



ABAC Adjudication Panel Determination No. 160/20

Product: Wine
Company: Little Ripples Wine
Media: Digital - Facebook
Date of decision: 26 November 2020
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 Facebook marketing for Little Ripples Wine and arises from a complaint received 22 October 2020.
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 22 October 2020.
8. The Panel endeavours 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 not obtained for this marketing communication.

The Marketing Communication

10. The complaint relates to the following Facebook advertisement:



The Complaint

11. The complainant objects to the marketing as:
 - It uses images of children to promote alcohol.
 - Someone else clearly wrote the words on the poster and handed it to these people, it is not their own words as "a wine with the girls" is an Australian colloquialism. This removes their agency and voice and is plainly unethical.
 - It suggests that by drinking wine, you can be a hero.

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
 - (b)(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.

The Company's Response

13. The Company responded to the complaint by email dated 6 November 2020. The principal points made by the Company were:
 - It's unfortunate to hear that ABAC has received a complaint about one of our Facebook posts.
 - The Facebook post did not obtain Alcohol Advertising Pre-vetting Service Approval.
 - The Facebook post does not breach Part 3(a)(ii) of the code by encouraging irresponsible or offensive behaviour related to alcohol. The Facebook post is an image of a woman and two children in a natural setting from one of our water well locations in Uganda. They are holding a sign that states, "A couple of wines with your girls, gives me a year of water with my girls". For some background on our company, Little Ripples is a socially responsible brand whereby for every bottle sold, we provide one year's worth of clean drinking water to one person in need in a developing

country. We are very proud to have already built four water wells in Uganda and have more coming in the near future.

- We believe that a reasonable person would agree that this Facebook post does not encourage irresponsible or offensive behaviour related to alcohol. A Cone Communications Global CSR study found that (61%) global consumers report using social media to address or engage with companies around social and environmental issues. We believe that consumers and the public want (and expect) for companies to provide transparency on their CSR initiatives. We are very passionate about our cause and believe that sharing relevant information on our website and on social media is an effective way to communicate with consumers.
- The Facebook post does not breach Part 3(b)(ii) of the code. The women and children in the picture are in a natural situation and there is no implication that they will consume or serve alcohol.

The Panel's View

14. Little Ripples Wine is a venture of social entrepreneur Dustin Leonard. The Company produces four varieties of wine through a relationship with the winery Cassegrain. One feature of the Company, and its branding and marketing material, is its sponsorship of the NGO, BridgIT Water Foundation. This Foundation raises money to supply clean, accessible, and sustainable water to communities in several developing nations. The Company's sponsorship of the Foundation is described on the Company's website as – “for every bottle (of wine) you buy, you are providing 1 person in need with a year of clean water”.
15. One marketing channel employed by the Company is Facebook and it is a Company sponsored post on Facebook which has attracted the complaint. The post features a photograph of a women and two younger girls sitting holding a handwritten sign which reads – “A couple of wines with your girls, gives me a year of water with my girls”. While the location where the picture is taken is not stated, the context implies it is a village in a developing nation. The accompanying text expands on the importance of water and the responsibility of women to secure clean water for their families. The purchase of Little Ripples Wine is stated to “make a difference”.
16. It would be fair to say that the complainant is sceptical as to the Company's social good activity. That aside, the complainant believes the post uses the images of children to promote alcohol and the image removes the “agency and voice” of the women and is unethical. The ABAC provides that an alcohol marketing communication (which includes Facebook posts) must not show or encourage irresponsible or offensive behaviour that is related to the consumption or presence

of alcohol. Further it is not permitted to depict a person who is or appears to be a minor unless they are shown in an incidental role in a natural situation and where there is no implication they will consume or serve alcohol.

17. The Company contends the post is consistent with the ABAC standards. It is argued that the girls in the photo are shown in a natural setting and are not consuming or serving alcohol. Further the Company defends its social responsibility program and believes consumers are interested in corporate responsibility initiatives.
18. Assessing compliance with a Code standard is undertaken from the probable understanding of the marketing communication by a reasonable person. This means the life experiences, values and opinions held commonly in a majority of the community is the benchmark.
19. The Panel does not believe the post is in breach of the ABAC standards. The Panel noted:
 - the ages of the women shown in the post are not disclosed but it is likely the two girls are under 18 years of age;
 - there is no implication from the post that the girls shown have or will consume alcohol and the scene, while posed for the purposes of the post, is “natural” within the sense of the Part 3 (b)(ii) standard;
 - the image is used to highlight the water support program and would be understood by a reasonable person in that way; and
 - the corporate responsibility initiative of the Company is used to promote the choice of the Company's product, this is not inconsistent with ABAC standards.
20. In short, while the complainant is entitled to be sceptical about alcohol companies and corporate responsibility activities, the Panel is not tasked to assess the value or merits of such activities. The Panel is to assess the post's portrayal of alcohol use and whether this is done in a way which meets the standards of a moderate and responsible use as required by the specific Code standards.
21. The complaint is dismissed.