

# The ABAC Scheme

**Annual Report 2007**

presented by the  
Management Committee of The ABAC Scheme

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## Report from the ABAC Management Committee

The operation of the Alcohol Beverages Advertising Code Scheme during the 2007 year was characterised by several substantial changes in personnel connected to the scheme.

A new adjudicator, Professor Richard Mattick<sup>1</sup> was appointed as an alternate 'public health' representative on the adjudication panel as a means of improving complaint response times. This appointment was made in liaison with the Monitoring of Alcohol Advertising Committee on behalf of the Ministerial Council on Drug Strategy.

The appointment was considered necessary to improve the response times for handling complaints as it became increasingly difficult to coordinate the timetables of the sole existing 'public health' representative, who must sit on all adjudications, with the other adjudicators on the panel. The management committee was happy to facilitate the requirement for another 'public health' representative. After interviewing several candidates, Professor Mattick was appointed.

A new Melbourne-based pre-vetter was appointed as part of the Alcohol Advertising Pre-vetting Scheme replacing a Perth-based pre-vetter who left the scheme. The change of location of the new pre-vetter has led to improved turn-around times for pre-vetting requests, reflecting the location of most national advertisers on the eastern coast of Australia.

A new administrator, Ms Jayne Taylor, was appointed to improve the processing and the timeliness of the complaints system. This role acts in support of, and reports to, the chief adjudicator.

The membership of the management committee changed with the retirement of Lesley Brydon from her position of Executive Director of the Advertising Federation of Australia. Lesley was replaced by Mark Champion, both as AFA Executive Director and on the management committee. The committee would like to thank Lesley for her work on the management committee and her invaluable contribution to the operation of the ABAC Scheme.

Another notable change was the establishment of the ABAC website, which has substantially improved the transparency of the operation of the ABAC Scheme. The

<sup>1</sup> Professor Richard P. Mattick (BSc MPsych (Clinical) PhD) is the Professor of Drug and Alcohol Studies at the University of New South Wales, Sydney within the Faculty of Medicine where he is the Director the National Drug and Alcohol Research Centre.

website publishes the ABAC Scheme's codes and procedures. Also available are advertiser guidelines, ABAC annual reports, and the full text of all determinations of the adjudication panel.

The management committee formally endorsed and published guidelines for advertising agencies as to how to put the ABAC standards into practice when developing advertisements. The guidelines were developed after extensive consultations with stakeholders, and have been very valuable for the advertising industry in terms of providing practical assistance and understanding on how the ABAC standards are to be translated into advertisements that comply with the code. These guidelines are available from the ABAC website.

The ABAC code was extended during the year to include a further clause prohibiting advertisements that refer to the ABAC scheme in a manner that may bring the scheme into disrepute. This additional clause was in response to an internet-based advertisement.

The coverage of the scheme was also extended to include adjudication of complaints about advertisements in trade magazines for the alcohol industry.

The management committee worked throughout 2007 to bring the naming and packaging of alcoholic products within the ABAC Scheme. An application to the Australian Competition and Consumer Commission was lodged for an industry-wide scheme; however the ACCC attached conditions that were unacceptable to the industry. Work has continued to develop and implement an alternative scheme.

Alcohol advertising has remained a political issue and the subject of close scrutiny. The ABAC Scheme remains a pragmatic and sensible response to legitimate concerns by society and governments, while recognising that alcohol is a legitimate product that should be advertised in a responsible and careful manner.

Finally, I would like to thank all the adjudicators and pre-vetters for their efforts across 2007, and also extend my thanks to the members of the management committee for their generous contributions of time and effort to make the ABAC Scheme a success.

### **Gordon Broderick**

2007 Chair

### **Management Committee, The ABAC Scheme**



#### **Gordon Broderick**

(ABAC Chair 2007)  
Distilled Spirits Industry  
Council of Australia Inc



#### **Leslie Brydon**

Advertising Federation of  
Australia (to November 2007)



#### **Mark Champion**

Advertising Federation of  
Australia (from December 2007)



#### **Virginia Hart**

Australian Government  
Department of Health & Ageing  
(from November 2006)



#### **Stephen Strachan**

(ABAC Chair 2006)  
Winemakers' Federation  
of Australia Inc



#### **Stephen Swift**

Australian Associated Brewers Inc  
(from October 2006)

## Overview

**Australia has a quasi-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 quasi-regulatory system and is administered by a management committee which includes industry, advertising and government representatives.

