

ICAS Submission to the WHO

WHO consultation on the working document for development of an action plan to strengthen implementation of the global strategy to reduce the harmful use of alcohol

This submission is provided by the International Council for Advertising Self-Regulation (ICAS). ICAS is a global platform which promotes responsible advertising through effective advertising self-regulation. It brings together a network of Self-Regulatory Organizations (SROs) from North & South America, Australia, Asia, Africa, and Europe¹ as well as global associations representing the advertising industry (The World Federation of Advertisers (WFA), the International Advertising Association (IAA), the European Publishers Council (EPC), and the World Out of Home Organization (WOO)) and experts on global advertising and marketing laws, the Global Advertising Lawyers Alliance (GALA).²

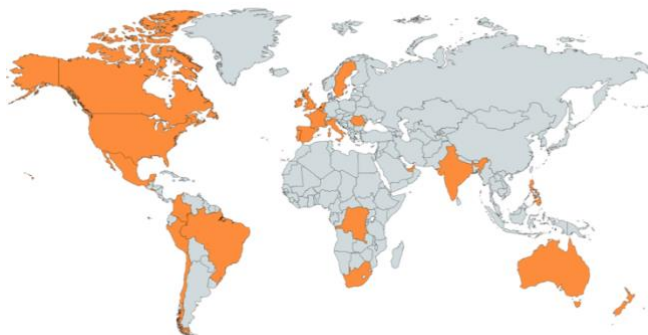


Figure 1- Map of ICAS SRO Members

ICAS welcomes the opportunity to contribute to the WHO consultation on the [Working Document for development of an action plan to strengthen implementation of the Global Strategy to Reduce the Harmful Use of Alcohol](#). Our members have worked over decades to ensure responsible advertising for alcohol beverages through effective self-regulation in many countries across the globe. One of the many strengths of the self-regulatory system is that it provides an additional layer of consumer protection that complements and, in some instances, expands on legal frameworks. Self-Regulatory Organizations keep track of key concerns about advertising and take steps to address them when needed.

We, therefore, suggest that the 2022-2030 WHO action plan to implement the Global Strategy takes into consideration:

- 1- the relentless work done by Self-Regulatory Organizations (SROs) worldwide in advancing responsible advertising, including the advertising of alcohol beverages, across all media and platforms;
- 2- the fact that the protection of children, minors and vulnerable groups is taken extremely seriously by SROs and that applicable advertising codes concerning the marketing communications for alcohol beverages and the rigorous enforcement of these codes can provide strong protections tailored to work with the individual nations' economic and legal systems. The applicable codes are sensitive to the product category and accordingly generally restrict such advertising to appropriate adult audiences and the enforcement measures are transparent and accountable;

¹ ICAS also has in its membership the [European Advertising Standards Alliance \(EASA\)](#). Its membership is composed of 28 independent advertising self-regulatory organizations (SROs), which enforce advertising self-regulatory codes of conduct at national level, and 14 stakeholders representing the advertising ecosystem (advertisers, agencies, media and digital platforms) which are all committed to ensuring responsible advertising.

² List of ICAS members : <https://icas.global/about/members/>. An interactive map of ICAS members can be found [here](#).

- 3- the econometric and social benefits effective and meaningful advertising self-regulation has for consumers, businesses as well as national governments³;
- 4- and, therefore, to recommend to Member States to consider effective advertising self-regulation (or co-regulation⁴ where locally applicable) when considering policy options and to build and/or strengthen a dialogue with the self-regulatory organization in their country.

We strongly believe that the goal to reduce the harmful use of alcohol can best be achieved through strong partnerships and collaboration and we thus would welcome a dialogue and co-ordination of Member States at national level with existing self-regulatory initiatives on alcohol marketing. ICAS and our members stand ready to discuss the best way we could work together to help ensure that alcohol marketing is appropriate, and that children and minors are protected from harmful advertising and marketing practices.

Below, we briefly explain the core principles of advertising self-regulation and what Self-Regulatory Organizations are doing, how it applies to marketing of alcohol beverages and finally, the benefits of the system.

What is advertising self-regulation and what are SROs doing?

