

Self-regulation of alcohol advertising in Australia: all hype no hope

**“There’s no blindness like
snow blindness”**

Rob Donovan & Lynda Fielder

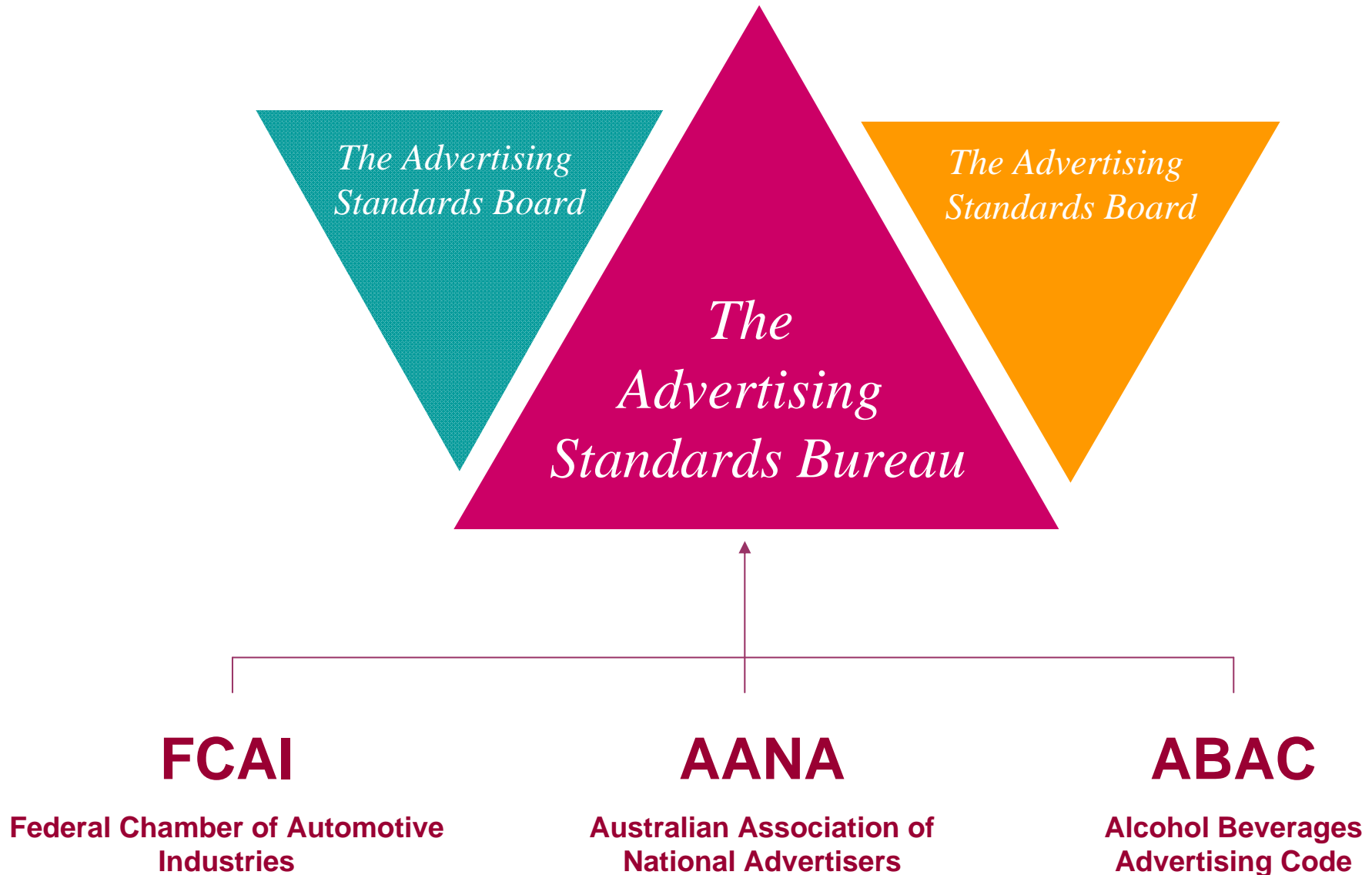
Fremantle, 1 September 2009

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Curtin 

Self-Regulation of Alcohol Advertising in Australia: The Hype

Self-regulation Scheme (Australia)



