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Disciplines
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The Decline of Ethics or the Failure of Self-Regulation? The Case of Alcohol Advertising

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Abstract

Restrictions on alcohol advertising have increasingly become an issue for debate around the world. Some countries rely on governmental regulation; whereas others, including Australia, utilise a system of industry self-regulation. This study calls into question the effectiveness of the alcohol beverage industry's self-regulation of advertising.

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It is important to note that consumers who contact the ASB, prior to submitting a written complaint, are provided with copies of recent decision records, namely 11 out of 11 complaints refused; one can readily surmise that this information would discourage many potential complainants. This inhibitory practice, as well as our "failure to replicate" the ASB's decisions, lead us to question whether ethical responsibility is being met by the self-regulatory system for alcohol advertising.

INTRODUCTION

Ethics and advertising

Advertising deception and unacceptable advertising content have been addressed in detail by many writers (for a review, see Nebenzahl & Jaffe 1998). The 1997 Vatican statement on ethics in advertising postulated three principles for the adjudication of the ethics of advertising: (1) A principle of truthfulness; (2) A principle of human dignity; and (3) A principle of social responsibility. These principles have previously been brought to the attention of the advertising community, and are generally accepted (eg Laczniak 1998).

Alcohol Advertising – government- or self-regulation?

Restrictions on alcohol beverage advertising have increasingly become an issue for debate in Australia and around the world. Some countries have taken the step of imposing time and location limits on alcohol advertisements; for example, the Netherlands and France (Sheldon 2000; Michalczyk 1999) . Other countries, including the UK and Australia, have instead chosen to focus on self-regulation.

The purported benefits of self-regulation include: being less adversarial; allowing small businesses to act against deceptive advertising of larger companies; and, perhaps most importantly, forestalling more onerous government regulation (Davidson 1997; Whittelsey 1998). But, the question for the consumer remains: does self-regulation ensure that the community is protected from breaches of the three principles set out above?

Regulation of Alcohol Advertising in Australia

Since 1992, the Australian alcohol industry has run a pre-launch "vetting" system for alcohol advertisements; and proudly proclaims that this has resulted in a dramatic reduction in complaints, at least between 1990 and 1993 (Pearson 1999).

In practice, two presumably complementary industry self-regulation codes apply to alcohol advertisements. Following the demise of the Advertising Standards Council in 1996, the major industry body, the Australian Association of National Advertisers (AANA), developed the Advertiser Code of Ethics (which applies to all forms of advertising), and established the Advertising Standards Board (ASB) and the Advertising Claims Board (ACB) to deal with complaints and breaches of the code. The AANA additionally allowed the alcohol industry to separately develop its own code, the Alcoholic Beverages Advertising Code (ABAC), and its own complaints management system, the Alcoholic Beverages Advertising Code Complaints Adjudication Panel. This Panel reports to the Alcoholic Beverages Advertising Code Management Committee which is responsible for overseeing the ABAC. Both the Alcoholic Beverages Advertising Code and the complaints management system operate under the structure developed by the AANA.

The relevant sections of the AANA Code specify that advertisements shall:

2.1 not portray people in a way which discriminates or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief;
2.2 not present or portray violence unless it is justifiable in the context of the product or service advertised;
2.3 treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant program time zone;
2.5 use only language which is appropriate in the circumstances and strong or obscene language shall be avoided;
2.6 not depict material contrary to prevailing community standards on health and safety.

