



ABAC Adjudication Panel Determination No 30/21

Product: Squealing Pig Wine
Company: Treasury Wines Estate
Media: TV – On Demand
Date of decision: 8 April 2021
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Ms Jeanne Strachan
Professor Louisa Jorm

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) concerns television advertising for Squealing Pig Wine (“the Product”) by Treasury Wines Estate (“the Company”). It arises from a complaint received on 5 March 2021.
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 5 March 2021.
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 obtained for the content of the advertising (Approval Number 16788).

The Marketing

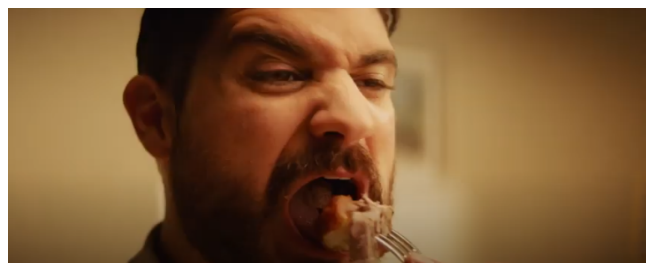
10. The complaint refers a television advertisement seen on 9 Now, as described below:

[The advertisement opens with a scene of two people eating a meal.]

Voice Over (VO): This little pig had roast beef.



VO: Chewed really loud.



VO: Drove his wife insane.



VO: Until one day it stopped.

[Footage of the wife character walking in front of a window, and then closing the curtains.]



VO: And that little pig had roast pork.



[The wife character stops chewing, reaches into her mouth, and pulls out a wedding ring.]



[The advertisement closes with an invitation to watch more Curly Tales, alongside a picture of Squealing Pig Pinot Noir. A little pig runs across the screen.]



The Complaint

11. The complainant is concerned about the television commercial (TVC) as it shows someone murdering and eating their spouse for being annoying.

The ABAC Code

12. 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.

The Company's Response

13. The Company responded to the complaint by letter emailed on 15 March 2021. The principal points made by the Company were:

Responsible portrayal of Alcohol Beverages

- The Squealing Pig *Roast Beef* TVC forms part of a series of five TVCs based on the well-known 'this little pig rhyme', all of which are intended to be quirky and humorous in nature, consistent with the Squealing Pig brand as a whole.
- The *Roast Beef* TVC relates to the third line of the rhyme 'this little pig had roast beef' and plays on 'pet peeves' between couples. The 'female pig' character is serving up roast beef to the 'male pig' character, who appears to be her husband. She watches him while he eats, chewing loudly, and looks frustrated. The TVC cuts to the exterior of the house and when it returns to the dining table, the 'wife' is happily eating 'roast pork' on her own and removes what appears to be a wedding ring from her mouth. The two characters are played by the same actor dressed as the various 'pigs', which is intended to convey the light-hearted and absurd nature of the content. The TVC is not intended to be taken seriously or literally and, in our view, a reasonable person to whom the material is likely to be communicated, taking its content as a whole, would understand this.
- In response to the query raised by ABAC, in TWE's opinion the TVC cannot reasonably be interpreted as normalising domestic violence. Nor does it imply that the resolution of domestic issues through violence is understandable or appropriate. TWE would never seek to trivialise such serious issues. At TWE, respect for human rights is the cornerstone of our culture. This includes supporting the elimination of gender-based violence and educating our team members through regular workshops and

participation in key events such as International Day for the Elimination of Violence Against Women.

- Rather, the scenario in the advertisement is entirely fictional, with the main character dressed up as two different 'pigs'. The storyline and setting are so far-fetched that a reasonable person would understand the TVC is not intended to be an accurate depiction of real life. While the story implies that the female pig may have 'eaten' the male pig, the ad does not depict violence, nor imply that violence is an acceptable or appropriate resolution to domestic issues. In TWE's opinion, it is unrealistic and absurd to suggest that the broader Australian community would be encouraged to "cook" their partner and eat them for dinner after viewing this marketing communication.

AAPS Approval

- We note ABAC pre-vetters reviewed and provided approval for all of the Squealing Pig 'Curly Tales' TVCs, including '*Roast Beef*', in August 2018, as part of TWE's strict internal compliance process. The pre-vetter did not raise any concerns in relation to Part 3(a)(ii) of the Code.
- Further to the above, the Squealing Pig 'Curly Tales' campaign has been running since 2018 and the '*Roast Beef*' TVC will no longer appear via the on-demand channel as of 17 March 2021.

Final remarks

- As a responsible marketer, TWE demonstrates a long-standing commitment to upholding both the letter and the spirit of the ABAC Code, including by actively engaging in the pre-vetting process. TWE also maintains strict internal and external processes, including internal guidelines (in the form of a Responsible Marketing Handbook and Guidelines which specifically refer to the Code) to assist our marketing and communication teams to develop marketing campaigns that meet the requirements of the Code. These teams are also trained regularly on the responsible marketing of alcohol.

The Panel's View

14. This determination concerns a television advertisement for Squealing Pig Pinot Noir Rosé and is one in a series of advertisements derived from the nursery rhyme 'This Little Pig'. The advertisement features a bearded male actor who plays the roles of both a husband and wife who are eating a meal at a dinner table. The husband is eating roast beef and chews very loudly and in a way which

drives his wife mad. The scene ends with the wife eating alone and it becomes apparent the wife has turned the husband into a meal of roast pork.

15. The complainant takes the ad as promoting violence against women. A concern of this nature falls more directly within the standards contained in the AANA Code of Ethics than it does the ABAC. This is because the obligation to advertise consistently with community standards regarding the portrayal of violence is not specific to alcohol as a product but needs to be respected irrespective of the product or service being marketed. As a result, the complaint will be considered by Ad Standards.
16. In relation to the ABAC, Part 3 (a)(ii) provides that an alcohol marketing communication (which includes a TV ad) must not show or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an alcohol beverage. If a marketing communication depicted alcohol use with a violent activity such as assault or murder, then this would breach the ABAC standard as well as likely being contrary to the generic standards in the Code of Ethics. The question is whether the ad can be fairly understood as encouraging violence.
17. The Company argues that the ad would not be taken as normalising domestic violence. It is contended:
 - the ad is clearly fanciful and absurd and would not be taken literally; and
 - there can be no reasonable understanding that the community is being encouraged to 'cook' their partner or that violence is a solution to problems.
18. The assessment of the consistency of an ad with an ABAC standard is from the probable understanding of the marketing item by a reasonable person. The 'reasonable person' test means that the life experiences, values, and opinions commonly held by a majority of the community is the benchmark. While a person who has a different interpretation of the marketing is not 'unreasonable', possibly their understanding would not be shared by most of the community.
19. The Panel does not believe the ad is in breach of the ABAC standard. The marketing is a dark and twisted re-telling of the 'This Little Pig' nursery rhyme, but a reasonable person would not believe domestic violence is being promoted or normalised. The use of the same (bearded) male actor to play each part, and the entire premise of the ad establishes the scenario as completely fanciful. A reasonable person has sufficient life experience to understand the context.
20. The complaint is dismissed.