

# Australia's Responsible Alcohol Marketing Scheme

2024 Fourth 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 against community expectations. The Code regulates both the content and placement of marketing across all advertising mediums.

In late 2024 ABAC published its first best practice guide for responsible alcohol sponsorship. The new guide highlights how the Code currently applies to sponsorship activity, and importantly, the new guidance for sponsorship agreements will assist the industry to proactively ensure that their decision to engage in an agreement with a particular individual, group or event is socially responsible.

Complaints, Panel determination and Code breaches were all higher than in the previous quarter. Companies are reminded to take care with their alcohol marketing and make use of the extensive compliance training resources, checklists and guides, along with the pre-vetting service when developing alcohol and alcohol alternative marketing.

Showing or directly implying alcohol consumption before or while swimming in a pool or engaging in water-based activities was the most common reason for a Code breach in the final quarter of 2024. It is well understood that for safety reasons, a person should not drink alcohol and then swim, and therefore, companies should not show this behaviour when promoting alcohol products and sales. Royal Life Saving Society Australia cautions [here](#) that alcohol consumption can significantly increase the risk of drowning.

Other areas that have attracted Code breaches and where marketers should take care include placement with children's podcasts, use of themes that are relatable to minors, such as images of confectionery or Santa Claus, suggestions that alcohol offers hydration, a health benefit or the absence of negative consequences, and that drinking alcohol will help you make friends or lift your mood.

**Age restriction controls are a simple and important measure available to marketers that prevent minors from accessing alcohol marketing via social media.**

ABAC has recently commissioned compliance monitoring to check age restriction controls are in place for alcohol/ alcohol alternative Instagram, Facebook and Youtube accounts. Both signatory and non-signatory accounts will be audited. Checklist with links explaining how to apply age restrictions [here](#).

## KEY STATISTICS

<b>Complaints</b>	<b>67</b>
Raising Code issues and referred for determination	43
Not raising Code issues*	18
Summarily dismissed	1
Raising an issue consistently dismissed by the Panel	2
Referred to more appropriate regulator	3
<b>Determinations</b>	<b>39</b>
Dismissed	19
Upheld	18
Upheld – Expedited	2
<b>Pre-vetting</b>	<b>738</b>
Rejected	84
Pending	4

\* 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, failure to disclose as advertising, a general objection to alcohol advertising and bait marketing which can fall within the scope of other regulators, including Ad Standards.

## RECENT ALCOHOL MARKETING COMPLAINTS

### Breach of ABAC Standards

#### Stone & Wood Pineapple, Peach & Blueberry Sour Ale (complaint regarding content)

**Complaint:** The complainant contended that an Instagram post has strong or evident appeal to minors by showing a glass of alcohol with a Cyclone ice block sitting in it.

**ABAC standard:** An alcohol marketing communication must not have Strong or Evident Appeal to Minors.

**Decision:** The Panel found that the post breached the Code. Together the prominence of the Cyclone ice block in the picture and the text narrative of the product makes the post highly relatable to minors and raises the inference of a smooth transition from consumption of a non-alcoholic confectionery item to alcohol use.

The advertiser accepted the complaint and removed the post upon receiving the complaint.



#### IGA Liquor (complaint regarding placement)

**Complaint:** The complainants were concerned about alcohol advertising during two podcasts aimed at minors, being The Kids Quiz and Fun Fables – Sleep Time Stories podcasts.

**ABAC standards:**

- Available age restriction controls must be applied 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.
- An alcohol marketing communication must not be placed with programs or content primarily aimed at Minors.

**Decision:** The Panel found that the Placement Standards in the Code were breached, as the expected audience of the podcasts would have exceeded 20% minors and they would have content primarily aimed at minors.

The placement of the marketing was modified to meet ABAC Code standards immediately upon notification of the complaints.

#### Wynter Tavern (complaint regarding placement)

**Complaint:** That an alcohol advertising sign was visible from a school playground.

**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, Outdoor Media Association Placement Policy).

**Decision:** Given that Wynter Tavern did not seek to make an argument the billboard sign was on-premises advertising, the Panel found that the alcohol ad was placed within 150 metres of the school and the ABAC standard had been breached.

The Company advised it would remove the sign.



## Silky Wines (complaint regarding content)

**Complaint:** The complainant was concerned by a TikTok post and a website promoting Silky Wines, which it was claimed suggested that the wine would improve your day, enhance your social situation or assist with personal issues.

**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;
- 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;
- suggest that the success of a social occasion depends on the presence or consumption of alcohol; or
- 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.

