



July 13, 2010

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Committee Secretary

House of Representatives

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Parliament House

Canberra ACT 2600

A submission in reference to the Joint Select Committee on Cyber Safety's 'Inquiry into Cyber Safety', made on behalf of The Communications Council Ltd.

## **The Communications Council**

The Communications Council was formed on 1 January 2010, merging the former Advertising Federation of Australia (AFA) with the Account Planning Group (APG) and Australasian Writers and Art Directors Association (AWARD) and more recently the Australasian Promotional Marketing Association (APMA). The Communications Council is the peak body representing companies in the marketing and communications industry to government, industry, media and the public.

The Council embodies members from a wide spectrum of creative disciplines, ranging from healthcare to design agencies.

We help grow member businesses and develop individual careers through the provision of professional development services, advocacy and support.

The Communications Council represents businesses in the creative industries<sup>1</sup>, a sector which contributes \$ 31.1 billion towards Australia's GDP and employs over 315,000 workers. The fastest growing segment of the creative industries is the marketing and advertising segment, with around 15,000 businesses employing 60,000 people.

On behalf of its membership, the Communications Council welcomes the opportunity to submit the following comments in response to the Committee's inquiry into Cyber Safety.

(a)

(ii) “the nature, prevalence, implications of and level of risk associated with cyber-safety threats (..)”

The nature, prevalence, implications of and level of risk associated with cyber safety threats outlined in the terms of reference are issues that are beyond the Council’s remit.

However, the Council believes advertising in the digital space may well be an effective vehicle through which children may be made aware of cyber safety threats. As such, the Council supports initiatives such as the SOSO initiative below, aimed at educating children about the risk of cyber threats.

(iii) “Australian and international responses to current cyber-safety threats (education, filtering, regulation, enforcement) their effectiveness and costs to stakeholders, including business;”

The Council regularly leads debate, discussion and education on the different acts, codes and guidelines that may impact on marketing communications business with the intention to promote legal compliance and reduce legal and commercial risks to advertisers and their agencies.

The Council champions the principle of effective and responsible self-regulation. It believes the right to market brands responsibly across all channels is paramount. To this end, the Council supports, often in partnership with other industry organisations, a self-regulatory system and educates its members about the rules of the system.

Where it concerns marketing to children, the Council believes its members should operate responsibly and within the confines of its self-regulatory system, outlined under section (iii).

(iii) a)

- The Communications Council teaches member agencies the Australian Competitions and Consumer Commission Code on internet consumers which stipulates that minors should be treated with care and that when it comes to doing business with minors, parents or guardians should give consent.

- The Council has been a supporter of the Association of Australian Association of National Advertisers (AANA) code on advertising and marketing to children with a view to developing and maintaining a high sense of social responsibility in the industry.

The code restricts the type of marketing members engage in when dealing with children. In respect to the terms of reference pertaining to cyber safety, the AANA code stipulates that advertising shouldn't include sexual imagery and must not state or imply that children are sexual beings. It holds advertising cannot depict unsafe uses of products or unsafe products, or encourage children to engage in dangerous activities. In addition it holds that advertising shouldn't contravene social values by using images that frighten or distress children or demean people on the basis of ethnicity, nationality, race, gender, age, sexual preference, religion or mental or physical disability. The AANA code states that alcohol cannot be advertised to children and that advertising can't encourage unhealthy lifestyles, eating or drinking habits. In addition it stipulates that personal collection of information for marketing purposes can only be obtained with consent of parents.

- The Communications Council is represented on the Alcohol Beverages Advertising (and Packaging) Code (ABAC) Management Committee, which manages and operates the ABAC scheme. The scheme is a voluntary system of compliance based on the ABAC Code. The Code is designed to ensure that alcohol advertising (including internet advertising) will be conducted in a manner which neither conflicts nor detracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by underage persons.

Internet advertising is considered to be referring to internet sites primarily intended for advertising developed by or for producers or importers of alcohol products available in Australia or that are reasonably expected to be made available in Australia, and to banner advertising of such products on third party sites.

The code stipulates that internet advertisements of alcohol must not encourage under-age drinking and not have a strong or evident appeal to children or adolescents.

