

ANNUAL REPORT

2023

25 Years of Alcohol
Marketing Regulation

INDEPENDENT CHAIR REPORT

In 2023 Harry Jenkins AO retired after 5 years at the helm of ABAC as its independent Chair. Harry provided strong independent leadership and was instrumental in assisting the organisation to evolve over the previous five years to keep pace with community expectations and a rapidly changing media and industry landscape. I am pleased to follow in Harry's footsteps and since September I have enjoyed working with ABAC and building on his important work.

The heart of the ABAC Scheme is the ABAC Responsible Alcohol Marketing Code. Periodically ABAC undertakes a comprehensive review of its entire Code to ensure that it remains aligned with community expectations and changes in the industry and marketing landscape. After an extensive 15 month public consultation process, consideration of a wide range of submissions and independent community opinion research a new ABAC Code was launched in April 2023 and was fully implemented from 1 January 2024.

The Code review highlighted the importance of keeping across the complex and rapidly evolving digital marketing trends and in December 2023 ABAC released a revised Best Practice Guide for Digital Marketing. The Guide outlines the application of ABAC Code standards to digital marketing and also explores best practice to assist companies in the responsible implementation and management of their digital marketing.

The ABAC Code requires that age restrictions are used to exclude minors from receiving alcohol ads via digital media. The best practice recommendations go further

and in addition to providing guidance on working with influencers, and moderation of user generated content, outline a wide range of currently available measures to further reduce the risk of ads reaching minors including:

- responsible use of exclusion and inclusion programmatic targeting tools;
- responsible ad placement on digital commercial television stations via connected tv; and
- a resource on how users can access self-exclusion options to exclude alcohol ads from appearing on their viewing platforms.

ABAC is committed to reviewing this guide on a regular basis so that it remains up to date with the latest developments and options.

A significant milestone was reached in the middle of 2023 as ABAC celebrated 25 years of regulation of alcohol marketing in Australia. It is important to acknowledge the important contribution of Professor Michael Lavarch AO on his dedicated leadership of the independent ABAC Adjudication Panel throughout that period, and also Jayne Taylor, who has been operating and developing the Scheme for over 16 of those 25 years. This report includes an insert that outlines the development of the ABAC Scheme and its activities over the past 25 years. The data speaks for itself, and I highlight the 344 ads and packaging that were ordered out of market by the ABAC Adjudication Panel and the 4,742 marketing communications that were rejected by ABAC pre-vetters before they reached the market. These outcomes demonstrate that ABAC is an active and effective regulator of alcohol marketing in Australia, raising industry standards over that period.

In 2023 ABAC saw complaints increase after a significant decline in 2022. The ABAC Adjudication Panel received 207 complaints compared with 126 complaints last year. Of those complaints 127 have been referred to the Panel for adjudication. This is a large increase compared with last year when 126 complaints were received and 69 were referred for determination.

Alongside the increase in complaints and determinations, ABAC saw a decline in uptake of the pre-vetting service in 2023 after year on year increases over the previous 6 years. The process of obtaining an independent check of marketing and packaging before it reaches the market is the best way to minimise the risk of complaints, Panel determinations and breaches. I encourage industry participants to continue to make use of this service to help them make responsible choices around their marketing.

Having concluded a comprehensive review of its Code in 2023, this year ABAC will continue its commitment to continual improvement and turn its focus to a review of ABAC's governance and operations. I look forward to working with my Management Committee colleagues and the ABAC executive to continue to improve this world class industry regulator.



Hon Tony Smith
Chair, ABAC Management Committee

OVERVIEW

The ABAC Scheme is the centrepiece of alcohol and alcohol alternative marketing regulation in Australia. It is a not for profit organisation established with the aim of the marketing of alcohol and alcohol alternatives 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;
- 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 marketing in Australia. Alcohol and alcohol alternative marketing 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 marketing communications, including product names and packaging, meet the ABAC Code standards.



REGULATION

- The [ABAC Responsible Alcohol Marketing Code](#) (The ABAC Code) which sets standards for alcohol and alcohol alternative marketing in Australia.
- The [Complaints Adjudication system](#) whereby complaints raising issues under the ABAC Code are assessed and adjudicated by the independent ABAC Adjudication Panel.
- Mandatory pre-vetting of television, cinema, radio and outdoor marketing by ABAC signatories 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 Alcohol & Alcohol Alternative Packaging Compliance Guide](#) provides guidance for manufacturers to ensure it does not have strong or evident appeal to minors.
- The [ABAC Best Practice for Responsible Digital Marketing](#) assists marketers and their agencies in the management of their digital marketing.

ABAC INTERACTIONS WITH ALCOHOL & ALCOHOL ALTERNATIVE 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 advise, approve or reject.

3

COMPLAINT

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

4

REFERRAL TO CHIEF ADJUDICATOR

Ad Standards refers all alcohol and alcohol alternative 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

DETERMINATION PUBLISHED

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

7

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 modify the product name, product packaging or marketing collateral 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.

Non compliance is referred to State & Territory Liquor authorities to consider against their promotional guidelines.

MANAGEMENT OF THE ABAC SCHEME

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

- Encourage industry members, large and small, to participate in the regulatory system;
- Ensure an effective regulatory system;
- Monitor ABAC operations and improve them where necessary;
- Consistency of the ABAC Code with community standards and responsive to changes in the media and marketing landscape;
- Raise industry awareness of the ABAC Code and Scheme through education and resources;
- 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 2023 the ABAC Management Committee comprised:

- Independent Chair, Hon Tony Smith;
- Chief Executive of the Brewers Association of Australia, Mr John Preston;
- Chief Executive of Spirits & Cocktails Australia Inc, Mr Greg Holland;
- Chief Executive Officer of Australian Grape & Wine Inc, Mr Lee McLean;
- Chief Executive of Advertising Council Australia Limited, Mr Tony Hale;
- The Assistant Secretary with responsibility for alcohol policy at the Commonwealth Department of Health, Ms Carolyn Paterson.

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

Each member of the Management Committee represents a group of stakeholders in alcohol 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



Hon Tony Smith



Tony Hale



John Preston



Greg Holland



Lee McLean

Ms Carolyn Paterson

The Assistant Secretary with responsibility for alcohol policy at the Commonwealth Department of Health

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 – Australian Distiller's Association members

Around 562 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 92% 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 2023, 17% of pre-vetting applications were from non-signatories.

The alcohol and alcohol alternative 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, industry associations and ABAC administrators are all available to explain the Code and the Scheme to marketers and their agencies.

The ABAC Adjudication Panel makes decisions on all marketing communications on which a complaint raising ABAC issues is received and in most cases, marketers in Australia co-operate with the ABAC system and comply with Panel determinations. In the rare instances that voluntary compliance is not attained, the complaint is referred to the relevant State or Territory liquor authority for consideration against its promotional guidelines.

ABAC SIGNATORIES MEDIA SPEND





ABAC CODE

The ABAC Code sets key standards for the responsible content and placement of alcohol and alcohol alternative 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 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.

6 KEY STANDARDS FOR ALCOHOL & ALCOHOL ALTERNATIVE MARKETING IN AUSTRALIA

1 RESPONSIBLE AND MODERATE PORTRAYAL OF ALCOHOL

- No depiction, direct implication, encouragement or treating as amusing:
 - › consumption inconsistent with the Australian Guidelines to Reduce the Health Risks from Drinking Alcohol, in particular consuming alcohol while pregnant or consuming more than 4 standard drinks on any one day or more than 10 standard drinks per week; or
 - › rapid alcohol consumption, misuse or abuse of alcohol or alcohol related irresponsible or offensive behaviour.
- No challenge or dare to consume alcohol or portrayal of the refusal of alcohol or choice of abstinence in a negative light.
- 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.

2 RESPONSIBILITY TOWARD MINORS

- No strong or evident appeal to minors.
- People who are or look under 18 may only be shown where they are in an incidental role 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, actor or influencer) and placed in:
 - › Licensed premises that do not permit entry by minors; or
 - › An age restricted account or post within a social media platform which:
 - › requires users to register and login to use the platform, including the provision of their full date of birth; and
 - › is able to hide the existence of any alcohol-related pages, sites and content such that they are not visible other than to a user who has registered on the platform as being an adult.

3 RESPONSIBLE DEPICTION OF THE EFFECTS OF ALCOHOL

- No suggestion consumption/presence of alcohol causes/contributes to an improvement 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 suggestion that the success of a social occasion depends on the presence or consumption of alcohol.
- No suggestion that alcohol offers any therapeutic or health (including mental health) benefit, is needed to relax, or helps overcome problems or adversity.

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).

5 PLACEMENT RESTRICTIONS

- Comply with Australian media industry code provisions regulating the placement of alcohol and alcohol alternative marketing ie within 150m of a school or outside times allocated for alcohol ads on free to air television.
- Use available age restriction controls.
- Only placing where audience is at least 80% adults.
- Not placing with programs or content primarily aimed at under 18s.
- Not delivering directly to under 18s by hand or electronic mail or to any person that has sought removal from the marketer's mailing list (unless due to under 18 providing incorrect date of birth).

6 ALCOHOL ALTERNATIVES

- An Alcohol alternative is a beverage that is at or less than 0.5% alcohol by volume that has an appearance and style commonly associated with alcohol, uses a brand or descriptor commonly associated with alcohol, and is not a beverage commonly understood as non-alcoholic, such as fruit juice.
- Alcohol alternative marketing must comply with the Responsibility to Minors and Placement Restrictions.
- Alcohol alternative marketing must comply with all other ABAC standards if it fails to clearly and prominently identify the product as an alcohol alternative or if the marketing also promotes an alcohol product (beyond a common brand name) or alcohol use.

25 YEARS OF ALCOHOL MARKETING REGULATION

Reflections on 25 years of the ABAC Scheme

by Chief Adjudicator Michael Lavarch

INTRODUCTION

In July 2023 the ABAC Scheme marked 25 years of operation. I have had the good fortune to have been the Chief Adjudicator of the ABAC Complaints Adjudication Panel during all the Scheme's existence and to witness and contribute to the development of the Scheme throughout its life. The 25 years has seen a huge transformation in information and communication technology and practices and with these matching shifts in the way all products, including alcohol, is marketed. In turn the ABAC Scheme has equally been transformed.

