



## ABAC Adjudication Panel Determination No 17/24

**Products:** Hahn Beer  
**Company:** Lion - Beer Spirits & Wine Pty Ltd  
**Media:** Television  
**Date of decision:** 8 February 2024  
**Panelists:** Professor The Hon Michael Lavarch (Chief Adjudicator)  
Professor Richard Mattick  
Ms Debra Richards

### Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) arises from a complaint received on 19 January 2024 in relation to a television advertisement for Hahn Beer (“the product”), by Lion - Beer Spirits & Wine Pty Ltd (“the Company”).
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 the 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 meet 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 19 January 2024.
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 Advice

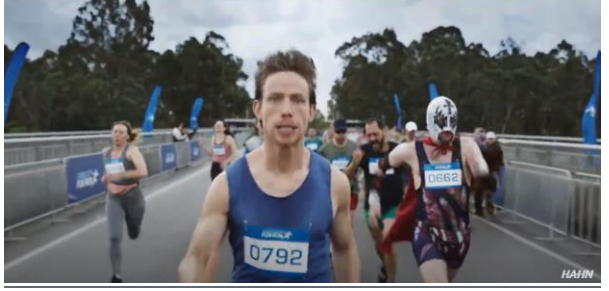

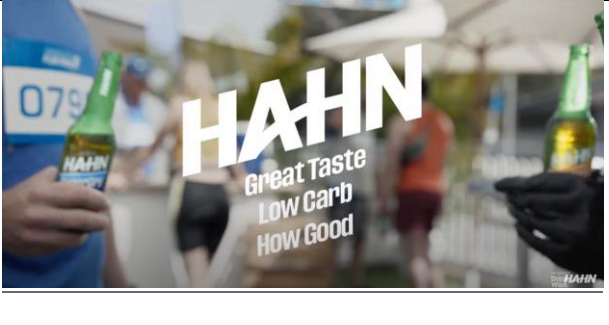
9. A component of the ABAC Scheme is an advice service by which an alcohol marketer can obtain an independent opinion of a proposed alcohol marketing communication against the ABAC standards prior to public release. Pre-vetting advice is separate from the complaint process and does not bind the Panel but represents best practice on behalf of alcohol marketers. Pre-vetting advice was obtained for the content of the marketing (Approval Number 3973).

### The Marketing

10. The complaint relates to television advertising for Hahn beer, which can be viewed on YouTube at the following link:

[Hahn. Great Taste. Low Carb. How Good. \(youtube.com\)](https://www.youtube.com/watch?v=Hahn.GreatTaste.LowCarb.HowGood)

<p>A man is shown in a running race, with several people overtaking him.</p> <p><b>Voiceover (VO):</b></p> <p><i>“Fun runs.</i></p> <p><i>How good?</i></p> <p><i>Not a marathon.</i></p> <p><i>Not a half marathon.</i></p> <p><i>But a run for fun”.</i></p>	
<p>We are shown the finish line, and the many participants ahead of the runner.</p> <p><b>VO:</b></p> <p><i>It’s not about winning.</i></p> <p><i>It’s about having fun.</i></p>	

<p>VO:</p> <p><i>“Until the end.</i></p> <p><i>When you realise.</i></p> <p><i>It kind of is about winning.”</i></p> <p>The man starts running faster.</p>	
<p>VO:</p> <p><i>“Hahn.</i></p> <p><i>Great taste.</i></p> <p><i>Low carb.</i></p> <p><i>How good.”</i></p>	
	

## Complaint

11. The complainant believes that alcohol marketing should not associate alcohol with winning or success and this makes the ad inconsistent with the ABAC Code.

## The ABAC Code

12. Part 3 (c) of the Code provides that a marketing communication must not:

...

- (ii) show (visibly, audibly or by direct implication) the consumption or presence of Alcohol as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;

...

