

# Australia's Responsible Alcohol Marketing Scheme

2023 Second Quarter Report



## OVERVIEW

The ABAC Responsible Alcohol Marketing Code (the Code) sets standards for responsible alcohol marketing in Australia and regularly measures its determinations externally to ensure it is in line with community expectations. The Code regulates both the content and placement of alcohol marketing across all advertising mediums.

ABAC has released its revised and strengthened Responsible Alcohol Marketing Code. The Code will apply to the content and placement of alcohol marketing from 1 August 2023. A report outlining the Code review process and changes is now [available](#).

In addition ABAC's free online training course has been refreshed and updated, incorporating the Code changes. We encourage everyone who is involved in the marketing of alcohol to complete the one hour course available [here](#).

Recent ABAC Panel determinations continue to offer guidance to industry and highlight areas where care is needed when developing marketing. Showing or referencing excessive or rapid drinking has been the most common reason for Code breaches last quarter, and is clearly out of step with a responsible approach to alcohol use. In addition:

- Packaging that references confectionery or soft drink can have strong or evident appeal to minors. Recent decisions provide useful guidance [here](#) and [here](#).
- Care should be taken to ensure that a product's relatively high ABV is communicated in a factual way, and that its choice is not encouraged by emphasising its alcohol strength or the intoxicating effect of alcohol. Read the full determination [here](#).
- A liquor company 'tag' on a third party Instagram post brings the post within the liquor company's reasonable control, as companies have an ability to remove their tag from third party posts that don't meet ABAC standards. Read the full determination [here](#).
- Concern about marketing materials showing alcohol consumption before or during swimming or other water based activities continues. Read the full decisions [here](#), [here](#), and [here](#).
- Suggesting a product has a health benefit (including being hydrating) is problematic. Recent decisions provide guidance [here](#) and [here](#).

## KEY STATISTICS

|  |            |
|--|------------|
| <b>Complaints</b>                                    | <b>51</b>  |
| Raising Code issues and referred for determination   | 27         |
| Not raising Code issues*                             | 18         |
| Raising an issue previously considered by the Panel  | 1          |
| Raising an issue consistently dismissed by the Panel | 3          |
| Outside ABAC jurisdiction**                          | 2          |
| <b>Determinations</b>                                | <b>24</b>  |
| Dismissed  | 13         |
| Upheld   | 10         |
| Upheld - Expedited                                   | 1          |
| <b>Pre-vets</b>                                      | <b>688</b> |
| Rejected   | 98         |
| Pending  | 2          |

\* Complaints that did not raise Code issues fell outside the scope of the scheme as they raised concerns outside ABAC standards such as the advertising not being for an alcohol product, a general objection to alcohol advertising, not allowing the receiver to unsubscribe, misleading claims, general offence, racial or sexual discrimination or objectification of women which can fall within the scope of other regulators, including Ad Standards.

\*\*Complaints outside of ABAC's jurisdiction were referred to the WA Director of Liquor Licensing.

## RECENT ALCOHOL MARKETING COMPLAINTS

### Breach of ABAC Standards

#### Blackflag Brewing (complaint regarding content)

**Complaint:** Concern that the branding was a play on the logo used by an online pornography platform, the 'Barely Legal' name relates to a genre of pornography featuring models/performers aged or presented to be 18 years old and the high 18% ABV of the product was irresponsible particularly noting the pornography connotations.

**ABAC standards:** Alcohol marketing must not

- show (visibly, audibly or by direct implication) or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an Alcohol Beverage
- encourage the choice of a particular Alcohol Beverage by emphasising its alcohol strength (unless emphasis is placed on the Alcohol Beverage's low alcohol strength relative to the typical strength for similar beverages) or the intoxicating effect of alcohol.

**Decision:** The Panel believes the branding and marketing communications are in breach of the Code standards. In reaching this conclusion the Panel noted:

- the name "Barely Legal" invokes a term that describes a genre of pornography and the adaption of the pornography website logo clearly associates the marketing with pornography;
- the pornography connotations and the legal age for the consumption of alcohol does give rise to an association that a reasonable person would probably understand as irresponsible;
- while the ABAC does not regulate physical beverages, the statements in the tasting notes of '*It's big, bold and barely legal*' and '*...packing a punch*', encourage the choice of the product by elevating references to the product's alcohol strength and intoxicating effect; and
- equally the social media posts also encourage the choice of the product based on its strength i.e. '*its a delicious little banger we've been cultivating at a tidy 18.1%. Quad IPA that has that mind numbing experience*'.

#### 34: Blackflag Brewing BARELY LEGAL

**STYLE:** IPA - Imperial **ABV:** 18.1 %

**COMPLEXITY:** ADVENTUROUS

Its big, bold and barely legal. Nice rounded Quad IPA packing a punch. It's bitter, boozy and something to tell your friends about.



