



## ABAC Adjudication Panel Determination No. 88/15

**Product:** Hahn Superdry  
**Company:** Lion  
**Media:** Television  
**Complainants:** Ms Roberts  
**Date of decision:** 1 September 2015  
**Panelists:** Professor The Hon Michael Lavarch (Chief Adjudicator)  
Ms Debra Richards  
Professor Richard Mattick

### Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) concerns a television advertisement for Hahn Superdry and arises from a complaint received 3 August 2015.
2. Alcohol marketing in Australia is subject to an amalgam of laws and codes of practice, that regulate and guide the content and, to some extent, the placement of marketing. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol marketing as quasi-regulation. The most important provisions applying to alcohol marketing are found in:
  - (a) Commonwealth and State laws:
    - Australian Consumer Law – which applies to the marketing of all products or services, and lays down baseline requirements, such as that marketing must not be deceptive or misleading;
    - legislation administered by the Australian Communications and Media Authority – which goes to the endorsement of industry codes that place restrictions on alcohol advertising on free to air television;
    - State liquor licensing laws – which regulate retail and wholesale sale of alcohol, and contain some provisions dealing with alcohol marketing;

(b) Industry codes of practice:

- AANA Code of Ethics – which provides a generic code of good marketing practice for most products and services, including alcohol;
  - ABAC Responsible Alcohol Marketing Code (“ABAC”) – which is an alcohol specific code of good marketing practice;
  - certain broadcast codes, notably the Commercial Television Industry Code of Practice – which restricts when advertisements for alcohol beverages may be broadcast;
  - Outdoor Media Association Code of Ethics – which places restrictions on the location of alcohol advertisements on outdoor sites such as billboards.
3. Within this framework, some of the requirements go to the placement of alcohol marketing, while others go to the content of the marketing. The ABAC is a content code, which means the standards of good marketing practice within the Code apply irrespective of where the marketing occurs (e.g. in print, in digital formats, or by broadcast mediums). Equally, the fact that the marketing is placed in a particular medium or in a particular location will not of itself generally be a breach of the ABAC. In contrast, the placement codes applying to outdoor sites or free to air television don't go to what is contained within alcohol marketing but the codes will be potentially breached if the marketing occurs at particular timeslots or is placed near a school.
  4. For ease of public access, the Advertising Standards Bureau (ASB) provides a common entry point for alcohol marketing complaints. Upon a complaint being received by the ASB, a copy of the complaint is supplied to the Chief Adjudicator of the ABAC.
  5. The complaint is independently assessed by the Chief Adjudicator and the ASB and streamed into the complaint process that matches the nature of the issues raised in the complaint. On some occasions, a single complaint may lead to decisions by both the ASB under the AANA Code of Ethics and the ABAC Panel under the ABAC if issues under both Codes are raised.
  6. The complaint raises concerns under the ABAC Code and accordingly is within the Panel's jurisdiction.

### **The Complaint Timeline**

7. The complaint was received on 3 August 2015.
8. The Panel endeavor to determine complaints within 30 business days of receipt of the complaint, but this timeline depends on the timely receipt of materials and advice and the availability of Panel members to convene and decide the issue. The complaint has been determined within this timeframe.

## Pre-vetting Clearance

9. The quasi-regulatory system for alcohol beverage marketing features independent examination of most proposed alcohol beverage marketing communications against the ABAC prior to publication or broadcast. Pre-vetting approval was obtained for this marketing communication.

## The Marketing Communication

10. The 60 second television advertisement comprises a series of scenes all including a young man as the central character (referred to below as 'the Man') that change quickly with accompanying voiceover (V/O):

- Images:
  - The Man is shown arguing with an older man in a corner office, the younger man throws his lanyard at the older man and is shown walking out through the office holding a cardboard box and smiling;
  - The Man hiking through wilderness;
  - The Man calling out from high on a mountain;
  - A group of huskies in the snow;
  - The Man reading a book;
  - The Man standing on a boat and then jumping into a shark cage as a shark circles it;
  - The Man arguing with a woman and the woman storming out of a hotel room.

