

COMPLAINT NUMBER	18/180
COMPLAINANT	S Pettus
ADVERTISER	McCashin Brewery
ADVERTISEMENT	Wakachangi Lager, Instore
DATE OF MEETING	10 July 2018
OUTCOME	Not Upheld

SUMMARY

The instore advertisement for Wakachangi Lager was displayed on the packaging for a 12 pack of the product. The image on the packaging showed a man wearing a torn shirt supporting a fainting woman with his right arm. In his left hand he is holding a BBQ Mate, attempting to defend himself against an attacking red-eyed guinea pig. The text says: “Premium Non-Export Sparkling Fizzy Lager – Amazing Wakachangi – Est. Circa 1648 – “With the beast’s razor sharp tusks at his throat, Great Uncle Kenny drew his BBQ mate and slew the rare but ferocious guinea pig, thereby saving his Tinder date”. (Peru 1936). Quite Nice Beer! ...”

The Complainant was concerned the advertisement promoted sexual and physical violence against women and they said their child was shocked when they saw it. The Complainant also said that while they recognised the man was supposedly protecting the woman, the advertisement was an attempt to use a woman’s body and men’s sexual prowess to sell alcohol.

The Advertiser said the advertisement was targeted at an adult, predominantly male audience. The Advertiser said the man featured is a classic hero protecting his date and the advertisement relies on the use of humour and hyperbole. The Advertiser said the advertisement meets the high standard of social responsibility required for alcohol advertising.

The Retailer said there are specific regulations in the Sale and Supply of Alcohol Act which specify where alcohol must be positioned in supermarkets, to minimise exposure to minors.

The Complaints Board found the advertisement was targeted at an adult audience, employed the use of obvious hyperbole and humour and did not cause widespread or serious offence.

The Complaints Board ruled the advertisement was not in breach of Principle 1 or Rules 1(a) and 1(g) of the Code for Advertising and Promotion of Alcohol and Principle 2 did not apply in this case.

Accordingly, the Complaints Board ruled the complaint was Not Upheld.

[No further action required]

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 Principle 1, Principle 2 and Guidelines 1(a) and 1 (g) of the Code for Advertising and Promotion of Alcohol. Principle 1 required the Complaints Board to consider whether the advertisement observed a high standard of social responsibility. Principle 2 requires alcohol advertising and promotions are consistent with the need for responsibility and moderation in alcohol. Guideline 1(a) requires alcohol advertising and promotions shall not link alcohol with daring, aggressive, unruly, irresponsible or antisocial behaviour nor suggest any association with, acceptance of, or allusion to, tobacco, illicit drugs or volatile substances such as glue and petrol; explosives and weaponry. Guideline 1 (g) requires alcohol advertising and promotions shall not cause widespread or serious offence, taking into account prevailing community standards, context, audience, medium and product.

The Complaints Board ruled the complaint was Not Upheld.

The Complaint

The Complainant was concerned the advertisement promoted sexual and physical violence against women and they said their child was shocked when they saw it. The Complainant also said that while they recognised the man was supposedly protecting the woman, the advertisement was an attempt to use a woman's body and men's sexual prowess to sell alcohol.

The Advertiser's Response

The Advertiser said the advertisement was targeted at an adult, predominantly male audience. The Advertiser said the man featured in the advertisement, Uncle Kenny, is a classic hero figure protecting his date and the advertisement is an over the top cliché which employs the use of humour and hyperbole. The Advertiser does not accept that the advertisement features any act of sexual violence and or would cause widespread or serious offence.

The Retailer's Response

The Retailer said there are specific regulations in the Sale and Supply of Alcohol Act which specify where alcohol must be positioned in supermarkets, to minimise exposure to minors.

The Complaints Board Discussion

The Complaints Board noted that alcohol packaging is specifically covered in the Code for Alcohol Advertising and Promotion and it has jurisdiction to consider the complaint.

The Complaints Board began by discussing the intended audience for the advertisement. The Complaints Board said the lager was located in a designated area of the supermarket and was restricted for sale to those aged 18 and over.

