



THE
ABAC
SCHEME
LIMITED

27 May 2016

Professor Emeritus John Catford
Chair
VicHealth
PO Box 154
Carlton South VIC 3053

Dear Professor Catford

I refer to an article posted on the Vic Health website on 25 May 2016 entitled "How the alcohol industry misleads young people on Facebook".

The ABAC Responsible Alcohol Marketing Code (the ABAC Code) and the associated Pre-vetting and Complaints Management Systems form the quasi-regulatory ABAC Scheme. The Scheme was developed in agreement with all major Australian alcohol beverage manufacturing and marketing industry associations and key advertising, media and consumer bodies. The Federal Government is also a key stakeholder and is represented on the Management Committee of the Scheme. Also, a Professor of Public Health, who is nominated by government, is part of all adjudication panels.

We are concerned that the article posted to the VicHealth website includes statements about the ABAC Scheme and its activities that are incorrect or misleading. In particular:

- *"The ABAC Responsible Alcohol Marketing Code covers the content of alcohol marketing and promotion in Australia. The code is self-regulatory, which means that it is mostly governed by alcohol companies. That's a bit like a having football match contested by lions versus bunnies, and putting the lions in charge of setting the rules and choosing the umpires."*

The ABAC Scheme is not self-regulatory but rather quasi-regulatory which means it receives input and involvement from Government. The ABAC Scheme is fully funded by the alcohol industry but its Management Committee includes a representative of Australian Governments (Department of Health Assistant Secretary responsible for alcohol issues) and an independent Chair (the Hon Alan Ferguson) and decisions of the ABAC Management Committee are made on a consensus basis.

The ABAC Pre-vetting Service and Complaints Panel is operated independently. The independent ABAC Adjudication Panel includes two public health representatives, Professor Richard Mattick and Professor Louisa Jorm who were both nominated by Government and is chaired by former Commonwealth Attorney General, the Hon Professor Michael Lavarch AO. Details of the qualifications and experience of each of the Panelists is attached to this letter. The Management Committee oversees the scheme but does not affect pre-vetter or complaints panel decisions

- *"Also, the code is not a law: it's not mandatory – and not all alcohol companies have signed up. How could this system be independent and effective?"*

While the scheme is voluntary, the companies that are committed to the ABAC Scheme comprise the vast majority of alcohol marketing in Australia. Signatories include all members of the three largest alcohol industry associations in Australia together with various direct signatories.

The ABAC Scheme has an almost 100% compliance rate with its decisions. On only one occasion in the past 10 years has an alcohol company refused to remove the material found to breach the Code. On that occasion the material was a label and packaging and the matter was also considered by various state liquor licensing bodies.

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Many non-signatories use the ABAC pre-vetting service and ABAC provides regular education on the Code standards and systems to the alcohol and advertising industries (both signatories and non-signatories are invited).

- *"In 2015 the ABAC received 133 complaints about ads for alcohol. Only 7 complaints led to ads being removed. One can only wonder if this is a reasonable response to the community asking 133 times for a review of an alcohol promotion."*

ABAC receives a copy of each complaint made to the Advertising Standards Bureau that mentions alcohol. Many of the complaints received raise concerns that do not relate to the responsible portrayal of alcohol or matters within the scope of the ABAC Code. Examples are complaints that do not relate to alcohol advertising (eg television programme content or Government alcohol education campaigns), concerns unrelated to alcohol that are addressed by other bodies such as the ASB or Consumer Affairs (eg racial, sexual or other discrimination, misleading advertising or sexuality) or multiple complaints about an advertisement that are combined in a single decision.

All complaints that raise ABAC issues are referred to the ABAC Adjudication Panel for decision. In 2015, 35 complaints were reviewed by the ABAC Adjudication Panel but only 7 related to advertisements that the Panel found breached the Code.

