

Annual Report 2014



THE
ABAC
SCHEME
LIMITED

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Report from the ABAC Management Committee

This year saw the conclusion of a number of important initiatives for the ABAC Scheme. The new ABAC Responsible Alcohol Marketing Code was implemented, an ABAC awareness campaign commenced, the Alcohol Advertising Pre-vetting Service (AAPS) systems were updated to online lodgment of pre-vetting applications and a comprehensive review of ABAC's governance and operations was conducted by independent consultants, Directors Australia.

The most important initiative was the implementation of a new ABAC Responsible Alcohol Marketing Code (the Code) on 1 July 2014, replacing the former Alcohol Beverage Advertising (and Packaging) Code. The new Code was the result of extensive stakeholder engagement and a comprehensive review of the existing Code's coverage and standards. The review commenced in early 2013 with market research by Colmar Brunton Social Research on the ABAC Scheme and the consistency of ABAC Adjudication Panel decisions with community standards. This research was an important starting point for a review of the Code as it informed the committee on the community's expectations in regard to standards for alcohol marketing in Australia.

Following research on alcohol marketing standards internationally and extensive consultation with stakeholders, agreement was reached on a new Code that provides clarity surrounding coverage and the standards, in particular the standard relating to appeal to minors. The new Code has also been updated to recognise emerging digital media and to extend coverage to marketing collateral, which includes branded merchandise and gifts with purchase. Extensive training on the new Code was conducted in Sydney and Melbourne in June and it was pleasing to see record attendances at these training sessions and a high level of engagement by the alcohol and advertising industry with the new Code and the ABAC Scheme.

Following implementation of the new Code, a comprehensive review of the operations and governance of the ABAC Scheme was carried out by independent consultants, Directors Australia. A report provided to the ABAC Management Committee in November 2014 included a number of recommendations for the Scheme that will be considered carefully by the Management Committee during 2015.

In response to the market research in 2013 that showed a low awareness of alcohol advertising regulation in Australia, the ABAC Management Committee developed a television advertisement designed to educate the community about the standards they can expect from alcohol marketing in Australia and also the process for making complaints about alcohol marketing that does not meet those standards. The ABAC television advertisement was broadcast from April 2014 across most free-to-air and pay television networks as a community service announcement.

Each year the Management Committee seeks feedback on its Alcohol Advertising Pre-vetting Service from the users of that service. In response to feedback received in 2013, the process for lodging applications for pre-vetting was streamlined to enable online lodgment of pre-vetting applications via the ABAC website and automatic allocation of pre-vetters. This has simplified the process for accessing pre-vetting services and improved communication with pre-vetters.

The Management Committee continues to actively encourage non-signatories to use the AAPS service and to also become signatories to the Scheme. It was pleasing to see that over the past two years around 11% of all pre-vetting applications were made by non-signatories. While they have used the AAPS service and cooperated with the Scheme for some time, we are pleased to welcome Campari Australia as a new signatory to the ABAC Scheme from 1 January 2015.

The ABAC Adjudication Panel continues to operate in an independent and professional manner under the leadership of its Chief Adjudicator, Professor Michael Lavarch, AO.

*Report from
the ABAC
Management
Committee
(continued)*

The panelists and pre-vetters are involved in annual workshops with Professor Lavarch, which are valuable in ensuring consistency of decision-making and a strong understanding of the Code provisions. I would like to thank all the panelists and pre-vetters for their valuable input over the past two years during the review of both the ABAC Code and the Scheme's operations and governance.

Finally, I would like to congratulate the ABAC Management Committee on its commitment to continual improvement of the Scheme, in particular Denita Wawn, who has managed the important new initiatives outlined in this report over the past few years.

Paul Evans

ABAC Chair 2014

The ABAC Scheme Management Committee



**Gordon
Broderick**

**Paul Evans
(ABAC Chair)**

**Colleen
Krestensen**

**Kathy
Dennis**

**Denita
Wawn**

**Margaret
Zabel**

Overview of alcohol advertising regulation in Australia

The ABAC Responsible Alcohol Marketing Code (the Code) and the associated pre-vetting and complaints management systems form the quasi-regulatory ABAC Scheme.

The ABAC Scheme was developed in agreement with all major Australian alcohol beverages' manufacturing and marketing industry associations and key advertising, media and consumer bodies.

The Federal Government is also a key stakeholder being represented on the Management Committee of the Scheme and a Professor of Public Health, nominated by government, is part of all adjudication panels.

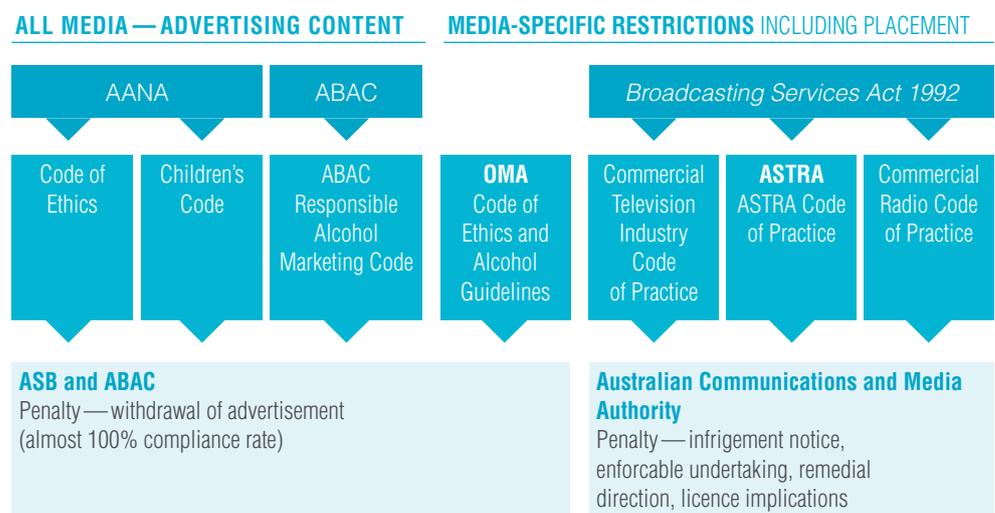
Under The ABAC Scheme, guidelines for marketing, including packaging, have been negotiated with government, consumer complaints are handled independently, but all costs are borne by industry.

The ABAC Scheme is the centrepiece of alcohol advertising regulation in Australia and is administered by a Management Committee that includes industry, advertising and government representatives.

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 Federal Competition and Consumer 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 Code of Practice
- the Outdoor Media Association Code of Ethics and Alcohol Guidelines.

Alcohol Advertising Regulation in Australia



Source: Australian Association of National Advertisers

Operation of The ABAC Scheme

The ABAC Scheme is responsible for:

- **The ABAC Code (first introduced in 1998 and substantially updated in 2004, 2009 and 2014)**(Annexure A) which regulates the content of alcohol marketing communications (including packaging) in Australia. Subject to regular reviews, the ABAC Code reflects community expectations and changes in the media and advertising industries. It applies beyond traditional forms of advertising (television, radio, print and outdoor) to alcohol beverage marketing communications in emerging digital and social media, user generated content on alcohol company controlled digital and social media, point of sale advertisements and surrogate marketing over which an alcohol company has control. The ABAC Guidance Notes (Annexure B) have been developed to assist advertisers and agencies in interpreting the Code.
- **The Alcohol Advertising Pre-vetting Service (AAPS)** that provides confidential advice to marketers on whether proposed alcohol marketing communications comply with the Code. This service is offered on a 'user pays' basis.
 - AAPS pre-vetters approve, reject or suggest modification to material submitted to them for pre-vetting.
 - AAPS has the support of media associations that encourage their members to check that an alcohol marketing communication has AAPS approval prior to placement of the communication.
 - Many alcohol beverage marketing communications are considered by AAPS each year. In 2014 AAPS considered 1571 marketing communications.
 - AAPS Pre-vetters are independent of the alcohol beverage industry.
- **The ABAC Adjudication Panel** (the Panel), headed by Chief Adjudicator Professor Michael Lavarch AO, considers public complaints about alcohol marketing communications that fall within the ambit of the Code.
 - The Advertising Standards Bureau (ASB) accepts all complaints in relation to all types of marketing communications at no cost to the consumer. This avoids a duplication of entry points for marketing-related complaints. All alcohol related complaints received by the ASB are provided to the Panel and the Panel considers all complaints that raise ABAC Code issues subject to the exceptions set out in section 3(c)(i) of the ABAC Rules and Procedures (Annexure C).
 - The ASB considers complaints insofar as they raise AANA Code of Ethics issues. The AANA Code of Ethics aims to ensure that all marketing communications are legal, decent, honest and truthful and that they have been prepared with a sense of obligation to the consumer and society. This ensures that there is a consistent standard for issues such as discrimination, violence, sexual imagery, obscene language, health and safety across all marketing for every type of product.
 - The Panel reports its decisions to the ASB, the ABAC Management Committee, the marketer, and the complainant. Its decisions are also made publicly available through the ABAC website.
 - The Panel and its deliberations are independent of the ABAC Management Committee and the broader alcohol and advertising industry.
 - The Panel comprises:
 - the Chief Adjudicator, Professor The Hon Michael Lavarch AO, who has legal expertise
 - a health sector Panelist, Professor Richard Mattick or Professor Louisa Jorm (both were appointed from a shortlist of health sector professionals provided by the relevant federal minister responsible for alcohol issues or his or her nominee)
 - a panelist with market research, media or advertising expertise, Jeanne Strachan or Debra Richards.
 - Each quarter the Chief Adjudicator reports to the ABAC Management Committee on the operation of the Panel and the Chief Adjudicator submits an annual report on the Panel's operation to the ABAC Management Committee for inclusion in its annual report.

- **Best Practice Guide for Industry on Digital Marketing** (Annexure D). It was recognised that while ABAC, as an industry content code, covered the content of digital marketing, there was no guidance to advertisers on how to best manage the placement of alcohol marketing in digital media. In response, ABAC developed best practice advice to assist the alcohol industry in maintaining high standards of social responsibility in the management of its digital marketing. The guide is intended to assist alcohol advertisers and agencies in the management of digital marketing particularly relating to age-affirmation and moderation of user-generated content. It is recognised that digital marketing and social media is evolving rapidly and therefore the best practice guide will be reviewed on a regular basis and updated where necessary.

