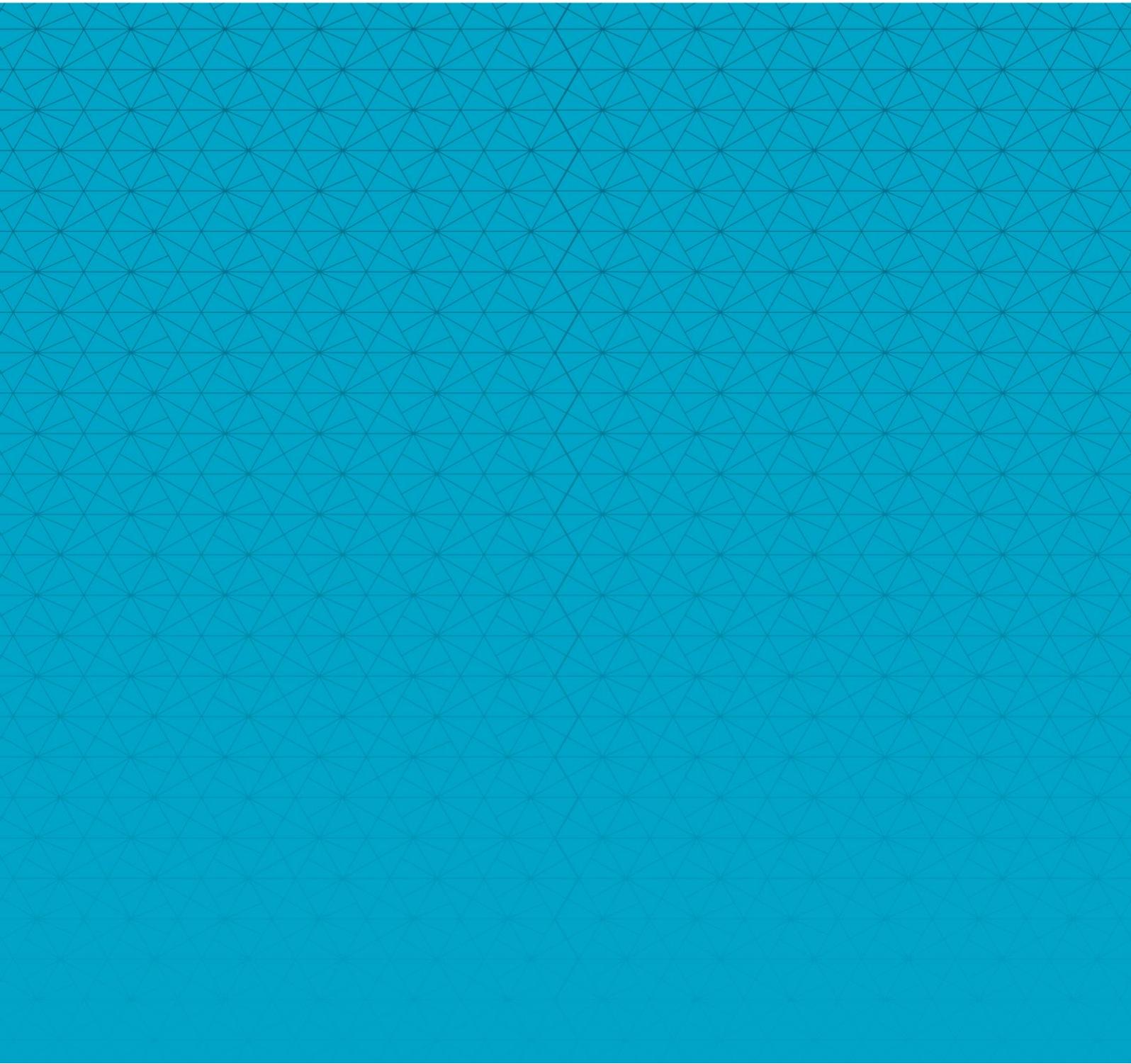


Australia's Responsible Alcohol Marketing Scheme

2021 Second 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.

ABAC's free comprehensive online training course and video series launched in March is the easiest and most comprehensive way for alcohol marketers and their agencies and media partners to gain a strong understanding of the ABAC standards and how to apply them to proposed marketing material. The course and other resources are easily accessible through the ABAC website via this [link](#). We commend the 215 individuals who have completed the course and demonstrated their commitment to responsibility in their marketing. The positive feedback we have received on how helpful the course has been shows it to be a very worthwhile use of 1¼ hours for anyone involved in the marketing and packaging of alcohol and we encourage all industry participants to make use of this service.

Panel activity continued strongly this quarter, with breaches relating primarily to social media posts (mostly on Instagram), but also covering packaging, placement (Tik Tok and radio) and a brand website. The most common breach of Code standards this quarter related to alcohol use with swimming and other activities that require a high degree of alertness/physical co-ordination. Care needs to be taken that alcohol use is not shown with these activities. All marketers have removed material found to be inconsistent with ABAC responsible marketing standards.

It is important for alcohol marketers that engage with influencers to be aware that Instagram have now caught up with Facebook in allowing age restriction of individual posts, enabling influencers to age restrict posts promoting an alcohol brand. The ABAC placement rules require available age restriction controls to be applied. Instructions on how to apply this age restriction can be accessed [here](#).

Ad Standards administers the AANA Code of Ethics which requires advertisers and influencers that have commercial arrangements with brand owners to clearly disclose that arrangement in a way that can be easily understood by every consumer - using obvious hashtags like #Ad or #PaidPartnership, rather than simply tagging the advertiser or thanking them in the post. The updated rules under Section 2.7 of the [AANA Code of Ethics](#) help audiences distinguish paid content from user-generated content and apply to both timeline posts and temporary content such as Instagram Stories. A practice note on this provision can be accessed [here](#).

KEY STATISTICS

Complaints	121
Raising Code issues and referred to the Panel for determination	100
Not raising Code issues*	21
Raising an issue previously considered by the Panel	0
Complaint withdrawn	0
Determinations	62
Upheld**	32
Upheld as a No Fault Breach	1
Dismissed	29
Pre-vets	729
Rejected	112

* Complaints that did not raise Code issues either fell outside the scope of the scheme as they were not promoting an alcohol product, frequency or existence of alcohol ads, or raised concerns outside ABAC standards such as reinforcing gender stereotypes, offensive to religious, distasteful, failure to disclose it is advertising, violence, and misleading which can fall within the scope of the AANA Code of Ethics which is administered by Ad Standards.

** Upheld decisions related to marketing that was not pre-vetted

RECENT ALCOHOL MARKETING COMPLAINTS

Breach of ABAC Standards

Ned Whisky (complaint regarding content)

Complaint: Two posts demonstrate drinking alcohol while swimming/surfing, a third shows a 24 year old and a fourth implies social success from drinking Ned Whisky.

ABAC standard: Alcohol marketing cannot:

- depict a visually prominent under 25 year old unless they are not a paid model or actor and are shown in an age restricted marketing communication;
- show consumption or presence of alcohol as a cause of or contributing to social success; or
- show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Decision: Two posts directly imply alcohol consumption before or during swimming/surfing and breach the ABAC. The other two posts don't breach ABAC standards, one post shows an unpaid 24 year old in an age restricted marketing communication and the other would be understood as an interaction between employees and patrons rather than a suggestion alcohol will cause social success.

The posts were removed on notification of the complaint.



Woolshed on Hindley (complaint regarding content)

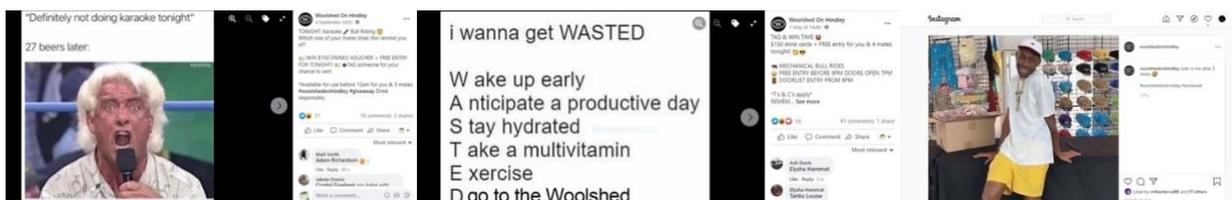
Complaint: Instagram posts promote excessive drinking and suggest that alcohol will cause a change in mood.

ABAC standard: Alcohol marketing cannot:

- show or encourage the excessive or rapid consumption of alcohol; or
- suggest the consumption or presence of an alcohol beverage may create or contribute to a significant change in mood or environment.

