

ABAC

ABAC Complaints Panel Determination No: 2/14

Confidential complainant
Product: Victoria Bitter
Advertiser: Carlton & United Breweries

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

23 January 2014

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns an advertisement for VB appearing on free to air television produced on behalf of Carlton & United Breweries (“the Advertiser”) and arises from a complaint received on 6 January 2014.

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 generic code (the AANA Advertiser Code of Ethics) with a corresponding public complaint mechanism operated by the Advertising Standards Bureau (ASB);
 - an alcohol specific code (the Alcohol Beverages Advertising Code) and complaints mechanism established under the ABAC Scheme;
 - certain broadcast codes, notably the Commercial Television Industry Code of Practice (CTICP) which restricts when direct advertisements for alcoholic drinks may be broadcast; and
 - 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 6 January 2014.
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 the advertisement [12740].

The Advertisement

9. The advertisement opens with a man sitting on a sofa sipping from a stubbie of Victoria Bitter while watching cricket on television and shows a Victoria Bitter branded cricket scoreboard on a table next to the sofa. The cricket scoreboard includes digital commentary and details of the match including runs, wickets and overs and includes the Victoria Bitter name and logo and at the bottom the words "For a hard earned thirst". A voiceover starts with "Introducing the live cricket scoreboard from Victoria Bitter".
10. As the scene changes to a man walking over to a BBQ with a stubbie of Victoria Bitter with the scoreboard placed on a table near the BBQ the voiceover continues "Never miss a moment of the cricket this summer". The scenes then change in quick succession with each scene showing an activity with the scoreboard prominent within the scene and an accompanying voiceover (in italics). In none of these "work" scenes is either alcohol consumed or the product shown:
 - A man rolling out plans on a table and placing a hammer on them to hold them down as another man looks on "*even when you're planning*";
 - A man rolling paint onto a wall, "*painting*";
 - A man digging in a garden bed, "*growing*";

- A man mowing the lawn, “*mowing*”;
- A man drilling a piece of wood, “*drilling*”;
- A man filling a plastic blow up pool with a hose, “*filling*”;
- A man fixing a chair, “*fixing*”;
- A man fixing a tap, “*fixing*”;
- A man fixing the blow up pool, “*fixing*”;
- Two men rolling out lino, “*reflooring*”;
- A man sanding a table top, “*restoring*”;
- A man working with a door, “*realigning*”;
- Two men standing by a BBQ, one sipping from a stubby of VB and one with a stubby of VB next to the BBQ and turning meat on the BBQ, with food and a can of VB on a nearby dining table “*or doing a bit of outdoor dining*”;
- A television with the cricket showing, “*you’ll never miss a run or wicket*”;
- A man buying a carton of Victoria Bitter, “*so buy specially marked Victoria Bitter for your chance to win*”.

The final scene includes the superimposed text “Buy Victoria Bitter for your chance to win instantly see victoriabitter.com.au for conditions”.

The Complaint

11. The complainant is concerned that the advertisement shows men drinking VB while operating machinery e.g. lawnmower and electric hand tools and that:
 - this may encourage drinkers to think that it is acceptable to use machinery while drinking; and
 - this is irresponsible advertising when we are reminded by liquor vendors to drink responsibly

The Code

12. The ABAC provides that advertisements for alcohol beverages must:
 - (a) present a mature, balanced and responsible approach to the consumption of alcohol beverages...
 - (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 practise;

The Advertiser's Comments

13. The Advertiser responded to the complaint and questions posed by the Panel on 20 January 2014. The principal points made by the Advertiser are:
 - a. The VB Scoreboard promotion TVC is designed to communicate the 2013/14 VB summer cricket promotion, where the major prize is a Live Ashes Scoreboard. The prize sits front and centre throughout the 30 second TVC. The scoreboard features the VB logo and provides the time, cricket match details plus real time cricket scores and comments. The TVC demonstrates the scoreboard's functionality and shows a wide range of Australian summer scenes, with different people depicted at different times of day and in different locations doing various household jobs. The scoreboard is prominent throughout the TVC --- the scoreboard remains static while the background 'action' scenes change behind it --- demonstrating how it can keep blokes informed of the cricket scores no matter what they're doing. The TVC ends by communicating how consumers can enter the promotion by purchasing a carton of Victoria Bitter.
 - b. The complainant is concerned that the advertisement depicts that "Men are shown drinking while operating machinery e.g. lawn mower, electric hand tools." And that this may "encourage drinkers to think that it is acceptable to use machinery while drinking". To be clear, the talent is not shown drinking whilst operating machinery as thought by the complainant. There are no alcohol products and no alcohol consumption in scenes where the talent is operating machinery. Where consumption is depicted it is very limited and only in settings -- in the lounge room and BBQ scenes ---where it is appropriate to consume a beer. Furthermore the nature of the TVC means you are not left with the impression that you are watching one person doing all the jobs and potentially under the influence of alcohol. Each scene appears unique with different jobs and different men. The opening scene shows a bloke in his lounge room watching the cricket on television and enjoying a single stubby of beer. We then see a bloke at his BBQ and again a single stubby of beer is shown. The collection of scenes that follow (the next 11 seconds of the TVC) have different people doing an assortment of jobs with no alcohol present. These scenes include rolling out plans on a work bench, painting a wall, digging in a garden bed and then mowing the lawn, drilling a piece of wood, filling a small blow up pool by hand with a hose, mending a chair, fixing a tap, taping the previously mentioned blow up pool, rolling out lino and checking a door. Whilst the VB scoreboard is present in these scenes, as stated earlier there is no alcohol present and all the talent appear sober and competent at the jobs they are undertaking. The final scenes show the BBQ setting again and also a bottle shop where a consumer is purchasing a carton of VB in order to enter the promotion. The voiceover that