The ABAC Scheme

Management
Committee

Complaints
panel

Pre-Vetting

ABAC

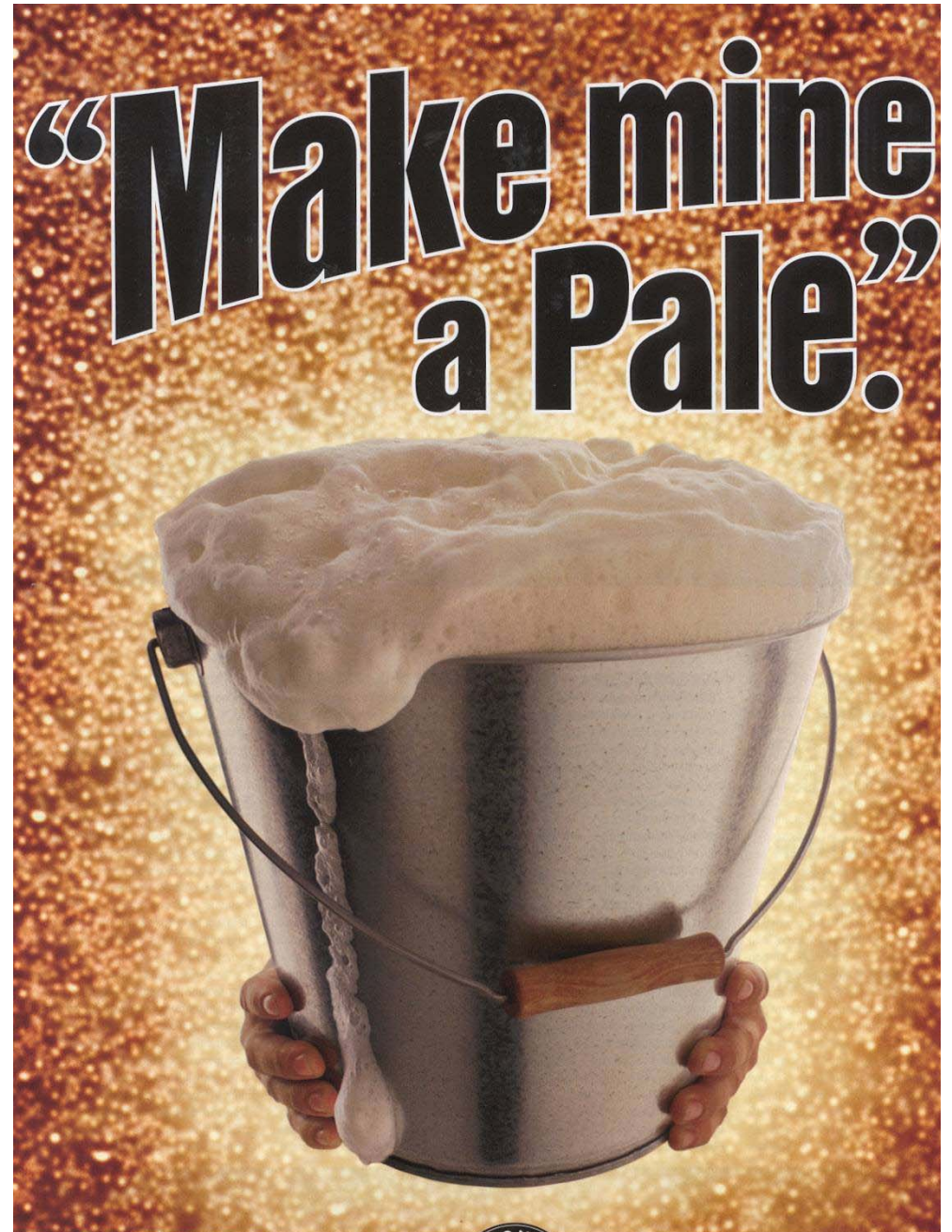
Alcohol Beverages Advertising Code

The ABAC States that advertisements for alcohol must:	
a)	<i>Present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly:</i>
<ul style="list-style-type: none"> i ii iii iv 	<ul style="list-style-type: none"> must not encourage excessive consumption or abuse of alcohol; must not encourage underage drinking; must not promote offensive behaviour or the excessive misuse or abuse of alcohol beverages; must only depict the responsible and moderate consumption of alcohol beverages.
b)	<i>Not have a strong or evident appeal to children or adolescents and, accordingly:</i>
<ul style="list-style-type: none"> i ii iii 	<ul style="list-style-type: none"> adults appearing in advertisements must be over 25 years of age and be clearly depicted as adults; children and adolescents may only appear in advertisements in natural situations (e.g. family barbecue, licensed family restaurant) and where there is no implication that