

ABAC

ABAC COMPLAINTS PANEL – DETERMINATION NO: 04/18 VICTORIA BITTER

IN THE COMPLAINTS OF MR WAYNE DENHOLM & SANDRA JONES, HEALTH & PRODUCTIVITY RESEARCH CENTRE, UNIVERSITY OF WOLLONGONG

Product: Victoria Bitter
Advertiser: Carlton & United Beverages

Professor The Hon Michael Lavarch - Chief Adjudicator
Ms Liz Dangar - Member
Ms Jeanne Strachan – Member

18 February 2005

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) complaints panel (“The Panel”) concerns the television commercial for Victoria Bitter by Carlton & United Beverages (“The Advertiser”) and arises from the complaints received from Mr Wayne Denholm and Associate Professor Sandra Jones (“The Complainants”).

The External-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. Currently, alcohol advertising is subject to both:
 - (a) a generic code (the AANA Advertiser Code of Ethics) with a corresponding public complaint mechanism operated by the Advertising Standards Bureau (ASB); and
 - (b) an alcohol specific code (the Alcohol Beverages Advertising Code) and complaints mechanism established under the ABAC Scheme:
3. In addition, the commercial television industry Code of Practice places limits on the broadcast of “direct advertisement for alcoholic drinks”. Such advertisements are generally only to be broadcast in “M”, “MA” or “AV” classification periods or as an accompaniment to the live broadcast of a sporting event on weekends and public holidays.
4. The ASB and the ABAC 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.
5. 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 Complaints Panel for consideration. If only AANA Code issues are raised, then the matter is determined by the ASB.

6. Both complaints raise concerns under the ABAC and accordingly are within the Panel's jurisdiction.

The Complaints Timeline

7. The first complaint was received from Mr Denholm in the form of an email sent to the Advertising Standards Bureau dated 16 December, 2004 and received by the ABAC Complaints Panel on 20 December 2004. The second complaint was received by way of letter from Associate Professor Sandra Jones, of the Health & Productivity Centre, University of Wollongong dated 23 December, 2004, and received by the ABAC Complaints Panel on 13 January, 2005.
8. The Panel endeavours to determine complaints within 30 days of receipt of the complaint, but this timeline depends on timely receipt of materials and advice and the availability of panel members to convene and decide the issue. With allowance for the Christmas and New Year public holidays, the complaints will be determined close to the 30 day goal.

Pre-vetting Clearance

9. The external-regulatory system for alcohol beverages advertising features independent examination of most proposed advertisements against the ABAC prior to publication or broadcast.
10. The television commercial subject of the complaints has been subject to the pre-vetting process. (Approval number: VR 104/04)

The Advertisement

11. The advertisement is a 30 second television commercial which opens with a shot of a hotel bar, featuring a barman and three men who become the principal characters in the story which unfolds throughout the advertisement. The opening shot is accompanied by the distinctive theme music for Victoria Bitter television advertisements.
12. The three men are dressed casually in t-shirts. The barman and the men are first seen from a side angle which then moves to a front on shot of the barman pouring a glass of beer from the 'tap'. The music fades and a male voice commences a narration of the advertisement.
13. The narration opens with 'A hard earned thirst needs a big cold beer'. The visual scene then moves from the barman to the three male characters who are shown simultaneously drinking glasses of beer. The narration continues; 'often followed by another cold beer'.
14. This piece of narration is accompanied by a very quick 'time lapse' which places the men drinking a second glass of beer. The background scene of the bar changes between the depiction of the consumption of the first glass of beer and the second glass of beer.
15. The narration continues, 'then, much later in the evening, a kebab'. The scene which matches the narration is a shot of the three men each holding a kebab while standing in the same position at the hotel bar. The scene is separated from the earlier bar drinking scene by the use of a brisk 'time lapse' and a change in the faces in the background crowd in the bar.
16. The men bring the kebabs to their faces in the same manner they were depicted earlier bringing the glasses of beer to their mouths. The man on the right of the group looks somewhat surprised to be holding the kebab.
17. The narration continues: 'Yes, it's amazing how a kebab always seems to magically appear...'. This section of narration is accompanied by a shot of the leading man depicted in the middle of three main characters, placed alongside a mobile kebab

vending vehicle. The leading man is dressed as he was when pictured in the hotel, and looks very surprised to be located at the kebab van.