- The Council has online privacy guidelines for marketers which are in accordance with the Australian Privacy Amendment Bill. The online privacy guidelines provide guidance on this important issue and assist in the development of business-wide actions towards an environment of industry regulation, trust between advertisers and consumers, and to foster the protection of consumer's privacy.

Its guidelines include a section on Responsible Interactive Marketing to Children. It recommends that advertisers ensure that children under 14 obtain their parents' permission before they give any information about themselves or their family while on-line; where the personal information collected would enable someone to contact a child offline, where the personal information is publicly posted or disclosed to third parties and where collection of an email address is necessary for a child's participation at a site.

Where it concerns children over 14, it recommends, in addition, that advertisers disclose why personal information is being requested and what use is being made of it, and whether the information required is optional. It also stipulates that email addresses should be solicited on secure sites only which give the option to opt-out of

future communications and remind and encourage parents to check and monitor their children's use of email and other on-line activities regularly.

If a site offers the opportunity to order or purchase a product or service, the guidelines recommend that the ordering instructions clearly and prominently state that a child must have a parent's permission to order and have a clear mechanism allowing the child or parent to cancel the order.

- The Communications Council also supports the Australian Direct Marketing Association's (ADMA) Code of Practice, which includes provisions that address marketing to minors. The code includes provisions relating to the content of commercial communications, with a view to ensuring that marketers do not exploit minors' credulity, loyalty and vulnerability or lack of experience. In addition, the provisions of the ADMA Code prohibit marketing that projects images of minors in hazardous situations.

(iii) b)

The Communications Council is aware that the Minister for Broadband, Communications and the Digital Economy has previously proposed an Australian internet filter with a view to protecting children from pornography and other offensive material. The Communications Council does not support an internet filter that restricts access to general online content as it believes this amounts to unwarranted censorship and has the potential to be an ineffective and unaccountable process.

The Council does, however, support a filter that allows full access to the internet but would see Internet Service Providers block domains that host child sexual abuse material.

(iv) "opportunities for cooperation across Australian stakeholders and with international stakeholders in dealing with cyber-safety issues;"

The Council is aware of an initiative by the Organisation of Economic Cooperation and Development (OECD) to initiate work on the protection of children online to enhance mutual understanding of existing and planned policy approaches for the protection of children online and to explore how international co-operation could better protect minors on the Internet.

The organisation has previously explored best practices on the protection of children online at a symposium in Singapore in 2009. Its report, an overview of the nature of risks faced by children online, details policy responses to address these risks, and policy analysis of commonalities and differences in approaches to protecting children online, as well as a discussion of possible avenues to reduce gaps and increase cooperation. It will be made available to the public by early 2011.

The Council is of the opinion that global cooperation on cyber safety, such as the OECD initiative, is both necessary and desirable.

Our industry is a global industry and many of our members operate across borders, having established offices in various countries. In order to be internationally competitive and effective, the Council believes a unifying set of rules governing the digital arena generally, and specifically governing online cyber safety, would be desirable and conducive to international competitiveness. The Council would support a policy and regulatory environment that supports innovation and competition and assures a level playing field for competition.

(v) “examining the need to ensure that the opportunities presented by, and economic benefits of, new technologies are maximised”

Our industry is at the forefront when it comes to monitoring and using new digital technologies. In recent years an array of digital and interactive media options and channels have become available to advertisers and marketers, giving them unprecedented opportunity to reach and interact with their consumers. It has also seen them achieve great successes capitalizing on new technologies.

The Council holds that any regulatory proposals pertaining to cyber safety should aim to stimulate investment and competition in communication infrastructures and the development of new technologies.

(vi) “ways to support schools to change their culture to reduce the incidence and harmful effects of cyber-bullying:”

The Communications Council (previously the Advertising Federation Australia) has long been a supporter of the digital media initiative ‘Smart Online, Safe Offline’, (SOSO), a collaboration between industry, media and the not-for-profit sector, run by the National Association for Prevention of Child Abuse and Neglect (NAPCAN). The SOSO initiative delivers online campaigns educating young internet users about the dangers of the online environment. The Communications Council supports the initiative as an important step in digital media industry taking responsibility for the online spaces in which these dangers may be present. It supports any agencies that engage, through research, sponsorship and resources, in partnerships with SOSO. It also supports the SOSO’s intention to become an ongoing, fully funded continuous communication vehicle delivering educational messages to young Australians.

