

ABAC

**ABAC Complaints Panel
Determination No: 68/07**

COMPLAINT by Colin Richardson

**Product: Victoria Bitter
Advertiser: Foster's Group**

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

**DETERMINATION
3 October 2007**

Introduction

1. This determination by the Alcohol Beverages Advertising Code (“ABAC”) Adjudication Panel (“The Panel”) concerns a complaint about a billboard advertisement for VB by Foster’s Group Ltd (“The Advertiser”).

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 Advertising Code of Ethics which includes provisions about the content of Billboard advertising in specific locations.
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. The 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 an email dated 28 August 2007 which was received by the ABAC Adjudication Panel on 29 August 2007.
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. In this case the complaint has been determined within that 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 advertisement was subject to pre-vetting and given approval (JB19A/07VBM).

The Advertisement

9. The complaint concerns a billboard for VB located beside the Newell Highway approximately halfway between Tomingley and Peak Hill, on the right, when driving south.
10. The advertisement has a yellow (beer coloured) background covered in condensation bubbles with the words "Slip. Slop. Slurp." in black with a white outline and white ice and condensation bubbles on each letter on three lines at the top.
11. Underneath these words (or next to them in another version of the billboard) and held by a hand at a slight angle is an unopened bottle of VB Midstrength Lager with pieces of ice on the bottle as if it has just been taken out of ice.
12. At the bottom of the advertisement are the words "The best cold beer." in smaller black lettering. There are also the words "Enjoy responsibly" in smaller black lettering and a symbol representing 1.0 standard drinks".

The Complaint

13. The Complainant argues the advertisement is suggesting that the consumption of VB Midstrength Lager offers a therapeutic benefit, namely rehydration, by depicting a combination of:
 - The slogan "Slip. Slop. Slurp", being a variation of the well known sun protection slogan, "Slip. Slop. Slap." thereby suggesting that drinking the product is a suitable, even healthy, thing to do while in the sun; and

- The slogan “The best cold beer” together with an image of a stubby of VB Midstrength Lager that appears to have been taken out of ice thereby suggesting that it is a suitable drink on a hot day.

The ABAC

15. The ABAC provides at section (c) that advertisements for alcohol beverages must not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment and, accordingly:

- (iii) must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or is a necessary aid to relaxation;

Arguments in Favour of the Complaint

16. In favour of the complaint, it can be argued that:

- The advertisement may breach section (c) (iii) of the Code by suggesting that VB has therapeutic benefits, namely rehydration, by its play on the sun safety campaign slogan of “slip, slop, slap”.

The Advertiser’s Comments

17. The Advertiser responded to the complaint by way of a letter sent by email on 20 September 2007. The principal points made by the Advertiser were:

- The outdoor advertisement was featured in several states and is no longer in market.
- They refute the suggestion that the ad is implying consumption has a therapeutic benefit – there are no health messages conveyed and the play on the words “Slip, slop, slap” merely underpins the fact that an ice cold VB Midstrength on a hot day (the annual peak volume period for beer is Nov to March) is a common form of refreshment. The fact that VB Midstrength is a low alcohol beer (defined by the ABAC as a beverage of 3.8% ABV or less) also helps convey the message of refreshment, as well as responsible consumption (emphasised by the clear illustration of the number of standard drinks – in this case one).
- The play on words relating to “Slip, slop, slap” is delivered in VB’s typical humour and we would assert that a reasonable person to whom this advertisement is directed (in this case, males aged 24 to 54) would understand the context of the tagline in relation to an ice cold, refreshing, low alcohol beer – especially when the advertisement is reviewed as a whole rather than the tagline being reviewed in isolation.

The Panel’s View

18. The complaint turns on the argument of whether the advertisement’s play on the well-known sun safety campaign theme of “slip, slop, slap” suggests that the product offers “any therapeutic” benefit and hence breaches the standard in section (c) (iii) of the ABAC.

19. In assessing the conformity of an advertisement to the standards set out in the ABAC, the Panel is to apply the test of the probable impact of the advertisement upon a reasonable person within the class to whom the ad is communicated or likely to be communicated, taking the contents of the ad as a whole. To support the complainant's contention, a viewer of the billboard would firstly have to be familiar with the sun safety campaign in order to "get" the reference and then, secondly, take the ad as suggesting the product has a therapeutic benefit.
20. The Panel accepts that, although it has been some time since the "slip, slop, slap" campaign featured heavily in advertising, it was a very well-known campaign and many viewers of the billboard would understand the play on the sun safety slogan. The advertiser would not have used the reference unless it also believed many, if not most, viewers would understand the association.
21. That said, would a reasonable person take the ad as suggesting the product has a therapeutic benefit by being a "suitable, even healthy" product to consume while in the sun, as contended by the complainant? The advertiser argues that this is not how the ad would be taken, but rather that a viewer would interpret the ad as humorous.
22. Many ads, including alcohol ads, use humour as an advertising device. In previous determinations the Panel has held that humour is a factor to be taken into account in assessing the ad as a whole; however, humour of itself will not immune an ad from being in breach of an ABAC standard if the overall assessment of the impact of the ad is that it is inconsistent with a relevant ABAC provision. Each case has to be judged on its own merits.
23. In this case, the Panel does not believe the ABAC standard has been breached. In the Panel's view, a reasonable person will take the ad as being a light-hearted parody of the sun safety campaign, which is not suggesting the product has a health benefit.
24. Accordingly, the complaint is dismissed.