Decision: The Panel believes all three posts reference excessive consumption of alcohol and two suggest that the consumption of alcohol changes mood.

The posts were removed.



Cream Soda Sour Ale (complaint regarding content)

Complaint: Packaging could appeal to children and be confused with a soft drink.

ABAC standard: Alcohol marketing cannot have strong or evident appeal to minors.

Decision: The packaging, when viewed as a whole, has strong or evident appeal to minors, noting:

- while the term 'Ale' is a strong signifier of a product being alcoholic beer, the front of the can label with its depiction of a milkshake, striped background, and descriptor of 'Cream Soda' raises a real prospect the product might be confused with a soft drink;
- while the packaging might invoke a sense of nostalgia amongst adult consumers based upon a memory of drinking soft drinks and milkshakes as a minor, the appeal of soft drinks and milkshakes for minors remains strong and has not 'faded' as contended by the Company;
- the packaging creates a relatable image for minors and suggests a smooth transition from a non-alcoholic to an alcoholic beverage;
- the use of bright and contrasting colours would likely be eye-catching for minors; and
- while a milkshake is consumed across the population it is a product consumed more frequently by minors than adults.

The Company advised the packaging was sold out and would be modified before a further batch.



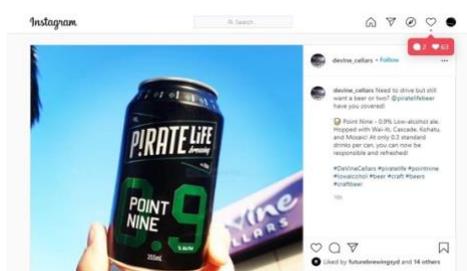
DeVine Cellars (complaint regarding content)

Complaint: Instagram post suggests drinking beer and driving.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Decision: The Panel found that the standard is clear cut and does not permit depictions of alcohol use before or during any activity requiring alertness or physical co-ordination (driving). The product's low alcohol strength is not an exception.

The Instagram post was removed on notification of the complaint.



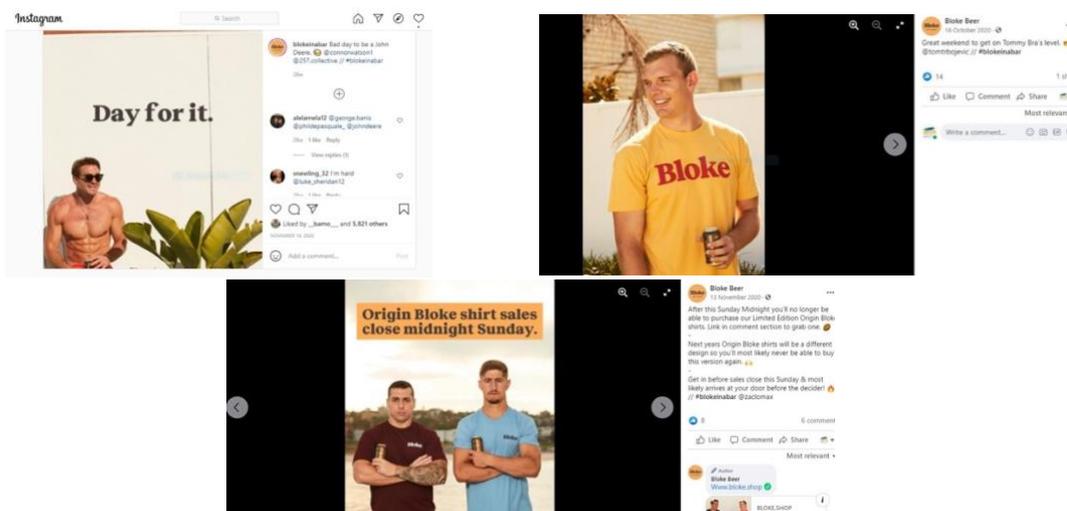
Bloke Lager (complaint regarding content)

Complaint: Three posts featuring people aged under 25.

ABAC standard: Alcohol marketing cannot depict an adult who is under 25 years of age except in limited circumstances.

Decision: The posts all show under 25 year olds in Instagram posts that are not age restricted. While two of the posts were promoting clothing items and one was not intended to be an alcohol promotion, each of the posts include the person holding a 'Bloke' branded beer. Where a business retails alcohol, placing the alcohol products in social media posts will be considered alcohol marketing communications within the scope of the Code, even if they were also promoting another product or were not intended to promote the brand.

The posts were removed on notification of the complaint.



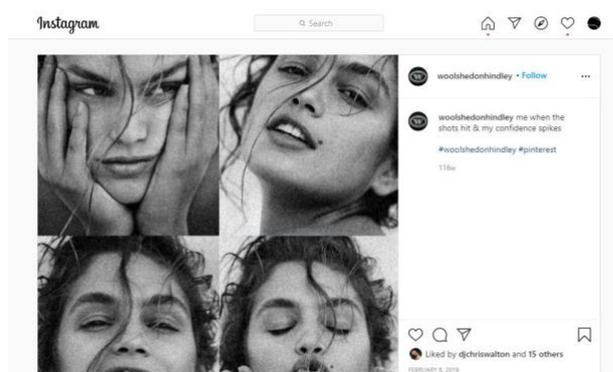
Woolshed on Hindley (complaint regarding content)

Complaint: Instagram post implies a significant change in mood from drinking alcohol.

ABAC standard: Alcohol marketing cannot suggest that the consumption or presence of alcohol may create or contribute to a significant change in mood or environment.

Decision: The Panel found that the photographs would not of themselves be a breach of the Code standard. They do not show or imply alcohol use. However, the caption suggests that consuming shots (which a reasonable person would assume to mean alcoholic shots) significantly improves a person's confidence.

The Instagram post was removed.



Jimmy Brings (complaint regarding content)

Complaint: That an Instagram post encourages excessive consumption of alcohol.

ABAC standard: Alcohol marketing cannot show or encourage the excessive or rapid consumption of alcohol.

Decision: The Instagram posts rely on humour based on an underlying assumption that it is acceptable to drink excessively or rapidly on occasion and it is this underlying assumption that is inconsistent with the ABAC standard.

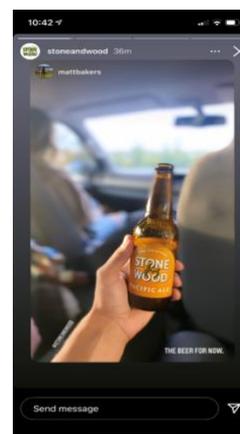


Stone & Wood Pacific Ale (complaint regarding content)

Complaint: Showing alcohol being consumed by a passenger in a motor vehicle is illegal.

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

Decision: It is unlawful for passengers to consume alcohol and/or for there to be an opened alcohol container in Queensland, Western Australia, Tasmania, and the ACT. This is not the case in New South Wales, Victoria, and South Australia. Given the variable legal position, it would be prudent to not show alcohol being consumed in a motor vehicle.



The post was removed on notification of the complaint.

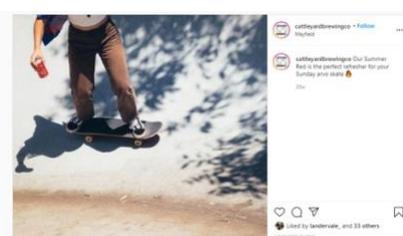
Cattleyard Brewing Summer Red (complaint regarding content)

Complaint: Instagram post demonstrates drinking alcohol while skateboarding.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination.

Decision: The Panel found the standard had been breached by a combination of an image of a person skateboarding while holding a can of beer and the caption referring to the product as perfect for a Saturday arvo skate.

The Instagram post was removed on notification of the complaint.



Blackflag Beer (complaint regarding content)

Complaint: The first post creates an appeal to minors through using candy branding. The second and third posts show drinking while swimming. The fourth post uses offensive language.

