

The ABAC Scheme

Annual Report 2005

presented by the
Management Committee of The ABAC Scheme

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Report from the ABAC Management Committee

2005 was a year of 'drilling down' into the detail of particular issues for The ABAC Scheme, among them:

- complaint response times—balancing speed and fairness
- how wide is the scheme coverage?
- the future of the Alcohol Advertising Pre-vetting Scheme
- extending ABAC's reach to cover naming and packaging.

All of these issues are addressed within this report.

The Management Committee is also pleased to note that the macro changes agreed with the Ministerial Council on Drug Strategy in 2004 have now been fully implemented.

Notwithstanding this success, we are mindful that alcohol advertising operates under ever present scrutiny within the wider community, including industry, and we seek to operate proactively within this environment.

To this end we are pleased to issue this 2005 Annual Report, which summarises the extra steps we have taken to further strengthen the co-regulation of alcohol advertising in Australia.

Management Committee, The ABAC Scheme



Sam Hudson
(ABAC Chair 2005/06)
Australian Associated Brewers Inc



Leslie Brydon
Advertising Federation
of Australia



Stephen Strachan
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Distilled Spirits Industry
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Liquor Merchants
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Australian Government
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Overview

Australia has a co-regulatory system for alcohol advertising: guidelines for advertising have been negotiated with government, consumer complaints are handled independently, but all costs are borne by industry.

The ABAC Scheme is the centrepiece of Australia’s co-regulatory system and is administered by a Management Committee which includes industry, advertising and government representatives.

From the consumer’s perspective

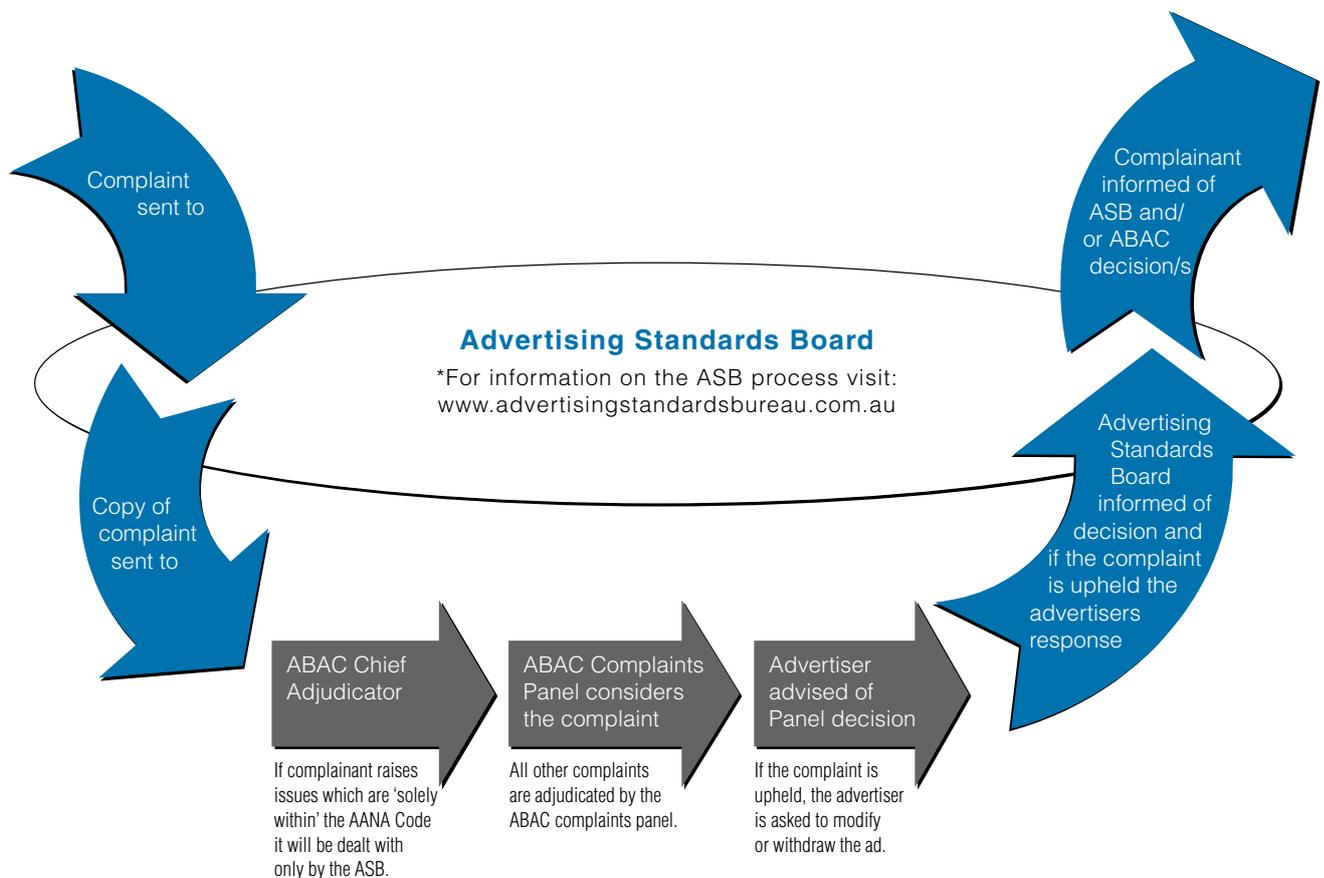
Australia has one of the most accessible complaints systems in the world, accepting complaints via email, letter or fax with no costs to the consumer. There

