

ABAC

ABAC Complaints Panel
Determination No: 3/09

CONFIDENTIAL COMPLAINT

Product: Pure Blonde Beer
Advertiser: Fosters

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

27 January 2009

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 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 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 received by the ABAC Adjudication Panel 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 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 depicts a driver of a heavy vehicle consuming alcohol prior to driving his vehicle and notes the permissible BAC in that situation is 0.

The Code

16. The ABAC provides at Sections d and d(i) that advertisements for alcohol beverages must:

d) not depict any direct association between the consumption of alcohol beverages, other than low alcohol beverages, and the operation of a motor vehicle, boat or aircraft or the engagement in any sport (including swimming and water sports) or potentially hazardous activity and, accordingly:

i) any depiction of the consumption of alcohol beverages in connection with the above activities must not be represented as having taken place before or during engagement of the activity in question and must in all cases portray safe practices.

Argument in Favour of the Complaints

17. The advertisement is in breach of section (d) of the ABAC by depicting a “truckie” consuming alcohol and then driving a heavy vehicle.

The Advertiser’s Comments

18. The Advertiser responded to the complaint by way of letter dated 23 January 2009. The Advertiser has advised that:

a) In relation to the **first point** raised the complainant claims: *“A number of “angels” are making the beer when a truck driver arrives to collect it after loading he opens a beer, drives off in a hurry splattering <sic> the “angels”*”. In the very short time the truckie spends in ‘Utopia’ (where the beer is being made), as he is leaving he does open a beer however he immediately hands it to a male ‘Utopian’, he then gets in his truck and drives off. As such the TVC does not depict any alcohol consumption by the truckie (in fact no consumption is depicted in the entire TVC) nor is there any inference that the truckie had been drinking (his behaviour/actions supports this) when he arrives to collect the beer as part of his delivery round. Based on this, we contend that whilst the complainant’s description (above) is reflective of part of the TVC, the conclusion they draw - *“It is illegal for a heavy vehicle to drive with a BAC over zero”* – whilst a correct statement in isolation, has no relevance when applied in the context of our TVC as the truckie does not consume alcohol and therefore does not have a blood alcohol reading.

b) On the **second point**, the truckie is not holding a bottle of beer when seated on the crate. Whilst we never believed this to be the case we asked our agency to triple check and they did so by reviewing the TVC in high definition and they also consulted the account service and production staff who attended the shoot. We have this in writing from our Clemenger BBDO Senior Account Director, Chris Howatson, including the following: *“In the following scene <post the crate scene>, he is, for the first time in the commercial, holding an unopened bottle of Pure Blonde in his left hand, which he uses a dove to open before providing to a Utopian.”*

- c) Based on the above we believe that the Pure Blonde TVC upholds both the ABAC Code and AANA Code of Ethics for alcohol beverage advertising in Australia. The advertisement (60 second) was also pre-vetted and approved.

The Panel's View

19. The complaint raises the issue of section (d) of the ABAC and the requirement that alcohol advertisements must not depict the consumption of alcohol beverages prior to operation of a motor vehicle.
20. The complainant is concerned that the truckie is seen opening a beer and then driving a heavy vehicle. The Panel notes that the truckie is clearly seen in the ad to be opening a beer and immediately handing the opened beer to a "worker". The advertiser has confirmed that there are no depictions of actual consumption i.e. drinking of alcohol in the TVC.
21. The Panel recognizes the importance of the point the complainant has made and clearly an ad which suggested either drink driving was acceptable or any level of alcohol consumption should occur while operating a heavy vehicle would be inconsistent with the policy intent of the ABAC. The Panel has also noted in previous Determinations that the concept of 'consumption' is wider than physical drinking of the alcohol.
22. The Panel does not believe the ad breaches the ABAC standard. The section (d) standard requires a direct association between the consumption of alcohol and the operation of a motor vehicle. The scene when the beer is opened is related to the truckie's disregard of the beautiful setting and is focused on his use of a dove to open the bottle rather than suggesting that he is about to drink the product. In fact he immediately gives the bottle to a blonde worker and enters the vehicle. The Panel believes the context makes clear that consumption has not occurred.
23. Accordingly, the complaint is dismissed.