

ABAC

**ABAC Complaints Panel
Determination No: 82/13**

**Complaint by Frances Gray
Product: Liquorland
Advertiser: Liquorland**

Professor The Hon Michael Lavarch – Chief Adjudicator
Debra Richards – Member
Professor Richard Mattick – Member

13 August 2013

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for Liquorland (“the Advertiser”) and arises from a complaint received 12 July 2013.

The Quasi-Regulatory System

2. Alcohol advertising in Australia is subject to an amalgam of laws and codes of practice which regulates and guides the content and, to some extent, the placement of advertisements. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol advertising as quasi-regulation. The most important provisions applying to alcohol advertising are found in:
 - a generic code (the AANA Advertiser Code of Ethics) with a corresponding public complaint mechanism operated by the Advertising Standards Bureau (ASB);
 - an alcohol specific code (the Alcohol Beverages Advertising Code) and complaints mechanism established under the ABAC Scheme;
 - certain broadcast codes, notably the Commercial Television Industry Code of Practice (CTICP) which restricts when direct advertisements for alcoholic drinks may be broadcast; and
 - The Outdoor Media Association Code of Ethics which includes provisions about Billboard advertising.
3. The complaint systems operated under the ABAC scheme and the ASB are separate but inter-related in some respects. Firstly, for ease of public access,

the ASB provides a common entry point for alcohol advertising complaints. Upon receipt, the ASB forwards a copy of the complaint to the Chief Adjudicator of the ABAC Panel.

4. The Chief Adjudicator and the ASB independently assess the complaint as to whether the complaint raises issues under the ABAC, AANA Code of Ethics or both Codes. If the Chief Adjudicator decides that the complaint raises solely issues under the Code of Ethics, then it is not dealt with by the ABAC Panel. If the complaint raises issues under the ABAC, it will be dealt with by the ABAC Panel. If the complaint raises issues under both the ABAC and the Code of Ethics, then the ABAC Panel will deal with the complaint in relation to the ABAC issues, while the ASB will deal with the Code of Ethics issues.
5. The complaint raises concerns under the ABAC and accordingly is within the Panel's jurisdiction.

The Complaint Timeline

6. The complaint was received by ABAC on 12 July 2013.
7. 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. This complaint was determined within the target timeframe.

Pre-vetting Clearance

8. The quasi-regulatory system for alcohol beverages advertising features independent examination of most proposed advertisements against the ABAC prior to publication or broadcast. The advertiser is not a signatory to the ABAC Scheme and pre-vetting approval was not obtained for the advertisement.

The Advertisement

9. The complaint refers to a television advertisement. The advertisement opens with a group of 5 people sitting on sofas and chairs by a coffee table in a private residence as a song starts with the lyrics "You ready, 1, 2, 3" and continues throughout the ad. The coffee table has glasses of beer, water, a can of beer, a bowl of corn chips and a plate of pastries. One man has a cricket ball he is moving from hand to hand. A man gets up to greet a man who arrives and hands him a red Liquorland bag.
10. The screen changes to the text "Get Ready for the Cricket Liquorland" as there is a voiceover "Get ready for the cricket at Liquorland".
11. We then see the following scenes in quick succession as the voiceover continues "Knock off with ice cold slabs of VB. Get ready for the cricket with Victoria Bitter at Liquorland":
 - the group of people pointing and cheering;

- a refrigerator door being opened and two cans of beer being removed from a shelf filled with cans and bottles of VB beer above shelves filled with various food stuffs;
- three of the people cheering and clapping, one of whom who is holding a glass of beer;
- the shelf of VB cans and bottles in the refrigerator;
- two of the men shaking hands and clapping each other on the back;
- four of the people reacting to what they are watching;
- a man walking out of a Liquorland store holding up two Liquorland bags.

The Complaint

12. The complainant argues that:

- Drinking is encouraged and promoted by the advertisement which comes on frequently each time someone gets out during the cricket game;
- It suggests that if you want to enjoy and improve the experience of watching the cricket you should buy lots of alcohol at Liquorland;
- Alcohol and sport are promoted as 'natural' companions.

The Code

13. The ABAC provides that advertisements for alcohol beverages must:

- a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly-
 - i) must not encourage excessive consumption or abuse of alcohol;
 - ii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;
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- d) not depict any direct association between the consumption of alcohol beverages, other than low alcohol beverages, and the operation of a motor vehicle, boat or aircraft or the engagement in any sport (including swimming and water sports) or potentially hazardous activity and, accordingly –
 - i) any depiction of the consumption of alcohol beverages in connection with the above activities must not be represented as having taken place before or during engagement of the activity in question and must in all cases portray safe practices.....

