

# ABAC

**ABAC Complaints Panel  
Determination No: 103/08**

**CONFIDENTIAL COMPLAINT  
Product: Carlton mid-strength beer  
Advertiser: Foster's Group Limited**

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

14 October 2008

## **Introduction**

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for Carlton mid-strength beer by the Foster’s Group Limited (“the Advertiser”) and arises from a confidential complaint (“The Complainant”).

## **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 ASB and the Panel both assess complaints separately under their own rules. However, for the ease of public access to the complaints system, the ASB receives all complaints about alcohol beverage advertisements and forwards a copy of all complaints to the Chief Adjudicator of the ABAC.
4. The Chief Adjudicator of the ABAC then determines if the complaint raises issues which are solely within the province of the AANA Code of Ethics. If not, then the complaint will be forwarded to the ABAC Adjudication Panel

for consideration. If only AANA Code issues are raised, then the matter is determined by the ASB.

5. The complaint raises concerns under the ABAC and accordingly is within the Panel's jurisdiction.

### **The Complaint Timeline**

6. The complaint is in the form of an email received by the ABAC Panel on 2 October 2008.
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 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. Pre-vetting approval was obtained for the advertisement [BH68/08].

### **The Advertisement**

9. The complaint refers to a television advertisement which depicts a man walking down the front steps of a house toward a second man standing next to a wagon and saying "Told ya. Mitch forgot to tell Karen. She won't let him go." In the background a woman can be heard loudly berating someone. The camera moves to the second man standing next to the car and reveals a third man sitting in the car. The two men sigh and look concerned and downcast. The man standing next to the car looks up and says "I'm goin' in." The man in the car looks at him and asks the first man "What's he doin'". The first man replies "Speaks woman". The second man is then shown walking up the steps and into the house toward a woman wearing pyjamas yelling at a sheepish looking man "Well that's just great Mitch, when were you thinking of telling me, huh?" Mitch and Karen turn to look toward the man entering the house who is moving slowly toward Karen and saying to her in a quiet slow voice "Hi Karen, I'm Dave." Karen casts an angry look at Dave and Mitch grimaces. Dave continues "Part of Mitch's support network." Dave takes Karen's hands and continues looking straight into her eyes "Mitch loves you, but he feels he needs some time out with some special friends, to invigorate his soul, so he can love you even more." Karen begins to sob and says to Mitch, "It's so beautiful". Mitch nods. Dave says "I know". Karen says to Mitch "Go baby". Dave turns to Mitch and says quietly "Don't forget your golf clubs". The closing scene is of the four men standing on a decking overlooking beautiful scenery and drinking and toasting each other with cans of Carlton mid strength beer. The song and strap line accompanying the closing frame is "Stay a Little Longer".

### **The Complaint**

10. The complainant argues that the advertisement raises various concerns, specifically that:

- a) the ad is sexist and degrading to women,
- b) the ad depicts women as readily manipulated and malleable by a group of beer drinking men; and
- c) the ad portrays men as being able to manipulate women using their brains, which presumably have been strengthened by drinking copious amounts of beer.

### **The Code**

- 11. 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 –
    - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages.

### **Arguments in Favour of the Complaint**

- 12. In favour of the complaint it can be argued that the advertisement breaches section (a) & (a)(iii) of the ABAC by suggesting that a man's ability to manipulate women is enhanced by alcohol consumption thereby failing to present a mature, balanced and responsible approach to consumption of alcohol and promoting offensive behaviour.

### **The Advertiser's Comments**

- 13. The Advertiser responded to the complaint and questions posed by the Panel by way of letter dated 9 October 2008. The points made by the Advertiser in relation to the advertisement were:
  - (a) Carlton Mid is a midstrength beer with an ABV of 3.5% and 1 standard drink per 375mL stubby.
  - (b) The early scenes of the TVC are set in the morning. A group of male friends wait for one of their mates outside his house. It is clear that they are going away together for a weekend and from the background dialogue, "Mitch" (the husband), has forgotten to tell "Karen" (his wife) and she is not impressed. There is no alcohol present in the scenes and there is nothing to imply consumption either before or during the discussion. No alcohol can be seen in the home or the surrounds and none of the dialogue suggests there has been or will be alcohol consumption of any kind.
  - (c) The only consumption of alcohol occurs in the end frame, where the four mates toast each other with what is clearly their first beer once they have reached their destination, a rural cabin, in the early evening. The sun is setting so the viewer can deduce it is approximately 7.00pm). Consumption in the final frame is of a lower alcohol beer (3.5% ABV). Given it is clear it is the first beer of the day, we believe it is unreasonable to suggest that the men's behaviour, or their attitude towards women, has been affected by

alcohol consumption. In fact the behaviour of the characters is mature, balanced and, more importantly, sober. We firmly believe this to be in line with the ABAC.

