

Australia's Responsible Alcohol Marketing Scheme

2018 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 to ensure it is in line with community expectations. The Code regulates both the content and placement of alcohol marketing across all advertising mediums.

In the last quarter of 2018 there were six breaches of the ABAC Code, three related to the use of adults aged under 25 to market alcohol beverages on social media together with a failure to use all available age restriction controls. One related to social media posts by a retailer that encourage excessive consumption and the choice of an alcohol beverage on the basis of its alcohol strength. Another related to a wine label with an image of a violent attack on a woman. The final breach related to the placement of an alcohol ad during on demand television content primarily aimed at under 18s. We remind alcohol companies to take care when recruiting talent, including social media influencers to check their age and appearance.

Complaints about marketing communications placed on Instagram have increased over the past few years. Advice ABAC has received from Instagram on the age restriction controls available to alcohol marketers has varied throughout this time making it difficult for industry to understand the steps they need to take to meet the placement rules. It is not possible for ABAC to provide a comprehensive and accurate guide to the age restriction controls available across all digital platforms a marketer might use due to the rapid development of existing platforms and the constant emergence of new platforms. When using any digital platform it is the marketers responsibility to ask the platform to identify all age restriction controls that are available for their marketing and apply those controls and continue to ask for all new campaigns as social media platforms develop at a rapid rate and the availability of controls will change from time to time.

It is important to note that none of the content breaches this quarter (or in fact for the past two years) related to marketing material that was pre-vetted by ABAC. This highlights the importance and effectiveness of the ABAC pre-vetting system, which involves ABAC checking marketing material for compliance with its standards prior to the material reaching the market. Using the pre-vetting service significantly reduces the risk of breaching the ABAC standards.

KEY STATISTICS

Complaints	35
Not raising Code issues*	13
Raising a consistently dismissed issue	4
Determinations	22
Upheld**	6
Upheld as No Fault Breach	0
Dismissed	16
Pending	0
Pre-vets	503
Rejected	53

* Complaints that did not result in a determination raised matters dealt with by other codes/legislation or bodies such as racism, sexism, misleading conduct, offensive language or themes and objectification of women.

** None of the upheld decisions were relevantly pre-vetted

RECENT ALCOHOL MARKETING COMPLAINTS

Breaches of ABAC Standards

XXXX Summer Bright Lager (complaint regarding content and placement)

Complaint: Posts by the brand and various social media influencers include images of people aged under 25 and social media influencers (SMI) failed to activate available age restriction controls.

ABAC standard: Alcohol marketing cannot include images of people under the age of 25 and digital marketing must apply available age restriction controls.

Decision: The Panel found the marketing in breach of the ABAC standards as:

- All posts were generated by the brand owner, including posts by SMI where product was gifted by the brand in exchange for images that the brand could use but there was no requirement for the SMI to post on their own account.
- 16 of the 19 posts complained about included images of people under 25 years of age.
- All of the SMI posts failed to activate age restriction controls.

The advertiser confirmed that most of the posts were removed prior to the determination being made, however, the post by @elisehalina and 3 posts by @brisbanegirlsabroad were removed later due to an initial reluctance by those SMI to remove the posts.



Wilde Beer (complaint regarding content and placement)

Complaint: Posts by the brand and various social media influencers include images of people aged under 25 and social media influencers (SMI) failed to activate available age restriction controls.

ABAC standard: Alcohol marketing cannot include images of people under the age of 25 and digital marketing must apply available age restriction controls.

Decision: The Panel found the marketing in breach of the ABAC standards as:

- All posts were generated by the brand owner, including posts by SMI where the arrangement was for the SMI to provide images that the brand could use but there was no requirement for the SMI to post on their own account.
- All posts complained about included images of under 25 year olds.
- All posts complained about failed to activate age restriction controls.

The advertiser confirmed that the posts by Wilde Beer were removed within 7 business days and the brand account age restricted. However the posts by the SMI were removed later and one SMI post is still awaiting removal or geoblocking by Instagram.



