

**Public space and alcohol advertising:  
Exploratory study of the role of local government**

**Alcohol policy research: Putting together a global evidence base**

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# Public space and alcohol advertising: Exploratory study of the role of local government

## Introduction

Whilst the use of alcohol can bring social and economic benefits to the community, these can be squandered unless its use is regulated to mitigate the health, social and law and order consequences from its excessive use. Indeed, as it has been asserted, 'Alcohol is estimated to cost the Australian economy A\$36 billion a year in preventable death, illness, injury and hospitalisation'<sup>1</sup>

The necessity to acknowledge both the beneficial and harmful consequences of alcohol means whilst government should develop legislative and policy frameworks to facilitate its use, nevertheless it has a duty to protect citizens from engaging in excessive consumption or being indirectly harmed due to the use of others. However, whilst government regulatory actions are supported when the community readily identifies the social, health and law and order consequences of drinking, this maybe constrained by the pleasure that people obtain from using alcohol.<sup>2</sup>

'It is thus easy for us to forget that it is historically more common for societies to define alcohol-related problems in terms of social harms from drinking. While there is a wide variety of harms for which alcohol has somewhere been seen as responsible, in European and North American societies the major social harms with which alcohol has been identified form a fairly short list: problems of public order or demeanor and of alcohol-related violence; problems in the performance of family and parental roles; and problems in work roles and of lost productivity.'<sup>3</sup>

In Western Australia (WA) like in all other Australian jurisdictions, as access to alcohol occurs through a fully privatised market, because governments do not own the means of production, nor own the places where alcohol may be sold or consumed, to discharge its duty to regulate the health and social harms from alcohol, government must resort to complex licensing and oversight mechanisms to regulate the myriad of actors involved in different levels of the market for alcohol.

A broad concept of a market which mediates the use of alcohol is used here to encompass that the notion that the market is multi dimensional and multi-layered consisting of the facilities that represent assets which produce and distribute alcohol in the form of breweries, wineries or distilleries, the 'front end' infrastructure that the consumer interacts with, in the nature of hotels, restaurants, bars and clubs, but also those activities concerned with the marketing and promoting the use of alcohol. In all western economies the place of advertising is central to mediating how demand is created and manipulated for all consumer goods, including alcohol.

As will be outlined, the scale and forms of what can be loosely called 'advertising' is staggering, well beyond the familiar television and radio purchased time slots, printed forms in magazines and

<sup>1</sup> Glance, D, and S Pettigrew. *Time to warn drinkers about the risk of cancer*. The Conversation, The Conversation 18 August 2014. <<http://theconversation.com/time-to-warn-drinkers-about-the-risk-of-cancer-30609>>

<sup>2</sup> However, the value of the pleasure that drinkers derive from drinking cannot be under estimated and if quantifiable and included in a cost-benefit calculation, may substantially discount such costs. The application of a "happiness quotient", which has been canvassed in debate about discounting some of the loss that smokers may experience from cessation, is applicable to debate about the costs and benefits of alcohol use: Tavernise, S. *'In new calculus on smoking, it's health gained vs. pleasure lost'*. New York Times, 6 August 2014. <<http://www.nytimes.com/2014/08/07/health/pleasure-factor-may-override-new-tobacco-rules.html>>; Chaloupka, FJ, KE Warner, D Acemoglu, J Gruber, F Laux, W Max, J Newhouse, T Schelling, and J Sindelar. *An evaluation of FDA's analysis of the costs and benefits of the graphic warning label regulation*. Tobacconomics.org, 2014. <[http://tobacconomics.org/wp-content/uploads/2014/08/TREW-manuscript\\_FINAL1.pdf](http://tobacconomics.org/wp-content/uploads/2014/08/TREW-manuscript_FINAL1.pdf)>

<sup>3</sup> Room, R. 'Alcohol consumption and social harm: conceptual issues and historical perspectives.' (1996) 23 *Contemporary Drug Problems*, 373-388. p. 374.

newspaper, to less apparent formats such as ‘endorsements’ of sports, logos on everyday consumer goods, apparel and clothing and the use of street furniture to promote brands and particular types of alcohol.

Whilst the marketing of alcohol can be understood as a sub-set of an astounding range of forms and mediums for promoting and advertising all manner of consumer products, it is clear that alcohol is regarded “no ordinary commodity”<sup>4</sup> because of the widespread adoption of standards that purport to establish principles for appropriate content on the basis of perceived community standards for consumption.

Whilst it has been acknowledged that there is a unambiguous legal basis for the Federal government to regulate the advertising of alcohol and other products, through powers in the Federal constitution concerned with telecommunications, as this power does not extend to the issue of the regulation of advertising in public spaces, it is helpful to consider other options which could regulate this species of advertising.

This requires identifying the roles that could be performed by State government and local governments to regulate alcohol advertising. This exploratory study is concerned with one of these, local government, for as will be argued it has not have been well appreciated that local government has potentially a significant role to play in relation to this issue.

The paper will include a number of section, the first will briefly set out the system of regulation of alcohol advertising that has evolved over some years in relation to the electronic media, which will highlight some of the key features of the Australian system and also identify how this system has spilled over into other areas and determined how advertisers have sought to regulate the content of advertising in other media, which falls outside of the radio and television codes,

The second section will be concerned with local government and its capacity to regulate alcohol ‘advertising’, based on the experience in WA, to identify some of the broad constraints that impact on the capability of this level of government to assume a greater and more front line role in dealing with the proliferation of a range of forms for promoting and advertising alcohol.

This section includes a number of sub-sections which are intended to provide an understanding of some of the considerations that impact of local government capacity to promulgate a regulatory framework and a case study which focuses on the City of Subiaco, as an example to demonstrate how local government can exercise a large measure of regulatory oversight over commercial activities, such as alcohol promotion and marketing.

A set of slides were discussed in the presentation involving photos of bus shelters, free standing signage adjoining premises, larger posters and signage attached to buildings fronting on roads and thoroughfares as examples of some of the circumstances and contexts that confront local government in being able to effectively monitor alcohol advertising in public places.

## **Federal government and the regulation of advertising**

The Federal constitution contains a head of power Section 51(v), with respect to ‘postal, telegraphic, telephonic and other like services’, which means that the Commonwealth government has an exclusive the power to legislate to regulate telecommunications.

