

ABAC

ABAC Complaints Panel Determination No: 76/12

Complaint by Emily Brayshaw
Product: Midori
Advertiser: Suntory (Aust) Pty Ltd

Professor The Hon Michael Lavarch – Chief Adjudicator
Debra Richards – Member
Professor Richard Mattick – Member

7 November 2012

Introduction

- 1 This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns an outdoor advertisement for Midori by Suntory (“the Advertiser”) and arises from a complaint received on 25 October 2012.

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 both the Code of Ethics and the ABAC and accordingly is within the Panel's jurisdiction in relation to the ABAC issue.

The Complaint Timeline

- 6 The complaint was received by the ABAC Panel on 25 October 2012.
- 7 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.

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. The advertiser obtained pre-vetting approval for the advertisement [11627].

The Advertisement

- 9 The outdoor advertisement was located on a street outside the University of Technology, Sydney.
- 10 The advertisement is set in a room with orange walls and floor. It features a woman with long wavy dark hair and green sunglasses on her head wearing a white sleeveless top, very short red shorts with a green belt, a green watch and green platform sandals. The woman has her body turned away from the camera leaning on a giant yellow and orange tape deck. Her face is turned toward the camera and she has a slightly open mouth. She is holding a tall glass filled with a green liquid (presumably a Midori based drink).
- 11 At the top of the advertisement is the text "f midori.com.au". On the right side of the advertisement is the tagline "Midori Best Mixed With Short Shorts". At the bottom of the advertisement is the top part of a bottle of Midori with the text "Best Mixed with Summer".

The Complaint

- 12 The complainant argues that the advertisement is inappropriate given:
 - a) The advertisement's slogan attempts to imbue the model with a sense of agency, implying that she is in control of the situation and of her alcohol intake, however, the manner in which the model has been posed undermines this. Her pose is that of a soft porn pin-up. With her open lips, her back to the camera and her bottom hanging out of her tiny shorts and her gaze over her shoulder, the suggestion is blatant that she is the object of consumption within the advertisement, rather than the alcohol; and
 - b) the advertisement is sexist.

The Code

13 The ABAC provides at Part 1 that advertisements for alcohol beverages must:

- a) Present a mature, balanced and responsible approach to the consumption of alcohol beverages ...

The Advertiser's Comments

14 The Advertiser responded to the complaint and questions posed by the Panel by way of letter dated 1 November 2012. The principal points made by the Advertiser were as follows:

- a) This advertisement has been created to portray our brand's personality & summer time. This particular execution is very much in line with summer fashion and being on trend with what's in stores now; bright, bold colours, short shorts and singlet's, all of which are "in" for the coming summer months.
- b) Our intention is certainly not to represent females as sex objects, but rather bring to life Midori's brand personality through the use of on trend fashion, warm colours and a retro look and feel. The shot is candid not sexual and the artwork indicates that she is someone who is enjoying music and a Midori cocktail whilst in a summery environment.
- c) We have considered the point of view of the person making the complaint carefully and disagree strongly that we are depicting the female in question the object of consumption within the advertisement, rather than the alcohol. Nor are we veiling sexism with a "retro-style" aesthetic. As part of our process we engaged AAPS during creative development in order to seek approval for this advertising material. It was a condition of approval that the length of the short shorts needed to be less revealing. We took this on board and revised the artwork accordingly, lengthening the shorts. We received final approval on our revised short shorts execution.
- d) As such we certainly do not believe that we breach any section of the Australian Beverages Advertising Code (ABAC) especially section (a). It presents a mature, balanced and responsible approach to the consumption of alcohol and shows that the model is in control of the situation and her alcohol intake. It does not encourage excessive consumption or abuse of alcohol. Nor does it encourage under-age drinking. It does not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages. Nor does it depict the irresponsible and immoderate consumption of alcohol beverages.

The Panel's View

15 The complainant primarily raises two issues:

- The advertisement is irresponsible in that the way in which the model is posed undermines a slogan that implies the model is in control of the situation and her alcohol intake.
- The advertisement is sexist.

16 The issue of sexism is not dealt with by the ABAC Code but is an issue relevant to the AANA Code of Ethics. Therefore the ABAC Panel will only consider the first issue raised in the complaint.

- 17 The Advertiser argues that the ad was created to portray the brand's personality & summer time with the execution very much in line with on trend summer fashion for the coming summer months. Further, it is argued that the shot is candid not sexual and the artwork indicates that the model is someone who is enjoying music and a Midori cocktail whilst in a summery environment.
- 18 The principal concern of the complainant is that the advertisement is sexist and objectifies women. This concern is not related to the advertisement being for an alcohol product as such and no doubt the concern would exist if the product was soft drink, shoes or milk. This is because it relates to the way the model is dressed and posed. As stated, this aspect is a matter for the ASB.
- 19 The role of the Panel is to assess the advertisement against the relevant sections of the ABAC which goes to the way in which alcohol is being advertised. The standard requires that the advertisement not present an immature, unbalanced or irresponsible approach to alcohol use and in this respect the Panel believes the advertisement does not breach the ABAC. The advertisement does not create the impression that the model has engaged in or will engage in the irresponsible use of alcohol, nor can this behaviour be said to be encouraged by the advertisement.
- 20 Accordingly the complaint is dismissed.