is just one ‘doorway’ for complaints—through the Advertising Standards Board—which triggers two independent but parallel processes (see Figure 1 below).

Complaints received from the ASB are all assessed by the Chief Adjudicator under The ABAC Scheme. In turn, some complaints may be referred on to the full Alcohol Beverages Advertising Adjudication Panel and in these cases complainants are informed of the referral and sent a copy of the final determination.

Complainants who request confidentiality will be granted it and members of the alcohol beverage industry are barred from adjudicating complaints.

Figure 1: ABAC Complaint Management System



From the companies' perspective

There are four potential decision points for alcohol advertising, as outlined in Figure 2 below.

If a complaint is upheld, companies who are signatories to the scheme are required to either suitably modify or remove the particular advertisement within 5 business days.

In 2005 there was 100% compliance with this requirement.

The ABAC Code is not the only set of rules affecting advertising in Australia. Alcohol beverage advertising

must also be consistent with other applicable laws and codes, for example:

- the Trade Practices Act and state fair trading legislation
- the Australian Association of National Advertisers (AANA) Code of Ethics
- the Commercial Television Industry Code of Practice
- the Commercial Radio Codes of Practice, and
- the Outdoor Advertising Code of Ethics.

Figure 2: Decision points for companies

FOUR DECISION POINTS FOR COMPANIES			
1 st decision point	2 nd decision point	3 rd decision point	4 th decision point
Checked by company and advertising agency staff against the Code	Pre-vetted by non-company assessors using the AAPS service	Any complaints are referred (via the ASB) to the ABAC Chief Adjudicator	Where a complaint is upheld, company asked to withdraw or modify an advert within five business days

Extensive reach of The ABAC Scheme

Australia's alcohol beverage sector is a mature industry, within which there has been a gradual consolidation of brands over many decades.

One desirable consequence of this long-term trend is that a co-regulatory scheme such as The ABAC Scheme can achieve tremendous reach via a manageable number of signatories, as illustrated in Figure 3.

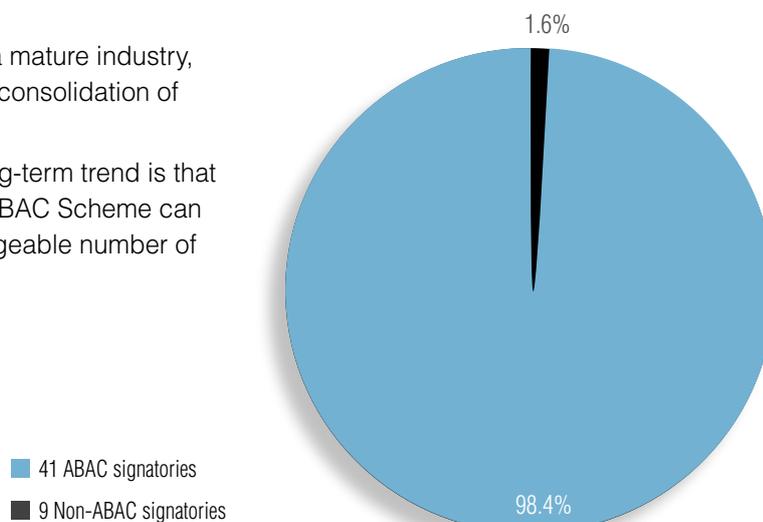


Figure 3: The ABAC Scheme—coverage of advertising spend (top 50 alcohol advertisers)

2005—some numbers



761

Proposed advertisements

Number of alcohol adverts pre-vetted in 2005. Of these:

- 641 were accepted
- 34 were accepted after modification
- 86 were rejected
- only 29 received complaints



105

The number of complaints received in 2005.
(Note: 54 were for one advertising campaign)



29

Advertisements complained against

The number of ads these complaints referred to.



