

# ABAC

## ABAC Complaints Panel Determination No: 60/13

### Complaint by Commissioner O'Callaghan Product: Carlton Draught Advertiser: Carlton & United Brewers

Professor The Hon Michael Lavarch – Chief Adjudicator  
Debra Richards – Member  
Professor Richard Mattick – Member

2 May 2013

#### Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for Carlton Draught produced on behalf of Carlton & United Brewers (“the Advertiser”) and arises from a complaint received on 5 April 2013.

#### 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 was received by ABAC on 5 April 2013.
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. The 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 (11699).

### **The Advertisement**

9. The television advertisement opens in a pub with beer being poured from a tap into a glass with the Carlton Draught logo as a voice says "Four Carlton Draught fellas". We then see the barman handing the beer to a man standing with three other men each holding a glass of beer. The men raise their glasses to one another and are about to take a sip of beer when the barman gives a discreet nod toward one end of the bar. The four men look in that direction and we see that the men are looking at another group of four men in the bar three of which are in a police uniform and one of whom is holding a full glass of beer and the fourth man is wearing a suit and also holding a full glass of beer. All are looking at the four men. One of the policemen looks down and we see that he is looking at a carry bag full of money.
10. The next scene is outside the hotel and we see the four men running out of the hotel holding their glasses of beer carefully so the beer doesn't spill accompanied by the type of music that would be used for an action scene in a film. We then see the men running in the middle of the road still carefully holding their beers closely followed by the policemen also carefully holding their beers. The policemen are then shown running alongside the men and one calls out "Pull over" with one of the men responding "No way" and we see the man veering toward the policemen and two of them running off the road and into a stack of cardboard boxes.
11. We then see the four men jump in the air as if in a car travelling at high speeds over a hilly segment of road. Each man is still carefully holding the beers with the policemen

still running behind them and then jumping carefully holding their beers at the same spot that the men jumped.

12. The scene changes to a large drain with the four men running up the side of the drain and then back down with the policemen still following them and all still carefully holding their beers. Again, the scene is parodying a movie car chase.
13. The scene changes again to a road with the men running in front of the policemen still carefully holding their full glasses of beer.
14. The final scene shows a bar and we see a hand placing a glass of beer with the Carlton Draught logo on the bar with the text "Made from Beer" superimposed together with the text "carltondraught.com" and "Don't Drink and Drive".

### **The Complaint**

15. The complainant argues that the advertisement:
  - (a) contravenes section (a) of the ABAC in that it fails to present a mature, balanced and responsible approach to the consumption of alcohol beverages.
  - (b) contravenes section (d) of the ABAC in that it simulates a car chase, albeit that the chase is conducted on foot it is clearly meant to represent a police car chase and shows images of police being 'nudged' as if in a car chase scenario.
  - (c) contravenes section (c) of the ABAC in that it implies success in the evasion of police during a chase while the main cast is carrying alcohol.

### **The Code**

16. The ABAC provides that advertisements for alcohol beverages must:
  - (a) present a mature, balanced and responsible approach to the consumption 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 -
    - i) must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;
  - (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.....

