

ABAC

**ABAC Complaints Panel
Determination No: 47/12**

**Confidential Complaint
Product: Canadian Club
Advertiser: Beam Global Australia Pty Ltd**

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

14 June 2012

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for Canadian Club by Beam Global Australia Pty Ltd (“the Advertiser”) and arises from a complaint received 15 May 2012.

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 15 May 2012.
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. Pre-vetting approval was obtained for this advertisement [11429].

The Advertisement

9. The television advertisement opens with the top of a beer keg covered in flickering candles, many held in "Golden Brown" beer bottles, a book entitled "Beerble", a bowl of peanuts, a bottle opener and a photograph of a smiling man behind which is a noticeboard with missing persons posters blowing in the wind.
10. The camera angle widens and we see that there is a telephone booth next to the noticeboard, and around the keg is another keg on its side on a crate, a crate of empty beer bottles with a dried flower in it, and more burning candles. The posters are blowing in the breeze and the photograph blows off the top of the keg.
11. The camera widens again to a street on which there are a number of obese, poorly dressed, drab looking men that all have insect wings on their backs. One man is sitting on the back of a tanker labeled "Ale", one man is walking down the street, one man is sitting on a beer keg and one man is serving another through a "hole in the wall" kebab shop. The street is dirty with piles of kegs and rubbish and the sky is overcast and polluted. Advertising is painted on the walls of a building including "Ultra extra super duper 100% dry Dull Ale", "Down the Brown,

Golden Brown” & “Warm Beer”. Dull, music begins in the background and is punctuated with groaning and flatulence noises.

- 12 We see a man walking along the street carrying a give way sign over his shoulder. He is wearing a T-shirt that says “I heart beer” and has a grumpy expression and ruddy complexion. As he walks past we see behind him an old sofa, dart board and some kegs on the side of the street and a poster pinned to the wall that says “Keep Beer Fairyland Filthy. Vote Brown” and has a picture of a man with wings wearing a dinner suit holding up a glass of beer and smiling. Liquid is gushing from a pipe out onto the street. The camera then moves to the kebab shop which has rubbish over the counter and on the street that includes empty squashed beer cans and beer bottles and the shop attendant is burning the edge of a kebab with a lighter. A sign “Beer” spins in the breeze.
- 13 We then see three dirty, fat men with wings, one holding a map and one with a camera, staring in awe. We see that they are staring at a large factory with the sign “Brewery”, emitting smoke into the polluted atmosphere. The gates to the brewery are labeled “BF and UB”. They look ecstatic until one of the three men explode in a ball of flame and dust and then they look terrified.
- 14 The scene changes to a bright, clean, upmarket bar full of attractive, well dressed men and women with lounge music in the background. The camera focuses on a man and woman talking and laughing together at the bar as the man holds a bottle of ready to drink Canadian Club Dry and the woman holds a mixed drink in a glass. The camera focuses on the man sipping from his bottle and then placing it down. The voiceover performed by the comedian, John Cleese says “Every time you buy a Canadian Club a beer fairy dies”. The scene changes to a bottle of Canadian Club dry in a mountain snowscape with the text “Over beer?” and the facebook logo with “Canadian Club Australia” as the voiceover continues “Refresh your drink. Canadian Club”.

The Complaint

12. The complainant argues that the advertisement suggests that:
 - (a) men that drink beer are slothful pigs and this is sexist;
 - (b) if you switch to Canadian Club you will be able to talk to women in a bar; and
 - (c) the amount of alcohol in a Canadian Club stubby is the same as in a stubby of beer and a vulnerable or uneducated person may underestimate the alcohol content of that product and drive home, putting themselves and others at risk.

The Code

13. 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...
14. 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

15. The Advertiser responded to the complaint and questions posed by the Panel by letter received 29 May 2012. The points made by the Advertiser in relation to the advertisement were:
- a. Beam Australia appreciates the opportunity to comment to the complaint for the consideration of the Panel as part of this process and believe the commercial abides with all parts of the ABAC code.
 - b. Canadian Club's tagline Over beer? Is an open question to the consumer which simply asks them if they have considered an alternative to beer. The line Refresh your drink is a direct reference to Canadian Club being a refreshing alternative. Both taglines are part of a strategy designed to differentiate the product from beer. They make no reference to the consumption of alcohol, and as such, do not represent a failure to present a mature, balanced and responsible approach to the consumption of alcohol.
 - c. Similar positioning statements are common practice across the advertising industry where consumers are invited to consider one brand or category of brand over another. Eg: the Commonwealth Bank tagline, *Determined to be different*, is not a failure to present a responsible approach to banking, but merely an attempt to position the CBA product in a unique and differentiated space.
 - d. Further, there is no reference in the advertisement, either directly or implied, to the ABV (alcohol content) of either Canadian Club or beer. As such, there is no comparison between the two beverages via ABV or suggestion that they be compared on this basis.
 - e. Specific to this complaint, we would point out that the Canadian Club & Dry beverage shown in the advert is of comparable ABV to most beers in the Australian market, and is in fact considerably less than that of many premium beers.

