



ABAC Adjudication Panel Determination No. 98/17

Product: Carlton Dry
Company: Carlton & United Brewers
Media: Digital (facebook)
Complainant: Mr Cameron
Date of decision: 22 September 2017
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Ms Debra Richards
Professor Richard Mattick

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) concerns a facebook advertisement for Carlton Dry by Carlton & United Brewers (“the Company”) and arises from a complaint received 25 August 2017.
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 complaint raises concerns under the ABAC Code and accordingly is within the Panel's jurisdiction.

The Complaint Timeline

7. The complaint was received on 25 August 2017.
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 with 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.

The Marketing Communication

10. The complaint refers to an advertisement the complainant received in their facebook newsfeed with the message "Carlton Dry How to deal with that hipster bartender. #UnderthinkIt".
11. It opens with an image of an enormous beer keg labelled "Carlton Dry Underthink Tank" and with the Carlton Dry logo in deserted countryside at the end of a dirt road with a security booth occupied by a security guard on the side of the road leading to the keg. Superimposed on the bottom of the image is the text "Meanwhile at the Carlton Dry Underthink Tank" which is also the voiceover message for the first scene.
12. We then see a man pacing in front of a large display screen and saying "you're looking at a drinks menu that's as long as the Nile.."
13. The camera pans out and we see that the man is standing in front of a screen that includes the text "Alert Overthinking Choosing Beer" above a map of Australia and a large selection of beers. The man is talking to a group of people sitting around a round meeting table. All are wearing a uniform of navy tops with a small Carlton dry logo and white pants. The man continues "... and that hipster bartender keeps giving you to the stink eye."
14. One of the men at the table responds "Three simple words: Carlton Dry please". The man standing responds "Uno, dos, yes." And pushes a blue button on the table and we see a cold bottle of Carlton Dry emerge from inside the table. The man standing continues "Now we'll celebrate with a smooth, refreshing beer you don't have to overthink." as two of the people seated clink bottles together and the man standing gesticulates with his bottle of beer.
15. In the next scene the lights are dimmed and lights strobe and we see some of the group dancing while holding a bottle of Carlton Dry. As the camera pans out we see they are standing on the meeting table.
16. In the final scene we see a can of Carlton Dry and a bottle of Carlton Dry and a bottle of Carlton Dry Natural Lime with the text superimposed "Underthink It." as the voiceover says "Carlton Dry Underthink It."

The Complaint

17. The complainant is concerned that the ad promotes alcohol to individuals who are known to be anxious or "overthinking, in particular expressing concern that:
 - If a bartender behaved like this they would lose their licence, so why should we allow advertisers to behave like this;

- It is suggestive;
- It encourages self medicating with alcohol;
- Promotes unhealthy consumption;
- When you are over thinking your problems alcohol is the last thing you need as it removes your inhibition and you are more likely to do something stupid, it does not encourage responsible drinking;
- I'm an alcoholic, sober for 5 years and I found this highly offensive.

The ABAC Code

18. Part 3 of the ABAC Code 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;
 - (c)(iv) suggest that the consumption of an Alcohol Beverage offers any therapeutic benefit or is a necessary aid to relaxation.

The Company's Response

19. The Company responded to the complaint on 7 September 2017. The principal points made by the Company are:
- The complaint relates to a particular 30 second video advertisement, which forms part of a broader Carlton Dry advertising campaign. The overall campaign is based on the insight that the increasingly busy and complicated lives of consumers have resulted in a tendency to overthink the little things – like what to wear, what food to order, and relevantly, which beer to drink. The various advertisements included in the campaign encourage beer drinkers to 'underthink it' when it comes to the small everyday decisions in life – that is, to not sweat the small stuff. To do this, the campaign introduces the 'Underthink Tank', a team of 'Underthinkers' who solve life's most overthought problems from within their giant, keg shaped headquarters. The campaign includes multiple 30" and 15" television commercials. It also extends across radio, social media, on-premise and music festivals, plus a national consumer promotion in partnership with Shazam. We understand the complainant viewed this particular advertisement on Facebook, but it is also being shown on commercial television.
 - The specific advertisement which is the subject of this complaint relates to choosing a beer in a bar environment with a long and complicated drinks list – the Underthink Tank solves this overthought problem by suggesting a simple order of Carlton Dry. The Underthink Tank then celebrates their solution by enjoying a Carlton Dry together.

