



ABAC Adjudication Panel Determination No. 148/18

Product: Jim Beam
Company: Beam Suntory
Media: Outdoor
Date of decision: 10 December 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 outdoor marketing for Jim Beam by Beam Suntory (“the Company”) and arises from a complaint received 27 November 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 Code”) – 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 and Policies – which place restrictions on the location of alcohol advertisements on outdoor sites such as billboards.
3. 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.
4. For ease of public access, Ad Standards provides a common entry point for alcohol marketing complaints. Upon a complaint being received by the Ad Standards, 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 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.
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 27 November 2018.
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 was completed in 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 content of this marketing communication (16741).

The Marketing Communication

10. The complaint relates to the content of the following outdoor advertisement.



**FOR THOSE OF US WHO
HAVE A MATE OF
A MATE'S BACK.**

- Raised Right -



The Complaint

11. The complainant objects to the marketing finding it to be a not so subtle implication and insinuation of violence as a good thing, to be proud of and which the brand endorses.

The ABAC Code

12. Part 3 of the ABAC Code provides that a Marketing Communication must NOT:
 - (a)(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

The Company's Response

13. The Company responded to the complaint by email dated 29 November 2018. The principal points made by the Company were:
 - a) Beam Suntory has strong marketing and advertising discipline, including adhering to the alcohol advertising code inclusive of ABAC pre-vetting all advertising.
 - b) Inherent values of Jim Beam brand positioning, 'One Big Family', are togetherness, unity, acceptance and being there for each other. These values aren't new. They have always been part of the brand and advertising stretching back 223years when the Beam family first distilled their bourbon. The advertisement in question reflects these values, with the campaign launch coinciding with International men's day.
 - c) In an ever increasing culturally and politically divided world, with people feeling more isolated than ever, the new Jim Beam advertisement aims to help resolve this tension in some small way. At Jim Beam we believe if we all just sat down together as mates over a drink, talk, listen and try to understand, Australia would be an even better place.

The Panel's View

14. This determination concerns outdoor advertising for Jim Beam. The ad consists of a background image of a group of people, both male and female, sitting around a table with several of the group drinking the product. In the foreground is an opened bottle of Jim Beam with the picture accompanied by the message ' For those of us who have a mate of a mate's back'.
15. The complainant has interpreted the ad as insinuating that violence is a good thing and that violence is endorsed by the brand. The Company contends that the message in the ad is about friendship, unity and acceptance.

16. The Code provides that an alcohol ad is not to encourage offensive behaviour related to alcohol use. If an ad could be fairly said to be endorsing violent behaviour then it would breach the ABAC standard.
17. The benchmark for assessing the meaning of an alcohol marketing communication is the probable understanding of the ad by a 'reasonable person'. The reasonable person is a construct of the common law and means that the values, opinions and life experiences common in a majority of the community is to be the guide. It does not mean that a person who might take a different interpretation of an ad is 'unreasonable' but possibly their take on a message might not be shared by a majority of people.
18. The Panel does not believe the ad breaches the ABAC standard. While the written message about 'a mate of a mate's back' taken in isolation appears a little obscure as to what it is trying to say, the overall impression of the ad is a group of male and female friends having a quiet and moderate drink. The scene is calm and relaxed. There is no suggestion of conflict or violence. The Panel does not think a reasonable person would take the ad as encouraging or endorsing violence.
19. Accordingly the complaint is dismissed.