- f. There is no content within the advertisement that suggests that consumption of the product contributes to a significant change in mood or environment, or implies that by changing from beer to Canadian Club will result in success with women.
- g. The only consumption of the Canadian Club product takes place within a controlled and licensed establishment, specifically designed to represent a realistic and relevant 'real-world' on-premise environment. The people within the environment remain there and the environment and mood does not change. The main couple are enjoying themselves as many people who visit licensed premises do. They are talking, laughing and carrying themselves in the way of people enjoying a relaxed social occasion. To suggest that they are 'acting in a flirtatious manner' is a very subjective judgement and, we would suggest, a long bow to draw.
- h. The beer fairy world is intended to represent the broader positioning of beer within the context of the advertisement. (i.e.: a boring and predictable drink with friends), supporting the attempt to communicate that the Canadian Club product is a refreshing alternative.. The lack of females within the advertisement does not suggest that they are absent from the beer fairy world in totality, simply that the beer fairy world by definition would be stereotypically male-dominated settings. Reference to beer advertising in Australia in general would support the premise that it tends to represent male-dominated/male exclusive settings.
- i. The two worlds depicted in the advertisement are purposely portrayed as separate ie: there is no cross-over, shown or implied, from one to the other and as such no suggestion that the consumption of Canadian Club contributes to a change of mood or social success.
- j. The pre-vetting approval process enabled us to work closely with ABAC to give us the guidance to ensure the consistency of the advertisement aligns to the prescribed standards of good marketing practice and the ABAC code.
- k. Whilst approval through the pre-vetting process by ABAC does not guarantee preclusion from alternative determinations as a result of consumer complaint, it did ensure Beam conformed to the code "in terms of its probable impact upon a reasonable person within the class of persons to whom the advertisement is directed and other persons to whom the advertisement may be communicated, and taking its content as a whole".
- l. In terms of probable impact it is quite clear that the 'reasonable person' would not view Canadian Club as presenting an immature, unbalanced and irresponsible approach to the consumption of alcohol by encouraging people to choose the product over beer or implying that a drink of Canadian Club has the same alcohol content as a stubby of beer and therefore the alcohol content of the product may be underestimated and a person may drive home, putting others and

themselves at risk. There is nothing in the advertisement to support this subjective out-take, and an objective analysis of the complaint would acknowledge that the beverage shown in the advert is of comparable ABV to most beers in the Australian market, and is in fact considerably less than that of many premium beers.

- m. Nor would the 'reasonable person' believe that the consumption or presence of Canadian Club may create or contribute to a significant change in mood or environment and be a cause of or contribute to social or other success by implying that by changing from beer to Canadian Club will result in success with women.
- n. Therefore this advertisement is clearly not in breach of sections (a) & (c) of the ABAC Code and aligns with the existing approval ruling from the ABAC pre-vetting process.
- o. We are confident that Canadian Club is marketed appropriately and intend to continue responsibly marketing Canadian Club products to consumers above the legal drinking age.

The Panel's View

- 16. The complaint raises issues under both the AANA Code of Ethics and the ABAC. The Code of Ethics issue is that the portrayal of men that drink beer as slothful pigs is sexist. This concern is not so much related to alcohol as a product, but rather reflects the complainant's opinion that the ad depicts men in a sexist way. This aspect will be dealt with by the ASB and not this determination.
- 17. This determination deals with the ABAC issues and these can be expressed as follows:
 - a. Does the ad breach section (a) by failing to present a mature, balanced and responsible approach to the consumption of alcohol by suggesting that a stubby of Canadian Club is a substitute for a stubby of beer (the complainant is particularly concerned that a vulnerable or uneducated person may underestimate the alcohol content of that product and drive home, putting themselves and others at risk); and
 - b. Does the ad breach section (c) (i) of the ABAC by suggesting that the presence or use of the alcohol product may contribute to a significant change in mood and contribute to the achievement of social or sexual success.
- 18. The complainant's first concern is premised on a Canadian Club stubby having a higher alcohol content than beer and it therefore being irresponsible to suggest that it is a suitable substitute for beer. The Canadian Club & Dry 330ml stubby depicted in the commercial is 4.8% ABV or 1.3 standard drinks. The Australian Government Standard Drinks Guide approximates full strength beer at 4.8% ABV. Therefore while the ABV of a beer will vary depending on the brand, Canadian Club has a comparable alcohol volume to a stubby of full strength

beer. The Panel therefore finds that the comparison with beer in the advertisement is reasonable and does not breach section (a) of the ABAC.

19. The complaint also raises section (c) and (c) (i) of the ABAC. This section essentially is concerned with alcohol advertising suggesting that either the consumption or presence of an alcohol beverage can cause or contribute to a change in mood or environment and imply that alcohol leads to the achievement of success. The key element is that of causation i.e. would a reasonable person take the ad as suggesting that alcohol is a cause or contributor to a change in circumstances or the achievement of success.
20. The preamble to the ABAC provides that in assessing the consistency of an ad with an ABAC standard the Panel is to have regard to the probable impact of the ad upon a reasonable person taking the content of the ad as a whole. In considering section (c) in previous determinations the Panel has noted that it is a broad provision which deals not only with depictions of alcohol consumption but also with the “presence” of alcohol and circumstances where alcohol “may” create or contribute to a significant change in mood or environment. Alcohol is not to be depicted as “a” cause of the achievement of success. Presumably this means that achieving success might have a number of causes and alcohol is not to be depicted as any one of the causes even if it is a secondary reason for the success.
21. The ad does depict two very different scenarios and “moods”. The first scenario “beer fairy world” is shown as dull, polluted and populated by dirty, poorly dressed and seemingly stupid men. The second scenario is the bright clean bar which is frequented by attractive, well dressed men and women. The issue for the Panel is whether the introduction of Canadian Club has changed the mood and this changed mood contributes to the achievement of social success.
22. The Panel does not believe the ad can be fairly said to breach the Section (c) standard. While the two scenarios reflect a different mood, the entire context of ad clearly establishes that the “beer fairy world” is make believe and a parody of the attributes of beer drinkers. The two scenarios are distinct, with the first not moving into the second. Equally, merely showing attractive people in an alcohol ad is not inconsistent with ABAC standards. What is inconsistent is the suggestion that alcohol is needed for someone to appear attractive. The ad does not make this suggestion.
23. Accordingly, the complaint is dismissed.