



ABAC Adjudication Panel Determination No 132/24

Product: Fireball Whisky
Companies: SouthTrade International and Robin Hood Hotel (Waverley NSW)
Media: Bubbler/Drinking Fountain, Social Media Posts and Internet
Date of decision: 20 October 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 9 September 2024 about a promotional activity for Fireball Whiskey at the Robin Hood Hotel and associated online marketing.
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 9 September 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 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 marketing.

The Marketing

10. The complaint relates to a promotional activity for Fireball Whisky involving a novelty bubbler located at the Robin Hood Hotel and online marketing of the activity.

Article 1 – The Au Review - <https://www.theaureview.com/travel/food/fireball-whisky-bubbler-in-sydney/>

You can drink from an honest to god Fireball whisky bubbler in Sydney

 Chris Singh · September 5, 2024 · Food & Drink · News



We've seen some pretty strange things from behemoth spirit labels before, but this one takes the stream of alcoholic cinnamon bombs.

The fun-loving folks at Fireball Whisky have introduced an actual Fireball Bubbler to celebrate Footy Finals season. Yes, you read that right. It's just like those bubblers that you never drank from in high school, but instead of shooting out the most average water you'll ever taste, it sprays your mouth with the sweet heaven that is Fireball Whisky.

The Fireball Bubbler works as you'd expect. It dispenses ice-cold cinnamon whisky shots with the press of a button. And it's been fine-tuned to deliver a perfectly measured 30ml shot each and every time.

You'll only be able to drink from the Fireball Bubbler at the Robin Hood Hotel every Friday and Saturday between 7:30pm and 10:30pm during the footy finals. Plus, it'll be available all day on Grand Final Sunday (October 6th).

You'll be able to find the bubbler at Robin Hood Hotel from 14th September until October 6th.

Not keen on heading to a pub to drink from the bubbler? You can win one for yourself over at Fireball's official Instagram.

Local Steve Jobs Awarded Nobel Prize After Creating The Fireball Bubbler



Ad  Solid Ribbed Crop Tank Top, Casual... [Shop Now](#)

WENDELL HUSSEY | *Cadet* | [CONTACT](#)

The future has officially arrived today.

In some breaking news from the self proclaimed capital of the country and Southern Hemisphere, the peak of alcohol consumption has been achieved.

That's right, down in Sydney, the minds behind one of the most popular alcoholic beverages in the country have today released the Fireball Whisky Bubbler.

Seen to be believed in places like Sydney's Robin Hood Hotel - the Fireball Bubbler is now ready to transport the golden cinnamon flavor into the mouths of eager punters.

The Bubbler has been created by a Fireball employee who is being described in tech circles as the next 'Steve Jobs.'

On top of being hailed as the next big thing, the local man is also set to be given a Nobel Prize.

Tested and certified by the **Licensing Inquiries and Testing For Australian Management** (LitFam), a spokesperson for the ombudsman confirmed that it simply is the greatest invention since probably the lightbulb, the iPod or even the Nintendo 64.

"This is peak performance," said the spokesperson to *The Advocate's* Sydney reporter a short time ago.

"They've taken the most palatable shot spirit and merged it with the most modern, state of the art drinking machine we've seen."

"It's just beautiful, I will never again look at a humble Fireball shot in the same way," said the LITFAM spokesperson.

"It's revolutionary and it's groundbreaking. They deserve all the awards they get."

"And couldn't time better with Footy Finals now live and loud through September until the long weekend in October."

"I've heard it's even brought big Braith Anasta out of the woodwork to come down for a shot."

"We might have achieved Utopia."

More to come.



Quick Buy on Temu

SOCIAL

 781,079 Fans

 603,788 Followers

 119,363 Followers

LATEST PODCAST

Betoota Talks

INTERVIEW: Dave 'H Hughes
00:00 / 45:25

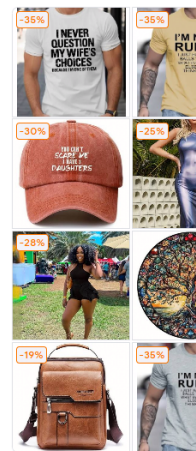
Betoota Talks [Follow](#)

INTERVIEW: Dave 'Hughes' Hughes

WEEKLY BULLETIN: Linen Shirts At Half M...

2024 NRL GRAND FINAL SPECIAL Ft. Willie...

WEEKLY BULLETIN: VIC, SA & WA Just Don...



Quick Buy on Temu

BREAKING NEWS

 Bloke Who Claims To
Into His Fishing Boat
Even Have 10 Open
Packets Of Nuclear C
Soft Plastics Scattere
Throughout The Bo
9 October 2024

 Antidepressant Bran
Almost Indistinguish
From Dungeons And
Dragons Characters

Article 3 – Sydney Unleashed - <https://www.sydneynunleashed.com/fireball-whisky-ignites-footy-finals-with-first-ever-fireball-bubbler/>



[Home](#) > [Features](#) > Fireball Whisky Ignites Footy Finals with First-Ever Fireball Bubbler

FIREBALL WHISKY IGNITES FOOTY FINALS WITH FIRST-EVER FIREBALL BUBBLER



Fireball Whisky is turning up the heat this footy finals season with the launch of the Fireball Bubbler! The legends at Fireball have literally taken the classic drinking water fountain and jazzed it up to dispense ice-cold, full-strength shots of Fireball Whisky instead of water. This bad boy will deliver the sweet taste of cinnamon-spice at the iconic Robin Hood Hotel in Waverley.

