



## ABAC Adjudication Panel Determination No 165/24

**Product:** Goldy Lager  
**Company:** CBCo Brewing  
**Media:** Social Media – Tik Tok  
**Date of decision:** 26 November 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 17 October 2024 about the promotion of Goldy Lager (“the product”) by CBCo Brewing (“the Company”) on TikTok.
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 places 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, and 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 17 October 2024.
8. The Panel endeavours to determine complaints within 30 business days of receipt of the complaint, but this timeline depends on the timely receipt of materials and advice and the availability of Panel members to convene and decide the issue. The complaint was completed in this timeframe.

## Pre-vetting Advice

9. A component of the ABAC Scheme is an advice service by which an alcohol marketer can obtain an independent opinion of a proposed alcohol marketing communication against the ABAC standards before public release. Pre-vetting advice is separate from the complaint process and does not bind the Panel but represents best practice on behalf of alcohol marketers. Pre-vetting advice was not obtained for the placement of the marketing.

## The Marketing Communication and Placement

10. The complaint relates to the placement of alcohol marketing on TikTok. The marketing is a video promoting a competition to win a stay on Pelorus Island off the North Queensland coast for 8 people through the purchase of a carton of the product and the uploading of the receipt. The video includes images of the product.

## Complaint

11. The complainant objects to the marketing as follows:
  - *I'm concerned that minors are easily viewing the advertisement as it is on TikTok.*

## The ABAC Code

12. Part 4 of the Code provides that:
  - (a) An Alcohol Marketing Communication must comply with code provisions regulating the placement of Alcohol marketing and an Alcohol Alternative Marketing Communication must comply with code provisions regulating the placement of Alcohol Alternative marketing that have been published by Australian media industry bodies (for example, Commercial Television Industry Code of Practice and Outdoor Media Association Placement Policy).
  - (b) Available Age Restriction Controls must be applied to exclude Minors from viewing an Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication.
  - (c) If a digital, television, radio, cinema or broadcast print media platform does not have age restriction controls available that are capable of excluding Minors from the audience, an Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication may only be placed where the audience is reasonably expected to comprise at least 80% Adults (based on

reliable, up-to-date Australian audience composition or social media follower data, if such data is available).

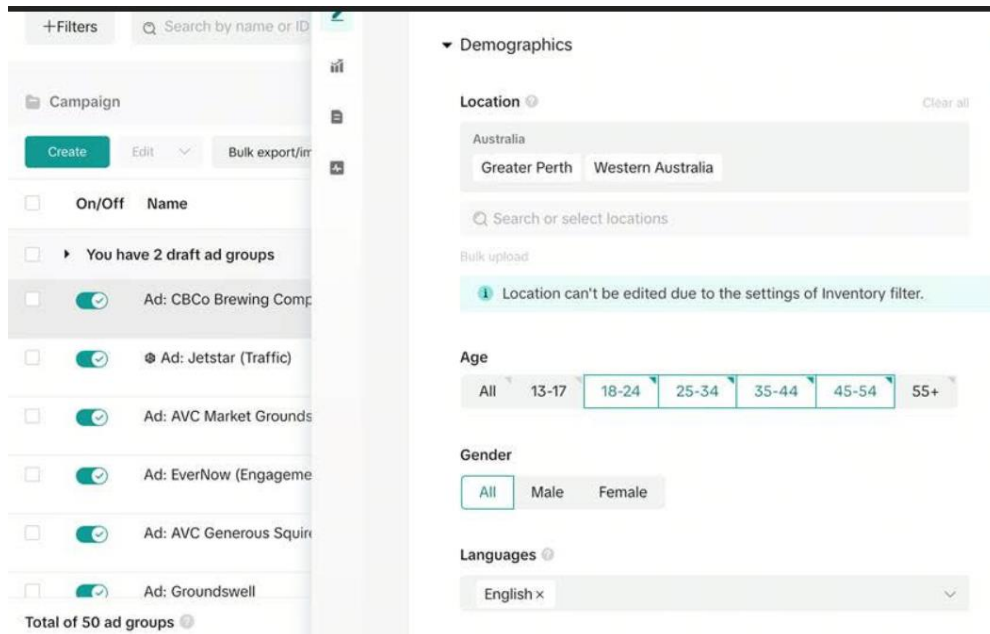
- (d) An Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication must not be placed with programs or content primarily aimed at Minors.

