998).<sup>123</sup> This technique uses instruments to provide consistent estimates of the model parameters, and allows for the inclusion of a lagged dependent variable to accommodate the decay-effects of increased levels of advertising on future economic growth (GDP). Standard panel data estimators such

as the fixed or random effects methods will be inconsistent if advertising is endogenous. This will be further compounded due to the lagged dependent variable which is correlated with the country-specific effect by construction. The system GMM methods allow for these issues.

Time-dummy variables are included in the model in order to capture the possibility that the model excludes variables that vary over time (but not by country), world trade being an example. If one or more of these variables are correlated with the included regressors, the parameter estimates will be inconsistent (i.e. the regressors will then be endogenous). The inclusion of time-dummy variables will address these factors, and mitigates the potential for inconsistent estimates that would result from omitted variables bias. Whilst it would not be possible to identify the impacts of separate time-varying variables together with the time-fixed dummy variables, this is certainly not the case for variables that are country-specific, such as those currently included in the model. Hence including time dummies leads to consistent estimates in the case of common omitted variables.



<sup>119</sup> Aiginger, K. and Falk, M. (2005), 'Explaining differences in economic growth among OECD countries', *Empirica* Vol. 32, pp. 19–43.

<sup>120</sup> Andrianaivo, M. and Kpodar, K. (2011), 'ICT, financial inclusion, and growth: Evidence from African countries', IMF Working Papers, 11/73, pp. 1–45.

<sup>121</sup> Lee, S.H., Levendis, J. and Gutierrez, L. (2009), 'Telecommunications and economic growth: An empirical analysis of sub-Saharan Africa'. Available from SSRN: <http://ssrn.com/abstract=1567703>.

<sup>122</sup> The model does not show the full transformational effect; rather it depicts the effect from increasing or decreasing advertising from its current levels. Part of this is controlled for by the use of countries at various stages of development. However, it is likely that the full effect of advertising would be larger. The intuition behind this is that advertising is likely to have a non-linear impact on GDP. For example, it may be that for each incremental euro spent (or reduced) from a lower level of advertising, the impact on the market is likely to be higher than it would be at higher levels of advertising.

<sup>123</sup> Arellano, M. and Bover, O. (1995), 'Another look at the instrumental variables estimation of error-components models', *Journal of Econometrics*, Vol. 68, No. 1, pp. 29–51. Blundell, R. and Bond, S. (1998), 'Initial conditions and moment restrictions in dynamic panel data models', *Journal of Econometrics*, 87(1), pp. 115–143.



### A.1.3 The model

The model specification adopted takes the following form:

#### Equation 1: Theoretical Model

$$\begin{aligned} \log(GDP_{percap}_{it}) \\ = \alpha + \beta_1 \log(GDP_{percap}_{it-1}) + \beta_2 \log(AdvExp_{it}) + x'_{it} \theta + \gamma_t + \alpha_i + \varepsilon_{it} \\ + \lambda \varepsilon_{it-1} \end{aligned}$$

Where  $x_{it}$  includes: Hours worked<sub>it</sub>,  $\ln\left(\frac{GovExp}{GDP}_{it}\right)$ ,  $\ln\left(\frac{Trade}{GDP}_{it}\right)$ ,  $\ln\left(\frac{Investment}{GDP}_{it}\right)$

$\gamma_t$  represents dummy variables for each year in the dataset (excluding the base year), subscript  $i$  indicates each country while subscript  $t$  denotes the year.

On the left-hand side of the equation is GDP per capita, which is expressed as a function of the lag of real GDP per capita, advertising expenditure and a set of determinants of growth. These are: total hours worked, government expenditure, trade volumes, and aggregate investment. All variables are in logs and the model allows for first-order moving average serial correlation in the errors.<sup>124</sup>

The model was estimated using the system GMM method of Arellano-Bover/Blundell-Bond over the period 1998–2012 on the data as described in A.1.2.

The error terms  $v_i$  and  $\varepsilon_{it}$  are assumed to be independent and identically distributed over  $i$ , and  $t$ .

GDP per capita is assumed to be contemporaneously endogenous, that is, correlated with current and past realisations of the error term. Hence:

$$E(AdvExp_{i,t} \varepsilon_{i,s}) = 0 \text{ only for } s > t.$$

Advertising expenditure, investment and trade are assumed to be pre-determined, that is, correlated with past realisations of the error term but uncorrelated with contemporaneous and future realisations of the error term:

$$E(X_{i,t} \varepsilon_{i,s}) = 0 \text{ only for } s \geq t.$$

<sup>124</sup> The model follows a 'reduced form' approach instead of building a macroeconomic system of equations to understand the impact of advertising on particular variables. The model draws on the literature on economic growth to explain GDP as a function of a number of variables, and investigates whether the advertising variable is a useful additional explanatory factor in the model.

### A.1.4 The results

Table 3 below reports the estimates of Equation 1 using the Arellano-Bover/Blundell-Bond estimator.

The analysis shows that a 1% increase in advertising expenditure leads to 0.062% higher GDP per capita in the same year.

Due to the lagged dependent variable, it is also possible to postulate that an increase in advertising expenditure in a given year

supports a higher GDP. This increase in GDP in the current period will result in higher GDP in the following and subsequent periods due to the significant lagged dependent variable.

The remaining variables all seem sensible from an economic perspective and are significant at the 5% level. The negative coefficient on the government expenditure as a percentage of GDP variable is supported by a variety of economic literature, in line with the view that a larger

government has a negative impact on GDP per capita, including a recent finding by the European Central Bank: 'The model results show a significant negative effect of the size of government on growth.'<sup>125</sup>

The coefficient on the variable for hours worked is negative. While this may appear counter-intuitive at first, upon examination of the data it becomes apparent that more developed countries do indeed have fewer working hours, and that each hour of work yields output of higher value in more developed countries.

The positive coefficients on both investment as a percentage of GDP and trade as a percentage of GDP are in line with economic theory, suggesting that higher investment and higher trade openness result in higher GDP.

Time-dummy variables are also included in order to capture the possibility that the model excludes variables that vary over time and mitigate the potential for inconsistent estimates that would result from omitted variables bias, as explained above.

**Table 3: Econometric results**

	Coefficient	Standard Error	Z	P >  Z	95% confidence interval	
log(GDP per capita) <sub>t-1</sub>	0.927378	0.014388	64.46	0	0.899178	0.955578
log $\left( \frac{\text{Government expenditure}}{\text{GDP}} \right)$	-0.14253	0.020398	-6.99	0	-0.18251	-0.10255
log (advertising expenditure) <sub>t</sub>	0.062162	0.01108	5.61	0	0.040446	0.083879
log (total hours worked) <sub>t</sub>	-0.04433	0.009282	-4.78	0	-0.06253	-0.02614
log $\left( \frac{\text{investment}}{\text{GDP}} \right)_t$	0.035351	0.01104	3.2	0.001	0.013714	0.056988
logtrade $\left( \frac{\text{trade}}{\text{GDP}} \right)_t$	0.044261	0.008034	5.51	0	0.028516	0.060007
Constant	0.53059	0.208774	2.54	0.011	0.1214	0.939779

#### NOTES

Number of observations = 195  
Number of groups (countries) = 18  
Time variable: time

#### Observations per group:

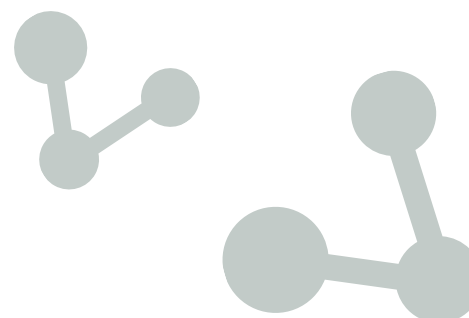
- min = 1
- avg = 10.83333
- max = 14

Number of instruments = 174

Wald chi2(10) = 59531.32

Prob > chi2 = 0.0000

Source: Deloitte Analysis



<sup>125</sup> European Central Bank (2011), 'Economic performance and government size', Working Paper Series No. 1399, November, <http://www.ecb.int/pub/pdf/scpwps/ecbwp1399.pdf>.

A.1.5 Diagnostic tests

Details of the post-estimation diagnostic tests supporting the choice of the instrumental variables employed in the estimation are summarised in this section. The first test (table below) determines whether the instruments are valid by investigating whether the moment conditions differ significantly from zero. This assumption is necessary for the estimator to be consistent. The test is not rejected at the 5% significance level, suggesting that the instruments are valid.

Table 4: Sargan test of over-identifying restrictions

Sargan test of overidentifying restrictions		
H <sub>0</sub> : overidentifying restrictions are valid		
chi2(163)	=	173.0614
Prob > chi2	=	0.2800

Source: Deloitte analysis

The Arellano-Bond test for serial correlation of the error term  $\varepsilon_{i,t}$  reported below shows that it is not possible to reject the null hypothesis of no serial correlation in the errors.

Table 5: Arellano-Bond test for serial correlation

Arellano-Bond test for zero autocorrelation in first-differenced errors		
order	z	Prob>z
1	-2.1221	0.0338
2	-1.2732	0.2030

H<sub>0</sub>: no autocorrelation

Source: Deloitte analysis

The trended nature of the key variables, possible unit roots and the issue of co-integration were investigated and necessary adjustments undertaken:

- The data used for the analysis is inflation-free. Real GDP figures and Purchasing Power Parity adjusted constant dollar advertising expenditure are used.
- Panel unit roots tests were carried out on all series using the methods developed by Levin, Lin and Chu (LLC, 2002). All variables were found to be stationary, and are a mixture of I(0) and I(1) trend-

stationary processes. In other words, they have a deterministic trend. This means that the variables in question will co-integrate by construction in the model as estimated, as a linear combination of the variables will be stationary by definition. Note that a trend-stationary variable is said to be stationary despite its mean being a function of time, because the stochastic properties of the trend are defined by error process which is stationary, i.e.  $Y(t)= a + b*Y(t-1) + c*t + \text{error}$ . This was the case for the dependent variable.

- The above means that the model is valid as estimated in log form.

Finally, in order to test the robustness of the advertising coefficient, the regression was run on subsets of the data. The subsets included:

- testing on only the G7 plus Australia, Ireland and the BRICs.
- testing on various subsets of years – excluding years at the top end and bottom end of the dataset, and various combinations of this in order to estimate an impact.

These tests indicate that the estimation and results are statistically robust.

# APPENDIX B

## ADVERTISING SPEND SUPPORTS JOBS

Total employment is estimated using industry information including:

- people employed in creative and media agencies;
- people employed in the production and creation of advertisements.

In addition, the following are estimated:

- employees whose jobs are supported by the revenue from the sale of advertising space such as people employed by broadcasters;
- employees involved in the commissioning of advertisements in advertisers' organisations; and
- the wider number of jobs supported through the media and creative industries' supply chains and the wider economy.

### B.1 Calculating the employment supported by advertising revenue

The employment supported by advertising revenue was estimated by one of two methods:

- **Revenue attribution:** For sectors where suitable data was available, the direct employment supported by advertising was calculated by taking a share of total employment in advertising-funded organisations. This share is given by the proportion of the organisation's revenues that come from advertising.
- **Value-add estimation:** For sponsorship, the total revenue from advertising was available<sup>126</sup> but it was not possible to use the revenue attribution approach because total employment was not reliably available. In this case an alternative approach was used based on Eurostat data for Ireland.

From Eurostat's value-add data tables it is possible to derive the direct employment generated per unit revenue for the recreational, cultural and sporting sector, which is used as proxy for sponsorship.<sup>127</sup> This was multiplied by the level of advertising revenue to estimate the direct advertising-supported employment.

In applying these methods advertising expenditure is taken from Core Media and Deloitte estimations.<sup>128</sup> From those, advertising revenues that accrue to the different media are estimated, by deducting agency commissions.<sup>129</sup> Total media industry estimated employment was provided by Core Media from industry consultations. Where the report draws on the revenue attribution method, the proportion of media industry total revenues coming from advertising is then applied to total media industry employment to calculate the direct employment supported by advertising revenues.



<sup>126</sup> Core Media estimates.

<sup>127</sup> Eurostat produces revenue/value-add ratios and separate estimates for the value-add per employee by sector. These figures can be combined to estimate employment per unit revenue.

<sup>128</sup> Core Media estimates (2012) for newspapers and magazines, television, cinema, radio, out-of-home, online advertising and sponsorship. Deloitte estimate for direct mail based on the UK direct mail share of total advertising in 2008, applied to Irish total advertising spend in 2012 from WARC data (<http://www.warc.com/Topics/ForecastsandData.topic>) provided by Core Media.

<sup>129</sup> Advertising revenues calculated by deducting advertising agency commissions from total advertising expenditures. Commissions are estimated at 15% of advertising expenditure based on industry consultations for press, television, radio, cinema, out-of-home and sponsorship. For the Internet media category, an estimated 9% was deducted; based on industry consultations. Advertising agency commissions do not apply to Direct Mail.

**Table 6: Direct employment from net advertising revenue, 2012**

Media	Method	Gross Advertising expenditure (million)	Net Advertising revenue (million)	Total estimated revenue (million)	Total estimated employment <sup>130</sup>	Estimated direct employment from advertising
Television	Revenue attribution	€209	€178	€971	2,970	510
Press	Revenue attribution	€184	€156	€460	5,236	1,780
Radio	Revenue attribution	€97	€82	€97	1,634	1,389
Direct mail	Revenue attribution	€119	€119	€807	9,641	1,420
Cinema	Revenue attribution	€7	€6	€115	1,600	83
Out-of-home	Revenue attribution	€54	€46	€54	391	332
Internet	Revenue attribution	€151	€138	€153	915	825
Sponsorship	Value-add estimation	€117	€100	n/a	n/a	1,339
Total		€938	€825			7,679

Source: Eurostat, Core Media, Deloitte calculations. Quantities may not exactly add up due to rounding.

<sup>130</sup> Estimated figures for total employment in television, cinema, radio, out of home and internet media industries are based on Core Media industry consultations. Press figure is estimated based on industry annual reports and market share information. Direct mail figure represents total An Post employment as reported on An Post annual reports.

## B.2 Calculating advertising agency and client side employment

Data from the Annual Service Inquiry reported by CSO was used as an estimate of the total number of employees directly working in advertising agencies.<sup>131</sup>

Employees involved in the commissioning of advertisements in advertisers' organisations in Ireland were conservatively estimated using the ratio of client side employment to the people employed in advertising agencies and production of advertising in the UK. This ratio was then applied to the Annual Service Inquiry estimation of jobs in advertising agencies and production to estimate client-side employment in Ireland.

**Table 7: Employment in advertising, 2012**

	Estimated employment	Source
Advertising, creative and media agencies (comprising both online and offline media)	2,993	CSO
Client-side/in-house commissioning (comprising both online and offline media)	3,982	Deloitte analysis
<b>Total</b>	<b>6,975</b>	

## B.3 Calculating the employment supported through supply chain linkages

The next step in the analysis was to consider how the above generates wider employment across the economy.

Further impact through supply chain linkages is calculated using employment multipliers. These multipliers are estimated based on output multipliers from Input-Outputs tables for Ireland.<sup>132</sup> Multipliers summarise the relationship between employment in a specific sector and wider employment across the economy as a result of the sector's interdependences.

**Table 8: Total employment from advertising expenditure, 2012**

Media	Estimated direct employment	Estimated indirect and induced employment	Total Employment
Television	510	870	1,380
Press	1,780	3,032	4,813
Radio	1,389	3,125	4,514
Direct mail	1,420	1,874	3,294
Cinema	83	67	150
Out-of-home	332	270	603
Internet media	825	1,346	2,171
Sponsorship	1,339	1,088	2,427
Advertising, creative and media agencies (comprising both online and offline media)	2,993	1,792	4,785
Client-side/in-house commissioning (comprising both online and offline media)	3,982	2,384	6,366
<b>Total</b>	<b>14,654</b>	<b>15,848</b>	<b>30,502</b>

Source: Core Media, Eurostat, CSO, Deloitte calculations. Quantities may not exactly add up due to rounding.

<sup>131</sup> Annual Service Inquiry 2011 data reports full time equivalent employees, total people engaged and total people employed. The difference between the total people engaged and the total people employed is estimated to be the number of proprietors and owners. This figure is added to the full time equivalent employees to estimate the total number of employees in advertising agencies and creation of advertisements.

<sup>132</sup> In the absence of Irish employment multiplier data, the ratio of Irish to Scottish output multipliers is calculated, and this ratio is then applied to Scottish employment multipliers to estimate Irish employment multipliers.

# APPENDIX C

## ENABLING THE INTERNET ECONOMY

### Supporting online retailing

Irish consumers spent €4.4 billion on online shopping in 2012.<sup>133</sup>

Online search is estimated to have accounted for nearly half of total visits to online shopping sites, with approximately another 10% coming through social media<sup>134</sup>. Both are substantially funded by advertising. Based on this, internet search and referrals are estimated to account for €2.3 billion in online sales in Ireland.

These sales generate a total economic value-add for the Irish economy. Much of the economic value generated by online sales will be substitution from offline channels. Additionally, some online purchases are from non-Irish providers.<sup>135</sup> The net economic benefit from search/referrals supported by advertising is estimated at €34 million.<sup>136</sup>

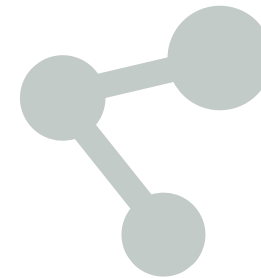
### Stimulating high street sales

Spend in online advertising is estimated to support approximately €720 million in high street sales annually.<sup>137</sup>

Around 35% of online advertising spend is estimated to represent an increase in overall advertising expenditure.<sup>138</sup> Based on this, online advertising is estimated to generate an economic benefit equivalent to €300 million through its effect on high street sales.

Consumers also utilise the internet to research products before making a purchase in the high street market. This process of online research followed by retail purchase accounted for €13.6 billion in high street sales in 2012<sup>139</sup>, of which an estimated €8.3 billion can be attributed to research on advertising-funded sites.<sup>140</sup>

Taking into account that it is likely that most of these sales would have occurred in the absence of the internet, consumers benefit by an estimated €420 million of savings on their purchases each year as a result of research of offline purchases carried out on advertising-funded sites.<sup>141</sup>



<sup>133</sup> Indecon for the Department of Communications, Energy and Natural Resources (2013), 'Assessment of the Macro-Economic Impact of Internet/Digital on the Irish Economy'. Online Shopping Expenditure - Midpoint estimates. February.

<sup>134</sup> Experian (2012), 'Experian Hitwise reveals latest UK Search Engine and Social Analysis', January. Enders (2011), 'UK consumer e-commerce trends', July.

<sup>135</sup> It is assumed that three quarters of online shopping sales value flows outside of Ireland, based on industry conversations.

<sup>136</sup> This is based on an illustrative assumption that 5% of supported sales would be new sales. This appears to be a conservative assumption, given that it is easier to find certain products online and given the competitive prices available through many e-commerce sites. Sales are converted to economic benefit using multipliers and revenue/value-add ratios.

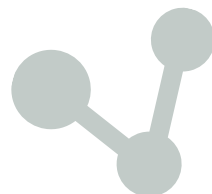
<sup>137</sup> There is significant uncertainty about return on investment (ROI) on online advertising spend, with different studies producing a range of estimates. The figure above is estimated based on estimates in Direct Marketing Association: 'The Power of Direct Marketing 2011-2012', in relation to the US market, and Nielsen (2009), 'Is your marketing investment delivering expected returns?' October. ROI estimates from the Direct Marketing Association study are used and adjusted for the relative fixed broadband internet subscribers (per 100 people) and GDP per capita at purchase power parity (Source: World Bank) in Ireland versus the US. The sales ROI used to estimate incremental high street sales from online advertising in this study is the average of the Ireland adjusted sales ROI estimate based on the Direct Marketing Association study and the Nielsen estimate. The estimated effect is scaled down by the proportion of total retail sales that occur offline, approximately 85%, based on figures quoted in 'Irish retailers making 15% of sales online' (<http://www.independent.ie/business/irish-retailers-making-15pc-of-sales-online-29292416.html>), in order to avoid double-counting the impacts. Sales are converted to economic benefit using multipliers and revenue/value-add ratios.

<sup>138</sup> Derived from Zentner, A. (2010), 'The effect of the internet on advertising expenditures: An empirical analysis using a panel of countries', SSRN.

<sup>139</sup> Deloitte analysis based on 2012 Google Research Offline Purchase Online (ROPO) estimation for Ireland in Indecon for the Department of Communications, Energy and Natural Resources (2013), 'Assessment of the Macro-Economic Impact of Internet/Digital on the Irish Economy'. This reports ROPO purchasers. As ROPO is more likely for higher spend purchases, the estimate reported in Indecon (2013) is used to derive an approximation of ROPO sales. The Google ROPO estimate takes account of the range of products that offline purchasers buy.

<sup>140</sup> The attribution to advertising-funded sites was calculated as 61%, based on Ofcom analysis of online activity by consumers. This activity breakdown was then combined with a Deloitte analysis of the funding model underpinning the companies providing the relevant set of services. Ofcom (2011), 'The communications market 2011'.

<sup>141</sup> There is some research to suggest that internet research lowers the prices paid by consumers between 2% and 15%. A 5% assumption was adopted. Zettelmeyer, F., Scott Morton, F. and Silva-Risso, J. (2006), 'How the internet lowers prices: evidence from matched survey and automobile transaction data', Journal of Marketing Research, Vol. 43, May. This assumption was applied to the 'researched online purchased offline' sales that can be attributed to advertising-funded sites.





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ANNUAL REPORT 2015

## CHAIRMAN'S

## INTRODUCTION

**THE PAST YEAR** has been

another busy one for CopyClear with demand for our service continuing to grow – albeit at a modest 9% increase in submissions received in 2015 compared with the 48% increase in the previous year. I'm glad to report that the vast majority of work submitted to our clearance managers in 2015 (94.4%) was compliant with the ASAI code.

We recently completed the third round of client satisfaction research among our users and, while the response rate is disappointingly low, the feedback continues to be very positive with 86% of respondents rating the service as good or excellent.

The work on bringing digital media into the CopyClear process continues. In July 2015 we hosted a dedicated seminar for digital publishers at which presentations from Carat and Diageo emphasised the importance of digital media participating fully in the CopyClear process.

In November 2015 we hosted our fourth users' seminar in Croke Park. It was very well attended and the feedback was overwhelmingly positive. On the same day we hosted our first ever seminar for media owners with a good turnout from this sector. We plan to build on this success with further seminars planned for later in 2016.

On March 1st 2016 the 7th edition of the ASAI Code came in to effect. To assist service users we published revised footnotes to the code on our website.

While our clearance managers continue to report very high levels of compliance with the code among alcohol advertisers, there is evidence that some advertisers are not working within the spirit of the code. This is a matter of significant concern for the board of CopyClear.

The number of consumer complaints upheld by the ASAI against alcohol advertising continues to be very low



**"While our clearance managers continue to report very high levels of compliance with the code among alcohol advertisers, there is evidence that some advertisers are not working within the spirit of the code"**

but, as I have been emphasising since I took on the role of CopyClear Chairman, it only takes one high-profile breach of the code to jeopardise the entire system of self-regulation currently enjoyed by the alcohol sector in this market. Indeed, the draft legislation, if enacted in its current form, would see the advertising of alcohol very significantly restricted.

If the alcohol sector is to have any success in lobbying for amendments to the proposed legislation it will have to demonstrate that it can regulate itself in a responsible fashion – this means abiding not only to the letter of the codes they have signed up to but, more importantly, to the spirit of those codes.

At CopyClear we will continue to support our service users in achieving this.

**CopyClear Submissions in 2015 Approved**

**Domestic** 5,302 **89%**



**Overseas** 657 **11%**

**CopyClear Submissions in 2015 Not Approved**

**Domestic** 249 **70%**



**Overseas** 106 **30%**

FINTAN COONEY CHAIRMAN

## CHAIRMAN



### FINTAN COONEY

Fintan is a graduate of UCD and spent over 25 years working in advertising agencies including Dimension, McCann Erickson, Dublin and Chemistry where he was Client Service Director for 13 years.

He is a former board member of IAPI and sits on the board of the St James's Hospital Foundation.

Fintan left his career in advertising in 2012 and now works as a Funeral Director with Fanagans.



### BARRY DOOLEY

Chief Executive,  
Association of Advertisers in Ireland (AAI).

The AAI champions the freedom to promote responsible and effective marketing communications, and thereby enable businesses to communicate with consumers and citizens.

Barry was a Board Director of Irish International Advertising for 20 years and a Board Director of The Institute of Advertising Practitioners (IAP) for six years.

He has extensive experience in all matters to do with advertising having worked on many new product launches and on campaigns for most of Ireland's iconic brands.

Barry has worked on the Agency and Client side of the business – he was a product group manager on Bulmers Cider in Showerings Ireland Limited for 3 years.



### TANIA BANOTTI

CEO of the Institute of Advertising Practitioners of Ireland (IAP).

IAP is the representative body for the Irish marketing and communications sector. Members include creative advertising agencies, media agencies and digital specialists.

Previously Tania was CEO of Theatre Forum, the national association for the performing arts and one of the founders and Secretary of the national campaign for the Arts for three years. She was Chief Executive of Screen Producers Ireland, the national association for broadcast film and animation production companies. She also worked for the UN in the Gaza Strip, Palestine for a number of years.



### KIRSTEN LYONS

Head of Marketing Communications,  
Ulster Bank, part of the Royal Bank of Scotland.

Kirsten has 16 years' experience working in financial services marketing. She started her career with Bank of Ireland Group, where she held a variety of marketing roles. Currently, she is fortunate to lead a passionate team of marketing professionals in Dublin and Belfast. Kirsten is responsible for driving brand consideration and meaningful commercial returns from marketing communications including traditional and digital advertising, category support activity, while also identifying opportunities to leverage Ulster Bank's local presence nationally. In addition, she is responsible for increasing customer engagement through one to one communications and leading large customer communications required due to business change.



### ROBERT JORDAN

Head of Beverages and Innovation,  
Glanbia Consumer Foods.