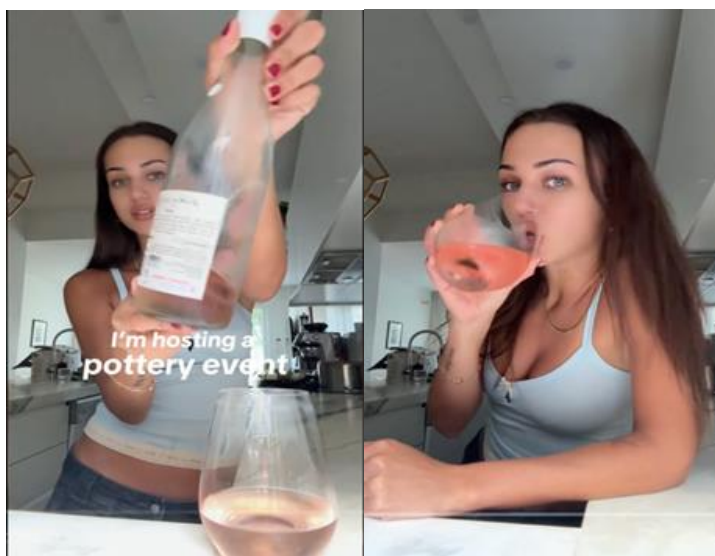
**Decision:** The website entry for Pinot Grigio stated, “Picture this. A sunny day, seafood and friends. Or maybe just a slow weekday? No worries, this Pinot Grigio’s got you. With its clean pear aroma and a hint of citrus and spice, it’s your anytime uplift. Your day just got a whole lot better”.

The Panel found that a reasonable person would understand the description of the product as a whole as causing or contributing to the ‘anytime uplift’ in breach of the Code.

The TikTok video promoted tickets to a pottery event celebrating the launch of Silky Wines. The complainant was concerned by the statement in the video, “We’ll drink wine, and it’s really easy to make friends when you’re a bit tipsy”, suggesting wine facilitates socialising and social success.

The Panel found that a reasonable person would probably understand the statement about drinking wine and making friends and this being easier when you’re a bit tipsy does suggest that alcohol is a contributor to achieving social success in breach of the Code.

The advertiser modified the breached website entry and arranged for the removal of the TikTok post.



## Zoncello (complaint regarding content)

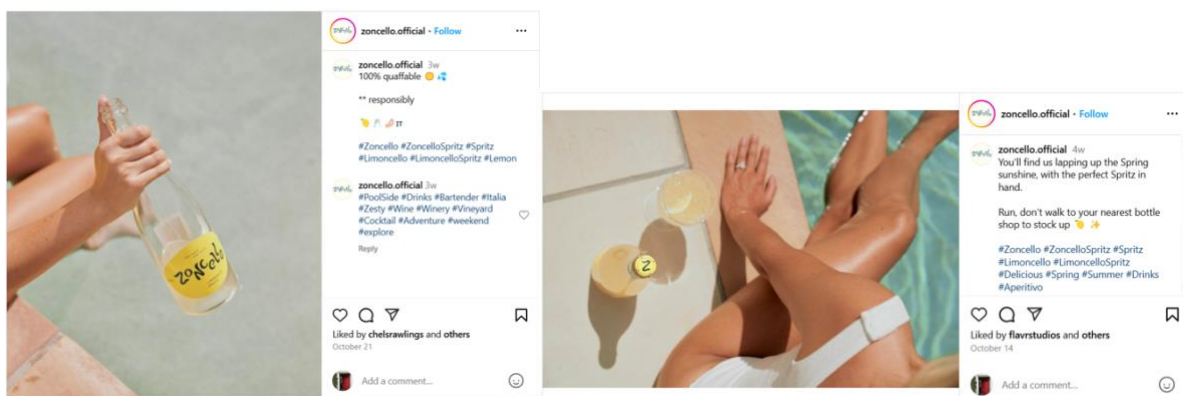
**Complaint:** That Instagram posts show people drinking alcohol while alongside a swimming pool.

**ABAC standard:** An alcohol marketing communication must not 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 the control of a motor vehicle, boat or machinery or swimming.

**Decision:** The Panel found on balance that two posts breach the Code, noting:

- one of the posts shows a woman partially in the pool holding an opened and empty bottle of the product, implying consumption has occurred, which is also implied by the word ‘quaffable’ in the accompanying text. The post is also set at a time of day swimming is likely to occur;
- in the second post, a woman is wearing swimmers, is partially in the pool, and has a glass of the product implying consumption is occurring. The post is also set at a time of day when swimming could be reasonably expected, with swimming also mildly suggested by the word ‘lapping’ in the accompanying text.

The advertiser removed the relevant posts from its Instagram page.



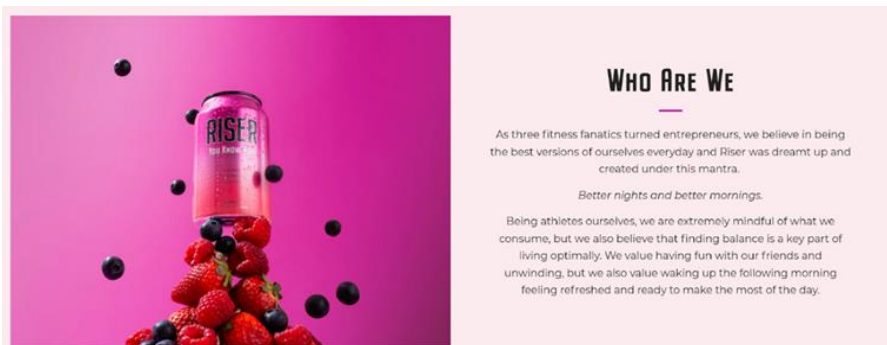
## Riser Drink (complaint regarding content)

**Complaint:** The complainant was concerned that the advertiser is seeking to differentiate its brand by focusing on the product’s ingredients and why this makes the product a better choice.