(viii) “the merit of establishing an Online Ombudsman to investigate, advocate and act on cyber-safety issues”

The Council is of the opinion that, rather than establishing a new body such as the Ombudsman, which may make matters increasingly complex, options in which cyber safety issues are tackled through existing structures should be explored.



The Council would support an option which would see relationships between existing enforcement agencies and publishers be strengthened.

(b) “such other matters relating to cyber-safety referred by the Minister for Broadband, Communications and the Digital Economy or either House.”

The Communications Council, in partnership with Von Muenster Solicitors & Attorneys, last year released a guide on legal compliance for the marketing communications industry. It highlights the legal issues digital agencies may face in the online space and includes explanations of relevant acts and codes including the Trade Practices Act, the Copyright Act and various other codes impacting on agencies operating in this space. The legal guide contains details on the type of digital content that children can be exposed to and describes Restricted Access System age verification processes. It also warns that care needs to be taken when encouraging children to view and interact with advertisers’ campaign, provide personal information about themselves and enter into digital purchase transaction.

The Council also regularly holds workshops for members around legal compliance on an ongoing basis. Currently it offers workshops on the legal considerations in social media, which outlines agency and client responsibilities in the social space.

The Communications Council believes the above outlined codes and initiatives reflect community standards and provide a self-regulatory framework within which agencies and members should operate. In addition it holds that education through the mechanic of digital advertising may be used to make children aware of cyber threats.

We would welcome the opportunity to discuss this submission in further detail.

Yours sincerely,

Daniel Leesong  
Chief Executive Officer  
The Communications Council

Attachments:

- I. The Alcohol Beverages Advertising and Packaging Code
- II. The Communications Council Online Privacy Guidelines

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<sup>i</sup> Creative industries comprise advertising, marketing, architecture, design and visual arts, film, tv and radio, music and performing arts, publishing, software and digital content.



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*The Communications Council recommends members refer to the Australian Direct Marketing Association's (ADMA) Code of Practice for guidelines on privacy issues - [www.adma.com.au](http://www.adma.com.au)*

## INTRODUCTION

*Why online privacy guidelines from The Communications Council?* Long gone are the days when agencies and their clients relied solely on broadcast, one-way, push media. Digital media means interactivity and one-to-one communications whether we're advertising and communicating on the Internet, wireless devices or interactive TV. As advertisers we're now dealing with two-way communications and consequently data collection which opens up the world of privacy. Around the world, online privacy is a highly topical and important issue. The debate over government regulation of online privacy is rapidly evolving from a question of 'whether' to a question of 'when'. A rash of privacy bills have been introduced and some have even been passed in Europe, Asia and North America but there is no single global standard. The Communications Council online privacy guidelines are in accordance with the Australian Privacy Amendment Bill. This Bill provides National Privacy Principles and is considered a light-touch privacy bill. Importantly it allows (and encourages) industries to draw up their own privacy's codes to address their specific industry's privacy considerations. The Communications Council online privacy guidelines are provided to members to provide guidance on this important issue. As well as, to assist in the development of business-wide actions towards an environment of industry regulation, trust between advertisers and consumers, and to foster the protection of consumer's privacy.

### What do these guidelines cover?

- Adopting and communicating a privacy policy covering the collection and use practices regarding personally identifiable information (data used to identify, contact, or locate a person).
- Giving users choice and consent over how their information is used and shared.
- Giving users access to their personally identifiable information and the ability to update it, remedy any inaccuracies or withdraw the permission to use it all together.
- Putting data security, quality, and access measures in place to safeguard, update, and correct personally identifiable information.
- Responsible use of marketing communications via email and other personal messaging devices ie. Mobile phones, pagers, PDAs.
- Compliance with international laws and principles when involved with trans-border data flows.
- Responsible interactive marketing to children.