The Complaints Board then discussed the consumer takeout of the advertisement. The Complaints Board noted the advertisement was in the style of a heroic 1950's fantasy, and it was intended to be humorous. The Board referred to phrases in the text such as "Est. Circa 1648" and "Quite Nice Beer".

The Complaints Board agreed the hero in the advertisement was trying to defend himself, and the fainted woman he was carrying, from the attacking red eyed, tusked guinea pig, with a BBQ Mate. This scenario was not meant to be taken seriously. The Complaints Board said it does not appear that the man intends to harm the woman in any way.

Is the advertisement consistent with the need for responsibility and moderation in alcohol?

The Complaints Board noted there is no indication in the advertisement that the man or the woman have been drinking any alcohol and there is nothing in the advertisement that would condone or encourage irresponsible drinking. The Complaints Board agreed that Principle 2 of the Code did not apply in this instance.

Does the advertisement link alcohol with daring and antisocial behaviour?

The Complaints Board agreed the hero in the advertisement was trying to defend himself, and the woman, from the attacking guinea pig, with a BBQ Mate, and this scenario is not meant to be taken seriously. The Complaints Board said it does not appear that the man intends to harm the woman in any way, but was protecting her. The Complaints Board agreed the advertisement therefore does not link alcohol with aggressive or antisocial behaviour.

Does the advertisement cause widespread or serious offence?

The Complaints Board acknowledged the Complainant's concern that the image promoted "sexual and physical violence against women". The Complainant considered the image of the woman to be suggestive and provocative and "an obvious and distasteful attempt to use women's bodies and "victimhood" and men's sexual prowess to sell alcohol".

The Complaints Board agreed the intended audience would recognise the image was a 1950's style parody and included humorous references.

In considering whether or not the packaging was likely to cause serious or widespread offence, the Complaints Board was required to consider context, medium, audience and product and generally prevailing community standards.

The Complaints Board agreed the role of the male hero, while outdated, was exaggerated and unlikely to cause serious and widespread offence. It also agreed that while the image of the woman showed some cleavage, it did not meet the threshold to breach Rule 1(g).

The Complaints Board agreed that taking into account generally prevailing community standards, the portrayal is not likely to cause serious or widespread offence.

Did the advertisement observe a high standard of social responsibility?

The Complaints Board agreed the advertisement did observe a high standard of social responsibility. This is because there is nothing in the advertisement that would link alcohol with aggressive or antisocial behaviour or cause serious or widespread offence.

The Complaints Board ruled the advertisement was not in breach of Principle 1 or Guidelines 1(a) and 1 (g) of the Code for Advertising and Promotion of Alcohol.

The Complaints Board ruled the complaint was Not Upheld.

DESCRIPTION OF ADVERTISEMENT

The instore advertisement for Wakachangi Lager was displayed on the packaging for a 12 pack of this product. The image on the packaging showed a man wearing a torn shirt supporting a fainting woman with his right arm. In his left hand he is holding a barbecue implement, attempting to defend himself against an attacking red-eyed guinea pig.

The text says: "Premium Non-Export Sparkling Fizzy Lager – Amazing Wakachangi - Est Circa 1648 – "With the beast's razor sharp tusks at his throat, Great Uncle Kenny drew his

BBQ mate and slew the rare but ferocious guinea pig, thereby saving his Tinder date. (Peru 1936). Quite Nice Beer! ...”

COMPLAINT FROM S PETTUS

This was the picture on a box of beer in New World.

This is blatantly offensive to women. It appears at first (and second!) glance to promote sexual and physical violence against women. My 11-year-old daughter was upset and shocked when she saw this and we had to stop and try to understand and discuss the picture. Understanding (finally) that the man in the picture is supposedly "protecting" the woman, not attacking her, does little to alleviate the offensiveness of this advertising. What's the point?! Why the cleavage? Why the woman bent over the man's arm in such a suggestive, provocative manner? I haven't seen such an obvious and distasteful attempt to use women's bodies and "victimhood" and men's sexual prowess to sell alcohol in a long time. I had hoped we were past these bad old days. Shame on them.

