



ABAC Adjudication Panel Determination No. 6/16

Product: Schweppes & Johnnie Walker
Company: Schweppes Australia Pty Ltd/Diageo Australia Limited
Media: Television
Complainant: Confidential
Date of decision: 8 February 2016
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Ms Debra Richards
Professor Richard Mattick

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) concerns a joint television advertisement for Schweppes and Johnnie Walker by Schweppes Australia Pty Ltd (“Schweppes”) and Diageo Australia Limited (“Diageo”) and arises from a complaint received 5 January 2016.
2. Alcohol marketing in Australia is subject to an amalgam of laws and codes of practice, that regulate and guide the content and, to some extent, the placement of marketing. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol marketing as quasi-regulation. The most important provisions applying to alcohol marketing are found in:
 - (a) Commonwealth and State laws:
 - Australian Consumer Law – which applies to the marketing of all products or services, and lays down baseline requirements, such as that marketing must not be deceptive or misleading;
 - legislation administered by the Australian Communications and Media Authority – which goes to the endorsement of industry codes that place restrictions on alcohol advertising on free to air television;
 - State liquor licensing laws – which regulate retail and wholesale sale of alcohol, and contain some provisions dealing with alcohol marketing;
 - (b) Industry codes of practice:

- AANA Code of Ethics – which provides a generic code of good marketing practice for most products and services, including alcohol;
 - ABAC Responsible Alcohol Marketing Code (“ABAC”) – which is an alcohol specific code of good marketing practice;
 - certain broadcast codes, notably the Commercial Television Industry Code of Practice – which restricts when advertisements for alcohol beverages may be broadcast;
 - Outdoor Media Association Code of Ethics – which places restrictions on the location of alcohol advertisements on outdoor sites such as billboards.
3. Within this framework, some of the requirements go to the placement of alcohol marketing, while others go to the content of the marketing. The ABAC is a content code, which means the standards of good marketing practice within the Code apply irrespective of where the marketing occurs (e.g. in print, in digital formats, or by broadcast mediums). Equally, the fact that the marketing is placed in a particular medium or in a particular location will not of itself generally be a breach of the ABAC. In contrast, the placement codes applying to outdoor sites or free to air television don’t go to what is contained within alcohol marketing but the codes will be potentially breached if the marketing occurs at particular timeslots or is placed near a school.
 4. For ease of public access, the Advertising Standards Bureau (ASB) provides a common entry point for alcohol marketing complaints. Upon a complaint being received by the ASB, a copy of the complaint is supplied to the Chief Adjudicator of the ABAC.
 5. The complaint is independently assessed by the Chief Adjudicator and the ASB and streamed into the complaint process that matches the nature of the issues raised in the complaint. On some occasions, a single complaint may lead to decisions by both the ASB under the AANA Code of Ethics and the ABAC Panel under the ABAC if issues under both Codes are raised.
 6. The complaint raises concerns under the ABAC Code and accordingly is within the Panel’s jurisdiction.

The Complaint Timeline

7. The complaint was received on 5 January 2016.
8. 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

9. The quasi-regulatory system for alcohol beverage marketing features independent examination of most proposed alcohol beverage marketing communications against the ABAC prior to publication or broadcast. Pre-vetting approval was obtained for this marketing communication (13639).

The Marketing Communication

10. The complaint refers to a 15 second television advertisement for Schweppes that included a Diageo product and is part of a campaign called "This calls for a cocktail".

The Pride and Joy

11. The advertisement opens with a man oiling his deck as the words "Pimped the deck" appear on the screen.
12. The scene then changes to a midriff shot of a man standing at a kitchen counter with ingredients in front of him, including limes, a lemon, mint, berries, various Schweppes products, a bottle of Johnnie Walker and a bottle of Tanqueray Gin as the words "This calls for a cocktail" appear on the screen. A bell sounds and the man rubs his hands together.
13. The scene returns to the deck as the text "Lets Mix "The Pride and Joy"" and a drawn picture of a cocktail is superimposed on the scene.
14. There is then a series of scenes in quick succession:
 - a) a bottle of Johnnie Walker Red Label Scotch Whisky with the superimposed text "30ML";
 - b) hands twisting an ice cube tray;
 - c) a pineapple sliced in half to accompanying sound effects with the superimposed text "Pineapple";
 - d) an orange being cut into segments "Orange";
 - e) the lid of a bottle of Schweppes lemonade being opened with the superimposed text "Pour"; and
 - f) the Schweppes lemonade being poured into a glass filled with cocktail ingredients with a bottle of Johnnie Walker and sliced pineapple in the background.
15. We then see a group of people at an informal barbecue standing on a deck as the text "Epic" is superimposed on the screen.
16. In the final scene we see a bottle of Johnnie Walker Red Label, a bottle of Schweppes lemonade, two cocktails and sliced pineapple on a chopping board all on the kitchen bench with the Johnnie Walker logo, a plus sign, the

Schweppes logo, and the text “The Pride and Joy” superimposed on the screen. At the bottom of the screen is the Drinkwise, get the facts logo and the text “Contains 1 Standard Drink”.