Fine-tuned to deliver a perfectly measured 30ml ice-cold serve (0.8 standard drinks), the Fireball Bubbler only requires the simple press of a button to help revelers kick off the celebrations with Australia's number one shot (responsibly, of course).

While NRL legend Braith Anasta had the honour of taking the very first sip from the Bubbler, fans can catch the grand reveal of the Fireball Bubbler at the Robin Hood Hotel, on Saturday, September 14th. It'll be in action every Friday and Saturday from 7:30pm to 10:30pm during the footy finals, plus on Grand Final Day, Sunday, October 6th (2024).

“Nothing beats an electric game day with the crew, but the massive queues and mid-strength beers can really take the buzz out of it. The Fireball Bubbler is a game-changer that will bring the heat – and fun – to match days all month long!” Says NRL hero and Fireball fanatic, Braith Anasta.

Fireball frothers and footy fans will also have the opportunity to win a Fireball Bubbler of their very own, sure to be the fieriest of centerpieces at their next match day party. Head to Fireball Instagram on September 13th to enter for the chance to win: https://www.instagram.com/fireball_au/

Customers are invited to take a shot from the Fireball Bubbler every Friday and Saturday night from 7:30pm – 10:30pm, as well as on Grand Final Day, Sunday 6th October, 2024.

What: Fireball Bubbler Pop-Up

Where: Robin Hood Hotel, Waverley

When: 14th September until 6th October, 2024


Article 4 – Robin Hood Hotel Instagram - [A real pub, Waverley - Sydney | Say Hello to the world's 1st Fireball Whisky Bubbler! 🍷🍷 From September 14th, we're serving up ice-cold cinnamon whisky shots in an... | Instagram](#)



Article 5 – Fireball and Robin Hood Hotel Instagram - [FIREBALL WHISKY AU NZ 🍷🍷 | Would you just look at how smitten NRL legend @braithanasta is with our Fireball Whisky Bubbler! Take his word and give it a shot. Round up... | Instagram](#)



Article 6 – Fireball Instagram - [FIREBALL WHISKY AU NZ](#)  [AUNZ \(@fireball_au\)](#) • Instagram photos and videos



braith_anasta and fireball_au

braith_anasta 4w
The legends at Fireball have created a Fireball Whisky Bubbler. Nothing I love more than the footy and fireball! Bring on the finals 🔥🔥🔥

mullowayne 4w
they should've got Todd Carney to advertise this 🤔🤔🤔🤔🤔

8 likes Reply

View all 2 replies

fireball_au 4w
Woah buddy, you took that shot even better than the one off Fa'alogo! 🤔🤔🔥

7 likes Reply

View all 4 replies

Liked by jojozap_andthefunkybunch and others
September 7

Add a comment...

Article 7 – Fireball Instagram – [FIREBALL WHISKY AU NZ](#)  [AUNZ \(@fireball_au\)](#) • Instagram photos and videos



fireball_au • Follow

fireball_au Edited • 4w
Enter the world's first FIREBALL WHISKY BUBBLER!

This bad boy is changing the game for all you footy fans. Say good bye to warm brews and long queues, because the Fireball Bubbler is shooting instant ice-cold, full strength cinnamon whisky shots for the MONTH OF FOOTY FINALS at @robinhoodhotel from September 14th 🤔

jadeamamda 4w
Oh HELLO 🤔🤔🤔

1 like Reply

View all 1 replies

lukehackner 4w

Liked by jarrydme and others
September 6

Add a comment...

Complaint

11. The complainant objects to the marketing as follows:
- *Several articles went live last week promoting the FIREBALL WHISKY BUBBLER and encouraging people to come down and try it out during footy finals.*
 - *Fireball Whisky has introduced an actual Fireball Bubbler to celebrate Footy Finals season.*
 - *You'll only be able to drink from the Fireball Bubbler at the Robin Hood Hotel every Friday and Saturday between 7:30 pm and 10:30 pm during the footy finals. Plus, it'll be available all day on Grand Final Sunday (October 6th).*
 - *You'll be able to find the bubbler at Robin Hood Hotel from 14th September until October 6th.*
 - *A water bubbler, for what it was invented for and evident in schoolyards, is being used to dispense fireball whisky shots. This is irresponsible, non-compliant with RSA and a glorified way to promote excessive drinking using a youth-intentioned dispense system.*

