

ABAC

**ABAC Complaints Panel
Determination No: 52/10**

**Confidential Complaint
Product: Johnnie Walker
Advertiser: Diageo Australia Limited**

Professor The Hon Michael Lavarch – Chief Adjudicator
Debra Richards – Member
Professor Fran Baum – Member

17 December 2010

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a print and website advertisement for Johnnie Walker by Diageo Australia Limited (“the Advertiser”) and arises from a confidential complaint received on 7 October 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 complaint was received by ABAC on 7 October 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. The complaint has not been determined within the 30 day timeframe, due to the unavailability of the Chief Adjudicator.

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. Pre-vetting approval was not obtained for the advertisements which were produced by Cricket Australia.

The Advertisement

9. The complaint refers to a print and website advertisement for Johnnie Walker All Star Twenty 20 cricket competition. The complainant refers to three separate advertisements.
10. The first component complained about is an editorial in the cricket section of the Perth Sunday Times on page 89. It contains the heading "How you can become a national selector" with the sub heading "Twenty20 visionaries". Below the heading is the logo for the Johnnie Walker All Star Twenty20 followed by an editorial about how cricket fans can help pick the Johnnie Walker ACA All Star Aussie Fans XI, details of the Johnnie Walker ACA All Star Twenty20 team and other prizes for cricket fans. Fans are referred to a website www.t20allstar.com.au. There are match and ticketing details included together with pictures of cricket players. One of the cricketers pictured has a VB logo on his shirt. There are numerous references to Johnnie Walker within the name of the teams.
11. The second component is an advertisement below the editorial that features pictures of three spectators and three cricket players, the text "Johnnie Walker All Stars Twenty20", "You're the selector you choose the team....", "...to take on the All Stars", "This is your chance to pick the team Go to the t20allstar.com.au to select the Aussie

Fans' XI" and logos for the Johnnie Walker All Star Twenty20, Johnnie Walker, Cricket Australia ad Australian Cricketers' Association.

12. The third component is a website located at www.t20allstar.com.au. The website does not have any age verification requirements. It promotes the Johnnie Walker All Star Twenty20 and the opportunity to select the Johnnie Walker Aussie Fans' XI to take them on. There are numerous references to Johnnie Walker within the name of the teams. At the bottom of the page there are logos for Johnnie Walker, Australian Cricketers' Association and Cricket Australia. By selecting the Johnnie Walker logo fans are taken to the Johnnie Walker website age verification gateway.

The Complaint

13. The complainant argues that the advertisement mentions the name Johnnie Walker on twelve occasions while promoting participation in events relating to the Johnnie Walker All Star Twenty20 event. The advertisement associates alcohol with sporting success (noting the VB logo on one of the pictured cricketer's uniforms and the use of the Johnnie Walker name). The advertisement provides a website link to a further promotion for Johnnie Walker Whisky with no age barrier to entry. The complainant notes that children and young people will be interested in the event and the sporting heroes involved and this is evident from the ticketing information for the event that refers to children.

The Code

14. 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 and adolescents...
 - c) not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment and, accordingly-
 - i) must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;
15. The ABAC contains provisions relating to Internet advertisements: "The required standard for advertisements outlined in (a) to (g) above applies to internet sites primarily intended for advertising developed by or for producers or importers of alcohol products available in Australia or that are reasonably expected to be made available in Australia, and to banner advertising of such products on third party sites."
16. The ABAC contains the following relevant provisions in relation to the promotion of alcohol at events:

“Alcohol Beverage companies play a valuable role in supporting many community events and activities. It is acknowledged that they have the right to promote their products at events together with the right to promote their association with events and event participation. However, combined with these rights comes a range of responsibilities. Alcohol beverage companies do not seek to promote their products at events which are designed to clearly target people under the legal drinking age. The protocol commits participating alcohol beverage companies to endeavour to ensure that:

- All promotional advertising in support of events does not clearly target underage persons and as such is consistent with the ABAC standard...

Third Parties

At many events alcohol companies limit their promotional commitments to specified activities. This protocol only applies to such conduct, activities or materials associated with events that are also associated with alcohol beverage companies.

