

<b>COMPLAINT NUMBER</b>	18/076
<b>COMPLAINANT</b>	Alcohol Healthwatch; S. Walsh and G. Walsh
<b>ADVERTISER</b>	Brewers Association of New Zealand
<b>ADVERTISEMENT</b>	Brewers Association of New Zealand – Beer the Beautiful Truth, Multimedia
<b>DATE OF MEETING</b>	10 April 2018
<b>OUTCOME</b>	Upheld, in part

### SUMMARY

The website, Beer the Beautiful Truth, ([www.beerthebeautifultruth.co.nz](http://www.beerthebeautifultruth.co.nz)) featured videos of New Zealand celebrities: Eric Murray, Hollie Smith, Antonia Prebble and Robbie Magasiva talking about and consuming beer and provided information on how beer is manufactured and its nutritional content. Other advertisements in the campaign, including out of home advertisements, had an image of the celebrities, such as Eric Murray, and stated: “I’ll have a beer. Find nutritional facts on New Zealand’s favourite beers. Beerthebeautifultruth.co.nz.”

Alcohol Healthwatch were concerned about the Brewers Association of New Zealand multimedia advertising campaign, Beer the Beautiful Truth, which promoted nutritional facts about alcohol. The issues of concern included that Eric Murray is a Hero of the Young in that he has strong appeal to minors and a video advertisement about Eric Murray’s experience consuming alcohol to celebrate the birth of his child implied the success of a social occasion was dependant on alcohol.

Other Complainants shared similar concerns that the advertisements promoted beer as healthy and nutritious which was irresponsible and misleading and were concerned with the unrestricted placement of the advertisements.

The Advertiser said the campaign intended to “inform adults who drink alcohol what is in beer” which arose from the outcomes of a survey that found there was “overwhelming support (75% n1000) for greater nutritional information about alcohol products”, specifically, the sugar content, and a strong level of ignorance around the carbohydrates and preservatives in beer. The Advertiser said it aimed to “influence the choice between beer and other alcohol products” not encourage consumption of the product and took some measures to reduce the exposure of the advertisements to people under 18 years of age.

The Complaints Board found that Eric Murray is a hero of the young, noting he is a recently retired Olympian and had direct engagement with young people through his work in schools. It said Eric Murray is an individual that minors would aspire to be like or connect with and as a hero of the young, the advertisements which included Eric Murray and appeared in non-restricted mediums, were therefore in breach of Principle 1, Principle 3 and Guideline 3(a) of the Code for the Advertising and Promotion of Alcohol and this part of the complaint was Upheld.

The Complaints Board said the video advertisement of Eric Murray talking about having “the best beer of his life” after attending the birth of his child did not imply alcohol was a key part

of the success of that occasion. The Complaints Board said the advertisement did not imply the success of this event was dependent on the presence or consumption of alcohol and was not in breach of Guideline 1(b) of the Code for the Advertising and Promotion of Alcohol and ruled this aspect of the complaint was Not Upheld.

The Complaints Board then considered whether the representation of beer on the website and other advertisements implied beer was healthy or nutritious. The Complaints Board took into account the website contained factual information about the composition of beer and how it is made. It noted the website referred to consuming alcohol as part of a balanced lifestyle in moderation and responsibly.

The Complaints Board said the references to “nutrition”, “99% sugar-free” and the carbohydrates in the context of information about the content of beer and alongside other nutritional facts, including the calories on the website, did not create a misleading impression that beer was healthy and nutritious.

The Complaints Board said the website and the other advertisements were not in breach of Guideline 1(h) of the Code for Advertising and Promotion of Alcohol and this aspect of the complaints was Not Upheld.

Accordingly, the Complaints Board ruled, due to the use of Eric Murray, a hero of the young, in non-restricted advertising mediums for the promotion of alcohol products, the complaints were Upheld, in part.

#### **[Advertisements to be removed/amended]**

Please note this headnote does not form part of the Decision.

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### **COMPLAINTS BOARD DECISION**

The Chair directed the Complaints Board to consider the complaint with reference to Principle 1 and Guidelines 1(b) and 1(h) and Principle 3 and Guideline 3(a) of the Code for Advertising and Promotion of Alcohol.

Principle 1 required the Complaints Board to consider whether alcohol advertising and promotions observe a high standard of social responsibility.

Guideline 1(b) required the Complaints Board to consider whether the advertisement promoted drinking alcohol as a better or more attractive lifestyle choice or implied the success of a social occasion depends on the presence or consumption of alcohol, noting that alcohol advertising and promotions may depict the consumption of alcohol as incidental to a friendly and happy social environment.

Guideline 1(h) required the Complaints Board to consider whether contained any statement or visual presentation or created an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive or is likely to deceive or mislead the consumer. Obvious hyperbole, identifiable as such, is not considered to be misleading.

Principle 3 required the Complaints Board to consider whether alcohol advertising and promotions was 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) requires that alcohol advertising and promotions in non-restricted areas shall not use or refer to identifiable heroes or heroines of the young.

The Complaints Board also referred to the Code for Advertising and Promotion of Alcohol Guidance Note which provides information on Heroes of the Young.

**The Complaints Board ruled the complaint was Upheld, in part.**

#### **Complaint from Alcohol Healthwatch**

Alcohol Healthwatch were concerned about the Brewers Association of New Zealand multimedia advertising campaign, Beer the Beautiful Truth, which promoted nutritional facts about alcohol.

The issues of concern included that Eric Murray is a Hero of the Young and has strong appeal to minors and a video advertisement about Eric Murray's experience consuming alcohol to celebrate the birth of his child implied the success of a social occasion was dependant on alcohol. The Complainant was also concerns the references to "Nutrition", "99% sugar free" and "low in carbs" on the website promoted beer as healthy and nutritious which was irresponsible and misleading.

#### **Complaint from S. Walsh**

S. Walsh was concerned the advertisement, which was seen on a bus "filled with school children and teenagers" as well as in other mediums, used New Zealand celebrities to condone alcohol consumption. The Complainant was also concerned the advertisements made beer seem healthy and "not as bad as you think" which was misleading and irresponsible. The Complainant said they were particularly concerned with the public placement of the advertisements.

#### **Complaint from G. Walsh**

G. Walsh said the advertisements, including Facebook and on buses, glamourised the consumption of alcohol and contradicted responsible drinking campaigns. The Complainant said the advertisements normalised binge drinking which is a serious issue in New Zealand.

#### **Response from the Advertiser, the Brewers Association of New Zealand**

The Advertiser, the Brewers Association of New Zealand (BANZ), responding to the complaints made about the advertising campaign.

The Advertiser said the campaign intended to "inform adults who drink alcohol what is in beer" which arose from the outcomes of a survey that found there was "overwhelming support (75% n1000) for greater nutritional information about alcohol products", specifically, the sugar content, and a strong level of ignorance around the carbohydrates and preservatives in beer. BANZ said it aimed to "influence the choice between beer and other alcohol products" not encourage consumption of the product and took some measures to reduce the exposure of the advertisements to people under 18 years of age.

### Complaints Board Discussion

The Complaints Board confirmed the advertisements for adjudication included the following:

The website, Beer the Beautiful Truth, ([www.beerthebeautifultruth.co.nz](http://www.beerthebeautifultruth.co.nz)) was age-gated and included videos that featured New Zealand celebrities: Eric Murray, Hollie Smith, Antonia Prebble and Robbie Magasiva talking about and consuming beer. The website provided information on how beer is manufactured and its nutritional content, stating, in part:

“From sugars to carbs, calories and more, there is a lot to discover about beer. No matter which brand or style, every beer will have a different nutrition content. There are things to learn about the ingredients and brewing to help you understand the basics. This will help you make more informed choices when enjoying your favourite beer in moderation.”

The Beer the Beautiful Truth Facebook page, which was age-gated, featured similar content to the website and included posts that featured New Zealand celebrities which stated, in part: “Many of your favourite beers now have nutritional facts on the back label. Click to find out more [www.beerthebeautifultruth.co.nz](http://www.beerthebeautifultruth.co.nz).”

Out of home advertisements which included buses and posters that had an image of individual celebrities, such as Eric Murray, and stated: “I’ll have a beer. Find nutritional facts on New Zealand’s favourite beers. [Beerthebeautifultruth.co.nz](http://Beerthebeautifultruth.co.nz).”