Furphy Beer (complaint regarding content and placement)

Complaint: Posts by the brand and various social media influencers include images of people aged under 25 and social media influencers (SMI) failed to activate available age restriction controls.

ABAC standard: Alcohol marketing cannot include images of people under the age of 25 and digital marketing must apply available age restriction controls.

Decision: The Panel found the marketing in breach of the ABAC standards as:

- The post complained about failed to activate available age restriction controls.
- The post complained about included an image of an under 25 year old.
- The SMI signed an agreement that included a representation that the SMI were over 25 years of age, however this did not render the breach 'no fault' as ages were not verified and it was not reasonably unforeseeable that the SMI may have been under the age of 25.

The advertiser confirmed that the post was removed prior to the determination being made.



Leon B Cabernet Sauvignon (complaint regarding content)

Complaint: Concern about a wine label showing a woman screaming while looking backwards at a male holding a long kitchen knife toward her.

ABAC standard: Alcohol marketing cannot show or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an alcohol beverage.

Decision: The Panel found the marketing in breach of the ABAC standards as:

- The label depicts a violent attack on a woman.
- Violence against women is a major problem in Australia with an average one woman per week being murdered as a result of domestic violence.
- Alcohol misuse is a contributing factor in some incidences of violence.
- The resemblance of the label to a horror film poster will be noted by some but not necessarily a majority of potential consumers.
- Taken as a whole a reasonable person might take the label as showing offensive behaviour related to the presence of alcohol.

The advertiser confirmed the packaging will be discontinued when responding to the provisional determination.



Premix King (complaint regarding content)

Complaint: Concern that 7 Facebook posts:

- encourage the choice of products by emphasising their alcohol strength;
- encourage excessive consumption; and
- strongly appeal to minors through the use of language, sweet flavoured RTDs, emojis etc.

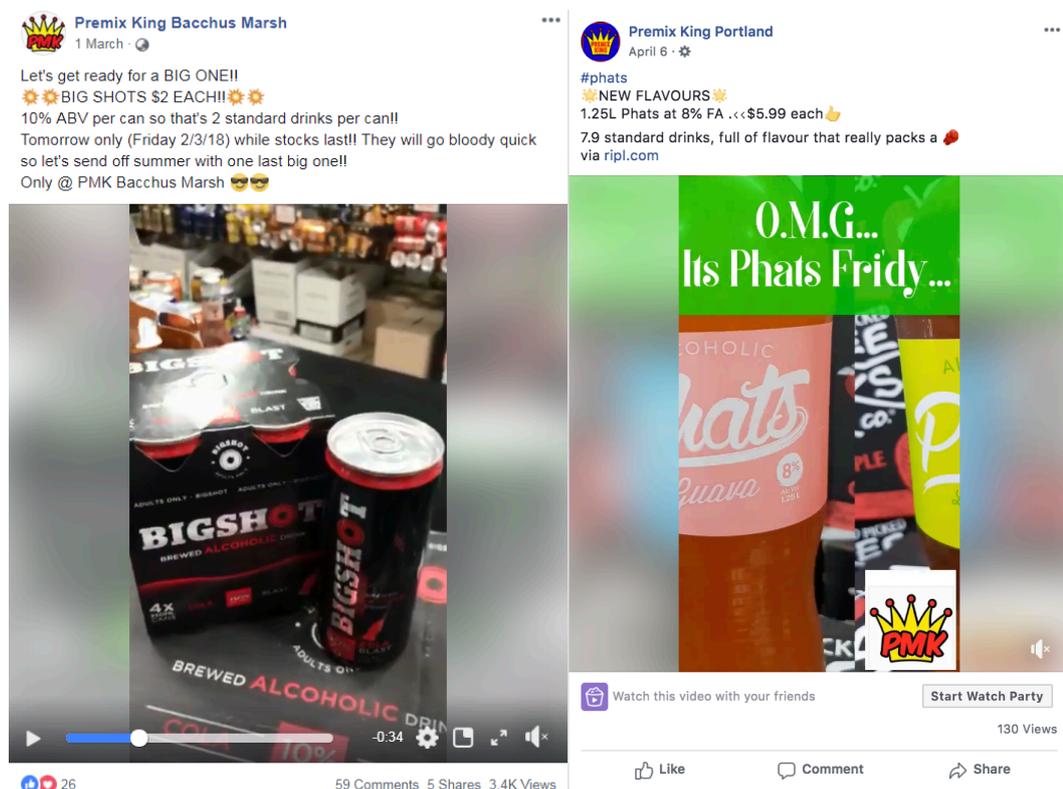
ABAC standard: Alcohol marketing cannot:

- encourage excessive alcohol consumption
- encourage the choice of a product by emphasizing its alcohol strength
- have strong or evident appeal to minors

Decision: The Panel did not believe any of the posts were strongly appealing to minors but found the two posts depicted below in breach of the ABAC standards as encouraging excessive consumption and the choice of the product by emphasising its alcohol strength by:

- Using as a key selling point an emphasis of alcohol strength and/or the number of standard drinks per serving and the intoxicating effect of the product through language such as ‘really packs a [punch emoji]’.
- Using messages such as ‘let’s send off summer with one last big one’ when combined with other messaging and graphics which endorse consumption levels in excess of Australian Alcohol Guidelines.

The Bacchus Marsh post was removed prior to the complaint being received by ABAC and the Portland post was removed within 5 business days of the determination being made.



Johnnie Walker (complaint regarding placement)

Complaint: Concern that an alcohol ad was broadcast with the Adelaide Christmas Pageant on the 9Now digital app.

ABAC standard: Alcohol marketing must be directed at adults by compliance with CTICP, activating available age restriction controls, only using channels with >75% adult audience and not placing alcohol ads with programs or content primarily aimed at minors.

Decision: The Panel found the marketing in breach of the ABAC standards as the Adelaide Christmas Pageant is a program with a primary aim of the entertainment and engagement of children. It was noted that the floats in the parade are heavily themed on children’s characters including Santa Claus, Mary Poppins and Little Red Riding Hood and there are numerous child entertainers, such as clowns.

The advertiser advised that their advertisements will no longer appear with the program on 9Now and they also outlined a variety of actions they have and will continue to undertake to improve their processes for placement of advertisements on digital television.

Marketing Consistent with ABAC Standards

Heineken 3 (complaint regarding content)

Complaint: A television ad for Heineken 3 that the complainant felt suggested that:

- the choice of a light coloured beer over a dark coloured stout was symbolic of superiority of white people over other races; and
- the male who selects the product is shown to “get the girl” coupled with the tagline “Have it all”.

ABAC standard: Alcohol marketing must not:

- show or encourage irresponsible or offensive behaviour that is related to the consumption of presence of an alcohol beverage
- show the consumption or presence of an alcohol beverage as a cause of or contributing to success

Decision: The Panel found that:

- It appears that the racially diverse group of football players are friends and there is no reasonable suggestion that the black players are inferior or treated differently to other players.
- The ad is not suggesting the product contributes to the achievement of social success.



Mercury Cider (complaint regarding placement)

Complaint: A television ad for Mercury Cider shown on a Saturday morning in the pre AFL Grand Final sports program.

ABAC standard: Alcohol marketing may only be placed:

- consistently with the Commercial Television Industry Code of Practice (CTICP)
- where the audience is reasonably expected to comprise at least 75% adults
- not with programs or content primarily aimed at minors

Decision: The Panel found that:

- Pre AFL Grand Final sports program falls within the sporting exemption and the advertising was consistent with the CTICP.
- The audience of the program was 91.1% adults consistent with placement rule (iii).
- While AFL is a popular Australian sport followed across the country and in all age groups, the Panel does not believe a broadcast of an AFL game could be regarded as primarily directed at minors. AFL on television has a general appeal tending toward an older focus as opposed to being primarily aimed at under 18 year olds.

