



ABAC Adjudication Panel Determination No 206/23

Product: Gee Up Vodka
Company: 80Proof Australia Pty Limited
Media: Packaging
Date of decision: 30 January 2024
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Professor Richard Mattick
Ms Jeanne Strachan

Introduction

1. This determination by the ABAC Adjudication Panel (“the Panel”) arises from a complaint received on 21 December 2023 in relation to the packaging, in particular the name, of Gee Up Vodka products (“the products”) by 80Proof Australia Pty Limited (“the Company”).
2. Alcohol marketing in Australia is subject to an amalgam of laws and codes of practice that regulate and guide the content and, to some extent, the placement of marketing. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol marketing as quasi-regulation. The most important provisions applying to alcohol marketing are found in:
 - (a) Commonwealth and State laws:
 - Australian Consumer Law – which applies to the marketing of all products or services, and lays down baseline requirements, such as that marketing must not be deceptive or misleading;
 - legislation administered by the Australian Communications and Media Authority – which goes to the endorsement of industry codes that place restrictions on alcohol advertising on free to air television;
 - State liquor licensing laws – which regulate 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 complaint was received on 21 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 complaints were completed in this timeframe.

Pre-vetting Clearance

- 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 marketing.

The Marketing

- The complaint relates to the packaging, in particular the name, of Gee Up Vodka products.





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28 CALORIES PER 100ML	0.1 GRAMS SUGAR (G) PER 100ML	0.1 GRAMS OF FAT	4.6% ALC/VOL. FLAVOURED ALCOHOLIC BEVERAGE
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Ingredients: Water, Vodka, Acidity Regulator (330), Colour, Flavour, Sweetener (950, 955), Preservative (211), Calcium Lactate, Magnesium Sulphate, Potassium Chloride)

AVERAGE QTY PER	PERVE	SERVE	100ML
ENERGY (KJ)	326	119	
PROTEIN (G)	-0.3	-0.1	
FAT - TOTAL (G)	-0.3	-0.1	
- SATURATED (G)	-0.3	-0.1	
CARBOHYDRATES - TOTAL (G)	-0.3	-0.1	
- SUGARS (G)	-0.3	-0.1	
SODIUM (MG)	13.8	5	

The nutritional values given are based on theoretical calculations.

Made in Australia. Distributed by Launch Liquor, 49 Atlantic Drive, Keysborough, VIC. **10c** Refund at collection depots/points in participating State/Territory of purchase

LETSGEEUP.COM

STANDARD DRINKS
1
APPROX.

PREGNANCY WARNING
Alcohol can cause lifelong harm to your baby

PLEASE RECYCLE

Call the Facts Drink Wise org.au

9 354411 001325



74mm

46 CALORIES PER 100ML	4.3 GRAMS SUGAR (G) PER 100ML	0 GRAMS OF FAT	4.6% ALC/VOL. FLAVOURED ALCOHOLIC BEVERAGE
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Ingredients: Water, Sugar, Ethyl Alcohol (96%), Flavouring, Food Acid (330), Colouring, Preservatives (211), Sweetener (955), (Calcium Lactate Pentahydrate, Magnesium Sulphate, Potassium Chloride)

AVERAGE QTY PER	PERVE	SERVE	100ML
ENERGY (KJ)	536	195	
PROTEIN (G)	-0.3	-0.1	
FAT - TOTAL (G)	-0.3	-0.1	
- SATURATED (G)	-0.3	-0.1	
CARBOHYDRATES - TOTAL (G)	12.1	4.4	
- SUGARS (G)	11.8	4.3	
SODIUM (MG)	13.8	5	

The nutritional values given are based on theoretical calculations.

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Complaint

11. The complainant objects to the marketing as follows:

- *The name of this drink implies that drinking it will give you more... enthusiasm, or giving this drink to someone will make them have more energy and enthusiasm for life;*
- *That is akin to calling the beverage "This will make you feel better and get you going";*
- *To be "Geed up" Means you will have an improved mood, you will have more enthusiasm and energy, if you are geed up you will be more sociable and if you are geed up you will overcome your problem of lacking energy.*

The ABAC Code

12. A [new ABAC Responsible Alcohol Marketing Code](#) commenced on 1 August 2023. As the complaint relates to the packaging of products that were available for sale before this date, and was received prior to 31 December 2023, it will be considered under the [previous Code](#) in line with the transitional arrangements.

13. Part 3 (c) of the previous ABAC Code provides that a marketing communication must NOT:
- (i) suggest that the consumption or presence of an Alcohol Beverage may create or contribute to a significant change in mood or environment;
 - (ii) show (visibly, audibly or by direct implication) the consumption or presence of an Alcohol Beverage as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;
 - (iii) if an Alcohol Beverage is shown (visibly, audibly or by direct implication) as part of a celebration, imply or suggest that the Alcohol Beverage was a cause of or contributed to success or achievement; or
 - (iv) suggest that the consumption of an Alcohol Beverage offers any therapeutic benefit or is a necessary aid to relaxation.

