



## ABAC Adjudication Panel Determination No 189/23

**Product:** Tradie Beer  
**Company:** Tradie Brands  
**Media:** Instagram  
**Date of decision:** 2 January 2024  
**Panelists:** Professor The Hon Michael Lavarch (Chief Adjudicator)  
Professor Louisa Jorm  
Ms Debra Richards

### Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) arises from a complaint received on 1 December 2023 in relation to videos posted to the Tradie Beer Instagram account by Tradie Brands (“the Company”) as well as the Tickford Racing Instagram page.
2. Alcohol marketing in Australia is subject to an amalgam of laws and codes of practice that regulate and guide the content and, to some extent, the placement of marketing. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol marketing as quasi-regulation. The most important provisions applying to alcohol marketing are found in:
  - (a) Commonwealth and State laws:
    - Australian Consumer Law – which applies to the marketing of all products or services, and lays down baseline requirements, such as that marketing must not be deceptive or misleading;
    - legislation administered by the Australian Communications and Media Authority – which goes to the endorsement of industry codes that place restrictions on alcohol advertising on free to air television;
    - State liquor licensing laws – which regulate the retail and wholesale sale of alcohol, and contain some provisions dealing with alcohol marketing;

(b) Industry codes of practice:

- AANA Code of Ethics – which provides a generic code of good marketing practice for most products and services, including alcohol;
  - ABAC Responsible Alcohol Marketing Code (“ABAC Code”) – which is an alcohol-specific code of good marketing practice;
  - certain broadcast codes, notably the Commercial Television Industry Code of Practice – which restricts when advertisements for alcohol beverages may be broadcast;
  - Outdoor Media Association Code of Ethics and Policies – which place restrictions on the location of alcohol advertisements on outdoor sites such as billboards.
3. The codes go either to the issue of the placement of alcohol marketing, the content of alcohol marketing or deal with both matters. The ABAC deals with both the placement of marketing i.e. where the marketing was located or the medium by which it was accessed and the content of the marketing irrespective of where the marketing was placed. The ABAC scheme requires alcohol beverage marketers to comply with placement requirements in other codes as well as 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 complaints were received on 1 December 2023.
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 obtained for the content of the marketing.

## The Marketing

10. The complaint relates to videos posted to the Tradie Beer and Tickford Racing Instagram pages:








Tradie Beer: [Presenting the Tickford Hangover 🍷🍷🍷 | Instagram](#)






Tickford Racing: [Another year, another gala night, although this one seemed like something out of a movie... Presenting the Tickford Hangover 🍷🍷🍷 | Instagram](#)

The video posted to the Tradie Beer Instagram page would appear to be the first 90 seconds (approximately) of a longer version posted to the Tickford Racing Instagram page.

The video commences with a group of men standing in a circle on a balcony, holding opened cans of Tradie Beer.

<p><b>Cameron Waters (CW):</b> <i>“Alright guys, what a year it’s been. It’s been an absolute honour spending it with all you guys. Teddy, it’s your farewell tonight. Randle, still gotta put up with you. Deckers, I love you mate, you’re like a brother.”</i></p>	
<p><b>James Courtney (JC):</b> <i>“I was a lost wolf for a while there, but you guys brought me into your pack. Now we’re a wolf pack. Let’s go hunting one last time.”</i></p>	

<p>Wolf howls are made in unison, and everyone raises their Tradie Beer in the air.</p>	
<p>A fast-moving montage of still photos follows, showing a night out.</p>	
<p>JC is shown wearing an empty baby sling and waking up on a bed next to a number of empty drink cans. He appears groggy and the vision blurs.</p> <p>A radio can be heard in the background, with the announcer saying:</p> <p><i>“It was truly fantastic to see Cameron Waters take out the win in Adelaide. In other news, Tickford teammate and super cars legend James Courtney was arrested late last night for allegedly towing a caravan at 200 kilometres an hour. More on this story as it develops. Now here is Jane with the weather”.</i></p>	 
<p>JC appears to admire some legs, but is appalled when he realises they belong to CW.</p> <p><b>JC:</b> <i>“Oh yeah”</i> as he points at CW’s hair.</p>	 
<p><b>CW:</b> <i>“My hair”</i> (as he looks in a mirror).</p> <p><b>CW:</b> <i>“Look at your hair”</i> (as he points at JC).</p> <p><b>JC:</b> <i>“What”,</i> (as reaches up to feel hair.)</p> <p><b>JC:</b> <i>“Holy shit – it’s gone. I’m bald.”</i></p>	

