



## ABAC Adjudication Panel Determination 80/25

<b>Determination Date</b>	14 June 2025
<b>Brand/Company</b>	Quips/Quips Drinks Pty Ltd
<b>Media</b>	Packaging and website
<b>ABAC Code provision</b>	Part 3 (a)(iv) & (b)(i)
<b>Outcome</b>	Dismissed on packaging and upheld on the website

### Part 1 - Determination Overview

#### ***Complaint:***

The complainant believes the packaging of Quips Drinks is irresponsible and should be banned by all alcohol regulators due to:

- The product employs pouch style packaging, which to date has been used almost exclusively for children's yoghurt and baby food, and as a result;
- The serious risk of the product being given to and consumed by children, noting the incidences of accidental poisoning in Australia.

Further, the Company's website is problematic due to

- The product is being advertised as high strength, with disrespectful images of a woman.

#### ***Key findings:***

The Panel dismissed the packaging complaint, finding:

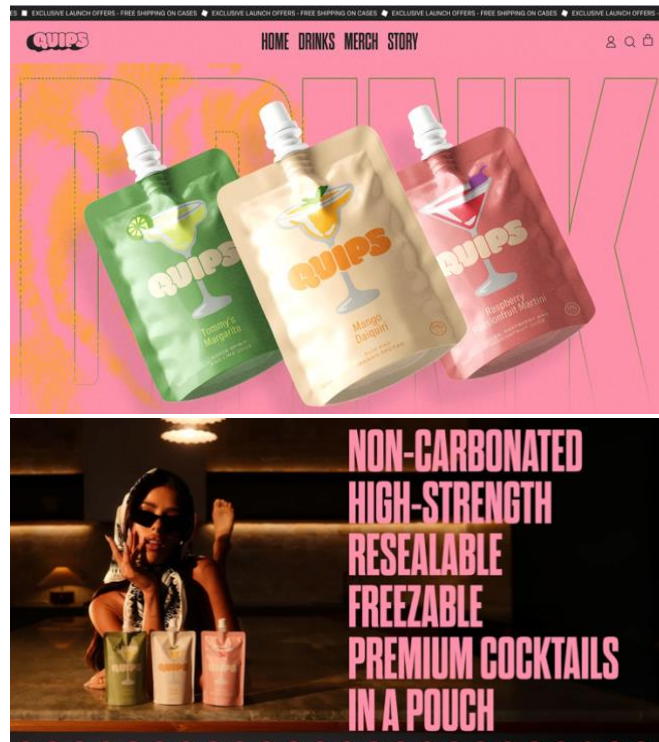
- Pouches are used for a range of products, including, but not exclusively, food and beverages consumed by children.
- Pouches have been adopted for alcohol products, and the ABAC Scheme has no jurisdiction to seek to ban pouches as a packaging type for alcohol products. If this action were to be taken, it would be the responsibility of government liquor licensing authorities to initiate.
- The packaging identifies the product as alcoholic through cocktail names, references to the spirit in the drinks, and the ABV, alongside a prominent image of a cocktail glass.

- The Panel upheld the complaint on the website, noting the prominent listing of ‘high strength’ as a product attribute would be understood as encouraging the choice of the product in breach of Part 3(a)(iv).

[illegible]



## Website



## Part 2 - The Panel's View

### Background

1. The Sydney-based Quips Drinks Pty Ltd (the Company) is the producer of a range of alcoholic cocktails packaged in a ready to drink pouch format with a screw top lid. Three different cocktails are in the range: Raspberry Passionfruit Martini, Mango Daiquiri, and Tommy's Margarita. Each 165ml pouch has 11% ABV and contains approximately one standard drink.
2. The complainant discovered the products on the Company's website and believes the packaging of the cocktails to be highly irresponsible. It is argued that the style of packaging resembles that of baby food and yoghurt pouches, and this, together with flavour profiles such as raspberry and mango, will be strongly appealing to minors. Further, it is noted that the products are stated to be 'best served ice cold', meaning they will likely be stored in a refrigerator and potentially adjacent to children's products, increasing the risk of inadvertent alcohol poisoning. References to the product's high alcoholic strength were also noted.
3. The complaint raises the consistency of the product packaging with two ABAC standards, namely, whether:
  - The packaging has a strong or evident appeal to minors contrary to the Part 3 (b)(i) standard.

- The website is encouraging the choice of the product by emphasising its alcoholic strength contrary to the Part 3 (a)(iv) standard.
4. The Company asserts that its product packaging complies with ABAC standards. It argues that the pouch style of alcohol packaging is well-established in the adult Ready-to-Drink alcohol beverage market and that the product's packaging design avoids confusion with children's products. Further, the reference to the product's alcoholic strength is intended for consumer information.

