



ABAC Adjudication Panel Determination No 116/22

Product: Belvedere Vodka
Company: Moët-Hennessy
Media: Billboard - OOH
Date of decision: 23 December 2022
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Professor Louisa Jorm
Ms Jeanne Strachan

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) arises from a complaint received on 1 December 2022 and concerns billboard marketing for Belvedere Vodka by Moët-Hennessy (“the Company”).
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:
 - 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 the retail and wholesale sale of alcohol, and contain some provisions dealing with alcohol marketing;
 - 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 Code”) – 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 and Policies – which place 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 marketing 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 meet the standards contained in the ABAC.
 4. For ease of public access, Ad Standards provides a common entry point for alcohol marketing complaints. Upon a complaint being received by the Ad Standards, 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 Ad Standards 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 Ad Standards Community Panel 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 1 December 2022.
8. 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. The complaint was completed in this timeframe.

Pre-vetting Clearance

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

The Marketing Communication

10. The complaint relates to the following image seen on a billboard:



The Complaint

11. The complainant objects to the marketing as follows:
- *Daniel Craig sitting on a green chair challenging the viewer to drink Belvedere vodka.*
 - *The literal larger than life ad, by direct implication directs the viewer to excessively drink.*
 - *Daniel Craig's look and body language challenges the viewer to drink.*
 - *The choice of dress; alluding to a 50s greaser, the open arm body language; placement of the bottle and half full glass (vodka on the rocks) indicates a dare or challenge.*
 - *The placement of the ad is dubious. Sitting above the entrance to the Sydney City CBD where those, who in only January 2020, were released from the excessive lockout laws. A devastating time to businesses as well as Sydney culture and nightlife which lasted 6 years, because the laws which were already in place were not being enforced.*
 - *Just like this ad of Belvedere vodka which does not hold the standards of the ABAC.*

The ABAC Code

12. 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;
 - (a)(iii) challenge or dare people to consume an Alcohol Beverage.

The Company's Response

13. The Company responded to the complaint by email on 9 December 2022. The principal comments made by the Company were:
- By no means were our intentions to evoke negative feelings/emotions of any sort. We believe our campaign merely shows a different form of Daniel Craig other than James Bond.
 - We followed all protocols of ABAC from seeking advice prior to the final campaign files being shared with us, to having submitted the final artwork (post advice) for final approvals once they were shared.
 - The alcohol marketing communication referred to in the complaint receive Alcohol Advertising Pre-vetting Service Approval –Approval# 3925. As mentioned above we sought advice from ABAC prior to submitting for final approval.
 - The pose, clothing and expression of Daniel Craig do not invoke an impression of excessive alcohol consumption. We don't believe that Daniel Craig in his attire invokes an impression of excessive alcohol consumption. He isn't physically drinking anything, the bottle is still sealed and the glass in his hand is not being consumed. His facial expression in no way displays any emotion of partying or irresponsible behaviour.
 - The positioning of a full bottle of the product in Mr Craig's hand does not imply that he will consume excessively. I don't believe the position of the sealed full bottle implies he will be consuming the entire bottle. If the bottle was open, and he was busy cheering it would suggest he is consuming and intends to complete the bottle but he is calm and composed posing with a sealed bottle.
 - The pose, clothing and expression of Daniel Craig combined with him holding a bottle of the product does not invoke an impression that a viewer is being challenged or dared to drink the product. I don't believe this looks like a challenge/dare in any way. He is merely just sitting on a couch and if anything it seems that Belvedere is his choice of brand. The position of his arms and relaxed seated position has no implication of a dare/challenge.

