

ANNUAL REPORT

2021

INDEPENDENT CHAIR REPORT

The year 2021 was an extremely busy year for ABAC. In this Annual report record levels of activity for the Adjudication Panel and the Pre-vetting service are outlined.

During the year, regrettably, the ongoing covid pandemic and associated restrictions and lockdowns continued to affect most aspects of community activity. For alcohol marketing it meant alongside normal activity, reaction to closure of licensed premises, a shift toward at home consumption, new delivery methods and takeaway products. These measures were subject to licensing authority requirements and the associated marketing subject to the established regulatory framework. This in part accounted for some of the increased activity.

The Chief Adjudicator, Professor Michael Lavarch, and his colleagues are to be commended for dealing with their record workload in an efficient and timely manner, and the clarity and consistency of their determinations. The determinations, which are on the public record, serve as important guidance as to how the Code should be interpreted and used to produce responsible marketing.

The majority of ABAC complaints and breaches in 2021 related to digital social media posts. Arising from a Panel decision regarding the lack of age restriction on certain social media alcohol marketing communications, ABAC decided to conduct proactive compliance monitoring. Whilst pleased that in the wake of the Panel's decision the industry took this matter seriously and took steps on their own volition to address the problem, ABAC industry education has highlighted the importance of internal monitoring of compliance with age restriction requirements and ABAC has also engaged an outside agency to conduct an independent compliance audit of social media accounts and posts in early 2022.

Possibly the most pleasing aspect of the record activity during the year was the 3336 requests for pre-vetting, an over one third increase on the previous year. Rejections numbered 501, about 15 per cent of requests. This is important pro-active work, and our pre-vetters deserve congratulations on these impressive results. As I have indicated before, my concern is that the pre-vetting service remains under appreciated by some observers.

Another positive of 2021 for ABAC was the commissioning of JWS Research to explore current public perceptions of alcohol marketing and how the ABAC Complaints Panel determinations align with the understanding of a 'reasonable person.' The research found that Code standards and Panel decisions align with the expectations of the community.

Not as easily quantified is the ongoing training and education undertaken. The online training course went live during the year and well over 400 participants completed the training. Additional training videos have been created and resources on how to engage social media age restriction controls have been made available on the ABAC website. The annual webinar and in-house training has also continued.

ABAC engages with other agencies that have alcohol marketing responsibilities on a regular basis. This co-operation is of great importance. Memoranda of understanding were agreed with the licensing authorities in Victoria and South Australia, building on the previous positive relations and recognising that these relations are institution to institution rather than person to person.

Always on the look out for new signatories, ABAC welcomed Australian Distillers Association (on behalf of its members) and Coca Cola South Pacific in 2021.

An important step to be undertaken in 2022 is the review of the ABAC Code. Opinions of a wide range of stakeholders will be sought. Matters arising from the Community Standards Research and observations of the Adjudication Panel and pre-vetters will be taken into account.

ABAC is a relatively small organisation. The dedication, diligence and hard toil of our Executive Officer, Jayne Taylor, ensures that the Scheme is productive and efficient. ABAC is indebted to her and Marilyn Hansford for their ongoing efforts.

Finally, I thank my Management Committee colleagues for continuing to display their serious intent to make sure ABAC succeeds and ABAC signatories for committing to meet the rigorous standards of the ABAC Code.

Mr Harry Jenkins AO
Chair, ABAC Management Committee



OVERVIEW

The ABAC Scheme is the centrepiece of alcohol marketing regulation in Australia. It is a not for profit organisation established to promote the marketing of alcohol beverages occurring responsibly and consistently with standards of good practice via regulation, education and advice. The ABAC Scheme is:

- Administered by a Management Committee which, along with government, includes representatives from industry and advertising;
- Quasi-regulatory in nature as the Australian Government is represented on the Management Committee and a Professor of Public Health, nominated by government, is part of all adjudication panels; and
- Funded by industry via membership levies, direct signatory fees and pre-vetting fees.

The ABAC Scheme is not the only set of rules affecting advertising in Australia. Alcohol beverage advertising must also be consistent and comply with other applicable laws and codes, for example:

- the Federal Competition and Consumer Act and State Fair Trading legislation
- State and Territory Liquor Licensing alcohol promotion requirements
- Australia New Zealand Food Standards Code
- the Australian Association of National Advertisers Code of Ethics
- the Commercial Television Industry Code of Practice
- the Commercial Radio Code of Practice
- the Outdoor Media Association Code of Ethics and Alcohol Advertising Policy.

RESPONSIBILITIES OF THE ABAC SCHEME



ADVICE

- The ABAC Pre-vetting Service assesses whether proposed alcohol marketing communications, including alcohol product names and packaging, meet the ABAC Code standards.



REGULATION

- The ABAC Responsible Alcohol Marketing Code (The ABAC Code) which sets standards for alcohol marketing in Australia.
- The Complaints Adjudication system whereby complaints relating to alcohol marketing are assessed and adjudicated by the independent ABAC Adjudication Panel.
- Mandatory pre-vetting of television, cinema, radio and outdoor marketing supported by Outdoor Media Association members and the ClearAds Division of Freetv Australia.



EDUCATION & GUIDANCE

- ABAC educates the regulated community on the Code standards via advice and regulation together with an annual free industry webinar and resources on the ABAC website, including a free online compliance training course and video series.
- The ABAC Guidance Notes provide guidance on all ABAC Code provisions.
- The ABAC Best Practice for Responsible Digital Alcohol Marketing assists alcohol marketers and their agencies in the management of their digital marketing.
- The ABAC Alcohol Packaging Compliance Guide provides guidance for alcohol manufacturers developing alcohol packaging to ensure it does not have strong or evident appeal to minors.

ABAC INTERACTIONS WITH ALCOHOL MARKETING COMMUNICATIONS

1

INTERNAL CHECK

Company and advertising agency staff check the marketing communication and its media placement schedule against the ABAC Code standards.

2

EXTERNAL PRE-VETTING CHECK

Independent pre-vetters check the marketing communication against the ABAC Code and either approve or reject.

3

COMPLAINT

Once a campaign is in the marketplace consumers can lodge a complaint about the marketing communication centrally through Ad Standards and at no cost.

4

REFERRAL TO CHIEF ADJUDICATOR

Ad Standards refers all alcohol marketing communication complaints to the Chief Adjudicator of the ABAC Adjudication Panel.

5

REFERRAL TO THE INDEPENDENT ABAC ADJUDICATION PANEL

Complaints raising issues within the ambit of ABAC are referred to the independent ABAC Adjudication Panel for a hearing on whether the marketing communication or its placement meets ABAC Code standards (with the exception of complaints previously considered, consistently dismissed, informally resolved in the case of social media posts more than 6 months old or resolved by an expedited breach determination).

6

COMPLIANCE

If the ABAC Adjudication Panel finds the ABAC Code standards have not been met the marketer is asked:

- in the case of a product name, packaging or marketing collateral - to cease further orders for production of the product name, product packaging or marketing collateral immediately and ensure the product name, product packaging or marketing collateral is modified to be consistent with the Panel's determination within 3 months.
- in the case of all other marketing communication content— withdraw, discontinue or modify the material within five (5) business days
- in the case of placement of a marketing communication—withdraw, discontinue or modify the placement within five (5) business days and take all reasonable precautions to ensure that the marketing communication will not again be placed in the location, time or manner that was found to breach the Placement Rules in the Code.

7

DETERMINATION PUBLISHED

Determinations are sent to the complainant, marketer, ABAC Management Committee and Ad Standards and published on the ABAC website.

MANAGEMENT OF THE ABAC SCHEME

The Management Committee sets the strategic direction, manages and reviews the operations and publications of the ABAC Scheme with a view to:

- Encourage industry members, large and small, to participate in the quasi-regulatory system;
- Ensure an effective quasi-regulatory system;
- Monitor ABAC operations and improve them where necessary;
- Manage the ABAC Pre-vetting Service as an effective mechanism to support and strengthen the aims of ABAC and encourage the use of this service; and
- Co-ordinate the development and completion of a publicly available annual report.

During 2021 the ABAC Management Committee comprised:

- Independent Chair, Mr Harry Jenkins AO
- Chief Executive of the Brewers Association of Australia, Mr John Preston;
- Chief Executive of Spirits & Cocktails Australia Inc, Mr Greg Holland;
- Chief Executive of Australian Grape & Wine Inc, Mr Anthony Battaglene;
- Chief Executive of Advertising Council Australia Limited, Mr Tony Hale;
- The Assistant Secretary with responsibility for alcohol policy at the Commonwealth Department of Health, formerly Mr David Laffan and currently Ms Belinda Roberts.

The Management Committee is supported in its role by the ABAC Executive Officer, Ms Jayne Taylor.

Each member of the Management Committee represents a group of stakeholders in alcohol beverage marketing regulation. The Management Committee meets at least four times a year and any issues raised by any member or referred by the Panel or Pre-vetters receive full consideration. In practice, the Committee operates on a consensus basis.

ABAC MANAGEMENT COMMITTEE



Harry Jenkins AO



Tony Battaglene



Tony Hale



Greg Holland



John Preston

**David Laffan /
Belinda Roberts**

The Assistant Secretary with responsibility for alcohol policy at the Commonwealth Department of Health, formerly Mr David Laffan and currently Ms Belinda Roberts.

ABAC SCHEME COVERAGE

Membership and compliance with the Scheme is voluntary. However, the Brewers Association of Australia, Spirits & Cocktails Australia and Australian Grape & Wine have agreed that its members will be bound by the Scheme. This means the great majority of alcohol marketing in Australia is regulated by the Scheme.

The following companies have joined the ABAC Scheme as direct signatories:

- 2013 – Endeavour Drinks Group & Coles Liquor Group
- 2015 – Campari Australia & Lion
- 2017 – Coca Cola Europacific Partners Australia & Asahi Beverages
- 2019 – Independent Brands Australia
- 2020 – Amazon Australia
- 2021 – Coca Cola South Pacific & Australian Distiller's Association members

Around 595 companies involved in the production, distribution and retail of alcohol are signatories to the ABAC Scheme and these companies represent a considerably higher number of alcohol brands in Australia. ABAC signatories comprise over 91% of alcohol producer media spend in Australia and over 65% of alcohol retailer media spend in Australia.

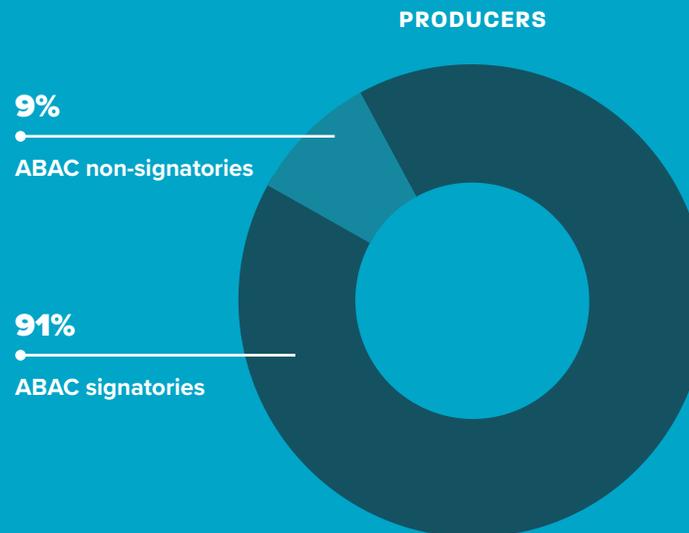
Many non-signatories currently use the Pre-vetting Service and the Scheme has the support of media associations. In 2021, 18 per cent of pre-vetting applications were from non-signatories.

