

ABAC

ABAC COMPLAINTS PANEL – DETERMINATION NO: 05/12 Mid Strength Beer – Funeral

IN THE COMPLAINTS OF MISS REBECCA SMITH AND MRS KATHY BOSWARD

Product: Mid Strength Beer
Advertiser: Carlton & United Beverages

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

21 April 2005

Introduction

1. Carlton and United Beverages (“The Advertiser”) is the producer of ‘Carlton Midstrength’ beer and have been advertising their product through a series of television advertisements under a theme described as ‘Stay a little Longer’. This series of advertisements as a whole and two particular advertisements have been the subject of a large number of public complaints.
2. As is detailed below, all of the complaints have been received by the Advertising Standards Board (ASB) and assessed if they raise issues under the Advertisers Code of Ethics. Each of the complaints has also been referred to the Chief Adjudicator of the Alcohol Beverages Advertising Code (ABAC) and assessed if ABAC issues are raised. While the bulk of the complaints about the Advertiser’s campaign have raised only issues under the Code of Ethics, a number have raised matters under the ABAC.
3. This determination deals with those complaints raising ABAC issues with the advertisement described as ‘Funeral’. Specifically the complaints dealt with by this determination are
 - Kathy Bosward, email dated 21 February, 2005
 - Rebecca Smith, email dated 22 February, 2005
 - Name withheld (confidential), email dated 5 March, 2005

The External-Regulatory System

4. 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. Currently, alcohol advertising is subject to both:
 - (a) a generic code (the AANA Advertiser Code of Ethics) with a corresponding public complaint mechanism operated by the Advertising Standards Bureau (ASB); and
 - (b) an alcohol specific code (the Alcohol Beverages Advertising Code) and complaints mechanism established under the ABAC Scheme:

5. The ASB and the ABAC 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.
6. 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 Complaints Panel for consideration. If only AANA Code issues are raised, then the matter is determined by the ASB.
7. The complaints specifically raise concerns under the ABAC and accordingly are within the Panel's jurisdiction.

The Complaint Timeline

8. The complaints are in the form of emails from Mrs Kathy Bosward dated 21 February 2005, Miss Rebecca Smith dated 22 February 2005, and received by the ABAC Complaints Panel on 28 February 2005 and a complaint from a person requesting confidentiality dated 5 March, 2005, received on 14 March 2005 by the ABAC Complaints Panel.
9. The Panel endeavours to determine complaints within 30 days of receipt of the complaint, but this timeline depends on timely receipt of materials and advice and the availability of panel members to convene and decide the issue. On this occasion, the advertisement in question and related advertisements in the same series prepared by the Advertiser have attracted multiple complaints. It was considered best to group the complaints and deal with them in an all inclusive determination rather than produce a series of determinations in response to each individual complaint. As a result, the time frame to finalise the Panel's process has extended beyond the 30 day goal.

Pre-vetting Clearance

10. The external-regulatory system for alcohol beverages advertising features independent examination of most proposed advertisements against the ABAC prior to publication or broadcast. The pre-vetting process was applied in this instance (No. JB49/04CM).

The Advertisement

11. The complaints are about a television commercial for Carlton & United Beverages' Mid Strength Beer set in a church at a funeral.
12. The advertisement commences with a scene inside a church, at the end of a funeral service, where six men carrying out duties as pallbearers, lift the coffin onto their shoulders and proceed to carry it outside the church. The scene is accompanied by slow organ music the type traditionally associated with a funeral. As the pallbearers proceed up the aisle, they walk past an elderly woman, dressed in black, presumably the widow. There is a close up of the lead pallbearer who looks at the widow with an expression of sadness and nods. The next scene is taken from outside the church looking at the door, where the viewer anticipates the funeral procession coming outside.
13. Following, is a scene taken inside the church, of mourners who look toward the coffin and pallbearers as they proceed out the door. Suddenly a man in the pew stands up and the slow organ music is replaced by the signature theme of the Midstrength Beer advertisements, 'Stay a little bit longer' and the loud opening of the church doors. The six pallbearers are seen running out the church doors, around the building, carrying the coffin above their heads.
14. The scene then changes to a close up of beer bottles being placed on a timber table at the beach bar. This scene has regularly appeared in the series of Midstrength Beer

television commercials, and would be readily recognised by viewers. Two of the six pallbearers are seen seated in a relaxed position, drinking and laughing with their mates, one of whom is a character from the Mid Strength Beer commercial entitled, 'dogwash'.