ABAC standard: Alcohol marketing cannot:

- show or encourage irresponsible behaviour related to the consumption or presence of alcohol;
- have strong or evident appeal to minors;
- show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

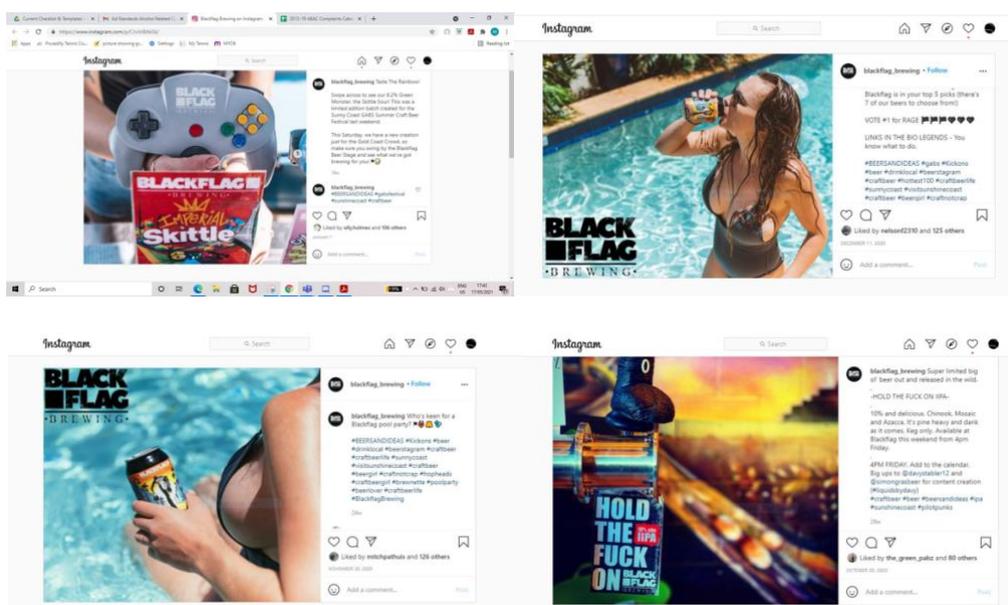
Decision: The first post has strong or evident appeal to minors, in particular:

- the branding resembles that employed by the popular confectionary, Skittles, adopting the same font, packaging, colouring and rainbow motif used on the confectionary packaging;
- the accompanying text reference to 'taste the rainbow' is drawn from skittles confectionary;
- placing the branding with a gaming control increases its familiarity with minors; and
- the overall impact raises the illusion of a smooth transition from a non-alcoholic product to use of an alcohol beverage.

The second and third posts breach the ABAC standard preventing alcohol consumption before or during swimming. The woman is wet and appears to have been swimming, but is still shown either on the edge of or in the swimming pool in her bathers, with no cues that she has concluded swimming for the day. The Panel is of the view that a reasonable person would consider it likely that the woman will resume swimming after consuming the alcohol beverage or that swimming while consuming alcohol is acceptable. The caption with the second post reinforces this understanding with the statement, 'Who's keen for a Blackflag pool party?'.

The fourth post showing a beer named 'Hold the Fuck On IIPA' doesn't breach an ABAC standard, but rather raises the issue of whether the language is acceptable within the community, a AANA Code of Ethics issue.

The posts were removed on notification of the complaint.



DDH Stunner (complaint regarding content)

Complaint: Packaging features wrestling, which could promote irresponsible behaviour, a professional wrestler associated with drunkenness and a history of violence against women and encourages excessive consumption.

ABAC standard: Alcohol marketing cannot:

- show or encourage the excessive or rapid consumption of alcohol; or
- show or encourage irresponsible or offensive behaviour related to the consumption or presence of alcohol.

Decision: The Panel believes the packaging breaches the Part 3 (a) (i) and (ii) standards, noting:

- the product name, 'Stunner', may have been drawn from a wrestling move but would not in isolation of other cues be associated by a reasonable person with wrestling as such;
- the can, however, creates a storyboard depiction of a wrestling match;
- professional wrestling is understood to be a staged, managed 'sport' which depicts acted violent throws and holds;
- 'Stone Cold Steve Austin' is the inspiration for the victorious wrestler depicted on the can, although this would likely be understood by only some and not all consumers; and
- the panel displaying two cans of beer being poured in victory is creating a direct association between the presence of alcohol and rapid consumption and the staged violence of the wrestling.

The company agreed to modify the packaging.



Basic Babe (complaint regarding placement)

Complaint: Basic Babe posts to a TikTok account are highly likely to be seen by minors as the platform is heavily used by minors and has no age gating.

ABAC standard: Alcohol marketing must not be placed where the audience is expected to be >25% minors.

Decision: The Panel found that without access to an age demographic breakdown of users and given the apparent popularity of the platform with under 18 year olds, together with TikTok's position on alcohol advertising, it is not reasonable to expect that the current audience of posts on TikTok would be at least 75% adult as required by Placement Rule 3.

The account was made unviewable on notification of the complaint.

Gage Roads (complaint regarding content)

Complaint: Instagram post featuring a 24 year old Surfer to promote a collaboration with Rusty.

ABAC standard: Alcohol marketing cannot show images of under 25 year olds, unless:

- they are not visually prominent; or
- they are not a paid model or actor and are shown in a Marketing Communication that has been placed within an Age Restricted Environment.

Decision: The Panel found the post featured a 24 year old, and while the post was placed in an age restricted environment, the exception did not apply as the 24 year old is sponsored by Rusty, Gage Roads partner in the competition being promoted.

The Company removed the post on notification of the complaint.



Easy Street Seltzer (complaint regarding content)

Complaint: Confectionary based products targeting minors and not showing alcohol content.

ABAC standard: Alcohol marketing cannot have strong or evident appeal to minors.

Decision: The Panel dismissed the complaint in relation to cocktail and liqueur products but found the packaging of the Lime and Mango Easy Street Hard Seltzers to breach the Part 3(b) standard, noting:

- the packaging does not clearly identify the product as being alcoholic and it could be easily confused with a fruit flavoured soft drink;
- the use of fruit images and the terms 'lime' and 'mango' combined with the lack of a highly prominent alcohol term further increases the prospect of confusion with a soft drink; and
- the packaging imagery is relatable to minors and raises an illusion of a smooth transition from non-alcoholic to alcoholic beverage.

The Company agreed to modify the packaging.



Unicorn Vodka Liqueur (complaint regarding content)

Complaint: The packaging would be strongly appealing to minors and the website fails to use an age gate.

ABAC standard: Alcohol marketing cannot have strong or evident appeal to minors and available age restriction controls must be applied.

Decision: The Panel found that a rudimentary age gate was used on the website and therefore there was no breach of the placement rules, but the design of the packaging breaches the Part 3(b) standard, noting:

- the unicorn name and imagery is used on many products and services which are directed towards minors and while this does not preclude the use of the unicorn name or images on alcohol branding it does create an inherent possibility of the branding having a strong appeal to minors; and
- the Company's labelling uses a unicorn image, which combined with the colour of the products and the addition of the 'shake me' message, gives the label a strong appeal to minors due to:
 - the creation of an illusion of a smooth transition from non-alcoholic to alcohol beverages;
 - the use of imagery familiar to minors; and
 - the creation of a relatable product for minors.

The Company agreed to modify the packaging.



Miss pINK - Strawberry Vodka Liqueur



Unicorn Elixir - Tropical Vodka Liqueur



Unicorn Elixir Tropical GIN Liqueur



Unicorn Kisses, Strawberry Vodka Liqueur



Unicorn Tears - Salted Caramel Vodka Liqueur



Unicorn Espresso Martini

Bloke Lager (complaint regarding content)

Complaint: Instagram posts show a man drinking beer on a construction site, a 24 year old promoting the product and the owner with his arms up in a fight pose.

ABAC standard: Alcohol marketing cannot show:

- the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination;
- images of under 25 year olds; or
- alcohol related offensive behaviour.

Decision: The Panel found the post showing the owner in a fight pose is clearly tongue in cheek and would not be seen as promoting offensive behaviour. However, the post featuring a 24 year old posing with a can of the product is in breach of Part 3(b)(iii) and the post showing a man wearing safety clothing and moving metal piping while holding a beer directly implies alcohol consumption while working on a construction site.

The Company removed the posts on notification of the complaint.