The Advertiser's Comments

14. The Advertiser responded to the complaints and questions posed by the Panel by letter dated 22 July 2013. The points made by the Advertiser in relation to the advertisements were:

- Whilst we are not a signatory to the Alcohol Beverages Advertising Code we are happy to provide feedback on this complaint. In addition to complying with relevant legislative obligations and industry codes Liquorland Australia Pty Ltd (Liquorland) has a long standing commitment to the responsible service of alcohol. Liquorland considers its materials accord with all these commitments which are generally consistent with the spirit of ABAC.
- Whilst acknowledging the importance of the aims of the ABAC Code, Liquorland considers that it has acted responsibly at all times and that it is reasonably apparent that the relevant advertising does not amount to a breach of ABAC when assessed taking the content as a whole.
- Liquorland does not believe there is anything in the Advertisement which could reasonably be said to encourage a person to consume alcohol in an irresponsible or excessive manner. The fifteen second Advertisement depicted a social setting involving a group of friends at someone's home, where alcohol was reasonably available but clearly not essential to proceedings. It shows a group of people, who are clearly friends, watching cricket together in a low key social setting at a private residence. The behaviour exhibited is moderate and consistent with that typically displayed at those types of low key social gatherings
- The Advertisement shows a number of scenes with a mix of guests with and without drinks. We do not believe they are behaving in a manner that would suggest that they are under the influence of alcohol or that they are being inappropriate. We confirm that the glasses contain both alcoholic and non-alcoholic drinks. When held, the drinks were being held with firm grips by individuals who are behaving in a moderate, low key manner. There were no signs of conspicuous or over-zealous consumption or that the guests were affected by alcohol. The glasses contain an appropriately sized serving of alcohol and the Advertisement did not imply that any individual would consume more than one drink.
- Food is also prominently featured throughout the Advertisement both in the form of pies and chips on the table in the lounge room scene and also in the fridge which, whilst containing beer, is also full of food.
- The use of the Liquorland shopping bag being held up by a male at the end of the Advertisement is intended to show the Liquorland logo on the bag. Whilst the "red bag" featured in the Advertisement could hold 6 bottles it is very apparent that the bags do not – if they did contain 6 bottles it would be extremely difficult for them to be lifted and held up so

easily. In any case alcohol is commonly sold in multiple quantities. We believe there is a clear difference between purchasing multiple quantities of alcohol and the subsequent consumption of it.

- It is common for people to have social events set around sport and for alcohol to be part of, but not central to, those types of events. The people featured in the advertisement are watching but not playing sport. The use of “get ready for” is intended to encourage people to come into Liquorland to make those alcohol purchases rather than go to another liquor retailer. It does not in any way encourage people to consume alcohol in an irresponsible or excessive manner or to purchase excessive amounts of alcohol. The use of “ice cold slabs” is commonly used in advertising as beer is a product that is best consumed cold and can be purchased “ice cold” from Liquorland.
- The Ashes telecast began at approximately 7.30pm in the evening running into the early hours of the morning. Its audience is predominantly males over 30 years of age. The Advertisement ran a number of times during the Ashes telecast and promoted VB. This is consistent with normal advertising practices where advertisers buy a number of “slots” during key events to promote their brand and products.
- Liquorland remains very committed to the responsible service of alcohol and considers that its marketing has an important part to play in that process. We believe that the Advertisement when viewed as a whole demonstrates a moderate, responsible approach to alcohol.

The Panel’s View

15. This determination concerns a television advertisement for the alcohol retailer, Liquorland. Liquorland is a subsidiary company of the major Australian retailer Coles. Coles and Liquorland are not signatories to the ABAC Scheme and, as such, the advertising produced by Liquorland is not required to satisfy the ABAC standards. That said, the advertiser has stated its commitment to good practice in alcohol advertising and has over time cooperated with the Panel’s processes when public complaints have been received about advertisements for Liquorland or other Coles related alcohol outlets or products. As a result, the Panel has proceeded to make this determination.
16. This particular execution is one in a series which has aired during 2013 for Liquorland and which use the tagline “Get Ready”. Each of the executions have had common features, including the music used and the theme of Liquorland customers purchasing and then consuming alcohol in a variety of social settings. While the advertisements are part of an overall campaign, each individual execution has to be assessed specifically against the ABAC standards in light of the nature of the concerns expressed in the complaint about the advertisement. Some of the executions have been considered by the Panel and found to be in breach of the Code and some not to be in breach.

17. In this particular case, the complainant is concerned that the advertisement is promoting excessive consumption by the suggestion that you need to consume alcohol to enjoy watching the cricket, the frequency of the advertising whenever there is break or someone is called out and the suggestion that alcohol is a natural companion to sport.
18. For its part, the advertiser contends that:
- The advertisement only depicts or suggests moderate alcohol consumption and does not depict anyone behaving in a manner that would suggest that they are under the influence of alcohol.
 - There is a clear difference between the purchasing of multiple quantities of alcohol and the subsequent consumption of the purchased products.
 - It is common for people to have social events set around sport and for alcohol to be part of, but not central to, those types of events. The phrase, "Get ready for" is used to encourage people to come into Liquorland to make those alcohol purchases rather than go to another liquor retailer.
19. The Panel does not consider that the advertisement breaches the section (a) standard. In reaching this conclusion, the Panel has noted:
- Only moderate consumption is depicted for each individual.
 - The behaviour of the people at the social gathering does not appear to be effected by excessive or immoderate consumption of alcohol.
 - Food is featured at the social gathering depicted in the advertisement.
 - While there is a large quantity of alcohol in the refrigerator, food is also stored. It is not unusual for alcohol products to be stored in a refrigerator and the number of people on the house indicates this alcohol will be shared and not consumed by an individual alone.
 - While the frequency an advertisement is shown may be annoying it does not equate to a suggestion that consumption should be excessive.
20. The Panel has also considered whether the advertisement breaches the section (d) standard. This section prevents depictions of the consumption of alcohol beverages in connection with sport being represented as having taken place before or during engagement in the sporting activity. In this case the alcohol consumption is shown during the watching rather than the engagement in sport and accordingly, there is no breach of this standard.
21. The complaint is dismissed.