

# ABAC

## ABAC Complaints Panel Determination No: 81/12

### Complaint by Ms Emma McIntosh Product: Budweiser Advertiser: Lion

Professor The Hon Michael Lavarch – Chief Adjudicator  
Jeanne Strachan – Member  
Professor Richard Mattick – Member

27 November 2012

#### Introduction

- 1 This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns an outdoor advertisement for Budweiser by Lion (“the Advertiser”) and arises from a complaint received on 19 November 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 the ABAC and accordingly is within the Panel's jurisdiction.

### **The Complaint Timeline**

- 6 The complaint was received by the ABAC Panel on 19 November 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. This complaint was determined within 30 business days.

### **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 this advertisement.

### **The Advertisement**

- 9 The billboard advertisement is in landscape format and its background is of an outdoor country scene. The advertisement features a cut down photograph of four 375ml bottles of cold Budweiser sitting on ice, one more prominently placed than the other three. The tagline "Grab Some Buds" in large red bold text above the Budweiser logo is placed to the right of the bottles of the product.

### **The Complaint**

- 10 The complainant argues that:
  - a) the advertisement is clearly advertising grabbing a beer to drink while you are driving; and
  - b) disbelief that an alcohol company can advertise drink driving so explicitly on a road like the Forrest Highway with all the accidents that are along there.

### **The Code**

- 11 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 .....
  - d) Not depict any direct association between the consumption of alcohol beverages, and the operation of a motor vehicle.....

### **The Advertiser's Comments**

- 18 The Advertiser responded to the complaint and question posed by the Panel by way of letter dated 22 November 2012. The principal points made by the Advertiser were as follows:

- a) The advertisement was pre-vetted internally at Lion and by AAPS, receiving approval from both.
  - b) We believe the advertisement presents a mature, balanced and responsible approach to the consumption of alcohol and does not depict a direct association between the consumption of alcohol beverages and the operation of a motor vehicle.
  - c) We do not believe that a reasonable person would consider the placement of the advertisement to be a direct association between driving and the consumption of alcohol. Furthermore, the advertisement abides by the Outdoor Media Association's advertising placement policy. The tagline *Grab Some Buds* simply conveys the message that the next time the consumer purchases beer, they should choose the brand Budweiser. It also draws a parallel between grabbing a group of *buds*, meaning *friends*, to share the product with.
- a) Lion is confident the advertisement is compliant with the Code of Ethics.

### **The Panel's View**

- 19 The complaint concerns an outdoor advertisement for Budweiser. The advertisement features the tagline "Grab some Buds" and images of ice cold 375ml bottles of Budweiser on a large billboard on a highway. The complainant is concerned that the advertisement is encouraging drink driving by inviting viewers of the ad that are driving along the highway to grab and consume the product.
- 20 The concern raised by the complainant relates to two ABAC provisions. Firstly that the message is irresponsible in breach of section (a) of the ABAC. Section (a) provides that advertisements for alcohol beverages must present a mature, balanced and responsible approach to the consumption of alcohol beverages. Secondly that the ad encourages drink driving in breach of section (d) of the ABAC. Section (d) provides that advertisements for alcohol beverages must not depict any direct association between the consumption of alcohol beverages, and the operation of a motor vehicle
- 21 The advertiser responded to this concern by stating that:
- A reasonable person would not consider the placement of the advertisement to be a direct association between driving and the consumption of alcohol.
  - The tagline "Grab some buds" simply conveys the message that next time the consumer purchases beer, they should choose the brand Budweiser. It also draws the parallel between grabbing a group of *buds*, meaning *friends*, to share the product with.
- 22 The Preamble to the Code provides guidance in how the Panel is to assess an ad against ABAC standards. The Panel is to have regard to the probable impact of the ad upon a reasonable person, taking its content as a whole.
- 23 The Panel accepts that the complainant is very genuine in expressing their concern about the ad, however the test which the Panel is to apply in assessing the ad against the ABAC standards is how a 'reasonable person' would likely be impacted upon by the advertisement.
- 24 The section (d) standard has several elements, namely,
- the direct association between alcohol consumption; and

- the operation of a motor vehicle.

25 In this case, the association between the alcohol and use of a motor vehicle is that the advertisement can be viewed while driving along a highway. The advertisement, however, does not in its content depict any association between alcohol use and use of a motor vehicle. The ABAC does not limit advertising on billboards on roadsides, and the advertisement itself is not inconsistent with section (d) of the Code.

26 Section (a) creates a general standard for alcohol advertising to present a mature and responsible approach to alcohol consumption. Again, the concern of the complainant is probably more about the location of the advertisement than its content, although it is argued the advertisement promotes drink driving along a highway that has a high accident rate. The Panel does not believe the advertisement would be viewed by a reasonable person as promoting irresponsible use of alcohol.

27 Accordingly, the complaint is dismissed.