



**Ad Standards** Community Panel  
PO Box 5110, Braddon ACT 2612  
P (02) 6173 1500 | F (02) 6262 9833

**AdStandards.com.au**

Ad Standards Limited  
ACN 084 452 666

## Case Report

<b>1. Case Number :</b>	<b>0249-20</b>
<b>2. Advertiser :</b>	<b>Lion Beer Australia</b>
<b>3. Product :</b>	<b>Alcohol</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - Free to Air</b>
<b>5. Date of Determination</b>	<b>26-Aug-2020</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

### DESCRIPTION OF ADVERTISEMENT

The television advertisement features a man purchasing a six-pack of Byron Bay Brewery Premium Lager from a small bottle shop and general store, before the shot changes to his bare feet on the skateboard, and then immediately to a woman's bare feet on her surfboard riding a wave. The shot changes between the man's barefeet on the skateboard and the woman's barefeet on the surfboard multiple times before showing a couple of people walking up the sand after surfing to meet a group of friends at a location overlooking the beach, where they sit down to enjoy a Byron Bay Premium Lager to conclude the days' activities.

### THE COMPLAINT

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

*The television ad shows a young male person riding a skateboard carrying a six pack of Byron Bay beer...This portrays a bad image of skateboarding to the public because the rider is NOT wearing any safety equipment including shoes and is carrying a GLASS six pack of beer! Most skateboarders are young males who are encouraged to wear safety protection most certainly a helmet and shoes (I know because both of my grandsons are keen skateboarders). Furthermore skaters are not encouraged to carry anything let alone a glass six pack of beer!*



*This ad sends the wrong message to young skaters who love their sport and practice it safely without beer....let the advertising company use a more appropriate and accepted method to promote their product*

## **THE ADVERTISER'S RESPONSE**

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

*We reiterate Lion's commitment to ensuring that our marketing materials are responsible and comply with the relevant advertising laws and industry codes of practice, including the AANA Advertiser Code of Ethics ("Code") and the Alcohol Beverages Advertising Code (ABAC). For the reasons set out below, and with respect to the complainant, Lion does not believe that the Advertisement breaches any provisions of the Code, specifically Section 2.6 that prohibits Advertising from depicting material that is contrary to Prevailing Community Standards on health and safety.*

*The Advertisement features a man purchasing a six-pack of Byron Bay Brewery Premium Lager from a small bottle shop and general store, before the shot changes to his bare feet on the skateboard, and then immediately to a woman's bare feet on her surfboard riding a wave. The shot changes between the man's barefeet on the skateboard and the woman's barefeet on the surfboard multiple times prior to showing a couple of individuals walking up the sand after surfing to meet a group of friends at a location overlooking the beach, where they each sit down to enjoy a Byron Bay Premium Lager to conclude the days' activities.*

*The Advertisement was filmed in Byron Bay, New South Wales, and depicts a flow of typical daily activities that can occur in Byron Bay, which are done with the smoothness and ease that propels the town folk who live there. This "flow" of the Byron Bay lifestyle is shown in the free and easy way the people surf, the fluidity of their creativity, the spontaneity of their social lives, the bikes and skateboards cruising around town and by the beach. This relaxed, beach-side setting is important when considering what the prevailing community expectations are for wearing clothing and safety equipment when skating in the environment depicted.*

*We submit that prevailing community standards on safety would not require that a mature adult male riding a skateboard to wear a helmet or shoes in the beachside surroundings of Byron Bay where the Advertisement is set. The skateboarder is shown to be clearly in control of his skateboard as he slowly cruises home from the store on the footpath with an unopened 6-pack of beer.*

*The Advertisement doesn't encourage viewers to not wear a helmet when riding a skateboard, given that the rider's upper body is not visible in any of the shots where the man is skating. Irrespective of this fact, we also note that there is no law in NSW (and the majority of Australian jurisdictions) that requires an adult skateboarder to wear a helmet (or shoes) while riding a skateboard (on the footpath or otherwise). We*



*also refer to Case Number 0462/2015, where the Ad Standards Board has previously determined that a marketing material depicting a skateboarder riding without a helmet where the overall tone of the advertisement was laid-back with no suggestion of danger (to either the man or the scooter or to other road users or pedestrians) did not infringe section 2.6 of the Code.*