A cursory consideration of the Federal government’s sphere of regulatory power and of how this has been exercised since 1970, reminds us that the epigram “The more things change the more

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<sup>4</sup> Babor, TF, R Caetano, S Casswell, G Edwards, N Giesbrecht, K Graham, J Grube, L Hill, H Holder, R Homel, M Livingston, E Osterberg, J Rehm, R Room, and I Rossow. *Alcohol no ordinary commodity: research and public policy: 2nd edition*. NY, Oxford University Press, 2010.

they stay the same”<sup>5</sup> has some currency, as concerns about alcohol advertising and proposals to restrict it have been raised over the intervening period, each time resulting in little progress or change, attesting to the alcohol industry’s resilience and the difficulty in regulating commercial interests in general.<sup>6</sup>

A thumbnail sketch of the genesis and development of standards to regulate content of television programs broadcast in Australia shows us that all Federal governments, regardless of political persuasion, have remained wedded over the past 45 years to the framework laid down in 1970, as outlined in a report by the Australian Broadcasting Control Board (ABCB), a statutory body, which set out the core principles that it determined which should be followed by commercial television stations in Australia.<sup>7</sup>

The power for the ABCB to issue standards derived from provision in the then *Broadcasting and Television Act 1942-1969*,<sup>8</sup> in particular that contained in Section 99, that licensees “shall provide programmes and shall supervise the ... televising of programmes from his station in such manner as to ensure, as far as practicable, that the programmes are in accordance with standards determined by the Board.” In Part 2 of the Television program standards published by the ABCB in 1970 stipulated in paragraph 40 (c) that -

(c) Advertisements for alcoholic liquor should be directed only to the adult audience; young people, whether children or adolescents, must not be allowed to participate in the presentation of these advertisements.

No advertisement for alcoholic liquor should be televised in proximity to programmes for children or at times when the audience may be expected to include large numbers of young people. In particular such advertisements should not be televised between 6.00 a.m. and 8.30 a.m., or between 4.00 p.m. and 7.30 p.m., Monday to Saturday inclusive, nor at any time on Sunday, Christmas Day or Good Friday.

The foregoing provisions do not prevent the sponsorship of sporting events televised live on Saturday. The provisions of this sub-paragraph do not apply to sponsorship identification in the form of billboards or other forms of institutional identification which do not include a sales message for alcoholic liquor.”<sup>9</sup>

<sup>5</sup> Attributed to Jean-Baptiste Alphonse Karr: "Plus ça change, plus c'est la même chose": [http://en.wikipedia.org/wiki/Jean-Baptiste\\_Alphonse\\_Karr](http://en.wikipedia.org/wiki/Jean-Baptiste_Alphonse_Karr).

<sup>6</sup> Standing Committee on Environment Communications and the Arts. *The effectiveness of the broadcasting codes of practice*. Canberra, ACT, Senate, Australian Parliament, 2008. <[www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Committees?url=eca\\_ctte/completed\\_inquiries/2008-10/broadcasting\\_codes/report/report.pdf](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Committees?url=eca_ctte/completed_inquiries/2008-10/broadcasting_codes/report/report.pdf)>

<sup>7</sup> The 1970 Television program standards contained a broad set of principles that licensees should observe, which seem curious from a contemporary perspective, including matters such as “decency and decorum ... to ensure that performers must be in the bounds of propriety”, that the “use of objectionable words and phrases” should be avoided, that “references to sex relations should be treated with discretion (and that) references to illicit sex relations should be avoided.. and should on no account be presented as commendable”, that the “portrayal of addiction to drugs or alcohol should be limited to the needs of the story and characterisation and should not be presented as desirable”. The guide to set out in some detail that that licensees ensure that between the hours of 6 am and 8.30 am, and between 4 pm and 7.30 pm on weekdays, and between 6 am and 7.30 pm on Saturday and Sunday that programs be broadcast that were suitable for children and families in Paras 11 to 15, on the basis that “parents should be able to feel secure in allowing children to watch television without supervision.”, 11. The standards also imposed additional provisions that applied to advertisements that were broadcast on Sundays, Christmas Day and Good Friday – with the requirement that no advertisements relating to alcohol or gambling should be televised on these specified days. (Para 41).

<sup>8</sup> Subsequently replaced by the *Broadcasting Services Act 1992*, which retained similar legislative power to impose conditions on licensees.

<sup>9</sup> Australian Broadcasting Control Board. *Television program standards: 2nd edition, reprinted 1975*. Canberra, ACT, Commonwealth Government Printer, 1970. p. 26.

The ABCB was replaced by the Australian Broadcasting Tribunal (ABT) in the late 1970s, which in turn was succeeded by the Australian Broadcasting Authority (ABA) in the late 1980s and in July 2005 the Australian Communications and Media Authority (ACMA), the current regulatory body, which had been formed by the amalgamation of the ABA and the Australian Communications Authority.

In spite of opportunities for significant reform in the late 1970s and early 1980s as a result of major inquiries which had documented shortcomings, the self regulatory approach for alcohol endorsed by the ABCB has continued up to the present with only minor adjustments.

The 1977 report, titled 'Drug problems in Australia – an intoxicated society?', was a watershed in the nature of the national debate about Australians excessive use of both alcohol and other drugs. The Committee recommended that the Federal government should ban the advertising of alcohol to the full extent of its powers available to it in relation to the licensing of radio and television stations, as well any Commonwealth controlled properties such airports. Furthermore, the committee went further and urged State governments and local government to 'ban the advertising of alcoholic beverages' and that the Federal government 'make any grants to sporting and cultural bodies conditional on their not accepting money from manufacturers and retailers of alcoholic beverages.'

By the early 1980s concerns about the 1970 ABCB established regulatory framework had started to emerge as it was realised it barely limited the capacity of the industry to promote and market alcohol to extend and expand the consumption of alcohol by Australians through changing social attitudes about the use of alcohol. In the 1980 report by the House of Representatives Committee on Road Safety flagged that in the future alcohol advertising could be banned if evidence emerged of a causal relationship between advertising and road safety.<sup>10</sup>

This report may have sought to ameliorate a recommendation by the Senate Standing Committee on Social Welfare published in 1977, which had on the basis of evidence of substantial levels by young Australians, concluded that due 'the pressures of advertising will augment pressures by peer groups to push young people into drinking',<sup>11</sup> that alcohol advertising be banned.

