

<b>COMPLAINT NUMBER</b>	22/222
<b>ADVERTISER</b>	Rongotai College Old Boys Association
<b>ADVERTISEMENT</b>	Rongotai College Old Boys Association Facebook
<b>DATE OF MEETING</b>	13 September 2022
<b>OUTCOME</b>	Not Upheld No further action required

### Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a Facebook advertisement on the Rongotai College Old Boys Association Facebook page, which was promoting a fundraiser supported by Behemoth Brewing Company.

### Advertisement

The Facebook advertisement on the Rongotai College Old Boys Association Facebook page had the text “Rongotai College Old Boy and Behemoth Founder/Owner Andrew Childs has created a HAZY IPA “Skux” RC Old Boy Hazy. This is available online now at the Behemoth online store.

Below the text was a photo of a retired Deputy Principal, with the Founder of Behemoth Brewing Company. Next to this were cartoon images of the Behemoth monster and retired Deputy Principal, placed alongside the Rongotai College sign, the name of the Behemoth Brewing Company, the McEvedy Shield score board and the text “Get Back to Class” and “Rongotai College Old Boy Hazy IPA”.

### Summary of the Complaint

The Complainant was concerned the advertisement was aimed at or likely to have special appeal to minors.

A copy of the complaint is in Appendix 1.

### Issues Raised:

- Social responsibility
- Targeting adults – Content, Timing and Placement

### Summary of the Advertiser’s Response

The Advertiser defended the advertisement and said it is targeted to old boys of the school. The Advertiser said the promotion had finished; however they are hoping to work with Behemoth Brewing Company again.

A copy of the Advertiser’s response is in Appendix 2.

### Response from Behemoth Brewing Company

The Behemoth Brewing Company said it does not have control over the Rongotai College Old Boys Association Facebook page. The Company said it was asked to make a beer for a fundraising event held at the school hall. The Company said the advertisement shows a photo of a retired Deputy Principal and a notice for an athletic competition. The Company said the beer was only sold via the Behemoth Brewing Company website.

A copy of the Company's response is in Appendix 3.

### Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint 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.

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

### Relevant precedent decisions

In considering this complaint the Complaints Board referred to a precedent decision, 19/421, which was Upheld in part.

**Decision 19/421** concerned four Facebook posts on the Natural Brands Nitro Facebook page. The Complaints Board said the imagery used in the advertisement had evident appeal to minors, however the placement of the advertisements, in an age-restricted environment, meant minors would not have access to them. The Complaints Board said the advertisement on the Nitro Facebook page had been age-gated in order to prevent Facebook users under the age of 18 from viewing the post.

The Complaints Board said the execution of one of the advertisements, with bright coloured engaging cartoon characters, was likely to appeal to minors. The Board said the language in the advertisement was also aimed at a youth audience with phrases such as "OMFG", "Wanna jump on a Raspberry freight train" and "pull up your big boy pants". The Complaints Board said the wording in the four advertisements implied and encouraged irresponsible or immoderate drinking. This included the words "speedy, edgy late night antics" and "so you can smash one back next weekend".

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

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

### 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: Fundraiser for Rongotai College Old Boys Association, in collaboration with Behemoth Brewing Company

- Medium: Rongotai College Old Boys Association Facebook page
- Audience: Followers of Rongotai College Old Boys Association Facebook page
- Product: Beer

#### *Consumer Takeout*

The Complaints Board agreed the likely consumer takeout of the advertisement was Rongotai College Old Boys Association, in collaboration with a beer brand, is promoting the sale of a beer, to raise funds for the Association.

#### *Did the timing and placement of the advertisement target adults?*

The Complaints Board said the timing and placement of the advertisement did target adults. The Board said the advertisement was on the Rongotai College Old Boys Association Facebook page. This page is targeted to former pupils of Rongotai College, who can become members of the Rongotai College Old Boys Association once they have left school. The Board noted the money raised by the fundraiser was for the Rongotai College Old Boys Association, not the school. The Board said there was no paid promotion of the Facebook advertisement, so it would only be seen by visitors to the Facebook page. The Board accepted that most visitors to the Facebook page would be over 18.

#### *Did the content of the advertisement target adults?*

A majority of the Complaints Board said the content of the advertisement did target adults. The majority said while the cartoon figures in the advertisement might have some appeal to young people, the references to a Rongotai College old boy who is the founder of Behemoth and the former Deputy Principal were targeted to ex-pupils of the school. The majority said the content of the advertisement would not have particular appeal to those under 18.

A minority disagreed. The minority said the inclusion of the school's name, the reference to the McEvedy Shield an athletics competition for students, the former Deputy Principal and the Behemoth cartoon bison, as well as the name of the product including a slang word "Skux" would all have appeal to those under 18.

