

ABAC

**ABAC Complaints Panel
Determination No: 23/10**

**Confidential Complaint
Product: Hahn Premium
Advertiser: Lion Nathan**

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

29 March 2010

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for Hahn Premium by Lion Nathan (“the Advertiser”) and arises from a complaint received 24 February 2010.

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 complaints 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 complaint 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 received on 24 February 2010.
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 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 [BH345/09].

The Advertisement

9. The television advertisement for Hahn Premium commences with a head shot of a man looking down uncomfortably as a voiceover representing the man's thoughts says "Eh come to the pool party. Yeah wear your jeans!". We then see the man from behind standing in front of a swimming pool wearing black jeans and a t-shirt with a number of people swimming and lounging around the pool in swimming clothing. The voiceover continues with a groan. We then see the head shot of the man again as his eyes move from side to side and the voiceover continues "Alright, alright, here we go". We then see a table in front of the man with a see through white pair of shorts and a bright fluorescent multi-coloured pair of swimming briefs as the voiceover continues "Ah the see through or the don't want to be seen in". We again see the man's face as he winces thinking about his choice and the voiceover continues "Which one, hmmm." We then see the man walking defiantly toward the pool as the shot expands to show that he is wearing both bathers as the voiceover continues "Which one? Which one? Try both. Yeah! Whoa! C'mon! Bring it! Nothing to see here". As he allows himself to fall into the pool a different voiceover

announces “Every call you make affects your man brand”. We then see a hand lift a 375ml bottle of Hahn Premium and place a coaster under it as the voiceover continues “Stay Premium Gentleman”.

The Complaint

10. The complainant argues that there are clear allusions in the voiceover and the way the ad is presented to the ads currently on tv to warn kids about the dangers of binge drinking. The first time the complainant heard the ad they thought it was such a public health ad and they consider that it mocks those ads and makes light of their message.

The Code

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

Arguments in favour of the complaint

12. The advertisement breaches section (a) of the ABAC by failing to present a mature balanced and responsible approach to the consumption of alcohol by its use of a similar voiceover and presentation to the “Don’t turn a night out into a nightmare” public health advertisements warning teenagers about the dangers of binge drinking and thereby mocking and making light of those advertisements.

The Advertiser’s Comments

13. The Advertiser responded to the complaints and questions posed by the Panel by letter dated 5 March 2010. The principle points made by the Advertiser are:
 - (a) The complaint is based on the presumption the Hahn Super Dry advertisement alludes to public health advertisements about the dangers of binge drinking in teenagers – specifically the Government’s ‘Don’t turn a night out into a nightmare’ campaign.
 - (b) This is absolutely not the case. The ‘Stay Premium Gentleman’ campaign is centred on the concept that every man has a ‘man brand’, and the decisions he makes in life affect his ‘man brand’ either positively or negatively. As such, in each advertisement we see a man presented with a decision that needs to be made – the line ‘Stay Premium Gentleman’ encourages men to make the right decision for their ‘man brand’.
 - (c) In this particular execution a man is presented with two equally unappealing swimwear options, and must make a choice between the two. The decision will clearly have an impact on his ‘man brand’. The humorous conclusion is that to get around this

problem, the man chooses to wear both swimwear items – thereby ‘Staying Premium’. At no stage of the advertisement is any reference made to a public health advertisement – this is clearly a misunderstanding. Additionally, at no stage of the advertisement is any alcohol present or consumed – the only beverage being consumed in the advertisement is water. Finally, as is the case with all Lion Nathan’s advertisements, all actors are 25+.

- (d) We are confident the advertisement is in line with prevailing community standards. The overwhelmingly positive feedback we have received over the almost four months the commercial has been in market demonstrates it resonates with TV viewers, and has not been misinterpreted in this way more broadly.

The Panel View

- 14. The principal concern of the complaint is that the ad is irresponsible in that it its similarity to the ‘Don’t turn a night out into a nightmare’ public health campaign which warns teenagers about the dangers of binge drinking makes light of and mocks those advertisements and their message. The public health advertisements are located at www.drinkingnightmare.gov.au.
- 15. The Panel reviewed the public health advertisement and the ad which is the subject of the complaint. This only similarity is that in both instances the final voice over message directs viewers to behave in a certain way, that is, not to affect your ‘man brand’ in the Hahn advertisement and not to turn your night into a nightmare in the public health advertisement.
- 16. The preamble to the ABAC provides that in assessing whether an ad is consistent with code standards regard is to be had to the advertisement’s probable impact upon a reasonable person taking the its content as a whole.
- 17. In this case the Panel believes that the two ads in question are not similar and that a reasonable viewer would not associate the two nor believe that the Hahn ad is parody or play on the public health campaign. While this was the association invoked in the Complainant’s mind, an actual comparison does not support the view taken.
- 18. The complaint is dismissed.