

COMPLAINT NUMBER	21/475
ADVERTISER	Super Liquor Holdings
ADVERTISEMENT	Super Liquor, Digital Marketing
DATE OF MEETING	9 November 2021
OUTCOME	Not Upheld No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold two complaints about an interscroller advertisement for Super Liquor on the Stuff website, which the Complainants said was aggressive and inappropriate for vulnerable or young audiences. The Complaints Board said the advertisement used a new technology which consumers could quickly scroll past when familiar with the format and the Advertiser had targeted an adult audience.

Advertisement

The price and product advertisement for Super Liquor was on the Stuff website. There were three different images for the advertisement. The first had an image of a Super Liquor store with an “Open” sign on the front. The text said: “Ways to shop – Level 2 – Stores open and shop online for click and collect delivery – Level 4 – Online and email orders for contactless delivery”. There was a red “Shop Now” button with an “X” next to it.

The second image had the Super Liquor logo across the top, images of Jim Beam and Finlandia bottles, with pricing information. There was a red “Shop Now” button with an “X” next to it. The third image had the Super Liquor logo across the top, images of Bombay Sapphire bottles, with pricing details, and the text “Content resumes on scroll”.

Summary of the Complaints

There were two complaints about this advertisement, who were concerned the advertisement was aggressively marketing alcohol because it took three “swipes” to close the alcohol advertisement. One of the Complainants was also concerned vulnerable audiences such as recovering alcoholics or children would see this advertisement.

Issues Raised:

- Social responsibility
- Alcohol Advertising, targeting adults – Timing and placement

Summary of the Advertiser’s Response

The Advertiser said the alcohol advertisement used a common interscroller format which complied with the rules under the Sale and Supply of Alcohol Act and the ASA guidelines. The Advertiser confirmed there was an age-gate landing page when a user clicked through to the Super Liquor website.

The Advertiser acknowledged there was a technical bug that which incorrectly inserted a close ‘X’ icon implying users could close the advertisement and confirmed this issue had been fixed.

Summary of the Media Response

The Media acknowledged the technical error and confirmed Stuff’s user demographic is a predominantly adult audience (only 12% of Stuff users are aged between 12 and 24 years old)

Relevant ASA Codes of Practice

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

ALCOHOL ADVERTISING AND PROMOTION CODE

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 (a) Targeting Adults – Timing and placement: The timing and placement of Alcohol Advertising and Promotion must target Adult audiences.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to precedent Decision 20/290 which was settled in Part and Not Upheld in Part.

The full version of this decision can be found on the ASA website:

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

Decision 20/290 concerned a website advertisement for Hell Pizza and Best Wine Company which allowed customers to purchase alcohol when ordering a pizza. The Complainant was concerned the advertisement excessively prompted the consumer to purchase alcohol even in children's pizza promotions and could be difficult for those struggling with alcohol issues.

The Complaints Board said the Advertiser' amendment to provide an opt-out option settled part of the complaint on the frequency of prompts. The Complaints Board did not uphold the use of the counter in the advertisement and confirmed the advertisement was not directed at minors.

Complaints Board Discussion

The Chair noted that the Complaints Board's role was to consider whether there had been a breach of the Alcohol Advertising and Promotion Code. In deciding whether the Code has been breached the Complaints Board has regard to all relevant matters including:

- Generally prevailing community standards
- Previous decisions
- The consumer takeout of the advertisement, and
- The context, medium, audience and the product or service being advertised, which in this case is:
 - Context: Digital alcohol advertising with multiple screens
 - Medium: Stuff website
 - Audience: Adult consumers
 - Product: Price and Product alcohol advertising

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was a price and product promotion for Super Liquor within the COVID-19 alert level environment.

Does the placement of the advertisement target adult audiences?

The Complaints Board said the advertisement had met the placement guidelines of Rule 1(a) of the Alcohol Advertising and Promotion Code. The Board noted the advertisement did not dominate the stuff.co.nz website and an age-gating landing page was in place when clicking

through to the Super Liquor website. The Advertiser and Media also confirmed Stuff's user demographic were predominately adult. The placement of the advertisement therefore targeted an adult audience as required by the Code.

The Complaints Board ruled the advertisement was not in breach of Rule 1(a) of the Alcohol Advertising and Promotion Code.

Has the advertisement been prepared and placed with a high standard of social responsibility?
The Complaints Board considered whether the format of the advertisement breached the Code.

Issue 1: The inactive X icon

The Complaints Board noted the Advertiser and Media had acknowledged the initial advertisement had contained a technical error which suggested consumers could close the advertisement using the 'X' icon when they could not. The Board said this was likely to have been confusing for consumers and could have resulted in unnecessary engagement with the advertisement. However, the Board said the error was unintentional and was rectified by the Media, who included an apology to users who experienced this issue in their response.

Issue 2: The Interscroller Ad Unit and the likely audience

The Complaints Board said the Interscroller format was a relatively new style of advertising which paused the content scroll until consumers have swiped through three frames of the advertising copy. The Complaints Board noted a similar example in print could be a series of advertisements in close proximity to each other in a publication. The Board acknowledged this marketing tool could appear excessive to consumers who are not familiar with it. The Complaints Board agreed that users are likely to become adept at quickly scrolling through to dismiss unwanted advertising.