BWS (complaint regarding content and placement)

Complaint: An outdoor ad for BWS home delivery service:

- on a bus shelter on a road students take to get to Curtin University
- suggesting students have a beer fridge and promoting inactivity and fast alcohol delivery

ABAC standard: Alcohol marketing must not:

- encourage excessive consumption or irresponsible behaviour related to alcohol consumption or presence
- be placed within 150 metres line of sight of a primary or secondary school

Decision: The Panel found that:

- Advertising a home delivery service for alcohol is not of itself encouraging irresponsible behaviour related to the consumption or presence of alcohol.
- A message that alcohol can be conveniently purchased does not mean that because of this convenience it will be consumed excessively.
- There is no school within a 150 metre radius of the bus shelter and the placement rules do not restrict advertising in the vicinity of universities (noting that the bus shelter was approximately 2.5km from Curtin University).



BWS (complaint regarding content)

Complaint: An audio ad for BWS home delivery service on Spotify that depicts as a disaster a man forgetting to pick up a bottle of wine from a liquor store on his way home, trivialising the significance of alcohol dependency.

ABAC standard: Alcohol marketing must not encourage irresponsible behaviour related to the consumption or presence of alcohol.

Decision: The Panel found that a reasonable person would understand the use of humour and not take it that alcohol misuse was being encouraged or alcoholism trivialized.

Liquorland (complaint regarding placement)

Complaint: A Liquorland ad placed in the entrance to a Coles Supermarket within a shopping centre facing a café, a temporary child's play area and a permanent child's play area next to the cafe.

ABAC standard: Alcohol marketing must not be placed within 150 metres line of sight of a primary or secondary school.

Decision: The Panel found that it is not a breach of the placement rules to place a poster advertising alcohol at the internal entrance to a supermarket within a shopping centre. Further the poster was not within 150 metres line of sight of a primary or secondary school.



Iron Jack (complaint regarding content)

Complaint: A television advertisement promoting the product as quenching thirst, when alcohol is a known dehydrator.

ABAC standard: Alcohol marketing must not suggest the consumption of alcohol offers any therapeutic benefit.

Decision: The Panel found:

- No positive assertion is made that the product will provide a benefit to health or wellbeing.
- The reference to “Thirst Crushing Refreshment” would likely be taken to be going to the taste of the product.
- The ad doesn’t use the expression that the product will ‘quench’ a thirst as contended in the complaint.
- Taken as a whole a reasonable person would not understand the ad is making claims about the health benefits of the product.



BWS (complaint regarding content)

Complaint: A print advertisement with fridge magnet for BWS home delivery service makes it easy for those who ‘need alcohol’ to act on impulse and access \$50 of alcohol for \$40 where alcohol has a social cost

ABAC standard: Alcohol marketing must not encourage excessive consumption or irresponsible behaviour related to alcohol consumption or presence.

Decision: The Panel found:

- The ABAC does not prohibit home delivery of alcohol products by retailers, which is a State liquor licensing issue.
- The reference to “Need booze” and “On Demand To The Rescue” would be probably understood within the context of the convenience to the consumer of home delivery. It would not be taken as endorsing or normalising alcohol addiction.



Coopers Dry (complaint regarding content and placement)

Complaint: A series of radio ads for Coopers Dry should not have been broadcast in the morning and are associating beer with things that are cool and healthy.

ABAC standard: Alcohol marketing must not:

- be directed at Minors through a breach of the placement rules (must meet media specific Codes, audience must be >75% adult and can't be placed with content primarily aimed at minors)
- suggest the consumption or presence of an alcohol beverage may create or contribute to a significant change in mood or environment or the achievement of success
- suggest the consumption of an alcohol beverage offers any therapeutic benefit or is a necessary aid to relaxation

Decision: The Panel found:

- There is no media industry code that restricts the broadcast of radio ads in the morning.
- The adult audience of the Nova morning program at the times the advertisement was broadcast was above 75%.
- The specific program the ad was broadcast with was not identified by the complainant but it appears Nova programs are aimed at demographics older than 18.
- While the product is low calorie compared to other products, there is no claim made or to be reasonably implied that positive health benefits will result from use of the product.
- While the final two ads do portray a scenario of avoiding an embarrassing situation, it is clearly established this is a fantasy caused by hitting the wished for reset button and not caused by the presence or use of the alcohol product.

