

# ABAC

**ABAC Complaints Panel  
Determination No: 31/09**

**CONFIDENTIAL COMPLAINT  
Product: Victoria Bitter  
Advertiser: Foster's Group Limited**

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

18 May 2009

## **Introduction**

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for Victoria Bitter beer by the Foster’s Group Limited (“the Advertiser”) and arises from a confidential complaint (“The Complainant”).

## **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 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 received by the ABAC Panel on 14 April 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 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 the advertisement (UL45/09).

### **The Advertisement**

9. The complaint refers to a television advertisement for Victoria Bitter beer.
10. The advertisement begins with the camera focusing on an old photograph of a young man in army uniform. A female voice is then heard to say, "He was tall dark and handsome and could dance like Fred Astaire". The camera moves to the woman who is speaking and she laughs and continues "so he was a goner" as the camera moves back to photographs of a bride and groom and children. She laughs again, the camera moves back to the woman and she says "I'm the greatest optimist in the world, so I really and truly felt that we would come back and have a wonderful life. And you know people you know say about him going to Vietnam and that, but really and truly it was his job, and he loved it". The camera moves to an empty armchair and a coffee table with two glasses of beer. "I don't know whether pride comes into it or not but I am, I'm pleased he did a good job. I always think to myself, well, the deed is done, there's nothing I can do about it, accept it." The camera view then widens and a bottle of VB is seen on the coffee table as the woman raises her glass as text appears on the screen "Wherever you are, whatever you're drinking, raise a glass for our fallen mates." The woman says "To you my friend" and has a sip of beer. Different text then appears on the screen "Raiseaglass.com.au" and the logos for the Returned Soldiers League, Legacy and VB appear at the bottom of the screen.

## **The Complaint**

11. The complainant argues that the advertisement raises several concerns, specifically that:
  - a) the ad is encouraging binge drinking and the idea that having six bottles of beer a day is acceptable practice;
  - b) there is no need to raise a beer in thanks for the fallen veterans incredible contribution and their lives. Saying thankyou, appreciating the elderly and respecting them rather than encouraging the consumption of beer – and giving people an excuse to have another beer – is much more appropriate; and
  - c) It is not patriotic to drink beer and this ad suggests that it is.

## **The Code**

12. The ABAC provides at Section (a) 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 excessive consumption or abuse of alcohol;
    - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages.
  - c) not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment and, accordingly-
    - ii) if alcohol beverages are depicted as part of a celebration, must not imply or suggest that the beverage was a cause of or contributed to success or achievement;....

## **Arguments in Favour of the Complaint**

13. In favour of the complaint it can be argued that the advertisement:
  - (a) breaches section (a)(i) & (iii) of the ABAC by giving people another excuse to have a beer and suggesting that it is patriotic to drink beer thereby encouraging and promoting excessive consumption of alcohol; and
  - (b) breaches section (c)(ii) of the ABAC by depicting a celebration of the lives and sacrifice of the “fallen Australians” and implying that the product is a contributor to the celebration of the serviceman’s life and sacrifice.

## The Advertiser's Comments

14. The Advertiser responded to the complaint and questions posed by the Panel by way of letter dated 27 April 2009. The points made by the Advertiser in relation to the advertisement were:
- (a) The "Raise A Glass Appeal" is a joint fund-raising initiative that as of April 27<sup>th</sup> has raised more than \$1.2 million for the welfare programs of the RSL and Legacy. This entire campaign has been developed in full collaboration with the national bodies of both organisations over a 12 month period. At every stage, both partners have reviewed and approved every element of this campaign, including each of the awareness-driving commercials. Raising public awareness of the welfare work done by the RSL and Legacy was important to both organisations and a key driver of the campaign. To this end a series of commercials promote the Appeal, and those featured in each are telling their own true stories after expressing a desire to pay tribute to their fallen loved one, and to toast their ultimate sacrifice. Each tribute is comprised of personal reflection including personality insights and information about their service and ends with a glass being raised and the product partially consumed.
  - (b) Whilst we will address the areas of ABAC that were outlined to us in the letter from the ABAC adjudication panel, we also wanted to address the specific point raised by the complainant in relation to "giving people another excuse to have a beer". Generally speaking, alcohol manufacturers are permitted to promote their products but ultimately they must ensure that it upholds the ABAC and is also pre-vetted, which was the case with this commercial.
  - (c) The ritual of toasting someone with a drink, alcoholic or otherwise, is a widespread cultural norm - it is part of many occasions; from birthdays to weddings, work functions to social events. In the commercials, whilst we depict a pot of beer it is the concept of reflection and the tribute itself that are key, as supported by the end statement in the commercial: "Wherever you are, whatever you are drinking, raise a glass for our fallen mates." The concept of toasting with an alcoholic product does not unto itself equate to or imply alcoholic misuse or excessive consumption. However obviously the treatment, tone and context are important and to this end we strongly believe the portrayal of the product in this commercial is mature and balanced. It represents a small part of the broader tribute and Betty is represented as solemn, completely alert and sober (through her speech and ability to recall information) and the drink she only partially consumes represents no more than 1.4 standard drinks (based on a stubby of VB). Neither can the commercial be seen as encouraging excessive consumption for the reasons already outlined, plus it is also clear the second beer is for the deceased person being discussed and hence a symbolic gesture.
  - (d) The commercial's visual concept of two beers (including one for a fallen mate) has its genesis in a tradition found in many RSLs and ex-service organisations of buying a beer for a deceased veteran

