

Australia's Responsible Alcohol Marketing Scheme

2024 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.

This report marks the milestone of the 1000th complaint determination made by the ABAC Adjudication Panel since the commencement of the Scheme in 1998. Panel determinations involve careful consideration of public concerns about alcohol marketing and give valuable guidance to industry on responsible alcohol marketing. 1000 determinations demonstrates the enduring strength of the ABAC Scheme for over 25 years as it has dealt with new communication technologies, shifts in marketing techniques and changes in community expectations regarding alcohol use and its marketing. ABAC is grateful to Professor Hon Michael Lavarch AO and his Panel colleagues for their commitment and dedication to providing any member of the public with a hearing of their concerns about alcohol marketing and packaging.

Recent ABAC Panel determinations offer guidance to industry and highlight areas where care is needed when developing marketing.

- Packaging and its associated marketing must not have strong or evident appeal to minors and this was the most common cause for a Code breach this quarter. Recent decisions provide useful guidance regarding [confectionery](#), [chocolate](#), [soft drink](#), and [ice-block](#) references.
- Alcohol marketing must not suggest that alcohol will improve your confidence, mood or happiness. The Panel found that suggestions that alcohol will help you 'float away', 'escape the ordinary' 'make your brain happy' or 'come alive' were found to breach this standard. Read the full decisions [here](#), [here](#) and [here](#).
- Caution is needed when describing attributes of alcohol products to ensure claims that alcohol is 'healthy' or provides health benefits are not made. Recent decisions [here](#), [here](#) and [here](#).
- Care should be taken that social media posts do not show long pours from a height or make light of a drinking habit. The determinations are available [here](#), [here](#), and [here](#).

There was also a good example last quarter of the co-operation between ABAC and State Liquor Licensing Authorities with NSW Liquor & Gaming acting to support enforcement of a Panel decision. While industry participants overwhelmingly accept and act on determinations finding a breach of an ABAC standard, on the rare occasion this does not happen the case will be referred to the government regulator for action.

**ABAC's annual industry webinar will be held on Tuesday 13 August at 11am AEST.
Registration is now open via this [link](#).**

KEY STATISTICS

Complaints	45
Raising Code issues and referred for determination	30
Not raising Code issues*	12
Raising an issue previously considered by the Panel	0
Raising an issue consistently dismissed by the Panel	3
Determinations	25
Dismissed	13
Upheld	11
Upheld - Expedited	1
Pre-vetting	660
Rejected	91
Pending	1

* 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, outdoor advertising outside scope, objectifying women, racist language or misleading consumers which can fall within the scope of other regulators, including Ad Standards.

RECENT ALCOHOL MARKETING COMPLAINTS

Breach of ABAC Standards

Strawberry Cloud Cocktail (complaint regarding content)

Complaint: That the cocktail displayed on social media has strong appeal to minors due to its name of ‘Strawberry Cloud’ referencing a popular confectionery item, the cocktail looking like a non-alcoholic drink such as pink lemonade and the confectionery item being shown in social media posts with the drink.

ABAC standard: An alcohol marketing communication must not have strong or evident appeal to minors.

Decision: The Panel found that the social media posts have strong appeal to minors. In reaching this conclusion the Panel noted:

- the cocktail’s name of Strawberry Cloud combined with the confectionery garnish readily identifies the posts imagery with a product likely to be familiar and popular with many minors;
- the post’s imagery is relatable to minors and creates an illusion of a smooth transition from a non-alcoholic to alcoholic beverage;
- taken as a whole, a reasonable person would probably understand that the posts have a strong or evident appeal to minors.



While the Panel upheld the complaint, it stressed that the underlying concern about the physical cocktail and its appeal to minors properly rests with the government regulator, NSW Liquor and Gaming, and not the ABAC Scheme.

The advertiser has removed the post from Facebook and Instagram.

Creaming Soda Spider (complaint regarding content and placement)

Complaint: That the packaging of three RTD cocktails and the supporting digital marketing communications have strong or evident appeal to minors. A concern was also raised that the social media posts are visible to minors, given Milky Lane is an all ages venue.

ABAC standard: An alcohol marketing communication must not have strong or evident appeal to minors and available age restriction controls must be applied to exclude minors from viewing an alcohol marketing communication.

Decision: The Panel found that the packaging of the Creamy Soda Spider RTD product as well as social media posts and entries on the Company website are inconsistent with the strong and evident appeal to minors standard. Further the failure of the Company to age restrict its posts on Instagram and Facebook that reference alcohol products is also a breach of the Code Placement standard.



The company has agreed to comply with the Panel's findings.

