

COMPLAINT NUMBER	17/360
COMPLAINANT	H. Crozier
ADVERTISER	WHET Drinking Room
ADVERTISEMENT	WHET Drinking Room, Digital Marketing
DATE OF MEETING	14 November 2017
OUTCOME	Upheld in Part, Not Upheld in Part

SUMMARY

The WHET Drinking Room Facebook advertisement promoted the gin bar with a weekly satirical Public Health Message. The advertisement states drinking gin is a natural remedy for kidney and liver disease by flushing out bacteria and toxins.

The Complainant said the Facebook post had gone too far in promoting the health benefits of drinking gin and breached the guidelines for advertising alcohol by making therapeutic claims

The Complaints Board said Guideline 1(d) of the Code for Advertising and Promotion of Alcohol was clear that alcohol advertisements should not suggest alcohol offers any therapeutic benefits. The Complaints Board said the intended humour of advertisement did not save it from breaching the code.

The Complaints Board ruled the advertisement had breached Guideline 1 (d) and Principle 1 of the Code for Advertising and Promotion of Alcohol and had not been prepared with a high standard of social responsibility.

The Complaints Board agreed the advertisement had not encouraged excessive drinking or promoted alcohol as a more attractive lifestyle choice and there had been no breach of Principle 2 or Guideline 1(b) of the Code.

The Complaints Board ruled the complaint was Upheld in Part and Not Upheld in Part.

[Advertisement to be removed]

Please note this headnote does not form part of the Decision.

COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the advertisement with reference to Principles 1 and 2 and Guidelines 1(b) and 1(d) of the code for advertising and promotion of alcohol. Principles 1 and 2 required the Complaints Board to consider whether the advertisement was consistent with the need for responsibility and moderation in alcohol consumption and observed a high standard of social responsibility. Guideline 1(b) said that

while alcohol advertising and promotions may depict the consumption of alcohol as incidental to a friendly and happy social environment, but should not promote drinking alcohol as a better or more attractive lifestyle choice nor imply that the success of a social occasion depends on the presence or consumption of alcohol. Guideline 1(d) said alcohol promotions shall not suggest it offers any therapeutic benefit.

The Complaints Board ruled the complaint was Upheld in Part, Not Upheld in Part.

The Complaint

The Complainant said the Facebook post had gone too far in promoting the health benefits of drinking gin and breached the guidelines for advertising alcohol by making therapeutic claims.

The Advertiser's Response

The Advertiser said the advertisement in question was part of WHET Drinking Room's Public Health Messages. These are weekly posts which offer the satirical and humorous health benefits of visiting WHET Drinking Room. The Advertiser said these were not intended to be taken seriously and the vast majority of peopling logging into the WHET Facebook page appreciated the humour for what it was.

The Complaints Board Discussion

The Complaints Board began by discussing the Code for Advertising and Promotion of Alcohol, in particular Guideline 1(d), which states that alcohol advertising and promotions should not suggest it offers any therapeutic benefit. The Board also took into account the Code for the Advertising and Promotion of Alcohol required a high standard of social responsibility.

The Complaints Board agreed the advertisement made therapeutic claims about the benefits of Gin and presented them in a factual manner. Despite the Advertiser's response that the claims were not intended to be taken seriously, the Complaints Board said it was possible that some consumers may take the claim at face value and believe the juniper berry claims were factual as the statements were not overtly hyperbolic.

The Complaints Board agreed the use of the 'Public Health Message' heading in the advertisement also had the potential to mislead some consumers. The Advertiser's explanation was that this heading was designed to be attention grabbing, however the Complaints Board noted the importance of actual public health messages and expressed concern that using the wording in this context was not responsible. The Complaints Board agreed that heading exacerbated the statement about the health benefits.

The Complaints Board considered the advertisement before it in the context of the limited exposure on the Advertiser's Facebook page and the series of similar satirical postings. The Complaints Board noted the advertisement also stated 'Please share' which was likely to encourage increased exposure to the advertisement over time.

The Complaints Board said that although the satirical nature of the advertisement was likely to be obvious to many consumers, the restriction on making therapeutic claims about alcohol in the Code did not allow for the use of humour. The Complaints Board agreed there could be consumers who believed the therapeutic claim and the intended humour did not mitigate the breach of Guideline 1(b) of the Advertising and Promotion of Alcohol Code. The Complaints Board said the advertisement had breached Principle 1 of the Code for Advertising and Promotion of Alcohol and had not been prepared with a high standard of social responsibility.

