



## ABAC Adjudication Panel Determination No. 115/16

**Product:** Wild Turkey  
**Company:** Campari Australia  
**Media:** Television  
**Complainant:** Confidential  
**Date of decision:** 9 November 2016  
**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 television advertisements for Wild Turkey by Campari Australia (“the Company”) and arises from a complaint received 17 October 2016.
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 17 October 2016.
8. The Panel endeavour 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 the marketing communication (478/15).

## **The Marketing Communications**

10. Two television advertisements for the product were broadcast around the time the complainant viewed an advertisement on free to air television. It is not clear which advertisement was seen by the complainant.

### RTD Advertisement

11. The first advertisement features black and white moving close up footage of the wrinkled skin of a turkey, we then see the head and neck of the turkey facing the camera with the superimposed text "Apparently I need a facelift".
12. The screen then changes to an image of three Wild Turkey ready to drink products in cans with the turkey seen indistinctly moving in the background as a voiceover says "Wild Turkey Bourbon New Look Same Bold Spirit" with the superimposed text "New Look Same Bold Spirit". The words "Drink Responsibly" appear in the bottom right side of the screen.

### 'Feather' Advertisement

13. The second advertisement is in black and white and features feathers floating on the screen and then moving close up images of a turkey flying through the air and landing, we then see the head and neck of the turkey facing the camera with the superimposed text "Greatness isn't pretty".
14. The screen then changes to an image of a bottle of Wild Turkey and a glass with ice and the product with the turkey seen indistinctly moving in the background as a voiceover says "Wild Turkey Bourbon Aged Longer More Character" with the superimposed text "Aged Longer More Character" next to the product. The words "Drink Responsibly" appear in the bottom right side of the screen.

## **The Complaint**

15. The complainant is concerned that the advertisement is attractive to minors as the complainant's 7 year old child viewed the ad and later asked for the product. The complainant was equally concerned that the advertisement was broadcast on a Sunday morning when children are viewing television.

## **The ABAC Code**

16. Part 3 of the ABAC Code provides that a Marketing Communication must NOT:
  - (b)(i) have Strong or Evident Appeal to Minors;

17. Definition in Part 5 of the ABAC provide:

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.

A 'Minor' means a person who is under 18 years of age and therefore not legally permitted to purchase an alcohol beverage in Australia.

### **The Company's Response**

18. The Company responded to the complaint by letter dated 25 October 2016. The principal points made by the Company were:

- The two ads are part of the 'Wild Turkey Bourbon – Greatness isn't Pretty' campaign. As the third placed brand in the bourbon category, Wild Turkey has always placed emphasis on the quality of the product as a point of difference to convince bourbon drinkers to switch from other more established brands. With this in mind, the objective of the campaign is to convey to existing bourbon drinkers (core drinkers being 45-55 year old males) that bourbon selection shouldn't be based on attractive packaging or flashy or stylish advertising, rather it should be based on the quality of the liquid in the bottle (that is, stressing substance over style).
- In the series of advertisements comprising this campaign, the products namesake, the wild turkey, is featured together with humorous taglines such as "Greatness isn't pretty" and "Apparently I needed a facelift" (the latter being a reference to highlight a recent packaging update to current brand drinkers).
- Campari Australia strongly believes the advertisements do not breach any sections of the ABAC Code, including and in particular, Part 3(b) of the ABAC Code.

- The product's namesake, a wild turkey, is featured in the advertisements. The turkey is depicted in its natural state and has not been stylized or digitally enhanced, nor have we used any production techniques such as animation, special effects or soft lighting to make it more attractive or appealing to viewing audiences. The close ups of the turkey are featured to create a direct association with the humorous taglines. It is also important for the Panel to consider that a wild turkey is not traditionally sought after or purchased as a family pet. Additionally, no people appear in the advertisements petting, handling or speaking to the turkey in an affectionate or 'cutesy' manner.
- Therefore, in summary, the wild turkey is our product's namesake. Although the turkey featured in the advertisements is a naturally beautiful bird, we strongly believe it does not have any strong or evident appeal to minors either directly or indirectly.
- Insofar as the complainant appears to object to the placement of alcohol advertising during the Nine Network's Wide World of Sports Sunday program, the placement complies with Free TV Australia's placement code which allows placement of alcohol ads as an accompaniment to a sports program on a weekend or a public holiday. Further, the viewing audience for the Wide World of Sports comprises 89.6% adults in Melbourne and 91.5% adults nationally. Therefore, in addition to the advertisements being targeted to adults the television broadcast is also targeted to an adult audience with only a very small percentage of viewers aged 17 years or under.
- As a producer and supplier of alcohol in Australia Campari Australia is committed to the sale and marketing of its brands in a responsible manner in accordance with not only all Australian advertising and liquor licensing laws, regulations, codes and guidelines but also the 'spirit and intent' of these laws, regulations, codes and guidelines. Campari Australia operates with the highest level of commercial integrity and takes its responsibility and commitment to both corporate and social responsibility very seriously.

