

ABAC

ABAC Complaints Panel Determination No: 6/10

Confidential Complaint Product: Lindemans Early Harvest wine Advertiser: Fosters Group Limited

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

4 February 2010

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns an advertisement for Lindemans Early Harvest wine by Fosters Group Limited (“the Advertiser”) and arises from a complaint received 11 January 2010.

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 complaints systems operated under the ABAC scheme and the ASB are separate but inter-related in some respects. Firstly, for ease of public access, the ASB provides a common entry point for alcohol advertising complaints. Upon receipt, the ASB forwards a copy of the complaint to the Chief Adjudicator of the ABAC Panel.
4. The Chief Adjudicator and the ASB independently assess the complaint as to whether the complaint raises issues under the ABAC, AANA Code of Ethics or both Codes. If the Chief Adjudicator decides that the complaint raises solely issues under the Code of Ethics, then it is not dealt with by the ABAC Panel. If the complaint raises issues under the ABAC, it will be dealt with by the ABAC Panel. If the complaint raises issues under both the ABAC and the Code of Ethics, then the ABAC Panel will deal with the complaint in relation to the ABAC issues, while the ASB will deal with the Code of Ethics issues.
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 a confidential email received on 11 January 2010.
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 [UL243/09].

The Advertisement

9. The complaint refers to an advertisement featured on the back cover of the Sunday Magazine included in the Sunday Herald Sun newspaper.
10. The advertisement is a picture of a green field covered in flowers with flowers floating against a blue sky and winding from the field to the top of the picture. On the top left of the page is the text "lindemansearlyharvest.com.au" and to the right is the Lindemans logo below which is the text "Early Harvest" and below that the text "25% Lighter in alcohol". A picture of a bottle of Lindemans Early Harvest Sparkling wine is in the front left of the picture. Text on the label reads "Lindemans Early Harvest, Crisp and Refreshing, Light in alcohol & Calories, Sparkling" and next to the bottle "Harvest the lighter side" and in small print "Lindemans NV Early Harvest Sparkling wine product is at least 25%

lighter in alcohol and calories compared to 750ml Lindemans NV Bin 25 Sparkling”.

The Complaint

11. The complainant argues that the ad was included in a “kids’ issue” of the magazine. This amounts to “sly marketing” directed at children.

The Code

12. The ABAC provides at Sections (a)(ii) and (b) 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 under-age drinking;
 - b) not have a strong or evident appeal to children and adolescents...

The Advertiser’s Comments

13. The Advertiser responded to the complaint and questions posed by the Panel by way of letter dated 1 February 2010. The points made by the Advertiser in relation to the advertisement were:
 - (a) Lindemans Early Harvest is a wine that was created specifically for those who want a lighter alcohol wine (it is 25% lighter in alcohol compared to 750ml Lindemans NV Bin 2.5 Sparkling). The creative strategy therefore, was developed to highlight the style of the wine. Alongside a hero bottleshot, flowers are the key imagery depicted and they are a metaphor for the lightness of wine, correlating with the lighter alcohol message.
 - (b) The advertisement was designed to target male and female baby boomers aged 42-62 years and, we believe, is ABAC compliant. It was pre-vetted through the Alcohol Advertising Prevetting Scheme and the approval number is UL243/09. Furthermore there is no imagery presented that you would typically associate with advertising aimed at children i.e. cartoon characters, well know personalities associated with kid’s entertainment.
 - (c) The complainant does not raise any issues with the actual advertisement at all but focuses on its placement, under the incorrect belief that Sunday Herald Sun Magazine was a kid’s publication.
 - (d) Foster’s aim with this placement was to target an adult readership and the Sunday Magazine demographic substantiates this. It is incorrect, as the complainant states, that the January 10 edition was “...an issue for kids” and “...a kids <sic> publication.” This

