



ABAC Adjudication Panel Determination No. 108/19

Product: Woolshed on Hindley Drinks Voucher
Company: Woolshed on Hindley
Media: Digital (Facebook)
Date of decision: 12 December 2019
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Ms Debra Richards
Professor Richard Mattick

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) concerns digital marketing for the Woolshed on Hindley (“the Company”) and arises from a complaint that was received on 19 November 2019.
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 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 meeting 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 November 2019.
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 Clearance

9. The quasi-regulatory system for alcohol beverage marketing features independent examination of most proposed alcohol beverage marketing communications against the ABAC prior to publication or broadcast. Pre-vetting approval was not obtained for this marketing communication.

The Marketing Communication

10. The complaint refers to the following Facebook Post by @WoolshedAdelaide.

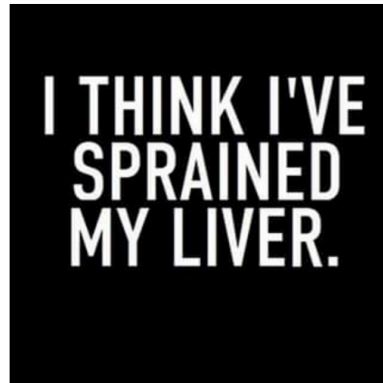


Woolshed On Hindley
November 16 at 1:30 PM · 🌟

WIN \$150 DRINKS VOUCHER + FREE ENTRY FOR TONIGHT TAG someone who can relate to the struggles of a Sunday hangover for your chance to win!

*Available for use before 12am for you & 5 mates

#woolshedonhindley #giveaway



The Complaint

11. The complainant objects to the marketing as it's a competition for free drinks that asks viewers to tag someone who can relate to hangovers and includes a picture saying "I think I sprained my liver" encouraging hangovers and drinking until you damage your liver (binge drinking).

The ABAC Code

12. Part 3 of the ABAC Code provides that a Marketing Communication must NOT:
 - (a)(i) show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines

The Company's Response

13. The Company did not respond to the complaint.

The Panel's View

14. The Woolshed is an Adelaide hotel. The Hotel promotes itself via a Facebook page. This determination is the second in recent times concerning the promotion of drinks vouchers in a manner which is clearly inconsistent with both the ABAC and the General Code of Practice issued to explain legislative obligations under the Liquor Licensing Act 1997.
15. In this instance the Facebook post is about a competition to win a \$150 drinks voucher by tagging another Facebook user. While there is nothing inherently wrong

with a promotion of this kind, it is done by implying excessive alcohol consumption through reference to:

- tagging someone who can relate to the struggles of a Sunday hangover; and
 - the use of a graphic 'I think I've sprained my liver'.
16. The post is inconsistent with Part 3 (a) (i) of the Code which provides that an alcohol marketing communication must not encourage the excessive or rapid consumption of alcohol. While the post is intended to be humorous, the humour is drawn from the implicit shared and acceptable experience of drinking to excess. The post is likely also in breach of the Hotel's liquor license obligations under South Australian law. Under the General Code of Practice for liquor licensees, it is not permitted to promote or advertise in a way that tends to encourage the rapid or excessive consumption of liquor or discourages a responsible attitude to the consumption of liquor.
 17. The Hotel chose not to respond to the complaint but has removed the post upon being contacted by the ABAC's Executive Officer. The Hotel would be sensible to promote itself consistently with its regulatory obligations. There are countless ways to develop marketing material in a manner which are on the Hotel's 'brand' without offending community standards regarding responsible alcohol use. The ABAC pre-vetting service can provide advice on these issues.
 18. The complaint is upheld.