

COMPLAINT NUMBER	18/354
COMPLAINANT	L Hardie
ADVERTISER	Glengarry Wines Limited
ADVERTISEMENT	Glengarry Wines Ltd Limited, Unaddressed Mail
DATE OF MEETING	23 January 2019
OUTCOME	Upheld

SUMMARY

The addressed and unaddressed mail advertisement for Glengarry Wines is a Christmas newsletter containing price and product offers for wine. The front cover is a stylised cartoon drawing of Santa Claus, a dog and a Christmas tree with a wine bottle and glasses. The back page has a pink theme, with a selection of pink bottles of alcohol featured alongside pink iced donuts and bright coloured biscuits.

The Complainant was concerned the unaddressed advertisement had direct appeal to children and alcohol should not be marketed in that way.

The Advertiser said the unaddressed distribution had been sent to selected neighbourhoods that matched the target demographic for fine wines. It said the advertisement was prepared and intended for an adult audience. The stylised graphic of Santa was done in a humorous, mature way as a festive cover, not to attract minors.

The Complaints Board said the advertisement cover would have evident appeal to minors, given the context of Christmas and the bright cartoon representation of Santa. Although the Santa is a stylised version, the Board said the image was still instantly recognisable and appealing to minors. The Complaints Board agreed the inside pages of the advertising would not appeal to children in content and style, but this did not save the advertisement.

The Complaints Board ruled the combination of the evident appeal of the cover of the advertisement and the unrestricted access to a wide audience via unaddressed mail delivery was a breach of Principle 3 and Guideline 3(b) of the Code for Advertising and Promotion of Alcohol.

The Complaints Board said taking into account context, medium, audience and product, the advertisement had not observed a high standard of social responsibility and its cover and placement had breached Principle 1, Principle 3 and Guideline 3(b) of the Code for Advertising and Promotion of Alcohol.

The Complaints Board ruled the complaint was Upheld

[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 Principle 1, Principle 3 and Guideline 3(b) of the Code for Advertising and Promotion of Alcohol

Principle 1 required the Complaints Board to consider whether the advertisement with had observed a high standard of social responsibility.

Principle 3 required the Complaints Board to consider whether the advertisement had been directed at adult audiences and not directed at minors nor have strong or evident appeal to minors in particular. This applies to both content and placement.

Principle 3(b) required the Complaints Board to consider whether the advertisement had used designs, motifs or cartoon characters that have strong or evident appeal to minors or that create confusion with confectionary or soft drinks.

The Complaints Board discussed whether it should consider the advertisement under Guideline 3(a) relating to heroes of the young. The Board agreed Guideline 3(b) was more relevant to the complaint before it and Guideline 3(a) was not required.

The Complaints Board ruled the complaint was Upheld.

The Complaint

The Complainant was concerned that the unaddressed advertisement had direct appeal to children and alcohol should not be marketed in that way.

The Advertiser's Response

The Advertiser said the unaddressed distribution had been sent to selected neighbourhoods that matched the target demographic for fine wines. It said the advertisement was prepared and intended for an adult audience. The stylised graphic of Santa was done in a humorous mature way as a festive cover, not to attract minors.

The Complaint Board Discussion

Consumer takeout

The Complaints Board began by discussing the likely consumer takeout of the advertisement.

The Board said the advertisement was a Christmas catalogue of alcohol products. The Complaints Board did not consider minors would be interested in the inside pages of the newsletter. However, the front and back covers were colourful and likely to be visually attractive to minors. The covers included a cartoon Santa Claus, dog and Christmas tree on the front cover and an engaging collection of pink coloured items on the back cover including iced donuts and biscuits. The Complaints Board agreed that for the purposes of its deliberation, the advertisement must be considered in its entirety taking into account the visibility of the cover to a wide audience.

Is the advertisement directed at minors or have strong or evident appeal to minors in particular?

The Complaints Board agreed that the advertisement was not intentionally directed at minors and the price and product information with large amounts of text would not be of interest to children.

However, the Board said the cover pages would have evident appeal to minors, given the context of Christmas and the bright cartoon representations.

The Complaints Board noted the medium of the advertisement subject to complaint included unaddressed mail to consumer letterboxes. It also noted the Advertiser had targeted the newsletter delivery to locations it considered would be interested in its product range.

The Complaints Board agreed the nature of the medium meant that anyone, including minors, had access to the advertisement, which increased the risk of it being viewed by those other than the intended adult audience. The Complaints Board ruled the combination of the evident appeal of the cover of the advertisement and the unrestricted access to a wide audience via unaddressed mail delivery was a breach of Principle 3 of the Code for Advertising and Promotion of Alcohol.

Does the advertisement use designs, motifs, or cartoon characters that have strong or evident appeal to minors?

