

# ABAC

## ABAC Complaints Panel Determination No: 44/10 & 46/10

### Complaint by Mr Graham Sherwood and a Confidential Complainant Product: BWS Advertiser: Woolworths

Professor The Hon Michael Lavarch – Chief Adjudicator  
Jeanne Strachan – Member  
Professor Richard Mattick – Member

14 October 2010

#### Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for BWS by Woolworths (“the Advertiser”) and arises from a confidential complaint received on 10 September 2010 and a complaint by Mr Graham Sherwood received on 17 September 2010.

#### The Quasi-Regulatory System

2. Alcohol advertising in Australia is subject to an amalgam of laws and codes of practice which regulates and guides the content and, to some extent, the placement of advertisements. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol advertising as quasi-regulation. The most important provisions applying to alcohol advertising are found in:
  - (a) a generic code (the AANA Advertiser Code of Ethics) with a corresponding public complaint mechanism operated by the Advertising Standards Bureau (ASB);
  - (b) an alcohol specific code (the Alcohol Beverages Advertising Code) and complaints mechanism established under the ABAC Scheme;
  - (c) certain broadcast codes, notably the Commercial Television Industry Code of Practice (CTICP) which restricts when direct advertisements for alcoholic drinks may be broadcast; and
  - (d) The Outdoor Media Association Code of Ethics which includes provisions about Billboard advertising.
3. The complaints systems operated under the ABAC scheme and the ASB are separate but inter-related in some respects. Firstly, for ease of public access, the ASB provides a common entry point for alcohol advertising complaints. Upon receipt, the ASB forwards a copy of the complaint to the Chief Adjudicator of the ABAC Panel.

4. The Chief Adjudicator and the ASB independently assess the complaint as to whether the complaint raises issues under the ABAC, AANA Code of Ethics or both Codes. If the Chief Adjudicator decides that the complaint raises solely issues under the Code of Ethics, then it is not dealt with by the ABAC Panel. If the complaint raises issues under the ABAC, it will be dealt with by the ABAC Panel. If the complaint raises issues under both the ABAC and the Code of Ethics, then the ABAC Panel will deal with the complaint in relation to the ABAC issues, while the ASB will deal with the Code of Ethics issues.
5. The complaint raises concerns under the ABAC and accordingly is within the Panel's jurisdiction.

### **The Complaint Timeline**

6. The complaints were received by ABAC on 10 and 17 September 2010.
7. The Panel endeavours to determine complaints within 30 business days of receipt of the complaint, but this timeline depends on the timely receipt of materials and advice and the availability of Panel members to convene and decide the issue. This complaint has been determined within the 30 day timeframe.

### **Pre-vetting Clearance**

8. The quasi-regulatory system for alcohol beverages advertising features independent examination of most proposed advertisements against the ABAC prior to publication or broadcast. The Advertiser is not an ABAC signatory and pre-vetting approval was not obtained for this advertisement.

### **The Advertisement**

9. The complaint refers to a television advertisement for BWS. The advertisement begins with a voiceover accompanied to music saying "B", "W", "S" showing the letters on various BWS store signs. We then see smiling customers being served in the store including a customer saying "It's always a pleasant experience coming here", and a woman with a baby in her front pack being assisted by a store assistant. We then see store assistants saying "I like to make my customers feel like I really care about them" and "I find it incredibly satisfying. I love it." Then we see store assistants helping customers while a jingle plays "They're just around the corner, big smiles at the door, hot deals, a helping hand, great advice and more". Then other customers are shown saying "It's very easy to shop", "They know their stuff", "Too easy", "Too easy" and "Too easy". Then the voiceover says "Too easy" as we see a store assistant with a woman holding a small child that is playing with a balloon. A woman is then shown saying "I don't go anywhere else". At the end the voiceover says "BWS" as the BWS logo appears on the screen with the text below "Too easy. [www.bws.com.au](http://www.bws.com.au). BWS supports the responsible service of alcohol".

### **The Complaints**

10. The first complainant argues that the advertisement features adults with children/infants in the store purchasing alcohol which is inappropriate as it suggests it

is normal and acceptable to bring infants and children into bottleshops and licensed premises, and consume alcohol in their presence.

11. The second complainant argues that the advertisement gives the wrong impression to children by:
  - (a) depicting babes in arms waving balloons;
  - (b) depicts a very happy to place to shop with everyone smiling;
  - (c) depicting a liquor store as exciting as a lolly shop;
  - (d) includes young children in an alcohol advertisement;
  - (e) says how easy it is and what a happy experience it is to buy alcohol.

### **The Code**

12. The ABAC provides that advertisements for alcohol beverages must:
  - a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly –
    - ii) must not encourage under-age drinking;
  - b) not have a strong or evident appeal to children or adolescents and, accordingly -
    - ii) children and adolescents may only appear in advertisements in natural situations (eg family barbecue, licensed family restaurant) and where there is no implication that the depicted children and adolescents will consume or serve alcohol beverages...

