

ABAC

ABAC Complaints Panel Determination No: 1/14

Confidential complainant
Product: Crown Lager, Carlton Cold & Victoria Bitter
Advertiser: Carlton & United Breweries

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

28 January 2014

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns advertisements for Crown Lager, Carlton Cold and Victoria Bitter appearing during a cricket broadcast 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 advertisements [12593, 12775 and 12753].

The Advertisements

Crown Lager

9. The Crown Lager television advertisement opens with a tractor driving across a field with the Crown Lager logo and the text "Weidemann Barley Farm Rupanyup Victoria" superimposed on the screen. The ad is accompanied by an acoustic version of the song "Don't Change" by INXS. The following series of farm scenes are then shown:
 - a man examining a crop;
 - the same man looking into the distance with grain silos in the background;
 - inside a grain silo;
 - a man shoveling grain in a silo;
 - a view of the top of a grain silo looking from inside;
 - two silos a semi-trailer and a tractor in a field as the clouds move across the sky;
 - grain running through a man's hands;

- a man walking through a field with a dog at his side as the text “From 1,200 barley farmers in Australia” and then “We selected Andrew Weidemann” is superimposed on the screen;
- three men standing in a field at dusk sipping Crown Lagers;
- A bottle of Crown lager on a tree stump with the text “Australia’s finest for Australia’s finest” superimposed on the screen.

Carlton Cold

10. The Carlton Cold television advertisement opens with an old tin shed hotel in the middle of the outback with the text “Cold Hotel” painted on its roof. We then see man standing in a hotel that is covered in Carlton Cold bunting and posters around the hotel walls, the bar and the fridge behind the bar. He is shown looking around and then saying to the barman who is dressed in a refrigeration outfit, “Do you sell that new Carlton Cold?” The barman walks toward him touching the bunting, and then comes close to the man and says “Yeah, yeah we do”.
11. We then see the face of a hairy beast with a voiceover and text of the word “Colder” superimposed. The screen changes to the face of the barman raising one eyebrow with a voiceover and text of the word “Bolder” superimposed. The screen changes again to a man wearing a fur hat with a voiceover and text of the word “Fresher”.
12. The final screen is a bottle of Carlton Cold with the text “New” and “carltoncold.com.au” and a small message, “Don’t drink and drive”, with the voiceover “New Carlton Cold”.

Victoria Bitter Sightscreens

13. During the television broadcast of the New Year’s cricket Test match, held at Sydney Cricket Ground, the ground sightscreens were viewed. The sightscreens display advertising during and between overs, depending on which end the batsman is facing the bowling. The advertising alternates between static and animated advertisements.
14. The static creative was an image of a glass, stubby and can of Victoria Bitter against a green background.
15. The animated creative comprised 10 versions that are essentially the same although the numbers change according to the milestones achieved by players (50 through to 500). The animated creative starts with the static creative which disappears as the text “a hard earned 50” or another run milestone appears in its place and then is replaced by the original static creative.

The Complaint

16. The complainant is concerned that the advertisements:
 - were run at a time when young people, as well as adults, could easily be watching;

- attempt to create the strongest possible motivation to drink by associating alcohol consumption with top level sport;
- promote the “alcohol culture” prevalent in the excessive drinking that is frequently associated with violence in society.

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 and, accordingly-
 - (ii) must not encourage under-age drinking;
 - (b) not have a strong or evident appeal to children or adolescents;
 - (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

18. 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. This single (1) complaint raises the issue of advertising during a cricket match broadcast on Sunday 5 January 2014. The advertisements included a Crown Lager television commercial (TVC), a Carlton Cold TVC and a number of VB sightboard advertisements, although there were no actual details about the advertisements listed as areas of concern. Before I answer the questions from your correspondence I wanted to provide some background in relation to alcohol sports sponsorship and alcohol advertising during sports broadcasts. Many stakeholders, including major sporting codes, alcohol manufacturers and broadcasters, have invested significantly over the past three decades to ensure that the association between alcohol and sport is positive, responsible and in line with community standards. Whilst there are select lobby groups who aim to ban sports sponsorships, there are great numbers in the community and indeed in government who support companies like ours being able to invest in and be associated with sport. In the case of Carlton and United Breweries (CUB), over the years our business has made a huge investment in sport at both an elite and grass roots level. The CUB business has long been committed to the responsible marketing of our products and ensuring our marketing is targeted to adults and our beers enjoyed in a responsible manner. CUB is a Platinum Partner of Cricket

Australia and the Australian Cricket Team and this summer is also associated with the broadcast of the International Test Matches (VB) and the One Day International Series (Carlton Mid). It's worth noting that the advertisements and the mediums they appeared in (television and signage at ground) are permissible ways to market our brands. In addition when it comes to sport, the audience is overwhelmingly male and adult. Audience data for the match in question shows 92% of television viewers were adults.

