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STATE OF ALASKA THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

SB 455

H. HESS

4/17/90

HOUSE COMMITTEE REPORT

(7)

Date Referred: April 2, 1990

FURTHER REFERRALS:

STATE AFFAIRS

Date of Committee Action: 4/17/90

The HESS Committee considered:

CSSB 455 (FINANCE)

CS SB NO. 455 (Fin)

PROHIBIT ALCOHOL ADVERTISING ON RATNET

"An Act prohibiting advertising to promote the use or sale of alcoholic beverages on the satellite television project; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with HCSCS SB 455 (HESS) the same title
 have attached amendment(s) a new title
 do pass
 do not pass
 no recommendation
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
 zero fiscal note _____
 zero with analysis _____

- fiscal note(s) _____
 zero fiscal note(s) 3/26/90 / 5-Finance
 zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
PASS
No Rec
Amend

[Signature]
[Signature]
Mark Boyer
[Signature]

SIGNING:	Do Not PASS	No Rec	Amend
<u>[Signature]</u>			
<u>Cheri Davis</u>		X	

[Signature]
Chairman's Signature

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSSB 455 (Finance)

Page 1, after line 9:

Insert a new bill section to read:

"* Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

(1) alcohol abuse has taken a tremendous toll on the lives of Alaskans, interfering in a serious manner with the health, safety, rights, and privileges of Alaskans, and with the public welfare;

(2) there is a strong and unmistakable correlation between alcohol consumption and poor health, fetal damage, death, suicide, crime, family violence, family instability, and child abuse;

(3) Alaska's suicide rate is twice the national average and the rate for Alaska Natives is four times the national average; for 20 to 24 year old Alaska Natives the suicide rate is 26 times the national average; alcoholics have a 30 times greater risk of suicide than nonalcoholics; there is a detectable level of blood alcohol present in 79 percent of all Native Alaskan suicides and in 59 percent of all Alaskan suicides;

(4) Alaska Natives also have one of the highest fetal alcohol syndrome rates in the world;

(5) in order to combat the damaging effects of alcohol, many communities in the state have implemented Alaska's "local option laws" under which the communities elect to control the sale or possession of alcohol within their boundaries, yet these same communities find themselves

bombarded over the state satellite television project with advertisements for alcoholic beverages that associate an attractive and healthy image with the consumption of alcohol; and

(6) there exists a legitimate state interest in seeking to eliminate these advertisements from the state supported satellite television project.

(b) The legislature intends that the Rural Alaska Television Network Council and the Department of Administration should do everything possible to come to an agreement with broadcast companies and television networks to make it possible for advertisements promoting the use or sale of alcoholic beverages to be edited from the programming that is broadcast over the state satellite television project without losing the rights to broadcast the programming and without increasing the cost of the programming significantly."

Page 1, line 10:

Delete "Section 1"

Insert "Sec. 2"

Renumber the following bill sections accordingly.

Page 1, line 25:

Delete all material.

Insert new bill sections to read:

"* Sec. 4. NEGOTIATIONS. (a) The Department of Administration shall request that the major television networks permit the state to broadcast

programming over the state satellite television project without alcoholic advertisements and without significantly increasing the cost of the programming. The department shall invite the local television affiliates who are involved in broadcasting programs over the satellite television project to participate in the negotiations.

(b) The department shall report to the legislature by February 1, 1991, on the progress of the negotiations.

(c) If an agreement is entered into with a major television network, the department shall report to the governor and to the revisor of statutes concerning the terms of the agreement and the date on which the agreement takes effect.

* Sec. 5. Sections 1 and 4 of this Act take effect immediately under AS 01.10.070(c).

* Sec. 6. Sections 2 and 3 of this Act take effect only if, no later than January 1, 1992, an agreement is entered into with a major television network that permits the local television affiliates or other entities broadcasting programming over the state satellite television project to remove advertising that promotes the use or sale of alcoholic beverages from the programming without significantly increasing the cost of the programming to the state. If secs. 2 and 3 take effect, they take effect on the day on which the agreement first permits the editing of the programming."

