



ABAC Adjudication Panel Determination 25/25

Determination Date	1 April 2025
Brand/Companies	Ariane Vodka/Sunny Days Vodka Pty Ltd Ariane Vodka/Liquor Legends
Media	Outdoor
ABAC Code provision	Part 3 (c)(i), (c)(ii) and Part 4 (a)
Outcome	Dismissed

Part 1 - Determination Overview

Complaint:

The complainant is concerned that an outdoor marketing item for Ariane Vodka:

- *It is on the street for people walking by to see, including teens and children;*
- *Demonstrates a girl on the verge of potential sexual exploitation due to being drunk;*
- *The girl is looking into the camera, with a vacant/drunk/blank expression; and*
- *She looks drunk and incapable of making healthy choices. It looks like all you need for date rape is this vodka.*

Key findings:

The Panel dismissed the complaint, finding:

- the ad does not depict alcohol consumption and a series of extrapolations that cannot reasonably be made are required to conclude that the ad is encouraging excessive alcohol use and/or alcohol related risky behaviour; and
- the ad was not placed within 150 metres of a school.

Marketing Communication:

The complaint concerns an advertising poster outside a Liquor Legends store at Oxenford Village shopping centre, Queensland.



Part 2 - The Panel's View

1. This determination concerns outdoor advertising for Ariane Vodka outside a Liquor Legends retail store at the Oxenford Village shopping centre on Queensland's Gold Coast hinterland. The complainant contends that the advertising is irresponsible on two grounds, namely:
 - the poster depicts a woman who appears to be drunk and hence vulnerable to sexual assault; and
 - the location of the ad means teenagers and children will view it.
2. Following usual procedures, the retailer and Ariane Vodka were contacted and offered the opportunity to respond to the complaint. Advice from the corporate office of Liquor Legends was that Ariane Vodka is not within the chain's standard range of products, but that individual store operators can stock one-off products. Unfortunately, the control of the Oxenford store changed between the receipt of the complaint and this decision, and no details from the Oxenford outlet are available.
3. For its part, Ariane Vodka advised it would respond, but it failed to do so within the time allowed. This has obliged the Panel to proceed without a substantive response to the two issues raised in the complaint. This is highly unusual, as almost universally, alcohol companies engage cooperatively in the ABAC complaints process and in a timely fashion.
4. Accordingly, the Panel has proceeded on the assumption that the poster was created by Ariane Vodka and supplied to the retailer and that the retailer decided to place it outside the retail outlet. This means Ariane is responsible for the content of the advertising, and the retailer is responsible for the placement of the advertising.
5. The complainant's concerns enliven the following Code standards:
 - The Code content standards, namely 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 four standard drinks on any one day) – Part 3 (a)(i);
 - Show, 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 – Part 3 (a)(ii);
 - The Code placement standard states that alcohol marketing communications must comply with the Outdoor Media Association Placement Policy - Part 4 (a).
6. Compliance with the above Code requirements will be considered in turn below. The assessment of a marketing item's consistency 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.

ABAC Content Standards - Responsible and moderate portrayal of Alcohol

7. The poster is a photograph of a couple on a beach near the waterline. The lighting suggests the photo was taken at sunrise. The woman is sitting on the man's shoulders, holding a bottle of the product in one hand by the neck of the bottle. She is wearing a bikini, and her arm holding the bottle is partially covered by a shirt. Her shoulders are exposed.
8. The man is shown from the chest up wearing a shirt. He supports the woman with his hands on her calves. He looks into the distance slightly towards the water. The woman looks back at the camera with an enigmatic expression.
9. The complainant believes the ad is suggestive that the woman is a high-risk scenario, specifically:
- demonstrating a woman on the verge of potential sexual exploitation due to being drunk;
 - the woman is looking into the camera, with a vacant/drunk/blank expression; and
 - she looks to be drunk and incapable of making healthy choices. It suggests all you need for date rape is this vodka.
10. The Panel understands the point the complainant is making. Alcohol affects judgment, and alcohol misuse is a significant risk factor in personal harm, including sexual assault. It is essential that marketing does not model alcohol use and alcohol influenced behaviour in a manner that encourages alcohol misuse through endorsing or glamorising over-consumption or alcohol use with risky activities.

