



ABAC Adjudication Panel Determination 87/25

Determination Date	19 June 2025
Brand/Company	Guinness / Lion Beer Spirits & Wine Pty Ltd
Media	TV-Digital
ABAC Code provision	Part 3 (a)(ii) Part 4
Outcome	Dismissed

Part 1 - Determination Overview

Complaint:

The complainant is concerned that a TV ad for Guinness:

- Has been aired repeatedly and at a time when children are still watching.
- Suggests alcohol addiction by depicting surfers drinking at sunrise on the beach after an early morning surf.
- Is irresponsible, as alcohol consumption needs to be a moderate pastime, not undertaken first thing in the morning.

Key findings:

The Panel dismissed the complaint, finding that:

- The ad was not placed inconsistently with the requirements of the CTICP.
- Available age restriction controls were applied.
- The reasonably expected audience of Channel 7 News exceeds the 80% adult benchmark.
- The News is not a program directed primarily at minors.
- Alcohol use is shown as moderate, and no person appears affected by alcohol.

Marketing Communications:

The complaint concerns a television advertisement that was repeatedly seen on Channel 7, including during the News. The ad can be viewed at

<https://player.vimeo.com/video/948137493>.

The ad is set at a beach and depicts a group of people adjacent to a utility vehicle, holding and consuming Guinness. The scene is set in faded light, and the presence of a surfboard, along with a shot of a man away from the group with a board, establishes that surfing has taken place. The men are fully dressed in warm clothing. Other cues indicate the people will be camping at the site.



Part 2 - The Panel's View

Introduction

1. The complaint refers to a television advertisement for Guinness Stout. The 15-second video shows people who have apparently been surfing on a cold day and are now rugged up and drinking Guinness.
2. The complaint raises two concerns:
 - That the ad was shown repetitively, including during the Channel 7 News when children are watching; and
 - It is irresponsible to show alcohol consumption early in the morning, and it is suggestive of people who have an alcohol dependency.
3. Lion Beer, Spirits & Wine (the Company) argues that the ad is consistent with ABAC standards, contending:
 - Multiple cues establish that the ad is set at the end of the day.
 - The placement of the ad meets Part 4 of the Code, as it was only placed via digital broadcasts on 7Plus, with age restriction controls applied, Ozdam data indicates that the program has a 97% adult audience, and the News is not primarily aimed at minors.
4. The ABAC contains standards for the content of alcohol marketing and its placement. The content standards aim for the messaging in alcohol marketing to be responsible. The placement standards aim to direct alcohol marketing towards adults and, to the extent reasonably possible, away from minors. The complaint raises issues about both the content and the placement of the marketing, and each concern will be examined in turn.

Placement Standards

5. The complainant was concerned by the frequency at which the ad has been shown. The regulation of the frequency of advertisements on TV rests directly with government and is not within the remit of the ABAC Scheme. Instead, the ABAC Placement Standards are directed at the expected audience of alcohol ads, with the intent that marketing be directed to adults and, to the extent reasonably possible, away from minors.
6. The Placement Standards establish a series of requirements related to the technical capabilities of various technologies and media for targeted marketing. For a TV broadcast, potentially four standards are applicable:

- All applicable media codes applying to alcohol advertising must be complied with, i.e. the Commercial Television Industry Code of Practice (CTICP) - Placement Standard 1;
 - Available age restriction controls must be applied to exclude minors from viewing an alcohol marketing communication – Placement Standard 2;
 - The advertisement may only be placed with programs where the audience is reasonably expected to comprise at least 80% adults - Placement Standard 3; and
 - The advertisement must not be placed with programs or content primarily aimed at minors - Placement Standard 4.
7. The Commercial Television Industry Code of Practice (CTICP) is a longstanding code that regulates advertising. As a general proposition, alcohol advertising is restricted on linear free-to-air TV (i.e., 'traditional' TV transmission received via an aerial) to specific times of day and, in the evenings, to slots after 8:30 pm.
 8. The complainant did not specify the technology used to view the TV and the ad, but it was likely a smart TV connected to the internet. Additionally, it is possible that Channel 7 and the nightly news were watched via the 7 Plus service. The reason this is likely is that the Company has advised that the ad was not shown on the News, unless a viewer was seeing the ad through a streaming service. The CTICP alcohol advertising time-of-day restrictions do not apply to digital streaming services such as 7 Plus. This means Placement Standard 1 has not been breached.
 9. Given the CTICP's more limited utility in the changed broadcast media environment and the emergence of social media channels, the ABAC Standards adopted additional requirements to direct alcohol advertising away from minors. Placement Standard 2 requires that alcohol marketers apply available age restriction controls to exclude minors from being served with alcohol ads.
 10. The age restriction controls are effective when minors typically have an individual internet-capable device, like a smartphone or tablet. This is because the minor will have an account in their name, and the ads can be excluded from the minor's account. The standard is less effective in the case of a family internet-connected TV because the account will generally be in the name of a parent or other adult, and the family co-view shows rather than the one-on-one viewing that occurs with a phone or tablet.
 11. To view 7Plus, a customer must have an account. In most households with children, the account will be held by a parent or another adult. There is no information before the Panel suggesting that a minor with an account in the complainant's household has been served with the Guinness ad.
 12. This means Placement Standard 3 does most of the work when a subscription service can be co-viewed within a family. The standard establishes the 80% adult audience benchmark for the placement of alcohol marketing. Information on the program

