



ABAC Adjudication Panel Determination No. 119/17

Product: Angry Cock Cider
Company: Angry Cock Cider
Media: Packaging
Complainant: Confidential
Date of decision: 14 December 2017
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Ms Debra Richards
Professor Louisa Jorm

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) concerns product packaging for Angry Cock Cider (“the Company”) and arises from a complaint received 4 December 2017.
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. The codes go either to the issue of the placement of alcohol marketing, the content of alcohol or deal with both matters. The ABAC deals with both the placement of marketing i.e. where the marketing was located or the medium by which it was accessed and the content of the marketing irrespective of where the marketing was placed. The ABAC scheme requires alcohol beverage marketers to comply with placement requirements in other codes as well as meeting the standards contained in the ABAC.
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 4 December 2017.
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 not obtained for the marketing communication.

The Marketing Communication

10. The packaging is a 300ml bottle. The label is included below. It features a rooster's head with open beak in the middle of the text 'Angry Cock' in large red letters and 'Apple Cider' and '100% Yarra Valley Apples' in smaller black print. The background is fence palings.



The Complaint

11. The complainant is concerned that the label name is offensive as it immediately brings to mind 'rape' and is incredibly disrespectful when society is strongly advocating against violence toward women. If the word cock is to be used then 'friendly cock' or 'respectful cock' would be more appropriate.

The ABAC Code

12. Part 3 of the ABAC Code provides that a Marketing Communication must NOT:

- (a)(ii) show (visibly, audibly or by direct implication) or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an Alcohol Beverage

13. Part 2b(ii) of the ABAC provides that the Code does NOT apply to:

- (ii) The name or packaging of an Alcohol Beverage product, including the use of a trademark on a product which a supplier can demonstrate, to the satisfaction of the Adjudication Panel, had been supplied for bona fide retail sale in the ordinary course of business in Australia prior to 31 October 2009;

The Company's Response

14. The Company responded to the complaint by letter dated 10 December 2017. The principal points made by the Company were:

- The product, 'Angry Cock Cider' was founded during March 2015, by the company directors, Andrew and Gavin Corbett. A current 'pre-retail' Victorian liquor licence applies and authorises the supply at any time and on any premises.
- The advertising label clearly references a 'rooster' in a black outline, which is referred to as a 'cock' with the name being derived from a family female stakeholder and now cider sales representative for the company.
- Dianne Corbett had ownership of a particular rooster as a pet at her rural property. The Cock (rooster) took an immediate disliking to both people and also to a number of chickens she owned on her rural property. As such, Dianne had a significant contribution to the ideas generated when it came to selecting an appropriate product name. Thus, the name of this particular product that in our view could not be anything other than 'Angry Cock Cider'.
- Angry Cock Cider is made in the Yarra Valley region from apples grown within the Seville East & Wandin areas. After extensive in-depth research/tasting this cider was derived from a special blend of both Granny Smith apples for acidity and Pink Lady apples for sweetness resulting in a perfect mix. As a result, Angry Cock Cider is a medium dry cider created for enjoyable consumption by many.
- Our website, www.angrycockcider.com.au clearly demonstrates the reference of Angry Cock Cider with actual images of the rooster itself and also an animation of how the story began which can be viewed by following this link <http://angrycockcider.com.au/the-angry-cock-story/>.
- Statistical data extracted from Facebook current as at 9/12/17 clearly demonstrated the following:

18-24 year old females (8%) males (10%)

25-34 year old females (14%) males (12%)

35-44 year old females (14%) males (12%)

45-54 year old females (12%) males (8%)

55-64 year old females (4%) males (3%)

65+ females (1%) males (2%)

This data clearly indicates that there is a higher percentage of females who actively enjoy our facebook page and product history and engage within the facebook page showcasing an overall percentage of 52% women and 47% men. The remaining 2% being unspecified to what their profile information shares with the page.

- The confidential complainant suggested that 'Angry Cock Cider' makes this person think instantly of the words 'rape' and 'disrespect' and 'condoning violent behaviour of men' toward women. This is anything from the truth, completely incorrect and misleading if this was the case. This is clearly an individual assumption only by the complainant & inaccurate interpretation of the words 'Angry Cock Cider'. In our view and many others, the labelling and advertising of this product brand name is NOT offensive in any way and as stated, based on an incorrect interpretation only from one person. It in no way draws any conclusion, particularly to any inference of a thought process of this person thinking "rape". It is NOT disrespectful and any assumption only from this complainant that men would find it hilarious or cool is just not right. Again, in our view and others yet another incorrect interpretation by this particular person. It does NOT condone any violent behaviour of men and NOT disguised as humour or clever advertising.
- The family business had no intention whatsoever with the promotion of this product to contradict the name and reference anything eluding to sexuality that can be condoned as rape, or to promote discretely humorous actions relating to 'cock'. Individual interpretations by the consumer or general public with specific words over time will always vastly differ with overall interpretation. The product itself we believe is of a high quality that has never been intended to and is not likely to be intending on accepting or creating an 'image' that is to signify any form of rape, violent behaviour of men towards women or to ever create humour out of the word 'cock'.
- The actual marketing of this branded product is good in our view, in no way is either deceptive or misleading and importantly, does comply with Australian Consumer Law and industry code requirements set in place. This

