



## ABAC Adjudication Panel Determination No 193/20

**Product:** Corona Beer  
**Company:** Asahi Beverages  
**Media:** Outdoor Advertising  
**Date of decision:** 12 January 2021  
**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 outdoor advertising by Asahi Beverages (“the Company”) for Corona Beer (“the Product”). It arises from a complaint received on 11 December 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 11 December 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 obtained for content of the advertising (Approval Number 17574).

## The Marketing

10. The complaint relates to outdoor billboard advertising for Corona Beer in Western Australia. It is assumed, based on the description provided by the complainant, that the following image is the subject of the complaint:



## The Complaint

11. The complainant raised the following concerns about the advertising:
  - *[The advertising shows] a photograph of Corona beer on a beach, which is illegal in Western Australia.*
  - *You cannot drink a beer on a beach in WA so the ad should be pulled.*

## The ABAC Code

12. Part 3 of the ABAC Code provides that a Marketing Communication must NOT:
  - (a)(ii) show or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an Alcohol Beverage.

- (d) show the consumption of an Alcohol Beverage before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as the control of a motor vehicle, boat or machinery or swimming.

## **Company Response**

13. The Company responded to the complaint by letter emailed on 8 January 2021. The principal points made by the Company were:

### **The Campaign**

- We have made the assumption, consistent with the description provided by the complainant, that the collateral in question is the 'Shared Songs, Shared Smiles' OOH asset of the 'From Where You'd Rather Be' campaign. This campaign continues the longstanding positioning of Corona as a product synonymous with a beach/surf lifestyle, and features several assets depicting this sort of imagery.
- We would also like to note that we respond to this complaint with some surprise that any Corona OOH assets are still in market. All Corona ATL activity was suspended in March 2020 due to the coronavirus pandemic and has not yet resumed. We can only assume that this collateral has remained up on a billboard as the site owner has no advertisement to replace it, but its placement is not presently being funded by the brand.
- ABAC pre-vetting of the advertising referred to in the complaint was sought under application 402/19 CUB Corona Surf Equity OOH Concepts. Final approval was granted with approval number 17574.

### **Responsible portrayal of Alcohol Beverages**

- Part 3(a)(ii) of the Code states that:
  - A Marketing Communication must NOT 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 group in the advertisement are sitting sedately; one individual in the foreground plays a guitar and two individuals in the background hold bottles of Corona. I am confident in asserting that the depicted behaviour is in no way irresponsible or offensive.
- To turn to the question of whether the beach setting in the advertisement constitutes an encouragement to drink alcohol on the beach in Western Australia, I would note that the actual advice of the WA Department of

Local Government, Sport and Cultural Industries with respect to the consumption of alcohol in public places is, as per the DLGSCI website:

- Consuming liquor in parks and other public places is an offence without the consent of the owner or controlling authority.
- This is the case for a great many beaches and public spaces across Australia and is not unique to WA.
- However, this does not imply that there is no conceivable situation where consumption of alcohol on a WA beach could occur. By way of example, the City of Stirling, which takes in the iconic Scarborough Beach, reminds visitors to its beaches that consumption of alcohol is not permitted under usual circumstances – however, it is possible to apply for a permit to book stretches of the beach for licensed events.
- ...we would expect the reasonable consumer to understand that any local liquor regulations must be taken into account. The advertisement is intended to invoke in the consumer a feeling of 'shared songs, shared smiles', not provide an exact behavioural template.

### **Alcohol and Safety**

- Again, the group in the advertisement are sitting sedately, and at some distance from the water; one individual in the foreground plays a guitar and two individuals in the background hold bottles of Corona. All individuals are clothed in a manner that suggests they will not be entering the water, and although a surfboard is present, there is no suggestion that it will be used for surfing.
- Consistent with other Corona imagery, considerable care has been taken to ensure the quality of light in this image suggests an early evening, end-of-day setting. This enhances the impression that no further activity that may require a high degree of alertness or physical coordination, such as swimming or surfing, will take place.
- Asahi Beverages is committed to ensuring our promotional and marketing material, and that of our associated entities such as Corona, does not promote or encourage any irresponsible consumption of alcohol. Our goal is for consumers to enjoy our products responsibly and in moderation, and to uphold community standards when it comes to our advertising.

## The Panel's View

14. This determination concerns a billboard advertisement for Corona which was positioned in Western Australia. The advertisement shows a group of four people sitting on a beach at dusk. All four are fully clothed, several are shown holding a bottle of the product and one is playing a guitar. The scene conveys a relaxed atmosphere and is accompanied by the straplines- 'shared songs, shared smiles' and the product's slogan - 'From where you'd rather be'.
15. The complainant takes issue with the advertisement. It is contended the ad is offensive as it 'takes the viewer as a fool and promotes wanton consumerism'. The complaint goes on to make the point that alcohol consumption on beaches in Western Australia is prohibited and that the ad should be removed. It is this point of concern which raises an issue under the ABAC namely - does the ad encourage irresponsible or offensive behaviour related to the consumption or presence of an alcohol beverage. (Part 3(a)(ii))
16. The Company contends the ad is consistent with the ABAC standard. It is argued that the ad forms part of a longstanding positioning of Corona as a product synonymous with a beach/surf lifestyle. Its marketing campaigns often feature beach images. On the prohibition of alcohol consumption on a beach concern, the Company submits:
  - with the consent of a controlling authority, it is permitted to consume alcohol on a beach in Western Australia;
  - a reasonable consumer would understand local liquor regulations need to be taken into account; and
  - the ad is not providing an exact behavioural template.
17. The Liquor Control Act 1988 (WA) regulates the control and supply of alcohol in Western Australia. The starting point is that alcohol consumption in public places such as a public beach is an offence. The position then becomes more nuanced, with restrictions applying in some areas on the bringing in of alcohol and its consumption - so called dry communities and it being possible in other areas to obtain a permit to consume alcohol in a public place including a beach. The outright prohibitions and the permission system are mostly within the authority of local government.
18. The issue to be decided by the Panel is how the ad would be understood by a reasonable person. The notion of the 'reasonable person' is taken from the legal system and means that the life experiences, values, and opinions found in a majority of the community is the benchmark. If the message in an ad could be understood in several ways, then it is the most probable interpretation which is to be preferred over a possible but less likely interpretation.

19. The Panel does not believe the ad is encouraging irresponsible or offensive behaviour related to alcohol use. In reaching this conclusion the Panel noted:
- the principal intent of the standard is to prohibit alcohol marketing which encourages alcohol influenced offensive behaviour e.g., becoming drunk or loutish drunken behaviours;
  - the scene depicted shows adults quietly drinking a moderate amount of alcohol in an attractive setting and this would not be regarded by a reasonable person as modelling offensive or irresponsible behaviour;
  - while alcohol consumption in a public place is potentially an offence under Western Australian law, the law also recognises that approval for public alcohol consumption is permitted; and
  - a reasonable person would not interpret the ad as suggesting illegal behaviour.
20. By way of completeness, the Panel notes that the ad does not breach Part 3(d) of the ABAC. This is the provision which prohibits alcohol ads showing alcohol consumption before or during a dangerous activity such as swimming. While the ad is set on a beach, the time of day, the fact the people shown are fully clothed and clearly talking and/or listening to one in the group playing a guitar, establish that swimming is not going to occur.
21. The complaint is dismissed.