accompanies the images in the TVC is as follows: "Introducing the live cricket scoreboard from Victoria Bitter. Never miss a moment of the cricket this summer, even if you're planning, painting, growing, mowing, drilling, filling, fixing, fixing, fixing, reflooring, restoring, realigning or doing a bit of outdoor dining. You'll never miss a run, ball, or wicket. So buy specially marked cartons of Victoria Bitter for your chance to win." The voiceover makes no reference to consuming alcohol whilst undertaking the activities. It's all about having the cricket score at your fingertips. The only reference to alcohol (beyond the brand name) is the tail end of the TVC where you are informed that you need to purchase a carton of VB to enter the promotion. The section of the code you have asked us to respond to (section a) requires all alcohol advertising present a mature and balanced approach to consumption. Consumption in this TVC is moderate and responsible and meets the positive standards for consumption as required by the ABAC. Furthermore the following "No go" negative standards also communicated in section (a) are not present: excessive consumption, underage drinking or alcohol fuelled anti-social behaviour (taken from ABAC Complaints Panel Determination number 95/13).

- c. The talent is not shown drinking whilst operating machinery. There are no alcohol products and no alcohol consumption in scenes where the talent is operating machinery. Where consumption is depicted it is very limited and only in settings-- in the lounge room and BBQ scenes --- where it is appropriate to consume a beer. Section (d) does not directly prohibit activities from appearing in alcohol advertisements however it does guide how certain activities can be depicted when consumption is involved. The TVC demonstrates safe practices in relation to the activities shown including where machinery is operated. Care was taken to ensure that the talent were wearing appropriate foot wear and gloves where required and that no alcohol was consumed and that the talent appeared sober and alert (not under the influence of alcohol). As such I believe the TVC is compliant with section (d) of the code.
- d. Alcohol consumption in this TVC is very limited and only in settings --- in the lounge room and BBQ scenes--- where it is appropriate to consume a beer. Furthermore the nature of the TVC means you are not left with the impression that you are watching one person doing all the jobs and potentially under the influence of alcohol. Each scene appears unique with different jobs and different men. Whilst there is consumption shown in the lounge room and BBQ scenes, these are clearly different scenes with different people in comparison to the 'job/machinery' scenes where no alcohol is present/consumed. This is easily discernable by virtue of the fact that the talent are dressed in different outfits and shown in different and varied settings. Each unique scene is shown reasonably quickly but with enough time to create the impression that the men are simply doing a job with their VB scoreboard close by. This 'take out' is further supported by the fact that we have only received one complaint voicing concerns about alcohol consumption whilst operating machinery. For your information, the TVC has been on air nationally since 21 November 2013 and has been viewed by over 6.5 million adults at least once. As such I don't think the complainant could be said to be representative of how people interpret the TVC. The CUB marketing team takes its commitments to responsible marketing very seriously. Not only do we have internal standards and processes that must be met but we also consider both the AANA Code of Ethics and the ABAC when we are

developing our marketing collateral. In addition this TVC was also independently prevetted in order to ensure its compliance with the ABAC.

The Panel's View

14. This determination concerns a television advertisement which features a competition in which the prize is a model electronic cricket scoreboard. The scoreboard is similar in style to the smaller scoreboards found at Australian cricket grounds, and features 'VB' colouring and logo.
15. The advertisement largely consists of a series of fast moving but clearly distinctive individual scenes depicting men undertaking a variety of manual tasks. Some of the tasks involve machinery and all of them would require the person performing the task to be alert and sober.
16. The ABAC recognises in section (d) the importance of alcohol advertising not depicting the direct association between alcohol use and the engagement in any hazardous activity, such as the operation of power tools or a lawn mower. The complainant believes the advertisement does encourage drinkers to believe that it is acceptable to use machinery while drinking.
17. The advertiser in response argues that the advertisement does not show either alcohol consumption or the presence of the product in any of the scenes when actual work is being undertaken. Rather, alcohol is shown when a man is watching the cricket on TV, attending a BBQ and purchasing the product from a retailer. It is contended that the advertisement is consistent with the ABAC standards.
18. In assessing an advertisement against the standards, the Panel is to have regard to the probable impact of the advertisement upon a reasonable person, taking the contents of the advertisement as a whole. The notion of a 'reasonable person' is borrowed from Australia's common law system and means a person holding the views, values and experiences commonly shared by a majority of the Australian community.
19. To breach section (d) an advertisement would depict a "direct association" between:
 - "consumption' of alcohol; and
 - the engagement in a potentially hazardous activity.

If alcohol is shown to be consumed in the advertisement, then it must be clear that this occurs after the activity is completed. It cannot be represented as occurring either before or during the activity.

20. The Panel does not believe the ABAC standards have been breached. In reaching this conclusion, the Panel has noted:
 - Alcohol products and the use of alcohol is not shown with any of the work activities.
 - Where alcohol is shown it is with activities which are not hazardous.

- The sequence and representation of the various scenes establish that they are being either performed by different people or at least at different times from the scenes where alcohol is shown as being consumed.

21. Accordingly, the complaint is dismissed.