11. The question to be assessed is how a reasonable person would likely understand the ad, which raises the distinction between reasonable implications and possible extrapolations. For example, suppose a glass of alcohol is shown on a table with a person. In that case, it is a reasonable implication that consumption occurs even though no actual beverage drinking is depicted.
12. An extrapolation involves a series of assumptions about what might happen in a given scenario. For example, if an image shows football players holding cans of beer in a club changing room and there is an esky with other cans of beer:
 - it's a reasonable implication that the players will consume the beer they are holding;
 - it's reasonable to assume that some players will consume more than one beer, given that additional cans are shown in the esky.
 - it's a tenuous extrapolation that some players will drink excessively; and
 - it's an unreasonable extrapolation (based on preconceived behaviours of footballers) that the players will drink to excess and engage in anti-social activity.
13. The ad shows two people with a bottle of the product. It is unclear from the photograph if the bottle is full or empty. The man does not appear to be affected by alcohol. The complainant takes the woman's expression to suggest she is drunk, and while her expression is enigmatic, she does not appear to be intoxicated. For example, she is steady and upright while balancing on the man's shoulders.
14. The Panel believes the ad does not breach the ABAC content standards. The ad would be understood as a staged photograph to position the product with two attractive people in a scenic setting. No alcohol consumption is depicted, and it requires a series of tenuous extrapolations to conclude the ad is endorsing the use of alcohol to place the woman at risk of assault.

The ABAC Placement Standard

15. The second concern of the complainant is that teenagers and children will see the advertising poster. This raises the ABAC Placement Standards, which have the policy goal that alcohol marketing should be directed towards adults and, to the extent reasonably possible, away from minors.
16. The poster is located outside the liquor retailer at the Oxenford Village shopping centre. The applicable standard for advertising of this kind is contained in Part 4 (a) of the Code, which provides that an ad cannot be placed in an outdoor setting within a 150-metre sightline of a primary or secondary school.
17. The Panel has reviewed maps of the Oxenford area and considered street views. Based on the information reviewed, the Panel does not believe that the poster was within 150 metres of a school. Accordingly, the standard has not been breached.
18. 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 Standards

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;*
- (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;*

Code Part 4:

- (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).*

Company Response

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

- If I may start with the complaint in question and the associated product. Liquor Legends represents close to 300 independent liquor retailers nationally and offers retail support, including a structured promotional and advertising program. This program is constructed with the support of Preferred Suppliers and selected products that fall within our Category Leaders Range and Joint Business Planning. The product called out in the complaint or the distributing agent is not a preferred supplier within our program, nor has our support office authorised the merchandise material. Our independent retail members can range and promote outside of our program without consultation with Liquor Legends, which appears to be the case at Oxenford, QLD. We'll endeavour to forward this complaint to management at Oxenford to assist in acknowledging it and advise them on future activity.
- I cannot determine the exact location of the Oxenford store in relation to the school location.
- Liquor Legends is happy to assist ABAC by forwarding and making the Oxenford Member aware of the ABAC Code Standard and potential conflict with this standard.

After its initial response, Liquor Legends also provided the following information:

- This is a late development since my response to you. The Oxenford outlet left the Liquor Legends group last week due to an acquisition. My apologies; I was unaware at the time.

The producers of Ariane Vodka were also given an opportunity to respond to the complaint, but they did not.

Marketing Best Practice

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

- As an active member of Retail Drinks Australia, Liquor Legends advocates for retailing responsibly and includes proactive measures around responsible service, advertising, and marketing of liquor.
- Liquor Legends, with a 30-year trading history, is aware of and complies with ABAC Code Standards in the promotional and advertising program within our Group's control.
- Liquor Legends' support team are aware of the ABAC Code of conduct

- Liquor Legends will continue to act within the best practice standards of the ABAC Code.

Ariane Vodka provided no information about its marketing practices. The company's failure to respond reflects poorly on its corporate and social responsibility.