### **Arguments in Favour of the Complaint**

13. In favour of the complaints it is alleged that:
  - (a) The advertisement breaches Section (a)(ii) and (b) of the Code by depicting children shopping with their parents in a bottleshop.
  - (b) The advertisement breaches Section (a) of the Code by presenting an irresponsible approach to the consumption of alcohol beverages by depicting adults with children and infants in a bottleshop purchasing alcohol thereby normalising alcohol use by adults in the presence of children.

### **The Advertiser's Comments**

14. The Advertiser responded to the complaints and questions posed by the Panel by letters dated 14, 17 and 28 September 2010. The principal points made by the Advertiser are:

- (a) The “object” of the advertisement is directed at an adult audience depicting the “environment” or shopping experience in which alcohol products are sold and services provided in BWS in a “real life” situation. Actual customers are featured in the advertisement. But for the fact that BWS is a liquor shop alcohol products are secondary to this “object” of depicting “real life” situations. It can not be suggested that the “object” of the advertisement was to inappropriately include children in the sale or consumption of alcohol.
- (b) Woolworths takes its advertising obligations very seriously. It is Woolworths’ submission that the complaint should be dismissed and no further action taken in the matter.

### **The Panel’s View**

- 15. The advertiser is not a member of one of the 3 Industry Associations which sponsor the ABAC Scheme nor is it a signatory to the ABAC. This means that the Panel’s Determination has no contractual underpinnings in order to give the Determination a binding effect on the Advertiser. The Advertiser has however co-operated with the Panel and stated its commitment to good practice in alcohol advertising and as a result the Panel has proceeded to make this Determination.
- 16. The two Complaints go to essentially the same point and that is that alcohol advertising should not depict alcohol retail outlets in a way which ‘normalises’ alcohol use to children. This it is argued occurs because the ad shows customers in the Advertiser’s outlets with children and infants and portrays the stores as happy, exciting and accepting places for children.
- 17. The Advertiser’s rather short response to these arguments is that the ad is directed at adults not children and focuses upon the shopping experience rather than any particular alcohol product. Alcohol, it is argued, is a secondary consideration to the friendly, service orientated nature of the stores.
- 18. In reality both the Complainants and Advertiser are making the same point – the shopping experience in the Advertiser’s outlets is shown as a friendly and enjoyable experience which is welcoming to families including mothers with young children. The Complainants conclude this is unacceptable while the Advertiser sees nothing wrong with it.
- 19. The ABAC Scheme, and the particular provisions about alcohol advertising contained in other Codes of Advertising and Media Practice, start from a premise that alcohol is not simply another product like milk, or shoes or washing powder. The responsible use of alcohol is a major public health goal and the existence of the ABAC containing specific standards about how alcohol should be advertised is an industry initiated response to this public policy objective.
- 20. The Advertiser’s approach to treat alcohol as another product to be sold and to adopt a marketing strategy which focuses on the shopping experience and places secondary importance on alcohol as a product runs the risk of masking the care that should be taken in advertising alcohol. The fact that the Advertiser does not participate in the

ABAC Scheme, particularly through having its advertising pre-vetted by independent assessors prior to its use, further risks the Advertiser straying (no doubt unintentionally) into less than best practice advertising.

21. That said, the Panel has to decide if the ad is inconsistent with the relevant ABAC Standards. These Standards contained in sections(a)(ii) and (b)(ii) of the Code combined provide that:
  - Alcohol advertising must present a mature, balanced and responsible approach to alcohol consumption and
  - Must not encourage under-age drinking
  - Must not have strong or evident appeal to children or adolescents and
  - Children may only appear in advertisements in natural situations (eg family bar-b-que, licensed family restaurant) and where there is no implication that the depicted children will consume or serve alcohol.
22. The Code contains no provision about alcohol use not being 'normalised'. In essence, the normalisation of alcohol use is the underlying concern of the two Complainants. The Panel is bound to apply the Code as it is written and it is implicit in the Code that responsible alcohol use is a legal and accepted community behaviour.
23. While the Panel recognises the genuine nature of the Complainants' concern, on balance it does not believe the ad breaches the ABAC provisions. In reaching this conclusion the Panel noted:
  - The ad does not depict alcohol consumption nor is there any suggestion that any person shown in the ad is impaired by alcohol;
  - The ad does not contain elements which could fairly be said to give it strong or evident appeal to children or adolescents. It appears the ad is clearly directed at adult consumers of alcohol beverages;
  - While children are shown in the ad, there is no implication that these children will be consuming or serving alcohol;
  - Showing a mother with a child shopping , even for alcohol products, is a 'natural situation' within the apparent reach of section b(ii);
24. In dismissing the Complaints, the Panel again encourages the Advertiser to become a signatory to the ABAC Scheme and have its advertising subjected to pre-vetting clearance.