

Appendix A

ABAC Determinations

Inconsistency

The manner in which the provisions of the ABAC are applied is inconsistent between different determinations and out of step with community expectations.

In determination 37/10, a complaint in relation to a television advertisement depicting the Bundaberg run mascot 'Bundy Bear' [\[click here to view\]](#) was dismissed by the Panel after they determined that a computer-generated bear does not have strong or evident appeal to children. This was despite survey data that was put to the Panel showing that:

- Bundy Bear has evident appeal to children/youth—results show children 9-12 and 13-15 correctly related the Bundy Bear character with the alcohol product; and
- children associated Bundy Bear with positive attributes such as friendly, funny, good to have at a party, laid back, adventurous, really cool, good sense of humour.

By comparison, in determination 108/09, the Panel upheld a complaint in relation to an alcohol advertisement which was painted onto vehicle on the basis that bright swirls of colour that were adduced as having strong and evident appeal to children or adolescents.

ABAC only considers ad content; does not govern the placement of advertisements

Determination 114/09 – Russian Standard Vodka, Beam Global

- Complaint in relation to internet advertisement for Russian Standard Vodka on **Windows Live Messenger**: dismissed on the basis that the ABAC does not cover the placement of ads

Determination 109/09 – Smirnoff, Diageo

- Complaint in relation to internet advertisement for Smirnoff on **Windows Live Messenger**: dismissed on the basis that the ABAC does not cover the placement of ads.

Determination 116/09 – Strongbow alcoholic cider, Fosters Group

- Complaint in relation to billboard advertisement for Strongbow located **near Clovelly Public School**, with large text 'It's Strongbow Season'. Complainant said her 10 year-old son says "mmmm it's Strongbow season" every time they drive past it: dismissed on the basis that the ABAC does not cover the placement of ads.

Determination 34/10 – Corona, Woolworths Liquor

- Complaint in relation to poster advertisement for **Corona beer on milk fridge in Woolworths**: dismissed on the basis that the ABAC does not cover the placement of ads.

Determination 49/10 – Bundaberg Rum Red, Diageo

- Complaint in relation to outdoor advertisement in a **bus shelter opposite Shenton College** (a secondary school): dismissed on the basis that the ABAC does not cover the placement of ads

Determination 79/10 – Bundaberg Rum and Yellowglen, Diageo and Fosters Group

- Complaint in relation to two billboards in a **shopping centre during school holidays**: dismissed on the basis that the ABAC does not cover the placement of ads.