Dreaded Drop Vol 4 Australian Whisky (complaint regarding content)

Complaint: That the packaging can be clearly considered as appealing to children, particularly through reference to the ‘Wonka’ brand of movies and chocolates.

ABAC standard: An alcohol marketing communication must not have strong or evident appeal to minors.

Decision: The Panel found on balance that the box in which the bottle is placed, does have strong or evident appeal to minors. In reaching this conclusion the Panel noted:

- the box is designed so that its top half resembles a block of chocolate;
- the front of the box has some confectionery cues;
- the side panels on the box directly reference Willy Wonka and the ‘golden ticket’ storyline from the novel and original movies;
- the narrative in one of the side panels contains flavour descriptions which evaluate the potential of the product being understood as a smooth transition from consumption of a confectionery/chocolate beverage to an alcohol beverage; and
- taken as a whole, and while no one element of itself is decisive, a reasonable person would probably understand the box has strong or evident appeal to minors.



As the advertiser did not respond to the final determination it was referred to NSW Liquor & Gaming. The advertiser advised them that the box in which the product is packaged is being removed following the ABAC determination.

24 ICE (complaint regarding content)

Complaint: That the packaging is akin to children’s icy poles and have strong or evident appeal to minors and various website entries and social media posts show the alcohol product being consumed while using a swimming pool, hence depicting alcohol use with an inherently dangerous activity.

ABAC standards: An alcohol marketing communication must not:

- have strong or evident appeal to minors; and
- show the consumption of Alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical coordination, such as swimming.

Decision: The Panel found that the product packaging has strong or evident appeal to minors, noting that:

- the packaging of the individual servings is similar to that used for non-alcoholic icy pole style products that are popular with minors and will likely appear very familiar to minors;
- while the individual serving packaging has references to the product being alcohol, these references are not prominent within the context of the packaging design as a whole increasing the possible confusion of the products with non-alcoholic ice blocks;



- equally the packaging of the 5 pack box does not significantly highlight the alcoholic nature of the products within the context of the design of the box as a whole and this increases the potential for confusion with non-alcoholic ice blocks;
- the packaging adopts bright colours likely to be eye-catching to minors;
- these factors combine to create an illusion that the product would be a smooth transition from a familiar non-alcoholic product to an alcohol product;
- taken as a whole, a reasonable person would probably understand that the packaging has strong or evident appeal to minors.

The Panel also found that six of eight images were within the control of the advertiser and clearly show or directly imply the consumption of the products during or before the use of a swimming pool. These images breach the Code.

The advertiser advised it has ceased ordering the current packaging and has also deleted the images showing consumption of the products while swimming.

Third Wave Café (complaint regarding content)

Complaint: That an Instagram post by the advertiser makes light of alcoholism and promotes binge drinking.

ABAC standards: An alcohol marketing communication must not:

- show encourage, or treat as amusing, consumption inconsistent with the Australian Guidelines to Reduce Health Risks from Drinking Alcohol; and
- show encourage, or treat as amusing, rapid Alcohol consumption, misuse or abuse of Alcohol or other irresponsible or offensive behaviour that is related to the consumption or presence of Alcohol.

Decision: The Panel found that the Instagram video does breach the Code standards. In reaching this conclusion the Panel noted:

- the video is introduced by the man asking 'Hey guys, are you an alcoholic like Monica' and then the discount offer is outlined. A reasonable person would probably understand that the low prices are being associated with the excessive consumption of being alcohol dependent;
- while the video might be understood as being amusing rather than a serious call to be an 'alcoholic', humour of this kind treats excessive alcohol consumption as being amusing in breach of both ABAC standards;
- a similar understanding would be drawn from the later question from the man to Monica of 'how's the drinking habit going?'; and
- taken as a whole, the video goes beyond advising of the drinks pricing special and suggests a pattern of excessive alcohol use facilitated by the discounted pricing.



A complaint was also received in relation to email advertising by the advertiser, which was not found to breach the Code.

The advertiser removed the Instagram post prior to being advised of the complaint by ABAC and has agreed not to reuse it.

Brain Smiles! Hazy Pale Ale (complaint regarding content)

Complaint: That the name of the product strongly suggests that its consumption will lead to feelings of happiness and will have a therapeutic benefit.

ABAC standards: An alcohol marketing communication must not suggest that the consumption or presence of Alcohol may cause or contribute to an improvement in mood or environment.

Decision: The Panel believes the packaging does breach the Part 3(c)(i) standard. In reaching this conclusion the Panel noted:

- the product name suggests that the use of the product will result in improvement in mood ie the product causes happiness;
- this is reinforced by the imagery of the smiley emojis and the thumbs up from the Chur character;
- while of less importance, the description on the packaging of 'turn that frown upside down and pour some smiles on your brain' clearly suggests the product causes an improvement in mood; and
- taken as a whole a reasonable person would probably understand the packaging as stating that the product will cause or contribute to an improvement in mood.

