

COMPLAINT NUMBER	20/591
ADVERTISER	Beers at the Basin
ADVERTISEMENT	Beers at the Basin Out of Home
DATE OF MEETING	10 February 2021
OUTCOME	Upheld Advertisements not to be used again

Summary of the Complaints Board Decision

The Complaints Board upheld a complaint about the billboard advertising for the Beers at the Basin event. Twenty-six billboards were located on the exterior walls of the Basin Reserve in Wellington facing the street. The Board said the number and placement of the billboards, in close proximity to a primary and a secondary school and near another secondary school, meant the advertisements did not meet the high standard of social responsibility required of alcohol advertising.

Advertisements

There were two versions of the billboard advertisements. One of the billboards showed a photo of three glasses of beer placed on a table. The text to the right of the advertisement said: "Beers at the Basin – 28 Nov – Tickets on Sale".

The other billboard showed a photo of two women holding glasses of beer and laughing together. The text to the right of the advertisement said: "Beers at the Basin – 28 Nov – Tickets on Sale".

A total of twenty-six copies of these two billboards were placed at regular intervals around the exterior of the perimeter wall surrounding the Basin Reserve, where the event was held.

Summary of the Complaint

The Complainant was concerned about the placement of alcohol advertisements near several schools and school bus routes.

Issues Raised:

- Social responsibility
- Alcohol advertising should not be directed at Minors

Summary of the Advertiser's Response

The Advertiser defended the advertisements and said they were only in one location, they were attached to the event venue, and they were removed on 29 November 2020.

The Advertiser said the target audience for the advertisements was adults and the advertisements would not have any appeal to children, with respect to either placement or content.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint 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.

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.

NB: A new alcohol code, the Alcohol Advertising and Promotion Code, will be coming into force on 1 April 2021 for new advertisements and on 1 July 2021 for all alcohol advertisements. The Complaints Board considered this complaint under the current Code for Advertising and Promotion of Alcohol.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 20/043 and 20/285, both of which were Upheld.

The full versions of these decisions can be found on the ASA website:

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

Decision 20/285 concerned advertisements for the minus 5° Ice Bar, which was displayed outside its premises. The relevant advertisement showed images of four people: The first was a minor in a woollen hat licking an ice drink, the second was a man in winter clothing pouring drinks from two bottles of Absolut Vodka, the third was a woman dressed in winter clothing holding a cocktail and the last one was a man with ear protectors making an ice sculpture. In the centre of these images was the name of the premises “minus 5° ICE BAR.”

The Complaints Board said the complaint was upheld because the advertisement was an alcohol advertisement which included an image of a minor next to an image promoting the consumption of alcohol. It was an alcohol advertisement because it contained an image of a bottle of vodka.

Decision 20/043 concerned a billboard advertising Jack Daniel’s whiskey for Hancocks Wine, Spirits & Beer Merchants. The Complaints Board agreed the content and the execution of the advertisement did not having strong or evident appeal to minors. However, the Board said the placement of the billboard, in close proximity to a school, meant the advertisement did not meet the high standard of social responsibility required of alcohol advertising.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisements was: there’s an event happening at the Basin Reserve on 28 November 2020, which involves drinking beer.

The Board noted that minors were prohibited from attending the Beers at the Basin event.

Code for Advertising and Promotion of Alcohol

The Complaints Board referred to the following excerpt from the Code for Advertising and Promotion of Alcohol:

“...The Code is designed to ensure that alcohol advertising and promotion is consistent with the need for responsibility and moderation in merchandising and consumption and does not encourage consumption by minors... it is important to note that the likely audience ... is a key factor in determining code compliance.”

The Complaints Board also referred to the definition of alcohol advertising as stated in the Code for Advertising and Promotion of Alcohol, this states:

“Alcohol advertising and promotion” means an advertisement, packaging, point of sale or other promotions, activities and materials (including dispenser units) generated by an alcohol producer, distributor or retailer that promotes alcohol by product, brand or outlet.”

The Complaints Board agreed that the advertisements were alcohol advertisements, as they promoted an event for drinking beer.

Were the advertisements directed at adult audiences, both in content and placement? Did they have strong or evident appeal to minors?

The Complaints Board said the content of the advertisements was directed at adult audiences and did not have strong or evident appeal to minors. The first billboard showed photos of glasses of beer and the second billboard showed adults drinking beer.

The Complaints Board considered whether the placement of the advertisement was directed at either adults or minors and considered whether the expected average audience of the advertisement would include a significant proportion of children or young people. The Board noted that the Basin Reserve is a main thoroughfare for commuters travelling to different parts of Wellington and according to statistics prepared by Waka Kotahi/NZTA at least 26,000 vehicles drive past the Basin Reserve each day. As such the majority of the audience for the advertisements was likely to be adults. The Board noted that the combined student roll for the three schools near the Basin reserve would be a minority of the audience. In this context the Complaints Board said the advertisements were directed at adult audiences.

Did the advertisements observe a high standard of social responsibility?

A majority of the Complaints Board said that irrespective of the intended target audience, it was not appropriate for an alcohol advertisement to be placed in such close proximity to a school. The advertisements therefore did not meet the high standard of social responsibility required of alcohol advertising. This is because some of the advertisements which promoted alcohol consumption were located directly opposite and facing a primary school, St Mark's Primary School, and near the entrance to a high school, Wellington College. These advertisements were also not far from the entrance to another high school, Wellington East Girls College.