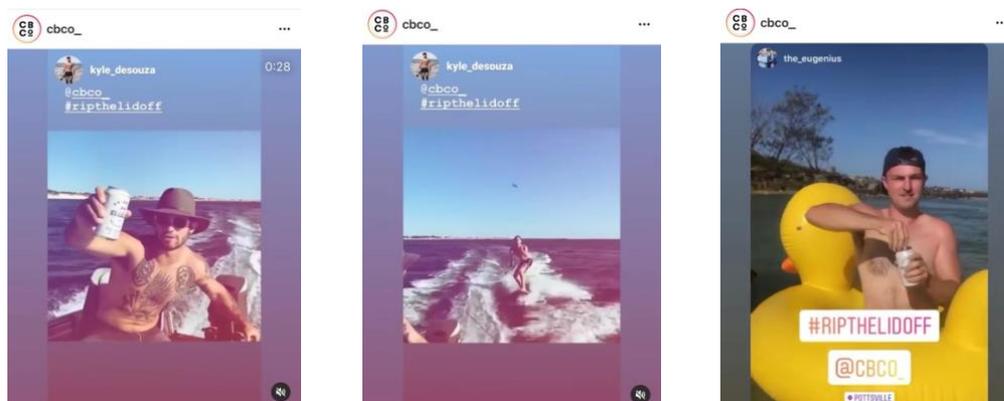
Colonial Brewing (complaint regarding content)

Complaint: Instagram posts demonstrate drinking alcohol during high risk activities.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Decision: The Panel dismissed a complaint about a post showing a man holding a surfboard, where it appeared he had concluded his surfing, but found the standard had been breached by a second post that showed or directly implied alcohol consumption occurring while operating a speedboat, wakeboarding and floating in a river.

The Instagram post was removed.



Evening Glass Off DIPA (complaint regarding content)

Complaint: Instagram post demonstrates drinking alcohol while swimming.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Decision: The Panel found the standard had been breached noting:

- the most likely interpretation is that the can was placed on the surfboard by a surfer with the shot showing the point of view of the surfer;
- it is probable the can has been opened given its ring pull is visible in a raised position, and this creates a strong inference of consumption;
- the accompanying text reinforces a direct implication of consumption in conjunction with surfing/swimming through the phrases -'Great way to start the day with an @swellbrewingco Evening Glass Off DIPA' and 'Perfect accompaniment to a summers day on the water'; and
- while no one element alone is decisive, a reasonable person taking the content of the post as a whole would most probably understand the post as showing alcohol use while surfing/swimming.

The Company removed the post on notification of the complaint.



Beach Beer Bondi (complaint regarding content)

Complaint: Instagram post demonstrates drinking alcohol during the high risk behaviour of swimming.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Decision: The Panel found that the post doesn't depict the woman physically swallowing alcohol, but the reasonable implication is that alcohol might well be consumed while in the pool. Swimming and engaging in water activities does require alertness to be conducted safely.

The Instagram post was removed on notification of the complaint.



Yuzu Koji Rice Lager (complaint regarding content)

Complaint: Instagram post demonstrates drinking alcohol while swimming.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Decision: The Panel found that while it's not entirely clear from the image whether the man is actually in the water, the most probable understanding of the post is that alcohol consumption is occurring or is implicitly endorsed as being acceptable with swimming and this message is inconsistent with the Part 3 (d) standard.

The Instagram post was removed on notification of the complaint.



Milo Imperial Brown Ale (complaint regarding content)

Complaint: The Instagram post could appeal to minors by referencing Milo.

ABAC standard: Alcohol marketing cannot have strong or evident appeal to minors;

Decision: The Panel found the Instagram post breaches the Part 3(b) standard, noting:

- the post is clearly modelled on the non-alcoholic product, Milo, and clearly states that the beer is made with this product;
- Milo is a product used to flavour milk and is consumed more heavily and appeals directly to minors;
- the post raises a strong inference of an alcoholic product that could be similar to chocolate milk creating a strong appeal to minors;
- while the term 'ale' would be recognised by beer drinkers, the most prominent reference is the 'Milo' logo and colour scheme and the overall impression created by the packaging is not of an alcohol beverage and may create confusion with a soft drink; and
- taken as a whole a reasonable person would probably understand the post as having a strong or evident appeal to minors.

The Company removed the post on notification of the complaint.



Shot Bucket (complaint regarding content)

Complaint: Shot Bucket could be attractive to children due to its bright pink logo, multicoloured foil lids on shots and flavours that could be confused with a non-alcoholic drink.

ABAC standard: Alcohol marketing cannot have strong or evident appeal to minors;

Decision: The Panel found the design of the packaging breaches the Part 3(b) standard, noting:

- the labelling fails to adequately identify the product as a whole as an alcoholic beverage and gives rise to potential confusion with confectionery;
- the names Jam Donut, Ginger Kiss, Salted Caramel and Butterscotch, given the overall lack of clarity as to the alcoholic nature of the product, give rise to potential confusion with a dessert or other confectionery;
- the strapline 'A Party in every Bucket' has strong appeal to minors; and
- these elements combined lead to confusion with confectionery and would appeal strongly to minors.

The Company agreed to modify the packaging.



Riot Wine (complaint regarding content)

Complaint: Instagram post promotes drinking while swimming and riding inflatables.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Decision: The Panel found that the post depicts the consumption of alcohol during activities which require a high degree of alertness or physical coordination to be performed safely.

The Instagram post was removed on notification of the complaint.



Basic Babe Seltzer (complaint regarding content)

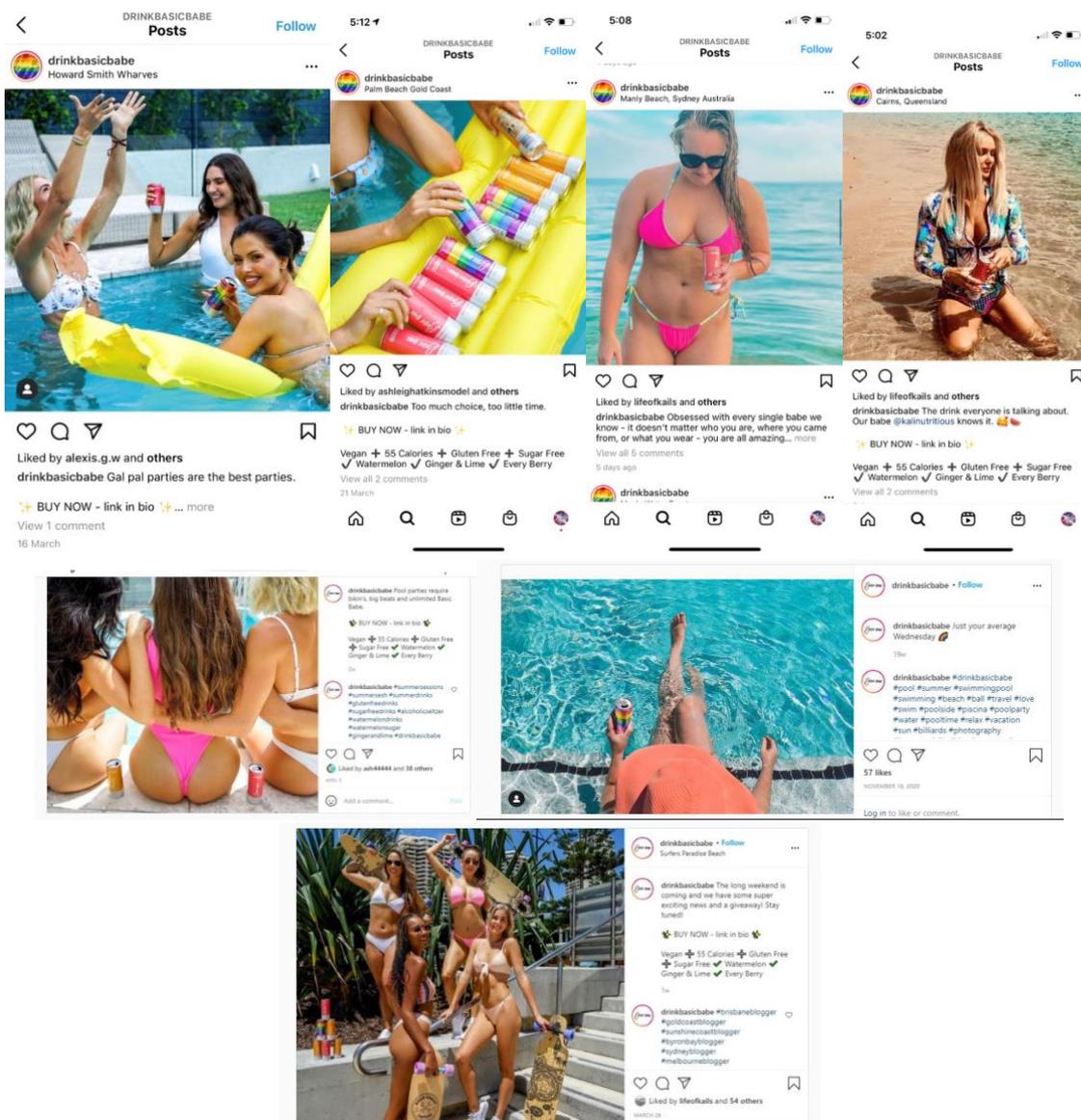
Complaint: Instagram post demonstrates drinking alcohol while swimming.

