



ABAC Adjudication Panel Determination No 71/24

Product: 4Pines Beer
Company: Carlton & United Breweries
Media: Twitch.tv
Date of decision: 27 May 2024
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Professor Louisa Jorm
Ms Debra Richards

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) arises from a complaint received on 6 May 2024 in relation to advertising for 4Pines Beer (“the product”) by Carlton & United Breweries (“the Company”) on Twitch.tv.
2. Alcohol marketing in Australia is subject to an amalgam of laws and codes of practice that regulate and guide the content and, to some extent, the placement of marketing. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol marketing as quasi-regulation. The most important provisions applying to alcohol marketing are found in:
 - (a) Commonwealth and State laws:
 - Australian Consumer Law – which applies to the marketing of all products or services, and lays down baseline requirements, such as that marketing must not be deceptive or misleading;
 - legislation administered by the Australian Communications and Media Authority – which goes to the endorsement of industry codes that place restrictions on alcohol advertising on free to air television;
 - State liquor licensing laws – which regulate the retail and wholesale sale of alcohol, and contain some provisions dealing with alcohol marketing;

(b) Industry codes of practice:

- AANA Code of Ethics – which provides a generic code of good marketing practice for most products and services, including alcohol;
 - ABAC Responsible Alcohol Marketing Code (“ABAC Code”) – which is an alcohol-specific code of good marketing practice;
 - certain broadcast codes, notably the Commercial Television Industry Code of Practice – which restricts when advertisements for alcohol beverages may be broadcast;
 - Outdoor Media Association Code of Ethics and Policies – which place restrictions on the location of alcohol advertisements on outdoor sites such as billboards.
3. The codes go either to the issue of the placement of alcohol marketing, the content of alcohol marketing or deal with both matters. The ABAC deals with both the placement of marketing i.e. where the marketing was located or the medium by which it was accessed and the content of the marketing irrespective of where the marketing was placed. The ABAC scheme requires alcohol beverage marketers to comply with placement requirements in other codes as well as meet the standards contained in the ABAC.
 4. For ease of public access, Ad Standards provides a common entry point for alcohol marketing complaints. Upon a complaint being received by the Ad Standards, a copy of the complaint is supplied to the Chief Adjudicator of the ABAC.
 5. The complaint is independently assessed by the Chief Adjudicator and Ad Standards and streamed into the complaint process that matches the nature of the issues raised in the complaint. On some occasions, a single complaint may lead to decisions by both the Ad Standards Community Panel under the AANA Code of Ethics and the ABAC Panel under the ABAC if issues under both Codes are raised.
 6. The complaint raises concerns under the ABAC Code and accordingly is within the Panel’s jurisdiction.

The Complaint Timeline

7. The complaint was received on 6 May 2024.
8. The Panel endeavours to determine complaints within 30 business days of receipt of the complaint, but this timeline depends on the timely receipt of

materials and advice and the availability of Panel members to convene and decide the issue. The complaint was completed in this timeframe.



Pre-vetting Advice


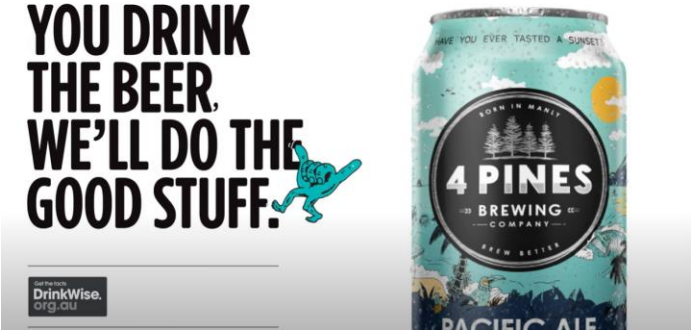
9. A component of the ABAC Scheme is an advice service by which an alcohol marketer can obtain an independent opinion of a proposed alcohol marketing communication against the ABAC standards prior to public release. Pre-vetting advice is separate from the complaint process and does not bind the Panel but represents best practice on behalf of alcohol marketers. Pre-vetting advice was obtained for the marketing (Approval Number 7557).