- *"So what can be done to better protect young people from inappropriate alcohol advertising on social media? To protect our team of bunnies, maybe it is time to say that the lions can't set the rules or choose the umpire and instead put someone totally independent in charge. Let's have alcohol industry marketing behaviour regulated by someone independent to the alcohol industry."*

ABAC includes Government involvement and Panel decisions are independent of the alcohol industry and we repeat the statements set out above. Further, various State Liquor Licensing bodies in Australia already have the power to regulate alcohol packaging and promotion.

The ABAC pre-vetting service is a key component of the ABAC Scheme in that it identifies inappropriate alcohol marketing before it reaches the market. In 2015 1,589 ads were pre-vetted, over 200 of which were rejected and therefore did not enter the marketplace.

The ABAC Scheme is an effective regulatory scheme that is committed to ensuring alcohol marketing in Australia is responsible and in line with community expectations by constant review and improvement. Colmar Brunton Social Research undertook research in 2013 to explore whether decisions made by the ABAC Complaints Panel are aligned with community expectations. The findings showed that overall the Complaints Panel takes a slightly stricter and more conservative approach to alcohol advertising than the community.

I attach for your information copies of:

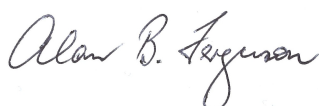
- 2015 ABAC Annual Report;
- Publication that outlines the development of the ABAC Scheme from 2004 to 2015;
- ABAC Responsible Alcohol Marketing Code that includes coverage of social media; and
- ABAC Best Practice for Digital Alcohol Marketing.

Assistance in promoting to concerned consumers the avenue for lodgement of complaints with ABAC is always welcomed. I invite you to publish on your website links to the ABAC publications and the method for lodging complaints <https://adstandards.com.au/lodge-complaint> .

It is disappointing that VicHealth has published an article that makes incorrect and misleading statements about ABAC and the ABAC Management Committee requests that this is immediately rectified and this letter included with the article.

I would be happy to discuss this matter with you further.

Yours Sincerely



The Hon. Alan Ferguson
Chair, ABAC Management Committee

cc Ms Jerril Rechter, CEO VicHealth

cc The Hon Martin Foley MLA, Minister for Mental Health Victoria

ABAC Adjudication Panel members

Chief Adjudicator, Professor the Honourable Michael Lavarch AO

Professor Lavarch has been Chief Adjudicator of the Panel since its inception. He is a former Commonwealth Attorney General and is a Professor Emeritus of Law at the Queensland University of Technology and is currently the Commissioner for Risk Analysis and Investigation with Australian Skills Quality Authority .

Professor Lavarch holds a Bachelor Degree in Law from the QUT and practiced as a Solicitor prior to being elected to Federal Parliament in 1987. In 1996 he recommenced his Legal career as special Counsel to the Legal firms of Dunhill Madden Butler and Deacons, where he specialised in land access issues for major infrastructure projects. From 2001 to 2004 he was Secretary-General of the Law Council of Australia, the Peak Industry Body for the Legal Profession. From 2004 to 2012 he was Executive Dean of the Faculty of Law at the QUT.

Professor Lavarch holds several Directorships on national companies and organisations and has undertaken a number of significant community service and education roles. He has also carried out extensive work in the field of Constitutional Law. In 2012, he was made an Officer in the Order of Australia in recognition of his work in the Law, the Community and the protection of Human Rights.

Deputy Chief Adjudicator - Ms Debra Richards

Ms Richards was appointed as a general member of the Panel on 15 September 2010. She is the CEO of Ausfilm International Inc (appointed in January 2011) and has been involved in the broadcasting industry in both the public and private sector for over 25 years most recently as the Chief Executive Officer of the Australian Subscription Television & Radio Association (ASTRA) and previously as Director of Programming and Licensing for the Australian Broadcasting Authority (predecessor to the ACMA). Her key achievements include building an industry association, achieving copyright and other legislative reforms in respect of the subscription television industry, developing and implementing the first and subsequent Codes of practice covering all subscription television services and businesses in Australia, and leading an established government body into a new structure and mode of operation as a result of legislative reform.