The Complaints Board agreed the front cover of the newsletter contained a colourful cartoon Christmas scene with Santa, a dog and a Christmas tree, along with a wine bottle and two glasses. Although the Santa is a stylised version, the Board said the image was still instantly recognisable and had evident appeal to minors. The back page showed pink iced donuts and biscuits which would also be appealing. The Complaints Board ruled the use of a cartoon imagery including Santa in an unaddressed mail advertisement was a breach of Guideline 3(b) of the Code for Advertising and Promotion of Alcohol.

After some discussion, the Board did not consider the complaint under Guideline 3(a) because Guideline 3(b) was a more specific guideline that applied in this case.

In summary, the Complaints Board said taking into account context, medium, audience and product, the advertisement had not observed a high standard of social responsibility and its cover content and placement had breached Principle 1, Principle 3 and Guideline 3(b) of the Code for Advertising and Promotion of Alcohol.

Therefore, the Complaints Board ruled the complaint was Upheld.

DESCRIPTION OF ADVERTISEMENT

The Addressed and Unaddressed Mail advertisement for Glengarry Wines is a Christmas newsletter containing price and product offers for wine. The front cover is a stylised cartoon drawing of Santa, a dog and a Christmas tree with a wine bottle and glasses. The back page has a pink theme, with a selection of pink bottles of alcohol featured alongside pink iced donuts and bright coloured biscuits.

COMPLAINT FROM L HARDIE

This brochure looks to be a children's advertisement and alcohol should not be marketed to children. My children got this out of the mailbox and looked through it because of the cover. Urgent action should be taken to stop this distribution.

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 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(a): Alcohol advertising and promotions in non-restricted areas shall not use or refer to identifiable heroes or heroines of the young. See Guidance Notes at www.asa.co.nz.

Guideline 3(b): Alcohol advertising and promotions shall not use designs, motifs, or cartoon characters that have strong or evident appeal to minors or that create confusion with confectionary or soft drinks.

RESPONSE FROM ADVERTISER, GLENGARRY WINE LIMITED

Please find detailed below the information requested as an advertiser's response to the complaint received, ref 18/354:

- Contact person for advertising complaints - Liz Wheadon.
- Creative and media agency contacts are not applicable as all advertising is prepared in house at Glengarry.
- The advertisement that this complaint relates to is the front page of our December 2018 Wineletter. This was the 247th edition of our Wineletter. We produce this monthly to promote our Fine Wines.
- This was delivered via both addressed and unaddressed mail. The unaddressed mail is the basis of this complaint. The distribution for this was around Auckland and Wellington, into selected neighborhoods that matched the target demographic for our Fine Wines.
- Date advertisement began: 26th November 2018.
- This Wineletter promotion has now finished. The distribution was completed in the first weekend of December. A copy of the publication can be viewed on our website as part of the historic file of Wineletters we hold.
- The target audience for this was high earning, older professionals living in the inner wealthy suburbs. The audience for this was adults; this was not targeted towards minors and not to those under the age of 18 years of age.

We understand that the complaint received relates to the Code for Advertising and Promotion of Alcohol - Guideline 3 (a), Guideline 3 (b), Principle 1, Principle 3;

With regard to Guideline 3 (a) which states that; Alcohol advertising **and** promotions in nonrestricted areas shall not use or refer to identifiable heroes or heroines of the young.

- The front cover of the Wineletter shows our artist's version of Santa. The graphic is a very stylized character and done in a humorous, mature way. The image character is such that, whilst it is intended to be Santa, it is not a traditional Santa. The image was designed as a festive cover for the promotion of Fine Wines, not to attract minors. We don't view that this image uses or refers to heroes or heroines of the young.

With regard to Guideline 3 (b) which states that; Alcohol advertising and promotions shall not use designs, motifs, or cartoon characters that have strong or evident appeal to minors or that create confusion with confectionery or soft drinks.

- The image used is our artist's work that is synonymous with Glengarry and Fine Wine. It is a style that is targeted at adults, not minors. The style does not have links with confectionery or soft drinks.

With regard to PRINCIPLE 1: Alcohol advertising and promotions shall observe a high standard of social responsibility.

- The content of this publication is focused on fine wine, the bottles of wine and imagery in the publication are in no way targeted to minors. The price points are very premium in nature, the content is mainly text - very detailed wine notes and writing. The aim of the publication is to educate and inform customers, it is not discount focused at all, and in fact there's no comparative pricing in the publication.
- Glengarry takes the sale and supply of alcohol very seriously. We are a family owned New Zealand company that has been in business since 1945. The way that we have promoted our products here is done to a very high standard of social responsibility.

With regard to 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.

- This publication was put together with a target market in mind. The products selected, and price points sit clearly in a premium Fine Wine market. As such this is an adult market. The content does not appeal to minors and is not directed at minors.
- The placement of the publication into letterboxes is intended to be directed towards adults. The content in the publication focused on adults and not minors.

In summary, this publication was prepared and intended for an adult audience. The content of the publication **is** a selection of Fine Wines, at premium price points. The presentation is done in a way to inform and educate customers about wine. This publication was not targeted at minors.

Please don't hesitate to contact me for further information.

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.