

breached the OMA guidelines and this second issue will not be considered by the Panel.

15. The complainant contends that the advertisement is in breach of the ABAC by reason of both its content and placement. The ABAC applies across all media *i.e.* print, television, radio, billboards and the internet and is a content based set of standards. This means that, regardless of where an alcohol ad is placed, its content is to meet the standards laid down in the ABAC. The issue of where the ad is placed is indirectly relevant in terms of assessing the content of the ad in that the audience of the ad is a relevant consideration.
16. The Panel has considered the use of the Bundy Bear character in several previous determinations, such as:
 - 11/06 – dated 25 April 2006
 - 107/08 – dated 6 November 2008
 - 58/09 – dated 26 June 2009 and
 - 37/10 – dated 14 October 2010.
17. From these determinations, the Panel has indicated that the Bundy Bear character would have appeal to children. Whether this appeal elevated the ad as a whole into having “strong or evident” appeal to children in breach of section (b) of the ABAC will depend on the context in which the character was used and depicted.
18. The Panel notes that the nature of the Bundy Bear as used in this advertisement and the TV campaign considered in Determination 37/10 differs from the earlier depictions of the character. The Bundy Bear is now a computer-generated version resembling characters used in computer games; whereas the older version was slightly more akin to characters such as Humphrey Bear.
19. The advertiser explains the outdoor media execution is part of a wider marketing campaign featuring a television ad. While many viewers of the outdoor ad may have seen the TV ad, no doubt some viewers of the bus shelter shed ad will not have seen the TV ad. In any event, the outdoor ad needs to be assessed in its own right.
20. The placement of the ad in the vicinity of a school does mean that the ad will be viewed by adolescents. The advertiser accepts the placement on the bus shelter shed was a mistake and is contrary to the OMA guidelines on the location of alcohol advertising. This does not, however, of itself mean that the ad, irrespective of its content, automatically can be said to have “strong or evident” appeal to children or adolescents.
21. The Panel does not believe the ad breaches section (a) (ii) or (b) of the ABAC. In reaching this conclusion, the Panel noted:
 - The ad is in essence a still shot of a scene drawn from the TV advertisement. In Determination 37/10 the Panel did not find the TV ad in breach of the Code.

- The ad features the Bundy Bear character, a picture of the product and the strap line “make your smooth!” Taken as a whole, these elements are not considered to have a strong appeal to children or adolescents.

22. Accordingly, the complaint is dismissed.