



ABAC Adjudication Panel Determination No 197/24

Product: Wine
Company: Little Ripples Wine
Media: Facebook
Date of decision: 3 January 2025
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 2 December 2024 about Facebook marketing for Little Ripples Wine (“the Company”). It is contended that the model used in the marketing is underage.
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 is within the Panel’s jurisdiction.

The Complaint Timeline

7. The complaint was received on 2 December 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 marketing item.

The Marketing

10. The complaint relates to the following marketing item:

Little Ripples Wine
Sponsored · 🌐

BLACK FRIDAY SALE is LIVE! YES, you read that right!

5-40% OFF SITEWIDE!... See more

0G SUGAR

100% FLAVOUR

ttleripples.com
limited time only!

Shop now

17 reactions · 8 comments

Like Comment Share

Complaint

11. The complainant objects to the marketing as follows:
- *It's a girl who is 22-23 in black advertising for Black Friday. She's been in advertising since she was 21 in other ads.*
 - *They have an underage girl advertising their wines, I have seen it multiple times. Her name is [omitted for privacy].*

The ABAC Code

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

- (iii) depict in a visually prominent manner:
- (A) paid models, actors or Influencers that are and appear to be Adult but are under 25 years of age; or
 - (B) other people that are and appear to be Adult but are under 25 years of age UNLESS the depiction has been placed within an Age Restricted Environment.

13. Part 8 of the Code contains the following definition:

Age-Restricted Environment means:

- licensed premises that do not permit entry by Minors; or
- age-restricted account or post within a social media platform which:
 - requires users to register and login to use the platform, including the provision of their full date of birth; and
 - is able to hide the existence of any alcohol-related pages, sites and content such that they are not visible other than to a user who has registered on the platform as being an Adult.

The Company Response

14. The Company responded to the complaint by email on 11 December 2024. It advised that the woman in the ad is not a paid person, they were under the impression that she was late 20's and they have removed this ad while they try to ascertain her exact age.

The Panel's View

15. This determination arises from a complaint about the age of a woman shown in a social media post for Little Ripples Wine. The complainant believes the post is irresponsible as it shows a woman under 25 years old.
16. A key standard of good alcohol marketing practice is that alcohol ads should not strongly appeal to minors. For a public-facing alcohol ad, one element in meeting this standard is that the people shown must not only be adults but should be at least 25 years old.
17. The purpose of the 25-year-old age threshold is twofold. Firstly, to avoid confusion by showing adults with a youthful appearance and who might be mistaken as a minor. Secondly to portray alcohol use maturely and responsibly and this is assisted by featuring adults who are a bit older than 18.
18. The age of a person used in advertising is a question of fact. A person is aged 25 or over or they are not. In this case, however, the age of the women shown in the post is unclear. While the complainant believes the woman is 22 or 23, the Company advised the woman was not a paid model as such and it was the Company's understanding she was in her late 20's.
19. The woman's name was supplied but due to privacy reasons will not be disclosed. Advice was requested from both the complainant and the Company to assist in establishing the woman's age, but at the time of this determination, no further information was at hand. An internet search from public sources provided some information but it has not been possible to be precise about the woman's age which could apparently be in the 24 to 26 years range.
20. Sometimes images of people are drawn from marketing photo subscription services and a marketer will have little information on the model shown in an ad from this source. On this occasion the Company advised the woman was not a paid model and this raised the implication of some kind of relationship between the woman and the Company. In any event, it is the responsibility of the Company to meet the ABAC Standards of good marketing practice and this includes being confident that adults featured in public alcohol advertising are aged 25 or over.
21. Given that the Company has not been able to verify the age of the woman and it is possible that she is aged under 25, the Panel believes the complaint should be upheld. It is noted the Company has removed the post and this was the appropriate step to be taken given the uncertainty about the woman's age.
22. The complaint is upheld.