Interaction between The ABAC Scheme and an alcohol marketing communication

- ▼ Company and advertising agency staff check the marketing communication against the Code standards
- ▼ Independent AAPS Pre-vetters check the marketing communication against the ABAC (and in some cases AANA standards) and either approve or reject
- ▼ Once a campaign is in the marketplace consumers may lodge a complaint about the marketing communication to the Advertising Standards Bureau at no cost
- ▼ The Advertising Standards Bureau refers all alcohol marketing communication complaints to the Chief Adjudicator of the ABAC Adjudication Panel
- ▼ Complaints raising issues within the ambit of the ABAC Code are referred to the independent ABAC Adjudication Panel for a hearing on whether the marketing communication meets ABAC standards
- ▼ If the ABAC Adjudication Panel finds the ABAC standards have not been met the marketer is asked to withdraw or modify the material within five business days
- ▼ The written decision of the ABAC Adjudication Panel is sent to the consumer and published on the ABAC website

Management of The ABAC Scheme

The ABAC Management Committee manages and reviews the operations of the ABAC Scheme and considers amendments to the ABAC Code and scheme procedures with a view to:

- encouraging industry members, large and small, to participate in the quasi-regulatory system
- ensuring an effective quasi-regulatory system
- monitoring the implementation of The ABAC Scheme and improving it where necessary
- managing AAPS as an effective mechanism to support and strengthen the aims of The ABAC Scheme and to encourage participation by industry members in AAPS.
- coordinating the development and completion of an annual report with copies to be provided to the relevant Ministerial Council for alcohol policy and strategy and the Advertising Standards Bureau.

During 2014 the ABAC Management Committee comprised:

- the Chief Executive of the Brewers Association of Australia and New Zealand, Ms Denita Wawn
- the Executive Director of the Distilled Spirits Industry Council of Australia Inc, Mr Gordon Broderick
- the Chief Executive of the Winemakers Federation of Australia, Mr Paul Evans
- the Chief Executive of the Communications Council Limited, Ms Margaret Zabel
- a representative of Australian Governments nominated by the relevant Federal Minister responsible for alcohol issues, Ms Colleen Krestensen and then Ms Kathy Dennis

The ABAC Management Committee is supported in its role by the ABAC Executive Officer, Ms Jayne Taylor.

Each member of the ABAC Management Committee represent a group of stakeholders in alcohol beverage marketing regulation. Any member of the Management Committee may raise issues for consideration by the Management Committee and the Management Committee in practice operates on a consensus basis.

The ABAC Management Committee meets at least four times a year and all issues raised by any member or referred to the Management Committee by the ABAC Adjudication Panel or ABAC pre-vetters receive full consideration by the Management Committee.

ABAC Scheme coverage

- Membership of, and compliance with the scheme is voluntary. However, the individual members of the Brewers Association of Australia and New Zealand, Distilled Spirits Industry Council of Australia and Winemakers' Federation of Australia have agreed to be bound by the Scheme. This means that the great majority of alcohol marketing in Australia is regulated by the Scheme.
- Other companies that market alcohol are encouraged to become non-member signatories to the Scheme and to utilise the pre-vetting service. Both Woolworths Liquor and Coles Liquor joined the scheme as non-member signatories during 2013 and Campari Australia became a non-member signatory to the Scheme on 1 January 2015.
- Many non-signatories currently use the pre-vetting service and the Scheme has the support of media associations. In 2014 11% of pre-vetting applications were from non-signatories.
- The alcohol industry (both signatories and non-signatories) and advertising agencies have access to annual training sessions with the ABAC Chief Adjudicator and a pre-vetter in Sydney and Melbourne where all aspects and obligations of the Code, pre-vetting service and complaints scheme are explained. In addition, the ABAC pre-vetters, alcohol beverage industry associations and ABAC executive officer are all available to explain the Code and the scheme to alcohol beverage advertisers and their agencies.
- The ABAC Adjudication Panel made 27 determinations resulting from complaints made in 2014, of which eight were upheld. In every case the advertiser agreed to withdraw or modify the advertisement or packaging so as to comply with the ABAC standards, as required by section 3(e) of the ABAC Scheme Rules and Procedures.
- Three of the upheld complaints related to non-signatory advertisers that all cooperated with the scheme. One of the upheld complaints related to an advertisement that had received pre-vetting approval. All adjudication decisions are published on the ABAC website.

Recent ABAC Initiatives

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- **A new ABAC Responsible Alcohol Marketing Code** was implemented on 1 July 2014 following extensive stakeholder engagement and review of the existing Code. As it had been ten years since the last wholesale review of the Code the ABAC Management Committee undertook a substantial review of the Code that commenced in mid 2013 and concluded in mid 2014 with the publication and implementation of the ABAC Responsible Alcohol Marketing Code.
-
- The new ABAC Code was substantially redrafted to improve clarity, particularly in relation to the extent of coverage and the 'appeal to minor' provisions, and also to update the Code in relation to emerging media. The new Code extends coverage to marketing collateral, including branded merchandise and gifts with purchase, which was a recommendation arising from community standards research conducted in 2013. Extensive training on the new ABAC Code was provided to companies and their agencies in Sydney and Melbourne and it was launched in Canberra at Parliament House in June 2014.
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- **A substantial review of the ABAC Scheme governance and operations** was conducted in 2014 by independent consultant, Directors Australia. A report including recommendations for the Scheme was provided to the ABAC Management Committee in November 2014 and will be considered by the Management Committee during 2015.
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- **An AAPS online application lodgement facility** was developed in early 2014 and has been successfully implemented, improving the process for lodgement of applications for pre-vetting of alcohol beverage marketing material.
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- **An ABAC awareness campaign** was implemented in early 2014 that involved the broadcast of a television advertisement as a community service announcement across most free-to-air and pay-television networks. The television advertisement seeks to educate the community about the ABAC Code standards and also the process for lodgement of a complaint about alcohol marketing.

2014 ABAC Statistics

Pre-vetting	2012	2013	2014
Number of advertisements, names and packaging pre-vetted	1229	1394	1571
Of the advertisements pre-vetted:			
Number that were accepted	978	1144	1298
Number that were accepted subject to conditions	59	39	61
Number that were rejected	192	211	212

Complaints	2012	2013	2014
Number of complaints received	98	182	94
Number of marketing campaigns these complaints referred to	63	78	53
Number of complaints considered by the Alcohol Beverages Advertising Adjudication Panel (i.e. complaints that resulted in a Panel determination)	53	69	35
Number of determinations from complaints received that year	36	36	27
Number of complaints upheld (at least in part):	7	20	8
Number of determinations upholding complaints	7	4*	8

*In 2013 there were multiple complaints in relation to several of the determinations upholding complaints.

Observations

- Marketing complaints resulting in a determination took an average of 20 business days to be completed (target of 30 business days). This was a reduction from the average 26 days taken in 2013.
- All companies agreed to withdraw or modify marketing communications referred to in upheld complaints.
- Complaints about appeal to minors increased, while complaints about excessive consumption of alcohol or alcohol use with activities such as sport both decreased.
- Complaints about print marketing decreased while complaints about television advertisements increased.
- Of the 27 determinations made, 17 related to advertisements that were pre-vetted. Of the eight determinations upholding complaints, one related to an advertisement that was pre-vetted.
- Detailed ABAC statistics are included in Section 6 of this report.

Report from the Chief Adjudicator

On 1 July 2014, a revised ABAC came into operation. The new Code was developed after a consultation process with stakeholder groups, and represented the most comprehensive review of the ABAC since 2003. The Adjudication Panel had raised the desirability of reviewing both the reach of the ABAC Scheme and the scope of some Code standards over the previous few years, and the review process enabled Panel members to provide feedback on how the Code had been operating from the perspective of the adjudication of public complaints.

In some respects, the new Code adopted and formalised a number of previous Panel decisions. For instance, the Code now expressly states that it does not apply to 'sponsorship' which is defined to mean any agreement or part of an agreement involving the payment by a marketer to support a sporting or cultural property event or activity, in return for which the sponsored party agrees to be associated with or promote the sponsors alcohol beverage or outlet. This in effect 'codifies' several decisions of the Panel dating back to 2008, which dealt with the sponsorship of sports competitions and teams, or cultural events by alcohol companies.

In other respects, the new Code extends both the reach of the Code and the substantive standards applying to marketing. The two most important extensions of the reach of the ABAC Scheme go to its application to alcohol retailers, and the capturing of 'marketing communications' as opposed to simply alcohol beverage advertising. Both of these changes significantly broaden the reach of the Code into Alcohol Industry participants, and the type of marketing activities which are now subject to the Code standards.

The most significant change to the substantive Code standards relates to Part 3(b) dealing with responsibility to minors. Here the changes both reflect previous Panel decisions, but also extend the standard to include new concepts, such as the use of imagery, designs, motifs, animations, or cartoon characters that are likely to appeal strongly to minors or create confusion with confectionary or soft drinks. Further, marketing communications which use brand identification, including logos, on clothing, toys, or other merchandise for use primarily by minors will likely offend the Code standard.

Given that concerns about the impact of alcohol marketing on under 18 year olds is consistently the most common issue receiving public complaints, the clarification and extension of this provision reflects a responsiveness of the ABAC Scheme to contemporary community concerns about alcohol marketing.

It should be noted that the responsibility to devise and settle upon the terms of the Code rests with the ABAC Management Committee and not the Panel. Rather, the Panel is given by the Management Committee the Code to apply to individual marketing communications, as raised with the Panel through the public complaints process. This separation between the Panel's role as an independent arbiter of public complaints and the Management Committee's role as the owner of the Code standards is an important one, and has been properly maintained through the review and implementation process of the new Code.

Accompanying the introduction of the Code was the rollout of training sessions in Sydney and Melbourne for alcohol companies and their advertising agencies. These sessions went to an explanation of the new Code and its provisions to ensure that there was a good understanding of the Code in the internal operation of alcohol companies. It was pleasing

to see very strong attendances and a high level of engagement by both Code signatories and others in this education initiative.

In September 2014, the Panel was also consulted as part of an independent operational governance review of the Scheme, carried out for the Management Committee by Directors Australia. This enabled the panel members to provide feedback on procedural and logistical matters in how the ABAC Scheme adjudication process operates. The outcome of the review is being implemented by the Management Committee during 2015.

In operational terms, the ABAC Scheme ran smoothly in 2014. Panel decisions and broader processes occurred in a timely fashion, and the Panel was able to determine the vast majority of the complaints within the target timeframe of 30 days. The average time from the receipt of the complaint to publication of a determination was less than 20 business days.