The complainant further contended that the packaging had strong or evident appeal to minors and suggests that its consumption will have a therapeutic benefit. These contentions were dismissed by the Panel.

The advertiser has agreed to cease further orders for production of the packaging for Brain Smiles, modify the product packaging within 3 months and not reinstate the unmodified packaging for Brain Smiles at any time.



Maxo Relaxo (complaint regarding content)

Complaint: That the can packaging together with the website description suggests the product will lead to an improvement in mood.

ABAC standards: An alcohol marketing communication must not:

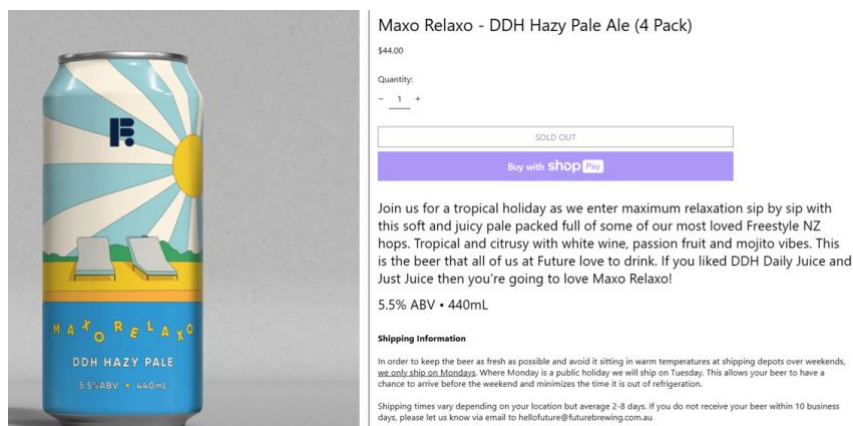
- suggest that the consumption or presence of Alcohol may cause or contribute to an improvement in mood or environment; and
- suggest that the consumption of Alcohol offers any therapeutic or health (including mental health) benefit, is needed to relax, or helps overcome problems or adversity

Decision: The Panel believed on balance that the website entry breached the Part 3 (c)(i) standard. The description of entering 'maximum relaxation sip by sip' would probably be understood as suggesting the consumption of the product does move a mood from less relaxed to more relaxed. It is

less likely the description would be seen as claiming that alcohol is ‘needed’ for relaxation, but rather that its use would improve a person’s sense of mood and well-being.

The Panel did not believe the brand name and can design in isolation from the accompanying text breached the ABAC standards. The packaging depicts a poolside setting and the product name. A reasonable person is not likely to take from this alone that a journey has occurred or a mood improved.

The Company removed the breached wording from its website.



Bucketty’s Brewing Co (complaint regarding content)

Complaint: That the Instagram video’s messaging breaches the Code, including by advising that consuming Bucketty’s products ‘makes you feel good’ and that attending Bucketty’s brewery or consuming its products are ‘good for your health’ and ‘good for your mental health’.

ABAC standards: An alcohol marketing communication must not:

- suggest that the consumption or presence of Alcohol may cause or contribute to an improvement in mood or environment; and
- suggest that the consumption of Alcohol offers any therapeutic or health (including mental health) benefit, is needed to relax, or helps overcome problems or adversity

Decision: The Panel found that the video messaging and the accompanying text with the post does suggest that the alcohol products are good for you and would likely be taken as suggesting the consumption of alcohol contributes to an improvement in mood or environment as well as the beer being good for mental health and/or for the soul.

The advertiser removed the video from Instagram.

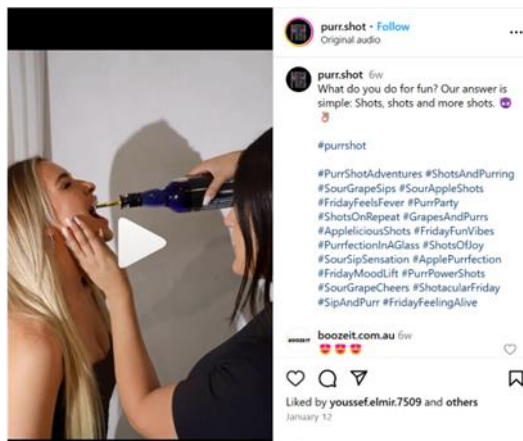


Purr Shot (complaint regarding content)

Complaint: That four posts promote rapid, inappropriate and excessive alcohol consumption and suggest that drinking the product will result in more fun and enjoyment.

