

The End of the Line for Alcohol Ads on Public Transit

A Marin Institute Report

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The Marin Institute fights to protect the public from the impact of the alcohol industry's negative practices. We monitor and expose the alcohol industry's harmful actions related to products, promotions and social influence, and support communities in their efforts to reject these damaging activities.

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Cover Photo: Endless Bud Light advertisements on a New York subway car.

The End of the Line for Alcohol Ads on Public Transit

Executive Summary

The nation is currently facing an epidemic of underage drinking, astronomical costs of alcoholism, and a chronically underfunded health care system fueled by alcohol-related problems. It is a tragic irony that a handful of major public transit systems still allow public advertising of alcohol – on bus shelters, around kiosks, inside buses and rail cars, on street “furniture,” and even as entire bus wraps.

This report is based on a survey of the alcohol advertising policies of 25 public transit agencies nationwide. Twenty agencies out of 25 surveyed were responsive to our inquiries. We found that 75% have policies prohibiting alcohol advertising. Only 10% of responding public transit agencies have policies explicitly allowing alcohol advertising. We describe which agencies have the best policies and which have the most room for improvement.

The New York and Boston public transit agencies lag far behind national trends that protect children from alcohol advertising. Major cities and metropolitan areas like Chicago, Los Angeles, Washington D.C., San Diego, Philadelphia, and the San Francisco Bay Area do not allow alcohol advertising on public transit.

Starting in December 2007, San Francisco will lead the way in tough enforcement in their new contract with Clear Channel, requiring \$5000 per day per violation of advertising codes. Seattle uses the best model language for controlling direct advertising and subtle methods of product placement and promotion.

It is no coincidence that the two agencies with the most troubling policies and highest reports of alcohol advertising in the country are primarily state-controlled authorities. The States of New York and Massachusetts need to take action, and the boards of these two agencies should be making the changes now. Publicly-funded transit agencies should not be doing the dirty work of big alcohol corporations in getting our kids hooked on liquor, beer, and wine.

Summary of Findings

- A full 75% of responding public transit agencies have policies that prohibit alcohol advertising.
- Only 10% of responding public transit agencies have policies that claim to protect children, and yet still allow alcohol advertising.
- The New York and Boston public transit agencies lag far behind national trends that protect vulnerable children from alcohol advertising.
- Major cities and metropolitan areas like Chicago, Los Angeles, Washington D.C., San Diego, Philadelphia, and the entire San Francisco Bay Area do not allow alcohol advertising on transit.
- San Francisco leads the way in tough enforcement in its new contract with Clear Channel, requiring \$5000 per day per violation of advertising codes. Both San Francisco and Chicago give a two-day warning.
- Seattle uses model language for controlling direct advertising and subtle methods of product placement and promotion.

Background on Alcohol Ads and Underage Drinking

Underage drinking remains an intractable public health problem. The most recent government figures come from the Surgeon General's office, which estimates there are 11 million underage drinkers in the U.S.¹ Each year more than 3,000 people die from alcohol-related injuries involving underage drinking. Other societal impacts include crime, violence, unsafe sex, and suicide. Alcohol is by far the most used drug among teenagers. The total national cost due to underage drinking was estimated at \$61.9 billion in 2001.² While the Surgeon General's

2007 report on underage drinking steered clear of the more controversial aspects of alcohol marketing to youth, it did recommend that “communities urge the alcohol industry to voluntarily reduce outdoor alcohol advertising.”

The connection between youth exposure to alcohol ads and underage drinking is well documented.³ Quite simply, the more ads kids see, the more likely they are to drink, and to drink to excess.⁴ While little research has been conducted on the specific connection between outdoor advertising and underage drinking, one study of alcohol ads near Chicago schools found that “exposure to outdoor alcohol advertising around schools is associated with subsequent youth intentions to use alcohol” even among sixth-grade nonusers of alcohol.⁵

Moreover, the Institute of Medicine recommends that alcohol and advertising companies refrain from marketing practices that have “substantial underage appeal” and should “reduce youthful exposure” to alcohol advertising.⁶

Why Focus on Public Transit?

In considering local strategies for restricting alcohol ads to which youth are most likely to be exposed, public transit represents an important area for study and public policy action.

