

ABAC

ABAC Complaints Panel Determination No: 27/08, 28/08 & 32/08

In the **COMPLAINTS** of Confidential,
Mr William Vertucci and Mr Marcus Sanburg
Product: Hahn Superdry
Advertiser: Lion Nathan

Professor The Hon Michael Lavarch – Chief Adjudicator
Professor Elizabeth Dangar – Member
Professor Richard Mattick - Member

12 May 2008

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for Hahn Superdry by Lion Nathan (“the Advertiser”) and arises from a confidential complaint received on 10 April 2008, a complaint by Mr William Vertucci received on 16 April 2008, and a complaint by Mr Marcus Sanburg received on 22 April 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 complaints raise concerns under the ABAC and accordingly are within the Panel's jurisdiction.

The Complaint Timeline

6. The complaints are in the form of an email by a confidential complainant received by ABAC on 10 April 2008, a complaint by Mr William Vertucci received by ABAC on 16 April 2008 and a complaint by Mr Marcus Sanburg received on 22 April 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. These complaints have 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 [BH30/08].

The Advertisement

9. The complaint refers to a television advertisement. The advertisement opens on a group of three men in a park laughing together and walking away from an informal soccer game that it appears they may have been involved in.
10. The advertisement then cuts to the men standing and sitting around a picnic table in the park with an esky on it, opening, holding and drinking stubbies of Hahn Superdry. We see two of the men's attention diverted to something happening near them.
11. The advertisement then cuts to reveal a track around the park where two men are roller-blading together. The men are shown becoming tense and covering the top of their stubbies in unison as they watch the roller-bladers. The roller-bladers are executing carefully choreographed moves, skating in a loop and performing tricks and ballet type moves, passing the group as they skate past. It is then apparent that the men are covering their beer as the men skate past.
12. As the men take their hands back down again and carry on drinking as before we hear a voiceover by a serious masculine sounding man "Man-blading can disturb the perfectly balanced super dry taste".
13. The advertisement then cuts to a shot of a man's hand holding a schooner of Hahn Super Dry with a graphic to the left side that reads "Keep it Super.

Full Strength Low Carb". A firm flat hand is then placed over the top as the voiceover continues "Hahn SuperDry. Protect your Beer. Keep it Super."

The Complaints

14. The first complainant argues that the advertisement implies that drinking beer is preferable behaviour to sport.
15. The second complainant argues that the advertisement promotes beer drinking in a park over the physical fitness pursuits of men on inline skates.
16. The third complainant argues that the fact that the men are drinking in a public place (a park) which is illegal, is promoting public intoxication and that it is ok to drink in public places with no designated driver shown. The complaint also canvasses if the ad promotes hatred of homosexual men.

The Code

17. 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.

Arguments in Favour of the Complaints

18. In favour of the complaints it can be argued that the advertisement breaches section (a) of the ABAC Code by promoting an irresponsible approach to the consumption of alcohol beverages through its depiction of three men drinking beer in a park and:
 - (a) implying by their behaviour that drinking beer is preferable and more important than physical activity;
 - (b) engaging in an illegal activity, namely consuming alcohol in a public park;
 - (c) promoting public intoxication and the message that it is ok to consume alcohol in a public place; and
 - (d) failing to show a designated driver.

The Advertiser's Comments

19. The Advertiser responded to the first two complaints and questions posed by the Panel by way of letter dated 17 April 2008. The principal points made by the advertiser are as follows:
 - (a) The 'Keep It Super' campaign for low carbohydrate Hahn Super Dry beer continues the tongue-in-cheek, humorous theme set forth by previous Hahn Super Dry executions and the award winning communications for Hahn Premium Light. The Hahn Super Dry consumer is one who is sociable and active, but doesn't take him or herself too seriously. The 'manblading' execution is just one element of a broader campaign presenting serious characters engaging in exploits taken very seriously – perhaps too seriously. These include ballroom dancing, dressing pets in fancy

outfits, prolonged displays of public affection, intense discussions about zodiac signs, and of course, protecting your beer when a tragic love song is being played.

