

ABAC

ABAC Complaints Panel Determination No: 3/13

Complaint by Michelle Cox
Product: Corona
Advertiser: Lion

Professor The Hon Michael Lavarch – Chief Adjudicator
Debra Richards – Member
Professor Louisa Jorm – Member

11 February 2013

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a cinema advertisement for Corona produced on behalf of Lion (“the Advertiser”) and arises from a complaint 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 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 was 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. The 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.

The Advertisement

9. The advertisement is a 3 minute cinema advertisement comprising the following sequence of scenes filmed in Mexico and set to the acoustic version of the song 'Sinking Sun' by MT WARNING;
 - (a) A man is shown placing a surfboard on top of two other surfboards in the back of a van.
 - (b) A van with surfboards visible in the back is shown driving along a dirt road adjacent to the beach while superimposed on the scene is the logo for "Corona Extra" and the text "Corona Extra presents On Mexico Time".
 - (c) Close up film of the van shows a woman and several men sitting in the van with the surfboards.
 - (d) The scene changes to a blue sky with white clouds.
 - (e) A man is shown carrying his surfboard across the beach to the water as the text "By Taylor Steele" is superimposed on the screen.
 - (f) Another man is shown on his surfboard paddling out into the ocean.
 - (g) Three people are featured surfing.

- (h) Six people are shown sitting or standing high on the beach fully clothed facing the ocean as the sun sets. They are positioned between a tent and the van which has a line strung between it and a palm tree with a towel and another item hanging from it. A bicycle and surfboards are lying on the sand behind the group. Some of the people are holding or sipping from a stubby bottle.
- (i) A bitumen road surrounded by tropical vegetation is shown during daylight as two motorcycles come into view, one with a bag strapped to the back and a surfboard strapped to it's side.
- (j) The scene changes to tropical scenery and then a man working in a field.
- (k) We then see the front of a motorcycle and the rear of the motorcycle traveling in front of it as a small Hawaiian doll strapped to the front of the motorcycle moves with the movement of the motorcycle. The scene changes to the bitumen underneath the moving motorcycles and a butterfly in front of one of the motorcycles.
- (l) A wide shot of three motorcycles traveling along a palm lined road is shown.
- (m) The next scene is a man holding a stubby bottle walking along a campsite that is overlooking the ocean. A woman is sitting on a box of Corona and another woman and man sipping from a stubby bottle are sitting near her on a log in front of a bonfire facing the sun setting over the ocean. They are sitting next to a motorbike that has a line strung up between it and a tent with several items hanging from it. Several surfboards are lying on the ground.
- (n) We next see a man anchoring a small boat in the ocean during daylight, a school of small fish and a bird picking a fish out of the ocean. We then see a group of about 5 people in swimming clothing sitting in or getting into the boat, wet as if they have been swimming.
- (o) The scene changes to a flock of birds at dusk and then a group of people walking fully clothed along the beach at dusk. The camera pans to three people in a boat on the ocean. We then see the group of people that were walking on the beach (3 men and 2 women) in an outdoor bar overlooking the beach watching the sun set over the ocean as two of the men are shown sipping from stubby bottles.
- (p) The next scene is during daylight and we see 5 people wearing swimming clothing in a boat traveling past rock formations in the ocean. The next scene is of a group of people jumping from the high rock formation at varying heights and swimming in the ocean.
- (q) The scenes change to a Mexican building, a Mexican man sitting in the street and then an old bus traveling along a road surrounded by tropical vegetation and a view of inside the bus.

