



ABAC Adjudication Panel Determination No. 28/19

Product: Great Northern Beer
Company: Carlton & United Breweries
Media: Television
Date of decision: 26 April 2019
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 television advertising for Great Northern Beer by Carlton & United Breweries (“the Company”) and arises from a complaint received 15 April 2019.
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. The codes go either to the issue of the placement of alcohol marketing, the content of alcohol marketing or deal with both matters. The ABAC deals with both the placement of marketing i.e. where the marketing was located or the medium by which it was accessed and the content of the marketing irrespective of where the marketing was placed. The ABAC scheme requires alcohol beverage marketers to comply with placement requirements in the other codes as well as meeting the standards contained in the ABAC.
4. For ease of public access, Ad Standards (AS) provides a common entry point for alcohol marketing complaints. Upon a complaint being received by AS, 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 AS 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 Ad Standards Community Panel 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 15 April 2019.
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.
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 not obtained for these specific marketing communications, however an earlier version of the advertisements was approved with AAPS reference 16109. The only element to

have changed between the pre-vetted and aired advertisement is the end frame, the content of which is not the subject of the complaint.

The Marketing Communications

10. The complaint refers to a television advertisement. Two possible versions of the advertisement may have been seen by the complainant and both are described following.

30 second advertisement

11. The advertisement opens on an aerial view of a landscape featuring a waterfall into a river. We then see three men and a dog walking alongside a river in a remote landscape wearing backpacks and holding either fishing rods, an esky or a tackle box. In the next scene the three men are standing on the sandy bank of a river fishing, with their gear on the sand behind them. One of the men says, "Who's catching dinner?" and another responds "Dinners on me tonight boys" as he casts his line into the river and the top of his rod breaks off. The men all laugh, and a man says, "Worn out another rod mate, salad for you".
12. In the next scene we see a hand taking two 330ml bottles of Great Northern beer from an esky and then two of the men sitting at a campfire with a tent in the background, each holding a partially consumed bottle of Great Northern beer. One man says to the other "Time for a new rod mate, put this towards it" as he hands him a BCF gift card which the other man accepts smiling.
13. We then see the third man walk into the scene with a bottle of Great Northern beer and clink beers with the other two men as a voiceover says, "Great Northern Brewing Co is giving away 10, 20 and 50-dollar BCF vouchers with every specially marked case". The shot widens and we see that the men are camped next to the river on a sandy beach as specially marked cases of Great Northern Beer and the voiceover message are superimposed on the scene.
14. In the next scene we see one of the men drinking from a bottle of Great Northern beer as the voiceover says, "Go into store and get yours today" and terms and conditions of the promotion are displayed. The camera then returns to the shot of the men camping next to the river as the tagline "The Beer For Up Here", "Don't Drink and Drive" logo and two bottles of the product are superimposed on the scene.

15 second advertisement

15. The advertisement opens with a man setting up a tent on a sandy beach next to the river, with two men each holding a 330ml bottle of Great Northern walking toward him as he says, "This old tent boys, been everywhere with" and the tent rips, the dog looking up at him. The men laugh and one says "Oh no is that the new aircon feature" as the man looks at the hole in his tent.
16. In the next scene we see two of the men sitting at a campfire with a tent in the background, each holding a partially consumed bottle of Great Northern beer. One man says to the other "Put that towards a new one" as he hands him a BCF gift card which the other man accepts smiling.

17. We then see the third man sit down with a bottle of Great Northern beer and clink beers with the other two men as a voiceover says, "Great Northern Brewing Co is giving away 10, 20 and 50-dollar BCF vouchers with every specially marked case". The shot widens and elevates, and we see the landscape the men are situated within as specially marked cases of Great Northern Beer and the voiceover message are superimposed on the scene with the terms and conditions below.
18. The camera then returns to a closer shot of the men camping next to the river as the message "Go in store and get yours today" is superimposed on the scene along with the "Don't Drink and Drive" logo and two bottles of the product.