The Complaints Board agreed that the format of the advertisement was socially responsible for the predominantly adult audience, once the error had been rectified.

The Complaints Board said the advertisement had been prepared and placed with a high standard of social responsibility, taking into account context, medium, audience and product and did not reach the threshold to breach of Principle 1 or Rule 1(a) of the Alcohol Advertising and Promotion Code.

Outcome

The Complaints Board ruled the complaints were **Not Upheld**.

No further action required

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 with notification of the intent to appeal lodged within 14 calendar days of receipt of the written decision. The substantive appeal application must be lodged with the ASA within 21 calendar days of receipt of the written decision.

APPENDICES

1. Complaints
 2. Response from Advertiser
 3. Response from Media
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Appendix 1

COMPLAINTS

There were two complaints about this advertisement.

Complaint 1

I was disturbed to find aggressive alcohol advertising on stuff today. Usually adverts need one swipe to get past, this one required three, with each swipe moving to another page of alcohol advertising. This seems unethical - any recovering addict will have no warning that they are about to be subjected to strong messages to buy alcohol, they will have to repeatedly swipe to get away from then, and to top it off, there is an x in the bottom right of the images that looks like a quick way to close it, but is isn't, and it's adjacent to the buy now button. Screen shots below. Please, support our communities and don't advertise alcohol on your site.

Complaint 2

I think it is very inappropriate for a 3 page alcohol advert to be on the main media page of stuff.co.nz. I am not logged into the website, or Google so it has no idea how old i am. Children would get this advertisement. For people who struggle with alcohol addiction it is also very in your face and offensive. There is no way to opt out or choose not to view this advertisement. There is no way to report it as inappropriate to the web site. I don't think it is suitable to have this advertisement readily viewable and accessible to children / under 18s. I also emailed stuff with my concerns two weeks ago and i have had no reply. Just ignored. Thanks for your work and consideration.

Appendix 2

RESPONSE FROM ADVERTISER, SUPER LIQUOR HOLDINGS

I write in response to your letter of 28 September 2021 setting out the complaint 21/475 concerning digital advertising by Super Liquor, appearing in Stuff. The complaint is being considered by the Complaints Board under section Principle 1, Rule 1(a) of the Alcohol Advertising and Promotion code.

You have received a response from Stuff, on behalf of Super Liquor Holdings (1 st October 2021), however you are seeking specific comment from us in relation to the complainant's claim that the advertisement "..... seems unethical – any recovering addict will have no warning that they are about to be subjected to strong messages to buy alcohol.....".

Alcohol advertising content of the nature in question is permitted under the Sale and Supply of Alcohol Act 2012 (SSAA) and the ASA's Alcohol Advertising and Promotion code – in print and digital media channels. It is widely used by alcohol retailers and Super Liquor Holdings regularly deploys promotions of this nature, in accordance with the SSAA and ASA Code. Nevertheless, as Stuff has advised, there was a technical bug that affected the deployment of the particular digital ad in question, affecting the ability of users to close the advertisement. They have advised you and us that the issue has been rectified.

In terms of its placement and content, the advertisement in question complied with the SSAA and ASA Code for Alcohol Advertising and Promotion, including Principle 1, Rule 1(a).

Specifically, the advertisement was placed so as not to dominate the stuff.co.nz website, and Stuff's user demographic is a predominantly adult audience (only 12% of Stuff users are aged between 12 and 24 years old). Were a user to click through to the Super Liquor website from the digital advertisement, there was an age gate landing page requiring users to declare they were of legal purchase age before proceeding. Stuff has assured us and confirmed to you the technical problem with the ad unit has been resolved and I can confirm that the advertisement referenced in this complaint is no longer in market. For these reasons, we would like to Settle this complaint.

Please let me know if you have any questions.

Appendix 3

RESPONSE FROM MEDIA, STUFF

Re: Super Liquor Holdings Ltd Digital Marketing – Complaint 21/475

Relevant section in the Advertising Codes – Alcohol Advertising and Promotion Code – Principle 1, Rule 1 (a)

Super Liquor Holdings booked one of our digital products called Interscroller-Brand Story. This product has 3 images included within the Interscroller which are swiped away. The product is very similar to a standard display banner which is not closeable.

The ad is displayed on our site or in-article and as users scroll down the page, the ad will disappear/scroll away or can be swiped away.

We identified a bug in this ad unit at the time which was the X button on the ad unit. This X button should not appear in any ad of this kind, regardless of the advertiser. This technical glitch would have caused confusion for the user given the perceived ability to close the ad.

Stuff accepts alcohol advertising so long as it adheres to the ASA Guidelines. We ensure that this kind of advertising does not dominate on our website Stuff.co.nz and that the advertiser has an age gate on their landing page for users who may click through to their site.

In this specific case, there was a technical issue with one of our digital products which has been remedied and should not occur again. The advertisement has also been removed.

We apologise to the user who experienced this issue with our Interscroller ad unit.

Given we have fixed our technical problem with the ad unit and the advertisement in your attached images is no longer on our site, we would like to Settle this complaint.