**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 found that a number of website and social media claims breach the Code and go beyond a factual statement as to the products’ contents and a comparison to the content of other products, to ascribe to its product a comparable health advantage. A reasonable person would likely understand instances of the marketing suggesting the product is offering a health benefit by avoiding negative consequences.

The advertiser undertook to modify or remove the relevant marketing from its website and social media.



## 12 Days of Christmas Vodka (complaint regarding content)

**Complaint:** An Instagram post would appeal to children by featuring Santa Claus holding an alcoholic product.

**ABAC standard:** An Alcohol Marketing Communication must not have strong or evident appeal to minors.

**Decision:** The Panel found that the post breached the Part 3 (b)(i) standard. In reaching this conclusion, the Panel noted that:

- Santa Claus is the dominant feature of the post, and this means the marketing is centred upon a character who is highly recognised and relatable to minors.
- Santa is carrying the product box, which, in both its dimensions and its packaging, resembles a Christmas present that a minor might receive from Santa.
- These two elements combined would likely influence a reasonable person to probably understand the post has evident appeal to minors.



The advertiser removed the post on being advised of the complaint.

## Milky Lane (complaint regarding content)

**Complaint:** That two social media posts had strong or evident appeal to minors.

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

**Decision:** The Panel found that both social media posts have strong or evident appeal to minors.

In relation to Post 1, the Panel noted that:

- the images of the cocktails are bright and eye-catching;
- the post positions the drinks with the well-known ice blocks Zooper Doopers and Calippos, which are likely to be highly recognised and relatable to minors;
- the combination of the cocktail name and imagery of the ice blocks creates an illusion of a smooth transition from a non-alcohol product to an alcoholic beverage; and
- taken as a whole a reasonable person would probably understand the marketing would have evident appeal to minors.

The Panel also noted in relation to Post 2 that:

- the poured red drink resembles a soft drink;
- bright colours and bubbles eye-catching to minors are used;
- the strap lolly clearly associates the product with the confectionery;
- taken as a whole, the post is likely to be understood by a reasonable person as having a strong appeal to minors.

The advertiser removed references to alcohol in Post 1 and deleted Post 2.



## 1990's Vodka (complaint regarding content)

**Complaint:** The complainant contended a social media post and the beverage itself have high appeal amongst minors due to the popularity of the Nerds confectionery with minors.

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

**Decision:** The Panel found that the social media post breached the Code. In reaching this conclusion, the Panel noted:

- Nerds are a confectionery that is well-known and popular with minors;
- there is no reason to believe Nerds do not remain popular with the current generation of minors;
- the Nerds' imagery and references in the Company's responses to comments clearly associate the product with the confectionery;
- taken as a whole, the post is likely to be understood by a reasonable person as having strong appeal to minors.

The advertiser removed the post from both Instagram and Facebook.



## Sanctus Brewing (complaint regarding content)

**Complaint:** The complainant was concerned that four social media posts displayed unsafe alcohol use with water-based activities, and one image showed a large amount of alcohol being consumed by two people.

**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, such as excessive alcohol consumption;
- 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:** Of the four social posts, the Panel found that two breached the Code.

The Panel found that an image of a man without a shirt and with a towel over his shoulder is highly suggestive that he could begin swimming after the consumption of the product, in breach of the standard. Further, the social media post directly implies or encourages excessive consumption in breach of the Code by showing two individuals drinking with a carton of beer between them. This is further reinforced through the accompanying text, which reads, 'Nothing beats that Friday knock-off feeling. Except when you pair it with a case of Sanctus Nor-Easter Lager'.

The Panel also considered a post showing a person rock fishing while reaching for a can of beer from an esky. It found that rock fishing is an activity that requires a high degree of alertness, and as such, the image showing alcohol consumption during this activity breached the Code standard.

The advertiser removed the posts that were found to breach the Code.





### Heaps Normal (complaint regarding content)

**Complaint:** A YouTube video suggests people drink beer instead of water, which encourages unsafe and unhealthy behaviour.

**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 found that the video breached the Code requirements noting that:

- the video fails to identify the product as being non-alcoholic;
- a reasonable person could likely think the video was referring to a regular alcoholic beer;
- a reasonable person would probably understand the video was a parody and is not seriously advocating that alcohol is a viable replacement for water;
- that said, the underlying humour assumes that alcohol could be considered a viable alternative to 'dangerous and boring' water; and
- this implicit message suggests alcohol provides the same health essentials as water.

The Company modified the YouTube post.



### MXTology Cocktails (complaint regarding content)

**Complaint:** The complainant was concerned about a social media post showing a person drinking alcohol while paddle boarding on the water.

**ABAC standard:** An alcohol marketing communication must not 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 Code had been breached, noting:

- paddleboarding is an activity that, for safety reasons, requires a high degree of alertness or physical coordination;
- alcohol consumption is depicted or directly implied;
- both photographs are set with the paddle board and the woman in the water with a paddle, suggesting, at a minimum, further use of the board is required to return to the shore;
- the time of day is suggestive that paddleboarding has either ended or will shortly end; and
- a reasonable person would probably conclude that the marketing is suggesting alcohol consumption with the use of a paddle board is acceptable.



The marketing communication was removed within 5 business days of the determination.



### MXTology (complaint regarding content)

**Complaint:** That four different social media posts show the consumption of alcohol while skiing or snowboarding.

**ABAC standard:** An alcohol marketing communication must not show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical coordination.