- (b) The 'manblading' execution does not imply that drinking beer is a preferable behaviour to physical activity or playing sport. In fact, in this particular advertisement, the men are shown taking a break from a social game of soccer in the park. The aim of the advertisement is not to present inline skating or sport in a negative light, or suggest that physical activity ruins beer. The aim is rather to play on the extreme level of seriousness portrayed by the male skaters themselves, circling silently around each other and performing tricks. This is juxtaposed with people taking their beer very seriously and further highlighted by the formal, warning script of the gravely voiced narrator.
 - (c) It is not expected that a reasonable person would watch this advertisement and believe that drinking beer is preferable to physical activity, or believe their beer could be disturbed or altered in any way in the event of someone skating past or a tragic love song airing. Instead, we anticipate consumers will appreciate the advertisement and the broader campaign as a light-hearted play on people who take themselves too seriously, and recognise that enjoying a good beer is actually an easy, sociable pastime.
 - (d) Hahn Super Dry recognises and appreciates the importance of health and wellbeing. It is a balanced, refreshing product with the added benefit of having no artificial additives or preservatives and fewer carbohydrates and calories than most full-strength beers. Hahn Super Dry has also supported a number of grass-roots sporting events since launching, including the City2Surf, Indoor Cricket QLD and the Victorian Tri Series Challenge.
 - (e) The Hahn brand has a history of playful marketing campaigns to which the consumer connects with and appreciates as (super) dry humour. Through pre-testing and the positive responses received since going to market, we believe that this is how the Keep It Super campaign, and its individual elements, is being viewed by the vast majority of people who come into contact with it – as a refreshing, yet cheeky campaign to promote a great product.
20. The advertiser responded to the third complaint and the additional questions posed by the Panel by email dated 24 April 2008. The additional points made by the advertiser were as follows:
- (a) It is not illegal to consume alcohol in public places as the complainant states. While there are areas deemed Alcohol Free Zones, there is no implication or suggestion that this particular park is an Alcohol Free Zone. These zones are introduced and enforced by local council areas and are not the norm for all public spaces. Further to this point, we recognise that public parks are often places for social gatherings such as barbecues, family picnics, community events and social games of sport, where it is reasonable to suggest that alcohol may be consumed.

- (b) The advertisement does not promote public intoxication as the complainant states. The gentlemen are shown taking a break from a social game of soccer and opening one beer each. Given they are walking away from the soccer field, it is reasonable to assume that this is the only beer they have consumed and there is no implication or suggestion that the men are, or will become, intoxicated.
- (c) Regarding the comment that the advertisement fails to show a designated driver, there are no vehicles visible in the advertisement, nor is the depiction of a designated driver a necessary feature of product advertisements. There is nothing in the ad to suggest that the gentlemen arrived at the park in a vehicle, so there's no reason to believe that they will leave in a vehicle.
- (d) The complainant's suggestion that this execution means to be derogatory to the homosexual community is totally incorrect. To this point, the rollerbladers are not portrayed as 'effeminate', nor are they implied to be homosexual. Rather, they are depicted as extremely serious, circling around each other and demonstrating elaborate tricks. The 'manblading' execution is just one element of a broader campaign presenting serious characters engaging in exploits taken very seriously – perhaps too seriously. These include ballroom dancing, dressing pets in fancy outfits, intense discussions about zodiac signs, and of course, protecting your beer when a tragic love song is being played.
- (e) It is not expected that a reasonable person would watch this advertisement and would take out the messages that Hahn Super Dry is promoting public intoxication and driving under the influence, and demeaning sexual orientation in any form. Rather, as we have said in our previous response, we anticipate that consumers will appreciate the advertisement and the broader campaign as a light-hearted play on people who take themselves too seriously, and recognise that enjoying a good beer is actually an easy, sociable pastime.

The Panel's View

- 21. The three (3) complaints all raise concerns which go to whether the ad is responsible and balanced in its presentation of an approach to alcohol consumption. As such, section (a) of the ABAC is brought into play and will be considered by this determination. It should also be noted that aspects of these complaints went to matters such as the portrayal of sexuality which raise issues under the Advertiser's Code of Ethics and will be considered by the ASB in a separate process.
- 22. The first point raised by the complaints is a concern that the ad is suggesting that alcohol consumption is a preferable activity to physical exercise, given the way the three (3) characters are depicted when witnessing the roller-blading men. The advertiser argues that the ad is humorous; the three men appear to have just engaged in physical activity themselves *i.e.* a park game of soccer, and their reaction relates to taking things too seriously rather than hostility to physical activity.

23. The section (a) goes to responsible consumption standards, both in setting a positive standard and then setting out several negative standards which are not to be portrayed e.g. excessive consumption. There is a specific standard which goes to interplay between physical activity and alcohol consumption, namely section (d), but neither the complaints nor the nature of the ad raise issues under that section.
24. The Panel does not believe that section (a) is breached by this aspect of the ad. The three characters' reaction to the roller-blading appears to be more to the nature of the particular way the physical activity of roller-blading is being carried out, rather than hostility to physical activity *per se*.
25. The second argument raised in the complaints is that it is illegal to consume alcohol in public places and the failure to show a designated driver is irresponsible. While the Panel has not purported to review laws or regulations regulating alcohol consumption in parks, it would be fair to say that alcohol consumption in public spaces is not prohibited outright, but is regulated and controlled. There is nothing in the ad which suggests that the men are drinking in defiance of a local law or requirement and accordingly the Panel does not believe the ad breaches the ABAC in this regard.
26. Equally, the point about drink driving appears somewhat remote. Section (d) goes to depictions of alcohol consumption and the operation of motor vehicles, but in this case there is nothing in the ad to suggest the men will be operating a motor vehicle. The more generic standard within section (a) is also not breached by the ad on this point.
27. Accordingly, the complaints are dismissed.