



ABAC Adjudication Panel Determination No. 16/20

Product: The Myrcene Hemp Gin
Company: Cannabis Co
Media: Digital (Website)
Date of decision: 4 March 2020
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Ms Jeanne Strachan
Professor Louisa Jorm

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) concerns website marketing for The Myrcene Hemp Gin by Cannabis Co (“the Company”) and arises from a complaint received 11 February 2020.
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 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 meeting the standards contained in the ABAC.
 4. For ease of public access, Ad Standards provides a common entry point for alcohol marketing complaints. Upon a complaint being received by the Ad Standards, a copy of the complaint is supplied to the Chief Adjudicator of the ABAC.
 5. The complaint is independently assessed by the Chief Adjudicator and Ad Standards and streamed into the complaint process that matches the nature of the issues raised in the complaint. On some occasions, a single complaint may lead to decisions by both the Ad Standards Community Panel under the AANA Code of Ethics and the ABAC Panel under the ABAC if issues under both Codes are raised.
 6. The complaint raises concerns under the ABAC Code and accordingly is within the Panel’s jurisdiction.

The Complaint Timeline

7. The complaint was received on 11 February 2020.
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 Clearance

9. The quasi-regulatory system for alcohol beverage marketing features independent examination of most proposed alcohol beverage marketing communications against the ABAC prior to publication or broadcast. Pre-vetting approval was not obtained for this marketing communication.

The Marketing Communication

10. The complaint relates to the following page on the Cannabis Co website, located at <https://cannabiscompany.com.au/pages/myrcene-hemp-gin2>

THE MYRCENE HEMP GIN

THE WORLD'S FIRST MYRCENE HEMP GIN DISTILLED WITH TERPENES

San Francisco World Spirits Competition
Silver Medal Winner 2019



\$99.00

Quantity selector: - 1 +



DESCRIPTION [Close]

Like Melbourne, The Myrcene contains the perfect balance of the earthy and the fruity. That's why we selected it as the backbone of our Hemp Gin, granting the name pride-of-place on our initial foray into the spirit world. Myrcene is the most abundant terpene found in cannabis, terpenes being the primary constituents of the essential oils in many types of medicinal plants and flowers.

Bubblegum aromas blend with lavender, pine forest and sage. Soft tones of violet interact on the palate with woodland flavours of rosemary and resin, cloves and woody spices. With a long complex finish and a rich mouthfeel, The Myrcene is perfect paired with a premium tonic. Try it poured over a wedge of lemon with a sprig of fresh rosemary to really bring out those piney aromas.

Small-batch crafted in Healesville, this complex award-winning gin represents the marriage of past and future. The world's first hemp-infused gin distilled with terpenes – **The Myrcene**.



HEALTH BENEFITS [Close]

Myrcene is known to compose up to 50% of the total terpene content found in individual strains of cannabis, with Myrcene strains reputed to produce joyful and euphoric effects alongside an overall feeling of relaxation. Myrcene is perhaps the most highly-valued terpene due to its ability to ease symptoms of chronic pain and inflammation.

Myrcene is known as an anti-bacterial, anti-diabetic, anti-inflammatory, anti-insomniac, anti-proliferative, antipsychotic, and anti-spasmodic. Hemp have been demonstrated to absorb more efficiently into the blood brain barrier when terpenes are present, allowing them to bind to receptors in the system. This is usually experienced as an analgesic response – in other words, myrcene is a painkiller which destroys harmful bacteria, lowers glucose levels in your blood and reduces swelling; a great outcome for those who suffer from auto-immune conditions. Although further research is needed, it appears that Myrcene may reduce the spread of cancer cells, especially when paired with hemp, which naturally suppresses the proliferation of excessive cells and helps reduce the size of tumours. Myrcene is likewise reputed to contribute to improved mental health and help with IBS.



Interestingly, just like hemp, Juniper berries are valued for their anti-inflammatory properties, ideal for relieving pain due to rheumatism and arthritis. The Greeks used the berries in many of their Olympic events because of a belief that the berries increased physical stamina in athletes, while juniper berries were also used in traditional medicine for female birth control. By the mid-17th century, Dutch and Flemish pharmacies sold gin made with Juniper, anise and coriander – all of which are used in the distillation of The Myrcene Hemp Gin. These old-school pharmaceutical gins were used to treat medical problems such as lumbago, kidney stones and gout – just like hemp in Ancient China.