In 2014, both the number of complaints and panel determinations were lower than in previous years. The year saw a decrease in determinations considering encouragement of excessive consumption, but an increase in determinations considering marketing communications' appeal to under 18 year olds. While such trends are of note, it should be recognised that an individual marketing campaign can result in a large number of public complaints which influence yearly statistics. Accordingly, it is safe to look at complaints numbers and determinations over a number of years in order to discern meaningful trends as to the level of public concern about alcohol marketing and the type of issues which are being raised.

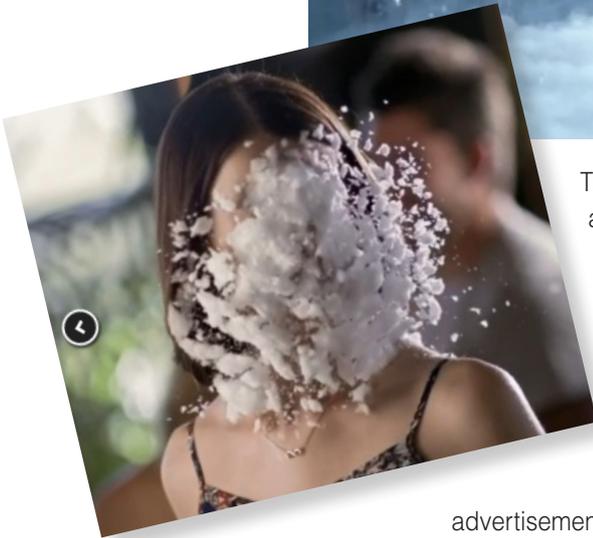
I would like to take this opportunity to thank my fellow panel members for their cooperation and contribution to the operation of the Scheme during 2014. Particular thanks go to the Scheme's Executive Officer, Ms Jayne Taylor, for her outstanding support to the logistics and operation of the Panel's processes.

Professor The Hon Michael Lavarch AO

Chief Adjudicator
ABAC Adjudication Panel

Most complained about alcohol advertisement in 2014

The most complained about advertisement considered by the Panel in 2014 was the Canadian Club 'Wake Up Call' television advertisement.



The television advertisement featured a woman go into a bar for a refreshing drink and select Canadian Club and Dry. A fantasy scene follows where an attractive man dressed in alpine clothing throws a snowball at the woman after she takes a sip of her drink accompanied by the voiceover "Canadian Club tastes refreshing like a snowball in your face from a sexy person". The woman then says "You don't get that from a beer".

Nine separate complaints were made about this advertisement during 2014 and two separate determinations were made addressing different issues and provision of the ABAC Code. The key concerns raised across the complaints were:

- The throwing of a snowball at the woman's face shows violence toward women and offensive behaviour.
- The fantasy scene showing a 'sexy person' walking toward the woman after she has consumed the product suggests that alcohol consumption leads to sexual success.
- The advertisement showed a significant change in mood or environment or the achievement of a therapeutic benefit after consumption of the product as the woman was shown to feel good or better after consuming the product.

"Canadian Club tastes refreshing like a snowball in your face from a sexy person ... You don't get that from a beer".

The Panel found that the advertisement did not breach the ABAC provisions raised as:

- The scene where the man throws the snowball at the woman is established as a fantasy that does not actually occur (ie the woman imagines the event as a reaction to the consumption of the product).
- The woman's reaction to being hit by the snowball does not indicate any sign of distress or alarm that would be occasioned by an unexpected and random violent act. In fact, the impact of the snowball is shown as having been welcomed by the woman.
- While the snowball does impact on the woman's face, this scene needs to be understood in the context of the advertisement as a whole, namely the fantasy nature of the scene and the fact that no adverse reaction or injury is occasioned to the woman.
- Taken in the full context of the advertisement, the snowball scene is illustrative of the brand feature of refreshment and would not be taken as actually condoning violence towards women.
- There was no suggestion that the man or woman will be sexually successful because of the product.
- Suggesting the product is refreshing is a description of its characteristics and does not amount to a claim of a 'therapeutic benefit'.
- The mood established in the bar scene remains constant throughout the advertisement.
- The scene involving the man with the snowball is established as a fantasy and the woman's reflection on the product in the phrase "you don't get that from a beer" relates to the product's taste and would not be considered by a reasonable person as showing a significant change in the woman's mood.

Alcohol advertisements found by the Panel to breach the ABAC Code

During 2014 the Panel made eight (8) determinations that upheld public complaints about alcohol marketing communications.

Jim Beam television advertisement by Beam Global Australia Pty Ltd



This television advertisement began in an old warehouse in country United States, then moved through to a room where a giant can of Jim Beam and Cola was being created and then outside where a man was shown attaching a giant can of Jim Beam and Cola to a helicopter. Five giant cans were shown being transported over the ocean to a pool at the famous Sydney venue of 'Icebergs', located at Bondi Beach filled with water, ice and more than 30 giant cans with the Jim Beam logo superimposed next to it. Small print superimposed at the bottom of the screen stated "Giant cans, as amazing as they are, contain no Jim Beam". The music then changed to dance music and the ad showed a crowd of people energetically dancing to music around the pool filled with the giant cans as another can was lowered into the pool by a helicopter. The man that featured throughout the advertisement was shown dancing in the crowd.

The key concerns with the advertisement were:

- alcohol advertising should be banned as occurred with cigarette advertising some years ago
- the advertisement appeals to underage persons and promotes fun through its presence or use and glorifies the consumption of alcohol.

The Panel found that the issue as to whether alcohol advertising should be permitted is a matter for government and not the Panel and the Panel's role is limited to the standards included in the ABAC Code.

The Panel first considered whether the advertisement suggested that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment in breach of the section (c) standard. This is a broad provision and does not require that an advertisement depict the actual consumption of alcohol, but also covers the presence of alcohol beverages within the advertisement. Equally, a change in the mood or environment shown in the advertisement need not be primarily or solely caused or created by the alcohol beverage to breach the standard. Rather, alcohol cannot be seen to be a contributor amongst potentially several contributors to a change in mood or environment.

On balance, the Panel believed that the advertisement did not breach the section (c) standard. In reaching this conclusion, the Panel noted:

- The mood and atmospherics of the advertisement in the Kentucky distillery scenes is laid back and quiet.
- The mood at the Icebergs venue is quite different, as evidenced by:
 - an active party scene compared to the earlier laid back narrative
 - the different music, which is dance as opposed to acoustic.
- The advertisement is essentially in two halves, set in Kentucky and in Sydney and while the mood is different in each half, the advertisement establishes that Sydney's mood was in place prior to the arrival of the product via the helicopter delivery. It is concluded that the mood was not altered by the product.

In light of the concern that the advertisement glorified alcohol use the Panel then considered section (a) that creates a positive requirement that alcohol advertisements present a balanced, mature and responsible approach to alcohol consumption. The Panel believed the advertisement, on this point, falls within the category of advertisements where reasonable people might reach different conclusions. It is accepted that a reasonable viewer would not take literally that the giant prop cans would contain alcohol and, further, the Sydney party scene does not depict party goers consuming excessive amounts of alcohol. The standard in section (a), however, goes beyond depictions of actual consumption and requires alcohol advertisements to present a balanced and responsible approach to alcohol consumption. In this case, the Panel concluded on balance that the advertisement did breach the standard. In reaching this view, the Panel noted:

- The party scene is based around the swimming pool filled with giant cans and, while the cans do not physically contain alcohol, a reasonable impression is established of alcohol use being a central component of the event.
- The atmosphere of the party is in stark contrast to the earlier half of the advertisement in pace, behaviour and mood and this, together with symbolism of the multiple giant cans, creates a message that the approach to alcohol consumption being endorsed is not balanced, mature or responsible.

The Panel did not believe that the advertisement had strong or evident appeal to children or adolescents or encouraged underage drinking. The Panel believed that while the advertisement would have appeal across the viewing audience as a whole, it did not have features which elevate this general appeal to a level which could be said to have strong or evident appeal to adolescents and children as a group. Rather, the content of the advertisement as a whole is adult in feel and is more likely to be appealing to an older demographic, as opposed to a younger audience.

In this case the marketer obtained pre-vetting approval for the television advertisement and the Panel recognised that the advertiser was aware of its obligations under the ABAC and acted consistently with good practice and with the intent to craft the advertisement to meet the standards through the pre-vetting process.

The marketer ceased broadcast of the television advertisement on being notified of the determination.

*the advertiser ... acted consistently with good practice
and with the intent to craft the advertisement to meet
the standards through the pre-vetting process*



Rekorderlig Cider outdoor advertisement by Whitehorse Liquor

This advertisement appeared on an external wall of the Whitehorse Liquor retail outlet, visible from the pavement outside the store. It included images of Rekorderlig Cider, however, the advertisement was produced by Whitehorse Liquor without reference to the producer or distributor of the product it promoted.

The complainant was concerned about the use of the term “Keep Calm And Drink” by reason that it suggests that you need to drink to be calm.

The Panel concluded that the advertisement did breach section (c)(iii) of the Code by suggesting that the use of alcohol will result in a therapeutic benefit. Specifically, the advertisement could be taken by a reasonable person to be implying that use of alcohol helps a person remain calm.

Whitehorse Liquor removed the advertisement on being notified of the complaint.

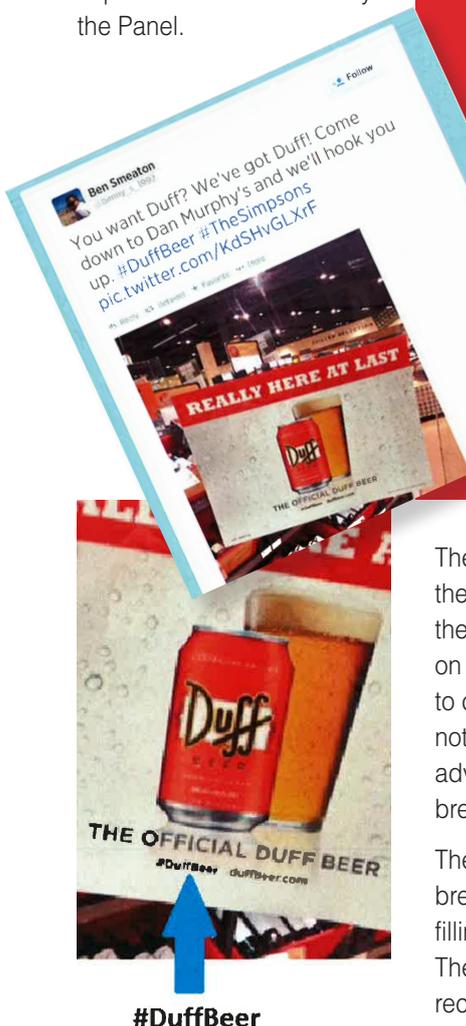
Duff Beer name and packaging and digital advertisements by Woolworths Liquor Group

This complaint related to product material and also various digital advertising for Duff Beer and resulted in two separate determinations by the Panel.



