



ABAC Adjudication Panel Determination No. 61/18

Product: Little Fat Lamb
Company: United Distillers Pty Ltd & Drink Craft Pty Ltd
Media: Digital
Complainant: Cancer Council Victoria
Date of decision: 12 June 2018
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Ms Debra Richards
Professor Louisa Jorm

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) concerns two Facebook pages that feature Little Fat Lamb which is an alcohol beverage brand owned by United Distillers Pty Ltd and produced and distributed by Drink Craft Pty Ltd (“the Companies”) and arises from a complaint received 10 May 2018.
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.
2. The codes go either to the issue of the placement of alcohol marketing, the content of alcohol marketing or deal with both matters. The ABAC deals with both the placement of marketing i.e. where the marketing was located or the medium by which it was accessed and the content of the marketing irrespective of where the marketing was placed. The ABAC scheme requires alcohol beverage marketers to comply with placement requirements in other codes as well as meeting the standards contained in the ABAC.
 3. For ease of public access, Ad Standards provides a common entry point for alcohol marketing complaints. Upon a complaint being received by Ad Standards, a copy of the complaint is supplied to the Chief Adjudicator of the ABAC.
 4. The complaint is independently assessed by the Chief Adjudicator and Ad Standards 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 Ad Standards Community Panel under the AANA Code of Ethics and the ABAC Panel under the ABAC if issues under both Codes are raised.
 5. The complaint raises concerns under the ABAC Code and accordingly is within the Panel’s jurisdiction.

The Complaint Timeline

3. The complaint was received on 10 May 2018.
4. 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 was completed in this timeframe.

Pre-vetting Clearance

- 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 not obtained for these marketing communications.

The Marketing Communications

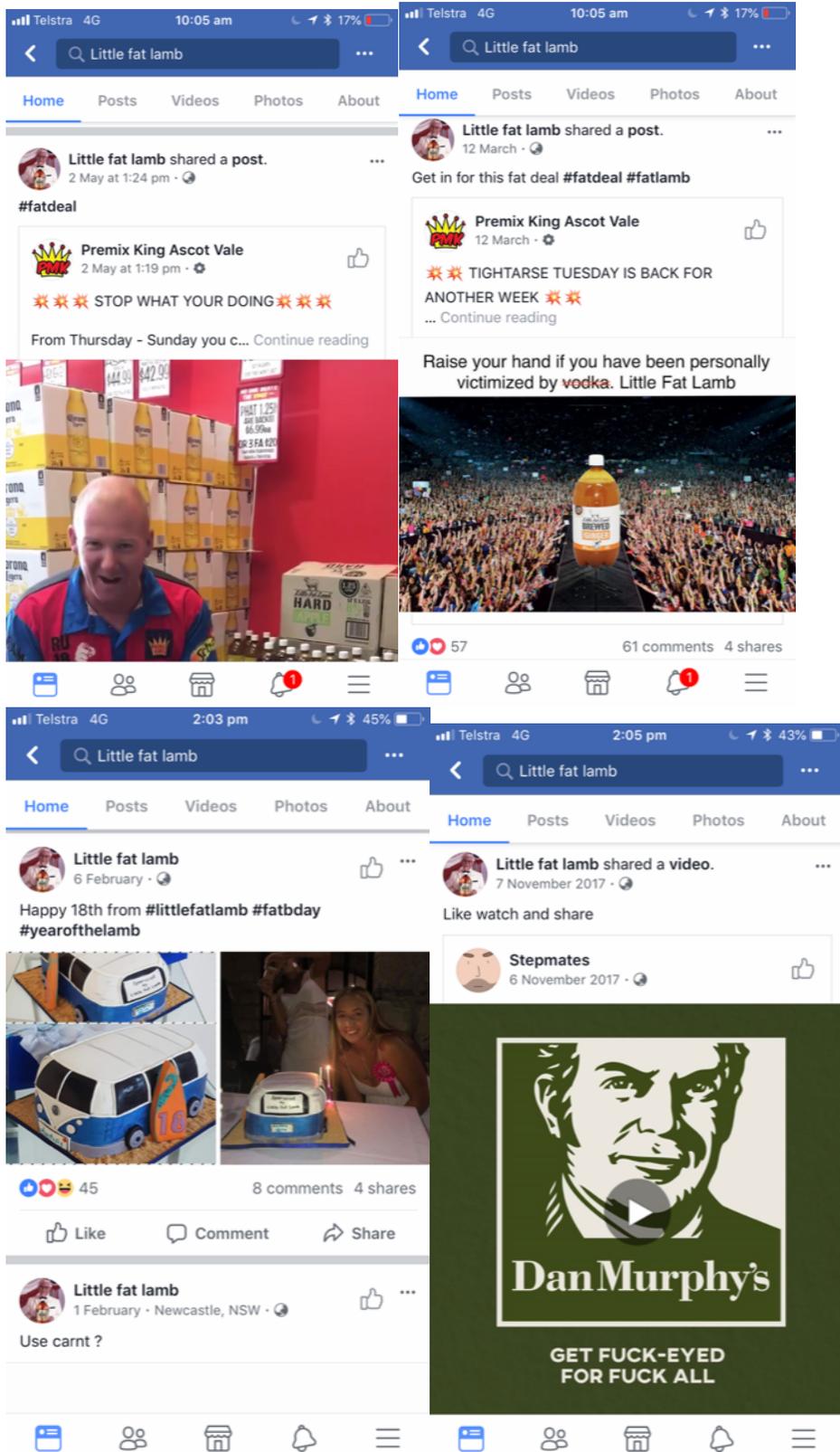
- The complaint relates to the following Facebook pages:

<https://www.facebook.com/Little-fat-lamb-234482920232316/>

<https://www.facebook.com/TheRealLittleFatLambPage/>

The image displays two screenshots of Facebook pages for 'Little Fat Lamb'.
The top screenshot shows the profile page for 'Little fat lamb'. The profile picture is a man in a white suit holding a bottle. The cover photo shows a man in a black polo shirt holding several bottles of 'Little Fat Lamb' beer. The 'About' section includes contact information for 'Little fat lamb' and a description: 'Send in pictures of you drinking a fatty through messenger'. The category is 'Food & Beverage Company'.
The bottom screenshot shows the profile page for 'Little Fat Lamb appreciation page'. The profile picture shows several bottles of 'Little Fat Lamb' beer. The cover photo shows two large cans of 'Little Fat Lamb BREWED STRAWBERRY & LIME' beer. The 'About' section includes contact information for '@TheRealLittleFatLambPage' and a description: 'This page is just an appreciation of the little fat lamb drink you can buy. The taste of purity on a hungover Sunday with friends and with cheap prices.' The category is 'Board Game'.

7. The complaint relates to the majority of the posts on each of the Facebook pages referred to in the complaint. The complainant has identified the following posts:



Like Follow Share ... Send Message

Write a comment...
 Press Enter to post.

Little fat lamb
 18 October 2017
 Birthday girls always deserve a fatty in hand better in your mouth #fatinhand #wraphemilpsaroundthefatty



Food and drinks company

Community See all
 29,671 people like this
 29,901 people follow this

About See All
 Send message
 Food and drinks company
 Suggest Edits

English (UK) · English (US) · 中文(简体) · 한국어 · Español
 Privacy · Terms · Advertising · AdChoices · Cookies · More · Facebook © 2018

Little fat lamb
 Home
 Posts
 Videos
 Photos
 About
 Community
 Create a Page

Like Comment Share ... Send Message

Write a comment...
 Press Enter to post.

Little fat lamb
 23 August 2017
 Give this a like if you can relate 🤔



Food and drinks company

Community See all
 Invite your friends to like this Page
 28,589 people like this
 28,702 people follow this

About See All
 Send message
 Food and drinks company
 Suggest Edits

English (UK) · English (US) · 中文(简体) · 한국어 · Español
 Privacy · Terms · Advertising · AdChoices · Cookies · More · Facebook © 2018

Little fat lamb
 Home
 Posts
 Videos
 Photos
 About
 Community
 Create a Page

When the Little Fat Lamb hits 🍷

Like Comment Share

Little fat lamb

Home
Posts
Videos
Photos
About
Community
[Create a Page](#)