Robert has over 16 years' experience working in FMCG marketing roles. He started his career with the Fosters Group in Australia, and spent four years working with Procter and Gamble - as a Business Manager on its sales & marketing team in Ireland. Since 2004 he has held various roles in Glanbia Consumer Foods, mostly related to marketing Avonmore milk, Ireland's No. 2 grocery brand. His current role also includes managing Glanbia's innovation pipeline, as well as the international launch of the Avonmore brand, across Asia and other markets. Robert has a B.Sc. in Management from Trinity College Dublin.



### CAROLINE DONNELLAN

Head of Marketing & Communications,  
KBC Bank, Ireland.

Caroline has over 13 years' experience in financial services and is currently Head of Marketing & Communications at KBC Bank Ireland. Caroline leads the Marketing and Communications team with responsibility for driving brand awareness and consideration of KBC in the Retail financial sector through the management of advertising, brand strategy, product communications and public relations.

Caroline joined KBC in 2012 from EBS where she held the position of Marketing Communications Manager. She had responsibility for managing the marketing & communications strategy for EBS and implementing a new customer engagement programme.

**RAY SHEERIN**

Managing Director, Chemistry

A graduate of French and Irish from Trinity College, Ray began his career in financial services in Dublin, moving to London four years later to become International Marketing Manager at Fidelity. He switched to agency life to become a Copywriter in London, working initially on Prudential Assurance and Prudential Home Loans, then moved into client service where again his financial services experience stood him in good stead and he ended up as Group Account Director while still in his 20s. Ray moved back to Dublin in 1991 to head up Equator, the Saatchi below-the-line subsidiary, then set up OgilvyOne in 1993, building it up to become the best known direct marketing agency in Ireland. In 1999, along with Creative Director, Mike Garner, he set up Chemistry. In addition to his management role, Ray works very closely with a number of clients on strategy.

**JIM CASSIDY**

Entrepreneur &amp; Digital Marketing Specialist

Jim co-founded Lucidity Digital in 2003. Under his leadership the company grew from an infrastructure and technology company to one of Ireland's leading full service digital agencies employing 30 people. He guided the business through the successful acquisition by Aegis Media in 2013 and a re-brand to Isobar in 2014 acting as Managing Director until May 2015. He is a lecturer in eCommerce, and Digital Strategy, and is passionate about giving Irish businesses a platform to operate on a global scale. He is currently working on an MBS from IMI/UCC in Data, Finance and Digital Strategy.





# CopyClear

## MANAGERS



### LYNNE TRACEY

Lynne Tracey started out in the Advertising Industry in a salmon-colour linen suit and a black briefcase – well it was the 1980s and that's her excuse. Despite the sartorial lapse, Lynne managed to find work and spent her career working in Agencies such as Campaign Advertising and McCann-Erickson in New York. She moved back to Dublin as a founding Director of McCann-Erickson Dublin and subsequently moved to the Javelin Group where she was a Board Director. Lynne is a past President of IAPI and has served on the Board of the ASAI and CCCI. Lynne currently lectures on the DIT MSc in Advertising and has been a Clearance Manager with CCCI for seven years.



### MAGS McLOUGHLIN

Mags McLoughlin joined CopyClear in November 2014. She has over 20 years experience in communications and marketing in Ireland and overseas, working in a variety of sectors including financial, FMCG, automotive, telco and not for profit sectors. She has worked on both the agency and client side of the business and as independent consultant. Mags has extensive experience in bringing products to market, developing launch or repositioning communications, overseeing award winning creative and implementing CRM and customer retention programmes. In 2001 Mags set up Pennies for Heaven, a euro changeover charity, which raised €7.5m for 11 Irish charities. In 2004 she took a career break and completed a Master of Creative Writing in Queens University. She is working on her second novel.



### JOE CLANCY

Joe spent 10 years in London following QPR and worked in advertising with Brunings and the Young & Rubicam Group to support this addiction. He returned to Ireland to rediscover his Munster Rugby roots and joined Hunter (Saatchi & Saatchi), later becoming MD at Bates and Red Cell, and then CEO of Young & Rubicam Dublin. He has managed campaigns for iconic brands such as Land Rover, Smirnoff, Baileys, Club Orange, Johnson & Johnson, Pfizer, Bayer and Zanussi, that have won awards at CLIO, NNI, ICAD, PAA and IAPI ADFX. His involvement in Munster's two Heineken Cup Final victories however was in a purely supportive role. He served on the Council of The Marketing Institute and is a former Board Member of Central Copy Clearance Ireland.



### EOGHAN NOLAN

Award-winning copywriter Eoghan Nolan brings a wealth of experience to the role, having been Creative Director and Board Director of McCann, Irish International BBDO and Leo Burnett. A former lecturer in Copywriting, Eoghan served on the boards of IAPI and of ICAD and currently runs his own creative consultancy, Brand Artillery.

Among his accolades are Ireland's first D&AD, Radio Ad of the Millennium from the Kinsale Sharks and Best Copywriting 2012 from the National Newspapers of Ireland.



# OPERATIONAL

**Central Copy Clearance Ireland, trading as CopyClear, was established in 2003. It is a separate, independent company with its own board of directors, and is not a subsidiary of any other company or organisation.**

**COPYCLEAR** deals with one part of the promotion of alcohol and operates on the basis that alcohol companies submit details of their planned campaigns in advance so that they can be vetted to ensure that they are compliant. This has resulted in very few complaints about alcohol advertising to the Advertising Standards Authority for Ireland since CCCI/CopyClear was established.

CopyClear clearance managers and general management met regularly during 2015 with representative bodies, brand owners and agencies to ensure understanding of the codes and how they are applied. CopyClear continues to promote an open door policy to discuss campaign ideas before they are submission ready-

## OVERVIEW



this helps ensure compliance in the work finally submitted and can help the creative and production process along the way.

In 2015, Copyclear reviewed 6,314 submissions, an increase of 9% over the 2014 submission numbers.

This total includes all versions of a campaign, including preliminary concepts, adaptations and finished work. The number of advertisements that eventually appear in print or broadcast is naturally lower than the number of submissions considered and comprised 70% of all submissions in 2015.



Of the 6,314 submissions considered and assessed, 5,959 of them were compliant, an approval rate of 94.4%, with 355 (5.6%) non-compliant and therefore not published or broadcast. These figures compare with a 93.2% approval and 6.8% non-approval rate in 2014. CopyClear considers submissions in all alcohol product categories – Beer and Cider, Spirits, Wine, Liqueurs and Ready to Drink (RTDs), and it reviews advertisements >>

# OPERATIONAL

## OVERVIEW



### Irish-Based Advertising Agency

2015	5,092	80% ↑
2014	4,297	74%

originating from overseas sources and from Irish sources.

In 2015, 81% of all submissions were created in Ireland, this represents an increase in locally produced material where 27% of material reviewed by CopyClear in 2014 was created outside of Ireland.

### PRODUCT CATEGORIES

CopyClear divides its analysis of alcohol submissions into different product categories, and this

approach helps to more precisely identify patterns and trends.

Beer accounted for 3,710, 58% of the total submissions. This was down from the 2014 figure when Beer accounted for 72% of the total submissions. The 2015 non-approval rate for Beer submissions was 5.5% compared to 7.5% in 2014.

Spirit advertisements accounted for 1,938 submissions (30%) of the total – this represents a massive

increase on previous years where the managers viewed 946 (16%) and 852 (22%) submissions respectively in 2014 and in 2013. The overall approval rate for Spirit advertisements in 2015 was 78% and 5.6% non-approval, and this compared with 68% and 5.4% respectively for 2014.

The total number of Wine advertisement submissions in 2015 was 228 compared to 238 in 2014 – the overall approval rate for Wine advertisements in 2015 was 60% compared to 73% in 2014.

Liqueurs only accounted for a total of 26 submissions in 2015 as compared to 33 in 2014. RTDs (Ready to Drink) showed a total of 8 submissions in 2015 with 75% of them being compliant. These advertisements were largely adaptations of international materials.

### SOURCE-ORIGINATION AND MEDIA CHANNELS

81% of the 6,314 advertising submissions originated in Ireland, amounting to 5,148 submissions. The comparable figure for 2014 was 4,465 – 73% of the total number of submissions. The advertisements originating from overseas-based companies and agencies tend to be part of wider global advertising campaigns for their brands. Overseas submissions amounted to 763 which compared to 1,040 in 2014, a decrease of 36%.

In 2015, Irish originated material accounted for 81% of all submissions compared to 2014, when Irish originated material comprised 73% of all submissions.



### Overseas Advertising Agency

2015	755	12% ↓
2014	940	16%



### Irish-Based Media Agency

2015	644	10.1% ↓
2014	778	13.4%



### Irish-Based Digital Agency

2015	1,631	25.6% ↑
2014	860	14.8%



Internet-based advertisements have been the number one media channel since 2011 – previous to this OOH had been the single largest medium. In 2015, paid-for on-line activations accounted for 16% of all submissions. Owned on-line activations accounted for 22.25% of all submissions. Press and magazine advertising accounted for 4.2% of all submissions. TV accounted for 9% and radio accounted for 4.8% of all submissions. Cinema as a channel for alcohol advertising is minimal at 0.3% of the total.

### SUMMARY

CopyClear's remit covers marketing communications for alcohol brand advertising broadcast or published in Ireland. CopyClear assesses submissions in accordance with the Codes of Practice of the Advertising Standards Authority for Ireland (ASAI) though companies and advertisers are also required to comply with other codes such as those of the Broadcasting Authority of Ireland and in the context of placement codes which are overseen by the Department of Health appointed

Alcohol Marketing Communications Monitoring Body (AMCMB). This latter Code, which was agreed between the Department of Health and the alcohol and advertising industries, covers marketing and sponsorship and relates to a wide variety of locations in which alcohol marketing or promotion appears.

In addition, advertisers are also required to comply with industry codes such as those managed by the RRAI (Responsible Retailing of Alcohol in Ireland) which operates under the approval of the Department of Justice. These various codes cover retail outlets, off-licences, licensed premises and mixed retail outlets.



### THE DEVELOPMENT OF COPYCLEAR (CENTRAL COPY CLEARANCE IRELAND)

Central Copy Clearance Ireland Ltd (CCCI) trading as CopyClear, is a separate independent company with its own board of directors, and is not a subsidiary of any other company or organisation. It was established in 2003, and was an initiative proposed following extensive discussions between the Association of Advertisers in Ireland (AAI), the Institute of Advertising Practitioners in Ireland (IAPI) and the main alcohol - producing and marketing companies at the time. They presented it as a positive industry response to concerns expressed by the Department of Health and Children about the content of some advertising.

The rationale behind it was that the alcohol companies were keen to >>



#### Overseas Digital Agency

2015	18	0.28% ↑
2014	11	0.19%



#### Television

2015	598	9.4% ↑
2014	464	8.0%

# OPERATIONAL

## OVERVIEW



### Radio

2015	307	4.8% ↓
2014	353	6%

it is not accepted by the media for publishing.

Each individual piece of advertising is vetted. This can be copy, images or even concepts. The vetting, often at all stages of its production, is done by a group of managers experienced in the industry and trained in the Codes of Practice. Vetting applies to all advertisements intended to be run in the Irish media, whether made in Ireland or developed internationally.



### Out-of-Home

2015	1,575	25%
2014	1,423	25%

The CopyClear board is made up of nine members, four each of whom are nominated by the Association of Advertisers in Ireland (AAI) and the Institute of Advertising Practitioners in Ireland (IAPI) respectively, plus an independent Chairperson. None of the nominees come from the alcohol industry.

### ADMINISTRATION OF COPYCLEAR IS JOINTLY PROVIDED BY AAI AND IAPI.

The service also allows for an appeals process so that an advertiser who might not be in agreement with the decision on their advertisement by CopyClear managers, can appeal for a review by the Appeals Committee. This Committee comprises the Chairperson and two other members of the board.

The model developed for CopyClear demonstrates how self-regulation in the area of alcohol advertising can work effectively.



advertising campaigns with the relevant Codes of Practice and that they would accept the adjudications of CopyClear in the matter.

This arrangement was further strengthened by the involvement of the major media as delivery partners. As advertising would appear in press, outdoor or broadcast media, it was important to engage the support of these channels in effectively implementing the CopyClear process. The result of this multi-party arrangement is that all advertisements must carry CopyClear approval and have a CopyClear certification number which has to be quoted and presented when the advertiser is seeking to have an advertisement placed – otherwise


demonstrate their commitment to socially responsible marketing and promotion of their products. They agreed to set up an independent body, which would be funded by them but in which they would have no board representation or management role, which would act independently to assess the compliance of their proposed



### Paid-for Online Activations

2015	2,423	38% ↑
2014	1,950	30.6%

Because advertising would appear in press, outdoor or broadcast media, it was vital to engage the support of these channels in implementing the CopyClear process.



**CENTRAL COPY CLEARANCE IRELAND (CCCI).**  
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TELEPHONE: (01) 676 4876 FAX: (01) 611 4834  
EMAIL: [CLEARANCE@COPYCLEAR.IE](mailto:CLEARANCE@COPYCLEAR.IE)  
COPYCLEAR IS THE TRADING NAME FOR  
CENTRAL COPY CLEARANCE IRELAND (CCCI).

# Submission 3

## Submission to the BAI Draft General Commercial Communications Code

The Baby Feeding Law Group Ireland (BFLGI) welcomes the opportunity to comment on the BAI Draft General Commercial Code.

Recognising that the marketing of first milks is already covered under the WHO International Code on Marketing of Breastmilk Substitutes and Irish legislation the BFLGI is concerned about the way in which infant formula and milks and foods for older infants are marketed. We wish to comment specifically on Section 15.9 regarding follow-on formula and suggest that the General Communication Code should reference the resolution recently passed at the World Health Assembly (WHA, May 2016)\*. Although the advertising of follow-on formula and growing-up milks is commonplace it is widely held that these products are both expensive and unnecessary. Since, from 12 months of age, an infant's requirement for milk can be fulfilled by breastmilk or by the use of ordinary pasteurised milk it is unethical to promote foodstuffs that may cause unwarranted financial difficulties for families.

\*accessed at [www.who.int/mediacentre/news/releases/2016/wha69-28-may-2016/en/](http://www.who.int/mediacentre/news/releases/2016/wha69-28-may-2016/en/)

In May 2016, the 69th World Health Assembly adopted two resolutions on nutrition. The second resolution:

*welcomed WHO guidance on ending the inappropriate promotion of foods for infants and young children. The guidance clarifies that, in order to protect, promote and support breastfeeding, the marketing of "follow-up formula" and "growing-up milks" - targeted for consumption by babies aged 6 months to 3 years - should be regulated in just the same manner as infant formula for 0 to 6-month-olds is. This recommendation is in line with the International Code of Marketing of Breast-milk Substitutes adopted by the World Health Assembly in 1981. Milk that is marketed as a general family food is not covered by the guidance, since it is not marketed specifically for feeding of infants and young children.*

*In light of the poor nutritional quality of some food and beverages marketed to infants and young children, the WHO guidance also indicates that foods for infants and young children should be promoted only if they meet standards for composition, safety, quality and nutrient levels and are in-line with national dietary guidelines.*

*The resolution urges countries, health professionals, the food industry, and the media to implement the guidance. In the resolution, countries also requested support from WHO to implement the guidance and monitor and evaluate its impact on infant and young child nutrition. They asked WHO to work with other international organizations on promoting national implementation of the guidance, and to report back to the Assembly in 2018 and 2020.*

International authorities believe that poor diet has become the biggest underlying cause of ill health world and exceeds the negative impact of both alcohol and tobacco. There have been calls for the end of marketing of unhealthy convenience foods to children and vulnerable families. Processed weaning foods and many snack foods marketed for older infants and young children make nutrient claims while containing high levels of sugar or salt. Taking this opinion into account we believe that programme content in Irish productions should not have story-lines that promote or idealise formula or convenience foods for young children.

We welcome the guidance on product placement and programme sponsorship as these may suggest endorsement and/or approval of a particular product or service.

Mary Higgins  
Chairperson BFLGI  
30<sup>th</sup> August 2016

# Submission 4

## betway limited

### BAI Consultation: Draft GCC Code

#### Chapter 2: General Definitions and Exclusions

What are your views on how the Code proposes to deal with product placement, and sponsorship, in particular, how the concept of 'significant value' will be applied?

Betway believes that the distinction in the Code between sponsorship and product placement is potentially confusing and needs further clarification. The draft code states: "Sponsor announcements or references may be shown during a programme but shall not be part of the plot or narrative." How would this apply to sponsorship of a sports team, where arguably the sports is part of the narrative of the program? Betway believes that product placement only occurs when a product is used as part of a narrative but not necessarily when branding is simply present. For example, if a company is sponsoring a football team and has its brand on the shirt, we would view this as sponsorship and not product placement.

What are your views on the General Definitions and Exclusions as presented?

The General Definitions and Exclusions are clearly presented and defined.

# betway limited

## Chapter 3: Principles of the Code

What are your views on the 4 principles in the draft Code?

The 4 principles seem logical and straightforward.

Is there anything you disagree with or believe is missing from these principles?

Betway suggests an extension of the 'Protection of children' principle to 'Protection of children and the vulnerable'. This should then, from a gambling standpoint, also look to protect prospective problem gamblers by offering information on how to keep a customer gambling responsibly.

# betway limited

## Chapter 19: Gambling

What are your views on the gambling section of the code?

Rule 19.4 stipulates that a gambling operator is not allowed to offer any promotions on the television or on the radio. We believe this restriction is overly burdensome, however we recognise the need for advertising to be carried out in a socially responsible manner. Betway's suggestion would be to regulate how the promotions are offered, rather than have a blanket ban on them. For example, in Chapter 4 of the draft Code, there are stipulations on key terms and footnotes. Providing clear requirements for what information is provided to the consumer so that an informed decision of participation can be made, would allow operators to offer promotions in a socially responsible manner.

Betway believes that offers that are presented in a fair and open manner are in line with the core principles of the Draft Code and should therefore be allowed in the same vein as they are allowed in other regulated markets. Should other restrictions be required, Betway notes that other markets, such as the United Kingdom have used things such as imposing a watershed time on certain types of gambling advertisements.



# Submission 5



Banc Ceannais na hÉireann  
Central Bank of Ireland  
Eurosystem

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19 September 2016

## RE: Draft BAI General Commercial Communications Code

Dear Louise

I refer to your letter of 22 August last addressed to Bernard Sheridan, Director of Consumer Protection, enclosing the Draft BAI General Commercial Communications Code.

We have reviewed the Draft Code, and, in particular, Section 18 relating to Financial Services and Products. While we note the concern of radio broadcasters to the current requirements i.e. that the existing requirements are not effective and are disadvantageous for radio, the Central Bank's position is that the advertising of a financial product or service is a key area of consumer protection. This is reflected in the fact that advertising has a dedicated chapter in the Central Bank's Consumer Protection Code (the Code). In our view, advertising is a key source of information for consumers of financial products and services and can present risks if not presented in the right way to the consumer. It is therefore important that regulated entities produce advertising that is 'clear, fair, accurate and not misleading', as is required by our Code. The advertising material used by a regulated entity needs to match what its products and services deliver, and enable consumers to feel confident about the choices they make. Advertising by any firm regulated by the Central Bank is, in our view, an inherent part of that firm's oversight of how its products and services are designed and sold to consumers and in how the firm formulates and presents their proposed offering to consumers.

There are particular challenges to ensure that an audio advertisement is clear, fair, accurate and not misleading where warning statements and key information/qualifying criteria cannot be run at the same time as the headline message. Nevertheless, regulated entities must ensure that key information, required by the Code, is included in the main body of the advertisements and at a speed which makes it easy for the listener to understand.



Banc Ceannais na hÉireann  
Central Bank of Ireland

Eurosystem

in the main body of the advertisements and at a speed which makes it easy for the listener to understand.

In this regard, the Code applies, in its entirety, to all formats of advertising and the Central Bank monitors advertising by regulated firms to ensure compliance with the spirit as well as the letter of the Code, in addition to other consumer protection requirements, for example, the Consumer Credit Act, 1995, the Consumer Credit Regulations 2010, the Markets in Financial Instruments Directive etc.

Our over-riding mandate to protect consumers would, in our view, not be met if we were to allow radio advertising to be undertaken in a different manner to other forms of advertising.

I trust this clarifies the position of the Central Bank of Ireland in this regard.

Yours sincerely

**Bernie Mooney**

**Deputy Head of Consumer Protection – Policy & Authorisations**

# Submission 6

## **The Consumers' Association of Ireland**

26 Upper Pembroke Street, Dublin 2. Tel: (01) 637 3961

[www.thecai.ie](http://www.thecai.ie)



Submission to the Broadcasting Authority of Ireland

### ***General Commercial Communications Code***

September 2016

## **Introduction**

The Consumers' Association of Ireland acknowledge the invitation and appreciate the opportunity to contribute to the current draft of the General Commercial Communication Code.

We write in submission of certain of the areas and questions posed within the request for submissions.

## **The BAI's consultation questions**

### **1:**

The draft Code has been developed to have separate and distinct principles and rules. The principles will apply to all advertising, sponsorship, product placement and other forms of commercial communications. There is a clear articulation of each principle in a similar approach to that taken in the BAI's Code of Programme Standards and Code of Fairness, Objectivity and Impartiality. The rules for all commercial communications flow from these principles and have been situated in the next section of the draft Code.

The BAI is proposing to retain three of the four existing principles from the current General Commercial Communications Code, with some changes to the heading titles. The three principles are: Principle 1: Legal, Honest, Decent and Truthful, Principle 2: Human Dignity, Offence and Harm and Principle 3: Transparency. The principle of Compliance and Assessment has been removed and its provisions are addressed under the Introduction to the Code.

A new principle, Principle 4: Protection of Children, is included. This gives expression to the provisions of the EU Audiovisual Media Services Directive that pertain to protecting children from content that may cause physical or moral detriment and from commercial communications that prey on their inexperience and credulity.

*Q: What are your views on the four principles in the draft Code?*

A: The Principles as outlined are acknowledged in the manner of change.

Legal, Decent, Honest & Truthful are known and understood by consumers to form the bedrock of the self-regulatory Code.

Human Dignity, Offence and Harm and Principle, together with Transparency resonate well in terms of the provision of a balanced checklist.

We would consider the addition of Protection of Children to be a logical and welcome change.

*Q: Is there anything you disagree with or believe is missing from these principles?*

A: It will be essential that all of the provisions have the underlying and stated enhancement, where required, to guarantee robust, effective and efficient enforcement where there is a breach.

The system and means to access it should be a simple and highlighted part of the Code.

**2:**

The rules for sponsorship on television closely reflect the wording of the EU Audiovisual Media Services Directive.

A key proposed change in this section is the addition of a new rule (7.3), which sets out a clear distinction between sponsorship and product placement, wherein references to products or services built into the action of a programme will be considered product placement not sponsorship (where they meet the definition of paid or prop placement).

The current General Commercial Communications Code prohibits sponsorship announcements from referencing more than one product or service and from including “calls to action”. Rule 7.5 in this draft Code allows sponsorship announcements to reference more than one product or service and prohibits the more specific “calls to purchase” (e.g. ‘buy now’, ‘purchase online at’, etc) rather than “calls to action” (e.g. ‘check out our website’, ‘find more information at’, etc). This addresses two of the main issues raised in the review of the current Code.

In addition, more detail on sponsored competitions has been included in rules 7.6 and 7.7 with the intention of protecting the interests of the audience. The detail comes from the non-binding guidance notes the BAI issued for the current Code. These guidance notes are used to provide clarifications and explanations, where necessary, in relation to the provisions of the Code.

*Q: What are your views on the distinction between sponsorship and product placement?*

A: There is very little differential between the two except that product placement is subliminal in the manner it seeks to influence the consumer. This is especially true with children and teenagers who are highly susceptible to personal influencing from individuals they hold in high regard and/or trust.

*Q: What are your views in relation to changing the restriction in sponsorship announcements from ‘calls to action’ to ‘calls to purchase’?*

A: A ‘call to action’ presents the consumer with a continuing opportunity for choice and consideration of the product/service and its alternatives on the market. A ‘call to

purchase' is directly influencing and demanding of action without further consideration – which we would find unacceptable.

*Q: What are your views on the additional rules in relation to sponsored competitions?*

A: Put plainly sponsorship is the ability to promote directly to a fixed audience by those who can afford to do so. It is generally only the most affable of product manufacturers and suppliers who can and do promote in such a fashion.

This is one of the singularly most attractive means of gaining, maintaining and ensuring the consumers attention remains un-diverted to other choices and offers by competitors.

**3:**

In terms of the additional items added to the three types of programmes not permitting product placement at present (tobacco, medicines or a product/service not permitted under the Code), we consider that Foods high in sugar content, targeted at children and teenagers, should be added.

**4:**

This section of the draft Code incorporates provisions from the self-regulatory code for alcohol advertising, the *Alcohol Marketing, Communications and Sponsorship Code of Practice*. While broadcasters are already required by the current General Commercial Communications Code to comply with this self-regulatory code, many of its provisions are now made explicit in the above rules 10.4, 10.5, 10.6, 10.7 and 10.8 of this draft Code.

*Q: What are your views on incorporating into the BAI's draft Code the provisions from the Alcohol Marketing, Communications and Sponsorship Code of Practice?*

A: The CAI is in favour of incorporating the provisions of the Alcohol Marketing, Communications and Sponsorship Code of Practice into the draft Code.

**5:**

In this draft Code, the rules regarding medicines are in a separate section to the rules for medical treatments, products and services and cosmetic treatments, products and services. In the current General Commercial Communications Code, these came under one heading. The BAI is of the view that separate headings provide greater clarity and ease-of-use for stakeholders and reflect the fact that EU legislation treats medicinal products separately from medical treatments, devices and services.

Rule 12.3 restricts the type of content that is permitted in commercial communications for medical treatments, devices and services. Some provisions under this rule are unchanged from the current Code and others derive from similar provisions applying to Medicinal Products in the previous section of this draft Code. The BAI believes these suitably apply to medical treatments, devices and services and offer appropriate protection for audiences for these types of commercial communications.

*Q: What are your views on the Medical Treatments, Devices and Services section of the draft Code?*

A: We suggest that consideration be given to certain dedicated sales channel format, paid for advertisements that follow a style of presentation and delivery wherein claims of health enhancement will follow the purchase and use of food preparation or fitness devices.

