



**Ad Standards** Community Panel  
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Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	Case Number	0472/18
2	Advertiser	Lion
3	Product	Alcohol
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	24/10/2018
6	DETERMINATION	Dismissed

## ISSUES RAISED

2.1 - Discrimination or Vilification Race

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement shows a bartender using binoculars to view a man walking with a bucket of beers. He looks shocked then quickly slides a Heineken beer along the bar and offscreen. The camera tracks the beer along a park bench, onto a skateboard and along a path, until it stops in front of the bucket of beers. The man tries it and the bartender looks happy. The advertisement ends with a shot of a group of people drinking Heineken and laughing.

## THE COMPLAINT

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

*The ad is clearly comparing a light coloured beer to a dark coloured beer. In doing so, it also clearly attempts to attribute value to white skin over black skin. The positioning statement of 'Have it all' relates to the white male getting the white girl with the subplot that he got her because he is better than the black man... Just as the lighter coloured beer is supposedly better than the stout.*

## THE ADVERTISER'S RESPONSE





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

*Dear Case Managers,*

*I refer to your letter dated 15 October 2018, in relation to a complaint received by Ad Standards about a television advertisement for Heineken 3.*

*I have laid out Lion's response to complaint 0472/18 (the Complaint) below for consideration by the Ad Standards Panel.*

*We confirm that the television advertisement for Heineken 3 that is the subject of Complaint received Alcohol Advertising Pre-vetting Service Approval for its content and placement. The application number is 513/16 and the approval number is 16068. The formal approval documentation can be found attached to this letter.*

*The advertisement referred to in The Complaint is one of a series of television advertisements for Heineken 3. At a high level, the campaign centres on the functional benefits of Heineken 3 relative to other higher calorie and carbohydrate alcohol drinks. Each version shows a different social occasion whereby Heineken 3 is provided as an alternative option to the drink previously chosen. In this particular TV spot, a group of friends who have just finished a game of football are offered Heineken 3 by the bartender as an alternative to the generic stout beer about to be consumed. The opening scene for each advertisement in the series depicts a black man and a white woman sitting at a bar, both laughing and talking whilst drinking Heineken 3. Lion contends that The Complaint should be considered through the lens of this particular scene.*

*In Lion's view, this piece of marketing communication does not breach Section 2 of the AANA Code of Ethics, in particular, 2.1, which states that Advertising and Marketing Communications shall 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.*

*We strongly dispute the assertion in the complaint that the man drinking a Heineken 3 with a female is laughing at the dark-skinned man next to him who has neither. This particular scene features a large group of gender and racially-diverse friends, sharing a convivial moment over a Heineken 3 at the conclusion of their sporting activity. The whole group is depicted laughing and enjoying the occasion, which undermines the assertion made in the Complaint that there is racial undertone to the white man's laughter. In fact, the black man described in the Complaint as the one being laughed at, is laughing himself. There is no irresponsible consumption of Heineken 3 depicted*



*in the advertisement, nor is the behaviour of the group of people shown enjoying the occasion likely to offend the reasonable consumer.*

*In addition, Lion disputes that the “expression of disdain” shown by the bartender, as referenced in the Complaint, has any correlation whatsoever with race. His expression is in response to the beer about to be consumed, which is clearly evident as it is the bucket of beers that is focused on through his binoculars, not any human subject. He sees an opportunity to provide a more suitable beer for the occasion, and acts on it by sending a Heineken 3 in the group’s direction.*

*The tagline for Heineken 3: “Lower calories, lower carbs, great taste. Have it all” is clearly designed to act as a comparison between heavier beers, such as the generic stout which features in the advertisement, and Heineken 3, which is a lower calorie, lower carb beer. The tagline ‘Have it all’, is clearly qualified by the reference to Heineken 3 being a lower calorie, lower carb beer. This tagline implies Heineken 3 enables consumers to enjoy a lower calorie, lower carb beer, without a compromised taste.*

*As a responsible marketer, Lion has demonstrated a long-standing commitment to upholding both the letter and spirit of the Alcohol Beverages Advertising Code (ABAC Code) and AANA Codes. As part of Lion’s marketing approvals processes, the advertisements for Heineken 3 were subject to:*

- internal legal review and advice from an external legal firm specialising in FMCG marketing and advertising compliance and interpreting the relevant advertising codes and legislation;*
- review by Lion’s internal marketing compliance team to ensure its adherence to all relevant advertising codes; and*
- review and approval through ABAC’s external and independent pre-vetting service (AAPS) at both concept and final stages, receiving approval before going to market.*

*We note that the ABAC Board considered the same complaint and determined that the advertisement did not breach the provisions of the ABAC Code.*

*We regret the fact that the complainant found this advertisement unacceptable. However, for the reasons stated above, we do not believe the advertisement breaches the AANA Code nor do we feel the complaint received is representative of the community views. Therefore, we respectfully request that the complaint be dismissed.*

## **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 is racist.

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

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray 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.'

The Panel noted the Practice Note to Section 2.1 provides the following definitions:

"Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule."

The Panel noted that this television advertisement ends with a scene showing a group of people laughing and drinking.

The Panel noted the complainant's concern that the advertisement shows a single African-American man who does not have a drink or a girl on his arm, while all the Caucasian people with him do and are laughing at him.

The Panel considered that while the Caucasian man has a woman standing next to him, there is no indication that she is 'on his arm'. Additionally, the Panel noted that there are two men to the left of the African-American man, neither of whom has a woman next to him.

The Panel noted the advertiser's response that the African American man in the advertisement is shown to be laughing himself and does not appear to be uncomfortable or humiliated amongst the group. The Panel also noted that he is holding a football, which may provide explanation as to why he does not have a drink in hand.

The Panel considered that the bartender does not appear to have an expression of disdain after viewing the dark coloured stout beer, and considered that the premise of the advertisement is him providing a more suitable beer for the occasion.

The Panel considered that the complainant's concern that this advertisement is discriminatory towards African-American is unlikely to be shared by the broader community and considered that reasonable members of the community would not consider this scene discriminatory or vilifying of the African-American man in the advertisement, or African-Americans in general.



The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race and determined that the advertisement did not breach Section 2.1 of the Code

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