A video advertisement appeared on the Beer the Beautiful Truth website, as sponsored content on the NZ Herald news website, and aired after 8.30pm on television and featured Eric Murray’s story about travelling from Belgium to Hamilton to witness the birth of his child. Murray said that after a long journey home, he arrived in time to cut the umbilical cord and once mother and baby were settled, he said “I managed to sneak off with my father and my father in law for a celebratory beer and it’s one of the best beers I’ve ever had.”

The Complaints Board addressed each matter in turn, discussing the Complainant’s concern and the Advertiser’s response and, taking into account the relevant Principles and Guidelines of the Code for Advertising and Promotion of Alcohol, considered the likely consumer takeout of the advertisements before it.

#### **Principle 3, Guideline 3(a) – Is Eric Murray a Hero of the Young?**

Complainant, Alcohol Healthwatch, was concerned Eric Murray, retired Olympic rower, is a “hero of the young” and therefore, the advertisements featuring him were in breach of Guideline 3(a). That requires alcohol advertisements in non-restricted areas not use or refer to identifiable heroes or heroines of the young.

Alcohol Healthwatch said Eric Murray should be considered a hero of the young for the following reasons:

- He won gold medals at the London 2012 and Rio 2016 Olympic games and was part of the greatest combination in rowing history.
- He was very successful in his career winning two Olympic gold medals, six consecutive World Rowing Championship titles, and 16 World Rowing Cup gold medals.
- He retired less than a year before the advertising campaign commenced and is therefore eligible to be considered a hero of the young.
- He pro-actively connects with under 18’s through special training sessions for children to attend, and other initiatives with a youth focus.

- He is a prominent member of the ANZ Bank Olympic Schools programme and ANZ Bank Ambassadors programme which involves promotions that include the chance for schools to get merchandise, and visits from an Olympic Ambassador.
- He is currently part of an ANZ Bank competition inviting six Kiwis to become part of the New Zealand Commonwealth Games team demonstrating his status as one of our greatest Olympic heroes of recent memory.
- He was made a Member of the New Zealand Order of Merit in the 2013 New Year Honours list and was quoted saying, in part: *“We go out and talk to lots of different kids in schools and hopefully they see this as something that they can one day achieve also.”*
- He has worked with many school communities and students.

Alcohol Healthwatch said, in part: “As a very recognisable Olympic hero these activities are appropriate for Eric Murray. However, these activities do contribute to Eric Murray’s status as a hero of the young, and therefore renders him ineligible to be used in alcohol advertising and promotions.”

The Advertiser said it intentionally selected individuals to represent the campaign who were not stereotypical beer drinkers and were diverse and carefully considered whether the individuals would have strong appeal to minors.

The Advertiser continued that it was acutely aware of the limiting the risk of the campaign’s exposure to minors and took the necessary precautions to mitigate that, including LAPPs pre approval, age-gating the website and Facebook page, ensuring television commercials were played after 8.30pm in predominately Adults Only programming and only place outdoor bus advertisements on “sensitive buses” that were not on school routes.

The Advertiser disagreed that Eric Murray was a hero of the young, noting that he is officially retired from competitive rowing. The Advertiser said it “sought to mitigate any residual risk of any appeal to minors” in the following ways:

- Deliberately not referring to the Olympics, Mr Murray’s historical sporting successes or showing Mr Murray in sporting activities or attire;
- Selecting a story (the successful birth of a child) that related to adults and would not be very relevant to minors; and
- Instructing that the use of Mr Murray’s image only be used on ‘sensitive buses’.

The Advertiser also said that after Eric Murray became an ANZ Ambassador and part of the Olympic Schools Programme, while it rejected any claim that meant he could be considered a hero of the young, it took the following steps to further mitigate exposure to minors:

- Requested the removal of all advertisements on buses featuring Mr Murray as well as cancelling any future bus advertisements showing Mr Murray;
- Changed a planned advertisement in Air New Zealand’s Kia Ora magazine (that was to feature Mr Murray) so that it now features Antonia Prebble;
- Ensured that the Campaign advertisements featuring Mr Murray are no longer being promoted on the New Zealand Herald website; and
- Adjusted the television advertising schedule to ensure that the television commercial did not broadcast adjacent to the ANZ television commercial (even though these advertisements were programmed to screen between 8.30 pm and 6:00 am).

The Advertiser addressed S. Walsh’s complaint about the Eric Murray advertisement appearing on a bus filled with children and teenagers, stating, that was “in direct contradiction to BANZ’s request not to appear on a school bus. BANZ has sought an explanation from the

agency responsible for the placement of BANZ's advertisements on outdoor media. The agency has stated that an error was made by the depot whereby a 'sensitive bus' was used as a school bus."

The Complaints Board was required to determine whether Eric Murray is a hero of the young. It took into account the information supplied by the Complainant regarding Olympian Eric Murray's direct engagement with young people through his work in schools with the ANZ Olympic Schools programme and ANZ Ambassadors programme. The Complaints Board noted he only recently retired from a very successful career in competitive rowing and was a recognisable sports person.

The Complaints Board said Eric Murray is an individual that minors would aspire to be or connect with, particularly as he pro-actively connects with under-18s through children's merchandise, special training sessions for children, and other initiatives with a youth focus. While the Complaints Board noted that youth participation numbers for rowing are lower than other sports like rugby, netball, and football, Eric Murray's status as an Olympian, combined with his pro-active engagement with minors meant he is a hero of the young.

The Complaints Board acknowledged the Advertiser's attempt to mitigate the reference to Eric Murray's sporting success and exposure to minors in unrestricted advertising environments. However, as the Complaints Board determined Eric Murray is a hero of the young, the advertisements which referred to Eric Murray and appeared in non-restricted mediums, were in breach of Principle 3 and Guideline 3(a) of the Code for the Advertising and Promotion of Alcohol. The Complaints Board said the advertisement featuring Eric Murray in non-restricted environments were not prepared with a high standard of social responsibility and were also in breach of Principle 1 of the Code for the Advertising and Promotion of Alcohol. The Complaints Board ruled this aspect of the complaint was Upheld.

**Principle 1 Guideline 1(b) – Does the Eric Murray video advertisement imply beer is essential to the success of a social occasion?**

The Complainant, Alcohol Healthwatch, was concerned the advertisement which featured Eric Murray talking about having a beer after racing home from overseas to attend the birth of his child. The Complainant said the advertisement highlighted the "cultural significance of alcohol, in this case beer, to the life event of becoming a father." The Complainant said it "implies that the success of this life event is dependent on the presence or consumption of alcohol."

The Complaints Board noted the response from the Advertiser which said the advertisement "does not suggest or imply any such change in outcomes for the drinker as a consequence of drinking alcohol. Instead, the Individuals discuss the consumption of alcohol that is incidental to (and commonly associated with) various significant life events... the successful outcome of the birth of Eric Murray's child would not have differed whether or not he had a beer afterwards... the consumption of the beer is merely incidental to common friendly and happy social experiences and environments".

The Complaints Board also noted the Advertiser's submission that it took particular care to ensure that the celebrities only mention having "a beer" rather than multiple beers and the scenarios described in the videos were not commonly associated with excessive drinking like a party.

The Complaints Board considered the likely consumer takeout of the Eric Murray story. They said when considered in context, the effort made to attend the important occasion enhanced the beer consumed, rather than the beer enhancing the occasion. It said the advertisement focused primarily on the story, rather than the alcohol, and did not imply excessive alcohol consumption. The Complaints Board said the advertisement did not imply the success of this

event was dependent on the presence or consumption of alcohol and was not in breach of Guideline 1(b) of the Code for the Advertising and Promotion of Alcohol.

The Complaints Board ruled this aspect of the complaint was Not Upheld.

**Principle 1 Guideline 1(h) – Do the advertisements create a misleading impression that beer is healthy and nutritious?**

The Complainants were concerned the advertisement implied that beer was healthy and nutritious.

Alcohol Healthwatch said “by emphasising that their beers are 99% sugar-free, while minimising the attention to calories and making no meaningful effort to warn of the short or long term risks of drinking alcohol (including at least 7 cancers), this advertising campaign is creating an overall impression that beer is healthy and nutritious... Implying that 99% sugar-free/low carb beers are healthy, and omitting the established facts of alcohol related harm, including that consumption of alcohol beverages is carcinogenic (cancer causing) to humans, is likely to deceive or mislead consumers.”