17

The number of complaints considered by the Alcohol Beverages Advertising Adjudication Panel.

So, 59% of the ads complained against went on to the full Panel. (All others fell solely within the AANA Code of Ethics covering general advertising issues. The ASB runs an independent process for assessing complaints under the AANA Code—see www.advertisingstandardsbureau.com.au)



2

Complaints upheld

The number of complaints upheld by the Panel.

0

Is the number of adverts which were not modified or withdrawn within five business days, after a complaint was upheld.

A work in progress

Alcohol Advertising Pre-vetting Scheme (AAPS)

The AAPS Scheme began in 1992. It currently provides a valuable, confidential user-pays service to alcohol advertisers by assessing proposed advertisements against the Alcohol Beverages Advertising Code at an early stage of campaign development.

This provides some level of assurance, but no guarantee, against the possibility (and costs) of an advertisement being later ordered out of the marketplace—via the independent ABAC complaint processes.

In 2005 eleven percent of proposed advertisements were rejected outright at the pre-vetting stage under AAPS—stopping them from ever being broadcast or printed. A further 4.5% of proposed advertisements were only approved after modification. This is in line with previous years.

Between 1992 and 2004, the AAPS Scheme only involved beer and spirits advertisers. In 2004 winemakers joined AAPS as a direct result of a review of The ABAC Scheme, initiated by the Ministerial Council on Drug Strategy (see 2004 Annual Report).

Negotiations between industry associations during 2005 led to a decision that, with all producers now involved in both schemes, AAPS and ABAC should be combined.

In December the ABAC Rules & Procedures were formally amended to accommodate the AAPS scheme under the umbrella of The ABAC Scheme. (See Rules & Procedures in Section 4 of this report.) More work will need to be done in 2006 to bed down this transition.

Retailer Alert Scheme

The design of a Retailer Alert Scheme, by an industry working party, is well advanced.

The proposed Retailer Alert Scheme will extend the reach of the ABAC standards from advertising to also cover the naming and packaging of alcohol beverages.

The design process has involved detailed negotiations across many sectors at both a producer and retailer level, through their respective industry associations:

- Australian Associated Brewers
- Australian Hotels Association
- Australian Liquor Stores Association
- Clubs Australia
- Distilled Spirits Industry Council of Australia
- Liquor Merchants Association of Australia, and
- Winemakers Federation of Australia.

This working party has looked to the UK Portman Group model of Retailer Bulletins, which encourages retailers to not further stock products which continue to breach their obligations under the equivalent UK code. Sanctions will introduce a new level of complexity to the operation of The ABAC Scheme, so time and care has to be taken to deal with the complex commercial and legal issues involved in doing so.

Under the proposed Australian scheme, if a complaint is upheld against a name or package it will trigger a communication to retailers (the Retailer Alert). In some circumstances, retailers will be expected to 'not further order' non-complying products and producers will be expected to withdraw or suitably modify the product within a set period to ensure compliance. Given the high levels of producer compliance with the current rules for advertising, it is reasonable to expect similar compliance with the proposed rules for naming and packaging.

With substantial progress being made during 2005, we are now hopeful of signing off on the detail of the proposed Retailer Alert Scheme in the coming year.

Fast vs fair: getting the balance right

The ABAC Rules set a ‘target of 30 days on average for the handling of complaints’¹. In 2005, this target was easily met. However, 12 out of 105 complaints did take longer than 30 days to process through The ABAC Scheme in 2005 and all of these were complaints considered by the full Adjudication Panel.

Within last years Annual Report, the Chief Adjudicator acknowledged the ever-present concern about response times, issuing the following challenge to the Management Committee who have a duty to oversee the process:

“The Management Committee should consider if it would prefer much shorter written determinations (similar to the decisions of the ASB²) in order to reduce timeframes in determining complaints.”

In August 2005 the Management Committee met with the Chief Adjudicator to discuss this issue. In broad terms this discussion centred on the competing demands of ‘fast vs fair’ within the ABAC Rules, i.e.: whilst Clause 2.5 a) i) requires that the complaint handling process have regard to “a target of 30 days on average”, Clause 2.5 a) iii) also requires that regard be given to “any natural justice considerations”.