**Decision:** The Panel found that self-evidently skiing is an activity that calls for alertness and physical coordination to be done safely and that the social media posts breach Part 3 (d) of the Code. It was noted:

- all four posts use the words and/or hashtag #cocktailsonchairlifts which directly implies the consumption of alcohol while on a chairlift before reaching the top of a run and then skiing or snowboarding down;
- two of the posts use the words ‘Sip & Ski’, which implies drinking alcohol before skiing; and
- two of the posts show a person drinking a MXTology cocktail before skiing.

The Company removed or modified the social media posts.



### Better Beer (complaint regarding content)

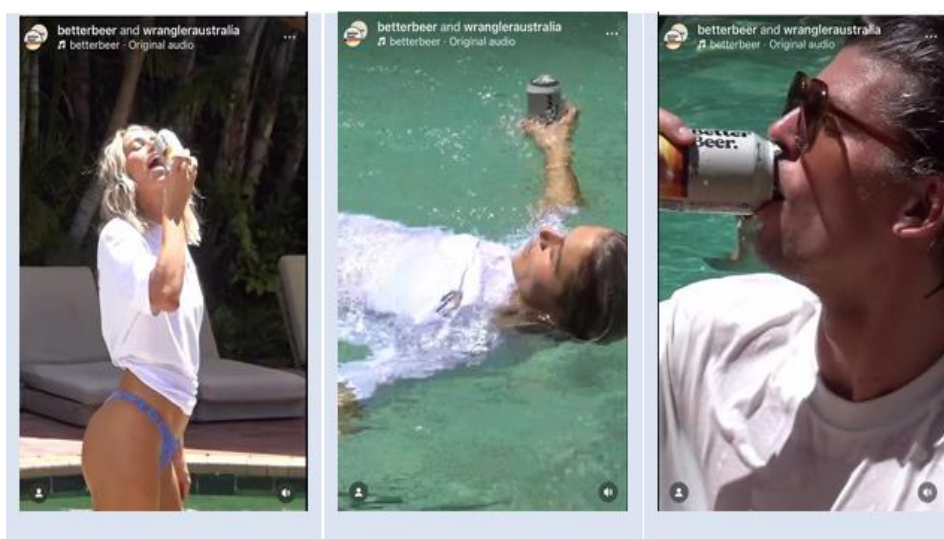
**Complaint:** A social media post encourages the consumption of alcohol before or while undertaking the risky activity of swimming, and it also glamorises alcohol consumption by minors.

**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 did not believe that the marketing had strong or evident appeal to minors but found that the Instagram post breached the Code by depicting several images of people consuming alcohol while using the swimming pool and in scenes where use of the pool after alcohol use is a direct implication. A reasonable person would understand the marketing was showing alcohol consumption with the activity of swimming.

The Company removed the Instagram post.



## VodkaPro (complaints regarding content)

**Complaint:** Various internet and social media marketing items convey that consumption of alcoholic products has health benefits, depict the consumption of alcohol in or around a swimming pool and encourage the excessive and rapid consumption of alcohol.

**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, such as excessive alcohol consumption.
- show, encourage, or treat as amusing, rapid alcohol consumption, misuse or abuse of alcohol or other irresponsible/offensive behaviour related to the consumption or presence of alcohol;
- 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;
- 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 the control of a motor vehicle, boat or machinery or swimming.

**Decision:** The Panel upheld the complaints, finding that:

- a number of social media posts suggested the product offers a health benefit;
- a video posted to social media encourages excessive and rapid consumption of alcohol (a little over nine standard drinks on a single night out) by necking a can of the product and
- Website images show people wearing swimwear and holding a can of the product while next to or in the water, directly implying they are drinking before or while using the swimming pool.

The Company undertook to remove the marketing materials from social media and the internet.



### A Mission of Balance

Driven by the belief that no one should choose between enjoying a delicious drink and their health goals, we embarked on a mission to blend the best of both worlds.

## Kahlua (complaint regarding content)

**Complaint:** The complainant was concerned that the advertisement had images that strongly appealed to minors.

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

**Decision:** The post showed Moo Deng - a baby pygmy hippopotamus animated so as pouring an Espresso Martini. The image was superimposed with the text 'Came for the Espresso Martini, stayed for Moo Deng'. The Panel found that the post breached the ABAC standard. The pygmy hippopotamus Moo Deng has attracted considerable public attention and while this is not confined to minors, the image of a baby and cute animal does have evident appeal to minors. Further, the setting in a zoo also grounds the image with an activity highly popular with minors.

The post was removed upon the Australian entity raising it with the account holder.



## Expedited Determination – Breach accepted and marketing removed promptly

### What If? Hard Seltzer Vodka Lime Soda (complaint regarding content)

**Complaint:** Facebook/Instagram posts, photographs, and website images show the consumption of alcohol while swimming.

**ABAC standard:** An alcohol marketing communication must not 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 images breached the Code by showing or directly implying the consumption of alcohol while using a swimming pool or in the sea.

The Company accepted the breach and immediately removed the images referenced in the complaint.



### NED Whisky (complaint regarding content)

**Complaint:** An Instagram reel video showed a person flyboarding approach a man, take a can of NED Whisky out of his hand and consume it while flyboarding.