audience is available through the ratings system. Data from Nielsen, obtained by the Company before placing the marketing, showed that adults comprised 97% of the audience for Channel 7 News. Therefore, the requirements of Placement Standard 3 have been met.

13. Placement Standard 4 states that alcohol ads cannot be placed with content aimed primarily at minors, irrespective of the audience. It is fair to say that, due to the adult themes covered, the News is directed mainly at adults, and its current affairs content can't be said to be aimed primarily at minors. The audience data strongly suggests that the appeal of the News is primarily to adults.

Irresponsible behaviour related to alcohol consumption

14. Beyond the concern that children will see the ad, the complainant contended that the ad's content depicts alcohol consumption after an early morning surf, which is irresponsible. The Company argued that the advertisement depicts alcohol consumption at the end of the day after surfing and points to a variety of cues to support this interpretation.
15. The ABAC Standard applicable to the complaint provides in Part 3 (a)(ii) inter alia that an alcohol marketing communication (must not show (visibly or by direct implication), encourage, or treat as amusing, irresponsible or offensive behaviour related to the consumption or presence of alcohol.
16. The assessment of the consistency of an alcohol marketing communication with a Code standard is based on the probable understanding of the marketing item by a reasonable person. The concept of the 'reasonable person' is drawn from the common law system and means that the values, opinions and life experiences shared by most community members are the benchmark. If an item of marketing could be understood in several ways, the most probable interpretation is to be preferred over a possible but less likely understanding of the marketing communication.
17. There are two questions for the Panel to consider about the point made by the complainant, namely:
 - Would a reasonable person understand that the marketing is promoting alcohol consumption early in the morning after surfing?
 - If so, is that irresponsible behaviour?
18. It is somewhat unclear whether the ad is set at sunrise or at sunset, either in the late afternoon or early evening. The light at both times of day is similar, and the position of the sun will depend on whether the ad is set on the East Coast or the West Coast. Equally, surfing could occur at either time of day. While there is ambiguity, it is more probable that the ad is set at sunset, given:

- The people drinking are fully clothed, and their style of clothing doesn't suggest they will go surfing or have just completed surfing e.g. they aren't wearing wetsuits.
 - The other man with the surfboard is moving away from the beach, indicating that surfing has finished, and it is unlikely he would have been surfing in the dark before sunrise.
19. It will depend on the context as to whether an alcohol ad showing alcohol use in the morning is depicting irresponsible behaviour. Generally, alcohol use is not typically depicted in marketing until, say, lunchtime. It is possible, however, that a marketing communication might show alcohol use in the morning, e.g., an orange juice and prosecco at a morning event after a wedding. Each marketing item must be assessed on its own merits.
20. The ABAC standards require that alcohol use be modelled consistently with the Australian Guidelines to Reduce Health Risks from Drinking Alcohol, including the amount and frequency of alcohol consumption. The Guidelines don't go into the time of day of alcohol use as such. However, the Panel acknowledges the complainant's point that an indication of alcohol addiction would be early morning consumption. In the current case, alcohol use is moderate and no person appears affected by alcohol.
21. Drawing this together, the Panel believes the ABAC standards have not been breached by the ad given:
- The ad was not placed inconsistently with the requirements of the CTICP
 - The available age restriction controls were applied
 - The reasonably expected audience of Channel 7 News exceeds the 80% adult benchmark
 - The news is not a program directed primarily at minors
 - Alcohol use is shown as moderate, and no person appears affected by alcohol.
22. 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). The Chief Adjudicator referred it to the ABAC Adjudication Panel for consideration against the ABAC Responsible Alcohol Marketing Code. The complaint process is explained [here](#).