CODES OF PRACTICE

CODE FOR ADVERTISING AND PROMOTION OF ALCOHOL

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

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

Guideline 1(a): Alcohol advertising and promotions shall not link alcohol with daring, aggressive, unruly, irresponsible or antisocial behaviour nor suggest any association with, acceptance of, or allusion to, tobacco, illicit drugs or volatile substances such as glue and petrol; explosives and weaponry.

Guideline 1(g): Alcohol advertising and promotions shall not cause widespread or serious offence, taking into account prevailing community standards, context, audience, medium and product.

RESPONSE FROM ADVERTISER, MCCASHIN BREWERY

Advertiser's response to complaint no. 18/180

- 1 We act for 660 Main Road Stoke Limited (t/a McCashin Brewery) (the **Advertiser**).
- 2 We refer to your letter of 6 June 2018 and subsequent correspondence regarding complaint 18/180 (the **Complaint**), which relates to the packaging of the Advertiser's 12 pack of 330ml bottles of WAKACHANGI beer (the **Advertisement**).
- 3 We understand that you have identified that the Complaint should be considered under the Code for Advertising and Promotion of Alcohol (the **Code**). In particular you have identified Guideline 1(a), Guideline 1(g), Principle 1 and Principle 2 of the Code as potentially applicable.
- 4 We write to present the Advertiser's view on the applicability of the above provisions of the Code to the Advertisement.

General observations applicable to all deliberations under the Code

- 5 Whether the Advertisement risks breaching Principle 1 or 2 (and the Guidelines under each) is to be considered in the context of the audience of the Advertisement and the scale and extent of use with or without complaint.
- 6 Where the audience is an adult one, as we submit is the case here, the Code should be applied with adult sensitivities and reactions in mind.
- 7 Where there has been extensive use without complaint over a period of time, as we submit there has been in this case, the Complaint should also be assessed in that context.
- 8 While the Board has not considered many packaging related cases, the principles to be applied in this case are not new. We have referenced in this response some earlier decisions of the Board which appear relevant to this case.

Channels of sale – adult audience

- 9 We submit that the relevant audience against which the Advertisement is to be assessed is an adult audience.
- 10 The Advertisement has been used in alcohol specific retail stores and in supermarkets.
- 11 Alcohol retail stores are frequented by persons over 18 years old. The audience in these stores is therefore a solely adult audience.
- 12 Supermarkets are frequented by persons of all ages. However, Neilson survey evidence accepted by the Panel in **Decision 13/243** established that 75% of visitors to supermarkets are over 18 years old and on that basis the Board accepted that the primary audience for the alcohol advertising at issue was an adult audience. We submit that there is no reason to believe visitor ages are different today to that in 2014.
- 13 What is not clearly discussed in Decision 13/243 is that an even smaller percentage than 25% of visitors to a supermarket is likely to visit the alcohol section of the supermarket. In this case this is relevant to the question of the percentage of visitors under the drinking age likely to come into contact with the Advertisement.
- 14 How a supermarket can display alcohol is governed by the terms of its liquor licence. In almost all cases such a license requires that alcohol only be sold within specified designated areas of the supermarket. Given the Advertisement is packaging this restriction also applies to the Advertisement.
- 15 Under a liquor licence the presentation of alcohol within a supermarket is usually restricted to a 'destination' position, as opposed to within the normal travelling route within the supermarket. The purpose of that placement restriction is, in part, to minimise any exposure of alcohol to those under the age of 18.
- 16 The above means that while 25% of visitors to supermarkets are under the age of 18, the alcohol section of the supermarket in which the Advertisement is found is aimed solely at those over the age of 18 and is unlikely to be viewed by persons under the age of 18 as part of a typical visit to the supermarket.
- 17 On the basis of the above we submit that the Advertisement should be assessed as aimed at and viewed by an adult audience only or to a significant extent.

18 It is certainly the Advertiser's position that the Advertisement is aimed at an adult audience.

Extent of use and lack of other complaints

19 We submit that the Complaint should also be assessed against the extent of use of the Advertisement and whether the Advertiser or its retailers have received any other complaints about the Advertisement.