### From the consumer’s perspective

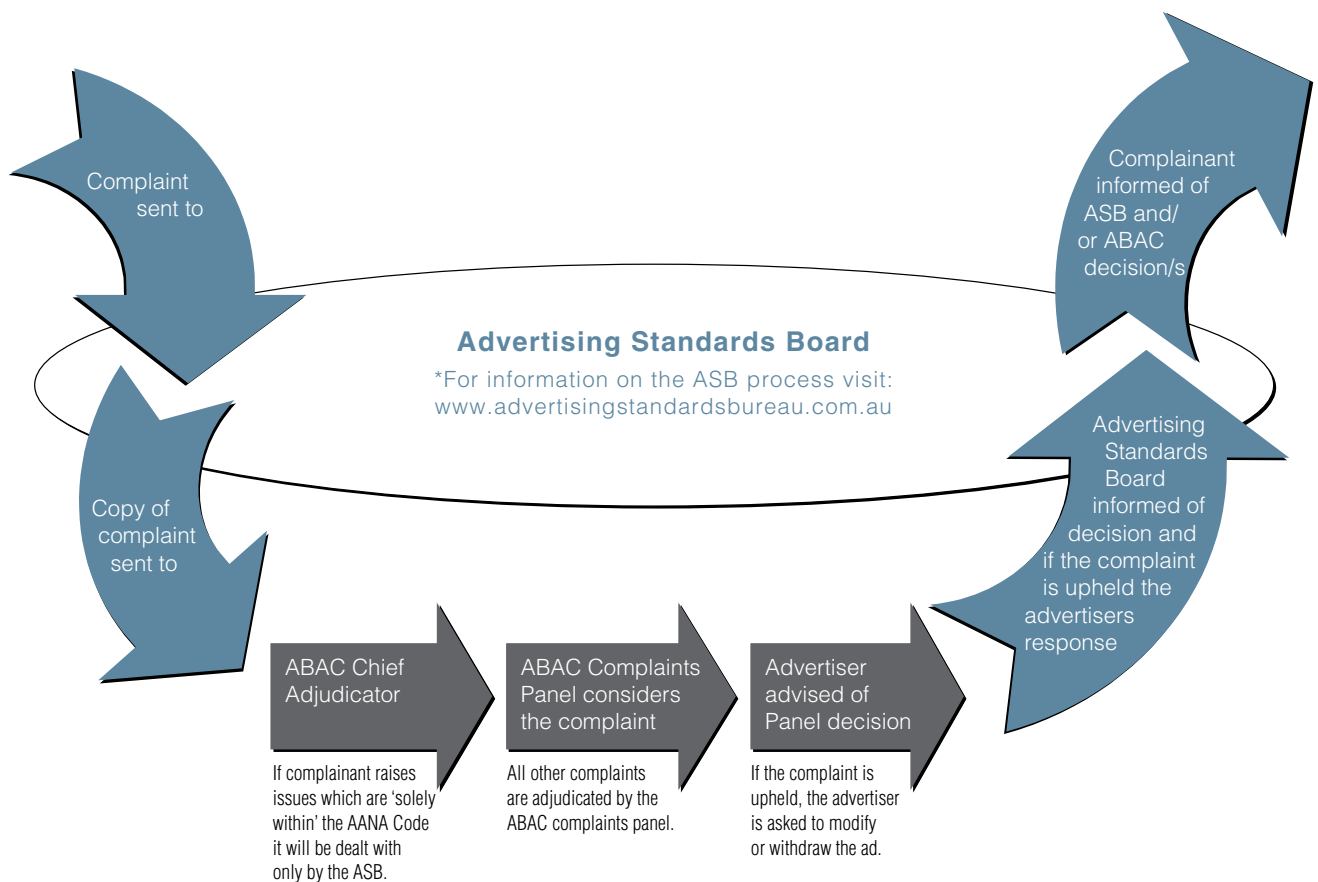
Australia has one of the most accessible complaints systems in the world, accepting complaints via email, letter or fax with no costs to the consumer. There

is just one ‘doorway’ for complaints—through the Advertising Standards Bureau (ASB)—which triggers two independent but parallel processes.