Transit advertising is a particularly attractive medium to advertisers, as evidenced by research from New York that describes transit passengers:

Participants in focus groups in New York City have said they welcome advertising in subway cars because the advertisements help them avoid uncomfortable eye contact with other riders and provide something to look at during trips.⁷

Advertising on public transit can take many forms. These include, for buses, exterior, interior, wraps, stops or shelters; for trains, interior, platforms, branded cars or stations, various parts of stations; and for any property, ads on maps, tickets, fare cards, and even transfers. With advancing technology, some

agencies have started to use the walls of tunnels to create “moving picture” ads. For example, in 2005, Chicago Transit Authority (CTA) proudly announced that:

Through the windows of the moving trains, customers will see a moving picture ad appear on the tunnel wall. This new advertising medium is expected to generate \$100,000 annually in revenue for CTA. This innovative technology allows CTA to use tunnel space, which in the past has not normally been considered an attractive ad space for companies, to generate additional advertising revenue to support CTA operations.⁸

This technology is currently in operation, with alcohol ads, on Boston public transit.

National Trends

There is little doubt that alcohol advertising is on the decline on public transit and government-controlled outdoor media. Answer.com cites the trend in its industry report on advertising services:

Historically, outdoor advertising agencies have relied heavily on tobacco and alcohol advertising — at one point these accounts provided more than 50 percent of their revenue. However, in the past few decades outdoor advertising of these products has dropped substantially because of the public's increasing concern for health and safety.⁹

CBS Outdoor, a division of CBS Corp., is one of the two main outdoor advertisers for most transit agencies. CBS Outdoor has continually admitted to the decline in revenues in alcohol advertising in its annual K-10 report to the Securities and Exchange Commission:

State and local governments continue to initiate proposals designed to limit outdoor advertising of alcohol. Other products and services may be targeted in the future. Legislation regulating alcohol-related advertising due to content-related restrictions could cause a reduction in Outdoor's direct revenue from such advertisements and a simultaneous increase in the available space on the existing inventory of billboards in the outdoor advertising industry.¹⁰

Like tobacco advertising before it, the end of the line is near for alcohol advertising on public transit.

Survey of Top Transit Markets Ad Policies

According to a 2004 survey, 86% of agencies reported having a written advertising policy.⁷ Most policies contain a list of prohibited or restricted advertising. Marin Institute conducted our own survey to determine which of the top transit markets in the country and within California do not allow alcohol ads.

Methods

We developed a list of the top 20 national transit systems by passenger trips and the top 10 within California. In total we surveyed 25 agencies because of overlap of those criteria.

Despite repeated phone calls and open records act requests, 5 transit systems did not provide any information. As a result, 20% (5 of the 25 agencies) had to be excluded from our results as non-responsive.¹¹



Advocates in Boston have been asking for elimination of alcohol ads from MBTA.

Results

We classified the 20 responsive transit agencies into three different categories according to their advertising policies and procedures.

The first category—“*inadequate or no written policy*”—contains agencies whose policy and procedures on advertising are very broad and do not specifically prohibit any type of advertising. Three transit systems fall within this category; Dallas Area Rapid Transit, San Diego Metropolitan Transit System and Sacramento Regional Transit District.

TRANSIT AGENCIES – INADEQUATE RESPONSE OR NON-RESPONSIVE

Non-Responsive Agencies – 5	
New Jersey Transit	Maryland Transit Administration
Denver Regional Transportation District	Metropolitan Atlanta Rapid Transit Authority
Southern Metrolink CA	
Inadequate Policies or No Written Policy – 3	
Dallas Area Rapid Transit	San Diego Metropolitan Transit System
Sacramento Regional Transit District	

The second category—“*advertising policy that allows alcohol ads*”—represents those transit agencies with advertising policies that prohibit many things other than alcohol ads. Two agencies fall within this category; Metropolitan Transit Authority- State of New York (NYMTA) and Boston’s Massachusetts Bay Transportation Authority (MBTA). (See below for details)

TRANSIT AGENCIES THAT CLEARLY ALLOW ALCOHOL ADS – 2

Metropolitan Transit Authority - State of New York	Massachusetts Bay Transportation Authority
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The final category—“*advertising policy does not allow alcohol ads*”—contains those fifteen agencies with advertising policies that specifically prohibit alcohol advertisement. The table below presents the agencies in this category.

TRANSIT AGENCIES THAT DO NOT ALLOW ALCOHOL ADS

National – 8	California – 7
Chicago Transit Authority	Los Angeles County, Metropolitan Transport Authority
Southeastern Pennsylvania Transportation Authority	San Francisco Municipal Transportation Agency
Washington Metropolitan Area Transportation Authority	Orange County Transportation Authority
King County Seattle Metro Transit Division	Alameda Contra Costa Transit District
Metropolitan Transit Authority of Harris County Texas*	Santa Cruz Metropolitan Transit District
Miami-Dade Transit	Golden Gate Transportation District
Tri-County Metropolitan Transportation District of Oregon	Bay Area Rapid Transit District
City & County of Honolulu Department of Transportation Services	

*Harris County does not allow any for-profit advertising.

