

# ALCOHOL ACTION IRELAND **SUBMISSION**

Consultation - draft  
online safety code  
for video sharing  
platform (VSP) services

January 2024



Alcohol Action Ireland (AAI) was established in 2003 and is the national independent advocate for reducing alcohol harm. We campaign for the burden of alcohol harm to be lifted from the individual, community and State, and have a strong track record in campaigning, advocacy, research and information provision.

Our work involves providing information on alcohol-related issues, creating awareness of alcohol-related harm and offering policy solutions with the potential to reduce that harm, with a particular emphasis on the implementation of the Public Health (Alcohol) Act 2018. Our overarching goal is to achieve a reduction in consumption of alcohol and the consequent health and social harms which alcohol causes in society.

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Alcohol Action Ireland is a registered Irish Charity.

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## Summary of Recommendations:

Alcohol harm is one of Ireland's greatest preventable health risks. Alcohol and three other harmful commodity products – tobacco, unhealthy foods and fossil fuels – are responsible for at least a third of global deaths per year. According to the World Health Organization (WHO) 25% of deaths of 20-24 year olds in the WHO European region are due to alcohol.

Yet despite this knowledge, because of loose regulation of alcohol advertising, young people are being targeted and recruited by the alcohol industry which is increasingly using online platforms to aggressively market its addictive products to young people.

It is vital that Governments – through bodies like Coimisiún na Meán – ensure that platforms develop policies and technologies which can measure, control and restrict alcohol marketing, compelling them by regulation to supply relevant marketing data, including marketing spending, media used and data on the demographics of audiences reached.

We know that the best protection from exposure to digital marketing of alcohol, with its associated risks, is to remove it from all online contexts. In the absence of that, online safety regulations must ensure that any messages and images should be limited to factual content, without links to celebrities, such as influencers, for the purposes of promotion. Regulatory codes should state what is permitted, rather than what is not, with the legal presumption that what is not named is not allowed.

Regulations set out in Ireland's first online safety framework should ensure:

- Social media and video sharing platforms are compelled to provide to governments relevant marketing data, including marketing spending, media used and data on the demographics of audiences reached.
- Prohibition of personalised targeted marketing of addictive or harmful products. Clear identification of all kinds of ads (see appendix) including influencer content.
- Prohibition of the tracking, profiling, monitoring or targeting of children for commercial purposes.

- Severe penalties for non-compliance with regulations for the advertiser, alcohol producer and the digital platform. These penalties should be based on the global profits of the offending companies, comparable to those in relation to violations of GDPR.
- Comprehensive monitoring and compliance systems. These should be funded by levies on advertisers and the platforms on which the advertisements appear.
- Self-regulatory bodies should not be involved in the regulation of commercial communications or in the implementation of the Online Safety Code. Statutory mechanisms should be the sole structures by which Online Safety Codes are designed, implemented and enforced. Allowing self-regulatory bodies to be involved in monitoring compliance would undermine the work and principles of Coimisiún na Meán.

## 1.0 Introduction:

Alcohol is one of the most heavily marketed products, with the annual spend on alcohol advertising in 2021 conservatively estimated at €115m in Ireland alone. Young people are an important market for the alcohol industry. Comprehensive research now clearly tells us that alcohol marketing, including advertising, sponsorship and other forms of promotion, increases the likelihood that adolescents will start to use alcohol, and to drink more if they are already using alcohol.

As countries are beginning to regulate advertising of alcohol in real world settings, there has already been a significant move towards online advertising. Publicly available data on alcohol marketing expenditures are scarce, but it is estimated that the global total marketing spending for six of the largest alcohol companies was US\$17.7 billion in 2017. As digital marketing is now the most important marketing platform for alcohol brands there is an urgent need to develop adequate regulatory frameworks, technical tools and skills to monitor and restrict this.

According to the World Health Organisation (WHO)'s latest digital marketing report, "the invasion of children and young people's digital social spaces by companies promoting alcohol consumption normalizes a drinking culture from a very young age, placing them especially at risk of harm."

As policy makers, legislators and protectors of children's rights, we are already way behind industry tactics designed to ensure young people drink as soon as possible and as often as possible. People's well-being must be prioritised over commercial profits.

## 2.0 “Surround sound”

Alcohol producers are aware of the power of digital platforms, where most of their marketing spend is moving to. For example, Diageo now conducts most of its online presence through Facebook and was among the top 20 Facebook advertisers in 2019. By 2017, Heineken concentrated its advertising and marketing budget on digital platforms, primarily Google and Facebook, instead of traditional broadcasting.

