

ABAC

**ABAC Complaints Panel
Determination No: 85/13**

**Complaint by Isobel Kidd
Product: Liquorland (various)
Advertiser: Liquorland**

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

13 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 29 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 29 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 Liquorland television advertisement that was shown during a live AFL match.
10. The advertisement opens with Matt Skinner hugging a woman and then shaking hands with a man at a small gathering of people. He is then shown holding a glass of red wine as he says "Hi, I'm Matt Skinner and I'm ready to help you drink better".
11. The screen then changes to a printed message against a red background "Matt Skinner. Award winning wine writer, Professional wine judge" and the Liquorland logo accompanied by a voiceover by Matt Skinner saying "I've been writing and talking about wine for almost twenty years".
12. The screen changes to Matt Skinner walking through a cask room in a winery holding at least 4 bottles of red wine in his arms and hands. He is then shown tasting a glass of red wine with a group of people in a room with shelves of

wine bottles as his voiceover continues “These days I’m part of the team at Liquorland.”

13. Matt Skinner is then shown in a vineyard saying “There are so many great wines out there...”
14. The screen changes to Matt Skinner swirling a glass of wine and examining it, then taking a fig from a cheese plate offered to him and then sipping from a glass of red wine as his voiceover continues “...and it is our job to find those wines for you.”
15. Matt Skinner is then shown holding a glass of wine with a fire in the background and saying to the camera “I reckon every Australian...”. The scene then changes to Matt Skinner sitting at a dinner table swirling his wine and talking to the woman next to him and then pouring a row of tasting glasses as his voiceover continues “...could drink better without spending a single cent more”.
16. The screen then changes to an image of 4 bottles of wine and the text “Everyday 20% off all bottled wine when you buy any 4 or more” and the Liquorland logo and a reference to conditions against a yellow background. This is accompanied by the voiceover “At Liquorland you’ll always save 20% whenever you buy any 4 or more bottle of wine...”
17. The screen changes to a glass of wine being poured at a dinner table, then three women clinking glasses (two holding wine, one holding a tumbler of water) and then Matt Skinner smiling and pointing at a glass of wine with a small group of men all holding wine glasses as the voiceover continues “... from top notch medal winners to everyday quaffers.”
18. Matt Skinner is then shown at a social gathering where people are talking and smiling as he says to the camera “You don’t have to pay more to drink better”.
19. In the last scene Matt Skinner is shown by himself on a screen with the Liquorland logo swirling a glass of red wine and smiling and raising his glass to the camera.

The Complaint

20. The complainant raises two concerns with the advertisement, namely:
 - the advertisement being shown in prime time during an AFL football match when her young daughters at an impressionable age (11 and 13 years) were watching; and
 - depicting adults smiling and being socially happy while drinking alcohol thereby showing alcohol making adults happy.

The Code

21. 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-
 - ii) must not encourage underage drinking;
- b) not have a strong or evident appeal to children or adolescents
- 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;

The Advertiser's Comments

22. The Advertiser responded to the complaints and questions posed by the Panel by letter dated 6 August 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.
- 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 or suggests that consuming alcohol will result in a change in mood or environment.
- The Advertisement features Matt Skinner, an author, writer, consultant and educator who is well known to both local and international audiences for his wine expertise. In 2012, he was voted "Best Young International Wine Writer 2012" by the Grand Cru D'Italia. He has been engaged by Coles Liquor to help customers with their wine choices including making recommendations regarding wine sold in our stores. Matt Skinner is the key focus of the advertisement.
- The Advertisement includes scenes of a social setting involving a group of friends at someone's home, where alcohol was reasonably available but clearly not essential to proceedings. It shows a group of people who are clearly friends, 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 scenes show a 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. The remaining scenes feature Matt Skinner talking about his wine background and conducting wine tastings – in one scene with Liquorland team members.