### How and when to use these guidelines?

These guidelines are provided as guidance and as a checklist for the development of any and all interactive advertising campaigns, customer relationship marketing campaigns and for web sites.

### The Guiding Principles Behind These Guidelines

Never before have consumers been empowered with more information, choice and alternative

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sales channels, changing forever their expectations of brands, the purchase experience and customer service. The Internet provides the ability to deliver on consumer's expectations of a highly relevant and personal brand and shopping experience. At the same times, the tools that make this all possible also raise serious concerns for consumers about their privacy.

To be successful in the interactive marketplace advertisers must build trust with consumers. The Communications Council fundamentally believes that 'consumer privacy is a right and not a privilege' and that consumers should not have to work to protect their privacy, but rather marketers should have to work to earn their trust and seek permission to use these new tools to develop more personalised and ultimately one-to-one relationships.

## The Guidelines

### 1. Adopting and Communicating a Privacy Policy

- a. Friendly, easy to understand language, clearly explain how the information tracking and capturing technology you employ works. Even your privacy policy is the voice of the brand.
- b. The privacy policy must state clearly:
  - I. What information is being collected and all of the methods of how this information is collected. For example, via a registration process, via a purchase, entry in a sweepstakes/contest or a feedback form or click stream information.
  - II. The full details and contacts details of the organisation collecting the information and whom to contact within the organisation with privacy related questions or concerns.
  - III. How the information is used or may be used in the future
  - IV. With whom the information may be shared. And whether there is a law requiring that the information be collected. For example, third-party distribution. In the event information is being disclosed to third parties, the policy should make reference to what information is disclosed, why this disclosure takes place, and the relationship of the organisation to the third party.
  - V. What choices are available to the consumer regarding identification, collection, use and distribution of the information and how to exercise these choices. And what consequences, if any, of an individual's refusal to provide information.
  - VI. How consumers can access the personally identifiable information they have actively given to you and how they can correct any inaccuracies or withdraw permission to use the information all together.
  - VII. How consumers will be informed of any future changes in the privacy policy.
  - VIII. The kind of security procedures that are in place to protect the loss, misuse or alteration of information and what steps the organisation takes to ensure data quality and access.
  - IX. A statement of the organisation's commitment to data security.



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X. What accountability mechanisms the organisation uses. For example, measures such as internal or external reviews, or privacy audits that the organisation takes to assure compliance with their privacy policy.

XI. All sites using a third party ad server provide information regarding the privacy policy and practices of that third party ad server. This should be done via a link to the ad server company's privacy policy.

c. Communicating your privacy policy.

Post privacy policies prior to the collection of personal identifiable information, as well as ensuring policies are provided to users at the time of collection of such information.

d. A prominent link on your home page or main ad and on any form, page or device that collects personal identifiable information. This link clicks through to the detailed privacy policy.

e. In addition, a link to the Privacy Statement should be referenced as a link in the web site footer throughout the web site.

f. An organisation must provide notification of when their privacy policy was last amended by posting an "as of" date at the top of the policy to reflect the last time it was changed.

### **2. Giving Users Choice and Consent Over How their Information is Used and Shared**

a. Use opt-out for personally identifiable information to be used for marketing purposes within the 'environment' in which it is captured ie. the web site, iTV ad, the WAP mobile phone/PDA

b. Use opt-in for personally identified information to be used for marketing purposes beyond the 'marketing environment' in which it was captured ie. information captured on a web site and then used in an email or to a WAP mobile phone/PDA or to a third party requires opt-in.

c. Use opt-out for click stream data to be linked to personally identifiable information that has been captured and will be used within the same 'marketing environment'.

Cookies and Log Files

d. The organisation's privacy policy should make reference to the use of technologies such as cookies and log files, and explicitly state what this technology is, what information it collects and how this information is used by the organisation. The policy should also provide site users with guidance on how they can opt-out of the use of this technology.

e. Users should be made aware they can opt-out of a site linking click stream data with an individual's personally identifiable information. The organisation should take steps to educate site visitors about how and why they can opt-out.