The complaint was essentially that the cartoon series of *The Simpsons* that created the fictional product has strong or evident appeal to children and adolescents and therefore the name and image of a product readily identifiable from the cartoon series on packaging and in advertising will necessarily also have strong or evident appeal to children or adolescents. The supplier raised a number of arguments but they were not accepted by the Panel and the Panel found that both the product material and advertisements would have strong or evident appeal to children or adolescents in breach of Parts 1 and 2 section (b) of the ABAC Code.

The marketer withdrew the product from sale by immediately cancelling further brewery production orders, destroying already produced cans and packaging awaiting filling and rapidly selling through existing stock in line with previous industry practice. The Duff Beer webpage and social media channels were discontinued following receipt of the original complaint.



#DuffBeer

Jägermeister digital advertisement by Mast-Jägermeister SE



These advertisements were company posts on the Jägermeister facebook page. The Panel upheld the complaint in part, finding that only the second post breached ABAC standards.

The first concern was that while the site had set access restrictions to '18 and older' once the post was tagged secondary level access via tagging had no restrictions as the advertiser had not selected the additional restriction option of 'alcohol'. The Panel found that while this is inconsistent with ABAC's best practice guidelines it is not a breach of the ABAC Code that relates to content rather than placement. The advertiser advised they had rectified that mistake.

The second concern was appeal to children due to the use of cartoon like figures. The Panel noted that the ads included drawn characters with the bodies of males or females but with the heads of animals such as deer, fox, owl and bird. The characters were dressed as adults and placed in adult settings, such as a bar or nightclub, although these venues had features of being in the open, with trees and shrubs combining with indoor furnishings. The Panel noted that the use of drawn characters will not of itself breach the Code (some forms of cartoon are directed to children while others are adult in character) and the Panel will look at each ad on a case by case basis. The Panel found that two of the ads did not breach the Code noting that the characters were placed in adult settings and the dress and demeanor of the characters was adult. However, the Panel found the third ad ('Who goes home last') did breach this provision as the use of glow sticks and the mood of the advertisement would have strong or evident appeal to adolescents.

The third concern was that the two ads that show a waitress carrying a tray with a bottle of product and a number of shot glasses is encouraging excessive or irresponsible consumption. The Panel found that the 'Who goes home last' ad did breach this section as the central characters demeanor and appearance raise a reasonable implication that the character has been affected by alcohol consumption and the scene suggests the central character is the only one dancing and his behavior is out of the ordinary causing attention and amusement of other patrons which again raises a reasonable implication of behavior impacted by alcohol use. Further, immediately behind the character is the waitress with the bottle and multiple glasses raising an implication the character has immediate access to alcohol. Taken as a whole a reasonable person could easily assume the character has consumed excessive alcohol. In the other two advertisements no character has the appearance of having been affected by alcohol consumption.

The final concern was whether the advertisements were suggesting that the presence or use of the product might contribute to the achievement of social or sexual success. In the advertisement referenced we see one of the male characters with the head of a stag making eye contact with the waitress carrying the tray of the product. Section (c) of the Code is based on the notion of causation, namely whether an advertisement is suggesting that the presence or use of alcohol is a contributor to the achievement of success. The Panel noted that there was no interaction between the male and female characters depicted in the advertisement indicating that social or sexual success has been achieved or is likely to be achieved and that showing a male character noticing and smiling towards a female character is not suggestive of social or sexual success;

The marketer withdrew the post that was found to breach the ABAC Code.

Asahi Television Advertisement by Asahi Premium Beverages



This television advertisement focused upon a woman at a party or social event. The woman was shown collecting two bottles of the product and then moving through the party, engaging to some extent with different men. It was clearly established that the woman wished to socialise with a man she met at the party and the alcohol product played a role in fulfilling her intentions.

The complainant was concerned that the message from the ad was that the woman was using the product to assist her to successfully socialise with the 'successful' man with a 'sexual' intent.

The Panel found that the advertisement did breach a standard in the ABAC Code, namely that the presence of an alcohol beverage is a cause of or contributes to the achievement of social success and noted that:

- the theme of the ad is centred upon the woman meeting a man who 'is Asahi' (ie a man who satisfies the woman's expectations and personifies the characteristics which the alcohol product brand is wishing to reflect)
- in pursuit of meeting this man, the woman uses the product which she carries with her with the aim of attracting or sharing with the chosen man
- in selecting the Asahi man (the third man she considers) the woman displays and offers the product as part and parcel of the meeting and the successful interaction between them.

The marketer modified the television advertisement to meet the Panel's concerns in consultation with the Alcohol Advertising Pre-vetting Service.

in selecting the Asahi man (the third man she considers) the woman displays and offers the product as part and parcel of the meeting and the successful interaction between them.

Jelly Shots outdoor and digital advertisements by Jelly Time



Complaints were received about a poster on the door to a bottle shop and also an internet ad both promoting Jelly Time Jelly Shots that included an image of a young woman holding several jelly shots in one hand with one shot in her mouth.

The concern in relation to both ads was that the young woman appeared to be much younger than 18 and the ads were targeting young people. In relation to the poster, the complainant was also concerned that the product could be mistaken for confectionery.

The Panel was not advised of the actual age of the model but found that the model certainly appeared to be under 25 years of age and could conceivably be under the age of 18 in breach of Part 3(b) of the ABAC Code. The Panel also found that the ads used images likely to create confusion with confectionery, also in breach of Part 3(b) of the Code dealing with strong or evident appeal to children or adolescents.

The marketer removed both advertisements on being notified of the complaints.

The Panel found that the model certainly appeared to be under 25 years of age and could conceivably be under the age of 18... [and]... also found that the ads used images likely to create confusion with confectionery...

BWS digital advertisement by Woolworths Liquor Group

A complaint was received about various BWS television advertisements and also content on the BWS website. The Panel dismissed the complaint about the television advertisements but upheld the complaint in relation to content on the BWS website.

The BWS website listed special alcohol product prices, a search engine to locate BWS stores, and other features. Included on the site was the statement, 'Check out the video clip for American Author's song *Best Day of My Life*. We loved it so much we used it in our TV ad'. A user of the site could then directly access the video clip by clicking the link to YouTube.

The video clip creates a scenario of a man who spends an apparently eventful day with a friendly monster. Several scenes in the video depict expressly or by implication that the man is consuming considerable quantities of alcohol. These scenes include:

- the numerous scenes where the man is shown consuming alcohol
- the man being asked to leave a bar, presumably for poor behaviour relating to alcohol use
- the strip club scene where the man's behaviour implies excessive consumption has occurred
- the scene showing the man drinking in a gutter from a bottle in a brown paper bag
- the man awakening in the original bar and shown with multiple empty bottles next to him.

The Panel found that BWS is responsible for its website, and made the decision to place the clip on the site. By adding the clip it becomes part of the website as a whole, and the Panel is to take the video's content into account in assessing the website's consistency with relevant ABAC standards. While the balance of the website does not contain elements of themselves which would be taken to be inconsistent with Code standards regarding excessive consumption, the juxtaposition of the video and its depiction of excessive alcohol use with the advertising of multiple alcohol products meant the site as a whole was inconsistent with Part (a)(i) and (ii) of the Code.

The marketer removed the video clip from its website on being notified of the complaint.

Annexure A ABAC Responsible Alcohol Marketing Code

1 Preamble

The ABAC Responsible Alcohol Marketing Code is designed to ensure that alcohol is marketed in a responsible manner. Signatories to the Code are committed to ensuring that their marketing complies with the Code's spirit and intent.

The Code complements Australian legislation, the AANA Code of Ethics and media-specific codes relevant to the placement of marketing.

From time to time, the ABAC Scheme may publish best practice advice to industry. That advice does not form part of the Code but complements it by assisting industry to achieve high levels of responsibility in the management of its marketing.

2 Application

- a** The Code APPLIES to all Marketing Communications in Australia generated by or within the reasonable control of a Marketer, except as set out in Section 2(b). This includes, but is not limited to:
- brand advertising (including trade advertising)
 - competitions
 - digital communications (including in mobile and social media and user generated content)
 - product names and packaging
 - advertorials
 - alcohol brand extensions to non-alcohol beverage products
 - point of sale materials
 - retailer advertising
 - Marketing Collateral.
- b** The Code does NOT apply to:
- (i) materials or activities whose sole purpose is to educate about misuse or abuse of alcohol beverages and which do not include a company's product branding;
 - (ii) information in company annual reports, corporate public affairs messages or internal company communications;
 - (iii) the name or packaging of a product, including the use of a trademark on a product which a supplier can demonstrate, to the satisfaction of the Adjudication Panel, had been supplied for bona fide retail sale in the ordinary course of business in Australia prior to 31 October 2009;
 - (iv) point of sale Marketing Communications initiated by Alcohol Beverage retailers (as these are regulated by liquor licensing legislation), provided that a producer or distributor of Alcohol Beverages has no control over the point of sale Marketing Communication;
 - (v) Sponsorship;
 - (vi) the placement of a Marketing Communication, except to the extent that placement may impact on how the Marketing Communication is understood in accordance with section 4.