## Gravity Seltzer (complaint regarding content)

**Complaint:** Concern that the Company's website and a number of social media posts show or encourage rapid consumption, suggest a change in mood or positive health outcomes, or show drinking before or during water based activities.

**ABAC standards:** Alcohol marketing must not

- show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines
- suggest that the consumption or presence of an Alcohol Beverage may create or contribute to a significant change in mood or environment
- suggest the consumption of alcohol offers a therapeutic benefit
- show (visibly, audibly or by direct implication) the consumption of an Alcohol Beverage before or during an activity that, for safety reasons requires a high degree of alertness or physical coordination, such as swimming.

**Decision:** The Company's website and nine social media posts were found to breach at least one Code standard for various reasons, including:

- a number of statements included on the Company's website alluded to its products being 'healthy', including by advising that its products hold 'none of the downsides' of other alcoholic drinks
- showing the consumption of alcohol during or before swimming or other water based activities, which require alertness and physical co-ordination
- not clearly establishing that water based activities have concluded for the day
- the pouring of alcohol from a height into a person's mouth which portrays that the consumption is rapid, rather than controlled and measured
- if a marketing communication is for a non-alcoholic version of an alcohol beverage, then the ABAC standards will apply if the marketing fails to clearly and prominently identify the product being marketed as being non-alcoholic.



## Billson's Packaging (complaint regarding content)

**Complaint:** Concern about packaging appealing to Minors by referencing confectionery items and using colours that make them look like soft drinks.

**ABAC standard:** Alcohol marketing must not have Strong or Evident Appeal to Minors.

**Decision:** The Panel considered the packaging of four different products, finding that the Candy Cane and Sour Scream Vodka packaging failed to meet ABAC standards, but the other packaging considered did not have strong or evident appeal to minors:

### Candy Cane Vodka

While the packaging does use a clear alcohol descriptor of 'vodka', the Panel noted that the combination of the following features would strongly attract the attention of minors:

- the packaging imagery creates a strong association with well recognised Christmas tropes and would be relatable to minors;
- the descriptor and pictures of candy canes, which are a festive confectionery item consumed commonly by minors and would likely contribute to an illusion of a smooth transition to an alcohol product for a minor; and
- taken as a whole, a reasonable person would conclude that the packaging has strong or evident appeal to minors.

### Sour Scream Vodka

The Panel noted that the combination of the following features would likely strongly attract the attention of minors:

- the strong association with Halloween, an event that has grown in popularity amongst Australian children in recent years;
- the stereotypical pictures of ghosts (with pronounced whacky and goofy expressions), spooky bats and a haunted house, which as well as being associated with Halloween, are also similar to illustrations used in children's books and animations;
- these factors mean the labelling would likely be strongly relatable to minors; and
- taken as a whole, a reasonable person would probably understand that the packaging has strong or evident appeal to minors.



## Cheeky Monkey Brewing (complaint regarding content)

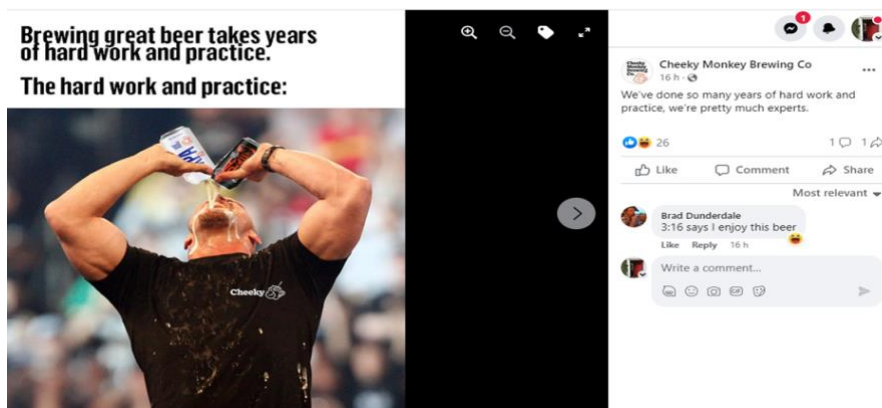
**Complaint:** Concern that the post shows excessive and rapid consumption, and also appeals to Minors.

**ABAC standards:** Alcohol marketing must not:

- show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines
- have Strong or Evident Appeal to Minors.

**Decision:** The Panel found that the post:

- breaches Part 3 (a)(i) of the Code. Drinking two cans of alcohol at the same time is excessive alcohol consumption, and the pouring of alcohol from a height into a person's mouth portrays that the consumption is rapid. The post does not depict a moderate or responsible approach to alcohol use.
- does not breach Part 3 (b)(i) of the Code as there is no particular basis to believe the image would resonate strongly with minors. At its highest the image would have no more appeal to minors than it would to adults.



## Easy Seltzer (complaint regarding content)

**Complaint:** Concern that the packaging is not appropriate for an alcohol product due to advertising that it is 'hydrating', which is making a health claim.

