

Nation Liquor News

DSICA Column — October 2007

Retailer Alert Scheme

By Gordon Broderick

During the middle of the year, the Victorian Minister for Consumer Affairs announced that the Victorian Government would ban an alcohol product sold in a tube. A number of Australian states have this power, although it is rarely ever used. DSICA is only aware of one other product in recent years – Moo Juice – receiving similar treatment. NSW has also banned frozen alcohol and alcohol vapour products.

In a further effort to promote responsible consumption of alcohol, the alcohol industry has decided to introduce an exciting new initiative. It plans to make the most significant changes in a decade to the ABAC Scheme, whereby its current coverage will be expanded to include naming and packaging of alcohol beverages. A process will set up known as the Retailer Alert Scheme.

If this change was announced by government the health lobby would be shouting from the roof tops. Disappointingly, however, the health lobby's response has ranged from grudging support to cynical opposition. To their credit, the Commonwealth and NSW Governments have provided strong support for this initiative. More about this later.

Under the current arrangements, alcohol advertising is regulated by the ABAC Code, but the names or packaging of products are not covered. Therefore, a product with an entirely inappropriate name or design could end up on our shelves. But as long as the producer didn't advertise, the product would not be subject to the ABAC Scheme. The alcohol industry identified this as a regulatory gap.

In terms of international experience, the Portman Group in the UK, a self-regulatory body funded by the alcohol beverage industry, has developed a *Code of Practice on the Naming, Packaging and Promotion of Alcohol Drinks*. The operation of this Code since its inception in 1989 has been highly successful. Since then, over 70 products have been removed from the market as the result of upheld complaints, either permanently, or until their name or packaging could be amended in line with the Code's rules. (Compare 70 products to the 2 or 3 banned in Australia!)

Some of these names would make a sailor blush. The printable ones include Dooleys, Love Juice, and Rocket Fuel Vodka.

As mentioned, Australia's proposed Retailer Alert Scheme will extend the reach of the ABAC standards to also cover the naming and packing of alcohol beverages. Such standards aim to ensure that alcoholic beverages are named and packaged in a manner that presents a mature, balanced and responsible approach to the consumption of alcohol beverages, and accordingly must not encourage excessive consumption or abuse of alcohol, encourage under-age drinking, suggest a change of mood or promote offensive behaviour.

But before the industry introduces the Retail Alert Scheme, it must receive approval from the Australian Competition and Consumer Commission (ACCC) to introduce such a scheme. This involves applying for an "authorisation" under the Trade Practices Act. The authorisation process involves several rounds of public consultation to allow "interested parties" to comment on the scheme.

In all, the ACCC has received a first round of 14 submissions from interested parties. Almost all submissions were from the health lobby or government bodies. Overall, there was broad support for a Retailer Alert Scheme, and the general view was that any costs associated with restricting competition would be outweighed by the benefits from the proposed scheme.

Disappointingly, a number of submissions decried industry's efforts regarding this exciting new initiative. For example, in an email submission from the Alcohol and other Drugs Council of Australia (ADCA) they suggested that "the main purpose served by this proposal is for the alcohol industry to be seen to be doing something about harmful drinking in order to avert more effective government regulation". It appears that the industry is damned if they do, and damned if they don't.

DSICA encourages readers to view these submissions to the ACCC (see link below). It provides an extremely interesting but concerning insight into the mind-set of some elements of the health lobby.

It is expected that the ACCC will issue a final determination regarding the industry's application later this month. If this is granted then the industry will roll out the scheme, with a planned start up date of 1 January 2008. The industry is very excited about the new scheme and we earnestly believe that along with other measures, it will help reduce levels of underage drinking and alcohol misuse.

<http://www.accc.gov.au/content/index.phtml/itemId/789886/fromItemId/278039/display/submission>)