3 Standards to be applied

- a** Responsible and moderate portrayal of Alcohol Beverages
A Marketing Communication must NOT:
- (i) show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines;
 - (ii) show (visibly, audibly or by direct implication) or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an Alcohol Beverage;
 - (iii) challenge or dare people to consume an Alcohol Beverage;
 - (iv) encourage the choice of a particular Alcohol Beverage by emphasising its alcohol strength (unless emphasis is placed on the Alcohol Beverage's low alcohol strength relative to the typical strength for similar beverages) or the intoxicating effect of alcohol.
- b** Responsibility toward Minors
A Marketing Communication must NOT:
- (i) have Strong or Evident Appeal to Minors;
 - (ii) depict a person who is or appears to be a Minor unless they are shown in an incidental role in a natural situation (for example, a family socialising responsibly) and where there is no implication they will consume or serve alcohol; *or*
 - (iii) depict an Adult who is under 25 years of Age and appears to be an Adult unless:
 - A they are not visually prominent; *or*
 - B they are not a paid model or actor and are shown in a Marketing Communication that has been placed within an Age Restricted Environment.
- c** Responsible depiction of the effects of alcohol
A Marketing Communication must NOT:
- (i) suggest that the consumption or presence of an Alcohol Beverage may create or contribute to a significant change in mood or environment;
 - (ii) show (visibly, audibly or by direct implication) the consumption or presence of an Alcohol Beverage as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;
 - (iii) if an Alcohol Beverage is shown (visibly, audibly or by direct implication) as part of a celebration, imply or suggest that the Alcohol Beverage was a cause of or contributed to success or achievement; *or*
 - (iv) suggest that the consumption of an Alcohol Beverage offers any therapeutic benefit or is a necessary aid to relaxation.
- d** Alcohol and Safety
A Marketing Communication must NOT show (visibly, audibly or by direct implication) the consumption of an Alcohol Beverage before or during any activity that, for safety reasons, requires a high degree of alertness or physical coordination, such as the control of a motor vehicle, boat or machinery or swimming.

4 Interpretation

Compliance of a Marketing Communication with the Code is to be assessed in terms of the probable understanding of the Marketing Communication by a reasonable person to whom the material is likely to be communicated, and taking its content as a whole.

Capitalised terms have the meanings set out in section 5 below.

Headings do not expand the Code.

5 Definitions

In this Code:

AANA Code of Ethics means the Australian Association of National Advertisers Code of Ethics.

ABAC Scheme means The ABAC Scheme Limited.

Adjudication Panel means the panel convened to adjudicate a complaint received by the ABAC Scheme.

Adult means a person who is of legal purchase age in Australia.

Age-Restricted Environment means:

- licensed premises that do not permit entry by Minors; *or*
- a non alcohol-specific age-restricted digital platform (including, for example, a social media website or application) which:
 - requires users to register and login to use the platform, including the provision of their full date of birth; *and*
 - is able to hide the existence of any alcohol-related pages, sites and content such that they are not visible other than to a user who has registered on the platform as being 18 years of age or over.

Alcohol Beverage means a beverage containing at least 0.5% alcohol by volume.

Australian Alcohol Guidelines means the electronic document 'Australian Guidelines to Reduce Health Risks from Drinking Alcohol (1-2)' published by the National Health and Medical Research Council ("NHMRC") as at 1st January 2010.

Code means this ABAC Responsible Alcohol Marketing Code.

Marketer means a producer, distributor or retailer of Alcohol Beverages.

Marketing Collateral means material used by a Marketer to promote a brand and support the sales and marketing of Alcohol Beverages, including gifts with purchase, competition prizes and branded merchandise.

Marketing Communications means marketing communications in Australia generated by or within the reasonable control of a Marketer (apart from the exceptions listed in Section 2(b)), including but not limited to brand advertising (including trade advertising), competitions, digital communications (including in mobile and social media), product names and packaging, advertorials, alcohol brand extensions to non-alcohol beverage products, point of sale materials, retailer advertising and Marketing Collateral.

Minor means a person who is under 18 years of age and therefore not legally permitted to purchase an Alcohol Beverage in Australia.

Strong or Evident Appeal to Minors means:

- (i) likely to appeal strongly to Minors;
- (ii) specifically targeted at Minors;
- (iii) having a particular attractiveness for a Minor beyond the general attractiveness it has for an Adult;
- (iv) using imagery, designs, motifs, animations or cartoon characters that are likely to appeal strongly to Minors or that create confusion with confectionary or soft drinks; *or*
- (v) using brand identification, including logos, on clothing, toys or other merchandise for use primarily by Minors.

Sponsorship means any agreement or part of an agreement involving payment or other consideration in lieu of payment by a Marketer to support a sporting or cultural property, event or activity, in return for which the sponsored party agrees to be associated with or promote the sponsor's Alcohol Beverage or outlet. Sponsorship also includes naming rights of events or teams and the inclusion of a brand name and/or logo at an event venue or on uniforms of participants (excluding branded merchandise).

Annexure B Guidance Notes ABAC Responsible Alcohol Marketing Code

Overview

The ABAC Scheme is an initiative in quasi-regulation funded by industry and administered with the support of government. The key components of the Scheme are the ABAC Responsible Alcohol Marketing Code (Code), the Alcohol Advertising Pre-vetting Service (AAPS) and the ABAC complaints handling process (ABAC Adjudication Panel).

All advertisements for alcohol beverages are required to comply with the ABAC as well as the Australian Association of National Advertisers' (AANA) Code of Ethics. In addition, where appropriate, alcohol advertisements must comply with other Codes of Practice such as the Commercial Television Industry Code of Practice, the Codes for Commercial Radio and the Outdoor Media Association Code of Ethics and Alcohol Guidelines.

Purpose of the Guidance Notes

The ABAC Management Committee has developed the following Guidance Notes to assist advertisers and agencies in interpreting the essential meaning and intent of the Code by providing clarification through definition, explanation or example. The Guidance Notes are not intended to replace or extend the provisions of the Code itself.

The Guidance Notes represent the opinions of ABAC's administrators and are based in part on previous decisions made by the independent ABAC Adjudication Panel. The ABAC website—www.abac.org.au—includes an advanced search facility that enables all adjudication decisions relating to a particular issue or provision to be located and accessed and may be useful in providing further understanding of the issues involved in a particular clause of the Code. Insofar as the Code contains new or amended provisions untested by the Panel, these Guidance Notes will evolve as those provisions are interpreted by the ABAC Adjudication Panel and precedent is set.

Notwithstanding the content of these Guidance Notes, the AAPS Pre-vetter remains the final arbiter on how the Code should be interpreted and applied at the pre-vetting stage. Likewise the ABAC Adjudication Panel remains the final arbiter on how the Code should be interpreted and applied at the complaints adjudication stage.

Whilst AAPS Pre-vetters undertake to provide the best possible advice, any complaint regarding an alcohol advertisement will be assessed through the ABAC complaints handling process. It should be noted that successful pre-vetting does not serve as a guarantee or an argument that a complaint should be dismissed. The ABAC complaints handling process and the AAPS Pre-vetting Service are conducted separately by independent experts.

Preamble

The ABAC Responsible Alcohol Marketing Code is designed to ensure that alcohol is marketed in a responsible manner. Signatories to the Code are committed to ensuring that their marketing complies with the Code's spirit and intent.

The Code complements Australian legislation, the AANA Code of Ethics and media-specific codes relevant to the placement of marketing.

From time to time, the ABAC Scheme may publish best practice advice to industry. That advice does not form part of the Code but complements it by assisting industry to achieve high levels of responsibility in the management of its marketing.

Guidance note: Section 1

Users of these Guidance Notes are strongly encouraged to work within both the spirit and the letter of the Code as it stands. Advertisers are reminded that examples, real or perceived, of attempts to circumvent the provisions of the Code threaten the industry's reputation for responsible regulation and are in direct conflict with the interests of industry and the wider community.

Application

- a** The Code APPLIES to all Marketing Communications in Australia generated by or within the reasonable control of a Marketer, except as set out in Section 2(b). This includes, but is not limited to:
- brand advertising (including trade advertising)
 - competitions
 - digital communications (including in mobile and social media and user generated content)
 - product names and packaging
 - advertorials
 - alcohol brand extensions to non-alcohol beverage products
 - point of sale materials
 - retailer advertising
 - Marketing Collateral
- b** The Code does NOT apply to:
- i** Materials or activities whose sole purpose is to educate about misuse or abuse of alcohol beverages and which do not include a company's product branding;
 - ii** information in company annual reports, corporate public affairs messages or internal company communications;
 - iii** the name or packaging of a product, including the use of a trademark on a product which a supplier can demonstrate, to the satisfaction of the Adjudication Panel, had been supplied for bona fide retail sale in the ordinary course of business in Australia prior to 31 October 2009;
 - iv** point of sale Marketing Communications initiated by Alcohol Beverage retailers (as these are regulated by liquor licensing legislation), provided that a producer or distributor of Alcohol Beverages has no control over the point of sale Marketing Communication;
 - v** Sponsorship;
 - vi** the placement of a Marketing Communication, except to the extent that placement may impact on how the Marketing Communication is understood in accordance with section 4.

Guidance note: Section 2**Remit**

The remit of the Code is set out in section 2 and must be read together with the section 5 definitions. The ABAC applies to marketing communications in Australia generated by or within the reasonable control of an alcohol beverage producer, distributor or retailer apart from the exceptions specified in Section 2(b).

Reasonable control

This term has been included in recognition that a brand may be included in a communication that is not generated by the brand owner and is not in the reasonable control of a brand owner.

Examples of marketing communications that are not likely to meet the reasonable control test are:

- unauthorised product fan sites
- product placement over which a brand owner has no reasonable control
- user profiles of facebook fans that appear on a brand owners facebook page, as they are automatically updated on the brand owner's page whenever a user changes their profile

Examples of marketing communications that are likely to meet the reasonable control test are:

- brand extension (use of a brand on a non-alcohol beverage product)
- marketing communications by an agent or employee of a brand owner
- user generated content on a brand controlled social media site or page

Exceptions

Part (b) sets out clearly the limited circumstances in which the Code will not apply to a marketing communication by an alcohol beverage producer, distributor or retailer.

Placement exception

The ABAC is a code which principally deals with the content and not the placement of advertisements within a particular medium, location or timeslot. This can be contrasted with the Commercial Television Industry Code of Practice and the Outdoor Media Association Alcohol Guidelines which do contain provisions that restrict when an alcohol beverage advertisement can be broadcast or where it can be placed. The Interpretation section does however indirectly raise the placement of advertising by reference to 'the class of persons to whom the material is likely to be communicated'.

Standards to be applied

- a** Responsible and moderate portrayal of Alcohol Beverages
- A Marketing Communication must NOT:
- i** show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines;
 - ii** show (visibly, audibly or by direct implication) or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an Alcohol Beverage;
 - iii** challenge or dare people to consume an Alcohol Beverage; or
 - iv** encourage the choice of a particular Alcohol Beverage by emphasising its alcohol strength (unless emphasis is placed on the Alcohol Beverage's low alcohol strength relative to the typical strength for similar beverages) or the intoxicating effect of alcohol.

