



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

# Case Report

1	<b>Case Number</b>	<b>0505/18</b>
2	<b>Advertiser</b>	<b>Carlton and United Breweries</b>
3	<b>Product</b>	<b>Alcohol</b>
4	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
5	<b>Date of Determination</b>	<b>28/11/2018</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

2.1 - Discrimination or Vilification Nationality

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features a man being carried as if he is a beer. He passes a man (also meant to be a beer) dressed in a traditional Bavarian outfit. The Bavarian man states, with an accent, "Hello, Bavarian beer brewed with zesty cantaloupe". The first man sniffs and asks "is that nutmeg?" and the Bavarian man replies "Ya, nutmeg".

## THE COMPLAINT

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

*An actor was dressed as a racial Stereotype Bavarian, overweight, ruddy face, wearing lederhosen, who stated that there was nutmeg in Bavarian beer.*

*The oldest known consumer protection law in the world is the Bavarian purity law that all beer brewed in Bavaria must only include water, hops, barley and yeast. It is illegal in all of Germany to add any additives including nutmeg in the brewing process. This advert is a slur on the Bavarian people and Bavarian beer.*

*Firstly, the portrayal of the Bavarian was racist and stereotypical...although as he was a white male it probably doesn't count as racism these days. Yes, that was sarcasm.*



*Secondly, the implication of the ad was that Carlton Dry is a 'pure' beer and German beer has things such as cloves added is blatantly false and misleading. The German Beer Purity Law - Reinheitsgebot - was introduced in 1516 and only allows beer to be made from water, barley, hops, and yeast. It contains no additives or artificial preservatives. To suggest otherwise is false advertising. Maybe if they compared Carlton Dry to a Belgian beer they would have a point, but the ad as it stands is false advertising and defamatory.*

## **THE ADVERTISER'S RESPONSE**

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

*CUB's comments in relation to the complaint*

### *Section 2.1*

*With respect to the complainant, we submit that there has been no breach by CUB of section 2.1 of the Code of Ethics because the advertisement does not portray people or material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality etc.*

*The advertisement does not depict Bavarian people in a negative way. Consistent with the definitions in the 'Code of Ethics: Practice Note' (Practice Note), the advertisement does not discriminate against, ie give "unfair or less favourable treatment", or vilify, ie "humiliate, intimidate, incite hatred, contempt or ridicule", Bavarian people. Importantly, the Bavarian human beer is not humiliated or ridiculed by other patrons in the bar or the Carlton Dry human beer. He is an endearing character and his attire, accent and actions are not presented in a negative way. This is consistent with the Practice Note, which clarifies that advertisements "can suggest stereotypical aspects of an ethnic group or gender with humour provided the overall impression of the advertisements is not a negative impression of people of that ethnicity or gender".*

*Rather, the major focus of the advertisement is the uncomplicated, smooth taste of Carlton Dry in comparison to the addition of various ingredients to other beers. The advertisement depicts the Bavarian human beer in a light-hearted and affectionate way. He personifies new variations of Bavarian beer and the advertisement does not suggest that he represents Bavarian people. The Carlton Dry human beer expresses concern about the addition of ingredients to other beers through the statement "sometimes I worry about what we're doing to other beers these days". He states that the addition of cantaloupe and nutmeg to Bavarian beer "sounds complicated". The advertisement does not suggest that Bavarian people are complicated or less favourable in any way.*



### *Other parts of section 2*

*Additionally, we submit that the advertisement does not breach the other sections of the Code of Ethics because the advertisement:*

- 1. does not employ sexual appeal (section 2.2);*
- 2. does not portray violence (section 2.3);*
- 3. does not treat sex, sexuality and nudity with a lack of sensitivity (section 2.4);*
- 4. does not use inappropriate, strong or obscene language (section 2.5);*
- 5. does not depict material contrary to the Prevailing Community Standards on health and safety (section 2.6); and*
- 6. is clearly distinguishable as advertising and marketing communications to the relevant audience (section 2.7).*

*Thank you for considering this response. We look forward to receiving a response and determination in relation to this matter.*

### **THE DETERMINATION**

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

The Panel noted the complainant's concern that the advertisement is racist, stereotypical and misleading.

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

The Panel noted that this television advertisement features a man dressed in a traditional Bavarian costume and speaking about beer.

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 of the Code which provides the following definitions:

"Discrimination – unfair or less favourable treatment



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

Humour: A negative depiction of a group of people in society may be found to breach section 2.1, even if humour is used. The depiction will be regarded as a breach, if a negative impression is created by the imagery and language used in the advertisement. Advertisements can humorously suggest stereotypical aspects of an ethnic group or gender, provided the overall impression of the advertisement does not convey a negative impression of people of that group.

The Panel noted the complainant’s concern that the advertisement is racist and stereotypical.

The Panel noted the advertiser’s response that the Bavarian man and his accent, attire and actions are not presented in a negative way.

The Panel noted that the annual event ‘Oktoberfest’ features many people dressing in a similar manner to the Bavarian man in the advertisement.

The Panel considered that the advertisement does portray a stereotype of a Bavarian man, but considered that this stereotype is not negative, and does not depict the man as being ridiculed or receiving less favourable treatment.

The Panel noted that some members of the community may find this portrayal in bad taste, however noted that the issue of taste is not one which falls under any provision of the Code.

In the Panel’s view the advertisement did not discriminate against or vilify any person or section of the community on the basis of nationality and did not breach Section 2.1 of the Code.

The Panel then noted the complainants’ concerns that the advertisement implied that there is nutmeg in Bavarian beer, and that this is untrue and therefore a slur on the Bavarian culture.

The Panel considered that the issue of misleading advertising does not fall within Section 2 of the Code and is therefore outside the charter of the Panel.

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

