

The ABAC Scheme

Annual Report 2008

presented by the
Management Committee of The ABAC Scheme

Table of contents

Section 1	
Report from the ABAC Management Committee	
Overview	2
2008—some numbers compared	4
Section 2	
Report from the Chief Adjudicator 2008	5
Introduction	5
Issues for consideration	6
Section 3	
Alcohol Beverages Advertising Code	8
Preamble	8
Definitions	8
Advertisements for alcohol beverages	8
Internet advertisements	9
Retail advertisements	9
Promotion of alcohol at events	9
Third parties	10
Public education	10
Section 4	
ABAC Rules and Procedures (October 2007)	11

Report from the ABAC Management Committee

2008 was a year of steady progress for the Alcohol Beverages Advertising Code (ABAC) Scheme. A number of changes and processes were initiated during the year which will undoubtedly streamline the operation of the ABAC Scheme.

During 2008 tenders were called for an expanded ABAC administrative service. This role will centralise the collection of ABAC statistics, including collation and reporting of Alcohol Advertising Pre-Vetting Scheme information. The centralised ABAC administrator role will provide greater support to the management committee in administering the scheme.

Additionally, during 2008 the management committee engaged legal and consultancy services to undertake work towards incorporation of the ABAC Scheme, which is well under way and is expected to be finalised in calendar year 2009.

Another significant milestone for the scheme was reached during 2008 when the management committee adopted provisions that will extend the code to cover naming and packaging of alcohol beverages. The standards for naming and packaging will be the same as for advertising although the complaints process will be slightly different and will provide a second opportunity for companies to respond to a provisional adjudication decision. Naming and packaging provisions will be officially launched during 2009.

The Outdoor Media Association (OMA) announced in 2008 that its members will now only accept advertisements that have been approved through the Alcohol Advertising Pre-Vetting scheme. The management committee applauds this move which reinforces the important role of pre-vetting.

In response to community feedback the OMA also announced new outdoor advertising guidelines which place restrictions on billboard advertising within 150 metres of primary and secondary schools. This is a positive move that highlights the responsiveness of advertisers to community attitudes. The OMA reported that these new measures will be formally adopted by 31 March 2009.

The Alcohol Advertising Pre-Vetting Scheme continued to prove popular with advertisers. The management committee was pleased to see that a number of new advertisers utilised the pre-vetting scheme during 2008. We look forward to seeing the popularity of the pre-vetting scheme continue to expand in 2009.

As with any transparent regulatory process, the ABAC Scheme is subject to ongoing public examination and evaluation. In early 2008 the operation of the ABAC Scheme was discussed by the Senate Community Affairs Committee in response to a private member's bill, the *Alcohol Toll Reduction Bill*. The management committee was pleased to provide a formal submission to the inquiry highlighting the success of the scheme over its years of operation. The management committee welcomed the review of the ABAC Scheme and upholds the view that transparency sits at the centre of any effective regulatory system.

During 2008 alcohol advertisers and their advertising agencies were invited to attend information seminars in Sydney and Melbourne. The seminars provided a forum for discussion of a range of ABAC issues. With

pre-vetters and the Chief Adjudicator, Professor the Hon Michael Lavarch, on hand to answer questions, these seminars proved very popular. The seminars would not have been possible without the hard work of the Advertising Federation of Australia who kindly coordinated the events. The management committee extends its thanks to the federation and to those who generously gave their time to address the seminars.

On behalf of the management committee, I would like to extend my thanks to the adjudication panel, whose efforts across the year were integral to the achievement of the ABAC Scheme. Thanks also to ABAC pre-vetters, who continued to offer an important and high quality service to advertisers throughout 2008. Special thanks must be extended to Ms Jayne Taylor, whose ongoing hard work and dedication plays a large part in the efficiency of the scheme.

I would also like to extend my personal thanks to the members of the ABAC Management Committee.

Stephen Swift
ABAC Chair (2008)

Management Committee, The ABAC Scheme



Stephen Swift
Australian Associated Brewers Inc
(ABAC Chair 2008)



Gordon Broderick
Distilled Spirits Industry
Council of Australia Inc



Mark Champion
Advertising Federation of
Australia



Virginia Hart
Australian Government
Department of Health & Ageing



Stephen Strachan
Winemakers' Federation
of Australia Inc

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.