Advertising self-regulation is defined by a fruitful collaboration of the whole advertising industry (advertisers, agencies and the media) in developing:

- **robust advertising standards** at a national level;
- **a system for adoption, review and application of these standards;**
- **an adequately funded Self-Regulatory Organization (SRO) which then independently⁵ monitors and enforces these standards.**

The core principles for an effective advertising self-regulatory system:

High advertising standards: The existence of a self-regulatory code of standards or a set of guiding principles governing the content of ads is typically a pre-requisite for establishing a self-regulatory system. Most self-regulatory standards and programs reflect the basic principles that:

- All ads should be prepared with a due sense of social responsibility, notably in terms of being legal, decent, honest and truthful;
- All ads should conform to the principle of fair competition, as generally accepted in business, and consistent with competition laws;
- No ad should impair public confidence in advertising.

³ The benefits of advertising self-regulation are recognized by international organizations such as the Asia-Pacific Economic Cooperation (APEC), the European Union (EU), the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD). See pages 5-6.

⁴ Co-regulation is a system of regulation combining statutory and self-regulatory elements.

⁵ Although Self-Regulatory Organizations (SROs) are primarily funded by the advertising industry, they operate independently. There are several safeguards in place to ensure that complaints on individual ads are decided independently and impartially, and decisions are usually made publicly available to ensure maximum transparency. To find more about how SROs are financed, please read our publication: https://icas.global/wp-content/uploads/2018_10_01_SRO_Funding_Overview.pdf

In most countries, advertising standards are based on the [Advertising and Marketing Communications Code](#) of the International Chamber of Commerce (the 'ICC Marketing Code'). National adjustments are however often made to take into account legal, social, cultural and economic features of the country.

Where the codes contain specific provisions, those provisions are typically agreed upon by an

independent standards-making body within the SRO, and subsequently updated on a regular basis. The main standards are also often accompanied by sectoral guidelines addressing the marketing of specific products or services (e.g., alcohol, cosmetics...) or by issue-specific guidelines (e.g., on interest-based advertising, on advertising to children, on influencer marketing, etc.), or by detailed case-specific guidance on the applicable self-regulatory standards.

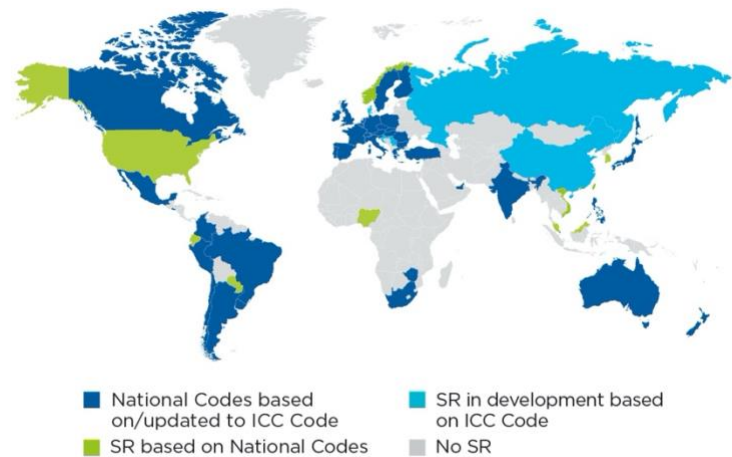


Figure 2 - Use of the ICC Marketing Code worldwide

Comprehensive coverage: The advertising standards cover all forms of marketing communications appearing in all types of media, including digital marketing techniques. The systems also cover all or a large majority of commercial actors in the advertising ecosystem. They all share a common interest in upholding high standards as loss of consumer and public trust can undermine the entire advertising industry.

Proactive compliance services, training and monitoring: To ensure a high level of awareness with the advertising standards, SROs provide a number of services to serve the needs of consumers and of the advertising industry. Educational services are especially important to make sure advertisers, agencies and the media understand their responsibilities and to ensure that there are fewer problems with ads. Such services can include online and in-person courses and trainings, certification programs, conferences, as well as partnerships with universities and other educational institutions.

Many SROs also provide copy advice, i.e., an opinion as to whether the advertisement is compliant with the local advertising standards prior to the dissemination of an advertisement. Some SROs also pre-clear advertisements. Pre-clearance, where done, requires that an ad must be assessed by the SRO as a compulsory pre-condition before it can be disseminated. Such obligation, where it exists, often covers specific media such as TV or radio, or is required for particularly sensitive sectors such as medications and medical devices, ads directed at children, or ads for financial services.⁶

Where possible, SROs also provide monitoring services in relation to specific sectors, sometimes carried out in cooperation with public authorities in co-regulation scenarios. Finally, a few SROs offer mediation services (e.g., in the telecoms sector) and specialized services to address privacy and data protection concerns around marketing practices.

