

ABAC

ABAC Complaints Panel Determination No: 63/12

Confidential Complaint Product: Tooheys New Advertiser: Lion

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

13 August 2012

Introduction

- 1 This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns an outdoor advertisement for Tooheys New by Lion (“the Advertiser”) and arises from a complaint received on 17 July 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 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 the ABAC Panel on 17 July 2012.
- 7 The Panel endeavour 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. The complaint has been determined within this 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 obtained pre-vetting approval for the advertisement [11446].

The Advertisements

- 9 The outdoor advertisement was located on a Railway Bridge over Marion Street, Leichhardt.
- 10 The advertisement is set against a blue background and includes a small outline of a stag's head followed by the tagline in white text "A Night in the Cross Turns a Flatmate into a Mate". Below the tagline is a full glass of beer with the Tooheys New logo superimposed on the front of the glass and below the logo the text "Supporting Mateship".

The Complaints

- 11 The complainant argues that the advertisement is inappropriate given:
 - a) the alcohol fuelled problems that have been around for a long time in the Cross area; and
 - b) the violence that ended up with a death the other day.

The Code

- 12 The ABAC provides at Part 1 that advertisements for alcohol beverages must:
 - a) Present a mature, balanced and responsible approach to the consumption of alcohol beverages ...

The Advertiser's Comments

- 13 The Advertiser responded to the complaint and questions posed by the Panel by way of letter dated 6 August 2012. The principal points made by the Advertiser were as follows:

- a) We do not believe the advertisement fails to present a mature, balanced and responsible approach to the consumption of alcohol. The Tooheys New 'Supporting Mateship' campaign is a series of advertisements based on the insight that people bond over shared experiences – whether that is enjoying a night out or getting through an awkward moment together, such as escaping from a locked sauna with your father-in-law or singing a karaoke duet with a work mate. Kings Cross was chosen to feature in this particular execution because it is Sydney's best known night spot and is recognisable as a place where people go to catch up, socialise and share a meal or a drink.
- b) We take our responsibilities as an alcohol advertiser very seriously and consider prevailing community standards when developing our campaigns. At the time the campaign was developed and in market, we believe the representation of Kings Cross as an area where mates socialise together was in line with community perceptions. Since the conclusion of this campaign, a tragic incident has occurred in Kings Cross and we recognise that as a result the community's perception of the area will have evolved. This changed perception will influence any future campaigns.
- c) Furthermore, Lion is confident the advertisement is compliant with the Code of Ethics as the ASB assessed the above complaints as not raising any issues.

The Panel's View

- 14. The complaint is prompted by some recent incidents of violence in the Kings Cross area of Sydney. These incidents have resulted in a death and the attraction of media and public comment on the causes of violence and the appropriate responses to the problem. It is well recognised that the misuse of alcohol can be a contributor to violence such as that which occurred in Kings Cross.
- 15. It is against this back drop that the complainant contends that the reference in the ad to a "night in the Cross" is inappropriate. The ABAC provides in Section (a) that alcohol advertising must present a mature balanced and responsible approach to alcohol consumption. The section goes on to state that this requirement will not be satisfied if an Ad encourages excess consumption or offensive behaviour.
- 16. While the Panel understands the point being raised by the complainant it is not able to find the billboard in breach of the ABAC Standard. The Panel must assess the Ad against the Standard and there is nothing within the content of the Ad which can reasonably be said to suggest an irresponsible approach to alcohol consumption. The Ad does suggest that acquaintances might become friends after a "night in the Cross" but it does not imply that irresponsible use of alcohol is part of this experience.
- 17. Accordingly the complaint is dismissed.