Guidance note: Section 3(a)

Responsible and Moderate Portrayal of Alcohol Beverages

Alcohol marketing cannot show or encourage:

- excessive or rapid consumption of alcohol
- misuse or abuse of an alcohol beverage
- alcohol related irresponsible or offensive behaviour (eg violence, vandalism)
- a challenge or dare to consume alcohol
- emphasising the strength or intoxicating effect of an alcohol beverage to encourage consumption of a higher than typical strength alcohol beverage

Australian Alcohol Guidelines

The 2010 Australian Guidelines to Reduce Health Risks from Drinking Alcohol advise that to reduce the lifetime risk of harm from alcohol-related disease or injury, healthy men and women should drink no more than 2 standard drinks on any day and to reduce the risk of alcohol related injury arising from a single occasion of drinking healthy men and women should drink no more than 4 standard drinks on a single occasion. There can be no encouragement of consumption contrary to these guidelines.

b Responsibility toward Minors

A Marketing Communication must NOT:

- i have Strong or Evident Appeal to Minors;
- ii depict a person who is or appears to be a Minor unless they are shown in an incidental role in a natural situation (for example, a family socialising responsibly) and where there is no implication they will consume or serve alcohol; or
- iii depict an Adult who is under 25 years of Age and appears to be an Adult unless:
 - A they are not visually prominent; or
 - B they are not a paid model or actor and are shown in a Marketing Communication that has been placed within an Age Restricted Environment.

Guidance note: Section 3(b)

Strong or evident appeal to Minors

There can be no strong or evident appeal to Minors. This is defined in Section 5 as meeting any one or more of the following tests. To breach section 3(b)(i) only one of these tests must be met.

- likely to appeal strongly to Minors
- specifically targeted at Minors
- having a particular attractiveness for a Minor beyond the general attractiveness it has for an Adult
- using imagery, designs, motifs, animations or cartoon characters that are likely to appeal strongly to Minors or that create confusion with confectionary or soft drinks
- using brand identification, including logos, on clothing, toys or other merchandise for use primarily by Minors

Whether material is in breach of any one of the above sub-points is determined looking at the material as a whole. Assessment requires a weighing up of factors such as the visual techniques, themes, age of actors and characters and overall look and feel.

Images of Minors

People who are or look under 18 may only be shown where:

- they are in an incidental role only
- they are in a natural situation (for example a family socialising responsibly) and
- there is no implication they will consume or serve alcohol

Images of 18–24 year olds

There are restrictions on the use of images of 18–24 year olds that appear to be over 18 years of age that need to be considered carefully. The images may only be shown in marketing communications in the following circumstances:

- if the images are not visually prominent they may be shown in any medium; or
- if the image is visually prominent and is of a real person in a real scenario, rather than an image of a paid model or actor, it may appear in a marketing communication placed in either:
 - licensed premises that do not permit entry by Minors or
 - in a non-alcohol specific age restricted digital platform. This is a digital platform that meets all of the following criteria:
 - non-alcohol specific—this is a digital platform that has not been set up for the purpose of promotion of an alcohol beverage, but for a wide variety of uses. Examples of non-alcohol specific digital platforms are Facebook, Youtube or Twitter. Examples of alcohol specific digital platforms are alcohol company or brand websites, and
 - requires users to register by provision of date of birth and then login to use the platform, and
 - is also able to hide the existence of alcohol pages from those registered as under 18 years of age—Facebook pages can use age restriction settings so that the page is not visible to users under the age of 18.

Facebook pages **that elect to use all available age restriction controls** currently qualify as a non-alcohol specific age restricted digital platform as defined in the Code and therefore allow the use of images of visually prominent 18–24 year olds on their websites. Alcohol brand websites which require entry of a date of birth to enter the site do not fall within this narrow exception and may not include images of visually prominent 18–24 year olds.

The apparent age of the talent in an advertisement will often be a subjective test. To avoid ambiguity, the pre-vetter will always take a conservative view of the apparent age of the talent. Therefore agencies should do likewise, irrespective of the actual age of the talent.

c Responsible depiction of the effects of alcohol

A Marketing Communication must NOT:

- i suggest that the consumption or presence of an Alcohol Beverage may create or contribute to a significant change in mood or environment;
- ii show (visibly, audibly or by direct implication) the consumption or presence of an Alcohol Beverage as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;
- iii if an Alcohol Beverage is shown (visibly, audibly or by direct implication) as part of a celebration, imply or suggest that the Alcohol Beverage was a cause of or contributed to success or achievement; or
- iv suggest that the consumption of an Alcohol Beverage offers any therapeutic benefit or is a necessary aid to relaxation.

Guidance note: Section 3(c)

There can be no portrayal of the presence of alcohol as having any causal relationship with mood change, a celebration, success of any kind, a therapeutic benefit or being necessary to relax.

There is no intention to prevent the depiction of alcohol as incidental to a friendly and lively social environment or celebration, but the presence or introduction of alcohol cannot be seen to transform an occasion or directly contribute to its success. Similarly there is no intention to restrict the depiction of alcohol being responsibly consumed by successful or attractive people, provided there is no suggestion that it has caused or contributed to their circumstance. It is also possible to depict the presence of alcohol in a romantic situation provided there is no suggestion it has caused or contributed to the achievement of sexual or other success.

It should be noted that the presence of alcohol includes any elements of the product or brand (such as packaging or brand marks) intended to represent the product.

d Alcohol and Safety

A Marketing Communication must NOT show (visibly, audibly or by direct implication) the consumption of an Alcohol Beverage before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as the control of a motor vehicle, boat or machinery or swimming.

Guidance note: Section 3(d)

There is no intention to exclude every association between alcohol and activities that, for safety reasons, require a high degree of alertness or physical co-ordination; however any such association must not depict the consumption of alcohol taking place before or during the engagement in any such activities.

Showing consumption of alcohol is more than just actual drinking and includes language and images which invoke consumption.

Interpretation

Compliance of a Marketing Communication with the Code is to be assessed in terms of the probable understanding of the Marketing Communication by a reasonable person to whom the material is likely to be communicated, and taking its content as a whole.

Capitalised terms have the meanings set out in section 5 below.

Headings do not expand the Code.

Guidance note: Section 4

For the purposes of the ABAC Code, and as it is applied in Australian law, the test of the reasonable person is intended as a reflection of the standards and attitudes of contemporary Australian society. The test of the reasonable person exists specifically to ensure the perceived views and standards of the broader community prevail over those of any individual or minority group. In relation to the context in which alcohol is presented in advertising, we have adopted the test of the reasonable person as it is reflected in widely observed and accepted practice and public opinion, to determine where, when, by whom and how alcohol consumption is portrayed.

The headings in section 3 are not separate standards but only instructive as to the aims of each set of standards.

Definitions

In this Code:

AANA Code of Ethics means the Australian Association of National Advertisers Code of Ethics.

ABAC Scheme means The ABAC Scheme Limited.

Adjudication Panel means the panel convened to adjudicate a complaint received by the ABAC Scheme.

Adult means a person who is of legal purchase age in Australia.

Age-Restricted Environment means:

- licensed premises that do not permit entry by Minors; or
- a non alcohol-specific age-restricted digital platform (including, for example, a social media website or application) which:
 - requires users to register and login to use the platform, including the provision of their full date of birth; and
 - is able to hide the existence of any alcohol-related pages, sites and content such that they are not visible other than to a user who has registered on the platform as being 18 years of age or over.

Alcohol Beverage means a beverage containing at least 0.5% alcohol by volume.

Australian Alcohol Guidelines means the electronic document 'Australian Guidelines to Reduce Health Risks from Drinking Alcohol (1–2)' published by the National Health and Medical Research Council ("NHMRC") as at 1st January 2010.

Code means this ABAC Responsible Alcohol Marketing Code.

Marketer means a producer, distributor or retailer of Alcohol Beverages.

Marketing Collateral means material used by a Marketer to promote a brand and support the sales and marketing of Alcohol Beverages, including gifts with purchase, competition prizes and branded merchandise.

Marketing Communications means marketing communications in Australia generated by or within the reasonable control of a Marketer (apart from the exceptions listed in Section 2(b)), including but not limited to brand advertising (including trade advertising), competitions, digital communications (including in mobile and social media), product names and packaging, advertorials, alcohol brand extensions to non-alcohol beverage products, point of sale materials, retailer advertising and Marketing Collateral.

Minor means a person who is under 18 years of age and therefore not legally permitted to purchase an Alcohol Beverage in Australia.

Strong or Evident Appeal to Minors means:

- i likely to appeal strongly to Minors;
- ii specifically targeted at Minors;
- iii having a particular attractiveness for a Minor beyond the general attractiveness it has for an Adult;
- iv using imagery, designs, motifs, animations or cartoon characters that are likely to appeal strongly to Minors or that create confusion with confectionary or soft drinks; or
- v using brand identification, including logos, on clothing, toys or other merchandise for use primarily by Minors

Sponsorship means any agreement or part of an agreement involving payment or other consideration in lieu of payment by a Marketer to support a sporting or cultural property, event or activity, in return for which the sponsored party agrees to be associated with or promote the sponsor's Alcohol Beverage or outlet. Sponsorship also includes naming rights of events or teams and the inclusion of a brand name and/or logo at an event venue or on uniforms of participants (excluding branded merchandise).

Annexure C

The ABAC Scheme: Rules and Procedures

1 Management 1.1 Management Committee

The management and operation of The ABAC Scheme will be undertaken by a Management Committee consisting of –

- a** the Executive Director of the Brewers Association of Australia and New Zealand Inc or their nominee (“Brewers Association”);
- 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 Chief Executive of The Communications Council Limited or their nominee.
- e** a Representative of Australian Governments with a nominee put forward by the relevant Federal Minister for consideration by the other members of the Management Committee, who will be appointed for a one (1) year term but will be eligible for re-appointment by the Management Committee.

An Independent chair may be appointed to the Management Committee by the Directors of The ABAC Scheme Ltd, who have been appointed by the members that fund the appointment. The position of deputy chair (or chair in the absence of the appointment of an independent chair) will rotate between the Brewers Association, DSICA and WFA representatives on an annual basis.