V/O – If you're not collecting experiences, you're not living.

- Images:
  - The Man standing in an open plain among large power lines with a backpack;
  - The Man sanding a piece of wood and working on a surfboard;
  - The Man hiking through snow covered terrain, coming across a wild animal and running in the other direction.

V/O – If you're not living, you're not growing,

- Images:

- The Man running along a train platform and then running in the wilderness;
- The Man cliff jumping, climbing a cliff, climbing an indoor rock wall and then falling from the indoor rock wall and then jumping from the cliff into the water;
- The Man surfing;

V/O – Because who you are tomorrow, is born from what you experience today

- Images:

- The Man riding motorcycles with a group through a remote location;
- The Man sitting with two other men at a campsite laughing while all men are holding a stubby of Hahn Superdry;
- The Man walking along train tracks in a foreign city, smiling from a moving vehicle, looking over city lights at night, chasing a train;
- The Man is on a stage in a dark club or bar performing with a guitar and mouthorgan, he looks over at a woman in the room and she looks back at him;
- The Man is carrying out a building renovation project with the woman from the bar, the man and woman are shown kissing and then sitting on the floor of the building site holding a stubby of Hahn Superdry, the Man sipping from his stubby;
- The Man brings his cardboard box from the first scene into the new office;
- The Man walks over to and greets a woman and two men at a table in a rooftop location where there is an ice bucket with three stubbies of Hahn Superdry in it and other stubbies on the table and in people's hands;

V/O – Are you an experience collector?

- Images:

- A hand reaches into a water and ice bucket and pulls out a stubby of Hahn Superdry;
- The Man is drinking from a stubby of Hahn Superdry.

- A logo entitled “Experience Collectors” and the text “Search Experience Collectors” is superimposed on the final scene of the four people in the rooftop location.
- The rooftop scene disappears as the logo spins to become a bottle top for Hahn Superdry that has the Hahn Superdry logo on the bottle top, the text “Search Experience Collectors” and the “Get the facts Drinkwise” logo.

## **The Complaint**

11. The complainant is concerned that the advertisement:
  - (a) Is about being an experience collector and living life to the fullest; and
  - (b) shows a man kissing a girl and then immediately consuming alcohol suggesting alcohol as a cause of sexual or other success.

## **The ABAC Code**

12. Part 3 of the ABAC Code provides that a Marketing Communication must NOT:
  - (c)(i) suggest that the consumption or presence of an Alcohol Beverage may create or contribute to a significant change in mood or environment;
  - (c)(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;

## **The Company’s Response**

13. The Company responded to the complaint by letter dated August 2015. The Principal points made by the Company are:
  - (a) The Advertisement that is the subject of this complaint is a Television Advertisement for Hahn Super Dry. The film is about a man in his late 20s who has the courage to ‘have a crack at life’ and follow his passions – with a key takeout being that life is not about winning (or failing), but a collection of your experiences. This is consistent with the Hahn Super Dry brand identity – which is about pioneering and passion for brewing. It opens with a shot of the man being fired from his job, and then realising that this is his chance to follow his passions. This leads him through a range of experiences – some travel related (e.g. shark-diving, motor-cycling), some romance related (e.g. break-up with girlfriend), some hobbies related (e.g. surf-board shaping, rock-climbing, playing guitar at an open mic night), and other recognizable life experiences (e.g. renovating a property with a partner, starting a new business, catching up

with friends at a rooftop bar etc.). The experiences are in no particular order but intended to be a montage of all of his different life experiences.

