

ABAC

ABAC Complaints Panel Determination No: 61/11

Complaint by Ms Sally Rice Product: Jim Beam Advertiser: Independent Liquor Group – Little Bottlers

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

8 September 2011

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a print advertisement for a Jim Beam promotion by Little Bottlers (“the Advertiser”) and arises from a complaint received 29 July 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 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 29 July 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. The Advertiser is not a signatory to the ABAC and pre-vetting approval was not obtained for this advertisement.

The Advertisement

9. The complaint refers to a print advertisement for a Jim Beam promotion by Little Bottlers.
10. The advertisement features a photograph of two scantily clad young women one of whom is wearing a Jim Beam T-shirt next to a picture of two bottles of 700ml Jim Beam. The tagline next to the bottles is "Why get one when you can have 2? 2 for \$60". Below the tagline is a picture of a 10 can carton of Jim Beam and Cola with the text "Also available" and "\$32.99". The Jim Beam logo is featured on the bottom right of the page and at the bottom of the page is the text "Your local Little Bottler is a member of Australia's Largest Liquor Co-op".

The Complaint

11. The complainant argues that the advertisement featuring a picture of two young girls would encourage teenagers to see Jim Beam as the cool thing to drink.

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 underage drinking;
13. The ABAC provides at Section (b) that advertisements for alcohol beverages must:
 - b) not have a strong or evident appeal to children or adolescents ...

The Advertiser's Comments

14. The Advertiser responded to the first complaint and questions posed by the Panel by email received 15 August 2011. The points made by the Advertiser in relation to the advertisement were:
 - a. ILG and Little Bottler agree to accept the Panel's decision in relation to this complaint and will act accordingly.
 - b. This ad forms part of an over-arching campaign for Jim Beam, "The Dilemma", which is a light-hearted play on the choices in life for LDA consumers.
 - c. The females featured in this particular catalogue ad are the TVC talent used by Jim Beam in the campaign and are both well over the age of 25 which follows ABAC guidelines. (Kylly Boldy – Currently 30 years old (turned 30 on the 9th August) / Samantha Tolj – Currently 30 years old (she turned 30 on the 12th June)).
 - d. It is our understanding that all Jim Beam campaigns are pre-vetted and approved with the relevant bodies. This ad is definitely aimed at persons over the legal drinking age of 18. We see no codes being broken in this link to the TVC and selling a 2 for deal at retail.
 - e. The ad in which ILG/Little Bottler placed into the catalogue is again about choice ("The Dilemma") and the tie up is instead of having to choose one, the easiest thing to do is choose two x 700ml bottles for \$60. It is our view that this tagline in no way targets adolescents.

The Panel's View

15. This complaint raises a number of issues, both substantive and procedural, which will be dealt with in turn.

The Procedural Aspects

16. The ABAC is a quasi-regulatory system which has at its heart the commitment of advertisers to comply with the standards contained within the ABAC and abide by the pre-vetting and complaints processes which make up the ABAC Scheme. This

commitment is embodied through the sponsorship of the ABAC Scheme by three (3) peak alcohol industry bodies, namely the:

- Brewers Association of Australia & New Zealand
 - Distilled Spirits Industry Council of Australia
 - Winemakers Federation of Australia.
17. While the individual companies which are members of the sponsoring industry bodies cover the vast majority of alcohol beverage advertisers in Australia, there are alcohol producers and advertisers who are not member of the relevant industry bodies or are not signatories to the ABAC Scheme. The advertiser in this particular case is not an ABAC signatory. This means that the advertising was not subject to pre-vetting prior to its publication and the advertiser is not contractually bound to follow a panel decision. That said, the advertiser has cooperated with the Panel in enabling the determination to be made.

The Substantive Aspects

18. The complainant is concerned that by including pictures of young girls on an alcohol advertisement teenagers will be encouraged to consume the product.
19. The ad is quite straightforward in that it depicts a photograph of two attractive women dressed in revealing clothing next to a picture of the product and the tag line "Why get one when you can have 2?" The ad arguably objectifies women but this is an issue under the code of ethics rather than the ABAC and in any event was not the issue that concerned the complainant. The Panel does not believe that the ad can be said to have strong or evident appeal to teenagers and most likely the target audience for the ad is adult men.
20. Accordingly the complaint is dismissed. The Panel encourages the advertiser to utilise the Alcohol Advertising Pre-vetting Service for future alcohol advertisements.