

ABAC

**ABAC Complaints Panel
Determination No: 102/11**

**Complaint by MCAAY
Product: Sail & Anchor Bolt Lager
Advertiser: Woolworths Limited**

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

23 December 2011

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns an outdoor advertisement for Sail & Anchor Bolt Lager by Woolworths Limited (“the Advertiser”) and arises from a complaint received 28 November 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 complaint raises concerns under the ABAC and accordingly is within the Panel's jurisdiction.

The Complaint Timeline

6. The complaint was received by ABAC on 28 November 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 but pre-vetting approval was obtained for this advertisement [11027].

The Advertisement

9. The complaint refers to an outdoor advertisement on a bus shelter near an IGA supermarket in Mosman Park, Western Australia.
10. The advertisement is set against a black background and features a bottle of Sail & Anchor Bolt Lager being held by a man with a bolt attaching the bottle to his hand. The tagline "Easy To Drink Hard To Put Down" is in large text next to the bottle. The bottom of the page notes the product is exclusive to Dan Murphy's, BWS and Woolworths Liquor and includes in small print "Not for sale to persons under the age of 18. Please drink responsibly. We take Responsible Service of Alcohol seriously".

The Complaint

11. The complainant argues that highlighting that an alcoholic product is "easy to drink" and "hard to put down" encourages excessive consumption of alcohol and presents an approach to the consumption of alcohol that is neither "responsible", "moderate" nor "mature".

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 excessive consumption or abuse of alcohol;
 - iv) must only depict the responsible and moderate consumption of alcohol beverages.

The Advertiser's Comments

13. The Advertiser responded to the questions posed by the Panel by letter received 1 December 2011. The points made by the Advertiser in relation to the advertisement were:
 - a. Woolworths takes its advertising responsibilities very seriously and has policies and procedures in place to ensure compliance with the Law.
 - b. Woolworths is of the view that the complaint should be dismissed. Woolworths had this advertisement pre-vetted and approved.
 - c. The depiction of the hand "bolted" to the bottle with the ad line "easy to drink, hard to put down", reflects the quality and refreshing character of the beer and, in Woolworths' view, does not suggest excessive or similar conduct with respect to alcohol in breach of the relevant section of the Code.

The Panel's View

14. This complaint raises both substantive and procedural issues, which will be dealt with in turn.

The Procedural Aspects

15. 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.
16. 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 advertiser is not contractually bound to follow a panel decision. That said, the advertiser has co-operated with the Panel enabling this decision to be made.

The Substantive Aspects

17. The complainant contends that the ad encourages excessive alcohol consumption and fails to represent a moderate, responsible or mature approach to alcohol consumption as required by section (a) of the ABAC. This is said to arise from the image and language used in the ad, namely “easy to drink” and “hard to put down”.
18. For its part, the advertiser argues that the image and language do not suggest excessive consumption, but relate to the “quality and refreshing character of the beer”.
19. The Panel is to apply a “reasonable person” test in assessing the consistency of an ad to ABAC standards. In other words, how would a reasonable person in the community view the ad, having regard to its content as a whole. Not infrequently, this requires the Panel to make a decision on an ad upon which different people might take differing opinions as to consistency with a particular provision.
20. On balance, the Panel does not believe the ad breaches section (a). While the Panel sees the point made by the complainant, it is considered that most viewers would take the ad to be promoting the claimed enjoyable nature of the beer – “easy to drink”. Further, the “hard to put down” expression seems to be a play on the “Bolt” brand name which is reinforced by showing the hand “bolted” to the bottle. It is too long a bow to interpret the ad as an encouragement to excessive or immoderate consumption.
21. Accordingly the complaint is dismissed.