

ABAC

**ABAC Complaints Panel
Determination No: 111/08**

**CONFIDENTIAL COMPLAINT
Product: Bacardi
Advertiser: Bacardi-Lion**

Professor Elizabeth Dangar – Acting Chief Adjudicator
Professor Fran Baum – Member
Professor Richard Mattick – Member

2 December 2008

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a television advertisement for Bacardi-Lion (“the Advertiser”) and arises from a confidential complaint received on 28 October 2008.

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 ASB and the Panel both assess complaints separately under their own rules. However, for the ease of public access to the complaints system, the ASB receives all complaints about alcohol beverage advertisements and forwards a copy of all complaints to the Chief Adjudicator of the ABAC.

4. The Chief Adjudicator of the ABAC then determines if the complaint raises issues which are solely within the province of the AANA Code of Ethics. If not, then the complaint will be forwarded to the ABAC Adjudication Panel for consideration. If only AANA Code issues are raised, then the matter is determined by the ASB.
5. This complaint raises concerns under the ABAC and accordingly is within the Panel's jurisdiction.

The Complaint Timeline

6. The complaint is in the form of a confidential email received on 28 October 2008.
7. 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 has been determined within the 30 day 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. Pre-vetting approval was obtained for this advertisement [UL150/08].

The Advertisement

9. The complaint refers to a television advertisement for Bacardi Rum. The ad opens with the image of a bottle labelled Bacardi Superior being placed down onto a surface covered in water causing the water to splash up around it. The bottle of Bacardi then disappears and the water continues to splash up in time with a bass beat. The liquid then transforms into the shape of a man and on clapping his hands together the beat develops into a full-blown dance track. The virtual figure begins to move and is joined by another reddish brown coloured liquid figure in the shape of a woman. They dance energetically opposite each other as liquid splashes between and around them before fusing and forming into a glass of Bacardi and cola. That then changes to Bacardi and cranberry and then to Bacardi and lime. The ad closes with the voiceover "Bacardi made to mix" accompanied by a picture of a bottle of Bacardi Superior accompanied by the text "made to mix" in white lettering. On-screen text at the foot of the ad stated "Enjoy Bacardi responsibly ..."

The Complaint

10. The complainant argued that the ad:
 - (a) is sending out the message that Bacardi is a fun, party drink; and

- (b) promotes itself to the younger generation who will be impressed by the computer generated images and excited by the prospect of this much fun.

The Code

- 11. The ABAC provides that advertisements for alcohol beverages must-
 - (a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly-
 - (ii) must not encourage under-age drinking;
 - (b) not have a strong or evident appeal to children or adolescents and accordingly-
 - (i) adults appearing in advertisements must be over 25 years of age and be clearly depicted as adults;
 - (ii) children and adolescents may only appear in advertisements in natural situations (*eg* family barbecue, licensed family restaurant) and where there is no implication that the depicted children and adolescents will consume or serve alcohol beverages; and
 - (iii) adults under the age of 25 years may only appear as part of a natural crowd or background scene.
 - (c) not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment and, accordingly:
 - (i) must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;..

Arguments in Favour of the Complaint

- 12. In favour of the complaint it could be argued that the advertisement breaches section (a)(ii) and (b) of the ABAC Code by encouraging under-age drinking through a strong appeal to adolescents in its combined use of computer generated images, dance music and colourful and vibrant figures dancing and having a good time.
- 13. Further, it could be argued that the advertisement breaches section (c)(i) of the ABAC Code by suggesting the consumption of the product contributes to a change in mood and success by depicting fun and exciting party images associated with a glass of Bacardi.

The Advertiser's Comments

14. The Advertiser responded to the complaint and questions posed by the Panel by way of letter received 17 November 2008. The principal points made by the advertiser are as follows:
 - (a) The underlying message of this ad is Bacardi Superior's *mixability*: an ideal complement to a range of mixers including cola, cranberry, orange or soda. We believe that this message is delivered in a way that's mature, balanced and responsible while still giving us the opportunity to deliver this in an innovative and unusual way.
 - (b) The ad uses sophisticated imagery in conveying its message; imagery we believe is appropriate to our target audience of LDA-29. These are images designed to appeal to young adults, not to under-age drinkers. The music track was chosen specifically as its representative of tracks played in nightclubs rather than the sort of music heard on top 40 dance radio stations. The figures represent both Bacardi's Cuban heritage/love of life and its innate mixability in a way we regard as reasonable. The ad is not in fact especially colourful, other than the colour of the mixers and the vibrancy is quite restrained.
 - (c) This ad represents Bacardi Superior's functional benefits: flavour and mixability. It in no way suggests a change in mood brought about by consumption, nor does it implicitly suggest that Bacardi is fun and exciting. On the contrary, it promotes Bacardi's mixability in a responsible and adult way.

The Panel's View

15. The complaint raises two primary issues under the ABAC, namely whether the ad is encouraging under-age alcohol consumption and whether it is suggesting that alcohol consumption will create, or contribute to, a significant change in mood or environment and the achievement of success.
16. The complainant is concerned that the ad promotes itself to the younger generation "who will be impressed by the computer generated images and excited by the prospect of this much fun". The Advertiser argues that the ad's sophisticated imagery is appropriate to the target audience of young adults and that, similarly, the music is representative of tracks played in nightclubs rather than the sort of music heard on "top 40 dance radio stations".
17. The Panel notes the complainant's arguments but takes the view that the imagery and music are directed at young adults and are unlikely to hold a particularly strong or evident appeal for an audience under 18 years of age.
18. The second issue is whether the ad is consistent with section (c)(i) of the ABAC. This is the section which provides that alcohol ads are not to suggest that alcohol contributes to a significant change in mood or environment and the achievement of success.

19. The complainant argues that the ad suggests that Bacardi is fun and exciting. The advertiser argues that the ad represents Bacardi Superior's functional benefits of flavour and mixability in a responsible and adult way and does not suggest a change in mood brought about by consumption nor implicitly suggest Bacardi is fun and exciting. The Panel notes that the advertiser does not fully address the issue of whether the ad suggests Bacardi is fun and exciting but notes that the ad must depict the introduction of alcohol as causing a significant change in mood in order to breach the Code.
20. In applying the ABAC standards, the Code's preamble provides that conformity is to be assessed in terms of the probable impact of the ad upon a reasonable person, taking the ad's content as a whole.
21. The Panel is of the view that the atmosphere captured in the ad is fun and exciting but that this would be reasonably expected in such a dancing scenario. There is nothing in the Code which says that alcohol cannot be depicted in a situation where people are having a good time provided that there is no suggestion of irresponsible consumption or that the alcohol has created a change in mood or the achievement of success. It is not thought that either of these rulings is transgressed in this Bacardi ad.
22. Accordingly the complaint is dismissed