Complainant Alcohol Healthwatch said the website includes the tab “Nutrition” when beer is not a healthy and nutritious product. Further, the Complainant said the campaign “capitalises on the popular backlash against sugar and carbohydrates, and the recent popularity of high protein, high fat diet and lifestyles.” The Complainant said the campaign also “plays down the fact that the calories in beer are contained in the alcohol — 139 calories in a 330ml bottle of Heineken.”

Complainants S. Walsh and G.Walsh were also concerned the advertisements implied alcohol was healthy and “applied nutritional appeal” to beer.

The Complaints Board considered the response from the Advertiser which addressed the Complainants’ concerns, stating, in part: “the statements that beer is low in carbohydrates and that most beer is ‘99% sugar-free’ is factually correct and is simply providing key information that is available to consumers on the nutritional information panel of each of the qualifying beers. There is no scope for such statements to be misleading... a significant number of consumers are not aware of the sugar and other carbohydrate content of beer.”

The Advertiser said it was careful not to imply that beer was ‘healthy’ or ‘nutritious’ by avoiding using the words in the campaign and ensuring that the sugar and carbohydrate content is only mentioned in conjunction with the energy content information. Further, the Advertiser said that the calorie intake information is presented in a factual manner without implying beer is ‘low’ in calories.

In terms of the specific issue raised about the word “nutrition” on the website, the Advertiser said it should be considered in the context of a food and beverage ‘nutritional panel’ where it is commonly accepted that the word “nutrition” relates to the chemical composition of food products and does not imply that the product itself is “nutritious”. The Advertiser explained “this is consistent with how the word “nutrition” is used in the ANZFA Food Code 2002 and in various publications by Food Standards Australia New Zealand”.

The Complaints Board noted that in order to remove the risk of any confusion, the Advertiser amended the website so that the relevant tab is now titled “nutritional information”.

The Advertiser said it “does not consider that referring to the sugar or other carbohydrate content in beer or the word ‘nutrition’ will result in the ‘typical consumer’ being misled into suddenly believing that beer is a healthy product.”

The Advertiser also addressed Alcohol Healthwatch’s concern that the advertisements “play down the fact that the calories in beer are contained in the alcohol” stating that the aim was to educate New Zealanders so that they are aware of what they are consuming and can make informed decisions. The Advertiser said “the number of calories and alcohol content for each beer is clearly set out on each beer bottle and on the website” and the website states that the majority of calories in beer comes from alcohol.

The Complaints Board considered whether the representation of beer on the website implied beer was healthy and nutritious. It noted the website contained factual information about the composition of beer and how it is made. The Complaints Board took into account the website overall referred to consuming alcohol as part of a balanced lifestyle. The Complaints Board said the references to “99% sugar-free” and the exact carbohydrates in the context of information about the content of beer and alongside other nutritional facts, including the calories, did not create a misleading impression.

In considering whether the reference to “nutrition” or “nutritional facts” was likely to create a misleading impression, the Complaints Board said the latter terms were not synonymous with “nutritious”. It said the likely consumer would consider the claims in the context of the other factual and social responsibility information provided on the website and, while noting the Advertiser helpfully amended the website to avoid confusion, consumers were unlikely to be misled into thinking beer was a healthy product.

Taking the above into account, the Complaints Board said the website and the other advertisements which directed consumers to the website stating “Find nutritional facts on New Zealand’s favourite beers” did not create a misleading impression and were not in breach of Guideline 1(h) of the Code for Advertising and Promotion of Alcohol.

The Complaints Board ruled this aspect of the complaints were Not Upheld.

### **Principle 1 – Use of celebrities and placement in non-restricted mediums**

The Complaints Board noted the specific concerns Complainants, S.Walsh and G. Walsh that the advertisement used New Zealand celebrities to condone and glamorise alcohol consumption and were placed in non-restricted environments including buses.

The Complaints Board noted the Advertiser had articulated the taken steps to mitigate the direct exposure to minors, including intentionally selecting individuals to represent the campaign who were not stereotypical beer drinkers and were diverse. Further it said it carefully considered whether the individuals would have strong appeal to minors was acutely aware of the limiting the risk of the campaign’s exposure to minors. It said it took the necessary precautions to mitigate that, including LAPPs pre-approval, age-gating the website and Facebook page, ensuring television commercials were played after 8.30pm in predominately Adults Only programming and only place outdoor bus advertisements on “sensitive buses” that were not used on school runs.

The Complaints Board considered, with the exception of those advertisements containing Eric Murray who is a hero of the young, whether it was socially responsible to use celebrities and whether their inclusion condoned or glamorised drinking alcohol. The Complaints Board noted the print and out of home advertisements only showed the celebrity sitting in a studio like setting next to the phrase “I’ll have a beer” and was accompanied by the statement “Find nutritional facts on New Zealand’s favourite beers.”

The Complaints Board said the individuals used, with the exception of Eric Murray, were not heroes of the young. It noted they were all over 30 years of age and appeared in programmes that were targeted at adult audiences or, in the case of singer Hollie Smith, whose music had limited appeal to people aged under 18. The Complaints Board noted that advertisements did not contain any alcohol products and used the qualifier of “a beer” which did not lend itself to excessive consumption. Further the advertisements directed people to the age-gated website which provided information on the nutritional content of beer and promoted responsible drinking.

The Complaints Board said while the advertisements were placed where young people could see them, they were not generally targeting minors and there was nothing that encouraged irresponsible consumption. As such, the Complaints Board said the advertisements which appeared in non-restricted environments, excluding those featuring Eric Murray, had been prepared and placed with a high standard of social responsibility required by Principle 1 of the Code for Advertising and Promotion of Alcohol and the complaints were Not Upheld.

### **Summary**

The Complaints Board considered the concerns of the Complainants and the responses from the Advertiser and the Media.

The Complaints Board found that Eric Murray is a hero of the young noting he is a recently retired Olympian and had direct engagement with young people through his work in schools. It said Eric Murray is an individual that minors would aspire to be or connect with and as a hero of the young, the advertisements which referred to Eric Murray and appeared in non-restricted mediums, were therefore in breach of Principle 1, Principle 3 and Guideline 3(a) of the Code for the Advertising and Promotion of Alcohol and this part of the complaint was Upheld.

The Complaints Board said the video advertisement of Eric Murray talking about having “the best beer of his life” after attending the birth of his child did not imply alcohol was a key part of the success of the occasion. The Complaints Board said the advertisement did not imply the success of this event was dependent on the presence or consumption of alcohol and was not in breach of Guideline 1(b) of the Code for the Advertising and Promotion of Alcohol and ruled this aspect of the complaint was Not Upheld.

The Complaints Board considered whether the representation of beer on the website and other advertisements implied beer was healthy and nutritious. The Complaints Board said in context, the representation was unlikely to mislead consumers. The Complaints Board took into account the website contained factual information about the composition of beer and how it is made. It noted the website referred to consuming alcohol as part of a balanced lifestyle in moderation and responsibly.

The Complaints Board said the references to “nutrition”, “99% sugar-free” and the carbohydrates in the context of information about the content of beer and alongside other nutritional facts, including the calories, did not create a misleading impression.

The Complaints Board said the website and the other advertisements were not in breach of Guideline 1(h) of the Code for Advertising and Promotion of Alcohol this aspect of the complaints were Not Upheld.

Accordingly, the Complaints Board ruled, due to the use of Eric Murray, a hero of the young, in non-restricted advertising mediums for the promotion of alcohol products, the complaints were Upheld, in part.

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## DESCRIPTION OF ADVERTISEMENT

The website, Beer the Beautiful Truth, ([www.beerthebeautifultruth.co.nz](http://www.beerthebeautifultruth.co.nz)) which was age-gated and included videos that featured New Zealand celebrities: Eric Murray, Hollie Smith, Antonia Prebble and Robbie Magasiva talking about and consuming beer and provided information on how beer is manufactured and its nutritional content. The website stated, in part:

“From sugars to carbs, calories and more, there is a lot to discover about beer. No matter which brand or style, every beer will have a different nutrition content. There are things to learn about the ingredients and brewing to help you understand the basics. This will help you make more informed choices when enjoying your favourite beer in moderation.”

The Beer the Beautiful Truth Facebook page, which was age-gated, and featured similar content to the website and included posts that featured New Zealand celebrities which stated, in part: “Many of your favourite beers now have nutritional facts on the back label. Click to find out more [www.beerthebeautifultruth.co.nz](http://www.beerthebeautifultruth.co.nz).”

