



## ABAC Adjudication Panel Determination No 125/24

**Product:** Coastal's Hard Coco Water  
**Company:** Coastal Drink Co  
**Media:** Internet – delicious.com.au and Instagram  
**Date of decision:** 19 September 2024  
**Panelists:** Professor The Hon Michael Lavarch (Chief Adjudicator)  
Professor Richard Mattick  
Ms Debra Richards

### Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) arises from a complaint received on 29 August 2024 about an article on the delicious.com.au website about Coastal's Hard Coco Water (“the product”) by Coastal Drink Co (“the Company”).
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 places 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, and 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 29 August 2024.
8. The Panel endeavours to determine complaints within 30 business days of receipt of the complaint and this determination was made within the target 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 before 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 not obtained for the article.

## The Marketing

10. The complaint relates to an article on delicious.com.au, which can be viewed at the following link:

<https://www.delicious.com.au/drinks/article/coastals-hard-coco-australias-first-alcoholic-coconut-water/usgzdp8p>

delicious.

DRINKS

### Australia's new boozy coconut water is a party starter and hangover cure in one



BY ELIZABETH MCDONALD  
DELICIOUS. TEAM  
Jun 20, 2024

**That's it, we've come full circle.**

Many of us may only reach for the coconut water the morning after the night before but a new drinks company out of Byron Bay has cut out the middle man, adding booze straight into the electrolyte-rich [hangover cure](#).

Introducing: Coastal's Hard Coco Water, Australia's latest alcoholic coconut water.

According to the company's website the idea to make a coconut water RTD "started in a hammock, under a coconut palm, in Fiji..." and honestly, we reckon we'd do our best thinking under such circumstances too.

*Related story: [Forget about clean eating, clean drinking is here](#)*



Blending pure coconut water, watermelon or pineapple juice, and rice vodka, the RTDs are vegan and gluten-free, and made without any added sugar or artificial sweeteners. Available in 320ml cans, the Hard Coco Waters are low in calories and high in Tropicana vibes at only four percent ABV.

It's not the first boozy version of a cult favourite we've seen this year, after we received the gift that kept on giving, [Hard Solo](#) (now known as the way less cool 'Hard Rated'). What will they think of next?

In the meantime, you can find Hard Coco Waters in select bottle shops, or on the [Coastal Drink Co. website here](#). If you need us we'll be in our hammock.

*Related story: [It turns out you might not be hungover, you could have an alcohol intolerance](#)*

## Complaint

11. The complainant objects to the marketing as follows:

- *"Australia's new boozy coconut water is a party starter and hangover cure in one"*
- *Link: <https://www.delicious.com.au/drinks/article/coastals-hard-coco-australias-first-alcoholic-coconut-water/usgzdp8p>*
- *Alcohol is branded as a hangover cure.*

## The ABAC Code

12. Part 2 (a) of the Code provides that:

Parts 3 and 4 of the Code APPLY to all Alcohol Marketing Communications.

Part 5 of the Code APPLIES to all Alcohol Alternative Marketing Communications.

Examples of marketing communications and media the Code applies to include, but are not limited to:

- (i) product names and packaging;
- (ii) brand advertising (including alcohol retailer advertising, Influencer marketing, user-generated content, marketing arising from a Sponsorship Agreement and trade advertising);
- (iii) product placement;
- (iv) Marketing Collateral;
- (v) competitions and other brand activations;
- (vi) cross-category brand promotion;
- (vii) advertorials; and
- (viii) any medium whatsoever, including without limitation cinema, internet, outdoor, print, radio, television, telecommunications, digital or other direct-to-consumer media including new and emerging technologies.

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

- (a)(i) show (visibly, audibly or by direct implication), encourage, or treat as amusing, consumption inconsistent with the Australian Guidelines to Reduce Health Risks from Drinking Alcohol, such as:
  - (A) excessive Alcohol consumption (more than 10 standard drinks per week or more than 4 standard drinks on any one day); or
  - (B) Alcohol consumption while pregnant or breastfeeding;
- (c)(i) suggest that the consumption or presence of Alcohol may cause or contribute to an improvement in mood or environment;
- (c)(iv) 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.

14. Part 8 of the Code provides the following definition:

**Alcohol Marketing Communication** means a marketing communication for Alcohol, in any media, generated by, for, or within the reasonable control of an

Alcohol producer, distributor or retailer, that has a discernible and direct link to Australia, apart from the exceptions listed in Part 2(b).