These two rules seek to address equally legitimate concerns: (a) to get a result whilst the advertisement is still current and (b) that the advertiser be given a fair hearing.

Whilst the former is self-explanatory, the advertiser’s point of view may not be. It is fair to say that:

- Most advertising campaigns are not short lived. This is particularly true for broadcast ads, given the costs of production can be very high, and
- All beer and spirits ads and all wine television ads are independently ‘pre vetted’ against the ABAC Code so there is a reasonable expectation (although no guarantee) on the advertiser’s part that they comply.

In the end, the Management Committee decided to stick with the present system of written reasons for each determination. In order to foster a greater understanding of the process, we have summarised the ‘ten steps’ involved in assessing a complaint.

ABAC complaints handling process

Step 1 is to receive the complaint from the ASB.

Step 2 is for the Chief Adjudicator “to determine if the complaint raises issues which are solely within the province of the AANA Code of Ethics³”.

Step 3 for complaints which go to the ABAC Adjudication Panel, is for the advertisement and product to be identified.

Step 4 is to procure a copy of the advertisement.

Step 5 is to draft and send a ‘show cause’ letter to the advertiser.

Step 6 is to receive the advertiser’s response.

Step 7 is to prepare a draft determination for consideration by the full Panel.

Step 8 is to set a meeting and for each Panel member to consider the materials before them.

Step 9 is to re-draft the determination to reflect the outcome of the meeting, and then re-circulate it to Panel members.

Step 10 is to approve the final document and then issue the determination.

The Chief Adjudicator Professor Lavarch summarises the process as taking a minimum of 20–22 working days from receipt of the complaint ‘if everything falls perfectly into place’ and all panel members are ‘of the same mind’. Obviously a modest delay at any two of these steps tips the process over the target for some complaints.

¹ Clause 2.5 a) i), ABAC Rules & Procedures.

² At the time, ASB determinations recorded the decisions as ‘upheld’ or ‘dismissed’ without any written reasoning to explain how the decision was arrived at.

³ From Clause 2.5 (c) (i) of the Rules & Procedures of The ABAC Scheme.

Report from the Chief Adjudicator

2005 was the first full year of operation of the Alcohol Beverages Advertising Code (ABAC) complaints management system under a revised set of rules and procedures and a revised ABAC. In general terms, the new system has worked well, with the ABAC Panel making 17 determinations on the 29 separate alcohol advertisements which were the subject of complaints received by the Advertising Standards Bureau (ASB).

The complaints management and adjudication process is essentially divided into several discrete parts, namely:

- Receipt of a complaint by the ASB and forwarding of the complaint to the ABAC Executive Officer.
- Determination if the complaint raises issues solely dealt with under the Australian Association of National Advertisers (AANA) Code of Ethics or if ABAC issues are raised.
- In cases where the ABAC Adjudication Panel's jurisdiction is triggered, then a process is followed consisting of:
 - obtaining copies of the advertisement
 - drafting questions to the advertiser
 - drafting of a determination for Panel consideration
 - panel hearing to determine the complaint and settle the determination.

The complaint consideration and adjudication process endeavours to produce a balance between several policy objectives, namely:

- that the process is fair to both complainants and advertisers
- that the process is relatively quick
- that the process results in thoughtful decision-making and well-reasoned determinations to assist understanding of the ABAC standards
- that the process is cost-effective.

While these policy objectives are not mutually exclusive, there is a tension between a process which gives a premium to thoroughness and procedural fairness on one hand, and a process which is time-sensitive and relatively inexpensive on the other hand. This tension, as manifested in the issue of meeting a timeframe goal, is canvassed in the issues for consideration.

I wish to thank members of the Panel, Professor Fran Baum, Ms Jeanne Strachan and Ms Liz Dangar, for their work on the Panel. Ms Kate Mellick has provided valuable logistical and administrative support to the Panel as Executive Officer. I also acknowledge the interest and responsiveness of the ABAC Management Committee during the year.

Professor Michael Lavarch

Chief Adjudicator

Alcohol Beverages Advertising Adjudication Panel

Report from the Chief Adjudicator (continued)

Issues for consideration

Timeframes

The ability of the adjudication process to always satisfy the 30-day resolution timeframe in cases of a full determination remains a challenge. The problem is essentially one of cost and benefit. The Adjudication Panel members undertake their roles on a part-time basis and are not always able to attend to the determination process immediately. This fact, combined with problems sometimes encountered in properly identifying advertisements and advertisers and obtaining materials can make it difficult to meet the 30-day timeframe.