Seventy-five percent (15 of 20) of the responding public transit agencies have policies prohibiting alcohol advertising. Our national survey is limited in that we were unable to verify for every agency whether or not such ads actually exist. While we were encouraged to find many agencies with policies that do not allow alcohol ads, we cannot in full confidence report that these policies are being enforced. For example, in early 2007, Marin Institute found that San Francisco’s policy, which prohibits alcohol ads, was not being followed.¹² After complaints by Marin Institute, it appeared to be enforced for about six months, until CBS Outdoor posted Anheuser-Busch beer ads during the lucrative time period of the baseball All-Star Game.

We have confirmed with pictures and reports that in 10% (2 of 20) of the responding agencies (New York and Boston) that clearly have policies allowing alcohol ads, such ads are commonplace.

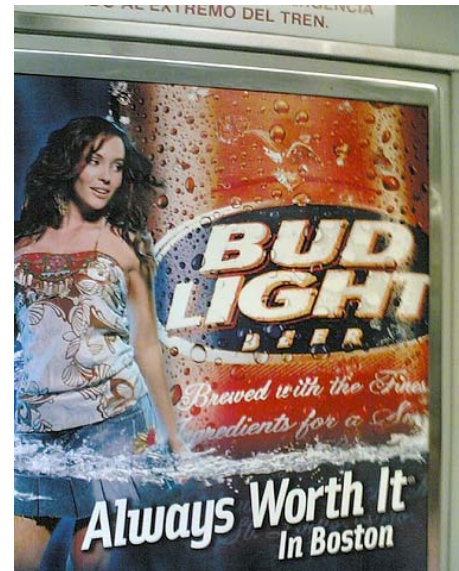
New York and Boston: Why is Alcohol Not Part of the Policy?

While it's certainly better to have a policy rather than not have one, we were perplexed by New York and Boston's contradictory policies. Each contains an extensive list of types of ads that are not allowed, but does not include alcohol.

New York's policy contains 15 advertising provisions including no "typography that can be construed as replicating or having the look of graffiti or 'scratchitti.'" Moreover, the NYMTA advertising policy aims to protect minors from exposure to advertisements for pornography, since it is illegal for them to purchase such materials. However, alcohol is also illegal for minors to purchase and yet the agency is apparently unconcerned about youth exposure to alcohol advertisements.

Boston seems similarly concerned with minors, but not so regarding alcohol. Boston's policy states that one of the main goals of its transit system is "maintaining a safe and welcoming environment for all MBTA passengers, including minors who travel on or come in contact with the MBTA system." However, in exposing minors to alcohol ads, the transit agency is clearly failing to achieve this goal.

Boston's advertising policy has twelve provisions in its policies and procedures that state (among other things) that no tobacco, violence or nudity is allowed. One specific provision prohibits 'adult-oriented goods or services', or those products which would be inappropriate for a minor. In this provision, they include "films rated 'X' or 'NC-17,' video games rated M or AO, adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments, adult telephone services, adult Internet sites, and escort services." Alcohol is similarly an adult product and is inappropriate for minors.



The ads may be worth it for Boston's MBTA, but not for underage youth.

Model Policy Language – Seattle and Philadelphia

Seattle is very specific in what can and can not be advertised on its transit system. Its policy allows little room for misinterpretation and covers the entire range of alcohol products and the imagery used by companies to advertise them. The policy prohibits any advertising that “promotes or depicts the sale, rental, or use of, or participation in, the following products, services or activities; or that uses brand names, trademarks, slogans or other material which are identifiable with such products, services or activities...beer, wine, distilled spirits or any alcoholic beverage licensed and regulated under Washington law.”

Another model policy is that of the city of Philadelphia, which actually goes the furthest in not allowing alcohol advertising on any government property.

Model Enforcement Policies – San Francisco and Chicago

We only found two transit systems that punish contractors who violate their advertising policies and procedures: San Francisco and Chicago. A new 15-to-20-year contract starting in December 2007 between San Francisco Municipal Transportation Authority and Clear Channel includes \$5000 a day liquidated damages penalties should the advertising policies be violated two days after an enforcement letter is sent. This is a dramatic improvement over the current un-enforced contract with CBS Outdoor.