The alcohol industry (both signatories and non-signatories) and advertising agencies have access to a free online compliance training course and video series and annual training webinar hosted by the ABAC Chief Adjudicator where all aspects and obligations of the Code, Pre-vetting

Service and complaints processes are explained. In addition, the ABAC pre-vetters, alcohol beverage industry associations and ABAC Executive Officer are all available to explain the Code and the Scheme to alcohol beverage marketers and their agencies.

The ABAC Adjudication Panel made 153 determinations in 2021, of which 80 upheld complaints. In all but one upheld case the marketing was withdrawn, modified or discontinued in compliance with the ABAC standards.

ABAC SIGNATORIES MEDIA SPEND





ABAC CODE

The ABAC Code sets key standards for the responsible content and placement of alcohol marketing in Australia.

Subject to regular reviews, the ABAC Code reflects community expectations and changes in the media and advertising industries. It applies beyond traditional forms of advertising (television, radio, print and outdoor) to alcohol marketing communications in emerging digital and social media.

ABAC has developed a range of Guidance notes to assist advertisers and agencies in interpreting the ABAC Code.

4 KEY STANDARDS FOR ALCOHOL MARKETING IN AUSTRALIA

1 RESPONSIBLE AND MODERATE PORTRAYAL OF ALCOHOL BEVERAGES

- No depictions (not even by implication) or encouragement of excessive or rapid consumption of alcohol, misuse or abuse of alcohol, alcohol consumption inconsistent with [Australian Guidelines](#) or irresponsible or offensive behaviour that is related to the consumption of alcohol.
- No challenge or dare to consume alcohol.
- No encouragement to choose a particular alcohol beverage by emphasising its alcohol strength (unless strength is lower than typical for similar beverages) or the intoxicating effect of alcohol.

3 RESPONSIBLE DEPICTION OF THE EFFECTS OF ALCOHOL

- No suggestion consumption/presence of alcohol creates/contributes to significant change in mood/environment.
- No depiction (not even by implication) that the consumption or presence of alcohol is a cause or contributes to the achievement of personal, business, social, sporting sexual or other success.
- No implication or suggestion that alcohol shown as part of a celebration was a cause of or contributed to the success or achievement.
- No suggestion that alcohol offers any therapeutic benefit or is a necessary aid to relaxation.

4 ALCOHOL AND SAFETY

- No depiction (not even by implication) of alcohol being consumed before or during an activity that, for safety reasons, requires a high degree of alertness or physical co-ordination (i.e. control of a motor vehicle, boat or machinery or swimming).

2 RESPONSIBILITY TOWARD MINORS

- No strong or evident appeal to minors, i.e. the marketing must not be likely to appeal strongly to minors, specifically target minors, have a particular attractiveness for a minor beyond its general attractiveness for an adult, use imagery, designs, motifs, animations or cartoon characters likely to appeal strongly to minors or that create confusion with confectionery or soft drinks or use brand identification on clothing, toys or other merchandise for use primarily by minors.
- People who are or look under 18 may only be shown where they are in an incidental role in a natural situation (ie. family socialising responsibly) and there is no implication they will consume or serve alcohol.
- People who are 18-24 years old and look over 18 may only be shown where the image of the person is not visually prominent within the marketing or is of a real person in a real scenario (not a paid model or actor) only if it is placed in either:
 - › Licensed premises that do not permit entry by minors; or
 - › A digital platform that is:
 - » non-alcohol specific (set up for a purpose other than promotion of alcohol);
 - » requires users to register with birth date and then login to use the platform; and
 - » is able to hide the existence of alcohol pages from users registered as under 18 years of age by selecting appropriate settings (ie. Facebook).
- Not directed at under 18s by:
 - › breach of media specific codes ie within 150m of a school or outside times allocated for alcohol ads on free to air television;
 - › use of available age restriction controls;
 - › only placing where audience is at least 75% adults;
 - › not placing with programs or content primarily aimed at under 18s;
 - › not sending to under 18s by electronic mail (unless due to under 18 providing incorrect date of birth).

RECENT INITIATIVES

ABAC EDUCATION & AWARENESS

ABAC Education & Awareness is key to ensuring industry compliance. In 2021 ABAC:

- developed a comprehensive series of compliance training videos complemented by a free online training course on ABAC compliance that was undertaken by 436 company and agency staff in 2021;
- held its annual free industry compliance webinar;
- delivered tailored in-house training sessions on ABAC for companies and agencies;

- updated education and training resources on the ABAC website;
- communicated with the regulated community in relation to ABAC developments and issues both directly and via circulars, upheld determination alerts and quarterly reports released publicly and made available on the ABAC website; and
- negotiated Memoranda of Understanding with Liquor Licensing authorities in Victoria and South Australia to improve communication and cross referral of issues.

COMMUNITY STANDARDS RESEARCH

ABAC commissioned JWS Research to undertake quantitative community standards research in relation to ABAC and alcohol marketing in Australia.

The findings released in October supported strong consistency of both ABAC Code Standards and ABAC Panel decisions with community expectations:

- Of the fourteen advertisements tested, complaints about eight of those advertisements had been upheld by ABAC and six had been dismissed. However, only two of the fourteen advertisements were considered unacceptable by the majority of community respondents prior to being exposed to the Code standards.
- When testing whether Code standards had been applied by the Panel consistently with how they would have been applied by a majority within the community, the Panel had alignment with the community on all but one of the advertisements, which it conservatively upheld.
- Most respondents (60%) had no concerns about alcohol advertising, labelling or packaging over the last 12 months. Less than a third (29%) were concerned, with only 7% 'very concerned'.

- The Code's content standards appear to reflect community expectations for alcohol marketing and in some cases, appear to be more conservative. Of the 24% of people that said they had read, seen or heard something about alcohol advertising, packaging or labelling in the last 12 months that concerned them, their main concerns are already covered by the Code. There is also strong support for current ABAC restrictions around the promotion of alcohol to people under 18.
- Among the few who were concerned or offended about advertising standards on any issue, only 15% complained. The main reasons for not complaining were a perception that nothing will happen, lack of awareness of avenues for lodging complaints and a lack of knowledge about the process.
- Awareness of Ad Standards, ABAC and the Responsible Alcohol Marketing Code is not widespread. Just over a third (35%) of people were aware they can complain to Ad Standards about alcohol advertising. Awareness of ABAC and/or the Responsible Alcohol Marketing Code was lower at 17%.
- Familiarity with unusual alcohol terms used for emerging alcohol categories was low.

2021 SNAPSHOT

● 2020 ● 2021

PRE-VETTING REQUESTS



ALCOHOL COMPLAINTS



Campaigns complained about



Complaints resulting in a determination



DETERMINATIONS



Determinations upheld



No Fault Breach



Upheld marketing pre-vetted



Non-compliance with determination



Average business days - panel determinations



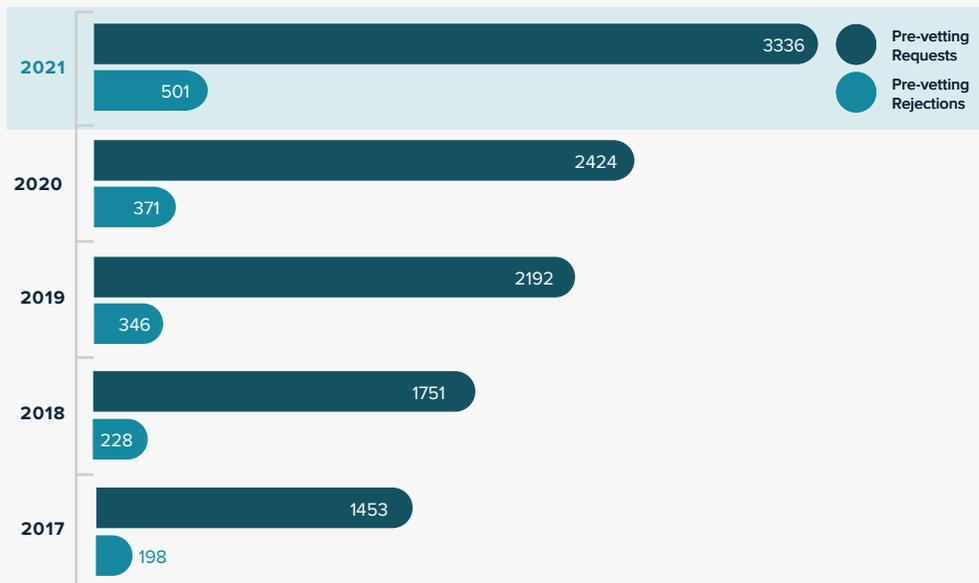
¹ Various complaints referenced multiple campaigns. ² Two examples of non-compliance resolved after referral of the complaints to relevant Liquor Licensing Authorities. ³ Referred to relevant Liquor Licensing Authority ⁴ Excludes upheld packaging determinations as they involve a review option.

ABAC PRE-VETTING SERVICE (PRE-VETTING SERVICE)

The Pre-vetting Service provides confidential advice to marketers on whether proposed alcohol marketing communications comply with the Code. This service is offered on a 'user pays' basis.

- Pre-vetters approve, reject or suggest modification to material submitted to them for pre-vetting.
- The Pre-vetting Service has the support of:
 - › Media associations that encourage their members to check that an alcohol marketing communication has pre-vetting approval prior to placement of the communication; and
 - › Retailer signatories that encourage suppliers to obtain pre-vetting approval for packaging and point of sale marketing.
- Pre-vetters are independent of the alcohol beverage industry.

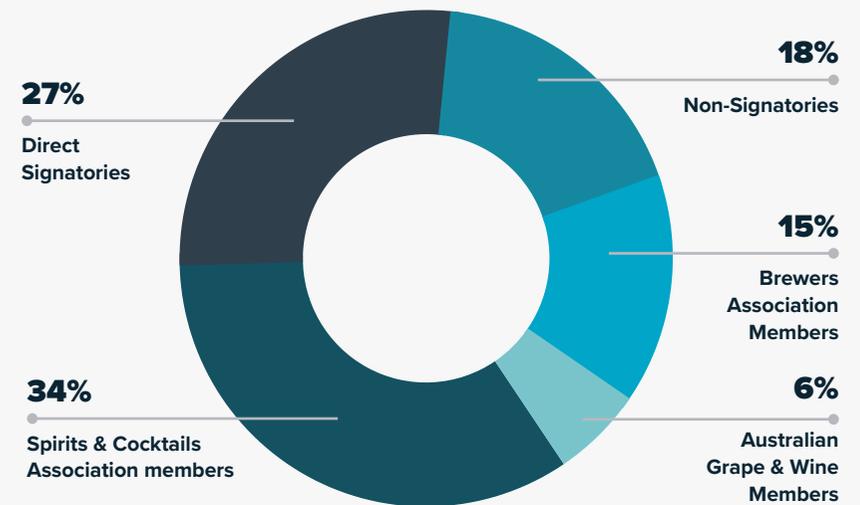
PRE-VETTING REQUESTS & REJECTIONS OVER THE PAST 5 YEARS



In 2021, ABAC saw a 38% increase in pre-vetting requests by alcohol marketers.

