

ABAC

**ABAC Complaints Panel
Determination No: 98/08**

**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 11 September 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.

The Advertisement

9. The complaint refers to a television advertisement which depicts a group of men talking and laughing in a pub holding stubbies and schooners of beer. A woman standing on the edge of the group addresses one of the men in the group and says "*Alright, time to go?*". The men stop laughing and look at each other as the man answers in a puzzled tone "*we just got here*". The woman responds "*Are you going to cause a scene, we're going*". The man raises his eyebrows and says quietly, "*yeah, sure*" as he hands his almost full schooner to a friend. The men all look downcast and the woman glares at the men as the man and woman leave together. As they are walking toward the door, a man who appears to be 'cowboy' stands at the door blocking their exit. The patrons of the pub look upon this man in awe as one of them declares "*it's the woman whisperer*". The 'woman whisperer' raises his hands in front of the woman and quietly commands "*Shhh, easy girl, shhh!*" and as she tries to walk around him he moves in front of her and says "*Whoa, shhh*" followed by "*why don't you have a little chat with Rachel, let him stay for another beer*" as he waves his hands in front of the woman's face which she and the man follow with her eyes. The woman's eyes widen, she smiles and turns to the man and says "*why don't you stay and have another beer, I'm just going to go and talk to Rachel*" and with that, she turns and walks across to the other side of the bar. The husband returns to his mates who hand him back his unfinished 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 two concerns, specifically that:
 - a) the ad is derogatory toward women, treats them as subservient and brainless, to be manipulated and controlled; and
 - b) promotes extended alcohol consumption.

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 –
 - 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.

Arguments in Favour of the Complaint

12. In favour of the complaint it can be argued that the advertisement breaches section (a), (a)(i) & (iii) of the ABAC by suggesting that it is desirable to stay at a pub drinking beer for longer thereby failing to present a mature, balanced and responsible approach to consumption of alcohol and encouraging and promoting excessive consumption of alcohol.

The Advertiser's Comments

13. The Advertiser responded to the complaint and questions posed by the Panel by way of letter dated 24 September 2008. The points made by the Advertiser in relation to the advertisement were:
 - (a) Carlton Mid is a midstrength beer at 3.5% ABV (defined as low alcohol by the Code), its core proposition is that a beer drinker can enjoy more time with his mates by drinking Carlton Mid than he could if he was drinking a regular, full strength beer because he is consuming less alcohol.
 - (b) The TVC depicts a couple, a husband and wife, just after they have arrived at their local pub. They are with a group of friends when the wife decides she wants to leave and announces this in front of her husband's mates in a bossy tone of voice. It's a tone his mates recognise as they raise their eyebrows at their mate implying that the he is under his wife's thumb. In spite of the fact the husband says "*we just got here*" (which is denoted by the fact that husband is holding almost full schooner of beer) he agrees to leave and hands his beer to one of his mates. As they are about to leave, a man who appears to be 'cowboy' stands at the door

blocking their exit. The patrons of the pub look upon this man in awe as one of them declares “*it’s the woman whisperer*”.

- (c) As a midstrength beer with an ABV of 3.5%, one 375ml stubby of Carlton Mid contains 1 standard drink while a schooner contains 425mls/1.1 standards drinks. NHMRC guidelines for low risk drinking currently state that males can have up to 6 standard drinks a day, no more than 3 days per week OR 4 standard drinks on an average day. NHMRC standards are adopted in all Foster’s advertising. In particular, characters are not portrayed as having consumed more than two standard drinks in less than an hour. In the case of this TVC, the husband character is seen with the same beer throughout the ad, he hands it over to his friends when he thinks he is leaving, and they hand it back to him when he rejoins them. It is obviously his first beer and it is almost untouched. The wife agrees to let him “*stay for another beer*” – the emphasis being on *another*, meaning *one* more not several.
- (d) Our hypothesis is that the husband would take time to finish his drink before having another (which doesn’t necessarily mean he would have another schooner, instead he may opt for a 375ml stubby or 285ml middy). Even if he did have another schooner, the combined number of standard drinks consumed would be 2.2 which, we would contend, he drinks over a time period of more than one hour. His behaviour does not suggest that he or his mates are drinking heavily or quickly or in any way irresponsibly.
- (e) As a result, Foster’s refutes the suggestion that the TVC suggests extended or excessive alcohol consumption, or that it fails to present a mature, balanced and responsible approach to alcohol consumption. In fact, because the character is drinking a midstrength beer we believe that the ad is sending a very responsible message to consumers about the importance of moderate consumption.

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 extended alcohol consumption. Section (a) of the ABAC provides that alcohol ads must present a mature, balanced and responsible approach to consumption of alcohol and must not encourage or promote excessive consumption of alcohol.
- 16. The advertisement essentially involves a man being “allowed” by his partner to stay longer at a pub and drink another beer with his mates which is re-enforced by the strap-line “Stay a little longer”.
- 17. The advertiser’s argument is that Carlton Mid is a midstrength beer at 3.5% ABV and therefore a beer drinker can enjoy more time with his mates by

drinking Carlton Mid than he could if he was drinking a regular, full strength beer because he is consuming less alcohol per drink. Further, the advertiser argues that the advertisement depicts moderate consumption well within the NHMRC guidelines and the woman agrees to let him “*stay for another beer*” – the emphasis being on *another*, meaning *one* more not several.

18. The ad depicts moderate alcohol consumption. The Section (a) standard, however, uses the phrase “approach to the consumption of alcohol” which is a wider concept than “consumption”. The question is whether the ad can be taken to imply that excessive drinking is being suggested.
19. The preamble to the ABAC provides guidance as to how the Code provisions are to be interpreted. The preamble provides that “conformity of an advertisement with this Code is to be assessed in terms of its probable impact upon a reasonable person within the class of persons to whom the advertisement is directed and other persons to whom the advertisement may be communicated, and taking its content as a whole”.
20. The Panel notes that the basic premise of the ad is that the intervention of the “women whisperer” facilitates the consumption of additional alcohol beyond that which would have been consumed had the intervention not occurred. That said, various factors such as:
 - The small amount of alcohol already consumed,
 - The language of “another beer” suggests a single beer, and
 - The general behaviour of the group of drinkers, which is light-hearted, but unaffected by alcohol,

indicate that excessive consumption is not being suggested. The Panel believes therefore that the section (a) standard is not offended.

21. Accordingly, the complaint is dismissed.