18. The narration continues: '... somewhere between see you later and honey I'm home'. This narrative is accompanied by a shot of the leading man leaving the hotel and walking onto the street, followed by a depiction of a woman sitting upright in a double bed. This woman, presumably the man's partner, is wearing a nightgown and holding a nutcracker. In her lap are some walnuts. She is looking at the vacant spot next to her in the bed.
19. The woman's attention then moves to the nut she has placed in to the nutcracker. She smashes this nut, the shell of which is seen travelling over various parts of the bed, as to emphasise the force which the nut was opened. This scene is accompanied by the continued narration: 'and, if she doesn't kill you the next day, the garlic sauce will'.
20. The scene has then moved to the leading man, apparently dressed as he was in the hotel, lying in a hospital guernsey being quickly wheeled down a hospital corridor. The man is being attended by two doctors, one of which is examining his eyes with a flashlight. The man appears startled rather than ill by the turn of events.
21. The leading man is then seen joining his two companions from the hotel who are also on hospital guernseys in what appears to be a ward. The men are placed adjacent to drips and other medical equipment. Throughout this hospital scene, the leading man and then his two companions are shown holding a kebab.
22. The narration continues: 'but we love a late night lamb sandwich...' This narration is placed with a depiction of the leading man again in front of the kebab vending van eating the kebab. This scene features a close up of the man's face as he eats.
23. The narration goes on: '...just like we love a big cold beer, and the best cold beer is Vic!' This section of narration occurs with a return to the hotel. The same men are featured, but the dress of the men is different, they are standing adjacent to a table as opposed to the bar service area, and while the leading man remains in the middle, his two companions are on opposite sides of him as compared to the earlier hotel scenes. The men are shown lifting glasses of beer and toasting each other.
24. The final hotel scene places the men back at the hotel bar. Again the men are dressed differently from the previous two hotel scenes and they have been joined by a fourth man. The new character appears to be one of the kebab vendors from the earlier kebab van scene. The 'kebab vendor', who is much shorter than the other men and has a distinctive bushy moustache, turns left and right to look at the other men, and then all four raise glasses of beer to drink together.
25. The final scene is a depiction of several bottles and a can of the product accompanied with the strapline 'For a hard earned thirst'. The theme music which has played during the entire advertisement comes to an end.
26. While the paragraphs above are a scene-by-scene description of the advertisement, this detail can only be determined by close examination. An average viewer would not necessarily recognise this detail but rather would gain a general impression of the advertisement. This impression would include:
 - a play on 'mateship' in a blokey environment;
 - drinking occurring on different occasions over several nights at the same hotel;
 - reference to a stereotype of the 'wife' left angrily awaiting her husband who is drinking with his mates;
 - humorous appeal of an adventure of the 'mates' involving the kebab.
 - Parody of supposedly typical drinking and eating patterns of behaviour.

The Complaints

27. Both complainants argue that the advertisement portrays excessive consumption of alcohol.
- Mr Denholm argues that the advertisement promotes binge drinking and domestic violence. He strongly disagrees with the consumption of alcohol and the implication of domestic violence being portrayed in a light hearted, blasé manner. Mr Denholm has experience working with alcohol-related violent situations.
 - Associate Professor Jones argues that the advertisement breaches Section a) of the ABAC as it promotes excessive consumption of alcohol.
 - She also suggests that alcohol is seen as a necessary aid to relaxation, thereby breaching Section c) (iii) of the Code.

The Code

28. 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;
 - ii) must not encourage under-age drinking;
 - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;
 - iv) must only depict the responsible and moderate consumption of alcohol beverages.
- Section c) (iii) of the ABAC states that advertisements for alcohol beverages must
- 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 –
- iii) must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or is a necessary aid to relaxation.

Arguments in Favour of the Complaints

29. In favour of both complaints, it can be argued that the advertisement does promote excessive consumption or abuse of the alcohol product by depicting three mates engaging in one long night of drinking in a hotel bar, followed by separate nights of drinking. The use of devices such as time lapse does not detract from an implication that the men were drinking continuously during a prolonged stay at the hotel.
30. There is also the strong association of excessive consumption leading to an unfortunate end. While the advertisement says that it is consumption of the kebab that lands the men in hospital, it is the portrayal of excessive consumption of alcohol that leads to this abusive outcome. Equally the possible domestic confrontation between the leading man and his 'wife' implied by the advertisement is a result of excessive consumption of alcohol.
31. In favour of the claim by Associate Professor Jones that the advertisement promotes alcohol as an aid to relaxation, it can be argued that the socialising enjoyed by the men as a reward after a long day of work, to quench a "hard earned thirst" suggests the consumption of alcohol is a necessary aid to relaxation.

