

ABAC

**ABAC Complaints Panel
Determination No: 79/13**

**Confidential Complaint
Product: Liquorland (various)
Advertiser: Liquorland**

Professor The Hon Michael Lavarch – Chief Adjudicator
Debra Richards – Member
Professor Richard Mattick – Member

9 August 2013

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for Liquorland (“the Advertiser”) and arises from a complaint received 8 July 2013.

The Quasi-Regulatory System

2. Alcohol advertising in Australia is subject to an amalgam of laws and codes of practice which regulates and guides the content and, to some extent, the placement of advertisements. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol advertising as quasi-regulation. The most important provisions applying to alcohol advertising are found in:
 - a generic code (the AANA Advertiser Code of Ethics) with a corresponding public complaint mechanism operated by the Advertising Standards Bureau (ASB);
 - an alcohol specific code (the Alcohol Beverages Advertising Code) and complaints mechanism established under the ABAC Scheme;
 - certain broadcast codes, notably the Commercial Television Industry Code of Practice (CTICP) which restricts when direct advertisements for alcoholic drinks may be broadcast; and
 - The Outdoor Media Association Code of Ethics which includes provisions about Billboard advertising.
3. The complaint systems operated under the ABAC scheme and the ASB are separate but inter-related in some respects. Firstly, for ease of public access, the ASB provides a common entry point for alcohol advertising complaints.

Upon receipt, the ASB forwards a copy of the complaint to the Chief Adjudicator of the ABAC Panel.

4. The Chief Adjudicator and the ASB independently assess the complaint as to whether the complaint raises issues under the ABAC, AANA Code of Ethics or both Codes. If the Chief Adjudicator decides that the complaint raises solely issues under the Code of Ethics, then it is not dealt with by the ABAC Panel. If the complaint raises issues under the ABAC, it will be dealt with by the ABAC Panel. If the complaint raises issues under both the ABAC and the Code of Ethics, then the ABAC Panel will deal with the complaint in relation to the ABAC issues, while the ASB will deal with the Code of Ethics issues.
5. The complaint raises concerns under the ABAC and accordingly is within the Panel's jurisdiction.

The Complaint Timeline

6. The complaint was received by ABAC on 8 July 2013.
7. The Panel endeavours to determine complaints within 30 business days of receipt of the complaint, but this timeline depends on the timely receipt of materials and advice and the availability of Panel members to convene and decide the issue. This complaint was determined within the target timeframe.

Pre-vetting Clearance

8. The quasi-regulatory system for alcohol beverages advertising features independent examination of most proposed advertisements against the ABAC prior to publication or broadcast. The advertiser is not a signatory to the ABAC Scheme and pre-vetting approval was not obtained for the advertisement.

The Advertisement

9. The complaint refers to a television advertisement. The advertisement opens with a gathering of people standing on the balcony of a house and then moves to a record turntable as a song starts with the lyrics "You ready, 1, 2, 3" and continues throughout the ad. We then see a number of scenes in quick succession:
 - A woman serving a pizza at a party and people taking a slice;
 - A woman shaking a cocktail shaker;
 - Voiceover "Triple up on spirits and save" as we see a group of people, some holding cocktails and some eating pizza and then two men clinking drinks;
 - Voiceover continues "any 3 for \$90 on brands like Jim Beam White label bourbon and Johnny Walker Red Label Scotch 700ml" as the screen changes to two groups of 3 bottles of spirits separated by the text "Any 3 for \$90";

- A party with a group of people in the foreground, some holding cocktails;
- Voiceover continues “Get ready for the weekend at Liquorland” as we see a group of people holding cocktails and then a man walking out of a Liquorland store holding up two Liquorland bags.

The Complaint

10. The complainant argues that by stating “Get ready for the weekend” by promoting the purchase of 3 x 700ml bottles of spirits, the advertisement is suggesting that 3 x 700ml bottles of spirits should be consumed in one weekend. It is argued that the purchase is not for an occasion or a group of people or to stock up but ‘for the weekend’ and this is contrary to responsible service of alcohol policies.