It is a matter for the Management Committee, in reviewing the operation of the Scheme, to weigh up the costs and benefits of adopting various strategies to improve the decision-making timeframe.

For instance:

- Procedural changes could be made to empower the Panel to make an interim decision based solely on the complaint without reference to the arguments of the advertisers. This decision could then be reviewed upon receipt of materials from the advertiser.
- Resourcing to the Panel could be increased and redirected to say replace the Executive Officer role with a full-time member of the Panel who is given responsibility to perform all secretariat functions and the initial drafting of determinations. Such an approach might be justified if all alcohol complaints, including those raising matters solely under the AANA Code of Ethics, as well as the ABAC, were determined by the Adjudication Panel.

There are other measures which might be considered, e.g. additional panel members, the appointment of a Deputy Chief Adjudicator to take on some determination drafting and the conduct of some panel hearings.

Essentially, consideration of these matters requires a judgment to be taken on the competing policy objectives of the ABAC Scheme. Speed of resolution of complaints is one objective: fairness and cost effectiveness are others.

The comprehensive coverage of the ABAC Scheme

The ABAC Scheme can be described as co-regulatory in nature in that it is at its core a self-regulation initiative by the alcohol beverage industry which has been influenced by government input. This government input has seen changes in the terms of the ABAC, a governmental official becoming a member of the ABAC Management Committee and the inclusion of a public health expert as a member of all Adjudication Panel decisions.

The scheme, however, cannot 'cover the field' as it is not underpinned by legislative compulsion, but rather individual corporate commitment. By this it is meant that only legislation can compel, by force of law, compliance with a Code of Practice. Short of legislation, compliance is dependent on contractual commitments and goodwill.

For the ABAC, 'gaps' in its coverage can arise from:

- alcohol advertisements from companies which are not members of an industry association committed to the ABAC
- the ABAC not applying directly to media outlets which run alcohol advertising
- advertising occurring via a medium which is not captured by the ABAC
- a complaint raising an issue which does not fall within a provision contained within the ABAC or another code applying to advertising more generally.

This observation is not raised as a criticism of co-regulation as it should be noted that 'gaps' also inevitably occur with legislative schemes; for instance, when a legislative code e.g. the Income Tax Act, fails to pick up new activities which then require subsequent amending legislation. In fact, as a general observation, an advantage of a co-regulatory system is its ability to react more quickly to 'gaps' than a legislative system.

In 2005, an issue concerning the coverage of the ABAC emerged, arising from an advertisement for Cougar bourbon. The advertisement attracted complaints on the basis that it encouraged the intimidation of persons who utilised the public complaints process to actually complain about alcohol advertising. The complaints revealed two 'gaps' in the ABAC system.

Firstly, the issue raised was not on its face within the scope of either the ABAC or the AANA Code of Ethics. Accordingly, it was not obvious that either the ASB or the ABAC Adjudication Panel had jurisdiction to determine the complaint.

This 'gap' was resolved by the decision of the Panel, supported by the management committee, to deal with the complaint. This means that the ABAC and the Adjudication Panel will act as a safety net to ensure that all complaints have a home. This in turn revealed the second 'gap' in that, while the Panel considered the advertisement inappropriate, there was no section of the ABAC which could be fairly interpreted as actually prohibiting the advertising.

In the event, the advertiser itself, upon receiving the complaints, withdrew the advertisement. The Panel, however, felt obliged to dismiss the complaint as the ABAC did not envisage a complaint of this nature. The Management Committee may care to consider if the ABAC needs amending to make clear that advertising must not discourage the making of complaints.

The use of sexual imagery in alcohol advertising

A consistent theme in complaints is the use of sexual imagery. Often the complaints go to issues of sexism which are dealt with under the AANA Code of Ethics and considered by the ASB. In other cases, the issue is whether the advertisement is breaching the standard laid out in section (c) of the ABAC.

Section (c) provides that advertisements for alcohol beverages must 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 contribution to, the achievement of personal, business, social, sporting, sexual or other success.

This ABAC provision has been dealt with in a number of difficult decisions made by the Panel in 2005. While the Panel approaches its role mindful of the spirit and intent of the ABAC and the importance of securing responsible alcohol advertising, it can only apply the ABAC as it is drafted.

The management committee may wish to consider section (c) of the ABAC and assess if it is meeting community expectations in terms of the use of sexual imagery in alcohol advertising.