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

19. On Sunday morning 16 October 2016, the complainant was viewing Channel 9 accompanied by a 7 year old child. It would seem that the program being broadcast at that time was the 'Wide World of Sports', which is a live sports umbrella program encompassing all major sporting fixtures and events covered by the 9 free-to-air television network. At approximately 10.40am, an advertisement for the alcohol product was broadcast during a commercial break in the programming.
20. The complainant believed the airing of an alcohol advertisement at that time of day was completely inappropriate. This concern was reinforced when the

complainant's son shortly afterwards nominated 'Wild Turkey' when asked if he wanted a drink.

21. There are two dimensions to the complaint. The first is the concern that any alcohol advertisement should be broadcast on a Sunday morning. The second is whether the particular advertisement has strong appeal to children.
22. As mentioned in paragraph 2, the marketing of alcohol in Australia is subject to and regulated by a range of laws and codes. One of the requirements is contained in the Commercial Television Industry Code of Practice (CTICP), which is a self-regulatory code adopted by free-to-air television networks including the 9 network. The CTICP has been registered as a regulatory code with the Australian Communications and Media Authority.
23. The CTICP contains restrictions on the broadcasting of advertisements. Part 6.2 of the code applies to alcoholic drinks and imposes restrictions on when alcohol advertisements can be broadcast. These restrictions generally limit broadcast to after 8.30pm, however 6.2.1 provides that an alcohol advertisement can be aired 'as an accompaniment to a sports program on a weekend or a public holiday'. The CTICP defines 'sports program' to mean a program predominantly consisting of coverage of a sporting event or 'sporting commentary, analysis, interviews and news'.
24. The Panel and the ABAC is not the adjudicative body for complaints which go to the CTICP, as the timing of alcohol advertisements on free-to-air television is not within the Panel's jurisdiction to make a finding. That said, the Panel has made enquiries about the timing of the Sunday morning advertisement and been advised that Channel 9 considers the Wide World of Sports to be 'analysis and commentary' of sports and hence the broadcast of the advertisement was permitted.
25. For its part, the ABAC is focussed upon the content of alcohol marketing rather than the placement of the advertisement. This means an advertisement will not breach the ABAC simply because it might be viewed by under 18 year olds, nor will an advertisement which breaches the Code standard on appeal to minors be protected even if the audience of the advertisement is predominantly adult.
26. In this case, the complainant does not argue that any aspect of the advertisement's content specifically is troubling and clearly the principal concern relates to the advertisement's broadcast time. The complainant notes that the advertisement made an impression on her 7 year old son and for this reason, the Panel has reviewed the advertisement against section (b) of the ABAC, which requires that alcohol marketing must not have a strong or evident appeal to under 18 year olds.
27. As it wasn't clear which advertisement was viewed as two versions of the Company's current advertising campaign were broadcast during the Wide World of Sport program, the Panel has reviewed both of these executions. In both cases, the advertisement features close up depictions of a large turkey. The use of animals in advertising may raise the possibility of the advertisement attracting the attention of younger children and for that reason, it is important that the advertisement as a whole does not through use of aspects such as colouring,

settings, use of animation and narrative cause strong or evident appeal to children.

28. The Panel believes the advertisements could not reasonably be said to be strongly appealing to children. While an animal is featured, the turkey is not shown in a manner which gives it appealing characteristics and the advertisements as a whole are clearly adult in theme.
29. Accordingly the complaint is dismissed.