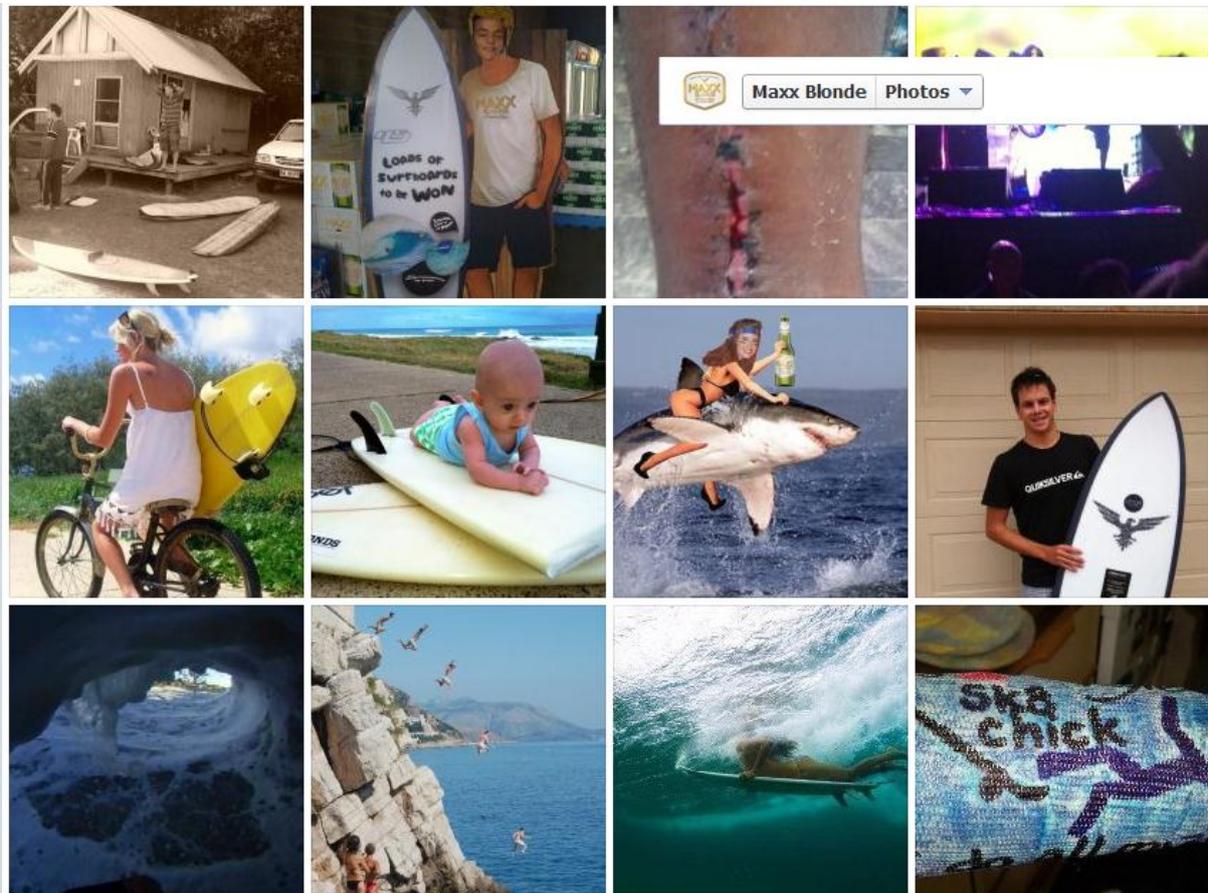
Lack of sanctions

In 2009, the APC lodged a complaint in relation to a website for Skinny Blonde beer (see determinations 63/09, 66/09 & 72/09), specifically, that the website breached section (c) of the ABAC by suggesting the presence and/or consumption of the product contributes to a change in mood and the achievement of sexual success. The complaint was upheld by the ABAC; however the APC were obliged to lodge a

further complaint 6 months after the initial complaint, because the advertiser continued to advertise the product in a manner that had been found to breach section (c) of the ABAC.

In determinations 29,34,37/11 the Panel upheld a complaint in relation to a commercial for Thirsty Camel Bottleshops (who are not a signatory to the ABAC): [\[click here to view\]](#), finding that the ad had breached the ABAC by having a strong and evident appeal to children. In response, Thirsty Camel revised the ad: [\[click here to view\]](#), including the comment, ‘This advert was banned and has since been modified. It was claimed it depicted vandalism, the real question is - is street art vandalism? Join the debate at www.facebook.com/ThirstyCamelVictoria’. Both ads may still be viewed on YouTube.

In determination 27/11, the Panel upheld a complaint in relation to content on the Facebook page of Maxx Blonde Beer (Coles Group), which included user-uploaded images of people clearly under 25 years of age (and including some children) for the purposes of a ‘living life to the Maxx’ competition. The Panel found that the ad breached section (b) of the Code in relation to the depiction of adults in advertisements, who must be over the age of 25 years. At time of writing, Facebook content continues to display images previously found to be in breach of the ABAC.



There are further examples in ABAC determinations of advertisers failing to abide by Panel determinations, including a Liquor Barons print ad, found to be in breach of the ABAC, continued to appear on the Liquor Barons website up to 6 months after the determination; and a Three Kings advertising campaign, which appeared online, in print and in a series of outdoor advertisements, again which continued to appear on the Three Kings website well after the Panel upheld the complaint.

The ABAC management committee and Panel are powerless to compel compliance with determinations in general, and more specifically, in relation to non-signatories—some of which are persistent offenders, and frequently use adverse decisions for publicity. For example, Thirsty Camel advertising (example provided above) has been the subject of numerous complaints (see also Determinations 22/11, 40/10, 87/09, 48/08).

Events and team sponsorship

Determination 7,8/11 – Jim Beam, Beam Global

- Complaint in relation to two websites containing advertisements for Jim Beam: websites www.jimbeamthebreak.com.au and www.globalsurftag.com. The complaint was dismissed by the Panel, on the basis that they are unable to judge whether it is appropriate for a surfing competition, hosted and attended primarily by young adults, to be sponsored by Jim Beam.

Determination 52/10– Johnnie Walker, Diageo

- Complaint in relation to print and website advertisements for Johnnie Walker All Star Twenty 20 cricket competition, in which many players were under the age of 25. The complaint was dismissed by the Panel on the basis that they are unable to judge on whether it is appropriate for a cricket competition to be sponsored by Johnnie Walker

Determination 28/10 – VB beer, Fosters Group

- Complaint in relation to television advertisement for VB beer asking to support the RSL by encouraging the drinking of beer. The complaint was dismissed by the Panel on the basis that they are unable to judge whether it is appropriate for the RSL to be sponsored by VB