THE BEGINNING

The Scheme commenced as a self-regulatory initiative of 4 alcohol industry peak bodies and with a modest remit to provide a public complaints mechanism concerning advertising of alcohol beverages in traditional broadcast media of TV, print, radio and cinema. It was envisaged that the ABAC complaints adjudication panel would not be greatly troubled with much work, as the number of complaints received by then Advertising Standards Bureau (ASB) about alcohol ads was only a fraction of total complaints about advertising generally. Moreover, the concerns about alcohol ads were far more about issues of sexism that fell under the general advertising Code of Ethics decided by the ASB than they were about the use of alcohol as a product and decided by ABAC.

And for the first 5 years these expectations were realised. The Panel were referred only a handful complaints and made few decisions. In this initial period, the assessment of complaints was done entirely by the ASB and the ABAC Panel wasn't aware if a complaint was made until the complaint accompanied by a copy of the ad arrived to me by post! Even so, the original Panel members (including Ita Buttrose) started to work out how to apply the ABAC Code and guiding principles of decision making that have remained constant:

- A 'spirit and intent' interpretation of both the purpose of ABAC and Code provisions;
- Adoption of the 'reasonable person' benchmark of how an ad would be probably understood;
- Recognising core notions of natural justice and procedural fairness in decision making;
- Producing proper reasons for decisions that showed the Panel had thought thoroughly about the complaint and that could serve to guide future decisions and inform the alcohol industry of what was required of its advertising.

THE PIVOTAL MOMENT

While there were several drivers for ABAC's creation, one was the public concern and related governmental policy responses to the introduction and popularity of Ready to Drink alcohol products – so called alco pops. National alcohol policy became more focussed on the role of marketing and the spotlight fell on how advertising was regulated and industry self-regulation within this regulatory ecosystem.

A major review commissioned by the Commonwealth and State/Territory Health Ministers in 2004 resulted in foundational changes to the ABAC Scheme. These changes were the pivotal moment for the Scheme- if an industry lead component of marketing regulation was to become a core element of the overall design, then it had to professionalise and become more expansive.

The 2004 reforms saw the Scheme become more independent from the ASB (all complaints concerning alcohol came to the ABAC Chief Adjudicator for assessment) and the communication channel for advertising extended to the internet in addition to traditional broadcast media. The governance of the Scheme was strengthened, a government health official joined the Scheme's Management Committee and reporting was improved. A year later, the pre-vetting service which pre-dated the public complaints process were joined in governance arrangements and a true 'ABAC Regulatory Scheme' involving both proactive and reactive regulatory tools was created.

INDUSTRY COVERAGE AND ACCEPTANCE

An inherent feature of self-regulation is that acceptance of the 'regulation' is essentially voluntary. There might be contract like commitments by industry participants to abide and comply with a code of practice, but ultimately only governments have the legal power to compel compliance under threat of lawful sanction. ABAC started with the sponsorship of 4 industry associations and the obligation of the members of these associations to follow the Code and complaint adjudication decisions. But what of alcohol companies that were not members of one of the sponsoring peak bodies?

With the 2004 expansion of the Panel's jurisdiction, complaints were received about the advertising of companies that were not members of the peak bodies. The Panel made a policy and practice decision that it would consider and make a determination on all complaints irrespective of the membership status of the advertiser. This call was endorsed by the Scheme's Management Committee (no small thing as it meant the peak bodies and their members were paying the cost of regulating non-members).

In retrospect quite remarkably, almost universally in the last 20 years alcohol companies have accepted the ABAC Code and participated in the public complaints process irrespective of their relationship with a sponsoring peak body. What's more, these companies have accepted adverse Panel decisions – sometimes at the very great expense of having to remove brand names and product packaging from the market.

Importantly, alcohol retailers have accepted scrutiny over their marketing even when the marketing has gone to their business as a retailer as opposed to how an individual alcohol beverage is portrayed in an item of advertising. Other reforms like allowing individual companies to be signatories to the Scheme aside from membership of a sponsoring industry association has enabled the Scheme to retain effective coverage of the industry.

Equally, via a series of key decisions, the Panel has in effect expanded the scope of the Scheme by applying its 'spirit and intent' philosophy of the policy purpose of alcohol marketing

regulation. For instance, the decisions to capture the social media posts of influencers and to hold alcohol companies responsible to manage the posts of user generated comments on Company sites. A 2023 decision on the marketing of UberEATS is another recent example of the Panel, aside from formal reviews of the Scheme, the Code and its standards being able to nimbly maintain the currency of ABAC. In each of these examples, there has been no push back by the Scheme's Management Committee or the industry as a whole.

REGULATORY CRAFT

Alcohol marketing has always operated within a shared and somewhat complicated and fragmented regulatory environment. The last decade of the Scheme has seen it become more sophisticated in its regulatory craft and its efforts in engaging with the government regulators and policy makers.

The Scheme has been built on the three pillars of a Code that contains good practice standards for marketing, the pre-vetting advice that aims to have marketing material assessed independently before being used and the safety net of the public complaints process and Panel adjudications. While these 3 pillars remain the core of the Scheme, increasingly additional proactive regulatory tools are being employed.

Firstly, the performance of the Scheme, particularly the suitability of the Code standards and the alignment of Panel decisions is tested against community research. Secondly, the Scheme has moved into auditing the performance of industry members in their compliance with age restriction controls on company websites and social media platforms. Thirdly, there is a major focus on industry (both the alcohol and advertising industries) education and skilling. Best Practice Guides, checklists, training videos and industry briefing sessions are all part of this education program.

Further, the Scheme has taken the lead to formalise and strengthen its relationship with government regulators particularly State and Territory Liquor Licensing Authorities.

These bodies play the major role within the government sector in regulating alcohol as a product and its sale and service within tens of thousands of licensed premises. The bodies have promotional guidelines that largely mirror the ABAC Code standards and the opportunity for co-operation in regulatory approach has good potential to enhance both the government and industry lead elements of the regulatory system.

THE LEADERS

No reflection on the 25-year history of the Scheme can be complete without a mention of a few of the key leaders who have contributed to the establishment and then maturing of the Scheme.

While there have been numerous fine members of the Management Committee over time, mention has to be made of Gordon Broderick. Gordon was instrumental in ABAC being created and served for many years on the Management Committee. A larger-than-life figure, he moved seamlessly from company boardroom to Prime Minister's office and to industry forums. He strongly believed in industry responsibility in marketing and there would be no ABAC without Gordon.

Victoria Rubensohn was the first of the ABAC pre-vetters and set the approach as to how this key function could operate. A champion of the Australian consumer movement, she brought intellectual rigor and policy smarts to the marketing advice.

And finally, Jayne Taylor, the current CEO of the Scheme and long-time executive officer. Jayne really cemented the professionalisation of the ABAC Scheme in terms of its governance and its policy agenda.

THE ABAC SCHEME AT 25 YEARS

National Alcohol Strategy objectives

The aim of the Scheme is marketing that is consistent with the objectives of the Australian National Alcohol Strategy for the reduction of harm from adult alcohol consumption and specifically, not encouraging minors to consume alcohol. ABAC Code standards reflect these policy objectives.

Community Expectations

ABAC has always had a strong focus on meeting community expectations, testing both its Code standards and Panel determinations via periodic independent research of a broad cross-section of the community. This research has consistently shown that ABAC standards address key concerns in the community and the Panel's views are generally aligned with or slightly more conservative than the community.

Regulatory Environment

Significant shifts have occurred in the way alcohol is promoted over the past 25 years. Since the Scheme's inception there has been a digital transformation which has lowered the cost barrier to advertising across all product types. There have also been changes in the way alcohol is packaged from the containers used through to imagery and designs as competition has increased in the industry. The Scheme has been agile in responding to the significant and frequent changes.

The structure of the alcohol industry has also changed, notably its fragmentation with smaller operators. Also changes in product innovation as alcoholic seltzers, a broader range of flavours, and alcohol free beverages that are promoted as an alcohol styled alternative have entered or grown their market share.

Alcohol consumption patterns have also been changing, since 2001 there have been decreases in lifetime risk levels of drinking, increases in people in their 20s abstaining from alcohol and increases in the average age that 14-24 year olds first consumed a full serve of alcohol. The most recent 2022-23 data shows that consumption patterns have stabilised. It also shows that the proportion of people that had taken part in a risky activity while under the influence of alcohol reduced by 33% between 2010 2022-2023. A recent global report by IARD found that Australia was one of three countries globally with the highest decreases (40% or more) in underage drinking since 2010.

Raising industry standards

There are many advantages of self-regulation, however, the ability to be agile and adapt to address changes in community expectations, the alcohol industry and marketing environments is of key importance. ABAC has been responsive to these changes, through regular ABAC Management Committee meetings which include key stakeholders and undertaking extensive review and evaluation approximately every 5 years. These reviews have each resulted in ABAC expanding its reach and raising industry standards to meet community and government expectations of alcohol marketing in Australia.

ABAC'S 25 YEAR CUMULATIVE IMPACT

Pro-active measures:

- industry compliance training to > 3,740 industry participants, since 2010
- considered 31,557 pre-vetting requests
- rejected 4,742 pre-vetting requests before reaching the market
- compliance monitoring for social media age restrictions in 2022

Re-active measures:

- adjudicated 922 public complaints
- advertising complaint turnaround in recent years of 14-23 business days
- 344 ads or packaging ordered out of market
- 100% voluntary compliance from ABAC signatories in 20 out of 25 years

SNAPSHOT OF ABAC'S DEVELOPMENT

1998 – Established

2004 – Government representative, Health Panelist & Internet covered

2007 – Website & Guidance notes launched

2009 – Incorporated & Alcohol Packaging covered

2010 – Social media covered

2013 – First Community research & Digital Guidance

2014 – Code expanded on minors, marketing collateral and social media

2015 – Independent Chair appointed

2017 – Placement covered

2018 – Influencer guidance

2019 – Packaging guidance

2020 – Youth research

2021 – Online training

2022 – Compliance monitoring

2023 – Code expanded to alcohol alternatives

RECENT INITIATIVES

ABAC CODE REVIEW

Periodically ABAC undertakes a comprehensive review of its entire Code to ensure it remains aligned with community expectations and changes in the industry and marketing landscape. After an extensive 15 month public consultation process, consideration of a wide range of submissions and independent community opinion research a new ABAC Code was launched in April 2023 and fully implemented from 1 January 2024.