The ABAC states that advertisements for alcohol must –

(A) present a mature, balanced and responsible approach to consumption of alcohol beverages and,
(i) must not encourage excessive consumption or abuse of alcohol;
(ii) must not encourage underage drinking; and
(iii) must not promote offensive behaviour or the excessive consumption, mis-use or abuse of alcohol beverages;
(B) not have a strong or evident appeal to children or adolescents and accordingly…;
(C) not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment, accordingly
(i) must not depict the consumption or presence of alcohol beverages as a cause for or contributing to achievement of personal, business, social, sporting, sexual or other success;
(ii) if alcohol beverages are depicted as part of a celebration, must not imply or suggest that the beverage was a cause of or contributed to success or achievement; and
(iii) must not suggest that the consumption of alcohol beverages offers any therapeutic benefit or as a necessary aid to relaxation;
(D) not depict any association between the consumption of alcohol beverages other than low alcohol beverages and the operation of a motor vehicle, boat, or aircraft, or the engagement in any sport (including swimming and water sports) or potentially hazardous activity and accordingly
(i) any depiction of the consumption of alcohol beverages in connection with the above activities must not be represented as having taken place before or during engagement of the activity in question and must in all cases portray safe practices; and
(ii) any claim concerning safe consumption of low alcohol beverages must be demonstrably accurate;
(E) not challenge or dare people to drink or sample a particular alcohol beverage, other than low alcohol beverages, and must not contain any inducement to prefer an alcohol beverage because of its higher alcohol content; and
(F) comply with the Advertiser Code of Ethics adopted by the AANA.

Individuals who believe an advertisement is in breach of advertising standards are able to lodge a formal complaint with the Advertising Standards Board which, in the case of alcohol advertisements, passes the complaint on to the ABAC Complaints Adjudication Panel for determination. Eleven alcohol advertising complaints were lodged with the ASB between May 1998 and April 1999. These complaints related to nine separate advertisements.

THE STUDY

Five expert judges were selected to review the 11 advertising complaints (presented as 9 cases - ie 9 separate ads). The judges were: a male Professor of Marketing and expert in advertising; a US-based male Professor of Marketing and expert in advertising psychology; a female Associate Professor of Marketing; a female senior lecturer in marketing; and a male Professor and Director of the National Drug Research Institute. The judges were presented with the description of each advertisement and the complaint or complaints as provided by the Advertising Standards Board (ASB, 1999). The judges were not told of the ASB decisions.

The judges were asked, in relation to each complaint, to determine whether the advertisement breached any of the clauses of the AANA or ABAC. Reliability of the judgments was assessed using Rust & Cooil's (1994) proportional reduction in loss (PRL) reliability measure. This is a measure of reliability which takes into account the number of judges, number of categories, and proportion of inter-judge agreement to determine the reliability of the judgements. Table 1 sets out the PRL reliability of the judges' responses to the complaints; using Rust and Cooil's (1994) rule of thumb of a PRL level of .70 for exploratory work and .90 more advanced marketing research practice, it can be seen that, in relation to 6 of the 9 ads – and the set of ads overall – the judgements meet the requirements of reliability. Whilst it may be expected that the Professor of Alcohol Research would be more conservative than those in marketing, there was only one case in which he was the sole judge reporting a breach – and in the other case a sole "breach" judgement was made by a Marketing Professor.

Table 1: Judges' Responses & PRL

Complaint	Section(s) Breached	# judges (of n=5) reporting breach	PRL	Reliability
36/98 and 88/98	2.3 AANA	3	0.4	<0.50
186/98	2.5 AANA	4	0.6	0.73
257/98 and 15/99	2.3 AANA	5	1.0	1.00
268/98	2.3 AANA	5	1.0	1.00
269/98	-	1	0.6	0.73
324/98	-	1	0.6	0.73
73/99	2.3 AANA	3	0.4	<0.50
81/99	C(iii) ABAC	5	1.0	1.00
94/99	2.1 AANA	3	0.4	<0.50
TOTAL			0.6	0.87

It is important to note, however, that unanimous agreement is unlikely (although it was reached in 3 of the 9 cases), and that the final outcome of complaints will depend on the decision rule applied (eg majority decisions?) The advertisements, complaints, judges' responses, and ASB's decisions:

Complaint Numbers 36/98 and 88/98 - This is a series of three print advertisements for Bimbagden Estate wines. Each advert consists of six identical photographs showing either (1) the side view of a naked shoulder, arm and part of the breast of a woman; (2) the the side view of a naked shoulder, arm and part of the chest and abdomen of a man; or (3) the naked back and upper buttocks of a woman. The Bimbagden Estate logo and the names of retail outlets which stock the product are tattooed on the persons' body.
The Complaints: (1) "What connection has a blatant representation of six female breasts with the selling of wine?…" (2) "…the slow but relentless march of sexual licence being thrust upon society by the advertising industry…"
Judges' Verdicts: 3 of the 5 judges felt these ads were in breach of clause 2.3 AANA; additionally, 2 felt they were also in breach of 2.1 AANA and 1 in breach of C(i) of ABAC.
The ABAC Verdicts: COMPLAINTS DISMISSED.