The Advertiser's Comments

32. The Advertiser replied to the complaints by way of two letters dated 19 January 2005 and 25 January 2005. The two responses arose because the complaints were raised separately with the Advertiser as a result of timing issues.
33. In their response of 19 January, 2005, the Advertiser explains that the Victoria Bitter advertising campaign centres on mateship and uses humour to laugh at some of the traditions and favourite pastimes of the average Australian male. The campaign creative was required to embody what it means to be a bloke in today's society. Consumer research identified a tradition evident in some Australian towns of men consuming a lamb kebab late at night after drinking a couple of beers with mates. The advertisement parodies this tradition.
34. The Advertiser argues that the main thrust of the advertisement centres on three male characters who are seen enjoying two beers each, in line with NHMRC Guidelines for long term low risk alcohol consumption.
35. Specifically, the advertiser argues:
 - The use of a "clock swipe" device shows the passage of time (as does the increased number of patrons in the background) to help reinforce the fact that the men are not drinking continuously. Additionally, in the second half of the ad, the lead character appears in different areas (at the bar, at a corner table) of the pub on different occasions – in each instance wearing different clothes to visually underpin the fact that this is his regular hotel and that he is not consuming excessively in one session.
 - Kebabs hold almost legendary status among Aussie blokes who will travel far and wide in search of the perfect "lamb sandwich". The consumer research quickly identified this territory as something VB consumers were familiar with and bought-into. Kebabs are most commonly consumed at night – and not necessarily as the result of alcohol consumption. Therefore, the advertiser does not believe a reasonable person would immediately associate consuming a kebab with excessive consumption. The phrase "*much later in the evening*" reinforces the position that a kebab is something usually consumed after the hotel – not before or during.
 - The introduction of the kebab van outside the pub reinforces the fact that kebabs are often the first thing Aussie blokes reach for when he leaves the hotel. Again, the advertiser does not believe there is anything suggesting excessive consumption or altered state in the portrayal of such a widespread occurrence.

- The hospital scene is accompanied by the voiceover: “*if the wife doesn’t kill you the garlic sauce will*”. At the hospital, the main character joins two others; each has a kebab in his hand. None of the characters’ behaviour suggests excessive consumption – the intent of this scene was to underpin the blokey humour of the strength and effect of the garlic sauce – something VB consumers strongly identified with.
 - The scene with the wife in bed with a nutcracker shows a female character who is frustrated because her partner isn’t home yet. There is no suggestion or portrayal of violence of any sort – the nutcracker is merely a visual cue to her mood. The language used in the voiceover in this part of the ad is part of the vernacular and not intended to be taken literally.
36. The Advertiser also responds to the complaint by referring the Panel to the company website where a description of their position on the responsible consumption of alcohol in the community can be obtained.
37. In a second reply received on 25 January, 2005 the Advertiser disputes the claim that the advertisement depicts consumption of alcohol products as a necessary aid to relaxation. They argue:
- the advertisement is set in a hotel environment and that hotels are, and have always been, renowned as places where people meet their friends to socialise and often, consume alcohol. In many instances they are the cornerstone of a community. The consumption of alcohol in these venues is not necessarily an aid to relaxation or socialisation – since consumers may choose to visit a venue for a variety of reasons e.g. they will be among friends, good service, good food, etc.
 - Through the use of different visual cues (e.g. different background characters, different clothes on lead characters, etc), viewers see the hotel at different times of the day as well as different days – the idea being to illustrate that the hotel in question is the lead character’s ‘local’ as well as popular with other patrons.
 - The three main characters are seen enjoying two beers each, in line with NHMRC Guidelines for long-term low risk alcohol consumption. There is nothing to suggest an association between the fact that the characters are seen having a good time and the actual consumption of the product. The advertisement merely depicts a normal hotel scene that is repeated in thousands of venues in towns and cities all over Australia every day.
38. The Advertiser believes that the advertisement upholds both the ABAC and the AANA Code of Ethics.

The Panel’s View

39. There are two elements of the complaint before the Panel. The first deals with the promotion of excessive consumption. The second deals with the suggestion that the consumption of alcohol beverages is a necessary aid to relaxation.
40. The argument about excessive consumption stems from the depiction of the main characters in a hotel drinking the product on several occasions with the principal occasion apparently extending over a period of some time. The complainants take from this an encouragement of excessive drinking.
41. The advertiser argues that the visual devices used such as the use of ‘time lapse’ and placing the men into the hotel on different occasions indicate regular social interaction but not excessive consumption of alcohol. The advertiser rejects the proposition that the

experiences with the kebab indicates the behaviour of a person whose actions are affected by alcohol.

42. The Panel does not believe the ABAC to be breached by the advertisement encouraging excessive consumption. In reaching this view the Panel was mindful:
- That the men are not shown drinking any more than two glasses of beer on any one occasion.
 - The use of devices such as 'time lapse' and placing the men in different positions and in clothing so as to identify the drinking occurring on separate occasions. During each of these occasions, it is not possible to conclude that excessive consumption occurred.
 - The use of humour to provide somewhat of a parody of drinking and eating behaviour, rather than a depiction of irresponsible drinking.
43. The use of humour in advertising requires individual assessment in each case. Humour will not of itself save an advertisement which would otherwise breach the Code, from the consequences of the breach. Combined with other elements of the advertisement, humour might however be part of the overall impression of the advertisement which leads to the conclusion that the Code has not been breached.
44. Further the Panel does not believe that section c) (iii) of the ABAC has been breached. While the product is shown in conjunction with social and 'relaxing' activities, there is no suggestion that the product is a 'necessary' aid to the social occasion. The emphasis in this section of the Code is on the portrayal of the product as a 'necessary' aid to relaxation and merely associating the product with circumstances where people are shown to be relaxed and socialising will not be a breach of the Code. The advertisement will need to suggest that the alcohol product is required or substantially essential for relaxation to take place, for the Code to be breached.
45. Accordingly, the complaints are dismissed.