



## ABAC Adjudication Panel Determination No 107/22

**Product:** Vodka Premix  
**Company:** Vodka Plus  
**Media:** Facebook  
**Date of decision:** 21 December 2022  
**Panelists:** Professor The Hon Michael Lavarch (Chief Adjudicator)  
Ms Jeanne Strachan  
Professor Richard Mattick

### Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) arises from a complaint received on 21 November 2022 about Instagram marketing by Vodka Plus (“the Company”).
2. Alcohol marketing in Australia is subject to an amalgam of laws and codes of practice that regulate and guide the content and, to some extent, the placement of marketing. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol marketing as quasi-regulation. The most important provisions applying to alcohol marketing are found in:
  - Commonwealth and State laws:
    - Australian Consumer Law – which applies to the marketing of all products or services, and lays down baseline requirements, such as that marketing must not be deceptive or misleading;
    - legislation administered by the Australian Communications and Media Authority – which goes to the endorsement of industry codes that place restrictions on alcohol advertising on free to air television;

- State liquor licensing laws – which regulate the retail and wholesale sale of alcohol, and contain some provisions dealing with alcohol marketing;
  - Industry codes of practice:
    - AANA Code of Ethics – which provides a generic code of good marketing practice for most products and services, including alcohol;
    - ABAC Responsible Alcohol Marketing Code (“ABAC Code”) – which is an alcohol-specific code of good marketing practice;
    - certain broadcast codes, notably the Commercial Television Industry Code of Practice – which restricts when advertisements for alcohol beverages may be broadcast;
    - Outdoor Media Association Code of Ethics and Policies – which place restrictions on the location of alcohol advertisements on outdoor sites such as billboards.
3. The codes go either to the issue of the placement of alcohol marketing, the content of alcohol marketing or deal with both matters. The ABAC deals with both the placement of marketing i.e. where the marketing was located or the medium by which it was accessed and the content of the marketing irrespective of where the marketing was placed. The ABAC scheme requires alcohol beverage marketers to comply with placement requirements in other codes as well as meet the standards contained in the ABAC.
  4. For ease of public access, Ad Standards provides a common entry point for alcohol marketing complaints. Upon a complaint being received by the Ad Standards, a copy of the complaint is supplied to the Chief Adjudicator of the ABAC.
  5. The complaint is independently assessed by the Chief Adjudicator and Ad Standards and streamed into the complaint process that matches the nature of the issues raised in the complaint. On some occasions, a single complaint may lead to decisions by both the Ad Standards Community Panel under the AANA Code of Ethics and the ABAC Panel under the ABAC if issues under both Codes are raised.
  6. The complaint raises concerns under the ABAC Code and accordingly is within the Panel’s jurisdiction.

## The Complaint Timeline

7. The complaint was received on 21 November 2022.
8. The Panel endeavours to determine complaints within 30 business days of receipt of the complaint, but this timeline depends on the timely receipt of materials and advice and the availability of Panel members to convene and decide the issue. The complaint was completed in this timeframe.

## Pre-vetting Clearance

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

## The Marketing Communication

10. The complaint relates to the following Instagram post:



## The Complaint

11. The complainant objects to the marketing as follows:
  - *The Vodka Plus advertising which suggests that vodka products are healthy is extremely misleading and harmful.*
  - *Alcoholic products are addictive and harmful, with alcohol use linked to more than 200 disease and injury conditions.*
  - *Suggesting that the advertised vodka pre-mixed drinks are the “healthiest” distracts from the fact that these products contain alcohol, and the direct link between alcohol consumption and health risks.*
  - *Alcohol should not be advertised in any way that suggests it is a healthy, or healthier, option. This sentiment is captured by the Australian Food Standards Code which prohibits alcoholic products from making health-related claims about alcoholic products.*

## The ABAC Code

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

## The Company’s Response

13. The Company responded to the complaint by email on 23 November 2022. The principal comments made by the Company were:
  - I have looked into this and I do apologise. We recently hired a new ad agency who we did brief on the do's and do nots. I have since spoken to them again and we have removed the ad.

## The Panel’s View

14. Vodka Plus is based in Melbourne, and uses South Australian grapes to create products that are free of gluten, sugar, carbohydrates and chemical additives. The Company uses social media as part of its marketing strategy and it is an

Instagram post claiming that its products are the “healthiest” amongst its competitors that has drawn this complaint.

15. The Instagram post shows a picture of three bottles of different Vodka Plus products and includes the following text:

**vodkaplusofficial** Vodka Plus is Australia’s healthiest and classiest premix alternative with a smooth taste made from South Australia’s finest grapes. 🍷

16. The complainant is concerned by the description “healthiest” as:
- it distracts from the alcohol content of the products and the associated health risks linked to their consumption; and
  - alcohol should not be advertised in any way that suggests it is a healthy, or healthier, option.
17. These concerns raise Part 3 (c)(iv) of the Code which provides that a marketing communication must not suggest that the consumption of an alcohol beverage offers any therapeutic benefit.
18. In response, the Company has not contested the breach, has removed the post and has reinforced the requirements of responsible alcohol advertising with its advertising agency.
19. The Company is entitled to draw attention in its marketing to the attributes of its products and to make comparisons with other alcohol products. It needs to be mindful however that any claims about the comparative 'health benefits' of its product could breach ABAC standards.
20. The Panel finds that the post does breach the Part 3 (c)(iv) standard. While the intention may have been to draw a comparison with other products in terms of the calories contained, it is not permitted to suggest that alcohol products offer a positive health benefit. The phrase ‘Australia’s healthiest...premix’ goes beyond a point of factual comparison to make a health claim.
21. The complaint is upheld.