

ABAC

**ABAC Complaints Panel
Determination No: 5/09**

**CONFIDENTIAL COMPLAINT
Product: Hahn Superdry
Advertiser: Lion Nathan**

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

19 January 2009

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 13 January 2009.

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 the content and placement of 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 by a confidential complainant received by ABAC on 13 January 2009.
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 [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 Complaint

14. The complainant argues that:
- (a) the advertisement implies that drinking beer is preferable behaviour to sport;
 - (b) the men are drinking in a public place (a park) which is not appropriate;
 - (c) the ad is promoting teenage binge drinking; and
 - (d) the ad is discriminatory toward homosexual men.

The Code

15. The ABAC provides that advertisements for alcohol beverages must-
- (a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly-
 - (ii) must not encourage under-age drinking;
 - (b) not have a strong or evident appeal to children or adolescents and accordingly-
 - (i) adults appearing in advertisements must be over 25 years of age and be clearly depicted as adults;
 - (ii) children and adolescents may only appear in advertisements in natural situations (eg family barbecue, licensed family restaurant) and where there is no implication that the depicted children and adolescents will consume or serve alcohol beverages; and
 - (iii) adults under the age of 25 years may only appear as part of a natural crowd or background scene.

Arguments in Favour of the Complaints

16. In favour of the complaint it can be argued that the advertisement is in breach of section (a)(ii) of the ABAC Code by encouraging teenage alcohol consumption through a combination of:
- (a) the men depicted as consuming alcohol being young;
 - (b) the young men being depicted congregating in a family recreation park; and
 - (c) the depiction of "a bunch of mates drinking in a park for no apparent reason".
17. It can also be argued that the advertisement is in breach section (b) of the ABAC Code thereby having a strong or evident appeal to adolescents by portraying adolescents or men under the age of 25 years consuming alcohol and as the central characters in the ad

The Advertiser's Comments

19. The Advertiser responded to the complaint and questions posed by the Panel by way of letter dated 16 January 2009. The principal points made by the advertiser are as follows:
- (a) As outlined in our previous response to complaints about this advertisement, we do not believe there is community concern regarding this advertisement. Through pre-testing and the positive responses received since going to market, we believe that the 'Manblading' execution is being viewed as a tongue-in-cheek, humorous campaign to promote a great product.
 - (b) All characters in the advertisement are over the age of 25 years and in line with the Hahn Super Dry demographic of active Australian males aged 25-35. At the time of filming, cast members:
 - i. Andrew Carbone, Mate no.1 was 27 years old;
 - ii. Luke Doolan, Mate no.2 was 27 years old;
 - iii. David Frim, Mate no.3 was 26 years old;
 - iv. Jayson Sutcliff, Blader no.1 was 37 years old; and
 - v. Daniel Whalen, Blader no.2 was 34 years old.
 - (c) There is no implication or suggestion that this is a 'family' park, nor is there any reference to families or youths being in the park at the time this takes place. Further to this point, we recognise that public parks are often places for social gatherings such as barbecues, picnics, community events and social games of sport, where it is reasonable to suggest that alcohol may be consumed by those over the legal drinking age.
 - (d) The complainant's suggestion that the characters are 'drinking in a park for no apparent reason' is incorrect, as they have quite clearly just engaged in a social game of soccer and would presumably be cooling off with one beer. 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, nor that this behaviour would encourage teenagers to consume alcohol.
 - (e) It is not expected that a reasonable person would believe that this advertisement promotes consumption by adolescents, nor is it expected that adolescents would feel this execution has strong or evident appeal to them. The advertisement, as well as its supporting campaign are squarely targeted at legitimate drinkers, aged 25-35 years old.

The Panel's View

20. The complaint raises a number of concerns which go to whether the ad is responsible and balanced in its presentation of an approach to alcohol consumption. These issues were the subject of a determination made in relation to this advertisement in 2008 and will not be revisited by the Panel. The complaint also goes to matters such as the portrayal of sexuality and

discrimination which raise issues under the Advertiser's Code of Ethics and were considered by the ASB in a separate process.

21. The remaining issue for consideration by the Panel is whether the ad promotes teenage binge drinking. The advertiser advises that all the adults appearing in the ad are over the age of 25 years and argues that the ad is targeted at the 25 to 35 year age group and a reasonable person would not consider the ad has particular appeal to underage viewers.
22. The Panel does not believe that section (a)(ii) or (b) is breached by this ad. The men depicted drinking in the ad are 26 and 27 and there is no aspect of the ad which could be said to hold particular appeal for underage viewers or encourage underage drinking.
23. Accordingly, the complaint is dismissed.