the depicted children and adolescents will consume or serve alcohol beverages; adults under the age of 25 years may only appear as part of a natural crowd or background scene.
c)	<i>Not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment and, accordingly:</i>
<ul style="list-style-type: none"> i ii iii 	<ul style="list-style-type: none"> must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success; if alcohol beverages are depicted as part of a celebration, must not imply or suggest that the beverage was a cause of or contributed to success or achievement; must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or is a necessary aid to relaxation.
d)	<i>Not depict any direct association between the consumption of alcohol beverages, other than low-alcohol beverages, and the operation of a motor vehicle, boat or aircraft or the engagement in any sport (including swimming and water sports) or potentially hazardous activity and, accordingly:</i>
<ul style="list-style-type: none"> i 	<ul style="list-style-type: none"> i.any depiction of the consumption of alcohol beverages in connection with the above activities must not be represented as having taken place before or during engagement of the activity in question and must in all cases portray safe practices; any claim concerning safe consumption of low-alcohol beverages must be demonstrably accurate.
e)	<i>Not challenge or dare people to drink or sample a particular alcohol beverage, other than low-alcohol beverages, and must not contain any inducement to prefer an alcohol beverage because of its higher alcohol content.</i>
f)	<i>Comply with the Advertiser Code of Ethics adopted by the AANA.</i>

The ABAC Code

must not encourage excessive consumption or abuse of alcohol;

must only depict the responsible and moderate consumption of alcohol beverages.



**“Make mine
a Pale.”**

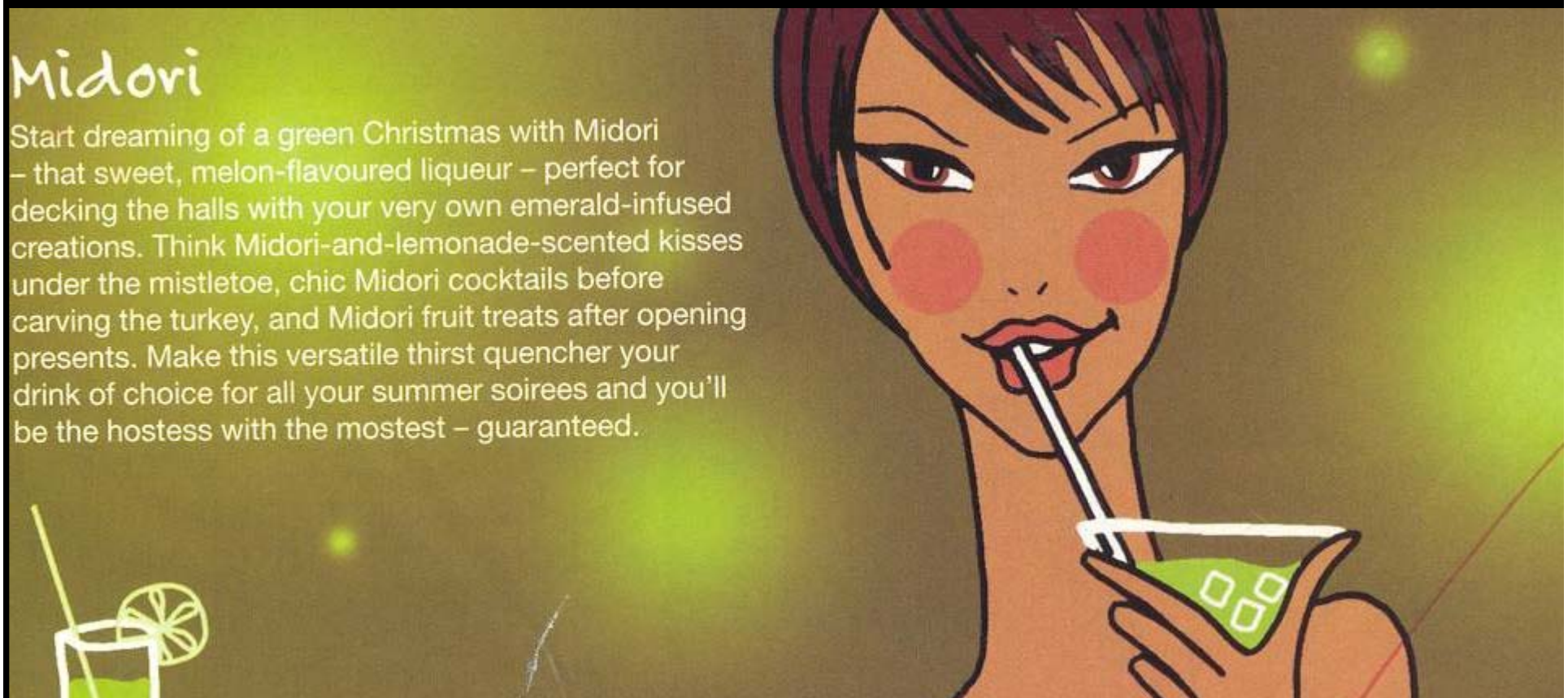
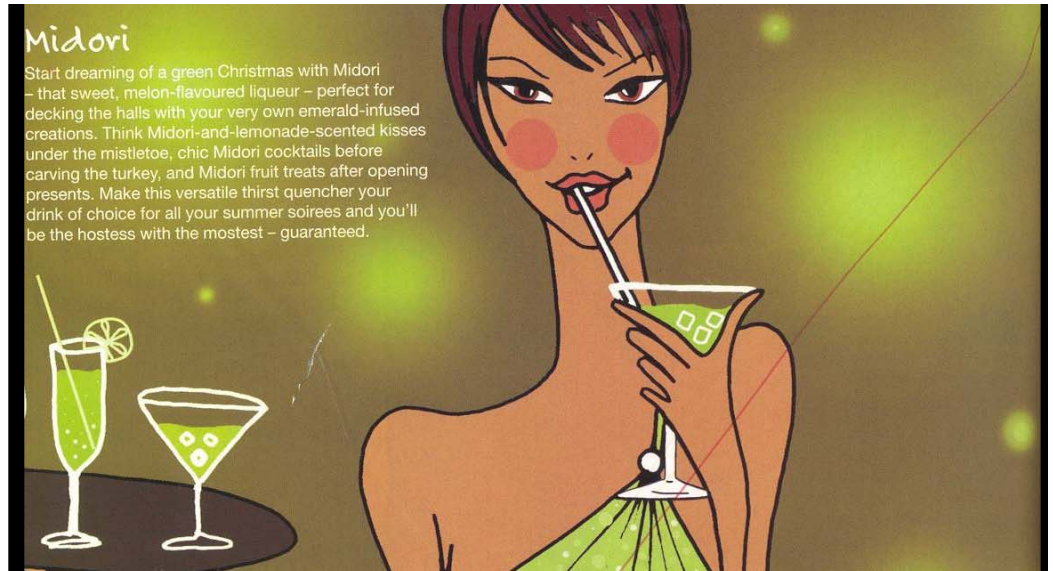
Can you imagine having an endless supply of some of the world's finest beers at your fingertips? Authentic Pale Ale, tasty lagers and pilsners, hearty stouts and a range of exotic, international beers.