- From a brand positioning perspective, Carlton Dry is a refreshing, easy-drinking, low carbohydrate lager. This makes it an easy choice when consumers may be overwhelmed by an everyday task like choosing a drink from a complicated drinks menu.
- In developing this campaign, we were careful to ensure compliance with all relevant sections of ABAC. All advertisements and other executions in the campaign, including this particular advertisement, depict alcohol and the effects of alcohol in a responsible way, in compliance with section 3 of ABAC. We ensured that each piece of material in the campaign positions the alcohol product as a celebratory reward, rather than the alcohol product being the cause of 'underthinking' or 'overthinking', or a remedy for resolving life problems. The beer itself is not positioned as providing a benefit. The overall message of the campaign is to encourage people not to 'sweat the small stuff', including their choice of alcohol beverage.
- The advertisement does not show irresponsible or offensive behaviour. It does not imply that the consumption of Carlton Dry will help resolve life problems in general. Consumption of Carlton Dry is not presented as a solution. Rather, the advertisement uses an insight about consumer behaviour to draw an analogy between Carlton Dry (a simple, refreshing, easy-to-drink beer) and the concept of worrying less about small, everyday life occurrences. The overall message of the advertisement is that when a consumer is looking at a complicated drinks list, questioning whether they should order a cocktail, or one of many types of wine, or any number of a long list of choices, that consumer can simply choose Carlton Dry and focus on enjoying the occasion, rather than worrying about what drink to order, in a scenario where they have already decided to order and consume an alcohol beverage. The advertisement does not imply that the subsequent consumption of the Carlton Dry will relieve or alleviate life's problems more broadly. It simply positions Carlton Dry as an easy choice compared to other alcoholic drinks, and particularly compared to other beers (such as complex craft beers).
- Even if section 3(a)(ii) were to be applied to the advertisement more broadly, we believe that the advertisement does not show or encourage irresponsible or offensive behaviour due to the consumption or presence of alcohol. The characters in the advertisement celebrate with a single Carlton Dry each.
- The focus of the advertisement is the way that people deliberate over small daily decisions and how that detracts from living in the moment and enjoying the occasion. We understand that anxiety is a serious mental health issue, and the advertisement is not at all attempting to make light of that. We are in no way implying that a mental health issue can be alleviated by a simplifying a single choice; to do so would be to oversimplify the disorder. We are also certainly not implying that the consumption of alcohol alleviates anxiety.
- The alcohol product is only introduced into the advertisement at the end, with the words "now we'll celebrate with a smooth, refreshing beer you don't have to overthink". The mood of the Underthink Tank

members changes in celebration of solving the problem (the problem being what consumers should do when faced with a complicated drinks list). This celebratory mood change occurs before any alcohol product is introduced.