ABAC standards: An alcohol marketing communication must not:

- show, encourage, or treat as amusing, consumption inconsistent with the Australian Guidelines to Reduce the Health Risks from Drinking Alcohol, such as excessive Alcohol consumption (more than 10 standard drinks per week or more than 4 standard drinks on any one day);
- show, encourage, or treat as amusing, rapid Alcohol consumption, misuse or abuse of Alcohol or other irresponsible or offensive behaviour that is related to the consumption or presence of Alcohol; and
- suggest that the consumption or presence of Alcohol may cause or contribute to an improvement in mood or environment.



Decision: The Panel found that the social media posts breached the ABAC.

The Company removed the social media posts referred to in the complaint and committed to an improved process with its social media agency going forward.

Cheeky Goat Co (complaint regarding content and placement)

Complaint: That the website breaches the Code by:

- suggesting therapeutic benefits arise from the product, including being nourishing and also a wholesome and healthy drink; and
- not age screening at the point of entry.



ABAC standard: An alcohol marketing communication must not suggest that the consumption of Alcohol offers any therapeutic or health (including mental health) benefit, is needed to relax, or helps overcome problems or adversity.

Available Age Restriction Controls must be applied to exclude Minors from viewing an Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication.

Decision: The Panel believed that references to the product being 'nourishing', 'chill out', 'gut loving', 'great for your digestive system', 'without any guilt', 'healthy', and 'healthier' suggest a health benefit or that the product is needed to relax in breach of Part 3 (c)(iv) of the Code.

The advertiser accepted that the website does not age screen at point of entry, although does age screen at point of sale, and has taken steps to add an age restriction. The Panel believes that this is a reasonably available age restriction control to apply to a website that primarily relates to alcohol. Accordingly there is a breach of Part 4(b) of the Code.

The advertiser has modified the language used and also included age-gating on its website.

Little Ripples Wine (complaint regarding content)

Complaint: That social media posts breach the Code by suggesting therapeutic benefits including relaxation and better mental health through less worry and zero guilt.

ABAC standard: An alcohol marketing communication must not suggest that the consumption of Alcohol offers any therapeutic or health (including mental health) benefit, is needed to relax, or helps overcome problems or adversity.

Decision: The Panel considered each of the eight Facebook posts referred to in the complaint and concluded that posts 1 and 6 are in breach against the standard in Part 3 (c)(iv) for the following reasons:

- Facebook Post 1 – the photograph and prominent messaging of New Year, Healthy Me! Less Alcohol, Less Calories, suggests that consuming the product will improve your health.
- Facebook Post 6 - The photograph showing two bottles of wine with two glasses and the caption 'sipping guilt free' is the most prominent element of the post. While ditching unnecessary sugar is referenced in the accompanying text, the likely take out of the post is that two bottles of wine can be consumed by two people 'guilt free.' This implies excessive consumption can occur without any negative consequences.

The advertiser has removed the two social media posts found to breach the Code and agreed they will not be reinstated.



Expedited Determination – Breach accepted and marketing removed promptly

Tocayo Cocktails (complaint regarding content)

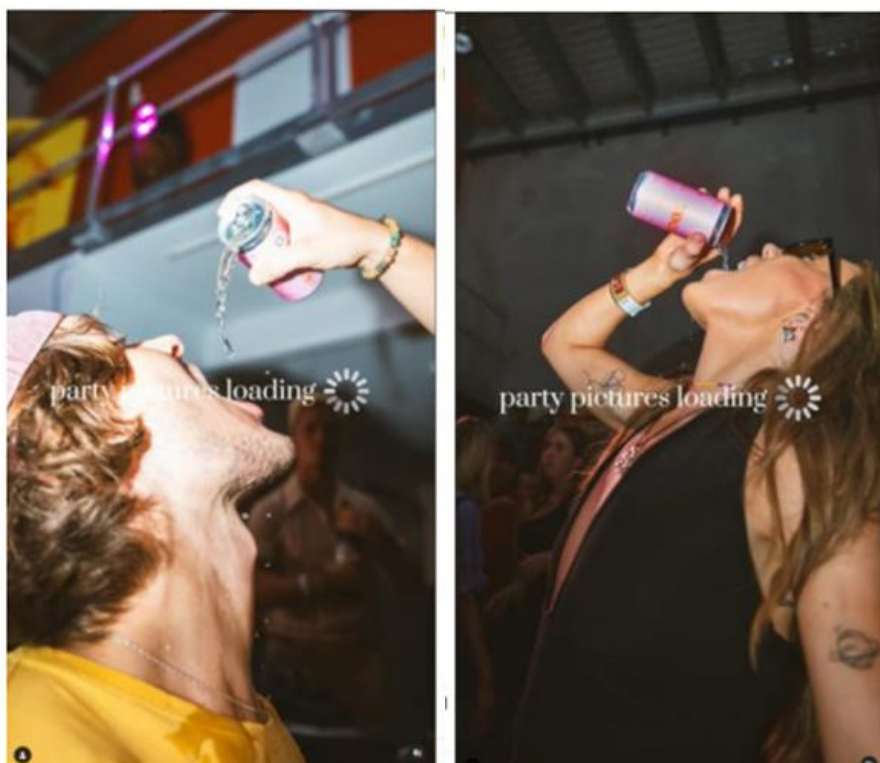
Complaint: A video posted to Facebook and Instagram encourages people to consume the product in an inappropriate and excessive manner. This is evidenced by the pouring of alcohol directly into the mouth of partygoers.

