

Complainant: Robert Westcott

Commercial: “Bud Light Party – Super Bowl”

Product Advertised: Bud Light

Advertiser: Anheuser-Busch

Nature of Complaint: Mr. Westcott alleges that by its “Bud Light Party – Super Bowl” television commercial, Anheuser-Busch violated Sections 3(a) and 5(a) of the BI Ad Code.

1. Ad Code Section 3(a) provides: In considering whether beer advertising and marketing materials appeal primarily to persons under the legal drinking age, Brewers should take into account the following elements among others:
 - Symbols
 - Language
 - Music
 - Gestures
 - Entertainers or celebrities
 - Cartoon characters
 - Groups or organizations

Alleged violation regarding Section 3(a): Mr. Westcott alleges a Section 3(a) violation based on language in the commercial, specifically the following statements: “Just wait till you see our caucus... we got the biggest caucus in the country... Wheee!!! It's not like too big... you could handle it.” Mr. Westcott argues, “This is a “cock” ad plain and simple. It degrades the brand and the industry.” He claims violation of Section 3(a), because the commercial is “[v]iewed by millions including many underage viewers during Super Bowl.” He also describes the commercial as, “[i]n very bad taste.”

2. Ad Code Section 5(a) provides: Beer advertising and marketing materials: (a) should not contain language or images that are lewd or indecent in the context presented and the medium in which the materials appears.

Alleged violation regarding Section 5(a): Mr. Westcott alleges a Section 5(a) violation based on language in the commercial, specifically the following statements: “Just wait till you see our caucus... we got the biggest caucus in the country... Wheee!!! It's not like too big... you could handle it.” Mr. Westcott argues that this language is “lewd or indecent.” His complaint also says that “a similar thinly veiled “cunt” ad would not be acceptable.”

Requested relief: Mr. Westcott asks that the CCRB direct Anheuser-Busch to “avoid genitalia ads and rise above sexual (and sexist) advertising in the future.”

**ANHEUSER-BUSCH COMPANIES, LLC'S RESPONSE
TO MR. ROBERT WESTCOTT'S COMPLAINT RE: "BUD LIGHT PARTY" AD**

On March 10, 2016, Anheuser-Busch Companies, LLC ("A-B") received from the Beer Institute an e-mailed complaint from Robert Westcott regarding A-B's "Bud Light Party" ad that aired during this year's Super Bowl.¹ Mr. Westcott claims that the Bud Light Party ad violates two provisions—Guidelines 3(a) and 5(a)—of the Beer Institute's Advertising and Marketing Code (the "Code"). A-B responded to Mr. Westcott's complaint on March 24, 2016. On April 15, A-B received notice that Mr. Westcott had requested review by the Code Compliance Review Board ("CCRB"). This response addresses Mr. Westcott's claims.

THE "BUD LIGHT PARTY" AD

This year's Super Bowl took place in the midst of an intense political climate, as numerous candidates were campaigning to be the Republican or Democratic nominee for President of the United States. Playing on this climate, and in an effort to be funny, the Bud Light Party ad employs a political theme. The ad features two potential "candidates" announcing the formation of a new, fake party to bring people together: the Bud Light Party. To play the role of the "candidates," for the purposes of the campaign, A-B hired two of the most popular comedic figures in pop-culture today: Amy Schumer and Seth Rogen.

The ad opens with Amy and Seth approaching a podium before a gathered crowd. Amy begins the joint speech by addressing her "fellow Americans" and the notion that "we're a nation divided," that we "disagree on everything." As the camera pans to Amy and Seth speaking at a different venue, Seth responds: "That's not true. We agree on a lot!" Amy then provides an

¹ Two copies of the Bud Light Party ad that ran during the 2016 Super Bowl, along with a copy of all correspondence between AB and Mr. Westcott, are enclosed as part of this submission.

persons above the legal drinking age.” Thus, the standard is not whether something has appeal to persons under the legal drinking age. Rather, Guideline 3 is only violated if the ad contains something that has special appeal to underage persons that is greater than the appeal it has for of-age adults. Subsection 3(a), which is cited by Mr. Westcott in his initial complaint, provides that “[b]rewers should take into account” various elements of the ad when considering whether it has special appeal to underage viewers, such as symbols, language, music, gestures, entertainers or celebrities, cartoon characters, and groups or organizations.

Mr. Westcott’s allegation that the Bud Light Party ad violates Guideline 3(a) is based on a fundamental misconception of this standard. Specifically, the basis of his allegation is that the ad was watched “by many underage viewers during the Super Bowl.” But the standard for Guideline 3 is whether the ad contains anything with *special attractiveness* to underage viewers, not whether it was *viewed by* any underage viewers. For this reason alone, Mr. Westcott’s allegation is unfounded.

