

Case Report

1. Case Number :	0103-24
2. Advertiser :	Australian Liquor Marketers
3. Product :	Alcohol
4. Type of Advertisement/Media :	TV - Pay
5. Date of Decision:	17-Apr-2024
6. Decision:	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification

DESCRIPTION OF ADVERTISEMENT

This pay TV advertisement features two men holding long skewers with vegetables on them, asking a Cellarbrations worker for a drink recommendation. The worker recommends a Japanese beer and the men have a sword fight to determine who pays.



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

I feel it is racist in its use of the stereotypes, and think it may be offensive or distasteful towards our Japanese community.

the ad seems pretty racially insensitive to Japanese and/or people of Asian decent in general with the accents put on by customers. They were also in fencing outfits which isn't Japanese which could be thier defence for how it isnt racial at all...

THE ADVERTISER'S RESPONSE

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

As signatories to the ABAC code, Australian Liquor Marketers have and will always comply and market to the intent and spirit of the code. It is our view that the marketing communication referenced for banner brand Cellarbrations is also in line with the spirit and intent of the code but also our community and shoppers. Our marketing efforts are primarily designed to engage shoppers in an attempt to drive awareness and appeal of our brands.

With smaller budgets than most retail liquor brands in Australia we often use methods to 'disrupt' the shopper to gain attention. This is a typical marketing strategy deployed by many brands. Within this ad we have tapped into the well understood tropes of a Spanish musketeer as the key visual and character in the ad. We are proud to have a broad representation of society in our advertising and across our retailer network - the ad highlights a growing sub category of Japanese beverages from a multi-cultural retailer.

THE DECISION

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 complainants' concern that the advertisement is culturally insensitive and racist.

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

Section 2.1: Advertising 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 orientation, religion, disability, mental illness or political belief.

The Panel noted the AANA Practice Note which provides guidance on the meaning of:

- Discrimination - unfair or less favourable treatment
- Vilification - humiliates, intimidates, incites hatred, contempt or ridicule
- Race - viewed broadly this term includes colour, descent or ancestry, ethnicity, nationality, and includes, for example, ideas of ethnicity covering people of Jewish or Muslim origin.

The Panel noted the advertiser's response that the man's accent in the advertisement was intended to represent a Spanish Musketeer.

A minority of the Panel considered that the man pronounces "hello" in a way which does not sound Spanish, and in combination with the reference to Japanese beer,

gave the impression that the man was intended to be Japanese. The minority of the Panel considered that the advertisement depicted the men behaving in a ridiculous manner, and found the overall impression was vilifying of Japanese people.

The majority of the Panel considered that it was unclear what accent the fencer had. The Panel considered that the outfits of the men were associated with European-style fencing, and were not indicative of Japanese culture. The Panel considered that the suggestion of a Japanese beer could have been made to anyone of any culture, and the advertisement does not identify the men as any particular race or ethnicity.

The Panel considered that while ridiculous the advertisement does not depict anyone in a manner that is unfair nor in a manner that would be likely to humiliate or incite ridicule on the basis of race.

Section 2.1 conclusion

Finding that the advertisement did not portray material in a way which discriminates against or vilifies a person or section of the community on account of race, the Panel concluded that the advertisement did not breach Section 2.1 of the Code.

Conclusion

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

ABAC

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