

<b>COMPLAINT NUMBER</b>	21/384
<b>COMPLAINANT</b>	Alcohol Healthwatch
<b>ADVERTISER</b>	National Brands
<b>ADVERTISEMENT</b>	Nitro Facebook and Instagram
<b>DATE OF MEETING</b>	22 September 2021
<b>OUTCOME</b>	Settled-advertisements removed

**Advertisements:** There were four advertisements on the Nitro Facebook and Instagram pages

AD 1- Get your Tats out Nitro Facebook Page 17 July 2020

AD 2- Quick Release Nitro Facebook and Instagram Page 27 Nov 2020

AD 3- 2021 Resolution Nitro Facebook Page 9 Jan 2021

AD 4- Freakin Weekend Nitro Facebook Page 22 Jan 2021

**The Chair ruled the Complaint was Settled.**

**Complaint:** This complaint relates to alcohol advertisements for Nitro products posted on the Instagram and Facebook accounts of Nitro:

1. <https://www.instagram.com/nitrovodka>

2. <https://www.facebook.com/NitroVodka>

Details of the advertisement are appended at the end of this letter, labelled as Advertisement 1-20.

We believe that these advertisements breach the following principles and guidelines of the ASA 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 consumption*

*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.*

*Principle 3: Alcohol advertising and promotions shall be directed at adult audiences. Alcohol advertising and promotions shall not be directed at minors nor have strong or evident appeal to minors in particular. This applies to both content and placement.*

*Guideline 3 (c): Anyone visually prominent in alcohol advertising and promotions depicting alcohol being consumed shall be, and shall appear to be, at least 25 years of age with their behaviour and appearance clearly appropriate for people of that age or older. Minors may*

*appear in alcohol advertising and promotions only in situations where they would naturally be found, for example in a family barbecue, provided that there is no direct or implied suggestion that they will serve or consume alcohol*

We submit that Advertisements 1-20 appended below are in breach of Principle 1, and Guideline 1 (a) of the Code for Advertising and Promotion of Alcohol in that they all use images and or text to allude to, or suggest association with explosives and weaponry. This is achieved through their reference to Nitro cans as grenades, with the cans graphically represented as grenades through the addition of a stylised grenade pin and lever.

We further submit that Advertisements 2-7, and 12-20 are in breach of Principle 2, and Guideline 2 (b) of the Code for Advertising and Promotion of Alcohol due to the use of the tagline 'sleep when you're dead'. We refer to Decision 19/207 in which the Complaints Board stated that "the likely consumer takeout was that the stimulants in the product will allow users to stay up all night drinking", and that the advertisement in encouraging consumers to stay up all night drinking "which could lead to excessive consumption of alcohol".

We also submit that Advertisement 2 is in breach of Principle 3, and Guideline 3 (c) of the Code for Advertising and Promotion of Alcohol, as the advertisement depicts alcohol being consumed, and all persons visually prominent in the advertisement appear to be less than 25 years of age, with their behaviour and appearance more consistent with persons under 25 years of age than with persons over 25 years of age.

#### **Procedural note**

The advertisements dealt with in this complaint were posted between 17 July 2020 and 22 January 2021.

The advertisements complained about are part of nine complaints lodged by Alcohol Health Watch and the Southern District Health Board about a total of 111 posts from the Nitro Facebook and Instagram accounts from February 2018 to March 2021. The Complaint was made on 30 June 2021 when the Code for Advertising and Promotion of Alcohol was still in force.

The Alcohol Advertising and Promotion Code came into force on 1 July 2021 for all advertisements including those recently posted on social media prior to that date. The Advertiser was therefore asked to respond to the complaint under the Alcohol Advertising and Promotion Code.

The Chair declined to adjudicate the complaints about the posts that were first displayed prior to 30 June 2020. While the Chair acknowledged social media users could still access these posts if they chose to, the nature of social media and the regularly updated content, with the most recent posts the most visible, meant a meaningful current audience was unlikely. The Secretariat reviewed all the posts subject to complaint and advised there was no obvious activity on those older posts. The Chair has therefore declined to adjudicate the complaints related to those posts.

The relevant provisions were the Alcohol Advertising and Promotion Code Principle 1, Rule 1 (b) Rule 1 (c) Rule 1 (d) Rule 1 (e) Rule 1 (f)

**Principle 1: Social Responsibility-** Alcohol Advertising and Promotion must be prepared and placed with a high standard of social responsibility to consumers and society.

**Rule 1 (b): Targeting Adults Content** – The content of Alcohol Advertising and Promotion must target Adults

**Rule 1(c): Alcohol Consumption** – Alcohol Advertising and Promotion must demonstrate responsibility and low risk Alcohol consumption.

**Rule 1(e): Safety:** Advertisements must not, unless justifiable on educational or social grounds, encourage or condone dangerous, illegal or unsafe practices, or portray situations which encourage or condone a disregard for safety.

**Rule 1(f): Violence and Anti social behaviour** - Alcohol Advertising and Promotion must not, unless justifiable on educational or social grounds, contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property

**The Chair** the Complainant was concerned that the advertisement was promoting irresponsible behaviour and encouraging immoderate drinking.

Upon receipt of the complaints the Advertiser responded “We do not have the time or energy to argue the opinion of the complaints, so to avoid wasting everyone’s (including ASA’s) time, we have on a without prejudice basis, removed all posts that were requested.

We appreciate all the time and resources ASA puts into managing the advertising industry and if there is anything you see that you are concerned with, please contact us and we will do our best to explain or resolve the situation.”

Given the Advertiser’s co-operative engagement with the process and the self-regulatory action taken in removing the advertisements, the Chair said it would serve no further purpose to place the matter before the Complaints Board.

The Chair ruled the matter was Settled.

**Chair’s Ruling:** Complaint **Settled - advertisements 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](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.