The claims made are unsupported in any scientific way whatsoever and the warnings regarding diet, current health or fitness or medical advice are understated in the extreme.

## **6:**

This section is titled “Food (including HFSS food)” in the current General Commercial Communications Code and has been renamed “Food, Nutrition and Health” to better reflect the more detailed rules now proposed.

There are 10 rules in this section, an increase on the more minimalist approach in the current Code. The additional rules derive from EU regulations on food information (15.1) and on nutrition and health claims made on foods (15.3 to 15.8). The other rules are largely unchanged from the current Code.

Please note that the BAI is not proposing at this time to amend Rule 15.10. This will be considered in the context of the review of the Children’s Commercial Communications Code, which will commence in 2017.

*Q: What are your views on the Food, Nutrition and Health section of the draft Code?*

A: The CAI considers that the items included in the Code on Food Nutrition & Health are in line with the provisions in EU Law, in particular, advertising requirements laid down in EU Regulations on Food Information & Nutrition & Health Claims.

The CAI does hold the strong view that Rule 15.10 requires amendment and will provide its opinion in the context of the review of the Children’s Commercial Communications Code, which will commence in 2017.

**7:**

The rules in this section are unchanged from the current General Commercial Communications Code.

*Q: What are your views on the Premium-rate Telecommunications Services section of the draft Code?*

A: It continues to be the case that the terms and conditions of cost, usage and carrier etc. remain in a format and font that is entirely unacceptable and difficult for the average consumer to read, interpret and understand in the manner presented.

**ENDS.**

**19<sup>th</sup> September 2016.**

**[www.thecai.ie](http://www.thecai.ie)**



# Submission 7

AN ROINN DLÍ agus CIRT agus  
COMHIONANNAIS  
51 Faiche Stiabhna  
Baile Átha Cliath 2  
Teileafón/Telephone: (01) 602 8202  
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DEPARTMENT OF JUSTICE and  
EQUALITY  
51 St. Stephen's Green  
Dublin 2  
Facsimilir/Fax: (01) 661 5461

Ms. Louise McLoughlin  
Compliance Manager  
Broadcasting Authority of Ireland  
2-5 Warrington Place  
Dublin 2

9 September 2016

Dear Louise,

I refer to your letter of 22 August 2016, and our subsequent meeting, regarding the Draft BAI General Commercial Communications Code.

As you will recall, the Department made some comments on the Code at our meeting and I am taking this opportunity to re-produce these comments officially.

Firstly, the Department welcomes the chance to comment on the Draft Code and is supportive of its contents.

It is noted that there is a provision prohibiting commercial communications on behalf of unlicensed remote bookmakers, and that there is a legislative basis for this (Betting Act 1931 as amended). The Department would ideally like to see a corresponding provision for unlicensed gaming operators but notes the difficulties arising as a result of the lack of a comparable legislative provision in the Gaming and Lotteries Act 1956.

As discussed at our meeting, there was some confusion about the wording of Paragraph 19.3. It was agreed that this would be re-drafted as a result.

The Department also notes that there is no provision in the Draft Code for time restrictions for commercial communications for gambling operators. This is a matter of concern given the proliferation of radio and television advertisements for certain categories of gambling products. The Authority's comments on this issue would be welcomed.

The Department remains available to comment on any revised version of the Code or to meet with you further if deemed necessary.

Yours sincerely,

Barry Quinn  
Corporate Services

# Submission 8

## BAI Draft General Commercial Communications Code

### Submission of the Family and Media Association (FMA)

*Q: What are your views on the Introduction to the Code?*

*"To ensure that the public can be confident that commercial communications are legal, honest, truthful, decent and protect the interests of the audience"*

The first objective mentions protecting "the interests of the audience". While this is a positive aspiration, it does not go far enough. It is important to protect the interests of *all* the people, not merely those who might constitute the audience at any particular time.

As the Family and Media Association (FMA) has pointed out in previous submissions to the BAI and its predecessors, some terms or expressions such as "decent" and (now) "protect the interests of the audience" may not be sufficiently well defined or well understood, in themselves. It is our belief that this has given rise to some arbitrary and inconsistent decisions over the years where similar codes are concerned.

We also propose, as we have done previously, that the objectives should include the requirement that commercial communications should be neither offensive nor harmful, where the term 'offensive' is understood, not as something subjective, shifting and arbitrary in meaning, but as being grounded in *the truth*, "*in the Name of the Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions both of men and States must be referred*" - The Constitution of Ireland (Bunreacht Na hÉireann).

It is, in our opinion, also important that commercial communications not undermine or be otherwise in conflict with the real purpose of communications which is truth, beauty and charity. This requirement should also be included in the Code's objectives.

*"The intention is to make it as easy as possible to have your complaint considered."*

In *reality*, the process of making a complaint, *from the point of view of the complainant and the public*, has become more arduous, not less arduous, in recent years and there is, apparently, no attempt to address this hypocrisy in the latest version of this Code.

Whereas, in the past, it was once possible to make a complaint directly to the BAI or its predecessors, now a complaint must, *first*, be made to the broadcaster who is then given a substantial period of time to respond. In practice, the broadcaster regularly does not even bother to reply within this timeframe (stated in its own code of practice) other than with a brief, often automated, message to the effect that the complaint has been received. RTÉ has been particularly weak here. Furthermore, there appears to be no penalty for the broadcaster's failure, so that this 'going through the motions' serves only to intimidate and ultimately 'shake off' the hapless complainant.

Whether the broadcaster does respond within the allowed timeframe (confusingly, this varies between broadcaster) or not, the complaint must, either way, be submitted anew to the BAI. This *second* complaint is supposed to be responded to, again, by the broadcaster so that, in theory, each complaint and response is not one complaint and response but 2 complaints and responses. After this, the complainant must then contact the BAI again to say that he or she wishes to proceed, before the complaint is hopefully heard. Even at this stage, the complaint will not come before the full compliance committee but before an executive subcommittee who may decide not to allow it to be heard by the full board.

We also note with concern a relatively new and worrying development where clerical staff whose authority to make a decision on these matters has no obvious basis in law or justice, intervene and sometimes offer what have the appearance of spurious, entirely invalid reasons for not submitting the complaint, even, to the executive subcommittee. The suspicion can only be fostered by such events that ideology is rearing its ugly head. How can a complainant have any confidence that his or her complaint is even understood much less taken seriously when it is open to being deflected from the compliance committee proper at so many stages along the way?

If this were not enough, to further complicate the process, from the point of view of the public, a complaint must first "*refer to the broadcaster's Code of Practice*". So a member of the public wishing to make a complaint must be familiar, not only with the relevant legislation and the relevant BAI code, but also with the individual broadcaster's own code. This further adds to the daunting nature of the process as far as the complainant is concerned.

One must ask why there is even a need for a different code of practice for each broadcaster. Surely a single code (and a single timeframe for responding to complaints) that all must adhere to, in the same way, would be a more logical, more transparent way of doing things, and easier for the complainant generally. Appropriate publicised penalties for the broadcaster's failures to respond would also be welcome.

From the above, it should be clear that there is an obvious unwieldiness to the system. In addition to the other problems mentioned, this unwieldiness increases the probability of clerical error. For example, FMA has received responses to complaints *that it didn't even make* (but others clearly did!) and that's not including the complaints which FMA did make but read like entirely different complaints when the BAI's final judgment was published.

#### *"How Complaints will be Assessed by the BAI*

*In circumstances where your complaint has not been responded to by the broadcaster or you are not satisfied with the response, you may refer your complaint to the BAI. Commercial communications shall be considered by the BAI in whole and in context with reference to:*

- *The matters identified in the complaint;*
- *The principles and rules in this Code;*
- *The provisions of the Broadcasting Act 2009;*
- *The provisions of the Audiovisual Media Services Directive 2010/13/EU; and*
- *The procedures, practices and policies of the BAI.*

*The BAI will not carry out a separate or independent assessment outside of the matters raised in the complaint."*

In the past, complaints have not been allowed to proceed because they were made on grounds which while not being referred to explicitly in the rules were explicitly referred to in other parts of the code. If the BAI wishes to be taken seriously about making a decision based on all of the above, then it must practice what it preaches and ensure that its staff have been properly briefed.

Finally, Because of the life-cycle of a commercial communication, and the damage that it can do in that time, the drawn out nature of the complaint process is, more often than not, too slow to be of any real help to the public.

There isn't much point in turning the steering wheel and applying the brakes some 6 months or even a year after being warned about a hazard on the road. Justice delayed is justice denied!

*Q: What are your views on how the Code proposes to deal with product placement and sponsorship, in particular, how the concept of 'significant value' will be applied?*

As we have stated before, it is our belief that product placement should not be allowed at all. It blurs the distinction between advertising and programming, thus, subtly, spreading the impression that the viewer is merely an object to be manipulated. Furthermore, it would seem to decrease the likelihood of broadcasters looking upon programming as a service putting it in conflict with the proposed principles. Those with a background in broadcasting are probably not best placed to make a judgment that product placement has been, in particular instances, or can be, in general, sufficiently well flagged, given their own experience with the medium, which heightens their sensitivity. On the other hand, children in particular find it difficult, if not impossible, to distinguish between normal programming and advertising content, in so far as such a distinction can really exist at all.

*Q: What are your views on the General Definitions and Exclusions as presented?*

*"The following exclusions are not forms of commercial communication and are not required to comply with this Code: ...*

*2. Public service announcements and charity appeals broadcast free of charge."*

A 'charity' could come to represent a privileged class of advertiser having an approved ideology. If, in these circumstances, it is excluded from the forms of commercial communication that are required to comply with the Code, it would have an unfair advantage, acting 'above the law' and outside the rules in order to advance certain ideologies at the expense of others. This would be dangerous propaganda -- a form of brainwashing. Such an exclusion would be a significant weak point which could subvert the Code.

*Q: What are your views on the four principles in the draft Code?*

Our comments on the Introduction can equally be applied to section on the principles of the Code. Please see above. Additionally, we welcome the retention of the reference to Human Dignity.

*Q: Is there anything you disagree with or believe is missing from these principles?*

Our comments on the Introduction regarding omissions can equally be applied to the section on the principles of the Code. Please see above. Additionally, the emphasis on “*Protecting the Individual and Society*” (Principle 3.1 in the current code) has been removed or given less prominence. This would appear to be an unnecessary backward step. On the other hand, we welcome the fact that the word “Truthful” has made its way into the title of one of the proposed principles, Principle 3.1.

*Q: What are your views on the Rules for all Commercial Communications?*

We propose a rule that 'Commercial Communications shall not contain any scriptural quotations or allusions to religious ideas or events, particularly where their meaning is altered in order to promote a product, or such that they may have the perceived effect of undermining a moral or religious belief system'.

We welcome in particular Rule 4.1: “*Surreptitious, subliminal and misleading commercial communications are prohibited.*”

*Q: What are your views on the rules pertaining to Split Screen, Interactive and Virtual Advertising Techniques?*

This phrasing of this question seems a little more closed than it needs to be.

It is still our view that split screen advertising should not be allowed at all, primarily, because it leaves the impression that those who watch are merely objects-to-be-used, for monetary gain, which is in conflict with the real meaning of communication.

In practice, we believe it would be impossible to protect minors from entering into a harmful situation through the availability of interactive advertising (The Television Without Frontiers directive, for example, states that if and where

interactive advertising is used, it must protect minors). We therefore believe that it should not be allowed.

We are opposed to the idea of virtual advertising for the same reasons that we are opposed to split screen advertising as it is another step along the way of turning viewers into unthinking uncritical objects-to-be-used, deceived and manipulated. It also, subtly, blurs the distinction between what is real and what is not. We also believe that special note should be taken of the implications for children who have not yet developed the cognitive capacities of adults which are needed to make distinctions between what is real and what is not real and, similarly, for those with psychotic illness.

*Q: What are your views in relation to allowing reference to more than one product or service in a sponsorship announcement?*

We would view such a move as a somewhat invasive backward step.

*Q: What are your views in relation to changing the restriction in sponsorship announcements from 'calls to action' to 'calls to purchase'?*

We believe that there should be no change in the restrictions here.

*Q: What are your views in relation to allowing reference to more than one product or service in a sponsorship announcement? (Re: Radio)*

We would view such a move as a somewhat invasive backward step

*Q: What are your views in relation to changing the restriction in sponsorship announcements from 'calls to action' to 'calls to purchase'? (Re: Radio)*

We believe that there should be no change in the restrictions here.

*Q: What are your views on the rules in relation to product placement?*

Our answer is that given for the section, General Definitions and Exclusions: As we have stated before, it is our belief that product placement should not be allowed at all. It blurs the distinction between advertising and programming, thus, subtly, spreading the impression that the viewer is merely an object to be manipulated. Furthermore, it would seem to decrease the likelihood of broadcasters looking upon programming as a service putting it in conflict with the proposed principles. Those with a background in broadcasting are probably not best placed to make a judgment that product placement has

been, in particular instances, or can be, in general, sufficiently well flagged, given their own experience with the medium, which heightens their sensitivity. On the other hand, children in particular find it difficult, if not impossible, to distinguish between normal programming and advertising content, in so far as such a distinction can really exist at all.

*Q: What are your views on the Gambling section of the draft Code?*

Unlike, to some extent, the rules for alcohol, the rules for gambling do not appear to properly embrace an understanding of the scourge of gambling addiction. It may be useful to impose stricter rules on commercial communications for casino style gambling, for instance.

*Q: What are your views on the Fortune Tellers, Psychic Services, etc., section of the draft Code?*

We do not believe that commercial communications for “fortune tellers, psychic services etc.,” are acceptable even where the service has the appearance of being only for entertainment purposes. Such ‘services’ constitute far too high a risk to the vulnerable.

*Q: What are your views on the Prohibited Commercial Communications section of the draft Code?*

We believe that commercial communications for sex shops, ‘stripograms’, telephone sex lines, chat lines etc should be prohibited as they are to varying degrees incompatible with human dignity, one of the terms included in the title of Principle 2. Advertisements for dating services, in practice, also tend to offend against human dignity. Additionally, pornography is now widely accepted as being harmful (also included in the title of Principle 2) and this acceptance has a solid scientific and clinical base. Pornography is also deceitful, it is an implicit lie about the nature of the body and it cannot, of course, reasonably be described as decent (cf. the title of Principle 1).

More generally, products and services, including many which are described as psychological, medical, cosmetic, and others which exploit the vulnerable should not be allowed. The Code appears to have a disproportionate concern for physical threats to the body in contrast with the spiritual, psychological and moral threats to the mind and soul.





*The Gaming & Leisure  
Association of Ireland*



# Submission 9

Gaming and Leisure Association of Ireland (GLAI)  
13 Fitzwilliam Square East,  
Dublin 2

Tel: +353 (0)1 4434477

Web: [www.glai.ie](http://www.glai.ie)

19<sup>th</sup> September 2016

Dear Sir/Madam,

In the absence of specific legislation or guidance from a statutory authority with proper powers of enforcement over the provision of gambling services in Ireland, the Gaming & Leisure Association of Ireland (GLAI) welcomes this initiative by the Broadcasting Authority of Ireland (BAI) to include guidelines for advertising gambling services in their communications code for broadcasting service providers and broadcasting service users alike. We also appreciate the opportunity afforded us by the BAI to contribute to this endeavour.

Due to significant gaps in current gambling legislation, we note that there is no legislative basis for restricting unlicensed operators, be they land based or online, from advertising, with the notable exception of unlicensed bookmakers. We believe that the rules for advertising gambling in Ireland should be placed on a statutory basis in order to facilitate the imposition of proper sanctions on those operators who opt to test the boundaries, as inevitably some will. We note that Head 72 of the Gambling Control Bill 2013 deals specifically with advertising and gambling, and makes provision for the Minister of Justice to task the 'Office for Gambling Control, for Ireland' (OGCI), once established, to develop rules for advertising of gambling in Ireland. We hope that this legislation will be put in place sooner rather than later.

With regard to the draft communications code as circulated, we note that many of the provisions contained therein mirror many of the guidelines put in place in other regulated jurisdictions and accordingly find them broadly acceptable. However we also note that there is no requirement to prevent advertising of gambling services before a specified time limit of **9pm**. We believe such a time limit is vital to reducing the incidence of problem gambling among young people. While there is a distinct lack of research on the issue of problem gambling here in Ireland, research in many other regulated jurisdictions confirms the view that under age exposure to gambling is the single largest contributory factor to problem gambling in later life. In light of the overwhelming evidence available internationally we believe that the guidelines should impose strict adherence to a **9pm time limit** for advertising all gambling services, including betting in-game, casino and arcade gaming, and online gambling. Accordingly we recommend that article 19.6 should be strengthened to include a specific time limit of 9pm.



We support the view that all parties to devising an advertising campaign and the dissemination of same should be required to exercise a duty of care over the material which they are prepared to disseminate. Accordingly we believe that it is not overly onerous to require broadcasters to ensure that any ad for gambling services advertised through their medium has the necessary links to information on responsible gambling as part of their internal quality control procedures. As with alcohol, we believe that commercial communications for the provision of gambling services:

1. Should encourage viewers to gamble responsibly (over 18's only)
2. Should not encourage immoderate use or present abstinence or moderation in a negative light.
3. Should not claim that gambling has therapeutic qualities or that it is a means of resolving personal conflicts.
4. Should not exaggerate the chances of winning or entice one to 'chase losses'.
5. Should not create the impression that gambling contributes towards sexual attraction and success or social success.
6. Should not identify gambling as a means of resolving any financial difficulties one might have.
7. Should not depict or feature children gambling.

Once again we would like to thank you for the opportunity to contribute to your debate on this matter and please do not hesitate to contact us if we can be of any further assistance.

**Yours faithfully**

**David Hickson, Director – GLAI**

**About GLAI:**

By way of background, the GLAI is a trade association which represents the interests of responsible private member gaming clubs and online operators involved in the provision of gambling services. The GLAI has engaged proactively with the Department of Justice officials and politicians alike to secure support for a new regulatory regime for the gambling industry more appropriate to modern day society and advances in technology. We contributed to the development of the General Scheme of the Gambling Control Bill with officials from the Department of Justice and Equality. With regard to the regulation of gambling in Ireland, Private Member Gaming Clubs are deemed 'designated bodies' under the 2010 Criminal Justice (Money Laundering & Terrorist Financing) Act, and as such, are the only sector in the gambling industry subject to oversight by the Anti-Money Laundering Unit the Department of Justice.

# Submission 10

**From:** Éamonn Geoghegan  
**To:** [General Commercial Communication Code](#)  
**Subject:** Product Placement on News Programming  
**Date:** Tuesday 20 September 2016 02:51:23

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Product Placement should not be allowed on news or current affairs programming in any shape or form due to bias from such product that may be placed on the news.

Sponsorship for news and current affairs should be removed from Radio, and should not be allowed on TV. Financial/medical products should absolutely not sponsor news and current affairs.

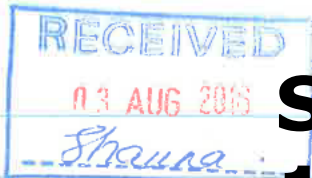
At the very least RTE Radio should not have sponsored news/current affairs programmes.

kind regards,

--

Éamonn Geoghegan





# Submission 11

Dear Sirs / Madam,

RE-vising the broadcast code etc

- ① I feel that the broadcast code should look at the amount of Repeat programmes being broadcasted on R.T.E, TV 3 etc. Given that R.T.E receives almost £400 million every year. The T.V Licence payers are not getting value for money and are pay off.
- ② R.T.E should not be allowed to use T.A.M Ratings Figures when they are promoting programmes and seeking sponsorship, because it gives them unfair advantage against local radio stations and other T.V channels.
- ③ There should be no advertisements allowed when Repeat programmes are being broadcasted on R.T.E, since it receives almost £400 million every year from the T.V Licence and E.U grants subsidies etc.
- ④ There should be Financial penalties imposed on broadcasters when they are found to have broken the law, rules or codes in broadcasting.

Yours Sincerely,  
Fahraic Gilmartin.

# Submission 12



Feidhmeannacht na Seirbhíse Sláinte  
Health Service Executive

Office of Health Promotion and Improvement  
Health Service Executive  
89-94 Capel Street  
Dublin 1  
Tel: +353 1 814 6292

Louise O'Loughlin,  
Compliance Manager  
Broadcasting Authority of Ireland,  
2-5 Warrington Place,  
Dublin 2.

20<sup>th</sup> September 2016

Dear Louise,

**Re: Consultation on Draft BAI General Communications Code.**

The Report of the National Substance Misuse Steering Group (2012) recognises the burden of health harms and the social consequences of excessive patterns of alcohol consumption and outlines a comprehensive range of policy measures to protect and preserve public health. The aim of the report is to reduce alcohol consumption in Ireland to 9.1 litres per person per annum (the OECD average) by 2020 and to reduce the harms associated with alcohol. We are currently at just under 11 litres per capita (10.97) in 2015.

Evidence indicates that regulating the price, availability and marketing of alcohol are key measures in reducing consumption in order to reduce harm. The Public Health (Alcohol) Bill incorporates these key measures. The HSE National Alcohol Programme has responsibility for developing, planning and overseeing an action plan to support the implementation of the forthcoming legislation and to support other actions which will contribute to the reduction of alcohol related harm and specifically for the protection of children and vulnerable people.

We welcome the opportunity to contribute to the consultation on the Draft BAI General Communications Code.

Yours sincerely,



Feidhmeannacht na Seirbhíse Sláinte  
Health Service Executive

Office of Health Promotion and Improvement  
Health Service Executive  
89-94 Capel Street  
Dublin 1  
Tel: +353 1 814 6292

A handwritten signature in blue ink, appearing to read 'CH' followed by a stylized flourish.

**Dr. Cate Hartigan**

**Assistant National Director for Health Promotion & Improvement**

**HSE Health & Wellbeing division**



Feidhmeannacht na Seirbhíse Sláinte  
Health Service Executive

Office of Health Promotion and Improvement  
Health Service Executive  
89-94 Capel Street  
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## Section 3 Principles of the Code

We welcome the new principle informing the Code, Principle 4: Protection of Children; giving expression to the provisions of the EU Audio Visual Media Services Directive that pertain to protecting children from content that may cause physical or moral detriment and from commercial communications that prey on their inexperience and credulity.

## Section 10 Alcohol

**Section 10.1:** *Commercial communications for alcoholic beverages shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority, in particular any relevant codes of practice published or recognised by the Department of Health.*

We welcome the planned incorporation of the relevant measures contained in the Public Health (Alcohol) Bill into the BAI Code, on the enactment of the Bill.

**Section 10.5** *Commercial communications for alcoholic beverages shall comply with the following: (c) They shall be broadcast only in or around programmes with an adult audience profile of 75%*

The audience profile of 75% enables 25% of the audience to be children; for broadcasts with large audiences this allows substantial numbers of children to be exposed to commercial alcohol communications. The metric by which this calculation is made should be reviewed as by including babies and toddlers in the calculation, the threshold at which the minimum audience of children is set is too high. A revised metric should focus on the exposure of children in the 12 years – 18 years age group as this is the age range of drinking initiation in Ireland.

**Section 10.8 (c)** *Broadcasters shall enforce a Code of Conduct for their presenters ensuring that speech content that glamorises or encourages over-consumption or misuse of alcohol is prevented. Each broadcaster will publish this Code on a website maintained by the broadcasters and make a copy of the Code generally available.*

The HSE welcomes the Code of Conduct for presenters- presenters should be supported in adherence to the Code by the provision of accurate information on the impact of alcohol harm on physical and mental health of young people in particular.

# Submission 13



## **SUBMISSION TO THE BROADCASTING AUTHORITY OF IRELAND (BAI) FOR CONSULATION OF GENERAL COMERCIAL COMMUNICATIONS CODE**

September, 2016

Alcohol Beverage Federation of Ireland  
84/86 Lower Baggot Street  
Dublin 2  
[www.abfi.ie](http://www.abfi.ie)



# **Alcohol Beverage Federation of Ireland response to the consultation on the Broadcasting Authority of Ireland's Draft General Commercial Communication's Code**

## **Introduction**

The Alcohol Beverage Federation of Ireland (ABFI) has drafted its position to the consultation document of the Broadcasting Authority of Ireland's (BAI) draft General Commercial Communications code. This document outlines ABFI's position with a specific reference to section 10 of the draft code which solely focuses on advertising and marketing communications of alcohol products.

## **About ABFI**

The Alcohol Beverage Federation of Ireland (ABFI) represents manufacturers and distributors of alcoholic beverages on the island of Ireland. Its membership includes small micro breweries and boutique distilleries as well as multinationals such as Diageo, Irish Distillers Pernod Ricard and HEINEKEN Ireland.

## **The drinks sector in Ireland.**

The drinks sector employs directly or supports the employment of over 200,000 people across breweries, distilleries, suppliers including farmers, distributors and in the hospitality sector. This employment is distributed around the country and is especially important in the regions. The performance of the Irish drinks sector in international markets has been a significant factor in the export-led recovery that has occurred in Ireland with exports to the value of €1.26 bn<sup>1</sup> in 2015.

The drinks industry is a major driver of economic activity across the economy of Ireland at a macro and rural level. As a result it has been identified by Government in its "Foodwise 2025" strategy as a key growth sector with the potential to grow exports to over €2 billion over the next 15 years and create and support an additional 13,000 jobs<sup>2</sup>, predominantly in the rural economy. The drink's industry's contribution is multifaceted. It ranges from:

- Supporting employment of over 200,000 people, many in rural areas;
- Exporting of €1.26 billion;
- €2.2 billion in taxes collected through VAT and excise;
- Support, both direct and indirect, for the €4.5 billion Irish tourism sector;
- Purchases in excess of €2 billion.

## **Alcohol consumption in Ireland**

Overall consumption of alcohol in Ireland has fallen approximately 25% over the past 15 years - based on Revenue clearance and CSO population data. The most recent research from ESPAD (European School Survey Project on Alcohol and Drugs) and the World Health Organisation on underage drinking in Ireland demonstrate that it continues to decline and is amongst the lowest of countries surveyed.

