



ABAC Adjudication Panel Determination No. 153/20

Product: Victoria Bitter (VB) Beer
Company: Carlton & United Breweries
Media: TV - Free to Air
Date of decision: 24 November 2020
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Ms Jeanne Strachan
Professor Richard Mattick

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) concerns free to air television marketing for Victoria Bitter Beer (“VB”) by Carlton & United Breweries (“the Company”) and arises from a complaint received on 26 October 2020.
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 Code”) – 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 and Policies – which place 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 other codes as well as meeting the standards contained in the ABAC.
 4. For ease of public access, Ad Standards provides a common entry point for alcohol marketing complaints. Upon a complaint being received by the Ad Standards, 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 Ad Standards 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 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 26 October 2020.
8. 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 was completed in 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 the content of this marketing communication (Approval Number 18344).

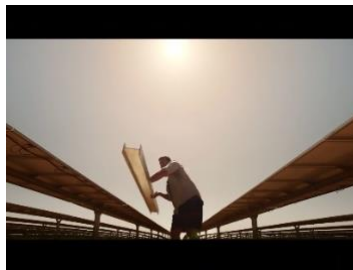
The Marketing Communication

10. The Company advised that two versions of the same advertisement (15 and 30 seconds) were being broadcast on free to air television at the time of the complaint being made.
11. The 30 second advertisement consists of a series of shots of people strenuously working under the hot sun at a solar farm. Near the conclusion of the advertisement a person opens a stubbie of VB and takes a long drink. The voice over for the advertisement is as follows, and selected screen shots are provided to assist with visualising the advertisement.

Voice Over (VO):
When we clock on
it's there, ready to
squeeze the sweat
from our burnt
brows.



VO: While we're
trying to earn our
bacon it's trying to
turn us into it. But
times are changing.
Now the sun is
working for us.



[Music starts]

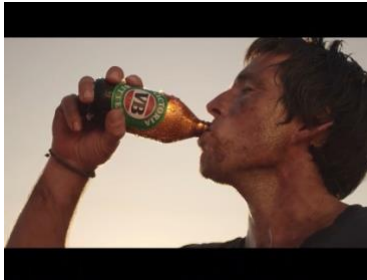
VO: Because VB is being brewed with 100% solar.



VO: So the next time the sun is making you hot...



VO: Just remember it is also making you a cold one.



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12. The 15 second advertisement is substantially the same, but commences near the mid-point of the 30 second version with the line "Because VB is now being brewed with 100% solar". It also includes the same footage of someone opening a stubbie of VB and taking a long drink near its conclusion.

The Complaint

13. The complainant objects to the marketing as:
- It shows someone quaffing VB; and
 - Alcohol is a carcinogen and a monstrous social problem.

The ABAC Code

14. Part 3 of the ABAC Code provides that a Marketing Communication must NOT:
 - (a)(i) show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines.

The Company's Response

15. The Company responded to the complaint by emailed letter dated 16 November 2020.
16. The principal points made by the Company were:
 - Victoria Bitter is one of Australia's most beloved and longstanding beer brands. The ad campaign that is the subject of Complaint 153/20 was created to celebrate the fact that today, this storied heritage brand is brewed with 100 per cent offset solar electricity.
 - VB is synonymous with hard work. In 1967, advertising agency George Patterson was tasked with creating a campaign that mirrored the values of VB drinkers: honest, blue collar, unafraid of hard day's work. In 1968, the now iconic advertisement was launched, proclaiming that, "A hard earned thirst needs a big cold beer, and the best cold beer is Vic, Victoria Bitter."
 - The modern iteration of this ad celebrates those same values of hard honest work, with a twist to highlight VB's new offset solar credentials. The ad encourages us to consider, "The next time the sun is making you hot, just remember that it's also making you a cold one." The iconic VB theme plays over a series of construction images shot at the Karadoc Solar Farm outside Mildura. Carlton & United Breweries has a 12-year Power Purchase Agreement in place with Karadoc, enabling more than a hundred million litres of Victoria Bitter to be brewed with solar electricity.
 - Prevetting for this asset was sought and granted on 18 April 2020 with approval number 18344.
 - Part 3(a)(i) of the Code states that:

A Marketing Communication must NOT show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines.
 - The consumption scene as depicted is very clearly of workers enjoying a beer together after the end of their shift, a very common and culturally

accepted practice among many Australian workers in both blue and white-collar industries.

- In the aired 30” iteration of the ad, the workers go about their construction activities before at 00:23” they are seen at the end of the day, having concluded their shift, sharing a beer offsite as the sun sets. The number of beers shown on screen is less than one per person, and no worker is implied to have consumed more than a single beer. In the penultimate frame one worker is shown consuming the product from the stubby at a normal consumption pace.
- This worker has changed out of his PPE and is no longer visibly sweaty, as opposed to earlier in the advertisement. The time of day is noticeably later, indicating some time has passed since the most onerously hot conditions referenced earlier in the advertisement.
- The consumption is neither excessive nor rapid – the worker is shown taking a single swig from a single stubby; he does not consume the full volume in this one action. There is no misuse or abuse of alcohol, or any indeed any suggestion that these workers are going to do anything other than share one beer after work. Any consumption depicted is well within the draft NHMRC Guidelines of no more than 10 standard drinks per week and no more than 4 standard drinks on any one day.
- CUB, and its parent entity Asahi Beverages, is committed to ensuring our promotional and marketing material, and that of our associated entities such as Victoria Bitter, does not promote or encourage any irresponsible consumption of alcohol. Our goal is for consumers to enjoy our products responsibly and in moderation, and to uphold community standards when it comes to our advertising.

The Panel’s View

17. This determination concerns a television ad for VB. The ad is set at an outdoor worksite which is shown to be a large solar energy farm. The premise of the ad shows workers engaging in construction work under a blazing sun and then drinking a stubbie of the product at the conclusion of the workday. The accompanying voice over narration explains that the Company has moved to have its operations powered through renewable energy and hence the sun which makes the work conditions trying, is now at the same time powering the production of the product. In style and messaging the ad follows the longstanding positioning of the VB brand of a “hard earned thirst needs a cold beer” but picks up the contemporary issue of responding to climate change.
18. The complainant believes the ad is inappropriate. It is contended alcohol is a carcinogen and causes social problems. Further it is argued it shows beer being “quaffed” which is taken to mean to drink excessively or quickly. Part 3(a)(i) of the ABAC provides that an alcohol marketing communication (which includes a

television ad) must not show or encourage the excessive or rapid consumption of alcohol. The Company responds by explaining the background to the ad and arguing the depiction of consumption shown in the ad is consistent with Code standards.

19. The complainant's argument about the danger of alcohol is a valid viewpoint to express but is beyond the remit of the Panel to decide. Alcohol in Australia is a lawful product which can be marketed consistently with a regulatory regime comprised of a combination of statutory requirements and codes of practice such as the ABAC. It is a question for government as to whether alcohol as a product should be restricted beyond the current legal requirements e.g., the imposition of a lawful drinking age and rules around sale of alcohol by license holders.
20. The Panel's role is far more focussed towards the assessment of the consistency of an individual alcohol marketing communication against the standards contained in the ABAC. In this respect, the Panel does not believe the ad breaches the Part 3(a) standard. It is noted:
 - the ad depicts a worker drinking a stubbie of the product at the conclusion of the workday;
 - while the man is shown consuming the beer in a long and deep swallow, the scene is confined to a single stubbie; and
 - taken within the context of the ad, a reasonable person would not believe that excessive or rapid consumption is being encouraged.
21. The complaint is dismissed.