The San Francisco Municipal Transportation Authority contract states:

Failure to Comply with Advertising Policy. In the event that Contractor fails to comply with the San Francisco Municipal Transportation Authority’s Advertising Policy, as required in Section 10.1, the City may impose liquidated damages. For purposes of this Section, a “violation” is a failure to comply in the context of a single advertisement. For each violation during the term of the Agreement, City may impose liquidated damages in the amount of \$5,000.00 per Day if the Contractor fails to cure the violation within two Days.

The Chicago Transit Authority contract states:

Contractor must remove any advertisement found to be unacceptable within two (2) business days upon CTA's written or verbal notification. Failure to remove such advertisements will result in a fine of \$1,000 per individual remaining advertisement that remains posted after two (2) business days.

Other agencies do not appear to punish violations but instead demand that the contractor remove the advertisement and pay for the cost of its removal. A typical example of such a provision is Miami-Dade, where "the contractor shall remove from the vehicles, Metrorail stations, and the South Miami-Dade Busway Advertising Kiosks, at its sole cost and expense, within three (3) days upon receipt of written demand."

Recommendations

1. Metropolitan Transit Agency for New York State and Massachusetts Bay Transportation Authority should ban alcohol advertizing with steep fines and use the model Seattle language in any future contracts. These agencies should also revise current ad contracts as soon as feasible.
2. Strong written and amendable advertising policies are needed at all public transit agencies, and the policies should be incorporated by reference into all present and future advertising contracts. This recommendation is particularly relevant for the Sacramento Regional Transit District, Dallas Area Rapid Transit and San Diego Metropolitan Transit System.
3. A thorough review of public records and sunshine protections is needed at the agencies that failed to respond to public inquiries: New Jersey Transit Corporation, Maryland Transit Administration, Metropolitan Atlanta Rapid Transit Authority, Denver Regional Transportation District, and Southern Metrolink CA.
4. For all agencies, there is insufficient oversight to even know if the advertising policies are being followed. One solution might be that advertising companies like Clear Channel and CBS Outdoors be required to post images to a web-based system with information of the duration,

location and medium of all advertising, so the agencies and the public together may inexpensively monitor the appropriateness of advertising.

If these recommendations were followed, public transit as a contributor to youth exposure to alcohol advertising could be eliminated in a few years as contracts expire and are renewed.

Political Barriers, Countering Arguments

Agencies are likely to justify taking alcohol ads based on the need for revenue, and will often explain how advertising revenue represents a method of gaining income without increasing passenger fares. However, this argument is easily refuted in two ways. For most transit agencies, the amount of money taken in from alcohol ads is relatively small, and other ad revenue can easily replace it. More importantly, the societal costs of underage drinking, and in particular the public money spent on prevention and treatment services for alcohol problems by any urban center, far outweighs any potential income in advertising revenue.

In Boston, advocates have been trying for two years to get alcohol ads removed from the public transit system there. Data these advocates collected showed that for the 2004 budget, alcohol advertising represented only .1% of the transit system's total revenue.¹³ Moreover, the ad income is far outweighed by money spent on treatment and other costs. In Massachusetts, the costs of underage drinking amounted to \$1.4 billion in 2004.¹⁴ Similarly, in New York, all advertising revenue represents only .9% of the MTA's budget while alcohol problems cause approximately 1500 deaths and 25,000 hospitalizations annually.

Another argument, often used as political cover, is that the First Amendment is a barrier to restricting alcohol ads on public transit. But the truth is that free speech is not an absolute, and is always balanced against government interests. Moreover, corporations are entitled to a lower level of protection for advertising (called "commercial speech") than individuals receive for political and other types

of speech. In general (with a few exceptions), government can restrict alcohol ads on its own property. This explains why so many have done so.

The best argument is that government property should not be an opportunity for corporate marketing of potentially dangerous products. It simply sends the wrong message to the community about putting profits ahead of public health. And in the case of public transit, youth are being needlessly exposed to advertising.

Conclusion

Alcohol companies should not be allowed to advertise on public transit. Given the seriousness of the underage drinking epidemic, local governments, state governments and transit agencies should take steps to either enact new policies or enforce existing policies, which prohibit allow alcohol ads. Communities should demand that their local transit agencies take these simple steps to protect our youth from harmful advertising by the alcohol industry.



From Boston's MBTA line that services Boston College. The environmental message is more than disingenuous, as alcoholic beverage production and distribution are contributors to global warming. (Photo by Josh Golin)



A wrapped bus ad for Miller beer in Madison, Wisconsin. While not part of our formal survey, smaller public transit agencies are also needlessly exposing youth to alcohol advertising. (Photo by Julia Sherman)

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