The strengthened Code includes changes in key areas to further protect minors from exposure to alcohol advertising and keep pace with changing marketing and advertising methods on social and digital media. Some of the key changes include:

- Stronger placement restrictions, including a higher adult audience requirement (80%) before an alcohol ad can be placed with a programme, and greater restrictions around direct marketing to protect the vulnerable;
- Extension of the Code to no and very low alcohol styled beverages; and
- Clearer restrictions preventing alcohol being positioned as a coping mechanism or negatively portraying the choice to abstain.

ABAC EDUCATION & AWARENESS

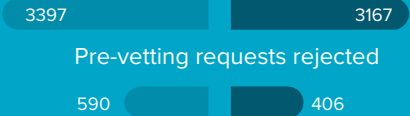
ABAC Education & Awareness is a key driver of industry compliance. In 2023 ABAC:

- Concluded a comprehensive review and update of its Digital Best Practice Guide;
- Updated its series of compliance training videos and free ABAC online training course and held an industry webinar to coincide with the launch of the revised ABAC Code;
- Delivered tailored in-house training sessions on ABAC compliance for companies and agencies; and
- 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 available on the ABAC website.

2023 SNAPSHOT

2022 2023

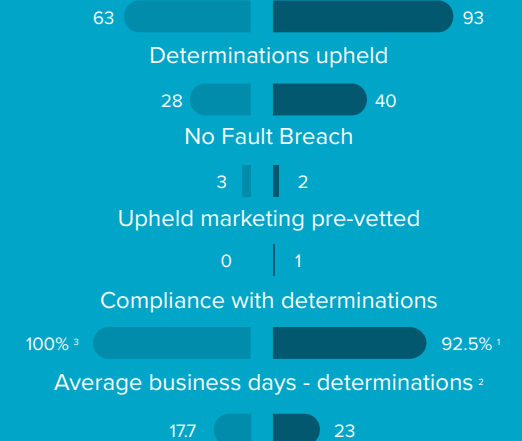
PRE-VETTING REQUESTS



ALCOHOL COMPLAINTS



DETERMINATIONS



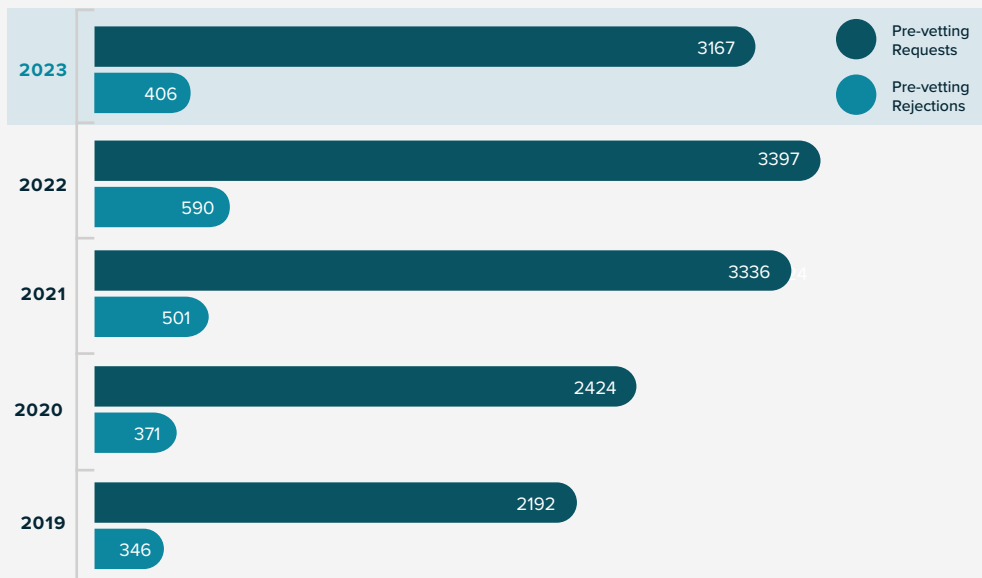
¹ Referred to relevant Liquor Licensing Authority. ² Excludes upheld packaging determinations as they involve a review option.

ABAC PRE-VETTING SERVICE (PRE-VETTING SERVICE)

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

- Pre-vetters advise, 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.

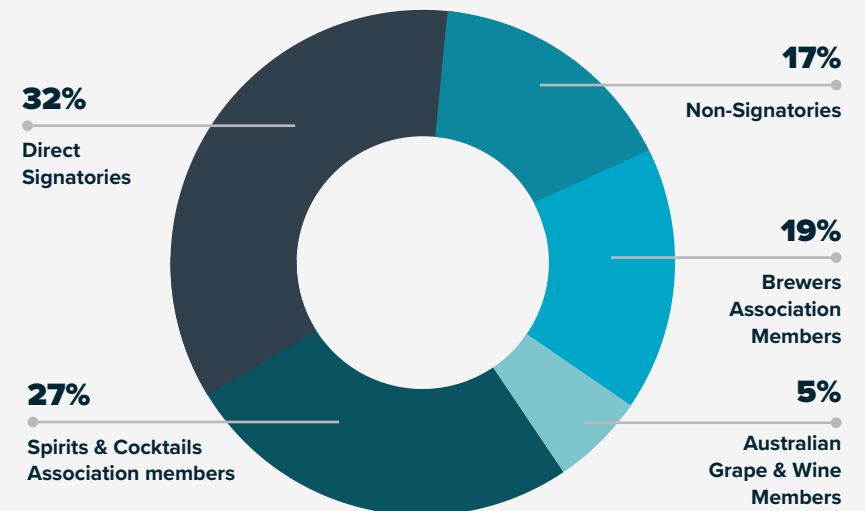
PRE-VETTING REQUESTS & REJECTIONS OVER THE PAST 5 YEARS



The volume of Pre-vetting requests reduced by about 7% in 2023 after having almost doubled in the previous 5 years, but remained higher than 2020 levels.

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 17% of all requests. The use of Pre-vetting is encouraged by media associations and also ABAC 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 2023, 53% of all signatory 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 all complaints it receives against the [AANA Code of Ethics](#) and other codes it administers. The Code of Ethics 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

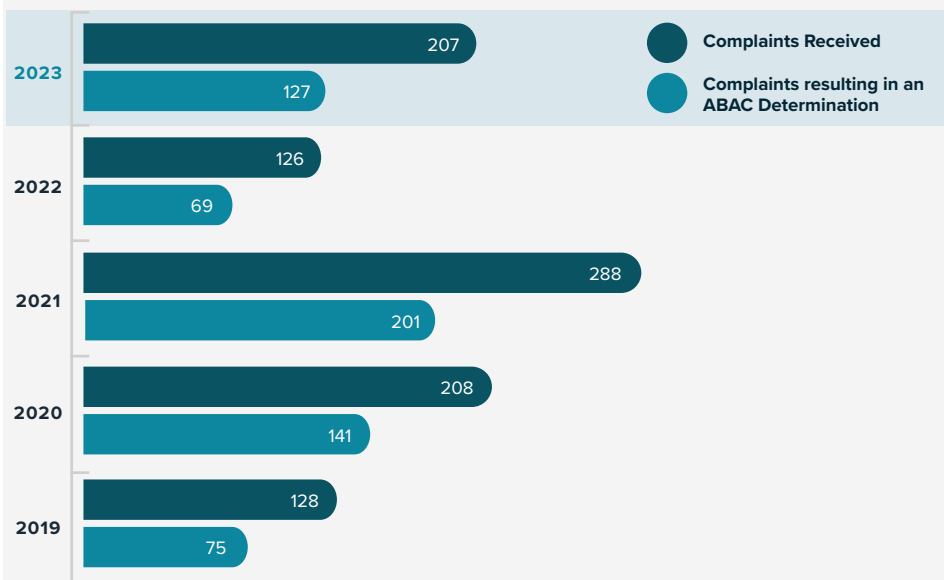
2023 saw an increase in complaints, after a large decrease in 2022.

OF THE 207 COMPLAINTS RECEIVED:

171 Separate advertising campaigns attracted a complaint

127 Complaints resulted in an ABAC Determination

COMPLAINTS RECEIVED AND RESULTING IN AN ABAC DETERMINATION



In 2023, 61% of complaints resulted in a determination, 3% of complaints were previously considered by the Panel, 8% of complaints raised issues that have been consistently dismissed by the Panel, 24% were outside the scope of the ABAC Code, 2% could not proceed due to insufficient information being provided, and 2% were about the operations of ABAC.

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

Complaint previously considered:

2023 Determinations	4
2022 Determinations	1
2021 Determinations	1

Consistently dismissed issues:

Placement the Panel has previously considered consistent with the Code	15
Failure to include a drink responsibly message	1
Advertising on grocery receipts and bulk purchase of alcohol	1

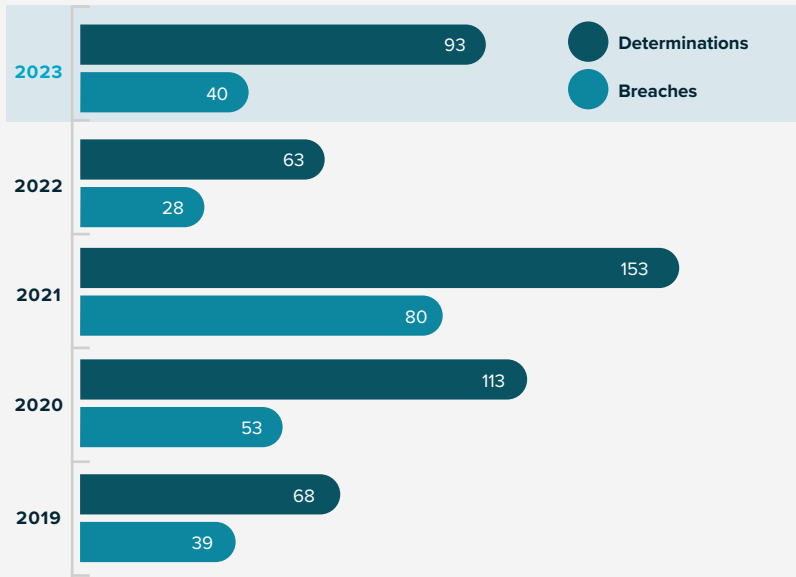
Outside scope of ABAC:

Misleading advertising (referred to Fair Trading)	13
Sexual Imagery	8
Not an alcohol marketing communication	7
Racial or sexual discrimination	5
Concern about legislative compliance (referred to regulator if possible)	3
Dislike the ad	3
Religious offence	2
Failure to disclose as paid advertising	2
Objection to alcohol advertising being permitted	2
Complaint withdrawn	1
Other	6
Insufficient information provided	4

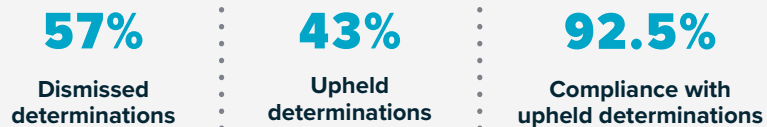
DETERMINATIONS

After the annual upward trend of determinations reversed in 2022, 2023 saw an increase in determinations, with levels exceeding pre-pandemic levels, but still lower than the peaks seen during the pandemic in 2020 and 2021.