The Code

11. The ABAC provides that advertisements for alcohol beverages must:
 - a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly-
 - i) must not encourage excessive consumption or abuse of alcohol;
 - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;

The Advertiser’s Comments

12. The Advertiser responded to the complaints and questions posed by the Panel by letter dated 15 July 2013. The points made by the Advertiser in relation to the advertisements were:
 - Whilst we are not a signatory to the Alcohol Beverages Advertising Code we are happy to provide feedback on this complaint. In addition to complying with relevant legislative obligations and industry codes Liquorland Australia Pty Ltd (Liquorland) has a long standing commitment to the responsible service of alcohol. Liquorland considers its materials accord with all these commitments which are generally consistent with the spirit of ABAC.
 - Whilst acknowledging the importance of the aims of the ABAC Code, Liquorland considers that it has acted responsibly at all times and that it is reasonably apparent that the relevant advertising does not amount to a breach of ABAC when assessed taking the content as a whole.
 - As a general comment we note that your letter asks a number of questions that appear to go beyond the scope of the complaint.
 - Some common promotions that are offered by most licensees who sell packaged liquor nationally include:

- i. Buy a dozen bottles of wine and receive a percentage discount;
 - ii. “two for the price of one” offers;
 - iii. Multiple products for a single price;
 - iv. Buy a number of bottles of spirits and receive a discount;
 - v. Buy a carton of beer/wine and get a bonus product.
- We do not believe these types of promotions encourage rapid and excessive consumption, rather, provide our customers with an opportunity to purchase products at good value to consume at home. These types of promotions are primarily wine offers that provide our customers with good value for money and are run by licensees who sell packaged liquor nationally.
 - Liquorland advertises in a wide range of media including press, television and radio. Liquorland also advertises in the Coles supermarket catalogue and on shopping docketts. From time to time our press and catalogue advertising will feature special offers such as “three bottles of spirits for a single price point”, the Advertisement features that promotion. The style and content of this advertising is aimed at adults.
 - Offering consumers significant savings does not necessarily mean that promotion would encourage a person to consume alcohol in an irresponsible manner. Whilst this represents a significant saving to consumers it could not be regarded as “cheap”. We do not believe that this promotion encourages the consumption of liquor in an excessive or irresponsible manner.
 - With respect to “specials”, being a special price that runs for a short period of time such as in the Advertisement, there is no evidence to suggest that “specials” offered at Liquorland result in more alcohol being consumed. A customer may save money due to purchasing at the “special” price or they may “trade up” to a brand which is normally beyond their budget, but this does not mean that they will necessarily consume more alcohol.
 - We believe it is encouraging a consumer to purchase a particular brand of alcohol in a small multiple quantity for good value and as an alternative to another similar brand. Just because a customer purchases multiple quantities does not mean that they will drink all that alcohol on one occasion or in any rapid or excessive manner. For example, a customer may purchase the product to consume over a period of time, either by themselves or with others.

- This is consistent with existing consumer behaviour in Australia for other goods and services. If a particular brand of product is on special one week, a customer often purchases additional quantities of the product. When the products return to their original price after the “special” ends there is a decrease in the purchase of that product. There is nothing unusual or of concern with this activity.
- Liquorland denies that providing reasonable value propositions amounts to encouraging excessive consumption of alcohol and otherwise considers the Advertisements do not encourage any consumer to engage in excessive consumption of alcohol. Alcohol is commonly sold in multiple quantities such as a case of wine or carton of beer. We believe there is a clear difference between purchasing multiple quantities of alcohol and the subsequent consumption of it. The Advertisements provided eligible customers with the opportunity to purchase this product at good value for consumption at a later time.
- Liquorland does not believe there is anything in the Advertisement which could reasonably be said to encourage a person to consume alcohol in an irresponsible or excessive manner. The fifteen second Advertisement depicted a social setting involving a group of friends at someone’s home, where alcohol was reasonably available but clearly not essential to proceedings.
- The Advertisement was intended to capture the Australian values of warmth and sharing great times with friends and had a theme of togetherness, camaraderie and group activity. It shows a group of people who are clearly friends, enjoying themselves in a low key social setting at a private residence. The behaviour exhibited is moderate and consistent with that typically displayed at those types of low key social gatherings.
- The Advertisement shows a number of scenes with mix of guests with and without drinks. We do not believe they are behaving in a manner that would suggest that they are under the influence of alcohol or that they are being inappropriate. We confirm that for those scenes which show some guests holding glasses the glasses contain both alcoholic and non-alcoholic drinks. The drinks were being held, carried or clinked in a toast with firm grips by individuals who are behaving in a moderate, low key manner. There were no signs of conspicuous or over-zealous consumption or that the guests were affected by alcohol. The glasses contain an appropriately sized serving of alcohol and the Advertisement did not imply that any individual would consume more than one drink.
- Food is also prominently featured throughout the Advertisement.
- The use of the Liquorland shopping bag being held up by Matt Skinner at the end of the Advertisement is intended to show the Liquorland logo on the bag. Whilst the “red bag” featured in the Advertisement could hold 6 bottles it is very apparent that the bags do not – if they did contain 6 bottles it would be extremely difficult for them to be lifted and

held up so easily. In any case alcohol is commonly sold in multiple quantities. We believe there is a clear difference between purchasing multiple quantities of alcohol and the subsequent consumption of it.