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<sup>1</sup> Exports Performance and Prospects 2015, Bord Bia

<sup>2</sup> Sustainable Growth of the Drinks Industry, Ciaran Fitzgerald Agri Food Economist, 2015

## Background to consultation

In July, the BAI launched a consultation of its General Commercial Communications Code. The code was first introduced in 2010 and sets down binding rules that Irish radio and television broadcast services must comply with. Included in the code are regulations concerning broadcast advertising, sponsorship, product placement and other forms of commercial communications. Section 10 of the code includes specific regulation dedicated to the advertising and marketing of alcohol products.

## Overview of alcohol advertising in Ireland

The alcohol industry in Ireland already has some of the strictest advertising and marketing codes in Europe. The members of ABFI operate marketing, advertising and sponsorship activities based on a number of core principles.

- Marketing is never targeted at children; it is only ever targeted at those above the legal purchase age. In order to safeguard against this, all Irish alcohol brands age verify to ensure that no person used in advertising is or looks under 25 years of age.
- We agree that the exposure of under 18s to alcohol advertising and sponsorship should be limited and operate audience profiling to this end (75% of a broadcast show's audience is required to be over the age of 18 in order for alcohol marketing to be permitted).
- The alcohol industry in Ireland abides in the strictest manner to all codes relating to advertising and sponsorship. We work closely with:
  - The Government and Industry body independently chaired by Peter Cassells, the Alcohol Marketing Communications Monitoring Body (AMCMB) which has strict rules on the volume and placement of all alcohol adverts in all media, i.e. how much advertising and where an alcohol ad is permitted. These codes were drawn up between Department of Health and the industry and reviewed and updated in 2008.
  - The statutory body the Broadcasting Authority of Ireland (BAI)
  - The Advertising Standards Authority of Ireland (ASAI) the independent self-regulatory body set up and financed by the advertising industry and committed, in the public interest, to promoting the highest standards of marketing communications
- Since 2003 all advertising copy is sent for pre clearance to CopyClear. This process ensures that all marketing communications fully comply with the ASAI codes. This is unique to Ireland; no other market puts its alcohol advertising across all media through such rigorous scrutiny to ensure that they comply with the letter and spirit of their codes.
- There is no call to action in advertising that attempts to get consumers to drink more alcohol. Advertising of alcohol brands is about differentiating brands from each other. Alcohol consumption has fallen since 2000, but during that time different brands gain and lose market share.
- The founding basis for developing the advertising codes is to minimise the exposure of under 18s to alcohol advertising and marketing. The benefit of using industry codes is that codes are flexible to adapt to the changing media landscape, particularly in the area of how young people consume media today.

### **Alcohol Marketing Communication Monitoring Board (AMCMB) Code – Placement & Volume**

The Alcohol Marketing Communications Monitoring Body (AMCMB) was established to oversee the implementation of and adherence to the codes of practice on placement and sponsorship to limit the exposure of young people to alcohol advertising. The AMCMB comprises five people plus an independent chair. Its function is to monitor the level of adherence by advertisers and media owners to the co-regulatory codes on volume, placement and sponsorship. The Department of Health, the Broadcasting Authority of Ireland and representatives of the Advertising and Alcohol Drinks Industry are represented on this body.

The AMCMB issued its first annual report for 2006 in the summer of 2007. The report and subsequent reports have shown a high level of compliance by advertisers and the media owners to the various codes. The body itself is a positive example of cooperation between government and industry in achieving the ultimate objective of minimising the exposure of children to alcohol marketing campaigns without the use of rigid regulation and blunt watersheds.

### **ASAI Code – Content**

The ASAI Ireland is an independent self-regulatory body set up and financed by the advertising industry and committed, in the public interest, to promoting the highest standards of marketing communications that is, advertising, promotional marketing and direct marketing.

The ASAI code governs the content of commercial communications including advertising, promotions, sponsorship and marketing campaigns. Self-regulation means the adoption by the advertising industry of standards drawn up by and on behalf of all advertising interests. It involves the enforcement of those standards through the commitment and cooperation of advertisers, agencies and media.

Included in the ASAI code (Section 9) are some of Europe's most strict content restrictions regarding the promotion of alcohol. Restrictions of note include:

- Mandatory inclusion of responsibility messaging on all alcohol advertisements;
- Any person depicted in an alcohol advertisement to be, and appear to be, over the age of 25;
- Marketing communications are forbidden from including "heroes of the young";
- Alcohol marketing communications should not associate the consumption of alcohol with operating machinery, driving, or any activity related to water or heights.

The most recent edition of the ASAI code came into effect in March 2016.

### **Copy Clear – Clearing house for drinks sector**

Unique to the drinks sector is an independent pre-vetting service called Copy Clear, a service which helps ensure that the content in alcohol brand advertising complies with the relevant ASAI code of practice. In 2003, the Association of Advertisers in Ireland (AAI), the Institute of Advertising Practitioners in Ireland (IAPI) and the drinks industry through the Drinks Industry Group of Ireland (DIGI), established the service. Alcohol brand owners and their advertising agencies have no role in running CopyClear nor do they have any influence or involvement in the decisions made by the CopyClear Managers.

CopyClear is funded by the drinks industry based on their share of submissions and its remit is to ensure that all alcohol consumer brand advertising and digital engagement comply with both the letter and the spirit of the codes that exist in this jurisdiction. Each advert that is approved gets

designated with a special clearance number. No media outlet (be it broadcast, radio, digital or outdoor) are permitted to accept any alcohol advertisement without Copy Clear's clearance number.

### **Compliance**

To date the compliance rate to the industry codes from the alcohol industry is very high. In 2015, 1,221 complaints were made to The ASAI and 72 advertisements were found to be in breach of its Code. ASAI's 2015 Annual report shows that 62% of advertisements in breach of ASAI Code related to misleading advertising claims while 24% of complaints were made on the basis that an advertisement was offensive.

Below is a list of complaints by sector with comparative figures for 2015, 2014 and 2013:

<b>Sector</b>	<b>2015</b>	<b>2014</b>	<b>2013</b>
Telecommunications	240	182	142
Leisure	150	275	111
Household	101	143	88
Miscellaneous	98	94	72
Health & Beauty	80	93	127
Travel / Holidays	77	90	105
Food & Beverages	72	127	82
Motoring	66	72	86
Financial	55	81	60
<b>Alcohol</b>	<b>34</b>	<b>57</b>	<b>47</b>

It is worth noting that the compliance rate for advertisements for the drinks industry is the highest of all sectors.

## **Section 10 of the draft BAI code**

The rules in section 10 of the draft BAI code pertaining to specific products and services on alcohol are proposed as follows:

**10.1** *Commercial communications for alcoholic beverages shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority, in particular any relevant codes of practice published or recognised by the Department of Health.*

**10.2** *Commercial communications for alcoholic beverages shall be cast towards brand selling and identification and shall not:*

- *Depict or feature children consuming these beverages or encourage children or non-drinkers to begin drinking,*
- *Link the consumption of alcohol to enhanced physical performance or to driving,*
- *Create the impression that the consumption of alcohol contributes toward sexual attraction and success or social success,*
- *Claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative, tranquilizer or a means of resolving personal conflicts,*
- *Encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light,*
- *Place emphasis on high alcohol content as being a positive quality of the beverages,*
- *Or Bear health claims or nutrition claims for beverages containing more than 1.2% AbV, other than those which refer to a reduction in the alcohol or energy content.*

**10.3** *Commercial communications are not permitted for the following:*

- *Beverages containing alcohol content of 25% AbV and above e.g. vodka, whiskey, tequila, rum, gin, brandy, etc.*
- *Alco-pops, pre-mixed spirit drinks and products of a similar nature.*

*This rule does not prohibit commercial communications for liqueurs or incidental references to brands of the above listed beverages, for example, where such a brand is associated with an event.*

**10.4** *Alcohol sponsorship of sports programmes, including sports bulletins, is not permitted. Solus/whistle breaks advertising spots for alcohol brands are not permitted during sports programmes.*

**10.5** *Commercial communications for alcoholic beverages shall comply with the following:*

- *They shall not be placed in any programme specifically aimed at children.*
- *They shall not be broadcast in or around programmes primarily intended for children whether as viewers or listeners.*
- *They shall be broadcast only in or around programmes with an adult audience profile of 75% or greater.*
- *They shall not be broadcast between 6am and 10am.*

**10.6** *Where alcohol advertising is permissible, it is limited to a maximum of 25% of sold advertising time and only one in four advertisements for alcoholic beverages is permissible across the broadcast day, excluding the period from 6am to 10am. No more than two advertisements for alcoholic beverages can appear in any one advertising break.*

**10.7** *Each broadcaster shall identify the programmes in their schedules that do not carry commercial communications for alcoholic beverages, in particular, those programmes specifically aimed at/appealing to children, and shall publish this list on a website maintained by the broadcaster and make a copy of the list generally available.*

**10.8** *Broadcasters shall enforce a Code of Conduct for their presenters ensuring that speech content that glamorises or encourages over-consumption or misuse of alcohol is prevented. Each broadcaster will publish this Code on a website maintained by the broadcasters and make a copy of the Code generally available.*

### **ABFI response to draft code**

ABFI broadly supports the draft code recommended by the BAI. The existing code has worked well to date. ABFI members recognise their responsibility to maintain the highest standards of corporate and promotional communication to the public. Audience profiling and the current time restrictions enable alcohol advertisers to accurately reach respective target audiences (of over 18's) effectively while minimising the exposure of under 18's to alcohol advertising. Both the BAI's content restrictions and those overseen by the ASAI ensure that the content of alcohol advertising broadcast in Ireland is appropriate.

However, ABFI would request changes to the following section:

#### **Section 10.3**

ABFI believes that this section, which effectively bans broadcast advertising for spirits, unfairly discriminates against the category. ABFI believes that alcohol beverages with an ABV above 25% (such as vodka, whiskey, tequila, rum, gin, brandy, etc.) should be allowed to advertise in the same manner as other alcohol categories and according to the same content and placement regulations. In a mature market, as that which exists for alcohol in Ireland, advertising acts to differentiate brands and not to drive consumption per se. There is no evidence available from Ireland or other countries that demonstrates that a broadcast ban on spirits advertising has any impact on the harmful consumption of alcohol.

ABFI's view is that all alcohol regardless of type should only be consumed in moderation. The result of the ban on broadcast advertising for spirits is essentially to discriminate between spirits brands and brands of other alcohol categories. It is noteworthy that the other codes and legislation that exist with regard to the marketing and sale of alcohol do not discriminate between various categories of alcohol rather they apply regulations equally to all product categories. ABFI's view is that the regulations contained in the draft code should be applied in the same fashion to all alcohol categories and therefore request that section 10.3 be removed from the draft code.

It is worth noting that only a minority of countries (around 30) have TV advertising regulations that differ by ABV (see table below).

#### Television advertising of alcoholic beverages:

##### %ABV distinction

5	Azerbaijan
7	Belarus
8	Togo
10	Burkina Faso
12	Ethiopia
14	Georgia
15	Bulgaria, Vietnam, Slovenia
17	Korea
20	Mexico, Spain, Serbia
25	Ireland

\* The global summary is approximate, and the table above is not exhaustive

A study on the amendment of Canadian legislation (which originally banned all alcohol advertising on TV) to legislation which had a ban on TV advertising of spirits only, found that sales of alcoholic beverages overall did not change. However the share of beer in those sales increased and the share of spirits decreased<sup>3</sup>.

#### Why a potential evening watershed would be ineffective:

ABFI notes the absence of a proposed change to the current watershed. ABFI supports the BAI maintaining the status quo of a watershed of 6am to 10am and the members of ABFI remain committed to minimising exposure of alcohol marketing and advertising to children. A strict evening watershed in Ireland would not achieve its stated objectives of minimising the exposure of alcohol advertising to children for the following reasons.

1. A watershed restriction would not adequately limit the exposure of children to alcohol advertising, but would restrict advertising around programmes where there are few or no children watching. In this regard audience profiling is much more suitable.
2. Much family programming often extends past 9pm, particularly at weekends. The current regulation deliberately deals with programmes at all times and not just those that are broadcast before 9pm.
3. Furthermore, there is a very significant barrier to the implementation of a watershed. At least 51% of TV viewing by under 18's in Ireland is to channels that operate from outside the Republic of Ireland. An evening watershed cannot be enforced in relation to these channels. Such a restriction imposed on Irish broadcasters not only puts them at a competitive disadvantage, it is in effect a futile policy as it will not significantly impact the exposure of alcohol advertising on children.
4. Television restrictions would be analogue regulation for a digital age – any intervention could risk accelerating a structural shift of advertising revenue away from television:
  - a. In the Republic of Ireland, young viewers are continually seeking video content outside of traditional linear platforms. Recent research by TAM Ireland, in conjunction with Ipsos, demonstrated that when asked what they had used yesterday to consume video, 60% of 12-17 year old's used a device other than a TV (compared to 34% of All Adults). This has grown from just 35% four years ago.

<sup>3</sup> Makowsky, C.R. and P.C. Whitehead, Advertising and alcohol sales: A legal impact study. Journal of Studies on Alcohol, 1991. 52: p. 555-567.

Amongst 12-17 year olds only around half of their video viewing (52%) is done through a TV set.

- b. In the UK, Ofcom research showed that, for the first time, 12-15 year olds prefer watching YouTube videos than TV programmes. Compared with adults, children aged 11-15 are watching half the amount of live TV per day (1 hr 30 versus 3hrs) and video clips on sites such as YouTube and Vimeo account for a fifth of their overall viewing time.
- c. 9% of all television viewing is now time-shifted due to the growth of digital video recorders. For under 18's, this practice rises to 13% after 9pm. This upward trend undermines the effectiveness of any watershed approach, particularly as more and more television programming gets consumed on portable devices.
- d. A watershed would also be ineffective on radio. Two of the top ten programmes for under 18's transmit past 9pm. The average listenership between 6pm and 9pm for under 18's is 19,300; this only falls marginally to 17,400 between 9pm and midnight.

In achieving to its aim in terms of limiting exposure of people under the age of 18 to advertising an evening watershed would have detrimental impacts on the Irish broadcasting sector:

1. Alcohol advertising is a very important revenue source for broadcasters, accounting for an estimated 4% of their total advertising revenues. Over 50% of this is pre-9pm, leading to estimated revenues of €4.5m per annum being displaced in the event of a pre-9pm alcohol advertising ban.
2. In response to any proposed watershed, it is possible that advertisers could transfer TV ad budgets to digital or other media which are less regulated, or not at all.

### **Why the current watershed and audience profiling works well?**

A more targeted method of minimising the exposure of alcohol advertising to children is audience profiling. Audience profiling involves a rigorous assessment of the demographics of an audience for any given programme with the ultimate aim being, in the case of alcohol advertising, to determine the age profile of the audience of that particular programme. Through effective audience profiling, alcohol advertisements can selectively target advertising slots that have the smallest likelihood of viewers, under the age of 18.

The AMCMB code which oversees the effective placement of alcohol advertising has been very effective in minimising the exposure of alcohol advertising to children while enabling drinks companies to compete in a fair environment. The reasons why the existing code is working so well are as follows:

- The current code ensures that alcohol commercials do not appear in TV or Radio programmes aimed at under 18's. 75% of the audience must be over 18 for a programme to be accessible. This is monitored stringently and without exception.
- The existing code catches all programmes - no matter what time of day they are broadcast.
- The current code is applied to all commercial broadcasters irrespective of the jurisdiction they broadcast from.
- The audience profile research is conducted by Nielsen (TV) and Ipsos MRBI (Radio) at a cost of €3.5m per annum, which is paid for by the broadcasters and advertising agencies. The sample sizes used for the research exceed international norms.
- The concerns in relation to alcohol advertising can be addressed by a Government backed and independently monitored, single code of practice for alcohol marketing, promotion, sponsorship, supply and sale of alcohol, across all media platforms.



## Conclusion

ABFI broadly supports the draft code as published by the BAI. The existing code has worked well to date. ABFI members recognise their responsibility to maintain the highest standards of corporate and promotional communication to the public. Audience profiling and the current time restrictions enable alcohol advertisers to accurately reach respective target audiences (of over 18's) effectively while minimising the exposure of under 18's to alcohol advertising.

Both the BAI's content restrictions and those overseen by the Advertising Standards Association of Ireland ensure that the content of alcohol advertising broadcast in Ireland is appropriate.

However, ABFI requests that Section 10.3 which bans the broadcast advertising of spirits be deleted. We feel that all categories of alcohol should be subject to the same regulations with regard to marketing and advertising.

ABFI would not like to see an evening broadcast watershed introduced. We feel that it would be ineffective at limiting the exposure of under 18s to advertising and would only serve to deprive indigenous broadcasters of advertising revenue.

# Submission 14



Response to

BAI Consultation Document

on

Draft General Commercial Communications Code

September 2016

## **Executive Summary**

This document contains the response of the Independent Broadcasters of Ireland (IBI) to the consultation document issued by the BAI on its Draft General Commercial Communications Code. These rules will govern the commercial promotion used by radio and television broadcasters in both commercial and on-air activity.

In its submission the IBI will outline the commercial realities experienced by IBI members in recent years as a direct result of the growth of new advertising opportunities, increased advertising regulations and guidelines and the introduction of new advertising platforms and technologies. The submission will also examine the suggested rules as set out in the Draft Consultation document, consider how they would be implemented and suggest suitable amendments and changes that would strengthen the final version of the General Commercial Communications Code.

The IBI will focus on amendments and changes to the General Commercial Communications Code that would ensure that all broadcasters, both radio and television, state funded or independent, are treated fairly and consistently. The regulator needs to be cognisant of the difficulties being experienced by the broadcasters it regulates and adapt its levels of regulation accordingly. Regulatory flexibility would ensure the viability of the independent broadcasters and assist them in surviving the difficulties currently facing them.

As with all consultation documents, not all sections outlined in the consultation document are relevant to the radio broadcasters who are members of the IBI. As such, the IBI's response will focus on the areas that are of concern and the sections which we believe require additional attention.

## **About the IBI**

IBI represents the national, regional, multi-city and local commercial radio stations throughout Ireland. Within our membership there exists a diverse collection of radio stations – diversity in ownership, target audience, location, franchise area to name but a few.

Listenership to independent broadcasting in Ireland has never been as strong as it is today. In excess of 65% of the Irish population, 2.456 million people, tune into independent radio on a daily basis, which clearly shows the value which listeners place on our programming. Independent radio provides a valuable public service to Irish radio listeners and is funded entirely from the sale of advertising and sponsorship with no cost to the exchequer. Independent radio is a huge success and this success has been achieved through the talent, expertise and commitment of the operators.

Despite the dependency on advertising and sponsorship, the main focus of independent radio stations is the listener. Independent radio stations are fully aware that there is a fine balance to be struck between the financial and commercial side of the business and the programming side. Indeed the two are intrinsically linked as high quality programming results in increased and retained listeners which in turn entices advertisers to the radio station. The sustained success of independent radio stations over the past twenty one years is a direct result of radio station management being mindful of the fact that the listener is the most important element in the whole equation.

The Independent sector is growing. There are currently 2 national radio stations, 4 regional radio stations, 1 multi-city station and 27 local stations.

The IBI is focused on the future and keeps an eye on sectoral developments with a view to representing the interests of independent radio sector on issues which will determine the future of broadcasting, and to engage fully with the Regulator and other stakeholders in all matters. The IBI aims to ensure that independent broadcasters are to the fore in shaping the future of Irish broadcasting.

## **Introduction**

Advertising and sponsorship are the main sources of income for Ireland's independent radio sector. Since the first independent commercial radio station began broadcasting in July 1989 there has been a concerted effort to entice sponsors and advertisers to independent radio on a local, regional and national level by individual radio stations, station groups and specific national advertising organisations.

IBI members are commercial broadcasters who do not have access to exchequer funding or a license fee to boost their financial position. Being solely reliant on commercial revenue for survival, and operating in a fiercely competitive environment, it is the scale of these revenues which determines staffing levels, investment in equipment and technology and funding for training. All of these considerations impact directly on the quality of output for the listener.

Independent radio stations:

- Rely entirely on advertising and sponsorship to fund broadcasting and operational activities. The financial position of the advertisers is dictated by the economy which therefore also dictates whether advertising levels will be buoyant or not. The collapse in sentiment among advertising buyers has directly and proportionally affected the entire radio broadcasting sector;
- Must maintain a consistently high standard of programming regardless of the financial position of the broadcaster. This is expected by the listener and any reduction in broadcasting quality will result in lower audience figures and thereby lower advertising revenues;
- Cannot pass the extra costs of running its business to the end user as the consumption of radio is free. The financial losses incurred as a result of the marked decrease in advertising revenues, have been borne by the broadcasters causing concern regarding viability.

Considering the financial difficulties that independent broadcasters face on a daily basis it is imperative that regulations for commercial communications are not a hindrance to the radio sector.

Independent radio stations engaged fully in the development of all of the BAI's Advertising Codes to date. The independent radio sector is compliant of all obligations placed upon it and broadcasters are conscious of adhering to all regulatory guidelines and codes and the implementation of these codes has been a priority for independent broadcasters over more than two decades.

One of the objectives of the BCI's General Advertising Code reads;

*To provide broadcasters with a simple, flexible and comprehensive code that does not impede in an unwarranted manner their right to communicate commercial messages.*

This should remain one of the core objectives of the General Commercial Communications Code and any changes made to the code should keep this objective in mind. Advertising is the lifeblood of the Irish broadcasting industry and whilst guidelines, codes and regulations are necessary, they should not be constructed or implemented in a manner which hinders the commercial reality and ultimately the viability of the broadcaster.

The IBI response to this consultation document will be in two parts. The first part will examine the consultation process to date, the actions taken by the BAI and the input of the stakeholders. It will also examine the environment within which the Code is being implemented.

The second part of the submission will focus on the draft code and will set out:

- The structure of the Code in particular its treatment of radio and television;
- The views of the IBI on the proposed changes outlined in the consultation document. This will include suggested changes and amendments to particular sections and guidelines;
- Recommendations on advertising codes and guidelines to ensure that regulation will encourage independent commercial radio to thrive in Ireland.

The considered views, opinions and recommendations in the IBI submission have been informed by key personnel working within the independent radio sector.

## **Part One:**

The publication of the consultation document on the General Commercial Communications Code is something that the IBI has been calling for since 2010. Previous versions of the Code have been heavily criticised by the IBI for being too restrictive, not allowing radio stations to operate commercially and hampering radio stations ability to maximise commercial revenue.

The IBI has actively engaged with the BAI since 2010 in an attempt to change the guidelines which accompanied the General Commercial Communications Code and has eagerly awaited the publication of the consultation document to ensure meaningful and significant changes were made to the new version of the Code.

Regarding the consultation process itself the IBI has in the past been critical of the BAI's course of action when consulting on codes. IBI has always focused on the fact that consultation by its very definition is an exchange of opinions, a discussion with experts aimed at obtaining advice and ascertaining opinions to reach an agreement. In previous consultations such an exchange of opinions and meeting of minds was not evident.

From the very beginning of this process it was clear that the consultation process for the General Commercial Communications Code was different. The views of stakeholders were central to the consultation; ample opportunity was given to submit documents suggest and propose changes and the views, opinions and concerns of the broadcasting sector were sought and included in the independent report which was commissioned by the BAI to inform it ahead of the drafting of the code. Finally meetings with BAI since the launch of the consultation document afforded stakeholders the opportunity to discuss the Code and also get guidance and clarity on any issue arising.

The opinion and advice of broadcasters was given paramount importance by the BAI. The gathering of opinions and advice at all stages should allow for agreement to be reached between the BAI and the broadcasters on aspects of the code which will benefit of the broadcasting sector as a whole.

The latest version of the General Communications Code is being introduced at an extremely difficult time for independent radio stations. Over the past few years the commercial environment has changed dramatically in a manner that could not have been predicted a decade ago. Changes can be viewed under three headings – broadcasting, technology and regulation.

### **Broadcasting**

Firstly the number of broadcasting channels has risen dramatically over the last number of years. Television stations from the UK have not only arrived in Ireland but have flourished. These stations are in addition to Irish niche television stations such as 3e and Eir Sports. In their determined and concerted attempts to win commercial revenue from RTÉ their strategy has been to lower their advertising costs for Irish advertisers and the loser in this strategy are the independent radio stations. It is now nearly as cheap to buy a national television campaign as it is to buy a national radio advertising campaign. In order to continue to compete radio stations have had to reduce the cost of their advertising inventory accordingly and the knock-on effect of such a move can be felt not only on the price of advertising spots and campaigns but also on the viability of the radio station.

The second change is the effect of RTÉ Radio's pricing strategies within the radio sector. RTÉ Radio has always effectively set the benchmark for pricing of radio advertising and all other radio stations then must work from that pricing structure. All media has felt the strong effect of the economic downturn on pricing and revenue but this has been further exaggerated for independent radio stations by the reductions in radio advertising offered by RTÉ Radio. Again, independent radio stations have no option but to follow suit and reduce their advertising campaign and advertising spots costs to retain commercial communications.

Thirdly, the increase in advertising minutage for television stations, introduced by the BAI in 2010 had a negative impact on radio. This change was introduced at a time when radio stations were experiencing a fall in advertising revenues of up to 40% and there was no immediate sign of an improvement. The change in policy directed advertisers towards television with its increased minutage and therefore cheaper spot costs, and away from radio advertising further increasing the financial difficulties of independent radio broadcasters. This was particularly felt with small



and medium advertisers who were targeted directly with reduced price television campaigns removing money from radio.

### **Technology**

Digital has become the buzz word of the advertising world. It is the place to be and advertisers and advertising agencies are flocking to it. Earlier this year IAB, the trade association for digital advertising announced a 29% increase in the amount Irish advertisers invested in digital during 2015. In terms of growth in digital ad spend, this figure puts Ireland at the top of the European table. More worryingly for traditional media, the ad spend on digital is not new money and someone has to suffer a decline in ad-spend in order for digital ad-spend to rise. Radio has been at the receiving end of this decline and this is a scenario that is not likely to change in the foreseeable future.

### **Regulation and Legislation**

Broadcasting regulation in Ireland has not helped radio to maximise its commercial potential. Part of the reason that the IBC has been so keen to amend the General Commercial Communications Code is that the regulation it enforces on radio stations makes radio difficult to sell to clients. The regulations and guidelines on what can and cannot be said in a radio advertisement or sponsorship tagline frustrates clients and advertising agencies who direct their revenue to other less restrictive media instead of radio.