1.2 Role

To manage and review the operation of The ABAC Scheme and to consider amendments to the ABAC Responsible Alcohol Marketing Code (“the Code”) and to the voluntary system of compliance with a view to:

- Encouraging industry members, large and small, to participate in the quasi-regulatory system;
- Playing an active role to ensure an effective quasi-regulatory system;
- Monitoring the implementation of The ABAC Scheme and improving it where necessary;
- Co-ordinating the development and completion of an annual report with copies to be provided to the relevant Ministerial Council for alcohol policy and strategy and the Advertising Standards Bureau (“ASB”); and
- Managing the Alcohol Advertising Pre-Vetting Service (“AAPS”) as an effective mechanism to support and strengthen the aims of The ABAC Scheme 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 Brewers Association, 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 Directors of The ABAC Scheme have a responsibility to ensure that The ABAC Scheme is adequately funded.

2 Adjudication 2.1 ABAC Adjudication Panel

An ABAC Adjudication Panel (“the Adjudication Panel”) will be formed to adjudicate upon complaints concerning:

- advertisements for alcohol beverages, and
- naming and packaging for alcohol beverages.

Complaints made to the Advertising Standards Bureau will be referred to the ABAC Scheme for consideration under the relevant complaints procedure.

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

2.2 Code signatories

All Code Signatories, including members of Brewers Association, DSICA and WFA will be asked to:

- a** in respect of advertising: agree to comply with any recommendation of the Adjudication Panel that they not publish or broadcast or permit to be published or broadcast any advertisement which the Panel decides does not comply with the Code; and
- b** in respect of product names and/or packaging: agree to act in good faith to uphold the principles of The ABAC Scheme in considering recommendations of the Adjudication Panel relating to this section of the Code.

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 from the ABAC Executive Officer, and submitting it for approval by the ABAC Management Committee.

2.3 Disputes between competitors

The Adjudication 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 Adjudication Panel

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

The Management Committee will appoint a Health Sector member as one of the three regular members of the Adjudication Panel. The relevant Federal Minister with responsibility for alcohol issues, or his or her nominee, will be invited to nominate a shortlist of candidates to the Management Committee for consideration.

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

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

- a** be a current employee of a participant or member of the alcohol beverages industry; or
- b** have been an employee of a participant 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 Adjudication Panel will be appointed for a one (1) year term but will be eligible for re-appointment.

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

2.5 Indemnity of Adjudication Panel Members

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

2.6 Annual Report

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

3 Complaints procedures for advertising

(The complaints procedures for naming and packaging are described in Section 4.)

The complaints procedures for advertising are as follows:

- 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 business days on average for the handling of complaints, and
 - (ii) A need to ensure privacy, where required by law, and
 - (iii) Any natural justice considerations.
- b** All complaints received from the ASB will be considered within the ABAC complaints procedure and all decisions must be recorded in writing for statistical purposes and communicated to the complainant.
- c**
 - (i) The Chief Adjudicator will look at all complaints received from the ASB to determine if the complaint raises issues which:
 - a) are solely within the province of the AANA Code of Ethics; or
 - b) are solely within the province of an alternative code of practice or legislative regime for which there is a separate complaints resolution mechanism; or
 - c) have been fully considered and determined in an earlier determination in relation to a particular advertisement; or
 - d) have been consistently dismissed by the Panel as not being in breach of the Code; or
 - e) are not under the Code on a broad interpretation of the complaint.
 - (ii) If it is so determined the complaint will not normally be further considered under The ABAC Scheme 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 fall within 3(c)(i).

In all other cases (including 3(c)(iii)) the complaint will be referred on to the Adjudication Panel for adjudication.

- d** A Health Sector representative will sit on the Adjudication Panel for all adjudications. Copies of the advertisement against which a complaint has been lodged will be provided to Adjudication Panel members to assist them with their deliberations. The Adjudication Panel will not consider any issues raised under the AANA Code of Ethics except in the circumstance set out in 3(c)(iii).
- e** If the Adjudication Panel decides that the complaint should be upheld the advertiser or its agency must advise the Adjudication 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 Adjudication Panel, and the response (if any) of the advertiser/ agency, must be advised to the ASB and the ABAC Management Committee, within five (5) business days after –
 - (i) in the case where the Adjudication Panel has not upheld the complaint, the date of the decision of the Adjudication Panel; or
 - (ii) in the case where the Adjudication 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.

4 Complaints procedures for naming and packaging

- a** The ABAC Management Committee has a duty to oversee that the process for handling complaints for naming or packaging is running efficiently, and in performing this duty must have regard to:
 - (i) The efficient handling of complaints, and
 - (ii) A need to ensure privacy, where required by law, and
 - (iii) Any natural justice considerations.

All complaints to be considered

- 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** If the complaint also relates to advertising, the complaint will also be considered under Section 3 of the Rules and Procedures.
- d** The Chief Adjudicator will look at all complaints against naming and packaging (received by the ASB) to determine if the complaint raises issues under the ABAC Code.
- e** If it is so determined the complaint will be referred to the Adjudication Panel for consideration unless the complaint relates to product material that has been certified pursuant to paragraph 4(p).
- f** Where a complaint is referred to the Adjudication Panel for consideration, the Chief Adjudicator will, prior to consideration of the complaint by the Adjudication Panel, notify the Supplier of the complaint and its referral to the Adjudication Panel.
- g** For the purposes of Section 4 of the Rules and Procedures, a “Supplier” is deemed to be either:
 - (i) the Australian named manufacturer; or
 - (ii) the Australian distributor(s) of the Product either as shown on the labelling or packaging of the Product or otherwise identified in good faith by the Chief Adjudicator on the information available to him or her.

Materials to be supplied to the Adjudication Panel

- h** When the Adjudication Panel considers the complaint, it should have before it:
 - (i) a copy of the complaint
 - (ii) either a sample or picture of the product name and/or packaging or product or product material in question, or a fair description of both (and the text of any determination issued by the Adjudication Panel should stipulate which)
 - (iii) any correspondence from the Supplier, either in response to the complaint, or any questions/issues raised with it by the Chief Adjudicator.
 - (iv) any other materials the Chief Adjudicator deems fit.

Review processes

- i** If the Adjudication Panel decides to uphold the complaint, then a provisional determination must be provided to the Supplier, who will be able to seek a rehearing of the provisional determination, by providing a formal written response and further submission within ten (10) business days of receipt of the provisional determination.
- j** All or part of this appeal period may be waived by the Supplier, and will be deemed to have been waived upon receipt of a formal written response to the provisional determination.
- k** After considering any material provided by the Supplier, or after the elapse of ten (10) business days from the date that the provisional determination is provided to the Supplier, the Adjudication Panel is free to issue a final determination whenever it deems fit.
- l** When a complaint has been upheld against a product's name or packaging, the Supplier must advise the Chief Adjudicator within ten (10) business days of being informed of the Adjudication Panel's decision, as to whether they intend to either discontinue or modify the affected product.
- m** The onus is on the Supplier to demonstrate to the Chief Adjudicator that a product name or trademark was in use in the Australian market prior to 31 October 2009. The Supplier may do so at any stage of the process prior to the end of the five (5) business day period the Supplier has to respond to a final determination.

Agreement to modify name or package

- n** Where a Supplier has agreed to modify the affected product, then it may put proposals for doing so before two pre-vetters for consideration. The pre-vetters must ensure that any such proposal(s) are dealt with in a timely and confidential manner.
- o** The pre-vetters shall determine whether the proposed modifications bring the product name and/or packaging into line with the Code (not just the section(s) on which the original complaint and determination hinged). Where the pre-vetters do not both agree that the proposed modifications bring the product name and/or packaging in line with the Code certification may not be given for that name and/or packaging.
- p** Where the pre-vetters have certified that modifications to naming and/or packaging are sufficient to bring it in line with the Code, then the Adjudication Panel will not consider any further complaints against the product so modified. Any minor modifications to the packaging (e.g. bar codes, use-by dates, date or place of manufacture, grape sources etc.) will be deemed to not alter the compliant status of the product. Complaints in respect of advertising in which the name and/or packaging is featured will still be considered by the Adjudication Panel.

5 Alcohol Advertising Pre-vetting Service (AAPS)

5.1 Role of AAPS

Individual alcohol beverage producers may use the AAPS pre-vetting service to assess whether marketing communications conform to either or both of the Australian Association of National Advertisers Code of Ethics (AANA Code of Ethics) or the ABAC Responsible Alcohol Marketing Code (ABAC Code).

For beer producers all advertisements for alcohol beverages (excluding internet and point of sale advertisements and promotion of alcohol at events) should be pre-vetted against the ABAC Code and may be pre-vetted against the AANA Code of Ethics. For spirits producers all advertisements for alcohol beverages (excluding internet and point of sale advertisements and promotion of alcohol at events) should be pre-vetted against the ABAC Code and the AANA Code of Ethics. For wine producers all

television, cinema and outdoor advertising should be pre-vetted against the ABAC Code and the AANA Code of Ethics. For all producers pre-vetting of naming and packaging is optional.

Marketing communications 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 ABAC Code and the AANA Code of Ethics but are not required to be pre-vetted.

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 ABAC Executive Officer or ABAC Management Committee to be dealt with.

To encourage the frank exchange of views within The ABAC 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, the ABAC Executive Officer and the representative of their respective industry association.

5.2 Appointment of pre-vetters

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

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

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

Each of the 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 ABAC Scheme. These provisions may be varied by the Management Committee.

5.3 Funding

Where appropriate, all services provided by AAPS Pre-vetters (including pursuant to paragraphs 4 (n)-(p)) are to be funded on a user-pays basis by those industry members seeking pre-vetting of alcohol marketing communications.

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.

6 Transitional provision — ABAC Responsible Alcohol Marketing Code

The ABAC Responsible Alcohol Marketing Code (“New Code”) will replace the Alcohol Beverage Advertising (and Packaging) Code (“Old Code”) effective 1 July 2014. Complaints received by the ABAC executive officer on or after 1 July 2014 will be considered under the New Code subject to the exception in paragraph 2.

The Old Code will continue to apply to complaints about any material bona fide in the market place as at 30 June 2014 that remains in the marketplace continuously from that date. If material is withdrawn from the marketplace and then re-introduced, the New Code will apply once the material is re-introduced. The company responsible for the material has the onus of demonstrating to the satisfaction of the Adjudication Panel that the material was in the marketplace continuously from 30 June 2014. This exception will cease to have effect in relation to material in the market place from 1 January 2015.

