



## ABAC Adjudication Panel Determination No. 36/20

**Product:** Impression Gin  
**Company:** Impression Gin  
**Media:** Digital (Instagram & Website)  
**Date of decision:** 27 April 2020  
**Panelists:** Professor The Hon Michael Lavarch (Chief Adjudicator)  
Ms Debra Richards  
Professor Richard Mattick

### Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) concerns posts on the website and Instagram account of Impression Gin (“the Company”) and arises from a complaint received 17 April 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 17 April 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.

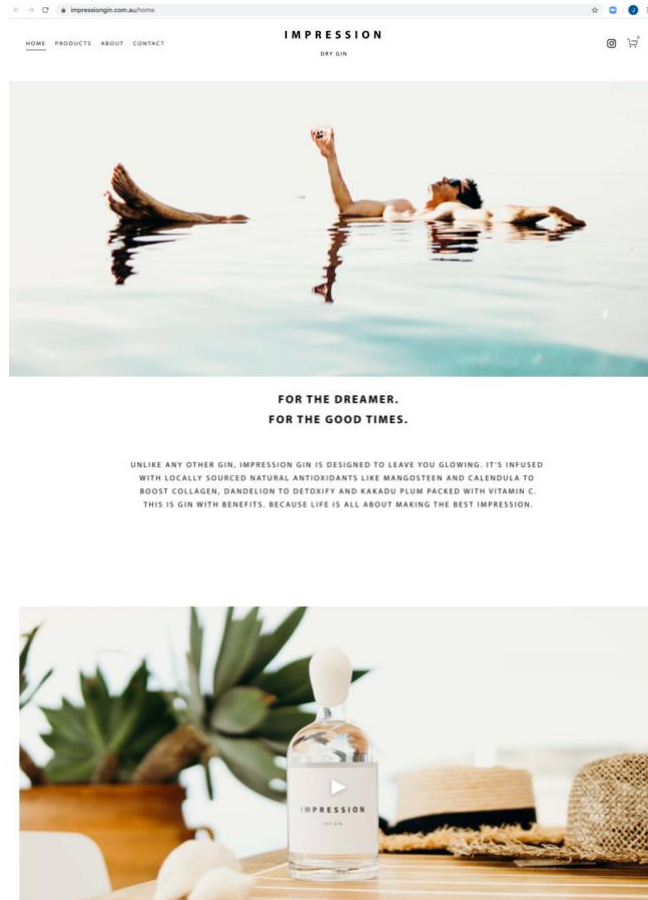
### **Pre-vetting Clearance**

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 posts on the Impression Gin website & Instagram account.

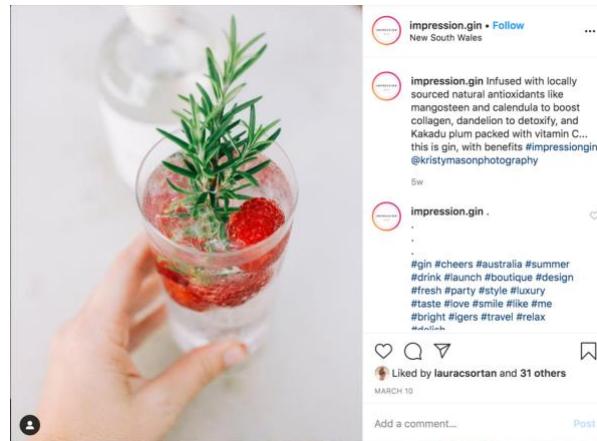
Website extract - [www.impressiongin.com.au](http://www.impressiongin.com.au)