A study published in Jan 2024 has shown that social media platforms Facebook, Instagram, Snapchat, TikTok, X and YouTube collectively derived nearly \$11 billion in advertising revenue from U.S.-based users younger than 18 in 2022. The researchers called for greater data transparency as well as public health interventions and government regulations.

Because of the way in which internet marketing works, we cannot allow advertisers and platforms to continue with the low bar set by the current EU directive, which states: *audiovisual commercial communications for alcoholic beverages shall not be aimed specifically at minors and shall not encourage immoderate consumption of such beverages*; because this will allow companies to continue acting in ways that reach children.

As was borne out by a recent study on the behavior of tobacco producers and the targeting of children, advertisers and platforms are engaging with people very differently than in the real world, using a wide range of methods that creates a ‘surround sound’ effect. (See Appendix 1 for examples). Alcohol producers cannot be allowed to infer that online is the same as real world, or that they are subject to strict rules already, a claim often made but that has no basis in fact, especially in terms of online advertising.

Commentary within the consultation document states that alcohol advertising to children is illegal but this is not the case. Advertising alcohol to children *should* be illegal with heavy sanctions. However, what is in place are limited areas of statutory restrictions under the Public Health (Alcohol) Act 2018 (PHAA) and self-regulatory codes for other types of advertising.

Under the PHAA, alcohol ads are restricted in certain areas (eg within 200m of schools, on public transport, during children’s

events and from January 2025 a broadcast watershed of 9pm). This is with the explicit purpose of trying to reduce the amount of alcohol advertising to which children are exposed. There are penalties if alcohol advertisements appear in those limited places. However, there are currently no sanctions if children see alcohol advertisements in other locations such as at 201m from schools or online.

Major alcohol producers, such as Diageo, claim that they do not target children with their ads. However, the Broadcasting Authority of Ireland in its 2021 report on the operation of the Children's Communications Code found that Diageo was the Number 4 broadcast advertiser to children in traditional media. There is currently no legal sanction in place to address this.

In addition, the response from alcohol producers to the very modest restrictions under the PHAA has been to replace alcohol ads with ads for zero alcohol products using identical branding to the alcohol master brand. This means that children are still being bombarded by advertising from alcohol brands, perhaps even more so than prior to the proliferation of zero alcohol adverts.

### 3.0 Protecting children and vulnerable populations

AAI welcomes that Coimisiún na Meán's new online media code states that: *"Audiovisual commercial communications for alcohol that is aimed specifically at children is prohibited by the draft Code as harmful to children."*

This demonstrates a recognition that alcohol advertising to children is harmful.

This then, makes it incumbent on the regulator to take a strong and unequivocal stance in relation to the tactics that industry uses online to capture young people's attention. It is vital that the commission is cognizant of industry tactics and claims while policing this area and that it considers alcohol when it comes to monitoring and prohibiting *"audiovisual commercial communications which encourage behaviour prejudicial to health or safety."*

Given the documented experience of alcohol advertising in traditional media, it is not surprising that there is also ample evidence of similar practices online though in this case the practices are even more insidious. Alcohol marketing inhabits the spaces where children live online and uses dark and untraceable methods to target young people.

Research has demonstrated that because social media sites have become so popular and pervasive with young people, they have also become an important aspect of the alcohol industry's multi-platform marketing strategies and are creating 'intoxicogenic digital spaces' where young people learn about alcohol and underage drinking is normalised.

Alcohol brands also use 'dark' and novel forms of alcohol marketing. For example, there is evidence from Australia that people are being bombarded to tailored alcohol, junk foods and gambling adverts which disappear after a short time, are not visible to others and viewers have no record of what they have been exposed to.

Children are coaxed into becoming the messenger for the alcohol industry by routinely telling and re-telling drinking stories online and sharing images depicting drinking and following influencers who sometimes do not declare their interests. User-generated alcohol-related videos on platforms such as TikTok have been



shown overwhelmingly to promote positive associations with alcohol, including humour and camaraderie, while rarely showing negative outcomes associated with alcohol consumption.

Brands encourage social media users to upload content of themselves drinking their alcohol products. This approach is highly attractive to the industry as it isn't recognised as a breach of advertising rules.

Additionally, in order to get around restrictions designed to protect children in their lived environments, alcohol producers have discovered an insidious way to ensure cradle-to-grave advertising through the now increasingly widespread marketing of zero alcohol products using identical branding to their alcohol master brands in areas which are restricted for alcohol advertising. There is no doubt this will continue and grow online.