The Company Response

14. The Company's legal advisors responded to the complaint by letter emailed on 23 January 2024. The principal comments made were:

Alcohol advertising pre-vetting service approval

- We note the complaint refers to 'all of the ads to do with the name of this drink'.
- In this regard, the marketing communications referred to in the complaint have not received Alcohol Advertising Pre-vetting Service Approval as it would be impractical for 80Proof to submit each and every ad which bears the name 'Gee Up' for pre-vetting service approval.

Product supply date

- The product was first available for sale on 16 February 2023.

'Gee Up' meaning

Origins of Product name

- 'Gee up', 'it's time to gee up' and 'let's gee up' are terms that have been used by the founders of the brand and their friends for many years to mean that it is time to get dressed, style your hair and get ready to go out to a social occasion. Such phrases are common amongst millennials and Gen Zs (eg 'it's t-shirt time' and 'cabs are here' which are sayings

made famous by popular reality Jersey Shore for when it was time to get dressed and go out).

- 'Gee up' is derived from the term 'gussy up' which means to dress someone or something up.
- The inspiration behind the name 'Gee Up' for the product is that it is the drink of choice for special occasions, events and social gatherings, where people would generally dress up ('gussy up') to attend.

Complainant's definition of 'gee up'

- It is unclear where the source of the complainant's definition of 'gee up' comes from. The complainant provides multiple varying meanings for the term 'gee up' including that the product suggests that it:
 - 'will make you feel better and get you going';
 - will result in 'improved mood' and 'more enthusiasm and energy';
 - will cause a person to be 'more sociable' because they are 'geed up';
 - can 'overcome your problem of lack of energy'; and
 - 'give you enthusiasm for life'.
- As we will discuss below, there is no single definition for the term 'gee up' and the meaning can vary depending on the context and the naming convention of the term. It appears that the complainant has adopted a meaning that is not commonly used or known for the term 'gee up'.

Formal definition of 'gee up'

- Cambridge Dictionary defines 'gee up!' as 'something you say to a horse to make it move faster'. Other reputable dictionaries such as Collins Dictionary and Oxford Learner's Dictionaries also provide similar definitions.
- There is a definition for the term 'gee someone up' in the Cambridge Dictionary, which means 'to encourage someone to show more effort or enthusiasm'. Importantly, we note the naming convention of the term 'gee someone up' is different from that of the name 'Gee Up' and should not be treated as being the same term with the same meaning.
- It is common in the English language to add a word or punctuation to a phrase to change its meaning. For example, 'to lie' and 'to lie down'

have completely different meanings despite the phrases being closely similar in appearance.

- Similarly, in Cambridge Dictionary's definitions of 'gee up!' and 'gee someone up', the mere addition of a punctuation mark or word has resulted in significantly different definitions.

Colloquial meanings

- 'Slang' dictionaries provide several definitions and variations for 'gee up'. For example, some recent definitions on Urban Dictionary includes defining:
 - 'Gee-up' as 'greeting between male friends';
 - 'gee-up' as 'to abruptly become angered';
 - 'geeing up' as 'to hype someone up' or 'make a big deal about whatever they're doing'; and
 - 'deadset gee up' as 'having a lend' or 'taking the piss'.
- It is important to note that Urban Dictionary does not have any definitions for the exact term 'gee up' and that it is not the sole, or most reliable (due to its crowdsourcing nature) source of definitions for colloquial terms.
- 80Proof understands the term 'gee-up' or 'gee up' in Australian media is commonly used to reference practical jokes or a trick of an amusing or playful nature and telling of a farfetched story (similar to 'stitch up'). This term has been used by public figures and referenced in established publications such as news.com.au (here and here), Yahoo! Sport and Courier Mail.
- 80Proof acknowledges that the name 'Gee Up' may be misconstrued by certain members of the community given the existence of multiple 'slang' definitions and interpretations of the term 'gee up' and confusion with the term to 'gee somebody up'.
- In any case, we were unable to find any use of 'gee up' in Australian media that has a similar meaning to that described by the complainant.