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Prohibiting Alcohol
Advertising on RATNet
 Sponsor: Senator Binkley
 Requestor: _____

Agency Affected: Dept of Administration
 BRU: Information Services
 Components: RATNet

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Senator Rick Uehling, Co-chairman
 Division: Senate Finance Committee

Phone: 465-4821
 Date: 3/26/90

Approved by Commissioner: _____
 Agency: _____

Date: _____

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
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- Impacted Agency(ies)

Senator John Binkley

Senate Finance Committee
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985

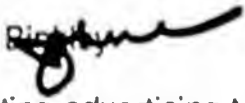


Finance Committee
Co-Chairman

MEMORANDUM

April 16, 1990

TO: Representative Johnny Ellis, Chairman
House Health, Education and Social Services Committee

FROM: Senator John Binkley 

RE: SB 455, prohibiting advertising to promote the use or sale of alcoholic beverages on the satellite television project

Thank you for scheduling the above-referenced bill. Under current law, the RATNet Council is the sole decision maker as to what programs will be broadcast on the state's network. SB 455 amends the statutes to state that the Council may not broadcast nor accept for broadcast any programming which contains advertising promoting the use or sale of alcoholic beverages. I do not feel it is appropriate for the state to subsidize these kinds of commercials when on the other hand, we spend hundreds of millions of dollars to combat the effects of alcohol abuse.

I've enclosed for the committee members' files copies of RATNet schedules, a memo prepared for my office by the Legislative Research Agency on this issue and a copy of a section of KTUU's affiliate agreement with NBC on editing network programs.

I am also offering an amendment to this bill for the committee's consideration. It sets forth Legislative Findings which show that the state does have a legitimate interest in seeing these advertisements removed from RATNet. It also gives clearer direction to the Department of Administration that it is to negotiate with the broadcast companies an agreement which will allow the local affiliates to edit alcohol advertisements prior to showing the programs on RATNet and to report to the legislature on the progress of the negotiations. The prohibition would only take effect if an agreement is reached with at least one broadcast company by January 1, 1992.

TABLE I
 BAINET PROGRAMMING SCHEDULES FOR SAMPLE WEEKS

MONDAY 20, 1988	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY	
5:30 6:00 6:30 7:00 7:30 8:00 8:30 9:00 9:30 10:00 10:30 11:00 11:30	20 Minute Workout ABC World News Good Morning America Wheel of Fortune Sally Jessy Raphael Myppet Babes Muppet Babies Sesame Street	20 Minute Workout ABC World News Good Morning America Wheel of Fortune Sally Jessy Raphael Mighty Mouse NASA Launch Vehicle Prep Dennis the Menace	20 Minute Workout ABC World News Good Morning America Wheel of Fortune Sally Jessy Raphael Flintstones Mighty Mouse Sesame Street	20 Minute Workout ABC World News Good Morning America Wheel of Fortune Sally Jessy Raphael Fraggle Rock The New Archies D/Sesame Street	20 Minute Workout ABC World News Good Morning America Wheel of Fortune Sally Jessy Raphael Flintstones Sho Ra Sesame Street	All Night Programming 2-6 am Cartoons Sunday Today Cartoons Sesame Street College Basketball	All Night Programming 2-6:30 a.m. Cartoons Sesame Street College Basketball
12:00 12:30 1:00 1:30 2:00 2:30 3:00 3:30 4:00 4:30 5:00 5:30	All My Children The Price is Right General Hospital Mr. Rogers Governor's Window 3-2-1 Contact News Clips Capital '88 Brainiac	All My Children The Price is Right General Hospital Mr. Rogers Governor's Window 3-2-1 Contact News Clips Capital '88 Mr. President	All My Children The Price is Right General Hospital Mr. Rogers Governor's Window AK Delegation Report News Clips Capital '88 Growing Pains	All My Children The Price is Right General Hospital Mr. Rogers Governor's Window 3-2-1 Contact News Clips Capital '88 Full House	All My Children The Price is Right General Hospital College Basketball College Basketball Mr. Rogers Governor's Window 3-2-1 Contact News Clips Capital '88 227 Star Trek: The Next Generation	All My Children The Price is Right General Hospital College Basketball College Basketball Lorne Greene's Wilderness 1987 Native Musical	
6:00 6:30 7:00 7:30 8:00 8:30 9:00 9:30 10:00 10:30	NBC News Nightly EJMO News 12 Alaska Weather A Different World Superman's 50th Birthday Idolized Update/Movie	NBC News Nightly Channel 2 News Alaska Weather Husperman Arctic Winter Games Out Mouse, Pt. 1 Cheers Idolized Update/Moonlighting	NBC News Nightly Channel 2 News Alaska Weather All Arctic Winter Games Idolized Finish Arctic Games/Armen Dynasty	NBC News Nightly EJMO News Alaska Weather Movie 20/20 Arctic Winter Games North America's Sled Dog Race	NBC News Nightly Channel 2 News Dolly Day By Day Arctic Winter Games MacGyver L.A. Law	NBC News Nightly Channel 2 News Sixty Minutes Arctic Winter Games Day By Day Movie	
11:00 11:30 12:00 12:30 1:00 1:30	Channel 2 News Knick Spanner, for Pete ID and Disclaimer	Channel 2 News ABC Nightline Married With Children Savvy Span	Channel 2 News Perfect Strangers Shogun Late Night Space Hunter	Channel 2 News Mama's Family Thirtysomething Tracy Ullman ID and Disclaimer	Channel 2 News Miami Vice Friday Night Videos Night Court ID & Alcohol Disclaimer	N Amer Sled Dog Race Boys Will Be Boys St. Elmo's Fire Warren ID & Disclaimer	
2:00	UAA TAPE FEED	UAA TAPE FEED	UAA TAPE FEED	All Night Programming	All Night Programming	All Night Programming	

