



## ABAC Adjudication Panel Determination 147/25

<b>Determination Date</b>	1 November 2025
<b>Brand/Company</b>	XXXX/Lion – Beer, Spirits & Wine Pty Ltd
<b>Media</b>	TV
<b>ABAC Code provision</b>	Part 3 (d)
<b>Outcome</b>	Dismissed

### Part 1 - Determination Overview

#### ***Complaint:***

The complainant is concerned about a television advertisement for XXXX Beer that shows people playing beach cricket while consuming alcohol. It is argued that it is irresponsible to depict people drinking alcohol around water.









#### ***Key findings:***

The Panel dismissed the complaint, finding that:

- The batter, bowler and 'fielders' in the water are not shown consuming alcohol during the cricket game, and their demeanour does not suggest alcohol consumption has occurred prior to the water being entered.
- The product and alcohol consumption are depicted after the completion of the game, and when people are no longer in the water.
- The scene when consumption occurs shows people fully dressed, resting on beach lounges and otherwise behaving in a manner suggestive that further swimming will not happen, nor will the game be resumed.
- Alcohol use shown is moderate, and no person appears to be affected by alcohol.
- Taken as a whole, a reasonable person would probably understand that alcohol use is not being modelled in an unsafe fashion.

#### ***Marketing Communication:***

The marketing communication is a television commercial described below:

<p>An informal game of cricket is being played at the beach, using a jetty as the pitch and people on floatation devices in the water as fielders.</p> <p>A person is shown running up and bowling, with the ball ultimately hitting the batter's leg.</p>	 
<p>People in the water on floatation devices cheer and yell 'Howzat'.</p>	  
<p>The umpire, who is fishing from a boat on the water, signifies that the batter is out.</p>	
<p>The cricket game scene ends, and we then see the bowler drinking a can of XXXX.</p>	
<p>The scene widens to show the batter, bowler and umpire on the beach, having a conversation.</p> <p><b>Batter:</b> <i>There's no way that was out. It was above the knee.</i></p>	

**Batter:** *You weren't even watching. You were out there fishing.*



## Part 2 - The Panel's View

1. This determination concerns a television advertisement for XXXX Beer. The ad creates a social beach cricket scene, with a jetty serving as the pitch, and people on flotation devices in the water being fielders. A bowled ball hits the batter on the leg, and the fielders cheer and yell, 'Howzat'. The scene shifts to after the game, where the batter protests to the umpire that he wasn't out. It is in this scene that the product's consumption is introduced.
2. The complainant is concerned about the consumption of alcohol near water, arguing that it is irresponsible for this to be shown. This concern raises Part 3 (d) of the Code, which provides that alcohol marketing cannot show or directly imply alcohol consumption before or during any activity that, for safety reasons, requires a high degree of alertness or physical coordination, such as swimming.
3. The policy intent of the Part 3 (d) standard is that alcohol marketing should not model alcohol consumption before or in conjunction with inherently dangerous activities, such as driving a motor vehicle or swimming. This is because alcohol impacts a person's physical and mental capacities, reduces coordination and can contribute to a loss of inhibitions and the making of poor judgements.
4. It is important to note that the Code standard does not prohibit an alcohol brand from being associated with sport or water-based activities as such. The point of the standard is that alcohol should not be consumed while participating in a sport that requires physical coordination to be performed safely. Equally, alcohol should not be consumed while swimming or undertaking other water-based activities. Alcohol marketing should not suggest that it is acceptable to use alcohol in this way. What this means for water-based activities is that an item of marketing can:
  - show an alcohol product at a beach or adjacent to a swimming pool if it is clear that alcohol is not being consumed; or
  - show alcohol consumption, but it is established that the dangerous activity like swimming, surfing, scuba diving, etc has finished and will not be recommenced.
5. 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.