20 The Advertisement has been used by the Advertiser in alcohol stores and supermarkets since 28 November 2016.

21 Over 600 alcohol stores stock beer packaging in the Advertisement. These include some of the most frequented alcohol stores in New Zealand, including Liquor Land, Super Liquor, Henry's, The Bottle'O and Black Bull.

22 The largest supermarkets in New Zealand also stock beer sold in the Advertisement, including New World, Pak n Save and (in the last six weeks) Countdown.

23 Those supermarket groups have circa 377 supermarkets between them throughout New Zealand under their respective brands. All or most of which stock beer packaged in the Advertisement.

24 Together that equates to almost 1000 retail stores in which the Advertisement features throughout the country.

25 It would not be an exaggeration to say that those stores receive millions of visits every week. The New World North Island loyalty membership alone exceeds 1 million members. The majority of New Zealand households shop in one of the supermarkets listed at least once a week, if not more regularly.

26 The Advertiser has also made considerable sales of its Wakachangi beer packaged in the Advertisement through those retailers, having sold in excess of 400,000 cartons bearing the Advertisement since 28 November 2016. Such a high level of sales further reinforces the fact that a great number of people have viewed the Advertisement.

27 Despite that 18 months' use of the Advertisement in almost 1,000 stores, with millions of weekly visits to those stores coupled with considerable interaction with the Advertisement, the Advertiser confirms that it has not received any other complaints about the Advertisement either directly or indirectly.

Principle 1

28 Principle 1 provides:

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

29 We appreciate that, while the Guidelines are not exhaustive examples of how advertising may breach Principle 1, you have directed us to Guidelines 1(a) and (g) in particular, and we have therefore focussed on those Guidelines in our response below.

30 As a general statement we submit that, given the extensive and long use of the Advertisement detailed above without complaint to date, it would appear that the

Advertisement is meeting the high standard of social responsibility required for alcohol advertising.

31 We ask that the Board choose not to uphold this aspect of the Complaint.

Guideline 1(a)

32 Guideline 1(a) provides:

Alcohol advertising and promotions shall not link alcohol with daring, aggressive, unruly, irresponsible or antisocial behaviour nor suggest any association with, acceptance of, or allusion to, tobacco, illicit drugs or volatile substances such as glue and petrol; explosives and weaponry.

Behaviour aspect of Guideline 1(a)

33 Guideline (1)(a) sits under Principle 1, with the overarching assessment therefore being whether the Advertisement links alcohol with daring, aggressive, unruly, irresponsible or antisocial behaviour in a manner which means the Advertisement is not seen as observing a high standard of social responsibility.

34 Uncle Kenny and his date are not acting aggressively, unruly, irresponsibly or in an antisocial manner in the Advertisement. It follows that insofar as those behaviours are referenced in the Guideline they do not apply to the Advertisement.

35 That said, the complainant has suggested that “at first glance” the Advertisement contains a picture of Uncle Kenny attacking the lady in his arms. Such an interpretation risks depicting one of the behaviours referenced above.

36 The complainant ultimately recognises in her Complaint that Uncle Kenny is in fact protecting his date. We are relieved that the complainant was able to interpret the Advertisement in the way intended.

37 The Advertiser has gone to lengths to ensure the Advertisement is interpreted in the way the complainant ultimately understood. There is no look of malice in Uncle Kenny’s eyes and he is looking in the direction of the attacking guinea pig. Those cues are inconsistent with the complainant’s initial interpretation of the scene as depicted Uncle Kenny attacking his date. The explanation which appears directly beside the picture further explains the scene as it is intended and reads “Uncle Kenny drew his BBQ mate and slew the rare but ferocious guinea pig, **thereby saving his Tinder date**” (emphasis added).

38 We suggest that the complainant’s initial interpretation is an unusual one, in that it is the only instance of such an interpretation the Advertiser has heard despite the extensive use of the Advertisement detailed earlier in this response.