TABLE 1 (Continued)
 RATNET PROGRAMMING SCHEDULES FOR SAMPLE WEEKS

October 10-16, 1988	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
5:30	20 Minute Workout	20 Minute Workout	20 Minute Workout	20 Minute Workout	20 Minute Workout	All Night Programming 2-6 am	All Night Programming 2-4:00 a.m.
6:00	ABC World News	ABC World News	ABC World News	ABC World News	ABC World News	Cartoons: Beany & Cecil	Sunday Today
6:30	Business This Morning	Business This Morning	Business This Morning	Business This Morning	Business This Morning	Winnie the Pooh	
7:00	Good Morning America	Good Morning America	Good Morning America	Good Morning America	Good Morning America	The Real Ghostbusters	ID & Schedule Roll
7:30							
8:00	NFL League Baseball					Garfield & Friends	NFL Today
8:30						May Vorn, It's Ernest	NFL Doubleheader
9:00		Family Feud	Family Feud	Family Feud	Family Feud	Flip	
9:30		Wheel of Fortune	Wheel of Fortune	Wheel of Fortune	Wheel of Fortune	Sports Special	
10:00		Kaylar	My Pet Monster/ Flintstone Kids	Muppet Babies	Mighty Mouse/ Popeye & Son	College Football	
10:30		DuckTales	Sesame Street	DuckTales	Sesame Street		
11:00	General Hospital			Sesame Street			
11:30							
12:00	Cartoons: Kiff/Kat	All My Children	All My Children	All My Children	All My Children		
12:30	Flintstones						
1:00	Growing Pains: (Home KIMO Sub)	The Price is Right	The Price is Right	The Price is Right	The Price is Right		
1:30	Too Close for Comfort						
2:00	The Price is Right	General Hospital	General Hospital	General Hospital	General Hospital	Cartoons: Garfield	
2:30						May Vorn, It's Ernest	
3:00	Mr. Rogers	Mr. Rogers	AK Delegation Report	Mr. Rogers	Mr. Rogers	After-school Special: Date Rape	Cartoons: Garfield
3:30	Governor's Window	Governor's Window	Governor's Window	Governor's Window	Governor's Window	World Series Baseball	May Vorn, It's Ernest
4:00	3-2-1 Contact	NFL League Football	NFL League Football	3-2-1 Contact	3-2-1 Contact		World Series Baseball
4:30	Andy Galka			Full House	Double Dare		
5:00	Twilight Zone			Presidential Debate	Finders Keepers		
5:30	Bewitched				I Dream of Jeannie		
6:00	KIMO Statewide News						
6:30	NBC News Night				KIMO Statewide News		
7:00					NBC News Night		
7:30	NFL Football					Webster	National Geographic Special
8:00		KIMO Statewide News/ AK Weather Update	KIMO Statewide News Special: Wonders of the Circus	KIMO Statewide News	Alaska Weather	Codex	Susy Minutes
8:30		All		Alaska Weather	Conby Show	Danny Magic	
9:00		Movie	Live Dick Clark Presents	Murder, She Wrote	Charlie Brown Special		Movie
9:30				Movie	20/20		
10:00	The Hogan Family		Simon & Simon		Air Wall	Special: Back on the Road With Charles Kuralt	
10:30	Partners Strangers						
11:00	Channel 2 News	Channel 2 News	Channel 2 News	Channel 2 News	Channel 2 News	Movie	Sonny Spoon
11:30	Counry Music Awards Special	ABC Nightline	America's Most Wanted	Unsolved Mysteries	Roadway Dangerhead Show		Special: Tonight Show 20th Anniversary
12:00		Mama's With Children	Late Night: Night Heat	The Reporters	Friday Night Videos		
12:30		Bewitched		Schedules			
1:00			Mama's Family			She's the Sheriff	ID & Schedule
1:30	ID and Disclaimer	ID and Disclaimer	Schedules		ID & Alcohol Disclaimer	ID & Alcohol Disclaimer	
2:00				All Night Programming	All Night Programming	All Night Programming	