DETERMINATIONS & BREACHES IN 2023



PERCENTAGES OF DISMISSED AND UPHELD DETERMINATIONS IN 2023

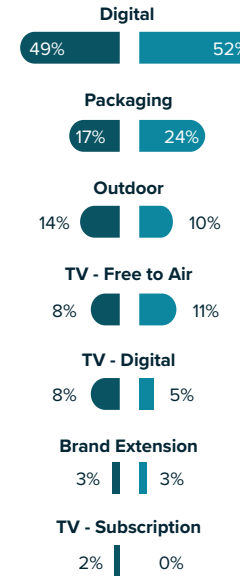


Alcohol marketing via digital media (particularly social media), continued to be the most common medium considered in determinations and the most common medium to result in a breach of ABAC standards by a considerable margin. Packaging is the next highest medium to result in a determination or breach.

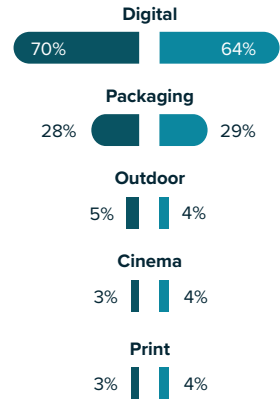
NOTE: Charts represent the percentage of determinations/breach determinations that include consideration of a particular listed media category. As a number of determinations relate to more than one media type the percentages total >100% in the two charts at the bottom of the page.



MEDIA ATTRACTING A DETERMINATION

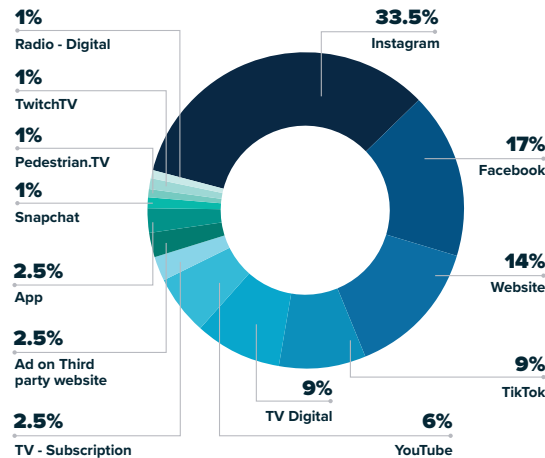


MEDIA ATTRACTING A BREACH

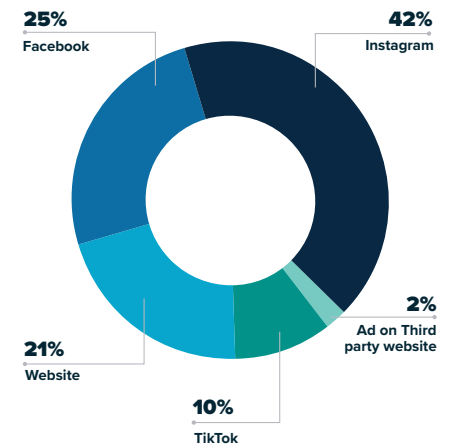


NOTE: Determinations concerning Print, Cinema, Competition, Point of Sale, Radio - Broadcast, Radio-Digital and Telemarketing was 1% for each media category.

DIGITAL PLATFORMS ATTRACTING A DETERMINATION



DIGITAL PLATFORMS ATTRACTING A BREACH



ABAC CODE PROVISIONS ATTRACTING DETERMINATIONS

● 2023 ● 2022

Consumption inconsistent with Australian Alcohol Guidelines (excessive or with pregnancy/breastfeeding)



Rapid consumption, misuse or abuse of alcohol or other irresponsible or offensive alcohol related behaviour



Challenge or dare to consume alcohol or portray refusal or abstinence in a negative light



Emphasise strength or intoxicating effect of alcohol



Strong or evident appeal to minors/ Depiction of under 25s



Alcohol cause of improved mood/environment



Alcohol cause of success



Success of social occasion depends on alcohol



Therapeutic, health or mental health benefit/needed to relax/helps overcome problems



Alcohol use with activities requiring alertness/physical co-ordination



Placement restrictions



ABAC CODE PROVISIONS ATTRACTING BREACH DETERMINATIONS

● 2023 ● 2022

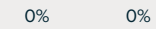
Consumption inconsistent with Australian Alcohol Guidelines (excessive or with pregnancy/breastfeeding)



Rapid consumption, misuse or abuse of alcohol or other irresponsible or offensive alcohol related behaviour



Challenge or dare to consume alcohol or portray refusal or abstinence in a negative light



Emphasise strength or intoxicating effect of alcohol



Strong or evident appeal to minors/ Depiction of under 25s



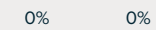
Alcohol cause of improved mood/environment



Alcohol cause of success



Success of social occasion depends on alcohol



Therapeutic, health or mental health benefit/needed to relax/helps overcome problems



Alcohol use with activities requiring alertness/physical co-ordination



Placement restrictions



The majority of complaints continue to raise concerns about alcohol marketing having a strong or evident appeal to minors and/or featuring young people, however the number of determinations and breaches relating to this provision declined significantly this year. Determinations about alcohol marketing being directed toward minors by its placement increased, however breaches in relation to these standards decreased. This year saw increases in breaches relating

to excessive, rapid and irresponsible consumption of alcohol, and both determinations and breaches relating to improvement in mood and health benefit standards. 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%.

2023 REPORT

The ABAC Scheme has operated for 25 years and in common with most years, the public complaints and adjudication process in 2023 witnessed new issues combined with the manifestation of longer-term trends. On the new issues, the Panel dealt with complaints raising:

- The leveraging of well-known brands from non-alcoholic products into the lead brand elements of alcohol products.
- The intersection of ABAC obligations with the operations and marketing of the gig economy.
- The risks and benefits from AI generated marketing material.

Further, a revised ABAC Code commenced in August 2023 extending the reach of ABAC obligations to alcohol alternate products i.e. zero alcohol beers and wines etc, strengthening the provisions about alcohol and minors and generally updating the Code to reflect Panel decisions of recent years. A feature of the ABAC Scheme over its 25 year history has been its ability to adapt to changing communication technologies and marketing practices and the shifts in consumer behaviours. At the same time, the touchstone of the Scheme remains meeting community expectations on responsible alcohol marketing, and the major policy objective of limiting underage drinking continues as the core component of the Code standards.

The new Code provisions have been implemented smoothly from the Panel's perspective. New training resources for industry were developed and rolled out and the Scheme decision makers in complaint adjudication and pre-vetting advice worked together to promote consistency in how the new Code provisions would be applied.

Possibly reflecting the timing of the new Code, complaint numbers and Panel determinations increased in the second half of 2023 with the result that the Panel made 93 determinations compared to 63 decisions in 2022. While this is still well below the numbers of the two Covid impacted years of 2020 and 2021, the number of determinations made last year was notably above pre-pandemic levels.

The Panel decision that attracted most public attention in the year concerned a new alcoholic Ready to Drink

product branded as Hard Solo. The product's branding and packaging drew upon core branding elements of Solo soft drink which has been a mainstay of Australian soft drinks since the 1970's. While the marketer had taken steps to distinguish the packaging designs of the soft drink and the alcoholic variant and submitted data that Solo soft drink was predominately consumed by adults and not minors, the Panel believed the brand name and packaging did have strong or evident appeal to minors. This resulted in Hard Solo branding leaving the market.

Hard Solo was the most prominent but not the sole case involving leveraging non-alcoholic brands into the branding of alcohol products. Cross category branding is not new – Virgin for instance is a brand extending from music stores to credit cards to fitness centres to airlines. In alcohol products, there has been the move of 'Tradie' clothing into a beer range and several examples of personalities from acting to music and social media also releasing alcohol products. The ability to extend recognition built through activities where brand profile is not subject to alcohol marketing restrictions into the regulated alcohol domain is an area that the Panel will be mindful in future determinations.

In the last 5 years and cemented during Covid lockdowns, there has been a massive growth in the gig economy, particularly the home delivery of food through services like UberEATS. These platforms that link retailers to customers via a delivery worker have been extended to the home delivery of alcohol products. The Panel grappled with the status of the services in the last year – are they 'alcohol retailers' with their marketing referencing alcohol captured by ABAC standards or are they outside the scope of the ABAC Scheme?

The Panel has decided that while the services are not alcohol retailers in the sense of bottle shops or major retailers like BWS or Liquorland, they are now alcohol industry participants, and the community would expect that their marketing involving alcohol will meet good practice standards. The ability of the ABAC Scheme to approach questions of this kind on a 'spirit and intent' application of the purpose of the Code is a real strength of industry led regulation.

AI is a transformative technology for the entire society and naturally its impact- both for good and for harm – has begun to manifest in complaints and Panel decisions. During 2023 the Panel dealt with an AI generated ad and image

that failed to meet a Code standard but, in another case, AI intervened to apply the highest level of age restriction control to stop digital marketing being potentially served to minors when human error had resulted in the appropriate restriction not being selected. Again, the Panel expects it will deal with further cases in the coming period as AI is used more extensively in all facets of the marketing process.