## **The Company Response**

15. The Company responded to the complaint by email on 2 September 2024. Its primary comments were:
- The article on delicious.com.au was written without my knowledge or participation.
  - Coastal Drink Co:
    - was not aware that the article would be placed on delicious.com.au
    - did not write, review and/or approve the article before it was placed on delicious.com.au
    - is not able to request that the article be modified or removed from delicious.com.au.
  - I was not aware of the article until last week, that was why it was posted on our IG then. It was written back in June 2024.
  - We had no participation in the article and were not contacted by Delicious about it. Feel free to contact Delicious to confirm we had no participation.
  - I imagine the author was trying to create some excitement and get people's attention with that headline.
  - I do not agree that it stops hangovers, as that doesn't exist. Alcohol should always be drunk in moderation.

## **The Panel's View**

16. 'delicious.' magazine has been produced in Australia since 2002 as a premium source of information on food, drink, entertainment and travel. Initially published in hard copy, the magazine is now also available online. On 20 June 2024, an article appeared on the delicious. site entitled 'Australia's new boozy coconut water is a party starter and hangover cure in one'. It is this article that has drawn the complaint.
17. The complainant contends the article is irresponsible as it portrays the Company's alcoholic coconut water as a hangover cure. While the complainant does not elaborate as to why this description is objectionable, it can be assumed the concern is that the article implies the product can be drunk excessively to cause a hangover and/or that the product offers a health benefit.

18. The threshold issue for determination is whether the article is an alcohol marketing communication falling within the ambit of the ABAC Code. On its face, the article is an editorial story about the product created by a third-party publication. It is not an obvious 'alcohol ad' as such. Equally, the ABAC Scheme applies to alcohol industry participants i.e. alcohol producers, distributors and retailers and not media companies.
19. What would bring the article into the scope of the ABAC obligations is if the Company either generated the article or had reasonable control over the article. For instance, if the article was an advertorial that was paid for by the Company or the Company was directly involved in the article and had some ability to shape or moderate its content.
20. On this point, the Company has advised:
- the article on delicious.com.au was written without its knowledge or participation;
  - it was not aware that the article would be placed on delicious.com.au;
  - the Company did not write, review and/or approve the article before it was placed on delicious.com.au;
  - it is not able to request that the article be modified or removed from delicious.com.au; and
  - it was not aware of the article until late August 2024 when it was posted on the Company's Instagram account.
21. In these circumstances, the delicious. article is not an alcohol marketing communication for ABAC purposes and hence the Panel does not have jurisdiction to make a substantive determination on the consistency of the contents of the article with ABAC standards going to the responsible depiction of alcohol consumption.
22. It is noted that the Company stated that it posted the article to its Instagram account. Upon doing this, the article on Instagram (as opposed to appearing on the delicious.com site) does become the responsibility of the Company and is subject to the ABAC obligations. In this regard some claims and inferences in the article are breaches of ABAC standards namely:
- by promoting the drink as a hangover cure, the article is promoting the excessive consumption of alcohol. This is a breach of Part 3 (a)(i);
  - by using the words 'Australia's new boozy coconut water is a party starter' the article is suggesting that the consumption or presence of Alcohol may cause or contribute to an improvement in mood or environment. This is a breach of Part 3 (c)(i); and

- the suggestion that the consumer will receive the health benefit of not having a hangover by drinking the product, Coastal's Hard Coco Water. This is a breach of Part 3 (c)(iv).

23. Drawing this together:

- the complainant has raised a valid concern about the way the product is described in the article;
- however, a news article in an independent magazine is not an alcohol marketing communication to which the ABAC obligations apply unless the article was generated by or is within the reasonable control of the Company;
- on the available facts, the Company was not aware of the article, did not cause it to be written, nor did it have reasonable control over the magazine or the content of the article;
- hence the magazine article is outside the scope of the ABAC Scheme;
- upon the Company re-publishing the article on its Instagram account, its content does become the responsibility of the Company and this content must be consistent with ABAC standards; and
- the contents breach the ABAC standards as stated above.

24. The complaint is dismissed about the article appearing on the delicious website as the editorial is outside the scope of the ABAC Code but upheld about the Company sharing the article to its Instagram account.