The current Australian approach to regulating the advertising of alcohol and other products is built around a self-regulatory system, overseen and managed by a number of bodies, established by industry, which creates a framework of general overarching "ethical" principles supplemented by codes of practices concerned with specific areas, such as rules for children's TV programs, the advertising of food and beverages, for marketing of alcohol and outdoor advertising.

A more detailed description of the operation of the components of the current Australian arrangements, which were established in 1998 by the Australian Association of National Advertisers (AANA), are contained in the 2011 report of House of Representatives Standing Committee on Social Policy and Legal Affairs inquiry into outdoor advertising<sup>12</sup> and the 2014 report by the Australian National Preventive Health Agency (ANPHA) on alcohol advertising.<sup>13</sup> One such component is the Alcohol Beverages Advertising (and Packaging) Code – the ABAC – which is funded by the Brewers Association of Australia and New Zealand, the Distilled Spirits Industry

<sup>10</sup> Standing Committee on Road Safety. *Alcohol, drugs and road safety*. Canberra, ACT, Australian Government Publishing Service, 1980.

<sup>11</sup> Standing Committee on Social Welfare. *Drug problems in Australia - an intoxicated society?* Canberra, ACT, Australian Government Publishing Service, 1977. p. 61.

<sup>12</sup> Standing Committee on Social Policy & Legal Affairs. *Reclaiming public space: Inquiry into the regulation of billboard and outdoor advertising*. Canberra, ACT, Australian Parliament, House of Representatives, 2011.

<sup>13</sup> Australian National Preventive Health Agency. *Alcohol advertising: the effectiveness of current regulatory codes in addressing community concerns: Issues paper*. Canberra, ACT, Australian National Preventive Health Agency, 2012.

<[http://anpha.gov.au/internet/anpha/publishing.nsf/Content/6B6B7086072DEB40CA257B7E00271005/\\$File/Alcohol%20Advertising%20Issues%20Paper%20FINAL.pdf](http://anpha.gov.au/internet/anpha/publishing.nsf/Content/6B6B7086072DEB40CA257B7E00271005/$File/Alcohol%20Advertising%20Issues%20Paper%20FINAL.pdf)>

Council of Australia and the Winemakers Federation of Australia, includes a process for considering complaints about specific adverts by an Adjudication Panel and establishes a scheme for pre-vetting of advertising.

In addition to the ABAC scheme other arrangements have been established in relation to outdoor advertising by the Outdoor Media Association (OMA) has a set of guidelines in relation to alcohol advertising, which includes restrictions for the placement of fixed advertising in close proximity to schools. The OMA guidelines include a requirement for advertising to be submitted to the ABAC's Alcohol Advertising Pre-Vetting Service (AAPS).<sup>14</sup>

'Alcohol advertising pre-vetting is a voluntary commitment to responsible advertising by members of the Brewers Association of Australia and New Zealand (Brewers Association), the Distilled Spirits Industry Council of Australia (DSICA) and the Winemakers' Federation of Australia (WFA). Its primary function is to maintain the spirit and substance of the Alcohol Beverages Advertising Code (ABAC) and the Advertiser Code of Ethics and to ensure that alcohol advertisements meet reasonable community expectations. AAPS is endorsed by the Australian Association of National Advertisers (AANA) and The Communications Council.'<sup>15</sup>

The ABAC's "Responsible Alcohol Marketing Code"<sup>16</sup> sets out a number of standards which require that advertising by ABAC members should present "responsible" consumption of alcohol, should not target or involve minors, should not present alcohol as contributing to particular social outcomes or benefits or that alcohol consumption not be associated with situations where its use would compromise safety. The following excerpts from this code give an indication of its scope and that whilst the code is focusses on social concerns about the use of alcohol, it incorporates health related concerns by reference to the National Health and Medical Research Council's national guidelines about the use of alcohol.<sup>17</sup>

A Marketing Communication must NOT:

- (i) show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines;
- (ii) show (visibly, audibly or by direct implication) or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an Alcohol Beverage;
- (iii) challenge or dare people to consume an Alcohol Beverage; or
- (iv) encourage the choice of a particular Alcohol Beverage by emphasising its alcohol strength (unless emphasis is placed on the Alcohol Beverage's low alcohol strength relative to the typical strength for similar beverages) or the intoxicating effect of alcohol.

A Marketing Communication must NOT:

- (i) have Strong or Evident Appeal to Minors;
- (ii) depict a person who is or appears to be a Minor unless they are shown in an incidental role in a natural situation (for example, a family socialising responsibly) and where there is no implication they will consume or serve alcohol; or
- (iii) depict an Adult who is under 25 years of Age and appears to be an Adult unless:
  - (A) they are not visually prominent; or

<sup>14</sup> Outdoor Media Association. *OMA alcohol advertising guidelines*. Outdoor Media Association. 2013.<[http://oma.org.au/\\_data/assets/pdf\\_file/0019/6094/OMA\\_Alcohol\\_Guidelines\\_2013.pdf](http://oma.org.au/_data/assets/pdf_file/0019/6094/OMA_Alcohol_Guidelines_2013.pdf)>

<sup>15</sup> Alcohol Beverages Advertising Code Scheme Ltd. *Application form for approval of advertising material*. <[www.abac.org.au/uploads/File/AAPS%20form%206-3-12.doc](http://www.abac.org.au/uploads/File/AAPS%20form%206-3-12.doc)>

<sup>16</sup> Alcohol Beverages Advertising Code Scheme Ltd. *ABAC responsible alcohol marketing code*. Alcohol Beverages Advertising Code Scheme Ltd, Alcohol Beverages Advertising Code Scheme Ltd<[www.abac.org.au/wp-content/uploads/2014/06/ABAC-Responsible-Alcohol-Marketing-Code-30-4-14.pdf](http://www.abac.org.au/wp-content/uploads/2014/06/ABAC-Responsible-Alcohol-Marketing-Code-30-4-14.pdf)>

<sup>17</sup> National Health and Medical Research Council. *Australian guidelines to reduce health risks from drinking alcohol*. Canberra, ACT, Canberra, ACT National Health and Medical Research Council. 2009.<[www.nhmrc.gov.au/\\_files\\_nhmrc/publications/attachments/ds10-alcohol.pdf](http://www.nhmrc.gov.au/_files_nhmrc/publications/attachments/ds10-alcohol.pdf)>

(B) they are not a paid model or actor and are shown in a Marketing Communication that has been placed within an Age Restricted Environment.

