

ABAC

ABAC Complaints Panel Determination No: 65/13

Complaint by Ms Alicia Fenton Product: Bottlemart Advertiser: Liquor Marketing Group

Professor The Hon Michael Lavarch – Chief Adjudicator
Jeanne Strachan – Member
Debra Richards – Member
Professor Louisa Jorm – Member
Professor Richard Mattick – Member

4 June 2013

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a Bottlemart print advertisement by Liquor Marketing Group (“the Advertiser”) and arises from a complaint by Ms Alicia Fenton received on 29 April 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 the ABAC Panel on 29 April 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. This complaint has been determined within the 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 not obtained for the advertisement.

The Advertisement

9. The complaint refers to a Bottlemart print catalogue.
10. The first page begins with the large text "In Honour". Below the text are images of two VB stubbies and two cartons of VB and the carton price. One of the cartons has a historical ANZAC image and a promotion of the VB "Raise a Glass" Appeal on the sides of the carton. Below the image is the text "VB Special Available 3 days only 24/4-26/4". Other products and their prices are also included on the page. At the bottom of the page is the tagline "Better get to Bottlemart".
11. The other pages in the pamphlet include product images, prices and location details for Bottlemart stores.

The Complaint

12. The complainant expresses concern that the advertisement:
 - (a) uses the Anzac Day public holiday and the current advertising campaign by the RSL's to sell more units of liquor; and

- (b) targets people on compassionate grounds to drink alcohol on Anzac Day.

The Code

- 13. The ABAC provides at Section (a) that advertisements for alcohol beverages must:
 - a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly –
 - i) must not encourage excessive consumption or abuse of alcohol;
 - iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages.

The Advertiser's Comments

- 12. The Advertiser responded to the complaint and questions posed by the Panel by way of letter dated 22 May 2013. The points made by the Advertiser in relation to the advertisement were:
 - (a) We view the complaint as cynical and disingenuous, implying that consumption of alcohol on ANZAC Day is anathema to the honour of our fallen Diggers. Like all decent Australians, we owe an enormous debt of gratitude to those who made the supreme sacrifice or were wounded in past wars. Our use of the words "In Honour" was intended as a genuine tribute to those men and women, as well as being complementary to and encouraging of the CUB-sponsored appeal.
 - (b) Frankly, we take offence at the complainant's suggestion that we took advantage of the occasion to simply sell more alcohol or to unreasonably encourage people to drink more on ANZAC Day. There has to be acknowledgment of the fact that many former Diggers and their friends pay respect to their own war service and their fallen mates by adjourning to their favourite club or pub, after the March, often to engage in a once-a-year game of *Two-Up* and to enjoy a few beers. In our view, any contrary understanding denies reality.
 - (c) We do not believe that the advertisement (which was not pre-vetted) breaches the Code and will accept the Panel's decision on this complaint.

The Panel's View

- 14. The Panel has previously considered alcohol advertising with an ANZAC day theme on four occasions in the context of advertisements for the VB "Raise a Glass" Appeal run annually in the lead up to ANZAC Day by CUB, with the endorsement of the RSL and Legacy. The previous determinations were in 2009 (31, 34 &44/09), in 2010 (28/10) and in 2013 (56/13).
- 15. The complainant is concerned that ANZAC day and the compassionate feelings it evokes is being used to sell alcohol.

16. The advertiser argues that the “In Honour” reference was intended as a genuine tribute to those men and women who served, as well as being complementary to and encouraging of the CUB-sponsored appeal.
17. Essentially, the complainant contends that no alcohol advertising should make reference to ANZAC Day as this is inappropriate, particularly when linked to the VB “Raise a Glass” annual campaign. As pointed out in the other determinations which touch on the “Raise a Glass” campaign, it is a perfectly arguable point of view to say the campaign should not occur and that the RSL and Legacy are unwise to participate in the campaign. These issues, however, are not for the Panel to decide, as the Panel can only apply the terms of the ABAC.
18. In this respect, the Panel does not believe the advertisement breaches the relevant ABAC standards. The advertisement does not promote excessive consumption or irresponsible consumption or an unbalanced approach to consumption.
19. Accordingly, the complaint is dismissed.