Well, if you brew your own, it's all yours for about 25 c bottle. You'll find Coopers' world famous Home Brews Brew Kits in all good supermarkets and variety stores.

**HOME
Coopers
BREW**

Costs cents. Tastes a million dollars.

The ABAC Code
must not depict the
consumption or presence of
alcohol beverages as a cause
of or contributing to the
achievement of social success



The ABAC Code

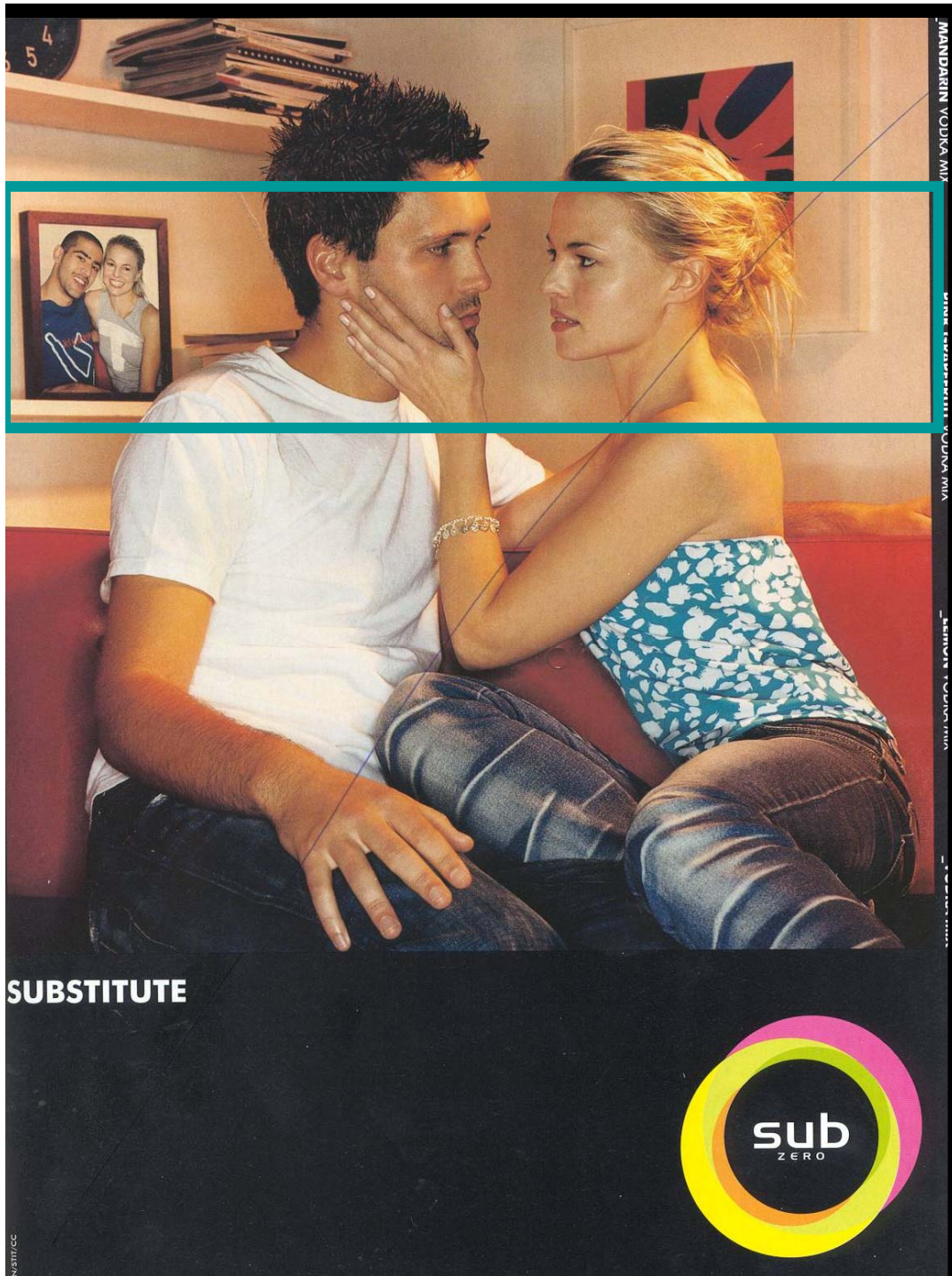
must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of sporting, sexual or other success;



**PLAY
HARD.
STAY
HARD.**

Beer is bad for you, right? Wrong. With full strength, full flavour Carlton LJ, you can still have a great time and stay in shape. Thanks to longer brewing and specially selected aroma hops, Carlton LJ has all the strength and the taste you love in a real beer, yet 20% lower joules. Play hard. Stay hard. Live it up.

CARLTON
LJ
LOWER JOULE BEER
355ml



The ABAC Code

must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of sexual or other success;

Case study: “ABAC in action”

The complaint

ABAC (b) Advertisements for alcohol must not have strong or evident appeal to children or adolescents.

The ABAC Pre-Vetting Service

Guidance Note 4: ... advertisements should not feature activities, imagery, music, characters, celebrities or any other elements that have evident appeal to ... people under 18.

The complaint

AANA Code 2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

ABAC (d): Not depict any direct association between the consumption of alcohol beverages and a potentially hazardous activity

... and

any depiction of the consumption of alcohol beverages in connection with the above activities must in all cases portray safe practices

The ABAC Pre-Vetting Service

Guidance Note 3: There can be no association with violent, aggressive, dangerous, anti-social or illegal acts or behaviour,

