

ABAC

ABAC Complaints Panel
Determination No: 75/07

CONFIDENTIAL COMPLAINT

Product: Pure Blonde Beer
Advertiser: Fosters

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

1 November 2007

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a complaint about a television advertisement for the alcohol beverage “Pure Blonde” by Fosters (“The Advertiser”).

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 Advertiser Code of Ethics (“the AANA Code”). 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. This 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 dated 10 October 2007 which was received by the ABAC Adjudication Panel on 10 October 2007.
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 granted subject to the understanding that it would not be scheduled to appear in media likely to have a strong or evident appeal to children (JB27/07PB).

The Advertisement

9. This complaint refers to a television advertisement for Pure Blonde beer.
10. The advertisement opens with a beautiful natural landscape which features two lion cubs being playful; a drop of water is seen running from a deep green leaf into a picturesque stream; and lambs are seen jumping playfully. The scene then moves and establishes that the viewer is seeing the "natural" making of the product, as hops are seen falling into the stream, water is filtered through a net suspended below a waterfall by white doves and two balloon shape fish add bubbles to the beer being formed in the waterway.
11. The scene moves on to reveal a group of beautiful blonde men and women working to bottle the beer from the waterway. The "workers" are dressed in white robes and create an impression of an idyllic scene as they peacefully go about their work of bottling the beer.
12. The tranquility is then destroyed by the arrival of a semi-trailer which is blaring loud music and which is backed to the water edge, leaving deep tyre marks in the lush grasslands. The semi-trailer has the product's logo on its side and is driven by a stereotypical "truckie". The truckie is overweight, dressed in a singlet and shorts and is unshaven. He steps from the truck and squashes a butterfly on the flower.
13. The "blonde" workforce gathers to greet the truck and the truckie commences to leer at a woman as it becomes evident that he has arrived to collect the bottled product for market. The scene shows the product being loaded on to the truck by the blonde workers while the truckie sits and occasionally leers at the women.
14. Upon the completion of the loading the truckie, with a bottle of the product in hand, intercepts and uses a dove as a bottle opener as it flies by (the bird is apparently uninjured and flies away) and hands back the bottle to a male worker. He then drives away, splattering the workers with mud as the truck releases heavy smoke. The ad closes with the caption "from a place much more pure than yours" and a picture of a faun coughing from the fumes of the departed truck.

The Complaint

15. The complainant is concerned that the advertisement is targeting children due to the presence of cute animals in the advertisement which, it is argued, are akin to those used in children's entertainment.

The ABAC

16. 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 –
 - i)
 - ii) must not encourage under-age drinking;
 - b) not have a strong or evident appeal to children or adolescents.

Argument in Favour of the Complaints

17. The advertisement is in breach of section (a) (ii) and (b) of the ABAC by having a strong or evident appeal to children or adolescents by including cute baby animals playing which would appeal to children or adolescents.

The Advertiser's Comments

18. The Advertiser responded to the complaint by way of letter dated 23 October 2007. The Advertiser has advised that:
- a) The advertisement is specifically designed to target male beer drinkers aged 25 to 34 and features an adult concept, namely, beer production in a utopian or perfect world. The ad depicts the beer making process in this exaggerated utopia, from the hops falling into the pure clean water to its filtration through a silken spider's web held by hovering doves through to its hand bottling by blonde utopians. This world is rudely interrupted when a dirty great 18-wheeler arrives and out jumps a truckie to collect the beer and deliver it to the 'real' world. The advertisement features beautiful blonde adult actors and also a number of white animals – as required to depict a utopian world. This concept stems from the brand's 'purity' proposition, which is credible given Pure Blonde is a great tasting low carbohydrate, preservative free beer. Furthermore, the ad has only screened post 8.30pm, except during live sport, in line with guidelines for alcohol advertising in Australia.
 - b) Animals have broad appeal and this cannot be claimed exclusively by one age group (children) or genre (children's movies). In the context of the Pure Blonde ad, the animals are represented in relation to their role in the beer making process (for instance, the lambs help release the hops into the pure water) in the utopian world and they're also depicted as real animals in their natural environment. Whilst animals appear in children's movies, so do adults, cars, rivers, houses etc, and as such, it's important to review the animals not in isolation but in the overall context and tone of the advertisement. We believe a "reasonable person" upon viewing the ad in its entirety, would comprehend its adult concept, namely the brewing of Pure Blonde in this exaggerated utopian world and its subsequent delivery to our real world.
 - c) The complaint also incorrectly labels the animals as "child like", which is supposed to support the ad appealing to children however the animals in this