- (r) The next scene is of the ocean at sunset and several people surfing. We then see a woman walking with her surfboard over her head up the beach toward a group of people sitting fully clothed on a low platform on the beach on an old box stamped with the Corona logo and one is seen holding a stubby bottle.
- (s) The scene changes to several people walking along pushing bicycles and one walking holding a surfboard as the sun is setting.
- (t) The final scene is of two men and a woman sitting on top of a building overlooking the ocean as the sun sets. The woman is holding a stubby bottle and one of the men is shown sipping from a stubby bottle. The Corona Extra logo and the tagline "From where you'd rather be is superimposed on the screen along with the "Be Drink Aware" logo

The Complaint

- 10. The complainant argues that:
 - (a) It is inappropriate to show people jumping off rocks into water in an alcohol ad when this is a very unsafe activity and results in many injuries. Particularly to the target market they are advertising to as statistically it is the same people that are more likely to be paralysed while rock jumping.
 - (b) Although the people weren't shown drinking while or before surfing and swimming there was clearly an implied connection.
 - (c) The shots of driving in vans and on motorbikes were inappropriate. Cars, bikes, beach, swimming, surfing and beer are lethal combinations. The biggest proportion of vision made the viewer associate water and driving activities with Corona.
 - (d) The length of the ad meant that there was no escape from the unsafe and dangerous message that was being communicated.

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.....
 - (d) not depict any direct association between the consumption of alcohol beverages, other than low alcohol beverages, and the operation of a motor vehicle, boat or aircraft or the engagement in any sport (including swimming and water sports) or potentially hazardous activity and, accordingly –
 - (i) any depiction of the consumption of alcohol beverages in connection with the above activities must not be represented as having taken place before or during engagement of the activity in question and must in all cases portray safe practise;

The Advertiser's Comments

12. The Advertiser responded to the complaint and questions posed by the Panel on 23 January 2013. The principal points made by the Advertiser are:
- a. Corona's brand positioning is 'from where you'd rather be' and given its Mexican heritage its advertising has always evoked a laid back, reflective, summer holiday feel. This is reflected across elements such as music choice and filming style. The advertising is not intended to be high energy or reckless, indeed the Corona brand prides itself on being the opposite and considers the brand to be a benchmark for relaxed, responsible consumption.
 - b. The advertisement captures a series of moments shared between friends over the course of a number of days. The advertisement features activities common to a Mexican summer holiday – including a road trip between beach destinations, swimming, surfing and boating in the day, and relaxing or camping at the end of the day.
 - c. When on a summer holiday, it is completely natural for a group of friends to unwind at the end of the day with their favourite beer. Careful consideration was taken in the advertisement's sequencing to ensure that it is always clear to the viewer that the consumption of alcohol takes place at the end of the day after all activities have concluded. A responsible approach towards alcohol consumption is depicted at all times, to ensure that the beer's involvement in the holiday is only during appropriate moments, and there is no connection of alcohol beverages and the water activities that take place during the advertisement.
 - d. We believe the advertisement presents a mature, balanced and responsible approach to consumption of alcohol at all times. No alcohol is consumed or even present, before or during the activities. All activities take place during the day or at sunset with a clear distinction made between day time activities and the consumption of alcohol at the end of the day, once activities have concluded. When alcohol consumption is shown it is depicted in a responsible manner. All those consuming alcohol have only one drink and the environment in which the consumption is occurring is relaxed and subdued, and completely in-line with a normal holiday experience.
 - e. We do not believe that the advertisement depicts any direct association between the consumption of alcohol and the operation of a motor vehicle or the engagement in any sport or a potentially hazardous activity. No alcohol is present, or consumed during any of the activities. It is always clear to the viewer that the consumption of alcohol takes place at the end of the day after all activities have concluded. There is a clear distinction between activities that take place during the day and the consumption of alcohol during the evening. The consumption of alcohol is always depicted in an environment that is removed from where the activity has taken place and it is clear that the activities have concluded for the day with all those consuming alcohol fully clothed.
 - f. For example the inclusion of a campsite with a tent, a fire, a clothesline and fully clothed people clearly demonstrates the holiday makers are camped for the evening and not intending to leave or take part in further activities. In another

scene alcohol consumption takes place on a fenced deck removed from the beach and again the people are fully clothed and clearly relaxing at the end of the day. A reasonable person would not assume a connection between the alcohol consumption in the evening and the activities that took place prior during the day.

