

ABAC

ABAC COMPLAINTS PANEL – DETERMINATION NO: 07/04 Mid Strength Beer

IN THE COMPLAINT OF JANE PARKER

Product: Mid Strength Beer
Advertiser: Carlton & United Beverages

Professor The Hon Michael Lavarch - Chief Adjudicator
Prof Fran Baum - Member
Ms Jeanne Strachan - Member

12 November 2004

Introduction

1. By email dated 20 September 2004, Mrs Jane Parker forwarded a complaint to the Advertising Standards Board (“ASB”). The complaint is about a television advertisement for Carlton & United Beverages’ Mid Strength Beer. The ASB determined the complaint fell within the scope of the Advertisers’ Code of Ethics and would be determined by the ASB. The Chief Adjudicator of the Alcohol Beverages Advertising Code Complaints Panel (“the Panel”) in accordance with the protocols applying to the scheme for alcohol advertising also determined the advertisement raised issues under the Alcohol Beverages Advertising Code (“ABAC”).

Alcohol Advertising Pre-Vetting System (“AAPS”)

2. The self-regulatory system for alcohol beverages advertising features independent examination of proposed advertisements against the ABAC prior to publication. The advertisement complained of was submitted to the AAPS for pre-vetting and approval for the advertisement was given (No. JB43/04MSC).

The Advertisement

3. The complaint is about a television commercial for Carlton & United Beverages’ Mid Strength Beer that shows a man pouring shampoo on his long-haired, shaggy pet dog and then throwing a tennis ball into his backyard swimming pool, whereby the dog jumps into the pool to fetch the ball. The man then leaves the dog unsupervised in the pool. He is then seen sitting with friends at a beach-side table setting, drinking the alcohol product.
4. The advertisement is a 30 second television commercial. The opening shot is a close up of a dog with purple shampoo dripping down its face. The next shot shows a man pouring shampoo onto the dog’s coat, saying ‘good girl, good girl’. The man pulls a tennis ball out of his pocket and throws the ball into a backyard swimming pool. The dog jumps into the pool to fetch the ball. The man looks at the dog in the pool, gives a ‘thumbs-up’ gesture, turns around and trots away from the pool. The next scene shows the dog paddling in the pool, and we hear the dog breathing and giving a low growl. The music behind this scene is of a whistle to the tune, ‘Stay a Little Bit Longer’. The viewer does not see the dog or the swimming pool scene again.

5. The location changes to show the man at a beach-side table setting, seated with male friends, holding a bottle of Mid Strength Beer. The audio is a male vocal singing 'Stay a Little Bit Longer'. There are five bottles of the product and a half-full glass of beer visible on the table. The men are drinking beer, and there are sounds of laughing, talking and the uttering of a refreshing 'ahh', as they drink the beer.
6. The commercial concludes with a close up shot of a bottle of the Mid Strength Beer being held by one of the men seated at the table.

The Complaint

7. Mrs Parker argues that the advertisement depicts irresponsible behaviour that potentially endangers the life of an animal as the actions may cause the dog to drown in a swimming pool. Mrs Parker says that the action is 'irresponsible, dogs drown that way, not being able to get out of pools'.

Interplay between ABAC and AANA Code of Ethics

8. As mentioned in paragraph 1, complaints about alcohol beverage advertisements are to be assessed against two codes, namely the Australian Association of National Advertisers ("AANA") Code of Ethics and the ABAC. The AANA Code is a generic code setting out standards which all advertising, regardless of the product or service involved, should comply with, while the ABAC is an alcohol beverage specific code which deals with additional standards that advertisements for alcohol products must satisfy.
9. The two codes have operated together since the establishment of the ABAC Complaints Management system in July 1998. From time to time a complaint about an alcohol beverage advertisement will raise matters covering areas covered by both codes. Up until 1 April 2004 (when the ABAC system was revised) the practice adopted by the ABAC Panel in such cases was not to make determinations on the issues raised under the AANA Code of Ethics, but to confine itself to the ABAC provisions.
10. As from 1 April 2004, changes to the ABAC Complaints Management system agreed by the ABAC Management Committee with Australian government officials have altered this position. The Panel understands that its approach should now be as follows:
 - Initial assessment of a complaint by the ASB to determine if the AANA Code or ABAC Code, or both, is brought into question by the nature of the complaint;
 - Communication of the outcome of this assessment by the ASB to the ABAC Chief Adjudicator. Assessment by the Chief Adjudicator if the complaint raises issues under the ABAC;
 - If the complaint raises issues solely under the AANA Code, then the ASB is to determine the complaint;
 - If the complaint raises issues under both the AANA Code and the ABAC, then the ABAC Complaints Panel is to determine the complaint against both the ABAC and the AANA Code.
11. The complaint by Ms Parker is the first received since 1 April 2004 which the ABAC Chief Adjudicator believes raises issues under both the ABAC and the AANA Code. For this reason the Panel thought it appropriate to explain the new post-1 April 2004 approach.