Little fat lamb
20 August 2017 · 🌐

Why hasn't this been done before ? 🤔



It's silly not to have a spew bottle

47K Views

Like Comment Share

facebook.com/234482920232316/photos/482940682053204/

Telstra 4G 12:22 pm 69%

Little fat lamb

Home Posts Videos Photos About Home Posts Videos Photos About

Little fat lamb
16 August 2017 · 🌐

Tag a mate who can't even handle one bottle of fat !! 🍷




551 3.1K comments 38 shares

Like Comment Share

Send Message Send Message

📅 👤 🏠 🔔 ☰ 📅 👤 🏠 🔔 ☰

10:07 am 14% Little fat lamb

Home Posts Videos Photos About

Little fat lamb 20 February 2017 ·

what cunt cracked a fat over the weekend if not get into her **#lambislife**

210 87 comments 5 shares

Like Comment Share

Little fat lamb 16 February 2017 ·

Heres more lamb in hand 🍷



10:08 am 13% Little fat lamb

Home Posts Videos Photos About

Little fat lamb 19 January 2017 ·

#LFL 🍷🍷



Navigation icons: Home, Friends, Shop, Notifications, Menu

12:17 pm 72% Little fat lamb

Home Posts Videos Photos About

Little fat lamb 18 January 2017 ·

Have a fat ?



Send Message

10:09 am 13% Little fat lamb

Home Posts Videos Photos About

Little fat lamb 21 December 2016 ·

The day after the weekend be like 🍷🍷🍷
#fatweekends #fatlamb #lambislife



Navigation icons: Home, Friends, Shop, Notifications, Menu

Telstra 4G 12:25 pm 67% Telstra 4G 10:09 am 13%

Little fat lamb Little fat lamb

Home Posts Videos Photos About

Little fat lamb
 8 October 2016 · Wickham, NSW ·

if your not already a bottle deep
 you need to have a long hard look
 at yourself

315 121 comments 19 shares

Like Comment Share

Little fat lamb
 7 October 2016 ·

Sink a bottle of fat lamb & go flog
 some fucking clowns 🍷👊👊

534 311 comments 121 shares

Like Comment Share

Little fat lamb
 3 October 2016 ·

#restinlamb



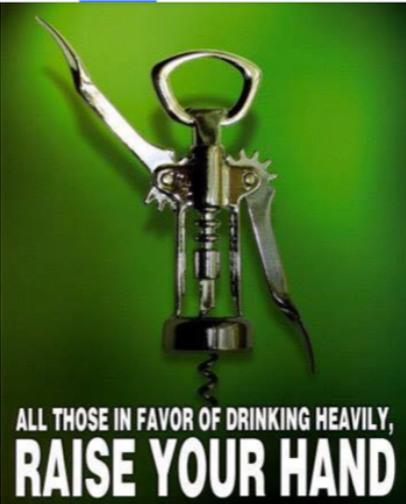
Home Posts Videos Photos About

Home Friends Marketplace Activity More

Telstra 4G 12:10 pm 74%

Little fat lamb

Home Posts Videos Photos About



**ALL THOSE IN FAVOR OF DRINKING HEAVILY,
 RAISE YOUR HAND**

Send Message

Home Friends Marketplace Activity More

Little Fat Lamb appreciation page
@TheRealLittleFatLambPa

Home Posts Videos Photos About Community Reviews

Create a Page

Write a comment...

Little Fat Lamb appreciation page
1 April 2017

Name a more iconic duo:



Like Comment Share

323 24 shares

View all 1,367 comments

Send Message

Board game

Community

Invite your friends to like this Page
18,178 people like this
18,264 people follow this

About

Send message Board game Suggest Edits

English (UK) English (US) 한국어 Español

Privacy Terms Advertising All Choices

Facebook © 2018

Home Posts Videos Photos About

Little Fat Lamb appreciation page
11 November 2017

I concur I think we are the best of mates! Tag your Fat Lamb drinking buddy..... @liver

My liver can no longer handle our friendship...



Thanks to Little Fat Lamb!!

156 213 comments 6 shares

Little Fat Lamb appreciation page
@TheRealLittleFatLambPa

Home Posts Videos Photos About Community Reviews

Create a Page

Write a comment...