**ABAC standard:** Alcohol marketing must not suggest the consumption of alcohol offers a therapeutic benefit.

**Decision:** The Panel considered that the packaging would be understood as a positive assertion that the product does offer the positive benefit of hydration. In reaching this conclusion the Panel noted that a reasonable person understands that alcohol consumption can lead to dehydration, the reference 'The Hydrating Seltzer' would be probably understood that the product offers hydration, this understanding is reinforced by the other references to hydration on the can and taken as a whole, the packaging would be understood as making a positive claim that the products offer the benefit of hydration.



## Gee Up Vodka Packaging (complaint regarding content)

**Complaint:** Concerns that the packaging:

- has strong appeal to minors due to the bright colours being used, along with names such as Cotton Candy; and
- claims that the products have health benefits.

**ABAC standards:** Alcohol marketing must not:

- have Strong or Evident Appeal to Minors
- suggest the consumption of alcohol offers a therapeutic benefit.

**Decision:** The Panel considered a range of packaging, finding that the Candy Cotton Vodka packaging failed to meet ABAC standards, but the other packaging considered did not have strong or evident appeal to minors:

- There are elements of the Cotton Candy packaging that support a strong appeal to minors and others that go some way to alleviating the concern;
- Cotton Candy is an American name for a confectionery item usually referred to in Australia as Fairy Floss;
- the name would, however, be recognised by most people including minors as referring to a confectionery if not directly by the name ‘cotton candy’ then by the term ‘candy’;
- the image of fairy floss on a stick strengthens the overall impact of the label being associated with confectionery;
- cotton candy/fairy floss as a confectionery item would likely resonate strongly to minors;
- the packaging contains cues that it is an alcoholic beverage through the term “Vodka” and the 4.6% on the front of the bottle, noting the percentage is not directly described as the ABV;
- the bottle shape is used in alcohol pre-mixed beverages and is not immediately associated with the bottle style used for soft drinks as such;
- the confectionery references and imagery mean that the packaging is relatable to minors and creates an illusion of a smooth transition from a non-alcoholic beverage to an alcohol beverage; and
- taken as a whole a reasonable person would probably understand that the packaging has strong or evident appeal to minors.

The Company advised it intended to consider and implement modifications to the packaging within 3 months, but declined to cease orders for the Cotton Candy packaging in the interim. Accordingly the complaint was referred to Liquor Control Victoria.

The Panel does not believe that the packaging breaches the Part 3 (c)(iv) standard by suggesting the consumption of alcohol offers a therapeutic benefit. The packaging conveys that electrolytes have been used as an ingredient in the products, however, no claims of health or therapeutic benefits are made on the packaging.



## Better Beer (complaint regarding content)

**Complaint:** Concern that the posts show rapid consumption, irresponsible and offensive behaviour and also depicted minors.

**ABAC standards:** Alcohol marketing must not:

- show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines
- show (visibly, audibly or by direct implication) or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an Alcohol Beverage
- depict a person who is or appears to be a Minor unless they are shown in an incidental role in a natural situation (for example, a family socialising responsibly) and where there is no implication they will consume or serve alcohol.

**Decision:** The Panel considered videos posted to Instagram in relation to Better Beer's 'Day For It' competition, being an Instagram post promoting the competition, as well as two competition entries, the first of which tagged Better Beer on Instagram, and the second of which was posted as a Story to The Inspired Unemployed Instagram page. The Panel found that:

- The video promoting the competition is inconsistent with the ABAC standard in Part 3 (a)(ii). This is because the promotional video showed clips of some of the videos received in relation to an earlier competition, which were themselves inconsistent with ABAC standards.
- Social Media Post 1 is a 14 second video posted as a Story to The Inspired Unemployed Instagram page and shows a man holding cans of Better Beer, physically fighting, smashing the cans into their heads as well as rapid consumption. A reasonable person would understand that the video shows and encourages the rapid and excessive consumption of alcohol, and also irresponsible and offensive behaviour.
- The complainant was also concerned that Social Media Post 1 breaches Part 3 (b)(ii) by depicting a person who is or appears to be a minor. The Company does not know the ages of the people in the video, however, the Panel does not believe that they look under the age of 18, and a review of related social media accounts does not support the supposition that they are minors.
- Social Media Post 2 depicts a partially clothed man yelling "Day For It" in different locations, including the State library, supermarket fridge, public toilet and pub. The video does not show excessive consumption, but the final scene of the man pouring beer over himself in a public bar does depict alcohol related anti-social behaviour.

The advertiser has deleted the post promoting the competition, Social Media Post 1 appeared as an Instagram Story, so is no longer visible, and Better Beer has "untagged" itself from Social Media Post 2.





## Gee Up Vodka (complaint regarding content)

**Complaint:** Concern that social media accounts did not apply available age restriction controls and that posts show excessive or rapid consumption, the consumption of alcohol before or during inherently unsafe activities and depictions of a minor and under 25 year olds.

