

# ABAC

## ABAC Complaints Panel Determination No: 18/14

### Confidential Complaint Product: Corona Advertiser: Lion

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

14 April 2014

#### Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns an outdoor advertisement for Corona produced on behalf of Lion (“the Advertiser”) and arises from a complaint received on 24 March 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) 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 24 March 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 this advertisement.

### **The Advertisement**

9. The advertisement is a billboard located on a major road near the Brisbane CBD. Overall, the advertisement presents a beach scene at sunset and shows a group of six people in relaxed poses looking towards the horizon and the approaching sunset. Because of the camera being behind the group and also looking towards the horizon, it's not possible to see the faces of any of the group.
10. The group are wearing beach casual clothing, such as shorts and t-shirts. Four of the people are seated between a motor vehicle and a tent, with three of them on a log and one sitting a box which bears the product logo. Two of the group are leaning against the car, with one of them sitting on the car's roof. Some of the group are shown holding or sipping from a stubbie bottle.
11. A bicycle and surfboards are lying on the sand behind the group. Superimposed in blue text on the top right hand corner of the advertisement is the Corona Extra logo and the test message, "From where you'd rather be". The Drink Wise logo is placed at the bottom right corner of the advertisement.

### **The Complaint**

12. The complainant is concerned that:

- (a) Male youths who appear to be (by their physique and styling) underage are depicted drinking beer in a camping/outdoor setting;
- (b) The advertisement is located near St Joseph's School on Gregory Terrace and other high schools in the area;
- (c) Like cigarette advertising used to be, the billboard is subtly targeting teens to drink alcohol.

### **The Code**

13. 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 underage drinking;
- (b) not have a strong or evident appeal to children or adolescents and, accordingly –
  - (i) adults appearing in advertisements must be over 25 years of age and be clearly depicted as adults;
  - (ii) children and adolescents may only appear in advertisements in natural situations (e.g. family barbecue, licensed family restaurant) and where there is no implication that the depicted children and adolescents will consume or serve alcohol beverages; and
  - (iii) adults under the age of 25 years may only appear as part of a natural crowd or background scene;

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

14. The Advertiser responded to the complaint and questions posed by the Panel on 3 April 2014. The principal points made by the Advertiser are:

- a. The Advertisement does not breach section (a)(ii) and (b) of the ABAC by encouraging underage drinking or having strong or evident appeal to children or adolescents. We believe the Advertisement abides with prevailing community standards on health and safety and presents a responsible and moderate approach to the consumption of alcoholic beverages. The Advertisement does not in any way target underage teenagers to drink alcohol (as alleged in the complaint). Lion is a long standing signatory to and is fully committed to the ABAC scheme and the AANA Code of Ethics. Lion takes these matters seriously, and has an excellent advertising compliance track record.
- b. The Advertisement captures a moment shared amongst a group of six adult friends on a Mexican summer holiday. The group is depicted relaxing at the end of the day with a beer in hand, sitting in various positions on the beach watching

the sun go down. The imagery suggests that the group will be camping overnight, with their large utility truck parked nearby, two tents and a clothes line set up in the surrounding area under a palm tree. Corona's brand positioning and tagline, 'From Where You'd Rather Be', is featured in the top right hand corner of the advertisement, along with the *Corona Extra* logo. In line with Corona's Mexican heritage, the Advertisement evokes a laid-back, reflective, summer holiday feel. The Advertising Agency for this campaign is Monster Children Creative and the Media Buyer is Zenith Optimedia.

- c. Corona's brand positioning is 'from where you'd rather be' – its advertising has always evoked a laid-back, reflective, summer holiday feel and the Corona brand prides itself on being a benchmark for relaxed, responsible consumption. The Advertisement captures a moment shared amongst six friends, both male and female, on a Mexican summer holiday.
- d. Careful consideration was made in the casting of the Advertisement to ensure that all models are over (and appear to be over) the age of 25. We believe that the reasonable person would assume that those featured in the Advertisement are adults and not children or adolescents. The Advertisement's compliance with section (a)(ii) and (b) of the ABAC was confirmed by both Lion's internal and external Legal teams and External Relations team, as well as AAPS as part of the usual pre-vetting process (Approval #11777, 26/09/12, as attached). It is important to note that not all models featured in this Advertisement are male, as the original complainant suggests – in fact, there are three females and three males depicted in this Advertisement. Females generally have naturally smaller physiques than males, but this does not suggest that they are in fact under-age. Lion rejects the suggestion that anything included in the visual suggests that those depicted are under-age. The attire of those depicted is typical of beachgoers and holidaymakers, including hats, singlets, summer dresses and board shorts. These items of clothing are commonly worn by a wide cross-section of people who are relaxing on holiday or camping at the beach. We believe the reasonable person would not assume that this type of styling is 'under-aged' or targeted towards children or adolescents, but rather associated with anyone who is at the beach or on holiday.
- e. We believe the advertisement presents a mature, balanced and responsible approach to the consumption of alcohol and the advertisement in no way encourages underage drinking. The advertisement captures a moment shared amongst friends on a Mexican summer holiday – including the group relaxing or camping at the end of the day. The inclusion of a tent, a clothesline, a truck, a surfboard and a bicycle, clearly shows the group are holiday-makers who are camping for the evening and not intending to leave or take part in any further activities. All those depicted have only one drink in hand and the environment in which the consumption is occurring is relaxed and subdued, and completely in-line with a normal holiday experience. Bike riding, surfing and camping are activities that are enjoyed by a wide-cross section of the community - we believe the reasonable person would not associate this setting as typically 'under-aged' or targeted specifically towards children or adolescents. Rather we believe the reasonable person would assume this is a group of adult friends who are away together on holiday, taking part in usual holiday activities. Careful consideration was taken in the advertisement to ensure that it is clear to the viewer that the