Professor Michael Lavarch

Chief Adjudicator

Alcohol Beverages Advertising Adjudication Panel

Alcohol Beverages Advertising Code

Preamble

Australian Associated Brewers Inc, the Distilled Spirits Industry Council of Australia Inc, the Winemakers Federation of Australia and the Liquor Merchants Association of Australia Ltd are committed to the goal of all advertisements for alcohol beverages, other than point of sale material, produced for publication or broadcast in Australia complying with the spirit and intent of this Code.

The Code is designed to ensure that alcohol advertising will be conducted in a manner which neither conflicts with nor detracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by underage persons.

The conformity of an advertisement with this Code is to be assessed in terms of its probable impact upon a reasonable person within the class of persons to whom the advertisement is directed and other persons to whom the advertisement may be communicated, and taking its content as a whole.

Definitions

For the purpose of this Code—

adult means a person who is at least 18 years of age;

alcohol beverage includes any particular brand of alcohol beverage;

adolescent means a person aged 14-17 years inclusive;

Australian Alcohol Guidelines means the electronic document 'Guidelines for everyone (1-3)' published by the National Health & Medical Research Council (NHMRC) as at 1st January 2004.

child means a person under 14 years of age; and

low alcohol beverage means an alcohol beverage which contains less than 3.8% alcohol/volume.

Advertisements for alcohol beverages must

- a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly—
 - i) must not encourage excessive consumption or abuse of alcohol;
 - ii) must not encourage under-age drinking;
 - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;
 - iv) must only depict the responsible and moderate consumption of alcohol beverages;
- b) not have a strong or evident appeal to children or adolescents and, accordingly—
 - i) adults appearing in advertisements must be over 25 years of age and be clearly depicted as adults;
 - 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; and
 - iii) adults under the age of 25 years may only appear as part of a natural crowd or background scene;
- 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;
 - ii) if alcohol beverages are depicted as part of a celebration, must not imply or suggest that the beverage was a cause of or contributed to success or achievement; and
 - iii) must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or is a necessary aid to relaxation;

- d) not depict any direct association between the consumption of alcohol beverages, other than low alcohol beverages, and the operation of a motor vehicle, boat or aircraft or the engagement in any sport (including swimming and water sports) or potentially hazardous activity and, accordingly—
- i) any depiction of the consumption of alcohol beverages in connection with the above activities must not be represented as having taken place before or during engagement of the activity in question and must in all cases portray safe practices; and
 - ii) any claim concerning safe consumption of low alcohol beverages must be demonstrably accurate;
- e) not challenge or dare people to drink or sample a particular alcohol beverage, other than low alcohol beverages, and must not contain any inducement to prefer an alcohol beverage because of its higher alcohol content; and
- f) comply with the Advertiser Code of Ethics adopted by the Australian Association of National Advertisers.
- g) not encourage consumption that is in excess of, or inconsistent with the Australian Alcohol Guidelines issued by the NHMRC.
- i) the brand name or names of alcohol beverages offered for sale;
 - ii) the type and/or style of the alcohol beverages offered for sale;
 - iii) a photographic or other reproduction of any container or containers (or part thereof, including any label) in which the alcohol beverages offered for sale are packaged;
 - iv) the location and/or times at which the alcohol beverages are offered for sale; and
 - v) such other matter as is reasonably necessary to enable potential purchasers to identify the retailer or retailers on whose behalf the advertisement is published,

must comply with the spirit and intent of the Code but are not subject to any process of prior clearance.

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.

This 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; and
- Alcohol beverages served at such events are served in keeping with guidelines, and where applicable legal requirements, for responsible serving of alcohol (which preclude the serving of alcohol to underage persons); and
- Promotional staff at events do not promote consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines; and

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.

Retail advertisements

Advertisements which contain the name of a retailer or retailers offering alcohol beverages for sale, contain information about the price or prices at which those beverages are offered for sale, and which contain no other material relating to or concerning the attributes or virtues of alcohol beverages except—

- Promotional staff do not misstate the nature or alcohol content of a product; and
- Promotional staff at events are of legal drinking age; and
- Promotional materials distributed at events do not clearly target underage persons; and
- Promotional materials given away at or in association with events do not connect the consumption of alcohol with the achievement of sexual success; and
- Promotional materials given away at or in association with events do not link the consumption of alcohol with sporting, financial, professional or personal success; and
- Promotional materials given away at events do not encourage consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines; and
- A condition of entry into giveaways promoted by alcohol companies at or in association with events is that participants must be over the legal drinking age; and Prizes given away in promotions associated with alcohol beverage companies will only be awarded to winners who are over the legal drinking age.