Secondly regulative and legislative restrictions from Europe, in particular those concerning terms and conditions for financial products and services are not only a disincentive to advertisers and clients who are seeking the best bang for their advertising buck, they are also off-putting for listeners.

Whilst it may seem like an obvious point it has to be stated that radio is an audio only medium. This is a huge drawback for the medium when dealing with regulation. Onerous terms and conditions imposed on all media have the strongest impact on radio stations. All other media – television, outdoor, cinema, print, magazines, digital can put the required terms and conditions in small print on the bottom of the advert so as to not diminish the impact of the advert or the strength of the message being communicated. As the only medium that does not have a visual space radio has to

include these terms and conditions as part of the audio resulting in the requirement of additional on-air time and additional cost to the client. Once again, clients and advertising agencies are more likely to direct their ad spend on another medium as opposed to having to deal with the tribulations of radio regulations.

## **Part Two:**

This section will examine the draft code, its structure, the various sections and regulations that pertain to radio and will suggest changes and amendments that the IBI feels would strengthen its impact and effect.

### **Structure**

Firstly, on the structure of the code, the IBI has long sought separate treatment for radio and television by the regulator. While both media rightly come under the headline of broadcasters the differences between the two are significant and IBI has always believed that this should be reflected in legislation and regulation. We are heartened to see that this has begun with the draft General Commercial Communications Code but would urge the BAI to go another step further with separate sections pertaining to radio and to television.

Take *Section 5 Advertising and Teleshopping* in the draft Code for example. Removing radio from Section 5 allows the focus to be on advertising and teleshopping as it pertains to television. The radio only advertising rules would still be retained albeit moved to be included in the radio section of the Code with the radio rules not making any reference to teleshopping and therefore much clearer, more relevant and easily understood. The radio rules would read as follows:

*"Advertising shall be readily recognisable and distinguishable from editorial content. Advertising should not affect the editorial integrity and value of programmes and shall not be inserted in any broadcast of a religious service. Broadcasters shall take all reasonable measures to ensure that advertisements do not sound louder than adjacent programming. Broadcasters shall establish clear limits on the use of compression, limiting and equalisation as these apply to advertisements, in accordance with best practise".*

Other Codes which provide separate sections for different strands of media include the Code of Practice of the Alcohol Marketing Communications Monitoring Body (AMCMB). This Code gives every branch of the media from television, outdoor, radio, print and digital its own section. This makes the reading, clarity and interpretation of the Code straightforward and undemanding.

A clear delineated code with specific and separate radio and television sections would assist greatly in the clarity, understanding, interpretation and implementation of the regulations.

## **Rules**

The IBI recognises that not every section in the draft code is relevant to radio, that not every section is problematic and not every section requires change. This response will focus only on the sections which we believe should be amended or can be improved.

### **1. Sponsorship on radio, including competitions**

The BAI rules pertaining to sponsorship have been the source of frustration, annoyance and dissatisfaction for IBI members. The restrictions imposed by previous version of the Advertising and Commercial Communications Codes made it extremely difficult for radio stations to work with and even more difficult to offer significant value to clients interested in sponsoring radio programmes.

The proposed changes in the current Draft Code were suggested to the BAI by the IBI and we are pleased with their inclusion and with the willingness of the BAI to work with the IBI to make sponsorship more effective on radio. Having read the proposed changes we believe that small additional changes could further improve the rules for sponsorship on radio.

The change to rules prohibiting the referencing of more than one product or service is welcome as is the change to the inclusion of a call to action in a sponsorship tagline. We would however seek additional clarity on the definition of "Call to Purchase". Including examples of phrases that are considered a call to purchase should be included in the Code.

It is important to state that the IBI recognises the need for clear distinction between advertising and sponsorship and we are not seeking to blur the lines between both. Traditionally advertising has been used to encourage a purchase while sponsorship has been seen more as a brand building tool. For some time now advertising has been seeking to enhance the perception of

brands and in doing so is moving sponsorship into the advertising space. One need look no further than the “advertising” for Barry’s Tea and Brennan’s Bread as proof of this point.

Sponsorship therefore, needs to be able to offer something more to the client outside of strictly brand building and the requirements for what a sponsorship announcement or reference should include as outlined in the draft Code should be broadened to take account of such changes.

The draft Code states that a sponsorship announcement or reference shall not “make special promotion references to a product or service e.g. sales and discounts”. The IBI rebuts this and contests that if a sponsorship tagline can mention multiple goods and services then to include sales, discounts and promotional references is just another detail and should be allowed.

As such, the IBI suggests the re-wording of Sections 8.3 as such:

**8.3** Sponsorship must not constitute advertising, as defined in this Code, and sponsored programmes or stings shall not include price points. A sponsorship announcement must be clearly identifiable as same and shall not:

1. Include advertising of prices or endorsements or direct calls to purchase;
2. Afford undue prominence to a product or service of the sponsor in editorial content.

A sponsorship announcement or reference may however include specific items and special promotional offers.

## **2. Alcohol**

The IBI operates under the Alcohol Marketing Communications Monitoring Body’s (AMCMB) self-regulatory Code of Practise. This Code limits the exposure of people under the age of 18 to alcohol advertising. This is supplemented by a Code of Conduct for presenters to ensure speech content does not glamorise or encourage over consumption or misuse of alcohol. The members of the IBI are fully aware of their responsibilities regarding alcohol

and extremely vigilant about their adherence to the Code. This is proven by the fact that since its introduction there has never been a breach of the Code by an IBI radio station.

The IBI appreciates that the General Commercial Communications Code recognises and replicates the rules of the AMCMB Code. We would however, draw attention to Rule 10.7 which seeks to add an additional requirement regarding alcohol advertising. Currently each radio station has a list of programmes in their schedule which, largely as a result of the amount of children who are listening, do not carry alcohol advertising. This list is shared with both the BAI and the ASAI in order to allow for monitoring and adherence to the code. The BAI, in the draft Code, is suggesting that this list be made available on radio stations websites. IBI believes that this is an unnecessary step which will not benefit anybody but only serve to add an additional layer of administrative work to an already stretched independent radio sector.

There has never been a request for the list of programmes which do not carry alcohol advertising from members of the public, from vested interests, from health groups or from alcohol organisations. Therefore the logic behind making these lists publically available is unclear. Given the extremely high level of adherence to the Code, the inclusion of this additional layer of regulation would appear to be surplus to requirement and in excess of what is needed or required.

We would urge the removal of this requirement.

### **3. Gambling**

Clarification was sought from the BAI to ensure that Radio Bingo was included under "other licences granted by the relevant competent authority". Given that this is the case such clarification should be included in the Code, whether as a footnote, in an appendix or other.

### **4. Financial Services and Products**

IBI radio broadcasters are keen to ensure that all advertising carried on their stations is legal, honest and truthful and that consumers are not misled by

incorrect statements or lack of access to full information about the product or service being promoted. We fully support the aims of The Central Bank of Ireland's Consumer Protection Code 2012 in this area, it is in no station's interest to carry advertising which leaves consumers poorly informed about a financial product that they are considering.

We believe, however that as radio advertising does not have the visual component enjoyed by media such as print, web, posters and television, it needs to be considered and treated separately. The rules as set out are not in question and the IBI understands that changes to these rules are subject to European regulation and the interpretation of such by the Central Bank and its Consumer Protection Code. That said, we believe that the BAI has within its powers the ability to make the implementation of the rules governing the advertising of financial services and products easier on radio stations.

Radio stations must include onerous terms and conditions in all advertising for financial terms and conditions. Central Bank regulations state that radio advertisements for financial products and services must *"ensure that an audio advertisement is clear, fair, accurate and not misleading where warning statements and key information/qualifying criteria cannot be run at the same time as the headline message. Nevertheless, regulated entities must ensure that key information, required by the Code, is included in the main body of the advertisements and at a speed which makes it easy for the listener to understand."*

The IBI suggests that an element of flexibility is introduced by the BAI when dealing with financial terms and conditions in radio advertising. While legislatively we are strictly bound by 10 minutes of advertising an hour, an allowance by the BAI for the fact that financial terms and conditions are information and warnings and not advertising copy would assist stations in the broadcasting of such ads. The IBI suggests that the terms and conditions on financial radio advertisements are not considered advertising and therefore are excluded from the overall calculation of advertising minutage.

## **5. Exclusions from Advertising Minutage – Code Exclusions**

Public service announcements and charity appeals broadcast free of charge are specifically excluded from the definition of commercial communications and therefore not required to comply with the Code. IBI believes that “charity” should be removed and any appeal broadcast free of charge by radio stations should be excluded. Not all appeals broadcast are from charities but if a radio station does not seek payment for the broadcast it should not be counted towards advertising minutage.

The IBI understands that the BAI is still considering whether an accompanying set of guidelines for the new General Commercial Communications Code will be developed. In the past, guidelines have only increased the levels of confusion in deciphering what could and could not be included in radio advertising and sponsorship content. Previous guidelines introduced additional restrictions on broadcasters which were not included in the original Code. Guidelines should act to assist broadcasters with the General Commercial Communications Code, providing an indication of how something should be done or what sort of action should be taken in a particular circumstance. With a clearer, more easily understood Code which is easier to implement there should not be any need to develop guidelines for the General Commercial Communications Code



## **Conclusion**

The past decade has seen huge change in media and in advertising. Expectations and demands from advertisers and sponsors have changed; media planning models have changed as have the formats that advertising is taking. Phrases such as 360-degree multi-platform agreements, content integration or holistic and integrated commercial solutions are now part of everyday radio discussions on advertising and sponsorship. Implementing these on a medium that has been hampered by strict legislative and regulatory codes and guidelines has not been easy.

As an industry independent radio stations are acutely aware of the obligation to serve our audiences be they local, regional or national and radio stations do not want to be in a position whereby advertisers prescribe what is broadcast. That said, commercial communications sustain independent broadcasting and a new General Commercial Communications Code which is fit for purpose should allow radio stations to generate a more sustainable future, delivering what the listeners want to hear and what advertisers want to be associated with.

The implementation of a revised General Commercial Communications Code could potentially transform independent radio's creative and commercial offering and in turn, provide the industry with a much needed economic boost. It could lead to an enhancement of independent commercial radio's output to the benefit of the industry, advertisers and most importantly, listeners.

The IBI is available to discuss the contents of this submission in any detail that may be required.



# Submission 15

IPH submission to the Broadcasting Authority of Ireland (BAI)  
Draft General Commercial Communications Code

20 September 2016



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## **Introduction**

### **The Institute of Public Health in Ireland**

The remit of the Institute of Public Health in Ireland (IPH) is to promote cooperation for public health between Northern Ireland and the Republic of Ireland in the areas of research and information, capacity building and policy advice. Our approach is to support Departments of Health and their agencies in both jurisdictions and maximise the benefits of all-island cooperation, to achieve practical benefits for people in Northern Ireland and the Republic of Ireland.

IPH welcomes the opportunity to respond to this Draft General Commercial Communications Code from the perspective of regulating the marketing, through Irish television and radio, products and services that have the potential to impact on public health. It is well recognised that while a suite of measures is required to tackle these issues, addressing advertising and promotion is one useful element of a necessary regulatory mix.

IPH has an extensive portfolio of work across a range of areas in which particular rules apply including: alcohol; food, nutrition and health; smoking cessation aids and; gambling. We have previously submitted responses to BAI consultations on the Children's Commercial Communications Code. Further details of our work can be found at [www.publichealth.ie](http://www.publichealth.ie)

## Section 1: Introduction

*Q: What are your views on the Introduction to the Code?*

Overall the Introduction is clear and accessible however with regard to compliance it would be helpful to clarify the relationship with the *BAI Compliance and Enforcement Policy 2014*.

## Section 3: Principles of the Code

*Q: What are your views on the four principles in the draft Code?*

*Q: Is there anything you disagree with or believe is missing from these principles?*

IPH welcomes the introduction of Protection of Children as a discrete principle in the General Commercial Communications Code, acknowledging that children access and view material that is outside the remit of the *Children's Commercial Communications Code 2013*.

## Section 7: Sponsorship on Television, including competitions

*Q: What are your overall views on the rules for sponsorship on television?*

*Q: What are your views on the distinction between sponsorship and product placement?*

*Q: What are your views in relation to allowing reference to more than one product or service in a sponsorship announcement?*

*Q: What are your views in relation to changing the restriction in sponsorship announcements from 'calls to action' to purchase?*

*Q: What are your views on the additional rules in relation to sponsored competitions?*

IPH notes a lack of reference in the text of 7.5 that more than one product or service is allowed in a sponsorship agreement and there is no reference to limits in length of time and/or frequency of sponsorship announcements during a sponsored programme.

With regard to section 7.10, IPH calls for the inclusion of prohibition of sponsorship of sports programmes by sponsors whose principal activity is the manufacture or sale of alcohol in this section in addition to its current location in section 10.4.

## **Section 9: Product Placement**

*Q: What are your views on the rules in relation to product placement?*

In keeping with the added principle of Protection of Children, consideration should be given to extending the restriction of products and services that may not feature in children's programmes to those programmes where it can be reasonably assumed that significant numbers of children view. It has often been shown that children and young people are exposed to media outside of the expected targeted audience, for example with television programming children often watch family programming rather than, or as well as, children's programming (Adams et al, 2012; WHO, 2013).

## **Section 10: Alcohol**

*Q: What are your views on incorporating into the BAI's draft Code the provisions from the Alcohol Marketing, Communications and Sponsorship Code of Practice?*

IPH welcomes the commitment to update the General Commercial Communications Code in line with the *Public Health (Alcohol) Bill 2015*, once enacted. The World Health Organization has strongly endorsed the use of such public health legislation to regulate the availability of alcohol as a means to reduce alcohol related harm (WHO, 2010).

With regard to incorporating provisions from the *ASAI Alcohol Marketing, Communications and Sponsorship Code of Practice*, while the ban on alcohol sponsorship of sports programmes and bulletins as laid out in section 10.4 is welcome, IPH calls for further restrictions regarding advertising of alcohol products in or around sports programmes as such advertising continues to strongly identify alcohol brands with

specific sports, specific teams and sports celebrities of particular relevance to children and young people (Fox et al, 2015).

IPH considers further restrictions are also warranted on alcohol advertising around all programmes aired before the 9pm watershed and supports a recommendation to reduce the threshold from 25% to 10% child audience if children are to be protected from disproportionate levels of exposure (Fox et al, 2015). International evidence supports these regulatory measures in addressing alcohol consumption and related harm. A recent European longitudinal study on the relationship between young people's alcohol marketing exposure (including television advertising) and alcohol use found evidence of a long term effect of exposure on consumption (de Bruijn et al 2016), adding further weight to a significant body of evidence on the topic. In its recently published *Action Plan for the prevention and control of noncommunicable diseases in the WHO European Region* (WHO 2016), the World Health Organization reiterates its commitment to supporting actions to reduce the harmful use of alcohol, calls for the impact of marketing on the use of alcohol, particularly among young people, to be fully recognised and recommends the use of regulatory frameworks to manage alcohol marketing.

## **Section 15: Food, Nutrition and Health**

<i>Q: What are your views on the Food, Nutrition and Health section of the draft Code?</i>
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While welcoming the inclusion of the broader issues of nutrition and health in this section, IPH cautions against deflecting attention from high fat salt sugar (HFSS) food and drinks given that television and radio advertisements in Ireland are heavily dominated by these products. Consumption of these products is consistent with an unhealthy diet and an increased risk of overweight and obesity, as well as heart disease, stroke, cancer, diabetes and dental caries.

IPH has previously called for a prohibition on advertising of HFSS foods up to the watershed of 9pm and wish to reiterate that call in this submission, while acknowledging that the BAI plans to review the *Children's Commercial Communications Code* in 2017.

## **Section 17: Smoking Cessation Aids**

*Q: What are your views on the Smoking Cessation Aids section of the draft Code?*

IPH suggests the inclusion of explicit reference to the *Tobacco Products Directive* (2014/40/EU) now transposed into Irish law whereby ‘commercial communications with the aim of direct or indirect effect of promoting electronic cigarettes...will be banned.’ While acknowledging its presence within section 22, IPH considers it is of particular relevance to this section and as such should also be highlighted here.

## **Section 19: Gambling**

*Q: What are your views on the Gambling section of the draft Code?*

IPH welcomes the broadening of this section to the more comprehensive term of gambling and calls for reference to be made to forthcoming legislation on *Gambling Control*, in particular Heads 72-74 which refer to advertising and sponsorship.



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# Submission 16

[www.irishheart.ie](http://www.irishheart.ie)



**Irish Heart Foundation**

**Submission on BAI's General  
Communications Code**

September 2016





## About the Irish Heart Foundation

The Irish Heart Foundation is the national charity dedicated to fighting heart disease and stroke. Today in Ireland more people die from heart and stroke-related illnesses than from any other cause of death. Against this background we work to bring hope, relief and a better future to families all over Ireland. We give vital patient support through our Heart & Stroke helpline and we provide high quality public information for all.

We support pioneering medical research, campaign for improved patient care, and promote positive public health strategies. We work in hospitals, schools and workplaces to support, educate and train people to save lives. As a charity we are dependent on the generosity of the public to continue our vital good work. You can fund our work by making a donation, give of your time to volunteer or learn the skills needed to save a life through our courses<sup>2</sup>

# Submission to the BAI

## *General Commercial Communications Code*

September 2016

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The Irish Heart Foundation (IHF) promotes policy changes that reduce premature death and disability from cardiovascular disease (CVD). A number of the risk factors for CVD are influenced by marketing. Reflecting this, our submission on the General Communications Code focuses on marketing of HFSS food and drink products, alcohol and tobacco-related products.

### *IHF's work in the area of marketing to children*

For health children should maintain a healthy weight and consume foods that are low in saturated fat, trans-fatty acids, free sugars, and salt. Unhealthy diets are associated with obesity, which has increased in children around the world over recent decades.

The marketing of products high in fat, sugar, salt (HFSS), particularly to children, is of significant concern to the IHF. The majority of the foods advertised to children fall within five categories – snacks, fast food, confectionary, sweetened cereals and sugar-sweetened drinks. These foods should not be eaten too much or too often, as they are not necessary for a healthy diet. There is a growing body of evidence on the relationship between TV viewing, children's diets and obesity.<sup>1</sup>

The IHF has published a number of reports on food marketing to children, including *Marketing of Foodstuffs in Post Primary Schools in Ireland*<sup>2</sup> (2007), with the National Heart Alliance, *Protecting Children from Marketing of Unhealthy Foods*<sup>3</sup> (2008), *Marketing of Food and Beverages to Children – stakeholder views on policy options in Ireland*<sup>4</sup> (2009) and *Who's Feeding the Kids Online? Digital Food Marketing and Children in Ireland* (2016).

The IHF favours a system of statutory regulation of marketing of HFSS food to children. While the 2013 Children's Commercial Communication Code marked the beginning of a statutory regulatory regime, the IHF believes the Code does not go far enough in only banning the marketing of such products to 6pm (during 'children's programming'). The IHF favours extending current restrictions across the full range of programmes children watch (up to 9pm watershed), rather than limiting this to just child-specific programming. We outline some of the reasons for this preference in the below submission but look forward to fully outlining our position and the research evidence during the upcoming consultation on the revision of the BAI's Children's Commercial Communications Code.

## Comments on the text of the revised General Communications Code

### Note on the text

Where the text of the proposed code is specifically mentioned in our comments these sections are highlighted in yellow below.

#### **2. General Definitions and Exclusions**

##### **Child/Children**

For the purpose of this Code, the terms 'Child' and 'Children' refer to any person under 18 years of age.

Welcome inclusion of definition of children as per the Children's Commercial Communications Code.

#### **Principles of the code**

##### **Principle 4: Protection of Children**

Children are viewers and listeners with particular needs and broadcasters share a responsibility with parents and guardians for what children listen to and watch. It is expected that broadcasters will protect them from material that is unsuitable or would be likely to cause physical or moral detriment. This principle recognises that children of different ages and maturity require different levels of protection. Commercial communications shall not directly exhort children to buy or hire a product or a service by exploiting their inexperience or credulity; they shall not directly encourage children to persuade their parents, guardians or others to purchase the products or services being promoted; they shall not exploit the special trust children place in parents, guardians, teachers or other persons; and, they shall not unreasonably show children in dangerous situations.

The BAI has a separate Children's Commercial Communications Code that deals specifically with commercial communications promoting products, services or activities that are deemed to be of particular interest to children and/or broadcast during and between children's programming. This is available to download from [www.bai.ie](http://www.bai.ie).

**Note** - A new principle, Principle 4: Protection of Children, is included. This gives expression to the provisions of the EU Audiovisual Media Services Directive that pertain to protecting children from content that may cause physical or moral detriment and from commercial communications that prey on their inexperience and credulity.

The IHF welcomes the inclusion of a particular principle on the protection of children. As per the highlighted text above, we would like clarity that this is consistent with the definition of children as under-18.

#### **7. Sponsorship on Television, including competitions**

...

7.5 Sponsorship must not constitute advertising, as defined in this Code, and sponsored

programmes shall not directly encourage the purchase or rental of goods or services. A sponsorship announcement or reference shall not:

- a) Make special promotional references to a product or service e.g., sales and discounts,
- b) Include advertising copy, prices, endorsements or calls to purchase or equivalent,
- c) Afford undue prominence to a product or service of the sponsor.

7.10 Programmes shall not be sponsored by sponsor(s):

- a) Whose principal activity is the manufacture or sale of cigarettes and other tobacco products,
- b) Whose products or services are not permitted to be promoted to the typical audience for that programme, or
- c) Who are involved in the manufacture, supply or provision of a product or service that is not permitted to be promoted under this Code.

*Note - The current General Commercial Communications Code prohibits sponsorship announcements from referencing more than one product or service and from including "calls to action". Rule 7.5 in this draft Code allows sponsorship announcements to reference more than one product or service and prohibits the more specific "calls to purchase" (e.g. 'buy now', 'purchase online at', etc) rather than "calls to action" (e.g. 'check out our website', 'find more information at', etc). This addresses two of the main issues raised in the review of the current Code.*

The IHF has consistently argued that a 6am to 9pm restriction on all HFSS marketing would be a necessary and proportionate measure to protect children from exposure to HFSS advertising. Most children watch TV outside children's airtime between 6-9pm and as a result as large numbers of children will still view HFSS ads during adult programming on all channels. Recent research (2016)<sup>5</sup> found that young children in the Republic of Ireland are likely to view over 1,000 ads for 'less healthy' food/drink items each year.

The limits of the pre-6pm restriction was highlighted in the media recently<sup>6</sup> following McDonald's - a company which sells HFSS and other products - sponsorship of the 'Big Big Movie' on RTÉ. This appears to contradict the spirit of the BAI restriction on the marketing of HFSS products to children.

#### *Rule 7.10*

To reflect the spirit of the Children's Communications Code we recommend that rule 7.10 be amended to include the following underlined text:

'Programmes [before the 9pm watershed] shall not be sponsored by sponsor(s):

...

(d) whose products are not permitted to be promoted during children's programming.

## Rule 7.5

The IHF has concerns about the proposed change in restriction in sponsorship announcements from 'calls to action' to 'calls to purchase'. For example, this change would appear to provide for more scope for alcohol marketing to call on consumers directly to *drink/enjoy* [rather than *buy/purchase*] alcoholic beverages as a part of sponsorship announcements. The IHF believes that the restrictions on 'calls to action', which provides broader protection, should remain in place.

### 9. Product Placement

9.4 Prop placement in children's programmes is not permitted in the case of products/services that may not feature in children's programmes (e.g. alcohol) and in the case of other relevant restrictions.

9.9 Programmes shall not contain product placement of:

- a) Tobacco products or cigarettes or product placement from undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products
- b) Specific medicinal products or medical treatments available only on prescription in the State, or
- c) A product or service that is not permitted to be promoted under this Code.

### HFSS products

To reflect the Children's Commercial Communications Code, we suggest the inclusion of a specific reference to HFSS products in the brackets.

### Tobacco products

The IHF welcomes the restriction on product placement of cigarettes and tobacco products. Stringent regulation of tobacco marketing is justified given the harm caused by tobacco products. Tobacco is the only commercial product which will kill one in two of all users. As a result, ongoing vigilance to new means of advertising tobacco products is required. As highlighted in the Government's (2013) *Tobacco Free Ireland* policy (p.56):

*'Despite the increased restriction of advertising and promotion the tobacco industry continues to reach new consumers through innovative marketing strategies including brand stretching, trade marketing programmes and the internet. It is important that there is on going vigilance in relation to tobacco industry activities to ensure compliance with all provisions, particularly the recently commenced sections pertaining to prohibitions on advertising. The introduction and enforcement of tobacco control legislation has been the subject of substantial legal challenge by tobacco manufacturers.'*

The *Tobacco Free Ireland* policy makes a number of recommendations which are relevant to the BAI Code:



- *Work with media regulators and the entertainment industry around the portrayal of smoking in the media.*
- *Monitor developments in relation to brand stretching at a global and European level.*
- *Examine and monitor the existing tobacco legislation to ensure that it is inclusive of contemporary forms of communications.*

Research in the UK<sup>7</sup> has indicated that television programming is a source of significant exposure of youth to tobacco imagery, before and after the watershed. Actual tobacco use, predominantly cigarette smoking, occurred in 73 of 613 (12%) programmes, particularly in feature films and reality TV. Brand appearances were rare, occurring in only 18 programmes, of which 12 were news or other factual genres, and 6 were episodes of the same British soap opera. Tobacco occurred with similar frequency before as after the 9pm watershed. The estimated number of incidences of exposure of the audience aged less than 18 years for any tobacco, actual tobacco use and tobacco branding were 59 million, 16 million and 3 million, respectively on average per week. Such research indicates that in addition to addressing tobacco marketing as commercial communications, tobacco marketing should also be addressed within programme content rules.

## **10. Alcohol**

10.3 Commercial communications are not permitted for the following:

- a) Beverages containing alcohol content of 25% AbV and above e.g. vodka, whiskey, tequila, rum, gin, brandy, etc.
- b) Alco-pops, pre-mixed spirit drinks and products of a similar nature.