**ABAC standard:** An alcohol marketing communication must not show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical coordination.

**Decision:** The video showed the consumption of alcohol while flyboarding, which is an activity that requires a high degree of alertness or physical coordination.

The Company accepted the breach and immediately removed the post.





## No-Fault Breach – Reasonably unforeseeable or outside reasonable control

### Kraken Rum (complaint regarding placement)

**Complaint:** That alcohol advertising was heard during a podcast called Short Stories for Kids.

**ABAC standards:**

- Available age restriction controls must be applied 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.
- An alcohol marketing communication must not be placed with programs or content primarily aimed at Minors.

**Decision:** The Panel found a no-fault breach of the Code. The podcast hosting platform accepted it did not, at their end, correctly categorise the Short Stories for Kids podcast as containing children’s content, and the placement of the Kraken Rum ad with the podcast episode heard by the complainant arose from the miscategorisation of the podcast.

The advertiser referred the matter for resolution on receipt of the complaint.

### Endeavour Group (complaint regarding content)

**Complaint:** In relation to the Sunset Sips non-alcoholic product, Dan Murphy’s website has a section entitled ‘About this product’ that in part, states the product is infused with electrolytes and that it helps keep you refreshed and hydrated. The description concludes that Sunset Sips will elevate your cocktail experience, and you will enjoy a margarita that’s both delicious and revitalising.

**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 found that Dan Murphy’s website is obliged to describe and portray alcohol products and the use of alcohol consistently with Code standards. This includes alcohol references within entries for non-alcoholic products. Responsibility for the content of the marketing on the website rests with Endeavour, irrespective of who initially created the content. A reasonable person would probably understand that the description is related to an alcoholic margarita cocktail made with the Sunset Sips product. It is being claimed that the cocktail is offering a health benefit, namely that its consumption will be hydrating and revitalising in breach of the Code standard.

The Sunset Sips entry was removed from Dan Murphy’s website on receipt of the complaint.



#### About this product

Introducing the Sunset Sips™ Lemon Lime Margarita mix – where classic cocktail elegance meets modern refreshment. This premium margarita mix is crafted to deliver the authentic, zesty flavours of a traditional margarita, enhanced with aromas of lemon and lime for a perfectly balanced tang. Infused with electrolytes, it not only offers a taste of sunshine but also helps keep you refreshed and hydrated. Elevate your cocktail experience with The Sunset Sips™ and enjoy your own margarita that’s both delicious and revitalising. 12 serves per bottle! Cheers to the perfect sip.

## Marketing Outside ABAC's Jurisdiction

### Heineken (complaint regarding content)

**Complaint:** An Instagram post depicting a woman snorkelling while holding an opened bottle of Heineken shows the consumption of alcohol in an unsafe environment.

**ABAC standard:** An alcohol marketing communication must not 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 post was made to an Instagram account under the control of an overseas entity, not Lion Australia which is the local distributor and manufacturer of Heineken in Australia. The Panel found that it does not have jurisdiction to determine the complaint against the ABAC standards and the complaint was dismissed for this reason.



ABAC referred the complaint to the regulatory authority in the Netherlands and was subsequently advised that the image had been removed.

### 19 Crimes (complaint regarding content)

**Complaint:** The complainant was concerned that the post advertises drinking alcohol in conjunction with the dangerous activity of using a sharp knife.

#### ABAC standards:

- an alcohol marketing communication must not show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical coordination.
- 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.

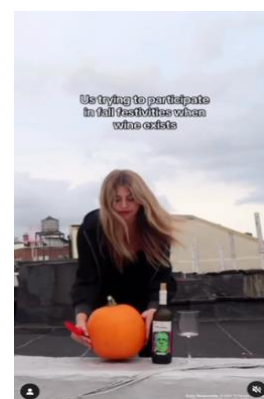
**Decision:** Some indicators suggest the marketing is within the scope of the ABAC Scheme, and others suggest the opposite. Favouring the inclusion within the Scheme's jurisdiction are:

- the product is freely available in Australia, and the Instagram account carrying the post can be readily accessed within Australia;
- there is some Australian consumer engagement with the account, with 2.2% of its followers being Australian residents; and
- TWE Australia is part of the group responsible for the account and it can request its American counterpart to remove the post.

On the other hand, there are strong indications the post and Instagram account should not be regarded as being within the scope of the ABAC Scheme, namely:

- TWE Australia did not create the post, nor does it curate the Instagram account;
- the content of the account clearly suggests that it is marketing the product to North America; and
- importantly there is a separate Australian Instagram account clearly designed to promote the product to Australian consumers.

Weighing up the factual circumstances and assessing the indicators, the Panel believed the Instagram account and, hence, the post did not fall within the jurisdiction of the ABAC Scheme. Rather, the account and the post are marketing to North America and subject to the regulatory regime applying to alcohol marketing in the USA and Canada.



## Marketing Consistent with ABAC Standards

### MILKRUN Alcohol Delivery (complaints regarding placement)

**Complaint:** Two complainants were concerned about the placement of billboards advertising MILKRUN alcohol delivery in areas they claimed were frequented by children.

**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, Outdoor Media Association Placement Policy).

**Decision:** The Panel dismissed the complaints as neither billboard was placed within a 150-metre line of sight of a school.

