

ABAC

**ABAC Complaints Panel
Determination No: 40/10**

**Complaint of Mrs Lalage Gabb
Product: Thirsty Camel
Advertiser: Liquor Alliance**

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

14 October 2010

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a print advertisement for Thirsty Camel by Liquor Alliance (“the Advertiser”) and arises from a complaint received 6 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 was received on 6 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 print advertisement for Thirsty Camel Alcohol Retailers that was used as a letterbox flyer and as outdoor media on transport.
10. The flyer consists of 2 sides. The first page features the phrase "Pack your fridge - Get rid of the veggies" above a picture of cartons of Bundaberg Rum & Cola and Johnnie Walker & Cola RTD Fridge pack each containing 10 x 375ml cans with the caption "2 for \$55 single price \$29.95". The advertisement also features a cartoon picture of a camel which is the Thirsty Camel logo. At the bottom of the page is the text "Thirsty Camel bottleshops" above smaller text "Thirsty Camel supports the responsible serving and consumption of alcohol. Specials valid in New South Wales and border regions only. Offer valid from 23/8/10 until 5/9/10 while stocks last. Trade not supplied. thirstycamel.com.au – Follow us on Twitter." On the reverse side of the flyer is a list of product specials with pictures and captions of further products on special followed by a list of outlets which are referred to as "Camel Watering Holes".

The Complaint

11. The complainant is concerned that the statement "Pack your fridge - Get rid of the veggies" above advertised specials for Bundaberg Rum and Johnnie Walker Whisky encourages drinking to the detriment of diet and is encouraging alcoholism and obesity when there should be encouragement to people to eat and have a healthy diet.

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 letter dated 27 September 2010. The points made by the Advertiser in relation to the advertisement were:
 - (a) The core brand value of Thirsty Camel is irreverence. This communication strategy has been in place since the brand was launched in 2005. Whilst the 'camel' is widely accepted as irreverent, and could sometimes be seen as controversial, it's always light-hearted, left-of-centre and well-meaning. We believe, in all cases, the communication reflects that strategy, but unlike any satire it can be taken out of context and might unintentionally offend someone. In this case, we sincerely apologise for any offence that Thirsty Camel has caused.

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, co-operated 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. The complainant is concerned that the statement "Pack your fridge - Get rid of the veggies" is encouraging alcohol consumption to the detriment of a healthy diet.
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 content as a whole.
17. The issue turns on whether a reasonable person would take the ad to be seriously advocating the replacement of vegetables in a diet with alcohol. If this is the take out message from the ad, then it is irresponsible and does encourage excessive alcohol consumption and breaches section (a) of the ABAC. Alternatively, if a person would

take the ad as lighthearted and humorous and not actually advocating alcohol in preference to a proper diet, then a different conclusion might be reached.

18. Advertising generally and alcohol advertising in particular often uses highly exaggerated and tongue in cheek images and scenarios. The Panel in previous Determinations has stated that humour is a factor to be considered in how a person would view and interpret an ad, but in assessing the ad as a whole, a humorous element alone will not save an ad from breaching the ABAC.
19. In this case the Panel believes that a reasonable reader of the flyer would dismiss the 'Get rid of the veggies' statement as advertising puffery and not a serious call to action. Taken as a whole, the ad does not breach the ABAC standards.
20. While the complaint is dismissed, the Panel notes that it has made several Determinations over the last 2 years about advertising from the advertiser. As a major alcohol retailer in Australia, the advertiser would demonstrate best practice if it became a signatory to the ABAC scheme and submitted its advertising to pre-vetting processes.