The Complaint

17. The complainant is concerned that the advertisement promotes alcohol consumption in a ‘reward’ manner that is offensive.

The ABAC Code

18. Part 3 of the ABAC Code provides that a Marketing Communication must NOT:
 - (a)(i) show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines;

The Company’s Response

19. Diageo responded to the complaint by letter dated 13 January 2016. The principal points made by Diageo were:
 - a) We would like to take this opportunity to make some general comments about the advertisement for consideration by the Panel and to respond to your specific questions. We also wish to confirm our longstanding support and commitment to upholding the ABAC Responsible Alcohol Marketing Code (ABAC), as well as our best-practice global marketing standards, the Diageo Marketing Code (DMC).
 - b) ‘This Calls for a Cocktail’ is a joint advertising campaign between Schweppes Australia & Diageo Australia. It was created by GPY&R with television media booked through Carat Australia (Melbourne). Both GPY&R and Carat are employed by Schweppes Australia, not Diageo. All production and media costs were jointly funded for the life of the campaign period; November 2015 – January 2016. The campaign consists of multiple advertisements.
 - c) The television advertisement in question is called “The Pride and Joy” featuring Johnnie Walker Red Label Scotch Whisky and Schweppes Lemonade, and therefore our response relates to this advertisement.
 - d) The ‘This Calls for a Cocktail’ campaign has been created to help 25-54 year old adults overcome their lack of confidence in mixing simple cocktail serves whilst breaking the cultural convention that cocktails should be saved for ‘special occasions’. The advertisements throughout the campaign feature four Diageo brands (Johnnie Walker, Smirnoff, Tanqueray and PIMM’s) and a variety of Schweppes mixers.
 - e) The “The Pride and Joy” advertisement opens with stock footage of a middle-aged man oiling his deck with the words “Pimped the deck”

appearing. The following frame shows a man in his kitchen clapping his hands together ready to mix a drink with the campaign headline “This Calls for a Cocktail” appearing on screen. The next frame reads “Let’s Mix “The Pride and Joy”” (“The Pride and Joy” being the name of the cocktail) followed by a number of quick shots showing the ingredients of the cocktail coming together to create the drink, including 30ml Johnnie Walker Red Label. It then moves on to another piece of stock footage showing a social barbecue occasion, with family/friends preparing a meal together on the finished deck with the word “Epic” appearing over the top. The final frame shows the completed cocktail and a bottle of Johnnie Walker and Schweppes Lemonade under the text “The Pride and Joy”. The DrinkWise logo and a statement that the beverage contains one standard drink appear below the cocktail and bottles.

- f) Part 3 (a)(i) of the code refers to the misuse of alcohol. Diageo believes that the advertisement in no way implies the misuse of alcohol by suggesting that alcohol should be a reward for a job completed, such as oiling a deck. Rather, the advertisement is in line with the campaign purpose, which seeks to break the cultural convention that cocktails should be saved for ‘special occasions’.
- g) The advertisement does not seek to imply that the cocktail is a “reward for a job completed”. The end result or “reward for a job completed” is being able to enjoy the finished deck for entertaining purposes (as shown at 10 seconds). To the man who oiled the deck, the deck is his “Pride and Joy” and he sets out to show it off to and share it with his family/friends.
- h) The consumption occasion portrayed in the advertisement is low tempo and social. Food is included at the occasion, with a man shown to be cooking food on the barbecue whilst others set bowls of food down on the outdoor dining table. The humour lies in the fact that this is not typically a special occasion, but rather a good excuse to gather friends and family together to enjoy good food and a simple cocktail in celebration of the finished deck. The advertisement in no way implies that alcohol should be consumed in an irresponsible manner.

The Panel’s View

- 20. The complaint concerns a television advertisement for Schweppes soft drinks, and Diageo alcohol products, particularly Johnnie Walker Whiskey.
- 21. The complainant believes the advertisement is inappropriate as it promotes alcohol use as a “reward” for the task of a homeowner oiling a wooden deck.
- 22. The relevant ABAC standard is section (a)(i) which provides that an ad must not encourage the misuse of alcohol. The question for the Panel is whether the advertisement actually depicts alcohol as a reward for work completed and, if so, is this encouraging a misuse of alcohol.
- 23. In assessing if an advertisement is consistent with an ABAC standard, the Panel is to have regard to the probable understanding of the advertisement by a reasonable person, taking the content of the advertisement as a whole. The

reference to a “reasonable person” means the opinions, values and attitudes held in a majority of the community is to be the benchmark.

24. The Panel does not believe the advertisement can fairly be interpreted as an encouragement of the misuse of alcohol. Depiction of the modest consumption of an alcoholic beverage, either as part of a family occasion as argued by Diageo or even following the completing of the job of oiling the deck, is not inconsistent with ABAC standards.
25. Accordingly the complaint is dismissed.