

ABAC

ABAC Complaints Panel Determination No: 93/11

Complaint by Dr Douglas Herron
Product: Various
Advertiser: Liquor Barons Co-operative Ltd

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

23 November 2011

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a print advertisement by Liquor Barons Co-operative Ltd (“the Advertiser”) and arises from a complaint received 31 October 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 31 October 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 in The West Australian newspaper on 28 October 2011.
10. The advertisement is set against a grey background and features large yellow text "CHUGM". Smaller white print below states "With the Commonwealth Heads of Government in town for a long weekend, it's bound to get a little crazy out there. So why not relax at home and enjoy an icy cold beer or a glass of your favourite wine from your local Liquor Barons store. This text is followed by the Liquor Barons logo.

The Complaint

11. The complainant argues that the use of the word 'CHUGM' encourages binge drinking.

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 excessive consumption or abuse of alcohol;
 - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;

The Advertiser's Comments

13. The Advertiser responded to the questions posed by the Panel by letter received 16 November 2011. The points made by the Advertiser in relation to the advertisement were:
 - a. While we are not signatories to the ABAC management system, we will abide by the findings of the panel. We do this because we strongly support the principals of responsible, mature and balanced alcohol advertising.
 - b. In our view, Liquor Barons has acted in a mature, balanced and responsible manner and has in no way encouraged excessive alcohol consumption with the use of the "CHUGM" play on words. When making a decision, we would ask that the advertisement is viewed in context in that;
 - The advertisement was a timely, topical, intelligent, mature play on words.
 - The West Australian newspaper viewed the CHOGM event in such a way to consider it worthy of a daily, internal editorial section of the paper for the duration of the event.
 - *Placement within the newspaper:* On the front cover of the CHOGM editorial section of the paper (A scanned copy of the page is included as part of this submission).
 - *Date of Publication:* Day one of the CHOGM meeting
 - The build up to the CHOGM event in Perth has been months in the making and on a scale not seen in the country since perhaps the 2000 Sydney Olympics – the city was gripped with all things CHOGM. For example;
 - The State Government declared a public holiday on day one of the event.
 - The event reached an intense crescendo of media coverage across all formats and channels.
 - The CHOGM meeting included a highly visible security operation that shut down large sections of the CBD.
 - The message within the advertisement, as supported by the text of the advertisement was balanced, mature and responsible. "*With the Commonwealth Heads of Government in town for the long weekend, it's bound to get a little crazy out there. So why not relax at home and enjoy an icy cold beer or a glass of your favourite wine from your local Liquor Barons store.*"
 - c. While we agree, as a standalone word, chug can mean "to consume alcohol quickly without stopping", in this instance, when viewed in context, we would

argue that it does not and consequently took the decision to use the term in a very timely, topical and mature advertisement.

The Panel's View

14. This complaint raises both substantive and procedural issues, which will be dealt with in turn.

The Procedural Aspects

15. 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.
16. 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 advertiser is not contractually bound to follow a panel decision. That said, the advertiser has advised that it supports the ABAC and will abide by the Panel's decision.

The Substantive Aspects

17. The argument of the complainant is that the use of the headline 'CHUGM' encourages binge drinking.
18. The advertiser argues that the use of the term CHUGM in its advertisement was a play on words during the highly publicized CHOGM meeting that received wide media coverage and that it was a timely, topical and mature advertisement.
19. The expression "chug" as conceded by the advertiser does have a connotation of drinking quickly or "skulling" and this means of use is not consistent with a mature, moderate approach to alcohol consumption. The advertiser argues, however, that the use of the word "chugm" needs to be viewed in context and this context establishes that its use is not irresponsible.
20. The preamble to the ABAC provides that in assessing the consistency of an ad with ABAC standards the Panel is to have regard to the probable impact of the ad on a reasonable person taking its content as a whole.
21. The ad was published during the Commonwealth Heads of Government Meeting (CHOGM) hosted by Australia in Perth. It can be accepted that the CHOGM

meeting attracted a great deal of publicity in Perth and the advertiser was using a play on words to promote its business at that time. The word-play would have little humorous value beyond the period of the CHOGM event.

22. The Panel recognizes the complainant's argument that the use of the expression "chug" within an alcohol ad might be inconsistent with the ABAC standards in a particular case. The critical point, however, as specified in the code Preamble is that the context of the ad needs to be assessed as a whole and not simply a single scene or word in isolation.
23. On balance, the Panel believes that the ad does not breach the ABAC standard in section (a). The overall context of the ad is established by a text that refers to the Commonwealth Heads of Government meeting. "Chugm" is an obvious and direct reference to that event.
24. A reasonable person would most likely see the use of the phrase as a play-on-words and not as an encouragement to consume alcohol in an immoderate manner.
25. Accordingly, the complaint is dismissed.