Out of home advertisements which included buses and posters that had an image of individual celebrities, such as Eric Murray, and stated: “I’ll have a beer. Find nutritional facts on new Zealand’s favourite beers. Beerthebeautifultruth.co.nz.”

A video advertisement that featured Eric Murray’s story about travelling from Belgium to Hamilton to witness the birth of his child. Murray said that after a long journey home and arrived in time to cut the umbilical cord and once mother and baby were settled, he said “I managed to sneak off with my father and my father in law for a celebratory beer and it’s one of the best beers I’ve ever had.” The video appeared on the Beer the Beautiful Truth website, as sponsored content on the NZ Herald news website, and aired after 8.30pm on television.

## COMPLAINT FROM N JACKSON, ALCOHOL HEALTHWATCH

### **Subject: Complaint about advertising campaign *Beer the Beautiful Truth***

Alcohol Healthwatch wishes to make a complaint to the Advertising Standards Authority under the Code for Advertising and Promotion of Alcohol.

This complaint concerns the advertiser *Brewers Association of New Zealand*, and their multiplatform advertising campaign *Beer the Beautiful Truth*. The advertiser is advertising features of a collection of brands owned by their members Lion, and DB Breweries. These brands include:

DB Draught	DB Export	Heineken
Lion Brown	Lion Ice	Lion Red
Mac's	Monteith's	Rheineck
Steinlager	Speight's	Tui
Waikato Draught		

Variants of the above brands are also included in the campaign. The feature being advertised is a nutritional panel on the packaging claiming the beer is 99% sugar free, and emphasising the low carbohydrate content. The rationale behind this label, as described in the *Brewers Association of New Zealand* media release, appears to be to address the misperceptions by New Zealanders in relation to the sugar and preservative content of beer.

"Research has shown that there are a number of misperceptions about what is in beer, particularly around sugar content and preservatives. This campaign is about providing people with nutritional information so they can make informed decisions about what they drink."

By focusing only on the low sugar content of beer, the product is promoted as healthy and nutritious. Indeed, the first section of the associated website (<https://www.beerthebeautifultruth.co.nz/>) is titled "Nutrition". Nutrition is described in the Oxford Dictionary as "The process of providing or obtaining the food necessary for health and growth."<sup>1</sup>

We strongly disagree with the proposition that beer is a healthy and nutritious product necessary for growth — alcohol is high in calories and is positively associated with obesity,<sup>2</sup> and alcohol is a known group 1 carcinogen<sup>3</sup> (meaning that it has attained the highest level of evidence for a carcinogenic effect in both humans and animals), which causes seven types of cancer: breast, bowel, liver, mouth, upper throat, oesophagus, and larynx.<sup>4,5</sup>

### **Principles breached**

The rationale for our complaint is that this multiplatform advertising campaign breaches Principle 1 (b) and (h), and Principle 3 (a) of the Code for Advertising and Promotion of Alcohol (see appendix 1).

### **Rationale for complaint**

1. A prominent personality featured in this advertising campaign, Eric Murray, is a "Hero of the Young" (principle 3, guideline a)
2. This advertising campaign implies that beer is essential to the success of a social occasion or life event (principle 1, guideline b)
3. This advertising campaign creates an overall impression, through implication and omission, that is misleading and deceptive, namely that beer is a healthy and nutritious product (principle 1, guideline h)

### **Eric Murray is a Hero of the Young (Principle 3a)**

Eric Murray is a very recently retired rower (April 2017) who won gold medals at the London 2012 and Rio 2016 Olympic games, who with partner Hamish Bond, was part of the greatest combination in rowing history. They were said to be one of the most successful duos in (global) sporting history, and have been described as 'heroes of All Black like status'. From 2009-2016 Murray and Bond had an unrivalled 8 year run of dominance, with one of the longest winning streaks in sports history including 69 consecutive wins in the men's pair. The winning streak and domination resulted in two Olympic gold medals, six consecutive World Rowing Championship titles, and 16 World Rowing Cup gold medals.<sup>6</sup>

The guidance notes<sup>7</sup> around heroes of the young for the Code for advertising and promotion of alcohol<sup>8</sup> identifies a number of teams as heroes of the young, including the All Blacks, the Warriors, and the Black Caps. The guidance notes also indicate other representative sports teams may also be heroes of the young, and that events and tournaments (such as the summer Olympic games) are not heroes of the young, but teams (such as the 'Kiwi pair' of Eric Murray and Hamish Bond) and participants (such as Eric Murray) in events may be.

The guidance notes also state that while most retired sports people would not meet the threshold of appeal and hero status, that recent retirements (such as Eric Murray, who retired

less than a year before the advertising campaign commenced) would remain eligible to be considered heroes of the young. Further, the guidelines state that where individuals pro-actively connect with under 18's through special training sessions for children to attend, and other initiatives with a youth focus, then the likelihood of an issue regarding heroes of the young is increased. Indeed, while this complaint was being finalised yet another instance of Eric Murray pro-actively connecting with youth focussed initiatives came to light — participating in rowing events at Christchurch Boys' High School while the *Beer the Beautiful Truth* campaign is still live.<sup>9</sup>

Though Eric Murray has recently retired, he still maintains a ubiquitous public profile appearing on television, websites, outdoor advertising, particularly as part of his role as the most prominent member of the ANZ Olympic Schools<sup>10</sup> programme and ANZ Ambassadors<sup>11</sup> programme. With the approach of the Commonwealth games Eric Murray is fronting a promotion with a competition to inviting six Kiwis to become part of the New Zealand Commonwealth Games team. ANZ is (appropriately) leveraging Eric Murray's status as one of our greatest Olympic heroes of recent memory as part of their support for various New Zealand sports teams and athletes.

The ANZ Olympic Schools programme and ambassador programme also involves promotions that include the chance for schools to get merchandise, and even visits from an Olympic Ambassador, such as Eric Murray:

*"Your child and their school can hear the inspiring experiences of our Olympic heroes at a special sports day or school assembly. When a home or business loan is drawn down by any parent, teacher or friend of your child's school (and is referenced to your school) an Olympian will come to your child's school and work with the teachers to deliver a memorable Olympic experience for your students."*

The ANZ partnership is currently the most high profile activity of Eric Murray, and this alone qualifies his continued status as a hero of the young. However, there is other recent evidence that support the proposition that Eric Murray remains a hero of the young.



**Welcome to ANZ Olympic Schools.**

You can register your school for a fantastic range of tools, resources and merchandise that will help you inspire the next generation of Olympians.

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Check, and register, now...

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A range of materials and resources will be sent to your school upon registering as an ANZ Olympic School.

- ANZ Olympic sports bag with a set of medals, posters and certificates of achievement.
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##### Earn Spending Credits and an Olympian Visit



ANZ staff can help you earn credits to spend at the ANZ Rewards Centre and get the chance to secure an Olympic Ambassador visit.

To be eligible, make sure your parent and teacher receive visit ANZ to take out their next home or business loan.

[Find out more](#)

Eric Murray became a Member of the New Zealand Order of Merit in the 2013 New Year Honours list. At the time he was quoted in the NZ Herald:

*"We just see it as a privilege to have even been asked. Hopefully this inspires other young Kiwis some way. We go out and talk to lots of different kids in schools and hopefully they see this as something that they can one day achieve also. have a young son Zachary who is only 17 months old. Hopefully one day he'll see what I've done and if he can achieve big things too."*<sup>12</sup>

Clearly Eric Murray understood his role as a hero of the young back in 2012/13 after winning a Gold Medal at the London Olympics. Having since won a second Gold Medal at the Rio Olympics this role as a hero of the young has grown rather than diminished.

As well as Eric Murray's own admission of visiting schools and talking to children, and his high profile participation in the ANZ Ambassadors and Olympic Schools programme, there is independent confirmation that he has worked with many school communities and students including attending Hinuera School athletics day,<sup>13</sup> training with junior rowing teams including a student from Whakatane High School,<sup>14</sup> appearing at fundraisers for Westlake Boys High School Junior Rowing programme,<sup>15</sup> fundraising for Queen Margaret College and Scots College rowing trailer,<sup>16</sup> and meeting and posing for photos with children from Waitotara school.<sup>17</sup> See appendix 2.

As a very recognisable Olympic hero these activities are appropriate for Eric Murray. However, these activities do contribute to Eric Murray's status as a hero of the young, and therefore renders him ineligible to be used in alcohol advertising and promotions.

