

ABAC

**ABAC Complaints Panel
Determination No: 4/11**

**Confidential COMPLAINT
Product: Bacardi
Advertiser: Bacardi-Lion**

Jeanne Strachan – Acting Chief Adjudicator
Professor Fran Baum – Member
Debra Richards – Member

25 January 2011

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for Bacardi-Lion (“the Advertiser”) and arises from a complaint received on 5 January 2011.

The Quasi-Regulatory System

2. Alcohol advertising in Australia is subject to an amalgam of laws and codes of practice which regulates and guides the content and, to some extent, the placement of advertisements. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol advertising as quasi-regulation. The most important provisions applying to alcohol advertising are found in:
 - (a) a generic code (the AANA Advertiser Code of Ethics) with a corresponding public complaint mechanism operated by the Advertising Standards Bureau (ASB);
 - (b) an alcohol specific code (the Alcohol Beverages Advertising Code) and complaints mechanism established under the ABAC Scheme;
 - (c) certain broadcast codes, notably the Commercial Television Industry Code of Practice (CTICP) which restricts when direct advertisements for alcoholic drinks may be broadcast; and
 - (d) The Outdoor Media Association Code of Ethics which includes provisions about Billboard advertising.
3. The ASB and the Panel both assess complaints separately under their own rules. However, for the ease of public access to the complaints system, the ASB receives all complaints about alcohol beverage advertisements and forwards a copy of all complaints to the Chief Adjudicator of the ABAC.

4. The Chief Adjudicator of the ABAC then determines if the complaint raises issues which are solely within the province of the AANA Code of Ethics. If not, then the complaint will be forwarded to the ABAC Adjudication Panel for consideration. If only AANA Code issues are raised, then the matter is determined by the ASB.
5. This complaint raises concerns under the ABAC and accordingly is within the Panel's jurisdiction.

The Complaint Timeline

6. The complaint was received on 5 January 2011.
7. 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 has been determined within the 30 day timeframe.

Pre-vetting Clearance

8. The quasi-regulatory system for alcohol beverages advertising features independent examination of most proposed advertisements against the ABAC prior to publication or broadcast. Pre-vetting approval was obtained for this advertisement [10426].

The Advertisement

9. The complaint refers to a television advertisement for Bacardi Rum. The ad opens with the image of a bottle labelled Bacardi Superior being placed down onto a surface covered in water causing the water to splash up around it. The bottle of Bacardi then disappears and the water continues to splash up in time with a bass beat. The liquid then transforms into the shape of a man and on clapping his hands together the beat develops into a full-blown dance track. The virtual figure begins to move and is joined by another reddish brown coloured liquid figure in the shape of a woman. They dance energetically opposite each other as liquid splashes between and around them before fusing and forming into a glass of Bacardi and cola. That then changes to Bacardi and cranberry and then to Bacardi and lime. The ad closes with the voiceover "Bacardi made to mix" accompanied by a picture of a bottle of Bacardi Superior accompanied by the text "made to mix" in white lettering. On-screen text at the foot of the ad states "Enjoy BACARDI Responsibly BACARDI and the Bat Device are registered trademarks of Bacardi & Company Limited. 'MADE TO MIX' is a trademark of Bacardi & Company Limited".

The Complaint

10. The complainant argued that the ads fine print about drinking responsibly is completely illegible at the resolution that the ad played.

The Code

11. The ABAC provides that advertisements for alcohol beverages must-
 - (a) present a mature, balanced and responsible approach to the consumption of alcohol beverages ..

The Advertiser's Comments

12. The Advertiser responded to the complaint and questions posed by the Panel by way of letter received 18 January 2011. The principal points made by the advertiser are as follows:
 - (a) This television advertisement is no longer live and is not scheduled to screen again on television or online mediums.
 - (b) The online version of this ad was produced to the specs provided by the media company for FixPlay TV (800 x 450 at 16:9) and was legible at this size, however FixPlay TV do advise that the video may be scaled to fit the publishers format. It appears that the version viewed by the complainant was scaled down by the media company for a publisher making the font unsatisfactory.
 - (c) All future TV ads for FixPlay will be produced to meet the smallest publisher's requirements thereby ensuring legibility.

The Panel's View

13. The complainant's concern is that the Drink Responsibly message on the advertisement is illegible.
14. The Advertiser advises that the illegibility of the text was due to the ad being scaled down by the media company for a particular publisher and future ads for FixPlay TV will be produced to meet the smallest publisher's requirements.
15. Distilled Spirits Industry Council of Australia Inc ("DSICA") have advised that there is nothing mandating the use of Drink Responsibly messages in advertising, however their Statement of Responsible Practices does have a requirement that all paid media advertising should contain a responsibility message in a manner and location that a reasonable person would be aware of its presence. DSICA members voluntarily pledge to conduct their advertising in accordance with this Statement.
16. The ABAC contains no positive obligation to include a "drink responsibly" style of message and there is nothing in the substance of the ad which can be taken to be encouraging the irresponsible use of alcohol. Not incorporating a "drink responsibly" message is not of itself a breach of the ABAC, nor would the inclusion of such a message excuse an ad from otherwise breaching the ABAC if the content of the ad failed to meet a code standard. The Panel notes that the Advertiser has advised they will ensure that future ads display the Drink

Responsibly message legibly and although this is not a requirement of the ABAC it accords with DSICA's Statement of Responsible Practices.

17. Accordingly the complaint is dismissed. The Panel notes the complainants concern about the failure to include a legible Drink Responsibly message and refers the question of whether this should be mandated to the ABAC Management Committee.