Alcohol beverage companies will use every reasonable endeavour to ensure that where other parties control and/or undertake events, including activities surrounding those events, they comply with this protocol. However non-compliance by third parties will not place alcohol beverage companies in breach of this protocol. “

The Advertiser’s Comments

17. The Advertiser responded to the complaints and questions posed by the Panel by letter dated 25 October 2010. The principal points made by the Advertiser are:
 - (a) We consider that the subject of this complaint is not an advertisement for our products or any alcohol beverage but rather is an editorial addressing the All Stars Twenty20 event which is a third party (Cricket Australia) promotion, an advertisement for a third party promotion (Cricket Australia) and a third party website relating to the third party’s event (again Cricket Australia). There are references to our 12th Man promotion within the Editorial and the Website, however we do not control the placement or substance of those references. While we take any concern or criticism of our brands very seriously, we do not control the Editorial, Advertisement or Website as they are created by Cricket Australia.
 - (b) Diageo Australia Limited (“Diageo”) does have naming rights for the event (Johnnie Walker All Stars Twenty20) and approves the use of the Johnnie Walker brand/logo in association with the event and promotion. Importantly, Part 1 of ABAC acknowledges that alcohol beverage companies have the right to promote their association with events and, while we are not suggesting that Cricket Australia has breached ABAC through this Editorial, Advertisement and Website, we note that ABAC specifically acknowledges that non-compliance by third parties with ABAC will not place the alcohol beverage company in breach of ABAC.
 - (c) This complaint appears to raise issues around the complainant’s views regarding the appropriateness of sports sponsorship by alcohol beverage companies and

naming rights of sporting events by alcohol beverage companies. We consider that consideration of these issues is beyond the scope of ABAC. Relevantly, Part 1 of ABAC acknowledges that alcohol beverage companies have the right to promote their association with events.

- (d) The All Stars Twenty20 event has been running for three years as an annual event in which, throughout the summer, the Australian Twenty20 team plays an exhibition match of cricket against the Johnnie Walker ACA All Stars. The Johnnie Walker ACA All Stars is a team selected through a voting process by players during domestic and international matches. In previous years, Diageo under the Johnnie Walker brand has been a sponsor of the Johnnie Walker ACA All Stars team. In 2010 the All Stars Twenty20 concept will change from the exhibition match being between the Australian Twenty20 team and the Johnnie Walker ACA All Stars team to being a game between the Johnnie Walker ACA All Stars and the Johnnie Walker Ashes Fans' XI. The Johnnie Walker Ashes Fans' XI is a team selected by cricket fans through an online voting portal. This match will be played at the Gabba, Brisbane, on Sunday 21st November. This event is owned by and managed by Cricket Australia and the voting by fans for the Johnnie Walker Ashes Fans' XI is the main subject of the Editorial, Advertisement and Website. Diageo's sponsorship of the All Stars Twenty20 this year includes naming rights for the event, the Johnnie Walker All Stars Twenty20, and also the fan selected team, the Johnnie Walker Aussie Fans' XI. As part of the sponsorship arrangement we permit placement of Johnnie Walker branding with the name of the event and both teams. Our Johnnie Walker branding is also represented on all uniforms and promotional material.
- (e) As a second activity, which is not the subject of this complaint, Diageo is running a 12th Man competition. This competition involves ten finalists being flown to Brisbane for a weekend where they will compete in games which will test their cricket skills for a chance to win one of two 12th Man positions for the All Stars Twenty20 match. This is the same prize offered to twenty finalists and one winner last year, where the competition was conducted through a retailer promotion. This year to enter consumers must register their preferred team for the Johnnie Walker Aussie Fans' XI, be 18 years of age and over and tell us why they deserve to walk with the giants of cricket as a Johnnie Walker All Star. The Website was constructed by an agency appointed by Cricket Australia and Diageo's involvement was limited to provision of some of the content for the 12th Man entry page and granting of permissions to use of our trademarks. Participants must register before they can enter the voting page, registration includes birth date. Registration also includes terms and conditions which expressly states that only participants who are 18 years and over will be able to participate in the 12th Man promotion (see clause 1.3 of the terms and conditions of entry). Cricket Australia allows people of any age to vote for the players for the Johnnie Walker Ashes Fans' XI. However, once a participant has voted for their team of players, if they are 18 years of age or over then they are given the option to participate in the 12th Man competition. If they are under 18 they are not permitted to enter the 12th Man competition. The 12th Man competition is part of the Website and is not on the Johnnie Walker website. There is a link at the bottom of the page to the Johnnie Walker website (and the websites of ACA and Cricket Australia), however if one were to click on the link there is an age gateway to ensure only LPA+ people can enter the Johnnie Walker site.