### Cherry Amore and Chockers (complaint regarding content)

**Complaint:** The complainant was concerned that three Instagram posts marketing two products, Cherry Amore and Chockers, had strong or evident appeal to minors.

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

**Decision:** The Panel found that the posts do not have strong or strong appeal to minors. In reaching this conclusion, the Panel noted:

- the post for Chockers shows a picture of the bottle of the product with its flavour ingredients, but the imagery does not display any branded confectionery items;
- the Post showing a picture of the product and a glass of espresso coffee is not likely to have a strong appeal to minors;
- a post for Cherry Amore showing a range of images shows some that may appeal to minors, but others would not likely have any particular appeal to minors;
- the text references to 'Cherry Ripe' absent any image of the well-known confectionery is not likely to elevate the appeal of the Chocker's posts to minors to a great extent;
- at its highest, the appeal of the Posts to minors would be incidental rather than strong and evident; and
- taken as a whole, a reasonable person would probably understand that the Posts have no greater appeal to minors than they would to adults.





## Dan Murphy's (complaint regarding content)

**Complaint:** The complainant was concerned that a Dan Murphy's advertisement on the front page of the Herald Sun pressured people to buy quickly, a large bottle of alcohol for \$55 and the juxtaposition of the ad with a story about the success of the Indian cricket team associate the consumption of alcohol with sporting achievement.

**ABAC standards:** An Alcohol Marketing Communication must not:

- 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;
- 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 dismissed the complaint.

The Code standard is directed towards marketing that encourages the rapid consumption of alcohol. The ad can be said to encourage a consumer to act quickly to purchase the product to gain the benefit of the discounted price, but it doesn't convey a message about the subsequent consumption of the product. It does not follow that an ad encouraging action to secure the product within the limited time window to get the better price means the product will be consumed rapidly, excessively or irresponsibly.

It might be said that the readers of the Herald Sun, highly likely being supporters of the Australian cricket team would not consider a story about the Australians being thoroughly outplayed in the test match as associating the product with sporting success. But more seriously, the Code standard is directed at the implication that alcohol use contributes to success in life. A reasonable person would not understand the ad is making this claim given:

- ads are often placed alongside newspaper stories, but this does not necessarily mean that the two are related;
- the alcohol ad does not contain any reference to cricket and would not likely be associated with cricket; and
- the ad does not depict consumption but goes to the price of the product as a Black Friday special.



## Kirin Hyoketsu Lemon (complaint regarding content)

**Complaint:** The complainant was concerned that models in an outdoor billboard were underage.

**ABAC standards:** 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; or
- depict in a visually prominent manner paid models, actors or Influencers that are and appear to be adults but are under 25 years of age.

**Decision:** The Panel found that each of the models was over 25 years old and did not appear to be minors. Accordingly, the billboard ad was not found to breach the Code.



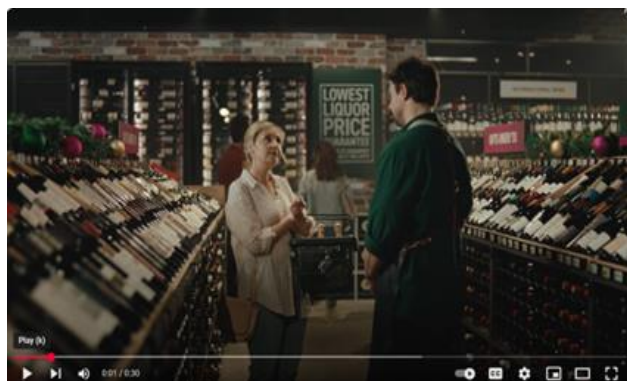
## Dan Murphy's (complaint regarding content)

**Complaint:** The complainant was concerned that a Dan Murphy's salesperson was shown in a television commercial pushing a customer to buy more alcohol, even though they had already selected several bottles of alcohol and expressed that their shopping was complete.

**ABAC standard:** 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).

**Decision:** The Panel accepted that the complainant was raising a genuinely held concern but did not conclude that the ABAC standard had been breached. In reaching this conclusion, the Panel noted:

- the ad creates a light-hearted scenario based on a family member having a history of bringing unexpected companions into the family Christmas dinner;
- the amount of alcohol being purchased is not excessive, given the number of people attending the dinners;
- it is likely that a reasonable person would probably understand the question posed by the salesperson is a device to ground the flashback memory of the woman rather than an aggressive sales tactic to push further and excessive alcohol sales;
- the family scenes depicted don't suggest excessive alcohol consumption is occurring, and no person appears affected by alcohol;
- it is unlikely a reasonable person would take the message of the ad to be the encouragement of excessive or irresponsible levels of alcohol consumption.



## Fireball Whiskey (complaint regarding placement and content)

**Complaint:** The complainant argues that an ad for Fireball Whiskey placed on a bus shelter on Beaconsfield Road in the Sydney suburb of Revesby is inappropriate due to its appeal and high visibility to school children.

**ABAC standards:** An alcohol marketing communication must:

- not have strong or evident appeal to minors; and
- must comply with code provisions regulating the placement of alcohol marketing that have been published by Australian media industry bodies (for example, the Commercial Television Industry Code of Practice and Outdoor Media Association Placement Policy).