In operational terms the complaints process performed well in 2023. The Panel was well supported by its complaints manager Marilyn Hansford and the Scheme CEO Jayne Taylor. Overwhelmingly alcohol companies cooperated with the process, supplying relevant marketing materials for review, and providing responses to complaints in a timely fashion. Equally, the complaint receipt and referral role played by Ad Standards as the 'front door' for public concerns about advertising of all kinds, including alcohol, saw complaints streamed to ABAC quickly and accurately.

While compliance levels with adverse Panel determinations by industry remains very high, there were some decisions that had to be referred to State or Territory Liquor regulators for consideration under Liquor laws. The relationship with government authorities has deepened in recent years and good cooperation between different bodies within a shared regulatory environment is an important aspect for holistic and fully effective alcohol regulation.

Finally, my thanks to my fellow Panel members for their ongoing commitment to the Panel's work and to the Scheme's Management Committee for their support and respect of independent adjudication of public complaints.

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



MOST COMPLAINED ABOUT ALCOHOL MARKETING IN 2023

In 2023 12 complaints were received about the packaging of a new product in the market named, 'Hard Solo'. The decision was the first occasion the Panel assessed the packaging of an RTD product with a brand name and core branding elements taken from a well-established and iconic soft drink brand.

The Panel noted that CUB were careful to devise a packaging design that identified Hard Solo as an alcoholic beverage and not a soft drink. However, the Panel believed:

- A reasonable person would probably understand that as a household soft drink brand found in an estimated 1.7 million homes, stocked in supermarkets and convenience stores and marketed freely without the restrictions placed on alcohol products, Solo was an entirely familiar and relatable brand to minors.
- Using the Solo name and other branding features on Hard Solo would elevate the appeal of Hard Solo and create an illusion for minors of a smooth transition from the non-alcoholic to alcoholic variant of Solo.

CUB accepted the decision and advised that in accordance with the ABAC Rules they had immediately ceased further orders for production of this packaging and would modify the name and packaging within 3 months.



NON-COMPLIANCE

As a self-regulatory system, compliance with the Panel's decisions is dependent upon the commitment of industry participants. In the vast majority of cases, decisions by the Panel to uphold a complaint are accepted by marketers and the marketing communications in question are withdrawn or modified to comply with the ABAC provisions.

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 modify the product name, product packaging or marketing collateral to be consistent with the Panel's determination within 3 months.

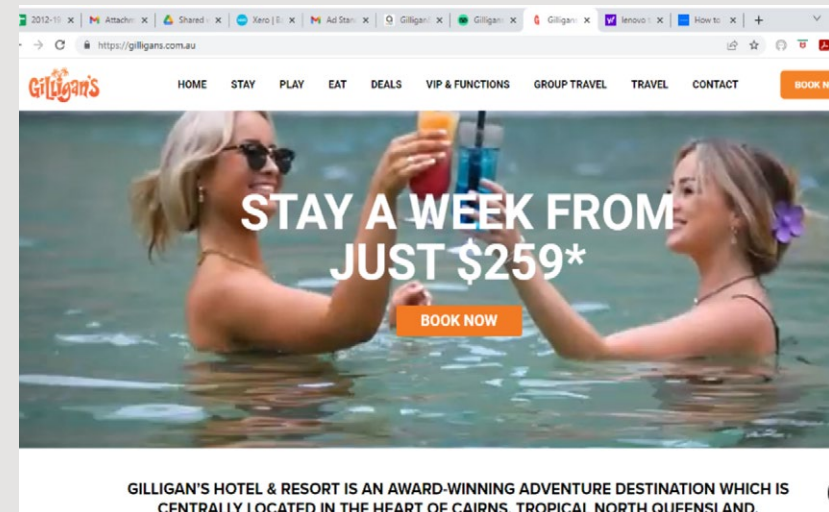
- in the case of all other marketing communication content— withdraw, discontinue or modify the material within five (5) business days.

- 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.

Non compliance is referred to State & Territory Liquor authorities to consider against their promotional guidelines.

At the time of preparing this report, the following advertiser had not withdrawn or modified marketing the Panel believed to be inconsistent with ABAC standards.

GILLIGAN'S HOTEL CAIRNS



The Panel made three determinations that digital marketing was inconsistent with the Part 3 (d) standard by showing alcohol use while swimming or or raising a reasonable implication that swimming will occur after alcohol consumption.

The Code standard recognises that alcohol use elevates the risk of harm when undertaking water based activities.

The Company declined to take action in relation to the marketing as it respectfully disagreed with the determinations. In accordance with ABAC Rules & Procedures the complaints were referred to the Qld Office of Liquor and Gaming Regulation.

BREACHES OF ABAC STANDARDS

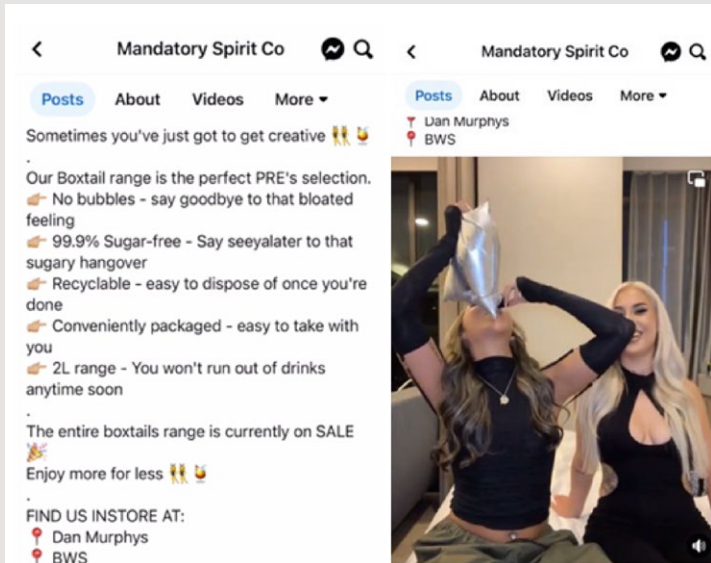
During 2023, 40 ABAC determinations were made upholding public complaints about alcohol marketing communications, including:

- Five expedited breach determinations, where the alcohol marketer accepted there had been a breach of ABAC standards and promptly removed the marketing material.
- Two determinations 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.
- At the time of this report, 92.5% of all 2023 upheld determinations have resulted in removal, discontinuance or modification of marketing with all except one advertiser voluntarily complying.

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

Excessive alcohol consumption

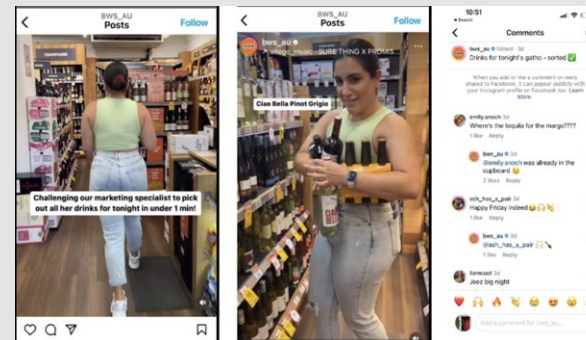
MSC BOXTAILS



Consumption directly into the mouth from a goon bag raises an implication of rapid consumption as clearly the product cannot be sipped as from a glass or cup and must be taken by the mouthful. While the video does not show excessive consumption with each woman having a single mouthful of the product, the reasonable implication is that further consumption will occur by reference to 'PRE's selection' in the text. Taken as a whole a reasonable person would probably understand that combined, the various elements of the post do encourage excessive consumption and misuse of alcohol to pre-load.

The post was removed on notification of the complaint.

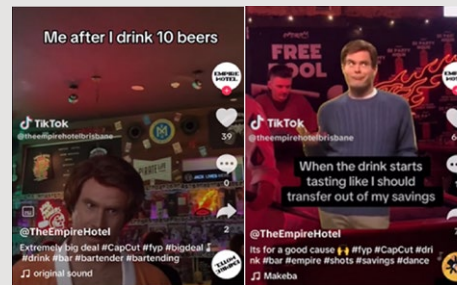
BWS



The most probable take out from the caption, video and superimposed text is that a person is purchasing multiple alcohol products for consumption by a single person on a single occasion.

The post was removed on notification of the complaint.

THE EMPIRE HOTEL



TikTok posts implied or treated as amusing excessive consumption of alcohol.

The posts were removed.

NOTE:

- This determination also found a breach of Part 3(c)(i) and (ii) - Refer to page 31.

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

Excessive alcohol consumption

HARD FIZZ



The reasonable implication of the statement 'who says this sh*t doesn't get you drunk??' combined with the party scenes is that excessive consumption will occur, or at least that it is socially acceptable to drink to intoxication.

The post was removed on receipt of the complaint.

NOTE:

- Two additional expedited determinations related to excessive alcohol consumption - Refer to page 36.

Rapid alcohol consumption

GRAVITY SELTZER



The Company's website and nine social media posts were found to breach at least one Code standard for various reasons, including the pouring of alcohol from a height into a person's mouth which portrays that the consumption is rapid, rather than controlled and measured.

The posts were removed.

NOTE:

- This determination also found breaches of Parts 3 (c)(i) (iv) and (d) - Refer to pages 35 and 35.

CHEEKY MONKEY BREWING

Brewing great beer takes years of hard work and practice.
The hard work and practice:



Drinking two cans of alcohol at the same time is excessive alcohol consumption, and the pouring of alcohol from a height into a person's mouth portrays that the consumption is rapid. The post does not depict a moderate or responsible approach to alcohol use.

The post was removed.

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

Rapid alcohol consumption

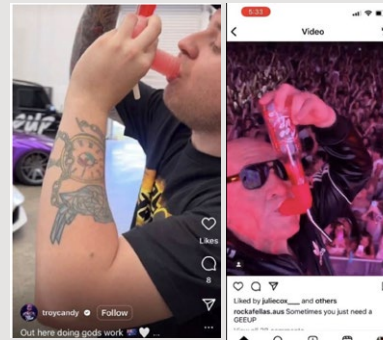
BETTER BEER ARVO ALE



The video shows exaggerated consumption, long and deep drinking and a long pour of the product from height. The 'Gimme More' soundtrack is more likely understood to be about the amount of consumption than the taste of the product given the depicted behaviours.