## 4.0 Profiling and targeting of people online

It is now well known that algorithmic marketing systems use methods that target people's characteristics, interests and behaviours. Companies selling harmful and addictive products like alcohol and nicotine pay to access sophisticated systems to aggressively market products that hurt people's health and wellbeing.

A study published in the Journal of Studies on Alcohol and Drugs took the top 100 videos on TikTok including the hashtag #alcohol and looked for trends in categories such as user attitudes towards alcohol and level of alcohol use. They found most videos had a pro-alcohol sentiment (98%) and often depicted the consumption of large amounts of alcohol (61%). Yet still the data behind exactly who companies target is largely kept out of the public domain. In order to protect children's rights and the rights of vulnerable populations, this must change.

As highlighted by international experts on children's health and rights: "Large companies incorporate the science of the life course approach into their marketing, to achieve the adherence and fidelity of children to capture future consumption....the rapid spread of sophisticated digital and mobile communications means that children are exposed, as never before, to a torrent of commercial marketing pressures from corporate powers."

Other vulnerable groups such as anyone with, or at risk of, substance use problems, and indeed the wider public should also be protected. For example, in the case of alcohol marketing, this ability to prey on people's susceptibilities is particularly harmful because it can disproportionately target people experiencing alcohol dependence.

AAI welcomes the online safety code statement that: *"Video-sharing platform service providers shall ensure that personal data of children collected or otherwise generated by them when implementing obligations in this Code relating to age verification and parental controls is not processed for commercial purposes, such as direct marketing, profiling and behavioural targeted advertising."*

However, AAI believes this does not go far enough and that social media platforms should be compelled to provide to governments relevant marketing data, including marketing spending, media

used and data on the demographics of audiences reached. In the event that some alcohol marketing activities continue to be permitted, any messages and images should be limited to factual content, without links to celebrities, such as influencers, for the purposes of promotion. Regulatory codes should state what is permitted, rather than what is not, with the legal presumption that what is not named is not allowed.

Full disclosure should enable individuals to see if a piece of content is being paid for, if so, by whom and what data have been used for targeting them. Health bodies should also be able to have access to data sources indicating at scale what kinds of content are being circulated and how targeting of populations and individuals happens.

## 5.0 Monitoring and enforcement

Self-regulatory bodies should not be involved in the regulation of commercial communications or in the implementation of the Online Safety Code for VSPs. Currently, the Advertising Standards Authority of Ireland (ASAI) code regulates advertising – including online advertising – in Ireland, but this code is self-regulatory. The ASAI is 100% funded by industry, and therefore has industry interests at its core. It is not a suitable body to provide robust and independent adjudications on advertising carried out by its own members/funders.

Indeed, this is precisely the reason why commercial content needs a more robust approach. Essentially, up to now, advertisers have set their own advertising rules. The rules are weak and even when complaints are made, invariably the ASAI rules in favour of the advertiser. (Details supplied in Appendix 2). In fact, the ASAI doesn't appear to make an independent adjudication at all on adverts, but as per its adjudication re 'Rockshore', sends the complaint to the advertiser for comment, and rules accordingly.

For example, AAI complained to the ASAI in 2019 under their own advertising standards code regarding a billboard ad for 'Guinness Six Nations Some things just belong together'. It was close to a school in contravention of the ASAI's own guidelines. The complaint was rejected and while making a highly convoluted argument about distances the ASAI also included a note that *'the advertising in this case is not alcohol brand advertising, that it wasn't an ad for Guinness, but for a rugby competition.'* By any standard, this is a farcical view of Diageo's investment in rugby sponsorship – a marketing deal which the industry proudly boasted had increased sales of Guinness by 77%.

Other similar bodies around the world (UK and Australia) consistently come down on the side of advertisers – after all, that is who keeps them in business. ASAI is not independent and therefore by proxy, neither will Coimisiún na Meán be, if it allows industry to police itself.

Statutory mechanisms should be the sole structures by which Online Safety Codes are designed, implemented and enforced. Sanctions to be imposed for inappropriate activities need to be strong, with robust enforcement. These should be funded by levies on advertisers.

## Appendix 1.0

The alcohol industry claims it does not target children, but the tactics outlined here demonstrate how alcohol companies are using an array of methods to ensure that marketing of their product not only reaches the widest possible audience but is also appealing to young people. Examples of the 'surround sound' of marketing online that is available to anyone online include:

### **Direct marketing**

Paid for ads 'pop up' in newsfeeds or stories. Social media accounts are often filled with 'sponsored' alcohol advertisements that 'pop up' in newsfeeds or stories. These posts are similar to traditional advertising, as alcohol brands pay for them to be placed in the newsfeeds of their target audience. These ads tend to appear more frequently for people who search for, talk about, or purchase alcohol online, as companies can use personal data to target people 'interested' in alcohol.