A Marketing Communication must NOT:

- (i) suggest that the consumption or presence of an Alcohol Beverage may create or contribute to a significant change in mood or environment;
- (ii) show (visibly, audibly or by direct implication) the consumption or presence of an Alcohol Beverage as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;
- (iii) if an Alcohol Beverage is shown (visibly, audibly or by direct implication) as part of a celebration, imply or suggest that the Alcohol Beverage was a cause of or contributed to success or achievement; or
- (iv) suggest that the consumption of an Alcohol Beverage offers any therapeutic benefit or is a necessary aid to relaxation.

## Local government and the regulation of advertising

### Overview

It needs to be reiterated that the regulatory framework that has evolved for advertising involving electronic media, which is based on the Commonwealth's constitutional telecommunications power in Section 51(v) of the Australian Constitution, is not applicable to developing an understanding of how local government may be able to regulate alcohol advertising in public spaces.

However, the Federal industry-operated system for overseeing and vetting advertising originally developed in response to community concerns about advertising and sponsorship on television and radio has spawned the adoption of a similar model of industry sponsored voluntary codes which can be bracketed together, such as that for regulating outdoor advertising, overseen by the Outdoor Media Association.

As there are extensive powers available to local government in Western Australia through the *Local Government Act 1995* and the *Planning and Development Act 2005*, which have existed for many years to regulate a wide range of commercial and business activities. The extension of these powers for local authorities to regulate alcohol advertising in public places appears to depend on the willingness and interest by particular local authorities, as they need to develop codes and promulgate local laws to underpin an effective regulatory environment.

To support this contention there has been a muted and patchwork approach by local authorities to regulate the use of public space by private interests, some of the measures that the City of Subiaco have implemented will be referred as these illustrate how these powers can be exercised. Because the local authority is based around a cluster well-established inner city suburbs which emphasise the retention of heritage values, compared to other local authorities which appear to have defined their role as in the nature of "standing back" to facilitate development and to seek market solutions to the provision of public facilities.

Though we should be careful to not cast local authorities in an unfavourable light who have actively sought to monetise the use of public space through commercial arrangements to install benches, kiosks, street furniture and bus shelters in return for exclusive rights to display advertising, justified as a solution to fiscal and budgetary strictures, these benefits may be illusory.

If faster growing suburbs on the fringes of the metropolitan area have insufficient means to establish and maintain essential infrastructures and facilities for the communities they serve, then arguably these local authorities should be provided with additional resources from the State government, to justify the approach established by local authorities like the City of Subiaco which in effect restrict business and commercial interests.

There is a wide range and diversity of public infrastructure on which alcohol and other forms of advertising can be placed, such as billboards attached to buildings on which posters and



signs are displayed, free-standing signs outside and adjacent to the entrances of premises, benches and other types of street furniture over which private firms have an exclusive right to display advertising and bus shelters erected and maintained by private firms given exclusive contracts to sell advertising space.

It is argued there is a wide latitude for action for local government to extensively regulate advertising in public spaces, as local governments possess extensive statutory powers to regulate a wide range of commercial and business activities which impact on public space. Given there are likely to be similar to the arrangements in other Australian jurisdictions, it is clear that local government has an under appreciated and poorly recognised capacity to regulate the proliferation of alcohol advertising in public spaces.

As local government 'owns' most of the public space in Australian cities, it potentially play has a key role in regulating alcohol advertising in public places, arising from its responsibility for and provision of public infrastructure such as footpaths, roads, bus shelters and street furniture. In the Western Australian context the significance of this role arises because under the *Local Government Act 1995* a local authority has a broad legislative power to issue and proclaim local laws, policies and codes under Section 3.5:

#### 3.5: Legislative power of local governments

1) A local government may make local laws under this Act prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.

There appears to be substantial support for local government involvement in restricting the commercialisation of public space, as reaffirmed in a review by the House of Representatives Standing Committee on Social Policy and Affairs, *Reclaiming public space*, published in July 2011. In the report's foreword the Committee supports the contention that more comprehensive rules are necessary to regulate the content of outdoor advertising:

"The Committee considers that outdoor advertising constitutes a specific category of advertising because of the way that it occupies public spaces, dominates civic landscape, and targets captive, unrestricted audiences. The inquiry addressed particular concerns about the impact of increasing, cumulative and sustained exposure to advertisements that contain sexual, discriminatory or violent material and to advertisements for alcohol and unhealthy foods and beverages. As such, the Committee concluded that industry self-regulation of advertising standards needs to include a specific code of practice for outdoor advertising."<sup>18</sup>

### **The regulatory of advertising along highways and roads**

There is undeniable concern that the presence of alcohol and other forms of advertising placed along streets has the potential to increase the likelihood of motor vehicle related accidents because this material relies upon driver distraction. Whilst the presence of advertising on freeways is tightly controlled, the proliferation of signage and advertising along the margins of the lower traffic speed limits on the network of arterial and local roads that criss cross the metropolitan area is much less restricted, apparently as it poses a low level of risk of causing driver distraction.

The observation by Harold Scruby of the Pedestrian Council of Australia pinpoints the contradiction of when local government authorities and the Main Roads Department, who are responsible for the design and the operation of the road system in WA, authorise the placement of advertising along and adjacent to highways and roads, because as he notes it is "driver distraction by design", as it is intended to

<sup>18</sup> Standing Committee on Social Policy & Legal Affairs, "Reclaiming public space: Inquiry into the regulation of billboard and outdoor advertising." vii.

‘attract the gaze of the driver long enough to create the impression that sells the product. (Which with) the ‘extra distraction of scrolling billboards has just compounded the existing problem of the placement of billboards obstructing sight distances between drivers and pedestrians.’<sup>19</sup>

An Austroads research study lends support to the contention that roadside advertising *per se* should be regarded as posing a significant safety hazard, even though there may not sufficient studies to demonstrate this, nevertheless

‘the studies that have been conducted show convincingly that roadside advertising is distracting and that it may lead to poorer vehicle control. However, the evidence is presently only suggestive of, although clearly consistent with, the notion that this in turn results in crashes.’<sup>20</sup>

In considering the regulation of bus shelters as sites for the display of advertising materials, including alcohol, it is important to understand the system of how public roads are designated and managed, as this is relevant to who may in effect “owns” the road and therefore can regulate the structure on which the sign appears.