- We do not believe any of the guests or team members 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 the glasses contain both alcoholic and non-alcoholic drinks. When held, the drinks were being held 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 in the Advertisement both in the form of finger food and a table where people are clearly eating a meal.
- We do not believe the Advertisement suggests that the consumption or presence of alcohol may contribute to a significant change in mood or environment. The behaviour of the people in the Advertisement is moderate and consistent with behaviour in a low key social environment. There is no suggestion that by consuming alcohol people's mood will improve. The focus of the Advertisement is to promote Matt Skinner's experience and he has been engaged by Liquorland to promote its wine credentials.
- It is common for people to have social events set around sport and for alcohol to be part of, but not central to, those types of events. The Advertisement was screened during live AFL football a number of times. This is consistent with normal advertising practices where advertisers buy a number of "slots" during key events to promote their brand and products. We note that alcohol advertising is permitted to be screened during live sport and the telecast also included advertisements by alcohol manufacturers.
- 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

23. 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.

24. This particular execution is one in a series which has aired during 2013 for Liquorland. Each of the executions have had common features, including the music used and the theme of people 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. This execution is different from those considered in previous determinations in that it doesn't use the same tagline and focuses on Matt Skinner's credentials and involvement with Liquorland rather than the social settings.
25. In this particular case, the complainant is concerned that the advertisement shows adults socially happy while consuming alcohol thereby suggesting alcohol makes adults happy and that it is being shown during children's viewing times with an AFL match.
26. The advertiser argues that:
 - the behaviour exhibited in the advertisement is responsible and moderate;
 - both alcoholic and non-alcoholic drinks are shown and food is prominently featured in the advertisement;
 - there is no suggestion that by consuming alcohol people's mood will improve; and
 - alcohol advertising is permitted to be screened during live sport.
27. The ABAC is primarily a code which is focused upon the content of an advertisement rather than its placement within a particular media. The code applying to free to air television does restrict when alcohol advertisements can be broadcast, but alcohol advertising is permitted under the CTICP during live sporting fixtures. Hence, the broadcast of the advertisement at a time the complainant's children were watching is not of itself a breach of either the ABAC or CTICP.
28. Beyond the concern that young children might view the advertisement, the complainant argues that the advertisement shows happy people consuming alcohol and that viewers, particularly children, will take away the message that alcohol makes you happy.
29. Section (c) of the ABAC provides that alcohol advertisements are not to suggest that the presence or consumption of alcohol will create or contribute to

a significant change in mood or imply that alcohol is a cause or contributor to social success. Does the Liquorland advertisement breach this standard?

30. The key element of this standard is causation. The section does not prohibit attractive or happy people being depicted within an alcohol advertisement, but the advertisement cannot suggest that a reason why a person is happy or regarded as attractive is the use or presence of alcohol.
31. Clearly, it can be a matter of judgment as to whether an advertisement is suggesting alcohol is a reason for success or happiness, or whether a happy or successful person is in effect marking their success or expressing their happiness by having a drink. The first conclusion would offend the ABAC standard, while the second conclusion would not.
32. In assessing an advertisement for consistency with an ABAC standard, the Panel is to have regard to the probable impact of the advertisement upon a reasonable person taking the advertisement's content as a whole. The notion of the 'reasonable person' is borrowed from the Australian common law and means that the attitudes and values common in a majority of the community are to be regarded when assessing how the advertisement might be interpreted.
33. In this advertisement, Mr Skinner is featured explaining his role at Liquorland and the view that consumers can purchase better quality wine at a reasonable price. He is placed in various scenes, including a winery and within a social setting, with a range of people, the majority of whom are seen consuming wine. Certainly, the people shown appear relaxed and enjoying themselves.
34. That said, the Panel does not believe the advertisement is suggesting that alcohol has altered the mood of the gathering or that alcohol has caused or contributed to the people appearing relaxed and happy. It seems that the alcohol is incidental to the mood rather than the cause of the mood.
35. Further, the advertisement has an adult context and message and the Panel does not believe the context of the advertisement would have a strong or evident appeal to children or adolescents in breach of section (b).
36. Accordingly, the complaint is dismissed.