ABAC standard: Alcohol marketing cannot:

- show alcohol related irresponsible behaviour;
- have strong or evident appeal to minors;
- include images of under 25 year olds;
- show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Decision: The Panel found that six of the posts directly imply the consumption of alcohol before or during swimming or pool activities and an additional post included images of two under 25 year olds.

The Instagram posts were removed on notification of the complaint.



The Little Guy Bar (complaint regarding content)

Complaint: Instagram posts show change in mood and success from drinking alcohol.

ABAC standard: Alcohol marketing cannot:

- suggest that the consumption or presence of alcohol may create or contribute to a significant change in mood or environment; or
- show or directly imply the consumption or presence of an Alcohol Beverage as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success.

Decision: The Panel found:

- The first post shows the introduction of alcohol as the cause of a significant change in mood.
- The second post suggests through a combination of the images and accompanying text that social success will be enhanced by alcohol.

The Instagram posts were removed on notification of the complaint.



Bacchus Family Wine (complaint regarding content)

Complaint: Instagram post uses minors to advertise wine.

ABAC standard: Alcohol marketing cannot depict a person who is or appears to be a minor unless they are shown in an incidental role in a natural situation (for example, a family socialising responsibly) and where there is no implication that they will consume or serve alcohol.

Decision: The Panel found that while a father with children is a natural situation and the children would not be taken to be consuming or serving alcohol, the photograph was clearly staged for the purposes of the post, and the staging of the photograph and the centring of the wine with the children breaches the standard.

The Instagram post was removed on notification of the complaint.



Expedited Determination

Brewboys Crisp Ale (complaint regarding content)

Complaint: That an Instagram post shows straight-arm sculling of a can of beer which encourages excessive and rapid consumption of beer.

ABAC standard: Alcohol marketing cannot show or encourage the excessive or rapid consumption of alcohol.

Company Action: The Company accepted the breach and removed the photograph from all their platforms.

Nature of Breach: An Instagram post showing a person “straight arming”, (that is holding their arm above their head and pouring the entire contents of the can onto their face), is an alcohol marketing communication showing rapid consumption of an Alcohol Beverage.



NoSh Boozy Seltzer (complaint regarding content)

Complaint: An Instagram post shows a photoshopped image from ‘Mean Girls’ that displays high school girls drinking in school.

ABAC standard: Alcohol marketing cannot:

- have strong or evident appeal to minors; or
- depict a person who is or appears to be a minor unless they are shown in an incidental role in a natural situation (for example a family socialising responsibly) and where there is no implication that they will consume or serve alcohol.

Company Action: The Company accepted the breach and removed the Instagram Post.

Nature of Breach: An Instagram post showing a high school scene that includes 16 year old girls with an alcohol beverage placed in front of them has both strong or evident appeal to minors and depicts minors in breach of Part 3(b)(i) & (ii) of the Code.



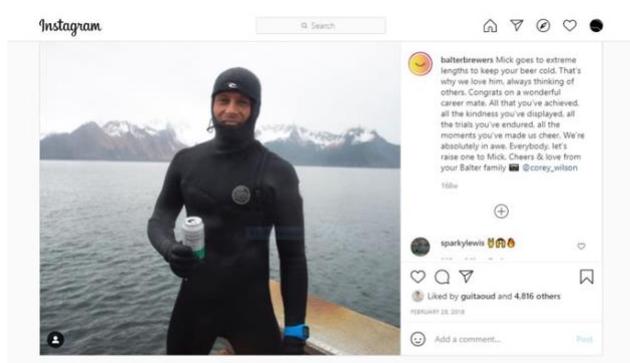
Balter Beer (complaint regarding content)

Complaint: That an Instagram post shows drinking alcohol while swimming.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Company Action: The Company accepted the breach and removed the post.

Nature of Breach: An Instagram post showing a person in a wetsuit standing in front of the water holding an open can of beer is an alcohol marketing communication directly implying the consumption of an Alcohol Beverage before, or during an activity that, for safety reasons, requires a high degree of alertness or physical co-ordination.



Cattleyard Pale Ale (complaint regarding content)

Complaint: That an Instagram demonstrates drinking alcohol while swimming.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Company Action: The Company accepted the breach and removed the post.

Nature of Breach: An Instagram post showing three people standing in a swimming pool holding cans of beer is an alcohol marketing communication directly implying the consumption of an Alcohol Beverage during an activity that, for safety reasons, requires a high degree of alertness or physical co-ordination.



Trail Pale Ale (complaint regarding content)

Complaint: That an Instagram post shows someone standing in water holding a can of beer.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Company Action: The Company accepted the breach and removed the photograph from all their platforms.

Nature of Breach: An Instagram post showing a person standing in water, holding a can of beer, is an alcohol marketing communication directly implying the consumption of an Alcohol Beverage before, or during an activity that, for safety reasons, requires a high degree of alertness or physical co-ordination.



Hemp Gin (complaint regarding content)

Complaint: Cannabis Co company website suggests the terpenes in the product are therapeutic.

ABAC standard: Alcohol marketing cannot suggest the consumption of an alcohol beverage offers a therapeutic benefit.

Company Action: The Company accepted the breach and modified its website.

Nature of Breach: A Company website marketing the Product as "...a different kind of therapeutic" is an alcohol marketing communication suggesting that the consumption of an Alcohol Beverage offers a therapeutic benefit.

Australia's first terpene-infused Hemp Gin is like nothing you've ever tasted before. A delight to the palate, the perfect gift, a sip to savour. Using Myrcene & Limonene Terpenes at their very best for a unique aroma and taste, these craft gins are a different kind of therapeutic. With all that said, let's have a drink!



No Fault Breach

Victoria Hotel Orange (complaint regarding placement)

Complaint: Advertisement broadcast on a community radio station during a programme, 'Yabba with Gabba' advertised as discussing youth issues and presented by a teenager.

ABAC standard: Alcohol marketing must not be placed where the audience is expected to be >25% minors or with programs primarily aimed at minors.

Decision: The Panel found that no ratings information on the show's audience was available, however, given the description of the Yabba with Gabba program as referencing 'youth issues' and the age of the presenter, on the balance of probabilities there has been placement with a program primarily aimed at minors. However, given the hotel believed its promotional spots were no longer being aired the Panel made a 'no fault' breach finding.

Marketing Consistent with ABAC Standards

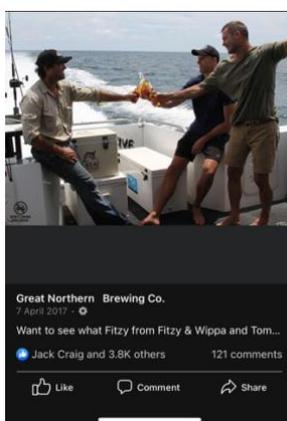
Great Northern (complaint regarding content)

Complaint: It is high risk consuming alcohol on a boat, especially while travelling.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Decision: The Panel found that the ad did not breach the standard, noting:

- as the boat is moving it is apparent that the three men shown are not in control of the boat and are passengers;
- it is generally accepted in the community that alcohol use by passengers of a boat can occur safely;
- the weather conditions do not appear to be dangerous for boating; and
- the men are each shown with one beer and there is no implication excessive alcohol use has or will occur.



Sleep When You're Dead Black IPA (complaint regarding content)

Complaint: Online material appears to be marketing comics and cartoon characters, that are children's or young adult works of art, to children in the guise of beer.

ABAC standard: Alcohol marketing cannot have strong or evident appeal to minors.

Decision: The Panel did not believe the marketing would have strong or evident appeal to minors, as in the current case, the style employed is akin to an adult graphic novel, which uses themes and a storyline which are quite evidently adult in nature. The Panel does not believe the on-line marketing breaches the Part 3 (b) standard.



UDL Vodka (complaint regarding content)

Complaint: The bright, colourful and playful nature of the ad and the packaging would have strong appeal specifically to minors and could easily be interpreted as an ad for a soft drink. The phrase 'new can who dis?' is a reference to 'new phone who dis?' most commonly used by minors.

ABAC standard: Alcohol marketing cannot have strong or evident appeal to minors.