ABAC Responsible Alcohol Marketing Code

- On the basis of the above paragraphs, 80Proof rejects that the products' packaging and in particular, the name 'Gee Up':

- suggests that the products contribute to a significant change in mood or environment; or
 - breaches various subsections of Part 3(c) of the ABAC Responsible Alcohol Marketing Code (Code).
- As noted above, in the context of the product, the name 'Gee Up' does not mean that consuming the product will 'gee you up' and provide for a greater enthusiasm and energy for life. 80Proof does not use the term 'gee you up' or similar convention in any of its marketing communications. The addition of the word 'you' in the phrase incorrectly changes the meaning of the term 'Gee Up'.
 - It is unclear how the name 'Gee Up' leads to the conclusion that a person will be socially successful after consuming the product. No definition, whether from a reputable or 'slang' dictionary or used in the media (as outlined in the above paragraphs, suggests any correlation between the term 'gee up' and social success.
 - 80Proof strongly refutes that the products' packaging suggests that the product offers any therapeutic benefit or is a necessary aid to relaxation in any way. The products' packaging (or any of 80Proof's marketing of the product) does not, in any way, suggest that a consumer lacks energy (this is quite an absurd claim) and/or that the product can remedy any problems associated with lack of energy.
 - The products' packaging is a simple design with colours to reflect the flavour variant of the product. The text on the packaging is predominantly to describe the product (e.g. contains vodka) and provide other factual descriptions of the product (e.g. serving size, flavour variant and ABV). There is no further text or imagery on the products' packaging that suggests that the product will provide for a greater enthusiasm for life, social success or remedies for lack of energy.
 - 80Proof is committed to responsible alcohol advertising and very conscious to not promote unsafe drinking habits including suggesting that consumption of its products (or alcohol in general) results in a significant change in mood or environment.
 - Despite the various definitions found online, none of these definitions suggests that the term 'gee up' or 'gee somebody up' results in a better quality of life, becoming more sociable or providing any therapeutic benefit.
 - The complainant's claims that the name 'Gee Up' suggests an improvement of the consumer's quality or perception of life; or assistance with overcoming any problems of lacking energy, are, at a

minimum, fanciful and farfetched. It appears that the complainant has made several unsubstantiated assumptions and their own conclusions regarding the meaning of 'gee up' in general and the name 'Gee Up'.

The Panel's View

15. Gee Up vodka is a RTD alcohol product first released onto the Australian market in February 2023. The branding and marketing of the Gee Up product range has attracted some complaints and this is the second determination in which the Panel has considered product packaging (bottle labelling). In Determination Nos 29, 40 & 50/23 dated 20 May 2023 the Panel considered concerns that the packaging would firstly, appeal strongly to minors, and secondly, through the use of the word 'electrolytes', make it appear that the product provides a health benefit.
16. The outcome of this earlier Panel decision was that the packaging of one product in the range - Cotton Candy - was found to have strong appeal to minors due to the inclusion of fairy floss imagery on the labelling. The other product packaging in the range at that time were found not to breach the ABAC standard on appeal to minors. The concern regarding the packaging suggesting the product provided a positive health benefit was dismissed.
17. On this occasion the complaint goes to the brand name 'Gee Up' itself. The complainant contends that the 'Gee Up' brand name as used in all the Company's marketing implies irresponsible claims about the effects of the product. It should be noted that a previous Panel decision does not preclude a subsequent complaint and a further Panel determination. This is because a Panel decision is based on the concerns of a complainant and Code standards raised by the complaint. Hence a Panel decision does not purport to be a full review of the marketing communication against all Code standards. Rather only a standard(s) raised by a complaint is considered.
18. While the complaint stated 'all the marketing' - no actual example of a marketing communication e.g. a social media post, was identified in the complaint as such. Given the argument advanced, the Panel takes the complaint to be about the product brand name and its use on the range of different flavoured products rather than a specific example of how the brand name is described or applied in an individual item of marketing material.
19. The complainant argues that the name 'Gee Up' breaches the standards contained in Part 3 (c) of the ABAC by implying:
 - that drinking it will give you more... enthusiasm, or giving this drink to someone will make them have more energy and enthusiasm for life;
 - the name is akin to calling the beverage 'This will make you feel better and get you going';

- to be 'Geed up' means you will have an improved mood, you will have more enthusiasm and energy, if you are geed up you will be more sociable and if you are geed up you will overcome your problem of lacking energy.
20. Part 3 (c) of the previous Code goes to the responsible depiction of the effects of alcohol. In particular, the Code requires that an alcohol marketing communication, which includes the packaging and name of a product, must not:
- suggest that the consumption or presence of an Alcohol Beverage may create or contribute to a significant change in mood or environment – Part 3 (c)(i);
 - show (visibly, audibly or by direct implication) the consumption or presence of an Alcohol Beverage as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success – Part 3 (c)(ii);
 - if an Alcohol Beverage is shown (visibly, audibly or by direct implication) as part of a celebration, imply or suggest that the Alcohol Beverage was a cause of or contributed to success or achievement – Part 3 (c)(iii); or
 - suggest that the consumption of an Alcohol Beverage offers any therapeutic benefit or is a necessary aid to relaxation – Part 3 (c)(iv).
21. The Company (through its legal advisors) submitted the brand name and product packaging is consistent with the Part 3 (c) standards. In summary it is argued:
- the Company's inspiration was that the brand name was to be associated with a 'time to get dressed, style your hair and get ready to go out to a social occasion'. Hence 'gee up' was derived from the expression 'gussy up';
 - there are various potential definitions of 'gee up' but none of them suggest that the name would be understood as claiming the product results in a better quality of life, becoming more sociable or providing any therapeutic benefit;
 - that the complainant has adopted a meaning that is not commonly used or known for the term 'gee up'. Further the complaint is based on unsubstantiated assumptions and personal conclusions;
 - the brand name 'Gee Up' does not mean that consuming the product will 'gee you up' and provide for a greater enthusiasm and energy for life. The Company does not use the phrase 'gee you up' or similar in any of

