



ABAC Adjudication Panel Determination 22/25

Determination Date	7 March 2025
Brand/Company	-196/Beam Suntory
Media	Billboard
ABAC Code provision	Part 3 (a)(i), (b)(i)
Outcome	Dismissed

Part 1 - Determination Overview

Complaint:

The complainant is concerned that an ad for the RTD -196 on an electronic billboard is irresponsible as it appeals to minors because it is cartoon-like, and the product looks like an energy drink. Further the ad *encourages excessive drunk behaviour*.

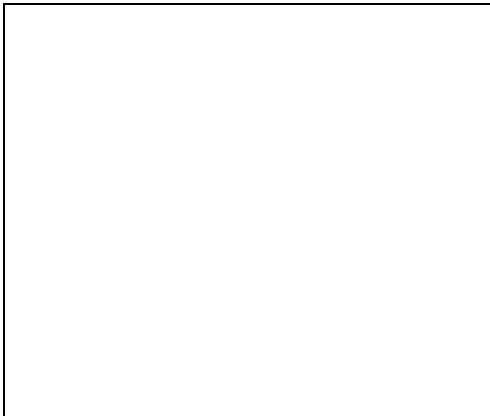
Key findings:

The Panel dismissed the complaint finding:

- The ad sufficiently establishes the product as an alcohol beverage and it would not be confused with an energy drink.
- The 3D animated format of the ad is eye-catching compared to a static billboard but it has no greater appeal for a minor than it would have to an adult.
- The ad does not depict alcohol consumption and does not contain messaging suggestive of excessive alcohol consumption or drunken behaviour.

Marketing Communication:

The complainant was concerned about an animated billboard advertisement for the RTD product -196:



A lemon is shown bursting out of ice.
The word "Whole" is shown.



The words "Freeze" and "-196" then burst from the ice.



A can of -196 and other words, "Crush", "From Suntory's No 1 Premix in Japan" and "Extreme Japanese Spirit" come out of the ice. The can is moving slowly.





Part 2 - The Panel's View

1. The complainant is concerned about an electronic billboard advertising the RTD -196. It is argued that the ad is irresponsible as it is 'cartoon-like' and the product looks like an energy drink that will appeal to children. Further, it is contended that the ad will encourage excessive drunk behaviour.
2. The ad is an animation showing a lemon exploding out of ice, which is then replaced by a can of -196. The words 'Whole' and 'Freeze' are alongside the image of the lemon, while the can of -196 is accompanied by the words 'Crush', 'No 1 Premix in Japan' and 'Extreme Japanese Spirit'.
3. The complainant's concerns enliven the following ABAC Code Standards that an alcohol marketing communication must not:
 - Show, encourage, or treat as amusing, 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 4 standard drinks on any one day) – Part 3 (a)(i); or
 - Have Strong or Evident Appeal to Minors – Part 3 (b)(i).
4. The Panel will consider each of these standards separately below. Assessment of the consistency of a marketing communication with an ABAC standard is from a reasonable person's probable understanding of the marketing. A 'reasonable person' means that the life experiences, values, and opinions held by most of the community are the benchmark.

Responsible and moderate portrayal of alcohol

5. The complainant is concerned that the billboard promotes excessive drunk behaviour and points to the wording 'extreme Japanese spirit'. The Company argues the ad is consistent with the ABAC standard, submitting:
 - The communication and visual referenced in no way shows, encourages or treats as amusing excess consumption;

- There is neither supporting text encouraging excess consumption nor any inclusion of other factors that could be interpreted as encouraging excess consumption (multiple drinks, empty/discarded cans, imagery of multiple people drinking, etc.); and
 - The word 'Extreme' is part of an entire tagline of 'Extreme Japanese Spirit,' which speaks to the modern ingenuity of Japan and Japanese culture, a concept that the brand and the products have been built from (as seen in other communications).
6. The Panel does not believe that Part 3 (a) (i) has been breached. The ad does not depict alcohol consumption nor any behaviour. It is promoting the product's brand with the most influential messaging being the depiction of the lemon smashing through the ice, the product can, and the straplines of 'Whole', 'Freeze', 'Crush', 'No 1 Premix in Japan', and 'Extreme Japanese Spirit'. A reasonable person would probably not understand that excessive consumption or drunk behaviour is being encouraged by this imagery.

Strong or evident appeal to minors

7. Part 3 (b)(i) of the Code provides that an ad must not appeal strongly to minors. The standard might be breached if the marketing:
- specifically targets minors;
 - has a particular attractiveness for a minor beyond the general attractiveness it has for an adult;
 - uses imagery, designs, motifs, language, activities, interactive games, animations or cartoon characters that are likely to appeal strongly to minors; and
 - creates confusion with confectionery, soft drinks, or other similar products, so the marketing communication is likely to appeal strongly to minors.
8. The Panel has often considered the Part 3 (b) standard. While each marketing communication must always be assessed individually, some characteristics within marketing material that may make it strongly appealing to minors include:
- the use of bright, playful, and contrasting colours;
 - aspirational themes that appeal to minors wishing to feel older or fit into an older group;
 - the illusion of a smooth transition from non-alcoholic to alcoholic beverages;
 - creation of a relatable environment by use of images and surroundings commonly frequented by minors;
 - depiction of activities or products typically undertaken or used by minors;