Decision: The Panel believes the UDL packaging identified in the complaint does not have a strong or evident appeal to minors. In reaching this conclusion, the Panel noted:

- while there is potential for the reference to fruit flavours to create confusion with a soft drink, on the front of the packaging the term 'vodka' is employed which is a well-recognised alcohol descriptor and the additional cue '4%ALC/VOL';
- the product has a long history in the Australian market and while this does not guarantee the brand name 'UDL' will be associated with alcohol by all consumers, in combination with the alcohol descriptors it is likely a reasonable person would recognise the packaging as containing an alcohol beverage;
- while bright eye-catching colours are used in the watermelon packaging, the geometric designs and colour combinations are clearly 80's - early 90's retro rather than current;
- the reference to 'since 65' on the packaging reinforces the nostalgic association between a brand and design that would be primarily recognised by adults that recall the 1980-90's era; and
- taken as a whole, the packaging would have appeal across age groups however the appeal to minors would likely be incidental rather than strong or evident.

The phrase on the billboard is adapted from 'new phone - who dis' which seems to have been first used in 2009 and thereafter became more broadly used, including on TV programs in 2012 and 2014. The expression has become slang to avoid a conversation. It is also now the name of an adult party game which is similar in concept to the popular game 'Cards against Humanity'. While the complainant believed the adaption of the phrase captured prevailing youth culture, this is probably not the case with the expression resonating more with an adult audience of late twenties to late thirties. The Panel did not find that, taken as a whole, the billboard could be said to have strong or evident appeal to minors, although the bright eye-catching design will have some appeal to minors.

The Panel acknowledged the concerns raised by the complainant are valid points and the decision in this case was finely balanced.



VB Solar Exchange (complaint regarding content)

Complaint: The television ad encourages people to obtain more alcohol than required, opening the door to addiction.

ABAC standard: Alcohol marketing cannot show or encourage the excessive or rapid consumption of an Alcohol Beverage or misuse or abuse of alcohol.

Decision: The Panel found that within the context of the ad a reasonable person would not believe that excessive or rapid consumption is being encouraged, noting:

- the ad depicts a driver delivering a carton of beer to an adult;
- the ad is promoting an offer that allows a solar powered home owner to exchange solar energy for beer, which is essentially offering an alternative way for eligible homeowners to pay for the product;
- no particular levels of purchase or consumption are encouraged within the television ad; and
- merely having beer delivered to a home does not mean it will be consumed excessively or rapidly given alcohol has a long shelf life and might be consumed over a period by multiple people.



Dan Murphy's (complaint regarding content)

Complaint: An outdoor ad referencing skating targets under aged drinkers and was on a mobile billboard parked near Byron Bay High School.

ABAC standard: Alcohol marketing cannot:

- have strong or evident appeal to minors; or
- be placed on a fixed billboard within 150m of a school.

Decision: The mobile billboard was not parked within 150m of the school and so no breach of a placement rule. Taken as a whole the billboard is mature and wouldn't be considered engaging or eye-catching for minors.



Dan Murphy's (complaint regarding content)

Complaint: The website promotion shows a young girl who appears to be under 25 and may be considered by some to be under 18.

ABAC standard: Alcohol marketing cannot:

- depict a person who is or appears to be a Minor unless they are shown in an incidental role in a natural situation (for example, a family socialising responsibly) and where there is no implication they will consume or serve alcohol.
- depict an adult who is under 25 years of age unless:
 - they are not visually prominent; or
 - they are not a paid model or actor and are shown in a Marketing Communication that has been placed within an Age Restricted Environment.

Decision: The model identified in the complaint has youthful features, such as freckles, but also has a prominent tattoo, and there are no cues in the images that would suggest she is a minor. On balance, the Panel believes the model appears to be an adult; and given the age of the model has been verified as over 25, the website is consistent with the standards in Part 3 (b) (ii) and (iii).



Chartreuse (complaint regarding content)

Complaint: The post shows a 22 year old prominently serving alcohol.

ABAC standard: Alcohol marketing cannot depict an adult who is under 25 years of age unless:

- they are not visually prominent; or
- they are not a paid model or actor and are shown in a Marketing Communication that has been placed within an Age Restricted Environment.

Decision: The post shows a 22 year old who was not paid by the brand on an Instagram account that is age restricted and in these circumstances the exception to Part 3 (b)(iii) applies.



Dan Murphys, Nick's Wine Merchants, Hairydog & Porter's Liquor – St Ives Village Website Advertisements for Stroh Rum (complaint regarding content)

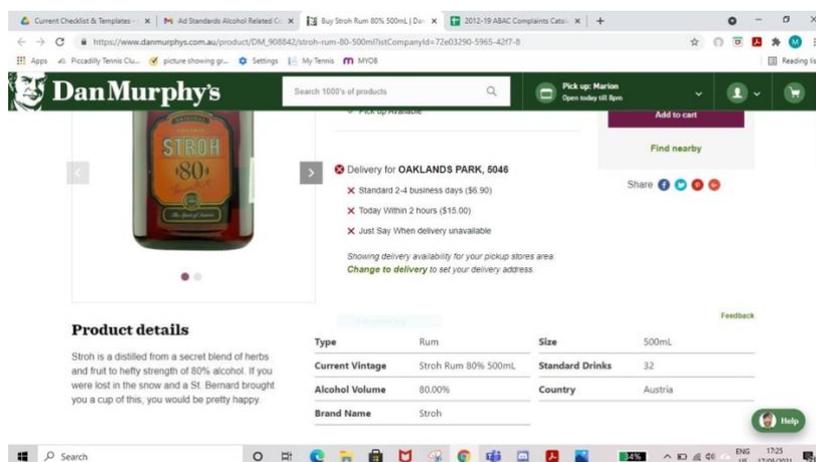
Complaint: Retailer websites advertise Stroh Rum based on its high alcohol content (hefty strength), include a line about a St Bernard that implies the rum could create a change in mood and mention the rum could be a cough soother implying the product has therapeutic benefits.

ABAC standard: Alcohol marketing cannot:

- encourage the choice of a particular alcohol beverage by emphasising its alcohol strength or intoxicating effect;
- suggest the consumption or presence of an alcohol beverage may create or contribute to a significant change in mood or environment; or
- suggest the consumption of an alcohol beverage offers any therapeutic benefit.

Decision: The Panel decided there was no breach of ABAC standards, noting:

- the description does not place undue emphasis on the product's strength and to refer to an 80% alcohol to content as 'hefty' is merely a colloquial way of saying it has high alcohol content, which is factual;
- the description is not encouraging the choice of the product over an alternative by giving undue emphasis to the alcohol content - emotive language is not used, nor are other indicators placing undue emphasis on the strength of the product e.g., different font sizes etc;
- 'if you were lost in the snow and a St Bernard brought you a cup of this, you would be pretty happy' would be read as a historical reference to the legend of St Bernard rescue dogs carrying whisky to aid stranded travellers; and
- 'Stroh is unusual in that it is distilled from herbs and fruit as opposed to sugar cane and will come as something of a novelty for the rum connoisseur or may be equally appreciated as a cough soother' would be read in context as a humorous reference and warning to potential purchasers about the unusual taste of the product.



Liquoroo (complaint regarding placement)

Complaint: Alcohol ad during racing and when minors are listening.

ABAC standard: Alcohol marketing cannot be placed during a broadcast with less than 75% adults.

Decision: The Panel decided there was no breach of ABAC standards:

- the radio station that the ad was placed with does not broadcast racing, and in any event that is a Wagering Code issue; and
- the audience of the broadcast was more than 75% adults.

Vodka Cruiser Spritz, BWS, Cellarbrations & Jack Daniels (complaint regarding content and placement)

Complaint: Alcohol ad that appeals to minors (Vodka Cruiser Spritz) and various brands advertised during Lego Masters.

ABAC standard: Alcohol marketing cannot:

- have strong or evident appeal to minors; or
- be directed at minors by a breach of the ABAC Placement Rules.

Decision: The Panel decided there was no breach of ABAC standards:

- there were no breaches of ABAC placement rules:
 - the Commercial Television Industry Code of Practice time restrictions do not apply to digital television advertising;
 - available age restriction controls were applied to all ads;
 - the audience of relevant content is greater than 75% adults; and
 - the relevant programmes the ads were shown with have wide appeal but could not be said to be primarily aimed at minors; and
- the Vodka Cruiser Spritz ad does not have strong or evident appeal to minors, noting, the characters are all adults apparently aged 30 or more, it clearly indicates the product is alcoholic and while the backdrop is a bright and fast moving party, the tone is adult and is not considered highly relatable to children or adolescents.



Bacchus Brewing (complaint regarding content)

Complaint: The post suggests that drinking the product will improve your chances of social or sexual success.