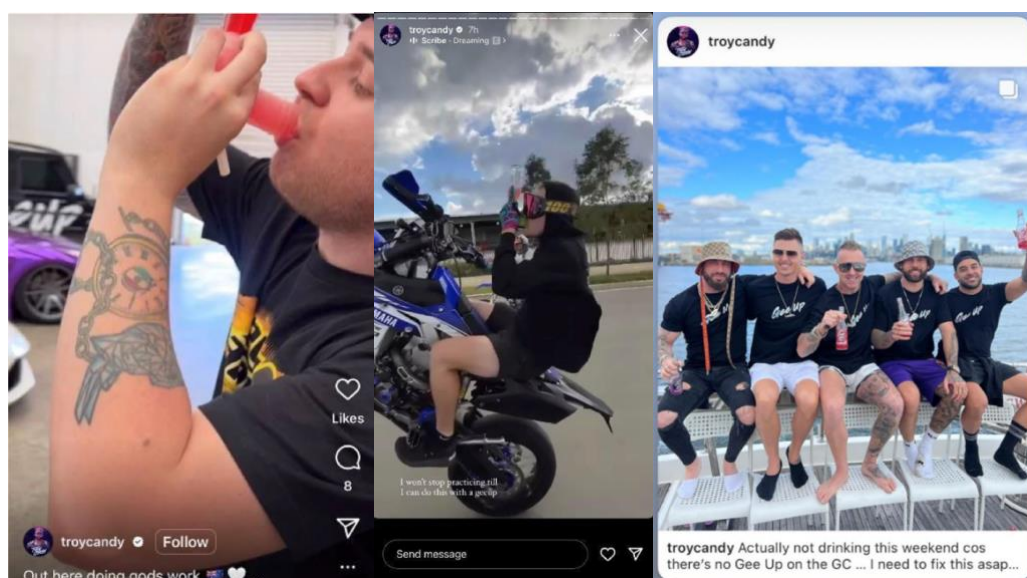
**ABAC standards:** Alcohol marketing must not:

- show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines
- depict minors
- depict under 25 year olds
- be directed toward minors
- suggest the consumption of alcohol offers a therapeutic benefit
- show (visibly, audibly or by direct implication) the consumption of an Alcohol Beverage before or during an activity that, for safety reasons requires a high degree of alertness or physical coordination, such as driving or swimming.

**Decision:** The Panel considered a range of social media and website posts by the Company, an influencer engaged by the Company, and posts that tagged the Company and therefore appeared on its account. The Panel found there was a failure to apply all available age restriction controls and that posts that included the following text and imagery breach ABAC standards:

- showing consumption of the product using a drinking snorkel, and discussions about using a drinking snorkel to consume the product;
- showing a child wearing a Gee Up Vodka t-shirt;
- an image of a model aged under 25;
- suggesting alcohol can be used to 'freshen up' when working on a hot day;
- referencing 'added electrolytes' as a 'cleaner way to party';
- implying that the consumption of the product would result in fewer hangover side effects;
- showing alcohol consumption on work and construction sites where machinery is used;
- showing a person leaning out of the window of a moving car holding out a bottle of the product;
- showing consumption of alcohol while riding a motorbike;
- holding an open bottle of alcohol up to a steering wheel by a person who appears to be sitting in the driver's seat of a car; and
- consuming alcohol while sitting on the railing of a boat.

The Company removed the posts on notification of the complaints.



### Wet Pussy Shot and Sour Puss (complaint regarding content)

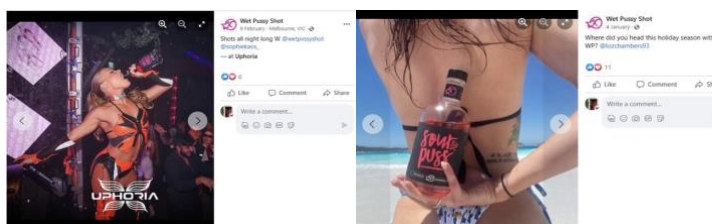
**Complaint:** Concern that the posts show excessive and/or rapid consumption, and alcohol consumption in the swimming pool.

**ABAC standards:** Alcohol marketing must not:

- show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines
- show (visibly, audibly or by direct implication) the consumption of an Alcohol Beverage before or during an activity that, for safety reasons requires a high degree of alertness or physical coordination, such as swimming.

**Decision:** The Panel found that a reasonable person would probably understand that combined the various elements of the first post encourage excessive and/or rapid alcohol consumption as the consumption of alcohol from a bottle directly into the mouth raises an implication of less controlled or measured consumption compared to drinking from a glass and the accompanying text 'Shots all night long...' implies continuing alcohol consumption. In relation to the second post, the Panel found that the post directly implies alcohol consumption before swimming due to a person with wet hair wearing swimwear on the beach during the day while holding a partially emptied bottle of the product.