Annexure D Best Practice for the Responsible Marketing of Alcohol Beverages in Digital Marketing

Introduction

The Alcohol Beverages Advertising (and Packaging) Code (the Code) sets high standards for the content of alcohol marketing including the content of alcohol advertising in digital marketing including social media. Alcohol advertising in digital marketing has been the subject of a number of ABAC adjudication decisions.

Digital marketing means advertising through digital platforms including social media, applications, blogs, brand websites, Instant Messaging, livecasting, microblogs, mobile communications and messaging, online/banner advertising, online gaming, photo sharing, Pinterest, podcasts, proximity marketing, QR codes, relationship marketing, RSS feeds, search engine marketing and optimisation, social networking, social news sites, user-generated content, video sharing, and wikis.

Standards for the placement of alcohol advertising are covered by complementary media specific Industry Codes of Practice. However, there is no specific code of practice for the placement of alcohol advertising in digital marketing.

In response, ABAC has developed this best practice advice to assist the alcohol industry in maintaining high standards of social responsibility in the management of alcohol advertising in digital marketing. This advice is non-binding and is not intended to replace or extend the provisions of the Code. Rather, it is intended as guidance to assist advertisers and agencies.

It is recognised that digital marketing is evolving rapidly and therefore the best practice advice will be reviewed on a regular basis and updated where necessary.

Interaction with other regulation

- 1 All digital marketing communications must comply with the Alcohol Beverages Advertising (and Packaging) Code and the Australian Association of National Advertisers Code of Ethics.
- 2 All digital marketing communications must comply with guidelines for digital marketing published by the Australian Association of National Advertisers and the Communications Council.
- 3 All digital marketing communications must respect user privacy and laws governing the collection of personal information.
- 4 All digital marketing communications must comply with all other relevant laws in Australia.

Responsible drinking message

- 5 All websites and social media forums controlled by alcohol beverage advertisers should include a responsible drinking message. Advertisers should also identify to users an appropriate responsible drinking website.

Age affirmation

Age affirmation is a process by which users provide their full date of birth and country of access to affirm they are of legal purchase age.

- 6 **Age restriction, targeting or affirmation technologies** should be used, where available, for all digital marketing controlled by alcohol beverage advertisers, to restrict access to users of legal purchase age or over.

Examples of how to use these techniques to meet best practice include:

- 6.1 **Direct marketing communications** directed to a specific person, for example email, SMS and Twitter, should only be directed to consumers who have provided an age affirmation that they are of legal purchase age or over.

- 6.2 **Download advice, forwarding notices, responsible drinking messages or age affirmation** mechanisms should, where possible, be included on all digital marketing communications that are intended to be shared, such as with a 'share', 'download' or 'email' option.

Download advice and forwarding notices are instructions to individuals forwarding or downloading the content that they should not forward the material to individuals below the legal purchase age.

- 6.3 **Website age affirmation pages** (website landing pages that require visitors to confirm they are of legal purchase age before they can enter a website) should be used on all websites controlled by alcohol beverage advertisers.

It is recommended that the following age affirmation measures be adopted:

- Users should be required to input their date of birth and country of access to affirm they are of legal purchase age (for example from a drop down menu) rather than being allowed access through clicking a default option.
- If a user enters a birth date that equates to being under legal purchase age they should be given an appropriate alcohol social responsibility message, or redirected to an appropriate responsible drinking website.
- Repeat users may be invited to set up a "remember me" option but the invitation should warn on the appropriateness of this option if the computer may be used by someone under the legal purchase age.
- Users that have affirmed their age on a site may access a related site without being required to re-affirm their age.
- Corporate websites with a primary purpose of communicating company information do not require an age affirmation page.

- 6.4 Digital marketing communications on a site or web page controlled by the brand advertiser that involve **direct interaction with a user** should require age affirmation by the user prior to full user engagement of that communication to determine that the user is of legal purchase age or over.

Direct interaction is a two-way communication between the user and the advertiser on a site or web page controlled by the advertiser.

- 6.5 A **nanny tag** should be placed on all websites controlled by alcohol beverage advertisers. A nanny tag describes the site's content in a format that parental control software detects.

- 7 **Proximity marketing** should only be used in situations where people will be of legal purchase age or over, for example, in age restricted venues such as nightclubs or when directed to users who have been verified as legal purchase age or over.
Proximity marketing is a digital communication directed to recipients in a particular proximity via SMS or MMS.
- 8 **Digital marketing communications should be placed** only in media where at least 75% of the audience is reasonably expected to be of legal purchase age or over.
- 9 **Downloadable applications** should only be made available where at least 75% of the audience is reasonably expected to be of legal purchase age or over.

User-generated content

User-generated content (UGC) is material that has not been created by or for a brand owner but by a person interacting on the digital platform.

- 10 **UGC** within digital platforms, controlled by an alcohol beverage advertiser is within the scope of the ABAC.
- 11 To contribute UGC a user must affirm by their date of birth that they are legal purchase age or over.
- 12 House rules should be accessible to registered users and clearly set out what is and isn't acceptable UGC. Attachment A is a sample set of house rules that cover the ABAC standards, which should be adapted into the style/voice of the brand to encourage uptake.
- 13 Where possible, a mechanism should be available to provide users with an opportunity to notify the advertiser of any content they consider is unacceptable (such as "report inappropriate content" links, "alert administrator" buttons or the provision of contact details).
- 14 Moderation of UGC within a digital platform, controlled by alcohol beverage advertisers, should be carried out by either pre-moderation or post moderation.
 - 14.1 Pre-moderation is where UGC is approved before it appears on brand controlled digital platforms.
 - Where possible, automated software should be used to identify and remove inappropriate content.
 - 14.2 Post-moderation is where UGC is checked by an alcohol advertiser after it appears and is removed if considered to be in breach of the ABAC Code or the AANA Code of Ethics.
If post moderation is used the following measures should be taken:
 - Where possible, automated software should be used for identifying and removing inappropriate content.
 - The site should be moderated at least once every business day and also on non-business days if the brand undertakes activity on the site during those non-business days.
 - The site should be moderated immediately after the brand posts or engages and for at least two hours following the post.

For more information please contact ABAC Administrator at info@abac.org.au

Attachment A: Sample user-generated content house rules

[This sample set of house rules address compliance with the ABAC only. A company may expand its guidelines to address other issues, including legal obligations and other relevant codes of practice and use its own language designed to encourage users to engage with the house rules.]

All content on our website, including content posted by users of the site, must comply with the Alcohol Beverages Advertising (and Packaging) Code to ensure all our marketing communications are socially responsible.

Accordingly all content posted by users of this site must comply with the following rules. Any content that does not comply with the Rules will be removed and may result in de-registration from this site.

- It must present a mature, balanced and responsible approach to the consumption of alcohol beverages.
- It must not encourage or promote offensive behaviour, misuse or abuse of or excessive consumption of alcohol beverages.
- It must not encourage underage drinking or have a strong or evident appeal to children or adolescents.
- It must not suggest that the consumption or presence of alcohol beverages can change a mood or environment.
- It must not show the consumption or presence of alcohol beverages as leading to personal, business, social, sporting, sexual or other success.
- It must not imply or suggest that an alcohol beverage shown as part of a celebration was a cause of the success or achievement.
- It must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or is a necessary aid to relaxation.
- It must not associate consumption of alcohol beverages with operating a motor vehicle, boat or aircraft or engaging in any sport or potentially hazardous activity.
- It must not challenge or dare people to drink or sample a particular alcohol beverage.
- It must not contain any inducement to prefer an alcohol beverage because of its higher alcohol content.
- It must comply with community standards of taste and decency, particularly as to discrimination, vilification, objectification of people, violence, sex sexuality or nudity, language, health and safety.
- It must not bring The ABAC Scheme into disrepute.
- Any images uploaded to the site must only include people over 25 years clearly depicted as adults unless they are children and adolescents pictured in natural situations (eg family barbecue, licensed family restaurant) and where there is no implication they will consume or serve alcohol beverages.

Annexure E

ABAC statistics

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
AAPS Pre-vetting											
Ads pre-vetted	754	761	936	1,267	1,110	1,369	1,050	1,059	1,229	1,394	1,571
Ads rejected	84	86	182	293	232	238	77	82	192	211	212
Ads accepted with conditions	63	34	53	61	29	85	44	39	59	39	59
Complaints											
Total complaints received	212	105	53	87	162	117	87	119	98	182	94
Number of ads and packaging to which the complaints relate	23	29	26	38	44	42	38	74	63	78	42
Complaints considered by Panel	8	29	13	25	49	47	41	63	53	69	35
Determinations made by Panel	5	12	10	22	36	39	31	45	36	36	27
Complaints upheld (at least in part)	3	2	3	8	12	12	15	20	7	20	8
Determinations upheld	3	2	2	8	7	10	11	15	7	4	8
Average business days— Panel determinations	35.1	33	78.6	29.3	19.8	22.5	26.5	25	20	26.3	19.7

Percentage of complaints relating to each ABAC standard

	2009	2010	2011	2012	2013	2014
Excessive or rapid consumption, misuse or abuse	26%	35%	22%	11%	44%	22%
Irresponsible or offensive behaviour related to alcohol	26%	35%	20%	14%	50%	55%
Challenge or dare to consume alcohol	-	-	-	-	6%	4%
Emphasising strength/intoxicating effect of alcohol	-	-	-	-	-	-
Appeal to minors	53%	45%	49%	44%	28%	56%
Alcohol cause of change in mood	13%	29%	16%	19%	31%	30%
Alcohol cause of success	13%	29%	16%	19%	31%	26%
Alcohol cause of celebration	3%	3%	-	-	8%	4%
Therapeutic benefit	5%	16%	-	6%	8%	11%
Alcohol use with activities requiring alertness/physical co-ordination	15%	13%	9%	25%	17%	11%
Naming and packaging	N/A	2%	7%	3%	-	4%

Percentage of determinations relating to different media/product material

	2009	2010	2011	2012	2013*	2014
Outdoor media	5%	23%	16%	22%	19%	22%
Digital media	21%	16%	31%	22%	11%	15%
Television	41%	61%	27%	31%	50%	70%
Cinema	-	3%	4%	3%	6%	-
Radio	3%	3%	2%	3%	3%	-
Print	23%	32%	22%	19%	14%	4%
Point of sale	5%	-	-	-	-	-
Packaging	3%	3%	6%	3%	-	4%

1 In 2013 there were multiple complaints in relation to several of the determinations upholding complaints

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