<p>Laughter ensues.</p>	
<p>JC points at CW's stomach, and says, "You've got a tattoo".</p> <p>We then see a close up of a tattoo that says "Unleash the Beast!"</p> <p><b>CW:</b> "Thomas. Thomas picked it. Where is Thomas? Where is everyone?"</p>	
<p>Thomas Randle (TR) is shown opening some shutters and groggily sitting up in a bath. There is an empty Carlton Dry can next to the bath.</p> <p><b>TR -</b> "Holy shit! What happened to you two?"</p>	 
<p><b>CW:</b> "Dude, look at your head."</p> <p>CW and JC point at TR and giggle.</p>	

It is at this point that the video posted to the Tradie Beer Instagram page concludes. The longer version posted to the Tickford Racing Instagram page shows:

- the teammates questioning why one of them is wearing an empty baby sling;
- a person wrapped in a sheet falling out of a cupboard;
- finding Teddy asleep on the balcony, with a brand new Tickford tattoo on his chest;

- Teddy advising that they will look at the photos on his phone just once before they will all be deleted;
- a montage of still photos, including depiction of:
  - a person pouring alcohol from a height into another person's mouth;
  - a person holding a bottle of alcohol to their mouth, as though drinking directly from it;
  - holding a glass of beer in front of a toddler as though they may be drinking from it;
  - fighting with and/or punching others; and
  - climbing into a car holding bottles of alcohol and revving the engine.

## Complaint

11. The complainant objects to the marketing as follows:

- *The individuals and the companies have recreated the scene from the famous movie "The Hangover". This is incredibly irresponsible for a beer/undergarment brand (Tradie), motor sport stars and a motorsport company to be doing. Misuse of alcohol and driving cars is one of the biggest killers on our roads.*
- *Areas of the code that need to be looked at for this advertisement include*
  - *3(a)(i) - consumption inconsistent with the Australian Guidelines*
  - *3(a)(ii) - rapid Alcohol consumption, misuse or abuse of Alcohol or other irresponsible or offensive behaviour,*
  - *3(c)(i) – alcohol causing or contributing to an improvement in mood or environment;*
  - *3(c)(ii) – alcohol causing or contributing to the achievement of success.*

## The ABAC Code

12. Part 3 of the ABAC Code provides that a marketing communication must NOT:

(a)(i) show (visibly, audibly or by direct implication), encourage, or treat as amusing, consumption inconsistent with the Australian Guidelines to Reduce Health Risks from Drinking Alcohol, such as:

(A) excessive Alcohol consumption (more than 10 standard drinks per week or more than 4 standard drinks on any one day); or

(B) Alcohol consumption while pregnant or breastfeeding.

(a)(ii) show (visibly, audibly or by direct implication), encourage, or treat as amusing, rapid Alcohol consumption, misuse or abuse of Alcohol or other irresponsible or offensive behaviour that is related to the consumption or presence of Alcohol;

(c)(i) suggest that the consumption or presence of Alcohol may cause or contribute to an improvement in mood or environment;

(c)(ii) show (visibly, audibly or by direct implication) the consumption or presence of Alcohol as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success.

13. Part 8 of the Code provides that:

**Alcohol Marketing Communication** means a marketing communication for Alcohol, in any media, generated by, for, or within the reasonable control of an Alcohol producer, distributor or retailer, that has a discernible and direct link to Australia, apart from the exceptions listed in Part 2(b).

