

ABAC

ABAC Complaints Panel Determination No: 74B/12

Complaint by Mr Phil Beresford Product: Absolut Vodka Advertiser: Premium Wine Brands Pty Ltd

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

27 November 2012

Introduction

- 1 This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns an advertisement for Absolut Vodka by Premium Wine Brands Pty Ltd (“the Advertiser”) and arises from a complaint received on 24 October 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 24 October 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 has been determined within 30 business days.

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. This advertiser obtained pre-vetting approval for some elements of this advertisement [11748].

The Advertisement

- 9 The advertisement is a banner accompanied by audio that appears on Spotify which is a digital music streaming service.
- 10 The banner is a black and white photograph of three men in a recording studio with pink print across the middle of the photograph "ABSOLUT GREYHOUND" and in smaller print below "Create Your Absolut Vodka Night Out Playlist". In smaller print at the bottom of the advertisement "f facebook.com/absolutau Enjoy With Absolut Responsibility"
- 11 Audio accompanying the banner is the voiceover "Create your Absolut Vodka Night Out Playlist", followed by dance music and at the end of the audio the voiceover "Absolut Greyhound Absolut Vodka".
- 12 On selecting the banner users are taken to the Absolut Vodka Australia facebook page. The page features a picture of three men, one with earphones. At the top of the page the following print is included "Absolut Greyhound Cocktails Perfected A Drink with new music by Swedish House Mafia". Near the bottom of the page the following print is included "Exclusive track and video by Swedish House Mafia See it. Hear it. Mix it. At the bottom of the page the following small print is included "Enjoy with Absolut Responsibility. Absolut Vodka. Product of Sweden. 40% alc/vol. Distilled from Grain ©2012 Imported by Absolut Spirits Co., New York, NY."

The Complaint

- 13 The complainant argues that the content, timing and placement of the advertisement while listening to children's songs is irresponsible and unacceptable.

The Code

- 14 The ABAC provides at Sections (a)(ii) and (b) that advertisements for alcohol beverages must:
- a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly –
 - ii) must not encourage under-age drinking;
 - b) not have a strong or evident appeal to children and adolescents...

The Advertiser's Comments

15 The Advertiser responded to the complaint and questions posed by the Panel by way of letter dated 8 November 2012. The principal points made by the Advertiser were as follows:

- a) The Advertiser is a signatory to ABAC and takes compliance very seriously. It is a company committed to ethical marketing of its products through compliance with all applicable advertising Codes and laws as well as its stringent internal Code – the Pernod Ricard Code for Commercial Communications.
- b) All users of the Spotify site are required to create an account and there are several levels of Spotify subscriptions that may be chosen:
 - i Free service – an advertising based service where users are not charged to listen to music, create playlists and share music with friends.
 - ii Unlimited service – a fee based service where users can listen to music, create playlists and share music with no time limits and no advertising.
 - iii Premium service – a fee based service which over and above the allowances on the unlimited service, also allows users to access music whilst off-line and to save it on a limited number of other devices, again with no advertising.

In order to create an account, users are required to register their personal details, including their age – this is either done directly on the site or via a link to their Facebook account. Demographics for the Spotify site show that 91% of registered users are over 18 years old (well in excess of our internal requirements that any advertising environment must comprise at least 70% adults).

- c) The Absolut ads which were placed on the Spotify site were both age restricted i.e. they would only be visible to users of the free service whose account registration details showed them as being over 18 years old. We have confirmed with Spotify that it is not currently possible to filter advertising content on their site according to the genre of music that the user is listening to. The Advertisements also contained a prominent responsible drinking message – “Drink with Absolut Responsibility”.
- d) In the circumstances the Advertiser believes they have acted responsibly and have taken every available precaution to limit the audience to adults (noting that adults registered for the free service on Spotify should be aware that they will be receiving advertising material suitable for an adult audience). It is the user who selects the music to be played – this is not a site specifically for children's music. Further, ABAC

is a content Code and not a placement Code and therefore it is difficult to see the relevance of the placement of the ads to a complaint under the ABAC Scheme.

- e) Absolut vodka is a premium product with an adult target market. Its advertising platforms are modern, artistic and sophisticated and are intended to convey the premium nature of the product. The Absolut vodka “Greyhound” campaign is part of a global initiative by Absolut vodka focusing on nightlife and music. Following a long standing tradition of collaborating with leading artists in music, fashion and art, Absolut vodka has recently collaborated with Swedish House Mafia, who produced the music track “Greyhound” as a tribute to the Absolut “Greyhound” drink.
- f) The members of Swedish House Mafia are for the most part DJ’s and music producers. Their fan base is predominantly adult, the global demographic for fans of the group being 73% over the age of 21. The “Greyhound” song and the group’s music can be considered electronic dance, or house music and is generally featured in age restricted venues such as nightclubs. The advertiser does not consider that this style of dance music has a strong appeal to children and, taking into account Swedish House Mafia’s fan demographics, it cannot be said that Swedish House Mafia or their music has a strong or evident appeal to children. Furthermore the voiceover within the advertisement also makes reference to the user creating a ‘night out’ playlist – a clearly adult theme.
- g) It is the Advertiser’s strong view that the advertisement complies with all aspects of the ABAC and that there is no particular element of the advertisement, nor is the overall impression of the advertisement of strong or evident appeal to children or adolescents or encouraging underage alcohol consumption.

The Panel’s View

- 13 This is the second of two determinations flowing from the complaint of Mr Beresford about alcohol advertising appearing on his Spotify music streaming site. The first determination, 74A/12, provides background information on the evolution of the ABAC scheme relevant to understanding its application to new communication channels, such as Spotify.
- 14 As explained in determination 74A/12, the ABAC creates a code of good practice standards which alcohol advertising is to satisfy irrespective of the medium the advertising is placed. In other words, the ABAC is a content, as opposed to a placement, code.
- 15 The critical facts in this case are as follows:
 - a) Mr Beresford opened a free subscription Spotify account, apparently with the intention that the site would be used to access artists and music types suitable for his young daughter.
 - b) A feature of the free subscription Spotify service is that advertising is forwarded to subscribers’ accounts.
 - c) Spotify operates in a manner which identifies and distinguishes account holders who are over 18 years of age (Mr Beresford) and children and adolescents (aged 13 to 17) who require a parent’s or guardian’s permission to open an account.
 - d) For account holders over the age of 18, streamed advertising will include alcohol advertisements.

- e) Spotify does not match advertising with music artists or genres, so alcohol advertising will go to all sites of persons over 18 irrespective of the music chosen by the subscriber.
- 16 Drawing this together means that the Panel is to assess the content of the advertisement which appeared on the Spotify site and assess if this advertisement has strong or evident appeal to children. The mere fact that the advertisement appeared on the site alone will not lead to a conclusion that the ABAC has been breached.
 - 17 The Panel has considered the content of the advertisement and is of the view that it does not contain elements which would be taken as strongly or evidently appealing to children.
 - 18 Accordingly, the complaint is dismissed.