The Complaints Board agreed the advertisement did not encourage excessive consumption or promote alcohol as a more attractive lifestyle choice and was therefore not in breach of Principle 2 or Guideline 1(b) of the Code for Advertising and Promotion of Alcohol.

Accordingly, the Complaints Board ruled to Uphold the complaint in part and Not Uphold in part.

DESCRIPTION OF ADVERTISEMENT

The Facebook advertisement, www.facebook.com/whetbar/, promoting the Whet Drinking Room gin bar states: "Public Health Message. Did you know that gin is one of the best natural remedy's for kidney and liver disease. Now this may seem somewhat ironic, however juniper berries, which gin is made from, help stop water retention in your body. Allowing you to pass more water than any other alcohol. This means that more harmful toxins and bacteria are flushed out your system. Get into whet this week and start your liver recovery. Whet Drinking Room... Flushing livers since 2015. Please share."

COMPLAINT FROM - H CROZIER

Posted last week, 13th September, on the Whet Facebook page. Please see details of the post in the attachment. I commented on the post, to say that is was poorly informed and actually illegal. The owner, Phillip Kraal, messaged me, to say that (and I paraphrase only slightly here, the relevant message is part of the attachment as well) 'it would be unprofessional of him to express his feelings about what I commented on the post' but he seems completely happy that the post is of a professional enough nature that it is still up as of today. I get a bit grumpy with a lot of the reposts of junk articles that I see, regarding beer particularly, along the lines of 'oh, silicon is good for your hair and nails, beer has silicon, drink beer, it's good for you!' but I really feel like this post from WHET takes it completely too far.

CODE FOR ADVERTISING AND PROMOTION OF ALCOHOL

Principle 1: Alcohol advertising and promotions shall observe a high standard of social responsibility.

Guideline 1(b): While alcohol advertising and promotions may depict the consumption of alcohol as incidental to a friendly and happy social environment, it shall not promote drinking alcohol as a better or more attractive lifestyle choice nor imply that the success of a social occasion depends on the presence or consumption of alcohol.

Guideline 1(d): Alcohol advertising and promotions shall not depict alcohol as a necessity, nor required for relaxation nor suggest it offers any therapeutic benefit.

Principle 2: Alcohol advertising and promotions shall be consistent with the need for responsibility and moderation in alcohol consumption.

RESPONSE FROM ADVERTISER - WHET DRINKING ROOM

I write to you today to offer my point of view on the complaint made by H Crozier. My feeling is that the complaint is vindictive as I challenged his comments by way of a comical reply. My assumption is that he felt a loss of 'face' on social media as most people recognised the humour and irony of the advertisement.

However, that aside, I do take my business very seriously especially with anything regarding our liquor licence. I have owned restaurants in Christchurch since 1991 so have held a liquor licence for 26 years. In all that time I have never fielded a complaint from either the public or the licencing authority regarding any aspect of the sale of liquor. In 26 years of holding a liquor licence I have never employed security staff in any of my bars as we simply do not need them. We are extremely responsible under the Sale and Supply of Liquor Act.

I am very proud of the great relationship I have with the Liquor Licencing Authority and value the support they have always shown me over the years, especially during applications for new licences in new businesses.

I don't want to do anything that may jeopardise this relationship. To this end, I have contacted the Christchurch Liquor Licencing to discuss any breach I may have made in this advertisement.

Regarding the Facebook campaign which the complainant took issue with: WHET Drinking Room is a high-end gin bar featuring over 160 varieties of gin. We have a strong following in the city as a cool, upmarket, relaxed bar catering predominantly to the corporate market. We run multiple advertisement campaigns for all three of our outlets, Facebook being one, and we make a minimum of 3 post per outlet. As Facebook followers are constantly being bombarded with advertisements, it is crucial to come up with an attention-grabbing campaign. With that in mind we developed the WHET Drinking Room Public Health Message. This is a weekly post which offers the satirical and humorous health benefits of visiting WHET Drinking Room. All our posts are posts that we have found on the internet with many from Facebook itself. They are obviously not 'a thing' and really cannot or do not get taken seriously. I assume that the public really do not believe that gin prevents wrinkles or is an antioxidant that will relieve bloating. We all know that gin will not prevent hay fever nor could it possibly be a remedy for liver or kidney disease. We post these advertisements because 99% of our followers think it's funny and generally enjoy the humour. Also, it's the juniper and other ingredients that we suggest may be helpful, not the alcohol.

However, it is not our intention to upset anyone or break the rules around this subject and we will of course comply with any request made by ASA. I hope though, that you will recognise this series of ads for what it is and appreciate the humour as most of my guests and FB followers do.

Please feel free to contact me should you require any additional information.