- b. A brief description of each advertisement is as follows: The Crown Lager TVC tells the story of barley farmer Andrew Weideman; it uses visuals of Andrew working on the farm, as he tells his story of becoming one of only three barley farmers chosen to supply barley for the production of Crown Lager. The Carlton Cold TVC shows a bar that is heavily promoting the new Carlton Cold (3.5%ABV) and boasts a fully stocked fridge of the beer, an enormous amount of point of sale (exclaiming "We sell new Carlton Cold") and a costumed bartender. All these elements in combination make Carlton Cold impossible to miss. Despite this a customer still asks: "Do you sell that Carlton Cold?" to the disbelieving bartender. The VB sightboard advertisements, as an example, show product imagery (a VB stubby, can and pot), a responsible consumption message and "Hard Earned 50" that are selected to correspond (scores 50, 100, 150 and so on) with the state of play. The VB sightboards are visible at the ground but may or may not be seen during the cricket broadcast. The section of the code you have asked us to respond to (section a) requires all alcohol advertising to present a mature and balanced approach to consumption. In relation to the VB sightboards, no consumption is depicted although there is branding in the form of pack shots. In the Crown TVC, Andrew has a mouthful of Crown in the final frames (two friends also have a beer in hand) whilst in the Carlton Cold TVC the pub customer does not actually consume any alcohol – although if you look carefully – some of the customers in the background can be seen with a beer in hand. As such it's fair to say that consumption in the two TVCs is 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). The advertisements themselves (the content) and placement in the cricket broadcast/at ground are about influencing brand choice with an audience that is overwhelmingly adult.
- c. Advertising an alcohol product during a cricket broadcast/at ground is a permissible form of advertising. Whilst ABAC is not a placement code (there are other codes that cover placement) it does govern advertisement content. Neither of the TVCs has any reference to cricket and as such their content cannot be in breach of section (d) of the ABAC. In relation to the VB sightboard, whilst the advertisement acknowledges run milestones when appropriate (dependant on how the match plays out) it does this through displaying the relevant run score (50, 100, 150 and so on) and the VB brand. It does not audibly or visibly show consumption in combination with sporting activity and so I believe the advertisements to be ABAC compliant. The opportunity to have signage at ground is a sponsorship entitlement and again it is a permissible form of advertising.

- d. Whilst the very nature of sports sponsorship means that we, as an alcohol company, will create a brand and/or company association, this does not go so far as to suggest a direct link between the consumption of alcohol and engaging in sport. The ABAC does not prohibit alcohol brands from associating with sport although it does include restrictions on how alcohol consumption and sport can be depicted in advertisements. Whilst the advertisement/s in question refers to the runs achieved at selected times during the match they don't actually show a person or people participating in sport or alcohol consumption. The product imagery (a VB stubby, can and pot) and the words "Hard earned" are featured in the advertisement for branding purposes and the latter phrase (part of the VB tagline: "For a hard earned thirst") acknowledges the sporting milestones of the cricketers in a traditional VB way. As there is no consumption imagery or consumption call to action there is no sense that the cricketers will consume the product during the match (which, for your information, did not happen at the actual game). I think it's reasonable to say that viewers at ground/home would view this advertisement alongside a game of elite cricket and note the score and likely the brand. However it's a long bow to draw to say they would believe the advertisement encourages people to drink and play cricket and/or that the cricketers will celebrate the milestones on ground with a VB and then resume play. I'd like to take the opportunity to reiterate that we are committed to ensuring our sponsorship arrangements are brought to life in an appropriate and responsible way and targeted at adults. 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, the advertisements were also independently prevetted to ensure compliance with the ABAC.