The Marketing

10. The complaint relates to marketing shown on Twitch.tv:

<https://www.youtube.com/watch?v=Z6PX7Hcczcl>

<p>The ad is set in a public bar and focuses on a man sitting at the bar – Frank.</p> <p>Voice Over (VO): <i>“This is Frank. He’s never hugged a tree. In fact Frank has never even watered a plant. Basically Frank has done very little.</i></p> <p>Throughout the narration, Frank is looking around, shrugs and looks at the camera from a different direction.</p>	
<p>VO: <i>“But Frank wants to do good stuff. That’s why he drinks 4Pine. A beer that does loads of good stuff.”</i></p> <p>As Frank drinks his beer, a list of good things done by the Company scrolls past him on the screen.</p> <p>Frank then requests another beer.</p>	 <p>4 PINES BREWING CO. THE GOOD STUFF</p> <p>44 444 TREES PLANTED ANNUALLY IN PARTNERSHIP WITH LANDCARE AUSTRALIA, INCLUDING TREES, SHRUBS, AND GROUNDCOVERS UNTIL 2025.</p> <p>B CORP CERTIFIED WE UPHOLD HIGH SOCIAL AND ENVIRONMENTAL CORPORATE STANDARDS.</p> <p>1% FOR THE PLANET MEMBER PROUD MEMBER SINCE 2020.</p>

<p>VO: <i>"The world would be better if more people did good stuff. Thanks for everything Frank."</i></p> <p>Frank's beer is placed on the bar, just out of reach. Frank nods and reaches out to get his beer.</p>	
<p>VO: <i>"4Pines Brewing Co. You drink the beer. We'll do the good stuff"</i></p>	

Complaint

11. The complainant objects to the marketing as follows:

- *To me, this ad implies that by drinking 4 Pines, you are a better person.*
- *I believe this breaks the part of the ABAC Responsible Alcohol Marketing Code. Section (c)(ii) of Responsible Depiction of the Effects of Alcohol [requires that alcohol advertising must not] "show (visibly, audibly or by direct implication) the consumption or presence of Alcohol as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success"*

The ABAC Code

12. Part 3 of the Code provides that An Alcohol Marketing Communication must NOT:

- (c)(ii) show (visibly, audibly or by direct implication) the consumption or presence of Alcohol as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;

The Company Response

13. The Company responded to the complaint by email on 14 May 2024. Its primary comments were:
- Carlton & United Breweries (CUB) takes responsible advertising of alcohol seriously. We are aware of the Code requirements and our policy and practice is in line with ensuring compliance with all relevant alcohol and marketing guidelines.
 - Assertions made by the complainant: To me, this ad implies that by drinking 4 Pines, you are a better person. I believe this breaks the part of the ABAC Responsible Alcohol Marketing Code under section ii of Responsible depiction of the effects of alcohol; "show (visibly, audibly or by direct implication) the consumption or presence of Alcohol as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success"
 - The 'Do Good Stuff' 30" TVC was submitted for pre-vetting under application number 05979- 2023 and approved by the pre-vetter on 2 November 2023 (approval no. 7557). The pre-vetter reviewed the storyboard, script, animatic and final motion asset over a multi-step submission process as the film was developed, and was satisfied that the advertisement complied with Code standards.
 - The consumption or presence of alcohol in our marketing does not position 4Pines Beer as a cause or contributor to personal, business, social, sporting, sexual or other success. The purpose of this advertisement is to highlight the social and sustainability initiatives undertaken by the 4Pines Brewing Company.
 - All 'good stuff' referenced in the advertisement relates to the social and sustainability efforts undertaken by 4Pines, including, for example, 4Pines obtaining and maintaining B Corporation Certification, planting 44,444 trees annually in partnership with Landcare Australia, and being a member of 1% for the Planet since 2020.
 - The key character in the ad ('Frank') is depicted as an average patron whose manner, appearance and surroundings do not change throughout the duration of the ad. Frank's mood and demeanour remain constant throughout the TVC as he sips his beer and listens to the voice over.
 - The potential for 'mood change' was one watch-out provided by the pre-vetter during the pre-vetting process, which we carefully addressed to ensure approval and compliance.