consumption of alcohol takes place at the end of the day, after all activities have concluded and with all those consuming alcohol fully clothed, presenting a mature, responsible approach to the consumption of alcohol.

- f. The placement of this Advertisement was carefully considered by Lion and approved by the Outdoor Media Association. The location of the Billboard, on Bowen Bridge Rd, is 850m from the nearest school, a sufficient and appropriate radius from surrounding high schools. Whilst it can be appreciated that the billboard may be viewed 'on the drive to and from school', it may also be viewed by many people on their daily drive to work, to surrounding shops, parks and other areas of interest. We do not believe that a reasonable person would consider that an advertisement placed in a high traffic area, passed by many motorists, is unreasonably or 'subtly' targeting children or adolescents to drink alcohol. Lion confirms that this was not the purpose for the placement of the Advertisement.

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

15. The complainant is concerned that the advertisement is targeting teenagers, particularly young males, because:
  - (a) The characters featured in the advertisement appear to be under 18 years of age; and
  - (b) The billboard is close to the complainant's son's school and other high schools in the area.
16. Advice from the advertiser, is that the billboard is located at Bowen Bridge Road, which is a major thoroughfare leading into the CBD of Brisbane. The complainant is quite correct to state that the billboard is in the vicinity of a number of high schools located on Gregory Terrace. The Outdoor Media Association Guidelines provide that an alcohol advertisement is not to be located within 250 metres of a school. The billboard would be located outside of this radius and, according to the advertiser, is some 850 metres from the nearest school.
17. Accordingly, it appears that the advertisement's location does not breach the Outdoor Media Association Guidelines. In any event, the ABAC is not a code which is breached by the mere location of an advertisement. Rather, the ABAC contains a series of standards that all advertisements for alcohol beverages are to satisfy, irrespective of where the advertisements might be located, printed or broadcast. To the extent that the complainant's concern rests on the location of the billboard, then the complaint cannot be upheld.
18. The more substantive concern, however, of the complainant is that the advertisement is featuring characters whose age appears to be under 18 years of age.
19. The ABAC provides in section (b) that advertisements are not to have strong or evident appeal to children or adolescents, and:
  - (a) Adults appearing in advertisements must be over 25 years of age and be clearly depicted as adults;

- (b) Children and adolescents may only appear in advertisements in natural situations, where there is no implication that the depicted children or adolescents will consume or serve alcohol; and
  - (c) Adults under the age of 25 years of age may only appear as part of a natural crowd or background scene.
- 20. Section (b) therefore creates two core requirements in terms of the age of persons shown in alcohol advertisements. Firstly, as a matter of fact, all prominent adults appearing in advertisements must be over 25 years of age. Secondly, even if a person depicted was over 25 years of age, the advertisement will also breach the ABAC standard if the person is not depicted clearly as an adult, i.e. at least 18 years old. Certainly, the complainant believes that the characters used in the advertisement are not “clearly depicted as adults”. The advertiser has advised that the models used are in fact over 25 years of age. The more contentious point is whether the group and each individual appear to be adults.
- 21. It is accepted that a combination of the group having their backs to the camera and the fading light makes it impossible to be certain of the apparent age of the individuals depicted. That said, the Panel is of the view that the group collectively and each of the individuals do appear to be adults, i.e. at least 18 years old. This is reinforced by the overall scene, the motor vehicle, and the inference that the group is travelling together to a remote location. Such behaviour would be more associated with '20 something' year olds than of adolescents.
- 22. Section (b) also requires that the advertisement not have strong or evident appeal to children or adolescents. In this regard, the Panel believes that the advertisement has an adult feel and is strongly appealing to an audience that is seeking to escape from the burdens of everyday life to a more idyllic place. This theme is considered to have a stronger resonance with an older, rather than younger, audience.
- 23. Accordingly, the complaint is dismissed.