The post was removed.

GEE UP VODKA



Various posts show rapid consumption through images of consumption of the product using a drinking snorkel, and discussions about using a drinking snorkel to consume the product.

The Company removed the posts on notification of the complaints.

NOTE:

- This determination also found a breach of Part 3(b)(ii)(iii)(iv), (c)(iv) and (d) – Refer to pages 29, 30, 32 and 35.

80PROOF LIQUOR



The consumption of alcohol from a bottle directly into the mouth raises an implication of less controlled or measured consumption compared to drinking from a glass, the accompanying text 'Shots all night long...' implies continuing alcohol consumption and taken as a whole a reasonable person would probably understand that combined the various elements of the post encourages excessive and/or rapid alcohol consumption.

The Company removed the social media post.

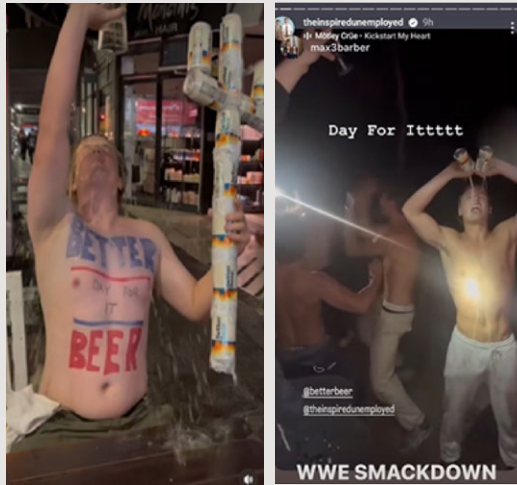
NOTE:

- The determination also found a breach of Part 3(d) - Refer to page 34

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

Irresponsible or offensive behaviour related to the consumption or presence of alcohol

BETTER BEER



A promotional video for a competition showed clips of videos received in relation to an earlier competition, which were themselves inconsistent with ABAC standards. A reasonable person would understand that a video depicting a man holding cans of Better Beer, physically fighting, smashing the cans into their heads as well as rapid consumption shows and encourages the rapid and excessive consumption of alcohol, and also irresponsible and offensive behaviour. The final scene in the video showing a man pouring beer over himself in a public bar depicts alcohol related anti-social behaviour.

The post promoting the competition was removed, a social media post appearing as an Instagram Story is no longer visible, and Better Beer 'untagged' itself from the post showing a man pouring beer over himself.

TRADIE BEER

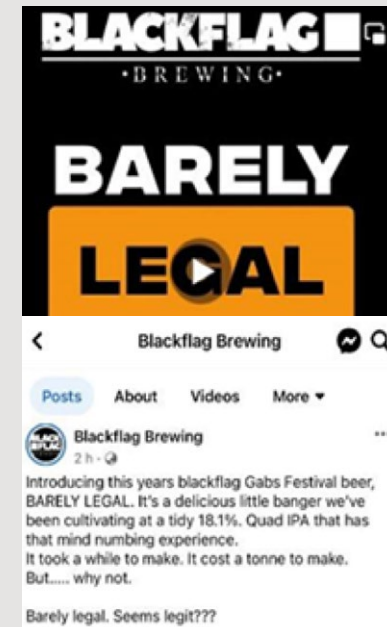


An Instagram video parodies The Hangover movie with Tickford team members as the Wolf Pack. It portrays the morning after-effects of a wild night out. The Pack members are shown with shaved heads as well as face and other tattoos all acquired without recollection. Evidence of the misadventure includes a large number of empty alcohol cans around the men as they awaken. The video clearly implies excessive consumption and treats this as amusing. It also shows or implies anti-social behaviours.

The video was removed.

Encourage choice of the product by emphasising its alcohol strength or intoxicating effect

BLACKFLAG BREWING



While the ABAC does not regulate physical beverages, the statements in the tasting notes of 'It's big, bold and barely legal' and '...packing a punch', and on social media that 'its a delicious little banger we've been cultivating at a tidy 18.1%. Quad IPA that has that mind numbing experience', breach the Code by encouraging the choice of the product due to its alcohol strength and intoxicating effect.

In addition, the pornography connotations of the product name and logo breach the Code by encouraging offensive behaviour.

The marketing was removed before notification of the complaint.

RESPONSIBILITY TOWARD MINORS – ABAC CODE PART 3(B)(I)-(III)

Strong or evident appeal to minors - Packaging

BILLSON'S (GRAPE BUBBLEGUM, RAINBOW SHERBET AND TROPICAL PUNCH)



A combination of factors would lead a reasonable person to probably understand that the products' packaging has strong or evident appeal to minors, including drawing on the names of confectionery items and a soft drink, the use of bright colours and the images used.

The names and packaging were modified.

BILLSON'S (SOUR SCREAM AND CANDY CANE)



Sour Scream Vodka packaging would likely strongly attract the attention of minors due to the strong association with Halloween, an event that has grown in popularity amongst Australian children in recent years and the stereotypical pictures of ghosts (with pronounced whacky and goofy expressions), spooky bats and a haunted house, which as well as being associated with Halloween, are also similar to illustrations used in children's books and animations.

Candy Cane Vodka packaging imagery creates a strong association with well recognised Christmas tropes and would be relatable to minors. The descriptor and pictures of candy canes, which are a festive confectionery item consumed commonly by minors would likely contribute to an illusion of a smooth transition to an alcohol product for a minor.

The company advised that the products had been discontinued.

BILLSON'S (LAMINGTON)



Lamingtons are highly recognised across the community, including with minors, and the imagery and use of contrasting colours on the Lamington Vodka product packaging would most probably be understood as creating a familiar and relatable image. A social media post promoting Lamington and Cake Vodkas including the showcasing of iced speckled cupcakes, lamingtons and a beverage in a glass with striped straws, which are products and imagery well-known, familiar to and appealing to minors.

Lamington Vodka was discontinued and the social media post was removed.

NOTE:

- This determination also found a breach of Part 3(b)(iv) in relation to Twister Vodka marketing – Refer page 30.

RESPONSIBILITY TOWARD MINORS – ABAC CODE PART 3(B)(I)-(III)

Strong or evident appeal to minors - Packaging

T-SAUCE



The front of the packaging does not unambiguously establish the product as an alcohol beverage, its overall appearance might be confused with a product such as a tomato sauce or tomato juice, the anthropomorphic tomato depictions closely resemble those found in children's books and tomato and tomato sauce is a vegetable and product likely to be familiar and relatable to minors.

The company advised the product had sold out and would not be re-released in Australia.

HARD SOLO



The packaging lead with a brand name and core branding elements taken from a well-established and iconic soft drink brand that is familiar and relatable to minors.

The company ceased further orders immediately and modified the packing within three months.

THE GOLDEN D'RULE



The product employs a light background highlighting the bright green of the 'hop' character, the hop character does have some resemblance to characters that might be found in stories or animations directed towards minors and the depiction of the character as a skateboarder creates an association with an activity popular with minors and increases the relatability of the product for minors.

The company advised that the product packaging was sold out and would not be re-instated.

RIDGELANDER WEST COAST IPA



The design used imagery readily associated with the interactive video game Mario Bros, which has enduring popularity across ages, including with minors, and uses colours and a design that is bright and eye catching to minors.

The company advised the product was sold out and would not be re-instated.

RESPONSIBILITY TOWARD MINORS – ABAC CODE PART 3(B)(I)-(III)

Strong or evident appeal to minors - Packaging

GEE UP COTTON CANDY VODKA



While Cotton Candy is an American name for a confectionery item usually referred to in Australia as Fairy Floss, the name would be recognised by most people including minors as referring to a confectionery if not directly by the name 'cotton candy' then by the term 'candy'. The image of fairy floss on a stick strengthens the overall impact of the label being associated with confectionery and would likely resonate strongly with minors.

Advice received that the packaging has been modified.

Strong or evident appeal to minors - Other marketing

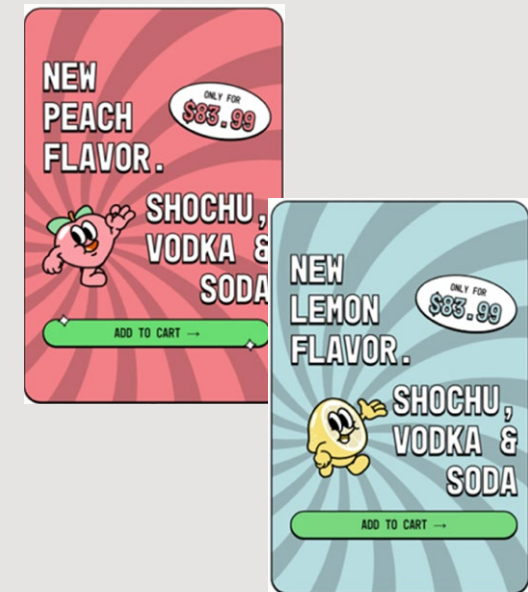
MILKY LANE



The images of the cocktails are bright and eye-catching, Milo remains a popular and well known drink for minors, the confectionery items would be entirely familiar to minors given the common presence of the products in supermarkets and other retail stores, the combination of the product name and imagery (Frosty Fruits, Milky Bar, Milo and Strawberries & Cream) creates an illusion of a smooth transition from a non-alcohol product to an alcoholic beverage, and the text does not unambiguously establish the cocktails are alcoholic in nature.

The posts were removed.

GROG



The Grog website had an overall design which would be considered playful, fun and engaging to minors rather than mature with a clearly adult focus, the cute and amorphous drawings of fruit, which in some instances are walking and/or waving, in a cartoon style that is reminiscent of characters from children's media and the use of cartoonish font and swirling block colours, was considered to be appealing to minors.

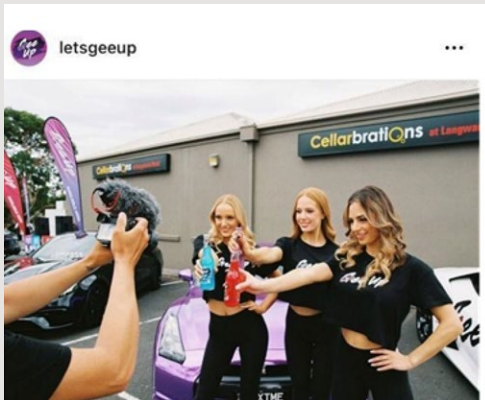
The website was modified.