ABAC standards: A marketing communication must not:

- show, encourage, or treat as amusing, consumption inconsistent with the Australian Guidelines to Reduce Health Risks from Drinking Alcohol; and
- show, encourage, or treat as amusing, rapid Alcohol consumption, misuse or abuse of Alcohol or other irresponsible or offensive behaviour that is related to the consumption or presence of Alcohol.

Decision: In an expedited determination, the Chief Adjudicator determined that the marketing communication breached the Code.

The Company accepted the breach and advised that the video post had been removed.



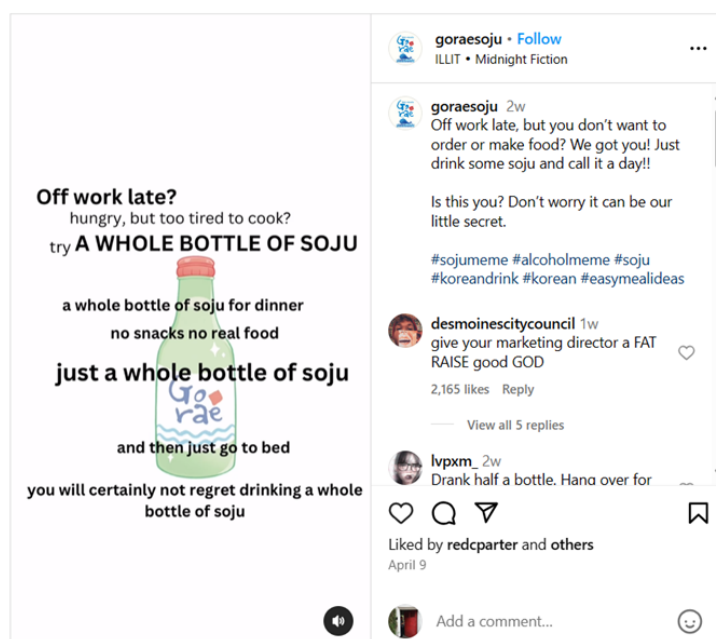
Marketing Outside ABAC's Jurisdiction

Gorae Sojue (complaint regarding content)

Complaint: Two complainants were concerned that the advertising promoted the excessive consumption of alcohol.

ABAC standard: Alcohol Marketing Communication is defined as meaning a marketing communication for alcohol, in any media, generated by or within the reasonable control of an alcohol producer, distributor or retailer that has a discernible link to Australia.

Decision: The Company advised that the post was intended for its US followers, and that it has never sold products in Australia. While the complainant is raising a legitimate point about the marketing message in the post, the Company and its marketing does not fall within the ambit of the ABAC Scheme. Accordingly, the complaint is dismissed on jurisdiction grounds.



Carlton & United Beverages (complaint regarding placement)

Complaint: The complainant attended a Colts game between West Perth and Claremont held at Arena Joondalup in the evening of Saturday 30 March 2024 and was disturbed to see Carlton branded items being used. It was contended that the game was a family friendly event and given it was a under 19 year old game, that many minors were in attendance.

ABAC standard: Part 2 (b) provides that the Code does not apply to Sponsorship Agreements.

Decision: The Panel believed that the branded items would fall within the 'naming rights' manifestation of the sponsorship agreement between the Company and the WAFL and hence are outside the application of the Code standards. While it is evidently the Company's intention that its branded materials not be used at Colts games, its sponsorship is of the WAFL as a whole and the WAFL conducts the Colt's competition.



Drakes Supermarket (complaint regarding content)

Complaint: That a television advertisement shows a BBQ with children present, as well as adults drinking beer.

