

ABAC

**ABAC Complaints Panel
Determination No: 66-7/11**

**Confidential Complainant
Product: Old Coast Road Brewery
Advertiser: Old Coast Road Brewery**

Professor The Hon Michael Lavarch – Chief Adjudicator
Jeanne Strachan – Member
Professor Richard Mattick – Member

17 August 2011

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a print advertisement for Old Coast Road Brewery (“the Advertiser”) and arises from two complaints received 8 and 9 August 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 and Alcohol Guidelines which includes provisions about Billboard advertising.
3. The complaint systems operated under the ABAC scheme and the ASB are separate but inter-related in some respects. Firstly, for ease of public access, the ASB provides a common entry point for alcohol advertising complaints. Upon

receipt, the ASB forwards a copy of the complaint to the Chief Adjudicator of the ABAC Panel.

4. The Chief Adjudicator and the ASB independently assess the complaint as to whether the complaint raises issues under the ABAC, AANA Code of Ethics or both Codes. If the Chief Adjudicator decides that the complaint raises solely issues under the Code of Ethics, then it is not dealt with by the ABAC Panel. If the complaint raises issues under the ABAC, it will be dealt with by the ABAC Panel. If the complaint raises issues under both the ABAC and the Code of Ethics, then the ABAC Panel will deal with the complaint in relation to the ABAC issues, while the ASB will deal with the Code of Ethics issues.
5. The complaints raise concerns under the ABAC and accordingly are within the Panel's jurisdiction.

The Complaint Timeline

6. The complaints were received by ABAC on 8 and 9 August 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. This complaint was decided within the 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. The Advertiser is not a signatory to the ABAC and pre-vetting approval was not obtained for this advertisement.

The Advertisement

9. The complaints refer to a print advertisement for Old Coast Road Brewery.
10. The advertisement features a large glass of Pilsener beer next to the text "Take the kids out this weekend to the best family venue in Australia. Old Coast Road Brewery www.ocrb.com.au 1300 792 106".

The Complaint

11. The first complainant argues that the advertisement makes a clear and unhealthy association between kids and alcohol. The second complainant argues that kids and alcohol should not be aligned in advertising the product.

The Code

12. The ABAC provides at Section (a) that 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 underage drinking;
13. The ABAC provides at Section (b) that advertisements for alcohol beverages must:
- b) not have a strong or evident appeal to children or adolescents ...

The Advertiser's Comments

14. The Advertiser responded to the first complaint and questions posed by the Panel by email received 10 August 2011. The points made by the Advertiser in relation to the advertisement were:
- a. I direct the panel to view our website at www.ocrb.com.au to see the style of venue that we are. We are situated in a rural region on a 60 acre property. We have built our business around families and retired persons and in accordance with this, we largely only attract patrons from those demographics. This is fairly unique and has been quite successful for us. Children are encouraged to partake in outdoor activities in two ways.
 - by making use our climbing oriented playground, specifically designed by the manufacturer to build confidence and strengthen musculature.
 - by the provision of various sporting items like soccerballs, footballs and goals, cricket equipment, frisbees, bocce kits, totem tennis to name a few. We have a large grassed recreation area as big as a council oval and you will almost always find mums and dads kicking a football or playing cricket etc... with their children.
 - b. Having been trading for 3 and a half years on this basis, we are well known as this style of venue. The advertisement does not show a location, thereby directing people to our website. Any potential patrons will no doubt view this and quickly ascertain the style of venue that we are.
 - c. We are not open for evening trade except for privately booked functions. We therefore do not attract those inclined to uncouth behaviour as can sometimes be seen in licensed venues trading into the night. Typically patrons will have lunch and a beer or two, followed by some time on the lawn with their kids, then coffee and desert before departing.
 - d. The Pilsner glass image has a classy look connoting enjoyment of the product as a specialist botuique one, based on taste, and in moderation. Quality not quantity is a motto encouraged by most small breweries. The high end price of our product reinforces this image.
 - e. Responsible Service of Alcohol promotional posters and leaflets as provided by our State Government are on clear display.
 - f. I believe both the advertisement AND our venue in general are far more responsible than most of the commercial beer advertisements on television and billboards depicting usually men, drinking beer in a fashion that excludes their families. Even going so far in one television ad that I recall of suggesting that

beer drinking with a 'mate' can be a method of 'sneaking away from the missus', or avoiding changing a dirty baby's nappy! This reinforces male stereotypical behaviour in my view. I'd much rather my two children see me enjoying a beer over Sunday lunch and then kicking the football with them on the lawn, than seeing me at a BBQ with females in one group and all the males in another exercising their elbows in time long tradition. I can assure you that in this part of rural Australia, this is a regular pastime and one which I abhor.

The Panel's View

15. This complaint raises both substantive and procedural issues.

The Procedural Aspects

16. The ABAC is a quasi-regulatory system which has at its heart the commitment of advertisers to comply with the standards contained within the ABAC and abide by the pre-vetting and complaints processes which make up the ABAC Scheme. This commitment is embodied through the sponsorship of the ABAC Scheme by three (3) peak alcohol industry bodies, namely the:
 - Brewers Association of Australia & New Zealand
 - Distilled Spirits Industry Council of Australia
 - Winemakers Federation of Australia.
17. While the individual companies which are members of the sponsoring industry bodies cover the vast majority of alcohol beverage advertisers in Australia, there are alcohol producers and advertisers who are not member of the relevant industry bodies or are not signatories to the ABAC Scheme. The advertiser in this particular case is not an ABAC signatory. This means that the advertising was not subject to pre-vetting prior to its publication and the advertiser is not contractually bound to follow a panel decision. That said, the advertiser has cooperated with the Panel in enabling the determination to be made.

The Substantive Aspects

18. The essence of the two complainants is that the ad creates a direct association between alcohol and children. The ABAC provides that ads are not to encourage underage drinking or have a strong or evident appeal to children.
19. The Panel has dealt with a number of complaints over time that have raised the appeal of alcohol ads to children and adolescents. Almost universally these determinations have had to assess the appeal of the ad to children in the context of whether children will find the ad attractive in some manner and that alcohol use is promoted as a desirable activity for children. The current case is somewhat different in that the ad is clearly directed at the parents of children with a message of taking the children (hence the family) to the Old Coast Road Brewery as a family venue.

20. The Advertiser argues that it has developed a particular style of venue that is built around the patronage of families and retired persons. It's venue features a playground and other children friendly activities. It is argued that the venue is operated in a way which does not facilitate anti-social behaviour related to the misuse of alcohol.
21. In the end, the Panel is called on not to assess the appropriateness of the advertiser's business but to only assess if the ad is consistent with ABAC standards. The Code is careful in section (b) to limit the depictions of children and persons under the age of 25 in alcohol ads. In this case, the ad does not show children but states that the brewery venue is a good place for families with children to visit. The ad itself is not considered to have features that can be fairly said to encourage children to drink alcohol.
22. The Code envisages in subsection (b)(ii) that children might be present at a venue, such as a family restaurant, where alcohol might be served. What is not permitted is the suggestion that alcohol will be consumed by children. The Panel does not believe the ad breaches the ABAC standards in sections (a)(ii) and (b).
23. Accordingly the complaint is dismissed.