Note: Actual programming occasionally varies due to sports or news events running over their allotted times.

Source: Department of Administration/Division of Telecommunications programming logs.

Prepared by the Legislative Research Agency, November 1989 (90-032A.B.C).

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 183-3991
Fax: (907) 183-3351

January 8, 1989

MEMORANDUM

TO: Senator John Binkley

ATTN: Janice Adair

FROM: Sheila F. Helgath *SH*
Legislative Analyst

RE: Alcohol Advertising on RATNET
Research Request 90.052

You requested this agency to investigate the possibility of removing alcohol advertisements from programming broadcast by Rural Alaska Television Network (RATNET). Also you requested that a House Research Agency memorandum to Representative Clocksin on liquor advertising be updated. Finally, you wanted to know the arguments that are made for and against alcohol advertising.

Three arguments have been advanced by RATNET staff and representatives of local television stations (network affiliates) against the removal of alcohol advertising from RATNET: (1) a contract between the state of Alaska and the networks and separate contracts between affiliates and the networks prohibit removal; (2) Alaska state law and Federal Communications Commission (FCC) regulations prohibit removal of advertising in programming; and (3) the technical feasibility of removing all the advertisements would make the costs prohibitive. Each argument is discussed below. They may be surmountable if the state of Alaska desires to remove alcohol advertising from RATNET.

RATNET BROADCAST TECHNOLOGY AND THE "CONTRACTS"

RATNET staff and network affiliates say that two sets of contracts exist which prohibit the removal of advertising from RATNET programming. The first is a verbal agreement between the ^{sp} of Alaska, the affiliates and the networks. The second is a set of operating agreements between the affiliates and the networks. The origin of these contracts and changes in technology and corporate structure affecting them are explained below.

RATNET is the state-subsidized television system which transmits programs to areas of Alaska that do not receive commercial television. Programs are obtained from the networks (ABC, CBS, and NBC) through their local affiliates (stations) in Anchorage. At present, programs are transmitted from the networks' television satellite to the RATNET center located in Anchorage. These transmissions are redirected to receivers in rural Alaska.

Senator John Binkley
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Satellite transmissions did not exist in 1977 when the of Alaska agreed to buy tapes of network news programs and some sporting events. These tapes were then broadcast in urban areas by the affiliate network stations and in rural Alaska by RATNET. In return, the networks gave other programming free of charge to the of Alaska for use on the RATNET system. There was a "gentlemen's agreement" that the would accept the programming from beginning to end, or "credit to credit", including the advertising. This verbal agreement was reached in 1977 among state personnel, representatives of local affiliates and representatives of the networks at a meeting in New York.

I have made repeated requests for copies of any written material which would confirm that a verbal agreement existed. Staff of neither RATNET or the affiliates were able to provide written documentation. However, both RATNET and affiliate staff affirm that a "gentleman's agreement" existed that bound the state to use programming "credit to credit." After 1984, when direct satellite transmission became available to the affiliates, it was no longer necessary to use and therefore purchase tapes. The continuing validity of this verbal agreement, with the passage of time and many changes in technology since it was made, should be carefully analyzed by legal staff.