.....

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

Images of under 18 year olds/under 25 year olds

GEE UP VODKA



Instagram posts showed a child wearing a Gee Up Vodka t-shirt and a model aged under 25.

The posts were removed on notification of the complaints.

NOTE:

- This determination also found a breach of Part 3(a)(i), (b)(iv), (c)(iv) and (d) – Refer to pages 24, 30, 32 and 35.

NOTE:

- One no-fault breach related to the depiction of a person under the age of 25 - Refer to page 38.

.....

PLACEMENT STANDARDS – ABAC CODE PART 3(B)(IV)/PART 4

Placement Rule (ii)/Part 4(b)- Age restriction controls

VODKAPRO

The brand's Instagram feed was not age restricted at the time of the complaint and accordingly the company was in breach of Part 4 (b).

The Company implemented age restriction controls on its Instagram and Facebook accounts.

NOTE:

- This determination also found a breach of Part 3 (c)(iv) – Refer to page 32.

GEE UP VODKA

Failed to apply all available age restriction controls to social media posts by the Company and its influencers.

The Company removed the posts on notification of the complaints.

NOTE:

- This determination also found a breach of Part 3(a)(i)(b)(ii)(iii), (c)(iv) and (d) – Refer to page 32.

BILLSON'S (TWISTER)

The placement of posts for Billson's Twister Vodka by Russ. Eats on Facebook and Instagram did not utilise available age restriction control.

The company undertook to age restrict or remove Twister Vodka posts made to the Russ.Eats Instagram and Facebook pages.

NOTE:

- This determination also found a breach of Part 3(b)(i) – Refer to page 26.

NOTE:

- One expedited determination related to a breach of Part 4(b) – Refer to page 37.

NOTE:

- One No-Fault Breach related to a breach of Part 4 (c) and (d) - Refer to page 38.

RESPONSIBLE DEPICTION OF THE EFFECTS OF ALCOHOL – PART 3(C)

Alcohol creating/contributing to a significant change/improvement in mood or environment

HARD FIZZ WEBSITE

Promote great times and better health with old mates and new.

The party doesn't start till you walk in the door with the variety pack of fizzy numbers to share with all your mates.

Our variety pack includes 4 cans each of our fizzy numbers, Orange & Mango, Lychee & Apple and Watermelon & Berry.

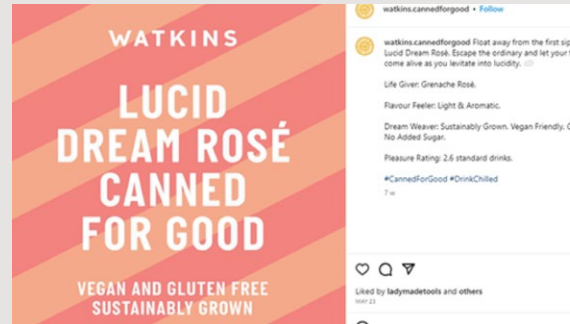
5% ABV, The FIZZ for your kick-ons! For the moment that you turn your great day into a proper night. With a lively Strawberry and Grape flavour and natural caffeine from green coffee beans you get the vibrant energy without the bad shit! Don't say it Don't say it Don't say it...FIZZ-X

A reasonable person would conclude from the statement “The party doesn’t start till you walk in the door with the variety pack of fizzy numbers to share with all your mates” that contributing the drinks will earn social success and cause an improvement in mood.

References to enjoying “our mornings as much as our nights” and “...a fresh little number that’s easy on tomorrow...” position the Company’s alcoholic products as providing health benefits by causing less of an alcohol induced hangover. Marketing copy suggesting that the products are “better for you” and offer “better health” and “you get the vibrant energy without the bad shit!” suggest the product offers a health benefit.

The website was amended to remove statements found to breach ABAC standards.

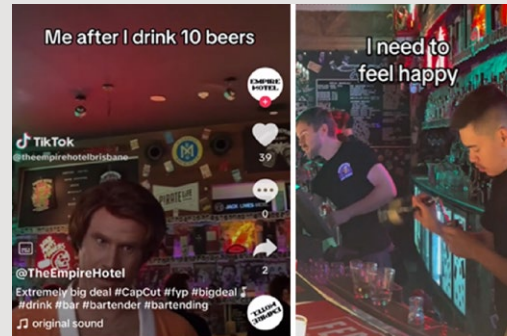
LUCID DREAM ROSÉ



The text accompanying the post directly links the consumption of the product to a significant change in mood, namely ‘floating away’ ‘escaping the ordinary’ and having fantasies ‘come alive as you levitate into lucidity’.

The post was removed.

THE EMPIRE HOTEL



TikTok posts implied that alcohol consumption leads to an altered mood and to a person becoming more socially confident/successful or happier.

The Company removed the posts.

NOTE:

- This determination also found a breach of Part 3(a)(i) - Refer to page 22.

RESPONSIBLE DEPICTION OF THE EFFECTS OF ALCOHOL – PART 3(C)

Alcohol causing or contributing to the achievement of success

PINA COLADA SPARKLING HARD SELTZER



This social media marketing places product images with a woman as she is being sexually provocative and, taken as a whole, the series of story images and scenes give rise to a reasonable implication that the product is a contributor to the sexually provocative actions of the woman.

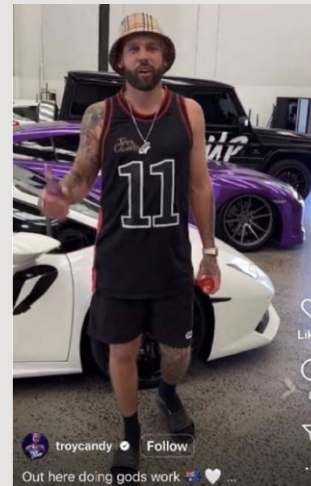
The post has been removed.

NOTE:

- One expedited determination related to a breach of Part 3(c)(i) and (ii) of the Code – Refer to page 36.

Alcohol offering a health benefit/ needed to relax/ helps overcome problems

GEE UP VODKA



Suggestions that alcohol can be used to 'freshen up' when working on a hot day, referencing 'added electrolytes' as a 'cleaner way to party', and implying that the consumption of the product would result in fewer hangover side effects suggests the product offers a health benefit.

The Company removed the posts on notification of the complaints.

NOTE:

- This determination also found a breach of Part 3(a)(i), (b)(ii)(iii)(iv) and (d) – Refer to pages 24, 29, 30, and 35.

VODKAPRO



The Instagram post went beyond a factual statement and claimed the product provides the benefit of the 'power of protein and collagen', which a reasonable person would probably understand is making a positive claim of the product offering a health advantage.

The reference to the "power of protein and collagen" was removed.

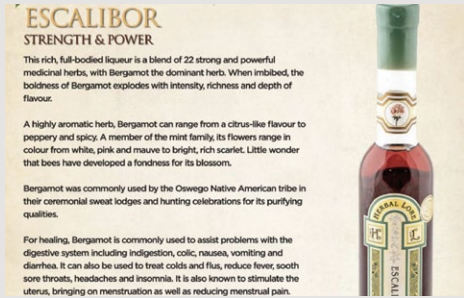
NOTE:

- This determination also found a breach of Part 4 (b) - Refer to page 30.

RESPONSIBLE DEPICTION OF THE EFFECTS OF ALCOHOL – PART 3(C)

Alcohol offering a health benefit/ needed to relax/ helps overcome problems

HERBAL LORE LIQUEURS



Various website and print ad claims such as, ‘The healing power of botanicals transformed into exquisite tasting liqueurs, gin and vodka’, ‘supports general wellness’ and ‘encourages peace of mind’ suggest that consumption of the product results in health benefits and relaxation.

The website was modified.

EASY SELTZER



A reasonable person understands that alcohol consumption can lead to dehydration and the reference ‘The Hydrating Seltzer’ would be probably understood that the product offers hydration. This understanding is reinforced by the other references to hydration on the can and taken as a whole, the packaging would be understood as making a positive claim that the products offer the benefit of hydration.

The Company advised it would modify the product, but as this did not occur within 3 months the complaint was referred to the Qld Office of Liquor and Gaming Regulation and the ACCC.

ISLAND MIST GUILT FREE SELTZER



Packaging, website and social media handles and account names ‘Guilt Free’ go beyond a comparison of the product’s attributes to an ‘ordinary’ alcohol beverage and would probably be understood as claiming it is relatively beneficial in health terms compared to alternate products.

Website copy using the words ‘...healthier alcoholic option’; and ‘an easy drinking, low calorie, sugar free experience with all the flavour and none of the bad stuff!’ suggest the products offer therapeutic benefits, are relatively beneficial for a person’s health or wellbeing and do not have the adverse side effects of alcohol consumption.

The company advised it will remove the term “Guilt Free” from its marketing communications and discontinue the packaging.

GRAVITY SELTZER

Statements on the brand website such as “Gravity is the drink that will energise you on your hikes, rides, and adventures, but will also help you relax when it’s time to wind down, relax, and have fun with your friends and family”, “A drink that can energize you while you’re active during the day”, “A drink that’s all about you – your health, your lifestyle, and the memories you create” suggest that the product either contributes to a significant change in mood or has a health benefit.

The website was modified.

NOTE:

- This determination also found breaches of Parts 3 (a)(i) and (d) - Refer to pages 23 and 35.

NOTE: One expedited determination related to a breach of Part 3(c)(iv) of the Code – Refer to page 37.

ALCOHOL AND SAFETY – ABAC CODE PART 3(D)

Swimming

80PROOF LIQUOR



The Panel found that the post directly implies alcohol consumption before swimming due to a person with wet hair wearing swimwear on the beach during the day while holding a partially emptied bottle of the product.

The social media post was removed.

NOTE:

- This determination also found a breach of Part 3(a)(i) - Refer to page 24.

GILLIGAN'S HOTEL CAIRNS



The Panel made three separate determinations that digital marketing was inconsistent with the Part 3 (d) standard by showing alcohol use while swimming, or where there was a reasonable implication that swimming would occur after alcohol consumption. Swimming is an activity that, for safety reasons, should not be done in conjunction with alcohol consumption.