Wild Yak Ale (complaint regarding content)

Complaint: The ad is offensive as it is sexually suggestive, contains nudity, objectifies the female body, indicates that sex with a female person is the same as sex with a yak or vice versa thus degrading women, promotes bestiality and indicates the beer can offer a 'wild' experience, a heightened reaction that seems to be more comparable with illicit drug taking.

ABAC standard: Alcohol marketing must not:

- show or encourage irresponsible or offensive behaviour that is related to the consumption or presence of an alcohol beverage
- suggest the consumption or presence of an alcohol beverage may create or contribute to a significant change in mood or environment or the achievement of sexual or other success

Decision: The Panel found that the ad did not breach ABAC provisions noting:

- No consumption of alcohol is depicted.
- The ad is a play on the name 'wild yak' by showing a yak which has shed its coat to go swimming.
- By contemporary standards the depiction of the near 'naked' yak is not particularly risqué.
- Taken as a whole a reasonable person would not consider the ad is suggesting that its use would lead to sexual success or offensive behaviour.



Hotel Clipper (complaint regarding content and placement)

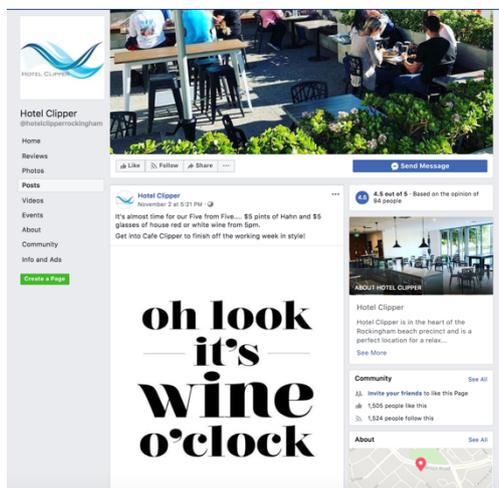
Complaint: Concern that a post is advertising cheap alcohol within a 2 hour period and that \$5 drinks promote excessive drinking. In addition the Facebook page caters to under 18s.

ABAC standard: Alcohol marketing must not:

- Encourage excessive consumption of alcohol
- be directed at Minors through a breach of the placement rules (must apply available age restriction controls)

Decision: The Panel found that:

- Merely advertising the factual occurrence of the happy hour activity cannot be a breach of the ABAC standard. There would need to be elements in how the marketing is framed that encourage excessive consumption to breach this provision. In this post there is no call to consume excessively.
- It seemed the Hotel's Facebook page did activate available age restriction controls and therefore the placement rule has not been breached.



Cricketers Arms Beer (complaint regarding content)

Complaint: Concern that a Facebook post includes an image of a cricket player who is 19 years of age.

ABAC standard: Alcohol marketing must not include an image of an 18-24 year old unless they are not visually prominent or are not a paid model or actor and are shown in a marketing communication that has been placed within an age restricted environment (as defined in the Code).

Decision: The Panel found that the Facebook post was consistent with ABAC standards as:

- The sponsorship exemption in the Code does not apply to marketing by a company which references the existence of the sponsorship relationship and in this case the complaint was about a repost by Cricketers Arms Beer of a Cricket NSW post.
- Images of 18-24 year olds cannot be used in alcohol marketing unless they fall within one of two exceptions which were considered by the Panel:
 - The image of the cricket player is visually prominent and therefore doesn't fall within the first exception.
 - The cricket player is not a paid model or actor (receives no payment from the alcohol company) and an age restricted Facebook page qualifies as an age restricted environment as defined by the Code and so the post falls within the second exception.



Liquorland (complaint regarding content)

Complaint: Concern that a Liquorland promotion should not be placed on a Coles Supermarket receipt where it could be handed to under 18 year olds.