The onus is on the advertiser, in this case the *Brewers Association of New Zealand*<sup>18</sup> and their members Lion, and DB Breweries, rather than the talent, Eric Murray, to comply with the Code for advertising and promotion of alcohol.

### **Beer is essential to the success of a social occasion or life event (Principle 1b)**

In the video featured on the website, and subsequently within a sponsored article in the NZ Herald, Olympic rower Eric Murray tells the story of returning home from Belgium to attend birth of his baby:

The screenshot shows a news article on a website. The main headline is "The art of 'wetting the baby's head'" with a sub-headline "19th Feb 2014 15:48 GMT". To the right, there is a "Trending Topics" section listing: "NZ Unemployment", "Overhead railway project", "Frank Packer High School", and "Black Caps + England". The article features a photo of a man sitting on a bench in a room with windows and a ladder. Below the photo is a "Photo supplied" credit and social media sharing icons. A sponsored section titled "Sponsored by Dear the Boss (NZ Truth)" contains text about world record rower Eric Murray and beer's nutritional benefits. An advertisement for "BEER IS THE TRUTH" is overlaid on the right side of the article, featuring the same man and the text "I'll have a beer".

*"So after the birth, when everything has settled down, my wife's resting, baby's resting, managed to sneak off with my father, and my father-in-law. We went and had a celebratory beer. One of the best beers I've ever had."*<sup>19</sup>

The conclusion of his story, which included an expensive taxi ride from Auckland airport to Hamilton, featured what is commonly known as a head-wetting ceremony. This is where the father and male friends or relatives drink alcohol to celebrate the birth of a child.<sup>20</sup> Clearly the point of including this anecdote in this campaign is to highlight the cultural significance of alcohol, in this case beer, to the life event of becoming a father. It implies that the success of the social occasion linked to this life event in this anecdote is dependent on the presence or consumption of alcohol.

### Beer as a healthy and nutritious product (Principle 1h)

It appears part of the rationale of the advertising campaign is to suggest or imply that beer is a nutritious and healthy product. The campaign does this by emphasising the provision of labels indicating that their beers are "99% sugar-free" and low in carbs (3.2% carbs in the case of Heineken).<sup>21</sup> This capitalises on the popular backlash against sugar and carbohydrates, and the recent popularity of high protein, high fat diet and lifestyles. However, it plays down the fact that the calories in beer are contained in the alcohol — 139 calories in a 330ml bottle of Heineken (for reference, an Arnott's original Tim Tam contains 95 calories).<sup>22</sup>

**Nutrition writer Niki Bezzant observes in the NZ Herald:**

**THE BEAUTIFUL TRUTH ABOUT HEINEKEN**



**99% SUGAR FREE**

**3.2% CARBS**

**FOOD FRIENDLY FREE**

**139 CALORIES PER SERVING**

**STYLE:** LAGER

**FLAVOUR:** RICH, BALANCED TASTE AND SUBTLE FRUITY NOTES.

**FOOD MATCHING:** BEST ENJOYED WITH ANY DISH IN 192 COUNTRIES AROUND THE WORLD.

**DID YOU KNOW:** IT'S BEEN 140 YEARS SINCE HEINEKEN HAS BEEN ABLE TO CALL ITSELF A MICROBREWERY. AND WHILE WE'RE PROUD THAT 25 MILLION HEINEKEN'S ARE SERVED EACH DAY ACROSS 192 COUNTRIES, WE'VE NEVER FORGOTTEN THAT THE QUALITY IS MEASURED NOT IN THE SIZE OF YOUR BRAND BUT IN THE PURITY OF YOUR BEER.

**NUTRITION**

SERVING PER PACK: 1  
SERVING SIZE: (330mL)

AVE. QUANTITY PER SERVING	PER SERVING	PER 100mL
ENERGY (KJ/kcal)	581 kJ / 139 kcal	176 kJ / 42 kcal
PROTEIN	1.3g	<1.0g
FAT, TOTAL	<1.0g	<1.0g
SATURATED	<1.0g	<1.0g
CARBOHYDRATE	18.8g	5.7g
SUGAR	<1.0g	<1.0g
DIETARY FIBRE	<1.0g	<1.0g
SODIUM	7.8mg	2.2mg

1.3 STD. DRINK  
5.0% ALC/VOL

HEINEKEN.COM

*"It's not the carbs or the sugar in beer that make us fat and causes us harm - and it has never been. It's the alcohol.*

*Alcohol has nearly twice the energy of sugar: one gram of alcohol provides 7 calories (29kJ) compared to one gram of sugar with 4 calories (17kJ).*

*And alcohol is the thing that's the toxin, strongly linked with increased risk for six types of cancer and responsible for over 600 deaths a year in New Zealand."<sup>23</sup>*

By emphasising that their beers are 99% sugar-free, while minimising the attention to calories and making no meaningful effort to warn of the short or long term risks of drinking alcohol (including at least 7 cancers<sup>24</sup>), this advertising campaign is creating an overall impression that beer is healthy and nutritious. Implying that 99% sugar-free/low carb beers are healthy, and omitting the established facts of alcohol related harm, including that consumption of alcohol beverages is carcinogenic (cancer causing) to humans, is likely to deceive or mislead consumers.



**Appendix 1:**  
**Relevant principles, guidelines, and guidance notes to this complaint from the Advertising Standards Authority Code for advertising and promotion of alcohol**

- Principle 1 —Alcohol advertising shall observe a high standard of social responsibility.
  - (b) While alcohol advertising and promotions may depict the consumption of alcohol as incidental to a friendly and happy social environment, it shall not promote drinking alcohol as a better or more attractive lifestyle choice, nor imply that the success of a social occasion depends on the presence or consumption of alcohol.
  - (h) Alcohol advertising and promotion shall not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive or is likely to deceive or mislead the consumer. Obvious hyperbole, identifiable as such, is not considered to be misleading.
- 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.
  - (a) Alcohol advertising and promotions in non-restricted areas shall not use or refer to identifiable heroes or heroines of the young.
- Guidance notes — Heroes of the Young [Principle 3]
  - (iv) To be considered to have strong appeal under the Code, the hero must have more than recognition, it would be an individual or group that minors would aspire to be or connect with.
  - (v) A number of teams in particular have been identified as heroes of the young. They include the All Blacks, the Kiwi League team, the Warriors League team, the Black Caps cricket team, and the Silver Ferns netball team. This identification applies to the teams and high profile individuals that are current team members. Other representative sports teams may also be heroes of the young, for example Super 15 Rugby franchises have been identified as such.
  - (vi) Not all sports teams or sports people would be considered heroes of the young. Most retired sports people would not meet the threshold with regard to a level of appeal and hero status (excluding recent retirements). Sports that are less appealing to young people would also fit into this category. It is important to take into account the age range of minors which provide the key measurement — up to 18 years.
  - (vii) Events and tournaments are also not heroes of the young, although teams / participants in them may be.
    - (ix) Note, where the teams / individuals / groups pro-actively connect with under-18s through children's merchandise, special training sessions for children to attend, and other initiatives with a youth focus — then the likelihood of an issue re heroes of the young is increased.

## **Appendix 2:**

### **Eric Murray is a Hero of the Young — Supporting information**

*Westlake Boys High School Rowing Society —10 September 2016:*

## Westlake Boys Rowing Presents: Hamish Bond and Eric Murray 'The Kiwi Pair', Saturday 10th September, 2.30pm



**What:** Hamish Bond and Eric Murray 'The Kiwi Pair'

*Book launch and Afternoon Tea presented by the Westlake Boys High School Rowing Society*

**When:** Saturday 10th September 2016, 2.30pm

**Where:** Westlake Boys Auditorium

**Tickets:** \$20 adult, \$15 student, book now on [iticket.co.nz/events/2016/sep/the-kiwi-pair](http://iticket.co.nz/events/2016/sep/the-kiwi-pair)

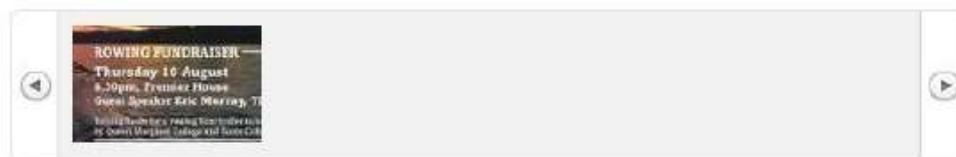
Order 'The Kiwi Pair' through ITICKET now" and your book will be signed by Hamish Bond and Eric Murray. **Please note that the cutoff date for book orders is Sunday 4th September.**

