

ABAC

**ABAC Complaints Panel
Determination No: 54/11**

**Confidential Complaint
Product: Corona
Advertiser: Fosters Group**

Professor The Hon Michael Lavarch – Chief Adjudicator
Debra Richards – Member
Professor Fran Baum – Member

12 July 2011

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a cinema advertisement for Corona by the Fosters Group (“the Advertiser”) and arises from a complaint received 22 June 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 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 22 June 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. Pre-vetting approval was obtained for this advertisement [10391].

The Advertisement

9. The complaint refers to a cinema advertisement.
10. The advertisement commences with a woman wearing a short loose dress swinging a 6-pack of Corona in one hand walking through long grass in slow motion with glimpses of the sea in the background and is set to acoustic music. The camera initially focuses on the 6-pack of Corona but as the camera view widens we see a man walking next to the woman and that they are both walking toward an old fashioned taxi where another man is talking with the driver. The two male passengers enter the taxi and the driver and the woman talk as she prepares to enter the taxi. The sun is setting and there are palm trees in the background.
11. The text "Corona Extra from where you'd rather be" is superimposed on the screen at the end of the advertisement.

The Complaint

12. The complainant argues that the advertisement:

- (a) contravenes the rules of carriage in a taxi by its depiction of a person entering the taxi with alcohol beverages as alcohol is not permitted in a taxi; and
- (b) this might cause a serious precedent for taxi drivers who have to put up with quite a lot of problems involving passengers and alcohol.

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 ...

The Advertiser's Comments

- 14. The Advertiser responded to the complaint and questions posed by the Panel by letter dated 2 July 2011. The points made by the Advertiser in relation to the advertisement were:
 - (a) Carlton & United Breweries is a long standing signatory to the Alcohol Beverages Advertising Code and takes these matters seriously. CUB has an excellent advertising compliance track record and is committed to the ABAC scheme. CUB contributes close to \$2 million annually towards responsible consumption initiatives.
 - (b) We firmly believe that the advertisement referred to in the complaint does not breach the Code (in particular, section (a) of the Code). The alcohol in question is in its original, unopened packaging. At no stage is the alcohol opened or consumed during the advertisement, and there is no suggestion that irresponsible or illegal behaviour will otherwise occur. CUB in no way intends to make light of taxi drivers and problems they may face from any irresponsible individual passengers. However, we are firmly of the view that a reasonable person would not consider that the advertisement, taken as a whole, presents an approach to the consumption of alcohol beverages that is not mature, balanced and responsible.
 - (c) The complaint refers to the Corona Cinema "Taxi" commercial, which portrays three friends walking in slow motion towards, and then getting into, a waiting taxi. The female is carrying a six pack of Corona Extra, and it is important to note that each of the six beers is unopened, with its bottle cap on (closed container), and they are in their original packaging. The scene is set during the day (towards sunset) and the only audio is a relaxed, acoustic song. The advertisement closes with the tagline "from where you'd rather be". There is nothing that suggests where the taxi is taking the friends (whether home, out to a party or somewhere else), and no suggestion that the alcohol is intended for consumption, or will be consumed, in the taxi.

- (d) The complainant asserts that the female carrying the alcohol is contravening the “rules of carriage by a taxi”, and states that this might set a serious precedent for all drivers. ABAC subsequently asked CUB whether it is illegal to consume or take alcohol into a taxi in Australia. Taxi passenger regulations in Australia are governed on a state-by-state basis, by the various state transport departments. Some of these departments have “Passenger Rights and Responsibilities” guidelines available on their websites. For example, Victoria (at <http://www.taxi.vic.gov.au/DOI/Internet/vehicles.nsf/AllDocs/C5FF8F5A-FBF918F0CA257266001799F5?OpenDocument>), which provides “Passengers must not consume alcohol or carry open containers which hold, or say they contain, alcohol while travelling in a taxi.” and New South Wales (at <http://www.transport.nsw.gov.au/taxi/guide.html>), which provides that taxi users must “Not eat, drink or smoke in the taxi”. Nothing in either of these guidelines prohibits the carrying of unopened bottles of alcohol. The complaint was made in response to a cinema advertisement in Western Australia. No similar online resource is available for Western Australia. However, I telephoned the Taxi Council of Western Australia who informed me that the relevant rules regarding passenger behaviour are stipulated in the Road Traffic Act (Western Australia, 1974) which, according to them, does prohibit a passenger from having an open container of alcohol but does not disallow the carriage of closed containers of alcohol. I have not been able to verify this, but that position would seem to be consistent with the Victorian and NSW positions. We are unaware of any Australian law with which the Corona Commercial is not compliant. Various guidelines prohibit eating and drinking whilst in a taxi, while the Victorian guidelines specifically prohibit having an open container of alcohol on board. It is within the regulations to carry/take unopened alcohol whilst in transit with a taxi.
- (e) It’s worth repeating that the six pack of Corona Extra is at all times unopened and in its original packaging. There is no narrative or suggestion, direct or implied, that would make a reasonable viewer assume that the product is to be opened and consumed in the taxi. Therefore we argue that the advertisement does not breach section (a) and contains a legal, responsible, mature and balanced approach to alcohol.

The Panel’s View

15. The complainant is concerned that the advertisement promotes an immature or irresponsible approach to the consumption of alcohol beverages in breach of section (a) of the ABAC by depicting alcohol being taken into a taxi thereby contravening the rules of carriage in a taxi.
16. The Advertiser contends that the advertisement does not depict or imply that consumption will take place in the taxi and that taking unopened alcohol beverages into a taxi does not contravene any laws or rules.

17. The Panel is not aware of any law or rules that prohibit taking unopened alcohol beverages into a taxi and has considered the advertisement and notes that:

- the actors do not appear to be under the influence of alcohol,
- the alcohol taken into the taxi is unopened,
- the advertisement is set at dusk and the advertisement gives the impression of three friends responsibly entering a taxi with a moderate quantity of alcohol.

Accordingly the Panel does not believe the advertisement is in breach of the ABAC.

18. The Complaint is dismissed.