

ABAC

**ABAC Complaints Panel
Determination No: 50/05**

IN THE COMPLAINT OF MR CHRISTOPHER COWDREY

**Product: Cascade Beer (Tasmanian Drought)
Advertiser: Cascade Brewery Co/Fosters Group**

Professor The Hon Michael Lavarch – Chief Adjudicator
Professor Fran Baum – Member
Ms Liz Dangar – Member
Ms Jeanne Strachan – Member

13 January 2006

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns the television advertisement for the alcohol beverage ‘Cascade Beer’ by Cascade Brewery Co/Fosters Group (“The Advertiser”) and arises from a complaint received from Mr Christopher Cowdrey (“The Complainant”).

The External 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. Currently, alcohol advertising is subject to both:
 - (a) a generic code (the AANA Advertiser Code of Ethics) with a corresponding public complaint mechanism operated by the Advertising Standards Bureau (ASB); and
 - (b) an alcohol specific code (the Alcohol Beverages Advertising Code) and complaints mechanism established under the ABAC Scheme.
3. The ASB and the ABAC 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. The complaint specifically raises concerns under the ABAC and accordingly is within the Panel’s jurisdiction.

The Complaint Timeline

6. The complaint is in the form of an email from Mr Christopher Cowdrey dated 22 November 2005 and was received by the ABAC Adjudication Panel on 24 November 2005.
7. The Panel endeavours to determine complaints within 30 days of receipt of the complaint, but this timeline depends on timely receipt of materials and advice and the availability of Panel members to convene and decide the issue. In this case, the determination has not been made within 30 days of receipt of the complaint by the Panel as a result in part of the Christmas / New Year holiday period.

Pre-vetting Clearance

8. The external-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 granted to the advertisement (No JB35/05CAS – 07/09/05).

The Advertisement

9. The complaint is about a television advertisement for the Advertiser's alcohol beverage "Cascade Beer". The advertisement reflects the form and manner of a short documentary report, and is produced in the style of early black and white documentaries.
10. The advertisement opens with a scene of a heritage building and the slogan "The Cascade Way" appears. The advertisement cuts to scenes of local community members gathering as a crowd around a local town well, watching to see if water might flow from the pump. The 'voice-over' introduces the advertisement, describing the scene as being set during the Tasmanian drought of 1842. The 'voice-over' then refers to a concern about the brewery running dry, as the scene of dust pouring from a jug appears. The advertisement cuts to a scene of a character posing before a heritage building, which is apparently Peter Degraives, the brewery's founder, standing in front of the 'brewery'. The 'voice-over' goes on to report that the brewery's founder conceived of the idea to divert the town's pure river water to supply the brewery. Various scenes show the founder speaking before a crowd and building works being undertaken to re-direct the river water.
11. The advertisement cuts to various scenes of individual townspeople who are engaged in various personal hygiene, farm and household chore activities. Instead of using water for these activities, the characters appear to be using Cascade beer. Numerous beer bottles are depicted in the scenes. The 'voice-over' reports that although the townspeople had no water for bathing, cleaning or drinking, the townspeople celebrated because Cascade had had a bumper yield of beer for the year. A 'silent picture' styled caption appears on the screen with the words "You smell like a brewery", to explain the depiction of a man, attempting to embrace a woman, presumably his partner, who is pushed away by the woman.
12. The 'voice-over' proclaims thanks to the brewery founder, stating that "You knew what was important to the people – beer, that's the Cascade way!" The advertisement displays various scenes in which the townspeople are seen to

be celebrating and congratulating the brewery founder character. The advertisement concludes with a still shot of the Cascade Beer products and the slogan "Taste the Cascade Way".

The Complaint

13. The complainant argues that the advertisement depicts the brewery founder as a hero for diverting the town water to the production of beer and using the alcohol beverage to replace a household staple (water). The complainant specifically argues that the advertisement implies that beer is more important than water for daily living and does not promote mature or responsible consumption of alcohol.

The Code

14. 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:
 - (iv) must only depict the responsible and moderate consumption of alcohol beverages.
15. The ABAC also provides at Section (c) that advertisements for alcohol beverages must:
 - (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 the 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 as a cause of or contributed to success or achievement.

Arguments in Favour of the Complaint

16. In favour of the complaint, it can be argued that the advertisement is irresponsible by contending that alcohol is more important than water and that beer is an acceptable substitute for water for household uses.

The Advertiser's Comments

17. The Advertiser responded to the complaints and questions posed by the Panel by way of email letter dated 15 December 2005. Key points made by the Advertiser were:
 - a. The advertisement is slapstick in style and representative of old comedies (eg. Charlie Chaplin) whereby the main character would be seen doing outlandish things in the name of humour.

- b. The tone and delivery of the voice-over is intended as jovial and playful as further evidence of the entertainment value of the advertisement.
- c. The story-line is based on a true story – Peter Degraives the founder of the Cascade Brewery Co., applied to the Hobart Council to divert the town’s water supply through the brewery.
- d. The advertisement is not intended to be viewed as a literal interpretation of events nor is it intended to trivialize the importance of water. If viewed as it was intended, the advertisement is clearly a comedic portrayal of the life, the ingenuity and larrikin attitudes of early Tasmanian settlers and in particular the founder of the Cascade Brewery Co., Mr Peter Degraives.
- e. The last frame of the advertisement also clearly displays the industry accepted “Enjoy Responsibility” logo – this reinforces the advertiser’s intention to present a humorous and entertaining advertisement while promoting responsible alcohol consumption.

The Panel’s View

- 18. The preamble to the ABAC states that the conformity of an advertisement with the ABAC is to be “assessed in terms of its probable impact upon a reasonable person....” taking the advertisement’s content as a whole. The essential issue raised by the complaint, and the nature of the advertisement, turns on whether a reasonable viewer would take the advertisement literally or humorously.
- 19. Mr Cowdrey contends that the advertisement elevates the importance of alcohol beyond that of water and in doing so sends an irresponsible and immature message about alcohol consumption. The advertiser responds by saying the advertisement would not be taken literally by a reasonable viewer but rather would be interpreted as a comical depiction of an exaggerated and fully fictitious scenario.
- 20. The Panel is often called upon to adjudicate complaints which go to advertisements which are humorous, or at least purported to be humorous, by advertisers. In previous determinations the Panel has noted that humour within an advertisement will not, of itself, save an advertisement which, taken as a whole, is in breach of the ABAC. Humour is however a relevant factor which influences how a reasonable person would take an advertisement.
- 21. In the final analysis, the Panel must make a value judgment based on the arguments presented to it by the complainant and the advertiser and the Panel’s own interpretation of the advertisement against the standards set down in the ABAC. This can often be a fine line upon which two people might come to a different conclusion. For instance, an advertisement can be “sexy” but if it suggests alcohol contributes to the achievement of sexual success, it will be inconsistent with the ABAC. The line between the two is not always straightforward.
- 22. In this case the Panel does not believe the ABAC has been breached by the advertisement. The advertisement is fictitious and the scenes used, such as bathing in beer while wearing long underclothes, are clearly exaggerated and

would not be taken as portraying actual behaviour. Taken as a whole, the advertisement is light-hearted and does not offend the standards laid out in the ABAC.

23. Accordingly, the complaint is dismissed.