Complaints received from the ASB are all assessed by the chief adjudicator under The ABAC Scheme. In turn, complaints are referred on to the full Alcohol Beverages Advertising Adjudication Panel unless they relate solely to the Australian Association of National Advertisers (AANA) Code of Ethics. Complainants are informed of the referral or otherwise 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 and submitting complaints

**Figure 1: ABAC Complaint Management System**



### From the companies' perspective

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

These include internal company checks, independent pre-vetting of advertisements, assessment of any complaints under The ABAC and, if complaints are upheld, modification or withdrawal of advertisements.

The ABAC Scheme 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 Code of Ethics
- the Commercial Television Industry Code of Practice
- the Commercial Radio Codes of Practice
- the Outdoor Advertising Code of Ethics.

**Figure 2: Decision points for companies**

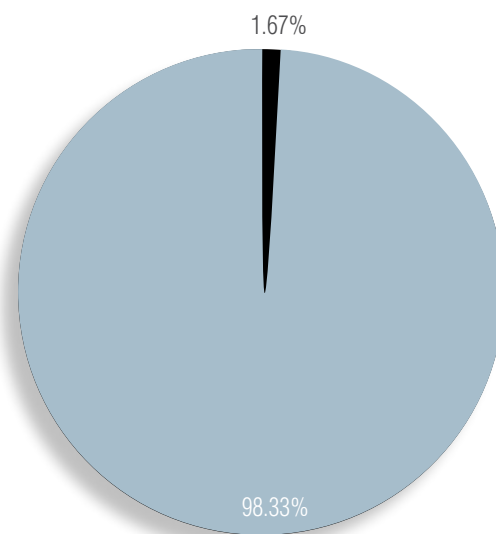
FOUR DECISION POINTS FOR COMPANIES			
1 <sup>st</sup> decision point	2 <sup>nd</sup> decision point	3 <sup>rd</sup> decision point	4 <sup>th</sup> decision point
Checked by company and advertising agency staff against the code	Pre-vetted by non-company assessors using the AAPS service	Any complaints 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 quasi-regulatory scheme such as The ABAC Scheme can achieve tremendous reach via a manageable number of signatories. Of the top 50 advertisers, which represents the vast majority of all advertising, more than 98 per cent of the spend is covered by companies using the ABAC system.

- 40 ABAC signatories
- 10 Non-ABAC signatories



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

## 2007—some numbers compared

Pre-vetting		2005	2006	2007
Number of alcohol advertisements pre-vetted		761	936	1267
Of the advertisements pre-vetted:	Number that were accepted	641	701	913
	Number that were accepted subject to conditions	34	53	61
	Number that were rejected	86	182	293

Complaints		2005	2006	2007
Number of complaints received:		105	53	87
Number of advertisements these complaints referred to:		29	26	38
Number of complaints considered by the Alcohol Beverages Advertising Adjudication Panel: (i.e. complaints that fell within the code – all others fell solely within the Australian Association of National Advertisers Code of Ethics covering general advertising issues. See <a href="http://www.advertisingstandardsbureau.com.au">www.advertisingstandardsbureau.com.au</a> for further information)		17	9	25
Number of complaints upheld:		2	2	8

### Observations

- The 25 complaints considered by the ABAC Panel resulted in only 22 determinations as several of the determinations involved more than one complaint that related to the same advertisement.
- 29 of the 87 complaints were from 2006, but were only received by ABAC in 2007. These 29 complaints from 2006 resulted in two determinations, one of which was upheld.
- 53 per cent of advertising campaigns complained about resulted in a determination. Fourteen of these complaints were dismissed and eight complaints were upheld.
- A further two determinations were made in 2007 in relation to complaints received in late 2006. Both complaints were dismissed.
- The pre-vetting of advertisements was considerably stricter between the three years. In 2007, 23 per cent of proposed advertisements were rejected, up from 13 per cent in 2005, and almost 20 per cent in 2006.
- The pre-vetters receive advertisements in three different stages—in story board, preliminary and final stage. The advertisements may go through substantial changes through this process and it can stretch out over 12 months or more depending on the development of an advertising campaign. For this reason, it can be difficult to track the exact number of advertisements submitted and resubmitted with variations, although the end result is a full and rigorous review of all advertisements submitted.

### Timeliness of complaint processing

During 2007, 25 complaints resulted in 22 determinations, taking on average 29.3 business days to be completed. Eighteen determinations (72%) were completed within 30 business days (average 21 days). Seven determinations were dealt with in excess of 30 business days (average 50 days).