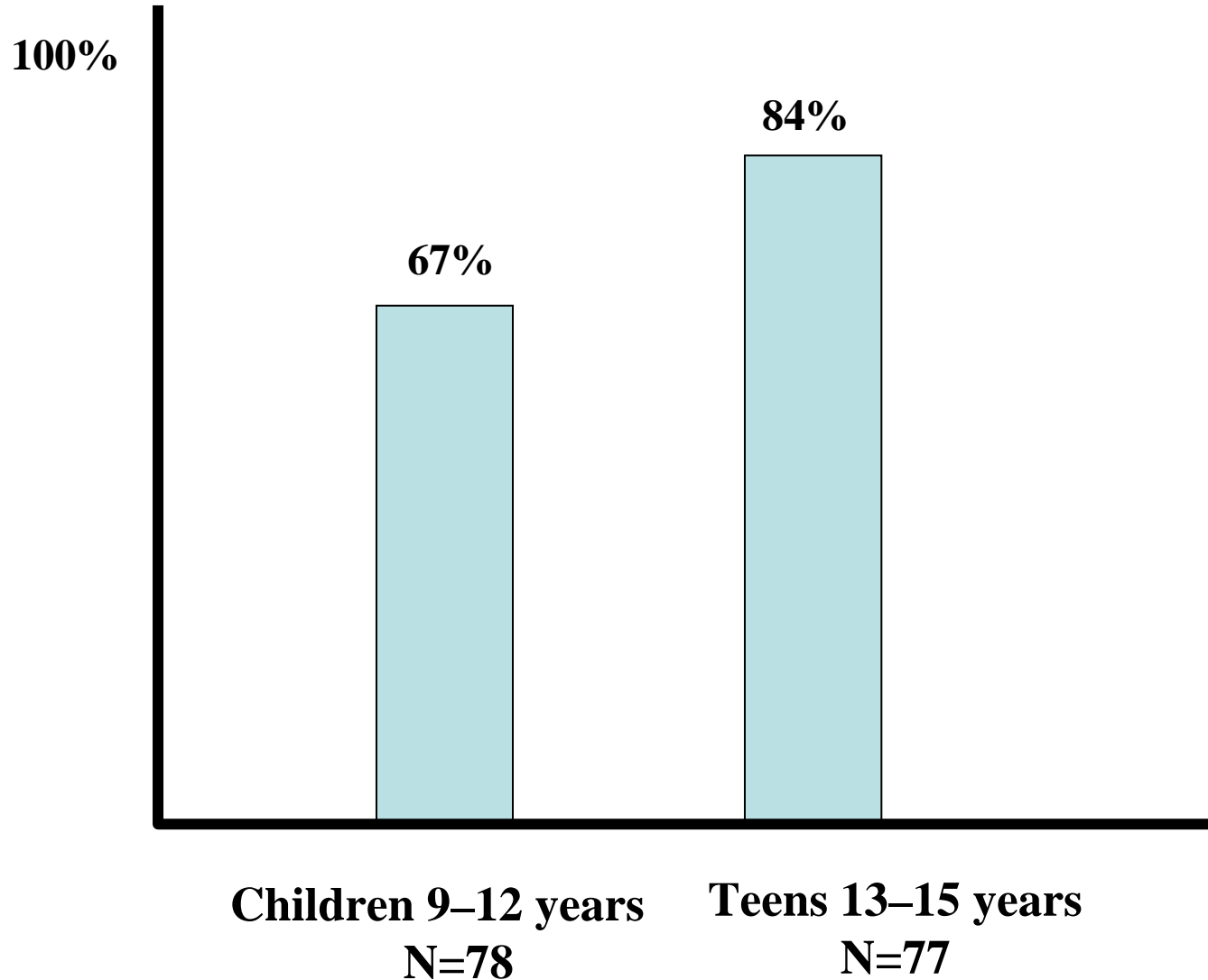
Evident appeal to children and youth



**Do young people know what this bear
sells?**

Does he appeal to young people?

Correct matching of Bundy Bear with Bundaberg Rum ...



Do they like him?

This bear character is ...	% boys (total sample %)	
Friendly	96	(94)
Funny	93	(85)
Good to have at a party	93	(91)
Laid back	89	(87)
Adventurous	86	(74)
Really cool	82	(66)
Good sense of humour	79	(77)

(n = 53; 53% male; 72% 15 years or under)

Is a hazardous activity shown?

Is live electricity dangerous?

Is this a serious question?

Electrical injury and death

Sophie Pointer
James Harrison

April 2007

Key findings

Hospitalisations

- Approximately 1,493 people were hospitalised as a result of an electrical injury during the two year period 2002–03 to 2003–04. 77 cases were identified in which lightning was associated with the injury.
- Electrical injury rates in males were much higher than in females, while for both males and females, rates of hospitalised electrical injury were highest in the young adult and adult years.
- 52% of all cases had a principal diagnosis of effects of electric current (T75.4), and an additional 26% of cases had a principal diagnosis within the range of ICD-10-AM codes describing burns

Electrification via “live” light fixtures the third most common cause of death

Causes of Electrical Deaths and Injuries Among Construction Workers

Michael McCann, PhD, CH,^{1*} Katherine L. Hunting, PhD, MPH,²
Judith Murawski, MSc,² Risana Chowdhury, MS, MSE,¹ and Laura Welch, MD²

Background *Contact with electrical current is the fourth leading cause of deaths of construction workers. This study evaluates electrical deaths and injuries to construction workers.*