The Codes

12. The ABAC contains one provision which could arguably be raised by Mrs Parker's complaint and the nature of the advertisement. The provision provides that advertising for alcohol beverages must:
 - **Section (a) (iii)**
present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages.
13. The AANA Code of Ethics contains one provision which could arguably be raised by the complaint and the nature of advertisement. This provision provides:
 - **Section 2.6**
Advertisements shall not depict material contrary to prevailing community standards on health and safety.

Arguments in Favour of the Complaint

14. In favour of the complaint it can be argued that it is irresponsible approach to the consumption of alcohol beverages by portraying a dog swimming unsupervised in a backyard pool, when its owner would prefer to consume an alcoholic product, rather than exercise basic responsibilities towards a family pet and household chore.
15. It could also be argued that the use of the tune, 'Stay a Little Bit Longer' reinforces the irresponsible behaviour as the dog-owner who would rather be socialising and drinking beer with his mates, than acting responsibly and taking proper time and care in washing a dog.

The Advertiser's Comments

16. Carlton & United Beverages responded to the complaint by letter dated 26 August, 2004, to the Advertising Standards Bureau, and to the ABAC Chief Adjudicator by letter dated 18 October, 2004.
17. The Advertiser argues that the proposition of the campaign of which this television commercial is one execution, is that guys doing everyday chores will take short cuts to enable them to get to the pub faster. The creative concept of the advertisement is inspired by other (non-alcohol beverage) campaigns for motor vehicles and an insurance company, where dogs are featured in highly exaggerated scenarios. The advertiser believes the behaviour depicted would not be taken as a real-life action by "a reasonable person within the class of persons to whom the advertisement is directed and other persons to whom the advertisement may be communicated".
18. The Advertiser argues that it is general knowledge that dogs can swim and the advertisement offered no suggestion or implication that the animal was in any difficulty or danger. Furthermore, in the development and filming of this ad, every care was taken to ensure no harm came to the animal involved. The TVC met all the requirements of the Code of Practice for the Welfare of Animals in Films and at no time were any concerns raised.

The Panel's View

19. The decision in this case rests on whether Ms Parker's argument that the advertisement is irresponsible and may promote behaviour which is cruel and harmful to an animal should be accepted, or on the other hand, the advertiser's assertion that the advertisement is a highly-exaggerated scenario that could not be taken literally is correct. As stated earlier, the Panel needs to consider the provisions of the ABAC and AANA Codes in making its determination.
20. Turning firstly to the AANA Code, the Panel believes that the nature of Ms Parker's complaint does not readily fall within the particular standards set down by that code. The prevention of cruelty to animals is not a specific standard which the code requires advertisements to satisfy. While it might, at a stretch, be considered that Section 2.4 of the AANA Code covers health and safety of animals on the face of it the section most likely applies to human health and safety.
21. In any event, the Panel does not believe that the advertisement can reasonably be taken to be depicting material which is contrary to prevailing community standards on this point. As mentioned below, the Panel concludes the advertisement is a humorous and somewhat improbable depiction of a "short cut" way to wash a dog that is not seriously being advocated.
22. The ABAC Code by Section a(ii) lays down a general standard of maturity, balance and responsibility in the general approach to be taken in consuming alcohol beverages and specifically requires that offensive behaviour not be promoted. Ms Parker contends in effect that encouraging a dog to jump unsupervised into a swimming pool is irresponsible and that the advertisement promotes offensive behaviour.
23. The Panel accepts that the proper care of animals is a legitimate community expectation and that an alcohol beverage advertisement which promoted ill treatment of animals would be offensive and irresponsible. For instance, if the advertisement had depicted the animal being forcibly thrown into the swimming pool, then the panel may consider this to be offensive and irresponsible. The Panel however does not believe the advertisement in question can be reasonably taken to promote ill treatment of animals. The advertisement is light-hearted and exaggerated. It is a parody and not an example to be followed.
24. Accordingly the Panel dismisses the complaint under both the AANA Code and the ABAC.