## The Company Response

13. The Company responded to the complaint by letter emailed on 23 January 2024. The principal comments made by the Company were:
- Thank you for raising this complaint and providing the opportunity for us to respond to the concerns of the complainant.
  - Lion – Beer, Spirits & Wine Pty Ltd (Lion) reiterates its commitment to the ABAC Scheme and that it takes its obligations to responsibly promote its products seriously.
  - For the reasons set out below, and with respect to the complainant, we submit that there has been no breach of Part 3(c)(ii) of the ABAC Code by Lion and the Complaint should be dismissed by the ABAC Panel.
  - The advertisement received approval through the Alcohol Advertising Pre-Vetting Service (AAPS) - Application No. 484-2022.
  - For the following reasons, we do not consider that the Advertisement breaches Part 3(c)(ii) of the ABAC Code:
    - the first 24 seconds of the Advertisement show the main character participating in a fun run. In this part of the Advertisement, there are no alcohol products shown nor is consumption shown or implied, and the voice over humorously observes how fun runs can become serious despite being just for fun;
    - the final 6 seconds of the Advertisement begins with a hard cut to a 'cheers' shot which transitions to the Hahn brand and tagline "Great Taste, Low Carb, How Good". The fun run's completion is not shown and only implied by the change in setting;
    - the separation between these parts of the advertisement clearly delineates the completion of the race from the presence or consumption of Hahn products; and
    - we respectfully submit that the reasonable consumer would understand the advertisement to show people celebrating with a Hahn product after a social sporting event, and not that it has caused or contributed to the main character's successful completion of the run.
  - As a responsible marketer, Lion has demonstrated a long-standing commitment to upholding both the letter and spirit of the ABAC and AANA Codes. Lion maintains strict internal and external processes to help ensure this compliance.

## The Panel's View

14. This determination has arisen from a complaint about a television advertisement for Hahn beer. The ad is centred on a male participant in a fun run. The man is seen running and being passed by various other people including a person wearing a gorilla costume as a voiceover muses that a fun run is for fun. The shot then places the man within sight of the finish line, and his pace and level of determination increases as the voiceover narrates 'until the end, when you realise, it kind of is about winning'. The final scene is a shot of a small group of participants clinking bottles of the product.
15. The complainant believes that alcohol marketing should not associate alcohol with winning or success and the ad breaches the Code. The applicable Code standard is contained in Part 3 (c)(ii) and requires that an alcohol marketing communication must not show the consumption or presence of alcohol as a cause of or contributing to the achievement of sporting or other success.
16. The Company submits that the marketing does not breach the ABAC standard arguing:
  - in the first 24 seconds of the 30 second advertisement no alcohol products are shown nor is consumption shown or implied;
  - the presence or consumption of alcohol is positioned following the completion of the fun run;
  - a reasonable consumer would understand that the advertisement shows people celebrating with a Hahn product after a social sporting event, and not that it has caused or contributed to the main character's successful completion of the run.
17. The assessment of whether a marketing communication is inconsistent with an ABAC standard is the 'reasonable person' test. This test is sourced from the Australian common law system and means the marketing communication is assessed from the standpoint of the probable understanding by a reasonable person. This means that the benchmark is the values, opinions and life experience shared by most members in the community.
18. The complainant contended that the ABAC standard does not permit the association of alcohol with winning or success. This is not correct. The key concept in the Part 3 (c)(ii) standard is causation. It is not permitted to suggest that alcohol was a cause or a contributor to achieving success.
19. This means alcohol can be placed with attractive people in an enjoyable situation. It is possible to show someone that it can be readily assumed as successful consuming alcohol. So in that sense alcohol can be associated with

success. What cannot be suggested is that alcohol played a part in a person being successful or an occasion being a success.

20. So the issue in the current case is whether a reasonable person would probably understand that the ad is suggesting that the product played a part in the man successfully completing the fun run or making the man competitive and striving harder towards the end of the run.
21. The Panel believes that the ad is consistent with the Part 3 (c)(ii) standard. In reaching this conclusion the Panel noted:
  - the scenario of the ad is that while the run was supposedly 'fun' and not a competitive race as such, for the main character the reality is that he is competitive and he takes the run to be a race at the end;
  - the most likely understanding is that the man is inherently competitive and not that alcohol played a part in the man's attitude to the run nor his performance in the run;
  - it might be taken that the ad is suggesting the product is a suitable choice for competitive people and/or people who run and exercise;
  - however the product is shown after the finishing of the run and marks the achievement of completing the run and not as causing or contributing to that achievement;
  - a reasonable person would not probably conclude that alcohol has caused the success of the person or the event.
22. The complaint is dismissed.