*Funds raised from this event will benefit the Westlake Boys Junior Rowing Programme.*

<http://www.westlake.school.nz/2016/westlake-boys-rowing-presents-hamish-bond-and-eric-murray-the-kiwi-pair-sunday-10th-september-2-30pm/>

Queen Margaret College and Scots College Rowing Fundraiser— 10 August 2017

## A Night At Premier House With Eric Murray



**When:** Thu 10 Aug 2017, 6:30pm-8:30pm

**Where:** [Premier House](#), 260 Tinakori Road, Thorndon, Wellington

**Restrictions:** All Ages Licensed

**Ticket Information:** General Admission: \$85.00

Additional fees may apply

**Website:** [Scots College](#)

<https://www.eventfinda.co.nz/2017/a-night-at-premier-house-with-eric-murray/wellington>

## Members of the New Zealand Order of Merit, for services to rowing - NZ Herald 31 December 2012

Members of the New Zealand Order of Merit, for services to rowing - NZ Herald 31 December 2012:

The screenshot shows the NZ Herald website interface. On the left is a navigation menu with categories like 'Sport', 'Business', 'Property', 'Technology', 'Health', 'Opinion', 'Travel', 'Food & Drink', 'TV & Radio', 'Features & Columns', and 'Classifieds'. The main content area features a large image of a woman in a red dress, a 'Trending Topics' section, and the article 'New Year Honours: Eric Murray, MNZM, and Hamish Bond, MNZM'. Below the article title is a photo of Eric Murray and Hamish Bond. The article is attributed to Deborah Edwards and dated 31 December 2012.

Members of the New Zealand Order of Merit, for services to rowing.

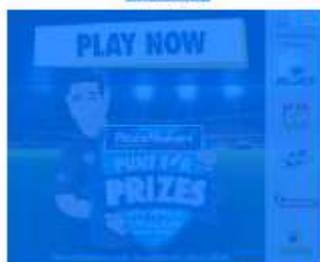
Olympic gold metallists Eric Murray and Hamish Bond will end a stellar year with another great achievement.

The pair have been named in the New Year Honours list and will become Members of the New Zealand Order of Merit for their services to rowing.

Murray told the *Herald* being named in the list was a privilege for both of them and topped off a year of highs:

"We just see it as a privilege to have even been asked. Hopefully this inspires other young Kiwis some way. We go out and talk to lots of different kids in schools and hopefully they see this as something that they can one day achieve also."

ADVERTISEMENT



ADVERTISEMENT

"I have a young son, Zachary, who is only 17 months old. Hopefully one day he'll see what I've done and if he can achieve big things too."

Bond said the recognition was a reflection of how their Olympic achievement had influenced the New Zealand public.

"It's almost selfish to say but we tend to think that we're rowing for ourselves. But when you come home and see how inspired people are by something you've done, then it's not an individual thing."

[http://www.nzherald.co.nz/sport/news/article.cfm?c\\_id=4&objectid=10856688](http://www.nzherald.co.nz/sport/news/article.cfm?c_id=4&objectid=10856688)

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9 Schoolboy teaches double Olympic champion Eric Murray a lesson in rowing fast [http://www.nzherald.co.nz/sport/news/article.cfm?c\\_id=4&objectid=12007081](http://www.nzherald.co.nz/sport/news/article.cfm?c_id=4&objectid=12007081)

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## COMPLAINT FROM S WALSH

My complaint is in regards to the 'Beer the Beautiful Truth' campaign run by the Brewers Association of New Zealand.

I first saw this campaign advertised on the side of an Auckland City bus this morning, filled with school children and teenagers, and have since seen it in various other forms online.

The tag line for the campaign 'I'll have a beer' features NZ celebrities proudly claiming themselves to be beer drinkers. This then ties into the campaigns main purpose of 'highlighting' the nutritional make up of beer.

I understand the rationale behind the campaign but it's the way it has been executed that I find incredibly disturbing.

Celebrities condoning alcohol consumption is bad enough as it is (especially in a country with an already unhealthy drinking culture) but to blur the truth and re-frame the facts in a way that makes beer seem healthy or at least 'not as bad as you think' is completely irresponsible and misleading.

Similar complaints have been made on the 'Beer The Beautiful Truth' Facebook page which I think is great but the main issue is the public placement of these ads. It feels incredible thoughtless that this messaging is plastered around the city for anyone (of any age) to see. I also find it incredibly contradictory that in order to access the 'Beer The Beautiful Truth' website you must be over 18, but that teenagers are going to school on buses with this nonsense plastered beside their heads.

### **COMPLAINT FROM G WALSH**

My complaint concerns a new campaign called 'Beer The Beautiful Truth' run by the Brewers Association of New Zealand.

I have attached their Facebook page but I believe they have heavy advertisement elsewhere, including on buses, on television and various social media platforms.

My complaint concerns the irresponsibility of promoting and glamourising the consumption of alcohol. The campaign includes New Zealand celebrities talking about how they love drinking beer, as well as applying 'nutritional' appeal to beer.

New Zealand is already riddled with alcohol abuse and all the devastating issues which walk hand and hand with that. Not to mention the normalisation of binge drinking which is so deep seeded and brutal in our culture. This campaign unapologetically encourages alcohol consumption and completely contradicts positive campaigns against drinking. Campaigns like this one are a huge step back and add fuel to the fire of New Zealand's already dangerous relationship with alcohol. It's a major issue and one which should be taken incredibly seriously.

### **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 1(b):** While alcohol advertising and promotions may depict the consumption of alcohol as incidental to a friendly and happy social environment, it shall not promote drinking alcohol as a better or more attractive lifestyle choice nor imply that the success of a social occasion depends on the presence or consumption of alcohol.

**Guideline 1(h):** Alcohol advertising and promotion shall not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive or is likely to deceive or mislead the consumer. Obvious hyperbole, identifiable as such, is not considered to be misleading.

**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](http://www.asa.co.nz).

## RESPONSE FROM ADVERTISER, BREWERS ASSOCIATION OF NEW ZEALAND

### Complaint 18/076: Beer the Beautiful Truth

1. The Brewers Association of New Zealand ("**BANZ**") provides the following response in relation to its Beer the Beautiful Truth advertising campaign ("**Campaign**") and the complaints received by the ASA ("**Complaints**").
2. We refer to your letter of 9 March 2018 regarding the Campaign that identifies Principles 1(b), 1(h) and 3(a) of the Code for Advertising and Promotion of Alcohol ("**Code**") as being the relevant provisions for consideration.
3. As we trust will become evident from this response, BANZ has taken extensive steps to ensure the Campaign was prepared in a socially responsible manner and that it complied with all laws and regulations, including the Code. For the reasons set out below, BANZ denies that the Campaign is in breach of any of the principles in the Code.
4. Some information is included in the schedules **attached** to this response.

#### The Campaign

5. In 2017, a study of 1,000 New Zealanders was commissioned to gain some insight into consumer understanding and knowledge of the content of beer. The results of this study found that:
  - (a) there is overwhelming support for greater nutritional information about alcohol products (75% of those surveyed agreed that there should be nutrition information on alcohol products and 58% specifically stated that they would like to know the sugar content in beer); and
  - (b) there is a strong level of ignorance relating to the preservative, sugar and other carbohydrate content of beer (only 16% of those surveyed considered that beer is low in sugar and only 18% were aware that most beer is preservative free).
6. Given the survey's results, the primary aim of the Campaign is to inform adults who drink alcohol about what is in beer. This enables such people to make informed decisions about what to consume, for example, whether to drink a beer instead of another type of alcoholic beverage such as a wine or cider. In doing so, BANZ wished to dispel a number of commonly held "myths" held by consumers in relation to beer.
7. This is in the context of:
  - (a) growing demand by consumers for greater information on all food and beverage products; and
  - (b) potential law reform for alcohol labelling to contain nutritional information panels as part of the anticipated public consultation on energy labelling.
8. As already mentioned, one aim of the Campaign was to influence the choice between beer and other alcohol products. There is no intention to increase total consumption of alcohol or the number of occasions in which it is consumed. This is no different to the advertising of, say, soap, where the objective of the advertising is not to encourage people to wash more often, but rather to choose soap over other types of body wash or, possibly, to choose one brand over another.