The other set of contracts that may inhibit the affiliates' cooperation in the removal of alcohol advertisements is between the affiliates and the networks. The affiliates argue that in their contracts with the networks they have agreed to protect the programs from credit to credit, including advertising. Recent corporate changes at the networks have given the affiliates greater freedom to control programming. According to a New York-based network executive, who requested anonymity, the affiliates have considerable latitude in this area. Because these are contracts between private parties, copies of the contracts were not made available to verify these assertions.

RATNET officials and affiliate management also argue that "common practices exist in broadcasting" which prohibit using part of a program without presenting all of the program including advertising. Some of the broadcasters at the Anchorage stations implied that if the advertising were removed, the networks might be inclined to revoke permission for the to use any of their programming. I was unable to obtain written documentation that the networks would respond in this manner or to otherwise verify this possibility.

ALASKA LAW AND FCC REGULATIONS

Alaska State Statutes and Federal Communication Commission Regulations have been advanced as reasons why the state can not prohibit alcohol advertising on RATNET.

Alaska Statutes

John Morrone, Deputy Director for the Division of Telecommunications, stated that Alaska law would prevent removal of advertising from RATNET, even if there were no contract obligations, unless the RATNET Council agrees. He referred to AS 44.21.320 (c) and (d) which state:

(c) Decisions and policies relating to programming under the satellite television project, including scheduling and allocation policies, may not be made by the department, but may only be made by a network that is representative of participating rural television users, by commercial broadcast users or by other affected participating user groups and entities under procedures provided by statute or, if no statute applies, then by agreement of the affected user networks or groups. The department shall assist users in preparing agreements that may be required under this subsection.

(d) The department may not engage in any activity which interferes with a contract or program right relating to commercial television programming, including but not limited to any right protected by copyright.

According to Mr. Morrone, Subsection (c) means that only the RATNET Council has the authority to control programming subject to any agreements that have been made with affected networks or groups. The issue of removing alcohol advertisements was brought before the RATNET Council on February 19, 1988. The council heard from Mr. Morrone who presented the three arguments stated earlier in this memorandum against removal of advertisements. No action was taken by the council. However, attorneys at both the Attorney General's Office and Legislative Legal Services have indicated that the legislature could specifically direct the RATNET Council to prohibit alcohol advertising with a simple amendment to this subsection.

Subsection (c) refers to contracts and program rights which have the potential to affect removal of alcohol advertisements. As suggested earlier, the validity of a twelve-year-old verbal agreement may be questionable. Similarly subsection (d) hinges on whether a valid contract between the state and network exists and what is implied in programming rights. Legislative Legal Services might be requested for an opinion on the validity of the verbal contract and how subsection (d) relates.

Federal Communication Commission (FCC) Regulations

Transmissions across state boundaries are regulated^{10/1} FCC. Several of the broadcast affiliates, RATNET personnel, and House Research memoranda have asserted that FCC regulations exist which prohibit removal of advertisements.

Senator John Binkley
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I have asked the above parties to identify the regulation, but no one can cite the reference. Louise Stewart, Public Affairs Specialist for the FCC in Anchorage, said that FCC regulations would not prohibit the state of Alaska from removing liquor advertisements. The FCC considers what happens to programming to be a transaction between "private parties"--in other words it is an unregulated agreement between the state of Alaska, the affiliates and the networks. I also spoke with staff in Senator Glenn's office. Senator Glenn is chair of the Governmental Affairs Committee which has oversight of the FCC. It was their opinion that there is nothing in the FCC law that prevents the state from removing alcohol advertising.

TECHNICAL FEASIBILITY AND COST

The final case against removing liquor advertising from RATNET is the technical difficulty and expense of doing so.

Technically, there are two ways to eliminate alcohol advertising from RATNET. The most expensive means is to "tape delay" the programming. The station would tape all the programs coming off the satellite and then edit it and remove alcohol advertisements. It is the most effective way to insure all of the targeted advertising is removed. RATNET staff object to this approach because they are trying to bring current programming, such as live football and news telecasts, to rural residents.

