

ABAC

ABAC Complaints Panel Determination No: 53/10

Complaint by Mr Ken Post Product: Smirnoff Vodka and Ocean Spray Cranberry Advertiser: Diageo Australia Limited

Professor The Hon Michael Lavarch – Chief Adjudicator
Jeanne Strachan – Member
Professor Fran Baum – Member

29 November 2010

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for Smirnoff Vodka with Ocean Spray Cranberry by Diageo Australia Limited (“the Advertiser”) and arises from a complaint by Mr Ken Post received on 19 October 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 by ABAC on 19 October 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. Pre-vetting approval was obtained for this advertisement [10109].

The Advertisement

9. The complaint refers to a television advertisement for Smirnoff Vodka and Ocean Spray Cranberry.
10. The advertisement opens in a sophisticated bar with well-dressed patrons holding drinks and moving around the bar and to the music. We then see a lamp fall over, a chandelier swaying and the ceiling and walls moving in pushing lounge seats, rugs and the bar into the center of the room. The patrons and staff show no concern at the room getting smaller. The barman is seen pouring a mixed spirit drink into a tall tumbler of ice from a bottle of Smirnoff Vodka and a bottle of cranberry juice and pushing it toward a customer as the walls continue to close in. The camera reverses away from the barman as the room continues to get narrower and then the room is replaced by the logo for Smirnoff Vodka and Cranberry.
11. The camera pans out to a man pouring a drink from a cask of Smirnoff Vodka and Cranberry into a tall tumbler with ice. We then see a more casual rooftop party with the cask, some glasses, a tub of ice and candles on a table and a small group of people with glasses of the product. The voiceover reads "Smirnoff Vodka with Ocean Spray Cranberry, Expertly mixed then boxed" as the scene changes to a cask of Smirnoff Vodka and Cranberry next to a tall tumbler of the product and the tagline "Expertly mixed then boxed" above the Smirnoff logo and the text "Drink intelligently".

The Complaint

12. The complainant argues that the product is too easy to drink and does not promote safe alcohol consumption as can simply pour a drink from a cask rather than have to mix it or have it mixed and is marketed directly at young people by mixing with cranberry.

The Code

13. The ABAC provides 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;
 - ii) must not encourage under-age drinking;
 - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;
 - iv) must only depict the responsible and moderate consumption of alcohol beverages.
 - b) not have a strong or evident appeal to children and adolescents...

The Advertiser's Comments

14. The Advertiser responded to the complaints and questions posed by the Panel by letter dated 29 October 2010. The principle points made by the Advertiser are:
 - (a) The Advertisement is part of a campaign for New Smirnoff Vodka and Ocean Spray Cranberry which centres on a television commercial that physically dramatises how bar quality serves have been compacted into a convenient box. It highlights that this product is the same quality you would get from a bar tender. The advertisement conveys a product specific message "Expertly mixed then boxed" in a way which highlights the bar quality nature of the product.
 - (b) Smirnoff Vodka and Ocean Spray Cranberry is a new bar-quality drink offering a classic mix of premium vodka and quality mixer. The product is positioned as a suitable drink to offer friends when entertaining at home. It has been developed to appeal to consumers aged over 30+ who are looking for a sophisticated drink in a convenient format which they can enjoy with friends while entertaining at home. The taste profile of Smirnoff Signature Serves is crisp and slightly dry which is reflective of a classic serve and developed to appeal to a mature audience. As with all of our products, standard drinks guidance is featured on the packaging. The multi-serve format allows for a bar quality, measured serve each time.