The Pre-vetting Service is available to both signatories and non-signatories and again there was a good uptake of the service by non-signatories at 18% of all requests. The use of Pre-vetting is encouraged by media associations and also our signatory retailers which has the effect of raising awareness of Pre-vetting among non-signatories.

PRE-VETTING APPLICATIONS BY SECTOR



Pre-vetting is mandatory for signatory advertisements placed in outdoor, television, cinema and radio media but optional for all other media. The alcohol industry continues to find value in pre-vetting by using the service when it is an option rather than mandatory to do so. In 2021, 55% of all pre-vetting requests were optional to pre-vet.

ABAC ADJUDICATION PANEL (THE ABAC PANEL)

The ABAC Panel headed by Chief Adjudicator Professor Michael Lavarch, AO, considers public complaints about alcohol marketing.

- Ad Standards accepts complaints in relation to all types of marketing communications at no cost to the consumer. This streamlined process ensures all relevant Codes are triggered and reduces the risk of duplication and double handling. All alcohol related complaints received by Ad Standards are provided to the ABAC Chief Adjudicator and the Panel considers all complaints that raise ABAC Code issues apart from those already considered, consistently dismissed, informally resolved in the case of social media posts more than 6 months old or resolved by an expedited breach determination.
- Ad Standards considers complaints under the AANA Code of Ethics. The Code covers a wide range of social issues reflecting the issues that concern the community - from discrimination and language through to health and safety. The advertising self-regulation system works to ensure there is a consistent standard for advertising and marketing content across every media channel.
- The ABAC Panel reports its decisions to Ad Standards, the ABAC Management Committee, the marketer and the complainant. Decisions are published on the ABAC website.
- The Panel and its deliberations are conducted independently of the ABAC Management Committee and the broader alcohol and advertising industry.
- The Panel comprises:
 - › The Chief Adjudicator, Professor The Hon Michael Lavarch AO, who has legal expertise (or if unavailable, the deputy Chief Adjudicator, Debra Richards),
 - › A health sector panelist, Professor Richard Mattick or Professor Louisa Jorm (both were appointed from a shortlist of health sector professionals provided by the relevant Federal Minister responsible for alcohol issues or his or her nominee); and
 - › A panelist with market research, media or advertising expertise, Jeanne Strachan or Debra Richards.
- Each quarter the Chief Adjudicator reports to the ABAC Management Committee on the operation of the Panel and the Chief Adjudicator submits an annual report on the Panel's operations to the ABAC Management Committee for inclusion in its annual report.



COMPLAINTS

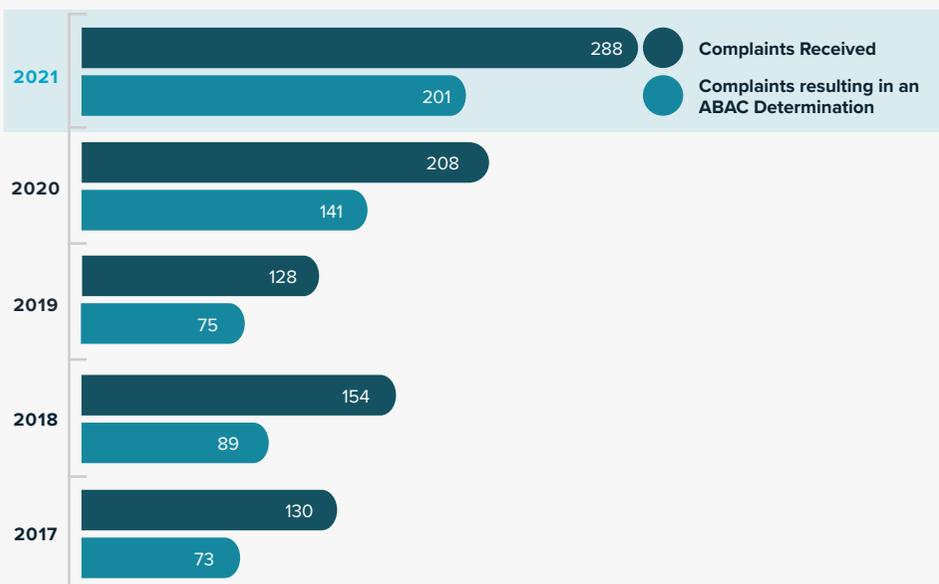
2021 saw the highest number of complaints received by ABAC.

OF THE 288 COMPLAINTS RECEIVED:

299 Separate advertising campaigns attracted a complaint

201 Complaints resulted in an ABAC Determination

COMPLAINTS RECEIVED AND RESULTING IN AN ABAC DETERMINATION



In 2021, 70% of complaints resulted in a Determination, 0.5% of complaints were previously considered by the Panel, 0.5% of complaints raised issues that have been consistently dismissed by the Panel, 1% of complaints were withdrawn, and 27% were outside the scope of the ABAC Code.

COMPLAINTS WERE NOT REFERRED TO THE ABAC PANEL FOR THE FOLLOWING REASONS:

Complaint previously considered:

2021 Determinations 2

Consistently dismissed issues:

Placement with programmes the Panel has previously considered consistent with the Code 2

Outside scope of ABAC:

Not an ad for alcohol 16

Religious offence 8

Misleading advertising (referred to Fair Trading) 7

Objection to alcohol advertising being permitted 7

Failure to disclose as paid advertising 6

Dislike the ad 5

Racial or sexual discrimination 5

Placement outside scope 4

Frequency of alcohol advertising on television 4

Sexual Imagery 3

Complaint withdrawn 3

Unsolicited direct marketing 3

Food Standards Code issues 2

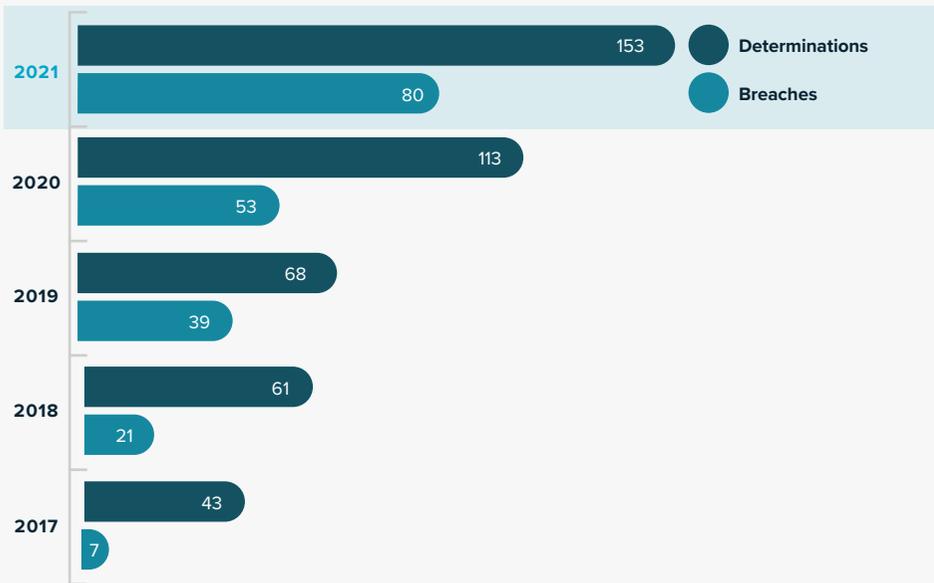
Obscene language 1

Other 7

DETERMINATIONS

ABAC determinations continued their upward trend in 2021. While complaints regarding pandemic related marketing decreased in 2021, the increase may stem from continuing pandemic lockdowns and isolation resulting in increases in media consumption.

DETERMINATIONS & BREACHES IN 2021



PERCENTAGES OF DISMISSED AND UPHELD DETERMINATIONS IN 2021

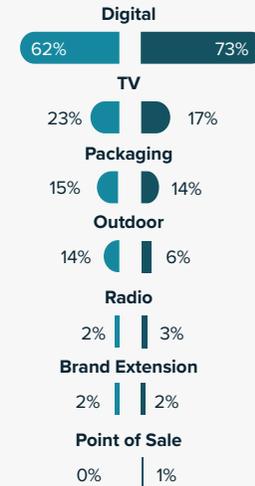
48%
Dismissed determinations

52%
Upheld determinations

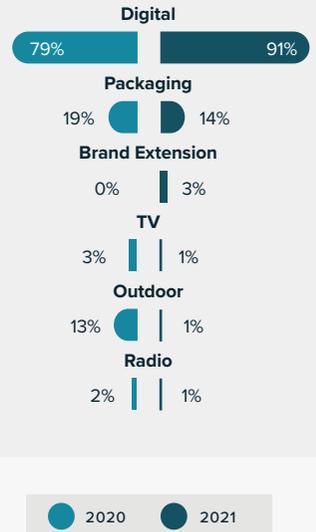
MEDIA ATTRACTING A DETERMINATION

In 2021 the trend continued of increasing determinations relating to digital media (particularly social media). Digital is the most common medium considered in determinations and the most common medium to result in a breach of ABAC standards by a considerable margin. Television marketing is the next highest medium to be considered in a determination, but only resulted in one no fault breach in 2021.

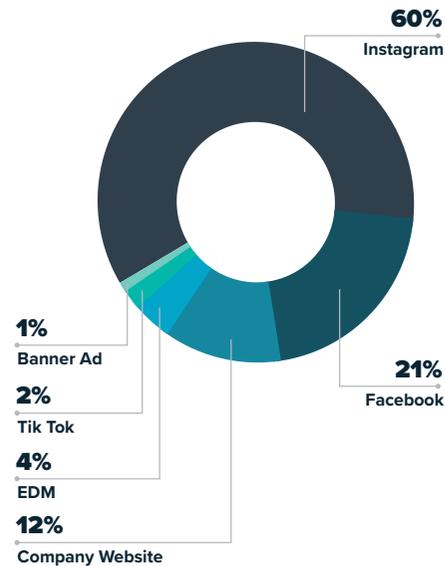
NOTE: Charts represent the percentage of determinations/breach determinations that include consideration of a particular media type. As a number of determinations relate to more than one media type the percentages total >100%.



