

ABAC

**ABAC Complaints Panel
Determination No: 115/09**

**Confidential Complaint
Product: Woolworths Liquor
Advertiser: Woolworths Limited**

Professor The Hon Michael Lavarch – Chief Adjudicator
Jeanne Strachan – Member
Professor Fran Baum – Member

14 January 2010

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a catalogue advertisement for Woolworths Liquor by Woolworths Limited (“the Advertiser”) and arises from a complaint received 16 December 2009.

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 is in the form of a confidential email received on 17 December 2009.
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. This advertisement did not receive pre-vetting approval.

The Advertisement

9. The complaint refers to a 3 page advertisement for Woolworths Liquor placed in the middle of a Woolworths grocery catalogue.
10. The advertisement features pictures of a number of alcohol products with their prices and also promotes 30% off all wine with the purchase of 6 or more bottles of any wine and an extra 5% off wine offer for registered Everyday Rewards cardholders. The Woolworths Liquor logo is displayed and gold stars are featured next to some of the products.

The Complaint

11. The complainant is concerned about the inclusion of liquor advertisements in a grocery catalogue. It is argued that the intention is to promote alcohol purchases within a grocery store, with consequential harm being caused to independent smaller retailers.

The Code

12. The ABAC provides at Sections (a) that advertisements for alcohol beverages must:
 - a) present a mature, balanced and responsible approach to the consumption of alcohol beverages

Arguments in Favour of the Complaint

13. In favour of the complaint it can be argued that the advertisement breaches section (a) of the ABAC by presenting an irresponsible approach to alcohol consumption by including an alcohol advertisement in a grocery catalogue.

The Advertiser's Comments

14. The Advertiser responded to the complaint and questions posed by the Panel by way of letter dated 24 December 2009. The points made by the Advertiser in relation to the advertisement were:
 - (a) The sheer placement of a liquor advertisement in the middle of a grocery catalogue does not constitute an irresponsible approach to the consumption of alcohol.
 - (b) The complainant appears to be concerned with other issues such as supermarket chain domination, the pharmacy sector etc.
 - (c) While it is not currently a signatory to the ABAC scheme, Woolworths does take its advertising obligations very seriously and operates under its own ethical and responsible liquor advertising guidelines which are consistent with the ABAC scheme.

The Panel View

15. The complainant argues that alcohol ads, and in particular this ad, should not be included in a grocery catalogue. It is a policy question as to whether alcohol may be advertised or sold with groceries. Forming a public policy position on this issue is a matter for government in conjunction with organisations involved, the public health sector and the alcohol industry. It is not a role for this Panel.
16. The underlying concern of the complainant is the ability of supermarket chains to market and sell alcohol with groceries. This is not a concern which the Panel can address as such. The express concern of the complainant is that the alcohol ad is placed within a grocery catalogue which is inconsistent with section (a) of the ABAC.
17. The Panel's role is to make decisions on the consistency of individual alcohol ads against the standards contained in the ABAC. The ABAC is a content code, which goes to what is contained within an ad, irrespective of where the ad is placed *e.g.* TV, print, radio, billboards, websites. Whether the ad, irrespective of its content, should or should not have been placed in the medium in the first place is not a decision the Panel is given responsibility to make.
18. As the complainant has not identified any concerns about the content of the specific advertisement and the concerns are confined to its placement in a grocery catalogue, the Panel is unable to find the complaint breaches the ABAC.
19. Accordingly, the complaint is dismissed.