ABAC standard: Alcohol marketing cannot suggest the consumption or presence of an Alcohol Beverage as a cause of or contributor to social, sexual or other success.

Decision: The Panel found the more likely understanding of the post is that the event promoted appeals to craft beer aficionados and not that the use of the product leads to social/sexual success.



Pants Off Gin (complaint regarding content)

Complaint: Possible advertising of sexual success in relation to alcohol.

ABAC standard: Alcohol marketing cannot suggest the consumption or presence of an Alcohol Beverage as a cause of or contributor to social, sexual or other success.

Decision: The Panel did not view the packaging as a breach of this standard noting:

- the expression 'pants off' is used in various contexts and generally to give emphasis to an action e.g. 'charm the pants off', 'scare the pants off', 'bore the pants off';
- review of the term's usage does not reveal a sexual connotation as such;
- the term can be contrasted with the expression - 'get into your pants' which does have sexual overtones.



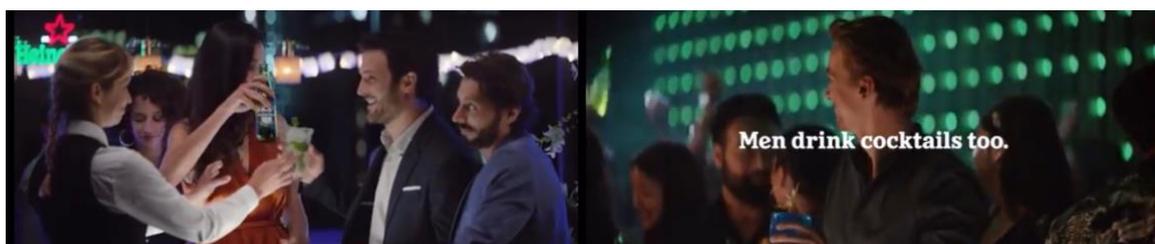
Heineken (complaint regarding content)

Complaint: The television advertisement supports a message that it is ok to accept stranger's drinks promoting drink spiking and sexual assaults.

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 that:

- The advertisement shows bartenders delivering drinks, a cocktail and a beer to patrons at a bar, and always making the assumption that the beer is for the male patron and the cocktail for the female patron. In each case the patrons smile and either swap drinks or reach for the other drink. It is very clear throughout the ad that neither the patrons, nor anyone else, have tampered with, contaminated or spiked any drinks between delivery by the bartender and receiving their ordered drink.
- The Panel does not believe the ad would be viewed by a majority of people in the community in the way contended by the complainant and does not show any irresponsible or offensive behaviour, related to the consumption or presence of alcohol, or otherwise.



Monkey Shoulder Whisky (complaint regarding content)

Complaint: The Instagram video shows the talent waking up with a bottle of the product next to his bed which suggests he was drinking in bed and to excess, with another drinking occasion suggested after putting the bins out in the morning.

ABAC standard: Alcohol marketing cannot show or encourage the excessive or rapid consumption of an Alcohol Beverage or misuse or abuse of alcohol.

Decision: The Panel found the video wouldn't be taken as encouraging excess alcohol consumption:

- beyond the unopened bottle seen in the first scene of the video, there are no cues that excessive alcohol has been consumed e.g., there are no opened bottles nor empty glasses and neither Mr Ryan nor his partner seem affected by alcohol;
- the video is humorous, and while humour does not excuse a clear breach of the Code, it is a factor in how a reasonable person understands a marketing message;
- the humour is centred on the urgency of getting the bins to the curb and the resultant clothing choice and is not based on implicit excessive alcohol use;
- alcohol use is implied in the final scene when the product is poured and although this occurs in the morning, this of itself does not establish excessive alcohol use; and
- taken as a whole the video is most likely understood as creating a mildly amusing relatable home experience to which the product is being placed, rather than suggesting excessive alcohol consumption is a driver of the scenario created.



Baby Brain Ale (complaint regarding content)

Complaint: Instagram post with an image of a minor in an inappropriate setting.

ABAC standard: Alcohol marketing cannot depict a person who is or appears to be a minor unless they are shown in an incidental role in a natural situation (for example a family socialising responsibly) and where there is no implication that they will consume or serve alcohol.

Decision: The Panel found:

- clearly an infant would not be taken as consuming or serving alcohol; and
- while the framing of the photograph showing the child's parent (not just a hand) would have been preferable in showing the natural situation of the family at the venue, the accompanying text to the photograph sufficiently establishes the child is with his parents and is incidental to the event being depicted.

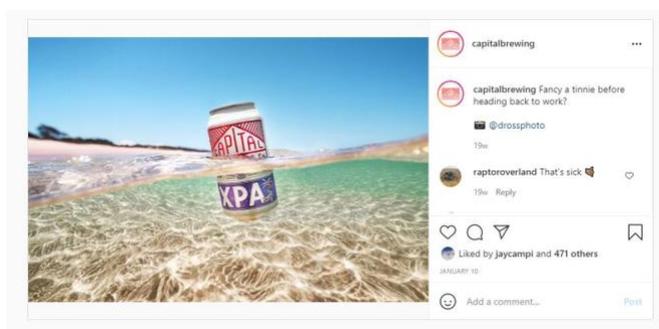
Capital Brewing XPA (complaint regarding content)

Complaint: Ad implies it is ok to either drink beer while swimming at the beach or litter.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming.

Decision: The Panel found that the ad did not breach the standard, noting:

- the photograph is staged to highlight the product and does not show any person in the shot;
- the can does not appear to be opened and no direct implication of consumption can be drawn;
- the accompanying text is neutral or slightly implies that any beach activity such as swimming has been completed and a person is returning to work; and
- it is consistent with the ABAC to place an alcohol product in a pleasing setting and a reasonable person would not take the post as encouraging littering.



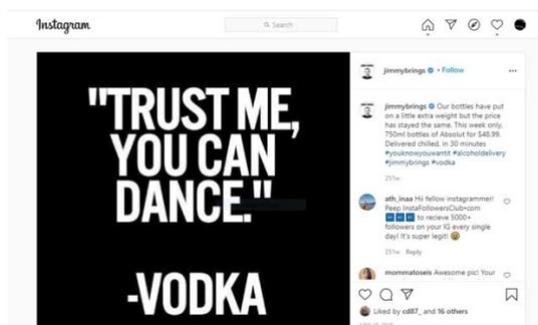
Jimmy Brings (complaint regarding content)

Complaint: The Instagram Post suggests vodka can improve your confidence and ability to dance suggesting a change in mood from drinking.

ABAC standard: Alcohol marketing cannot suggest that the consumption or presence of an Alcohol Beverage may create or contribute to a significant change in mood or environment

Decision: The Panel found the ad did not breach the standard, noting:

- The post taken as a whole provides pricing information about Absolut vodka and associates vodka with dancing.
- It does not however establish an initial mood/environment which is significantly transformed by the introduction of alcohol.
- The complainant's interpretation requires several assumptions which cannot be fairly based on the actual content of the post.



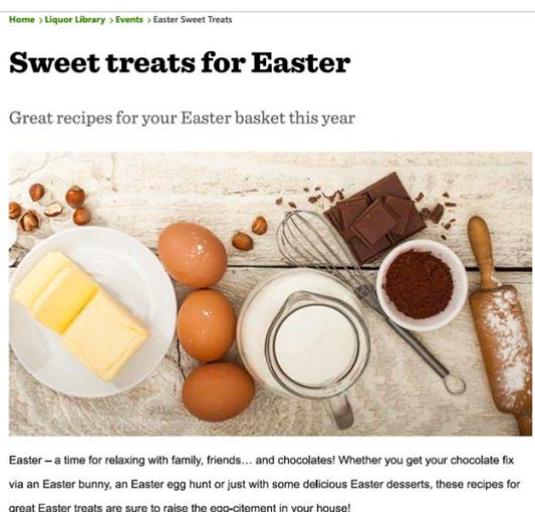
Dan Murphy's Website (complaint regarding content)

Complaint: Liquor retailer website has children's recipes and Easter references on its website.

ABAC standard: Alcohol marketing cannot have strong or evident appeal to minors.

Decision: On balance the Panel does not believe the pages breach the standard. It is noted:

- Easter desserts have a general appeal across age groups that is not particularly stronger for minors than it is for adults;
- the webpages contain cooking instructions and are adult in focus;
- the images of the desserts have a general appeal; and
- the pages are housed in a website, which could be accessed by minors, but taken as a whole does not create an environment likely to strongly appeal to minors.