The situation in WA is that whilst the Main Roads Department of WA (MRWA) is responsible for the management of specified gazetted main roads and highways, also referred to as ‘State roads’, the remaining types of roads are the responsibility of local government.<sup>21</sup>

As well as this system of statutory classification of roads under the *Main Roads Act 1930* which determines responsibility for the construction and maintenance of particular classes of roads, there is another overlay which designates the functions of key roads under statutory planning schemes as being either “Primary distributor roads” or “Other regional roads”. Responsibility for controls over these roads rests with the WA Planning Commission, whereas the remainder of public roads within planning schemes areas are the responsibility of local government.<sup>22</sup>

The importance of this system classification is that it impacts of the nature of the framework for regulating advertising depending on the classification of the road. Under the *Main Roads Act 1930* there is a very broad power to control the presence of advertising along or on properties or buildings adjoining main roads, on the grounds of road safety or that they may be “aesthetically objectionable”.

#### Part 11: Control of advertisements

33B Advertisements etc near certain roads, regulations to control etc.

(1) The Governor may, on the recommendation of the Commissioner, make regulations for controlling and prohibiting the erection or construction of hoardings or other advertising structures, and to enforce the removal of hoardings and other advertising structures, on or in the vicinity of highways, main roads, and sections or part of a road subject to control of access, and for restricting, preventing or controlling the exhibition of advertisements and for the removal of advertisements on or in the vicinity of highways, main roads, and sections or part of a road subject to control of access where such hoardings or other advertising structures are considered to be hazardous to traffic safety or are aesthetically objectionable and in the case of

<sup>19</sup> Scruby, H. *Roadside advertising - a driver distraction by design*, edited by IJ Faulks, M Regan, M Stevenson, J Brown, A Porter and JD Irwin. Distracted driving. Sydney, NSW: Australasian College of Road Safety, 2007. <<http://acrs.org.au/files/papers/18%20Scruby%20A%20driver%20distraction%20by%20design.pdf>>

<sup>20</sup> Austroads Ltd. *Impact of roadside advertising on road safety: Publication No. AP-R420-13*. Sydney, NSW, Austroads Ltd, 2013. <<https://www.onlinepublications.austroads.com.au/items/AP-R420-13>> p. 16

<sup>21</sup> However, whilst the MRWA has responsibility for specified roads, on local roads it is also responsible for the placement of all road markings and signage.

<sup>22</sup> Main Roads Western Australia. *Guidelines for determining and assigning responsibility for roads in Western Australia*. Road Asset Planning Branch, Main Roads Western Australia. 2011. <[www.mainroads.wa.gov.au/Documents/UIDELINES%20FOR%20DETERMINING%20AND%20ASSIGNING%20RESPONSIBILITY%20FOR%20ROADS%20IN%20WA%20%20website%20version%20March%202012.u\\_3640516r\\_1n\\_D12%5E23.PDF](http://www.mainroads.wa.gov.au/Documents/UIDELINES%20FOR%20DETERMINING%20AND%20ASSIGNING%20RESPONSIBILITY%20FOR%20ROADS%20IN%20WA%20%20website%20version%20March%202012.u_3640516r_1n_D12%5E23.PDF)>

such hoardings or other advertising structures erected on private property where the property owner refuses either to remove the sign or transfer it to another site acceptable to the Commissioner.

The penalties for breaches of advertising on main roads are weak, which as set out in the *Main Roads (Control of Advertisements) Regulations 166*, which presently provide for a fine of \$40.<sup>23</sup>

5. Commissioner's approval required for certain advertisements and structures

A person must not —

(a) erect or construct, or cause to be erected or constructed, a hoarding or other advertising structure; or

(b) exhibit, or cause to be exhibited, an advertisement, on or in the vicinity of a highway or a main road without the Commissioner's approval to do so.

Penalty: \$40.

### The commercialisation of public space

There is an extraordinary spectrum of advertising on public infrastructure, ranging from the placement of low key details of local services to the promotion of a wide range of consumer products linked to national campaigns. However, over recent years there has been some blurring of the provision of what would be regarded as core 'public facilities' because local government has been increasingly entering into commercial arrangements for private companies to erect and maintain bus shelters, paid for by paid advertising on these structures managed by these companies.

The appearance of alcohol advertising on public infrastructure provides some advantages to advertisers compared to the more regulated media of television and radio, including that the medium is available 24 hours a day seven days per week and the audience is unrestricted. 'As outdoor media companies are fond of pointing out to potential advertisers, outdoor is the only medium that you cannot turn off (Hampp 2007). As such, the regulation of its content is particularly important.'<sup>24</sup>

The ubiquitous nature of outdoor advertising, which it has been found in recent years to have been the fastest growing sector in the total spectrum of advertising in both Australia and overseas,<sup>25</sup> means that pedestrians who pass along public thoroughfares and motorists who drive on roads are compelled to view the displayed advertising whether they like it or not. This was a major concern in a number of submissions referred to in the 2011 report of the inquiry by the House of Representatives Standing Committee on Social Policy and Legal Affairs into public advertising, such as that from the Castan Centre for Human Rights Law,

'that "outdoor advertising occupies a privileged part in the public space." It is similar to a form of public speech or expression, which needs to be mindful of appropriateness to culture and place.'<sup>26</sup>

A more subtle but arguably important benefit from the perspective of the advertiser and the alcohol industry is that advertising in public places embeds alcohol as being part of every day life,

<sup>23</sup> However, in spite of the importance placed on safety in this legislative framework, there appears to be some scope for discretion, as from the example of when the major southern extension of the Kwinana Freeway, which was named Forrest Highway, was opened. On Forrest Highway advertising is permitted on large elevated stands, where as it is not permitted on Kwinana Freeway and the speed limit is the same on both these major highways, even though both are indistinguishable in design and construction.

<sup>24</sup> Iveson, K. *Submission to Inquiry into the regulation of billboard and outdoor advertising*. Canberra, ACT, Canberra, ACT House of Representatives, Parliament of Australia. 2010.<[www.aph.gov.au/house/committee/spla/outdoor%20advertising/subs/Sub%2046.pdf](http://www.aph.gov.au/house/committee/spla/outdoor%20advertising/subs/Sub%2046.pdf)> p. 2.

<sup>25</sup> Iveson, K. 'Branded cities: outdoor advertising, urban governance and the outdoor media landscape.' (2011) *Antipode: Radical Journal of Geography*<[www.geosci.usyd.edu.au/documents/people/branded\\_cities.pdf](http://www.geosci.usyd.edu.au/documents/people/branded_cities.pdf)>

<sup>26</sup> Standing Committee on Social Welfare, "Drug problems in Australia - an intoxicated society?." p. 19

by in effect 'normalising' its presence and use. The concept of normalising alcohol as an integral part of day to day life is a key to understanding the purpose of advertising and which challenges the conventional wisdom that the purpose of advertising is to primarily to effect brand shift, not increase consumption.