39 The remaining issue relates to whether the Advertisement features daring behaviour linked to alcohol.

40 Daring is defined in the Oxford dictionary as “adventurous courage, boldness, audacity”.

41 It is difficult not to see Uncle Kenny’s behaviour as daring. He is displaying adventurous courage, boldness and audacity in fighting off a ferocious guinea pig with a BBQ mate.

- 42 The Guideline does not however prohibit showing daring behaviour. It prohibits portraying daring behaviour in a manner which links daring behaviour with the drinking of alcohol.
- 43 The requirement for such a link under Guideline 1(a) was recognised as decisive in **Decision 15/508**, in which the Board's view was that because there was no suggestion that the persons depicted had consumed alcohol before participating in the activity shown there was no breach of Guideline 1(a).
- 44 The same rationale applies in respect of the Advertisement. There is nothing in the Advertisement to suggest that Uncle Kenny or his date have consumed alcohol before finding themselves in a swamp being attacked by a ferocious guinea pig.
- 45 The Advertisement also does not depict either Uncle Kenny or his date consuming alcohol.
- 46 Principle 1 and Guideline 1(a) also need to be assessed against the purpose and spirit of the Code. In respect of Guideline 1(a) the purpose is to ensure advertising does not suggest or state that drinking alcohol leads to daring behaviour.
- 47 There is nothing in the Advertisement to link the consumption of alcohol with daring behaviour.
- 48 Finally, as stated in the Guidance Notes to the Code, Guideline 1(a) is intended to prevent the linking of alcohol with high risk behaviour. For that to occur the advertising needs to include a reference to a high risk behaviour that consumers can relate to – in the sense of there being a behaviour that they might think to replicate under the influence of alcohol.
- 49 The Advertisement does not contain any such high risk activity. No one seeing the Advertisement would think that they would like to be in a swamp, with a date who has fainted, being attacked by a ferocious guinea pig. The Advertisement therefore lacks an activity viewers would aspire to, whether having consumed alcohol or otherwise.
- 50 We ask that the Board choose not to uphold this aspect of the Complaint.

Product aspect of Guideline 1(a)

- 51 There is no message in the Advertisement which associates Wakachangi beer with any of the products listed in Guideline 1(a).
- 52 While Uncle Kenny is depicted in the Advertisement using a BBQ mate to defend his date, there is no indication that Uncle Kenny is using the BBQ mate because he has had a beer, or any association in the Advertisement between the buying or drinking of Wakachangi beer and being the kind of person who uses weapons or makes you better with weapons.
- 53 Any association between alcohol and a weapon (insofar as a BBQ mate might be considered a weapon) is wholly absent.
- 54 We ask that the Board choose not to uphold this aspect of the Complaint.

Guideline 1(g)

- 55 Guideline 1(g) provides:

Alcohol advertising and promotions shall not cause widespread or serious offence, taking into account prevailing community standards, context, audience, medium and product.

- 56 The complainant objects to the Advertisement on the basis that:
- 56.1 At first and second glance the complainant considered that the Advertisement promoted sexual and physical violence against women; and
- 56.2 That the Advertisement uses women's bodies, victimhood and men's sexual prowess to sell alcohol.
- 57 The Advertiser accepts that the complainant has taken a particular view of the Advertisement, but does not agree with the complainant's interpretation of the Advertisement and suggests that the complainant's view does not reflect the community's view of the Advertisement.
- 58 We repeat our earlier comments about the extent of use of the Advertisement without complaint. We submit that if the Advertisement was likely to cause widespread or serious offence the Advertiser or its retailers would have received other complaints, which they have not.

No physical violence against women in the Advertisement

- 59 As stated in respect of Guideline 1(a) we do not agree that "at first glance" the Advertisement contains a picture of Uncle Kenny attacking the lady in his arms. Such an interpretation is inconsistent with the intent of the Advertiser, the direction of Uncle Kenny's gaze as he raises his BBQ mate and the explanation which appears directly beside the picture which states "*Uncle Kenny drew his BBQ mate and slew the rare but ferocious guinea pig, **thereby saving his Tinder date***" (emphasis added).
- 60 As referenced at the outset of this response, the Advertiser has been using the Advertisement extensively in New Zealand for approximately 18 months. This is the first time it has been suggested to the Advertiser that Uncle Kenny might be attacking his date or committing physical violence towards her as suggested by the complainant.
- 61 We submit the image clearly shows Uncle Kenny protecting his date. Uncle Kenny is depicted saving his date from drowning (she has fainted). In a swamp. And saving his date from attack. From a guinea pig. And he is doing all of this while clearly having undergone an ordeal himself and with the only thing to hand. His trusty BBQ mate.