- (c) The complainant appears to have taken issue with the product itself, rather than the advertisement. We submit that the ABAC complaints process is not the appropriate forum in which to address this particular issue.
- (d) We have reviewed the ABAC code in light of the complaint you have received and the Advertisement in question and strongly believe that this Advertisement does not encourage underage drinking and nor does it have a strong or evident appeal to children or adolescents, for the following reasons:
- There are no actors/actresses in the advert under the age of 25 years. They are all acting in a controlled, responsible and moderate way. There is a mix of men and women and the ages of the actors range from 25 – 36 years old, clearly a mature crowd at a sociable event.
 - The style of clothing, bar and final occasion on the rooftop were all chosen to reflect a mature and discerning target audience. The energy in the bar and the rooftop occasion is mid tempo. It remains the same from bar to rooftop reflecting a low energy, low key consumption occasion designed to appeal to a mature market.
 - Smirnoff Vodka and Ocean Spray Cranberry is aired on free to air channels 9 and 10 and is targeted at adult TV programming only after the 8.30pm-watershed.
 - Smirnoff Vodka and Ocean Spray Cranberry is a classic mix combining premium vodka with an authentic quality mixer. We have worked closely with the producers of Ocean Spray on the product to ensure that the authentic Cranberry juice with no artificial colours. It is exactly what a customer would receive in a bar should they order a vodka and cranberry, which is a mature and premium drink choice. The colour is not dissimilar to a light red wine.
- (e) The Advertisement presents a balanced and responsible approach to the consumption of alcohol beverages. There is no suggestion of, nor encouragement of, excessive consumption or abuse of alcohol, underage drinking or other offensive behaviour. The Advertisement does not present a situation in which excessive consumption is encouraged.
- Only showing a standard drink pour in all glasses and every serve. In any visuals of the product being served the length of time spent pouring Smirnoff Vodka is under 3 seconds, which is less than the time it takes to pour a standard 30ml serve of spirits using a spirits serve. In the roof top (end) scene the serve is in a 200ml high ball glass over ice. This serve represents 1 standard drink. All the drinks being held by actors are in small tumblers with ice and are therefore under 1 standard drink.
 - As is the case with most wine or beer products, the Smirnoff Vodka and Ocean Spray cranberry proposition capitalises on the fast growing “convenience trend” not dissimilar to other categories. This product is no easier to serve than any wine or beer product.

- Not everyone in the advert is drinking – we ensured that a maximum of 70% of people in the advert had a drink in their hand at any time and even fewer of these actually sip the drink.
- As with all of our products, standards drinks guidance is featured on the packaging. This is clearly visible in the advertising. The multi-serve format allows for a bar quality, measured and controlled serve every time. The format ensures a measured, bar quality serve with every pour. Guidance for 10 standards drinks per 2L pack is clearly promoted on the side of the pack using the standard drinks symbol, as is the case with all of our products.
- By their nature Premix drinks provide a measured drink serve controlling levels of alcohol by volume versus other alternatives.

The Panel's View

15. The complainant essentially raises two matters. Firstly, it is argued that the product which is a vodka-cranberry juice pre-mixed alcohol beverage packaged in a cask should not be permitted as it makes the alcohol beverage 'too easy' for young people to access. Secondly, it is claimed that the ad shows that the product is being 'marketed directly at young people.'
16. The ABAC scheme goes to the advertising of alcohol beverages and imposes standards for individual ads to satisfy. The scheme, and hence the Panel's role in considering public complaints about alcohol ads, does not go to the question of whether a particular type of alcohol product should be publicly available at all. Approval of products for public use and sale is a matter for government and not the ABAC Adjudication Panel.
17. This means that the Panel must look at the ad itself and decide if it is consistent with the relevant ABAC provisions. In this case, the relevant provisions are sections (a) and (b) of the Code that collectively states that the ads should not have strong or evident appeal to children or adolescents and must not encourage under-age drinking or excessive consumption of alcohol.
18. Essentially, the Complainant's main point is that the product by its nature, namely a pre-mixed drink, will appeal to young people and because it does not require any additional preparation – that is a person taking a bottle of vodka and a separate bottle of cranberry juice and creating a single drink at a time – excessive consumption may be encouraged. Again, the Panel is not charged with the power to decide if a product should be sold at all but rather how it is advertised.
19. The Panel does not believe that the ad can be said to be promoting irresponsible consumption or has strong or evident appeal to children or adolescents. In reaching this conclusion, it was noted:
 - The ad is set in a bar and a rooftop party being attended by people clearly adult in appearance and behaviour;

- No one depicted in the ad appears to be affected by alcohol consumption;
- The ad's concept appears to be around the quality and convenience of the product; and
- Taken as a whole, the ad is consistent with the moderate use of alcohol by adults.

20. The complaint is dismissed.