

ABAC

ABAC Complaints Panel Determination No: 1-2/13

Confidential Complaints Product: Carlton Dry Advertiser: Carlton United Brewers

Professor The Hon Michael Lavarch – Chief Adjudicator
Professor Richard Mattick – Member
Debra Richards – Member

11 February 2013

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns two billboard advertisements for Carlton Dry by Carlton United Brewers (“the Advertiser”) and arises from complaints received on 2 January 2013.

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 2 January 2013.
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. Pre-vetting approval was obtained for these advertisements (11954).

The Advertisements

9. The complaints refer to two advertisements. The first advertisement was located on a bus stop and the second advertisement was located on a billboard.
10. The first advertisement depicts a man looking at the camera with a neutral expression. He is wearing a white singlet and an open denim shirt and has numerous timber clothes pegs attached to his beard, moustache and ears designed in the shape of a long beard reaching to his waist. The photograph is set against a backdrop of a weatherboard building with paint peeling off the weatherboards and there is a line behind the man and in front of the building with several green pegs attached to it.
11. The second advertisement depicts a bearded man looking at the camera with a neutral expression, wearing sunglasses and a snorkel made of toilet rolls. He is shown buried in blue cleaning cloths up to his neck, as if he was swimming in the cloths.

12. On both advertisements at the bottom of the image is the tagline “Hello Beer” and an unopened stubby bottle of Carlton Dry is superimposed. An 18+ logo is superimposed on the top right hand corner of the image.

The Complaint

12. The complainant is concerned that the advertisements are encouraging excessive consumption or abuse of alcohol by depicting alcohol fuelled feats of idiocy, namely behaviour that a person would need to be drunk to do (make a beard of clothes pegs or bury a mate in cleaning cloths).

The Code

13. 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 excessive consumption or abuse of alcohol;
 - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages.
 - g) not encourage consumption that is in excess of, or inconsistent with the Australian Alcohol Guidelines issued by the NHMRC.

The Advertiser’s Comments

14. The Advertiser responded to the complaint and questions posed by the Panel by letter received 21 January 2013. The points made by the Advertiser in relation to the advertisement were:
- a. This outdoor campaign features billboards in Melbourne, Sydney, Brisbane, Perth and Adelaide in both metropolitan and regional areas. The billboards have been rolled out progressively since December 2012. “Chux” shows a man wearing a handmade snorkel covered in chux up to his chin against a white background. There is a Carlton Dry bottle shot and the current campaign tagline “Hello Beer”. There is also an alcohol responsibility message that states “For people over the age of 18 only” with an 18 plus symbol. “Peg beard” shows a man with a long beard made out of wooden pegs and also includes the same elements (bottle image etc.) listed for “Chux”. Both billboards feature talent that are aged 25 or over. The billboards were designed to be attention grabbing, quirky and appeal to the target market’s sense of humour (young adult males). Whilst we respect the complainant’s viewpoint we don’t believe either outdoor billboard shows alcohol fuelled behaviour or ‘activities’ (i.e. making a long beard out of wooden pegs) commonly associated with excessive alcohol consumption. We think it is extreme to state that these images represent “the side effect of an alcohol fuelled feat of idiocy”. It’s worth noting that only one

complainant has flagged a concern regarding this very high profile national campaign.

- b. Some may argue that the billboards show the 'acts' of people with too much time on their hands or they simply may not get the point. For this reason, the billboards won't be to everyone's personal taste. At the very least though the billboards could only be described as a bit of fun, somewhat random but importantly depicting only harmless activities. The behaviour is far removed from being irresponsible and whether it's immature really depends on your point of view. Importantly in terms of the ABAC compliance there is no sense that the men are intoxicated (they appear sober) and neither is there any alcohol consumption depicted.
- c. "Hello Beer" is the tagline Carlton Dry uses in its current advertising. It's a fun irreverent way to introduce the idea of choosing/enjoying a beer....a Carlton Dry. I don't believe the 'reasonable person' would believe this two word tagline encourages excessive consumption or excuses "irresponsible and immature behaviour" for this reason.
- d. Fancy dress/ playing a character is something people are increasingly doing as part of mainstream culture, as witnessed at sporting events, corporate functions and in support of charities. The motivation is driven by a desire to enjoy themselves and let their hair down, rather than alcohol. For this reason it is unreasonable to label these activities only possible as a result of or only associated with excessive alcohol consumption. The billboard images are also highly stylized – they don't look like shots drunken consumers have pulled together (or could) and nor were they intended to (they were professionally shot). Again the men appear sober – they do not appear intoxicated.
- e. The Carlton Dry brand is incorporated into the billboard as 'presenting' the images via a superimposed bottle shot and tagline. In the billboards there is no sense that the men are intoxicated and neither is there any alcohol consumption depicted nor any link (express or implicit) in the image between the act of dressing up and the product. Take alcohol out of the equation and the images still 'work'.

The Panel's View

- 15. The complainant is concerned that the advertisement encourages excessive consumption of alcohol by depicting behaviour within an alcohol ad that only a person that had consumed excessive quantities of alcohol would engage in. The relevant ABAC provisions are sections (a)(i),(iii) and (g) that provide that advertisements for alcohol beverages must present a mature, balanced and responsible approach to the consumption of alcohol beverages and must not encourage or promote excessive consumption, misuse or abuse of alcohol beverages or consumption inconsistent with the NHMRC Alcohol Guidelines.
- 16. The Advertiser argues that the advertisements:

- a. show the 'acts' of people with too much time on their hands, are a bit of fun, somewhat random but only depicting harmless activities;
 - b. it is unreasonable to label the activities as only associated with excessive alcohol consumption.
 - c. The behaviour is far removed from being irresponsible. There is no sense that the men are intoxicated (they appear sober) and no alcohol consumption is depicted.
 - d. The "Hello Beer" tagline is a fun irreverent way to introduce the idea of choosing/enjoying a beer....a Carlton Dry.
17. In essence, the Panel is asked what a reasonable person would imply from the advertisement in terms of alcohol use. For the complainant, the advertisement shows behaviours which only someone who had consumed excessive amount of alcohol would engage in. For the advertiser, the behavior is off beat and random, but it is unreasonable to associate the behavior with excessive alcohol use.
18. On balance, the Panel does not believe the advertisements breach sections (a) or (g). In reaching this view the Panel has noted:
- a. The advertisement does not depict alcohol use and the characters appear to be sober.
 - b. The behaviours depicted are fanciful and are not considered to be taken seriously by a reasonable person as encouraging anti-social or other behaviour associated with misuse of alcohol.
19. Accordingly, the complaints are dismissed.