ABAC standard: An alcohol marketing communication must not depict a person who is or appears to be a Minor unless they are shown in an incidental role and there is no implication they will consume or serve Alcohol.

Decision: The drinks shown are not alcoholic beverages but zero alcohol beverages that are sold by Drakes. The Company is not an alcohol retailer and does not hold a liquor licence

It was a borderline assessment as to whether the ad could be fairly considered as being an alcohol alternative marketing communication. Clearly the theme of the ad is about the items available at Drakes that might be consumed at a BBQ. The ad is not about promoting Asahi or Peroni zero alcohol beers as such and the products are not mentioned by name and are shown quite fleetingly amongst a range of products

On balance, the Panel did not believe that the ad falls within the intended scope of an alcohol alternative marketing communication. A reasonable person would probably understand that a range of products for a BBQ are available from Drakes. However:

- drinks are not mentioned;
- drinks only appear incidentally in the ad and more akin to props than products being sold; and
- the narrative of the ad is not about drinks - alcoholic or otherwise.

Accordingly, the Panel concluded that the ad itself is not a marketing communication for ABAC purposes.



Marketing Consistent with ABAC Standards

Tooheys (complaint regarding placement)

Complaint: That an advertisement for Tooheys was seen when watching the News with their children via 7Plus, at about 6:45pm.

ABAC standards: An Alcohol Marketing Communication must:

- comply with code provisions regulating the placement of Alcohol marketing that have been published by Australian media industry bodies (for example, Commercial Television Industry Code of Practice);
- apply Available Age Restriction Controls to exclude Minors from viewing an Alcohol Marketing Communication;
- if a digital, television, radio, cinema or broadcast print media platform does not have age restriction controls available that are capable of excluding Minors from the audience, an Alcohol Marketing Communication may only be placed where the audience is reasonably expected to comprise at least 80% Adults; and
- not be placed with programs or content primarily aimed at Minors.

Decision: The Panel found that the Code had not been breached given:

- the Company advised that no ads were screened on free to air TV (meaning 'traditional' TV accessed by a broadcast transmission and picked up by an aerial linked to the TV) with the 6 pm News;
- there is no information before the Panel which suggests that a minor with an account in the complainant's household has been served an alcohol ad;
- the data supplied by the Company showed the 7 News on 22 May achieved an audience of almost exclusively adults across both 'live' viewing and subsequent 'catch up' TV; and
- taken as whole the nightly news broadcast is a program that is self-evidently aimed towards an adult audience.

Premix King - Double Bay (complaint regarding placement)

Complaint: The complainant was concerned about a sign outside a Premix King shop, which is in a suburban setting with young children and families frequently in the area.

ABAC standard: An Alcohol Marketing Communication must:

- comply with code provisions regulating the placement of Alcohol marketing that have been published by Australian media industry bodies (for example, the Outdoor Media Association Placement Policy).

Decision: The applicable ABAC placement standard in relation to the sign is contained in Part 4 (a) of the Code. In essence this standard requires that outdoor advertising such as a billboard on a roadside or a sign in front of a shopping centre not be positioned within 150 metres of school.

From a review of Google maps, it seems the nearest school to the shopping centre is the Golden Bay primary school and this school is much further than 150 metres from the Company's store. On this basis, there is no breach of the ABAC standard for the sign to be positioned facing the shopping centre car park.

Tooheys (complaint regarding placement)

Complaint: The complainant accessed the program via the 9Now app as a 'catch up' program i.e. the program was accessed over the internet and watched at a time chosen by the complainant. When viewing the program, the complainant was served with an ad for Tooheys beer. It was contended that Lego Masters is a program watched by children and alcohol advertising should not be placed with it.

ABAC standards: An Alcohol Marketing Communication must:

- comply with code provisions regulating the placement of Alcohol marketing that have been published by Australian media industry bodies (for example, Commercial Television Industry Code of Practice);
- apply Available Age Restriction Controls to exclude Minors from viewing an Alcohol Marketing Communication;
- if a digital, television, radio, cinema or broadcast print media platform does not have age restriction controls available that are capable of excluding Minors from the audience, an Alcohol Marketing Communication may only be placed where the audience is reasonably expected to comprise at least 80% Adults; and
- not be placed with programs or content primarily aimed at Minors.

Decision: The Panel found that the Code had not been breached given:

- alcohol ads were not screened with the show as broadcast on traditional free to air linear TV prior to 8:30 pm;
- the age restriction controls available on the 9Now platform were utilised to exclude account holders who are minors from being served with alcohol ads;
- the audience for Lego Masters on both traditional TV and 'on demand' catch up viewings exceeded the 80% adult benchmark of the Placement Standards; and
- while Lego Masters would appeal across age groups including to minors, the program cannot be said to be primarily aimed at minors.