The Company removed the social media posts.



### Gilligan's Hotel Cairns (complaint regarding content)

**Complaint:** Concern that the posts show alcohol consumption in the swimming pool.

**ABAC standard:** Alcohol marketing must not show (visibly, audibly or by direct implication) the consumption of an Alcohol Beverage before or during an activity that, for safety reasons requires a high degree of alertness or physical coordination, such as swimming.

**Decision:** The Panel considered that the posts are inconsistent with the Part 3 (d) standard. The posts show alcohol use while actually swimming or raise the reasonable implication that swimming will occur after alcohol consumption. Swimming is an activity that, for safety reasons, should not be done in conjunction with alcohol consumption.

The Company declined to take action in relation to the posts as they respectfully disagreed with the determination. In accordance with ABAC Rules & Procedures the matter was referred to the Qld Office of Liquor and Gaming Regulation.



## Expedited Determination

### Booze Mate (complaint regarding content)

**Complaint:** That the marketing promotes excessive consumption, misuse and abuse of alcohol and suggests that alcohol consumption contributes to a change in mood or success.

**ABAC standards:** Alcohol marketing must not:

- show or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines
- suggest that the consumption or presence of an Alcohol Beverage may create or contribute to a significant change in mood or environment
- show (visibly, audibly or by direct implication) the consumption or presence of an Alcohol Beverage as a cause of or contributing to the achievement of social or other success.

**Decision:** Window signs reading “Sober is boring!!” and “Sorry!! We are too drunk to open...” breach the Part 3 (a)(i), (c)(i) and (c)(ii) standards by encouraging drinking until intoxicated and suggesting that alcohol consumption may cause a change in mood and lead to social success.



## Marketing Outside ABAC’s Jurisdiction

### Billson’s Creamy Soda Vodka (complaint regarding content)

**Complaint:** That a Billson’s Creamy Soda Vodka shirt was worn by a guest on the Sunrise breakfast TV program in order to promote the product, despite alcohol advertising not being permitted on free to air TV at that time of day.

**ABAC standard:** Alcohol marketing cannot be directed at Minors through its placement.

**Decision:** Based on the Company’s assurances and the limited search of readily available information, it seems that the Company had nothing to do with Mr Kidman appearing on the program wearing the Billion’s patterned shirt. Accordingly, it would appear that the TV segment cannot be regarded as a marketing communication for which the Company can be held responsible.



## Marketing Consistent with ABAC Standards

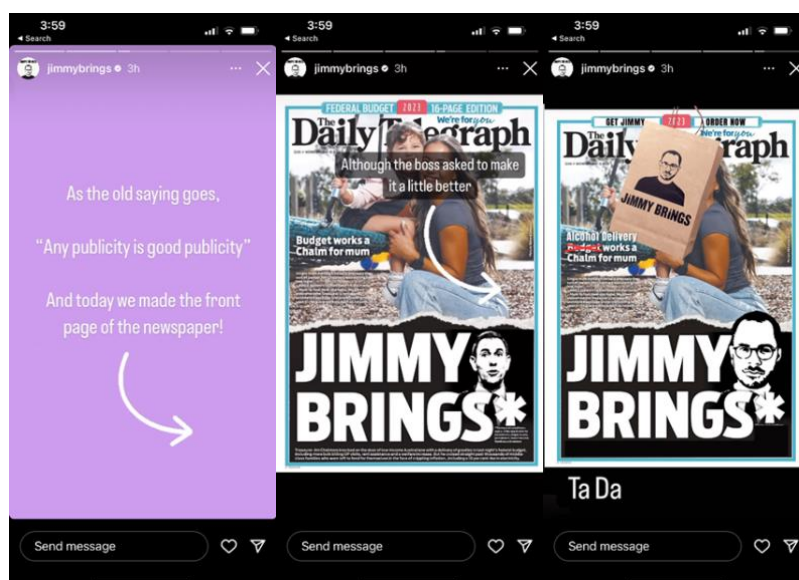
### Jimmy Brings (complaint regarding content)

**Complaint:** Concern that an Instagram post depicted a Minor.

**ABAC standard:** Alcohol marketing cannot depict a person who is or appears to be a Minor unless they are shown in an incidental role in a natural situation (for example, a family socialising responsibly) and where there is no implication they will consume or serve alcohol.

**Decision:** The Panel found the ABAC standards had not been breached, noting that:

- there is no suggestion that the minor would consume or serve alcohol;
- the depiction of a child with her mother is a natural situation;
- clearly the image of the child relates to the budget story in the newspaper and is purely incidental to the subsequent use of the story for the Instagram post i.e. the child was not posed with alcohol; and
- taken as a whole, the post would be understood as relating to the newspaper story adopting the Company's name and the Company using that opportunity for its brand promotion rather than suggesting it is acceptable for minors to consume alcohol or to appeal to minors.