- There is not a significant change of mood resulting from the choice of one alcohol beverage over another. It would be incorrect to interpret the overall meaning of the advertisement to be that choosing or consuming Carlton Dry in itself can help relieve someone from an anxious state of mind. It is the act of choosing Carlton Dry over another type of alcohol beverage that the advertisement suggests would make a drinking occasion simpler; not because the actual beverage itself has that effect, but because the act of choosing is made easier by an easy-to-drink, smooth, refreshing beer. In the analogy of the consumer confronted with a drinks list, that consumer is not in 'an anxious and stressful state'. That consumer is trying to make a trivial and small decision, much like many decisions we make throughout a day. In the analogy, the consumer is not shown or depicted in the advertisement.
- The advertisement does not imply that Carlton Dry provides any sort of therapeutic benefit, or that it can help to resolve a stressful situation. Making the act of choosing an alcohol beverage easier is not the same thing as providing a 'therapeutic benefit' or providing 'a necessary aid to relaxation'.
- It is correct that the product is a simple option when choosing from multiple options; however, this does not mean that the product has "therapeutic benefit". The advertisement does not imply that the product improves or assists the consumer or makes them better or more successful in any way. In a recent decision relating to section 3(c)(iv), the Panel stated that "The intent of the 3(c)(iv) standard is that alcohol products cannot be promoted by suggesting that alcohol use is good for your health or offers a positive benefit to a person's mood or sense of wellbeing." As noted throughout this response, the advertisement here focusses on the choice of one alcohol beverage over another, and does not imply that the choice of Carlton Dry will offer a positive health benefit.
- In terms of the actual consumption of Carlton Dry in the advertisement, the Underthink Tank members themselves aren't the people who are in the situation they are discussing. In the Underthink Tank, they have been called upon to resolve a theoretical situation that might arise for other people in everyday life. The tension and stress in the room is created by the theoretical problem, and is relieved by the characters completing their task and resolving the problem. Regardless, the presence and consumption of the product does not take place until the Underthink Tank members have resolved the problem. The beer itself could not have contributed to the relieving of the tension as it does not appear and is not consumed until the Underthink Tank members are already relaxed and celebrating. In fact, the Underthink Tank leader states "now we'll celebrate with a smooth refreshing beer you don't have to overthink".

- Our position is that a relaxed state can be achieved by not ‘sweating the small stuff.’ The choice to drink Carlton Dry to avoid the potentially stressful task of navigating your way through a long and complicated drinks menu is simply an example of this idea applied practically to a common scenario. The scenario is not one that has a significant impact on a consumer’s life; it’s a decision that should be easy so that the consumer can continue enjoying an occasion.

The Panel’s View

20. This determination concerns an advertisement accessed by the complainant via Facebook, but the same advertisement is being screened on broadcast media on free-to-air television. The advertisement is part of a wider marketing campaign by the Company under the theme ‘underthink’ it. The concept of the campaign as explained by the Company is the ‘insight that the increasingly busy and complicated lives of consumers have resulted in a tendency to overthink the little things’. The advertisements encourage beer drinkers to underthink when it comes to the small decision of choosing an alcohol drink.
21. The complainant discloses a history of being an alcoholic and from this viewpoint the advertisement is argued to be highly irresponsible. It is contended that the advertisement encourages self-medicating with alcohol and ‘when you are over thinking your problems, alcohol is the last thing you need as it removes your inhibition and you are more likely to do something stupid’.
22. There is no doubt that the complainant has raised a thoughtful and genuinely held concern about the advertisement. The task for the Panel is to assess the advertisement against the standards for good alcohol marketing contained in the ABAC in light of the points made by the complainant and the explanation given by the Company. In doing this, the Panel is to adopt the position of the ‘reasonable person’ and assess how such a person would understand the advertisement.
23. The two ABAC standards of relevance to the complaint are contained in sections 3(a) and 3(c) of the Code. Section 3(a) provides that alcohol marketing must not encourage excessive alcohol consumption, or misuse or abuse of alcohol. Section 3(c) provides that a marketing communication must not suggest alcohol use creates or contributes to a significant change in mood, or contributes to the achievement of success. Further alcohol cannot be suggested to offer any therapeutic benefit or is a necessary aid to relaxation.
24. The Company argues that the message from the advertisement is that you ‘shouldn’t sweat the small stuff’. By this it is intended that choosing a drink shouldn’t be complicated and viewers are encouraged to ‘underthink’ their drink choices by selecting the product.
25. The Panel, while recognising the point raised in the complaint, does not believe the advertisement is inconsistent with the ABAC standards. In reaching this conclusion the Panel has noted:

- The advertisement is centered on the choices between different alcohol brands and types of drinks rather than the amount of consumption of a chosen beverage;
- The actual depiction of consumption is moderate;
- The advertisement is far fetched and humorous and this would influence how a viewer would interpret its meaning;
- It is not suggested that the consumption of alcohol solves problems, but rather that choosing a type of drink shouldn't be a difficult choice; and
- Taken as a whole, a reasonable person would understand the advertisement is conveying a message about product choice based on simplicity and does not imply alcohol use has a therapeutic benefit.

26. Accordingly, the complaint is dismissed.