

ABAC

**ABAC Complaints Panel
Determination No: 19/08**

**CONFIDENTIAL COMPLAINT
Product: Coopers Pale Ale
Advertiser: Coopers Brewery Limited**

Professor The Hon Michael Lavarch – Chief Adjudicator
Professor Fran Baum – Member
Professor Richard Mattick - Member

4 April 2008

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for Coopers Pale Ale by Coopers Brewery Limited (“the Advertiser”) and arises from a confidential complaint received on 18 March 2008.

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 Advertising Code of Ethics which includes provisions about the content of Billboard advertising in specific locations e.g. near schools.
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 18 March 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 30 day 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 this advertisement (UL95/07).

The Advertisement

9. The complaint refers to a television advertisement. The advertisement begins with a bewildered looking man walking in clouds toward a large building that is obscured by swirling clouds, accompanied by spiritual music. The clouds slowly part to reveal a two storey building.
10. The scene then changes to a beautiful woman drying glasses behind a bar and the music changes to the noise of a busy pub. The woman smiles as the man approaches and she says "Pale Ale?". The man says "Yeah sure" and the camera then moves to three beer taps behind the bar all with the Cooper's Pale Ale logo. The man says "I can't believe you've got that here". The woman smiles as she pours a glass of beer. The man asks "How much?" and the woman places the beer on the bar and responds "It's on the house". The man looks pleased and licks his lips as he reaches slowly for the beer, but before his hand touches the glass he is shown crying out as his body flies backwards out of the pub door and down toward a city with his hand still reaching for the glass.
11. The scene then changes to the man sitting in the back of an ambulance being defibrillated and once revived still looking sadly at his outstretched hand as an ambulance officer says "Got him back". The man says "Thanks very much" in a sarcastic tone while still looking at his hand. The ambulance officer looks surprised.
12. The scene then changes to a glass of beer labeled "Coopers" sitting on a pub bar with the tagline to the left of the glass "Precious Beer" and below that "Hand-made by the Cooper family. Est 1862.". A hand is then seen reaching for the glass.

The Complaint

13. The complainant argues that the advertisement:
 - (a) indirectly, but successfully relates the consequences of excessive alcohol drinking, namely unconsciousness, with the need to be revived by emergency services;
 - (b) is socially irresponsible in that it detracts from the social enjoyment of alcohol and instead associates the product with the pain and suffering that thousands of families are exposed to through excessive drinking.

The Code

14. The ABAC provides at Section (a) that advertisements for alcohol beverages must 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 of 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) of the ABAC by:
 - (a) depicting a man in an ambulance being revived and the same man being served a free glass of the product in a fictional “afterlife”, thereby linking alcohol with the consequences of excessive alcohol abuse; and
 - (b) promoting excessive consumption and abuse of alcohol by depicting a fictional idea of “afterlife” that includes the availability of free glasses of the product .

The Advertiser’s Comments

13. The Advertiser responded to the complaint and questions posed by the Panel by way of letter dated 31 March 2008. The principal points made by the advertiser are as follows:
 - (a) The advertisement has been given pre-vetting approval and this should be given significant weight when assessing the advertisement .
 - (b) The advertisement is based on the premise that Coopers Pale Ale is the very best beer – Precious Beer. The advertisement aims to depict that Coopers Pale Ale is so good that the main character has died and gone to heaven and for him, this perfect utopian place is made that much better as they only serve the very best beer in heaven – Coopers Pale Ale. The character can’t believe his luck as heaven is even better than he thought it would be. Just

as he is about to enjoy the delights of heaven he is saved by the paramedics and comes back to life. In keeping with the comedic fantasy of the commercial, he is less than thrilled about being saved because he is missing out on heaven and the Precious Beer it has to offer.

- (c) The advertisement in no way depicts, promotes or condones excessive alcohol drinking and no reasonable person would draw that conclusion. The main character is never even shown drinking a beer in the advertisement and the advertisement does not show how the character ended up in the back of the ambulance and does not suggest it was from excessive alcohol consumption. Consistent with the fantasy element of the advertisement, he is simply shown “flying” out of the window of the ambulance and when he returns, he does not appear intoxicated or experiencing any other alcohol-related effects.
- (d) Coopers Brewery strongly supports responsible consumption of alcohol and does not consider that the advertisement portrays excessive alcohol drinking or links alcohol drinking with the need to be revived by emergency services. Further, no reasonable person would draw this conclusion.
- (e) The advertisement does not associate alcohol with the pain and suffering that some families are exposed to through excessive drinking. At no point does the advertisement depict any pain or suffering experienced by family members of the man who is revived. The advertisement was intended to be humorous and comedic as is shown in its light hearted tone.
- (f) The advertisement does not breach section (a) of the ABAC as it does not depict or encourage excessive consumption and there is no suggestion that the man needs to be revived due to alcohol abuse. The idea that free glasses of Coopers Pale Ale are available in the fictional afterlife, or heaven does not promote excessive consumption but serves to reinforce the message that the product is so good it is even served in heaven. This clearly incorporates the fantasy element of the advertisement and any reasonable person would perceive the advertisement in this way.
- (g) Only one complaint has been made about the advertisement and the public response has been overwhelmingly positive.
- (h) Coopers Brewery regrets if any viewers were offended by the advertisement and would like to take this opportunity to assure the Bureau and the viewers that this was never their intention and they take their responsibilities in regard to alcohol consumption very seriously.

The Panel's View

14. The complaint raises issues under Section (a) of the ABAC. Section (a) contains both a "positive" standard of good practice in advertisements presenting a "responsible approach to alcohol consumption" and then goes on to outline "negative" standards which are not to be breached, such as not promoting excessive consumption of alcohol. In this case the complainant believes the ad is implying that the main character depicted has been excessively consuming alcohol and, as a result, requires resuscitation by an ambulance officer.
15. In assessing if an ad is consistent with the standards in the ABAC, the preamble to the Code provides that the conformity of an advertisement is to be assessed in the terms of its probable impact upon a reasonable person within the class of persons to whom the advertisement is directed, taking its content as a whole.
16. The advertiser argues that the ad cannot be reasonably taken to be promoting or encouraging excessive consumption of alcohol as:
 - No actual alcohol consumption is depicted
 - There is nothing in the ad to suggest that the main character is in the ambulance because of misuse of alcohol
 - The ad is clearly both fictitious and humorous and would not be taken by a reasonable person as associating alcohol with the pain and suffering that families can be exposed to through excessive drinking.
17. The panel does not believe the ad breaches the ABAC. In the Panel's view, it is far too great a stretch to imply that the main character's presence in the ambulance has resulted from the excessive consumption of alcohol. The ambulance scene is in fact a secondary point to the principal images in the ad which go to the availability of the product in the after-life shown in the ad. The ambulance scene injects humour whereby the man is disappointed that he has been revived when he was about to be able to consume the product in the after-life.
18. Clearly the complainant is rightly concerned about the considerable harm which can result from the misuse of alcohol, but the ad cannot be fairly said to be encouraging excessive consumption. Accordingly, the complaint is dismissed.