



ABAC Adjudication Panel Determination No 144/21

Product: Hemp Semillon
Company: Dormilona
Media: Company's website
Date of decision: 19 July 2021
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Ms Jeanne Strachan
Professor Richard Mattick

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) arises from a complaint received on 24 May 2021 and concerns website marketing for Hemp Semillon (“the Product”) by Dormilona (“the Company”).
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 are within the Panel’s jurisdiction.

The Complaint Timeline

7. The complaint was received on 24 May 2021.
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 not completed in this timeframe due to delays in the receipt of a response from the advertiser.

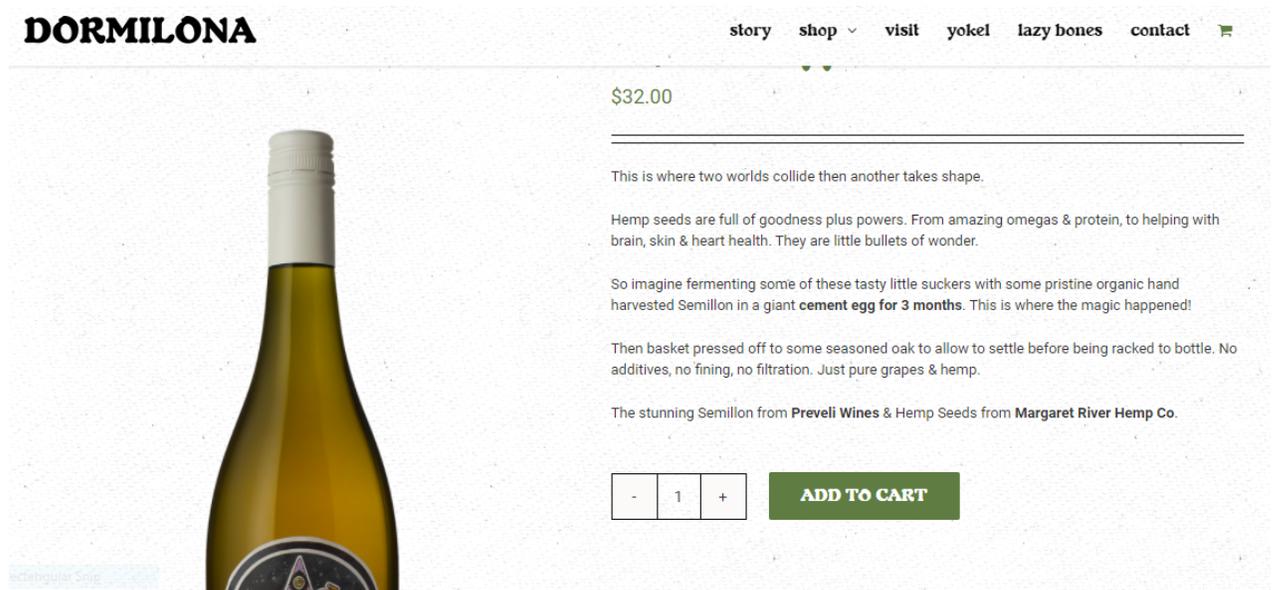
Pre-vetting Clearance

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 the marketing.

The Marketing

10. This determination relates to marketing for the Product on the Company's website:

<https://www.dormilona.com.au/product/hemp-semillon-2020/>



The screenshot shows the product page for Dormilona Hemp Semillon 2020 wine. The page features a navigation bar with links for 'story', 'shop', 'visit', 'yokel', 'lazy bones', and 'contact'. The product name 'DORMILONA' is prominently displayed. The price is listed as \$32.00. The description reads: 'This is where two worlds collide then another takes shape. Hemp seeds are full of goodness plus powers. From amazing omegas & protein, to helping with brain, skin & heart health. They are little bullets of wonder. So imagine fermenting some of these tasty little suckers with some pristine organic hand harvested Semillon in a giant cement egg for 3 months. This is where the magic happened! Then basket pressed off to some seasoned oak to allow to settle before being racked to bottle. No additives, no fining, no filtration. Just pure grapes & hemp. The stunning Semillon from Preveli Wines & Hemp Seeds from Margaret River Hemp Co.' Below the text is a quantity selector showing '1' and an 'ADD TO CART' button.

The Complaint

11. The complainant has the following concern about the marketing:
- *This page is a listing for a Hemp Semillon that contains the text "Hemp seeds are full of goodness plus powers. From amazing omegas & protein, to helping with brain, skin & heart health. They are little bullets of wonder."*
 - *This wine is making a health claim about the benefits of hemp. Making a health claim about an alcohol product is inappropriate.*

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 Response

13. The Company responded to the complaint on 15 July 2021 as follows:
- This wine was made from 1.5 tone Semillon that was hand harvested, destemmed & placed into a large format concrete egg. The 5 kg of Hemp seed were placed into a double lined large synthetic tea bag. It was then submerged into the egg. Then grapes & Hemp seed tea bag 0.003% remained on skins for three months before removing the tea bag totally then pressing the grapes off to barrel. Therefore the Hemp seeds are only imparting flavour into the wine & nothing else.
 - I had the wine checked via lab in Perth – am currently working from home, will scan & send as soon as back in the winery. I did this before releasing the wine into the market place. The wine came back clear so it was labeled then released.
 - I searched the web for information about advertising & labelling requirements for Hemp alcohol related products. Only found 'no usage of the plants leaf' on packaging. I also made sure the Hemp seeds I used were of food standards & I followed Hemp labelling standards along with the wine on the packaging plus website.
 - The website is simply stating the amazing advantages you can gain from Hemp seeds as a product. I do not state that drinking the wine will have this effect.

- This wine has recently sold out. The web shop has been given a refresh for the new vintage coming through & the wine is no longer shown.

The Panel's View

14. Dormilona is a Western Australian wine maker located in the Margaret River district. Also from this district is the Margaret River Hemp Co which is a grower and manufacturer of various hemp-based products. This determination concerns the website description of a Hemp Semillon wine which combines hemp seeds and Semillon grapes.
15. The complainant argues that the website entry for the wine makes claims about the health benefits of the product. Part 3 (c) (iv) of the ABAC provides that an alcohol marketing communication must not suggest that the consumption of alcohol offers any therapeutic benefit or is a necessary aid to relaxation. The Company advised that:
 - the hemp seeds impart flavour and nothing else into the wine;
 - hemp labelling standards were observed in relation to the packaging and website; and
 - the website is simply stating the amazing advantages you can gain from Hemp seeds as a product, but do not state that drinking the wine will have this effect.
16. The Company's website entry espouses the claimed health benefits to be gained from hemp seeds - 'full of goodness plus powers ... to helping with brain, skin & heart health'. The entry goes on to explain that the hemp seeds are fermented with Semillon where 'the magic happened'. It is open to the Company to produce its Hemp Semillon and the combination of the hemp seeds, and the wine can be marketed. What the ABAC standard in Part 3 (c) (iv) does not permit are claims that the consumption of the product will lead to health benefits. The Panel believes that by linking the factual references to the benefits of hemp seeds to the wine product by describing the incorporation of hemp seeds into the fermentation process as being where 'the magic happened', a fair reading of the website entry as a whole is that the product will help with brain, skin, and heart health and such an implication is a breach of the ABAC standard.
17. The complaint is upheld.