- (f) As the Editorial, Advertisement and Website are not advertising for alcoholic beverages and were not commissioned and are not controlled by or under the control of Diageo, there was no Alcohol Advertising Pre-Vetting System (AAPS) approval was not required to be obtained by Diageo.
- (g) The Editorial, Advertisement and Website were not commissioned and are not controlled by Diageo. Cricket Australia, the commercial owner of the event, is leading the promotion of the event through production of the Website and media communication.
- (h) Whilst we do not consider that the Website, Advertisement and Editorial should be subject to ABAC, we note that Part 1 of ABAC specifically acknowledges that a company which submits to the jurisdiction of ABAC will not be held to be in breach of ABAC as a result of any non-compliance by third parties with ABAC.
- (i) We have reviewed the ABAC in light of the complaint you have received and the Editorial, Advertisement and Website in question and strongly believe that, even if ABAC did apply to the Editorial, Advertisement and Website, they do not breach section (a)(ii) or section (b) of the ABAC Code for the following reasons
- There is no depiction of alcohol products or the consumption of alcohol in the Editorial, Advertisement or Website and the only reference is to the Johnnie Walker brand as the sponsor of the All Stars Twenty20 event and the two teams. Naming rights and sponsorship of an event does not offend ABAC. This is expressly provided for in Guidance Note 6 to ABAC.
 - There is no suggestion that alcohol is in any way a part of sporting achievements. The reasonable person who would see this media would understand that the reference to Johnnie Walker reflects a sponsorship arrangement and nothing more.
 - We understand that each of the people depicted in the Editorial, Advertisement and Website are 25 years or over. We note that there are pictures in the Advertisement of a cricketer named Tim Paine who may look relatively young but he is actually over 25 years of age. However as we have noted, this is third party material and we have no control over the content beyond use of our trademarks and limited material relating to the 12th Man promotion.
 - As mentioned above, we maintain that the Website, Advertisement and Editorial are not advertisements for alcohol beverages and so should not be subject to the ABAC, nonetheless we note that there is no evidence presented that the Johnnie Walker All Star Twenty20 event has strong or evident appeal to children. In fact statistics gathered for last year's Johnnie Walker All Star Twenty20 event indicated that the key target age groups for this event are 25-39 and 40-54, with over 33% of viewers being over 55 years and less than 10% of viewers being under 18 years of age. As such, it is incorrect to assert that the Johnnie Walker All Star Twenty20 event has a strong or evident appeal to children or adolescents (source: these rating reports were provided to

Cricket Australia by MediaCom on 25 February 2010 and are run by MediaCom using data provided to them by OzTAM).

- (j) As the Website is not a website for alcohol products there is no obligation for Cricket Australia to impose an age barrier to entry. Nonetheless we note that ABAC specifically acknowledges that non-compliance by third parties with ABAC will not place the alcohol beverage company in breach of ABAC.
- (k) The Website does not make any suggestion of, nor encouragement of, excessive consumption or abuse of alcohol, underage drinking or other offensive behaviour. The Website does not depict any consumption of alcohol, nor does it present a situation in which consumption is encouraged.
- (l) We do not believe that the Editorial, Advertisement and Website offend section c(i) or (d) of ABAC for the following reasons:
 - There is no depiction of alcohol products or the consumption of alcohol in the Editorial, Advertisement or Website and the only reference is to Johnnie Walker as the sponsor of the All Stars Twenty20 event and the two teams. Naming rights and sponsorship of an event does not offend ABAC. This is expressly provided for in Guidance Note 6 to ABAC.
 - There is no suggestion that alcohol is in any way a part of any sporting achievements. There is no suggestion of a causal relationship between drinking Johnnie Walker and playing cricket successfully. The reasonable person who would see this media would understand that the reference to Johnnie Walker reflects a sponsorship arrangement and nothing more.
- (m) We do not believe that the Editorial, Advertisement and Website clearly target underage persons in breach of the "Promotion of and sponsorship of events" provisions in the ABAC for the same reasons that we say it does not breach section (a)(ii) and (b) of the ABAC.

18. In addition Fosters were asked about their involvement with the editorial given the complainant referred to the VB logo on a featured cricket player's shirt. Fosters advised that they were not part of this promotional activity and that the logo is on the cricket top as VB sponsor cricket.

The Panel's View

Context

19. The complaint raises two separate advertisements related to a cricket match conducted by the peak cricketing association at the national level, Cricket Australia. As a major sport in Australia, cricket appears to have a range of sponsors, one of which is the alcohol company Diageo, the producers of Johnnie Walker. Specifically, Diageo is the sponsor of the twenty-twenty "all stars" game which was held on 21

November 2010, and the concerns of the complainant arise from the association of the Johnnie Walker brand with this game and various lead-up activities to the game.

