

COMPLAINT NUMBER	20/368
ADVERTISER	National Brands
ADVERTISEMENT	Nitro, Facebook
DATE OF MEETING	22 September 2020
OUTCOME	Upheld Advertisement to be Removed

Summary of the Complaints Board Decision

The Complaints Board upheld two complaints about a Facebook advertisement for Nitro Vodka. This is because the alcohol advertisement encouraged the consumption of its product at any time of the day during Covid-19 lockdown, and the image in the advertisement could be interpreted as a challenge to binge drink. The Board said the advertisement did not meet the high standard required of alcohol advertising.

Advertisement

The Facebook advertisement for Nitro vodka has the text: “arghh COVID LOCKDOWN you BITCH... you’ve done it again to our mates in Auckland. On the upside... does anyone know or care what time drinks start each day? Or even what day it is?? #NitroOclock #NitroVodka# SleepWhenYoureDead #Nitro Energy”

Below the text is an image of a clock made using 7 1.25L RTD bottles and one can of Nitro RTD vodka.

Summary of the Complaints

Two Complainants are concerned the advertisement promotes binge drinking for people in lockdown which is bad for mental health.

Issues Raised:

- Social Responsibility
- Irresponsible promotion of alcohol
- Moderation in alcohol promotion

Summary of the Advertiser’s Response

The Advertiser said the Facebook post does not meet the threshold to breach any of the ASA guidelines. The Advertiser said that due to COVID 19 lockdown some people may choose to start drinking earlier in the day and the advertisement relates to when the first drink could be consumed rather than suggesting multiple drinks. The advertisement does not emphasise a product’s strength or link alcohol with irresponsible or antisocial behaviour.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaints with reference to the following codes:

CODE FOR ADVERTISING AND PROMOTION OF ALCOHOL

Principle 1: Alcohol Advertising and Promotions shall observe a high standard of social responsibility.

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.

Principle 2: Alcohol Advertising and Promotions shall be consistent with the need for responsibility and moderation in alcohol.

Guideline 2(b): Alcohol advertising and promotions shall not feature, imply, condone or encourage irresponsible or immoderate drinking. That applies to both the amount of drink and the way drinking is portrayed.

Relevant precedent decisions

In considering these complaints, the Complaints Board referred to precedent Decision 19/207, which was Upheld in Part.

The full versions of decisions (since 2015) can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 19/207 concerned four Facebook advertisements for Nitro Vodka. One of the advertisements alluded to the drinking game in which bottles are taped to participants hands. requires an individual to consume the contents of the bottles before they can be removed. The Complaints Board was of the view the advertisement which also contained the message “#SleepWhenYoureDead” encouraged immoderate drinking.

Complaints Board Discussion

Consumer Takeout

The majority of the Complaints Board agreed the likely consumer takeout of the advertisement was that the Covid-19 lockdown period was an opportunity to drink at any time of the day or night and the advertisement could be seen as a challenge to drink a bottle or can of Nitro Vodka every hour for twelve hours.

A minority of the Complaints Board had a different takeout and said the advertisement was suggesting it was acceptable to start drinking at a times other than conventional after work drinking time during the COVID-19 lockdown.

Does the advertisement link alcohol with irresponsible or antisocial behaviour?

The majority of the Complaints Board said the advertisement linked alcohol to irresponsible and antisocial behaviour by encouraging excessive drinking and drinking at over a long period of time. By linking this to the COVID-19 lockdown environment, when alcohol consumption increased, the majority of the Board said the advertisement did not meet the high standard of social responsibility required by the Code.

A minority of the Complaints Board disagreed and said the advertisement suggested any time was a good time to have a Nitro Vodka and this alone did not meet the threshold to breach Principle 1 or Guideline 1(a) of the Code for Advertising and Promotion of Alcohol.

However, in accordance with the majority, the Complaints Board ruled the advertisement was in breach of Principle 1 and Guideline 1(a) of the Code for Advertising and Promotion of Alcohol.