The ANHPA, which was abolished in early 2014 by Abbott Liberal federal government, observed in its 2012 issues paper that social media has enabled literally boundless opportunities for alcohol to be insinuated as a 'normal' part of everyday living, underscoring the pervasive nature of advertising and of the diverse forms it may involve.

'Marketing via new media does not necessarily seek to increase consumption of alcohol beverages initially, rather it may seek to 'normalise' alcohol and drinking as part of everyday life. Jernigan and O'Hara (in Nicholls 2012) argue that digital marketing strategies "have the potential to embed brands in the lives and lifestyles of consumers, creating an intimate relationship and sense of kinship between the brand and the user." Furthermore, promoting the idea of alcohol as part of everyday life, the acceptability of more restrictive policies and practices may be affected.'<sup>27</sup>

We should be aware that serious concern about the weakness of the regulatory regime on advertising and promotion on alcohol and how this has facilitated the increased consumption of alcohol, is not an uniquely Australian issue, but has attracted the interest of researchers and policy makers, especially concerned about growing levels of alcohol use by young people, identified in Australia<sup>28</sup> and the United Kingdom<sup>29</sup> and the United States.<sup>30</sup> Alcohol Policy UK cited the evidence in the "Stick to the facts" report by Alcohol Concern, as justifying for there to be a

'major shake up of the alcohol advertising regulation framework to achieve a better balance between public health concerns and commercial freedoms. (As)... advertising creates social norms around alcohol and promotes the normalisation of drinking in society. Exposure to alcohol marketing is linked to consumption, particularly in the under 18's. ... a sensible policy response is needed (and that there be) ... a ban on advertising at all sporting, cultural and music events.'<sup>31</sup>

It has been suggested that the proposals developed by the ANPHA should be regarded as limited because they were framed around measures to constrain established forms of advertising and stop the use embedding of brands and logos especially in relation to sports sponsorship.

'This approach is inadequate to deal with the wide-ranging and innovative ways alcohol brands use data-driven, real-time, participatory and culturally embedded marketing tactics. ...

<sup>27</sup> Australian National Preventive Health Agency, "Alcohol advertising: the effectiveness of current regulatory codes in addressing community concerns: Issues paper.", 15.

<sup>28</sup> National Alliance for Action on Alcohol. *The impact of alcohol marketing on children: the evidence and need for immediate action*. National Alliance for Action on Alcohol. 2014.<[www.actiononalcohol.org.au/downloads/call-to-action-on-alcohol-advertising.pdf](http://www.actiononalcohol.org.au/downloads/call-to-action-on-alcohol-advertising.pdf)>

<sup>29</sup> Hastings, G. "They'll drink bucket loads of the stuff" *An analysis of internal alcohol industry advertising documents*. Alcohol Education & Research Council.

2010.<[http://alcoholresearchuk.org/downloads/finalReports/AERC\\_FinalReport\\_0071.pdf](http://alcoholresearchuk.org/downloads/finalReports/AERC_FinalReport_0071.pdf)>; Alcohol Concern. *Stick to the facts: Alcohol advertising regulation that balances commercial and public interest*. London, UK, London, UK Alcohol Concern.

2013.<[www.alcoholconcern.org.uk/assets/files/Publications/2013/stick\\_to\\_the\\_facts\\_report.pdf](http://www.alcoholconcern.org.uk/assets/files/Publications/2013/stick_to_the_facts_report.pdf)>; Hastings, G, and K Angus. *Under the influence: The damaging effect of alcohol marketing on young people*. London, UK, British Medical Association, 2009. <[www.bma.org.uk/images/undertheinfluence\\_tcm41-190062.pdf](http://www.bma.org.uk/images/undertheinfluence_tcm41-190062.pdf)>

<sup>30</sup> European Centre for Monitoring Alcohol Marketing. *US research: Underage drinkers heavily exposed to magazine ads for alcohol brands they consume*. European Centre for Monitoring Alcohol Marketing. 9 July 2014.<<http://www.eucam.info/eucam/home/news.html/1881/3407/>>

<sup>31</sup> Alcohol Policy UK. 'Stick to the facts': *Alcohol Concern call for tougher regulation on alcohol advertising*. Alcohol Policy UK. 12 August 2013.<[www.alcoholpolicy.net/2013/08/stick-to-the-facts-alcohol-concern-report-on-alcohol-advertising-and-regulation.html](http://www.alcoholpolicy.net/2013/08/stick-to-the-facts-alcohol-concern-report-on-alcohol-advertising-and-regulation.html)>

The more engagement brands generate the more visible they will be in the news feeds of consumers. Brands get consumers to play an active part in creating, adapting and circulating brand messages. They create content that mirrors the personalities, practices and interests of consumers. This generates affinity between the brand and consumers on Facebook. Alcohol brands use Facebook to get consumers to incorporate alcohol consumption into the stories they tell about their everyday lives. For example, a typical Friday afternoon post by Bundaberg Rum featured the Bundy Bear looking at his watch and telling fans it was only “118 minutes till Rum O’Clock”.<sup>32</sup>

The proliferation of images of alcohol involving scenarios identifying its pleasurable consumption, is readily transformed into being the fabric of everyday by its presence as advertising on public infrastructure. We are able to readily recognise the more familiar forms of alcohol advertising which colonise the edges of public space, in the nature of posters and large signs affixed to walls of buildings and free standing hoardings, as well as other forms, such as temporary signs placed on footpaths, which physically intrude into public space.

However, the presence on advertising on structures and facilities along road sides and in public parks which make up the fabric of a civic society seems to contradict the principle that all members of community have the right to use public space by permitting one interest to occupy that space by excluding others.

The regulation of bus shelters may also be affected by questions of who may own the bus shelter, arising from local government entering into exclusive contracts with companies, such as APN and Adshel, to erect and maintain bus shelters and other forms of street furniture. In return for the payment received, the local authority grants the operating company third party advertising rights derived from renting out the sides of the bus shelter, the kiosk or seating, with attendant risks of censorship and exclusion.