Little Fat Lamb appreciation page
25 October 2017



When the second Fat Lamb hits you

Like Comment Share

1K 44 shares

View previous comments

Samantha Woods Ashlynn Ashleigh Georgia
Like Reply · 2d
3 Replies

Jamie McKenzie Dale Youd
Like Reply · 1d

Board game

Community

Little Fat Lamb appreciation page
@TheRealLittleFatLambPa

Home Posts Videos Photos About Community Reviews

Create a Page

Write a comment...

Little Fat Lamb appreciation page
19 October 2017

Me: "I'm going through a lot lately, I should really stay in this weekend."
Little Fat Lamb: "Buy a case of Fat Lamb and let Monday deal with it!"



Like Comment Share

306 15 shares

View previous comments

Josh Ryan Jake Kalli Ashley Rath

Little Fat Lamb appreciation page
@TheRealLittleFatLambPa

Home Posts Videos Photos About Community Reviews

Create a Page

Write a comment...

Little Fat Lamb appreciation page
16 October 2017

When you finish two Fat Lambs in under an hour and your mate asks if you are good



Like Comment Share

1K 3.2K comments 28 shares

Little Fat Lamb appreciation page
@TheRealLittleFatLambPa

Home Posts Videos Photos About Community Reviews

Create a Page

Write a comment...

Little Fat Lamb appreciation page
12 October 2017

Strawberry & Lime strikes again

hears & sees what drunk me did

"that wasn't me that was Little Fat Lamb"



Like Comment Share

341 68 shares

The Complaint

8. The complainant is concerned that:
- both pages contain a large number of posts with extremely inappropriate and offensive content that encourages excessive consumption of alcohol and breaches many clauses of ABAC
 - there are a number of indications that the pages and posts have been generated by, or are under the reasonable control of, the producer of the Little Fat Lamb cider product:
 - A post on the Little Fat Lamb page asks for followers' help in identifying the man pictures, who the post claims is stealing Little Fat Lamb products (the post describes the products as 'our products' and states that 'we have been constantly getting complaints and threats from store owners that they will no longer sell our lovely creation')
 - On 2 May 2016, the Little Fat Lamb appreciation page ran a promotion, encouraging people to like the page and tag three friends, and offering a carton of Little Fat Lamb as a prize.
 - A number of posts share promotions of Little Fat Lamb by retailers.
 - Posts on the two Facebook pages breach almost all the provisions of the ABAC Code. In particular, most of the posts breach clause 3(a)(i), (ii) and/or (iii) of the Code by:
 - showing and encouraging excessive consumption, and misuse and abuse, of Little Fat Lamb products,
 - showing and encouraging irresponsible behaviour related to the consumption or presence of Little Fat Lamb products, and/or
 - challenging people to consume Little Fat Lamb.
 - The posts include the following:
 - An image of a Little Fat Lamb bottle alongside an image of a man passed out on a park bench. The post is captioned 'Name a more iconic duo'.
Little Fat Lamb page:

- An image of a man passed out at the bottom of a set of stairs with vomit on his pants, captioned “When the Little Fat Lamb hits”, followed by a skull and cross bones emoji
- A video of a man with an empty bottle of Little Fat Lamb tied around his neck. The video is captioned, ‘It’s silly not to have a spew bottle’ and the post is captioned ‘Why hasn’t this been done before?’ followed by a green ‘sick’ face emoji .
- An image of a man passed out over a broken chair and another man passed out with his head in his hands, next to a bottle of Little Fat Lamb on the table, captioned ‘Tag a mate who can’t (sic) even handle one bottle of fat!!’
- An image of a cork screw with one arm raised, captioned “All those in favour of drinking heavily, raise your hand”.
- An image of a man wearing a tie-dyed jumper passed out holding and surrounded by Little Fat Lamb bottles, captioned ‘Tie dye your liver with a few fatties’.
- An image of a man with both his hands gaffa taped to bottles of Little Fat Lamb.
- The words ‘If your (sic) not already a bottle deep you need to have a long hard look at yourself’.
- The words, ‘Sink a bottle of fat lamb & go flog some f*cking clowns’.
- An image of Little Fat Lamb bottle captioned, ‘My liver can no longer handle our friendship...Thanks to Little Fat Lamb!!’.
- An image of a Little Fat Lamb bottle next to a drinking funnel/beer bong, captioned ‘Name a more iconic duo... I’ll wait...’.
- Image from ‘Millionaire Hot Seat’ featuring Eddie McGuire. The question appearing on the screen is ‘Which Fat Lamb has made you lose all your dignity?’. The answers are: ‘A. Strawberry and Lime, B: Berry, C: Ginger, D: All of the above’.
- An image of two girls holding bottles of Little Fat Lamb between their bare breasts, captioned ‘Have a fat?’.
- An image of a distorted animation captioned, ‘When the second Fat Lamb hits you’.