- Catchy or upbeat music is used extensively in the advertising of products aimed at an adult market, from car commercials to insurance. It is used to capture people's interest. Liquorland has used upbeat positive music in all of its advertising in the past as do many other advertisers of products such as alcohol.
- It is common for people to have social events on a weekend and for alcohol to be part of, but not central to, those types of events. The use of "get ready for the weekend" is intended to encourage people to come into Liquorland to make those alcohol purchases rather than go to another liquor retailer. It does not in any way encourage people to consume alcohol in an irresponsible or excessive manner or to purchase excessive amounts of alcohol.
- Liquorland remains very committed to the responsible service of alcohol and considers that its marketing has an important part to play in that process. We believe that the Advertisement when viewed as a whole demonstrates a moderate, responsible approach to alcohol.

The Panel's View

13. This determination concerns a television advertisement for the alcohol retailer, Liquorland. Liquorland is a subsidiary company of the major Australian retailer Coles. Coles and Liquorland are not signatories to the ABAC Scheme and, as such, the advertising produced by Liquorland is not required to satisfy the ABAC standards. That said, the advertiser has stated its commitment to good practice in alcohol advertising and has over time cooperated with the Panel's processes when public complaints have been received about advertisements for Liquorland or other Coles related alcohol outlets or products. As a result, the Panel has proceeded to make this determination.
14. This particular execution is one in a series which has aired during 2013 for Liquorland and which use the tagline "Get Ready". Each of the executions have had common features, including the music used and the theme of Liquorland customers purchasing and then consuming alcohol in a variety of social settings. While the advertisements are part of an overall campaign, each individual execution has to be assessed specifically against the ABAC standards in light of the nature of the concerns expressed in the complaint about the advertisement.
15. On 14 March 2013, the Panel made a determination on 5 earlier executions within the current Liquorland campaign. This earlier determination considered similar concerns to that raised by the complainant in the current case, namely of the advertisements encouraging an irresponsible approach to alcohol consumption and the encouragement of excessive consumption. In the March 2013 determination, the Panel found that each of the advertisements were in

breach of section (a) of the ABAC. This is the section that requires that advertisements must not promote irresponsible or excessive alcohol use.

16. In reaching this earlier conclusion that the executions were in breach of section (a), some matters which the Panel noted included:

- The sheer extent of alcohol use depicted at the social gatherings.
- The lack of any non-alcohol beverage or food being consumed or present at the gatherings.
- Scenes which indicated that persons at the gatherings might have been affected by alcohol use.
- In some of the executions, depictions of prolonged alcohol consumption.

17. More recently, on 16 July 2013, the Panel made a determination in relation to a different execution within the same campaign theme. On this occasion the Panel dismissed a complaint raising similar concerns about excessive consumption to that raised by the current complainant. Each execution in the campaign, however, has to be assessed on its own merits and it does not follow that because earlier advertisements were or were not in breach of a Code provision that a subsequent advertisement will also be in breach.

18. In this particular case, the complainant is concerned that the advertisement is encouraging excessive consumption by telling people to “get ready for the weekend” by buying 3 x 700ml bottles of spirits for a single discounted price. It is argued that the defined period of the ‘weekend’ implies that the 3 bottles of spirits should be consumed during the 2 days. For its part, the advertiser contends that:

- The advertisement only depicts or suggests moderate alcohol consumption and does not depict anyone behaving in a manner that would suggest that they are under the influence of alcohol.
- There is a clear difference between the purchasing of multiple quantities of alcohol and the subsequent consumption of the purchased products.
- It is common for people to have social events on the weekend and for alcohol to be part of, but not central to, those types of events. The phrase, “Get ready for the weekend” is used to encourage people to come into Liquorland to make those alcohol purchases rather than go to another liquor retailer.

19. The Panel does not believe the advertisement breaches the section (a) standard. The advertisement shows a large group of people at a social occasion. Only moderate alcohol consumption is depicted and this use is balanced with the consumption of food. No individual appears to be consuming alcohol in an immoderate or irresponsible manner.

20. The phrase "Get ready for the weekend" needs to be assessed within the context of the advertisement as a whole. This shows a very large group of people at a social occasion, and the phrase would not be taken as implying an excessive amount of alcohol should be consumed over the weekend by one person.

21. Accordingly, the complaint is dismissed.