



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0107/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Diageo Australia Ltd</b>
<b>3</b>	<b>Product</b>	<b>Alcohol</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Billboard</b>
<b>5</b>	<b>Date of Determination</b>	<b>28/03/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.4 - Sex/sexuality/nudity    S/S/N - general

### DESCRIPTION OF THE ADVERTISEMENT

The advertisement depicts a man in bed with computer generated images of two dolphins. The text reads, "Clear character 5 times filtered" and there is an image of Bundaberg Five rum.

### THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

*Two women would be bad enough. But the ad shows two dolphins that are lying in bed with a man who has a silly satisfied grin on his face.*

*This ad is not shielded from the public and is on a main arterial road passed by children.*

*The message? Bestiality is OK? Drink rum and bestiality is OK? Have multiple sex partners even animals is OK?*

*Our children and young adults don't need to be exposed to this moral decay. It sends a bad message to the impressionable.*

*Advertising alcohol is bad enough. Drink Bundaberg Rum and you too can bed 2 dolphins.....It's not even funny.....it's sick and corrupt.*

*1. First and foremost the images and ideas being conveyed have NOTHING TO DO WITH THE PRODUCT. How does one make the connection between a pre-mixed alcoholic beverage and group sex with dolphins? Where is the link between those ideas? Who is the target market for this advertisement?*

2. *The use of the word "character" in the context of the ad. What ideal character traits are being promoted by this ad? People who are turned on by bestiality and animal cruelty?*
  3. *The placement of this advertisement has been entirely inappropriate. School children and families with young children cannot avoid it or the corrupted notions of human sexuality and "character" that this ad promotes. The billboard at Pacific Fair is placed directly above the main entrance to the car park.*
  4. *The advertisers' bewildering notions of comedy offends me. I realise that the advertisement is supposed to be funny but it is based on an unsophisticated understanding of what humour is. Absurd juxtaposition is not in itself humorous. Surreal ideas about sexuality and alcohol consumption aren't funny.*
  5. *Aren't advertisers supposed to be promoting the responsible consumption of alcohol? What's the message of this ad? Drink enough alcohol and you'll have sex with anything even a dolphin?*
- Overall what offends me the most about this advertisement is the presumption that the viewer is an idiot.*

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

### *Specific Response*

*We note that the complainant specifically alleges that the advertisement breaches section 2.4 of the Code. We address this specific section in more detail below. We appreciate that the Board will also review the advertisement against the rest of Section 2 of the Code and accordingly we have taken the opportunity to address the remaining sections of the Code.*

*4.1. Section 2.1: The advertisement does not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.*

*4.2. Section 2.2: The advertisement does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.*

*4.3. Section 2.3: The advertisement ad does not present or portray violence.*

*4.4. Section 2.4: In regards to the advertisement treating sex, sexuality and nudity with sensitivity to the relevant audience, we consider that it is directed at an adult audience and not directed at children, with the content being mature and free of cartoons, images, symbols and people that appeal primarily to those younger than the legal purchasing age in Australia. In relation to the complainant's concern about placement of the advertisement on the billboard, we note that the location of the billboard conforms to the Diageo Marketing Code which requires Diageo to take reasonable steps not to place advertising on any outdoor stationary location in close proximity to schools.*

*The advertisement portrays the impossible merging of two environments: a bed and the ocean, which acts as a metaphor for the character of Bundaberg Five that it is a clear rum, the taste of which may not be what consumers expect.*

*4.5. Section 2.5: No strong or obscene language is used in the advertisement.*

4.6. Section 2.6: *The advertisement does not depict material contrary to Prevailing Community Standards on health and safety.*

5. AANA Code for Advertising and Marketing Communications to Children 5.1. *The advertisement does not come within the scope of this code for the following reasons: 5.1.1. In section 1 of the Code for Advertising and Marketing Communications to Children, 'Advertising or Marketing Communications to Children' is defined as Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product.*

5.1.2. *In the Code for Advertising and Marketing Communications to Children, 'Product' is defined as goods, services and/or facilities which are targeted toward and have principal appeal to Children.*

5.1.3. *The advertisement was placed in accordance with the strict internal guidelines detailed in the Diageo Marketing Code (DMC) which states that 'we will take reasonable steps not to place advertising on any outdoor stationery location in close proximity to schools'.*

*The media buyer, Ikon, will not recommend a site for a Bundaberg Five, or any other Diageo product advertisement that is within 500m of a school. Ikon has advised us that they completed the due diligence for this site and the location did not raise any concerns.*

5.1.4. *The Product is not targeted towards nor does it have principal appeal to children. There are clear adult themes, and free of the content that appeals primarily to those younger than the legal purchasing age in Australia.*

5.2. *In light of the above, we do not believe that the advertisement falls within the scope of (and therefore is not in breach of) the AANA Code for Advertising and Marketing Communications to Children.*

6. AANA Food and Beverages Advertising and Marketing Communications Code 6.1. *The advertisement does not come within the scope of this code for the following reasons: 6.1.1. In section 1 of the Food and Beverages Advertising and Marketing Communications Code, 'Food and Beverage Product' is defined as any food or beverage products other than alcoholic beverages as defined in and subject to regulation by the Alcohol Beverages Advertising Code.*

6.1.2. *The product being advertised in the advertisement is that of an alcohol beverage, and is therefore subject to regulation by the Alcohol Beverages Advertising Code.*

6.2. *In light of the above, we do not believe that the advertisement falls within the scope of (and therefore is not in breach of) the AANA Food and Beverages Advertising and Marketing Communications Code.*

*We are pleased to have had this opportunity to confirm our long-standing support for the AANA Advertiser Code of Ethics and commitment to uphold the Code.*

*We would be happy to provide you with any further information which you may require.*

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainants’ concerns that the advertisement suggests bestiality and is not appropriate for a broad audience including children.

The Board viewed the advertisement and noted the advertiser’s response.

The Board noted that the complaint about this advertisement would also be considered by the Alcohol Beverages Advertising Adjudication Panel against the Alcohol Beverages Advertising Code (ABAC) that contains alcohol specific advertising standards.

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Board noted that the advertisement contains the image of a man in bed with two dolphins.

The Board noted it had previously dismissed a similar complaint featuring an animal in bed with a human (0030/12) where it found that “whilst the woman in the advertisement just sees her lingerie-clad dog in bed with her partner, the viewers have seen the dog dress itself and are aware that the situation has been contrived by the dog without the man’s knowledge.”

The Board considered that in this instance it is not clear why the dolphins are in bed with the man or how they got there. The Board acknowledged that some people could find the advertisement to be in poor taste however the Board noted that this is not an issue which falls under the provisions of the Code. The Board considered that whilst the message of the advertisement is not clear, in the Board’s view most members of the community would be unlikely to consider that the advertisement was suggesting or condoning bestiality.

The Board determined that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and that it did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.