## The Company Response

14. The Company responded to the complaint by email on 15 December 2023. The principal comments made by the Company were:

- Unsure if the video received pre approval as we were not part of the production, we simply shared the video.
- This video was made by Tickford Supercars racing team. Tradie did not request the video to be made, was not aware it was being made, had no input into the production of it and only became aware it existed when we saw it posted on Tickford's social media account. At the end of every season Tickford will produce a video featuring their team which is often based on a famous movie.
- Tradie has sponsored a Tickford racing car for the past 2 seasons.
- Tradie was unaware as the launch/filming was kept secret by Tickford.
- Tradie cannot request the video to be removed from Tickfords account as we've had nothing to do with it and it would impact Tickfords relationships with other sponsors etc.
- The characters cheers and sip Tradie beer at the start of the video, I cannot see any consumption of Tradie beer after this initial drink. At the time of consuming Tradie beer everyone appears to be sober and drinking responsibly.
- The empty cans on the bed and bathtub appear to be Carlton dry cans not Tradie beer cans
- The characters do not appear to be drinking Tradie beer in any of the photos. Please note these photos and the majority of filming occurred at the Supercars end of season gala ball. Tradie beer is not allowed to be served at this event due to another beer company owning the rights so the characters were not drinking Tradie.
- Tradie beer was consumed in a responsible manner at the beginning of the video. There does not appear to be any consumption of Tradie beer after the initial toast.
- Wolf pack is a reference to the fact that the Tickford team is reducing from four cars to two cars next year so two of the four drivers will not be part of the team ongoing.



## The Panel's View

### Introduction

15. This determination arises from a complaint about a video posted by Tickford Racing to its Instagram account, a shortened version of which was then shared by the Company. The video features Tickford Racing teammates and was recognisably inspired by The Hangover movie.
16. The Hangover is a 2009 comedy movie which traces the alcohol and drug fuelled misadventures in Las Vegas of four friends (self-described as the Wolf Pack) as they mark the pending wedding of one of the pack. The movie was an international box office success and this together with its continuing availability over streaming platforms means it is reasonable to assume the movie has wide recognition in the Australian community.
17. Tickford Racing is an Australian Supercars Championship team running four cars. The team is supported by a range of major and minor partners including Tradie brand, Monster Energy drinks and Castrol oil. Tickford maintains a website and social media accounts including Instagram.
18. The Instagram video parodies The Hangover movie with Tickford team members as the Wolf Pack. It portrays the morning aftereffects of a wild night out. The Pack members are shown with shaved heads and face and other tattoos all acquired without recollection. Evidence of the misadventure includes a large number of empty alcohol cans around the men as they awaken.
19. The complainant argues that it is irresponsible for a beer/undergarment brand (Tradie), motor sport stars and a motorsport company to recreate scenes from the movie. It is pointed out that alcohol misuse and drunk driving is a major cause of death on our roads. The complainant believes that the video shows:
  - consumption inconsistent with the Australian Guidelines;
  - rapid Alcohol consumption, misuse or abuse of Alcohol or other irresponsible or offensive behaviour;
  - alcohol causing or contributing to an improvement in mood or environment; and
  - alcohol causing or contributing to the achievement of success.

### Scope of the ABAC Code

20. The ABAC applies to the marketing of alcohol products by alcohol producers, distributors or retailers. Tickford Racing is a motor racing team and self-evidently is not of itself an alcohol industry participant. This means on the face of it, a video referencing alcohol use created by Tickford Racing and posted on

the Instagram account of Tickford Racing is not within the scope of the ABAC Scheme.

21. The circumstances by which the video created by Tickford and posted on their social media account could be drawn within the remit of the ABAC is if the Company can be said to have either generated the video or had reasonable control over the video.
22. The terms of the commercial relationship between the Company and Tickford is beyond the scope of this determination, however it is clear the Company is a 'partner' of Tickford and this results in Company branding featuring on one of the four Tickford Supercars. In response to the complaint, the Company advised that while it does have a sponsorship relationship with Tickford Racing:
  - the video was made by Tickford Supercars racing team;
  - Tradie did not request the video to be made, were not aware it was being made, had no input into the production of it and only became aware it existed when we saw it posted on Tickford's social media account;
  - we simply shared the video;
  - Tradie cannot request the video to be removed from Tickford's account as we've had nothing to do with it and it would impact Tickford's relationships with other sponsors.
23. While it is possible that the commercial arrangement between the Company and Tickford might have some provisions about how Tickford Racing references the Company's products and brand, the Panel does not have information to conclude that the Company was responsible for the creation of the video nor that it has contractual power to seek the removal of the video from the Tickford Instagram account.
24. This means that the video as posted to the Tickford Racing Instagram account, is not an alcohol marketing communication within the scope of the ABAC and the Panel has no jurisdiction to assess the video against ABAC standards.
25. What the Company does clearly have control over is its own Instagram and social media accounts. The Company advised it shared a version of the Tickford video. Upon sharing the shortened version of the video to its own Instagram page, the Company gains control over the video and hence the video as it appears on the Company's account is an alcohol marketing communication subject to Code requirements.
26. The benchmark applied when assessing if an ABAC standard has been satisfied is the 'reasonable person' test. This means the Panel puts itself in the