The rationale for local government to commercialise the use of public space appears to be an apparently rational and logical market driven method for overcoming fiscal problems facing local government which may have limited funds for certain public purposes, raises concerns about the operation of this model. For instance, as public bus shelters operated by private companies will only be constructed in a selective manner, such as on high traffic volume major roads and in close proximity to stopping points to ensure that motorists are exposed to the advertising displayed on them, does not seem to reflect community needs but those of business.

### Case study of a local authority

The foregoing overview of the division of the sphere of regulatory coverage between Main Roads, the WA Planning Commission and local authorities means that local authorities in WA have a broad power to regulate advertising in relation to roads which do not fall under the MRWA road system, ie those not classified as either main roads or highways.

This distinction also points to the importance of identifying who “owns” a particular piece of public space, as determinative of who has the authority to restrict or regulate its use for the purpose of advertising. An example of this issue is the recent case of the naming rights to Subiaco Oval, which occurred in early 2010, which involved the issue of whether the City of Subiaco’s Advertising Signs Policy was applicable to the display of new signage on the perimeter of the oval, because the WA Football Commission had entered into a lucrative financial arrangement to rename it Paterson’s Stadium.

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<sup>32</sup> Carah, N , and S Brodmerke. *New face of alcohol promotion defies advertising restrictions*. The Conversation, The Conversation 19 May 2014.<<http://theconversation.com/new-face-of-alcohol-promotion-defies-advertising-restrictions-26171>>

The Advertising Signs Policy was intended to cover the field through its broad definition of advertising, viz.<sup>33</sup>

'The term 'advertising sign' has the same meaning as 'advertisement' in Schedule 1 of Town Planning Scheme No. 4 (the Scheme) as follows:

Advertisement: means any word, letter, model, sign, placard, board, notice device or representation, whether illuminated or not, in the nature of, and employed wholly or partly for the purposes of, advertisement, announcement or direction, and includes any hoarding or similar structure used, or adapted for use, for the display of advertisements. The term includes any airborne device anchored to any land or building and any vehicle or trailer or other similar object placed or located so as to serve the purpose advertising.'

The issue who owned the piece of land on which Subiaco Oval was located was a key factor in the case and of whether the WA Football Commission could under a \$3.5 million contract with Patersons Securities rename it "Patersons Stadium".<sup>34</sup> The City of Subiaco asserted that it did not agree to the renaming of Subiaco Oval as it had an established heritage value which implied restricted signage and therefore it would not issue a license for new signage.

However, the City of Subiaco discovered that it did not hold the necessary power to block the sale of naming rights, because the oval was located in a public reserve known as the Subiaco Municipal Oval Reserve, which even though it had been vested to the City of Subiaco, as it was classified for a specific purpose under the Metropolitan Region Scheme, the power to permit changes in the use of the reserve rested with the WA Planning Commission.<sup>35</sup> The WA Planning Commission therefore decided that the proposed signage displaying the new name was consistent with the manner of how the oval had been used for commercial purposes by the Football Commission.

In addition to the City of Subiaco's advertising signs policy, the City has a number of other provisions that support the proposition that a local authority is able to regulate alcohol and other forms of advertising on public space controlled by the local authority. These included its *Streetscape Policy*, its *Signs Local Law 2004* and its *Activities in Thoroughfares and Public Places Local Law 2003*, as well as the City of Subiaco's Town Planning Scheme No. 4. All of these are statutory instruments and provide the City of Subiaco with considerable powers to closely regulate a wide variety and forms of advertising, such as provided in Section 3.2 Advertising signs and portable direction signs in the *Activities in Thoroughfares and Public Places Local Law 2003*:

- (1) A person shall not, without a permit –
  - (a) erect or place an advertising sign on a thoroughfare; or
  - (b) post any bill or paint, place or affix any advertisement on a thoroughfare.
  
- (2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500mm in height nor 0.5m<sup>2</sup> in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.
  
- (3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign -
  - (a) on a footpath;

<sup>33</sup> City of Subiaco. *2.18 Advertising signs policy*. Subiaco, WA, Subiaco, WA City of Subiaco. 24 August 2010.<[www.subiaco.wa.gov.au/CityofSubiaco/media/City-of-Subiaco/Planning-and-development/Town-planning-controls-and-policies/2-18-Advertising-Signs-Policy.pdf](http://www.subiaco.wa.gov.au/CityofSubiaco/media/City-of-Subiaco/Planning-and-development/Town-planning-controls-and-policies/2-18-Advertising-Signs-Policy.pdf)>

<sup>34</sup> The Football Commission had been granted a lease in 1999 with the City of Subiaco to conduct commercial activities at Subiaco Oval.

<sup>35</sup> Statutory Planning Committee. *Proposed development application for signage, Lot 12732 (No. 306-324) Roberts Road, Subiaco*. Perth, WA, Perth, WA Western Australian Planning Commission., 8 February 2010.<[www.planning.wa.gov.au/dop\\_pub\\_pdf/20110208\\_Statutory\\_Planning\\_Committee\\_Agenda\\_part2c.pdf](http://www.planning.wa.gov.au/dop_pub_pdf/20110208_Statutory_Planning_Committee_Agenda_part2c.pdf)>

- (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;
- (c) on or within 3m of a carriageway;
- (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
- (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

The penalties under the City's for breaches of these laws applicable to signs can be substantial, for instance a fine of up to \$5,000 under the *Signs Local Law 2004*. There is also a linkage between the objectives spelled out in the City of Subiaco's *Liquor Licensing Policy*<sup>36</sup> and local laws and policies that regulate the use of public space, which together establish a framework to produce a social environment which places primacy on the community being able to enjoy public spaces by constraining the extent to which commercial interests may operate in public spaces. The City's *Liquor Licensing Policy* drew harsh criticism from a number of business interests when it was proclaimed in 2007, such as that from a body representing the liquor industry.

'The State Government's move to liberalise WA's liquor laws has been dealt a major blow by a City of Subiaco push to ban small bars from its entertainment district and put tough restrictions on the number of restaurants which can serve alcohol to patrons who are not eating.'<sup>37</sup>

A review has recently been announced by the City of Subiaco of its planning policies, with has again evoked harsh criticisms about the 2007 alcohol policy by a number of operators of bars and other licensed outlets, claiming that reform of the policy would "revitalise" and "reinvigorate" the life in Subiaco.