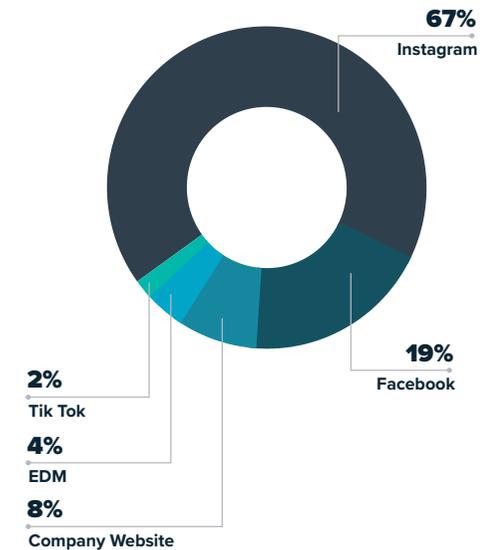
MEDIA ATTRACTING A BREACH



DIGITAL PLATFORMS ATTRACTING A DETERMINATION

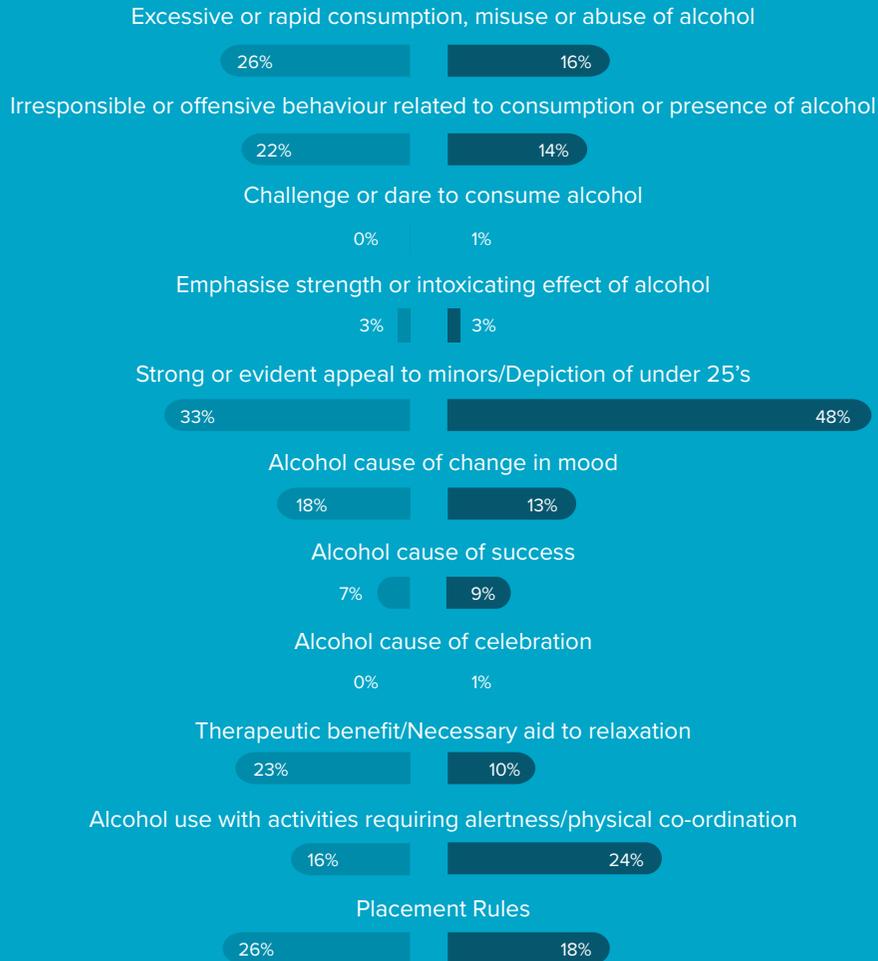


DIGITAL PLATFORMS ATTRACTING A BREACH



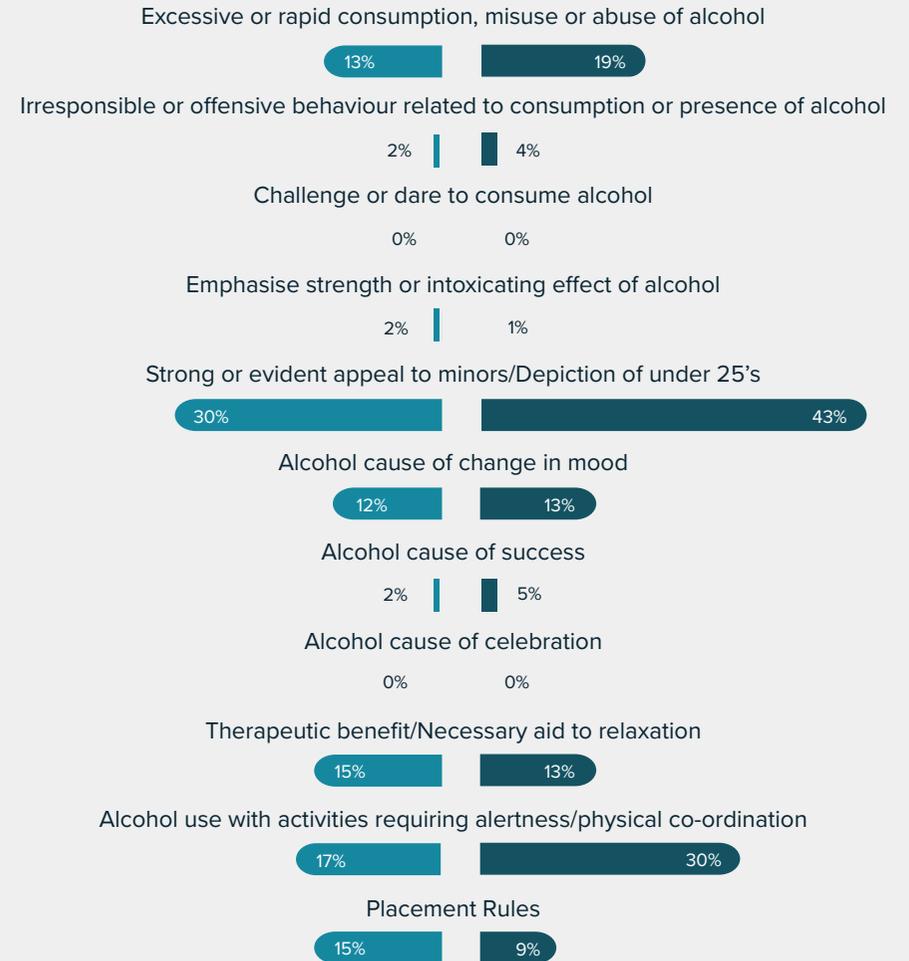
ABAC CODE PROVISIONS ATTRACTING DETERMINATIONS

● 2020 ● 2021



ABAC CODE PROVISIONS ATTRACTING BREACH DETERMINATIONS

● 2020 ● 2021



Of note is significant increases in determinations and breaches relating to strong or evident appeal to minors and alcohol use with activities requiring alertness/physical co-ordination following decreases in the percentage of determinations and breaches relating to these provisions in the previous year. 2021 also saw a reduction in the proportion of determinations relating to therapeutic benefit and the placement rules, although smaller

reductions in the proportion of breaches. NOTE: Charts represent the percentage of determinations/breach determinations that include consideration of a particular ABAC Code provision. As a number of determinations relate to more than one Code provision the percentages total >100%.

CHIEF ADJUDICATOR REPORT

With the finalisation of 153 Panel Determinations, 2021 was by some margin the busiest year for the ABAC complaints process since the Scheme's inception in 1998. While volumes and throughput are important, the year also saw the Scheme undertake quantitative research to test public opinion about whether the Adjudication Panel's decisions on complaints align with the likely attitudes of a 'reasonable person' within the community. The 2021 research follows similar projects in 2013 and 2017 and is an important touchstone as to whether the Panel is fulfilling the mandate given to it by the Scheme.

The 'reasonable person' requirement for Panel decisions is founded in Part 5 of the ABAC. This provision provides that compliance of a marketing communication with a Code standard is to be assessed in terms of the probable understanding of the marketing communication by a reasonable person to whom the material is likely to be communicated. In essence, this means that Panel members are to put aside their personal opinions and as best as possible endeavour to view the marketing item through the eyes of a community member who has the opinions, values and life experiences likely to be shared by most Australians. In other words, the Panel is to be informed by community standards.

Community standards are in reality an elusive and somewhat elastic concept. After all, Australia is a very diverse nation, comprising persons from a large number of backgrounds each shaped by their own families,

economic status, life experiences, localities, education and employment and individual circumstances. And there is a very human tendency to believe that your own attitudes are reflective of mainstream opinion, when this may not be the case. The arguments placed before the Panel in complaints and the responses from alcohol companies often showcase the diversity of outlook with alcohol marketing regulation and the role of the Panel seen on a spectrum of being too sympathetic to alcohol marketers at one end to being stifling servants of the 'nanny state' at the other end.

That's why community research is important as it enables a range of Panel decisions to be assessed against the reasonable person benchmark by a representative sample of the community. The research asked 1500 Australian adults in a robust methodology to review 14 Panel decisions - 8 which upheld complaints and 6 which saw the Panel dismiss complaints. The research outcome confirmed that the Panel decisions were consistent with community standards with the findings indicating:

- strong consensus that the Panel had correctly used the 'reasonable person' benchmark in applying Code standards; and
- if anything, the Panel was slightly more conservative than majority community expectations as to finding some alcohol marketing unacceptable .

The research did show that overall levels of community awareness of the avenue to raise concerns about alcohol marketing needed to be expanded, as complaints based regulatory schemes can only be fully effective if there is good public awareness of the existence of the complaint pathway. On this point, the Panel welcomes the decision taken by the Scheme Management Committee in 2021 to introduce proactive monitoring of compliance by Code

signatories with the age gating of social media sites to exclude access by minors. An important complaint and subsequent Panel determination (189/21 dated 10 September 2021) on ABAC Placement Rule 2 showed there is a valuable role for proactive monitoring to supplement pre-vetting of marketing material and the complaints process.

As detailed in this Annual Report, 2021 witnessed the third consecutive year of a record number of Panel decisions. On average the Panel was called upon to make three decisions per week, although in practice complaints are not so evenly spaced and during some periods up to ten decisions in a week was required to meet target timeframes. Given no one working in the complaints process is full-time, it was a struggle on occasions to manage the throughput, but it was achieved and importantly the quality of the decisions in terms of detailed reasons was maintained. This is very largely as a result of the sterling efforts of Jayne Taylor and Marilyn Hansford and Panel members promptly reviewing materials. I thank all involved as well as the alcohol marketers in supplying materials and providing comments in accordance with the requested timeframes.

**Professor The Hon Michael Lavarch AO
Chief Adjudicator, ABAC Adjudication Panel**





MOST COMPLAINED ABOUT ALCOHOL AD IN 2021

An advertisement for Vodka Cruiser Spritz attracted 6 complaints, on the basis it had appeal to minors and was placed on digital television during ‘Lego Masters’ and ‘The Surgeon’.

Further complaints were also made and considered within the same determination about the placement of Jack Daniels, Cellarbrations and BWS advertisements during Lego Masters.

The Panel considered and dismissed the complaints against both its content and placement standards.

The Panel found that the content of the Vodka Cruiser Spritz advertisement would not have strong or evident appeal to minors, noting:

- the ad does establish the product is alcoholic through a combination of verbal references and depictions of the product packaging and logo which use the well recognised alcohol term of vodka;
- the characters shown are all adults apparently aged 30 or more; 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.

In relation to the placement concerns the Panel found that:

- the alcohol ads were not screened on free to air linear TV prior to 8:30 pm;
- age restriction controls available on the 9Now BVOD platform were utilised to exclude account holders who are minors from being served with alcohol ads;
- the audience for Lego Masters did not exceed 21.5% under 18 which is within the 75% adult requirement of the Placement Rules;
- Lego Masters has wide appeal, including to minors, but the program cannot be said to be primarily aimed at minors; and
- ratings data for the Surgeon indicate that the program has a predominately adult audience with very few minors watching the show, and the medical theme and human drama of the program makes it quite clear the program is not primarily aimed at minors.