### **3. Giving Users Access to their Personally Identifiable Information**

a. Organisations should take responsible steps to provide users with the appropriate processes or mechanisms to access personally identifiable information they have provided to the organisation in order to correct inaccuracies in material information, such as account or contact information. In addition, these processes and mechanisms should be simple and easy to use, and provide assurance that inaccuracies have been corrected. These processes should be documented in the privacy policy.

b. Organisations must not adopt commonwealth assigned identifiers.



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## 4. Putting Data Security and Quality, and Access Measures in Place

- a. An organisation must take reasonable steps to put data security and quality, and access measures in place to safeguard, update, and correct personally identifiable information.
- b. An organisation must take reasonable steps to destroy or permanently de-identify personal information if it is no longer needed for any purpose.

## 5. Responsible Use of Marketing Communications via Email and Other Personal Messaging Devices

- a. Responsible use of marketing communications via email and other personal messaging devices ie. Mobile phones, pagers, PDAs involves:
  - I. Only use opt-in 'lists'
  - II. Provide the opportunity to easily opt-out in every communication
  - III. Either full company details and contact information or a link to these details
  - IV. Marketing communications should be identified in a way that allows recipients to readily recognise them as marketing messages/solicitations

## 6. Trans-border Data Flows

- a. Any organisation involved in the flow of personally identifiable information should attempt to ensure that the recipient country has privacy laws similar to the Australian National Privacy Principles.
- b. Any organisation involved in the flow of personally identifiable information (PII. with European-based countries should attempt to ensure they are in compliance with the European Union's privacy laws. See [www.cdt.org/privacy/eudirective](http://www.cdt.org/privacy/eudirective) for details.
- c. Any organisation that provides personally identifiable information to third parties must verify that the third party is governed by the European Directive.

## 7. Responsible Interactive Marketing to Children

We recommend that advertisers ensure that children obtain their parents' permission before they give any information about themselves or their family while on-line. This information includes personally identifiable data, ie address, phone number, parents' jobs and working hours, credit card details.

- a. For children under 14 years of age
  - I. Where the personal information collected would enable someone to contact a child offline, the advertiser obtain prior parental consent, regardless of the intended use of the information.
  - II. Where the personal information is publicly posted or disclosed to third parties,



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the advertiser obtain prior parental consent.

III. Where collection of an email address is necessary for a child's participation at a site, such as to notify contest winners, the advertiser must provide notice to parents and an opportunity to remove the email address from the site's database.

b. For children above 14 years of age

I. Web sites provide parents with notice of the collection of such information and an opportunity to remove the information from the site's database.

II. Advertisers obtain permission from the child or parents before releasing information to a third party.

III. Advertisers disclose why this information is being requested. Advertisers indicate what use is being made of the collected information; how it is stored, whether the information is intended to be shared, sold or distributed outside of the collecting advertiser company.

IV. Advertisers disclose if the information required is optional in language children can understand, eg "You don't have to answer to play the game".

V. Email addresses are solicited on secure sites only. Recipients are given the opportunity to discontinue mailing by return email. If a secure site is not yet available, advertiser to make reasonable effort, in light of the latest available technology, to ensure that parental permission is obtained.

VI. Advertisers who communicate with children through email remind and encourage parents to check and monitor their children's use of email and other on-line activities regularly.

VII. If a site offers the opportunity to order or purchase a product or service, either through a 'click here to order button' or other on-screen means, the ordering instructions to clearly and prominently state that a child must have a parent's permission to order. XI. Advertisers install a clear mechanism allowing the child or parent to cancel the order.

VIII. Advertisers give recipients the opportunity to discontinue mailings by return email.

### Definitions

**Opt-in** requires a consumer to actively provide consent for a particular action to occur. For example, "tick here to receive our monthly e-newsletter". Note: pre-ticked boxes are not opt-in.

**Opt-out** requires a consumer to actively request that a particular action not occur. For example, "tick here if you do not want this web site to use data collected from your surfing habits on this site to be used to provide a more personal web site experience". Marketing Environment is the place where the information capture (overt or covert, took place, for example, a specific web site, a mobile phone, an interactive TV ad or kiosk etc. Actively provided information is information a users has overtly provided to a company by filling in shopping form, voting in a poll, enrolling as a member, entering a contest etc.