'A policy restricting new bars within 100m of parts of Subiaco's high street could be reviewed within weeks in a move frustrated business owners hope may breathe new life into the suburb. The move comes amid concerns the city is not doing enough to support small business and hospitality in the area, at the expense of its vibrancy.'<sup>38</sup>

Another critical response to the proposed revised the liquor policy released for public comment sought to colour the revision as adding to the regulatory burden of businesses applying for a liquor licensing because of the stipulation by the City in the policy for an additional level of public interest input.

'This is a significant move by the City as it will increase its powers to consider and impose conditions relating to liquor licensing at a planning application stage. This is an unusual position for a local government to take given the role of the Department of Racing, Gaming and Liquor under the Liquor Control Act 1988.

One of the most controversial changes to the Policy is the requirement for a Public Interest Assessment as part of the planning approval phase. This will be required where a proponent requires a new liquor licence (rather than an amendment to an existing one) as part of a proposed development. The assessment will need to consider issues such as the distribution of mixed land uses in the area, and the cumulative impact of the liquor licence.

<sup>36</sup> City of Subiaco. *4.7 Liquor licensing policy*. Subiaco, WA, Subiaco, WA City of Subiaco. 16 October 2007.<[www.subiaco.wa.gov.au/CityofSubiaco/media/City-of-Subiaco/Planning-and-development/Town-planning-controls-and-policies/2-12-Liquor-Licensing-Policy.pdf](http://www.subiaco.wa.gov.au/CityofSubiaco/media/City-of-Subiaco/Planning-and-development/Town-planning-controls-and-policies/2-12-Liquor-Licensing-Policy.pdf)>

<sup>37</sup> Riley S. *Subiaco plan sinks liquor laws*. ClubConnect. 27 July 2007.<[www.clubconnect.com.au/news/2007/07/news13022.asp](http://www.clubconnect.com.au/news/2007/07/news13022.asp)>

<sup>38</sup> Emery, K. *Red tape chokes old favourites: traders*. The West Australian, 3 August 2014. <<https://au.news.yahoo.com/thewest/a/24619118/red-tape-chokes-old-favourites-traders/>>

This has been criticised as a duplication of the liquor licensing application system, which already requires a Public Interest Assessment and currently occurs after the planning application stage. It will provide the City with a greater ability to place conditions on a planning approval, and assess public interest issues which are typically not planning considerations.<sup>39</sup>

Whilst the proposed revised alcohol policy is still out for public comment, nevertheless, if the pressure to liberalise the 2007 policy succeeds, there are grounds to be concerned that other elements of the regulatory framework could be watered down so that the local authority adopt a less restrictive approach towards the use of alcohol and other forms of advertising in public places.

Though other examples can be referred to of how other metropolitan local authorities have sought to manage the intrusion of signs and advertising in public space under their control, some of the policies that have been developed seem to be muted, because they have permitted a substantial degree of commercialisation of the public infrastructure, such as bus shelters, with high levels of advertising and tolerance of the presence of signage on footpaths adjacent to entrances to bottle shops.

## Summary

The inequitable outcomes from the operation of privately managed public bus shelters, in selective locations along major roads, is an important issue for those served by local government. For instance, some local governments may be able to claim as they do not have sufficient resources or have more important priorities, that they will not construct or maintain bus shelters. The impact of this sort of policy can have significant adverse consequences for those with disabilities, for instance, such as the example of a local authority which claimed it was not responsible for building bus shelters.

‘City of Stirling bus users will have to swelter through another summer without shelters at many stops because of a stalemate between the city and State Government over who pays for them. The city council confirmed it had not installed any new shelters because of legal advice it got in 2008. The council has shelters at 450 out of more than 1,350 stops in the city.

Public Transport Authority spokesman David Hynes said the bus shelter grants scheme had \$500,000 available this financial year, with the PTA to contribute up to 50 per cent of the cost for new shelters. Under the scheme, about 50 shelters had been built in partnership with 21 councils in the past year.<sup>40</sup>

It is conceivable that a local authority could refuse to spend on bus shelters and benches, which are of benefit to all members of the community, to substantiate that it was “necessary” to fund community infrastructure through commercial arrangements, which result in a company having an exclusive right to place adverts on these structures.

One unpalatable outcome from such a hard line approach is that disabled persons and socially disadvantaged groups and those living in outer metropolitan areas may have limited provision of important community infrastructure such as bus shelters due to either the inability or failure on the part of the local authority to prioritise allocation of resources.

The social consequences of this sort of failure of policy implementation is even more stark, as the Commonwealth Department of Infrastructure and Transport has promoted and updated disability

<sup>39</sup> Black, C, and GS Ellis. *Controversial liquor licensing policy announced - City of Subiaco moves to expand its powers*. Lexology & Association of Corporate Counsel. 2 September 2014.<[www.lexology.com/library/detail.aspx?g=a10b1b31-5a61-4386-88e8-4e0a5c70e2c2](http://www.lexology.com/library/detail.aspx?g=a10b1b31-5a61-4386-88e8-4e0a5c70e2c2)>

<sup>40</sup> Lacy, B. 'Bus shelter row heats up'. The West Australian, 21 December 2011. <<https://au.news.yahoo.com/thewest/latest/a/12423772/bus-shelters-row-heats-up/>>



standards for public transport.<sup>41</sup> These standards will in effect be like slogans, as without the commitment or sufficient resources, the example referred involving the City of Stirling is probably going to become an increasingly common one.

Perhaps the community may be prepared to accept the presence of limited alcohol advertising in public places if some of the income received from advertising on bus shelters was specifically earmarked to construct shelters in less populous and recently established local government areas, to underwrite what should otherwise be a core role of local government.

For this argument to be fully developed, there are some a range of considerations that need to be articulated. On such consideration is that while alcohol advertising may provide benefits for local government in the nature of revenue and new infrastructure, it comes with costs, as it is necessary to balance commercial imperatives against community directed social planning objectives.

A potential solution to this dilemma is to develop a different framework for regulating alcohol advertising in public places, to ensure that the power of the alcohol and advertising commercial interests are constrained by the adoption of a community-based model of decision-making and oversight instead of the long standing established model of industry self-regulation.

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<sup>41</sup> Department of Infrastructure and Transport. *2012 review of the Disability Standards for Accessible Public Transport 2002 (Transport Standards): Issues paper*. Canberra, ACT, Department of Infrastructure and Transport, 2012. <[www.infrastructure.gov.au/transport/disabilities/review/2012.aspx](http://www.infrastructure.gov.au/transport/disabilities/review/2012.aspx)>

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