In its concluding remarks the Panel recognised that a large number of complainants raised a genuine concern about alcohol advertising appearing with the program Lego Masters. Lego is a product which is synonymous with children, and while Lego has pivoted in recent years towards more complex themes eg Stars Wars or other movie related sets, the product remains a staple for children. Lego Masters is a family show, and while the Panel could not find that the program is primarily aimed at minors, this does not mean that many under 18 year olds won't be drawn to the show. Despite dismissing the complaint, the Panel expressed the view that alcohol marketing should not be occurring with this program.

BREACHES OF ABAC STANDARDS

During 2021, 80 ABAC determinations were made upholding public complaints about alcohol marketing communications, including:

- Eight expedited breach determinations, where the alcohol marketer accepted there had been a breach of ABAC standards and promptly removed the marketing material.
- Two determinations associated with the placement of marketing were found to be 'no fault breaches', where the breach was considered to be reasonably unforeseeable or outside the reasonable control of the alcohol marketer or their agency.

RESPONSIBLE & MODERATE PORTRAYAL OF ALCOHOL BEVERAGES – ABAC CODE PART 3(A)

Excessive or rapid consumption, misuse or abuse of alcohol or consumption inconsistent with the Australian Alcohol Guidelines – ABAC Code Part 3 (a)(i)

W SELTZER



The message, whether offered seriously or as a joke, does not model responsible alcohol use consistent with the Part 3 (a) standard.

The post was removed on notification of the complaint.

RED EYE BAR



The post implied or encouraged excess alcohol consumption, through a combination of the image of a person drinking directly from a 750ml bottle with the phrase 'getting weird' after a reference to consumption of alcohol and tacos.

The post was removed on notification of the complaint.

JIMMY BRINGS



The 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.

The posts were removed on notification of the complaint.

DAILY LAGER



A video of a person skilling an entire bottle of beer equates to rapid consumption.

The posts were removed on notification of the complaint.

RESPONSIBLE & MODERATE PORTRAYAL OF ALCOHOL BEVERAGES – ABAC CODE PART 3(A)

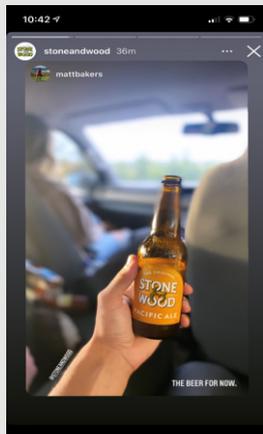
Irresponsible or offensive behaviour related to the consumption or presence of alcohol – ABAC Code Part 3 (a)(ii)

DDH STUNNER



The packaging included a storyboard of a wrestling match with a panel displaying two cans of beer being poured in victory 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.

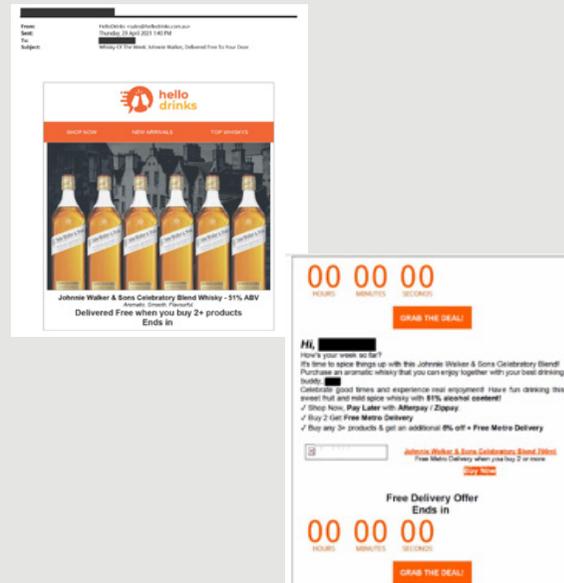
STONE & WOOD PACIFIC ALE



Given the variable legal position on the consumption of alcohol by motor vehicle passengers in different States & Territories, it is prudent that alcohol marketers not show alcohol being consumed in a motor vehicle. The post was removed on notification of the complaint.

Encourage the choice of a particular alcohol beverage by emphasising its alcohol strength – ABAC Code Part 3 (a)(iv)

HELLO DRINKS



The sentence - 'Have fun drinking this sweet fruit and mild spice whisky with 51% alcohol content!' - would be likely understood as going beyond factual information to promoting the high alcohol content of the product as a selling point and contributing to a 'fun' drinking experience.

The Company advised they had changed their marketing systems to avoid a recurrence.

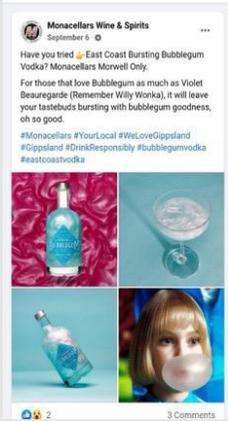
NOTE:

- 3 additional determinations concerning pandemic/lockdown marketing related to excessive alcohol consumption (refer page 33-34).
- 5 additional determinations resulting in breaches of multiple ABAC issues related to excessive or rapid alcohol consumption (3) and irresponsible or offensive behaviour relating to the consumption or presence of alcohol (2) (refer pages 35-36).
- 2 additional expedited determinations related to rapid or excessive alcohol consumption (one pandemic related) (refer page 39).

STRONG OR EVIDENT APPEAL TO MINORS/ DEPICTIONS OF UNDER 25S – ABAC CODE PART 3(B)(I)-(III)

Packaging & Social media posts referencing confectionery

MAGICAL FAIRY FLOSS UNICORN VODKA & BURSTING BUBBLEGUM VODKA



The product names reference confectionery items likely marketed toward and consumed more extensively by minors than adults as the most dominant messaging on the label and the terms 'unicorns', 'magic' and exaggerated descriptors like 'bursting' are highly relatable to minors.

The Company has taken steps toward modifying the packaging and the retailer posts were removed.

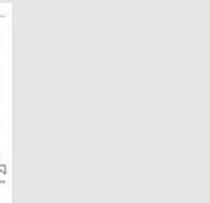
FAIRY CAKE OAT CREAM IPA



Potential for the product to be confused with a non-alcoholic beverage as the labelling fails to unambiguously establish the product as being a beer on the front of the can, the name Fairy Cake is far more associated with a non-alcohol than an alcohol product and the pattern of sprinkles and mixed colours would resonate and be familiar to minors, overall creating relatable packaging for minors

The packaging was discontinued.

MILKY LANE



The images of the packaged cocktails are bright and eye-catching, some names given to the cocktails adopt confectionery popular with minors such as Bubblegum Sour, Sour Warhead, Fruit Tingle and the text does not unambiguously establish the cocktails are alcoholic in nature.

The posts were removed on notification of the determination.

STRONG OR EVIDENT APPEAL TO MINORS/ DEPICTIONS OF UNDER 25S – ABAC CODE PART 3(B)(I)-(III)

Packaging & Social media posts referencing confectionery (cont.)

CULTURE KICK SOUR ALE



The products are not unambiguously identified as being alcoholic and the descriptors ‘cherry berry choc sundae’, ‘pine lime creamsicle’ and ‘blueberry pastry’ would be far more associated with non-alcoholic products than an alcoholic beverage, the principal imagery evokes an impression of desserts popular across age groups and recognisable and relatable to minors, the imagery and name of the products create an illusion of a smooth transition from non-alcoholic products to an alcohol beverage and the packaging employs bright colours that are likely to be eye-catching and appealing to minors.

The products were limited edition one off releases with no stock remaining.

4 PINES BREWING BEN & JERRYS CHOC CHIP COOKIE DOUGH INSPIRED NITRO BEER



There are strong similarities between the 4 Pines packaging and the well-known Ben & Jerry's Chocolate Chip Cookie Dough tub and the association with the popular ice-cream brand would be immediately apparent, ice cream is a product consumed across age groups with minors proportionately consuming more than adults, ‘Chocolate Chip Cookie Dough’ is a relatable and popular flavour a minor would find appealing, while it is unlikely the product would be confused with confectionery or soft drink due to a prominent reference to ‘beer’, the packaging suggests a smooth transition from a non-alcoholic to an alcoholic beverage and the use of bright and contrasting colours would likely be eye-catching for minors.

The Company advised the product had been discontinued and would not be re-instated.

BLACKCURRANT PASTILLE SOUR ALE



Blackcurrant pastilles, are a longstanding confectionery that have been continuously sold since 1881, it is reasonable to assume the lollies are consumed across age groups and the lollies and the name is popular and recognisable to minors, there is no basis to believe blackcurrant pastilles were popular with minors say up to the early 2000’s and since then to invoke fond childhood recollections for adult consumers but the lolly is now not popular with minors, the packaging uses the well-recognised alcohol descriptor ‘ale’ with sufficient prominence to establish the product as an alcohol beverage, the packaging uses eye-catching colours likely to attract the attention of minors and the combined elements create an illusion of a smooth transition to an alcoholic beverage.

The Company agreed to modify the packaging.

SHOT BUCKET



The label fails to adequately identify the product as an alcoholic beverage and together with the names Jam Donut, Ginger Kiss, Salted Caramel and Butterscotch, gives 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.

STRONG OR EVIDENT APPEAL TO MINORS/ DEPICTIONS OF UNDER 25S – ABAC CODE PART 3(B)(I)-(III)

Packaging & Social media posts creating confusion with soft drink

CREAM SODA SOUR ALE



The term 'Ale' is a strong signifier of a product being alcoholic beer, however 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 the appeal of soft drinks and milkshakes for minors remains strong, 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 would be modified.

EASY STREET SELTZER



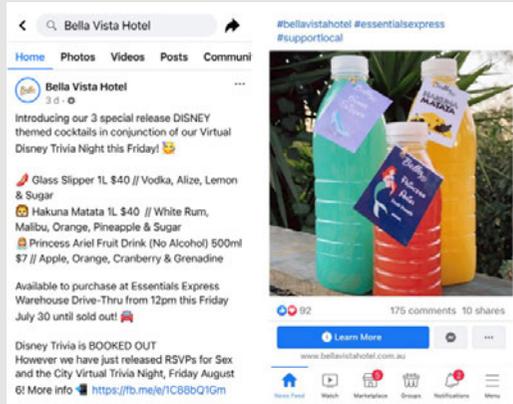
Due to the use of fruit images and the terms 'lime' and 'mango' combined with the lack of a highly prominent alcohol term the products could be easily confused with a fruit flavoured soft drink and the packaging imagery is relatable to minors and raises an illusion of a smooth transition from non-alcoholic to alcoholic beverage.

The Company agreed to modify the packaging.

STRONG OR EVIDENT APPEAL TO MINORS/ DEPICTIONS OF UNDER 25S – ABAC CODE PART 3(B)(I)-(III)

Packaging & Social media posts creating confusion with soft drink (cont.)

BELLA VISTA HOTEL



The image of the alcohol product raises a potential confusion with a soft drink, product names such as Glass Slipper suggests Disney children’s entertainment e.g., Cinderella; and while the post does have text providing greater context and information about the alcohol content of the cocktails, a reasonable person would take the post as a whole as having a strong appeal to minors.