### **The Advertiser's Comments**

- 17. The Advertiser responded to the complaint and questions posed by the Panel on 26 April 2013. The principal points made by the Advertiser are:
  - (a) This Carlton Draught campaign launched on air during footy finals time in September 2012 nationally (metropolitan and regional markets) and then was back on air from mid March 2013 primarily in sports programs. The ad has been viewed by an estimated 1.2 million people while over 4 million people have seen one of the ads in the campaign. The 90 second version of the ad on Youtube has been viewed almost 4 million times. This latest campaign follows an established theme that Carlton Draught has brought to life through its advertisements over many years – lampooning big production ads/films that take themselves a little too seriously. A good example is the popular “Big Ad” which was spoofing over the top airline advertisements whilst “Beer Chase” and “Jump” parody over the top Hollywood films.
  - (b) “Jump” opens with a bar tender pouring a Carlton Draught and we hear “Four Carlton Draughts fellas.” The four lead talent then go to toast each other however it’s interrupted when the bar tender gestures over his shoulder. We then see a group of police (Hollywood movie cops based on their attire) just about to enjoy a drink – many removing their hats as they have just arrived. The police then notice the bag of money at the four lead’s feet. The four leads hastily leave the pub with their beer in hand and the police take chase. We then see the police running side by side with the men as they instruct them to “Pull over” but they are bumped out of the way into some boxes as one of the leads states “No way”. We then see both groups – the four leads and the police – come over a rise in the road in slow motion. This is ‘the’ classic shot from blockbuster Hollywood films featuring some kind of car chase. Next they are running in a concrete basin as inspired by the Grease car race scene. Then it’s back to pounding the pavement. Apart from the lead talent and police, the advertisement is mostly void of both people and moving cars in order to give the impression of an empty movie lot. The advertisement boasts a classic 80s soundtrack.
  - (c) Based on the details we have been provided it is our understanding that the Commissioner of the WA Police --- Karl O’Callaghan --- has made this complaint. First up we’d like to state that we respect the work undertaken by Commissioner O’ Callaghan and the Australian police – they do an excellent job under often challenging circumstances. In regard to this complaint, given Mr. O’Callaghan’s strong policy position on alcohol and the fact that this is the only complaint we have received, we don’t believe this particular complaint is representative of

viewer feedback generally. We'd also like to take the opportunity to stress that this advertisement was never intended and nor do we believe it does, denigrate the work of our Australian police. The concept itself was never about that and the team went to great lengths to ensure the advertisement was tongue in cheek and clearly referenced classic over the top Hollywood film car chases.

- (d) Section (a) of the ABAC requires us to not promote underage drinking, offensive behaviour linked to intoxication or excessive consumption. The first sip of the four lead's drinks is rudely interrupted --- in fact they haven't consumed any product and nor will they throughout this advertisement --- when they notice the police. None of the people featured have consumed alcohol nor are they under the influence – all appear sober and alert. The inclusion of alcohol is obviously linked to the fact that this is a beer advertisement and that the men all successfully carry beers (without spillage) is completely ridiculous and far fetched and only adds to the humour. The beers in hand add another level of implausibility, which works well when we are poking fun at highly implausible Hollywood film car chases. Holding onto their beers is effortless, that is the lead talent are not obviously focusing their attention on this and they don't appear desperate to maintain the liquid. Finally, they are not escaping the police in order to consume beer as has been suggested but like every classic chase scene they do want to make a successful getaway. The humour of the advertisement stems from spoofing Hollywood film car chases/scenes from the likes of Grease, Terminator, The Blues Brothers and Heat. I don't believe the advertisement makes light of the issues raised per se as the advertisement is parodying big Hollywood films. This is further reinforced by the nature of the action – completely fantastical and removed from real life scenarios. Furthermore it is our understanding that these issues are only within the ABAC remit if we showed characters conducting antisocial or illegal activities under the influence of alcohol, which is definitely not the case here.
- (e) The lead talent do evade the Hollywood style police however this 'success' is not linked whatsoever to their beer. The advertisement is spoofing classic Hollywood film car chases/scene where the good guys/bad guys (depending on the film) escape despite insurmountable odds simply because it's movie land. Remove the alcohol and you get the same action/ending --- we've all seen it on the big and small screens numerous time. The way the lead talent interact with the Hollywood style police is exaggerated and spoofy and yes they do bump the police (into boxes with shredded paper) but no---one is hurt and the rest of the 'action' is simply a cat and mouse style chase.
- (f) Section d is an important part of the ABAC as it is (in part) designed to ensure advertisements do not show alcohol in connection with the operation of a motor vehicle – that is people drinking and driving. To this end Section d is very clear in that it states: "...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...". The talent in "Jump" is on foot and they are not driving a vehicle. This is absolutely clear. Our reading, plus that of the prevetter, is that ABAC does not disallow people mimicking a car chase on foot. Without sounding too obvious, whilst the advertisement is spoofing a Hollywood film car chase they are just guys on foot who haven't actually consumed alcohol and nor do they appear under the influence. Whilst they are parodying a car chase they are not doing it in a 'pretend' car (i.e. with hands on an imaginary steering wheel or aided by props) and neither are they in a real motor vehicle and as such we believe the advertisement complies with section d.