Alcohol brands create official social profiles to encourage 'fans' to engage with their posts through questions/polls, posting photos and memes and using the brands hashtag for a chance to be featured on their page. This creates huge engagement with not just the brand's account but also the hashtag for brand or product. This content is highly interactive and easily shared.

### **Alcohol & sports**

An array of marketing activities are used to leverage the link between alcohol, sports and elite athletes, which ultimately drives consumption of alcohol. Sponsorship related to alcohol often associates itself with sporting and cultural events in online contexts.

An international brewing company gives its name and sponsorship to UEFA (Union of European Football Associations) Champions League. Research carried out on behalf of the brewers found that globally more than eight out of 10 people follow this League using at least one digital channel (for example online live streams or social media), while approximately one in six exclusively use digital channels to follow matches.

The "reach" to potential consumers therefore using social media and live streams through their sponsorship of these competitions is expanded rather than relying or using simply traditional forms of marketing. (From [WHO](#) digital marketing report).

## Alcohol & music

Wherever young people are, that is where alcohol brands in general want to be. That is why they create partnerships with Spotify and why they sponsor music events. Increasingly, digital media is being used to connect with and engage the audience before and after events. This approach of integrating multiple media channels to get strategic synchronicity is called Integrated Marketing Communications and is one of the most important approaches in marketing today, again creating a 'surround sound' effect.

## Alcohol influencers

Alcohol companies pay social media influencers to upload photos or videos of themselves with alcoholic drinks. Alcohol companies leverage these creators to educate and build awareness around their brand. By using these influencers, alcohol companies bypass codes and can advertise directly to their young followers.

Research shows that influencers reach minors and are effective in making alcohol consumption popular and normative. Influencers post many alcohol brands but often do not disclose this; moreover, when they do, there is evidence that these posts are not liked or shared as much as posts without disclosure. A former England international footballer advertised a whisky brand to his 66.5 million followers on Instagram. In this picture he appears to be having a night out partying and has chosen this whisky at random to drink from the bottle. In fact, according to the alcohol company website he is a "partner" in this business. The only hint that this is the case is the hashtag "ad" on the Facebook post. The former footballer's followers can receive this advertisement without any age verification checks. (From WHO digital marketing report).

## Gaming

Esports, defined as competitive online video gaming is rapidly becoming the largest entertainment industry in the world, with an audience of 500million globally. Leading alcohol companies are among those sponsoring the various leagues and games produced by the e-sports industry, which are able to take advantage of the virtual formats to promote their brands in prominent spaces, and often to children and young people (Chambers, 2020). There is also evidence of vulnerability to alcohol sponsorship among 25–34 year olds and heavy gamer cohorts. Research shows that current advertising restrictions do not capture this arena.



In Reply Please Quote  
Our Ref: 32839 (Complaint 32805).sp

By Email

4th July 2019

Mr Eunan McKinney

Head of Communications and Advocacy

Alcohol Action Ireland

Coleraine House

Coleraine Street

Dublin 7

Email: eunan@alcoholactionireland.ie

RE: Placement of Advertising for Guinness Six Nations

Dear Mr McKinney,

I refer to your complaint regarding the placement of a poster advertisement for the Guinness Six Nations Championships.

As you may know, complaints regarding the placement of alcohol advertisements in media are examined under the Alcohol Marketing, Communications and Sponsorship Codes of Practice. The Codes were drawn up by the Department of Health and the Drinks Industry and they contain rules for each media. The purpose of these Codes is to reduce the exposure of young people to alcohol advertising and marketing.

The function of the Advertising Standards Authority for Ireland in this matter is to examine the details of the complaint and to report the outcome to the Alcohol Marketing Communications Monitoring Body (AMCMB), and the complainant. We also advise the advertisers and the media involved of any breaches or potential breaches of the Voluntary Code to limit the exposure of young people to alcoholic drink advertising.

The Outdoor Media Code of Practice for Alcohol Advertising requires that The Outdoor Media Association will not place advertising for any alcoholic drinks within 100 metres of a primary or secondary school entrance. As stated above, the purpose of the Code is to reduce the exposure of young people to alcohol advertising and marketing, however, the Codes do not prohibit the advertising of events. While the advertising in this instance is for the Guinness Six Nations Championship and not the Guinness brand itself, we did make enquiries with both Diageo and the media company. In their reply Diageo stated that as with all sites where they advertise, they measure the shortest, most direct route to the entrance of the school using a trundle wheel to ensure accuracy and they also reflect how people walk or travel from the site to the entrance of the school. In this case they said that the distance was measured at 113 metres.