The Facebook post was removed.

HANG LOOSE JUICE NEIPA



Describing the product as tasting like a glass of freshly squeezed orange juice, raised a very clear implication of the product affording a smooth transition from non-alcoholic to alcoholic beverages.

The Company modified the Facebook post.

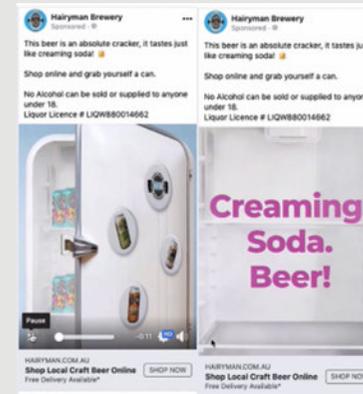
FIZZER ALCOHOLIC SELTZER



Failure to clearly identify the product as alcohol in the text of the Facebook post and a lack of clearly visible alcohol identifiers in the photograph, does raise a reasonable implication that the products are soft drinks and suitable for all ages.

The Company deleted the Facebook post.

HAIRYMAN POP ALE



The major and prominent references to creaming soda in the video makes the marketing highly relatable and recognisable to minors, enhance the illusion that the product offers a smooth transition from non-alcoholic to alcohol beverages for minors and the graphics and movement of the cans in the advertisement are eye-catching and emphasise the bright colour of the product can.

The Facebook post was removed.

STRONG OR EVIDENT APPEAL TO MINORS/ DEPICTIONS OF UNDER 25S – ABAC CODE PART 3(B)(I)-(III)

Packaging & Social media posts creating confusion with soft drink (cont.)

MILO IMPERIAL BROWN ALE



The post is clearly modelled on Milo stating the beer is made with Milo, a product used to flavour milk and consumed more heavily by minors, the post raises a strong inference the product 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.

The Company removed the post on notification of the complaint.

Other packaging and marketing with strong or evident appeal to minors

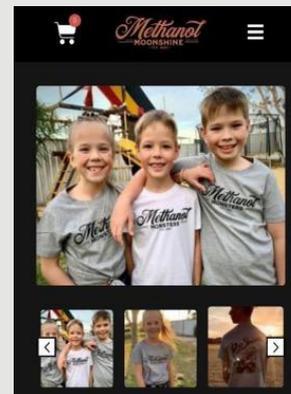
UNICORN VODKA LIQUEUR



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. Further, 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

METHANOL MOONSHINE



Children's t-shirts sold on the Methanol Moonshine website would be understood by a reasonable person as an item of marketing collateral promoting the Company's alcohol brand.

The marketing collateral was discontinued and the website entry selling the children's t-shirts was removed from the brand website.

STRONG OR EVIDENT APPEAL TO MINORS/ DEPICTIONS OF UNDER 25S – ABAC CODE PART 3(B)(I)-(III)

Images of under 18 year olds

BACCHUS FAMILY WINE

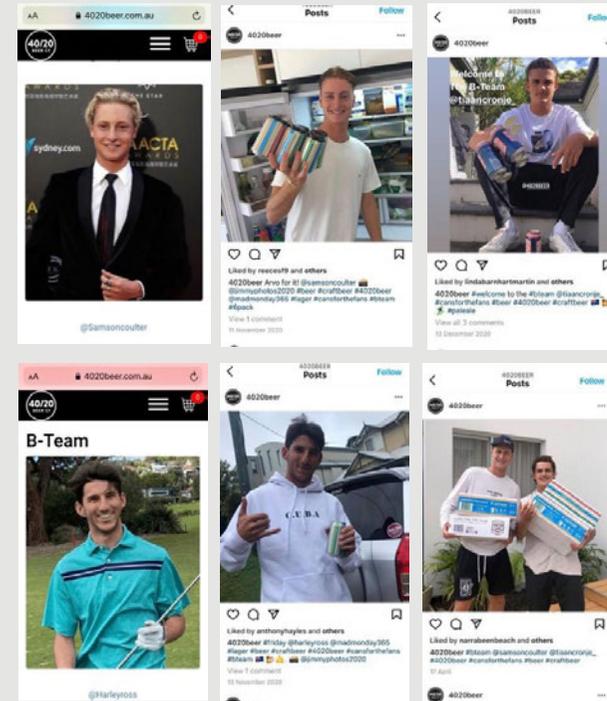


While a father with children is a natural situation and the children would not be taken to be consuming or serving alcohol, the photograph was clearly staged for the purposes of the post, and the staging of the photograph and the centering of the wine with the children breaches the standard.

The Instagram post was removed on notification of the complaint.

Images of under 25 year olds

40/20 BEER



People aged under 25 years featured prominently in social media posts.

The posts were removed.

STRONG OR EVIDENT APPEAL TO MINORS/ DEPICTIONS OF UNDER 25S – ABAC CODE PART 3(B)(I)-(III)

Images of under 25 year olds (cont.)

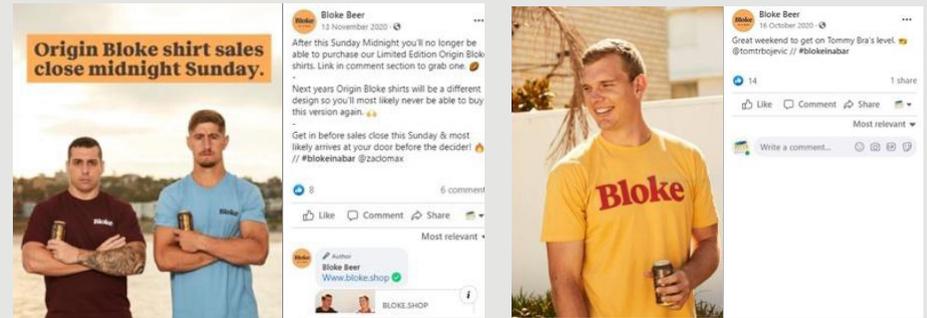
BLOKE IN CARDIGAN



The Company shared a post of a person that appeared to be around 18 years old.

The shared post was only available for 24 hours and the company advised it would not again be shared.

BLOKE LAGER



People aged under 25 years featured prominently in social media posts.

The posts were removed on notification of the complaint.

GAGE ROADS



A 24 year old was featured prominently in a social media post.

The Company removed the post on notification of the complaint.

NOTE:

- 1 additional determination concerning pandemic/lockdown marketing related to strong or evident appeal to minors (refer page 34).
- 6 additional determinations resulting in breaches of multiple ABAC issues related to strong or evident appeal of alcohol packaging for minors (1), appeal of an Instagram post for minors (2) and images of under 25 year olds (3) (refer pages 35-38).
- 1 additional expedited determination related to strong or evident appeal to and images of minors (refer page 39).

PLACEMENT RULES – ABAC CODE PART 3(B)(IV)

Placement Rule (ii)

VARIOUS BRANDS

Age restriction controls had not been applied in respect of 43 Facebook or Instagram accounts (6 classified as a no fault breach).

All accounts have been age restricted.

BLACK HEARTS & SPARROWS

Age restriction controls had not been applied to a social media account.

The Company applied all available age restriction controls to their account on notification of the complaint.

GREY GOOSE VODKA

Age restriction controls available for branded content influencer posts on Instagram were not applied.

The Company arranged for the posts to be removed.

Placement Rule (iii)

BASIC BABE

It was not reasonable to expect that the audience of the 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.

NOTE:

- One additional determination resulting in breaches of multiple ABAC issues related to a breach of Placement Rule (i) regarding an outdoor advertisement placed within 150m of a school (Refer page 35)
- Two additional no fault breaches of Placement Rules (iii) and (iv) (refer page 40)

ALCOHOL CAUSING OR CONTRIBUTING TO A SIGNIFICANT CHANGE IN MOOD OR ENVIRONMENT OR SUCCESS – PART 3(C)(I) - (II)

GOOD PAIR DAYS



The intended humour of the joke arises from the entirety of the meme, including the marginal change in the rabbit’s facial expression, combined with the words “Me handling sugar-high kids vs me with wine handling sugar-high kids”, delivering a message that drinking alcohol makes it easier to remain calm when handling a stressful situation, in this case, energetic, rowdy and excited children. The underlying humour of the joke is not achieved if, overall, a significant change in mood is not portrayed.

The Company agreed not to use the meme in future marketing.

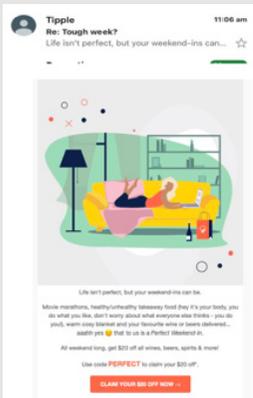
LITTLE GUY BAR



The first post shows the introduction of alcohol as the cause of a significant change in mood. A 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.

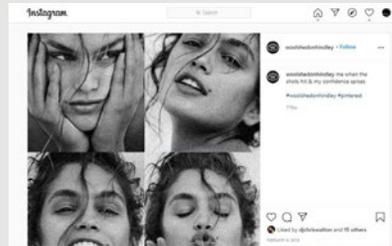
TIPPLE



The most likely implication of the EDM is that alcohol is a contributor to the perfect weekend, which is a significant change in mood or environment from a tough week.

The Company advised they would not re-use the EDM.

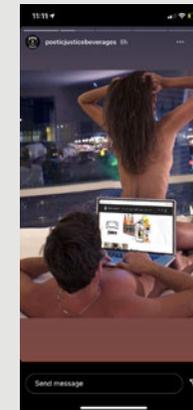
WOOLSHED ON HINDLEY



The caption in combination with the images 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.

POETIC JUSTICE BEVERAGES

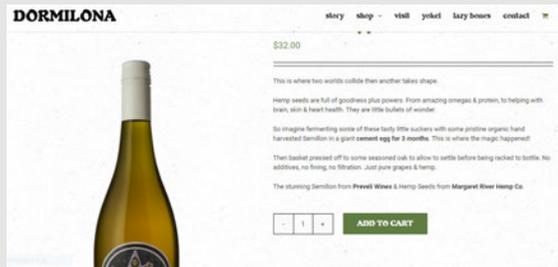


There was a reasonable implication from the image in the post that alcohol is a contributor to sexual activity.

The post was removed.

SUGGESTING CONSUMPTION OR PRESENCE OF ALCOHOL OFFERS A THERAPEUTIC BENEFIT OR IS A NECESSARY AID TO RELAXATION – ABAC CODE PART 3(C)(IV)

DORMILONA HEMP SEMILLON



By linking 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.

The Company removed the website entry.

BRIGHTSIDE TRIPLE BOTANICAL SPIRIT



Referring to the product as 'healthy' is inconsistent with the Code standard.

The Facebook post was modified to remove the reference to 'healthy' on receipt of the complaint.

ONE DROP SOURSOP & INDICA SOUR ALE



The language in the website entry suggests a significant change in mood and illicit drug impacts (as opposed to the lawful use of hemp derived elements in beverages and foodstuffs). References to 'dope' and 'Irie vibes' directly imply a change in mood and potentially illegal drug use related to the consumption of the product.

