

ABAC

**ABAC Complaints Panel
Determination No: 35/11**

**Confidential Complainant
Product: Dry Dock Premium Lager
Advertiser: Woolworths Limited**

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

26 May 2011

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a billboard advertisement for Dry Dock Premium Lager by Woolworths Limited (“the Advertiser”) and arises from a complaint received 13 April 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 13 April 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 and pre-vetting approval was not obtained for this advertisement.

The Advertisement

9. The billboard was placed on a bus shelter. It depicts a female in a feminine sailor's outfit, smiling and saluting with a ship's bow bursting from the middle of her body. The ship's bow features the label of Sail & Anchor Dry Dock Premium Lager with the description "Extra Smooth Extra Dry". The bottom right of the billboard features a 375ml bottle of the product with the tagline "It's Dry But It's Wet".

The Complaint

10. The complainant argues that the use of a female image combined with the social colloquial phrase "Dry Dock", meaning not interested in sex, and an alcohol product suggests that consuming the product would change a woman from a "dry dock" to a "sure thing".

The Code

11. Section (c) of the ABAC provides that advertisements for alcohol beverages must:

- c) not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment and, accordingly –
 - (i) must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success.

The Advertiser's Comments

- 12. The Advertiser responded to the complaint and questions posed by the Panel by letters received 20 and 21 April 2011. The points made by the Advertiser in relation to the advertisement were:
 - a. The "Sail & Anchor" brand has origins to the "historical" public hotel and boutique brewer of the same name located in Fremantle, WA with its strong nautical heritage and association with the Fremantle wharf area. Fremantle is historically recognised as a major sea port which serviced Perth and beyond in the past and is a major tourist destination today.
 - b. "Dry Dock Premium Lager" is a description of the beer type and dry brewing style similar to other boutique brands such as Hahn Super Dry or Tooheys Extra Dry.
 - c. The "Bow of the Ship" bursting through the selected medium concept has been used in other advertising formats to promote Dry Dock. The adshell "bus shelter" creative often adopts a feature model which, in this case, is incorporated into the nautical theme.
 - d. Woolworths strongly rejects the suggestion that the term Dry Dock connotes any other meaning than the "nautical context" and is not aware of any such "colloquial" term. If there was such a meaning Woolworths would not have proceeded with the advertisement. The tagline "It's Dry But It's Wet" only refers to the "dry" brewing style of this "Sail & Anchor" produced beer and with no other intended meaning and is used in a number of advertising formats for the product not featuring a female.

The Panel's View

- 13. This complaint raises a number of issues, both substantive and procedural, which will be dealt with in turn.

The Procedural Aspects

- 14. 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.
15. 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 advertising was not subject to pre-vetting prior to its publication and the advertiser is not contractually bound to follow a panel decision. That said, the advertiser has cooperated with the Panel in enabling the determination to be made.

The Substantive Aspects

16. The complaint raises a concern about the sexual connotation of the ad, specifically that the term “dry dock” means a woman uninterested in sex, and the implication that the use of the alcohol product will result in a change in mood in the woman.
17. The relevant section of the ABAC provides that alcohol ads are not to suggest that the presence or the use of alcohol may contribute to a change in mood and contribute to the achievement of sexual success. The key element of the section is that of causation *i.e.* can be fairly said that the ad suggests that alcohol is causing the achievement of sexual or other success.
18. The Panel does not believe the ad breaches the section (c) standard. In reaching this conclusion, it is noted:
- The term “dry dock” is the product brand name and it is not a term created for the purposes of the specific ad.
 - The sexual meaning of the term “dry dock” explained by the complaint is not apparently widely known. For instance, an internet search of the term does not reveal its use in the way contended by the complainant.
 - Even if it was accepted that the term had a widely accepted sexual connotation, that of itself is not a breach of the Code. What is not allowed is the suggestion that the ad as a whole is implying that alcohol leads to sexual success.
 - The content of the ad featuring a woman in a sailor’s outfit and a ship’s bow does not, in the Panel’s view, support the conclusion that the use of the product results in sexual success.
19. Accordingly, the complaint is dismissed. The Panel, however, strongly recommends that the advertiser becomes a signatory to the ABAC scheme and subject its alcohol advertising to the pre-vetting process.