The Panel's View

19. Each year the Sydney Cricket Ground is the venue of the New Year's cricket Test match between Australia and a touring team, which in 2014 was England. The game is broadcast on free to air television and some tens of thousands of spectators attend the game in person. While watching the game on television, the complainant saw two television commercials for CUB products, namely Crown Lager and Carlton Cold. The complainant also noted the Ground's sightscreens, which featured promotions for the alcohol product Victoria Bitter.
20. The complainant was concerned by this advertising. Specifically, the complainant contends that the advertisements attempted to "create the strongest possible motivation to drink by associating alcohol consumption with top level sport". It was also noted that the advertisements would have been seen by young people, as well as adults, and combined these features promote an "alcohol culture" which is prevalent in excessive drinking and violence in society.
21. The Panel's role is to assess the complainant's concerns in relation to the three advertisements against the standards for good alcohol advertising practice, contained in the ABAC. The ABAC sets out a series of standards which go to the content of alcohol advertising and, specifically, require that advertisements not encourage anti-social behaviour, such as underage drinking, or the engagement of sport while alcohol is being consumed.

22. While three individual alcohol advertisements were identified in the complaint, the complainant does not identify any elements of the content of the advertisements which are specifically concerning. Rather, the concern is more fundamental in nature and relates to the promotion of alcohol during a high profile event, such as the cricket Test. In other words, it was not so much the nature of the brand specific advertisements that the argument is based upon but, rather, alcohol advertisements of any type being shown with Test cricket.
23. The overall mix of regulation and quasi regulation which applies to alcohol advertising does include some restrictions on where and when alcohol products may be promoted. For instance, there is a restriction on outdoor advertising, such as a billboard, hosting an alcohol advertisement within 150 metres of a school. Equally, the code of practice applying to free to air television restricts alcohol advertising to timeslots after 8:30p.m., unless the advertisement is broadcast in conjunction with a live sports event. The ABAC, however, is not a code which goes to the placement of alcohol advertising but, rather, is directed at the content of alcohol advertisements wherever the advertisement might be broadcast, printed or displayed.
24. Accordingly, it is not a breach of the ABAC for the two alcohol commercials and the incidental image of the sightscreen containing an alcohol promotion to have been broadcast in conjunction with the Test match. Neither is this broadcast a breach of the code applying to free to air television, which has an express provision allowing for alcohol advertisements to be shown with live sports broadcasts. To the extent that the complainant's concern is based on the broadcast of alcohol advertising with the cricket alone, then the complaint must be dismissed.
25. The complaint, however, goes beyond this point and makes a further argument that it is irresponsible to associate alcohol consumption with top level sport. It is contended that this creates both a strong motivation to consume the product and contributes to an "alcohol culture". The question is whether this aspect of the complainant's concern establishes a breach of an ABAC standard.
26. Section (d) of the ABAC goes to the association of alcohol beverages and sport. The section provides that an alcohol advertisement must not:
- depict a direct association;
 - between the consumption of alcohol beverages; and
 - the engagement in any sport.

The section goes on to state that any depiction of the consumption of alcohol in conjunction with sport must not be represented as having taken place before or during the activity in question.

27. There is no doubt that the advertising is creating a direct association between the sport of cricket and the alcohol brands being promoted. To breach the Code standard, however, the advertisement must do more than this and must show a direct association between the consumption of alcohol and the engagement in sport. It is clear that the two television advertisements do not make any connection between alcohol consumption and the engagement in sport. By this it is meant, there is nothing in the

content of either the Crown Lager advertisement or the Carlton Cold advertisement which links the product with the engagement in sport. The only association which occurs is because the advertisements were broadcast while the cricket match was on. As stated, however, this is not a breach of either the ABAC or any other code applying to alcohol advertising.

28. The sightscreen advertisement is slightly different. This advertisement contained both a static dimension of displaying the product name and logo, but also a dynamic dimension which displayed a specific mention of the product tagline, "For a Hard Earned" with a milestone being achieved in the game, such as the scoring of a particular number of runs. This advertisement, hence, by its content is directly linking the product with the conduct of the sporting event.
29. Nonetheless, the advertisement still does not breach the terms of section (d). This is because the advertisement does not in its content depict an association between the consumption of an alcohol product and the engagement in the sport. In other words, there is no direct depiction, nor any reasonable implication, that the participants in the sporting activity, i.e. the cricket players, will before or during the engagement in the sport consume the product. This means that the advertisement is not inconsistent with the terms of section (d) of the Code.
30. There is an important public debate as to whether alcohol should or should not be linked with sport through sponsorship or other association. In essence, this is the point being raised by the complainant, who believes that such an association is undesirable and contributes to an "alcohol culture". While this is a legitimate view to hold, the fact is that, as currently framed, there is no restriction within either the ABAC or otherwise which renders the adverting complained of as inconsistent with the regulatory framework applying to alcohol marketing.
31. The Panel in its role is to apply the provisions of the Code and accordingly, the complaint is dismissed.