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.

Public education

This protocol does not apply to or seek to restrict alcohol beverage companies from being associated with conduct, activity or materials that educate the public, including underage persons, about the consequences of alcohol consumption and the possible consequences of excessive or underage consumption.

ABAC Rules and Procedures (December 2005)

1 Management

1.1 Management Committee

The management and operation of the Alcohol Beverages Advertising Code ("The ABAC Scheme") will be undertaken by a Management Committee consisting of—

- (a) the Executive Director of the Australian Associated Brewers Incorporated or their nominee ("AAB");
- (b) the Executive Director of the Distilled Spirits Industry Council of Australia Inc or their nominee ("DSICA");
- (c) the Chief Executive of the Winemakers Federation of Australia or their nominee ("WFA");
- (d) the Executive Director of the Liquor Merchants Association of Australia Limited or their nominee ("LMA");
- (e) the Executive Director of the Advertising Federation of Australia or their nominee.
- (f) a Representative of Australian Governments with a nominee put forward by the relevant Federal Minister for consideration by the other members of the Management Committee, who will be appointed for a one (1) year term but will be eligible for re-appointment by the Management Committee.

The position of Chairman will rotate between the AAB, DSICA, WFA and LMA representatives on an annual basis. The Chairman will arrange for the provision of secretarial services to the Management Committee.

1.2 Role

To manage and review the operation of ABAC and to consider amendments to ABAC and to the voluntary system of compliance with ABAC with a view to:

- Encouraging industry members, large and small, to participate in the self-regulatory system;
- Playing an active role to ensure an effective self-regulatory system;
- Monitoring the implementation of the ABAC system and improving it where necessary;
- Co-ordinating the development and completion of an annual report with copies to be provided to the Ministerial Council on Drug Strategy and the Advertising Standards Board; and
- Manage the Alcohol Advertising Pre-Vetting Scheme as an effective mechanism to support and strengthen the aims of ABAC and to encourage participation by industry members in AAPS.

1.3 Meetings of the Management Committee

The Management Committee must meet at least four times a year.

Any of the representatives of the AAB, DSICA, LMA or WFA may convene a meeting of the Management Committee which, if not a telephone meeting, must be held by giving not less than fourteen (14) days prior written notice of the meeting to the other members of the Management Committee.

1.4 Funding

The Management Committee will be funded equally by the AAB, DSICA, WFA and LMA.

2 Adjudication

2.1 Alcohol Beverages Advertising Adjudication Panel

An Alcohol Beverages Advertising Adjudication Panel (“the Panel”) will be formed to adjudicate upon complaints concerning advertisements for alcohol beverages which are made to the Advertising Standards Board established by the AANA and referred to the Panel for adjudication.

Adjudication by the Panel will be in addition to any other legal right or remedy which may exist.

2.2 Code Signatories

All members of AAB, DSICA, WFA and LMA will be asked to agree to comply with any recommendation of the Panel that they not publish or broadcast or permit to be published or broadcast any advertisement which the Panel decides does not comply with ABAC.

Non-members are strongly encouraged to become Code signatories, by filling out a form approved by the Management Committee for the purpose, which are to be available through the appropriate industry association.

2.3 Disputes between Competitors

The Panel will have no role in the adjudication of a complaint by an alcohol beverages manufacturer about the advertising of a competitor. Such competitive complaints will be dealt with by the Advertising Claims Board established by the AANA.

2.4 Appointment of the Panel

The Panel will be appointed by the Management Committee and will consist of three (3) regular members and two (2) reserve members.

The Management Committee will appoint a Health Sector representative as one of the three regular members of the Panel. A shortlist of three candidates for this position will be supplied by the relevant Federal Minister to the Management Committee for consideration.

The Management Committee will appoint one (1) member of the Panel as the Chief Adjudicator of the Panel.

No member of the Panel may, at the time of or during the term of his or her appointment to the Panel—

- (a) be a current employee or member of the alcohol beverages industry; or
- (b) have been an employee or member of that industry during the period of five (5) years prior to the date of his or her appointment.

Each member of the Panel will be appointed for a one (1) year term but will be eligible for re-appointment.

Determinations of the Panel will be by a simple majority vote and no member of the Panel will have a casting vote.

2.5 Complaints Procedure

- (a) The ABAC Management Committee has a duty to oversee that the process for handling complaints is running efficiently, and in performing this duty must have regard to:
 - (i) A target of 30 days on average for the handling of complaints, and
 - (ii) A need to ensure privacy, where required by law, and
 - (iii) Any natural justice considerations.
- (b) All complaints received from the ASB will be considered within the ABAC complaints procedure and all decisions must be recorded in writing for statistical purposes.