and placing that beer, untouched, near an empty seat while consuming one's own beer. We learned of this through discussions with the RSL and Legacy, and have sighted numerous pictures of the custom from the organisations' newsletters.

- (e) We also do not believe the commercial asserts that "it is patriotic to drink beer". There is no text, dialogue or pictorial links to any patriotic symbol or Australian iconography. We feel an average person would not deduce the consumption of beer is being portrayed as patriotic in a bid to encourage excessive consumption but more importantly we believe the actual depiction of the product and the commercial in its entirety upholds ABAC including section (a).
- (f) To clarify our reading of the ABAC section (c), product can be portrayed as part of a celebration provided the product is not portrayed as contributing to the achievement that is being celebrated, nor can it be seen as the cause of celebration. The "Raise a Glass Appeal" commercial in question depicts Betty Fitzpatrick talking about her late husband. His life and service is the subject of the commercial, his achievements are the cause of her wanting to take part in the Appeal and commercial. Betty toasts her husband with a beer after discussing his character and passion for his job with the armed services. She describes their meeting, his passion for dancing and his appearance. She poignantly describes his commitment and service, and the pride she has in him paying the ultimate sacrifice. In no part of the dialogue, text or vision is it stated or implied that Betty's husband consumed alcohol, nor is alcohol linked in anyway in the commercial to his achievements during active service. It is clearly a solemn yet uplifting story about his life and also Betty's own journey.
- (g) In compiling this response we also spoke to Betty. Her view was that she was proud to be a part of something that will do so much good for the community. The welfare of our veterans is something very dear to her and she was pleased to be able to help in this way. The response from her friends and colleagues in the ex-service community has been really positive. Finally she saw this advertisement as a way to tell her story.
- (h) Whilst we acknowledge that the Appeal and commercials may not be to everyone's personal taste, we firmly believe that the commercial upholds both ABAC and AANA. The program has been developed with the national executives of the RSL and Legacy and Appeal supporter General Peter Cosgrove (retired). We are confident the campaign is respectful and appropriate, and that the monetary contribution will have a significant impact for the wider ex-service community..

### **The Panel's View**

15. This Determination is one of two made by the Panel arising from the "Raise a Glass" campaign developed by the advertiser with the cooperation of the RSL and Legacy to service organisations who have the aim of supporting

members of the Australian War Veteran Community and their families. The campaign consists of several television advertisements which were broadcast in the lead up to Anzac Day 2009. The advertiser has advised that the fundraising appeal associated with the advertisements has raised \$1.2 million (as of 27 April 2009) for the welfare services provided by the two organisations.

16. As explained in Determination 34/09 and 44/09 the decision of the two service organisations to join with the advertiser in the campaign has divided opinion within the RSL. The Queensland branch of the RSL is reported to have objected to the decision which was taken by the organisation at a national level. It is a legitimate policy question as to whether a campaign of this type should have occurred and whether there should be particular restrictions or guidelines placed on other forms of alcohol company sponsorships such as in sporting competitions. Forming a public policy position on these issues is a matter for government in conjunction with organisations involved, the public health sector and the alcohol industry. It is not a role for this Panel.
17. The role of the Panel is to accept that the "Raise a Glass" campaign took place and to assess if the individual executions are consistent with the ABAC provisions. The underlying concern of the complainant is that the ad was made at all and that it is not appropriate to mark the sacrifice and achievement of ex-service men and women by "Raising a Glass". This is not a concern which the Panel can address as such. The express concern of the complainant is that the ad encourages binge drinking, which is inconsistent with section (a) of the ABAC.
18. The Panel is of the view that the ad does not breach section (a) dealing with the promotion of excessive consumption. While the consumption of alcohol is depicted in the advertisement, this consumption is modest and it does not appear that the central character featured in the advertisement has been drinking. There is no evidence that her behaviour has been affected by alcohol. Nor does the Panel believe that section (c) (ii) of the code has been breached in relation to the depiction of alcohol in terms of the celebration of the contribution of service men and women. The ad does not suggest that the presence or consumption of alcohol is the reason why the service should be recognised but rather the use of alcohol, such as in making a toast, is incidental to the celebration rather than a cause of the celebration.
19. Accordingly the complaint is dismissed.