Ms Richards holds a Bachelor of Arts Degree and Graduate Diploma and Masters Degree in Arts. She is a member of numerous communications industry bodies including member and director of the Communications & Media Law Association (CAMLA); director of the International Institute of Communications (IIC) and Vice President of the Australian chapter. She also lectures on Media in Australia for Boston University.

Ms Jeanne Strachan

Ms Strachan has been a general member of the Panel since its inception. She is a director of Inview Pty Ltd, a company specializing in market research which she founded in 1965. Since 1965 she has been involved continuously in the provision of both quantitative and qualitative market research services throughout Australia to a wide variety of businesses. Her work has included evaluating the effectiveness of television commercials, advertising campaigns and pack designs for the commercial sector and also sociological research for the public sector. Her recognised field of expertise is understanding consumer behavior. In this capacity she is frequently retained as an expert witness by the Federal Court of Australia.

Ms Strachan holds a Bachelor of Arts degree with a major in Psychology and Urban Geography from the University of Sydney. Prior to establishing Inview she was employed by the Australian Broadcasting Commission as an Audience Research Officer responsible for evaluating the reaction of consumers to both television and radio programs. Inview was a foundation member of the Australian Market Research Organisation.

Professor Louisa Jorm

Professor Jorm is a health sector member of the Panel and was appointed in December 2012. She is the Foundation Director of the Centre for Big Data Research in Health at UNSW. She is an Australian leader in epidemiological research using linked administrative health data, including hospital inpatient, mortality and Medicare data.

From 2007 until November 2014, she was Foundation Professor of Population Health and Director of the Centre for Health Research at the University of Western Sydney, and Principal Scientist and then part-time Senior Advisor at the Sax Institute. Prior to this, she spent more than 15 years in senior positions in public health policy and service roles. She has played a leading role in the establishment of major infrastructure and capacity for health big data research in Australia, including the NSW/ACT Centre for Health Record Linkage, the 45 and Up Study and the NSW Biostatistical Officer Training Program. She led the development of the Secure Unified Research Environment (SURE), a new facility that benefits researchers nationally by providing secure remote access to linked health data. In the last 5 years Professor Jorm has published more than 60 scientific papers, been awarded almost \$10M in research funding and given invited plenary presentations at 5 international and 11 national conferences.

She represents the NHMRC on the international Public Health Research Data Forum convened by the Wellcome Trust and chairs the NHMRC's Data Reference Group. She is a member (appointed by the Minister for Health) of two NHMRC Principal Committees: Research Committee and Prevention and Community Health Committee. She was a Member of

the Health Expert Working Group, Roadmap for Australian Research Infrastructure (2011 and 2008) and was an invited participant in the inaugural meeting of the Australia-US Science and Technology Joint Commission Steering Committee in Washington DC in February 2011.

Professor Richard P. Mattick

Professor Mattick is a health sector member of the Panel and was appointed in June 2007. He is the Professor of Drug and Alcohol Studies in the Faculty of Medicine at the University of New South Wales, Sydney where he is also the Director of the National Drug and Alcohol Research Centre. He is a member of the Prime Minister's Australian National Council on Drugs, and a regular adviser to the World Health Organization and the United Nations in Vienna.

Professor Mattick holds a Bachelor of Science Degree, Masters Degree in Clinical Psychology and PhD. He has authored over 200 scientific articles and books on the assessment, nature and treatment of alcohol, opioid, and other drug use problems. His major current research interests are in clinical trials for management of alcohol and other drug dependence, psychostimulant substitution therapy, treatment of young drug dependent people, and the effects of injecting drug use on health. He has been an Editor on the Cochrane Review Group for Drugs and Alcohol, and Assistant Editor and Executive Editor (respectively) on the international journals *Addiction* and the *Drug and Alcohol Review*.



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