Methods *Two sources of data were analyzed in detail: (1) 1,019 electrical deaths identified by the Bureau of Labor Statistics, Census of Fatal Occupational Injuries (CFOI) for the years 1992–1998; and (2) 61 electrical injuries identified between November 1, 1990 and December 31, 1998 from a George Washington University Emergency Department injury surveillance database.*

Results *Contact with “live” electrical wiring, equipment, and light fixtures was the main cause of electrical deaths and injuries among electrical workers, followed by contact with overhead power lines. Among non-electrical workers, contact with overhead power lines*

Electrical safety

Indirect injuries occur when shocks from faulty equipment lead to falls from ladders, scaffolds and other work platforms. Falls from heights can escalate the electrical shock to major body fracture injuries. http://www.comcare.gov.au/forms_and_publications/fact_sheets/electrical_safety



Commonwealth Consolidated Regulations

OCCUPATIONAL HEALTH AND SAFETY (SAFETY STANDARDS) REGULATIONS 1994 - REG 10.14

(1) ... an employer must ensure that electrical installation work at a workplace is not carried out at any time at which a circuit or apparatus of the installation on which the work will be carried out is energised.

**So --- not unexpectedly - it's actually
against the law.**

Diageo's response: Appeal to children

We do not believe that the ad has a strong or evident appeal to children or adolescents because ...

the Bundy bear character is a large polar bear, with a standing height of 8ft, which is well above the height of the average man. The bear has a deep gruff voice, sharp teeth and claws with a muscular build.

Diageo's response: Appeal to children

We do not believe that the ad has a strong or evident appeal to children or adolescents because ...

the Bundy bear character is a large polar bear, with a standing height of 8ft, which is well above the height of the average man. The bear has a deep gruff voice, sharp teeth and claws with a muscular build.

Diageo's response: electrical safety issues

**We do not believe the activity depicted is a
“potentially hazardous activity”**

**He has not scaled the side of a building nor is
he clambering over a roof**

Diageo's response: electrical safety issues

The man is portraying safe practices in safely carrying and using a sturdy ladder (which satisfies Australian safety standards) and an Australian standard safety helmet.

The average Australian does not put on a hard hat to climb a ladder and the fact the man in the ad has done so shows he takes safety seriously.

Diageo's response: electrical safety issues

He is carrying a tool belt and his attention to safety indicate that he is a professional licensed electrician, and thereby formally trained in health safety practices of this specialized field.

(Expected) ABAC response ...

Obviously the bear appeals to children ...

Obviously you should turn off the power before carrying out electrical work (any dimwit knows that!)

ABAC response: evident appeal to children & adolescents

~~The matter for assessment turns on the overall context created by the ad and whether a reasonable viewer, taking the ad as a whole, would take the ad as having evident appeal to children. In this case the ad is set in a bar with clearly adult characters. The tone of the ad is humorous and irreverent. The Panel does not believe that the ad, absent the Bundy bear, has elements that have a strong appeal to children and adolescents. The use of the Bundy bear does not in the context of the ad, in the Panel's view, breach the ABAC standard.~~

Could you run that logic past me again?

The bear has appeal to children – agreed.

But ... take the bear out of the ad and what's left doesn't appeal to children.

Therefore the ad with the bear doesn't appeal to children.

ABAC response: electrical safety issues

In this case the potentially hazardous activity is argued to be the depiction of one of the “mates” using a ladder to access a neon sign to change how it reads.

This scene is clearly separated from the later scenes showing alcohol use and there is nothing in the demeanor of the man indicating he has been drinking. No alcohol consumption is depicted in conjunction with or prior to the activity; and the neon sign scene is quite clearly separated from the final scenes showing the men drinking in the bar.

How about ... “and must in all cases portray safe practices”?

Never mind ...

Why is it so?

If only the ABAC had ...

People with a health/alcohol background ...

People with a legal background ...

People with a consumer advocacy background ...

**People with some basic intelligence ... can think
logically ..**

**People with a rudimentary understanding of the
English language**

People independent of the industry

ABAC SCHEME

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Stephen Swift (Chair, 2009)
Australian Associated Brewers Inc.



Gordon Broderick
Distilled Spirits Industry Council of
Australia Inc.



Mark Champion
Advertising Federation of Australia



Virginia Hart
Australian Government
Department of Health & Ageing



Stephen Strachan
Advertising Federation of Australia



Simon Cotterell
Drug Strategy Branch
Department of Health & Ageing

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Simon Cotterell

NDRI Board of Management



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Victoria Rubensohn - NSW
Convenor, Classification Review
Board
MA + Law degree

Bernadette Healey - VIC
Marketing Communications
Consultant

Kathryn Mellick – QLD
Faculty of Law, QUT
Consumer Advocate – Electricity

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Marketing Communications
Consultant

Kathryn Mellick – QLD
Faculty of Law, QUT
Consumer Advocate – Electricity!!