HOW TO USE [Expand]





MYRCENE IS THE MOST ABUNDANT TERPENE

Terpenes work by creating a union of compounds that achieve better results as a group than they would in isolation – an outcome known as “The Entourage Effect”. Used in high concentrations such as this, terpenes are an increasingly sought-after commodity due to their therapeutic value in dietary health and wellness supplements. When hemp is utilised for its health-giving properties, it works best as a whole plant therapy. This is why we’ve carefully crafted this gin using select elements from the Hurd, bast and seed to produce the moulin and brou used in our distillation. Also found in hops, Myrcene is known to compose up to 50% of the total terpene content found in individual strains, with Myrcene strains reputed to produce joyful and euphoric effects alongside an overall feeling of relaxation. Myrcene is perhaps the most highly-valued terpene due to its ability to ease symptoms of chronic pain and inflammation.



WHY MIX GIN WITH HEMP?

Our decision to select gin as the perfect spirit to distil using hemp was strongly influenced by an early 17th century gin-making practice. Back in the day there was an explosion in the spirit's popularity as a result of newly liberal laws around unlicensed gin production in Britain.

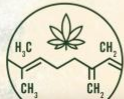
Small distillers began producing gin in residential houses, flavouring their creations with terpenes obtained from the forest by distilling the resin – primarily from pines. We may be the first gin makers in history to utilise terpenes in the distillation process, but we still like to imagine old English dames chucking a few dank buds into the tank when they whipped up a fresh batch of “Mother’s Ruin”. Whereas these early pioneers used primitive pot stills and added terpenes to mask crudely-produced spirits, we use column stills to craft a lighter more refined gin, adding myrcene for its joyful sense of euphoria alongside its relaxation-inducing qualities.



While the Dutch are infamous for their progressive view towards hemp, they’re less widely known as creators of one of the world’s most popular spirits. Whereas humans had already been using hemp recreationally and medically for over 12,000 years, the history of gin dates back to the 13th century, when Northern European distillers began adding herbs to malt wine. Juniper became a central element of this new drink, with the juniper berry prized for its medicinal effects. The English word for gin was adopted from a shortening of the spirit’s original name: jenever, from the Latin Juniperus. Indeed, “Dutch courage” (a popular term for alcohol-induced bravery) was reportedly coined by English soldiers during the 80 Years War of 1568–1648, when they would drink jenever (gin) to calm their nerves before battle*.



*The Cannabis Company does not recommend drinking this gin before battle.



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With gin & hemp both known for having strong olfactory identities, a further commonality between both is their medicinal use. Interestingly, just like hemp, Juniper berries are valued for their anti-inflammatory properties, ideal for relieving pain due to rheumatism and arthritis. The Greeks used the berries in many of their Olympic events because of a belief that the berries increased physical stamina in athletes, while juniper berries were also used in traditional medicine for female birth control*. By the mid-17th century, Dutch and Flemish pharmacies sold gin made with juniper, anise and coriander – all of which are used in the distillation of the Myrcene Hemp Gin. These old-school pharmaceutical gins were used to treat medical problems such as lumbago, kidney stones and gout – just like hemp in Ancient China.



*In our experience, imbibing this gin leads to an increased likelihood of participation in activities requiring the use of both control methods.



MYRCENE & JUNIPER: A MATCH MADE IN MELBOURNE

While the history of gin spans the globe, a final fascinating piece of the puzzle brings it all back home. Australia’s dark colonial past meant that quinine (the primary constituent of tonic water) was an essential medicine in former times. With 10% of hospital admissions in Darwin being due to malaria by 1889, quinine was widely employed as the only effective anti-malarial compound available. A common practice in tropical British colonies was to soften quinine’s bitter flavour by adding gin. Australia today has thankfully outgrown many of its more negative colonial echoes, but it still retains one old habit which has now gone global: taking the edge off the muzzies with a cool gin & tonic.



The Complaint

11. The complainant objects to the marketing of the three gin products on the Cannabis Co website due to their 'Health Benefits' claims.

The ABAC Code

12. Part 3 of the ABAC Code provides that a Marketing Communication must NOT:
 - (c)(iv) suggest that the consumption of an Alcohol Beverage offers any therapeutic benefit or is a necessary aid to relaxation

The Company's Response

13. The Company responded to the complaint by letter dated 19 February 2020. The principal points made by the Company were:
 - a) It is our intention to comply with ABAC and industry standards and so we provide the following amendments to our web page with the intention of meeting these standards in full.
 - i. Relabelling of "Health Benefits" - With the intention to dispel any connection of alcoholic beverages listed on www.cannabiscompany.com.au as having a direct therapeutic benefit, we have removed the "health benefits" tab on all alcohol related product pages. We have re- titled this section to coincide with the specific Botanical Terpene within each product accordingly (eg. "MYRCENE", "LIMONENE") for the purposes of providing contextual background information relating to the Terpene itself. At present there is no mention or suggestion that the consumption of any alcoholic product available will provide any therapeutic benefit and we hope the panel will agree this this appropriately clarifies the information therein as related to the Terpene itself and not the alcoholic beverage.
 - ii. Revision of Advertisement Copy - We have taken the opportunity to further revise the advertisement copy listed formerly under "Health benefits". Amendments have been made to the nature and spirit of the text to ensure compliance with Part 3 (c)(iv) of the code. The revised text features commentary on Terpene's MYRCENE and JILUNGIN, specifically referencing their historic, gustatory and emerging scientific herbal properties. We understand it is not the position of the panel to evaluate and make conclusions on scientific research but would like to further emphasise, the purpose of this commentary is the provision of thought provoking and engaging background information on Terpenes themselves rather than the making of a claim or promise in relation to medicinal or therapeutic benefit of an alcoholic beverage.
 - iii. Disclaimer - Additional written text has been added to the aforementioned copy to clarify that the alcoholic beverage is not intended or formulated as a medicinal product and should not be consumed as such.