## The Company Response

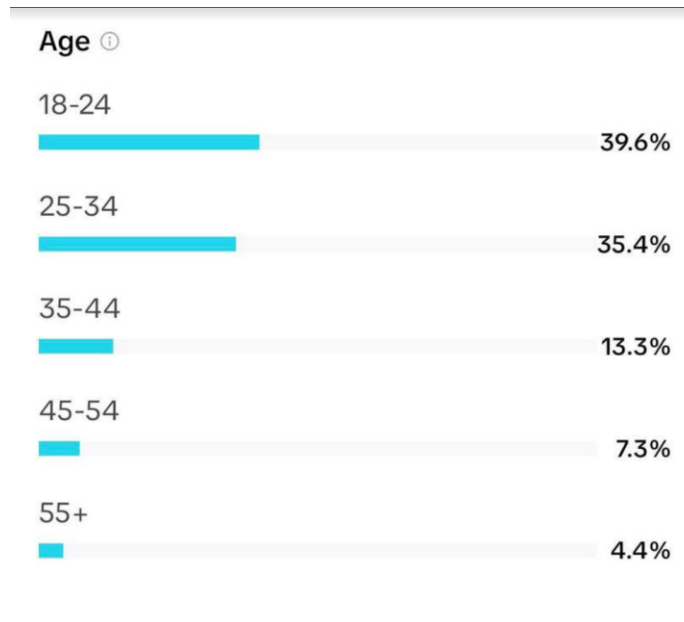
13. The Company responded to the complaint by emails on 25 October 2024 and 12 November 2024. Its primary comments were:

- Thank you for reaching out. We take these matters very seriously. CBCo Brewing supports the responsible consumption of alcohol and abides by all ABAC advertising requirements.
- Regarding the ads in question, we worked with Perth Is Ok! to ensure content was only being targeted at those of Legal Drinking Age and over. Please see below screenshots from Perth Is Ok!'s in-platform analytics:

**Image 1:** Ad Targeting, including age and location (18-54 years only).



**Image 2:** Demographic breakdown of total Perth Is OK! audience reached over the past 12 months.



- Our account manager at Perth Is Ok! confirmed that they did not specify targeting to logged-in TikTok users only. They were not even aware this was an option and can't currently see it on their account. I've included the full correspondence below. We will be taking their recommendation to adjust the copy to state that this content is for 18+ viewers only. Please advise if ABAC requires additional measures. As mentioned previously, we are committed to working with ABAC and promoting the responsible consumption of alcohol.

**From Perth Is Ok!:**

*"The team has gotten back to me, and unfortunately we're not aware of being able to specify TikTok to only target logged-in users. We've taken a deep dive into the ad targeting system and cannot seem to find an option to target users who are logged in only. If we had to reach out to TikTok directly to make this request, then no we didn't do that.*

*Sorry about this mate. This will provide a key learning for next time, to ensure we cover bases like this when promoting the direct purchase of CBCo Brewing alcohol.*

*If you want, we can make this video private to ensure that the video isn't still getting views while dealing with this matter. We can also adjust the copy to clearly state that this content is for viewers 18+."*

## The Panel's View

14. CBCo Brewing is an independent and family owned craft brewer based in WA's Margaret River region and with a second brewery and taproom at Port Melbourne in Victoria. The Company produces a range of different beer types with its latest release being a lager branded as Goldy Lager. It is a TikTok video advertisement promoting Goldy Lager that has drawn the complaint.
15. The video has not been posted directly by the Company but by the digital media outlet 'Perth is OK!'. The advertisement takes the form of a promotion for a competition to win a stay for eight people on Pelorus Island off the Queensland coast. Entry to the competition requires the purchase of a carton of Goldy Lager and the uploading of the receipt.
16. Perth is Ok! is focussed on promoting business and experiences in Perth and according to its website offers 'bespoke advertising solutions for companies interested in reaching an engaged WA audience'. The Company has engaged Perth is Ok! to promote the competition and through this the product on social media including on TikTok.
17. This complainant's concern about the video is not its content but that it was placed on TikTok and that it will be viewed by minors. This concern enlivens the ABAC Placement Standards that have the policy goal that alcohol marketing should be directed towards adults and to the extent reasonably possible away from minors.
18. TikTok is still a relatively new social media platform having only been operating at a global level since 2018. It is one of the world's most popular platforms and initially its followers comprised a large majority of minors. Up until July 2024 paid alcohol advertising was not permitted on the platform but this changed following a pilot in Australia of paid advertising of 0-20% ABV alcohol brands.
19. TikTok advised that the pilot enabled a detailed risk assessment and the decision to open up alcohol products for paid advertising via managed accounts to any alcohol producer or retailer. There are some limitations imposed by the platform, for example, alcohol ads cannot link to an e-commerce platform. Ads are also pre-checked through the account manager.
20. The TikTok website contains the platform's policy on alcohol advertising and provides some general requirements and then country specific guidelines. The general requirements state that alcohol ads should include information as to the alcoholic strength of the beverage and carry a responsible drinking disclaimer. The content of the ad should not:
  - target or appeal to individuals below the legal drinking age;

- feature people below the age of 25 or pregnant women;
- portray excessive drinking, intoxication, or reckless behaviour under the influence of alcohol; and
- offer alcohol as a prize or reward, promote any offers or incentives encouraging the consumption of alcohol such as discounts.