- (d) In relation to the claim that the men are being manipulative, the premise of the TVC is that relationships and marriages are complex, with both parties occasionally wanting different things from each other. Central to this theme is a perceived difference in communication style between men and women. We would argue that it is nothing new to highlight what is widely known and understood by both sexes and the advertisement is essentially a humorous sketch about the different communication styles of men and women.

### **The Panel's View**

14. This complaint raises the ABAC issue outlined above and also an issue of gender discrimination which is an issue which triggers consideration under the AANA Code of Ethics and will be dealt with by a determination handed down by the ASB. This means that this determination does not deal with the question of whether the ad demeans women, as this aspect of the complaint will be decided by the ASB.
15. The ABAC issue raised by this complaint is that the ad promotes offensive behaviour. Section (a) of the ABAC provides that alcohol ads must present a mature, balanced and responsible approach to consumption of alcohol and must not promote offensive behaviour.
16. The advertisement essentially involves a man being "allowed" by his partner to go on a boys weekend which involves drinking beer with his mates.
17. The complaint is concerned that the ad suggests the behaviour, namely the manipulation of women by the men, is enhanced by the use of alcohol.
18. The advertiser's argument is that it is clear from the ad that there is no alcohol present and no implication that alcohol has been consumed either before or during the dialogue between the men and the woman that the complainant finds offensive. The only consumption of alcohol is during a toast at the end of the ad that is clearly later in the day and at the destination of the weekend away. The advertiser also rejects the suggestion that the behaviour complained about is offensive.
19. As previously explained, the starting point is the fact that the ABAC does not go to the general issues of good taste, decency and violence and community safety. These are standards which alcohol advertising, like all advertising, should satisfy, however these standards are laid down in the AANA Code of Ethics and compliance with the standards is assessed by the ASB. The ABAC standards go to more specific issues related to the use of alcohol.
20. The relevant ABAC standards are found in section (a). This requires that advertising of alcohol beverages must present a mature, balanced and responsible approach to the consumption of alcohol and must not promote offensive behaviour. In assessing if an ad meets this standard, the ABAC preamble provides that an ad is to be assessed with regard to its probable impact upon a reasonable viewer taking its content as a whole.

21. The following general observations can be made on how the Panel has interpreted section (a) and (a)(iii):
- the section is concerned with a 'responsible approach' to alcohol consumption which is a wider concept than consumption;
  - the expression 'offensive behaviour' used in section (a)(iii) must be understood within the context of the section and ABAC as a whole and is not a freestanding standard akin to section 2 of the AANA Code of Ethics;
  - within the context of ABAC, 'offensive behaviour' means unacceptable behaviour related to or influenced by the misuse of alcohol eg. Drunken loutish behaviour;
22. That said an ad must be assessed on its own merits against the relevant standards of the ABAC. The complainants' argument is that the ad breaches section (a) and (a)(iii) on the basis that the ad is failing to present a responsible approach to the consumption of alcohol and promotes offensive behaviour through the suggestion that alcohol consumption enhances a man's ability to manipulate women.
23. The Panel does not believe the television ad is in breach of section (a) of the ABAC. The Panel notes that the ad:
- Does not portray any consumption of alcohol or imply any alcohol has been consumed prior to the behaviour complained about.
  - Only depicts moderate consumption at the conclusion of the ad.
  - Does not depict offensive behaviour of a type that would contravene the ABAC as it is not related to or influenced by the misuse of alcohol.
  - Is unlikely to be perceived by a reasonable person as suggesting that the consumption of alcohol enhances a man's ability to manipulate women.
24. Accordingly, the complaint is dismissed.