The Board said that while the majority of the overall audience for the advertisements was likely to be adults, the location of a number of the advertisements promoting the consumption of alcohol, in close proximity to a primary and a secondary school and near another secondary school, did not meet the high standard of social responsibility required of alcohol advertising.

A minority disagreed. The minority said the advertisements did meet the high standard of social responsibility required of alcohol advertising, as the likely audience for the

advertisements was predominantly adult and the content and placement of the advertisements was directed at adult audiences.

Summary

The Complaints Board said the advertisements did not meet the high standard of social responsibility required of alcohol advertising, taking into account context, medium, audience and product. The Complaints Board said the advertisements were in breach of Principle 1 of the Code for Advertising and Promotion of Alcohol, but not in breach of Principle 3 of the Code for Advertising and Promotion of Alcohol.

Outcome

The Complaints Board ruled the complaint was **Upheld**.

Advertisements not to be used again.

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. Complaint
 2. Response from Advertiser
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Appendix 1

COMPLAINT

Subject: ASA Complaint – Beers at the Basin Signage

This complaint relates to alcohol advertisements for 'Beers at the Basin' on the Basin Reserve Cricket Ground perimeter fence in Wellington. The 26 advertisements (approximately 6x4 feet each) are located in front of St Marks School (pre-school, primary and international children), the entrance to Wellington College (secondary boys), near the street with the entrance to Wellington East Girls' College (secondary girls), and on the highly frequented bus routes and school bus only services (including 4 bus-stops in view of the signage around the Basin) for these schools and Eastern Suburbs Schools. Details of the excessive signage are appended at the end of this letter.

Principle 3 of the Code for Advertising and Promotion of Alcohol states:

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.

Given the high visibility placement of these repetitive advertisements in very close proximity to these schools, I submit that this placement is inconsistent with Principle 3 of the Code for Advertising and Promotion of Alcohol. The placement also raises concerns around social responsibility. I request that the Complaints Board Chair consider whether the advertisement should be considered under Principle 1 of the Code for Advertising and Promotion of Alcohol.

Appendix 2

RESPONSE FROM ADVERTISER, BEERS AT THE BASIN

Code for Advertising and Promotion of Alcohol - Principle 1, Principle 3;

Attached advertisements

- Only ran in the one location (attached to the event venue)
- Were removed on the 29th of November

In regards to the complaint around the placement of the advertising for Beers at the Basin we would like to defend the complaint.

We note that the advertisement that is the subject of this complaint was removed on 29th November 2020. However, we strongly refute the allegation that the advertisement breached the Children and Young People's Advertising Code or the Code for Advertising and Promotion of Alcohol.

We submit that the advertisement in question is neither targeted, nor would it have any appeal to children, either with respect to the placement of the advertisement or its content.

Beers at the Basin is an event that takes place once a year at the Basin Reserve Wellington. The advertising that is in question was attached to the event venue – it was not placed on a 3rd party advertising medium.

The venue is part of the brand of the event, hence the advertising was placed at the event. The advertising only appeared on the perimeter of the venue in which it was to be held (Basin Reserve, Wellington). The expected average target audience is adults (likely to be 80% or more) who utilise the road around the Basin Reserve. The same audience who see the short term, pop up, Beers at the Basin advertisement are just as likely to see the permanent alcohol advertisements located in the vicinity, year round, as below.

The advertising is not directed at minors and does not promote the consumption of alcohol or similar.

There is no text used to promote alcohol or alcohol consumption. The advertising does not contain any features that would have a strong appeal to children and there is nothing in either the language or imagery of the advertising that is offensive or inappropriate.

The advertising is used to promote the event as a whole.

This event is an R18 Ticketed event (restricted license) so does not target minors. Advertising is targeted at an audience 18+ to purchase tickets to the event, as can be seen in the text on the advertisement (tickets on sale) there is no reason to directly target advertising to minors.

The event promotes not only alcohol but music, food and more, and has an Alcohol Management plan with a specific section relating to minors being prohibited persons at the event.

Similarly to how Regional Wines (liquor store located opposite the Basin Reserve and can be seen from many of the Complaint locations) advertises liquor externally, but has an Alcohol Management plan to prohibit the sale or supply of liquor to minors.

It is noted that this is a bottle store in the immediate location and it holds a liquor license with no objection, and in turn is able to advertise alcohol sales and specials.

There are also a number of Shout Advertising boards all around the Basin Reserve as can be seen in the attached examples.

These often carry alcohol advertising as can be seen in the photos.

Advertising on these “Shout Boards” or other mediums could be seen as targeting – advertisers would need to select these boards or similar when running a campaign.

We note that there doesn't appear to be an objection to running alcohol advertising on these 3rd party sites.

Given other advertising for alcohol appears in the immediate vicinity, and on the same road in question it doesn't appear there are any restrictions to not allow any liquor advertising or material not suitable for under 18-year olds. It is therefore submitted that the advertisement is in keeping with the surrounding environment.

In light of the above, we ask that the Complaints Board determines that the Complaint is not upheld and finds that the Code for Advertising and Promotion of Alcohol - Principle 1, Principle 3; have not been breached.

We would welcome the opportunity to respond to any further comments or queries that you may have.