### Tooheys New (complaint regarding placement)

**Complaint:** Concern an alcohol ad was seen at a shopping centre

**ABAC standard:** Alcohol marketing cannot be directed at Minors through its placement.

**Decision:** The Panel found the ABAC standards had not been breached, noting that while there is a restriction on alcohol ads being placed on billboards positioned within 150m sightline of a primary or secondary school, there is no restriction as such on billboards within a shopping centre carrying an alcohol ad. Further it is common for alcohol retailers to be located within shopping centres, with Castletown having a BWS outlet. Presumably this store has signage and advertising which is visible to passing shoppers in the centre.

### Penfolds (complaint regarding placement)

**Complaint:** Concern about an alcohol ad being live streamed during Australian Idol on 7Plus at 8pm when children may be watching TV.

**ABAC standard:** Alcohol marketing cannot be directed at Minors through its placement.

**Decision:** The Panel found the ABAC standards had not been breached, noting:

- the CTICP time of broadcast restrictions for alcohol ads via linear tv do not apply to digital broadcasts;
- available age restriction controls were applied for the ad;
- the audience for Australian Idol comfortably exceeds the 75% adult requirement at over 95% adult viewers; and
- the content of Australian Idol has appeal across age groups but cannot be fairly characterized as primarily aimed at minors.

### Maker's Mark Whisky (complaint regarding placement)

**Complaint:** Concern an alcohol ad was seen during the midday movie - 'The Perfect Assistant' - on free-to-air TV

**ABAC standard:** Alcohol marketing cannot be directed at Minors through its placement.

**Decision:** The Panel found the ABAC standards had not been breached, noting:

- Placement Rule 1 - The complainant saw the advertisement on free-to-air television on Friday 5 May at approximately 1:30pm. This was a school day, meaning that the CTICP permitted alcohol advertising between 12 noon and 3pm. As the advertising was seen at 1:30pm, Placement Rule 1 has not been breached.
- Placement Rule 2 requires that age restriction controls should be used when available. Free-to-air television does not have available age restriction controls, meaning that Rule 2 has not been breached
- Placement Rule 3 - Ratings data provided by the Company shows that the audience of the movie comfortably exceeded the 75% adult benchmark. On this basis, Placement Rule 3 has not been breached.
- Placement Rule 4 - A review of on-line information about the film indicate it would not be regarded as primarily aimed at minors.

### Cellarbrations (complaint regarding content)

**Complaint:** Concern that the TV ad showed two people fencing with sharpened weapons in a bottle shop.

**ABAC standard:** Alcohol marketing must not show (visibly, audibly or by direct implication) or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an Alcohol Beverage.

**Decision:** The Panel did not believe the TV advertisement was in breach of the standard, noting the ad is depicting an entirely fanciful scenario and a reasonable person will view it in this light. While humour will not excuse a clear breach of a Code standard, it is a relevant factor in how an ad is understood. The Panel believes the ad would not be understood as encouraging violent or anti-social behaviour. More likely the ad would be viewed as a light hearted reference to a BBQ kebab and selecting a drink to go with the food.



### The Bottle-O (complaint regarding content)

**Complaint:** Concern that the TV ad showed a man throwing a glass bottle towards a woman wheeling a bin.

**ABAC standard:** Alcohol marketing must not show (visibly, audibly or by direct implication) or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an Alcohol Beverage.

**Decision:** The Panel did not believe the TV advertisement was in breach of the standard, noting that:

- the esky containing ice and a single emptied beer bottle establishes that while the man has been drinking, his consumption is apparently moderate;
- the man does not appear affected by alcohol;
- the friendly way the man acknowledges his neighbours on the walk establishes he is known to the three people he encounters including the woman;
- it is clear that the item is being thrown towards the bin, and not the woman as such;
- on a larger screen it is clear enough that the item thrown is a plastic cup with ice but it is noted that this is not as apparent if the ad is viewed on a device with a small screen;
- the interaction between the man and woman is warm and amicable. The woman is not portraying that an irresponsible or offensive action has occurred; and
- within the context of the ad as a whole, a reasonable person would most probably understand the throwing scene is about the man trying to land a shot into the bin and that there is no violent or aggressive intent behind the action.



### Carlton Draught (complaint regarding content)

**Complaint:** Concern that the Carlton Draught AFL Footy Tipping Competition encouraged gambling and excessive alcohol consumption.

**ABAC standards:** Alcohol marketing must not show (visibly, audibly or by direct implication) or encourage:

- the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines
- irresponsible or offensive behaviour that is related to the consumption or presence of an Alcohol Beverage.

**Decision:** The Panel did not believe the Carlton Draught AFL Footy Tipping Competition encouraged gambling and excessive alcohol consumption, noting that:

- the most probable understanding of the competition is that it encourages a person to engage in the competition and attend a pub to watch a game. While this may be taken as encouraging alcohol use, this use would not be understood as excessive in breach of the Part 3 (a)(i) standard.
- participation in the Carlton Draught AFL Footy Tipping Competition is not a form of gambling and a reasonable person would not understand that the competition is irresponsible behaviour within the meaning of the Part 3 (a)(ii) standard.