Complaint Number 186/98 - This print advertisement for Scrumpy Jack alcoholic cider has a photo of actor Jack Palance, text reads "Jack Palance's management wish to make it perfectly clear he does not endorse 'Scrumpy Jack' in any way shape or form. Suggest otherwise and he'll punch your fu (next letters obscured by a bottle of Scrumpy Jack) in' head in!"
The Complaint: "The advertisement…is obviously inappropriate".
Judges' Verdicts: 4 of the 5 judges felt this ad was in breach of clause 2.5 of AANA; additionally, 1 felt it was also in breach of 2.2 of AANA.
The ABAC Verdict: COMPLAINT DISMISSED.

Complaint Numbers 257/98 and 15/99 - There are several versions of this print advertisement for Antipodean wine. All versions feature a small photograph of the top of a wine bottle, and the plastic/foil on the top of the bottle is striped. Other photographs in the ad (depending on the version) include a profile of a man with his sideburns shaved into stripes; the back of a man's head with his hair shaved into stripes; and a woman's lower abdomen with her pubic hair shaved into stripes. The ads were run in magazines including Rolling Stone and Elle.
The Complaints: (1) "…graphics of a woman's shaved pubic hair…breaches industry codes of practice"; and (2) "..not only is the as campaign offensive but it is blatantly sexist".
Judges' Verdicts: All 5 of the judges felt this ad was in breach of clause 2.3 of AANA; additionally, 1 felt it was also in breach of 2.1 of AANA and 1 in breach of C(i) of ABAC.
The ABAC Verdict: COMPLAINTS DISMISSED.

Complaint Number 268/98 - This animated TV ad for Finlandia Vodka takes place in a nightclub and includes such scenes as a woman crawling along the bar top to a man and them stroking his abdomen in a downward direction, two women dancing together and kissing on the lips, and a man and a woman dancing intimately together.
The Complaint: "… horrified that such sexual overtures would be put on television, obviously targeting the young…it was aired during a PG rated movie "Jumanji".
Judges' Verdicts: All 5 of the judges felt this ad was in breach of clause 2.3 of AANA; additionally, 2 felt it was also in breach of A(ii) of ABAC and 2 in breach of C(i) of ABAC.
The ABAC Verdict: COMPLAINT DISMISSED.

Complaint Number 269/98 - This television advertisement for Strongbow cider opens on a scene in rural China were an agitated Chinese man is talking on the phone, the camera then moves "through the Earth" to Australia where a man is trying to talk on the phone in a noisy pub. He calls out to the crowd that they will have to quiet down as neighbours are complaining again.
The Complaint: "I find this ad racist and offensive...perpetuate the ridiculous and insulting comical stereotype of the chattering Asian…entirely ignored by a white crowd".
Judges' Verdicts: 4 of the 5 judges felt this ad was not in breach; 1 felt it breached 2.1 of AANA.
The ABAC Verdict: COMPLAINT DISMISSED.

Complaint Number 324/98 - In this second animated TV ad for Strongbow cider, a woman seated at the bar is approached by a beast and asked for a light. She takes a swig of her drink, lights her lighter, exhales and he goes up in flames.
The Complaint: "Even though the ad is a cartoon …surely the advertising agency can find better ways of promoting this product than as a fire accelerant".
Judges' Verdicts: 4 of the 5 judges felt this ad was not in breach of either code; 1 felt it was in breach of 2.3 and 2.6 of AANA.
The ABAC Verdict: COMPLAINT DISMISSED.

