

ABAC

**ABAC Complaints Panel
Determination No: 95/13**

**Confidential Complaint
Product: Carlton Draught
Advertiser: Carlton & United Brewers**

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

13 December 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 1 October 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 1 October 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 not been determined within the 30 day timeframe, due to the unavailability of the Chief Adjudicator.

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 four men approaching the bar, one ordering from the barman "four Carlton Draught thanks mate" and another dropping a bag to the floor and that is unzipped and full of money. We then see the barman pouring a beer from a tap into a glass with the Carlton Draught logo and handing the beer to one of the four men with the three other men already 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 at 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. There are also other policemen further back in the bar. All are looking at the four men. One policeman looks down and we see that he is looking at the carry bag full of money. We then see the stunned faces of the four men looking toward the group of police and then a large group of more than a dozen police further back in the bar staring at the four men.
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. The men stop at their car, look at their beer and the car and then one says "Nup" and the men continue running holding their beers carefully in front of them 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. The men then run into an alley and after they pass two men carrying a pane of glass walk into the middle of the alley and two policemen run into the pane of glass spilling their beers.
12. 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 their beer with the policemen still running behind them and then jumping carefully holding their beers at the same spot that the men jumped.
13. 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.
14. The scene changes again to a road with the men running in front of the policemen still carefully holding their full glasses of beer. We then see a police road block in front of them with the police holding glasses of beer. A policeman calls out “They’re not going to stop” and the police all run away from the middle of the road block and drop to the ground. The four men carefully step over the road block barricades and keep running with the police again chasing them. The men run up a bridge that is opening and jump off the open edge of the bridge and land on a boat without spilling their beer. The police are seen on the bridge and one is sipping his beer. The men are shown standing at a bar on the boat drinking their beer.
15. 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

16. The complainant argues that the advertisement:
 - (a) was placed at a time (early afternoon during the AFL Grand Final) when the audience watching the ad is too wide and inappropriate.
 - (b) depicts “robbers” celebrating a “theft” with beer in a public bar and how great the occasion is;
 - (c) depicts “police” in uniform and seemingly “on duty” drinking beer in a public bar;
 - (d) emphasises the importance of keeping hold of your beer, even when being chased by police or chasing “robbers”;
 - (e) implies that drinking beer is a fun thing to do even when the law has been broken;

- (f) gives a very wrong view toward the acceptable drinking of beer or any alcohol; and
- (g) is totally unacceptable due to the storyline, timeslot and audience and should have been rescheduled to a much later time.

The Code

17. 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;
 - 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;

The Advertiser's Comments

18. The Advertiser responded to the complaint and questions posed by the Panel on 17 October 2013. The principal points made by the Advertiser are:
- (a) The 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. More recently it was aired during the 2013 AFL finals. The campaign has been viewed by over 10 million adults while the hero advertisement (90 seconds) had been viewed through our official You Tube channel almost 4.5 million times (closed at the end of August). This latest campaign follows an established theme that Carlton Draught has brought to life through its advertisements over many years - lampooning big production advertisements/films that take themselves a little too seriously. A good example is the hugely popular Big Ad, which was spoofing over the top airline advertisements whilst "Beer Chase" parodies over the top Hollywood films. This campaign was awarded a Bronze and Gold Lion at Cannes in 2013.
 - (b) The TV advertisement opens with a bartender 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 bartender gestures over his shoulder. We then see a group of police (Hollywood movie cops based on their attire) just about to enjoy an after work drink – many removing their hats as they have just arrived. The cops 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 cops take chase. The men consider driving away but choose to make a run for it on foot. We then see

the cops 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 cops – 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. The advertisement concludes with the lead talent escaping onto the back of a boat. Apart from the lead talent and cops, 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 sound track.

