

ABAC

ABAC Complaints Panel Determination No: 25/10

Complaint by Ms Leonie Slavin Product: VB Beer Advertiser: Fosters Group

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 VB Beer by the Fosters Group (“the Advertiser”) and arises from a complaint by Ms Leonie Slavin received on 1 March 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 by ABAC on 1 March 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 [UL293/09].

The Advertisement

9. The advertisement opens with a shot of a parade through a town. The parade is overlaid by uplifting music and a commentary describing the different groups marching. The advertisement begins by focusing on a group of people marching with a banner that reads "Footy Banner Makres The No 1 movers and shakers Go!" and the overlaid text "Footy Banner Makers" with the VB logo on one side and a set of scissors on the other. The scene is accompanied by the commentary "Well what a scene. Here are the 'Footy Banner Makres'. There's no spell check when it comes to crepe paper and scissors". We see the crowd cheering and then a new group is announced called "The Cougars" and the overlaid text reads "The Cougars" with a high heeled shoe on one side and the VB logo on the other. We see a group of women marching that are smiling and waving as the commentator says "With over 10,000 years of hunting experience between them, 'The Cougars', by day they walk by night they stalk." Then the scene changes to the parade walking toward a pub with a large VB logo on top of its roof outside the town and we see a large group of people drinking in and around the pub as the commentator continues "At the victory, and look at the scene down there. Everyone under the sun enjoying the best cold beer. VB the drinking beer." The final scene is of a group of people drinking in and around the pub at dusk with the VB logo on top of the roof of the pub lit up and next to it the text "The drinking beer" is overlaid. At the bottom of the page the text "vb.com.au" and the "Enjoy responsibly" logo appears.

The Complaint

10. The complainant argues that alcohol and male violence seem to go hand in hand yet this ad makes out that it is women you should be afraid of talking of cougars that hunt at night. This ad paints women as the perpetrators of aggression which is very rarely the case.

The Code

11. The ABAC provides that advertisements for alcohol beverages must:
 - a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly –
 - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;

Arguments in Favour of the Complaint

12. In favour of the complaints it is alleged that the advertisement breaches section (a)(iii) of the ABAC by failing to present a mature, balanced and responsible approach to the consumption of alcohol beverages and promoting offensive behaviour by a combination of:
 - (a) Its depiction of a group of women referred to as “The Cougars”;
 - (b) Its description of the women, “With over 10,000 years of hunting experience between them. By day they walk, by night they stalk”;
 - (c) Its depiction of men and women drinking beer at a hotel with the voiceover “At the victory”;
 - (d) The implication that the group of women referred to as “The Cougars” are the perpetrators of aggression or violence at night in the context of an advertisement where the groups are later seen drinking alcohol as the sun sets.

The Advertiser’s Comments

13. The Advertiser responded to the complaints and questions posed by the Panel by letter dated 17 March 2010 (attached as Annexure A). The principle points made by the Advertiser are:
 - (a) The commercial in question is a celebration of the various types that make up Australia, grouping people together by humorous hobbies, past-times or idiosyncrasies. In this advertisement, a group of women are showed marching in the parade of “Regulars”. The women are in their 40s. The tone of all of the advertisements (“The Cougars” is the 14th ad in the highly acclaimed series), is light-hearted and they celebrate the jovial, self-deprecating Australian nature.

- (b) Whilst we respect the point of view of the complainant, we argue it's highly subjective and that the advertisement cannot be said to breach section (a) (iii) of the ABAC. We strongly argue the term Cougar and the voice over text are not a depiction of offensive behaviour. All groups are received enthusiastically by the onlookers, including the aforementioned group. There is not a sense we are denigrating or vilifying these women, nor are we portraying them in a way that infers they are violent, predatory or aggressive. In fact they are all depicted as looking content, happy and calm. The phrase "Cougar" is a very common term that has countless media citations. It's associated now with women in their 40s who prefer to date younger men. The term has entered the vernacular and is broadly understood and inoffensive. There is no case to suggest the term means this dating is non-consensual, nor would the average person associate "cougar" with a perpetrator of violence. Moreover, the term is not associated with behaviour that is linked to alcohol consumption – it's a lifestyle choice. Further to this, recently there has been a national launch of a major television drama series called 'Cougar Town' (Channel 7 nationally) which is a series that depicts the life and times of this commonly accepted group of people. It is a very high rating and successful series that is watched and appreciated predominantly by women. It is in no way derogatory or disrespectful, rather it captures the life and times of this particular demographic in a humorous and light-hearted manner, in exactly the same way as this advertisement. It's worth highlighting, there is no depiction of consumption by "The Cougars" prior to or during the march.
- (c) The context of the final scene, where the various groups gather at the "Victory Hotel", represents alcohol consumption in a mature, balance and considered way. There is no tone, dialogue or action that can be said to represent excessive consumption or alcohol abuse. All characters have only one beer, there are no signs of intoxication, nor irresponsible drinking practices.
- (d) The only evidence given in the complaint is the voice over text of "by day they walk, by night they stalk" in reference to these women seeking out partners. We strongly argue "stalk" is easily understood by the broad community in this context as approaches made by either sex in pursuit of meeting prospective partners. It is clearly a humorous play on words and the term "cougar". An average person would not confuse the meaning in the overall light-hearted context of the advertisement. It cannot be said this text alone constitutes the portrayal of violent, predatory or aggressive behaviour, particularly in relation to the ABAC because we are not showing the consumption of alcohol when we're focussing on this group.
- (e) Whilst it's disappointing to receive any complaints, the response to the campaign has been overwhelmingly positive. Viewers have responded enthusiastically to the representation of Aussie groups within the ads and it's been quite a talking point.

The Panel's View

14. The complaint argues that the ad is irresponsible as it suggests that women are the perpetrators of aggression and alcohol fuelled violence whereas it is men who are associated with such behavior.
15. The advertiser argues that the context of the ad is clear, good humoured and light-hearted and would not be interpreted by a reasonable viewer in the way contended by Ms Slavin.
16. The preamble of the ABAC provides that in assessing the conformity of an advertisement with a code standard regard is to be had to the probable impact upon a reasonable person of the advertisement taking its content as a whole. In this case, the relevant provision provides that an advertisement must present a balanced and responsible approach to alcohol consumption and must not promote offensive behavior.
17. The panel does not believe the ad breaches the code. The term 'cougar' has gained recent popular usage as describing an older woman seeking a younger male as a partner. Understood against this context, the reference to 'stalking' is not likely to be seen as the criminal activity of harassing someone but as a light-hearted reference to the cat-like activity of seeking prey.
18. It is also noted that the women portrayed in the march do not appear to be affected by alcohol and that alcohol consumption is only depicted at a later point within the hotel.
19. In its totality, the ad does not appear to be suggesting irresponsible consumption or alcohol influenced offensive behavior. Accordingly, the complaint is dismissed.