- g. We do not believe that a reasonable person would consider the advertisement to depict the consumption of alcohol before or during surfing. There is nothing present in the shots immediately preceding any surfing scenes, including the sunset scene to suggest that alcohol has been consumed before the activity has taken place. There is also no alcohol or consumption of alcohol, depicted while the surfing is taking place. Any consumption is clearly shown to be taking place after the surfing has concluded. In the sunset scene the surfer is shown walking to join her friends. They are clearly differentiated from her as they are fully clothed. The surfer is not shown consuming alcohol, nor is there any suggestion that the surfing will continue – in fact her departure from the ocean at sunset suggests the opposite. A reasonable person would assume the day's activities have concluded.
- h. A reasonable person would not consider the ad to depict consumption of alcohol before cycling. At no stage are people shown to be riding the bikes after consuming alcohol. Neither is there any suggestion that riding will occur. We believe that a reasonable person would assume that the people are walking to a nearby location carrying various items they have used during the day, including surfboards.
- i. We do not believe that a reasonable person would consider the ad to depict the consumption of alcohol before or during a potentially hazardous activity, namely ascending and then sitting on the edge of a high platform. We do not believe that sitting quietly on a stable, structured platform would be considered a hazardous activity. No dangerous activity is depicted while the people are shown on the platform; the people are seated and relaxed and are consuming alcohol in a responsible manner. A reasonable person would not consider the people to be in any form of danger. The overall thematic presentation of the advertisement is relaxed and slow, which further supports this.
- j. When on summer holiday it is completely natural for a group of friends to unwind at the end of the day with their favourite beer and this timing and separation from the daytime activities is repeated throughout the advertisement to ensure the inclusion of alcohol beverages is in line with a normal and responsible holiday experience.

The Panel's View

- 13. The complainant is essentially concerned that the advertisement is sending a message that engaging in activities such as jumping from cliffs and rocks into the ocean, swimming, surfing, driving motor vehicles and motorbikes and riding bicycles is acceptable in conjunction with the consumption of alcohol beverages.
- 14. The complainants concerns raise two provisions of the ABAC, namely:

- (a) Section (a) which provides that advertisements for alcohol beverages must present a mature, balanced and responsible approach to the consumption of alcohol beverages; and
 - (b) Section (d)(i) which provides that advertisements for alcohol beverages must not depict any direct association between the consumption of alcohol beverages, and the operation of a motor vehicle, or the engagement in any sport (including swimming and water sports) or potentially hazardous activity.
- 15. The Panel does not believe that the advertisement breaches the section (a) standard. The advertisement does not depict excessive consumption or have any content which could give rise to an encouragement of offensive behaviour. The advertisement does depict activities such as surfing, jumping from cliffs into the ocean, driving vans and motorcycles, but these scenes are removed from the depiction of moderate consumption of alcohol beverages. It is difficult to conclude that the advertisement is irresponsible within the sense of the matters dealt with in section (a).
- 16. Section (d) of the ABAC deals with the association of the consumption of alcohol with the engagement in any sport or hazardous activity or the operation of a motor vehicle. The section provides that alcohol advertisements are not to depict any direct association between consumption and the engagement in any sport or hazardous activity or operation of a motor vehicle. Any depiction of consumption must not be represented as having taken place before or during the activity.
- 17. The advertisement does associate sport, operation of a motor vehicle and hazardous activities with alcohol in that the activities are shown, as is alcohol use. To breach the section however this association must:
 - (i) be direct;
 - (ii) involve consumption; and
 - (iii) have the consumption take place before or during the engagement in sport or operation of a motor vehicle.
- 18. The Panel has considered the advertisement as a whole and believes that it clearly establishes a separation in time between the activities and alcohol consumption. The advertisement depicts the use of alcohol at the end of the day, after the conclusion of all activities and the use of motor vehicles. This is established by:
 - (a) The clear time differences (i.e. drinking at sunset with the activities largely occurring earlier in the day)
 - (b) The clothing and demeanour of the persons consuming alcohol, which demonstrate that all sporting and other activities have finished.
 - (c) The use of devices such as the camp site and hanging of clothes to dry, which place the characters as having settled for the evening.
- 19. Accordingly the complaint is dismissed.