15. The advertisement concludes with a product shot of the Mid Strength beer bottle.

The Complaints

16. The complainants argue that the advertisement depicts irresponsible and reckless behaviour, and is offensive by
- Making fun of a funeral, which is a serious and upsetting event in people's lives.
 - Depicting an irresponsible attitude by the men towards their duty of being pallbearers at a funeral. They would rather be socialising and drinking alcohol with mates, than acting responsibly.

The Code

17. 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;
 - ii) must not encourage under-age drinking;
 - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;
 - iv) must only depict the responsible and moderate consumption of alcohol beverages.

Arguments in Favour of the Complaints

18. In favour of the complaints it can be argued that the setting of the advertisement is irresponsible and depicts reckless conduct. The actions of the characters are immature and disrespectful.
19. It can also be argued that the advertisement depicts behaviour which suggests that the characters are influenced by their need for alcohol and as a result behave in an offensive and irresponsible manner. Such behaviour might be concluded as flowing from alcohol addiction or a history of excessive consumption.

The Advertiser's Comments

20. Carlton & United Beverages responded to the complaint by email letter dated 18 March 2005.
21. The Advertiser argues that the "Funeral" advertisement does not breach Section a) of the ABAC. Specifically, the advertiser argues:
- The advertisement is an example of the campaign's comedic nature and that the characters' antics are fictitious and exaggerated and not intended to be interpreted literally.

- Humour is an important part of the Midstrength consumer's life. The advertisement is designed to tap into a larrikin streak and that CUB believes the advertisements do not suggest or imply that the viewer should mirror the behaviour of the characters any more than viewers of 'skit' comedy programs would expect to behave in the manner portrayed.

22. Within the context of the campaign as a whole, the advertiser argues:

- As a reduced alcohol product, the beer is unlikely to be chosen by persons with an alcohol dependency problem. This mitigates the claim that the behaviours portrayed depict alcohol affected characteristics.
- The use of humour is a tool used for fantasy, parody and comedy. The advertiser believes that the roles and situations depicted are so exaggerated that they would not be interpreted literally.
- While the behaviour may be interpreted subjectively by some viewers and found to be objectionable, the advertiser does not believe that the behaviour is offensive or irresponsible or would be taken that way by the great majority of viewers.

The Panel's View

23. There is no doubt that this advertisement and the 'stay a little longer' series of television advertisements for Carlton Midstrength have offended a substantial number of viewers. In most instances the complaints have focussed on the 'disrespect' the advertisements show, in some viewers' minds, to the grief felt at the time of a funeral or to the treatment of the elderly. It is not the role of the Panel to decide if these concerns are valid, as such matters are determined by the ASB under the Advertiser Code of Ethics and not under the ABAC by this Panel.
24. It is the Panel's role to assess if the advertisement breaches the ABAC, particularly Section a) of the Code. The ABAC goes to the responsible consumption of alcohol beverages and not mere general issues about good taste. In this case the essential issue is whether the behaviour of the characters to run out on their duties as pallbearers in order to spend more time socialising and drinking with friends indicates irresponsible behaviour related to alcohol consumption.
25. This question in turn is largely about whether a reasonable person would take the advertisement seriously or does the humour of the scenario create an exaggerated picture which can not be taken as breaching the Code. Clearly the complainants do not see much 'humour' in the advertisement.
26. The Panel is to judge advertisements as specified by the Code's Preamble which states that "conformity of an advertisement with this Code is to be assessed in terms of its probable impact upon a reasonable person...". In assessing the advertisement, the advertiser argues that the advertisement should be viewed in the same light as a television comedy program such as 'Fast Forward', 'The Skit House' and 'Comedy Inc.' These programs often feature exaggerated depictions of common situations to make a comedic point.
27. The Advertiser's argument is buttressed by viewing the advertisement within the series along the same theme of 'stay a little longer'. All of the advertisements depict real life situations in an exaggerated manner. While a viewer might come to see a number of advertisements in the series, each one needs to be assessed individually against the Code.
28. A majority of the Panel has concluded that the advertisement does not breach the ABAC. In reaching this conclusion the Panel has noted:
 - The scenario is highly exaggerated and would not be taken by a reasonable person to be advocating actual behaviour.
 - The humour may be in poor taste, in terms of the use of a funeral situation, but this does not detract from it clearly being pitched as humorous.
 - While humour alone cannot excuse an advertisement from breaching the ABAC, it is a factor in assessing the advertisement as a whole and its impact on a reasonable viewer.
 - In this instance, the humour provides a context to understand the advertisement.
29. Accordingly, the complaints are dismissed.