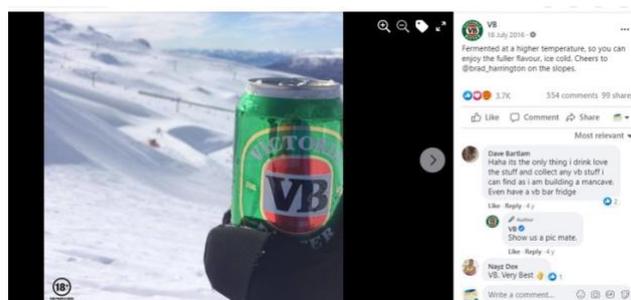


VB (complaint regarding content)

Complaint: Post suggests drinking alcohol while skiing or snowboarding.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination.

Decision: The Panel found that the ad did not breach the standard. The Panel noted that while it is possible to interpret the post as implying consumption during the performance of skiing or a related snow field pursuit, the more likely understanding drawn from the post is the association of drinking the product 'ice cold', as opposed to promoting drinking during a dangerous activity. Snow gloves are being worn, but no other cues are given that skiing/snowboarding is about to take place e.g., there is no sporting equipment shown. The accompanying text is ambiguous and certainly doesn't state the person in the image is about to ski/snowboard.



Mash Brewing Gose-ade (complaint regarding content)

Complaint: An Instagram post mimics Gatorade often drunk by minors and the post verges on making health claims about the beer due to references to refreshment and electrolytes.

ABAC standard: Alcohol marketing cannot:

- have strong or evident appeal to minors; or
- suggest the consumption of an alcohol beverage offers a therapeutic benefit.

Decision: The Panel found that taken as a whole the post does not have appeal to minors beyond its general appeal to adults (noting that this takes into account the caption of the post and that using the branding on packaging must be assessed separately), noting:

- while the image suggests Gatorade, Gatorade is not considered a product with a particular appeal to minors beyond its general appeal to adults; and
- the accompanying text sufficiently grounds the post as referring to a type of beer to mitigate potential confusion with a soft drink.

The Panel found that the post does not suggest the product offers a therapeutic benefit. The part of the post which comes closest to offending the standard are the words 'electrolytes for your body' which might be implied as meaning 'to benefit your body'. However, the Panel does not believe that the most probable understanding is that a positive claim of benefit is being made.



Fireball Whisky (complaint regarding placement)

Complaint: The advertisement's caption implies social success through drinking/sharing Fireball Whisky.

ABAC standard: Alcohol marketing cannot show or directly imply the consumption or presence of an alcohol beverage as a cause of or contributing to the achievement of personal, business, sporting, social, sexual or other success.

Decision: The Panel found that the post would most likely be understood as claiming the product would be a popular choice for a New Year's celebration which is not a breach of the standard.



Brookvale Union Seltzer (complaint regarding content)

Complaint: The television advertisement depicts that the product alters perceptions of reality and has hallucinations on becoming intoxicated by the product.

ABAC standard: Alcohol marketing cannot suggest that the consumption or presence of an Alcohol Beverage may create or contribute to a significant change in mood or environment

Decision: The Panel found the ad did not breach the standard, noting:

- the person is shown having one mouthful of the product and does not appear intoxicated;
- the most striking feature of the ad is the highly exaggerated and elongated tongue apparently created by drinking the product, and this establishes the theme of the ad is the taste of the product;
- the taste theme is demonstrated by the fanciful journey through fruit images and the person saying the word 'refreshalicious';
- the mood of the person does not alter, and the environment at the party remains constant. For instance, the product is not shown transforming the person's mood from sad to happy, or stressed to relaxed and the party does not move from dull to enlivened; and
- a reasonable person would most likely understand the ad is using the imaginary scene to highlight the striking taste of the product, and it is not being suggested that the product causes hallucinations.



BWS Outdoor Advertisement (complaint regarding placement)

Complaint: The advertisement is located less than 500m from a school and uses youthful language.

ABAC standard: Alcohol marketing cannot have strong or evident appeal to minors or be directed at minors through a breach of a placement rule, in particular, placement within 150m of a school.

Decision: The Panel found that the ad did not breach the standard as:

- the ad was placed 222m from the nearest school; and
- while the language is informal and abbreviated the overall impact is mature with a sedate colour palette and would likely be stronger for an older rather than a younger audience.



James Squire, Furphy & Heineken (complaint regarding placement)

Complaint: The advertisements were seen during Sunrise at 8:30am onwards.

ABAC standard: Alcohol marketing cannot be directed at minors through a breach of a placement rule, in particular:

- must meet the Commercial Television Industry Code;
- available age restriction controls must be applied
- can only be placed where the audience is reasonably expected to comprise at least 75% adults; and
- must not be placed with programs or content primarily aimed at minors.

Decision: The Panel found that the ad did not breach the standard as:

- ads were not shown during Sunrise on free to air broadcasts to which the TV Code applies;
- ads were shown during Sunrise on BVOD and available age restriction controls applied;
- ratings data indicates that the BVOD audience of Sunrise is greater than 75% adults; and
- Sunrise is not a program primarily aimed at minors.

Actual Vodka Seltzer (complaint regarding content)

Complaint: A television advertisement promotes a product that looks like a soft drink and targets teens.

ABAC standard: Alcohol marketing cannot have strong or evident appeal to minors or be directed to Minors by a breach of placement rule.

Decision: The television advertisement has not been placed in breach of placement rules and does not have strong or evident appeal to minors, noting:

- the ad establishes the product is vodka based through a combination of the branding on the product shown in the ad, the prominent use of the superimposed term 'vodka' displayed during the ad and the overall messaging that the product is a new type of alcohol beverage;
- the product's branding, inclusive of the type and size of can, does not resemble popular soft drinks likely to be recognised by minors;
- the overall tone of the ad is mature; and
- while the product is presented in an attractive manner any appeal to minors is considered incidental and is not strong or evident.



Squealing Pig Wine (complaint regarding content)

Complaint: The television advertisement shows someone murdering and eating their spouse for being annoying.

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 that a reasonable person would not believe domestic violence is being promoted or normalised. The use of the same (bearded) male actor to play each part, and the entire premise of the ad establishes the scenario as completely fanciful. A reasonable person has sufficient life experience to understand the context.



Great Northern Beer (complaint regarding content)

Complaint: Alcohol should not be promoted on the basis of its consumption occurring during activities such as hiking.

ABAC standard: Alcohol marketing cannot show the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination.

Decision: The Panel found that the ad did not breach the standard as:

- the ABAC does not prohibit associating an alcohol beverage/brand with the outdoors or an activity such as hiking;
- the scene does not show or reasonably imply that alcohol consumption has occurred; and
- placing two oversized images of bottles of the product on the billboard would be understood by a reasonable person as establishing the brand and not that the beer is being consumed by the hikers at that moment.



Newy Distillery Vodka & Gin products (complaint regarding content)

Complaint: Concern that the children would find the product packaging appealing.

ABAC standard: Alcohol marketing cannot have strong or evident appeal to minors.

Decision: The Panel found that the products were not in breach of ABAC standards noting:

- the bottle type used is typical of that found in alcoholic spirit beverages and does not resemble packaging commonly used for fruit juices or other soft drinks;
- displayed fruit images are lifelike and do not employ design features considered to be targeting minors or as having an appeal to minors beyond a general appeal to adults e.g., there is no animation or child-like writing used;
- the labelling uses the well-recognised terms 'vodka' or 'gin' and employs other cues that it is an alcoholic beverage, and the product would not be confused with a soft drink;
- while the beverage is coloured, this of itself is not a breach of the ABAC standard;
- the pink gin product colour is eye-catching and would draw the attention of adults and minors, and could give an impression of a smooth transition to the use of alcohol;
- however, taking each of the packaging as a whole, it is unlikely the products would be confused with a soft drink or would be considered by a reasonable person as having an appeal to minors beyond its general appeal to adults.



Thirsty Camel (complaint regarding placement)

Complaint: The radio advertisement was broadcast on radio in a timeslot likely to be heard by children.

ABAC standard: Alcohol marketing cannot be directed at minors through a breach of a placement rule, in particular:

- can only be placed where the audience is reasonably expected to comprise at least 75% adults; and
- must not be placed with programs or content primarily aimed at minors.

Decision: The Panel found that the ad did not breach the standard as:

- the nature of the content in this particular timeslot is not aimed at under 18 year olds; and
- ratings data indicates that the audience of the timeslot is more than 90% adult.

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>.