⁶ In 2019, ICAS SRO members processed more than 65,000 copy advice requests. More than 68,000 advertisements were additionally pre-cleared. More information can be found in the [2019 Global Factbook of Advertising Self-Regulatory Organizations](#) available on the ICAS website.

Effective and impartial dispute resolution: In addition to services mentioned above, SROs can provide a quick, efficient and impartial complaint resolution system, which is cost-free for consumers. In most cases, the complaints are examined by an independent body within the SRO. Separate from the standards-making body, this independent body is in charge of determining whether an individual ad is in breach of the applicable self-regulatory standards and/or the applicable advertising laws. Other systems rely on qualified expert staff to make decisions.

Transparency: To ensure accountability and transparency, SROs also generally publish their decisions, or detailed summaries, online. The list of decisions (sometimes called ‘rulings’) or summaries is typically available on the SRO’s website.

Effective sanctions: Most advertisers voluntarily comply with SRO decisions by changing or withdrawing an ad or claim which has been determined as in breach of the standards. Should they refuse to do so, in some regions, SROs ask the media to refuse to publish/run or air the campaign. Ultimately, self-regulatory bodies may refer a situation where an advertiser refuses to comply with a decision or to participate in the self-regulatory process to the appropriate statutory authorities. Options available to the self-regulatory body will depend on the procedures of the self-regulatory organizations, its remit and the existing legal framework. All have proven to be effective in promoting high levels of compliance with self-regulatory decisions.

Advertising Standards and Alcohol Advertising

Ensuring responsible marketing communications for alcohol beverages has been a long-standing priority for advertising self-regulatory organizations across the globe. Especially when it comes to the protection of minors, national advertising codes and guidelines are strict and detailed. Standards usually include provisions specifying that advertising for alcoholic drinks should not be aimed at minors, should not show minors consuming alcoholic beverages, and should not be placed in media, or sponsor events, where a significant percentage of the audience is underage.

Many SROs enforce national programs and standards which reflect the principles of the [Marketing and Advertising Code of the International Chamber of Commerce](#) and its related framework, [the ICC Framework for Responsible Marketing Communications of Alcohol](#).

The industry has also developed further guidelines, principles, sector specific codes and initiatives such as the [Digital Guiding Principles](#) developed by IARD, the International Alliance for Responsible Drinking, and the [Responsible Marketing Pact](#) of the World Federation of Advertisers. The goal of these initiatives is to ensure more transparency and responsibility in the marketing of alcohol beverages, limit underage exposure to alcohol ads, to ensure alcohol ads do not appeal to minors and to ensure minors’ online experience is free from alcohol ads.

The alcohol industry commissions regular independent monitoring exercises against their sectoral codes or principles. International Self-Regulatory Organizations often play a key role in such monitoring exercises. They have monitored, for example, the compliance of beer, wine and spirits producers in their ambition to prevent minors from seeing alcohol marketing. In 2019, 14 SROs across the globe, [monitored](#) 2088 online items against the Digital Guiding Principles and the Responsible Marketing Pact, finding an increase in compliance compared to the previous year⁷.

⁷ Major international and Europe-wide monitoring exercises are co-ordinated by EASA. For more information see: <https://www.easa-alliance.org/products-services/monitoring-projects>

SROs also review complaints from consumers and from competitors and can also conduct monitoring exercises on their own initiative. For instance, the Advertising Standards Authority (ASA) in the UK monitors the exposure of children to TV ads for alcohol and gambling. Its latest report reveals a further decline in children's exposure to all TV ads in the UK, which is likely driven by a decrease in TV viewing amongst children. But it also suggests that children's exposure to TV ads for alcohol in the UK is falling at a faster rate than their exposure to all TV ads. Between 2008 and 2019 children's exposure to TV alcohol ads in the UK decreased by two thirds, from an average of 2.8 to an average of 0.9 ads per week.⁸

The Benefits of Advertising Self-Regulation and its International Recognition

The core principles of advertising self-regulation as detailed above and the work done specifically around alcohol advertising and the protection of minors, show that the self-regulatory system has numerous benefits for policy makers, consumers, marketers, and society as a whole.