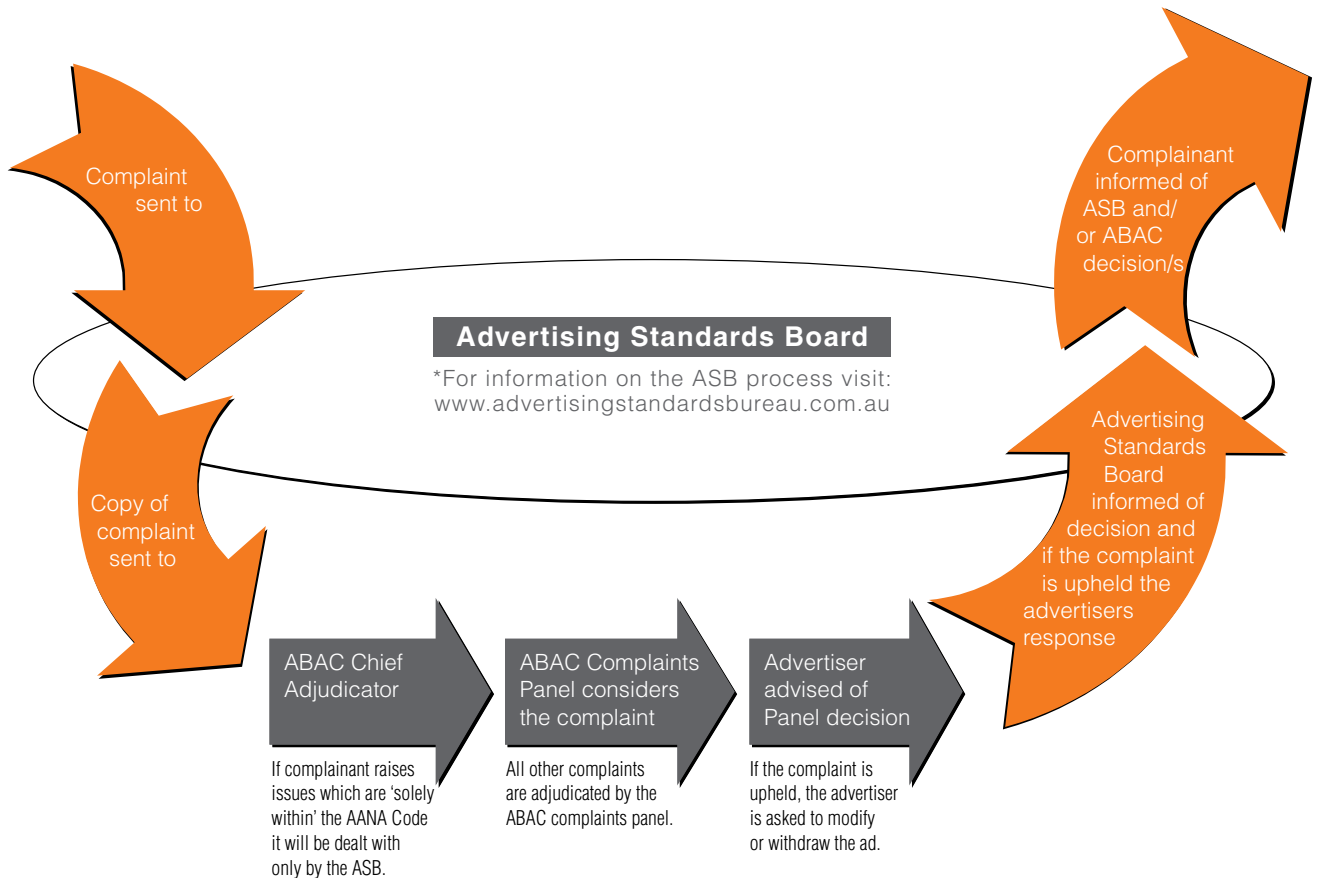
The ABAC Scheme is the centrepiece of Australia’s quasi-regulatory system and is administered by a management committee which includes industry, advertising and government representatives.

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 Scheme 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 Media Association Code of Ethics.

Figure 2: 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

2008—some numbers compared

Pre-vetting		2006	2007	2008
Number of alcohol advertisements pre-vetted		936	1267	1110
Of the advertisements pre-vetted:	Number that were accepted	701	913	849
	Number that were accepted subject to conditions	53	61	29
	Number that were rejected	182	293	232

Complaints		2006	2007	2008
Number of complaints received:		53	87	162
Number of advertisements these complaints referred to:		26	38	44
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 www.advertisingstandardsbureau.com.au for further information)		13	25	49
Number of determinations from complaints received that year		10	22	36
Number of complaints upheld:		3	8	12
Number of determinations upholding complaints		2	8	7

* In 2008 an additional two complaints weren't considered by the panel as the issue they raised had been previously determined.