- (b) Lion does not consider that the Advertisement breaches any section of the ABAC Responsible Alcohol Marketing Code (ABAC Code) or any other advertising code.
- (c) Throughout the advertisement, the presence or consumption of alcohol is never depicted as a contributor to, or cause of, a change in mood or environment. Hahn Super Dry is not included in any scenario where it would be inappropriate for alcohol to be present or consumed (i.e. rock-climbing), and in those situations where it is appropriate for it to be present (i.e. rooftop bar with friends, relaxing with a partner post renovations) its presence and consumption is incidental to the situation, not the focus of it or cause of it.
- (d) The end voice over “Are you an experience collector?” in no way suggests that all the experiences one collects in life do or should include alcohol. The advertisement shows a balanced and responsible representation of an individual’s life experiences – a man who has a lot of different interests, and passion for life, and where Hahn Super Dry is an accompaniment to certain parts of that life, namely social occasions.
- (e) The advertisement in no way shows the presence of alcohol as a contributor to sexual or social success. The scenes mentioned are two of many experiences the character comes across throughout the advertisement. The first time the man and woman meet is at a venue, when she is watching him perform on stage. Neither the man nor the woman are consuming alcohol at this time and it is clear to the viewer her attraction is most likely based on the fact the man is a good performer. There is also no alcohol present when the man and woman are renovating their house, and alcohol consumption does not take place prior to the affectionate kiss. It is the following scene, when the renovation is clearly completed and the man and woman are sitting down and resting, that they are enjoying a Hahn Super Dry together. This in no way infers any causal relationship or contribution to the scenes that preceded it.
- (f) As a responsible advertiser, Lion has demonstrated a long-standing commitment to supporting the ABAC and AANA Codes and adhering to the decisions of the ABAC Adjudication Panel and Advertising Standards Bureau. Lion maintains strict internal and external processes to ensure compliance. As part of Lion’s marketing approvals process, this Advertisement was subject to:
  - Campaign development from external creative agencies trained on the requirements of the ABAC and AANA Codes;

- Independent legal review and advice from an external legal firm specialising in FMCG marketing and advertising compliance and interpreting the relevant advertising codes and legislation;
- Review by Lion's internal marketing compliance team to ensure adherence to the ABAC, AANA Codes and Lion's internal policies;
- Review and approval through the external AAPs pre-vetting service at both concept and final stages to ensure compliance with the ABAC.

I can confirm that each of the above checkpoints was met for this advertisement, prior to broadcast.

### **The Panel's View**

14. The complaint concerns a television advertisement which depicts a number of short and varied scenes in the life of a young man as he collects life experience. One of the scenes shows the central character of the advertisement involved in the renovation of a building with a young woman. The couple are shown kissing and immediately thereafter, but in a new scene, sharing the product.
15. The complainant believes the advertisement and the scene described above is in breach of Section 3 (c) of the ABAC. This Section requires that alcohol marketing must not suggest that the use of alcohol may create or contribute to a significant change in mood and specifically, the consumption or presence of an alcohol beverage cannot be shown as a cause of the achievement of social or sexual success.
16. In assessing if an advertisement is in breach of a Code standard, the Panel is to have regard to the probable understanding of the advertisement by a reasonable person, taking its content as a whole. The reference to a 'reasonable' person is drawn from Australia's common law system and means that the opinions, attitudes and values in a majority of the community is to be the benchmark.
17. The Panel does not believe the advertisement is in breach of the Section (c) Standard. In reaching this conclusion the Panel has noted:
  - Taken as a whole the advertisement does not depict extensive alcohol use and where alcohol is shown it is in the context of marking one of the life experiences shown.
  - Alcohol is not shown as a cause or contributor of the achievement of success.
  - In the particular scenes depicting interactions between the man and woman, alcohol use is shown as following and not before or during the activity of renovating the building.

- There is no reasonable implication that the man and woman kissed because of the presence or consumption of alcohol. Rather the kiss is linked to the shared experience of the couple working together in renovating the building. The achievement of this is then in a separate scene shown as being marked through consumption of the product.

18. Accordingly, the complaint is dismissed.