Moreover, although Mr. Westcott does not attempt to identify any aspect of the Bud Light Party ad that has special attractiveness to underage viewers, it is clear that any such contention would be frivolous. The two main actors in the ad—Amy Schumer and Seth Rogen—are 34 and 35 years old, respectively, and are well known for starring in comedic movies and television shows intended for adult audiences. The very premise of the commercial—a political speech about the formation of a new, fake party—is an adult topic. And the term “caucus” is a political term referring to adult topics; specifically, the term refers to either (a) “a meeting of members of a political party for the purpose of choosing candidates for an election,” or (b) “a group of people (such as members of the U.S. Congress) who meet to discuss a particular issue or to work together for a shared, usually political goal.” See <http://www.merriam-webster.com/dictionary/caucus>.

Guide: Obscene, Indecent and Profane Broadcasts, *available at* <https://www.fcc.gov/consumers/guides/obscene-indecnt-and-profane-broadcasts> (“The FCC has defined broadcast indecency as ‘language or material that, in the context, depicts or describes, in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory organs or activities.’”).

As with all standards in the Code, compliance with Guideline 5(a) must be viewed “from the perspective of a ‘reasonable adult consumer of legal drinking age.’” *See* CCRB Decision (Apr. 29, 2014) at 1; *see also* BI Code at p. 1 (“Brewers should employ the perspective of the reasonable adult consumer of legal drinking age . . .”). Additionally, the creative and humorous context of an ad must be considered in determining whether it violates Guideline 5(a). Indeed, the Code expressly embraces the beer industries’ long history of employing humorous themes in advertising. *See* BI Code at p. 1 (“In the United States, beer is a mature product category with broad cultural acceptance and a history of memorable and distinctive advertising that, because of its humor and creativity, has long been a favorite among American adult consumers.”) The Code states that “creative elements are to be considered in the overall context of the advertisement,” and humorous themes and devices “should be readily identifiable as such by reasonable adults of legal drinking age.” Guideline 1.

Judged by these standards, the Bud Light Party ad did not contain any “lewd or indecent” language in violation of Guideline 5(a). When ruling on a similar complaint in the past, the CCRB’s decision depended, at least in part, on whether the ad contained “nudity, violence or profanity.” *See* CCRB Decision (Apr. 11, 2013) at 1. This is consistent with the interpretations of “lewd” and “indecent” found in other contexts, which commonly involve complaints about the use of profanity. *See, e.g., Pacifica Foundation*, 438 U.S. at 729-30, 751-55. The Bud Light Party ad

offensive, lewd, or indecent language, it was approved for use by CBS before being aired during the Super Bowl (as required by the network's advertising standards).

In short, even if the Bud Light Party ad were viewed in the manner Mr. Westcott suggests, it would not violate the Code. This ad must be judged from the perspective of a reasonable adult consumer of legal drinking age. From that perspective, there can be no doubt that it complied with the applicable guidelines.

CONCLUSION

The Bud Light Party ad is a humorous ad that used a political theme relevant to the time in which it was aired and that was meant to send the basic message that America is united in its love of beer. The ad fully complied with all of the Guidelines and principles of the Code. Mr. Westcott's complaint does not state a proper Code violation. As such, A-B respectfully requests that the CCRB find that the Bud Light Party ad complies with the Code.

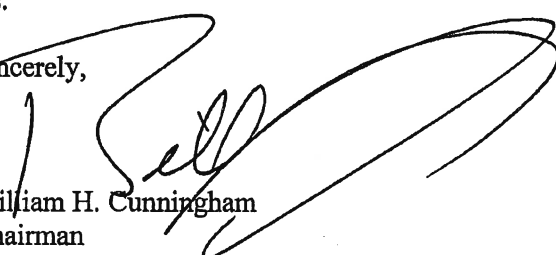
2. Any group or meeting organized to further a special interest or cause
- Verb:
3. To hold or meet in a caucus.
 4. To bring up or hold for discussion in a caucus: The subject was caucused. The group caucused the meeting.

The CCRB unanimously concludes that the "Bud Light Party – Super Bowl" advertisement does not contain either "lewd" or "indecent" language. The advertisement does not contain nudity, violence or profanity. We do not believe that the advertisement contains any language that violates recognized standards of good taste. Specifically, we do not find that the word "caucus" or how the word "caucus" was used in the Bud Light – Super Bowl advertisement is in any manner lude or indecent. We also feel the advertisement is aimed at an adult audience that is interested in political activities, which is an interesting topic, primarily to adults who are watching the current national political debates. We also conclude that the advertisement in question uses humor and satire which we believe is "readily identifiable as such by reasonable adults of legal drinking age." As a result, the CCRB unanimously concludes that the "Bud Light Party – Super Bowl" advertisement does not violate the Beer Institute's Advertising and Marketing Code.

The CCRB understands that you do not like the "Bud Light Party – Super Bowl" advertisement and you find it personally offensive. However, it is our job to examine your complaint from the perspective of whether or not the advertisement in question violates the Beer Institute's Advertising and Marketing Code.

The CCRB spent a considerable amount of time reviewing the advertisement; studying the code sections in question; and debating the allegations of your complaint against the response of the brewer. The findings of the Board are final. They will be communicated to Anheuser Busch. Findings will be publicly available on the Beer Institute's web site and published in an annual report. This correspondence will conclude the complaint and review process.

Sincerely,



William H. Cunningham
Chairman

xc: CCRB Board Members:

Ms. Rory Davies
Mr. Paul Summers