*no news
telecasts
would have
alcohol ads*

The other way to remove the advertising is to have an engineer at the RATNET Alaska receiving station remove the advertisements as they are being transmitted from the satellite to the other stations. RATNET staff object to this approach because it would leave gaps in the programming which would be difficult and expensive to fill. RATNET officials say it would be difficult to toggle 100 percent of the advertisements since they do not know when alcohol advertisements will come through in the programming. Nancy Long, Production Manager for KTOO, offered this suggestion. RATNET staff could target evenings, weekends, and sports events. This method would require additional equipment such as a tape machine, time base corrector, and switches, costing about \$100,000 and an engineer to toggle the switches and put the replacement tapes on the air. RATNET memoranda state that it would require five AV Technicians I and two editing bays for a cost of \$255,440 the first year (see attached memorandum). Selective targeting of weekend sports and evening programming might reduce these costs and get the majority of the advertisements out of the programs.

Other technical and cost reduction possibilities exist and could be explored. Senator Glenn's staff told of a barcoding mechanism which would warn the receivers ahead of time when alcohol advertisements were being transmitted. Beer marketing executives said they had mechanisms (used to test the effectiveness of commercials) which selectively send and receive

Senator, John Binkley
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advertisements. These are some of the technological possibilities available to RATNET staff to remove the majority of alcohol advertisements from programming. Federal grant money might be used to reduce the cost of alternative programming. The Center for Science in the Public Interest has identified federal funding for anti-drinking public service announcements that target minority groups. RATNET or another entity in the state might be able to use grant funds to produce public service announcements. Use of federal grant money would lower the cost of filling the gaps left by eliminating alcohol advertisements.

PRO ALCOHOL ADVERTISING POSITIONS

The primary lobbying position of the alcohol industry is that it self-regulates its advertising and therefore government should not. The spirits industry allows coolers (6% or less alcohol in content) and beer to be advertised in the broadcast media. The industry is very concerned about any legislation that might set a precedent. Therefore they oppose limiting alcohol advertising in areas that are "dry" such as rural Alaska.¹ Industry spokesmen claim that there is no scientific evidence showing that advertising promotes drinking to "excess." It is their claim that they are advertising only for a market share of people who already drink.

The industry maintains that controlling advertising violates free speech. The industry has aggressively challenged attempts to control limitations on free speech through court challenges. Attached is the "briefing book" obtained from the Anheuser Busch lobbyist which documents the industry positions and includes a list of the court cases that have been favorable to its position. The state of Alaska could expect a court challenge by the industry to any efforts to remove advertising. Issues in such a challenge might include the following: Is the removal of advertisements from a state subsidized television broadcast an inhibition of an individual's right to free speech or control of commercial speech? Does the state's right to protect the welfare and health of its citizenry counterbalance the free speech issue? Does the local options law which allows communities to control the sale and possession of alcohol affect this issue?

ANTI-ALCOHOL ADVERTISING PERSPECTIVE

Those who oppose any form of alcohol advertising on television believe that alcohol advertising is targeted at non-drinkers, light drinkers, ethnic

¹The Beer Institute is the lobbying group that represents the pro-alcohol advertising stance. I was directed by institute staff to contact the Anheuser Busch company which is the largest beer advertiser.

minorities, women and youth. Those targeted have traditionally had low per capita consumption. The Center for Science in the Public Interest (CSPI) has written a short but pointed book titled The Booze Merchants: The Inebriating of America which details the advertising strategies of the alcohol industry². Excerpts from this book are attached. The authors stress the use of marketing which promotes the use of alcohol to obtain a glamorous lifestyle. Researchers identify patterns of values, norms, and behaviors in a sub-group of the population which marketing specialists then tie to their product through advertising. For example, if a young person wanted to be successful with friends and the opposite sex, the car or a beverage being sold is associated with a party.

Other alcohol advertisements encourage people who already drink to drink on a daily basis and at times other than the "normal" times such as weekends, parties, or special events. These advertisements are designed to encourage people to drink every day and promote the idea that alcohol beverages are like soft drinks, fruit juice and similar beverages. The Booze Merchant authors also pointedly suggest that advertisements are targeted at heavy drinkers to convince them to continue drinking. If heavy drinking were eliminated, a 40% drop in sales would occur. In short, CSPI refutes the claims made by the industry that advertising is for a market share. CSPI asserts that alcohol advertising is for market expansion.