The Panel operates under the ABAC Rules and Procedures, taking into account the principles of procedural fairness.

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

Applicable ABAC Responsible Marketing Code Standard

Code Part 3 (a)(ii) - An Alcohol Marketing Communication must NOT:

show (visibly, audibly or by direct implication), encourage, or treat as amusing, rapid Alcohol consumption, misuse or abuse of Alcohol or other irresponsible or offensive behaviour that is related to the consumption or presence of Alcohol.

Code Part 4:

- (a) An Alcohol Marketing Communication must comply with code provisions regulating the placement of Alcohol marketing and an Alcohol Alternative Marketing Communication must comply with code provisions regulating the placement of Alcohol Alternative marketing that have been published by Australian media industry bodies (for example, Commercial Television Industry Code of Practice and Outdoor Media Association Placement Policy).*
- (b) Available Age Restriction Controls must be applied to exclude Minors from viewing an Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication.*
- (c) If a digital, television, radio, cinema or broadcast print media platform does not have age restriction controls available that are capable of excluding Minors from the audience, an Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication may only be placed where the audience is reasonably expected to comprise at least 80% Adults (based on reliable, up-to-date Australian audience composition or social media follower data, if such data is available).*
- (d) An Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication must not be placed with programs or content primarily aimed at Minors.*

Company Response

The Company has confirmed it is the distributor and local manufacturer of Guinness in Australia, is the advertiser for this complaint and was provided with an opportunity to respond to the complaint. Concerning the complainant, the Company submits that there has been no breach of Parts 3(a)(ii) or 4 of the ABAC Code and its principal comments were:

- A reasonable consumer would not understand that the ad is showing or encouraging irresponsible consumption:
 - The surfer (shown wearing a drysuit and carrying the surfboard) in the background of the ad is deliberately shown moving away from the water. It is unlikely that the surfer and leading group would've finished surfing before the sun had properly risen, which is a strong cue that the ad is set at the end of a day;
 - The colours of the sky, lighting and positioning of the sun reflect sunset conditions; and
 - The panned shot that draws attention to the tents and choice to show the group wearing warm clothing further indicate that the group has finished surfing for the day and is enjoying a beer after they've set up their campsite.
- Our media agency, UM, investigated this complaint and confirmed the following:
 - The placements for this campaign did not include free-to-air television, and the complainant likely viewed the ad via the 7 Plus video on demand (**BVOD**) platform.
 - The ad was targeted at people registered as over 18 years old, and BVOD platforms do not currently allow restrictions if children are using their parents' accounts.
 - The following measures are also applied for Lion's purchased BVOD advertising from 12.00 pm to 12.00 am:
 1. deterministic targeting of P18+; and
 2. exclusion of all children's and G-rated content (except sport),
 and UM confirms all available age restriction controls are in place;
 - Based on OzTAM data for 1 January 2025 to 6 June 2025, the average reach of the program is currently comprised of 97% of those aged 18 years and above:

SEVEN NEWS HOUR 2025		
OzTAM Demo	LIVE	VOD
C00-04	1%	1%
C05-12	1%	1%
C13-17	1%	1%
F18-24	3%	4%
F25-39	13%	13%
F40-54	18%	19%
F55-64	12%	14%
F65+	9%	13%
M18-24	3%	2%

M25-39	10%	6%
M40-54	14%	10%
M55-64	9%	7%
M65+	8%	9%
Grand Total	100%	100%

Source: VPM 3.49. Seven News Hour. 1.1.2025 – 6.6.2025.

- The Program:
 1. Reports on Australian and global current affairs;
 2. covers a range of topics including politics, economics, social issues, sports and entertainment, among others; and
 3. presents this information in a factual and relatively neutral manner, and therefore is not a program or content primarily aimed at minors.

Marketing Best Practice

The Company was asked how it demonstrates a commitment to best practices for alcohol marketing, and responded as follows:

- Lion is an ABAC signatory.
- The Lion's Guinness brand team obtained and followed advice from the Alcohol Advertising Pre-Vetting Service (**AAPS**) during the development of the Advertisement, and the Advertisement received approval.
- Lion conducts periodic training sessions for its marketing team on the ABAC Code, and the current online training course is included in the induction of new team members. We confirm that the Lion marketer responsible for the creation of the Advertisement has completed the ABAC Online Training Course; and
- 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.