Observations

- 83 of the 162 complaints (51 per cent) received in 2008 were related to two separate advertising campaigns.
- All advertisements that were subject to upheld complaints in 2008 were removed voluntarily.
- Complaints resulting in a determination took, on average, 19.8 business days to be completed (last year 29.3).
- 94 per cent of determinations were completed within 30 business days.
- 3 determinations were completed in excess of 30 business days – two of which were due to the Christmas period (two of these complaints were dismissed and one upheld).
- Upheld complaints were dealt with, on average, within 20.1 business days.

Report from the Chief Adjudicator 2008

Introduction

During 2008, the issue of alcohol use in Australia was the subject of considerable public debate. In part, this flowed from the Federal Government's decision to change the tax treatment of certain ready-to-drink (RTD) products (popularly referred to as "alcopops").

This decision was advocated by the government as the use of the price mechanism to discourage use of the products by younger drinkers. Some opponents of the decision described the motivation as purely a "tax grab" which would have no lasting beneficial impact on the patterns of alcohol use. This debate, combined with a number of high profile instances of misbehaviour by sporting identities, in which it was reported that alcohol use was a factor, contributed to a renewed focus on alcohol use more broadly, and the role which alcohol advertising plays in influencing use more specifically.

Possibly, as a result of this increased focus, the number of public complaints about alcohol advertising referred from the ASB to the panel increased markedly from the numbers in 2007. In total, 162 complaints relating to 44 separate alcohol advertising executions or campaigns were referred to the ABAC Complaints Management Scheme, with some 36 separate determinations on the consistency of advertising with ABAC standards being made by

the panel. This is by some margin the highest number of decisions made by the panel in a single year since the creation of the current ABAC Scheme in 1998.

As well as the increase in the number of decisions made by the panel, some matters dealt with during the year were quite complex. In some respects, these matters raise policy issues regarding the operation of the ABAC Scheme and the interpretation of the ABAC. Notwithstanding this increased demand, the panel has operated well, thanks in large measure to the dedicated support provided by the panel's Administration Officer, Ms Jayne Taylor. Ms Taylor's role, together with the role of all panel members, is part-time. Despite this, only three (3) of the 162 matters referred to the panel took more than 30 business days to be determined; and two (2) of these decisions were affected by the Christmas/New Year break. Given that meeting target timeframes has been a challenge for the determination process, this achievement in 2009 is noteworthy.

I take this opportunity to extend my thanks to my fellow panel members and to Ms Taylor for their support in the operation of the adjudication process. I also extend my appreciation to the ABAC Management Committee and the staff of the Advertising Standards Board (ASB) for their assistance in the smooth operation of the panel's work.

Complaints dealt with in 2008

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 outdoor advertising, the placement of advertising.

The most important codes applying to alcohol advertising are the AANA Code of Ethics and the ABAC. This means that complaints about a particular alcohol advertisement 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.

In 2008, both the number of complaints referred by the ASB to the panel and the number of determinations made increased substantially over 2007. It should be noted, however, that a majority of complaints 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 advertisement would still have attracted the complaint because of an element in the advertisement e.g. sexism, taste or decency.

Report from the Chief Adjudicator (continued)

In analysing the determinations made in 2008, it is possible to make a number of observations, including:

- Television was considered in the largest number of determinations (twenty (20)). Billboards were considered in seven (7) determinations, print in five (5) determinations and websites in three (3) determinations.
- Section (a) of the ABAC is the provision most commonly canvassed in complaints.
- A failure to submit an advertisement to the scheme's pre-vetting process is far more likely to result in a complaint being upheld than advertisements which have been pre-vetted.

The table below compares 2007 and 2008 and the section of the ABAC dealt with in determinations:

Basis of Complaint	2007	2008
Maturity and balance	12%	41%
Excessive consumption	28%	18%
Underage drinking	28%	27%
Offensive behaviour and misuse	32%	51%
Irresponsible consumption	12%	2%
Appeal to children and/or adolescents	32%	29%
Alcohol cause of success	20%	22%
Alcohol cause of celebration	8%	0%
Therapeutic benefit	8%	4%
Motor vehicle use or sport	20%	16%
Daring a person to drink	4%	0%

It is not possible to draw any particular conclusions from this analysis as an individual advertisement or campaign may attract a large number of complaints and hence significantly influence the result for a particular year. The large increase in complaints about maturity and balance and offensive behaviour can be attributed in part to a large number of complaints being received about two separate campaigns featuring a series of three television advertisements, each of which raised issues of offensive behaviour.