The free speech arguments seem the least troubling to anti-alcohol advertising advocates. A precedent has been set nationally with the removal of cigarette advertisements from broadcast media. CSPI staff suggested that the argument about free speech might be countered with an argument for the state's right to protect the health and safety of the public. Further they argue that two recent Supreme Court Cases clearly delineate the right to control commercial speech versus the right of individual speech. These cases are Posadas de Puerto Rico Association vs. Tourism Company Puerto Rico 478 US 328 1986 and Board of Trustees of University vs. Fox 57 USLW 5015 (June 29, 1989)³.

²The Center for Science in the Public Interest is the lead lobbying group nationally against alcohol advertising. CSPI is a non-profit health advocacy group with ties to the American Medical Association, National Council on Alcoholism, the National Parent Teachers Association, the American Academy of Pediatrics and others.

³Legislative Research Agency is in the process of obtaining an analysis of these two cases.

Senator, John Binkley
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SUGGESTIONS FOR FURTHER ACTION

Arguments advanced against the legality and practicality of removing liquor advertisements, although forcefully made, may not be definitive in the opinion of some knowledgeable people with whom I spoke.

If further investigation of this matter is pursued, it might include:

- . legal research into the nature of contractual agreements between the of Alaska and the networks, and between the networks and affiliates;
- . legal interpretation and possible amendment to AS 44.21.320;
- . analysis of the fiscal impact on RATNET of editing transmissions.

PERSONAL COMMUNICATIONS

Bramstedt Jr., Al, Channel 2 Anchorage Broadcaster, Telephone Conversation September 9, 1989.

Hiebert, Augie, Channel 11 Anchorage Broadcaster, Telephone Conversation, September 9, 1989.

Cramer, Terry, Legal Services Lawyer, Legislative Affairs Agency, Telephone Conversation, December 26, 1989.

Lauber, Richard, Lobbyist, Anheuser Busch Inc., Interview and Telephone Conversations, September-December, 1989.

Long, Nancy, KTOO Production Manager, Telephone Conversation, September 1989.

Morrone, John, Deputy Director Division of Telecommunications, Interview about RATNET on September 9, 1989.

Randelett, B. J., Channel 13 Anchorage Broadcaster, Telephone Conversation September 12, 1989.

Stewart, Louise, Public Affairs Specialist, Federal Communications Commission, September 9, 1989.

Taylor, Pat, Director, Alcohol Policies Project, Center For Science in the Public Interest, Telephone Conversations, September-December, 1989.

Wagner, Tom, Assistant Attorney General, Alaska Attorney General's Office, Telephone Conversation, December 25, 1989.



NBC

- (e) Compensation for a program which was interrupted may be adjusted.
- (f) NBC reserves the right to change at any time the Network Station Rate of the station. If NBC increases the Network Station Rate, such increased rate shall be used in computing the compensation due you on business actually sold by NBC at such increased rate. If NBC decreases the Network Station Rate, and if such decrease is part of a general rate revision on the NBC Television Network, such decreased rate shall be used in computing the compensation due you provided NBC has given you at least ninety (90) days' written notice of its intention so to decrease such rate.

In the event of such decrease you may terminate this agreement as of the effective date of such decrease by giving NBC written notice within thirty (30) days after the receipt of NBC's notice to you of such reduction; provided, however, you shall not be entitled to terminate this agreement pursuant to this provision if the general rate decrease is attributable to substantially adverse increase(s) in the network's music performance rights payment.

6. From time to time NBC will offer to Station commercial positions within network programs available for local sale. If Station sells any such positions, it will pay NBC the cooperative program charges quoted Station in NBC's offer of the positions.

7. You shall not be obligated to continue to broadcast nor shall NBC be obligated to continue to furnish, subsequent to the termination of this agreement, any programs which NBC may have offered and which you may have accepted during the term hereof.

8. Your broadcast of NBC Television Network programs hereunder shall be subject to the following terms and conditions:

- (a) you will not without NBC's prior written authorization make any deletions from or additions to any program furnished to you hereunder, or broadcast any commercial or other announcements during any such program. ←

For purposes of identification of Station with NBC programs, and until written notice to the contrary is given by NBC, Station may superimpose on various NBC entertainment programs, where designated by NBC, a single line of type, not to exceed 50 video lines in height