ad are exhibiting their natural animal behaviour in their natural environment i.e. spring lambs jumping. The complaint also specifically references “Finding Nemo”, which is not a reasonable comparison given it is a general admission cartoon and Pure Blonde is a beer advertisement screened in line with alcohol advertising guidelines.

The Panel’s View

19. The complaint raises the issue of sections (a) (ii) and (b) of the ABAC and the requirement that alcohol advertisements must not encourage under-age drinking or have strong or evident appeal to children. The complainant notes that the animals depicted in the opening scene of the advertisement attracted the attention of his 9 year old and 6 year old children who then interpreted the product as a children’s drink.
20. As a TVC, the ad is subject to both the ABAC and the Commercial Television Industry Code of Practice (CTICP). The CTICP provides that alcohol ads have a restricted broadcast time, namely after 8.30 pm, or at weekends and public holidays in conjunction with sporting broadcasts. While these restrictions aim to narrow the number of younger viewers who might be expected to regularly see an alcohol ad, the reality is that many younger viewers will see this ad, and indeed other alcohol ads, from time to time.
21. In contrast, the ABAC is not primarily concerned with the placement of ads, but is focused on the content of ads. The ABAC standard is that alcohol ads are not to have a strong or evident appeal to children or to encourage under-age drinking. This applies irrespective of where an ad might be published or the time of day it is broadcast. The issue for the Panel is to determine if the ad has a strong or evident appeal to children.
22. The Preamble to the ABAC gives some guidance as to how the ABAC standards are to be interpreted and applied. The preamble provides that conformity of an advertisement with an ABAC standard is to be assessed in terms of its “probable impact” upon a “reasonable person” within the class of person to whom the advertisement may be communicated, taking its “content as a whole”. The Panel has, in previous determinations, considered sections (a) (ii) and (b) of the ABAC and from these determinations it can be noted that:
 - Each ad has to be assessed on its own merits
 - The intention of the advertiser as to its target audience for an ad is not material; rather, it is the “probable impact” of the ad which is important.
 - The standard accepts that an ad might have some residual or incidental appeal to children or adolescents, but it is a “strong or evident” appeal which is prohibited.
 - The overall context of the ad is critical.
23. In this case the complainant points to the use of cute baby animals as drawing the attention of children – in the complainant’s home a 9 year old and a 6 year old are stated to have been drawn to the ad. Certainly, it can be accepted that the opening scenes of the ad could be appealing to children, although the advertiser argues that this scene is appealing to all viewers, and is not specifically only attractive to children.
24. Once the scene is set, the balance of the ad consists of the humorous contrast between the idyllic “blonde” world and the coarse world of the truckie. The use of the animals is therefore placed into a wider context.

25. The Panel does not believe the ad breaches the ABAC standard. While the beginning of the ad might reasonably be argued to have an evident appeal to children, the ad as a whole cannot reasonably be concluded as having a strong or evident appeal to children. The ad is humorous and the use of the animals is explained and contextualized by the ad in its entirety. As the Preamble makes clear, the ABAC standards are to be assessed from the probable impact of the ad as a whole: not one scene from the ad viewed in isolation from the balance of the ad.
26. Accordingly, the complaint is dismissed.