The Panel's View

14. This determination relates to billboard advertisement for Belvedere Vodka which is part of a wider campaign featuring the actor Daniel Craig. Mr Craig is best known for his portrayal of James Bond in five movies from 2006 to 2021.
15. The complainant interprets a stylised photograph of Mr Craig with a glass of the product in one hand and a bottle of Belvedere in his other hand, as conveying an irresponsible message about alcohol use. In response the Company refutes that the billboard image can be taken as contended by the complainant and that the marketing communication is consistent with ABAC standards.
16. In the photograph, Mr Craig is clothed in a black tank top, silver hip hop chain, black pants with belt and buckle. He is sitting in an armchair looking directly at the camera. His arms are stretched wide, and he is holding a bottle of Belvedere Vodka in one hand, with a glass of presumably vodka with ice in the other. The words 'Belvedere Vodka' are superimposed on the image.
17. The complainant interprets the photograph as invoking a challenge or dare to consume the product and drink excessively. To the complainant, Mr Craig's clothing alludes to a '50s greaser'. The fact the billboard is located at the entrance of the Sydney CBD following a period of covid and general lockdown laws impacting culture and nightlife is also noted as being 'dubious'.
18. The issues raised by the complaint is whether the billboard ad is consistent with two ABAC standards, namely that an alcohol marketing communication must not:
 - 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 - Part 3 (a)(i); and
 - challenge or dare people to consume an alcohol beverage - Part 3 (a)(iii).
19. In arguing the billboard is consistent with ABAC standards, the Company contends that:
 - the bottle is unopened, and Mr Craig is not shown actually drinking any alcohol;
 - his facial expression does not display any emotion. His demeanour is calm and composed.

- the position of his arms and relaxed seated position has no implication of a dare or challenge.
20. The test of the consistency of a marketing communication against Code standards is assessed from the standpoint of the probable understanding of the marketing item by a reasonable person. The reasonable person concept is drawn from the common law system and means the benchmark is the attitudes, opinions, values and life experiences shared commonly in the community.
 21. If a marketing communication could be interpreted in several ways, it is the most probable interpretation which is to be preferred over a possible but less likely understanding of the marketing message. A person who takes the message in a marketing item in another way is not 'unreasonable' but possibly their understanding would not be shared by most people in the community.
 22. This is a case where interpretations would likely vary. The ad does not show actual consumption of alcohol occurring (although it is clearly implied) and there is no strapline or other written cues about the product, its attributes or its use. This means the takeout from the ad is drawn from sub-text and will invariably be in the eye of the beholder. Certainly, Mr Craig looks very different from his James Bond persona and it is likely many people who have seen Mr Craig in the popular Bond movies will not readily recognise him.
 23. Also, it should be noted, that as a billboard on a major road, most people will likely see the ad from a passing motor vehicle. This means that impressions will be gained quickly rather than from a more considered study of the photograph.
 24. The Panel does not believe that the ad can be interpreted as daring or challenging a person to consume alcohol. Nor does the Panel believe that the location of the billboard and the fact Sydney has moved from Covid lockdowns will be a salient factor in how the ad would be understood.
 25. The more nuanced and marginal judgement is whether the ad would be understood as encouraging excessive consumption. This arises because of a combination of Mr Craig's expression and body language and that he is holding a glass as well as a bottle of the product.
 26. The ad could be understood as showing Mr Craig embarking on a heavy drinking session. This might be from the cues of:
 - Mr Craig is laid back in the chair;
 - his facial expression might be taken as being affected by alcohol;

- he is already drinking one glass and has an entire bottle with him; and
- a viewer either won't notice that the bottle is unopened (particularly from a moving vehicle) or won't place significance on the bottle not yet being opened. And the way the shadow falls on the bottle in the photograph, it might be taken as half empty.

27. On the other hand, there are cues that lead to a different understanding:

- Mr Craig is relaxed but not apparently affected by alcohol eg his clothing, hair, eyes do not show signs of effects of heavy drinking;
- his expression is focussed and he is looking directly at the camera, whereas a person affected by alcohol would appear unfocussed;
- there are no empty bottles or other visual or written cues of excessive consumption;
- the bottle he is holding is unopened and the seal at the top of the bottle is noticeable; and
- a typical viewer from a passing motor vehicle will likely absorb the image of a man sitting with a bottle of the product and the product name superimposed and not read much more into it.

28. On balance, a majority of the Panel does not believe the ad breaches the excessive consumption standard. The ad does not clearly suggest a pattern of consumption and while the sub-text can be taken in different ways as explained above, it is considered that most viewers won't take the various suppositions needed to conclude that the ad is showing or encouraging excessive consumption.

29. The complaint is dismissed.