



ABAC Adjudication Panel Determination No 75/24

Product: Alcohol
Company: Premix King – Golden Bay
Media: Outdoor Sign
Date of decision: 11 June 2024
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Professor Richard Mattick
Ms Debra Richards

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) arises from a complaint received on 20 May 2024 in relation to placement of an alcohol advertisement facing the carpark in front of the Premix King (“the Company”) shop in Golden Bay, Perth, Western Australia.
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 the 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 meet 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 20 May 2024.
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 Advice

9. A component of the ABAC Scheme is an advice service by which an alcohol marketer can obtain an independent opinion of a proposed alcohol marketing communication against the ABAC standards prior to public release. Pre-vetting advice is separate from the complaint process and does not bind the Panel but represents best practice on behalf of alcohol marketers. Pre-vetting advice was not obtained for placement of the marketing.

The Marketing

10. The complaint relates to placement of an alcohol advertisement facing the carpark in front of the Premix King shop in Golden Bay, Perth, Western Australia.

Complaint

11. The complainant objects to the marketing as follows:
 - *Sign says “Damn Cheap Grog” in a suburban setting with young children and families frequently in the area.*
 - *[Premix King – Goldan Bay] have an inappropriate billboard in front of business. Council forced removal of the sign from council land with the same wording and now it sits facing the carpark in front of their shop.*

The ABAC Code

12. Part 4 of the Code provides that:
 - (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).

The Company Response

13. The Company responded to the complaint by email on 3 June 2024. Its primary comments were:
- I wish to reply to this complaint about the sign “damn cheap grog” from the email we received for the Premix King – GOLDEN BAY.
 - I would like to refer to the “Reason for Complaint” in your letter to us. (complaint 75/24)
 - Firstly, this sign has been up for 4 months now.
 - The local Council DID NOT force removal of the sign “damn cheap grog” from the council land (aka nature stripe/verge area).
 - The council simply removed “a sign” that didn’t have council approval to be there.
 - I arrived in Golden Bay in JAN 2022 and a “single fin beer sign” had already been out there for more than 12 months prior. I had no idea that there was no council approval for this sign in this area.
 - I pulled the sign down and apologised to the council as I didn’t know.
 - It had nothing to do with the words on that sign, even though the person making this complaint believes that is the case. (WRONG!!)
 - I believe the words on my sign have no greater effect on anyone than any other “AD” or billboard placed advertising.
 - The word “Grog” is just an Australian slang word. How can we live in Australia and not use slang words?
 - Or, “we don’t just match prices, we beat them”, as Dan Murphys says. Our sign is really no different to Dan Murphys.
 - I guess it comes down to the person reading them!
 - I’m happy to fun with the following:
 - Below cost pricing
 - Damn cheap Liquor
 - Damn cheap Alcohol
 - Damn Cheap baby.

The Panel's View

14. This determination arises from a complaint concerning outdoor advertising from the alcohol retailer Premix King in the outer Perth suburb of Golden Bay. While it isn't entirely clear, it seems the advertising is in the form of a sign positioned in front of the retailer's premises facing the car park of the small Golden Bay shopping centre. The wording on the billboard reads 'Damn Cheap Grog'.
15. The complainant takes issue with the sign as it 'is in a suburban setting with young children and families frequently in the area'. The complainant also recounts that a sign with the same wording had been placed on nearby Council land and was removed.
16. The Company explains the circumstances of the sign on the Council land and refutes its removal was in any way related to the actual message on the sign. In any event, this background to the complaint is not relevant to the question of whether the sign facing the car park offends the standards of responsible alcohol marketing contained in the ABAC.
17. The ABAC consists of two sets of standards. The content standards go to the messaging within alcohol marketing. The placement standards seek to limit the exposure of minors to alcohol marketing irrespective of the messaging contained in the item of marketing.
18. When assessing the content of an item of marketing it is always essential to consider the marketing material as a whole and in context. It is possible the expression 'damn cheap grog' could be used in a way that breaches an ABAC content standard. For instance, a social media post with an image of an obviously intoxicated person surrounded with empty beer cans and with accompanying text of 'damn cheap grog' would offend the ABAC standard requiring alcohol marketing not showing excessive consumption.
19. In the current circumstances, a sign simply saying 'Damn Cheap Grog' outside the premises of a retailer selling take away alcohol would be taken as reference to the retailer's prices and not an encouragement of excessive alcohol use.
20. The primary concern of the complainant was about the location of the sign in a family area where it will be seen by minors. While the complainant is no doubt expressing a genuine concern, it is not unusual that a business including an alcohol retailer will have signage on or immediately adjacent to the actual place of business. It is generally a question for the relevant town planning authority such as the local council as to whether a business of a particular type should be located in designated areas. That there is an alcohol retailer at the shopping centre is not an issue for the ABAC Scheme.

21. The applicable ABAC placement standard in relation to the sign is contained in Part 4 (a) of the Code. In essence this standard requires that outdoor advertising such as a billboard on a roadside or a sign in front of a shopping centre not be positioned within 150 metres of school.
22. From a review of Google maps, it seems the nearest school to the shopping centre is the Golden Bay primary school and this school is much further than 150 metres from the Company's store. On this basis, there is no breach of the ABAC standard for the sign to be positioned facing the shopping centre car park.
23. The complaint is dismissed