The website entry was modified.

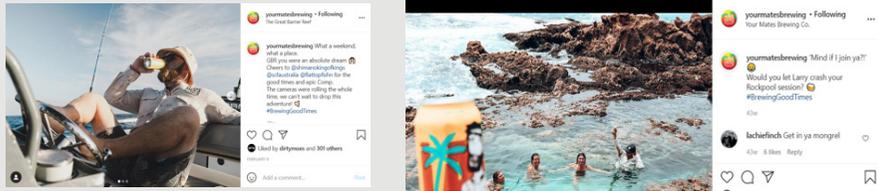
NOTE:

- 5 additional determinations concerning pandemic/lockdown marketing related to alcohol causing or contributing to a significant change in mood or environment (3) and/or a suggestion that consumption or presence of alcohol offers a therapeutic benefit or is a necessary aid to relaxation (5) (refer pages 33-34).
- 4 additional determinations resulting in breaches of multiple ABAC issues related to alcohol causing or contributing to a significant change in mood or environment (1), alcohol causing or contributing to success (2) and/or a suggestion that consumption or presence of alcohol offers a therapeutic benefit or is a necessary aid to relaxation (2) (refer pages 35,36 & 38).
- 2 additional expedited determinations related to a suggestion that the consumption of alcohol offers a change in mood or therapeutic benefit (one pandemic related) (refer page 39).

ALCOHOL AND SAFETY – ABAC CODE PART 3(D)

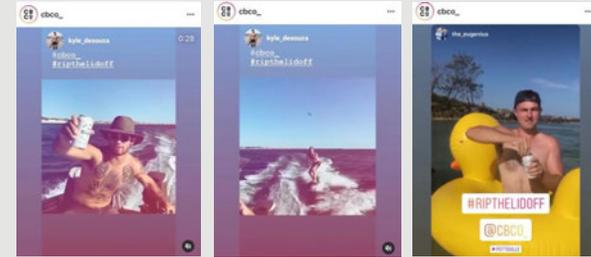
Alcohol consumption before or during water based activities (operating a boat, wakeboarding, surfing, swimming) (cont.)

YOUR MATES BREWING



The posts were removed on notification of the complaint.

COLONIAL BREWING



The post was removed.

EVENING GLASS OFF DIPA



The post was removed on notification of the complaint.

YUZU KOJI RICE LAGER



The post was removed on notification of the complaint.

BEACH BEER BONDI



The post was removed on notification of the complaint.

RIOT WINE



The post was removed on notification of the complaint.

ALCOHOL AND SAFETY – ABAC CODE PART 3(D)

Alcohol consumption before or during water based activities (operating a boat, wakeboarding, surfing, swimming) (cont.)

VACAY ALCOHOLIC SELTZER



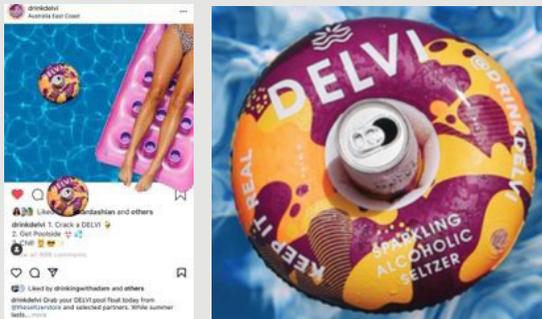
The post was removed on notification of the complaint.

VACAY ALCOHOLIC SELTZER



The posts were removed on notification of the complaint.

DELVI SELTZER



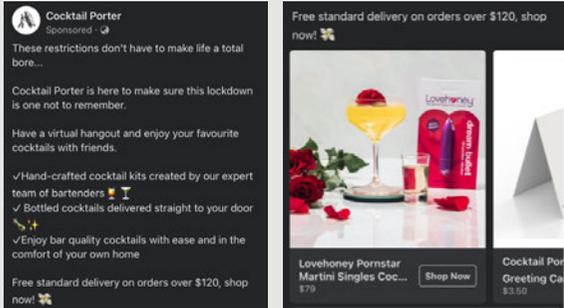
The post was removed and the pool float promotion discontinued.

NOTE:

- 5 additional determinations resulting in breaches of multiple ABAC issues related to alcohol consumption before or during activities requiring a high degree of alertness and physical coordination (3 relating to water based activities, one relating to sitting on a cliff edge and another relating to alcohol consumption on a construction site (refer pages 35-38).
- 4 additional expedited determinations related to alcohol consumption before or during water based activities (refer pages 39).

PANDEMIC/LOCKDOWN MARKETING - ABAC CODE PARTS 3 (A)(I), (B)(I), (C)(I) & (C)(IV)

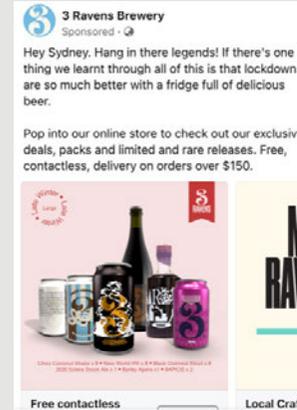
COCKTAIL PORTER – (A)(I)



The statement - 'make sure this lockdown is one not to remember' raises a reasonable implication of alcohol consumption to the extent of causing a loss of memory.

The ad was modified on receipt of the complaint, with the company advising it was a copy error.

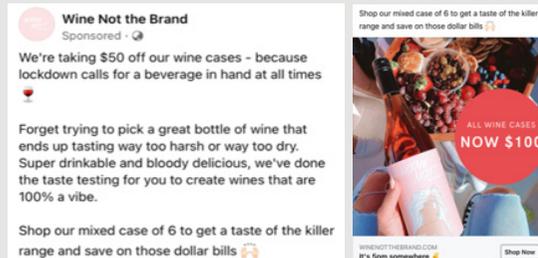
3 RAVENS BREWERY – (A)(I) & (C)(IV)



The caption 'Hang in there legends. If there's one thing we learnt through all of this is that lockdowns are so much better with a fridge full of delicious beer' raises a direct implication that the consumption of alcohol is a coping mechanism for the lockdown, and in the current context, the message of a fridge full of beer combined with the lockdown and 'hang in there' references raises a direct implication of consumption beyond the Alcohol Guidelines.

The ad was discontinued.

WINE NOT THE BRAND - (C)(I) & (IV)



The phrase, 'because lockdown calls for a beverage in hand at all times' raises a direct implication of excessive alcohol consumption and that alcohol consumption is a coping mechanism for the lockdown and will improve a person's mood.

The ad was discontinued on receipt of the complaint.

BOOZEIT - (C)(IV)



A vaccine vial labelled 'Jack Daniels' with the caption 'Got my vaccine shot today' assumes that it is a common, if not acceptable, practice to self-medicate with alcohol to deal with stressful situations.

The advertiser removed the post on notification of the complaint.

PANDEMIC/LOCKDOWN MARKETING - ABAC CODE PARTS 3 (A)(I), (B)(I), (C)(I) & (C)(IV)

GIN SOCIETY - (C)(I) & (IV)



The post was made during the covid lockdowns impacting on NSW, ACT and Victoria during late June to mid October 2021 and while it is permitted to reference the lockdowns in alcohol marketing, this must be done consistently with the standards of responsible marketing contained in the ABAC, the wording of the post and hashtags used suggest that lockdown is difficult, but a person's frame of mind may improve after drinking alcohol and a reasonable person could well take the meaning to be that alcohol consumption is a coping mechanism for the lockdown and will improve a person's mood.

The post was modified on receipt of the complaint.

ABERMAIN HOTEL – (A)(I) & (B)(I)



The phrase 'you can make 4 to 6 cocktails with this 1 litre bottle of cocktail mix ' followed by 'Cos let's face it, we've got nowhere to be!' raises an implication that since a consumer can't leave home, then more heavy consumption than normal is ok.

The shape, colour and style of the bottle is not immediately recognisable as one that would ordinarily contain an alcoholic beverage and the failure of accompanying text to unambiguously identify the cocktails as being alcoholic and posing of the products with Bundaberg Ginger Beer and Kirks Lemonade along with the use of the words "fruit tingle" (a well known confectionery item) creates a relatable image for minors.

The Company removed the posts.

NOTE:

- An expedited determination referenced COVID-19 impacts (refer page 39).

LOCKDOWN ESSENTIALS PACK - (C)(I) & (IV)

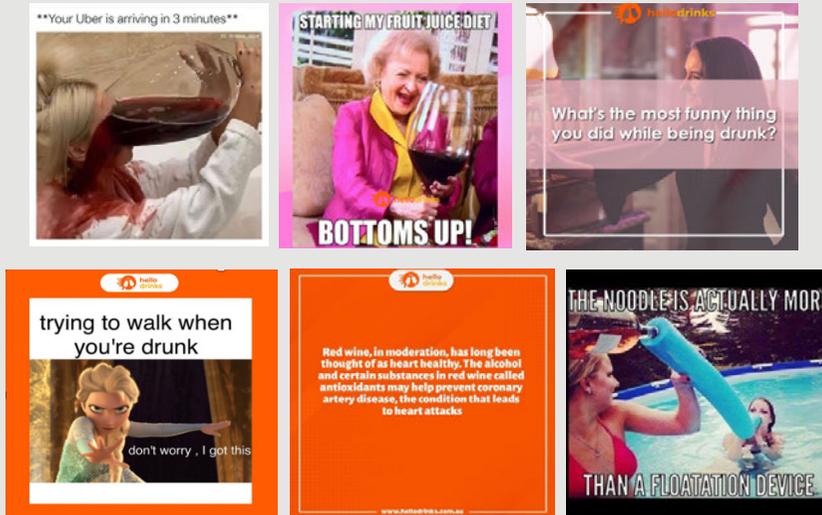


A combination of the following phrases within marketing for an alcohol product would suggest to a reasonable person that the product may enhance a person's mood or be used as a coping mechanism during lockdown - 'we have just what is needed for the lockdown blues', 'Lockdown survival kit' and "We have created the perfect stay home Cocktail pack to keep you upbeat and hydrated while you Netflix and chill for the next two weeks!'. The posts/entries were modified on receipt of the complaint.

The posts/entries were modified on receipt of the complaint.

MULTIPLE ABAC STANDARDS

HELLO DRINKS – (A)(I), (B)(I), (C)(IV) & (D)



Excessive or rapid consumption implied within humorous memes showing oversized glasses of wine and captions 'What's the most funny thing you did while being drunk?' and 'trying to walk when you're drunk'.

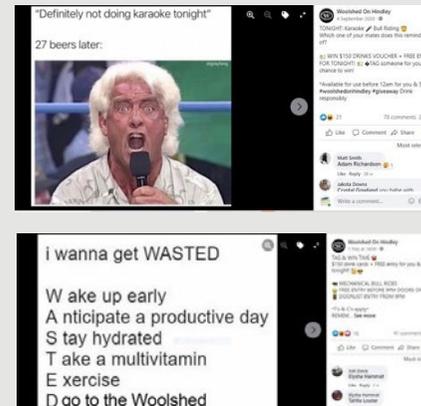
Strong or evident appeal to minors through the use of a cartoon image of Elsa, from the movie Frozen.