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## Other

a. These guidelines are not intended to apply to proprietary, publicly available or public record information, nor to supersede obligations imposed by statute, regulation or legal process.

b. Complaints should be directed to the Federal Privacy Commissioner:

GPO Box 5218  
Sydney NSW 2001

Privacy Hotline 1300 363 992  
[privacy@privacy.gov.au](mailto:privacy@privacy.gov.au)

Please also refer to the National Privacy Principles:  
[www.privacy.gov.au/publications/npps01.html](http://www.privacy.gov.au/publications/npps01.html)

## The ABAC Scheme: ALCOHOL BEVERAGES ADVERTISING (AND PACKAGING) CODE

### Preamble

Brewers Association of Australia and New Zealand Inc, the Distilled Spirits Industry Council of Australia Inc and the Winemakers Federation of Australia are committed to the goal that all advertisements for alcohol beverages produced for publication or broadcast in Australia other than point of sale material produced by alcohol beverage retailers, comply with the spirit and intent of this Code.

The Code is designed to ensure that alcohol advertising will be conducted in a manner which neither conflicts with nor detracts from the need for responsibility and moderation in liquor merchandising and consumption, and which does not encourage consumption by underage persons.

The conformity of an advertisement with this Code is to be assessed in terms of its probable impact upon a reasonable person within the class of persons to whom the advertisement is directed and other persons to whom the advertisement may be communicated, and taking its content as a whole.

### Definitions

For the purpose of this Code –

**adult** means a person who is at least 18 years of age;

**alcohol beverage** includes any particular brand of alcohol beverage;

**adolescent** means a person aged 14-17 years inclusive;

**Australian Alcohol Guidelines** means the electronic document ‘Australian Guidelines to Reduce Health Risks from Drinking Alcohol (1-2)’ published by the National Health & Medical Research Council (“NHMRC”) as at 1<sup>st</sup> January 2010.

**child** means a person under 14 years of age; and

**low alcohol beverage** means an alcohol beverage which contains less than 3.8% alcohol/volume.

### Standards to be applied

#### Part 1 – Standards to be applied to advertisements for alcohol beverages

#### Advertisements for alcohol beverages must –

- a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly –
  - i) must not encourage excessive consumption or abuse of alcohol;

- ii) must not encourage under-age drinking;
  - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;
  - iv) must only depict the responsible and moderate consumption of alcohol beverages;
- b) not have a strong or evident appeal to children or adolescents and, accordingly –
- i) adults appearing in advertisements must be over 25 years of age and be clearly depicted as adults;
  - ii) children and adolescents may only appear in advertisements in natural situations (eg family barbecue, licensed family restaurant) and where there is no implication that the depicted children and adolescents will consume or serve alcohol beverages; and
  - iii) adults under the age of 25 years may only appear as part of a natural crowd or background scene;
- c) 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) 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;
  - ii) 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; and
  - iii) must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or is a necessary aid to relaxation;
- d) 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) 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; and
  - ii) any claim concerning safe consumption of low alcohol beverages must be demonstrably accurate;
- e) 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; and
- f) comply with the Advertiser Code of Ethics adopted by the Australian Association of National Advertisers.
- g) not encourage consumption that is in excess of, or inconsistent with the Australian Alcohol Guidelines issued by the NHMRC.
- h) not refer to The ABAC Scheme, in whole or in part, in a manner which may bring the scheme into disrepute.

### **Internet Advertisements**

The required standard for advertisements outlined in (1)(a) to (h) above applies to internet sites primarily intended for advertising developed by or for producers or importers of alcohol products available in Australia or that are reasonably expected to be made available in Australia, and to banner advertising of such products on third party sites.