- language and methods of expression used more by minors than adults;
 - inclusion of popular personalities of evident appeal to minors at the time of the marketing (personalities popular to the youth of previous generations will generally not have strong current appeal to minors);
 - style of humour relating to the stage of life of a minor (as opposed to humour more probably appealing to adults); and
 - use of a music genre and artists featuring in youth culture.
9. It should be noted that only some of these characteristics are likely to be present in a specific marketing communication, and the presence of one or more of the characteristics does not necessarily mean that the marketing item will have a strong or evident appeal to minors.
10. The complainant argues that the form of the ad, i.e. an electronic billboard animation and the product resembling an energy drink, means that the marketing will appeal to minors. The Company refutes this, arguing that:
- The product is identified as an alcohol beverage and would not be confused with a soft drink;
 - There is no messaging or graphics suggesting the product is an energy drink, eg there is no mention of descriptors such as 'energy', 'caffeine' or 'boost'; and
 - While the 3D animation is more 'cartoon-like' than a standard billboard ad, the ad does not have elements designed to make it appear like a children's cartoon.
11. The Panel does not believe the ad has strong or evident appeal to minors. In reaching this conclusion, the Panel noted:
- The ad sufficiently establishes the product as an alcohol beverage, and it is unlikely to be confused with a soft drink or energy drink;
 - While the graphics used are more distinctive and eye-catching than a static billboard, the actual content of the ad cannot be fairly said to be targeted at minors or have an appeal to minors any greater than its general appeal to adults;
 - Taken as a whole, a reasonable person would probably understand the ad has at its highest incidental and not strong or evident appeal to minors.
12. 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 Debra Richards.

Applicable ABAC Responsible Marketing Code Standard

Code Part 3 provides that an Alcohol Marketing Communication must NOT:

- (a)(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;*
- (b)(i) have Strong or Evident Appeal to Minors, in particular;*
 - (A) specifically target Minors;*
 - (B) have a particular attractiveness for a Minor beyond the general attractiveness it has for an Adult;*
 - (C) use imagery, designs, motifs, language, activities, interactive games, animations or cartoon characters that are likely to appeal strongly to Minors;*
 - (D) create confusion with confectionery, soft drinks or other similar products, such that the marketing communication is likely to appeal strongly to Minors; or*
 - (E) use brand identification, including logos, on clothing, toys or other merchandise for use primarily by Minors*

Company Response

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

Responsible and moderate portrayal of alcohol

- The communication and visual referenced in no way shows, encourages or treats amusing excess consumption. The communication graphically depicts the production process of how the drink is made and at no point portrays or makes any reference to any form of consumption. The only time a product is actually seen in the ad is for the last few seconds of the animation in which a single can of Suntory -196 Double Lemon appears and there is neither any supporting text to encourage excess consumption nor any inclusion of other factors that could be interpreted as encouraging excess consumption (multiple drinks, empty/discarded cans, imagery of multiple people drinking etc.)
- The use of the word 'Extreme'—as seen in the communications—is part of an entire tagline of 'Extreme Japanese Spirit', which speaks to the modern ingenuity of Japan and Japanese culture, a concept that the brand and the products have been built from (as seen in communications such as the 'Whole, Freeze, Crush' messaging).
- Furthermore, whilst the word "Extreme" in isolation does not have any connotations of excessive consumption, the brand communication does not use the word 'Extreme' as a standalone word but only as part of the "Extreme Japanese Spirit" phrasing. As such, it is hard to infer the point of view of the complaint as it does not refer to what is actually contained in the advertisement.

Strong or evident appeal to minors

- The advertisements contain key wording such as "contains alcohol," "Vodka," and "Shochu" and also the Drink Smart logo to clearly display the drink's alcoholic nature versus its non-alcoholic nature.
- Notwithstanding that energy drinks are consumed heavily by those over the age of 18 and not exclusive to under 18, there is no messaging or graphics within the advertisement that would allude to that of an energy drink e.g. words along the lines of 'energy', 'caffeine', 'boost', 'vitalizes' or graphics/animations that display an energetic boost or enhanced performance after consumption.
- The overall asset and individual design elements (including packaging and fonts) have all been approved via ABAC and have not previously been flagged as having strong or evident appeal to minors.
- The placement of media in this case (3D animation) may seem more 'cartoon-like' than a standard billboard; however, the graphics, fonts, and animations were

designed in line with previous 2D brand assets, and no elements were changed that would make things appear more 'cartoon-like'.

Marketing Best Practice

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

- Suntory Global Spirits takes its adherence to the ABAC and responsible marketing code seriously. We are active members of the ABAC and utilise the pre-vetting service to ensure the execution of marketing and advertising materials in line with the spirit of the code.
- Suntory Global Spirits also has its own responsible marketing code to which all marketing materials and activities must adhere. Suntory is committed to the highest standards of responsible marketing practices across product, consumer marketing, and communications through its own responsible marketing code, the principles of drink smart®, in addition to local advertising regulations and the ABAC code.
- Responsible marketing of our products is at the core of our commercial purpose and our commitment to conducting our business the right way. We believe this advertisement has been placed in line with these codes; as a company, we would never encourage excessive consumption or target those under the legal drinking age with our advertising.