



ABAC Adjudication Panel Determination 3/25

Determination Date	17 February 2025
Brand/Company	XXXX / Lion - Beer Spirits & Wine Pty Ltd
Media	TV - Free to Air
ABAC Code provision	Part 3 (d)
Outcome	Dismissed

Part 1 - Determination Overview

Complaint:

The complainant is concerned about a TVC depicting the use of a winch between two 4WD vehicles to string up a hammock capable of holding seven people. It is argued that the marketing encourages people to use winches in unsafe ways that can end in accidents or death.

Key findings:

The Panel dismissed the complaint finding:

- alcohol use is not shown by the operator of the winch, and the man directing the raising of the hammock is not shown consuming alcohol until after the hammock has been raised and is secured;
- people are not shown on the hammock until it has been raised;
- the hammock appears to be securely fastened to the two vehicles and is not raised far from the ground; and
- taken as a whole, a reasonable person would probably not understand the ad is encouraging alcohol use in a dangerous fashion.

Marketing Communication:

<p>The TVC commences with a man saying “up” repeatedly as something is raised between two four-wheel drives using winches.</p> <p>The man nods and says, “There it is”, as the song “This is How We Do It” plays.</p> <p>We then see a long shot of the raised hammock, which contains seven people, some holding alcohol.</p>	
<p>We then see the man standing next to the hammock. A woman repeatedly says, “Up,” as the man slowly raises a can of XXXX to his mouth.</p> <p>People on the hammock are also holding beer.</p>	
	
<p>The group of people laugh as the TVC concludes.</p>	

Part 2—The Panel’s View

1. This determination has arisen from a complaint about a television advertisement for XXXX. The ad depicts a group at a makeshift camp and features a large hammock capable of holding seven adults secured between two 4WD vehicles raised by a winch.
2. The complainant believes the ad shows dangerous and irresponsible behaviour that encourages people to use winches in unsafe ways that can end in accidents or death. This concern enlivens Part 3(d) of the Code that provides that an alcohol marketing

communication must not show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical coordination, such as the control of a motor vehicle or machinery.

3. Assessment of the consistency of a marketing communication with an ABAC standard is from a reasonable person's probable understanding of the marketing. A 'reasonable person' means that the life experiences, values, and opinions held by most of the community are the benchmark. A person who interprets a marketing item differently is not 'unreasonable', but most people may not share their understanding.
4. The Company argues that the marketing does not breach the ABAC standards, submitting that:
 - the ad does not depict the consumption of alcohol before or during the use of the 4WD winches by either the winch operator or the man directing the raising of the hammock;
 - the people are not shown sitting on the hammock while it is being winched. A reasonable person would assume that the people got onto the hammock after the winching stopped;
 - the long shots of the ad do not make it clear that the people on the hammock are consuming alcohol;
 - the final set-up of the hammock is very close to the ground, and the people sitting on the hammock appear to be safe and secure; and
 - the winch is shown to be used safely, maintaining a gradual tension on the hammock and with the hammock secured by straps and ropes to the stationary vehicles.
5. The complainant is making a valid point that the use of winchs on vehicles needs to be undertaken carefully, and depictions of the use of a winch in advertising must be mindful not to model unsafe practices. That said, the Panel does not believe a reasonable person would understand the ad breaches the ABAC standard, noting:
 - alcohol use is not shown by the operator of the winch, and the man directing the raising of the hammock is not shown consuming alcohol until after the hammock has been raised and secured;
 - people are not shown on the hammock until it has been raised;
 - the hammock appears to be securely fastened to the two vehicles and is not raised far from the ground; and
 - taken as a whole, a reasonable person would probably not understand the ad is encouraging alcohol use in a dangerous fashion.
6. The complaint is dismissed.

Part 3 - Supporting Information

Panel Process

This complaint was received from Ad Standards (the common entry point for all marketing complaints by members of the Australian community) and was referred by the Chief Adjudicator to the ABAC Adjudication Panel for consideration against the ABAC Responsible Alcohol Marketing Code. The complaint process is explained [here](#).

The Panel operates in accordance with the [ABAC Rules & Procedures](#) and has regard to the principles of procedural fairness.

The Panel comprised Chief Adjudicator Professor the Hon Michael Lavarch AO, Health Sector Panelist Louisa Jorm and Panelist Debra Richards.

Applicable ABAC Responsible Alcohol Marketing Code Standard

Part 3 - An Alcohol Marketing Communication must NOT:

- (d) *show (visibly, audibly or by direct implication) the consumption of Alcohol 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

The Company was provided with an opportunity to respond to the complaint, and its principal comments were:

- We believe that the operators of 4WD winches are required to have a high degree of alertness and physical co-ordination;
- We do not consider that the Advertisement depicts the consumption of alcohol before or during the use of the 4WD winches:
 - the main character in the blue shirt who is instructing the winch operator (0:03) and the winch operator shown to be walking away from the vehicle (0:05) are not shown to be consuming alcohol until well after the winching is complete (00:07);
 - the main character in the blue shirt is shown to be alert and taking the role of instructing the winch operator seriously (0:03 - 0:04);
 - The advertisement does not depict the "use of a winch between four-wheel drives to string up a hammock containing six or seven people who are shown to be consuming alcohol"; namely, it does not show people sitting on the hammock while it is being winched. The reasonable person would assume that the people got onto the hammock after the winching stopped;

- in any event, the long shots used at 0:04 - 0:05 of the Advertisement do not make it clear that the people on the hammock are consuming alcohol and
- the final set-up of the hammock is very close to the ground, and the people sitting on the hammock appear to be safe and secure (0:15); and
- we do not consider that the advertisement promotes unsafe use of 4WD winches, rather:
 - the tension on the hammock is shown to be gradually and safely applied, as demonstrated by the rate the cable is taken into the winch (0:00 - 0:01) and the slow rate that the hammock rises off the sand (0:01 - 0:02);
 - the completed hammock is shown to be secured by a number of other straps and ropes to ensure the stability and safety of its users (0:04 - 0:08 and 0:11 - 0:15). The wheels of the vehicles are also shown to be supported by mounds of sand to ensure grip and
 - the vehicles are shown to be stationary at all times throughout the Advertisement, parked in an enclosed camping area with no drivers shown in the vehicles at any time.
- Further, we submit that:
 - it is common for 4WD winches to be used for a range of outdoor purposes in recreational settings;
 - the operation of the 4WD winches is depicted in a safe and responsible way, and there are clear cues that the operators of the 4WD winches are not consuming alcohol before or during activity, and
 - the ordinary consumer would recognise that the depicted measures made the operation of the winches safe and not understand that the Advertisement is encouraging or condoning unsafe behaviour;
 - the Advertisement was first broadcast on 1 July 2023 and this is the first complaint received in respect of the Advertisement, which supports that a reasonable person would not consider the Advertisement to be encouraging or condoning unsafe behaviour.

Marketing Best Practice

The Company was asked how it demonstrates a commitment to alcohol marketing best practices. It advised:

- Lion is an ABAC signatory.
- The Lion XXXX team obtained and followed advice from the Alcohol Advertising Pre-Vetting Service (AAPS) during the development of the Advertisement.

- Lion conducts periodic training for its marketing team on the ABAC Code, and the current online training course is included in the induction of new members.
- The Lion marketer responsible for the creation of the Advertisement has completed the ABAC Online Training Course.
- The development process for the Advertisement also considered other industry codes, including the AANA Code of Ethics, to ensure that it has met community expectations around responsible marketing.
- As a responsible marketer, Lion has demonstrated a long-standing commitment to upholding both the letter and spirit of the ABAC and AANA Codes.