No sexual violence against women in the Advertisement

- 62 As outlined above the Advertisement is not intended to display any violence against Uncle Kenny's date, be it sexual or otherwise.
- 63 The Advertiser does not accept that the Advertisement features any act of sexual violence.

No sexual prowess in the Advertisement

- 64 The complainant also considers that the Advertisement features Uncle Kenny engaged in an act of “sexual prowess”. We understand that term to mean that Uncle Kenny is somehow displaying that he has skills and stamina when it comes to sex.
- 65 With the upmost respect to the complainant we can't find such a message in the Advertisement. Uncle Kenny is protecting his date. Protecting someone is not an action of “sexual prowess”. We cannot accept the complainant's interpretation of Uncle Kenny's behaviour.
- 66 What is intended to be depicted is Uncle Kenny acting in a masculine manner. There is nothing wrong with masculinity, it doesn't equate to sexual prowess.
- 67 We note, that the Board has in the past accepted beer has a predominant appeal to men and in that context accepted masculine themes in the sale of beer under the lower threshold test applied under the now retired Code for Advertising Liquor (see as examples **Decision 11/242** and the decisions cited therein).

No use of a woman's body to sell alcohol in the Advertisement

- 68 The Advertisement does not use Uncle Kenny's date's body to sell alcohol.
- 69 The scene depicted is a classic hero protecting his lady scene. The lady is shown in a reclining position with a degree of cleavage showing. But the amount of cleavage is not exaggerated nor is it a focal point of the image as a whole.
- 70 The prohibition in Principle 1 Guideline 1(g) is to not cause widespread or serious offence, taking into account prevailing community standards, context, audience, medium and product. The audience for the Advertisement is primarily an adult audience and predominantly male. The amount of cleavage in the image is unlikely to offend that audience, or any audience. No more cleavage is visible than is usually visible when a lady wears the type of blouse depicted in normal social environments.
- 71 Equally, the Advertisement is not centred on Uncle Kenny's date's body such that there should be a heightened sensitivity above the norm. Uncle Kenny isn't looking at his date's body, the guinea pig isn't looking at her body and the lady isn't the centre of the attention in the scene. Instead, the focus is on the battle between Uncle Kenny and the guinea pig.
- 72 While it is recognised that people have different sensibilities, it was not the intention of the Advertiser to overly sexualise the scene or focus on the woman's body in the scene in a sexual manner. We submit that the Advertisement does neither of those things and is consistent with normal prevailing community standards.

No victimhood in the Advertisement

- 73 We submit that the theme of the scene in the Advertisement is one of heroism and gallantry. It is a masculine theme directed at a particular audience.
- 74 It is difficult to have a hero without someone to protect. In the Advertisement Uncle Kenny is depicted protecting his tinder date.
- 75 A victim is defined in the Oxford dictionary as “a person harmed, injured, or killed as a result of a crime, accident, or other event or action”. In the scene depicted Uncle Kenny's date has not been harmed or injured, she has just fainted. The reason she isn't a victim (as defined) is that Uncle Kenny saves her from the attacking ferocious guinea pig. He is a hero, but that does not make his date a victim.