6. The Company contends that the television advertisement is not in breach of the Code standard. Its principal points were:
  - The consumption of alcohol is not shown to take place before or during the playing of cricket on the jetty or in the water.
  - During the cricket game, all fielders on flotation devices are shown wearing swimwear. By contrast, the individuals consuming alcohol on the beach are fully clothed. A reasonable consumer would understand this to mean the group has finished playing cricket and will not re-enter the water.
  - The scene where consumption occurs indicates time has passed since the group were playing cricket, emphasising that they are relaxing on the beach after the game has concluded.
  - The ad as a whole creates a safe scene, e.g., people in calm, shallow water near the shoreline and the wearing of safety equipment.
7. The Panel recognises that the complainant is raising a genuine point about the importance of alcohol marketing showing alcohol use in a safe fashion, particularly around water. That said, the responsible and moderate consumption of alcohol adjacent to a beach or water is commonly undertaken in Australia, and it is not contrary to prevailing community standards. The ad is not in breach of Part 3 (d), given:
  - The batter, bowler and 'fielders' in the water are not shown consuming alcohol during the cricket game, and their demeanour does not suggest alcohol consumption has occurred prior to the water being entered.
  - The product and alcohol consumption are depicted after the completion of the game, and when people are no longer in the water.
  - The scene when consumption occurs shows people fully dressed, resting on beach lounges and otherwise behaving in a manner suggestive that further swimming will not happen, nor will the game be resumed.
  - Alcohol use shown is moderate, and no person appears to be affected by alcohol.
  - Taken as a whole, a reasonable person would probably understand that alcohol use is not being modelled in an unsafe fashion.
8. 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 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 Panellist Professor Richard Mattick AM and Panellist Debra Richards.

### **Applicable ABAC Responsible Marketing Code Standard**

- (d) *An Alcohol Marketing Communication must NOT 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:**

Lion (the Company) was allowed to respond to the complaint. Its principal comments were:

- For the reasons set out below, and with respect to the complainant, we submit that there has been no breach of Part 3(a)(ii) or (d) of the ABAC Code by Lion and the Complaint should be dismissed by the ABAC Panel.
- We do not consider playing cricket on a jetty with fielders on flotation devices in the water to be an activity with a higher inherent risk of injury than other types of water sports.
- We acknowledge that *any* activity undertaken in the water may expose an individual to certain risks and injuries (such as surfing, paddle-boarding, swimming or participation in other water-based sports such as water-polo). We believe there is a negligible risk of injury or harm to any participants shown in the advertisement, for the following reasons:
  - The water around the jetty is calm
  - The 'fielders' are positioned close to the shoreline, and some visibly have their feet on the ground while in the water. This indicates that the water is shallow;

- The nature of the activity is slow, relaxed and languid (i.e. the individuals on the flotation devices are stationary);
  - The individuals in the water and on the jetty are shown paying close attention to the activity; and
  - The fielders each have access to flotation devices).
- The consumption of alcohol is not shown to take place *before* or during the playing of cricket on the jetty or in the water.
- The advertisement does not depict any alcohol or the consumption of alcohol while the individuals are playing cricket on the jetty or in the water.
- The alcohol (being a can of XXXX) appears for the first time when the individuals are on the beach.
- During the cricket game, all fielders on flotation devices are shown wearing swimwear. By contrast, the individuals consuming alcohol on the beach are fully clothed. We consider that a reasonable consumer would understand this to mean the group has finished playing cricket and will not re-enter the water to continue playing.
- We are of the view that the advertisement makes it clear that the consumption is taking place after the conclusion of play because:
  - We consider a reasonable consumer would recognise the substantial change in the setting, lighting and clothing. This scene shift indicates the time that has passed since the group played cricket, emphasising that they are relaxing on the beach after the game has concluded.
  - As set out above, during the cricket game, all individuals depicted on flotation devices are shown wearing swimwear. By contrast, the individuals drinking alcohol on the beach are fully clothed, indicating they have finished playing cricket and will not be re-entering the water.
- Further, we respectfully submit that:
  - It is common for beachgoers to safely engage in social games in shallow water, including cricket.
  - The cricket game depicted in the advertisement is being played safely and responsibly, and it is clear that none of the individuals are consuming alcohol while playing/while in the water or beforehand.
  - The reasonable consumer would recognise that the activities shown are being undertaken safely and that the advertisement is not condoning unsafe behaviour.

- The advertisement has been broadcast for approximately three (3) years. This is the first complaint received in respect of the advertisement, which supports the view that reasonable members of the community would not consider it to be encouraging or condoning unsafe behaviour.
- For the reasons set out above, we do not consider that the advertisement is in breach of Part 3(a)(ii) or (d) of the ABAC Code, or any other section of the ABAC Code which may apply.

***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's XXXX brand team obtained and followed advice from the Alcohol Advertising Pre-Vetting Service (AAPS) during the development of the advertisement;
- The advertisement received approval through AAPS - Application No: 860-2022 Approval No: 4959;
- Lion conducts periodic training of its marketing team on the ABAC Code and the current online training course is included in the induction of new members of the Lion marketing team. We confirm that 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 it has met community expectations around responsible marketing; and
- As a responsible marketer, Lion has demonstrated a long-standing commitment to upholding both the letter and spirit of the ABAC and AANA Codes.