21. The country specific requirements for Australia are in the table below:

**Australia**

Ad topic	Details
<p><b>Alcohol-related events and establishments</b></p>	<p>Not allowed.</p> <p>Examples of what is not allowed:</p> <ul style="list-style-type: none"> <li>- Alcohol clubs or subscription services</li> <li>- Alcohol-sponsored events</li> </ul>
<p><b>Alcohol and related products</b></p>	<p>May be allowed if the following requirements are met:</p> <ul style="list-style-type: none"> <li>- Display applicable disclaimers</li> <li>- Provide necessary registration documents</li> <li>- Work with a TikTok Sales Representative</li> <li>- The ad must be restricted to users aged 21 years and older</li> </ul> <p>Examples of what may be allowed:</p> <ul style="list-style-type: none"> <li>- Alcohol brands or alcohol branding</li> <li>- Sponsored by alcohol brands</li> <li>- Alcoholic beverages, such as beers, wines, liquors, or spirits.</li> </ul> <p>Examples of what is not allowed:</p> <ul style="list-style-type: none"> <li>- Alcohol-making kits</li> </ul>

22. It is noted in passing that the content of the ad for the Pelorus Island competition may not have been treated by TikTok as an alcohol beverage brand advertisement given it was an ad from Perth is OK! rather than the

BCCo Brewing directly. For instance the ad did not have a drink responsibly disclaimer mentioned in the Tik Tok alcohol policy.

23. For the purposes of the ABAC Code, the ad is captured as an alcohol marketing communication given the Company generated the ad through its commercial relationship with Perth is OK! and BCCo Brewing has control over the content of the ad. This means the placement of the ad on TikTok must meet the ABAC standards irrespective of how TikTok might categorise the ad under its internal policies.
24. The ABAC Placement Standards establish a cascading set of obligations on marketers to target their marketing to adults and away from minors linked to the technical capacity of the communications medium over which the marketing is carried. For the current circumstances three placement standards are potentially applicable namely:
  - Available age restriction controls must be applied to exclude minors from viewing the ad - Part 4 (b);
  - If age restriction controls are not capable of excluding minors from the audience of the ad, then the ad can only be placed where the audience is reasonably expected to comprise at least 80% adults - Part 4 (c); and
  - Ads cannot be placed with programs or content primarily aimed at minors - Part 4 (d).
25. The trigger for the complainant's concern about the ad being on TikTok is presumably the belief that the platform is used heavily if not predominantly by minors. And certainly for the first years of the platform's operation this belief was reasonably held. While TikTok does not publicly release data about the age profile of its users, the widely accepted view was that of the major social media platforms TikTok had the youngest demographic.
26. Over time however it is also widely accepted that the users of the platform have been 'aging up' due to its initial followers becoming older and the platform attracting older followers. Evidently TikTok itself now contends that its audience profile is such that it is responsible to permit paid alcohol advertising reversing its prior position of not permitting advertising of this type.
27. Turning to the Placement Standards, TikTok does allow advertisers to select the age of its audience. The Company has provided the demographic targeting parameters for the ad, which were ages 18-54. This should mean that logged on users of the platform i.e. users with a TikTok account that are aged under 18 will not have been served with the ad as account holders provide their date of birth when opening an account.



28. TikTok however operates differently from other platforms like Instagram and Facebook, in that content can be viewed regardless of whether a viewer is logged in to TikTok via an account or not. This means that non-logged-in viewers can be served ads on TikTok.
29. TikTok has advised that ads are prioritised for logged-in users and only served to non-logged-in users if there are insufficient logged-in users to meet the ad buy parameters. Further, ads targeting 18+ will only be served to non-logged-in users with an inferred age of 18+ based on their viewing habits.
30. TikTok does have a highly sophisticated data analytics engine and collects a considerable amount of personal information on people using the platform. While this may raise issues about privacy and other questions of wider public policy, it does mean it is highly likely that the inferred age given to users will be effective in targeting of ads placed on the platform
31. Further the customisation of the content served to users of the platform based on a range of data points and user behaviours means no one person receives the same content. The complainant did not advise the type of content they were viewing when served with the ad, but even if this information was at hand, it will not be indicative of the content another person will be seeing when served the ad given the high level of individual content customisation.
32. Drawing all this together, it seems unlikely that the applicable placement standards have been breached by the ad being placed on TikTok as:
  - age targeting was utilised to exclude logged on users under 18 from receiving the ad;
  - the ad was not served to non-logged on users with an inferred age of under 18;
  - the overall demographic profile of Tik Tok has aged up, and while it may not be at an overall figure of 80% adults, the aging up combined with the age targeting employed means it is highly unlikely the audience of the ad was in excess of 20% minors; and
  - it is not possible to know the content with which the age was placed as the content received by each person using Tik Tok is customised.
33. While there has been no breach of the ABAC Code on this occasion, the Panel draws the attention of the Company to the TikTok advertising policy around alcohol which requires alcohol brands to work with a TikTok sales representative, restrict the ad to users 21 years or older and additional requirements. Following this policy and working with a TikTok sales representative allows TikTok to ensure that appropriate restrictions are in place and also allows a company to request that their ads are only served to

logged-in users. This would be best practice in excluding minors from the audience and reducing the risk of a breach of ABAC standards.

34. The complaint is dismissed.