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

18. The complaint is about a television advertisement for Carlton Draught and raises three separate concerns, namely:
  - Failure to present a mature, balanced and responsible approach to alcohol consumption (section (a)).
  - Encouragement of drink driving by depicting a simulated police car chase (albeit on foot) while the participants are carrying glasses of beer (section (d)).
  - Implying the achievement of success in the evasion of police during the chase while the main cast members are carrying alcohol (section (c)).
19. In short, the advertiser's response to these concerns is that:
  - the lead actors do not consume alcohol throughout the advertisement nor do they appear under the influence of alcohol;
  - the advertisement is spoofing a Hollywood film car chase and is humorous, ridiculous and far fetched and does not intend to denigrate the work of Australian police;
  - the success of the lead actors in evading the police is not linked to their beer;
  - the talent are on foot and are not driving a vehicle and haven't consumed or appear to have consumed alcohol.
20. In assessing the consistency of an advertisement against ABAC standards, the Panel is to have regard to probable impact of the advertisement upon a reasonable person taking the content of the advertisement as a whole. The 'reasonable person' test is a reference to the basic standard contained in Australia's common law system. Essentially, it requires the Panel to take a common sense approach in applying the Code with regard to the attitudes, values and opinions held by the majority of the community.
21. The advertisement creates a scenario which is a humorous parody of a movie car chase. In doing so, it shows a group of men, presumably bank robbers, escaping from

the police by foot but in a manner which brings to mind a dramatic car chase. A number of the scenes in the advertisement are reminiscent of clichés in movie, such as the police being run off the road into a group of boxes and the men running and jumping as if driving at high speed over the hills of a San Francisco street. All this occurs on foot while the men are holding glasses of beer.

22. The Panel has long accepted that humour is a relevant factor in how a reasonable person will view and interpret an advertisement. The Panel, however, has also noted that the use of humour is not an antidote which will cure an advertisement which is evidently in breach of an ABAC standard.
23. In this case, the Panel does not consider the advertisement to be in breach of section (a) of the Code. In this regard, the advertisement does not portray a particular approach to alcohol consumption. Rather, the advertisement endeavours to build brand recognition through humour and the interesting interpretation on well known movies. It is not inconsistent with the ABAC for alcohol advertisements to be clever, nor does this mean that the advertisement is promoting any of the matters which are covered by section (a), namely excessive consumption, underage drinking or alcohol fuelled anti-social behaviour.
24. The Panel also does not believe that the advertisement can be taken to be in breach of section (c) of the Code. This is the section which prohibits alcohol advertising suggesting that the consumption or presence of alcohol may create or contribute to a significant chance in mood or environment and be a cause or contributor to the achievement of personal, social or other success. The key element in section (c) is that of causation, i.e. would a reasonable person take the advertisement as suggesting the alcohol is a cause or contributor to the achievement of success.
25. While the Panel understands the argument advanced by the complainant that the men are successfully evading the police, it does seem to be a long stretch to suggest that the advertisement is creating an impression that alcohol is necessary to achieve this success. Apart from the fact that the police themselves in the advertisement are also portrayed as holding glasses of beer, the Panel believes that a reasonable person would not take that alcohol is being suggested as changing the mood of the men or leading to the achievement of success. Quite simply, the advertisement can not easily be constructed in the way suggested by the complaint.
26. The final concern expressed by the complainant was in relation to section (d) of the Code. This is the section which goes to drink driving. It is a quite technical section and in essence does not permit the depiction of the consumption of alcohol in conjunction with the operation of a motor vehicle. In the current case, there is no motor vehicle involved, although the theme of the advertisement is that the men are involved in a make believe car chase. It is the Panel's view, however, that apart from the advertisement not breaching the section on a purely technical reading of section (d) a reasonable viewer of the advertisement would not believe that the standard has been breached, i.e. that drink driving was being encouraged.
27. Accordingly, the complaint is dismissed.