



## ABAC Adjudication Panel Determination No 40/21

**Product:** Great Northern Beer  
**Company:** Asahi Beverages  
**Media:** Outdoor Billboard  
**Date of decision:** 6 April 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 billboard advertising for Great Northern Beer (“the Product”) by Asahi Beverages (“the Company”). It arises from a complaint received on 22 March 2021.
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 March 2021.
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 the content of the advertising (Approval Number 17028).

## The Marketing

10. The complaint refers to an outdoor billboard, shown below:



## The Complaint

11. The complainant is concerned about the outdoor billboard as follows:

*The ad contravenes the following ABAC provision:*

*A Marketing Communication must NOT show (visibly, audibly or by direct implication) 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.*

*Alcohol should not be promoted on the basis of its consumption occurring during activities such as hiking.*

## The ABAC Code

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

- (d) show (visibly, audibly or by direct implication) 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.

## The Company's Response

13. The Company responded to the complaint by letter emailed on 31 March 2021. The principal points made by the Company were:

### **Alcohol Advertising Pre-vetting Service Approval**

- The advertisement was submitted under AAPS Application 51/19 and was approved on 14 February 2019 with approval number 17028.

### **Alcohol and Safety**

- The advertisement does not imply 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.
- The image is part of a national campaign that celebrates Australia's many beautiful and remote locations, and the active, outdoors lifestyle associated with the Great Northern brand.

- We do not accept, as per the complainant's assertion, that 'hiking' is per se an activity that requires a high degree of alertness or physical coordination, however we do agree that all instances of physical activity should be treated with sensitivity under Part 3(d) of the Code, which reads:
  - A Marketing Communication must NOT show (visibly, audibly or by direct implication) 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.
- Part 3(d) of the Code does not prohibit a marketing communication from associating a product with a particular area, lifestyle, or attitudinal outlook – in this case the spectacular Far North Queensland rainforest and outdoors-oriented individuals who enjoy its active, yet relaxed pace of life.
- To that end, in the image we see a group of friends on a hike who have paused to admire the view from the top of a boulder. Proportion is often difficult to gauge in images but there is nothing to suggest that the boulder is especially difficult to scale. Regardless, none of the individuals in the advertisement are consuming any alcohol, and nor is there any implication that they have done so.
- Similarly, the tagline "the beer for up here" cannot be read by a reasonable person as a literal endorsement to drink beer on top of a boulder, easily scaled or otherwise. "The beer for up here" is a longstanding tagline that clearly refers to the fact the Great Northern brand is associated with a Queensland lifestyle, and as a nod towards the original Great Northern Brewery, established in Cairns in 1927 to brew beer specifically to suit the conditions "up here," i.e., in Far North Queensland. This tagline is extremely well understood by consumers as it features on almost every piece of Great Northern marketing collateral, and it is only enhanced by the fact the location is prominently featured on the collateral.
- We are confident that all possible care has been taken to ensure this image represents the Far North Queensland landscape and lifestyle, without infringing on Part 3(d) of the Code.
- Asahi Beverages is committed to ensuring our promotional and marketing material 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 the placement and content of our advertising.

## The Panel's View

14. This determination concerns a billboard for Great Northern beer which was located near the Perth airport. The billboard depicts a scene in a heavily vegetated region (possibly a rainforest) and shows three people resting on a rocky outcrop. Given their attire, it is reasonable to assume the party have been bushwalking or hiking. Positioned to the right of the photograph of the party, is a large image of two bottles of the product and above the shot is the strapline - The Beer for Up Here.
15. The complainant believes the advertisement is irresponsible. It is argued that alcohol should not be promoted on the basis of its consumption occurring during activities such as hiking. Part 3 (d) of the ABAC provides that an alcohol marketing communication (which includes a billboard) must not show or directly imply 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. The question is whether the billboard advertisement breaches this standard.
16. The Company argues the ad is consistent with the standard. It is submitted:
  - hiking is not necessarily an activity which requires a high degree or alertness or co-ordination; and
  - in any event, the ad doesn't show or imply alcohol consumption occurring with the activity.
17. The assessment of a marketing communication with an ABAC standard is from the probable understanding of the marketing item by a reasonable person taking its content as a whole. The 'reasonable person' test means that if a marketing communication could be interpreted in several ways, it is the most probable interpretation which is to be preferred over a possible but less likely understanding of the marketing message.
18. Whether an individual ad depicts a scenario which requires alertness and co-ordination must be assessed on a case-by-case basis. The Panel accepts that hiking over rough terrain (as opposed to a walk over level ground) does require physical co-ordination to be performed safely. Irrespective of that point however, the billboard does not show alcohol consumption occurring and there are no cues that the party of hikers have been drinking prior to embarking on their adventure.
19. Accordingly, the Panel believes the billboard ad does not breach the standard. It is noted:
  - the ABAC does not prohibit associating an alcohol beverage/brand with the outdoors or an activity such as hiking;

- the scene depicted does not show or reasonably imply that alcohol consumption has occurred; and
- placing two oversized images of bottles of the product on the billboard would be understood by a reasonable person as establishing the brand and not that the beer is being consumed by the hikers at that moment.

20. The complaint is dismissed.