The Complaint

19. The complainant is concerned that:
 - Drinking should never be promoted as an activity involving water or near water. Drownings especially at inland rivers are at an all-time high.
 - It is offensive and insensitive to promote or normalise the behaviour of consuming alcohol in a hazardous environment.

The ABAC Code

20. 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
 - (d) show (visibly, audibly or by direct implication) the consumption of an Alcohol Beverage before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as the control of a motor vehicle, boat or machinery or swimming

The Company's Response

21. The Company responded to the complaint by letter dated 25 April 2019 advising that:
 - The advertisement is part of an integrated marketing campaign for Great Northern, a CUB brand. The campaign is a promotion that offers consumers the opportunity to claim a \$10, \$20 or \$50 voucher for outdoor goods store BCF with the purchase of any specially marked case of Great Northern. A similar campaign ran in 2018 offering consumers the opportunity to claim a \$10 voucher with every specially marked case of Great Northern.
 - At CUB, we take great care to ensure that our products are marketed in line with the ABAC and with prevailing community sentiment on health and safety. We are especially conscious of our responsibility to depict safe consumption

with brands, such as Great Northern, that utilise outdoor imagery and activities.

- The advertisement makes it clear that alcohol is being consumed responsibly at the end of a day of fishing, when no further physical activity will be taking place. Fishing rods have been packed away, and there is no implication that the people in the advertisement will be swimming, venturing into the river or in any other way engaging in activity that would require a high degree of alertness or physical co-ordination. The advertisement clearly shows a campsite set up at the end of the day, as evidenced by the presence of tents, a fire, and other camping gear. The alcohol consumption depicted is moderate; participants are not intoxicated and are not engaged in behaviour that could be seen as offensive or irresponsible, particularly in the context of the inland river setting. The advertisement was developed specifically with Part 3(d) of the Code in mind.
- CUB is committed to ensuring its promotional and marketing material does not promote or encourage any irresponsible consumption of alcohol. Our goal is for consumers to enjoy our products responsibly and in moderation. In these circumstances, we have taken all steps possible to ensure that our products are promoted in a way that is compliant with the rules, principles and spirit of the Code.

The Panel's View

22. This determination concerns a television advertisement for the product Great Northern Beer and features a cross promotion of the product with the outdoor equipment outlet BCF.
23. The Panel has reviewed two executions within the campaign as both ads were broadcast around the time the complaint was made and it is not clear which ad the complainant actually saw. In any event both ads are similar in style and message and presumably the complainant would be troubled by both executions.
24. The ads depict three male friends camping adjacent to a river. The men are on a fishing trip and after a minor misadventure (a broken fishing rod or torn tent) the men consume a beer at the end of the day. The complainant makes the argument that drownings at inland rivers occur regularly and that it is irresponsible to 'normalise' alcohol use in a potentially hazardous environment.
25. The ABAC provides generally that an alcohol ad must not encourage irresponsible or offensive behaviour that is related to alcohol use. More specifically the Code states alcohol consumption must not be shown before or during any activity that for safety reasons requires a high degree of alertness or physical co-ordination.

26. In assessing if a Code standard has been breached the viewpoint of a reasonable person is to be adopted. This means that the values, opinions and life experiences common in a majority of the community is to be the benchmark.
27. While the complainant is making a genuine point and safe practices in or around any body of water is important, the Panel does not believe the ads are in breach of the ABAC standards. In reaching this conclusion the Panel has noted:
- The Code assumes that moderate alcohol use by adults consistent with health guidelines does occur and depictions of alcohol use with an activity such as fishing or camping is not precluded provided the depictions are consistent with Code standards.
 - The ads clearly frame that alcohol use occurs at the conclusion of the day's activities and when the fishing has been completed.
 - The consumption portrayed is moderate and there is no reasonable suggestion that the men are affected by alcohol use.
 - Taken as a whole a reasonable person would not consider the ad was showing or encouraging inherently unsafe behaviour.
28. Accordingly, the complaint is dismissed.