**Decision:** The Panel dismissed the complaint as the ad was positioned outside of the 150-metre radius of a school as required by the relevant Placement Standard, and the content of the ad would not be probably understood by a reasonable person as being strongly appealing to minors.



## Kimbolton Wines (complaint regarding content)

**Complaint:** The winery included child-friendly “flights” on its website, which included non-alcoholic items, such as cordial, flavoured milk, confectionary items, cheese, kabana and an activity pack.

The complainant argued that the children-focused flights are irresponsible as they make the winery appealing to minors and establish a culture of using alcohol.

**ABAC standards:** Part 3 (b)(i) of the Code provides that an alcohol marketing communication must not have strong or evident appeal to minors.

**Decision:** The Panel dismissed the complaint. In reaching this conclusion, the Panel noted:

- minors are permitted under South Australian law to attend licensed premises with licensees required to ensure minors are not supplied alcohol or permitted to enter out-of-bounds areas (see Part 2 Section 8 of the General Code of Practice under the Liquor Licensing Act);
- the Company can lawfully promote itself as a venue suitable for families with children to visit;
- the underlying concern of the complaint is more directly about the offering of the Kids’ Flight option than the mention of the menu option on the website, and this suggests the more appropriate regulator for the concern is South Australia Liquor and Gaming rather than the ABAC Scheme;
- the Kids’ Flight entry does not refer to alcohol, nor is it suggestive that minors will be served alcohol or should consume alcohol;
- the website entry would be probably understood as directed towards adults and positioning the Winery as being a family-friendly venue to visit; and
- a reasonable person would not likely understand the entry as encouraging underage drinking, nor would the website as a whole be regarded as strongly appealing to minors.



## Kids' Flight

Our kids' flights offer a unique opportunity for parents and children to engage with each other in a traditionally adult setting.

The flight includes three Bickfords cordials matched with a tasting of cheese, kabana, and a Barossa Valley Chocolate Tommy Turtle.

During the cooler months we offer a sweet variation of the flight which includes three delicious flavoured milks, fluffy marshmallows, Perryman's Gingerbread babies, and a Barossa Valley Chocolate Tommy Turtle.

To keep the little ones entertained, each flight comes with a packet of Kimbolton coloring pencils, an engaging activity booklet, and some bubbles.

[Book Now](#)



### Goldy Lager (complaint regarding placement)

**Complaint:** That alcohol advertising placed on TikTok will be heard by minors.

**ABAC standards:**

- available age restriction controls must be applied 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.
- An alcohol marketing communication must not be placed with programs or content primarily aimed at Minors.

**Decision:** The Panel dismissed the complaint, finding that it seemed unlikely that the applicable placement standards had been breached by the ad being placed on TikTok as:

- age targeting was utilised to exclude logged-on users under 18 from receiving the ad;
- the ad was not served to non-logged users with an inferred age of under 18;
- the overall demographic profile of TikTok has aged up, and while it may not be at an overall figure of 80% adults, the aging up combined with the age targeting employed means it is highly unlikely the audience of the ad was in excess of 20% minors; and
- it is not possible to know the content with which the age was placed as the content received by each person using TikTok is customised.

### Naked Wines (complaint regarding placement)

**Complaint:** Naked Wines printed vouchers were included in a birthday card organised online (using Snapfish) to be sent to a 15-year-old.

**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, the Commercial Television Industry Code of Practice and Outdoor Media Association Placement Policy).
- available age restriction controls must be applied 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.
- An alcohol marketing communication must not be placed with programs or content primarily aimed at minors.
- An alcohol marketing communication and an alcohol alternative marketing communication must not be delivered directly to a minor by hand (except where the communication primarily relates to a matter unrelated to alcohol, for example, a shop receipt or a dining voucher).

**Decision:** The Panel found that a breach of the Standards could not be said to have occurred, noting of the two Standards potentially in play:

- there was no 'age restriction control' in place for marketing through Snapfish that the Company failed to apply; and
- the birthday card did not identify in its design or message that it was being sent to a minor nor was Snapfish advised of the age of the card's recipient when the card was ordered.

## Better Cider (complaint regarding content)

**Complaint:** The complainant was concerned that two social media posts marketed an alcohol product as being good for the consumer's teeth.

**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 accepts that the complainant is raising a genuine point about the impact of alcohol use on dental health, but it does not believe the marketing would be probably understood by a reasonable person in the way submitted by the complainant. In reaching this conclusion, the Panel noted:



- clearly, the marketing is creating a highly fanciful scenario that a reasonable person will not take seriously;
- the takeout message is about the lower sugar content of the product compared to other products, and a comparison of product ingredients such as sugar levels is permitted under the Code standard;
- the marketing sufficiently establishes that the impact of the product is to lessen the furry feeling in the mouth compared to beverages with higher sugar levels; and
- a reasonable person would not likely interpret the marketing as making health benefit claims about the product.

## Tempus Two Wines and Manly Spirits (complaint regarding placement)

**Complaint:** The complainant raised a concern regarding the placement of video advertising for Tempus Two Wines and Manly Spirits on large screens during a break in an event called "Taylor Made: A Tribute to Taylor Swift", which was advertised as 13+ and a children's event held as part of Night at The Barracks in Sydney, NSW.

### 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, the Commercial Television Industry Code of Practice and Outdoor Media Association Placement Policy).
- An alcohol marketing communication must not be placed with programs or content primarily aimed at Minors.