- An image of one Kermit the Frog talking to another Kermit the Frog in a black hood, captioned 'Me: "I'm going through a lot lately, I should really stay in this weekend." Little Fat Lamb: "Buy a case of Fat Lamb and let Monday deal with it!!"'
 - An image of two thumbs up emerging from a lake, captioned 'When you finish two Fat Lambs in under an hour and your mate asks if you are good'.
 - The words, 'Names of people who are strongly addicted to Little Fat Lamb', followed by a list of first names.
 - An image of four Little Fat Lamb bottles captioned 'The broke bender/Festival starter pack'.
- Many of the posts on the Little Fat Lamb page feature young people who appear to be younger than 25 years of age. For example:
 - one post features a girl at her 18th birthday party. The post is captioned 'Happy 18th from #littlefatlamb #fatbday #year of the lamb'.
 - another features a girl who appears to be in her teens wearing a birthday sash and holding an empty bottle of Little Fat Lamb with her eyes closed. The post is captioned 'Birthday girls always deserve a fatty in hand better in your mouth #fatinhand #wrapthemlipsaroundthefatty'.
 - The Facebook page does not appear to be an Age Restricted Environment according to the definition in the Code (there is no requirement for users to log in and provide their date of birth) and can be accessed from a 17 year old account. Accordingly, these posts also breach clause 3(b)(iv) of the Code.
 - We ask ABAC to investigate whether the Facebook pages and posts have been generated by, or are under the reasonable control of, a producer, distributor or retailer of Little Fat Lamb.
 - Irrespective of this issue, and given the multiple egregious breaches of the ABAC Code we have outlined, we ask ABAC to take steps to have the Facebook pages taken down.

The ABAC Code

9. All standards in Part 3 the ABAC Code are raised by the complaint and may be accessed at:

http://www.abac.org.au/wp-content/uploads/2017/07/ABAC_CodeofConduct_2017_web.pdf

10. Part 2(a) of the Code provides that 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).

11. Definitions in Part 6 of the ABAC:

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

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...

The Companies' Responses

12. United Distillers Pty Ltd responded to the complaint by email dated 14 May 2018. The principal points made by United Distillers are:

- The company Drink Craft Pty Limited holds a Pre-Retail Licence in Victoria Licence no 33768403 and is the producer and distributor of the product Little Fat Lamb.
- Neither United Distillers, Fluid Beverages Pty Limited or Drink Craft Pty Limited, their directors, employees or contractors created the Facebook pages "Little fat lamb page" and "Little Fat Lamb appreciation page". We have had no role in the management or posting of information and content on the Facebook page. We do not know who created the Facebook page and we do not support posts that promote the irresponsible, rapid or excessive consumption of liquor. Posts with purported promotions were not created or advertised by us. Postings in May 2016 would allude to the page being managed by bottle shop outlets.
- We have previously sought advice on how we can cause a Facebook site to be removed that we did not create. We are advised that if a Facebook page or a product is being used we can apply to Facebook to have the page taken down but that all the creator of the page will need to do is amend the page in a minor way to continue posting information as the creator chooses. The Facebook page *Little Fat Lamb Appreciation Page* is to our understanding an example of how the inclusion of the word *Appreciation* will stop our ability to have the page removed. We are

very conscious that should we intervene in these postings it could further compound the issue with “copycat” sites etc. We are small organisations and resourcing this type of monitoring activity that we are not in control of is timely, costly and likely from the advice we have received to be ineffective or worse exacerbate the issue.

- As businesses trading in alcoholic products we have chosen to avoid social media for advertising and promotion to date for exactly the type of destructive and irresponsible posts that can be attached to our products or brands.
- If ABAC has encountered other examples of others using social media in respect to a liquor product and disseminating information contrary to harm minimisation (and methods of business owners overcoming it) then we would appreciate any such guidance that would assist. We would very much welcome a meeting with you that we could agree a course of action that you believe would be beneficial. We would appreciate the opportunity to discuss this matter with your representatives further and as we have in the past work closely with ABAC to resolve.

