

ABAC

ABAC Complaints Panel Determination No: 39/10

Complaint of Dr Timothy Mann Product: Liquor Lads Advertiser: Independent Pub Group Pty Ltd

Professor The Hon Michael Lavarch – Chief Adjudicator
Jeanne Strachan – Member
Professor Richard Mattick – Member

16 September 2010

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a print advertisement for Liquor Lads by Independent Pub Group Pty Ltd (“the Advertiser”) and arises from a complaint received on 3 September 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 on 3 September 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. The advertiser is not a signatory to the ABAC scheme and this advertisement did not receive pre-vetting approval.

The Advertisement

9. The complaint refers to a full page print advertisement for Liquor Lads on page 15 of the 1 September 2010 edition of The Southern Times, a newspaper circulating in a part of South Australia.
10. The advertisement features various alcohol products and their prices together with captions such as "Damn Cheap", "Huge Savings", "Bonus Beach Chair", "New Product" and "Save up to \$6". There is a tagline at the top of the page that reads "So Bloody Cheap! Give Dad a Father's Day he won't remember". At the bottom of the page there is the Liquor Lads logo with the caption "Mates rates everyday", a list of outlets, sale end date of 13 September 2010 and at the very bottom in small print the statement "Liquor Lads promotes the responsible, service and consumption of alcohol".

The Complaint

11. The complainant is concerned that the statement "Cheap! Give Dad a Father's Day he won't remember" promotes excessive consumption of alcohol.

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;
 - iii must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;

The Advertiser's Comments

13. The Advertiser responded to the complaint and questions posed by the Panel by verbal advice provided to the ABAC Scheme's Executive Officer on 6 September 2010. The points made by the Advertiser in relation to the advertisement were:
 - (a) This advertisement slipped through our company's internal checks.
 - (b) It is our view that the phrase "So Bloody Cheap" does not of itself breach the ABAC Code.
 - (c) The phrase "Give Dad a Father's Day he won't remember" will not be used again by our company.

The Panel View

14. The Advertiser is not a member of one of the peak industry bodies sponsoring the ABAC Scheme, nor is it an individual signatory to the Scheme. The Advertiser has, however, cooperated with the adjudication process. As a result, the Panel has proceeded to make this determination.
15. The ABAC provision raised by the complaint concerns section (a). This section provides that alcohol advertisements must present a mature, balanced and responsible approach to the consumption of alcohol and must not promote excessive consumption. Dr Mann is concerned that the statement "Give Dad a Father's Day he won't remember" breaches this section.
16. The preamble to the Code provides that conformity of an advertisement with the Code standards is to be assessed in terms of the advertisement's probable impact upon a reasonable person to whom the advertisement is directed, taking its context as a whole. This requires the Panel to assess the ad which is promoting the sale of various alcohol products, essentially on the basis of the products being sold at a discounted price.
17. The key concern is the implication a reader would take from the phrase "Give Dad a Father's Day he won't remember". In the Panel's view, this statement within the context of alcohol products being promoted for sale in multiples *e.g.* a carton of beer and an 8-pack of pre-mixed vodka drinks, would lead a reasonable person to conclude that excessive consumption is being encouraged; the implication being that the loss of

memory suggested in the tagline could be caused by the excessive drinking of alcohol products.

18. It is noted that the advertiser accepts that the use of the phrase “Give Dad a Father’s Day he won’t remember” is inappropriate and that the ad “slipped through” internal processes. The advertiser is encouraged to become a signatory to the ABAC Scheme and take advantage of the pre-vetting service as a means to bolster any internal vetting mechanisms which it uses.
19. The complaint is upheld.