So --- was this Bundy ad pre-vetted?

The ABAC Pre-Vetting Service

Guidance Note 3: There can be no association with
dangerous, anti-social or illegal acts or behaviour,

Yes it was!

Guidance Note 4: ... advertisements should not feature ...
characters ... that have evident appeal to ... people under 18.

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Ms Jean Strachan

Inview Pty Ltd

Ms Elizabeth Dangar

Dangar Research Group

Prof Richard P. Mattick

Professor of Drug and Alcohol
Studies, Faculty of Medicine

University of New South Wales

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Prof Fran Baum

Professor in Faculty
of Health sciences
Public Health
Flinders University



Number 9, April 2007

AIHW National Injury Surveillance Unit • Research Centre
for Injury Studies • Flinders University • South Australia

Electrical injury and death

Prof Fran Baum

Professor in Faculty of Health
Sciences Public Health

Flinders University

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Prof Michael Lavarch

Chief Adjudicator Professor
of Law, Executive Dean QUT

Previously Australia's
Attorney General

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Why is it so?

SLEEPING

ENEMY

A classic
ABAC thriller

**Are they truly
independent?**

ABAC ADJUDICATION PANELIST CONTRACT SPECIFICATIONS

TITLE
ABAC ADJUDICATION PANELIST
DATE
AUGUST 2010
REPORTS TO
CHIEF ADJUDICATOR, ABAC ADJUDICATION PANEL

Remuneration comprises a retainer and adjudication fee component.

2009: Ordinary member: \$5,000 per annum
and \$250 per determination.

$$\$5,000 + 39 \times \$250 = \$14,750$$

What about the Government?



NATIONAL ALCOHOL STRATEGY

2006 - 2009

Towards Safer Drinking Cultures

Alcohol Beverage and Hospitality Advisory Group:

Mr Anthony Ball – Clubs Australia & New Zealand

Mr Gordon Broderick – Distilled Spirits Industry Council of Australia (DSICA)

Mr Ross Burns – Liquor Merchants Association of Australia (LMAA)

Mr Shaun Gaskett / Mr Bill Healey – Australian Hotels Association (AHA)

Ms Sam Hudson – Australian Associated Brewers (AAB)

Mr Terry Mott – National Alcohol Beverage Industries Council (NABIC)

Mr Stephen Strachan – Winemakers Federation of Australia (WFA)

Mr Jayson Westbury – Australian Liquor Stores Association (ALSA)



The Government in action



NATIONAL ALCOHOL STRATEGY

2006 - 2009

2006 - 2011

Towards Safer Drinking Cultures

Donations\$ to ALP 2008/2009

Australian Hotels Association	\$207,000
Lion Nathan	\$ 39,750
Clubs NSW	\$ 85,800
Crown Ltd	\$ 38,585
Accor Hospitality	\$ 16,500
Saints Hotels & Resorts	\$ 20,000
Argos Thomas Hotels	\$ 54,650
Aust Leisure & Hosp	\$ 20,000
Wesfarmers	\$ 45,000
etc etc etc	

healthpolicy@gov.au ...was this recommendation implemented? Where can I get the annual reports?

4C Monitor and review alcohol promotions.

- Implement monitoring and annual reporting on the advertising and promotion of alcohol.
- Maintain prohibition of alcohol promotion that encourages rapid and/or high levels of alcohol consumption.

healthpolicy@gov.au ...was this recommendation implemented? Where can I get the annual reports?



Is there a solution?

Get serious – or get out.

**An independent regulator
with legislative power**

Illicit performance enhancing drugs in sport

Cheats get two years

**The athlete is responsible for
ensuring contents do not contain a
prohibited substance**

Illicit performance enhancing techniques in alcohol advertising

Penalties for cheats:

- * Individuals: two year ban from working in advertising or marketing (agency & advertiser)**
- * Companies: two year ban on production and sale of the advertised product; all product in retail outlets, warehouses, hospitality, etc – immediate removal & disposal**

Is there a way to achieve this?

Get serious:

**withdraw from every
government committee on
alcohol until get real action**

**And remember ... you're sleeping with
everyone they're sleeping with ...**

Conclusions

self-regulation = self-pleasuring

much hypocrisy ..

some far away hope