## Craftworks GT Australian Craft Single Malt Whisky (complaint regarding content)

**Complaint:** Concern that the packaging shows drink driving and uses colours similar to 'Hot Wheels' which would be enticing to minors.

**ABAC standards:** Alcohol marketing must not:

- have strong or evident appeal to minors
- show (visibly, audibly or by direct implication) the consumption of an Alcohol Beverage before or during an activity that, for safety reasons requires a high degree of alertness or physical coordination, such as swimming.

**Decision:** The Panel did not believe the posts were in breach of either standard, noting:

- the car illustration does not look like a picture of a children's toy, or a cartoon car from children's books or movies;
- Hot Wheels use a flaming logo, and it may have come to mind when the complainant saw the yellow and orange flaming "GT" initials on the product label. However, the use of flames is associated with cars more widely, especially hot rods, and not just with the logo on children's toys;
- the car pictured would most likely resonate with adults who drove, were passengers in or admired similar cars during the height of their popularity in the 1970s, rather than minors born after 2004;
- the product's bottle is of a shape and size commonly associated with alcohol products, and does not look like a soft drink bottle;
- the use of the words 'Single Malt Whisky' provides a strong alcohol cue such that the product would not be confused with a soft drink;
- taken as a whole the packaging would most probably be understood as having at most incidental appeal rather than strong or evident appeal to minors;
- alcohol consumption is not shown; and
- the label shows a car and can be admired for its artistic value, or for evoking memories of cars from a bygone era. The label does not contain any images or text that encourages drink driving.



CREATIVE: Crafty  
 SPIRIT: Craft Works I AM... style  
 CASK WOOD: French Oak  
 STYLE: Ex Shiraz Sherry refill  
 CASKED: Nov 2019  
 DECANTED: Dec 2022  
 ABV %: 56.5%  
 BRAND: Wombat Works

**I AM A CRAFT WORKER  
 THEREFORE I AM ...**  
 HUMANISING THE ART OF WHISKY

CRAFT WORKS DISTILLERY 67A CASTLEREAGH HIGHWAY CAPETEE NSW 2846 AUSTRALIA

[WWW.CRAFTWORKSDISTILLERY.COM.AU](http://WWW.CRAFTWORKSDISTILLERY.COM.AU)  
 VOLUME 500 ML APPROX 22.1 STD DRINKS

**PREGNANCY WARNING**  
 Alcohol can cause lifelong harm to your baby





### Liquorland (complaint regarding placement)

**Complaint:** Concern that alcohol advertising was seen on the Pedestrian.TV website, which did not employ age-restriction controls to ensure that minors were not able to view the marketing.

**ABAC standard:** Alcohol marketing cannot be directed at Minors through its placement.

**Decision:** The Panel found the ABAC standards had not been breached, noting:

- the Pedestrian.tv website does not have age restriction options for advertisers;
- the audience for the site comfortably exceeds the 75% adult requirement at around 90% adult viewers; and
- the website content is considered to be directed toward adults.

### Vodka Cruiser (complaint regarding content)

**Complaint:** Concern that alcohol as a product can impair judgement and contribute to risky behaviours and should not be associated with sexual activity, and sexual empowerment should not be used as a marketing technique to increase sales.

**ABAC standards:** Alcohol marketing must not:

- show (visibly, audibly or by direct implication) or encourage irresponsible or offensive behaviour that is related to the consumption or presence of alcohol;
- show or directly imply that the consumption or presence of the product will cause or contribute to sexual or other success;
- suggest the consumption of alcohol offers a therapeutic benefit.

**Decision:** The Panel noted it is not their role to neither authorise nor prohibit any particular marketing technique, but rather to determine if the marketing is consistent with ABAC standards. The Panel believed the marketing does not breach ABAC standards, noting:

- it is not a breach of an ABAC standard for an alcohol brand to be involved in contentious or sensitive issues provided alcohol use is not shown or encouraged in a manner inconsistent with ABAC standards;
- the marketing places the brand/product with Jess and Lisa but does not show alcohol consumption nor is alcohol associated with anti-social or irresponsible behaviour;
- the marketing does not suggest alcohol is the cause of social or sexual success; and
- while Instagram Post 2 provides the benefits of masturbation, being the release of endorphins, reduction in stress and boost in mood, it is clear that these positive health outcomes are achieved by masturbation, and not through the consumption of an alcohol product.