- At the end of the ad, Frank remains in the same situation as when we met him; casually drinking a 4Pines beer at a bar. The consumption or presence of alcohol has had no influence on Frank's situation.
- There is no reference (direct or implied) to Frank reaching success of any kind. In fact, the key message of the ad clearly delineates Frank's actions from those of 4Pines by asking Frank to continue what he is doing, so that 4Pines can continue their work: "You drink the beer, we'll do the good stuff". This is supported and clarified further at multiple points throughout the advertisement:
 - Via the voice over "A beer that does loads of good stuff" and "the world would be better if more people did good stuff";
 - Via the super "4Pines Brewing Co - Good Stuff" which is applied on screen in prominent bold text, emphasised as the title ahead of the scrolling list of 'Good Stuff' credentials; and
 - Via the end frame "You drink the beer. We'll do the good stuff" clearly showing that it is 4Pines undertaking social and environmental impact initiatives, and not the individual depicted in the advertisement, nor any individual consumer.
- Taken as a whole, we submit that the inclusion of 4Pines beer within the ad is likely to be understood as positioning the brand's credentials and not as suggesting the product caused any success of the main character. As the Panel determined in Complaint 17/24 Hahn beer: The complainant contended that the ABAC standard **does not permit the association of alcohol with winning or success. This is not correct. The key concept in the Part 3 (c)(ii) standard is causation.** It is not permitted to suggest that alcohol was a cause or a contributor to achieving success. [emphasis added].
- We submit the 4Pines advertisement separates causation and success in a similar way to the Hahn ad: Frank is being told he is contributing to 4Pines doing 'good stuff', and in this way, Frank is associated with 4Pines doing good work. There is no suggestion that the consumption or presence of the 4Pines beer has caused or contributed to Frank (or any consumer) becoming a more successful person, due to the 'good stuff' done by the beer. Rather, Frank continues to casually drink a 4Pines beer at a bar all while his manner, appearance, surroundings and situation remain unchanged.
- In designing this campaign, we were very conscious of the need to separate success from the product/brand's success, and that 4Pines references were strictly reflective of the brand's function as a platform for social and environmental good.

- CUB is committed to ensuring our promotional and marketing material, and that of our associated entities, does not promote or encourage any irresponsible or illegal consumption of alcohol. Our goal is for adults to enjoy our products responsibly and in moderation. Accordingly, we have taken all reasonable precautions to ensure that the marketing material produced complies with the ABAC standard.

The Panel's View

14. This determination concerns an ad shown on Twitch.Tv. The theme of the ad is centred upon Frank who is depicted in a bar consuming a glass of 4Pines beer. A narrator explains that while Frank himself has done no environmentally worthwhile activities, he likes the idea of worthwhile activities. It is explained that the Company supports various environmental causes and hence Frank by purchasing the Company's product is helping to do 'good stuff'.
15. The complainant takes issue with the ad. It is argued that the ad implies that by drinking 4Pines beer, you are a better person and this message breaches the standard in Part 3 (c)(ii) of the Code.
16. Part 3 (c)(ii) provides that an alcohol marketing communication must not show the consumption or presence of alcohol as a cause of or contributor to the achievement of personal, business, social, sporting, sexual or other success.
17. The assessment of the consistency of an item of marketing with a Code standard is from the probable understanding of the marketing material by a reasonable person. A 'reasonable person' is a legal construct intended to reflect community standards by grounding the assessment on the values, opinions and life experiences that will be found in most members of the community.
18. The Company contends the ad is consistent with the Code standard. It is submitted:
 - the 'good stuff' referenced in the ad relates to the social sustainability efforts undertaken by the Company;
 - Frank is an average patron and his demeanour remains constant throughout the ad and the ad does not depict alcohol creating a change in mood;
 - the ad delineates between Frank's actions from those of 4Pines with Frank asked to keep doing what he is doing so 4Pines can continue their work; and

- the ad would be understood as positioning the brand's credentials and not as suggesting the product caused any success of the main character. It separates the brand's good work from the success of Frank.
19. The Panel does not believe the ad breaches the ABAC standard. In reaching this conclusion the Panel noted:
- the mood established by the ad remains constant and the alcohol product doesn't elevate the mood or change the Frank character;
 - while Frank might be taken as choosing the product because the Company does 'good stuff' this cannot be fairly understood as personal success or achievement by Frank;
 - at its highest, Frank is shown as being of good intentions but too indifferent or lazy to undertake 'good stuff' if it requires personal effort. For instance, he appears slightly reluctant to even reach for the glass of beer when it doesn't get placed directly into his hand; and
 - a reasonable person would not likely understand the ad as claiming the use of the product leads to success or achievement by the consumer of the product.
20. The complaint is dismissed.