

## ABAC Adjudication Panel Determination 5/25

<b>Determination Date</b>	19 February 2025
<b>Brand/Company</b>	Fosh Portside / Fosh Portside
<b>Media</b>	Social Media - Instagram
<b>ABAC Code provision</b>	Part 3 (a)(ii)
<b>Outcome</b>	Dismissed

### Part 1 - Determination Overview

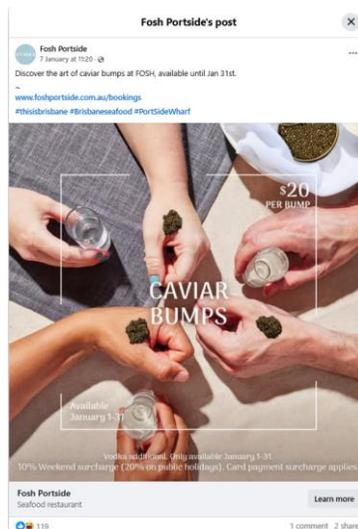
#### **Complaint:**

The complainant is concerned that an Instagram post is encouraging irresponsible alcohol-related behaviour by referencing and romanticising alcohol through drug use analogies, i.e. snorting cocaine.

#### **Key findings:**

The Panel dismissed the complaint, finding that a caviar bump is a culinary tradition and that the practice is unrelated to drug use. Further, a reasonable person would not understand that the post is showing or encouraging irresponsible behaviour related to alcohol use.

#### **Marketing Communication:**



## Part 2 - The Panel's View

1. Fosh is the name of a bar and restaurant located at Brisbane's Portside Wharf. During January 2025, the venue was running a promotion offering patrons a 'caviar bump' involving the consumption of a spoonful of caviar from the back of the hand between the thumb and forefinger. A social media post about the caviar bump attracted the complaint.
2. The post is a photograph of the hands of three people with caviar about to perform the bump. Each person is also shown with a shot glass of vodka. The accompanying text establishes that the caviar bump was available until 31 January, and vodka was additional and not included in the price of the caviar.
3. The complainant contended that the imagery of the caviar on the hand was an apparent reference to drug use, namely the snorting of cocaine from the same position on the hand. This association between a widely understood way cocaine is used and the caviar with vodka was argued to be irresponsible.
4. Part 3 (a)(ii) of the Code provides that alcohol marketing communications must not show or encourage irresponsible or offensive behaviour related to the consumption of or presence of alcohol. The issue for determination is whether a reasonable person would understand the post was marketing alcohol by implicitly endorsing illicit drug use.
5. The venue contended the post would not be interpreted in the way submitted by the complainant. It was argued:
  - a caviar bump has a long culinary tradition that the marketing refers to, and there is no intention to draw parallels to illicit drug use;
  - the marketing was directed to the caviar with the reference to vodka being secondary;
  - the imagery would be understood as focusing on enjoying caviar as part of a dining experience and not as encouraging inappropriate or irresponsible behaviour.
6. The Panel acknowledges that cocaine can be consumed from the back of the hand (although this is not the most usual way the drug is ingested). Still, it is unlikely that the probable understanding of the post would be the endorsement of illicit drug use. A brief internet search reveals that a caviar bump does have a culinary history in Europe, and while the practice is more recent in Australia, there is nothing to suggest the practice is sourced from drug use.
7. The complaint is dismissed.

## Part 3 - Supporting Information

### **Panel Process**

This complaint was received from Ad Standards (the common entry point for all marketing complaints by members of the Australian community). The Chief Adjudicator referred it to the ABAC Adjudication Panel for consideration against the ABAC Responsible Alcohol Marketing Code. The complaint process is explained [here](#).

The Panel operates following the [ABAC Rules & Procedures](#) and has regard to the principles of procedural fairness.

The Panel comprised Chief Adjudicator Professor the Hon Michael Lavarch AO, Health Sector Panelist Richard Mattick, and Panelist Jeanne Strachan.

### **Applicable ABAC Responsible Marketing Code Standard**

*Code Part 3 (a) - An Alcohol Marketing Communication must NOT:*

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

### **Venue Response**

The venue was provided with an opportunity to respond to the complaint, and its principal comments were:

- The term “caviar bump” is not a novel concept but a recognised culinary tradition rooted in fine dining experiences. It refers to a playful and indulgent way of enjoying caviar by placing a small portion on the back of the hand, in the nook between the thumb and index finger, before consuming it. This practice has been highlighted in various culinary contexts and is often associated with luxury and sophistication, particularly in gastronomic circles.
- Our intention in using the term was to evoke this established culinary tradition, celebrate the premium nature of caviar, and create a unique dining experience for our guests. We did not intend to draw parallels to illicit drug use or romanticise such behaviour.
- The promotion does not encourage or depict rapid alcohol consumption. While it features a shot glass of vodka alongside the caviar, the accompanying text explicitly states that vodka is not included in the price. This ensures the focus remains on the caviar, aligning with responsible alcohol marketing standards.
- As outlined above, the term "bump" is used solely to describe a culinary practice. At no point was there an intention to draw associations with drug use or to romanticise such behaviour. Furthermore, our imagery and messaging are carefully curated to focus on the enjoyment of caviar as part of a sophisticated dining experience devoid of inappropriate or irresponsible connotations.

### ***Marketing Best Practice***

The venue is not a direct signatory to the ABAC Code. It did not seek pre-vetting advice on its marketing, and its marketing staff have not undertaken the ABAC online training course.

The venue was asked how it demonstrates a commitment to alcohol marketing best practices. It advised:

- It is committed to adhering to responsible marketing standards and takes the concerns raised in this complaint seriously.
- To demonstrate its ongoing commitment to responsible marketing, it has implemented the following measures:
  - A careful review of marketing materials to ensure they align with community expectations and responsible marketing practices and
  - Taking this feedback on board ensures future promotions are designed with even greater sensitivity to potential interpretations.