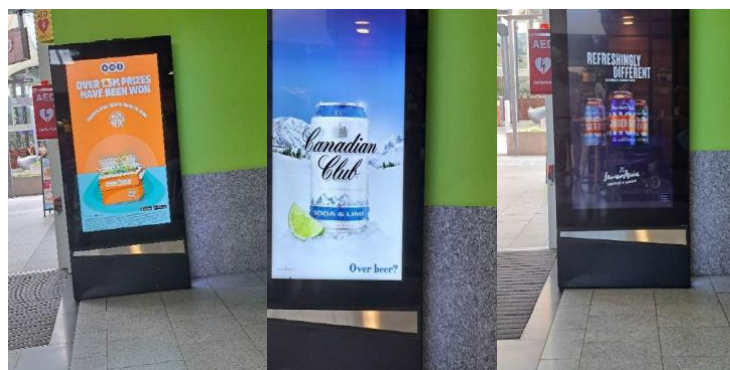
## Canadian Club, James Squire and BWS (complaint regarding content and placement)

**Complaint:** Concern that the electronic billboards can be seen by and appear fun and yummy to small children.

**ABAC standards:** Alcohol marketing must not have Strong or Evident Appeal to Minors; or be directed at Minors through its placement.

**Decision:** The Panel found the ABAC standards had not been breached, noting:

- it is not a breach of the placement rules to place an alcohol ad on a digital billboard inside a shopping centre, just as there is no restriction on a liquor store being physically located within a shopping centre;
- the BWS ad did not use dynamic or strongly eye-catching colours, the majority of the imagery used eg, an esky, a bundle of cash, a hot air balloon and a petrol bowser are not overtly items or activities likely to appeal strongly to minors, the text is strongly adult focused and while some images, eg the red car with flashing headlights is more akin to imagery used in children's materials and cartoons, taken as a whole the ad is not targeted at minors, nor would it have a greater attraction to minors than it would for adults and would therefore not have strong or evident appeal to minors;
- the Canadian Club ad included a realistic snowy scene, with limited movement, realistic colours and the scene and objects would not have specific appeal to minors; and
- the James Squire ad included realistic images, little movement and predominantly dull and muted colours and would not have strong or evident appeal to minors.



## Smirnoff Seltzer (complaint regarding placement)

**Complaint:** Concern an alcohol ad was allegedly received by a 15 year old girl on Snapchat.

**ABAC standard:** Alcohol marketing cannot be directed at Minors through its placement.

**Decision:** The Panel found the ABAC standards had not been breached, noting:

- the Company ran a campaign over Snapchat for its alcoholic seltzers;
- the Company through its agent applied age targeting to direct the ads to the age group 18 to 44 but failed initially to select the regulated content setting;
- Snapchat's controls however automatically applied the regulated content setting;
- some 104 of 8.7 million impressions of the ad were served to users before the regulated content setting applied but these ads were still served to users aged 18 and over;
- Snapchat data shows no user with personal details giving their age as under 18 received the ad however 1 user subsequent to receiving the ad altered their personal details to state they are under 18;
- while Snapchat can identify the user who changed their personal details, it will not disclose this information consistent with its privacy obligations;
- the complainant was asked to assist further by seeking permission to disclose the name of the minor receiving the ad, but advised permission would not be given; and
- age controls were applied which excluded minors from receiving the marketing as required by the rule.

## The Glenlivet Scotch Whisky (complaint regarding content)

**Complaint:** Concern that the marketing encourages viewers to consume alcohol in a reckless, careless or excessive manner by ‘breaking the rules’ which can be interpreted as breaching the law in order to have fun.

**ABAC standards:** Alcohol marketing must not:

- show (visibly, audibly or by direct implication) or encourage the excessive or rapid consumption of an Alcohol Beverage, misuse or abuse of alcohol, consumption inconsistent with the Australian Alcohol Guidelines;
- show or encourage irresponsible or offensive behaviour that is related to the consumption or presence of alcohol;

**Decision:** The Panel did not believe the various implications and extrapolations drawn by the complainant could reasonably be drawn. Firstly, the ad has to be taken as a whole and the most prominent visual feature of the ad is the woman sitting quietly with the product next to a piano. This image does not support a message of recklessness or excessive alcohol consumption, or general antisocial alcohol fueled behaviour. Further:

- the ‘don’t follow the rules’ taglines within the context of the ad is more likely to be understood as referencing the usual choice of drink by women than an encouragement of anti-social behaviour or excessive alcohol use;
- the woman does not appear affected by alcohol and is shown with a moderate serve in her glass;
- it is not against the ABAC standard to associate alcohol use with fun or enjoyable activities, provided it is not suggested that alcohol is needed to achieve a fun time, or the introduction of alcohol changes a mood or environment;
- taken as a whole, a reasonable person would not consider the ad is promoting excessive alcohol consumption or the misuse or abuse of alcohol. Nor does the ad suggest alcohol is required to achieve success.



The ABAC Complaints Panel is headed by Chief Adjudicator Professor The Hon Michael Lavarch AO. For more information on ABAC or to access the ABAC Adjudication Panel decisions referred to in this report, visit: <http://www.abac.org.au>.