- 76 The complainant raises an issue of stereotyping which it is reasonable to raise. The scene depicted is of a masculine man saving a lady, it is a cliché.
- 77 However, the test for a breach of Principle 1 Guideline 1(g) is not whether the Advertisement fails to progress issues of equality, but rather whether the Advertisement is likely to cause widespread or serious offence.
- 78 To cause widespread or serious offence the Advertisement as a whole would need to be entirely contrary to prevailing community standards. The absence of any similar complaints to the Advertiser directly or indirectly indicates that the Advertisement does not come close to that threshold.
- 79 Indeed, the Advertisement is clearly a cliché. It is over the top and ridiculous. Red eyed guinea pigs don't leap at you through the air. You don't defend yourself from attack with a BBQ mate. You don't find yourself in a ripped shirt in a swamp with a lady fainted in your arms. And if you did it wouldn't be on a Tinder date in Peru in 1936. And you wouldn't have a BBQ mate to hand.
- 80 If the above wasn't enough to ensure viewers would not take the image in the Advertisement seriously, the text of the Advertisement further underlines that none of this is serious. "Premium Non-Export", "Quite Nice Beer" are not serious claims.
- 81 The Advertisement is therefore intended to be viewed as unreal. This is not how life is. It is long recognised that humour/hyperbole softens what might otherwise be likely to offend (see for example **Decision 16/047** referencing **Decision 15/314**).
- 82 We ask that the Board choose not to uphold this aspect of the Complaint.

Principle 2

- 83 Principle 2 provides:

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

- 84 The Advertisement references the quality and brewing process of the beer. None of these references encourage drinking other than in moderation. None of the references are inconsistent with the need for responsibility in the consumption of alcohol.
- 85 While these statements sit over the scene depicted, the scene itself does not contain any references inconsistent with the need for responsibility and moderation in the consumption of alcohol, indeed no reference to alcohol is made in the scene, or by the presence of both the references to quality and brewing process with the scene.
- 86 We ask that the Board choose not to uphold this aspect of the Complaint.

Further comment – approval in Australia

- 87 The Advertiser takes its responsibility to advertise its products in a way which accords with its responsibilities seriously, both in New Zealand and elsewhere.
- 88 In accordance with the above, the Advertiser has recently applied for approval to use the Advertisement in Australia under the Australian Alcohol Pre-vetting Service (**AAPS**).

- 89 The AAPS has approved the Advertisement for use in Australia in the same manner as it is used in New Zealand. A copy of the approval is **attached**.
- 90 While clearly not binding on the Board, we suggest that the approval in Australia is relevant information in its deliberations.

Conclusion

- 91 We ask that the Board choose not to uphold this complaint.

RESPONSE FROM STOCKIST, FOODSTUFFS

Wakachangi Lager Out of Home - Complaint 18/180

1. We are writing in response to complaint 18/180 regarding Wakachangi Lager (**Product**). The supplier and manufacturer of the Product is 660 Main Road Stoke Limited and Foodstuffs North Island Limited (and its franchised stores) are the stockists of the Product in our New World and PAK'nSAVE supermarkets.
2. We understand that the ASA has confirmed that the only code to which the complaint applies is the *Code for Advertising and Promotion of Alcohol* (**Code**). We also understand that it is the packaging of the Product which has caused offence to the complainant (and is determined to be an advertisement under this Code).
3. As alcohol is a regulated product, there are specific regulations in the Sale and Supply of Alcohol Act which specify where alcohol must be positioned in each of our supermarkets and grocery stores. It cannot be located at entrance and it cannot be at checkout. In addition, all alcohol products must be in one area, so that those who choose not to be exposed to alcohol can avoid it if they wish.
4. All alcohol advertising and promotions must only occur in the single alcohol area (there can be no promotions anywhere else in the store). Due to the single alcohol area restriction, the type of customers that enter the single alcohol area to buy alcohol are more robust and tend to be over 18 years.
5. As with all products which are supplied by a third party branded supplier, Foodstuffs has no input into the creation of the packaging of the products that are ranged in our store. For this reason, we believe that we are not in a position to comment on the details of the Product's packaging and that the substantive response should come from the supplier. We understand the supplier has responded to the ASA in detail and we have seen a copy of this response.
6. We can confirm that, other than the current complaint 18/180, we have received no other complaints in relation to the Product as a result of it being ranged in our stores.
7. As we are not in a position to comment on the packaging, we would like to reserve our position until the ASA has made a determination after reviewing the response from the supplier.

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 days of receipt of this decision.