Tradie Beer (complaint regarding content)

Complaint: That the video as suggesting that the product leads to a change in mood.

ABAC standard: An Alcohol Marketing Communication must not suggest that the consumption or presence of Alcohol may cause or contribute to an improvement in mood or environment.

Decision: On balance, the Panel did not believe the video breached the Code standard. While the two men who respond to the 'Ahhh' sound are shown as interested and enthusiastic to get back to camp to share in a beer, a reasonable person would probably not understand that their mood has been improved by the use of the product. It was noted:



- Firstly, the men are shown as relaxed (not sombre) and this mood does not improve as such.
- Secondly the men are responding to the sound and not the presence or use of the product.
- Finally, a reasonable person would take the video as being exaggerated in terms of the very loud 'Ahhh' sound to the two other men scurrying to get back to camp and not a serious depiction of likely behaviour.

Beam Suntory and Tradie Beer (complaint regarding placement)

Complaint: That alcohol ads were placed before the Kayo Sports subscription TV broadcast of the Broncos v Tigers NRL match on 27 April 2024. The complainant noted that the game was being watched with children and it was inappropriate for minors to be exposed to alcohol.

ABAC standard: An Alcohol Marketing Communication must:

- comply with code provisions regulating the placement of Alcohol marketing that have been published by Australian media industry bodies (for example, Commercial Television Industry Code of Practice);
- apply Available Age Restriction Controls to exclude Minors from viewing an Alcohol Marketing Communication;
- if a digital, television, radio, cinema or broadcast print media platform does not have age restriction controls available that are capable of excluding Minors from the audience, an Alcohol Marketing Communication may only be placed where the audience is reasonably expected to comprise at least 80% Adults; and
- not be placed with programs or content primarily aimed at Minors.

Decision: The Panel found that the Code had not been breached:

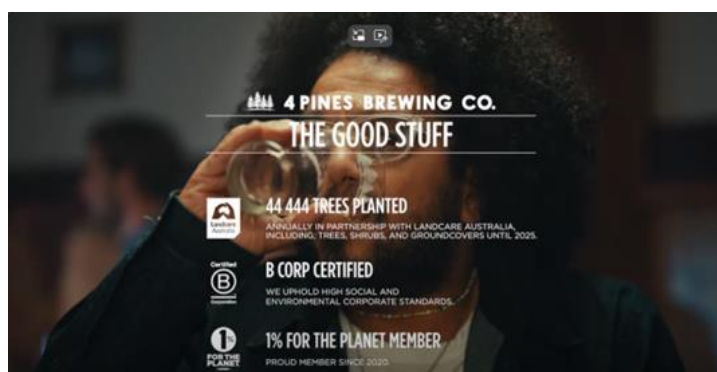
- there is no media code provision prohibiting alcohol ads to be shown with the NRL game;
- a Kayo Sports subscription account must be held by an adult;
- the ratings data shows the audience was 93% adults and hence the benchmark of 80% adults in the ABAC standard has not been breached; and
- while rugby league is followed by a proportion of minors particularly in NSW and Queensland, an NRL game broadcast cannot be regarded as primarily directed at minors.

4Pines Beer (complaint regarding content)

Complaint: That the ad implies that by drinking 4Pines beer, you are a better person, and more successful.

ABAC standard: An Alcohol Marketing Communication must not show the consumption or presence of Alcohol as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success.

Decision: The Panel did 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 central character;
- while the central character might be taken as choosing the product because the Company does 'good stuff' this cannot be fairly understood as personal success or achievement by that character; 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.

Tooheys (complaint regarding placement)

Complaint: That alcohol advertising was shown on TV at 6:26pm, during an episode of Everyone Loves Raymond, which children could be watching.

ABAC standard: An Alcohol Marketing Communication must:

- comply with code provisions regulating the placement of Alcohol marketing that have been published by Australian media industry bodies (for example, Commercial Television Industry Code of Practice);
- apply Available Age Restriction Controls to exclude Minors from viewing an Alcohol Marketing Communication;
- If a digital, television, radio, cinema or broadcast print media platform does not have age restriction controls available that are capable of excluding Minors from the audience, an Alcohol Marketing Communication may only be placed where the audience is reasonably expected to comprise at least 80% Adults; and
- not be placed with programs or content primarily aimed at Minors.

Decision: The complaint was dismissed by the Panel.

