

ABAC Adjudication Panel Determination 17/25

Determination Date	17 March 2025
Brand/Company	Better Beer / Better Beer Co
Media	Instagram
ABAC Code provision	Part 3 (a)(i)
Outcome	Upheld

Part 1 - Determination Overview

Complaint:

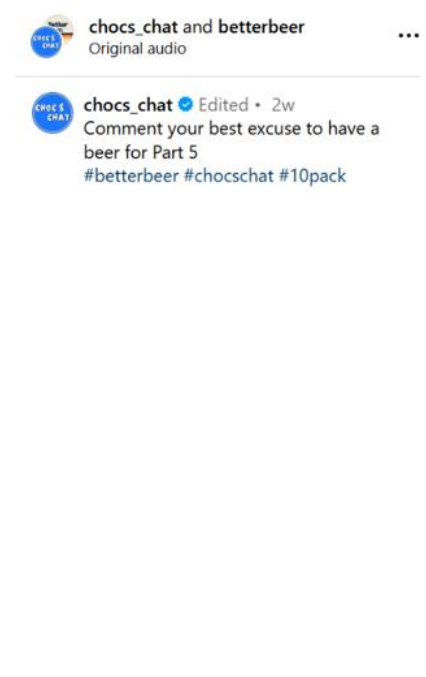
The complainant is concerned that an Instagram video promoting Better Beer *encourages over consumption of alcohol*.

Key findings:

The Panel upheld the complaint, finding that the most probable understanding of the video is that one person will be consuming up to 10 beers on a single occasion.

Marketing Communications:

The complaint concerns a video post on Instagram, as described below.

<p>The video is a discussion between Jake Cullen (JC) and his wife, shot from her POV.</p> <p>JC: Oh shit! Wife: What? What's wrong? JC: Ooh. Bloody hell. JC sits on the couch. Wife: What's wrong? JC: The boys are having beers again! Wife: Okay. And? JC: Yeah, 10 packs, the Better Beer. Wife: Right. And what? You want to go? JC: Nah. I don't want to go to that. Wife: It sounds like you do. JC: It looks like they're having so much fun, and it's kind of like I'd much rather spend the day with you and your Mrs. and stuff, you know. Wife: Oh, that's so nice. JC: Yeah, it's definitely what I want to do. Wife: Ok, you looking at me like that makes me... JC: [Cuts off wife] It's only 10 beers, you know what I mean. I could just go for a little bit.</p>	 <p>The screenshot shows an Instagram post from the account 'chocs_chat and betterbeer'. The post is an 'Original audio' clip. Below the audio player, there is a comment from 'chocs_chat' (verified account) edited 2 weeks ago. The comment reads: 'Comment your best excuse to have a beer for Part 5 #betterbeer #chocschat #10pack'.</p>
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JC picks up a case of 10 Better Beers, which he places on the couch arm.

JC: It's just 10.

Wife: Are you serious?

JC: You know what I mean? It's not going to be long.

Wife: Okay. Jake, just go. If you want to go, just go.

JC: So I can go?

Wife: Jake, enough! I'm saying you can go.

JC gets up from the couch.

JC: Yeah!

Wife: Oh my god, are you serious?

JC: Yes! Legend! [JC high-5s his wife]

Wife: Ow [expression of pain from the high-5]

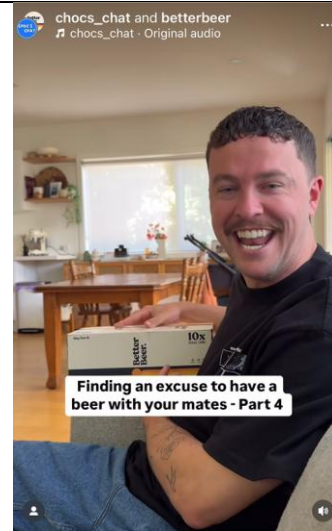
JC: I love you bro. I love you.

Wife: Jake – do not call me bro. I'm your wife.

JC: Love you, babe. I won't be long. See you later.

JC screams excitedly as he leaves his house.

Wife: Oh my god. Yeah great. Fantastic.



Part 2 - The Panel's View

1. Jake "Choc" Cullen is a Melbourne-based comedian who has built a substantial social media following, with over 98,000 Instagram followers and 270,000 followers on TikTok. A social media post from Mr Cullen featuring Better Beer has drawn the complaint.
2. The post is a video with accompanying text inviting comments on 'your best excuse to have a beer'. The video's scenario involves Jake and his wife, in which Jake obtains his wife's reluctant agreement to drink with his mates. As part of the exchange, Jake references the Better Beer 10-pack.
3. The complainant believes the post encourages the consumption of 10 beers on a single occasion. The issue for the Panel's determination is whether a reasonable person would probably understand the post is showing, promoting, or treating as amusing alcohol consumption inconsistent with the Australian Guidelines to Reduce

Health Risks from Drinking Alcohol, such as excessive alcohol consumption (more than 10 standard drinks per week or more than four standard drinks on any one day) - Part 3 (a)(i) of the Code.

4. The Company confirms that the video was created at its instigation to promote its new 10-pack packaging of Better Beer, and hence, the post is a marketing communication required to meet the ABAC standards. It argues, however, that the video does not encourage the drinking of 10 beers in a single sitting.
5. The assessment of the consistency of a marketing item with the Code standards is based on a reasonable person's probable understanding of the marketing. This means the values, opinions, and life experiences found in most of the community are the benchmark. If the marketing material could be interpreted in several ways, the most likely interpretation is preferred over a possible but less likely interpretation.
6. The question turns on whether the most likely understanding is that Jake and his mates will consume up to 10 beers each or whether the video would be taken as the mates sharing 10 beers between them. While there is some ambiguity in the video's message, the Panel believes the most probable understanding is that Jake himself will be consuming up to 10 beers. In reaching this view, the Panel noted the implication that other people will also be bringing beer and Jake's statements - "it's only 10 beers" and "it's just 10"- as he takes the 10-pack with him.
7. The complaint is upheld.

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 Louisa Jorm and Panelist Debra Richards.

Applicable ABAC Responsible Marketing Code Standard

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

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

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

(B) *Alcohol consumption while pregnant or breastfeeding;*

Company Response

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

- Yes, the marketing content was created for Better Beer and within our reasonable control.
- The content was created to promote our new 10-pack, and we don't believe this skit is promoting drinking 10 beers in one sitting.

Marketing Best Practice

The Company was asked how it demonstrates a commitment to best practices for alcohol marketing, but it chose not to respond.

It is noted that Better Beer employees have undertaken the ABAC online training course.

It is also noted that the Company:

- is not a signatory to the ABAC Scheme;
- has, however, previously engaged in the public complaints process and accepted Panel determinations; and
- did not utilise the ABAC pre-vetting service in developing the video marketing.