The ABAC Code

12. 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;
 - (a)(ii) show (visibly, audibly or by direct implication), 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;
 - (b)(i) have Strong or Evident Appeal to Minors, in particular;
 - (A) specifically target Minors;

(B) have a particular attractiveness for a Minor beyond the general attractiveness it has for an Adult;

(C) use imagery, designs, motifs, language, activities, interactive games, animations or cartoon characters that are likely to appeal strongly to Minors;

(D) create confusion with confectionery, soft drinks or other similar products, such that the marketing communication is likely to appeal strongly to Minors; or

(E) use brand identification, including logos, on clothing, toys or other merchandise for use primarily by Minors

The Company Response

13. The Company responded to the complaint by email on 23 September 2024. Its primary comments were:
 - Please note on the complaint sent through on the Fireball Whiskey Bubbler
 - Only available in a licenced premise for people 18+
 - Always manned by an RSA-approved employee
 - Delivers 30ml = 0.8 standard drinks.
14. The Robin Hood Hotel did not respond to ABAC's request for comment.

The Panel's View

15. During the 2024 NRL final series, the alcohol producer SouthTrade International and Sydney's Robin Hood Hotel combined to run a promotion for Fireball Whisky. The promotion involved the installation at the hotel of a water fountain or bubbler rigged to serve shots of the product. This novelty promotional activity was reported upon in a couple of online publications and on the Instagram accounts of the hotel, Fireball and the former footballer Braith Anasta.
16. The complainant contends that both the promotional activity of the bubbler at the hotel and the social media and internet articles promoting it are irresponsible. It is argued that the novelty bubbler promotion:
 - will appeal to minors as it uses a device familiar to minors for dispensing water in schoolyards;
 - glorifies and promotes excessive alcohol consumption; and

- is inconsistent with responsible service of alcohol (RSA) requirements.
17. As noted in paragraph 2 above, alcohol as a product and the marketing of alcohol fall into a shared regulatory domain with some aspects directly regulated by government and others via industry-led initiatives such as the ABAC Scheme. At its core, the complainant's concern is about the promotional activity of the bubbler at the hotel, and this is an RSA issue for NSW Liquor and Gaming.
 18. The complainant did take the concern to the NSW authority. The complaint was investigated and assessed as to whether the promotional activity was 'undesirable' for the purposes of section 102A of the NSW Liquor Act. This section permits the Secretary of the Department to restrict or prohibit a liquor licensee such as the hotel carrying on an activity that is likely to encourage misuse or abuse of alcohol such as binge drinking or excessive consumption.
 19. After engaging with the hotel, the government regulator concluded 'that appropriate risk mitigation measures were in place' and no further action was taken. The hotel was reminded of its obligations under the Liquor Act and the NSW Police were informed of the activity.
 20. The ABAC Scheme has no role in the regulation of RSA as such. The focus of the ABAC standards goes to the responsible marketing of alcohol and how alcohol use is portrayed in marketing communications. The standards provide (insofar as relevant to the complaint) that 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, such as excessive Alcohol consumption (more than 10 standard drinks per week or more than 4 standard drinks on any one day) – Part 3 (a)(i); and
 - have strong or evident appeal to minors – Part 3 (b)(i).
 21. SouthTrade International responded to the complaint by advising that the bubbler was:
 - only available in a licenced premise for people 18+;
 - always manned by an RSA-approved employee; and
 - delivers 30ml = 0.8 standard drinks.
 22. In deciding if a marketing communication is consistent with a Code standard, the Panel is to place itself in the shoes of a 'reasonable person' and assess how the marketing would be probably understood by the reasonable person. This means the values, opinions and life experiences shared by most people in the community are the benchmark. A person who views an item of marketing

differently is not 'unreasonable', but possibly their perspective would not be shared by most people.

23. The Panel recognises the points being made by the complainant. The promotional activity is centred on re-fashioning a water fountain as a novelty way to serve a shot of the product. A water fountain is a staple in schools and some public parks and hence the novelty version will be familiar to minors.
24. That said, the Panel does not think on balance that ABAC standards have been breached. It is noted:
 - the underlying concern about the promotion is about the RSA issues properly within the domain of the government regulator and not the ABAC Scheme;
 - simply because the product is dispensed via the bubbler does not mean it will be consumed excessively or irresponsibly. The actual promotion was in the controlled environment of the hotel and presumably, each use of the bubbler resulted in a patron being served a single shot. This is no different than being served a single shot into a glass from a bottle;
 - the internet articles (if considered a marketing communication as opposed to news reporting) centre on the novelty of the bubbler but don't contain messaging that excessive alcohol consumption is endorsed or encouraged;
 - equally, the social media posts link the product to the football finals but don't encourage excessive alcohol use;
 - while minors will be familiar with a water bubbler, it is not considered that social media posts and internet articles would be strongly appealing to minors; and
 - the actual promotional activity has a novelty value which will have some appeal to minors, but it is not likely this appeal will be stronger to minors than it would be to adults. The appeal to minors is probably incidental rather than strong or evident.
25. The complaint is dismissed.