Issues for consideration

A number of quite complicated issues arose during 2008 regarding the scope of the ABAC Scheme and the interpretation of code provisions. These matters were raised with the scheme's management committee during the year and are restated here as a matter of reporting on major issues which require consideration at a policy level.

Point-of-sale carve-out

The ABAC provides an effective 'carve-out' from the substantive operation of the standards contained in the code for point-of-sale advertising. The code does not however define point-of-sale advertising.

The issue of whether a particular advertisement which has generated a complaint falls within the point-of-sale carve-out has come before the panel on several occasions over the life of the ABAC, but in 2008 the panel undertook a comprehensive review as to the scope of the point-of-sale carve-out. The outcome of this review is contained in Determination 18/08.

The panel concluded that point-of-sale advertising would incorporate material which:

- is displayed adjacent to the point at which the alcohol beverage is purchased
- is a fixture or akin to a fixture i.e. is not intended to be taken away from the premises by a customer
- has limited exposure to a wider audience beyond the clientele of the premises from which the alcohol beverage is purchased.

This 'definition' of point-of-sale advertising has been accepted by the scheme's management committee. It is a matter of policy for the committee as to whether the point-of-sale carve-out continues to be justified in light of the scheme's aims and objectives and the practical implications of including all point-of-sale advertising within the scheme.

Code interpretation

In some decisions, the issue of the appropriate interpretation to be given to an expression within a code provision becomes a central issue for the panel to determine. In undertaking its task of interpretation, the panel is mindful that the spirit and intent of the ABAC Scheme is important and that it is to adopt a common sense approach to interpretation, rather than a 'black letter law' approach. The code as a whole was last subject to holistic review in 2003, leading to changes to the code which came into effect in 2004. The panel draws the management committee's attention to several issues which have been the subject of internal debate by panel members in interpreting the code during 2008 and which might be reconsidered in any future review of the code.

In Determination 02/08, the panel considered the various descriptions used throughout the ABAC in terms of alcohol use. Section (a) speaks of "a responsible approach to the consumption of alcohol". Section (c) speaks of the "consumption and presence" of alcohol, while section (d) deals only with the "consumption" of alcohol.

Use of these different expressions gives various provisions of the ABAC a wider or lesser scope. Whether these differing expressions are playing an appropriate role and fulfilling the policy intent of the scheme should be included within the next holistic review of the code.

This review should also consider whether section (d), which in part is the code's response to the public policy intent of combating drink driving, is sufficiently wide in its application to meet this policy goal. In Determinations 02/08, 01/08 and 82/07 the panel dealt with advertisements which raised alcohol and the use of vehicles. It is arguable that the provision could be recast slightly to capture the use of bicycles.

Section (d) also provides for an 'exemption' of a kind for advertisements promoting a "low alcohol beverage" from the general standard contained in the section. The scope and intent of this 'exemption' was discussed in Determination 76/08. Again, this provision could be examined in a future review of the ABAC to assess whether the policy intent is being fully achieved.

Sponsorship and the ABAC

The ABAC was designed to apply good practice standards to alcohol advertising. The design of the code works well when considering individual executions of an alcohol advertisement. It is not so readily applied to various promotions, naming rights etc which arise from the sponsorship of sporting teams by alcohol producers.

In Determination 26/08 the panel considered a complaint arising from the sponsorship by an alcohol producer of a motocross team competing in a national competition. The panel determined issues around advertising on a website and at a motocross event. The relationship between the ABAC and sponsorship more broadly raises policy issues which go beyond the role of the adjudication panel. It is apparent, however, that the ABAC Scheme, as it is currently configured, does not provide an adequate platform to assess sponsorship arrangements.

Naming and Packaging

During 2008 proposals were advanced for an extension of the ABAC Scheme to the naming of alcohol products and the labelling of products. It is envisaged that the panel and chief adjudicator will play particular roles in the extended scheme. The chief adjudicator has been consulted about the proposed scheme. The finalisation of the naming and packaging extension of the ABAC Scheme is a matter for the scheme's management committee.

Professor Michael Lavarch

Chief Adjudicator
The ABAC Scheme

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—

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 and Medical Research Council (NHMRC) as at 1st January 2004

child means a person under 14 years of age

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 underage 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 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
- 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 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

- 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, 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.

