



ABAC Adjudication Panel Determination No. 1, 8 & 25/16

Product: Great Northern Beer
Company: Carlton & United Brewers
Media: Television
Complainant: Confidential complainant, Mr Hargreaves & Mr Macneall
Date of decision: 12 February 2016
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Ms Debra Richards
Professor Louisa Jorm

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) concerns a television advertisement for Great Northern beer and arises from complaints received 4, 6 and 25 January 2016.
2. Alcohol marketing in Australia is subject to an amalgam of laws and codes of practice, that regulate and guide the content and, to some extent, the placement of marketing. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol marketing as quasi-regulation. The most important provisions applying to alcohol marketing are found in:
 - (a) Commonwealth and State laws:
 - Australian Consumer Law – which applies to the marketing of all products or services, and lays down baseline requirements, such as that marketing must not be deceptive or misleading;
 - legislation administered by the Australian Communications and Media Authority – which goes to the endorsement of industry codes that place restrictions on alcohol advertising on free to air television;
 - State liquor licensing laws – which regulate retail and wholesale sale of alcohol, and contain some provisions dealing with alcohol marketing;

(b) Industry codes of practice:

- AANA Code of Ethics – which provides a generic code of good marketing practice for most products and services, including alcohol;
 - ABAC Responsible Alcohol Marketing Code (“ABAC”) – which is an alcohol specific code of good marketing practice;
 - certain broadcast codes, notably the Commercial Television Industry Code of Practice – which restricts when advertisements for alcohol beverages may be broadcast;
 - Outdoor Media Association Code of Ethics – which places restrictions on the location of alcohol advertisements on outdoor sites such as billboards.
3. Within this framework, some of the requirements go to the placement of alcohol marketing, while others go to the content of the marketing. The ABAC is a content code, which means the standards of good marketing practice within the Code apply irrespective of where the marketing occurs (e.g. in print, in digital formats, or by broadcast mediums). Equally, the fact that the marketing is placed in a particular medium or in a particular location will not of itself generally be a breach of the ABAC. In contrast, the placement codes applying to outdoor sites or free to air television don't go to what is contained within alcohol marketing but the codes will be potentially breached if the marketing occurs at particular timeslots or is placed near a school.
4. For ease of public access, the Advertising Standards Bureau (ASB) provides a common entry point for alcohol marketing complaints. Upon a complaint being received by the ASB, a copy of the complaint is supplied to the Chief Adjudicator of the ABAC.
5. The complaint is independently assessed by the Chief Adjudicator and the ASB and streamed into the complaint process that matches the nature of the issues raised in the complaint. On some occasions, a single complaint may lead to decisions by both the ASB under the AANA Code of Ethics and the ABAC Panel under the ABAC if issues under both Codes are raised.
6. The complaints raise concerns under the ABAC Code.

The Complaint Timeline

7. The complaints were received on 4, 6 and 25 January 2016.
8. The Panel endeavour 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 this timeframe.

Pre-vetting Clearance

9. The quasi-regulatory system for alcohol beverage marketing features independent examination of most proposed alcohol beverage marketing communications against the ABAC prior to publication or broadcast. Pre-vetting approval was obtained for this marketing communication (14585).

The Marketing Communication

10. The advertisement is accompanied by an acoustic song and opens with a man holding a stubby of Great Northern beer standing on a rock at the edge of a mountain river and placing a six-pack of Great Northern beer into the river. We then see him and two other men each also holding a stubby of Great Northern beer standing at a campsite on the bank of the river as the first man whistles and the six-pack floats past them. The whistle echoes through the valley below as the six-pack is shown floating through gentle rapids.
11. We then see two men at another campsite on the river with one of the men wading knee deep into the river to retrieve the six-pack. He passes one of the stubbies to his friend and takes one himself before returning the six-pack to the river. The lyrics accompanying this scene are "Time to escape 'cause I'm in need of warmer weather. Sail upon a stream to find there's someplace better..."
12. We then see the six-pack floating further along the river and out at sea. Three men in a boat pick the six-pack up in a fishing net and then the three men are shown each holding a stubby and raising it toward the mountains. The lyrics accompanying this scene are "...and I'm going far and wide."
13. In the final scene, the three men at the campsite at the beginning of the television commercial are shown looking out to sea and sipping from their stubbies as a voiceover says "Great Northern Brewing Co, the beer from up here". The tagline "The beer from up here" and a stubby of Great Northern beer with the text "Brewed in Queensland" and the 18+ logo are all superimposed on the final scene.

Complaints

14. The complainants were concerned that it is irresponsible to show people that may be intoxicated floating beer down a fast flowing river to people below and out to sea as the glass would be smashed and could cause harm. The second and third complainants were also concerned that people may be enticed to test if the scenario was possible and, in the process, cause harm.

The ABAC Code

15. Part 3 provides that a Marketing Communication must NOT:
 - (a)(ii) show (visibly, audibly or by direct implication) or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an Alcohol Beverage

The Company's Response

16. The Company responded to the complaints by letter received 21 January 2016. The principal points made by the Company were:

- The complaint relates to a Great Northern television commercial (TVC) advertisement seen on free to air TV during the cricket. The TVC has been played on free to air TV and social media throughout summer as part of an on-going campaign to connect the Queensland brewed beer with its home state. Before I answer the questions raised in your letter I'd like to highlight that CUB takes the promotion of responsible consumption and consumer safety very seriously. CUB promotes consumption of its products based on the Australian Guidelines to Reduce Health Risks from Drinking Alcohol. CUB is also committed to environmental sustainability. We are committed to industry initiatives around packaging waste via the Australian Packaging Covenant. CUB works hard to ensure our marketing content is compliant with the Alcohol Beverages Advertising Code, Australian Association of National Advertisers Code of Ethics and our internal company policies.
- The TVC is a fictional depiction of comradery in the Australian outback designed to celebrate the pristine wilderness of northern Queensland. The concept follows eight mates sharing a six-pack across the Queensland landscape by floating the beers downstream to one another. The first scene shows three men drinking one beer each a riverside campsite. This is in line with Australian Drinking Guidelines. All drinks are full indicating the men have not yet begun consuming their drink. The men do not enter the water and an aerial shot shows three swags (two of which are laid out) indicating it is the end of the day and no further activity requiring mental alertness will take place. One man places the 6 pack in the water and the rapids carry it seamlessly downstream. The bottles are then seemingly left in the control of the river to guide them to their next pit-stop. The role of the river in the advertisements is symbolic, and used as a means of illustrating connection between groups. The second scene shows two men beside the river, with one man wading out to ankle deep water to collect the passing beers. Once again it is clear then men have packed up for the day and only take one beer each before sending the beers on their onward journey. No other beers are depicted so it is reasonable to assume these men have not yet begun drinking and are not intoxicated. The final scene shows the remaining three beers being fished out of the water and brought onto the boat. They are then enjoyed by three fishermen, with a fourth man visible as the designated boat driver. No other beers are depicted so it is reasonable to assume these men have not yet begun drinking and are not intoxicated.
- It would be reasonable to assume most people are aware that placing a full glass bottle of beer in a river would lead it to sink, therefore it is our view that any reasonable person would understand this TVC is fictitious and has had special effects applied to it in order for the beers to successfully navigate down the river and out to sea. It is important to note

that throughout filming a number of steps were taken to minimise the risk of environmental impact. These included:

- the bottles of Great Northern depicted were recreated using plastic to ensure there was no risk of them breaking in the river;
- when there was need to use real glass bottles they were firmly secured with durable fishing line attached to a puppeteering rod that was carefully handled by a crew member;
- when filming occurred there was always a crew member in the river downstream to ensure the beer bottles were collected and there was no risk of them floating away;
- filming locations were selected to enable for control over the different bottle rigs (e.g. strength of water current, water depth and terrain), if the rapids where to rough the 6-pack was photo shopped in to the scene during post production;
- all filming locations were granted permission in advance of filming and were accessed using roads or walking track to minimise impact on surrounding bushland; and
- all equipment and rubbish was taken out at the end of shooting. By the end of the TVC there is no material left in the water and no depiction of littering. There is also no depiction of glass shattering and being left in the water as a community safety hazard. Each of the two men who place beers in the stream do so carefully and show a clear understanding that the beers will be met by a recipient downstream.
- As mentioned above, we believe most people are aware that placing a full glass bottle of beer in a river would lead it to sink, therefore it is our view that any reasonable person would understand this TVC is fictitious and has had special effects applied to it in order for the beers to successfully navigate down the river and out to sea. The only activities completed by the men depicted are:
 - crouching by the river and placing bottles into the moving water;
 - wading into ankle deep water to collect the beers; and
 - scooping the beers out of the ocean with a net. While close to water, all men are fully clothed and all scenes depict drinking after the activity. For the reasons stated above we do not believe that the TVC shows alcohol consumption in conjunction with an activity which requires a high degree of alertness. CUB has been, and will remain, vigilant in ensuring no competitions or promotional material depicts or encourages irresponsible consumption, or disregard for environmental and/or public health and safety.

The Panel's View

17. The complaints concern a television advertisement for Great Northern beer. The Company explains that the ad's narrative is based on mates sharing a beer by means of transporting a six-pack of the bottled product down a pristine river and then out to sea during which, at various points, it is retrieved by the friends who then send it on to the next group.
18. In the view of the complainants, the advertisement is irresponsible and may promote stupid and dangerous behaviours, as people endeavour to emulate the journey of the bottled beer. It is argued that this would invariably see the bottles broken with consequential harm to the environment, and potentially people, from the broken glass.
19. The Company's response to this concern is to argue that the scenario in the advertisement is fictitious and was filmed with plastic replicas of the bottles and special effects. It is contended that the advertisement is not actually advocating that the beer's journey down the river be attempted.
20. The Panel's task is to weigh up these competing views of the advertisement and assess if an ABAC standard of good practice in alcohol marketing has been breached. The relevant standard is contained in section (a)(ii) of the Code and provides that an advertisement must not show or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an alcohol beverage.
21. The benchmark for testing consistency with a standard is set out in section 4 of the ABAC. This section states that compliance of an advertisement with the Code is to be assessed in terms of the probable understanding of the advertisement by a reasonable person taking its content as a whole. The reference to a "reasonable person" is drawn from the Australian common law and means that the attitudes, values and opinions held in a majority of the community is the guide. A person with a different viewpoint is not "unreasonable", but possibly their interpretation might not be shared by a majority of the community.
22. While the Panel acknowledges the point made by the complainants, it does not believe the advertisement is in breach of the ABAC standard. In reaching this conclusion, the Panel has noted:
 - The men depicted do not appear to be affected by alcohol and the consumption shown is moderate.
 - The scenario is highly fanciful and common sense would indicate that it is not possible to actually perform. A reasonable viewer is aware of the fictitious nature of such a scenario and would not take the advertisement as an encouragement to actually attempt to float a six-pack of bottled beer down a river.
 - While environmental and personal harm is caused by littering and broken glass, it is not considered that the advertisement could fairly

be taken as either directly or inadvertently as encouraging such behaviour.

23. Accordingly the complaints are dismissed.