*Similarly, given the slow, relaxed pace at which the skateboarder is moving, and the fact that he is on a beachside footpath, travelling only a short distance, Lion does not contend the wearing of footwear to be a prevailing community standard in the instance portrayed in the Advertisement. In fact, it could be argued that skating barefoot is a safer option than wearing rubber thongs, sandals or other beach-appropriate footwear that may in fact be hazardous and cause the skater to lose proper grip of the board. Ultimately, the man featured is travelling an extremely short distance on his skateboard along a footpath to the beach, and therefore not contrary to prevailing community standards.*

*During production of the advertisement, Lion worked closely with its internal legal counsel and external relations advisors to ensure that the advertisement complied with all laws and community standards, including those relating to the wearing of helmets whilst skateboarding.*

*For completeness, we note that Lion also worked closely with an ABAC/AAPS pre-vetter throughout the process to ensure compliance with the ABAC.*

## **THE DETERMINATION**

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the advertisement depicts a person riding a skateboard without safety equipment and carrying a glass six pack of beer.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel considered whether the advertisement complied with Section 2.6 of the Code. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Panel first considered the complainant's concern that the skateboarder is not wearing safety equipment.

The Panel noted that the man is seen to leave a store holding a skateboard and a six pack of beer and noted that he does not appear to have a helmet, however noted that the man is not actually shown to be riding his skateboard while not wearing a helmet.



The Panel noted that the complainant viewed the advertisement in NSW and noted that there are no laws in NSW which require the wearing of a helmet when riding a skateboard.

The Panel noted that the man is depicted riding the skateboard without wearing footwear. The Panel noted the advertiser's response that the advertisement was filmed in Byron Bay and that the skateboarder's portrayal is consistent with the lifestyle of people living in that region, being relaxed and laid back.

The Panel noted that the scene featuring the man on his skateboard is fleeting and considered that the depiction of the man using his skateboard is interspersed with imagery of a person surfing to portray an adult themed relaxed beach lifestyle.

The Panel considered that while many people would consider wearing a helmet and other appropriate safety gear when riding a skateboard would be preferable it is not a legal requirement in most Australian States and Territories. The Panel considered that the advertisement portrays an aspirational adult lifestyle and the slow relaxed feel of surfing and skateboarding is not a depiction that would be immediately attractive to children nor would it be interpreted as an encouragement for children to ride a skateboard without protective equipment.

The Panel noted that there are no other road users visible when the man is skateboarding and considered that the man appears to be confident and in control of the skateboard at all times.

Overall the Panel considered that the depiction of an adult male calmly riding a skateboard without safety equipment does not breach Community Standards on health and safety.

The Panel then considered the complainant's concern that the man is depicted holding a six pack of beer in glass bottles.

The Panel noted that the advertisement contains images of a person skateboarding, a person surfing, a group of friends having drinks near the beach, and a scene showing the product and text stating "Open Byron". The Panel considered that that advertisement promotes a coastal lifestyle that is relaxed and laid back and conveys a feeling of freedom.

The Panel noted that the advertisement had been given an 'L' rating by ClearAds meaning, "May be broadcast only during the following periods: Between 8.30pm and 5.00am on any day; Between 12 noon and 3.00pm on school days (but see clause 2.1.2 for time zone difference adjustment). On weekends and public holidays during a Sports Program" ([https://www.clearads.com.au/wpcontent/uploads/2020/02/ClearAds-Handbook-\\_Edition-8.1.pdf](https://www.clearads.com.au/wpcontent/uploads/2020/02/ClearAds-Handbook-_Edition-8.1.pdf)).



The Panel noted that while Section 2.6 of the Code does not have an audience test, this advertisement would not have a large child audience who may imitate such behaviour. The Panel considered that adults are capable of assessing the risk of such an action.

The Panel considered that while riding a skateboard while holding a six pack of beer in glass bottles is not something that should be encouraged, most members of the community would not consider that an adult male shown to be fully in control of the skateboard and riding calmly would be a depiction that is considered to be against prevailing community standards of safety.

The Panel considered that the advertisement did not contain material which would be contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.

The Panel noted that advertisements about alcohol products may be considered against the provisions of the AANA Advertiser Code of Ethics as well as the Alcohol Beverages Advertising Code Scheme (ABAC). The Panel noted that complaint/s in this case were referred to ABAC for assessment. The Panel noted that the ABAC Responsible Alcohol Marketing Code (“ABAC Code”) is an alcohol specific code of good marketing practice and has specific standards which apply to the promotion of alcohol products. The Panel further noted that it can only consider complaints about alcohol advertising under the concept of prevailing community standards as set out by the AANA Code of Ethics. The Panel noted that the advertisement may be considered by the ABAC Chief Adjudicator or the ABAC Adjudication Panel applying the ABAC Code, as well as this determination under the Code of Ethics.