



ABAC Adjudication Panel Determination Nos 182 & 194/24

Product: MILKRUN Alcohol Delivery
Company: Woolworths Group Limited
Media: Outdoor Billboards
Date of decision: 19 December 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 two complaints received about outdoor marketing by Woolworths Group Limited (“the Company”) for MILKRUN (“the product”) on 19 and 27 November 2024.
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 complaints raise concerns under the ABAC Code and accordingly are within the Panel’s jurisdiction.

The Complaint Timeline

7. The complaints were received on 19 and 27 November 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 content of the advertisement.

The Placement

10. The complaints relate to the placement of outdoor advertising for MILKRUN, where it would be seen by minors.

Complaint 182/24

The bus stop number is 310902 in Redland Bay.



Complaint 194/24

Billboard at end of Ashgrove Avenue near Enoggera Road.



Complaints

11. The complainants object to the marketing as follows:

Complaint 182/24

- *Offers alcohol delivery just like milk.*
- *Comparing alcohol with milk, advertising on a bus stop used by children.*

Complaint 194/24

- *Billboard at end of Ashgrove Avenue near Enoggera Road.*
- *Advertising delivery of alcohol in minutes in a public area seen by under aged children walking to school. Is this allowed?*

The ABAC Code

12. Part 4 of the Code provides that:
 - (a) An Alcohol Marketing Communication must comply with code provisions regulating the placement of Alcohol marketing and an Alcohol Alternative Marketing Communication must comply with code provisions regulating the placement of Alcohol Alternative marketing that have been published by Australian media industry bodies (for example, Commercial Television Industry Code of Practice and Outdoor Media Association Placement Policy).

The Company Response

13. The Company responded to the complaint by letter emailed on 6 December 2024. Its primary comments were:
 - MILKRUN takes its alcohol marketing responsibilities seriously and appreciates the opportunity to provide comments to ABAC for consideration.
 - We have investigated these complaints and provide our comments in respect of each complaint below.

ABAC Complaint Number 182/24

- The bus stop number is 310902, and we understand the closest school is Little Scholars School of Early Learning, Redland Bay which is approximately 290m away. All other schools appear to be over 1km away from this bus stop.
- In respect of the marketing material referred to in this complaint, MILKRUN confirms that:
 - the marketing material was submitted to ABAC for Alcohol Advertising Pre-vetting Service Approval. Final approval was granted on 7 November 2024;
 - the marketing material does not compare alcohol to milk; and
 - the placement of the marketing material is not within 150m of any school.
- On this basis we do not believe the marketing material breaches the ABAC Responsible Alcohol Marketing Code, including Part 4(a) of the Code.

ABAC Complaint Number 194/24

- In respect of the marketing material referred to in this complaint, MILKRUN confirms that:
 - the marketing material was submitted to ABAC for Alcohol Advertising Pre-vetting Service Approval. Final approval was granted on 7 November 2024; and
 - the placement of the marketing material is not within 150m of any school.
- On this basis, we do not believe the marketing material breaches the ABAC Responsible Alcohol Marketing Code, including Part 4(a) of the Code.

The Panel's View

14. MILKRUN is the brand name of a groceries home delivery service operated by Woolworths. Woolworths is also a shareholder of the Endeavour Group which operates alcohol retailers including Jimmy Brings. Since November 2024 the home delivery service of Jimmy Brings has been brought fully within the delivery service of MILKRUN.
15. This determination arises from two separate complaints about the placement of billboard advertising for MILKRUN on bus shelter sheds in Brisbane. Both ads are identical and read as follows - Now delivering alcohol to your door in minutes. MILKRUN. The background of the billboard is blue with the text in white with the brand name MILKRUN in the reverse of blue on white.
16. The complainants contend the advertising is irresponsible on two aspects. Firstly due to a general concern of alcohol being able to be freely ordered and home delivered like groceries. Secondly due to the placement on the bus shelter sheds and the visibility of the ads to children.
17. The home delivery of alcohol is regulated directly under the liquor licensing regimes operated by State and Territory governments. While outside the scope of the ABAC Scheme, the government regime and an Online Sale and Delivery Code of Conduct maintained by Retail Drinks Australia stipulate various measures regarding home delivery of alcohol including:
 - age verification for the ordering of alcohol as well as the person accepting the home delivery of alcohol;
 - time of day restrictions for the delivery of alcohol with home delivery generally not permitted between midnight and 6 am;
 - prohibition of unattended same day delivery of alcohol;

- dry zones where alcohol delivery is not permitted;
 - self exclusion options for customers; and
 - training requirements for delivery drivers.
18. For its part, the ABAC Scheme does not oversee online ordering or home delivery of alcohol. The remit of the ABAC Scheme is confined solely to the marketing of alcohol as a product. This means that the marketing of home delivery of alcohol must occur consistently with the ABAC standards of good alcohol marketing practice, but there is no prohibition on the marketing of home delivery as an option as such. Accordingly, this aspect of the complainant's concern is outside the scope of the ABAC Code.
 19. The ABAC Code comprises two sets of good practice marketing standards with which alcohol marketers must comply. The Content Standards go to the messaging conveyed by an alcohol marketing communication irrespective of the medium by which the marketing item is carried. A core content standard is that alcohol marketing must not have strong or evident appeal to minors.
 20. The second set of standards in the Code is the Placement Standards that have a policy goal that alcohol marketing should be directed towards adults and to the extent reasonably possible away from minors. The standards do this by imposing on marketers a series of obligations to target their marketing based on the technical capacity of the medium used to carry the marketing.
 21. Outdoor marketing (also known as Out Of Home advertising (OOH)) is a broadcast medium and there is no direct means to target an ad placed on a billboard or bus shelter towards only adults. Rather the standards use a proxy measure for OOH advertising of excluding the placement of alcohol ads within a 150 metres sightline of a primary or secondary school.
 22. The 150 metres sightline requirement is based on the readability of a sign which is generally only 140 metres even with a large sign such as a billboard. Accordingly, it is contended that if a school is more than 150 metres away from a sign, students on the school grounds will not be able to make out the messaging on the sign.
 23. The database for the location of OOH sites is held by the Outdoor Media Association (OMA) and is contained in the Measurement of Outdoor Visibility and Exposure (MOVE) tool. This tool lists some 77,500 out of home advertising sites within the five capital cities of Sydney, Melbourne, Adelaide, Brisbane and Perth. Attached to MOVE is the school mapping tool which contains the boundary locations of some 12,185 schools.
 24. The two sites raised in the complaints are in the greater Brisbane area with the first located near the intersection of Boundary and Main Streets, Redland Bay.

The second is located at the end of Ashgrove Avenue near Enoggera Road in Newmarket.

25. The Company has advised that the two sites are not located within 150 metres of a school and this is confirmed by a review of the sites on Google maps. This means the Placement standard contained in Part 4 (a) of the Code has not been breached.
26. The complaints are dismissed.