9. While BANZ accepts that non-alcoholic drinkers would see the Campaign, it does not consider that the Campaign would influence their decision whether to begin drinking alcohol. There are a number of studies that show that there is no significant causal link between the level or types of advertising and alcohol consumption, including the amount of alcohol consumed.<sup>1</sup>
10. A common feature of the Campaign is to direct consumers to the [www.beerthebeautifultruth.co.nz](http://www.beerthebeautifultruth.co.nz) website ("**Website**"). This is part of the educational purpose of the Campaign. The Website has restricted access to people over 18 years old, and it contains extensive information and facts relating to beer. For example:
- (a) details of the nutritional information for some of New Zealand's most popular beers;
  - (b) extensive information regarding how beer is made, including the milling, mashing, lautering, boiling, whirlpool, cooling, fermentation, conditioning, filtering and packaging processes;
  - (c) details regarding the four key ingredients of beer, hops, malt, yeast and water, and how each ingredient can change the overall flavour of the final beer product;
  - (d) information regarding what is meant by 'preservative free';
  - (e) a section within FAQ that clarifies that "*the energy in beer mainly comes from the alcohol component. There are in fact 7 calories (or 29 kilojoules) in every 1 gram of alcohol*"; and
  - (f) information about how to read a nutritional information panel (this FAQ section links directly to the FSANZ food labels guideline available at <http://www.foodstandards.gov.au/consumer/labelling/documents/Food%20Labels%20Posterfinal%20.pdf>).
11. When selecting who should appear in the Campaign ("**Individuals**"), BANZ wanted to avoid the stereotypical 'man with a beer' approach and instead selected a diverse range of people (different genders, areas of expertise, backgrounds and ethnicity) to show that beer appeals to a wide adult audience. In making this selection, BANZ carefully considered the Code's Guidance Note relating to Heroes of the Young. Specially, BANZ chose:
- (a) not to use anyone who is (or had previously been) a member of the All Blacks, the Kiwi League team, the Warriors League team, the Black Caps cricket team, the Silver Ferns netball team or similarly widely followed teams;
  - (b) to use people over the age of thirty to reduce the likelihood that these people would appeal to the young, including:
    - (i) Eric Murray, a 35 year old retired rower (we note that rowing is not traditionally considered to be a sport that is especially "appealing to young people" in New Zealand in the same manner as rugby or netball<sup>2</sup> and that

<sup>1</sup> We **attach** as Schedule 1 the Alert published by the Foundation for Advertising Research dated 16 June 2017 titled *30 Years Data Of Alcohol Adspend And Consumption: No Correlation*.

<sup>2</sup> We **attach** as Schedule 2 an excerpt from the NZSSSC Representation Census 2017 that shows that rowing is only the 16<sup>th</sup> most popular secondary school sport in 2017 in New Zealand (please note that the data has been sorted by the data for the year 2017). This information is also available at <http://www.nzsssc.org.nz/nzsssc-census-data/nzsssc-census-reports>.

rowing only receives significant television coverage once every four years (unlike rugby, netball or basketball));

- (ii) Antonia Prebble, a 33 year old actress primarily known for her work in television shows that are shown after 8.30pm and aimed at adult audiences (for example, *Outrageous Fortune* and *Westside*);
- (iii) Hollie Smith, a 35 year old singer whose last EP record was released in 2006; and
- (iv) Robbie Magasiva, a 45 year old actor who is well known for his role on *Wentworth* (which targets an adult audience).

12. BANZ was acutely aware of limiting the risk of the Campaign's exposure to minors. Prior to launching the Campaign, BANZ:

- (a) undertook an extensive internal and external vetting process, which included LAPPS pre approval;<sup>3</sup>
- (b) restricted access to the Website to people over 18 years old. This age requirement can be viewed at the Website and an example of the age gate is **attached** as Schedule 3;
- (c) restricted access to the BTBT Facebook page to people over 18 years of age and ensured that all social media advertisements were targeted at people over 18 years old;
- (d) ensured that all television advertisements for the Campaign were not shown between 06:00 am and 8.30 pm and that the associated programmes would predominantly appeal to adults (for example, *Game of Thrones* (rated R), *Late Show Stephen Colbert* and *Lucifer* (rated R)). We **attach** as Schedule 4 BANZ's full television schedule for the BTBT Campaign showing the time of each advertisement and the associated programme; and
- (e) instructed Zenith Media (BANZ's outdoor media agency; QMS Media Limited was then instructed by Zenith Media to execute the placement of the outdoor advertisements) to only place the Campaign advertisements on 'sensitive buses' that would not be used for school runs. This is discussed in greater detail below.

### Summary of the Complaints

13. The Complaints can be categorised into three groups:

- (a) Principle 1(b): The Campaign suggests that the success of a social occasion depends on the presence / consumption of alcohol.
- (b) Principle 1(h): The Campaign is misleading / deceptive in that it implies that alcohol is a nutritious product.
- (c) Principle 3(a): The Campaign uses Eric Murray (an alleged hero of the young) to advertise and promote alcohol in non-restricted areas.

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<sup>3</sup> In LAPPS approval number RB4142, the print and bus advertisements featuring Eric Murray were both approved. In LAPPS approval number RB4082, the television advertisements featuring Eric Murray were approved.

14. We have addressed the Complaints and each of the principles below.

*Principle 1(b)*

15. Principle 1(b) of Code states:

While alcohol advertising and promotions may depict the consumption of alcohol as incidental to a friendly and happy social environment, it shall not promote drinking alcohol as a better or more attractive lifestyle choice nor imply that the success of a social occasion depends on the presence or consumption of alcohol.

16. It is submitted that Guideline 1(b) is intended to prohibit advertising that suggests that drinking alcohol creates better outcomes for the drinker (and that theme runs through Guidelines 1(b), 1(c) and 1(d)). The Campaign does not suggest or imply any such change in outcomes for the drinker as a consequence of drinking alcohol. Instead, the Individuals discuss the consumption of alcohol that is incidental (and commonly associated) to various significant life events. To demonstrate this:

- (a) the successful outcome of the birth of Eric Murray's child would not have differed whether or not he had a beer afterwards;
- (b) there is no suggestion that Antonia Prebble would have won the "scallop trophy" if she had been consuming alcohol;
- (c) Robbie Magasiva does not suggest that alcohol impacts his cleaning habits; and
- (d) Hollie Smith does not suggest that her celebration of a hockey game is dependent on a beer.

17. None of the examples referred to by the Individuals expressly state, or imply, that the social occasion was only a success because they had consumed a beer. In contrast and in compliance with Principle 1(b), the consumption of the beer is merely incidental to common friendly and happy social experiences and environments.

18. There is no suggestion that the Campaign encourages irresponsible drinking. We took particular care to ensure that the Individuals only mention having "a beer" rather than multiple beers. In addition, the scenarios described in the videos are not the type where excessive drinking might be anticipated (for example, a party or pub crawl).

*Principle 1(h)*

19. Principle 1(h) of Code states:

Alcohol advertising and promotion shall not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive or is likely to deceive or mislead the consumer. Obvious hyperbole, identifiable as such, is not considered to be misleading.

20. The concerns raised in the Complaints appear to primarily relate to the use of the word "nutrition" and statements that beer is low in carbohydrates and "99% sugar-free".