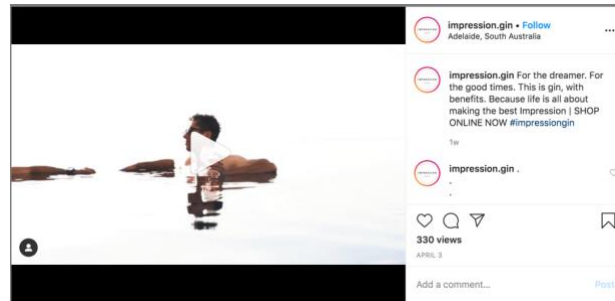
Instagram Post – 28 January 2020



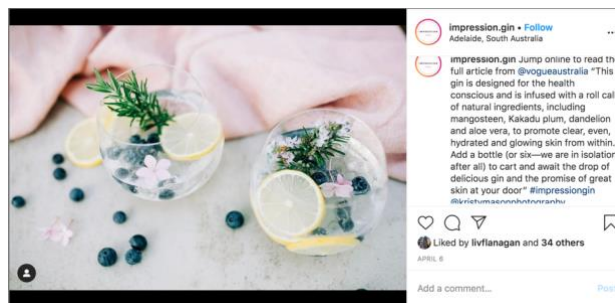
Instagram Post – 10 March 2020



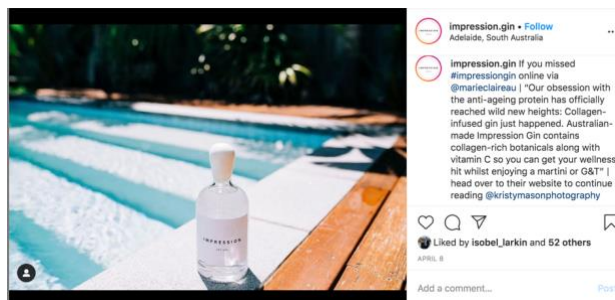
Instagram Post – 3 April 2020



Instagram Post – 6 April 2020



Instagram Post – 8 April 2020



## Instagram Post – 14 April 2020



### The Complaint

11. The complainant objects to the website and Instagram posts on the basis that they claim that an alcohol product has health benefits and contain unsubstantiated health 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 email dated 21 April 2020. The principal points made by the Company were:
  - a) We respect that everyone has the right to their own opinion so take on board all that was said in the complaint made. We were not aware that we were in breach of the code and have no issue at all in changing any of the language used on the posts mentioned and going forward.
  - b) In regard to the comments mentioned from Womens Health, Vogue and Marie Claire, we have no control over what they write, but we can make sure that what we extract and share from them does not in any way suggest any therapeutic benefit.

### The Panel's View

14. Impression gin is a very recent addition to the Australian alcohol market having been launched in late March 2020. The release of the product was accompanied by a number of articles in various online publications and from these sources it seems the inspiration for the gin has come from fitness instructor Cherida Forde and winemaker Dan Khoussam. The Company is positioning its product within a crowded

Australian gin market as being appealing to consumers who are 'health conscious, keep fit and eat well but still like a good time with friends'.

15. Marketing of the product is occurring via standard digital channels such as the Company's own website and social media platforms such as Instagram. The complaint raises concern about some of the statements on the website and in some Instagram posts which are claimed to offend the ABAC standard contained in Part 3(c)(iv) of the Code. This standard provides that an alcohol marketing communication must not suggest that the consumption of an alcohol beverage offers any therapeutic benefit.
16. In assessing the consistency of a marketing communication with an ABAC standard the Panel is to adopt the probable understanding of the marketing item by a reasonable person. This means that the life experiences, values and beliefs common in a majority of the community is to be the benchmark.
17. The complainant points to a number of statements which it is argued offend the ABAC standard. The Company in response implicitly accepts that the language used is in breach of the Code, although it is pointed out that the Instagram posts often contain extracts from media articles about the product rather than being direct statements from the Company. That said, the Company correctly acknowledges that it is its responsibility to market consistently with regulatory standards and this responsibility is not negated by adopting the words of others.
18. The Company is entitled to choose its brand posture and highlight that its gin is distilled in a particular fashion and contains various elements. What it cannot do is then suggest that either the manner in which the product is made or its constituent parts, results in the consumption of the product giving a consumer positive health benefits. It is clear that a number of the Instagram posts and some statements on the Company's website breach the ABAC standard.
19. For brevity, the Panel makes the following conclusions on the identified marketing communications:
  - Website statement - in breach through language, 'leave you glowing', 'boost collagen' and 'to detoxify'
  - Instagram post 28 January - in breach through statement 'designed to leave you glowing'
  - Instagram post 10 March - in breach through statements 'boost collagen' and 'to detoxify'
  - Instagram post 3 April - not in breach
  - Instagram post 6 April - in breach through statements 'to promote clear, even, hydrated and glowing skin' and 'the promise of great skin'
  - Instagram post 8 April - in breach through statement 'you can get your wellness hit'
  - Instagram post 14 April - in breach through statements 'to detoxify' and 'sipping on a G&T will essentially be an act of self care'
20. It is recognised that the Company is a very new entrant to the alcohol market and is not currently a signatory to the ABAC scheme. The willingness of the Company to accept its marketing needs to meet good community standards embodied in the

ABAC together with its swift engagement in the complaint process is noted. The Company would be well advised to engage with the ABAC pre vetting service in developing its major marketing materials so that an independent opinion is obtained as to compliance with marketing standards prior to materials being used.

21. The complaint is upheld as detailed in paragraph 19.