ABAC standard: Alcohol marketing must not be directed at minors by a breach of a placement rule, relevantly, an alcohol ad can only be placed where the audience is reasonably expected to comprise at least 75% adults.

Decision: The Panel found that there was no breach of the Code as a supermarket is an open market, the population is around 77.5% adults and common sense indicates that a supermarket will overall, likely be attended far more by adults than minors, although minors will often be present.



Brown Brothers Prosecco (complaint regarding content and placement)

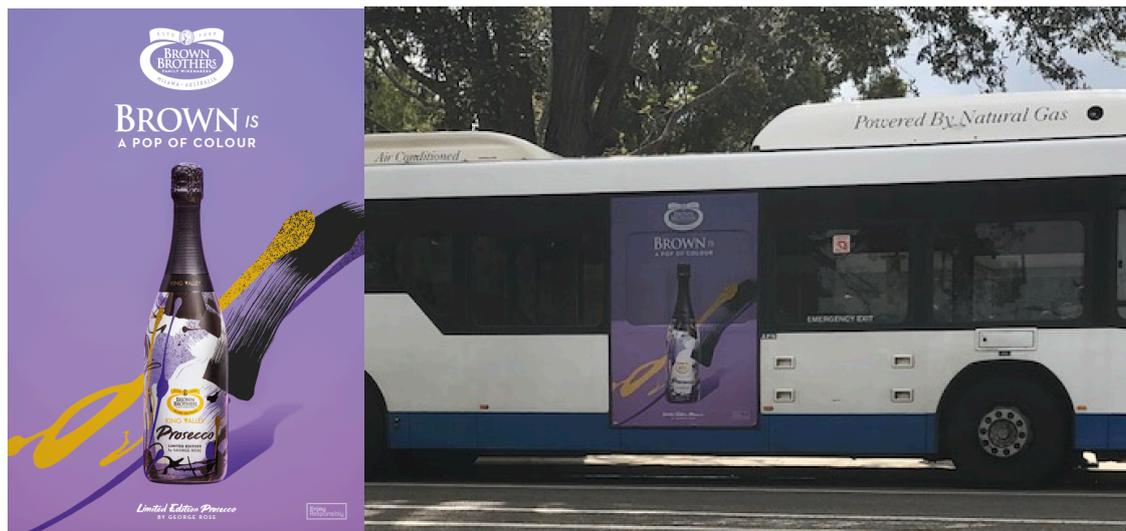
Complaint: Concern that an outdoor advertisement is visually appealing to minors due to the colourful packaging of the bottle and advertisement and is placed on a State Transit bus used exclusively for minors travelling to and from a secondary school.

ABAC standard: Alcohol marketing must not:

- be directed at minors by placement of a fixed sign within 150 metres of a school
- strongly appeal to minors

Decision: The Panel found that there was no breach of the Code as:

- while the ad uses bold and eye catching colours, it is passive in nature, there are no characters or themes which could be said to be particularly engaging to minors, the term 'pop' would not be taken as a euphemism for soft drink but a play on the sparkling nature of the product and taken as a whole the ad does not have strong appeal to under 18 year olds.
- The Outdoor Media Association Alcohol Policy does not contain any limits on the use of alcohol ads on buses.



Jim Beam (complaint regarding content)

Complaint: Concern that the ad insinuates that violence is a good thing, to be proud of and that the brand endorses.

ABAC standard: Alcohol marketing must not encourage irresponsible or offensive behaviour that is related to the consumption or presence of an Alcohol Beverage.

Decision: The Panel found that while the written message taken in isolation is a little obscure as to what it is trying to say, the overall impression of the ad is a group of male and female friends having a quiet and moderate drink. The scene is calm and relaxed with no suggestion of conflict or violence and a reasonable person would not take the ad as encouraging or endorsing violence.