Complaint Number 73/99 - This television ad for Fourex Bitter beer commences with a ute bouncing up and down on the side of the road. Man A peers out of the ute as a train rushes by and Man B jumps of the train, only to be pulled back inside again. The woman inside the ute asks Man A what's wrong, to which he replies "I don't know, but I reckon that guy could do with a Fourex". The woman agrees and the ad concludes with a close-up of a Fourex lid spinning and the sound of the ute bouncing up and down.
The Complaint: "find this form of advertising highly offensive…shown between 8.30 and 9.30pm..due to the innuendo of the bouncing ute…"
Judges' Verdicts: 3 of the 5 judges felt this ad was in breach of clause 2.3 of AANA; one felt it was also in breach of A(iii) of ABAC.
The ABAC Verdict: COMPLAINT DISMISSED.

Complaint Number 81/99 - This radio ad for Bundaberg Rum has the following script: "You go to the dentist for a check up and he ends up doing more construction work than the Sydney Olympics…Do you (a) go back to work speaking like the elephant man? (b) dribble all over your boss? or (c) stick to a liquid diet and have a Bundy and cola for dinner…see you can solve anything with a Bundy and cola"
The Complaint: "…Australian society has enough trouble with alcohol abuse…without encouraging alcohol as a cure-all for all life's hassles especially physical pain".
Judges' Verdicts: All 5 of the judges felt this ad was in breach of clause C(iii) of ABAC; additionally, 1 each felt it was also in breach of A(i) of ABAC, E of ABAC, 2.3 of AANA, and 2.6 of AANA.
The ABAC Verdict: COMPLAINT DISMISSED.

Complaint Number 94/99 - This television ad for Tooheys New beer opens with two men in a country pub in a strange town, wondering where their friend Dave is. We then see Dave in a confessional where, by the nature of his questions, he obtains from the priest the names of three beautiful young local women. He then rejoins his mates at the pub and says he went "pretty good…got three names for us".
The Complaint: "…can only be described as an offensive parody of the Sacrament of Reconciliation…ridicules the confidentiality & trust…infer a Priest would give out names.."
Judges' Verdicts: 3 of the 5 judges felt this ad was in breach of clause 2.1 of AANA; 1 felt it was also in breach of 2.2 of AANA.
The ABAC Verdict: COMPLAINT DISMISSED.

CONCLUSIONS AND IMPLICATIONS

The ASB ruled that these 1998-1999 advertisements did not breach either of the two industry codes regulating alcohol advertising. Our results, for the same advertisements, using a defensible set of experts to judge the ads in relation to the codes, suggest that for at least seven of the nine ads, the ASB showed a pro-advertiser bias. The ads would escape regulation only if the ASB's decision rule required for a breach decision is total unanimity of the panel. In most of our judges' opinions, there is irresponsible or socially offensive behaviour depicted in seven of nine ads that became public campaigns. If an industry self-regulation system, such as that of the ASB, is to work, justification for rulings must be reported and made publicly available, and also, in the apparently frequent cases of disagreement by the experts, a fair decision rule should be specified and adhered to. We suggest that a 50%+ majority rule, if applied, would preclude alcohol advertisements that to most Australians are irresponsible or socially offensive.

References:

ASB (1990) Alcohol advertising complaint decision records, several (photocopies), Canberra, Advertising Standards Board.

Davidson, Kirk (1997) Self-regulation by ad groups is a right move, *Marketing News*, 31 (3), 11-12.

Nebenzahl, Israel & Jaffe, Eugene (1998) Ethical dimensions of advertising executions, *Journal of Business Ethics*, 17(7), 805-815.

Michalczyk, Imelda (1999) Alcohol ads may suffer the same fate as tobacco, *Marketing*, November 4, 17-18.

Pearson, Gail (1999) Disbanding an effective system for self-regulation of advertising: beyond the Media Council of Australia, *Journal of Consumer Policy*, 22, 331-360.

Rust, Roland & Cooil, Bruce (1994) Reliability measures for qualitative data: theory and implications, *Journal of Marketing Research*, 31, 1-14.

Sheldon, Tony (2000) Dutch tighten their rules on advertising of alcohol, *British Medical Journal*, 320 (7242), 1094.

Whittlesey, Frances (1998) Fostering truth in advertising, *Nation's Business*, 86 (7), 66-67.