For policy makers: Self-regulatory ad standards provide an additional layer of consumer protection that complements the legal framework. National advertising self-regulatory bodies help educate and thus avoid problems before they happen by providing training and copy advice. They keep track of key concerns about advertising and take steps to address them when needed. Self-regulation is also more efficient and faster than the legal process to adapt to technological and societal changes.

For marketers: It is often estimated that one-third to one-half of a company's market capitalization is represented by its brand reputation, which is why consumer trust in the brand is crucial to corporate success. Advertising self-regulation, through the promotion of responsible advertising, helps build consumer trust in brands. Maximized returns on long term investments on advertising benefit not only advertisers but also agencies and media, who will see a higher demand for creative yet responsible advertising. Advertising self-regulation also ensures an impartial and level-playing field for brands.

For consumers: Self-regulation provides an effective, inexpensive (typically cost-free), fast and efficient solution to handle consumer complaints. An efficient and meaningful self-regulatory system makes sure that advertising remains responsible and thus ensures a high level of consumer protection.

The benefits of advertising self-regulation are recognized by international governmental organizations such as the Asia-Pacific Economic Cooperation (APEC), the European Union (EU), the Organization for Economic Cooperation and Development (OECD) and the United Nations Conference on Trade and Development (UNCTAD).

- The Asia-Pacific Economic Cooperation (APEC)⁹ and the Organisation for Economic Cooperation and Development (OECD)¹⁰ have both recognized advertising self-regulation's important role and called for greater capacity building of such systems.
- The United Nations Conference on Trade and Development (UNCTAD) states in the 'Guidelines for consumer protection'¹¹ that Member States should encourage the

⁸ For more details and findings please read the ASA report: [Children's exposure to age-restricted TV ads : 2019 update](#)

⁹ [Asia Pacific Economic Cooperation \(APEC\) Joint Ministerial Statement](#), APEC, 2017

¹⁰ Industry Self Regulation : ROLE AND USE IN SUPPORTING CONSUMER INTERESTS, OECD (2015-03-01), OECD Digital Economy Papers, No. 247, OECD Publishing, Paris. <http://dx.doi.org/10.1787/5js4k1fjgkwh-en>

¹¹ UNCTAD Guidelines for Consumer Protection, 2015. https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf , item 31 ; UNCTAD Manual on Consumer Protection, 2018. Page 45 https://unctad.org/system/files/official-document/ditccplp2017d1_en.pdf

formulation and implementation of codes of marketing and other business practices to ensure adequate consumer protection.

- In Europe, effective advertising self-regulation is promoted as a complement to general legislation within several policy and regulatory initiatives, such as the Audiovisual Media Services Directive (AVMSD). The revised AVMSD expressly encourages self-regulation and the use of codes of conduct in relation to alcohol marketing.¹²
- The European Union's Better Regulation package¹³ commends principles for effective self-regulation and its inclusion in the policy toolkit and regulatory impact assessment.
- In the US, the regulatory authority primarily responsible for oversight of advertising and marketing practice, the Federal Trade Commission (FTC) recognizes the role and efficacy of advertising self-regulation, and actively promotes participation by members of the advertising ecosystem. FTC guidance has spurred evolution of self-regulatory requirements, and the enforcement programs of the NAI and DAA, regarding interest-based advertising, offering a first line of compliance enforcement, reducing the burden on regulators.¹⁴

For more information, please contact



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¹² Recital 29 of the [Directive \(EU\) 2018/1808 concerning the provision of audiovisual media services \(Audiovisual Media Services Directive\)](#) states: 'Similarly, Member States should be encouraged to ensure that self- and co-regulatory codes of conduct are used to effectively reduce the exposure of children and minors to audiovisual commercial communications for alcoholic beverages. Certain self- or co-regulatory systems exist at Union and national level in order to market alcoholic beverages responsibly, including in audiovisual commercial communications. Those systems should be further encouraged, in particular those aiming at ensuring that responsible drinking messages accompany audiovisual commercial communications for alcoholic beverages.'

¹³ [European Union's Better Regulation Package](#), European Commission, 2015

¹⁴ See [Letter from Federal Trade Commission to National Advertising Division](#) in re Advertising by Creekside Natural Therapeutics LLC, for Creekside Focused Mind Jur. Dietary Supplement, March 31, 2020; see also [Electronic Retailing Self-Regulation Program in re Advertising](#) by Alo LLC, d/b/a Alo Yoga, June 20, 2019