20. The sponsorship relationship is described by the advertiser as having features such as:
- Naming rights for the “Johnnie Walker All Stars Twenty 20”
 - Approval of the use of the Johnnie Walker brand/logo by Cricket Australia in association with the cricket match
 - Branding of Johnnie Walker on uniforms and promotional material
 - The provision by Diageo of some content for inclusion on the Cricket Australia website created for the Twenty-20 matches and particularly the process for fans to vote for players to be selected in one of the teams.
21. Consistent with the features of the sponsorship arrangement, various promotions took place in the lead up to the match. This included the publication in the Sunday Times newspaper in Perth of an “advertorial” describing the game and the opportunity for members of the public to “vote” for members of All Star fans team. The Game website provided the portal for the voting process to occur. Both the newspaper advertorial and the website featured the Johnnie Walker name brand and logo in various ways.
22. The complaint raises several threshold issues about the structure, nature and reach of the ABAC scheme, as well as the substantive issue of the consistency of the advertising with the relevant provisions of the ABAC. These issues will be addressed in turn, as follows:
- Coverage of sponsorship arrangements by the ABAC scheme
 - Are the “advertisements” – “alcohol beverage advertising” – for the purposes of the ABAC?
 - ABAC scheme members’ obligations in relation to events run by non-alcohol entities

ABAC and Sponsorship

23. The ABAC scheme is directed at advertising of alcohol beverages by alcohol producers or distributors via the mediums of print, television, radio internet and outdoor devices such as billboards. The model assumes that:
- Advertising is from an alcohol company directly, and
 - The ad is a single execution, rather than a comprehensive marketing campaign.
24. The Panel has in the past been called upon to consider complaints which flow from the sponsorship of sport or sporting teams by alcohol companies. These Determinations have included:

No: 34/09 and 44/09 – Fosters and RSL “Raise a Glass” Legacy Campaign

No: 26/08 – Woodstock Bourbon sponsorship of a motorcross racing team.

25. As the previous decisions canvass, the ABAC scheme rests uneasily with sponsorship arrangements. The scheme does not provide standards for such arrangements, but rather is limited to any individual advertisements from an alcohol company which may flow as a consequence of the sponsorship arrangement being in place. Further, the ABAC scheme relies upon the commitment of the members of the alcohol industry peak bodies who support the scheme. Cricket Australia is not an alcohol company and is not a signatory to the ABAC scheme.
26. Pulling all this together means that the Panel has no power to make a determination which has any binding force on Cricket Australia and the ABAC, by its terms, does not apply to the actual sponsorship arrangement between Diageo and Cricket Australia. Individual ads which flow from the sponsorship arrangements can be considered by the Panel, provided the ads are “alcohol beverage advertising” for the purposes of the ABAC.

Are the advertisements “alcohol beverage advertising”?

27. The two ads in question, namely the print “advertorial” and the website, were developed and placed by Cricket Australia, and not Diageo. The ads contain the Johnnie Walker name and logo and accordingly a threshold question is whether the ads are for “alcohol beverages” within the scope of the ABAC Scheme.
28. In Determination 7/09, the Panel reviewed the categories of “advertisement” for which it had over time received complaints. The categories were:
 - Brand-specific ads by the producer or distributor of a particular alcohol beverage (Category 1)
 - Ads from a liquor retailer which promote a particular brand of alcohol beverage (Category 2)
 - Ads from a liquor retailer which promote the sale of alcohol from the outlet, rather than the sale of a particular brand of alcohol beverage (Category 3)
 - Ads which are from non-alcohol entities but which promote alcohol products or alcohol use in some way (Category 4)
 - Material which might contain some reference to alcohol, but cannot fairly be said to be “alcohol beverage advertising” (Category 5).
29. Clearly the current ‘advertisements’ fall somewhere in either category 4 or 5 as the advertising is a product of Cricket Australia, a non-alcohol beverage entity. The advertorial and website primarily promote the holding of a cricket match and the ability of members of the public to select players for one of the competing teams. The alcohol connection is via the naming of the match and the use of the Johnnie Walker’ trademark and logo within the advertising.

