

ABAC

ABAC Complaints Panel Determination No: 35/05 & 36/05

IN THE COMPLAINT OF MS JANETTE MOSS & MR COLIN HEWETT

Product: Mid Strength Beer (“House Auction”)
Advertiser: Carlton & United Beverages

Professor The Hon Michael Lavarch – Chief Adjudicator
Professor Fran Baum – Member
Ms Jeanne Strachan – Member
Ms Liz Dangar - Member

1 September 2005

Introduction

1. This determination by the Alcohol Beverages Advertising Code Adjudication Panel (The Panel) concerns a television advertisement for the alcohol beverage ‘Mid Strength Beer’ by Carlton and United Beverages (The Advertiser) and arises from complaints received from Ms Janette Moss and Mr Colin Hewett (The Complainants).
2. The Advertiser is the producer of “Carlton Mid Strength” beer and has been advertising its product through a series of television advertisements under a theme described as ‘Stay a little Longer’. This series of advertisements have been the subject of a large number of public complaints. Since receipt of the complaints, which are the subject of this determination, the Advertiser has confirmed that it has withdrawn the series of television advertisements.
3. As is detailed below, all of the complaints have been received by the Advertising Standards Board (ASB) and assessed on the question of whether they raise issues under the Advertisers Code of Ethics. Each of the complaints has also been referred to the Chief Adjudicator of the Alcohol Beverages Advertising Code (ABAC) and assessed on the question of whether ABAC issues are raised. While the bulk of the complaints about the Advertiser’s campaign have raised only issues under the Code of Ethics, a number have raised matters under the ABAC.
4. This determination deals with those complaints raising ABAC issues with the advertisement described as “House Auction”. Specially, the complaints dealt with by this determination are:
 - Ms Janette Moss, email dated 9 June 2005
 - Mr Colin Hewett, email dated 20 June 2005.

The External Regulatory System

5. 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. Currently, alcohol advertising is subject to both:

- (a) a generic code (the AANA Advertiser Code of Ethics) with a corresponding public complaint mechanism operated by the Advertising Standards Bureau (ASB); and
 - (b) an alcohol specific code (the Alcohol Beverages Advertising Code) and the complaints mechanism established under the ABAC Scheme.
6. The ASB and the ABAC 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.
 7. 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.
 8. The complaints specifically raise concerns under the ABAC and accordingly are within the Panel's jurisdiction.

The Complaint Timeline

9. The complaints are in the form of:
 - An email from Ms Janette Moss dated 9 June 2005 and received by the ABAC Adjudication Panel on 18 July 2005.
 - An email from Mr Colin Hewett dated 20 June 2005 and received by the ABAC Adjudication Panel on 18 July 2005.
10. The Panel endeavours to determine complaints within 30 days of receipt of the complaint, but this timeline depends on timely receipt of materials and advice and the availability of Panel members to convene and decide the issue. In this case, the advertisement in question and related advertisements in the same series prepared by the Advertiser have attracted multiple complaints. It was considered best to group the complaints and deal with them in an all inclusive determination rather than produce a series of determinations in response to each individual complaint.
11. The Panel did not receive the complaints from the ASB until a little time after they had been made. By this time, advice from the advertiser was that all of the advertisements in the series had been withdrawn in light of the large number of complaints which the advertisements had attracted. In these circumstances, the 30 day timeframe is not as important, but the Panel considered it valuable to proceed with a determination for precedential and educational purposes.

Pre-vetting Clearance

12. The external-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 granted to the advertisement (JB49/04CM).

The Advertisement

13. The complaints are about a television commercial for Carlton & United Beverages' Mid Strength Beer.
14. The advertisement commences with the scene of a real estate auctioneer and his assistant standing on a raised platform in front of a residential property and an auction sign which is placed at the entrance to the property. The auctioneer faces a crowd of potential bidders for the property, points to the auction sign and draws the crowd's attention by announcing the auction open and calling for bids to get the process underway.
15. The view cuts to a male bystander who looks around the crowd and smiles as if he has taken his cue before raising his hand shouting "one fifty". The auctioneer immediately shouts "Sold. Congratulations sir!" and runs from the platform into the crowd. The view cuts to the male bystander who looks shocked that the bid has been accepted and, while looking around at the surrounding crowd, seems confused about what is happening and what to do.
16. The scene then shows the auctioneer racing through the crowd and he pushes his way past two startled female bystanders on the footpath to grab a second auction sign. The auctioneer then continues to move across the road to his parked car. He fumbles frantically to open the car door and to throw the sign into the vehicle.
17. The scene then moves to the familiar shot of three bottles of the product being placed down on a timber table at a beach bar. A wider shot shows the auctioneer character drinking the alcohol product, laughing and relaxing with his mates. The soundtrack opens fully into the signature tune, 'Stay a little bit longer'.
18. The advertisement concludes with a product shot of the Mid Strength beer bottle.