13. Drink Craft Pty Ltd responded to the complaint by email dated 4 June 2018. The principal points made by Drink Craft are:

- Drink Craft Pty Ltd produces, sells and distributes Little Fat Lamb that is the subject of the complaint you have received. None of Drink Crafts directors, employees, contractors or associated entities or individuals created the Facebook pages “Little fat lamb page” and “Little Fat Lamb appreciation page”.
- The Facebook pages if created by Drink Craft would be a material breach of our licensing agreement which would result in its termination.
- Contrary to the accusations we have had no role in the management or posting of information and content on the Facebook pages. We do not use any form of social media to promote any of our products. We have documented company policies in place detailing the misconduct of the posting on social media by employees.
- It is disappointing that Cancer Council Victoria has made these accusations when apparently a very basic level of enquiry can be made to the owner of these pages would clearly show our lack of involvement. The position that somehow our company would gain any long term benefit from the specific posts mentioned shows a clear lack of understanding and business acumen.

- We strongly support the removal of such posts and believe that if ABAC should find that the Facebook pages are in fact created by a retailer or other entity that they are in a position to enforce action on, then they should do so with our full support.

The Panel's View

14. This complaint concerns two Facebook pages described as “The Little Fat Lamb Appreciation” and “Real Little Fat Lamb” pages respectively. Both pages contain numerous posts which are self evidently inconsistent with the standards detailed in the ABAC about the responsible marketing of alcohol.
15. In making the complaint, the Victorian Cancer Council contends that there are indications on the pages which suggest that either the producer or distributor of Little Fat Lamb products are associated with the pages. In this way it is argued that an alcohol marketer has a reasonable measure of control over the pages and hence the jurisdiction of the ABAC Scheme is enlivened.
16. The brand owner and the producer/distributor of Little Fat Lamb have both responded to the complaint and questions posed by the Panel. In short the companies argue:
 - neither company uses digital marketing platforms such as Facebook;
 - they have no involvement in either of the Facebook pages;
 - the content of the pages is objectionable and contrary to the marketing approach of both companies; and
 - they would like to have the pages shut down as the content is damaging to their business.
17. It is not uncommon for social media platforms such as Facebook or Twitter to contain false or parody accounts. Examples include accounts which mock or deride political parties and leaders, television personalities and various companies.
18. Sometimes these parody accounts are clever and witty and in other cases the accounts can be quite vile. The two Fat Lamb Facebook pages promote a stereotypical and predominantly male concept of binge drinking which is boorish and certainly contrary to about all of the specific standards contained within the ABAC.
19. The options available to individuals or corporations who have been subjected to false and parody accounts appear to range from endeavouring to have the accounts closed by the site operator to the taking of formal legal proceedings for an action such as defamation.
20. Enquiries by the ABAC Scheme Executive Officer indicate that there are steps which are available to endeavour to have Facebook close down pages which purport to be genuine corporate pages. The description of a page as an

“appreciation site” and hence not an actual page from a company appears to make closing the page more difficult. Further, the closing of one page does not stop a similar page being recommenced as Facebook does not appear to operate a pre-vetting of so called appreciation sites.

21. In relation to the ABAC, the reach of the scheme captures marketing communications generated by or within the reasonable control of an Australian alcohol industry participant. It is arguable that the pages are not a marketing communication on the basis that the material contained damages rather than promotes The Little Fat Lamb product, but in any event the pages are not within the control of an alcohol industry participant. This means that the pages are outside the reach of the ABAC Scheme.
22. The regulation of digital media is a vexed question for Governments. There have been attempts to regulate the medium for public policy purposes but how desirable and practical these measures are has been a matter of debate. In the current case however the pages are outside the scope of the ABAC Scheme.
23. In conclusion, the Panel acknowledges that the content of the pages is objectionable and entirely inconsistent with ABAC standards if such content was actually marketing by an Australian alcohol industry participant. The pages however have not been generated by an alcohol marketer and accordingly it is not open to the Panel to make a determination on the substance of the complaint.