its marketing communications. The addition of the word 'you' in the phrase incorrectly changes the meaning of the name 'Gee Up';

- no definition, whether from a reputable or 'slang' dictionary or used in the media, suggests any correlation between the term 'gee up' and social success;
- the products' packaging (or any marketing of the product) do not suggest that a consumer lacks energy (this is quite an absurd claim) and/or that the product can remedy any problems associated with lack of energy; and
- there is no further text or imagery on the packaging that suggests that the products will provide for a greater enthusiasm for life, social success or is a remedy for lack of energy.

22. In assessing the consistency of alcohol marketing communications with an ABAC standard, the Panel is to view the marketing from the standpoint of the probable understanding of a reasonable person. This means the life experiences, values and attitudes found by most people in the community is the benchmark.
23. If the message in a marketing communication could be understood in several ways, then it is the most probable interpretation which is to be preferred over a possible but less likely interpretation. On occasions reasonable minds can differ about the interpretation that most members of the community might place on an item of marketing. The test is at the civil law standard of the balance of probabilities and not the criminal law standard of beyond reasonable doubt.
24. The broad policy intention of the standards contained in Part 3 (c) of the Code is alcohol marketing is not to show or suggest the use or presence of alcohol is a cause in shifting or transforming a mood or achieving success or obtaining a health benefit. As a general proposition a breach of the standards will show a 'journey' with a starting position that moves forward through the effects of alcohol. For example, a boring environment or event becoming interesting or a nervous person becoming confident due to the role of alcohol.
25. Also, as a general proposition, it is unusual for a product name of itself to encapsulate the journey from one state to another state. More commonly a product's packaging might breach the Part 3 (c) standards through a combination of a brand name with some other element on the packaging such as additional language or imagery.
26. That said, the Panel has found on a few occasions that a brand name essentially alone is the basis for a breach of the standard. In Determination 216 & 217/21 the brand name 'Wet Pussy' was found to breach Part 3 (c)(ii) by implying the product was a cause to the achievement of sexual success. It was

notable in that case that the Panel did not believe a reasonable person was likely to understand any alternate meaning of the name other than its clear sexual connotations.

27. In the current case the issue turns on what a reasonable person would most probably understand 'gee up' means. The view put by the complainant is that a person would take the product name as implying the product will give energy or cause a person to be more lively and/or feel better. The Company states this was not the origin of why the name was chosen but more importantly argues there are a range of potential understandings of the name, but none suggest the product has effects inconsistent with the Code standards.
28. The Panel does not believe there is simply one single way the expression 'gee up' would be understood. Rather the expression probably will have different inferences that depend on the context of its use. For instance, it could mean in one context 'ribbing someone or joking with them' and in another context mean 'urging a person to greater effort'. With due respect to the Company's argument, it seems unlikely it would be taken by many people as meaning 'gussy up' given that expression has largely fallen out of popular use.
29. While the Panel does not believe the complainant's contention of the understanding of the expression of 'gee up' is fanciful or tortured, on balance it does not find that the use of the name on the product packaging breaches any of the limbs of Part 3 (c) standards. In reaching this conclusion the Panel noted:
 - the expression 'gee up' can have a range of meanings depending on the context of its use;
 - the product packaging does not contain any text or imagery to direct a particular meaning of the brand name 'Gee Up';
 - accordingly the product label as used on the packaging does not invoke a creation of a mood or environment by the product or a shift from one state to another (Part 3 (c)(i));
 - a reasonable person is unlikely to take from the brand name alone that the product's presence or consumption will lead to achieving success (Part 3 (c)(ii));
 - there is no celebration depicted or implied by the product packaging or name (Part 3 (c)(iii)); and
 - the product packaging does not reasonably imply that the consumption of the product offers a positive health benefit (Part 3 (c)(iv)).

30. As explained, the 'gee up' expression could have different meanings depending on the context of its use. This means it is possible that an individual marketing communication might through the placement of the product into a particular scenario or by the use of language, cause the most probable understanding to be inconsistent with a Code standard. Accordingly, the Company needs to be careful in its marketing approach.
31. The complaint is dismissed.