Alcohol having a therapeutic benefit through statements that antioxidants in red wine 'may help prevent coronary artery disease' and 'moderate alcohol consumption can reduce the risk of developing and dying of heart disease'.

Suggestion of alcohol consumption while swimming in a meme showing two women using a pool noodle (floatation device) as a straw to consume a liquid from a large bottle while in a swimming pool with text - 'The noodle is actually more than a floatation device'.

The posts were removed.

WOOLSHED ON HINDLEY - (A)(I) & (C)(I)



The posts all reference excessive consumption of alcohol and two suggest that the consumption of alcohol changes mood.

The posts were removed.

FOUR PILLARS BLOODY SHIRAZ GIN – (A)(II) & (B)(IV)



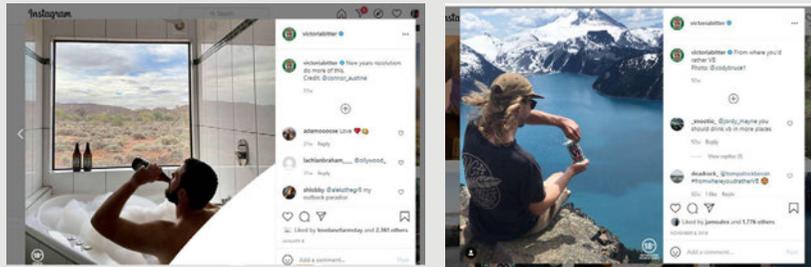
Placement of billboard within 150 metres line of sight of a school.

Image implies either throwing liquid at a woman or showing blood covering a woman's head, both of which are acts of aggression against a passively depicted woman.

The Company arranged for the advertisement to be immediately withdrawn from the sites near schools and withdrew the advertisement from the market entirely.

MULTIPLE ABAC STANDARDS

VB – (A)(I) AND (D)



A photograph of a man consuming a long neck of VB while sitting in a bath, where two additional empty long necks are positioned near the bath, raises a reasonable implication of the consumption of the three bottles, which equals 9 standard drinks.

A reasonable person would understand that sitting on the edge of a cliff is an activity requiring alertness to be performed safely and opening a can of beer is a clear implication that consumption is about to occur.

The posts were removed.

GOONÉ WINE – (A)(II), (B)(III), (C)(II) & (C)(IV)



Irresponsible drinking patterns implied, by reference to day drinking and an exaggerated reaction to a hangover.

Implying rapid alcohol consumption with a suggestion two friends, rather than the woman herself, are controlling her levels of consumption of the product.

Images of people aged under 25.

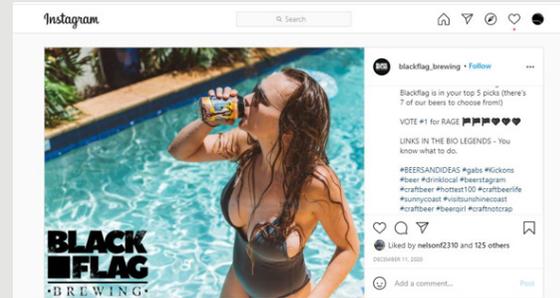
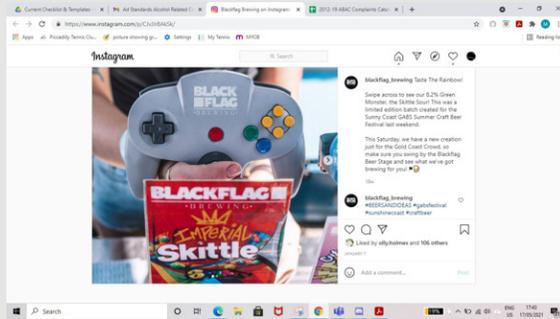
Suggesting that your friends would want nothing to do with you if you decided not to drink alcohol suggests alcohol contributes to social success.

The caption, 'Happy Hump Day!! Couldn't think of a better way to get you through the last half of the week than a cold cuppa #Gooné' implies that weekday life is difficult, and the product will help a person get through their week.

The posts were removed.

MULTIPLE ABAC STANDARDS

BLACKFLAG BEER – (B)(I) & (D)

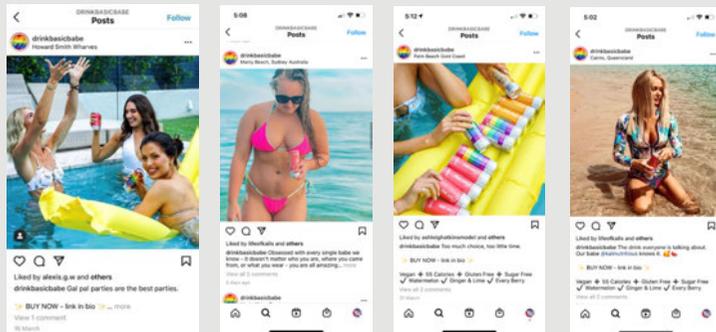


Tap branding in a social media post adopts the same font, packaging, colouring, rainbow motif and tagline 'taste the rainbow' used on popular Skittles confectionary packaging and placing the branding with a gaming control increases its familiarity with minors.

Two posts directly imply alcohol consumption before or during swimming, reinforced by the caption 'Who's keen for a Blackflag pool party?'

The posts were removed on notification of the complaint.

BASIC BABE SELTZER – (B)(III) AND (D)



Direct implication of the consumption of alcohol before or during swimming or pool activities with a further post including images of two under 25 year olds.

The Instagram posts were removed on notification of the complaint.

MULTIPLE ABAC STANDARDS

WET PUSSY PACKAGING – (B)(I) & (C)(II)



The sexual connotation of the brand name is likely to appeal to minors in their mid-teens wishing to feel older, bright pink text and clear packaging that displays the cherry-coloured liquid are together likely to be eye-catching for minors, the most influential design features on the front of the packaging is the Wet Pussy brand name and the cat image, with the alc/vol descriptor in comparatively small print and the lack of a clear alcohol description on the front of the bottle together with the prevailing colour scheme and cat imagery creating an illusion that the product may be an easy transition from non-alcoholic to an alcoholic beverage.

A reasonable person would probably understand the product and packaging was suggesting that that the product might contribute to the achievement of sexual success.

The Company has not responded to the final determination and the complaint has been referred to the Victorian Liquor Licensing Authority.

BLOKE LAGER (B)(III) & (D)



A post featured a 24 year old posing with a can of the product.

A post showed a man wearing safety clothing and moving metal piping while holding a beer.

The Company removed the posts on notification of the complaint.

EXPEDITED DETERMINATIONS

The Chief Adjudicator has the option of electing to uphold a complaint by expedited resolution where:

- a marketing communication appears to be in breach of a Code Standard, given the issues raised in the complaint;
- the complaint and marketing communication do not raise issues of broader significance to the understanding of Code provisions or the operation of the ABAC Scheme;
- the marketing communication that is the subject of the complaint is not a product name or packaging; and
- the marketer accepts that the ABAC issues raised by the nature of the complaint have not been complied with.

BREWBOYS CRISP ALE

Rapid alcohol consumption – ABAC Code Part 3 (a)(i)



THE YOUNG STREET HOTEL

Excessive alcohol consumption & alcohol causing change in mood – ABAC Code Part 3 (a)(i) & (c)(i)



7 schooners of delicious frothy beer cures the feelings of sadness associated with Covid-19 and it's related loss of friends and family time.

NOSH BOOZY SELTZER

Strong or evident appeal to and images of minors – ABAC Code Part 3 (b)



A high school scene from a well known movie includes 16 year old girls with an alcohol beverage in front of them that has been photoshopped into the image.

BIGSHOT BREWED ALCOHOLIC DRINK

Alcohol consumption before or during water based activities – ABAC Code Part 3 (d)



HEMP GIN

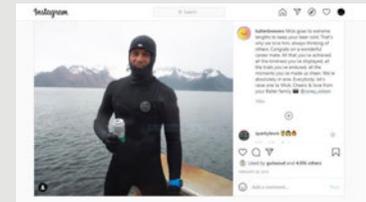
Suggestion alcohol offers a therapeutic benefit – ABAC Code Part 3 (c)(iv)



Website copy marketing the Product as "...a different kind of therapeutic".

BALTER BEER

Alcohol consumption before or during water based activities – ABAC Code Part 3 (d)



CATTLEYARD PALE ALE

Alcohol consumption before or during water based activities – ABAC Code Part 3 (d)



TRAIL PALE ALE

Alcohol consumption before or during water based activities – ABAC Code Part 3 (d)



NO FAULT BREACH

A breach of the ABAC Code that is reasonably unforeseeable by or outside the reasonable control of the Marketer or their agency will be classified as a 'no fault breach'.

VICTORIA HOTEL ORANGE

Placement with a program primarily aimed at minors. However, given the hotel had no knowledge of the placement with that programme and believed its promotional spots were no longer being aired the Panel made a 'no fault' breach finding.

JAMES SQUIRE & HEINEKEN

Placement with 'Blues, Clues and You' on 10Play which had an adult audience of 55% under 18s and is a program primarily aimed at minors. A no fault finding was made as Network 10 confirmed that the mistake was at their end and that the Company gave clear instructions not to place advertising with children's programming.

ABAC STATISTICS 2004 – 2021

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Marketing Pre-vetted	754	761	936	1267	1110	1369	1050	1059	1229	1394	1571	1589	1416	1453	1751	2192	2424	3336
Rejected	84	86	182	293	232	238	77	82	192	211	212	204	186	198	228	346	371	501
Alcohol Complaints	212	105	53	87	162	117	87	119	98	182	94	133	139	130	154	128	208	288
Percentage of all complaints ¹	8.1%	3.6%	1.3%	3.3%	4.5%	3.1%	2.5%	3.5%	2.7%	6.6%	1.6%	3%	2.5%	2%	2.3%	2.4%	6%	6%
Campaigns complained about	23	29	26	38	44	42	38	74	63	78	42	71	78	67	100	108	170	299 ²
Complaints resulting in a determination	8	29	13	25	49	47	41	63	53	69	35	35	47	73	89	75	141	201
ABAC Determinations	5	12	10	22	36	39	31	45	36	36	27	29	34	43	61	68	113	153
Determinations Upheld	3	2	2	8	7	10	11	15	7	4	8	7	10	7	21	39	53	80
Expedited Upheld Determinations	N/A	3	8															
No Fault Breach Determinations	N/A	1	4	2	3	2												
Upheld Marketing Pre-vetted	2	1	2	2	2	0	2	2	0	2	1	3	2	0	0	1	2	1
Non-compliance with determination	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	1 ³	0 ⁴	1 ⁵
Average business days – Panel determinations	35.1	33	78.6	29.3	19.8	22.5	26.5	25	20	26.3	19.7	21.6	19.7	14.6	22	16.7	14	19.6 ⁶

¹ Alcohol related complaints referred by Ad Standards to ABAC as a percentage of all complaints received by Ad Standards about all product/service categories. ² Various complaints referenced multiple campaigns.

³ An additional example of non-compliance resolved after referral of the complaint to the relevant Liquor Licensing Authority. ⁴ Two examples of non-compliance resolved after referral of the complaints to relevant Liquor Licensing Authorities. ⁵ Referred to relevant Liquor Licensing Authority. ⁶ Excludes upheld packaging determinations as they involve a review option.