shoes of a person who has the life experiences, opinions and values commonly held by most Australians, and assesses how this reasonable person would probably understand the marketing communication.

### **Applicable ABAC Standards**

27. Part 3 (a) of the Code supports the responsible and moderate portrayal of alcohol by containing requirements that an alcohol marketing communication must not:
- show (visibly, audibly or by direct implication), encourage, or treat as amusing, consumption inconsistent with the Australian Guidelines to Reduce Health Risks from Drinking Alcohol - Part 3 (a)(i); and
  - show, encourage, or treat as amusing, rapid Alcohol consumption, misuse or abuse of Alcohol or other irresponsible or offensive behaviour that is related to the consumption or presence of Alcohol - Part 3 (a)(ii).
28. When responding to the complaint the Company advised that:
- Tradie Beer was consumed in a responsible manner at the beginning of the video. There does not appear to be any consumption of Tradie beer after the initial toast;
  - at the time of consuming Tradie Beer everyone appears to be sober and drinking responsibly;
  - the empty cans on the bed and bathtub appear to be Carlton Dry cans not Tradie Beer cans; and
  - the characters do not appear to be drinking Tradie Beer in any of the photos. Please note these photos and the majority of filming occurred at the Supercars end of season gala ball. Tradie Beer is not allowed to be served at this event due to another beer company owning the rights, so the characters were not drinking Tradie.
29. The Code standard goes to the portrayal of alcohol use, not simply to a particular brand of alcohol. Accordingly, it is not relevant in assessing the video to say the initial scene showing the Company's product displayed moderate alcohol use whereas later scenes showed or directly implied excessive alcohol use involving another alcohol brand. The video is to be assessed on how a reasonable person would probably understand the video taken in its entirety.
30. A reasonable Australian can be taken to have a robust sense of humour and is sufficiently worldly to appreciate that the video is a light hearted parody of the

Hangover movie and is not actually advocating to drink to such excess that getting tattoos or having a head shaven is thought to be a smart thing to do when intoxicated. That said, the video draws its humour from an assumed common understanding that people do stupid things when they are drunk and that this is an experience that can be related to. It is this underlying assumption that excessive alcohol consumption is an acceptable part of life that is a breach of the ABAC requirements.

31. The Panel believes that the video posted to the Tradie Beer Instagram account breaches Part 3 (a)(i) and (ii) of the Code. It is clearly implying excessive consumption and treats this as amusing. It is also showing or implying anti-social behaviours.
32. It is less clear from the video as to whether other standards regarding the depiction of the effects of alcohol may have also been breached. It is sufficient to conclude that the video as a whole is not a responsible way for an alcohol company to depict alcohol use on its social media account. The fact that a motorsports team thought a parody of a movie based on excessive alcohol/drug use was a great choice also displays questionable judgement given the role substance abuse plays in motor accidents.
33. From the Tickford website it seems the Company's sponsorship of Tickford dates from well before its move into alcohol products in October 2023. Issues about how alcohol and its alcohol brand should be referenced may not have been front of mind for the Company at the time, but it needs to be very mindful now of these issues. The ABAC website contains extensive educational and other resources that the Company might find helpful.
34. The complaint is upheld in relation to Part 3 (a)(i) and (ii) of the Code regarding the video as shared by the Company.