

ABAC

ABAC COMPLAINTS PANEL – DETERMINATION NO: 04/17 ST AGNES BRANDY

IN THE COMPLAINT OF SANDRA JONES, HEALTH & PRODUCTIVITY CENTRE, UNIVERSITY OF WOLLONGONG

Product: St Agnes Brandy
Advertiser: Angove's Pty Ltd

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

14 January 2005

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) complaints panel (“The Panel”) concerns the magazine advertisement for St Agnes Brandy by Angove’s Pty Ltd (“The Advertiser”) and arises from a complaint received from Associate Professor Susan Jones, of the Health & Productivity Centre, University of Wollongong (“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 Complaints Panel for consideration. If only AANA Code issues are raised, then the matter is determined by the ASB.
5. Associate Professor Jones’ complaint specifically raises a concern under the ABAC and accordingly is within the Panel’s jurisdiction.

The Complaint Timeline

6. The complaint is in the form of a letter from Associate Professor Susan Jones, of the Health & Productivity Centre, University of Wollongong dated 3 December 2004, received by the ABAC Complaints Panel on 20 December 2004.
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. With allowance for the Christmas and New Year public holidays, the complaint will be determined close to the 30 day goal.

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. The pre-vetting process however does not cover print advertisements from members of the Winemakers Federation of Australia.
9. The Alcohol beverage featured in the advertisement is St Agnes Brandy. The producer, Angove's Pty Ltd, is however a member of the Winemakers Federation and was not required to seek pre-vetting clearance for the print advertisement complained about by Associate Professor Jones.

The Advertisement

10. The magazine advertisement that is the subject of complaint by Assoc Prof Jones appeared in WHO Magazine on 15 November, 2004.
11. The advertisement features an upper body photograph of a man and woman, perhaps aged in their mid to late twenties, looking intensely at each other. The man positioned to the left, is wearing in a white shirt and dark tie that is loosened from his neck. He is looking into the eyes of the woman and has a slight smile. He has his back up against a wall with a plaque with a room number on it. This appears to place the couple in a hotel corridor or possibly an apartment corridor.
12. The woman is wearing a black cocktail dress, cut wide around the armhole revealing part of her breast. Her hair is dark, long, swept up and back to fall gracefully down her back. She is wearing long earrings and a bracelet. She is holding a glass in her hand, in a position that is between her and the man. Together their body language is suggestive of an intimate discussion, with the woman being the more assertive of the two, as she appears to have positioned the man against the wall.
13. The advertisement carries the line "Interested? Give it your best shot", positioned over the photograph on top of the man's shirt, giving the impression that this question is directed to him.
14. The photograph is framed below by the following text: "The attraction is there alright. You felt it straight away didn't you? How long has it been since you felt such anticipation? Be honest, it's what you want isn't it?", "Well then, why don't you just come right out and ask for it?" The next line is in bold, and refers directly to the product: " St Agnes Brandy. Go on, give it your best shot!"
15. At the bottom right of the advertisement is a photograph of the bottle of Brandy, and the text, "St Agnes Australia's No. 1 Brandy", with the website listing. The bottle of brandy is positioned to intrude into the photograph of the couple, and is placed in the space at the back of the woman.

The Complaint

16. The complainant argues that the advertisement is in breach of Section c) of the Code because
- It suggests that by drinking the product the reader will have greater confidence to go after what they want, and implies that by drinking the product they will have greater sexual/social success.

The Code

17. The ABAC provides at Section c) that advertisements for alcohol beverages must:

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.

Arguments in Favour of the Complaint

18. In favour of the complainant, it could be argued that the advertisement creates an association between the consumption of the alcohol product and sexual success. This association is built by the combination of the intimacy displayed in the photograph with the words such as 'attraction', 'anticipation', and the phrases 'Be honest, it's what you want isn't it', 'ask for it', which create a the sexual overtone to the advertisement.
19. The complainant points to the achievement of sexual success being directly linked to consumption of the product, and this could be argued through the glass held by the woman but suggestively being offered to the man.
20. As a whole, the image and text could suggest a breach of Section c) (i) of the Code, by depicting the consumption or presence of alcohol beverage contributing to the achievement of sexual success.

The Advertiser's Comments

21. The Advertiser replied to the complaint by way of letter dated 10 January 2005, in which it is disputed that the text and imagery implies sexual / social success. Specifically, the advertiser claims that:
- The use of attractive people is designed to attract consumer's attention and that they will remember the product advertised.
 - The man and woman are dressed in cocktail attire, reflecting the social situation in which alcoholic beverages are consumed. As a liquor company, Angove's does not encourage consumption during business hours, hence business attire would be inappropriate.
 - The location of a hotel simply depicts a situation where alcoholic beverages are consumed in a classy, uncluttered manner, instead of a dark bar or nightclub.
 - The phrase 'ask for it' refers directly to the product. The words 'anticipation' and 'attraction' are used because the consumer may not have used the product for some time.
 - The phrase 'Give it your best shot' refers to the market standing of St Agnes Brandy as number one, the best and most highly awarded brandy. The word

'shot' refers to the consumer's favourite mixer or cocktail, not to going out to achieve sexual or social success.

The Panel's View

22. The complaint, like the majority dealt with by the Panel raises the use of sexual imagery in alcohol beverage advertising. As the ABAC does not preclude sexual imagery as such as an advertising device, complaints about Section c) (i) of the Code often raise fine lines of judgement.
23. The Panel has previously described advertisements as falling within a 'green, 'red or 'orange' zone. Advertisements in the green zone are not controversial in terms of the ABAC standards and will not attract credible complaints. Advertisements in a red zone which clearly offend the ABAC will not survive the pre-vetting process and will not be broadcast or published unless appropriately modified.
24. As noted, the advertisement was not subject to the pre-vetting process. This means that the advertiser did not have the benefit of an independent evaluation of the advertisement prior to publication. Such an examination may well have identified that the advertisement was in the orange zone of containing aspects which a reasonable person might conclude breaches the standards in the ABAC.
25. Associate Professor Jones contends that the use of a photograph showing an intimate moment between the couple taking place near a hotel room combined with text having sexual overtones offends the ABAC. The Advertiser argues the couple are in a social setting, but not a bar or night club. The text used is argued to relate to the alcohol product and not to the negotiations of a sexual moment between the couple.
26. On balance, the Panel believes the advertisement breaches the ABAC. In reaching this view the Panel notes
 - The advertisement uses an attractive couple in an apparently intimate discussion in a hotel corridor, while the body language and pose of the couple is not explicitly sexual, it is highly suggestive of an imminent sexual encounter.
 - The text used beneath the photograph gives a obvious sexual meaning to the photograph and mood of the advertisement.
 - The text suggests a change in mood associated with the product through establishing an 'attraction' and urging a person to act on the attraction and 'ask for it'. A reasonable person could relate this to a combination of sexual attraction and attraction to the alcohol product.
 - Combining text and image, the overall meaning of the advertisement is of the consumption and presence of the alcohol beverage as contributing to the achievement of sexual success.
27. Accordingly the complaint is upheld.