#### *Need for special care with alcohol advertising*

The Complaints Board agreed that although the complaint was not upheld in this case, it is important for Advertisers to take special care when advertising alcohol products, to ensure they target adult audiences. The Board said this is especially relevant where Advertisers have close associations with organisations such as schools.

#### *Was the advertisement prepared and placed with a high standard of social responsibility to consumers and society?*

A majority of the Complaints Board said the advertisement had been prepared and placed with a high standard of social responsibility to consumers and society.

A minority disagreed. The minority said the advertisement had not been prepared and placed with a high standard of social responsibility to consumers and society, because the content of the advertisement would have appeal to minors, there was an association with a school and the Facebook page was not age-gated when it was promoting alcohol for sale.

In accordance with the majority, the Complaints Board ruled that, taking into account context, medium, audience and product, the advertisement was not in breach of Principle 1, Rule 1 (a) or Rule 1(b) of the Alcohol Advertising and Promotion Code.

**Outcome**

The Complaints Board ruled the complaint was **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](http://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. Complaint
  2. Response from Advertiser
  3. Response from Behemoth Brewery Co
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### Appendix 1

#### COMPLAINT

Can you please advise whether the advertisement of this beer goes against this standard: • promote alcohol in a way that is aimed at or is likely to have special appeal to minors I came across the information being shared on Facebook but the advertisement is clearly linked to Rongotai College in Wellington and includes references to the sports McEvedy Shield between boys schools in Wellington.

### Appendix 2

#### RESPONSE FROM ADVERTISER, RONGOTAI COLLEGE OLD BOYS ASSOCIATION

Thank you for bringing this complaint to our attention.

As discussed over the phone:

- Rongotai College Old Boys Association is a charity, it is not the school. We are not the same entity.
- The promotion is based around raising funds for the charity so we are able to help our local community of old boys.
- This promotion is only targeted to our old boys as a nostalgic item to support the association.
- We do not promote any of our events, promotions (in particular this one) to any current students.
- Purchasing the promotion could only be purchased through a licensed provider (Behemoth Brewing Online Shop).

We understand that being Facebook that anyone is able to click onto our page, even if they're not our target audience.

With the above in mind, I cannot see any reason why we need to remove the past advertisement.

The promotion has ended so it isn't needed to promote the special fundraiser however we are hoping to work together in the future with Behemoth Brewing Company as it is owned by an Alumni member of Rongotai College. It would be great to clear this up for the future as we will continue to run campaigns like this, if not only with Behemoth but with other businesses that our alumni own/operate.

I would like to know who filed the complaint, as it seems that they're not our target audience either way. I am surprised the ASA Complaints Board has decided to take this complaint into consideration as it's clear we're not targeting anyone under 18.

I look forward to your response and we are willing to continue to get this cleared up.

## Post Script

I've attached references to our Alumni Dinner which is what the promotion was leading up to as we had our Alumni member, Andrew Childs and owner of Behemoth Brewing Company, as one of our guest speakers at the event, which was an 18 and over event.

## Appendix 3

### RESPONSE FROM BEHEMOTH BREWING CO

I wish to **Defend the complaint**. Settling the complaint is not possible as I/we (Behemoth Brewing Company) do not have control of the social channels in which the "advertising" was made.

I was asked by the Rongotai College Old Boy Association to make a beer for them (old boys are by definition over 18 and are former students of Rongotai College, Rongotai, Wellington, New Zealand). This was to tie in with their first fundraising night with Ma'a Nonu, Grant Nisbit and other Old Boys in Attendance. The event was held after school hours in the School Hall. Which is shown on the label.

We produced 30 cases of this beer specifically to have at the fundraising dinner and to sell the rest to Old Boys of the School online (for those that could not make the fundraising dinner) and \$2 from each case went to the Old Boys Association. This beer was not available in retail and to put it in perspective, we made 316.8 litres of this beer out of our annual production of 1.44 million litres over the last year.

The label shows our old Deputy Principal (long since retired), along with our old Athletic Competition (with a dramatised score board, since we used to come dead last every year). The beer sold out within 2-3 days of us putting it online.

This beer is meant to appeal to adults who have previously attended the school. With many teachers past and present in attendance along with ex students enjoying the beer.

We purposefully did not mention it on any of our social media channels as it was only meant to be for the purposes of fundraising for my fellow Old Boys, the average active Old Boys Member is in their 40's and 50's and the references on the labels are for people my age (late 30's).

I had no say or control over the Old Boys Association (it is not officially any part of Rongotai College) and only sold on our website which has all the legal information in which to sell alcohol online to people over the age of 18 within New Zealand.