weekly magazine supplement, that comes with the purchase of a newspaper, is directed at adults and this is substantiated below by Ms Jen O'Brien Group National Advertising Manager, News(paper) Magazines (News Ltd): "Sunday Magazine is positioned as the weekly 'must read' lifestyle magazine that keeps readers in the know, while delivering a refreshing entertaining Sunday read. Our core target audience is people aged 25-50. Sunday Magazine's editorial content includes feature articles, food and wine reviews, beauty, fashion, travel escapes and columnists. Our kids themed issue was aimed specifically at parents with the timing based around the school holiday period. Whilst the editorial pillars for this issue are the same as the regular issues, the content is tailored around providing parents with holiday, fashion and general ideas for their kids."

- (e) It is worth reinforcing that whilst a number of pages (although they do not form the majority of the publication) were dedicated to topics that relate to children they were written for the adult readership and were sprinkled amongst the regular adult features i.e. Gen X Pat, Can't Live without, Wine Front, Travel and star signs. The topics that related to children were very clearly written for adults, for instance one article instructed parents on how to teach their children to be sun savvy and another provided recipes for lunch boxes. Whilst there was a reference to "The Kids issue" on the front page (amongst 7 other section references) it was not depicted as the Kid's issue (as in for kids) but as covering the topic of children. This is then brought to life through the content of the publication and we believe it is very clear that it is a publication for adults (and backed by the publication's readership data).
- (f) These two factors (an adult readership and no issue with the advertisement itself) combined with the fact that the advertisement has no elements that could be said to attract an under 18 audience, means that the advertisement is ABAC compliant. Whilst it is disappointing to receive any complaints, the response to the Lindemans Early Harvest campaign has been incredibly positive from our core target audience, which as flagged earlier are male and female baby boomers aged 42-62 years.

The Panel View

- 14. The concern raised by the complainant is not so much about the content of the ad, but that an alcohol beverage ad was placed in an edition of the Sunday Herald magazine described as "The Kids' Issue".
- 15. Alcohol advertising is subject to a number of different codes established by different bodies. Two of these codes in particular, namely the Outdoor Media Association guidelines and the Commercial Television Industry Code of Practice contain provisions which go to the placement of alcohol ads. This means that restrictions are imposed as to where an alcohol ad can be placed

or located e.g. not within 150m of schools in the case of a billboard or generally alcohol ads are not to be broadcast on free-to-air TV before 8.30 pm.

16. The ABAC applies across all media *i.e.* print, television, radio, billboards and the internet and is a content based set of standards. This means that, regardless of where an alcohol ad is placed, its content is to meet the standards laid down in the ABAC.
17. The issue of where the ad is placed under the ABAC scheme is indirectly relevant in terms of assessing the content of the ad. For instance, an ad in “Dolly” magazine with a teenage demographic as its audience will have a different audience to a “Cleo” magazine, with an older female principal demographic. But the ABAC does not say an alcohol cannot be placed in a particular type of publication, but rather, in assessing the consistency of the ad’s content with the ABAC standards, the audience of the ad is a relevant consideration.
18. In this case the complaint is not about the content of the Lindemans wine ad, but that it was placed in the “kids’ issue” of the Sunday newspaper magazine. The complainant took the reference to “kids’ issue” to mean that this particular edition of the magazine was directed at a children’s readership.
19. For its part, the advertiser contends that the complainant’s take on the particular edition of the magazine is incorrect. The target audience of the magazine is argued to be, not children, but the parents of children. It is like saying a parenting book on “Taming your Toddler” is a “children’s book”; whereas it is a book about a phase of childhood directed at parents.
20. The Panel believes the complaint should be dismissed. Firstly, a review of the editorial content of the magazine confirms that it is directed at adults, with some of the stories going to matters of interest to parents of children. The stories are not directed at children; nor could the publication as a whole be taken as having appeal to children. Secondly, there is nothing in the content of the actual ad which can reasonably be said to have strong appeal to children.
21. The complaint is dismissed.