**Decision:** The panel found that the video was not displayed within 150 metre sightline of a school.

Further, while the Panel accepted the complainant's view about the appeal of the event to minors and the perceptions about the audience make-up are genuinely held, the Panel could not conclude that the event was primarily aimed at minors. Further the data on the ticket sales strongly suggested the audience was over 80% composed of adults.

## Fireball Whisky (complaint regarding content)

**Complaint:** Both the promotional activity of the Fireball Whisky drinking bubbler at the hotel and the social media and internet articles promoting it have strong or evident appeal to minors and promote excessive and rapid consumption of alcohol.

**ABAC standard:** An alcohol marketing communication must not:

- show, encourage, or treat as amusing, excessive or rapid alcohol consumption; and
- have strong or evident appeal to minors.

**Decision:** The Panel did not think on balance that ABAC standards had been breached, noting:

- 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.



## White Claw (complaint regarding content)

**Complaint:** The complainant was concerned that a social media post and the comments accompanying it encourage the consumption of alcohol before or while undertaking the risky activities of surfing and snowboarding.

**ABAC standard:** An alcohol marketing communication must not 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 did not find that the post breached the Code. In reaching this conclusion, the Panel noted:

- the standard does not prohibit the association of alcohol with the pursuits of surfing and snowboarding, what is not permitted is the depiction of alcohol consumption before or during the carrying out of both pursuits;
- the video does not depict alcohol consumption; and
- a reasonable person would not probably understand that the video is encouraging or suggesting alcohol use before engaging in inherently dangerous activities.





## Ginger Resistance Hard Ginger Beer (complaint regarding content)

**Complaint:** The complainant contended that the packaging fails to clearly establish that it is alcoholic, and this may lead to inadvertent and potentially dangerous consumption by both adults and children.

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

**Decision:** The Panel found the packaging did not have strong or evident appeal to minors, noting:

- while ginger beer would be more associated with non-alcoholic beverages, the packaging does establish it is an alcohol product through the use of alcohol descriptors, '4% alc/vol' on the front of the can and 'alcoholic beverage' on the rear of the can;
- in addition, the descriptor 'hard' is more commonly used on alcohol products and while there may be some in the community not familiar with the term, its use with other alcohol descriptors contributes to establishing the product as an alcohol beverage;
- the packaging design does not resemble any well-known soft drink, and it is unlikely a reasonable person would confuse the product with a soft drink;
- the use of animal images has the potential to elevate the appeal of a marketing communication to minors, but here the fox image has sharp features and does not resemble characters used in material directed primarily at minors; and
- taken as a whole, the packaging would, at its highest, have incidental and not strong or evident appeal to minors.



## Jack Daniel's Whiskey (complaint regarding content)

**Complaint:** That advertising for Jack Daniel's Whiskey was seen during the Channel 9 News at approximately 6:27 pm.

**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, the Commercial Television Industry Code of Practice and Outdoor Media Association Placement Policy).
- Available age restriction controls must be applied 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.
- An alcohol marketing communication must not be placed with programs or content primarily aimed at minors.

**Decision:** The Company advised it was not advertising on free-to-air television, and that it was probable that the complainant was watching the News on 9Now. It provided a letter from Channel 9 supporting that the advertisement was not shown on free-to-air TV. Placement Standard 1 had not

been breached, because the CTICP, while generally restricting the broadcast of alcohol advertising to after 8:30 pm, does not apply to TV broadcasts via apps such as 9Now.

There was no information before the Panel suggesting that a minor with an account in the complainant's household had been served an alcohol ad.

Channel 9 news attracts an adult audience, with 96.9% of Monday through Friday evening viewers being 18 years or older, meeting the placement rule benchmark of an 80% adult audience.

While older minors should have an interest in current affairs, and no doubt some individual news stories have appeal to minors, taken as a whole, the nightly news broadcast is a program that is self-evidently aimed towards an adult audience.

### Vodka Cruiser (complaint regarding placement)

**Complaint:** The complainant was concerned that they saw a TV advertisement for Vodka Cruiser on Foxtel channel Travel HD, which aired at 2:40 pm on Saturday, 31 August 2024.

#### 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 Commercial Television Industry Code of Practice and Outdoor Media Association Placement Policy).
- Available age restriction controls must be applied 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.
- An alcohol marketing communication must not be placed with programs or content primarily aimed at minors.

**Decision:** The time of day restrictions contained in the Commercial Television Industry Code of Practice (CTICP).have never applied to subscription TV services such as Foxtel. The Company provided detailed information about the circumstances regarding the ad seen by the complainant:

- Foxtel requires account holders to be aged over 18;
- based on ratings data, the actual audience for Europe's Waterways on 31 August 2024 was very small, and it seems it was exclusively adults; and
- the program is no doubt suitable for all ages, but it is not a show aimed primarily at minors.

### Uber Eats (complaint regarding placement)

**Complaint:** The complainant was concerned that advertising for Uber Eats alcohol delivery was placed at the Adelaide CBD train station.

**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 Commercial Television Industry Code of Practice and Outdoor Media Association Placement Policy).

**Decision:** The Panel dismissed the complaint as the ad was positioned outside of the 150-metre radius of a school as required by the relevant Placement Standard.

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>.