Mr Eunan McKinney 4th July 2019

In their reply, the media company stated that they had sent one of their site inspectors down to this area on receipt of our correspondence. They said that it was not possible to walk the route as per the line featured in the photograph you provided with your complaint and that anyone trying to do this would have to climb over a pile of boulders and then a fence. They said that there is access with steps and a walkway and that the distance using this route from the poster site to the school was 134.9 meters.

In view of the fact that the poster site is at least 113 metres from the entrance to the school in question then the placement of alcohol advertising on this site is not in breach of the Alcohol Marketing, Communications and Sponsorship Codes of Practice. While the advertising in this case is not alcohol brand advertising, we have brought this matter to the attention of the Monitoring Body.

We would like to thank you for contacting us in the matter.

Yours sincerely,

*Seona Parker*

Seona Parker,  
Code and Copy Advice Manager.

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In Reply Please Quote  
Our Ref: 38508.mc

7th September 2021 by email: [eunan@alcoholactionireland.ie](mailto:eunan@alcoholactionireland.ie) \_\_\_\_\_

Mr Eunan McKinney  
Alcohol Action Ireland  
Coleraine House  
Coleraine Street  
Dublin 7 D07E8XF

RE: Advertising for Rockshore Lager - Summer 2021

Dear Mr. McKinney,

I refer to your complaint on behalf of Alcohol Action Ireland (AAI) regarding the above.

The function of the Advertising Standards Authority for Ireland (ASAI) is to ensure that advertisers comply with the requirements of the Code of Standards for Advertising and Marketing Communications in Ireland and to investigate complaints concerning commercial advertisements that may be considered to be in breach of the Code.

When we received your complaint, we forwarded it to the advertisers for their comments. They said as the world's leading drinks company, they take their commitments to promoting a positive and responsible attitude towards alcohol consumption and a balanced lifestyle to people who choose to consume their products. They were the first in their industry to develop a strict marketing code, the Diageo Marketing Code, which guides all aspects of their activity and demonstrates their commitment to ensuring that they only depict and encourage responsible and moderate drinking. In addition, all their campaigns are designed to ensure that they fully comply with both the letter and the spirit of the regulations laid out by the ASAI Code (the Code), and all are approved by Copy Clear before going live, after going through an extensive verification process.

In addressing your concern in relation to the depiction of water in alcohol advertising, they said that the ASAI Code did not prevent the depiction of water in such advertising, but rather prevented direct association with the consumption of alcohol and activities or locations where drinking would be unsafe. They said their advertising depicted a weekend between friends where they engaged in a series of normal activities over two days, such as running on a beach, playing frisbee, hiking and surfing, all of which took place in broad daylight and with no alcohol being consumed or implied. Consumption happened half-way through the advertisement in a night-time setting, during what was the last night of the weekend, with absolutely no indication that any of those featured would be going back into the water.

*Contd./*



The advertisers said that a barrier was clearly visible behind one of the actors to mark a clear separation between the place where they drank and the water. The scene immediately following also showed one of the characters sitting in a bus, indicating clearly that the weekend was over.

The advertisers also said that the setting of the advertisement was important for context and was especially relevant this summer, where an emphasis was put, even at Government level, on an “outdoor summer”. People were encouraged to do staycations and the West of Ireland was one of the key destinations to enjoy outdoor socialising opportunities and a wide range of coastal activities. They said they believed that they should be able to depict real, daily life situations in their advertising and summer weekends with friends by the coast, having fun on the beach, was one such situation. No risky behaviour was shown, no alcohol was consumed or implied in relation to water activities, and the presence of the sea should not be seen as being non-compliant with the Code.

In relation to your concern surrounding the age of the actors featured in the advertising, the Advertising Agency confirmed to ASAI their ages and that they were over 25, being closer to 30 than to 25.

In view of the advertisers’ response and considering that there was no alcohol consumed or implied in relation to water activities and that the ages of the actors were confirmed as being over 25, we do not consider that there is a case for further investigation under the ASAI Code.

We would like to thank you for taking the time to contact us with your concerns.

Yours sincerely,

A handwritten signature in dark ink that reads "Mairead Collins". The signature is written in a cursive, slightly slanted style.

Mairead Collins,

Code Compliance Manager

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**AlcoholAction**  
Ireland