**This rule does not prohibit commercial communications for liqueurs or incidental references to brands of the above listed beverages, for example, where such a brand is associated with an event.**

10.4 Alcohol sponsorship of sports programmes, including sports bulletins, is not permitted. Solus/whistle breaks advertising spots for alcohol brands are not permitted during sports programmes.

10.5 Commercial communications for alcoholic beverages shall comply with the following:

- a) They shall not be placed in any programme specifically aimed at children.
- b) They shall not be broadcast in or around programmes primarily intended for children whether as viewers or listeners.
- c) They shall be broadcast only in or around programmes **with an adult audience profile of 75% or greater.**
- d) They shall not be broadcast between 6am and 10am.

10.7 Each broadcaster shall identify the programmes in their schedules that do not carry commercial communications for alcoholic beverages, in particular, those programmes specifically aimed at/appealing to children, and shall publish this list on a website maintained by the broadcaster and make a copy of the list generally available.

*Note - This section of the draft Code incorporates provisions from the self-regulatory code*

*for alcohol advertising, the Alcohol Marketing, Communications and Sponsorship Code of Practice. While broadcasters are already required by the current General Commercial Communications Code to comply with this self-regulatory code, many of its provisions are now made explicit in the above rules 10.4, 10.5, 10.6, 10.7 and 10.8 of this draft Code.*

*The Department of Health is mandated by Government to introduce new regulations in relation to alcohol, including the scheduling of alcohol advertisements. In December 2015, the Department of Health published the Public Health (Alcohol) Bill 2015 which provides for restrictions on the advertising of alcohol. This bill has yet to be enacted.*

*Section 10.1 of the Draft Code requires that: "Commercial communications for alcoholic beverages shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority, in particular any relevant codes of practice published or recognised by the Department of Health".*

*Once the Public Health (Alcohol) Bill 2015 is enacted, the Code will be updated to ensure that it is in line with the Public Health (Alcohol) Bill.*

The IHF welcomes confirmation that the BAI Code will be updated to reflect the final Public Health Alcohol Bill which is an important piece of public health legislation to promote public health.

Alcohol is subject to regulation because of its potential health risks. In terms of CVD specifically, when used in excess, alcohol can cause strokes, high blood pressure and may be directly toxic to the heart muscle producing heart rhythm disturbances and heart failure. Alcohol is also high in calories and may contribute to excess weight gain and associated CVD problems.

A number of comprehensive, systematic reviews of longitudinal studies clearly indicate a causal relationship between marketing and drinking behaviour, especially among children, encouraging them to drink at an earlier age and in greater quantities than they otherwise would.<sup>8</sup> *Alcohol in the European Union*, published by the World Health Organisation<sup>9</sup>, states that 'exposure to alcohol marketing increases the likelihood that young people start to drink alcohol and that among young people who have started to use alcohol, such exposure increases the frequency of drinking and the amount of alcohol consumed'.

Recent Irish research (2015) on alcohol marketing and young people in Ireland<sup>10</sup> found that more than 90% of the children surveyed reported they were exposed to traditional (offline) alcohol advertisements in the week prior to the study and more than half reported that they were exposed to 4 or more advertisements per day. More than three quarters of the children reported exposure to alcohol marketing online and very large minorities have been specifically invited to engage with alcohol marketers on social media, with 35% reporting that they were invited to 'like' an alcohol brand, 29.7% invited to like an event sponsored by an alcohol brand and 21.4% invited to attend such an event. This research shows that current regulations, including the BAI Code, are not protecting children from exposure to alcohol advertising. The current situation is clearly at odds with the new principle of protection of children which is proposed for inclusion in the updated BAI Code.

### Rule 10.3

This rule effectively enables alcoholic beverages which cannot advertise to do so via sponsorship arrangements. The sponsorship of an event is a form of commercial communication and should be dealt with as such.

### Rule 10.5

The IHF welcomes the inclusion of some rules regarding alcohol sponsorship of sports programmes, however we believe that alcohol should not be advertised during or around sports programmes (primarily due to the high numbers of children who watch such programmes). As currently proposed, the Code would allow alcohol advertising where children make up 25% or less of the audience. In effect this means that a sports programme with viewing numbers of 500,000 could include alcohol advertising even if children made up 125,000 of the overall audience.

In relation to the 25% child audience cap, the authors of the 2015 study on alcohol marketing to young people in Ireland conclude that (p.5):

Audience profile thresholds for radio and television advertising need radical change. Currently alcohol advertising is allowed around programmes if up to 25% of the audience are underage. This needs to be reduced to less than 10% if children are to be protected from disproportionate levels of exposure. 10-17 year olds account for approximately 10% of the population. This is the age group largely represented in the NUIG study and it is the cohort that are at greatest risk of experimenting with alcohol. Current audience profile thresholds allow young people to be disproportionately exposed to alcohol marketing.

## 15. Food, Nutrition and Health

15.6 Commercial communications involving health claims shall include all of the following information:

- a) a statement indicating the importance of a varied and balanced diet and a healthy lifestyle;
- b) the quantity of the food and pattern of consumption required to obtain the claimed beneficial effect;
- c) where appropriate, a statement addressed to persons who should avoid using the food; and
- d) an appropriate warning for products that are likely to present a health risk if consumed to excess.

15.10 A maximum of 25% of sold advertising time and only one in four advertisements for High Fat Salt Sugar (HFSS) food products and/or services products are permissible across the broadcast day. There is a range of other rules in relation to food commercial communications for children and these can be found in the BAI's Children's Commercial Communications Code, which is available to download from [www.bai.ie](http://www.bai.ie).

*Note - This section is titled "Food (including HFSS food)" in the current General Commercial Communications Code and has been renamed "Food, Nutrition and Health" to better reflect the more detailed rules now proposed.*

...

*Please note that the BAI is not proposing at this time to amend Rule 15.10. This will be*

*considered in the context of the review of the Children's Commercial Communications Code, which will commence in 2017.*

#### *Rule 15.6*

The IHF believes this rule should be expanded to state that health claims should only feature on foods that have a healthy nutritional profile, as defined by a recognised nutrient profiling model.

#### *HFSS products*

The IHF welcomes the continued restriction on HFSS products broadcast marketing. However, particularly in relation to children, we believe that current regulations should be strengthened to adequately address children's exposure to such marketing. The BAI's regulations on HFSS apply to children's programming (defined as under-18s forming 50% of the audience) up to 6pm. This fails to address the 'family viewing' times of the day with the largest child audiences. Research (see below) shows that Irish children continue to be exposed to HFSS products in broadcast media, including within programme content. Previous public polling for the IHF showed that 75% of Irish parents supported a ban of ads HFSS up to the watershed of 9.00pm<sup>11</sup>.

#### *Section 15.10*

The IHF considers that imposing a 25% cap on ads for HFSS will not protect all children as per the intent of the Broadcasting Act.<sup>1</sup> A 25% cap still exposes large numbers of children to HFSS ads especially during family viewing times. Further, a 25% cap is completely out of line with national healthy eating guidelines. HFSS products should only be consumed occasionally, not every 1 in 4 food item.

For adults the notion of a cap is welcome, however we believe that the cap should be level lower than existing advertising levels and we propose a cap of no more than 10%. This is based on the rationale that whether for adults or children, after consuming the required balance of foods based on the main food groups on the Food Pyramid, there is only about 10% discretionary calories left to consume. For adults on a 2000kcal diet, discretionary calories should make up no more than 18%. Discretionary calories can be used to increase calorie intake from the main food groups, and select foods that are higher in fat or sugar, or in the case of adults, discretionary calories can be used to consume alcohol. For children, after consuming the required balance of foods from the main food groups, there is only about 8-10% discretionary calories left to consume. A 10% cap on HFSS ads would seem a more reasonable and logical basis, with the cap favouring children's dietary choices ahead of adults.

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<sup>1</sup> The Broadcasting Act (2009) in articles 42(2)g; 42(4) and 42(5) recognises that Broadcasting Codes need to 'protect the interests of children having regard to the general public health'.

## Recent Irish research

### The advertised diet to children in Ireland in a climate of regulation

**Tatlow-Golden, M. et al. (2016) 'Creating good feelings about unhealthy food: children's televised 'advertised diet' on the island of Ireland, in a climate of regulation'. *The Irish Journal of Psychology*.**

The study<sup>12</sup> noted from audience panel research that children view general TV more than children's channels. This study therefore aimed to go beyond children's programming and to explore the nature of food and drink television advertising viewed by young children on the island of Ireland, sampling from times and channels with highest viewership among young children (4–6 years). Food and drink advertisements were nutrient profiled; allocated to food groups and marketing techniques were identified.

- Findings indicate that young children in the Republic of Ireland are likely to view over 1000 ads for 'less healthy' food/drink items each year, according to the nutrient profiling system that governs current legislation.
- Findings also indicate that the 'advertised diet' viewed by young children on television, dominated by dairy foods, burgers, pizzas, sweets and chocolate, represents a considerable distortion of healthy eating guidelines.

On a positive note, the proportion of food and drink advertising on the island of Ireland, of television advertising overall, is low (6.6%), and on dedicated children's channels it is negligible (fewer than one ad every two hours on Nickelodeon and Nick Junior). However, general-view commercial channels show food and drink ads approximately every 10–15 minutes, and large numbers of children view such programming – for example the entertainment competition show X Factor (UTV in NI, TV3 in RoI).

Policy implications for remedying children's HFSS ad exposure include:

- Apply food advertising restrictions to times when higher proportions of young children watch television – not just child-directed programming – as well as to digital media
- Employ a stricter nutrient profiling method
- Normalise children's 'advertised diet' by exploring ways to advertise healthy foods

### Children's viewing patterns and brand knowledge

**Tatlow-Golden, M. et al. (2014) 'Young children's food brand knowledge. Early development and associations with television viewing and parent's diet'. *Appetite*.**

This study, conducted in the Republic of Ireland and Northern Ireland in 2010<sup>13</sup>, assessed young children's (3-5 year olds) knowledge of healthy and less healthy food and drinks (as defined by the Nutrient Profiling Model). Advertising restrictions for HFSS foods had been in force in Northern Ireland since 2007 (Ofcom, 2007). However, the BAI restrictions on HFSS were not in force in the Republic at the time of the study.

- Almost all of the children (98%) watched TV, with mean daily viewing of just over 2 hours.
- Based on audience panel research, it was clear that the children viewed considerable amounts of television at times other than that defined as children's programming.

Three clear trends were evident in children's food/drink brand knowledge:

- From 3 to 5 years, children's scores increased on all forms of brand knowledge
- They could *name* nearly a third of brands; *name the product type* of just over half the brands; and *visually recognise (match images of)* nearly two-thirds of brands

- Across ages and task types, children recognised substantially fewer healthy items than unhealthy items

In relation to issue of HFSS within programming content, the authors conclude that:

*'The findings of this study support those who argue that, to promote healthy eating and achieve reductions in obesity, focusing on television advertising alone is not sufficient (Boyland & Halford, 2013; Lanford, 2013) and wider definitions of marketing is required, to protect children from marketing effects for unhealthy foods and to promote healthy eating as a cultural norm (Landon, 2013).'* [Emphasis added.]

### HFSS products in programme content

**Scully, P. et al., (2014) 'Food and beverage cues in UK and Irish children-television programming'. *Archives of Disease in Childhood*.**

This study<sup>14</sup> examined food and beverages in children-specific programming in Ireland and the UK broadcast on RTE and BBC in July 2010 and October 2010.

The food and beverage content in children's programmes was assessed in terms of a food or beverage cue – product being displayed within a food-specific context with the potential to be consumed. Cues were coded as healthy or unhealthy (based on food pyramid); characters associated with the cue; and the cue motivation – positive (social, excitement, reward), negative (upset, punishment) and health-related (hunger / thirst, weight, healthy living).

- Across RTE and BBC, unhealthy foods, such as sweet snacks and candy, accounted for 47.5% of all food-specific placements, and sugar-sweetened beverages accounted for 25% of all beverage-specific placements. There was one food and beverage cue every 6 minutes on RTE.
- Food and beverage cues were most commonly placed outside the home, were not part of a meal, and involved non-overweight human characters.
- Social or celebratory motivations for food and beverage depictions were most common.

### Authors' conclusion:

*'Eating and drinking are common activities within children specific programming with unhealthy foods and beverages, especially common and frequently associated with positive motivating factors, and seldom seen with negative outcomes. Statutory legislation from 2007 in the UK and recent new broadcasting regulations issued by the Broadcasting Authority of Ireland are in place in order to limit the broadcasting of foods with high fat, sugar and salt content during children's programming, however, they are largely based on advertising. We suggest that parents, policy makers and physicians should be aware of the frequent portrayals of unhealthy food and beverages in a positive light in children's television programming. Future children's television programmes should address this by including frequent and positively associated connotations with healthy foods and behaviours* [Emphasis added.]

## Digital food marketing to children online

While currently outside the remit of the BAI's General and Children's Commercial Communications Codes, it appears that there is significant HFSS marketing online directed to children.

It appears that the BAI's HFSS broadcasting regulations have not prompted food companies to adopt similar restrictions to their online marketing to children.

**Tatlow-Golden, M. (2016) *Who's Feeding the Kids Online? Digital Food Marketing and Children in Ireland*. Dublin: Irish Heart Foundation.**

The study<sup>15</sup> revealed the sophisticated digital marketing techniques directed at children by the top food and beverage brands and how little parents know about the efforts being made to influence their children.

- Food companies magnify the known effects of broadcast advertising, by using the '3 Es' – powerful *engagement*-, *emotional*- and *entertainment*-based tactics – in digital media.
- Also use hi tech analytics to target children directly
- The report found many of the food and beverage brands are not now using websites to promote their products to children – with just one in ten top retail brands in Ireland having sites with child-directed content – although one in five still had content appealing to older children and teens, virtually all for items high in fat, salt or sugar.
- However the picture changed dramatically on Facebook where all the food and beverage brand pages with the greatest reach among 13-14 year old users in Ireland are for brands that feature unhealthy products. These brands actively seek to recruit Facebook users to spread their marketing – seeking likes, tags, comments and photos and providing many links and hashtags.
- Brands use tactics with strong appeal to children and young people – featuring bold graphics and strong visuals, competitions, a strong emphasis on humour, fun and 'special days', links to entertainment, festivals, sports and other events, and regularly featuring sports stars and celebrities popular with children.

### *Parents attitudes to digital food marketing*

An online survey of parents of 13-14 year olds conducted as part of the report showed that although parents had generally positive attitudes to marketing, and were initially indifferent to the idea of food marketing to children online, their attitudes shifted after they were shown digital food and drink marketing examples.

- Ultimately, three-quarters of the surveyed parents were strongly against digital marketing of unhealthy products to their children and terms they used to describe the tactics included *immoral*, *dishonest* and *exploitative*.
- Parents surveyed were particularly hostile to two types of digital media marketing tactics.
  - They reacted very negatively to brands in social media that encouraged children to 'tag' their friends or share brand posts with their networks.
  - Parents were also very hostile to sports stars and other celebrities promoting unhealthy products. They felt role models for young people were unlikely to use these products frequently themselves and so this advertising was misleading.

### **Recommendations**

Based on the findings, the report recommends that existing regulations protecting children from HFSS advertising should be extended to all media; that existing loopholes in regulations should be closed; and that celebrities should be banned from promoting HFSS products, among other recommendations.



## 17. Smoking Cessation Aids

17.1 Commercial communications for products or services purporting to assist people to quit

smoking shall indicate clearly that the product or service is only effective in conjunction with the positive application of the consumer's will power. Commercial communications purporting to assist people to quit smoking shall not indicate that a cure will be brought about by the product or service but may focus on the potential role of the product or service in assisting people to quit smoking.

17.2 Where smoking cessation aids could reasonably be categorised under the headings in sections 11 to 15 of this Code, the commercial communications **for such smoking aids** must adhere to the rules under the relevant section(s) in addition to rules under this section.

Recommend inclusion of missing word 'cessation' in highlighted text – 'for such smoking cessation aids'.

## Conclusion

The IHF welcomes the opportunity to comment on the proposed revisions to the General Commercial Communications Code. As referenced in this submission we look forward to participating in the forthcoming consultation on the Children's Communications Code.

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<sup>1</sup>For example, see: Galbraith-Emami, S. and Lobstein, T. (2013) 'The impact of initiatives to limit the advertising of food and beverage products to children: a systematic review'. *Obesity Reviews*; Lennert Veerman, J., Van Beek, E.F., Barendregt, J.J., Mackenback, J.P. (2009) 'By how much would limiting TV food advertising reduce childhood obesity', *European Journal of Public Health*, 19 (4), 365-369; Lobstein, T. and Dobb, S. (2005) 'Evidence of a possible link between obesogenic food advertising and overweight', *Obesity Review*, 6, 203-8; IOM (2005) *Food marketing to children and youth: threat or opportunity?*



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Washington, DC: The National Academies Press; Hastings, G., Stead, M., McDermott, L. *et al.* (2003) *Review of research on the effects of food promotion to children*. Glasgow: University of Strathclyde.

<sup>2</sup> [http://www.irishheart.ie/media/pub/healthpromotionreports/ihf\\_report\\_marketing\\_of\\_foodstuffs\\_post\\_primary\\_2007.pdf](http://www.irishheart.ie/media/pub/healthpromotionreports/ihf_report_marketing_of_foodstuffs_post_primary_2007.pdf)

<sup>3</sup> [http://www.irishheart.ie/media/pub/positionstatements/booklet\\_web.pdf](http://www.irishheart.ie/media/pub/positionstatements/booklet_web.pdf)

<sup>4</sup> [http://www.irishheart.ie/media/pub/full\\_polmark\\_report\\_jan5th\\_final.pdf](http://www.irishheart.ie/media/pub/full_polmark_report_jan5th_final.pdf)

<sup>5</sup> Tatlow-Golden, M., Murrin, C., Bergin, R., Kerr, M., O'Brien, S. and Livingstone, B. (2016) 'Creating good feelings about unhealthy food: children's televised 'advertised diet' on the island of Ireland, in a climate of regulation'. *The Irish Journal of Psychology*. DOI: 10.1080/03033910.2016.1194770.

<sup>6</sup> Irish Independent, 16 August 2016. 'Jack Chambers slams RTÉ over decision to allow McDonald's sponsor the Big Big Movie'.

<http://www.independent.ie/entertainment/television/tv-news/jack-chambers-slams-rt-over-decision-to-allow-mcdonalds-sponsor-the-big-big-movie-34970386.html>

<sup>7</sup> Lyons, A., McNeill, A. and Britton, J. (2013) 'Tobacco imagery on prime time UK television'. *Tobacco Control*, doi:10.1136/tobaccocontrol-2012-050650

<sup>8</sup> Anderson P, de Bruijn A, Angus K, Gordon R, Hastings G. (2009) 'Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies'. *Alcohol*. 2009;44(3):229-43; Meier P, Booth A, Stockwell T, Sutton A, Wilkinson A, Wong R, et al. (2008) Independent Review of the Effects of Alcohol Pricing and Promotion. Sheffield; Scientific Opinion of the Science Group of the European Alcohol and Health Forum (2009) 'Does marketing communication impact on the volume and patterns of consumption of alcoholic beverages, especially by young people? – a review of longitudinal studies'; Smith L, Foxcroft D. (2009) 'The effect of alcohol advertising, marketing and portrayal on drinking behaviour in young people: systematic review of prospective cohort studies'. *BMC Public Health*. 2009;9(1):51.

<sup>9</sup> WHO (2012) *Alcohol in the European Union: consumption, harm and policy approaches*. World Health Organisation.

<sup>10</sup> Fox, C.A., Kelly, C. and Molcho, M. (2015) *Alcohol marketing and young people's drinking behaviour in Ireland*. Dublin: Alcohol Action Ireland. <http://alcoholireland.ie/download/alcmarketingstudy.pdf>

<sup>11</sup> Red C (2011) . Food Advertising research on behalf of the Irish heart Foundation; Children's Rights Alliance; National Youth Council of Ireland.

[http://www.irishheart.ie/iopen24/marketing-unhealthy-foods-children-t-38\\_263.html](http://www.irishheart.ie/iopen24/marketing-unhealthy-foods-children-t-38_263.html)

<sup>12</sup> Tatlow-Golden, M., Murrin, C., Bergin, R., Kerr, M., O'Brien, S. and Livingstone, B. (2016) 'Creating good feelings about unhealthy food: children's televised 'advertised diet' on the island of Ireland, in a climate of regulation'. *The Irish Journal of Psychology*. DOI: 10.1080/03033910.2016.1194770.

<sup>13</sup> Tatlow-Golden, M., Hennessey, E., Dean, M. and Hollywood, L. (2014) 'Young children's food brand knowledge. Early development and associations with television viewing and parent's diet'. *Appetite*. Article in Press. doi: 10.1016/j.appet.2014.05.015. Epub 2014 May 21

<sup>14</sup> Scully, P. *et al.*, (2014) 'Food and beverage cues in UK and Irish children-television programming'. *Arch Dis Child*. doi:10.1136/archdischild-2013-305430.

<sup>15</sup> Tatlow-Golden, M. (2016) *Who's Feeding the Kids Online? Digital Food Marketing and Children in Ireland*. Dublin: Irish Heart Foundation.

[http://www.irishheart.ie/media/pub/advocacy/web\\_whos\\_feeding\\_the\\_kids\\_online\\_report\\_2016.compressed.pdf](http://www.irishheart.ie/media/pub/advocacy/web_whos_feeding_the_kids_online_report_2016.compressed.pdf)

# Submission 17



**IMO Submission to the Broadcasting Authority of Ireland**  
**Draft General Commercial Communications Code**

September 2016  
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## **IMO Submission to the Broadcasting Authority of Ireland – Draft General Commercial Communications Code**

The IMO is pleased to make a submission to the Broadcasting Authority of Ireland in relation to the new Draft General Commercial Communications Code. In relation to the rules pertaining to specific products and services, the IMO wishes to make the following comments:

### **10. Alcohol**

The IMO welcomes tighter provisions in the new Draft Code in relation to commercial communications for alcoholic beverages. For many years the IMO has been lobbying for a range of measures to reduce high levels of alcohol consumption and binge-drinking in Ireland particularly in young people. In the IMO Position paper on Alcohol and Young People in 2013 the IMO has called for a ban on all advertising and promotion of alcohol.

While disappointed that the a total ban on advertising and promotion of alcohol is not included, the IMO has welcomed the provisions of the Public Health (Alcohol) Bill 2015 which represents the first article of legislation that is wholly centred on protecting the public health from the damaging effects of alcohol. The new Commercial Code must ensure full compliance with the forthcoming legislation.

### **11. Medicinal Products.**

The advertising and promotion of pharmaceuticals is restricted under EU legislation, the Medicinal Products (Control of Advertising) Regulations 2007 and a number of voluntary industry codes of practice.

#### **Complementary and Alternative Medicinal Products and Therapists**

Many people in Ireland use complementary and alternative therapies and remedies such as acupuncture, chiropractics, osteopathy, herbal and Chinese medicine, in the treatment of various illnesses and ailments despite the fact that the evidence base for many of these therapies is poor.

Quality of health care in Ireland is assured in part through independent statutory regulation of doctors, nurses and other allied health and social care professionals as well as the statutory regulation of medicines, medical devices and healthcare products. However complementary and alternative therapists and products are generally unregulated and pose significant risks to the health and safety of patients. While some therapies and remedies can be used safely alongside mainstream medical treatment, complementary products may react with other treatment or medication with negative affect on a patient's health. Worse again alternative therapists and advertisers of alternative products can often claim to cure specific illness and conditions without scientific or medical evidence to support that claim. Patients may choose to use alternative therapies instead of mainstream medical treatment, allowing their condition to worsen and in some cases leading to early death.

The advertising of certain homeopathic and herbal medicinal products is regulated under EU legislation and the Medicinal Products (Control of Advertising) Regulations 2007. Apart from this the regulation of alternative complimentary therapies and remedies is poor. The BAI General Commercial Communications Code must ensure that patients are not misled by information concerning efficacy of conventional medical treatment or of complementary or alternative treatments. Patients should inform their doctor if they are using complementary or alternative therapies or products. Patients and citizens should also be actively informed of the possible negative effects of discontinuing treatments advised by their physicians and replacing them with other methods not proven effective by medical science and practice. The IMO recommend that complimentary or alternative medicine products and treatments are provided for separately in the Code.

## 12. Medical Treatments, Devices and Services

The Medical Council *Guide to Professional Conduct and Ethics by Registered Medical Practitioners* 8<sup>th</sup> Edition 2016 states that *“Information about medical services published in the media, internet or other means is generally in the public interest provided the information is factually accurate, evidence based and not misleading”*. Information about medical services must be true and verifiable, must not make false claims or have the potential to raise unrealistic expectations.

Doctors are concerned by the lack of evidence supporting certain health checks and screening procedures that have been advertised by private clinics which can expose patients to over diagnosis and over-treatment. The BAI General Commercial Communications Code should reflect the potential harms that screening of asymptomatic individuals may receive and the limited evidence for screening interventions on individuals.

### **Complementary and Alternative Therapies and Services**

As per 11 above the BAI General Commercial Communications Code must ensure that patients are not misled by information concerning efficacy of conventional medical treatment or of complementary or alternative treatments. Patients should inform their doctor if they are using complementary or alternative therapies or products. Patients and citizens should also be actively informed of the possible negative effects of discontinuing treatments advised by their physicians and replacing them with other methods not proven effective by medical science and practice. The IMO recommend that complimentary or alternative medicine therapies and services are provided for separately in the Code.

### **Medical Devices**

The advertisement of medical devices used in the diagnosis or treatment or patients are not included in the Medicinal Products (Control of Advertising) Regulations 2007, however, medical devices must be licensed by the Health Products regulatory Authority (HPRA) and the advertisement of these devices are subject to industry codes of conduct similar to that of medicinal products and should be included under Section 11. Medicinal Products and Medical Devices.

### **Health and well-being Apps**

A plethora of health applications have flooded the market in recent years and The delimitation between apps that have a medical purpose apps having a sole wellbeing/lifestyle purpose is often blurred. Apps that serve in the diagnosis and treatment of patients are considered medical devices and are subject to regulation by the HPRA however, there are a range of well-being and lifestyle apps that are unregulated and may reveal sensitive information about the health of an individual.