### **Retail Advertisements**

Advertisements which contain the name of a retailer or retailers offering alcohol beverages for sale, contain information about the price or prices at which those beverages are offered for sale, and which contain no other material relating to or concerning the attributes or virtues of alcohol beverages except –

- i) the brand name or names of alcohol beverages offered for sale;
- ii) the type and/or style of the alcohol beverages offered for sale;
- iii) a photographic or other reproduction of any container or containers (or part thereof, including any label) in which the alcohol beverages offered for sale are packaged;
- iv) the location and/or times at which the alcohol beverages are offered for sale; and
- v) such other matter as is reasonably necessary to enable potential purchasers to identify the retailer or retailers on whose behalf the advertisement is published,

must comply with the spirit and intent of the Code but are not subject to any process of prior clearance.

### **Promotion of alcohol at events**

Alcohol beverage companies play a valuable role in supporting many community events and activities. It is acknowledged that they have the right to promote their products at events together with the right to promote their association with events and event participation. However, combined with these rights comes a range of responsibilities. Alcohol beverage companies do not seek to promote their products at events which are designed to clearly target people under the legal drinking age.

This protocol commits participating alcohol beverage companies to endeavour to ensure that:

- All promotional advertising in support of events does not clearly target underage persons and as such is consistent with the ABAC standard; and
- Alcohol beverages served at such events are served in keeping with guidelines, and where applicable legal requirements, for responsible serving of alcohol (which preclude the serving of alcohol to underage persons); and
- Promotional staff at events do not promote consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines; and
- Promotional staff do not misstate the nature or alcohol content of a product; and
- Promotional staff at events are of legal drinking age; and



- Promotional materials distributed at events do not clearly target underage persons; and
- Promotional materials given away at or in association with events do not connect the consumption of alcohol with the achievement of sexual success; and
- Promotional materials given away at or in association with events do not link the consumption of alcohol with sporting, financial, professional or personal success; and
- Promotional materials given away at events do not encourage consumption patterns that are inconsistent with responsible consumption, as defined in the NHMRC Guidelines; and
- A condition of entry into giveaways promoted by alcohol companies at or in association with events is that participants must be over the legal drinking age; and Prizes given away in promotions associated with alcohol beverage companies will only be awarded to winners who are over the legal drinking age.

### *Third Parties*

At many events alcohol companies limit their promotional commitments to specified activities. This protocol only applies to such conduct, activities or materials associated with events that are also associated with alcohol beverage companies.

Alcohol beverage companies will use every reasonable endeavour to ensure that where other parties control and/or undertake events, including activities surrounding those events, they comply with this protocol. However non-compliance by third parties will not place alcohol beverage companies in breach of this protocol.

### *Public Education*

This protocol does not apply to or seek to restrict alcohol beverage companies from being associated with conduct, activity or materials that educate the public, including underage persons, about the consequences of alcohol consumption and the possible consequences of excessive or underage consumption.

## Part 2 – Standards to be applied to the naming and packaging of alcohol beverages

1. The naming or packaging of alcohol beverages (which is also referred to within these standards as “product material”) must:

- a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly –
  - i) must not encourage excessive consumption or abuse of alcohol;
  - ii) must not encourage under-age drinking;
  - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;
  - iv) must only depict the responsible and moderate consumption of alcohol beverages;
- b) not have a strong or evident appeal to children or adolescents and, accordingly –
  - i) adults appearing in product material must be over 25 years of age and be clearly depicted as adults;

- ii) children and adolescents may only appear in product material 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; and
  - iii) adults under the age of 25 years may only appear as part of a natural crowd or background scene;
- c) 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) 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;
  - ii) 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; and
  - iii) must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or is a necessary aid to relaxation;
- d) 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) 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; and
  - ii) any claim concerning safe consumption of low alcohol beverages must be demonstrably accurate;
- e) 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; and
- f) not encourage consumption that is in excess of, or inconsistent with the Australian Alcohol Guidelines issued by the NHMRC.
- g) not refer to The ABAC Scheme, in whole or in part, in a manner which may bring the scheme into disrepute.

2. These standards, (Part 2 (1) (a)-(g)), apply to the naming and packaging of all alcohol beverages supplied in Australia, with the exception of the name of any product or a trademark which the supplier can demonstrate, to the satisfaction of the Adjudication Panel, had been supplied for bona fide retail sale in the ordinary course of business in a State or Territory of Australia prior to 31 October 2009.