FOR THOSE OF US WHO
**HAVE A MATE OF
 A MATE'S BACK.**

- Raised Right -



Carlton Zero (complaint regarding content)

Complaint: Concern that the product:

- should not be sold in supermarkets while including a warning on the packaging that the product is for over 18s
- uses advertising that is appealing to minors

ABAC standard: Alcohol marketing must not:

- encourage the choice of an alcohol beverage by emphasising its alcohol strength
- have strong or evident appeal to minors
- be directed at minors through a breach of any of the placement rules

Decision: The Panel found that:

- While Carlton Zero is not an 'alcohol beverage' its marketing is a brand extension for ABAC purposes requiring compliance with ABAC standards.
- The product package does not contain elements that are particularly eye catching or engaging for minors.
- The bus ad goes to the taste of the product and its alcohol content which cannot be said to be strongly appealing to minors.
- The ABAC placement rules do not place restrictions on the location products are available for purchase.

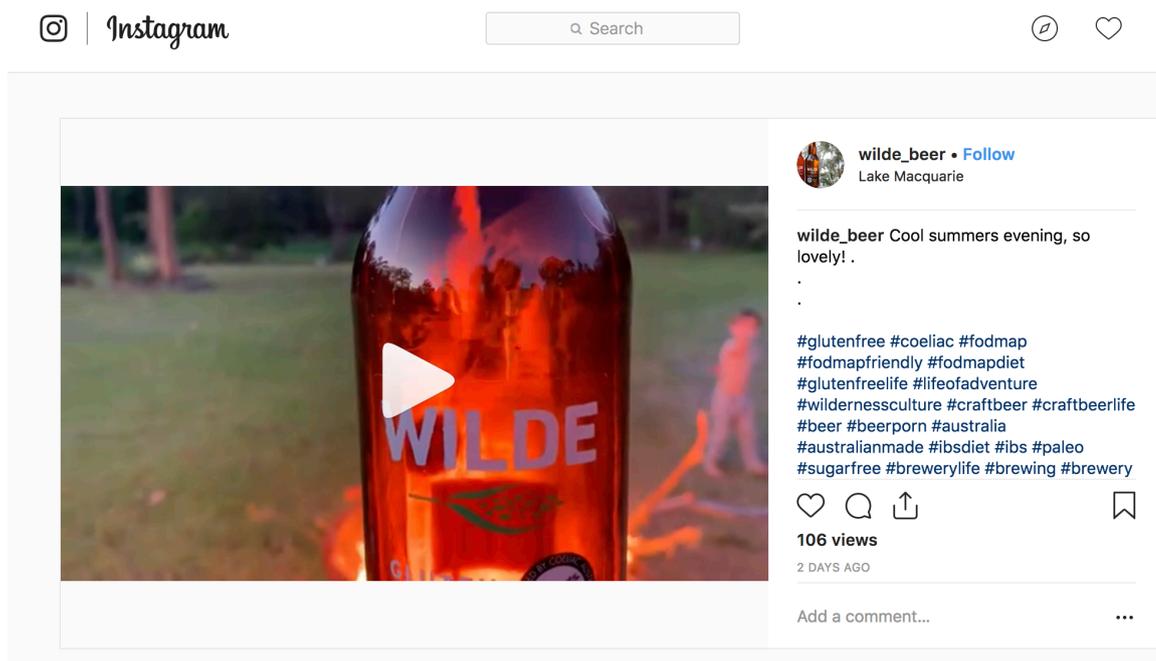


Wilde Beer (complaint regarding content)

Complaint: Concern that the Instagram video clip promoting the product includes a child.

ABAC standard: Alcohol marketing must not depict a minor unless they are shown in an incidental role in a natural situation and where there is no implication they will consume or serve alcohol.

Decision: The Panel found that viewing the clip as a whole conveys that it was focusing on the outdoor scene with the fire and the bottle and the appearance of the child was incidental to the scene as a whole. There was no suggestion that the child would be consuming alcohol or that the post was endeavouring to encourage under-age drinking.



The ABAC Complaints Panel is headed by Chief Adjudicator Professor The Hon Michael Lavarch AO. For more information on ABAC, visit: <http://www.abac.org.au>.