Advertisements for health and well-being apps must be factual and supported by evidence. The public should be made aware that health and well-being apps may reveal information sensitive information about their health.

## 13. Cosmetic Treatments Products and Services

### **Cosmetic Surgery and Medical Services**

In the interest of patient safety, the IMO are calling for the regulation of cosmetic surgical and non-surgical services to include restrictions on the advertising and promotion of these services. Like all medical and surgical procedures, cosmetic surgery and medical procedures carry a certain amount of risk and should not be advertised in the same manner as other commercial cosmetic products. Of

particular concern are advertisements that raise unrealistic patient expectation and fail to present the risk and some of the offers and inducements used to increase sales.<sup>1</sup>

In the absence of regulation, the Irish College of Ophthalmologists (ICO) have developed *Guidelines for the Advertising and Marketing of Surgical and Medical Procedures in Ireland*.

[http://www.eyedoctors.ie/medium/files/ICO\\_Advertising\\_Marketing\\_Guidelines-x.pdf](http://www.eyedoctors.ie/medium/files/ICO_Advertising_Marketing_Guidelines-x.pdf)

The BAI General Commercial Code should be consistent with the ICO *Guidelines for the Advertising and Marketing of Surgical and Medical Procedures in Ireland*.

## 14. Hypnosis, Hypnotherapy, Psychology, Psychoanalysis and Psychiatry

### Psychiatry Services

Medical Specialists in Psychiatry are regulated by the Medical Council and communications must comply with the *Guide to Professional Conduct and Ethics by Registered Medical Practitioners*. The advertising of these services should be included in Section 12 - Medical Treatments and Services of the code.

### Counselling and Psychotherapy Services.

The Minister for Health has recently proposed that counsellors and psychotherapists should be included in the list of professions to be regulated under Health and Social Care Professionals Act 2005. Communications relating to Counselling and Psychotherapy services will be subject to a code of conduct and ethics similar to that of other health and social care professionals regulated under the Act. The advertising of these services should be included in Section 12 - Medical Treatments and Services of the code.

### Hypnosis and Hypnotherapy

The evidence base for hypnosis and hypnotherapy services is unreliable and as such hypnosis and hypnotherapy services fall under the category of complementary and alternative therapies. The IMO recommends that the code should contain a separate section entitled complementary and alternative therapies which includes hypnosis and hypnotherapy services.

## 15. Food, Nutrition and Health

### Advertising of Foods that are High in Fat, Salt and Sugar (HFSS Foods)

The BAI have recognised that unhealthy eating patterns by children in Ireland are contributing to the rise in lifestyle-related conditions such as obesity, cardiovascular disease and Type II diabetes and that the advertising of foods that are high in fat, salt and sugar (HFSS) is one of a range of factors contributing to unhealthy eating patterns and the associated health consequences. However the IMO does not believe that the current restrictions on the advertising of HFSS foods are sufficient.

While a ban on advertising during children's programming is welcome, the majority of children watch TV outside of children's airtime with and without parental supervision. Advertising has a significant impact on the preferences, purchasing behaviour and consumption of goods by both adults and children. A recent study in the US found that children consumed up to 45% more when exposed to food advertising.<sup>2</sup> The only measure which will protect children sufficiently from exposure to advertising of unhealthy foods is an outright ban between 6am and 9pm.

Given that advertising of HFSS foods represents 21% of sold advertising, a restriction of 25% of 1 in 4 advertisements across the day has no impact on the advertising of HFSS foods. The IMO agrees with

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<sup>1</sup> Irish College of Ophthalmologists (ICO) Direct to Consumer Medical Advertising in Ireland 2016  
[http://www.eyedoctors.ie/medium/files/ICO\\_Advert\\_book\\_web\\_\(FINAL\)-a.pdf](http://www.eyedoctors.ie/medium/files/ICO_Advert_book_web_(FINAL)-a.pdf)

<sup>2</sup> Harris JL. Bargh JA. Brownell KD. Priming Effects of Television Food Advertising on Eating Behaviour

the recommendation of the National Heart Alliance that sold advertising of HFSS foods across the day should be restricted to 10%.

### **Health and Nutrition Claims on Foods**

Health and Nutrition claims on foods must be factual and not-misleading and must comply with European and National legislation. See Food Safety Authority of Ireland [www.fsai.ie](http://www.fsai.ie) for legislation regarding health and nutrition claims as well as legislation regarding food supplements that are not considered medicinal products.

### **16. Slimming Treatments Products and Services**

Advertisements for slimming treatments, products and services must be accurate and backed up with clear scientific evidence and should not be directed at young people under the age of 18.

### **17. Smoking Cessation Aids**

Smoking continues to be major preventable cause of disease and death in Ireland. Advertisements in relation to smoking cessation products should be factual, based on evidence and not misleading.

### **19. Gambling**

Research indicates that at any one time 1% of the adult population may be experiencing problem gambling, while lifetime prevalence of this addiction may be as high as 5%. The Gambling Control Bill 2013 contains welcome restriction on the advertising of gambling services in Ireland and is set to proceed through the Oireachtas. The BAI General Commercial Communications Code should reflect the provisions contained within the Gambling Control Bill.

# Submission 18



## ISPCC Submission to Broadcasting Authority of Ireland on Draft Commercial Communications Code

September 2016

### *Summary*

The ISPCC commends the Broadcasting Authority of Ireland (BAI) for opening up a public consultation on its *Draft Commercial Communications Code*. The ISPCC, the national child protection charity appreciates very much the opportunity to provide feedback on the Code and while much of the rules set out are to be welcomed, some concerns have been raised regarding the rule pertaining to alcohol advertisement. In addition, the ISPCC has recommended that and clarification and information around the sanctions for non-compliance with the Code be outlined within the document as well as extending the powers of the BAI to enable the regulation of online advertising content. The ISPCC is happy to further discuss any of these issues should the BAI require further assistance.

### *Introduction*

The ISPCC (Irish Society for the Prevention of Cruelty to Children) is the national child protection charity<sup>1</sup>. It provides a range of child-centred services including childhood support services, family support services and mentoring, all of which are focused on building resilience and coping skills. These services support children and young people and their families to develop their own skills and enable them to deal with challenges and situations in their lives, and to promote their well-being.

The ISPCC provides Childline, Ireland's only 24-hour listening service for children and young people. It is free, confidential and non-judgemental, providing support to children across Ireland. In 2015, we answered over 420,000 contacts from children and young people.

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<sup>1</sup> Further information about ISPCC services and financial statements can be found in the most recent Annual Report 2015 <http://www.ispcc.ie/campaigns-lobbying/publications/-ispcc-annual-report-2015/14783>

## **Our Vision**

**An Ireland where all children are safe, heard, and valued.**

## **Our Mission**

**To make the protection of children everyone's priority**

## **Our Work**

**We listen, we support, we protect.**

The ISPCC appreciates the opportunity to provide feedback on the *Draft BAI General Commercial Communications Code*. We acknowledge that there is a separate *BAI Children's Commercial Communications Code* and look forward to participating in any open consultation that may take place next year, as stated within this *Draft*. For the purposes of this particular consultation on the *Draft BAI General Commercial Communications Code*, the ISPCC has limited its comments to areas of particular relevance to the ISPCC's expertise and work with children.

### *ISPCC Comments on Draft BAI Commercial Communications Code*

#### *How to Make a Complaint*

While the steps required to make a complaint are set out clearly and concisely, there is no specific provision included to enable or support children to make complaints. While this may be something that should be addressed in the *Children's Commercial Communications Code*, the ISPCC recommends that a specific, child-centred mechanism for complaints be developed with children in mind; this should include child-friendly language and age-appropriate guidance.

#### *General Definitions and Exclusions*

The ISPCC welcomes the definition of a 'child' which refers to any person under 18 years of age.

#### *Principles of the Code*

The ISPCC welcomes the Principles of the Code, particularly the new principle, **Principle 4: Protection of Children**. Children are individual rights holders with specific needs that in many



cases are distinct from the needs of adults and as such, they warrant special protections. Placing the protection of children in a general principle from the outset indicates that the Code has given consideration to the special protections required for children.

### *Advertising and Teleshopping*

Section 5.7 states that teleshopping “...shall not exhort children to contract for the sale or rental of products and services by exploiting their inexperience or credulity”; the ISPCC welcomes this statement and its intention which recognises that children may be vulnerable to such directed advertising.

### *Rules pertaining to specific products and services:*

#### *Alcohol*

While the ISPCC welcomes the decision in this Code to explicitly restate regulations about the advertisement of alcohol which are provided for in other regulatory codes, in this case the *Alcohol Marketing, Communications and Sponsorship Code of Practice*, these regulations themselves are not sufficient in protecting children from exposure to alcohol advertising. While it is correct to state that commercial communications for alcoholic beverages shall not be placed in any programme directed at children or around programmes that are intended for children, the ISPCC is concerned with the decision to allow alcohol advertisements to be shown when viewership of a programme is made up of an adult audience of at least 75%. This allows for alcohol commercial communications to be viewed by a significant number of children.

For example, programmes such as *Fair City* and *Eastenders* attract about 500,000 viewers with major sports events attracting upwards of 600,000 viewers. Applying this rule, where 25% of viewers may be under the age of 18, means that 125,000 to 150,000 children and young people could be watching these programmes featuring alcohol advertising without any breach of the Code.<sup>2</sup>

The ISPCC believes that this rule pertaining to alcohol commercial communications does not sufficiently protect children from exposure to such advertising and recommends that this be changed without delay. The results of a recent study commissioned by Alcohol Action Ireland; *Alcohol Marketing and Young People’s Drinking Behaviour in Ireland*<sup>3</sup> indicate that in order to

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<sup>2</sup> <http://alcoholireland.ie/policy/marketing-alcohol-children-under-the-influence/#sthash.Ei5tQSek.dpuf>

<sup>3</sup> <http://alcoholireland.ie/download/alcmarketingstudy.pdf>

better protect children from such advertising, it should only be shown when young people are 10% or less of the audience profile. The ISPCC supports this recommendation.

In addition, the ISPCC supports the recommendation of the Steering Group on a National Substance Misuse Strategy that legislation and statutory codes should provide for a 9.00 p.m. watershed for alcohol advertising on television and radio.<sup>4</sup>

The Consultation Information included in this section of the Code indicates that the Code will be updated to ensure it is in line the *Public Health (Alcohol) Bill 2015*, once enacted. The ISPCC recommends that the Code should reflect the provisions contained in the Bill from the outset; this may be altered to reflect any changes to the Bill when enacted.

### *Food, Nutrition and Health*

Rule 15.10 of this *Draft Code* refers to the rule that only 25% of sold advertising for High Fat Salt Sugar food products is permissible across the broadcast day. While it is indicated in the Consultation information that this Rule is not being considered for amendment at this time, the ISPCC advises that when it comes to such regulation, a responsible and evidence and outcomes-based approach is important. The ISPCC would also recommend that with any process of policy and regulation development, a child-centred approach is imperative to understand the experiences of children as well as to provide for their best interests. As further stated in the Consultation Information, an amendment to this and other rules pertaining to food commercial communications for children will be considered in 2017; the ISPCC looks forward to contributing to this review.

The ISPCC generally welcomes the explicit prohibition of directing commercial communications of certain other products and services at children including medical, cosmetic, slimming and gambling services.

### *Non-Compliance*

While the BAI “...monitors and enforces compliance with the Code...”<sup>5</sup> it is unclear within the Code how non-compliance or a failure to adequately respond to complaints, on the part of the broadcaster is dealt with. It is not stated what, if any repercussions or sanctions apply to such non-compliance. The ISPCC recommends that the BAI’s process for responding to non-compliance is clarified and outlined within the *Commercial Communications Code*.

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<sup>4</sup> [http://health.gov.ie/wp-content/uploads/2014/03/Steering\\_Group\\_Report\\_NSMS.pdf](http://health.gov.ie/wp-content/uploads/2014/03/Steering_Group_Report_NSMS.pdf)

<sup>5</sup> <http://www.bai.ie/en/codes-standards/general-commercial-communications-code-consultation/>

### *Services provided over the Internet*

While the BAI Code does not apply to audio and audio-visual services provided over the Internet, as per the Broadcasting Act 2009<sup>6</sup>, this is a medium by which many young people are accessing and viewing content. The ISPCC is concerned that this is an unregulated area and as such suggests that consideration be given by the BAI to seek an extension of its powers in order to draft regulation, support best practice for online advertising and to assist the viewing and listening public in making queries and complaints where necessary.

### **Conclusion**

The ISPCC appreciates the opportunity to provide feedback on the *Draft Commercial Communications Code* and broadly welcomes the regulations set out therein, particularly the addition of Principle 4 which recognises children and their particular needs. However, the ISPCC is concerned that the Rules pertaining to alcohol commercial communications do not adequately protect children from the marketing of alcohol and as such must be reviewed and strengthened to include a stricter audience profile threshold and a general watershed of 9pm. The ISPCC also suggests an extension of BAI powers be sought to regulate online advertising content.

**For any further information please contact:**

Lisa Collins, National Policy Co-Ordinator, ISPCC

[lcollins@ispcc.ie](mailto:lcollins@ispcc.ie)

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<sup>6</sup> <http://www.bai.ie/en/codes-standards/general-commercial-communications-code-consultation/1-introduction-2/>

# Submission 19



Broadcasting Authority of Ireland  
2-5 Warrington Place  
Dublin 2  
D02 XP29

20<sup>th</sup> September 2016

## RE: BAI Draft General Commercial Communications Code

The Ombudsman for Children's Office (OCO) was established in 2004 under primary legislation, the Ombudsman for Children Act, 2002. The Ombudsman for Children is independent of Government and other civil society actors and is accountable to the Oireachtas. The role of the Ombudsman for Children is to promote and safeguard the rights and welfare of children and young people. The functions of the Ombudsman for Children are: to conduct investigations of complaints regarding actions by public bodies; to promote children's rights and to provide research and policy advice to Government and other bodies.

The Ombudsman for Children's Office welcomes the opportunity to participate in this public consultation on BAI's draft General Commercial Communications Code. The Office's response to the BAI's draft Code consultation has been prepared in light of the Ombudsman for Children's statutory functions under Section 7 of the 2002 Act to:

- Advise on the development and coordination of policy relation to children (7(1)(a));
- Encourage public bodies to develop policies, practices and procedures designed to promote the rights and welfare of children (7(1)(b)); and
- Provide advice on any matter relating to the rights and welfare of children (7(4)).

This response has been framed in light of Ireland's international human rights obligations, the recommendations of the UN Committee on the Rights of the Child, the experience of this Office in carrying out statutory investigations of public bodies and also its advice to the Oireachtas on legislation affecting the rights and welfare of children.

We welcome the fact that the BAI's draft Code adopted the UN Convention on the Rights of the Child definition of 'Children'. Article 1 of the UN Convention on the Rights of the Child provides that *"a child means every human being below the age of eighteen years"*.

The following are some preliminary views on the principles that the OCO considers should be reflected in the BAI's draft Code to ensure the protection of children's rights:

**1. Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/13/E, [2016/0151 COD, 25 May 2016]**

In a children's rights perspective, it would be advisable that the BAI draws from the added level of protection which this proposal provides to minors on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audio-visual media services in view of changing market realities. *"The proposal takes full account of the fundamental rights and principles recognised by the Charter of Fundamental Rights of the European Union, including the rights of the child"* (Article 24), and *"seeks to promote the application of the rights of the child enshrined in the EU Charter"* (Proposal for a Directive of the European Parliament and of the Council amending Directive 2010/13/EU, 2016/0151 (COD), 25 May 2016, pages 11 and 21.)

Article 24 n. 1, 2 provides that:

*"1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.*

*2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration."*

This is an approach that the OCO supports and would recommend be reflected in the BAI draft General Communications Code.

**2. Principle 4: Protection of Children**

The OCO welcomes the inclusion of this new principle in the draft Code. We would suggest, however, that an explicit reference to the best interests of the child be made under this principle in light of the obligations emanating from Article 24 of the Charter of Fundamental Rights of the European Union, and from Article 3 of the UN Convention on the Rights of the Child. This could be achieved by adding to the last sentence under this Principle:

*This principle recognises that children of different ages and maturity require different levels of protection and that in all actions and decisions relating to children the child's best interests shall be a primary consideration.*



**ombudsman**  
for children • do leanaí

**3. Compliance with relevant legislation and Codes from other Authorities**

The OCO recommends that International Human Rights Legislation be referenced under this point. As it is currently drafted, only Irish and European legislation are referenced. We further recommend that in the non-exhaustive list of legislation included in Appendix Four an explicit reference is made to the Charter of Fundamental Rights of the European Union and to the UN Convention on the Rights of the Child.

If you have any queries in relation to these suggestions, please feel free to contact me.

Yours Faithfully,

Róisín Webb  
Head of Policy  
Ombudsman for Children's Office

# **Submission 20**



**Submission on Draft Broadcasting Authority of  
Ireland (BAI) General Commercial  
Communications Code**

**Royal College of Physicians of Ireland  
Sep 2016**

## RCPI Submission on Draft Broadcasting Authority of Ireland (BAI) General Commercial Communications Code

The Royal College of Physicians of Ireland welcomes this opportunity to provide its views on the content of the new Commercial Communications code of the Broadcasting Authority of Ireland.

The Royal College of Physicians of Ireland is a postgraduate medical training college dedicated to ensuring that doctors have the skills to provide patients with the best possible care. In addition, recognising that sustainability of the health service depends on prevention of ill-health, RCPI advocates for public policy actions to address lifestyle risk factors associated with chronic disease.

Many of these lifestyle risk factors are influenced by advertising, for example advertising of alcohol products and of food products that are high in fat, salt and sugar.

There is much progressive work being done at national level to promote healthier lifestyles including efforts to address issues of alcohol harm and overweight and obesity. The Healthy Ireland Framework, the National Obesity Strategy and the Public Health (Alcohol) Bill are examples of such progressive measures.

Restrictions on advertising of alcohol and HFSS products is in the interest of public health, and will support these efforts, and will contribute to a healthier future for Irish society.

### RCPI's position on advertising/marketing of alcohol and HFSS foods.

RCPI, through its Policy Group on Obesity, has previously called for a prohibition on advertising of HFSS foods up to the watershed of 9pm. We wish to reiterate that call in this submission, while acknowledging that the BAI plans to review the Children's Code on Commercial Communications in 2017.

RCPI, through the Policy Group on Alcohol has called for stricter controls, via a statutory framework around advertising and marketing of alcohol products, in order to limit exposure of minors to alcohol advertising. A recent survey revealed that over 90% of children surveyed were exposed to traditional alcohol advertisements in the week prior to the study and more than half saw 4 or more advertisements per day.<sup>1</sup>

RCPI is of the view that alcohol sponsorship in sport is not acceptable and should be phased out. Alcohol is a drug and should not be perceived as a normal component of sporting activity.



## Comments on the draft code

### Principles of the code (p11)

The four principles of the code are: 1) Legal honest, decent and Truthful, 2) human dignity, offence and harm, 3) Transparency, 4) Protection of children. Protection of children is a new principle in this draft.

*Q: What are your views on the four principles in the draft code?*

*Q: Is there anything you disagree with or believe is missing from these principles?*

We welcome in particular the inclusion of principle 4- protection of children in the draft code.

### Section 7- Sponsorship on television (p19)

*Q: What are your overall views for sponsorship on television?*

*Q: What are your views on the distinction between sponsorship and product placement?*

*Q: What are your views in relation to allowing reference to more than one product or service in a sponsorship announcement?*

*Q: What are your views on the additional rules in relation to sponsored competitions?*

Under this section we propose that reference be made to the rules pertaining to Alcohol under section 10 of the draft code, to make it clear that alcohol sponsorship of sports programmes is prohibited under the draft code.

7.9 states that “Programmes shall not be sponsored by sponsors....whose products and services are not permitted to be promoted to the typical audience for that programme”.

Under the BAI Children’s Commercial Communications Code, commercial communications for HFSS food products are not permitted in children’s programmes, with children’s programmes defined as those having an audience profile of which 50% or more are under 18 years of age. However, the majority of children watch TV outside of children’s airtime, and children can only be protected from exposure to advertising of HFSS foods, if there is a ban from 6am to 9pm.

This will also help to create a supportive environment for parents in relation to choices regarding the food and drink consumed within their family environment. We have seen in recent weeks the sponsorship by McDonalds of ‘The big big movie’ on RTE. <sup>2</sup>Mc Donald’s products are primarily in the HFSS category and such sponsorship is completely at odds with the spirit of the BAIs restriction on promotion of HFSS foods to children.

In line with the spirit of rule 7.9, and in anticipation of a change in the Children’s Commercial Communications Code, we propose that the wording of 7.9 be amended to read:

“Programmes shall not be sponsored by sponsors .... Whose products and services are not permitted to be promoted to the typical audience for that programme **or whose products and services are not permitted to be promoted before the watershed of 9pm**”

## Section 9- Product Placement (p24)

Rule 9.4: Prop placement in children's programmes is not permitted in the case of products/services that may not feature in children's programmes (eg alcohol) and in the case of other relevant restrictions.

*Q: What are your views in relation to product placement?*

*Again, in order to protect children fully from exposure to promotion of HFSS foods, we propose the following revised wording:*

*9.4: Prop placement in programming before the watershed of 9pm, (where it can reasonably be assumed that significant number of children are watching) is not permitted in the case of products/services that may not feature before the watershed (e.g. alcohol and HFSS foods)*

## Section 10- Alcohol (p26)

Rules on alcohol in the draft code

### 10. Alcohol

**10.1** Commercial communications for alcoholic beverages shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority, in particular any relevant codes of practice published or recognised by the Department of Health.

**10.2** Commercial communications for alcoholic beverages shall be cast towards brand selling and identification and shall not:

- a) Depict or feature children consuming these beverages or encourage children or non-drinkers to begin drinking,
- b) Link the consumption of alcohol to enhanced physical performance or to driving,
- c) Create the impression that the consumption of alcohol contributes toward sexual attraction and success or social success,
- d) Claim that alcohol has therapeutic qualities or that it is a stimulant, a sedative, tranquilizer or a means of resolving personal conflicts,
- e) Encourage immoderate consumption of alcohol or present abstinence or moderation in a negative light,
- f) Place emphasis on high alcohol content as being a positive quality of the beverages,  
or
- g) Bear health claims or nutrition claims for beverages containing more than 1.2% AbV, other than those which refer to a reduction in the alcohol or energy content.

**10.3** Commercial communications are not permitted for the following:

- a) Beverages containing alcohol content of 25% AbV and above e.g. vodka, whiskey, tequila, rum, gin, brandy, etc.
- b) Alco-pops, pre-mixed spirit drinks and products of a similar nature.

This rule does not prohibit commercial communications for liqueurs or incidental references to brands of the above listed beverages, for example, where such a brand is associated with an event.

**10.4** Alcohol sponsorship of sports programmes, including sports bulletins, is not permitted. Solus/whistle breaks advertising spots for alcohol brands are not permitted during sports programmes.

**10.5** Commercial communications for alcoholic beverages shall comply with the following: a) They shall not be placed in any programme specifically aimed at children. b) They shall not be broadcast in or around programmes primarily intended for children whether as viewers or listeners. c) They shall be broadcast only in or around programmes with an adult audience profile of 75% or greater. d) They shall not be broadcast between 6am and 10am.

**10.6** Where alcohol advertising is permissible, it is limited to a maximum of 25% of sold advertising time and only one in four advertisements for alcoholic beverages is permissible across the broadcast day, excluding the period from 6am to 10am. No more than two advertisements for alcoholic beverages can appear in any one advertising break.

**10.7** Each broadcaster shall identify the programmes in their schedules that do not carry commercial communications for alcoholic beverages, in particular, those programmes specifically aimed at/appealing to children, and shall publish this list on a website maintained by the broadcaster and make a copy of the list generally available.

**10.8** Broadcasters shall enforce a Code of Conduct for their presenters ensuring that speech content that glamorises or encourages over-consumption or misuse of alcohol is prevented. Each broadcaster will publish this Code on a website maintained by the broadcasters and make a copy of the Code generally available.

#### Consultation Information and Questions [from the draft code]

This section of the draft Code incorporates provisions from the self-regulatory code for alcohol advertising, the Alcohol Marketing, Communications and Sponsorship Code of Practice. While broadcasters are already required by the current General Commercial Communications Code to comply with this self-regulatory code, many of its provisions are now made explicit in the above rules 10.4, 10.5, 10.6, 10.7 and 10.8 of this draft Code.

The Department of Health is mandated by Government to introduce new regulations in relation to alcohol, including the scheduling of alcohol advertisements. In December 2015, the Department of Health published the Public Health (Alcohol) Bill 2015 which provides for restrictions on the advertising of alcohol. This bill has yet to be enacted.

Section 10.1 of the Draft Code requires that: “Commercial communications for alcoholic beverages shall comply with all relevant Irish and European legislation and with rules, regulations and codes of practice issued from time to time by a relevant competent authority, in particular any relevant codes of practice published or recognised by the Department of Health”.

Once the Public Health (Alcohol) Bill 2015 is enacted, the Code will be updated to ensure that it is in line with the Public Health (Alcohol) Bill.

*Q: What are your views on incorporating into the BAI’s draft Code the provisions from the Alcohol Marketing, Communications and Sponsorship Code of Practice?*

We welcome in particular the stipulation regarding alcohol sponsorship of sports programmes-

“10.4: Alcohol Sponsorship of sports programmes, including sports bulletins is not permitted. Solus/whistle breaks<sup>1</sup> advertising spots for alcohol brands are not permitted during sports programmes”.

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<sup>1</sup> These are the advertising slots or messages from the sponsors before the normal ads break at half-time or full-time match breaks

However, we would go further to say that **advertising** of alcohol products should **not be permitted in or around sports programmes**.

The stipulations protecting children from commercial communications for alcoholic beverages should be made more specific with respect to **time limitations**.