The Panel's View

Introduction

14. The Cannabis Co is a relatively new Australian company which produces and markets a wide range of products which are derived from or include elements taken from the cannabis plant. The Company's formation followed the legalisation of the sale of hemp for human consumption in November 2017. The Company's product range includes hemp oil, hemp flour and hemp protein. The Company also produces products for pets and hemp artworks.
15. In November 2018 the Company began to market an alcohol beverage - Myrcene Hemp Gin. While only a small initial run of the product was made, it proved to be popular and subsequently the Company added two further gins to their range namely Jilungin Dreaming and High Seas Navy Strength Hemp Gins. This determination concerns aspects of the marketing of these alcohol beverages.
16. A consistent theme in the marketing of the Company's products of all types relates to the beneficial properties of the cannabis plant. In part the benefit of hemp is argued to include health benefits in areas such as pain management, inflammation reduction and improving sleep. These benefits are said to flow from terpenes which are an organic hydrocarbon found in the essential oils of a many plants including cannabis. It seems that cannabis is particularly rich in terpenes.
17. It should be stressed that none of the Company's range of products contain tetrahydrocannabinol (THC) which is the principal psychoactive substance found in the cannabis plant. In other words, the Company's products will not make a person 'high' and all of the products including the range of alcohol beverages are perfectly legal products for sale and use in Australia.

The Complaint and the ABAC

18. The complaint goes to a number of pages found on the Company's website which describe the three gin products and in particular the Myrcene Hemp Gin. The complainant argues that these pages make claims about the health benefits of the alcohol beverage.
19. The ABAC provides that a marketing communication for alcohol must not suggest that the consumption of an alcohol beverage offers any therapeutic benefit or is a necessary aid to relaxation. The issue is whether the website does suggest the consumption of the Company's gin products offers health or therapeutic benefits in breach of the ABAC standard.
20. In response to the complaint, the Company did not seek to argue that its website pages were consistent with the ABAC standard, but rather amendments to the webpages are proposed to ensure compliance with the standard. While not a signatory to the ABAC scheme, the Company states 'it is our intention to comply with ABAC and industry standards'.
21. The Panel's role is to assess the Company's marketing communications as at the time of the complaint. The Panel does not provide advisory opinions about the consistency of marketing copy against the Code. This is because the Panel

operates in accordance with the principles of natural justice and procedural fairness in undertaking the adjudication task. Marketing which has been modified following a Panel determination might still in the future be subject to another complaint requiring adjudication and it would be inconsistent with the adjudication process for the Panel to have pre-judged the issue by providing prior advice on compliance to an alcohol marketer. In contrast the ABAC pre vetting service operates to provide independent advice to marketers and the Company is advised to use this service in gaining an expert opinion on its marketing communications.

22. The Panel believes that the Company's website as at the time of the complaint was inconsistent with the Part 3 (c)(iv) standard. The website does place weight on the health benefits of myrcene as an abundant terpene in cannabis. While the therapeutic benefits (including - anti-bacterial, anti-diabetic, anti-inflammatory, anti-insomniatic) are attributed to the myrcene terpene and not to the alcohol beverage as such, a reasonable person reading the sections of the website related to the gin products would take that the claimed benefits would flow from consuming the alcohol beverage.
23. The website also makes claims as to the health benefit of juniper berries which could reasonably be taken to be accessed through consumption of the product. Further claims made which are inconsistent with the ABAC standard are:
 - linking the 'health -giving properties' of hemp with the distillation process for the gin;
 - references to 'adding myrcene for its joyful sense of euphoria alongside its relaxation-inducing qualities'; and
 - linkages to the product and claims as to the 'old school pharmaceutical gins' being used to treat medical problems.
24. Taken as a whole the website's references and descriptions of the gin products contain various claims which a reasonable person would probably understand as suggesting that the consumption of the products has a therapeutic benefit.
25. Accordingly, the complaint is upheld. As mentioned, the Company is encouraged to seek advice from the ABAC pre vetting service in re-crafting its website and other advertising material to achieve consistency with the ABAC standards.