form of alcohol (cider) is in fact marketed in a responsible manner and complies with the Code's spirit and intent, also set out in Part 3 - Standards to be applied. In compliance with the ABAC Code (Part 3). The marketing of this product does NOT show or by direct implication or encourage irresponsible or any offensive behaviour that is related to the consumption or presence of an alcoholic beverage, nor does it imply cause or contribute to achievement of any personal, sexual or other success. It is also our view that this is a very moderate portrayal of an alcoholic beverage of this category (cider). In our submission to the panel, there can be no reasonable or logical conclusion drawn that the use of the words 'angry cock' can in any way be interpreted by any person thinking of 'rape' and feeling incredibly disrespectful. Our family organisation and many others totally disagree with this particular complaint being raised in these circumstances. The name is not demeaning or suggests this in any way. This is only the first occasion since the inception of this brand name product that any person has raised such an alleged issue within a formal Government arena. The person raising the complaint has no issue whatsoever with the use of the word 'cock' labelled with a name change either as 'friendly cock' or 'respectful cock' which signifies that the complainant has no problem with the word 'cock'. The remaining word 'angry' attached to the word 'cock' cannot be interpreted in this way and accepted as any form of 'rape'. It is a very long bow to draw to suggest that this is the case. Compliance has been achieved with the Code.

- As defined by English Oxford Dictionaries a Cock is a 'British' male bird especially of a domestic fowl. Which is the traditional and true definition of what a cock is. There are also variations of the word 'cock' that have derived from the word – due to the English language ever evolving with new words and meanings always arising. Other meanings of the word 'cock' within the Collins Concise Dictionary:
 - The male of a domestic fowl, any other male bird
 - A small cone shaped heap of hay straw
 - Cock-a doodle-do is an imitation or representation of a cock crowing
 - Cock & Bull story is an improbably story, one used as an excuse
 - Many other interpretations of this word 'cock' are used
 - The word 'Angry' has also many interpretations – not violence

However within the field of farming – a cock has always been and is always going to be a domestic male bird that is used in its proper format, a ‘rooster’ and this is also known and accepted by the general public over time.

- The words suggested by this complainant ‘friendly cock’ or ‘respectful cock’ is NOT an alternative. If this was the case, it will completely destroy the brand name identified and purchased by many existing customers, have a dramatic effect on product sales by loss of revenue, the history and change of the story of how ‘Angry Cock Cider’ was born. Also at significant cost to the family with a variation application requirement to the current liquor licence held.
- For the justifiable reasons outlined, the product name and/or packaging does NOT in our submission breach any of the provisions contained within Section 1(a)(ii) of the Code, in that no reasonable assessment could it be considered by any encouragement or suggested irresponsible behaviour related to the consumption of alcohol by describing the product as ‘angry cock’ thereby creating any perceived link between the alcohol product and any violence by men towards women. There can also be no reasonable or logical conclusion that the use of this name has any connotation or connection whatsoever to the interpretation of ‘rape’. In our view this is absolute nonsense in these circumstances to suggest these comments. We contend that the concerns expressed by this complainant are extremely ill founded and just should NOT be accepted by the adjudicating panel.
- As you are aware there are numerous alcohol branded products on the market throughout the world with sometimes very suggestive pictures and brand names.

The Panel’s View

15. The Company is not a signatory to the ABAC scheme and, as such, is not contractually bound to meet ABAC standards or comply with Panel decisions. That said, the Company has co-operated with the Panel’s processes and this has enabled the determination to be made.
16. The complaint raises a concern with the brand name and packaging of the product “Angry Cock” cider. It is argued that the name is suggestive of violent behavior towards women and brings to mind rape. This interpretation is strongly refuted by the Company.
17. The ABAC was extended in 2009 to include product names and packaging. This change to the ABAC scheme recognised that products were on the market prior to the new rules and had not been developed with the ABAC standards in mind. For this reason a ‘grandfathering’ exemption was granted to brand names on the market as at 31 October 2009. ‘Angry Cock” cider has entered retail sale after this

date and this means its brand name and packaging must meet the relevant ABAC standards.

18. Section 3(a)(ii) of the Code provides that an alcohol marketing communication (including a brand name) must not encourage irresponsible or offensive behavior that is related to alcohol use. In assessing if the standard has been breached, the Panel is to have regard to the probable understanding of the marketing communication by a reasonable person taking its content as a whole. This means the opinions, attitudes and values commonly held in a majority of the community is to be the benchmark.
19. The Panel does not believe the brand name or packaging breaches the Code standard. In reaching this conclusion the Panel has noted:
 - While the name might be said to be double entendre, it does not of itself raise suggestions of sexual violence;
 - The packaging establishes that the word 'cock' relates to a rooster;
 - The packaging does not contain elements or images which suggest violence or sexual activity; and
 - Taken as a whole the name and package would not be interpreted by a reasonable person in the manner argued by the complainant.
20. Accordingly, the complaint is dismissed.