In previous reports, RCPI has highlighted the substantial body of evidence which show that alcohol advertising has an impact on youth alcohol consumption and drinking behaviour.<sup>3</sup> A recent European study found evidence of a long term effect of alcohol marketing exposure on adolescents drinking,<sup>4</sup> and an Irish survey found that 90% of children (aged 13-17) surveyed were exposed to traditional (offline) alcohol advertising, with more than 50% exposure to 4 or more advertisements per day.<sup>1</sup>

The draft code states that alcohol adverts may be broadcast where the child audience profile is 25% or less. What this means is that a sports or soap opera which regularly attracts at least 600,000 viewers will be able to feature alcohol advertising even if the viewership consists of up to 150,000 children and young people.<sup>5</sup>

Given such high exposure to advertising and the link between alcohol marketing and drinking in young people, we recommend time limitation around alcohol advertising as specified in the National Substance Misuse Strategy, which stipulates **a 9pm watershed for alcohol advertising on television and radio**.

We welcome the commitment to update the code to ensure that it is in line with the public health alcohol bill.

## Section 15- Food, Nutrition and Health (p37)

Under 15.10 the code states: "A maximum of 25% of sold advertising time and only one in four advertisements for high fat salt sugar foods products and/or services products are permissible across the broadcast day. There is a range of other rules in relation to food commercial communications for children and these can be found in the BAI children's commercial Communications Code "(a separate code which will be reviewed in 2017)

*Q: What are your views on the food, nutrition and health section of the draft code?*

Under food, nutrition and health, RCPI is concerned with promotion of unhealthy foods in general, and we welcome the continued restriction on advertising time and frequency for HFSS foods and products.

Promotion to children is of particular concern and we are in favour of a ban on advertising of HFSS foods up to the 9pm watershed to protect children from such advertising<sup>6</sup> and to contribute towards a supportive environment for parents to make choices regarding the food and drink consumed in the family environment. Such a ban is warranted given the extremely high rates of overweight and obesity among Irish children- 1 in 4 Irish children are overweight or obese.

## Section 17- Smoking cessation aids (p40)

*17.2 is a new rule which states that “where smoking cessation aids could reasonably be categorised under the heading in 11 to 15 of this code (food or medical treatment or cosmetic services) the commercial communications for such smoking aids must adhere to the rules under the relevant section in addition to rules under this section.*

*Q: What are your views on the Smoking Cessation Aids section of the draft Code?*

We suggest a clarification to 17.2 The word ‘cessation’ appears to be missing in the second half of the sentence “...the commercial communications for such smoking [cessation] aids”

## Section 22- Prohibited commercial communications (p46)

22.3: Commercial communications with the aim or the indirect effect of promoting electronic cigarettes and refill containers is prohibited. This does not apply to electronic cigarettes and refill containers that are subject to 1) an authorisations requirement relating to medicinal products for human use (under directive 2001/83/EC) or 2) the requirements concerning medical devices.

The above is a new prohibition which comes from the Tobacco Products Directive (2014/40/EU) which was recently transposed into Irish Law.

*Q: What are your views on the prohibited Commercial Communications section of the draft code?*

We welcome the inclusion of a prohibition on commercial communications that promote electronic cigarettes and refill containers.

## Additional Comments

- The draft code does not specify a sanction for contravention of the code. There should be a fine or repercussion for non-compliance. This sanction should be clearly mentioned in code.

## References

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<sup>1</sup> Fox, Cathy Ann and Kelly, Colette and Molcho, Michal (2015) Alcohol marketing and young people's drinking behaviour in Ireland. Dublin: Alcohol Action Ireland.

<sup>2</sup> <http://www.independent.ie/entertainment/television/tv-news/jack-chambers-slams-rt-over-decision-to-allow-mcdonalds-sponsor-the-big-big-movie-34970386.html>

<sup>3</sup> RCPI (2014) Sports Sponsorship by Alcohol Companies- Submission to the interdepartmental working group. <https://www.rcpi.ie/wp-content/uploads/2015/12/Sports-Sponsorship-by-Alcohol-Companies-RCPI-Submission-Jun-2014.pdf>

<sup>4</sup> de Bruijn A, Tanghe J, de Leeuw R, Engels R, Anderson P, Beccaria F, Bujalski M, Celata C, Gosselt J, Schreckenber D, Słodownik L, Wothge J, van Dalen W. European longitudinal study on the relationship between adolescents' alcohol marketing exposure and alcohol use. *Addiction*. 2016 Aug 2. doi:10.1111/add.13455. [Epub ahead of print] PubMed PMID: 27486952.

<sup>5</sup> <http://alcoholireland.ie/policy/marketing-alcohol-children-under-the-influence/>

<sup>6</sup> RCPI (2014). The race we don't want to win. Royal College of Physicians of Ireland, Dublin

# Submission 21

**From:** Mulligan, Paul  
**To:** [General Commercial Communication Code](#)  
**Subject:** Draft General Commercial Communications Code.  
**Date:** Tuesday 20 September 2016 14:55:13  
**Attachments:** [image002.png](#)

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RTÉ would like to respond to the invitation to make a submission to the BAI Draft General Commercial Communications Code launched in July 2016.

The Irish broadcast media is in particularly difficult straits. The falloff in commercial revenue over an extended period, the growth in international and opt-out competition, the increase in the level of licence evasion and the recent uncertainty and negative effect caused by the UK vote have all damaged Irish broadcasters and damaged their ability to produce Irish content.

RTÉ would ask that the Broadcasting Authority of Ireland take every opportunity offered to assist Irish broadcasters benefit in any way from new and existing commercial activity. To this end we would ask that no restrictions or encumbrances which do not apply to other media, including overspill media, be introduced as part of the process involved in the finalising this code.

Having reviewed the draft RTÉ is in general agreement with its provisions and has no specific detailed comments to make.

Yours Sincerely

Paul Mulligan

Description: RTE Logo



**PAUL MULLIGAN**

Head of Commercial Operations RTÉ Television

**RTÉ**

Donnybrook, Dublin 4

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# Submission 22

**From:** tadhg kraul  
**To:** [General Commercial Communication Code](#)  
**Subject:** Submission  
**Date:** Monday 19 September 2016 20:59:32

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To whom it may concern,

I would like to make a submission that there should be a provision made with regard to the usage of the Irish language in publically broadcasted advertising on TV and radio. As Irish is the first official language, I think that the General Commercial Communications Code should include a provision that a certain percentage of advertisements should be broadcast in the Irish language.

Is mise le meas,  
Tadhg Kraul



# Submission 23



Broadcasting Authority of Ireland,  
2 – 5 Warrington Place,  
Dublin D02 XP29

By email: [gccc@bai.ie](mailto:gccc@bai.ie)

September 20<sup>th</sup>, 2016

## **RE: BAI Draft General Commercial Communications Code**

To whom it may concern,

TV3 Group (TV3) welcomes the opportunity to review the BAI's draft General Commercial Communications Code.

TV3 believes the draft strikes an appropriate balance between allowing broadcasters offer commercial communications and ensuring the needs and interests of the general public are respected. In this regard, TV3 welcomes the BAI's departure from the current Code which is generic in nature to one that is more prescriptive (e.g. the section on "Rules on certain products and services") as this will provide greater clarity and regulatory certainty to broadcasters.

On this basis, TV3 has no comment of substance to make on proposed changes to the Code but remains at the BAI's disposal should it have any questions or wish to further discuss the draft.

Yours sincerely

Niall Cogley  
Director of Broadcasting  
TV3 Group

## UTV Ireland (UTV Ireland) Response BAI Draft General Commercial Communications Code ("Draft Code").

We refer to the above matter. UTV Ireland wishes to thank the BAI for undertaking this consultation process. It is our view that the Draft Code generally provides for clarity in relation to the matter of commercial content on Irish broadcasting services. Accordingly, it is not our intention to comment in detail on every aspect of the Draft Code. There are, however, four areas in particular on which we would like to comment.

1. General Definitions and Exclusions  
Code Exclusions.
2. Rules Pertaining to specific products and services-Alcohol
3. Rules Pertaining to specific products and services- Slimming Products and Services
4. Rules pertaining to specific products and services-Gambling.

### **1. General Definitions and Exclusions -Code Exclusions**

UTVI welcomes the fact that the BAI acknowledges the terms of the Audio-Visual Media Service Directive (AVMSD) in the context of considering "trailers" to be programme content. We do have a concern over the use of the term "same service" in the expression *"trailers are considered to be programmes...they relate to programmes carried on the same broadcast service."* We note that the RTE television services (RTE 1 and RTE 2) are explicitly considered to be part of the same service in Irish law (Section 130 1 (a) (i) Broadcast Act 2009). If a company in the commercial broadcast sector has a number of separate television services (as they are licensed under a number of broadcasting contracts) however they are all run effectively as the one operation, these should be considered as the same service. Clearly if commercial consideration changes hands then these are undoubtedly advertisements, however if the one commercial entity simply promotes the programming content of a number of services within that "family" of services this should be permitted without being counted as advertising minutage. There is no rational, objective reason for commercial television services to be treated differently than those in the state owned sector in this context. It is our understanding that RTE does undertake such promotion across its radio and television services without this being accounted for as minutage.

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## **2. Rules Pertaining to specific products and service-Alcohol**

UTVI believes that the suggested approach is certainly clear and does generally reflect the current voluntary practices of the Irish broadcasting sector (primarily the activities and practices of CopyClear/Central Copy Clearance Ireland and the Alcohol Marketing Communications Monitoring Body (AMCMB)).

UTVI would also reiterate the comments that have been made in the correspondence sent to the BAI in May, by all major broadcasters in the state in relation to this matter generally. UTVI welcomes the fact that the BAI generally endorses the practices that have been utilized by the broadcasting sector to date. The formal adoption by the BAI of the rules surrounding alcohol advertisement placement, which specifically links the number of under 18 viewers with restrictions on alcohol advertising reflects an effective and targeted approach that is to be welcomed rather than the introduction of less accurate and more arbitrary watershed type restrictions.

Given the restrictive nature of the Draft Code and the incorporation of voluntary practices into a statutory code we would ask that in respect of any further revision of the Draft Code, for whatever reason, to be done by way of Section 46 of the Broadcast Act 2009. This is because a self-regulatory system (as defined in the Act) will ensure that all broadcasters receivable in the state, and not just the ones regulated by the BAI, will be regulated (as is the case with the current CCCI/AMCMB Codes). This is clearly important given that over 50% of under 18 viewing is to non-BAI regulated broadcasters. Further this will also ensure that advertising on internet/digital media will be covered. This will provide a significant degree of future proofing and in many ways will reflect elements of the proposed approach to the revision of the AVMS Directive which is currently being consulted upon by the EU and national governments. The model that the BAI currently uses in respect of the On Demand Audio-Visual Services Code (ODAS) is one that could readily be used for this purpose.

## **3. Rules pertaining to specific products and services-Slimming Products and Services**

In relation to section 16.3, we would suggest the inclusion of the language *“except where the reference is factually accurate and can be verified as such and the terms of 15.6 are also appropriately referenced.”* We believe this is important because certain diets/foods can allow for weight loss in a responsible manner. In the event that there is any specific issue with this particular point, we would appreciate clarification.

## **4. Rules pertaining to specific products and services-Gambling.**

UTVI welcomes the provisions of section 19.4 in particular. The use of the language "direct encouragement" rather than encouragement is to be welcomed however we would suggest that the revised expression be clearer and be something along the lines of "unambiguous and direct encouragement".

UTVI would raise the point that it is our understanding that Bingo may still be considered as separate from betting and as such cannot be advertised. We would ask that within the context of the Draft Code and also the Betting (Amendment) Act 2015 that this be clarified so that the use of commercial communications for bingo be unambiguously permitted to the extent this is permissible under relevant law.

In the event of any queries please contact the undersigned.

David McMunn  
Head of Legal and Regulatory Affairs  
UTV Ireland

# Submission 25

## **WIRELESS GROUP RESPONSE**

### **TO**

### **BAI CONSULTATION DOCUMENT**

### **BAI DRAFT GENERAL COMMERCIAL COMMUNICATIONS CODE**

**SEPTEMBER 2016**

We welcome this consultation on the General Commercial Communications Code, as the current code that was deemed relevant in 2010 is no longer adequate due to the rapidly changing media market in which we now broadcast. As we predict an increase in the pace of change, we believe the new General Communications Code cannot just be relevant for now but must be future proofed to ensure continuing relevance and the BAI must also commit to more regular reviews of the code in future. We need to avoid what has happened over the last number of years where, in a rapidly evolving media market, the current code puts radio at a significant competitive disadvantage when compared to other media. This has had and will continue to have significant consequences for employment and programming output in the sector.

We believe that this draft Code is progressive and, in the main, addresses the 5 stated objectives. We, however, feel that further adjustment is required, particularly in Section 8, if the flexibility and right to communicate commercial messages, as outlined in the 5<sup>th</sup> Objective, are to be fully delivered upon.

We agree with the conclusions of the review that the current code is “broadly effective and its principles respected and understood”. The review however, did not seek to establish if the principles could be achieved in an easier and more streamlined fashion. Nor did it examine if the code could work in a more effective manner, particularly in the rapidly evolving media environment in which radio now operates. The current code puts radio at a significant disadvantage to other media and the revised code only addresses this imbalance in part. The progressive approach taken by the BAI, in the past, to the introduction of product placement on television was welcome. A similar progressive approach is now necessary for sponsorships on radio. For example, it is acceptable that the product placement logo appearing prior to a TV programme is sufficient to inform the viewer of commercial product placement during the show. Why then is it not equally acceptable for a presenter to clearly highlight a radio sponsorship through the use of appropriate wording such as, “sponsored by, brought to you by, in association with” etc., without them having to abide by additional rules. If anything, this is a more transparent approach as the sponsorship is clearly identified immediately prior to each commercial mention, meaning that further regulation in this area is unwarranted.

Radio operators and the sector as a whole, have an impressive track record of compliance with their obligations both in the statutory sense and in the voluntary sense. Because of this, a more progressive code is still capable of delivering on each of the five guiding principles. We also strongly believe that the public must be given more credit and do not need to be protected to the extent of the proposed new code. Listeners are well able to discern what is and isn't a commercial mention and it is interesting to note that the many issues between stations and the BAI in this area have rarely, if ever, originated from the listening public.

The BAI must ensure that over regulation does not put stations under its remit at a significant disadvantage to other media, as is currently the case. Aspects of the current and proposed code, particularly in the sponsorship area, makes radio inflexible and difficult to deal with, putting us at a significant commercial disadvantage to others in the media market. The BAI must accept that advertising monies now move freely across all media and the notion of a “radio only” budget is out of date. As a result, further over regulation will ensure a continuation of monies leaving the sector, threatening the very existence of the stations that the BAI is tasked with regulating. Even within stations under the BAI remit there is an imbalance, as breaches caused by “grey areas” can result in sanctions up to loss of licence for stations in the independent sector but similar sanctions cannot be administered to RTE. The removal of “grey areas” will substantially address this imbalance.

We fully accept and understand the need for codes and restrictions around many of the product types included in this code but we feel that the stations cannot be expected to have the level of knowledge required around items such as medicines, nutrition, HFFSS etc to implement the code properly. A copy clearance function in this regard would be extremely helpful.

We would also like the area of “Guidelines to the Code” to be considered and provided as part of the review, as it is our experience that these guidelines can lead to a different interpretation of certain sections of the code. We would not like to see a situation where these guidelines were provided after the establishment of the new code with the ability to change the interpretation of the said code. In our submission we have set out our interpretation of definitions in certain areas, which in general have come from accepted dictionary definitions. Clarification of these within the code can only lead to less ambiguity and enable us as broadcasters to clearly deliver the fifth objective listed.

Hereunder, please find our response to the individual sections of the draft Code. We have not provided a detailed response to all sections as some are not applicable to radio and others we are broadly in agreement with. The focus of our response is on section 8, including our proposal, which we believe allows the BAI to achieve its goals, while at the same time allowing the radio sector to be competitive in a rapidly changing media market.

## **1. Introduction**

*What are your views on the introduction to the Code?*

Section 42 (2) clearly outlines that advertising, tele shopping material, sponsorship and other forms of commercial promotion, must protect the interests of the audience. We fully accept this principle, however, believe that any future code must give the audience some credit in being able to discern what is and isn’t a commercial mention, in a marketplace where they are used to being exposed to hundreds of messages on a daily basis. We believe that the current code does not give the public the credit they deserve in this regard.

We are in total agreement with the five objectives of the code as we believe that they both protect the public and ensure good programming output. We do however have a very strong view that the fifth objective, i.e., “to provide broadcasters with a simple, flexible and comprehensive code that does not impede in an unwarranted manner the right to communicate commercial messages” requires the amendment of Section 8 (3). We believe that the first 4 objectives are achievable once the listener is clearly aware that a sponsorship mention is a commercial mention without the necessity for further regulation. The proposed



code in the sponsorship area remains too intrusive and creates many grey areas. It does not provide the required clear guidance to listener and broadcaster alike.

We fully agree with the listener's right to complain and will continue to play our role in this regard.

The scope and jurisdiction of the code, while understandable, does put radio at a significant disadvantage to others. This is unfair and must be taken into account in any future code. Advertising budgets now move freely both between different media and also between media within and outside the jurisdiction. It is not healthy for the radio sector in the long term, if it is perceived to be inflexible, over regulated and difficult to deal with for an advertiser, which is currently the case. The BAI must ensure that media under its remit is not over regulated, resulting in revenues going out of the sector, with the obvious knock-on effect on staffing, programming and facilities.

## **2. General Definitions and Exclusions**

*What are your views on how the Code proposes to deal with product placement and sponsorship, in particular, how the concept of 'significant value' will be applied?*

N/A

*What are your views on the General Definitions and Exclusions as presented?*

We note in Section 2 that "the intent is to limit sponsorship to those explicit references and announcements such as brought to you by, sponsored by etc. and to sponsor competitions within programmes. If this is the intent, we again question why further rules are required around the sponsorship and promotions area and why the implementation of the BAI's own wording above is not sufficient. If a sponsorship is made explicit to listeners through the use of the wording above, why is there a further requirement to regulate what is said within the tagline? In this regard we make what we believe to be a reasonable proposal for the amendment of 8.3 later in this document.

## **3. Principles of the Code**

*What are your views on the four principles in the draft Code?*

We agree with the principles of the codes as outlined in Section 3 and in particular note under principle 3 "broadcasters must ensure that the distinction between editorial content and commercial communications is clear and identified for audiences. Any commercial agreement within programming shall be readily recognisable as such and the listener/viewer shall be made aware of such arrangement". We fully agree with the transparency principle outlined, however, strongly believe that it can be fully achieved by lighter touch regulation as proposed

in Section 8. Failure to do this, will result in radio continuing to be at a commercial disadvantage to other media and also importantly will ensure that radio remains inflexible in a rapidly changing media environment.

*Is there anything you disagree with or believe is missing from these principles?*

No.

#### **4. Rules for all Commercial Communications**

*What are your views on the Rules for all Commercial Communications?*

In general, we are happy with these rules for all Commercial Communications.

#### **5. Advertising and Teleshopping**

*What are your views on the rules pertaining to Advertising and Teleshopping?*

In general, we are happy with these rules pertaining to Advertising and Teleshopping.

#### **6. Split-screen, Interactive and Virtual Advertising Techniques**

*What are your views on the rules pertaining to Split-screen, Interactive and Virtual Advertising Techniques?*

N/A

#### **7. Sponsorship on Television, including competitions**

*What are your overall views on the rules for sponsorship on television?*

N/A

*What are your views on the distinction between sponsorship and product placement?*

N/A

*What are your views in relation to allowing reference to more than one product or service in a sponsorship announcement?*

N/A



*What are your views in relation to changing the restriction in sponsorship announcements from 'calls to action' to 'calls to purchase'?*

N/A

*What are your views on the additional rules in relation to sponsored competitions?*

N/A

## **8. Sponsorship on Radio, including competitions**

*What are your overall views on the rules for sponsorship on radio?*

Whilst we acknowledge that sponsorship on radio cannot constitute advertising, we believe that the proposals as set out in the draft Code remain too restrictive.

The very essence of marketing is to communicate promotional references of products and services to potential customers. If a marketing product is not able to do this then it is effectively impotent.

In today's highly competitive media environment radio stations have to compete against a range of media platforms many of whom are completely unregulated and can also combine visual output with audio. At present these platforms have significantly more flexibility than radio does, when putting forward marketing propositions to advertisers.

It is therefore essential that the shackles which restrict sponsorship on radio as an effective marketing tool be released. We propose that this be achieved by amending section 8.3 to read as follows:

"Sponsorship must not constitute advertising as defined in this Code, and sponsored programmes shall not directly encourage the purchase or rental of goods or services. A sponsorship announcement or reference shall not

- a. Include prices, endorsements or calls to purchase.
- b. Afford undue prominence to a product or service of the sponsor."

The effect of removing 8.3 subsection A and part of subsection B is to allow sponsorship content to contain factual promotional references for a product or service but still prohibit the inclusion of calls to purchase and the listing of prices which would both fall within the realm of advertising copy. The Code would therefore no longer restrict promotional references to using only generic tag lines. Endorsement of products or mention of prices by programme presenters would continue to be prohibited as would affording undue prominence to products or services by way of promotions and giveaways during editorial output.

As outlined in the draft code sponsorship would have to remain transparent and easily recognisable to the listening public through distinctive and appropriate signalling such as the wording set out in page 10 of the consultation document.

The revision of this section would significantly enhance the effectiveness of sponsorship as a marketing tool and also simplify the whole issue from a regulatory perspective making it much easier to understand and implement for all stakeholders.

We believe that our proposal is more user friendly and clearly maintains the required distinction between sponsorship and advertising, while continuing to adequately protect the public.

*What are your views in relation to allowing reference to one of more product or service in a sponsorship announcement?*

We welcome the removal of the restriction which only allowed reference to one product or service in any sponsorship announcement. Removal of this restriction will enhance the effectiveness of sponsorship as a marketing tool.

*What are your views in relation to changing the restriction in sponsorship announcements from ‘calls to action’ to ‘calls to purchase’?*

Neither of these terms are defined in the code. However “Call to Action” is defined as:

“A call to action is an instruction to the audience to provoke an immediate response, usually using an imperative verb such as call now, find out more or visit a store today”

Call to Purchase is not defined anywhere but presumably the thinking behind the phrase is that it would be confined to the use of verbs such as Buy Now, Purchase, Lease, Acquire, Sign Up, Book or other verbs which describe acquiring or purchasing good or services. This definition should be included in the revised codes to meet the objective of providing clear guidance to broadcasters as to the standards to which commercial communications shall adhere.

On the above basis we welcome the Authority’s decision to migrate from the complete prohibition of a Call to Action to proposing only to prohibit a Call to Purchase. This change removes many of the restrictions which previously existed and once again enhances the effectiveness of sponsorship as a marketing tool. It is however worth noting that calls to purchase are permitted on many other competing media, so while an improvement, the new code still leaves us at a disadvantage versus our competition.

*What are your views on the additional rules in relation to sponsored competitions?*

We are satisfied with the rules in relation to sponsored competitions as they are set out in the Draft document.

## **9. Product Placement**

*What are your views on the rules in relation to product placement?*

N/A

## **Rules pertaining to specific products or services**

### **10. Alcohol**

*What are your views on incorporating into the BAI's draft Code the provisions from the Alcohol Marketing, Communications and Sponsorship Code of Practice?*

We have no objection to the present Alcohol Marketing Communications and Sponsorship Code of Practice being incorporated into the Codes as we have been implementing this code for the last number of years.

### **11. Medicinal Products**

*What are your views on the Medicinal Products section of the draft Code?*

In general, we are in agreement with this section of the draft code.

### **12. Medical Treatments Devices and Services**

*What are your views on the Medical Treatments, Devices and Services section on the draft Code?*

In general, we are in agreement with this section of the draft code.

### **13. Cosmetic Treatments, Products and Services**

*What are your views on the Cosmetic Treatments, Products and Services section of the draft Code?*

In general, we are in agreement with this section of the draft code.

### **14. Hypnosis, Hypnotherapy, Psychology, Psychoanalysis and Psychiatry**

*What are your views on the Hypnosis, Hypnotherapy, Psychology, Psychoanalysis and Psychiatry section of the draft Code?*

In general, we are in agreement with this section of the draft code.

## **15. Food, Nutrition and Health**

*What are your views on Food, Nutrition and Health section of the draft Code?*

In general, we are in agreement with this section of the draft code.

## **16. Slimming Treatments, Products and Services**

*What are your views on Slimming Treatments, Products and Services of the draft Code?*

In general, we are in agreement with this section of the draft code.

## **17. Smoking Cessation Aids**

*What are your views on Smoking Cessation Aids of the draft Code?*

In general, we are in agreement with this section of the draft code.

## **18. Financial Services and Products**

*What are your views on Financial Services and Products of the draft Code?*

We recognise the requirement for the inclusion of Central Bank Regulatory terms and conditions in advertising copy. However, our experience is that it puts Radio at a significant disadvantage when compared to other platforms as the regulatory portion of the advertising copy can often take up 30% of the total amount of space given over to the advert. For other platforms this would normally be less than 5% and would not lead to any additional costs for the advertiser. We would like to see the Authority deem that approved regulatory terms in financial or indeed any other areas of advertising do not form part of advertising minutage. The effect of this change would enable stations to compete on a level playing field against other media and would encourage advertisers of financial products back to the sector.

## **19. Gambling**

*What are your views on the Gambling section of the draft Code?*

Whilst we welcome the changes proposed in the gambling section of the code we note that we remain at a significant disadvantage against other platforms who can provide information detailing special offers, free bets, discounts and promotional offers intended to encourage the use of betting services and would call on the Authority to further review this area of the code so that these inequalities which apply to our sector are resolved.

It is our understanding that radio bingo is permissible under the Code and for additional clarity, we recommend that it be specifically mentioned.

## **20. Premium-rate Telecommunications Services**

*What are your views on the Premium-rate Telecommunications Services section of the draft Code?*

In general, we are in agreement with this section of the draft code.

## **21. Fortune Tellers, Psychic Services, etc.**

*What are your views on the Fortune Tellers, Psychic Services, etc., section of the draft Code?*

In general, we are in agreement with this section of the draft code.

## **22. Prohibited Commercial Communications**

*What are your views on the Prohibited Commercial Communications section of the draft Code?*

In general, we are in agreement with this section of the draft code.