21. The statements that beer is low in carbohydrates and that most beer is "99% sugar-free" is factually correct and is simply providing key information that is available to consumers on the nutritional information panel of each of the qualifying beers. There is no scope for such statements to be misleading. If anything, as demonstrated by the study referred to at paragraph 5 above, a significant number of consumers are not aware of the sugar and other carbohydrate content of beer. As far as we are aware, there has been no suggestion that the nutritional information provided as part of the Campaign for each beer (for example "99% sugar-free") is incorrect. However, if the Complaints Board would like the scientific evidence relating to this nutritional information, BANZ would be happy to provide this.
22. In preparing the Campaign, BANZ took particular care to ensure that it did not imply that beer was "healthy" or "nutritious" and it has ensured that:
  - (a) neither of these words are used in the Campaign;
  - (b) sugar and carbohydrate content is never mentioned in isolation; it is only mentioned with energy content information; and
  - (c) the calorie intake information is presented in a factual manner (there is no implication that the products are "low" in calories).
23. Alcohol Healthwatch specifically objects to the use of the word "nutrition" as a tab on the Website and BANZ referring to a "nutritional panel". In the context of food and beverage products, it is commonly accepted that the word "nutrition" relates to the chemical composition of food products and does not imply that the product itself is "nutritious". This is consistent with how the word "nutrition" is used in the ANZFA Food Code 2002 and in various publications by Food Standards Australia New Zealand.
24. As an example, fizzy drinks and chocolate bars all display nutritional information (and use the word "nutrition") however, it is highly unlikely that people could consider that the manufacturers of the products are endorsing them as nutritious because of the use of the word "nutrition". The same concept applies to the beer nutrition panels – BANZ is simply providing New Zealanders with information regarding the composition of the beer.
25. Although BANZ strongly denies that the "nutrition" tab on the Website is misleading, in order to completely remove any risk of confusion, BANZ has updated the Website so that the relevant tab is now titled "nutritional information".
26. When assessing whether something is "misleading", the courts have accepted that there needs to be a degree of common sense of behalf of the consumer and an element of objectivity. We do not consider that referring to the sugar or other carbohydrate content in beer or the word "nutrition" will result in the "typical consumer" being misled into suddenly believing that beer is a healthy product. As the Court of Appeal has noted, "*consumers must exercise a degree of care which is reasonable in the circumstances*".<sup>4</sup>
27. The Complaint by Alcohol Healthwatch also asserts that the Campaign "*plays down the fact that the calories in beer are contained in the alcohol*". This is incorrect and the exact opposite of what BANZ is trying to achieve. The entire aim of the Campaign is to educate New Zealanders so that they are aware of what they are consuming and can make informed decisions. In support of BANZ's position is the fact that the number of calories and alcohol content for each beer is clearly set out on each beer bottle and on the

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<sup>4</sup> *Godfrey Hirst NZ Ltd v Cavalier Bremworth Ltd* [2014] 3 NZLR 611.

Website. In addition, the Website states that the majority of calories in beer comes from alcohol. Alcohol Healthwatch appears to be implying that BANZ should have provided even further nutritional information (such as showing what percentage of the calories could be attributed to alcohol). However, from the research conducted by BANZ, this is not what consumers wanted nor is it something that alcohol producers are required to provide.<sup>5</sup>

*Principle 3(a)*

28. Principle 3(a) of Code states:

Alcohol advertising and promotions in non-restricted areas shall not use or refer to identifiable heroes or heroines of the young.

29. The Guidance Note for Principle 3(a) states:

v. A number of teams in particular have been identified as heroes of the young. They include the All Blacks, the Kiwi League team, the Warriors League team, the Black Caps cricket team and the Silver Ferns netball team. This identification applies to the teams and high profile individuals that are current team members. Other representative sports teams may also be heroes of the young, for example Super 15 Rugby franchises have. In addition, to ensure that this does not been identified as such.

vi. Not all sports teams or sports people would be considered heroes of the young. Most retired sports people would not meet the threshold with regard to a level of appeal and hero status (excluding recent retirements). Sports that are less appealing to young people would also fit into this category. It is important to take into account the age range of minors which provide the key measurement – up to 18 years.

30. As set out in paragraph 6 above, BANZ deliberately selected people over thirty years old and people who would predominantly appeal to an adult audience to be involved with the Campaign. Further, BANZ has taken significant steps<sup>6</sup> to ensure that the Campaign is not viewed by minors.
31. One of the Individuals, who was selected by BANZ in 2017, is Eric Murray. At the time Mr Murray agreed to be part of the Campaign, he was (and, as at the date of this response, remains) officially retired from competitive rowing. However, BANZ nevertheless sought to mitigate any residual risk of any appeal to minors by:
- (a) deliberately not referring to the Olympics, Mr Murray's historical sporting successes or showing Mr Murray in sporting activities or attire;
  - (b) selecting a story (the successful birth of a child) that related to adults and would not be very relevant to minors; and
  - (c) instructing that the use of Mr Murray's image only be used on 'sensitive buses'. The bus advertisement referred to in the Complaint was in direct contradiction to

<sup>5</sup> We note that there is no regulatory requirement that alcohol products should display nutritional information panels, however, this is a standard requirement for food and other beverage products.

<sup>6</sup> We refer to the steps taken by BANZ as set out in paragraph 12 above.

BANZ's request. BANZ has sought an explanation from the agency responsible for the placement of BANZ's advertisements on outdoor media. The agency has stated that an error was made by the depot whereby a 'sensitive bus' was used as a school bus.<sup>7</sup>

32. However, in February 2018 (after BANZ had signed a contract with Eric Murray and after the launch of the Campaign), Mr Murray became an ANZ Ambassador and part of the Olympic Schools Programme. Although BANZ rejects any claim that this means that Mr Murray would now qualify as a "hero of the young", as a result of Mr Murray's involvement in the ANZ programme, BANZ has nevertheless taken the following steps:
- (a) requested the removal of all advertisements on buses featuring Mr Murray as well as cancelling any future bus advertisements showing Mr Murray;
  - (b) changed a planned advertisement in Air New Zealand's Kia Ora magazine (that was to feature Mr Murray) so that it now features Antonia Prebble;
  - (c) ensured that the Campaign advertisements featuring Mr Murray are no longer being promoted on the New Zealand Herald website; and
  - (d) adjusted the television advertising schedule to ensure that the television commercial did not broadcast adjacent to the ANZ television commercial (even though these advertisements were programmed to screen between 8.30 pm and 06:00 am).

#### **Additional ASA Queries**

33. In your email of 9 March 2018 you also stated:

As the Complainants have quoted the multi-platform campaign it would be great if you could provide details of all forms of media used as part of your response. In particular we are unsure what print media was used and so it would be useful to have this information in advance in order to contact the necessary media outlets for their input.

34. At Schedule 5, we provide the details of the print advertisements used in the Campaign that have been published as at the date of this letter.

#### **Conclusion**

35. In light of the above explanation and BANZ's voluntary (and extensive) actions to further limit the exposure of the Campaign to minors, we request that the Complaints are not upheld.
36. We welcome the opportunity to respond to any further comments or queries that the Complaints Board may have.
37. We look forward to receiving your reply.

#### **RESPONSE FROM MEDIA, CAB**

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<sup>7</sup> See also paragraph 32(a) in relation to the action taken by BANZ.

**BREWERS ASSOCIATION TELEVISION ADVERTISEMENT****COMPLAINT: 18/076****KEY: BTBT 30 001****RATING: L830**

We have been asked to respond to this complaint under the following codes:

Code for Advertising and Promotion of Alcohol – Guideline 1(b), Guideline 1(h), Guideline 3(a), Principle 1 and 3;

CAB approved this Brewer's Association commercial on 21/12/17 with an L830 classification. Under CAB internal policies, this commercial is classified as a Beverage - Alcoholic advertisement.

The L830 classification ensures that this ad will not play before 8:30pm, furthermore it is a special classification that ensures placement and scheduling of the commercial conforms to the specific legal guidelines for alcohol advertising detailed in the Broadcasting Act.

In addition to the safeguards iterated above, this commercial has also been pre-vetted by LAPPS (Liquor Advertising & Promotion Pre-vetting Service) with job reference RB4082. LAPPS is a body established to specifically monitor the adherence to advertising codes with specific and exclusive regard to alcoholic and its presentation.

The manifold checks and balances through which this commercial has passed give confidence to advertisers, consumers and regulators alike. It is CAB opinion that the commercial represents no harm to vulnerable demographics, nor any breach of the closely-monitored codes of practice.

**RESPONSE FROM MEDIA, QMS**

Contact person for advertising complaints	Yvette Johnson Marketing Manager QMS NZ
Name and contact at media agency	Zenith
A basic, neutral description of the advertisement	Creative shows an individual in a studio like setting with the quote "I'll have a beer." To the right-hand side, the text "Find nutritional facts on New Zealand's favourite beers" is displayed as well as the Beerthebeatifultruth.co.nz website and the cheers.org.nz logo.
Date advertisement began	5 <sup>th</sup> February 2018
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	Bus Roadside
Is the advertisement still accessible – where and until when?	Advertisement available until 30 March 2018.
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	Attached
Who is the product / brand target audience?	Beer drinkers AP18+

Clear substantiation on claims that are challenged by the complainant.

This creative is advertising the website [beerthebeautifultruth.co.nz](http://beerthebeautifultruth.co.nz) and encouraging consumers to visit the website to find the nutritional information on their favourite New Zealand beer.

It is there to advise consumers that information on the nutrition content and ingredients of beer is available to them and where to find this information so that they can make informed choices.

**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 via email or letter within 14 days of receipt of this decision.