# Report from the Chief Adjudicator 2007

## Introduction

**2007 was an important year for renewal and reform within the operation of the ABAC complaints management scheme. Some highlights of the year are as follows:**

### Professor Richard Mattick joins the panel

Professor Mattick joined the ABAC Adjudication Panel in June 2007. Richard is the Director of the National Drug and Alcohol Research Centre at the University of New South Wales.

Professor Mattick joins Professor Fran Baum as a panel member with a public health background. The rules relating to the panel's operation provide that each determination on a public complaint should be decided by a panel consisting of at least one member with public health expertise. Professor Mattick's appointment adds considerable depth to the panel's skills and greatly facilitates the ready formation of a panel in order to meet the timeframe the panel strives to achieve in making decisions about complaints.

### Jayne Taylor becomes the panel's administration officer

In May 2007 Ms Jayne Taylor assumed responsibilities as the panel's administration officer. Ms Taylor is a lawyer and a former senior associate of a national law firm. The administration officer's role is to facilitate the day-to-day operation of the panel, particularly in processing complaints to the panel from the Advertising Standards Board (ASB).

While performing the administration officer role in a part-time capacity, Jayne has been a wonderful addition to the ABAC system and her efficient and skilful handling of the various aspects of the role has considerably enhanced the panel's operations.

### ABAC Guidance Notes developed

During the second half of 2007, the scheme's management committee, in conjunction with the Advertising Federation of Australia (AFA) oversaw the development of guidance notes to assist the public and advertisers in understanding the provisions of the ABAC. The final form of the notes was released in December 2007.

The notes are a useful adjunct to the ABAC and panel's determinations in understanding how the code is applied by both the pre-vetters and the panel.

### Website established

2007 witnessed the establishment of the ABAC website. The website has allowed the posting of ABAC Adjudication Panel determinations and hence is a resource for both industry and the public in accessing past decisions. The guidance notes are also accessible from the website. The creation of the website was a previous recommendation from the panel and it is pleasing that this resource is now available and functioning well.

### Complaints dealt with in 2007

Alcohol advertising is subject to a range of codes of practice which go to the content of advertising and, in the case of the codes applying to television and billboards, the placement of advertising. The most important codes are the AANA Code of Ethics and the ABAC. This means that complaints about a particular alcohol ad might be considered by either the ABAC Adjudication Panel or the Advertising Standards Board, or both bodies. For ease of the public access to the complaint systems, the ASB acts as the receipt point for all public complaints about alcohol advertising.



## Report from the Chief Adjudicator (continued)

In 2007 some 2.34% of all public complaints received about advertising of all kinds by the ASB related to alcohol advertising. This continues a trend of recent years which has seen the number of complaints about alcohol ads falling as a percentage of all complaints about advertising.

While in a comparative sense alcohol ads might be attracting a smaller number of complaints, the number of complaints about alcohol ads resulting in an ABAC Adjudication Panel determination is increasing. This reflects the amendment to the rules applying to the panel's operation made in 2004 which aimed to widen and increase the number of decisions made by the panel.

In 2007 the panel made 24 determinations (2 resulted from complaints received in 2006), which is the highest number of decisions made by the panel in a single year since the creation of the current ABAC scheme in 1998. In total, 87 alcohol complaints relating to 38 separate advertising executions or campaigns were referred from the ASB to the panel. This means 53% of advertising campaigns complained of resulted in panel decisions and 25% of all complaints resulted in panel determinations.

It should be noted that a majority of complaints i.e. 75%, raised solely issues under the AANA Code of Ethics and hence resulted in the ASB processes being triggered, rather than the ABAC Panel decision process. This means that most complaints go to issues which are not related to alcohol as a product as such, but rather the way in which the product was being promoted. In other words, if the product being sold was milk or shoes rather than alcohol, the ad would still have attracted the complaint because of an element in the ad e.g. sexism, taste or decency.

In analysing the determinations made in 2007, it is possible to make a number of observations, including:

- television and websites/internet ads were considered in the largest number of determinations (eight (8) and six (6) respectively). Billboards were considered in four (4) determinations
- Section (a) and Section (c) of the ABAC featured in more complaints than other provisions of ABAC
- a failure to submit an ad to the scheme pre-vetting process is far more likely to result in a complaint being upheld than ads which have been pre-vetted.
- a comparison between 2006 and 2007 of sections of the ABAC raised in complaints is set out in the table below:

Basis of complaint	2006	2007
Maturity and balance	-	12%
Excessive consumption	56%	28%
Underage drinking	33%	28%
Offensive behaviour and misuse	78%	32%
Irresponsible consumption	33%	12%
Appeal to children and/or adolescents	11%	32%
Alcohol cause of success	33%	20%
Alcohol cause of celebration	11%	8%
Therapeutic benefit	-	8%
Motor vehicle use or sport	22%	20%
Daring a person to drink	-	4%

It is not possible to draw any particular conclusions from this analysis as an individual ad or campaign may attract a large number of complaints and hence significantly influence the result for a particular year.