The Complaints

19. Ms Moss argues that the advertisement depicts a young man prepared to "do anything to get to his mates as fast as he can to get a beer and drink beer at whatever cost to anyone else". She goes on to make the point that the advertisement is irresponsible in that it shows alcohol being more important than treating people with respect, and doing a job properly.
20. Mr Hewett makes similar points about the "total irresponsibility in order to go and drink beer". He argues that allowing the advertisement (and the others in the series) is a double standard, given governmental and media emphasis on avoiding the damage caused by "binge drinking and the like".

The Code

21. The ABAC provides at Section (a) that advertisements for alcohol beverages must:

- (a) present a mature, balanced and responsible approach to the consumption of alcohol beverages and, accordingly:
- (i) must not encourage excessive consumption or abuse of alcohol;
 - (ii) must not encourage under-age drinking;
 - (iii) must not promote offensive behaviour, or the excessive consumption, misuse or abuse of alcohol beverages;
 - (iv) must only depict the responsible and moderate consumption of alcohol beverages.

Arguments in Favour of the Complaint

22. In favour of the complaints, it can be argued that the advertisement depicts poor behaviour and a dependency on alcohol. The work ethic depicted by the character is immature and irresponsible, promoting the character's lazy, sloppy and irresponsible attitude towards the value of the transaction that he has been employed to conduct because of his eagerness to drink alcohol.

The Advertiser's Comments

23. The Advertiser responded to the complaints and questions posed by the Panel by way of email letter dated 10 August 2005. Key points made by the Advertiser were:
- The advertisement was part of a long-running campaign based around 'blokes doing mischievous things to "stay a little longer" with their mates';
 - The advertisement uses humour to move from a real life scenario to an area of fantasy, parody and comedy and was not intended to be taken at face value and in fact were so exaggerated as to be clear that it was not be interpreted literally;
 - It was expressly rejected that the advertisement implied the auctioneer character had an alcohol dependency. It was pointed out that the product was a reduced alcohol beer and little beer consumption is portrayed in the advertisement;
 - It is not suggested that a viewer should mirror the behaviour shown, and the scenario is so exaggerated and comedic in nature that a reasonable viewer would not take the advertisement as suggesting real life actions;
 - The Advertiser confirmed that the campaign was "voluntarily" withdrawn and has not been broadcast since the end of June 2005.

The Panel's View

24. The Panel has been called upon to make determinations on three previous advertisements in the "stay a little longer" series of television advertisements for Carlton Mid-Strength Beer. This particular determination is being considered by the Panel in conjunction with a fifth determination on another

advertisement in the same series. The series as a whole attracted a very large number of public complaints.

25. It should be noted that the vast majority of the complaints received about the series of advertisements raised issues of good taste and general offensiveness, which are matters subject to the Advertiser Code of Ethics and not the ABAC. The ASB therefore, and not this Panel, determined the great majority of complaints about the advertising campaign;
26. The role of this Panel is to make determinations about those complaints which raise issues under the ABAC. The relevant provision of the ABAC brought into focus by the complaints of Ms Moss and Mr Hewett is Section (a) which goes to the responsible consumption of alcohol beverages.
27. The Panel is called upon to make a similar judgment to that which arose in Determinations 05/13 and 05/12, but against the particular facts of this particular advertisement. As in the previous two (2) Determinations, the essential decision turns on whether the advertisement is to be seen as presenting an irresponsible approach to the consumption of alcohol in the breach of the terms of Section (a). This in turn requires assessment of the advertisement as a whole and its probable impact upon a reasonable person;
28. The Panel believes that the advertisement does not breach the ABAC and in reaching this conclusion the Panel has noted:
 - The scenario is highly exaggerated and cannot be taken by a reasonable person to be advocating actual behaviour;
 - The advertisement is clearly attempting to be humorous and, while this alone will not save an advertisement which is otherwise in breach of the ABAC, it is a factor to be taken into account in assessing the impact of the advertisement on a reasonable viewer;
 - The behaviour of the main character, while if taken literally displays poor regard to the duty owed by an auctioneer to a vendor, is less “offensive” than that featured in other advertisements in the series such as the “pallbearers” and “furniture van” advertisements. In this way, the humorous context of the advertisement is more readily accepted as explaining the behaviour.
29. Accordingly, the complaint is dismissed.