The Company declined to take action in relation to the marketing as it respectfully disagreed with the determinations. In accordance with ABAC Rules & Procedures the complaints were referred to the Qld Office of Liquor and Gaming Regulation.

TESTALONGA EL BANDITO I WISH I WAS A NINJA



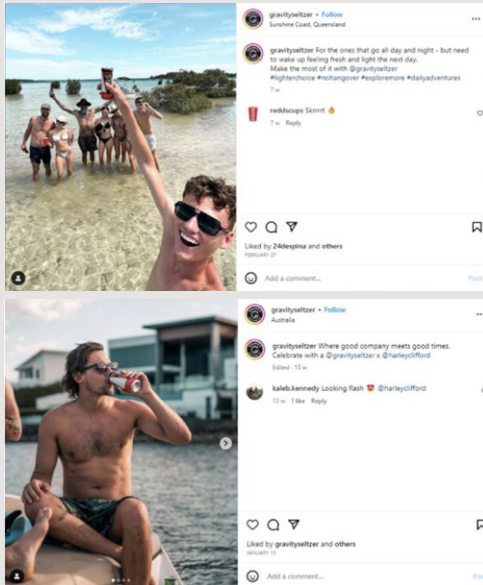
While the label does not show the man physically drinking from the glass he is holding, it is a reasonably direct implication that a person shown holding a glass is drinking from the glass while swimming.

The Company agreed to cease importing the product in this packaging.

ALCOHOL AND SAFETY – ABAC CODE PART 3(D)

Swimming

GRAVITY SELTZER



Social media posts show the consumption of alcohol before or while swimming, diving, wakeboarding and water based activities.

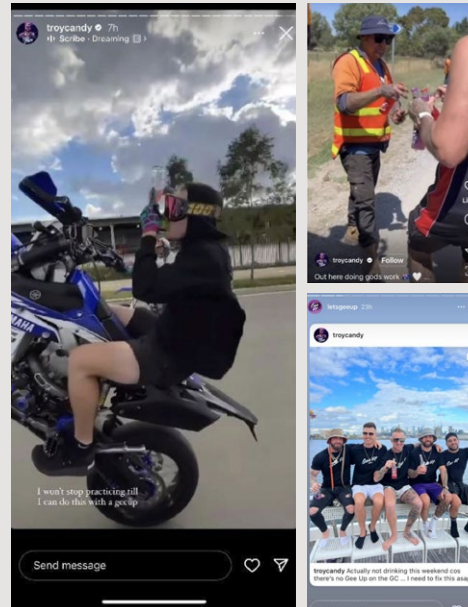
The website was modified.

NOTE:

- This determination also found breaches of Parts 3 (a)(i), (c)(i) and (c)(ii) - Refer to pages 23 and 33.

Other activities

GEE UP VODKA



Showing alcohol consumption on work and construction sites where machinery is used, a person leaning out of the window of a moving car holding out a bottle of the product, consumption of alcohol while riding a motorbike, holding an open bottle of alcohol up to a steering wheel by a person who appears to be sitting in the driver's seat of a car, and consuming alcohol while sitting on the railing of a boat are all showing alcohol consumption before or while engaging in an activity that for safety reasons requires a high degree of alertness or physical co-ordination.

The Company removed the posts on notification of the complaints.

NOTE:

- This determination also found a breach of Part 3(a)(i),(b)(ii)(iii)(iv) and (c)(iv)– Refer to pages 24, 29, 30 and 32.

NOTE:

- One additional expedited determination related to Part 3(d) - Refer to page 37.

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.

BWS

The blackboard implies the consumption of 24 beers in a day which is inconsistent with the Australian Alcohol Guidelines.

The Company accepted the breach and removed the post.



BOOZE MATE

Window signs reading “Sober is boring!!” and “Sorry!! We are too drunk to open...” breach the Part 3 (a)(i), (c)(i) and (c)(ii) standards by encouraging drinking until intoxicated and suggesting that alcohol consumption may cause a change in mood and lead to social success.

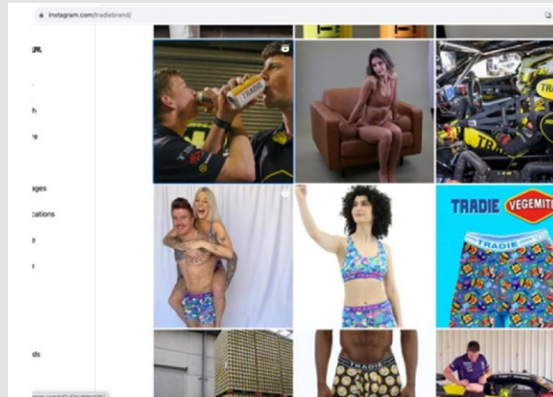
The signs were removed on notification of the complaint.



TRADIE BEER

Tradie Beer was being promoted on the Tradie lingerie brand Instagram page, without age restriction controls being utilised.

The Company accepted that its failure to age restrict Instagram posts promoting Tradie Beer was a breach of the Code and age restricted its posts promoting Tradie Beer.



THE VILLE CASINO & RESORT

Images showing people wearing swimwear and drinking alcohol either next to or in a swimming pool breach Part 3 (d) of the Code by showing the consumption of an Alcohol Beverage before or during swimming, an activity which, for safety reasons, requires a high degree of alertness or physical coordination.

The images were removed from the website on notification of the complaint.



EASY SELTZER

The use of the word “Hydrating” in the Company’s Facebook page Intro breaches Part 3 (c)(iv) of the Code by suggesting that the consumption of an alcohol beverage offers a therapeutic benefit.

The word “Hydrating” was removed on notification of the complaint.



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'.

PEPPERJACK SHIRAZ

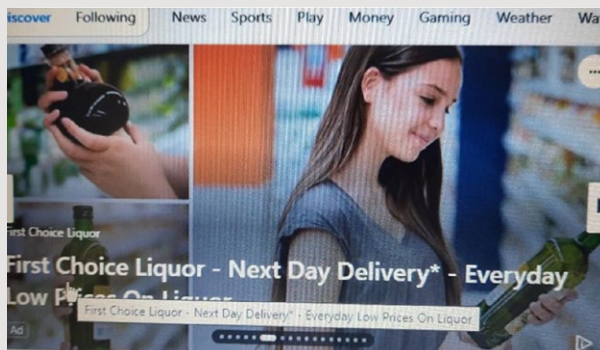
An advertisement for Pepperjack Shiraz was shown prior to a screening of the Paw Patrol movie at Hoyts Carousel Cinema, Western Australia.

The Company accepted that the ad should not have been shown before the movie, with the reasonably expected audience for Paw Patrol being about 40% minors and 60% adults, and the content of the movie primarily aimed at minors.

The Panel was satisfied that the Company had taken steps to have its ad only shown with movies expected to have a 90% adult audience and that the fault arose due to human failure on behalf of Hoyts. Based on this information a 'no fault' finding was made.

On being notified of the complaint, the Company investigated and rectified the marketing placement. The Company instigated an additional safeguard of having its ads only shown with MA and R rated movies.

FIRST CHOICE LIQUOR



An ad appearing on the complainant's Microsoft Edge News Feed depicted a girl who the complainant believed to be about 15 years old. The company did not consciously produce the ad nor give instructions for the ad or indeed any ad to be included in the Microsoft Edge news feed of the complainant. The Company has a responsibility to properly manage its marketing activities. It does place advertising with Microsoft and while Microsoft doing something outside its instructions from the Company is relevant to a 'no -fault' finding, the Panel believed that the ad created by Microsoft arose because of the relationship between the Company and Microsoft and it must be regarded as a marketing communication to which the ABAC obligations apply. It was sufficiently clear that the woman is under the age of 25 and could potentially be under the age of 18.

The ad was removed.

INFORMAL RESOLUTION

The Chief Adjudicator may decide that a complaint is suitable for Informal Resolution if it solely relates to a social media post(s) that is more than 6 months old and has not been promoted or actioned in any way by the account holder within the last 6 months.

If the Marketer voluntarily removes the historic social media post, the complaint is not referred to the Panel or otherwise assessed, the identity of the marketer is not publicly reported and the ABAC annual report records the number of complaints informally resolved for transparency.

In 2023, 11 social media posts referred by a single complainant about a single company that were more than 6 months old were informally resolved.

ABAC STATISTICS 2004 – 2023

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Marketing Pre-vetted	754	761	936	1267	1110	1369	1050	1059	1229	1394	1571	1589	1416	1453	1751	2192	2424	3336	3397	3167
Rejected	84	86	182	293	232	238	77	82	192	211	212	204	186	198	228	346	371	501	590	406
Alcohol Complaints	212	105	53	87	162	117	87	119	98	182	94	133	139	130	154	128	208	288	126	207
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%	4.7%	5.3%
Campaigns complained about	23	29	26	38	44	42	38	74	63	78	42	71	78	67	100	108	170	299 ²	118	171
Complaints resulting in a determination	8	29	13	25	49	47	41	63	53	69	35	35	47	73	89	75	141	201	69	127
ABAC Determinations	5	12	10	22	36	39	31	45	36	36	27	29	34	43	61	68	113	153	63	93
Total Determinations Upheld	3	2	2	8	7	10	11	15	7	4	8	7	10	7	21	39	53	80	28	40
Expedited Upheld	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	3	8	2	5
No Fault Breach	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	1	4	2	3	2	3	2
Compliance with determination	100%	100%	100%	100%	100%	100%	100%	98%	100%	100%	100%	100%	100%	100%	98%	99% ³	100% ³	99% ⁴	100% ³	92.5% ⁵
Upheld Marketing Pre-vetted	2	1	2	2	2	0	2	2	0	2	1	3	2	0	0	1	2	1	0	1
Average business days – Panel determinations ⁶	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	17.7	23 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 Example(s) of non-compliance resolved after referral of the complaint to the relevant Liquor Licensing Authority(s). ⁴ Referred to relevant Liquor Licensing Authority. ⁵ Referred to relevant liquor licensing authorities (the 3 non-compliant determinations relate to a single on-premise retailer and issue). ⁶ Excludes upheld packaging determinations as they involve a review option.