- (c) The ABAC includes a number of important restrictions in relation to how we depict alcohol. As such it is our understanding that ABAC section (a) requires us to not promote underage drinking, offensive behaviour linked to intoxication or excessive consumption. Beyond this we are bound by the AANA Code of Ethics in terms of how we represent discrimination, language, violence and safety to name just a few areas of consideration. It is our understanding that the advertisement is compliant with section a (and also section c) of the ABAC based on a previously dismissed complaint as per determination number 60/13.
- (d) Obviously the four men have a bag of money and a reason for avoiding the cops but given the tone and action of the advertisement and the way the alcohol is represented (both quantity and the approach to consumption), we do not believe this breaches the ABAC. This is a humorous advertisement that is spoofing Hollywood film car chases/scenes from the likes of Grease, Terminator, The Blues Brothers and Heat. It is completely fantastical (and even a little bit ridiculous) and removed from real life scenarios. No alcohol is consumed in the opening scene at the pub and consumption only takes place in the final scene post the conclusion of the chase. All consumption can only be described as moderate and in line with the NHMRC guidelines.
- (e) The pub scene shows Hollywood movie cops set to enjoy a beer after work. These are not real police and nor is the scene or whole advertisement real world - there are so many elements that make this clear. It’s worth noting that they are wearing cop costumes rather than an official Australian police uniform. The characters, storyline and action in the advertisement won’t be to everyone’s taste but importantly we believe it is compliant with the ABAC. The characters appear sober and no-one consumes more than a mouthful or two at most throughout the advertisement and then it’s only at the conclusion of the chase/advertisement.
- (f) The inclusion of alcohol in the storyline is obviously linked to the fact that this is a beer advertisement. That the men make their getaway on foot and with a beer in hand is completely ridiculous and farfetched and only adds to the humour. The beers in hand add another level of implausibility (there is no spillage), 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. All people featured appear sober and consumption is limited to the final scene (at the conclusion of the chase).

- (g) The four lead men do run from the cops but the advertisement is about spoofing Hollywood film car chases/scenes in a light hearted way whilst promoting the Carlton Draught brand. How the cash was acquired is left unexplained however the advertisement does not show the law being broken. The advertisement is not intended to communicate a literal/serious message about how people should conduct themselves and given the huge viewing audience versus the complaints received through the official complaints process (two including this one) we are confident that, on the whole, the audience is of the same view.
- (h) How the cash was acquired is never explained in the advertisement but it clearly came into the four men's possession before they arrived at the pub. When we 'meet' the men in the pub at the beginning of the advertisement they are just about to enjoy their first beer and they look sober and alert. The men do evade the Hollywood style cops however this 'success' is not linked whatsoever to their beer. The advertisement is spoofing classic Hollywood film car chases/scenes where the good guys/bad guys (depending on the film and your interpretation) 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 times.

The Panel's View

19. The complaint is about a television advertisement for Carlton Draught. The Panel previously considered a shorter version of this advertisement in Determination 60/13. While the complaint in that matter raised similar concerns, different concerns were raised in this complaint and it related to a different version of the advertisement and therefore the Panel is considering this complaint.
20. The complaint raises various concerns, that fall within two separate ABAC provisions, namely:
- Failure to present a mature, balanced and responsible approach to alcohol consumption, by depicting police in uniform drinking alcohol in a public bar, implying it is fun to drink beer even when the law has been broken and depicting the importance of keeping hold of your beer while being chased by police or chasing "robbers" (section (a)).
 - Depicting alcohol as a cause of or contributing to a celebration (section (c)(ii)).
21. A further concern was raised as to the timing and placement of the advertisement during an AFL Grand Final during the afternoon. Placement at this time is consistent with the Commercial Television Industry Code of Practice and is not of itself otherwise a breach of the ABAC Code. The ABAC is a content code rather than a placement code and this means its standards must be satisfied irrespective of how and when the advertisement is broadcast.
22. In short, the advertiser's response to the complainant's concerns is that:

- the advertisement is spoofing a Hollywood film car chase, is humorous, ridiculous and far-fetched and is not intended to communicate a literal/serious message about how people should conduct themselves;
 - the police are in costume rather than Australian police uniforms and are shown sober and alert as if having a drink after work;
 - the lead actors are not focusing on not spilling beers and part of the implausibility of the ad is that the beer doesn't spill and they effortlessly carry their beers through the chase;
 - all alcohol use depicted is moderate and alcohol is not shown as a cause for a celebration.
23. 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.
24. 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.
25. 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.
26. As in Determination 60/13, 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.
27. The Panel also does not believe that the advertisement can be taken to be in breach of section (c)(ii) of the Code. This is the section which provides that if alcohol beverages are depicted as part of a celebration, the advertisement must not imply or suggest that the beverage was a cause of or contributed to success or achievement. 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 success or achievement.

28. The Panel does not believe that the advertisement is suggesting that the alcohol was a cause of or contributed to the success of the “criminals”. There is no suggestion in the ad that alcohol caused or contributed to the success or achievement being celebrated. The celebration at the beginning of the ad reasonably appears to be as a result of the acquisition of the bag of cash and the celebration at the end of the ad appears to be due to the successful evasion of the police.
29. Accordingly, the complaint is dismissed.