30. The ABAC does not define the term 'alcohol beverage advertising'. In fact the term 'advertisement' is not defined at all in the Code. 'Alcohol beverage' is defined as 'includes any particular brand of alcohol beverage'. The Panel in considering what is an 'alcohol beverage advertisement' in previous determinations concerning sponsorships has had regard to matters including:
- Does the ad promote an alcohol beverage or, a brand of an alcohol product
 - Does the ad subscribe particular attributes or characteristics to an alcohol product
 - What measure of control does the alcohol company have over the third party in the form and content, or choice of medium for the advertisement
31. Previous determinations dealing with ads from third parties associated with alcohol company sponsorship arrangements have been:
- 41/05 – New South Wales Rugby Union which involved the sponsorship by Lion Nathan of the rugby competition 'Tooheys New Cup' and a particular television ad from the Rugby Union which had a can of beer superimposed on a rugby field and dialogue suggesting alcohol consumption
 - 49/07 – The Vines Resort radio ads in which a carton of beer was offered for each round of golf played
 - 26/08 – Woodstock Bourbon Honda Thor Racing Team which featured Woodstock branding on team riders' livery and at events and on the Racing Team's website
32. The Rugby Union ad and Vines Resort ad both featured alcohol as a product within the ad and in both instances the sponsoring alcohol company had direct input into the ad. In the Vines case, the input extended to a financial contribution to the cost of the actual advertising. In contrast, the Woodstock Bourbon case featured alcohol product name and brand and the sponsorship entitlement of the alcohol company to have the brand used by the third party.
33. In this case, Diageo's advice is that they had no input over the advertorial nor the website beyond the permissions to use the Johnnie Walker trademark and logo and 'some of the content for the 12th Man entry page' from the Cricket Australia website. Similar to the Woodstock Bourbon determination the Panel concludes that these matters are a direct manifestation of the actual sponsorship relationship. The ads cannot be said to be 'alcohol beverage advertising' within a fair reading of the ABAC Scheme and the Code read as a whole.

Alcohol company obligations for Third Party Advertising and Events

34. The ABAC Code comprises of three parts namely:
- The Code Preamble – which sets out the overall intent of the Code and provides some guidance as to how the consistency of an ad to Code provisions is to be assessed
 - The substantive Code Provisions – which set out the standards to which advertising is to conform and
 - The Code Protocols – which go to the issues of Internet advertisements, Retail advertisements and promotion of alcohol at events
35. The Code Protocols are relevant to the complaint in two respects. Firstly, the Protocol on Internet advertisements defines the reach of the substantive Code Provisions in relation to advertising embodied in websites. Secondly, the Protocol dealing with the promotion of alcohol at events provides for a modified version of the ABAC Standards applying to alcohol beverage advertising, to also apply to the promotion of alcohol at events. A cricket match presumably falls within a community event.
36. The Protocol dealing with internet advertisements provide that the substantive Code provisions apply to 'internet sites primarily intended for advertising developed by or for producers or importers of alcohol products in Australia ... And to banner advertising of such products on third party sites'. The intent seems to be that the ABAC only covers Australian Alcohol company internet sites and third party sites to the extent that an alcohol ad is placed on the site.
37. The website in question was created by Cricket Australia and relates to the cricket match and associated public team selection process sponsored by Johnnie Walker. It is a third party site and as a result only 'banner advertising' by an alcohol company is subject to ABAC provisions. While 'banner advertising' is not defined, the Panel takes it to mean advertisements placed by an alcohol company on a third party website which are designed to draw attention to their product and/or to attract traffic to the Alcohol company website. The material supplied by Diageo in relation to its 12th man promotion for use by Cricket Australia on its website could not be described as a 'banner advertisement'. The only part of the website that could possibly comprise a 'banner advertisement' is the Johnnie Walker logo at the bottom of the website that directs users to the company website. However, the Panel does not believe that the logo of itself breaches any part of the ABAC.
38. The Protocol on alcohol promotion at events draws a distinction between activities undertaken by Alcohol companies and activities undertaken by third parties. The cricket match and the lead-up advertising as previously discussed are activities conducted by Cricket Australia. Accordingly, while the Alcohol company is obliged

under the Protocol to use its reasonable endeavours to ensure compliance with the Protocol there is no breach on behalf of the company if a third party fails to meet the standards in the Protocol.

39. This means even if the advertorial and website were seen to be in breach of the substantive provisions of the Code or the modified version of the standards contained in the Events Protocol Diageo cannot be held to be in breach of the ABAC.
40. In these circumstances, it is not possible for the Panel to find the advertiser in breach of the ABAC. In reaching this conclusion the Panel has not made a judgment on whether the advertising would have in fact been in breach of the substantive Code provisions dealing with alcohol use and the engagement in sporting activity.
41. It is a matter for the Management Committee of the ABAC Scheme together with government to determine if there should be specific provisions dealing with sponsorship arrangements by Alcohol companies of sporting teams or other events. The Panel can only apply the Code which it is given and operate within the framework of the ABAC. If the regulation of sponsorship arrangements is to occur then this must be a step undertaken by industry and government after appropriate consultation with all relevant parties.
42. Accordingly, the Panel makes no finding on the substantive question of whether the ABAC standards have or have not been breached as the Panel has found that the complaint relates to advertising and promotion of alcohol at events by a Third Party, Cricket Australia.