- (c) (i) The Chief Adjudicator will look at all complaints received from the ASB to determine if the complaint raises issues which are solely within the province of the AANA Code of Ethics.
- (ii) If it is so determined the complaint will not normally be further considered by ABAC (and will be handled by the ASB in accordance with their own procedures) excepting
- (iii) Where the Chief Adjudicator exercises his or her discretion to refer the complaint to the Adjudication Panel notwithstanding his or her determination that it raises issues which are solely within the province of the AANA Code of Ethics.
- (d) In all other cases (including 2.5(c)(iii)) the complaint will be referred on to the ABAC Adjudication Panel for adjudication and the Health Sector representative will sit on the Panel for all adjudications. Copies of the advertisement against which a complaint has been lodged will also be provided to Adjudication Panel members to assist them with their deliberations.
- (e) If the Panel decides that the complaint should be upheld the advertiser or its agency must advise the Panel within five (5) business days as to whether the advertiser agrees to modify the advertisement or its use must be discontinued.
- (f) Decisions of the Panel, and the response (if any) of the advertiser/agency, must be advised to the Advertising Standards Board and the ABAC Management Committee, within five (5) business days after—
 - (i) in the case where the Panel has not upheld the complaint, the date of the decision of the Panel; or
 - (ii) in the case where the Panel has upheld the complaint, the date the response is received (or due) from the advertiser/agency pursuant to paragraph (e) above.
- (g) A record of all decisions must be maintained to assist with establishing statistical patterns over time for use in drafting the Annual Report etc.

2.6 Indemnity of Panel Members

If a complaint made to the Advertising Standards Board and referred to the Panel is from an advertiser, advertising agency, government agency or statutory authority, the AANA must ensure that the members of the Panel receive the benefit of the indemnity provided to the advertising Standards Board by the complainant.

2.7 Funding

The costs of the Panel will be met by AAB, DSICA and WFA and LMA in proportion to each industry group's Australian advertising expenditure as a proportion of total Australian alcohol advertising expenditure.

2.8 Annual Report

The Panel must prepare a report summarising the complaints received and dealt with by the Panel and the recommendations made to the Advertising Standards Board during the preceding year and provide a copy of that report to the Management Committee.

3 Alcohol Advertising Pre-vetting Scheme (AAPS)

3.1 Role of AAPS

Individual alcohol beverage producers may use the AAPS pre-vetting service to assess whether proposals conform to either or both of the following codes the Australian Association of National Advertisers Code of Ethics (AANA) or the Alcohol Beverages Advertising Code (ABAC).

For beer producers and spirits producers all advertisements for alcohol beverages (excluding internet advertisements) should be pre-vetted against the ABAC Code and may be pre-vetted against the AANA Code. For wine producers all television and cinema advertising should be pre-vetted against the ABAC Code and may be pre-vetted against the AANA Code.

For all producers pre-vetting for the promotion of alcohol at events or internet advertisements is optional.

Pre-vetters have no public role in representing the scheme. Their role is to provide pre-vetting services. Any inquiries or correspondence from third parties to pre-vetters must be referred on to the relevant industry association or ABAC Management Committee to be dealt with.

To encourage the frank exchange of views within the Scheme, any opinion expressed by a pre-vetter in respect to a matter which is submitted for pre-vetting is confidential to the producer, the pre-vetter and the representative of their respective industry association.

3.2 Appointment of Pre-vetters

There will be a minimum of two pre-vetters within the AAPS Scheme, appointed by the Management Committee.

No pre-vetter may, at the time of or during the term of his or her appointment to the Panel—

- (c) be a current employee or member of the alcohol beverages industry; or
- (d) have been an employee or member of that industry during the period of five (5) years prior to the date of his or her appointment.

Each of the three pre-vetters will be appointed for a three (3) year term and will be eligible for re-appointment after a minimum period of one (1) year out of the Scheme. These provisions may be varied by the Management Committee.

3.3 Funding

Where appropriate, AAPS is to be funded on a user-pays basis by those industry members seeking pre-vetting of advertisements.

The Management Committee is to be responsible for the setting of any retainers and hourly rates for pre-vetters and approving any related expenses. Further, the Management Committee is to ensure that a system is in place for the orderly collection of debts incurred through use of the pre-vetting service by producers.