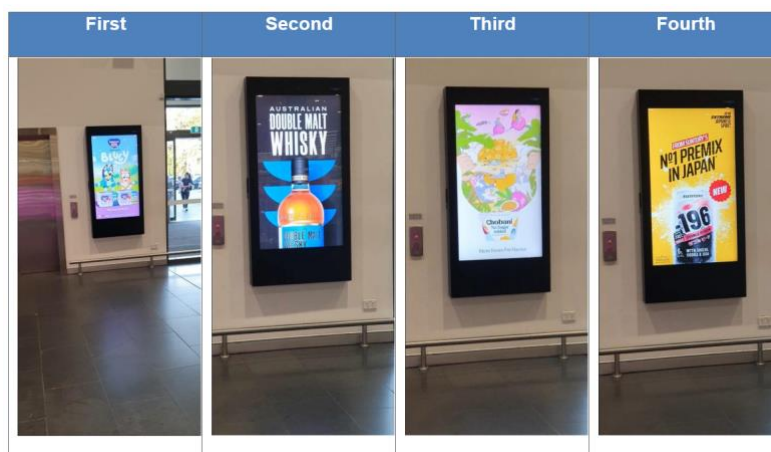
The Panel found that, in the current case, it seemed likely the Tooheys ad was not aired with traditional free to air transmission accessed using a TV aerial and certainly the Company asserts it was not shown on linear free to air TV prior to 8-30 pm. In this situation, it's most likely the complainant saw the ad transmitted over the internet via the 9 app on their TV. The 9Go screening of Everyone Loves Raymond on 17 April 2024 attracted a 94% adult audience. Further the theme of the program is more directed towards adults than minors.

Suntory -196 and Archie Rose Distilling (complaint regarding content)

Complaint: That alcohol advertising is being shown alongside advertising for nappies which features the popular children's character, Bluey.

ABAC standard: An Alcohol Marketing Communication must not be placed with programs or content primarily aimed at Minors.

Decision: The Panel acknowledged that the complainant raised a genuine concern about alcohol ads appearing on an electronic sign between other ads that might attract the attention of minors. That said, the Panel did not believe the ABAC standards impose an obligation on alcohol marketers to assess the likely appeal to children of non-alcohol ads with which an alcohol ad might be sequenced. This is because the other ads cannot be regarded as 'programs or content' within the meaning of those terms in the Code.



Rather the intent of the standard is to impose an obligation on alcohol marketers to assess the programs and content with which their ad might be placed eg the TV show the ad might be inserted into, or the social media channel content with which the ad is placed.

Given that this question has not previously been considered, the Panel draws the attention of the ABAC Management Committee to the case for reflection as to whether the Code standards are operating as intended. It is the Management Committee that has responsibility for the content of the Code standards.

Tradie Beer (complaint regarding content)

Complaint: That giving free beer to workers on worksites is 'irresponsible and potentially illegal'.

ABAC standard: An alcohol marketing communication must not:

- show or encourage irresponsible behaviour or offensive behaviour that is related to alcohol use; and
- show the consumption of alcohol before or during any activity that for safety reasons requires a high degree of alertness or physical coordination.

Decision: While it was not entirely without ambiguity, the Panel believed the most probable understanding of the video is that the promotion is for the gifting of beers to be consumed at the completion of the working week and after work has finished. In reaching this conclusion the Panel noted:

- the promotion is set as occurring on a Friday, raising the implication of the end of the standard working week;
- the promotion is described in the accompanying text to the video as 'Friday Knock off' which links the alcohol use occurring after a worker has 'knocked off' for the day;
- the words to the song include - 'I'll kick your weekend off with a grin and a nice big Tradie Ahhhh' which again suggests consumption starts when work has ended and the weekend began;
- the coach explains after the song that the promotion arises if a tradesperson has 'had a hard work on the tools' which also implies the conclusion of work; and
- while somewhat less clear cut, the lighting in the video suggests that the coach is delivering the beer in the mid afternoon and not the morning when work would still be underway.



Brookvale Union Vodka Lemon Lime & Bitters and Alcoholic Ginger Beer (complaint regarding content)

Complaint: The packaging is very appealing to minors due to having bright colours, cartoon-like animals and depicting a circus which children will find very appealing.

ABAC standard: An alcohol marketing communication must not have strong or evident appeal to minors.

Decision: The Panel did not believe the can labels breach the standard by having strong or evident appeal to minors. In reaching this conclusion the Panel noted:

- the packaging through its use of alcohol descriptors identifies the products as being alcoholic;
- the packaging does not resemble any well known soft drink and it is unlikely the products would be confused with a soft drink;
- the imagery employed is akin to surrealism in style and is not similar to animal depictions used in well-known children's animation;
- the overall style of the design is adult in nature; and
- taken as a whole, the packaging would at its highest have incidental and not strong or evident appeal to minors.



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>.