## Issues for consideration

### Timeframes for decisions

The rules applying to the ABAC Adjudication Panel set down an objective for decisions to be finalised within 30 business days from the receipt of a complaint by the panel. Consistently meeting this objective when a determination is required has been problematic over the life of the ABAC scheme.

In 2007 eight (8) complaints of the 87 complaints referred to the ABAC Panel took more than 30 days to be determined. Measures adopted by Ms Taylor as administration officer in processing complaints, generally good levels of responsiveness by advertisers in supplying copies of ads and answering questions, and the advantages of better technology have all assisted in improving this aspect of performance as the year progressed. As mentioned, expanding the panel's membership to add a second public health expert has also assisted on occasions in the securing of the available members to form a panel.

### Relationship between the ASB and the ABAC adjudication process

The working relationship between the ASB and the ABAC Panel is vital in the smooth operation of the ABAC Scheme. In the 2006 Annual Report it was noted that there had been some difficulties experienced in the processing of complaints from the ASB to the panel's administration officer. In 2007 the process has worked well and has been facilitated by a number of procedural changes and refinements.

The ASB has also extended the reach of its scheme to consider alcohol ads on the internet. A gap between the ASB and the ABAC schemes on this point was identified in the 2006 Report and it is pleasing that this potential problem has been overcome.

The panel records its appreciation to the staff of the ASB for their cooperation and support for the ABAC complaints management process.

### Governance of the complaints system

The ABAC Scheme is governed by a management committee consisting of representatives of the sponsoring alcohol industry peak bodies, the Advertising Federation of Australia and government. The management committee plays no part in the panel's decision-making process. It does have a role in monitoring the performance of the ABAC Scheme as a whole and in reviewing the code itself to ensure it is meeting its objectives.

As chief adjudicator of the panel, I report to the committee any issues which arise from particular determinations on the operation of the complaints scheme. Issues arising from 2007 determinations and discussed with the management committee have included:

- the scope and meaning of 'point of sale' material
- the inclusion of retail outlets e.g. Coles and Woolworths as members of the ABAC Scheme
- the interplay of the pre-vetting scheme and complaints process
- complaints raising matters regarding the naming and packaging of alcohol products.

The panel thanks the management committee for its support during the year.

### Professor Michael Lavarch

Chief Adjudicator

Alcohol Beverages Advertising Adjudication Panel

# Alcohol Beverages Advertising Code

## Preamble

**Australasian Associated Brewers Inc, the Distilled Spirits Industry Council of Australia Inc and the Winemakers Federation of Australia 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:

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

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**alcohol beverage** includes any particular brand of alcohol beverage

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**adolescent** means a person aged 14–17 years inclusive

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**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

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**child** means a person under 14 years of age

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**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 (e.g. family barbecue, licensed family restaurant) and where there is no implication that the depicted children and adolescents will consume or serve alcohol beverages
  - 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

- 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
  - 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
- 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.
- h) Not refer to The ABAC Scheme, in whole or in part, in a manner which may bring the scheme into disrepute.

### Internet advertisements

The required standard for advertisements outlined in (a) to (h) 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:

- 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
- 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
- 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)

- promotional staff at events do not promote consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines
- promotional staff do not misstate the nature or alcohol content of a product
- promotional staff at events are of legal drinking age
- promotional materials distributed at events do not clearly target underage persons
- promotional materials given away at or in association with events do not connect the consumption of alcohol with the achievement of sexual success
- promotional materials given away at or in association with events do not link the consumption of alcohol with sporting, financial, professional or personal success
- promotional materials given away at events do not encourage consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines
- 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 (October 2007)

## 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 Australasian 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 Advertising Federation of Australia or their nominee
- (e) a representative of Australian government 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 and WFA 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
- coordinating 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
- 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, 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 and WFA.

## 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 and WFA 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
  - (ii) A need to ensure privacy, where required by law
  - (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:

- (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 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.