Does the advertisement condone or encourage irresponsible or immoderate drinking?

The majority of the Complaints Board said the image of product spaced around the clock could be interpreted as a drinking game challenge for some consumers. The Board noted the advertisement text said, “Does anyone know or care what time drinks start each day??” For the majority of the Board this wording implied that any time was a good time to start drinking and this drinking could continue over a long period of time. In addition, the tagline “#SleepWhenYoureDead” reinforced the advertisement was encouraging irresponsible or immoderate drinking and meant the advertisement was in breach of Principle 2 and Guideline 2(b) of the Code for Advertising and Promotion of Alcohol.

A minority of the Complaints Board said the advertisement did not make any reference to the volume of alcohol to be consumed and was more about any time being a good time to have a drink when stuck at home. For the minority of the Board the advertisement did not meet the threshold to breach Principle 2 or Guideline 2(b).

However, in accordance with the majority, the Complaints Board ruled the advertisement was in breach of Principle 2 and Guideline 2(b) of the Code for Advertising and Promotion of Alcohol.

Does the advertisement observe a high standard of social responsibility?

The Complaints Board unanimously agreed the advertisement was in breach of Principle 1 of the Code for Advertising and Promotion of Alcohol Code. The Complaints Board said that irrespective of whether the likely consumer takeout was about when to take the first drink of the day or the challenge of consuming 12 bottles/can of Nitro Vodka within the 12 hour period, the advertisement had not observed the high standard of social responsibility required of alcohol advertising.

The Complaints Board ruled the advertisement was in breach of Principle 1, Principle 2 and Guidelines 1(a) and 2(b) of the Code for Advertising and Promotion of Alcohol.

Outcome

The Complaints Board ruled the complaints were **Upheld**.

Advertisement to be removed.

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 calendar days of receipt of this decision.

APPENDICES

1. Complaints
 2. Response from Advertiser
-

Appendix 1

There were 2 complaints about this advertisement:

Complaint 1

I believe this is inappropriate and irresponsible to be advertising binge drinking for people in lockdown. There is clear mental health advice to new Zealanders that over drinking in lockdown is bad for mental health, and can lead to depression.

Complaint 2

Digital marketing ad details:

<https://www.facebook.com/nitrovodka/photos/a.237934769968615/1003594686735949>

social media complaint details: as outlined in the code for advertising and promoting alcohol, violates guideline 1(a), guideline 2(b) - promoting irresponsible drinking habits and behavior

Appendix 2

RESPONSE FROM ADVERTISER, NATIONAL BRANDS COMPLAINT 1

I believe this is inappropriate and irresponsible to be advertising binge drinking for people in lockdown. There is clear mental health advice to New Zealanders that over drinking in lockdown is bad for mental health, and can lead to depression.

As outlined in the Code For Advertising and Promoting Alcohol, Violates Guideline 1(a), Guideline 2(b) - Promoting irresponsible drinking habits and behavior.

Response:

The copy on the ad reads: “arghh COVID LOCKDOWN you BITCH... you’ve done it again to our mates in Auckland. On the upside... does anyone know or care what time drinks start each day? Or even what day it is??”

The clear inference is a large number of people are not driving or going to bars due to Covid lockdown. A lot of people are working from home with flexible working hours and days. Therefore, some people may choose to have their first standard drink at 12 noon, or 1pm, 2pm, 3pm... all the way up to 11pm. It does not mention how many drinks or suggest having multiple standard drinks. It is definitely not “implying, condone or encourage irresponsible or immoderate drinking”. It relates to a first drink – which could also be the only standard drink someone has.

It does not “emphasize a product’s alcoholic strength”.

It does not “link alcohol with daring, aggressive, unruly, irresponsible or antisocial behaviour”

The post does not meet the threshold of breaching any of the ASA guidelines, therefore we reject the complaint, and hope the Complaints Board concur with this approach.