### ***The Regulation of Alcohol Packaging***

5. The complainant's overarching concern is that the Company's packaging is the most clear-cut example of several alcohol companies releasing products in containers that until now were almost exclusively used for children's foodstuffs. The complainant submits that all alcohol regulators should act to ban alcohol products in this style of packaging.
6. Alcohol as a product and its marketing are subject to a complex and fragmented amalgam of government requirements and industry-led codes of practice. Government regulation is sourced at the national (e.g., Food Standards requirements) and State/Territory levels. State and Territory Liquor Acts form the foundation for regulating the sale and consumption of alcohol. The ABAC Scheme is part of the overall regulatory framework as an industry self-regulatory initiative complementing direct government requirements.
7. In most (not all) States, the Liquor Acts grant a power to the responsible Minister to declare either a particular alcohol product or a class of alcohol products as 'undesirable' and prohibit the sale of the product within that State or Territory. For instance, the Liquor Act 2007 (NSW) enables the banning power to be used if:
- The name of the liquor product, or its design or packaging, is indecent or offensive, or
  - The name of the liquor product, or its design or packaging, encourages irresponsible, rapid or excessive consumption of the product, or
  - The name of the liquor product, or its design or packaging, is likely to be attractive to minors, or
  - The liquor product is likely, for any reason, to be confused with soft drinks or confectionery, or
  - The liquor product is, for any other reason, likely to have a special appeal to minors, or
  - It is otherwise in the public interest to declare the liquor product to be an undesirable liquor product.

8. The banning powers have been used sparingly and unevenly across Australia, ranging from jurisdictions where no classes of alcohol products have been banned, such as South Australia (SA) and Tasmania (TAS), to New South Wales (NSW) and Western Australia (WA), which have exercised the power more extensively. NSW has used the undesirable product declaration power to prohibit:
- alcoholic ice blocks;
  - alcohol in flexible tubes and syringes;
  - alcoholic powders, crystals or tablets; and
  - products used to create an alcoholic jelly.
9. To date, no State or Territory has sought to declare the pouch style of alcohol packaging as undesirable and to ban the use of this type of packaging. For its part, the ABAC Scheme cannot 'ban' an entire class of packaging type. The jurisdiction given to the ABAC Panel is to determine the consistency of an individual marketing communication (including product packaging) with the Code standard or standards raised in a complaint. This means the Panel might find that an individual packaging example is in breach of a Code standard, but this does not go to every possible use of the packaging type.
10. In essence, the packaging type is one relevant factor in assessing the consistency of the packaging with the ABAC standards. The other factors include the design features of the packaging, such as the messaging placed on the packaging, including the wording and colours used. While the packaging shape or container type may be inconsistent with an ABAC standard on its own, it is more likely that a combination of factors will contribute to a finding of a breach of a Code standard.

### ***Product Packaging - Strong Appeal to Minors***

11. The issue for the Panel to assess is whether the product packaging has a strong or evident appeal to minors and, therefore, is in breach of the ABAC standard in Part 3 (b)(i) of the Code. This 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.

12. Assessment of the consistency of a marketing communication with an ABAC standard is based on the probable understanding of a reasonable person. This means that the life experiences, values, and opinions held by a majority of the community are to be the benchmark.
13. 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 by 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.
14. 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. The overall impact of the marketing communication, rather than any individual element, shapes how a reasonable person understands the item.
15. Product packaging can give rise to a strong appeal to minors if it creates confusion with confectionery or a soft drink. Confusion with soft drinks or confectionery might occur if:
- The packaging does not identify the product as an alcoholic beverage by using terms like 'beer', 'ale', 'vodka', or a specific wine style.
  - The packaging has a visual design that resembles a soft drink, such as the display of fruit images, bright colours and the use of a font style found typically on soft drinks or fruit juices;
  - the use of terms commonly associated with a soft drink or fruit juice, e.g. orange, lemon, blueberry, pop, smash, etc, and

- The type of physical package used is similar to that used for soft drinks, fruit juices, or other products commonly used by minors, such as prima-style juice boxes.

16. The Company contends that the packaging is consistent with ABAC standards, arguing:

- Panel Determination 100/22 found that a pouch format does not, in itself, establish appeal to minors. It is now well-established in the adult RTD market, particularly for events where glass and cans pose safety risks.
- The packaging is designed to avoid any association with children's products – it does not use choke-proof caps, bright colours, cartoon elements, or other juvenile cues.
- It is sold exclusively through licensed venues and adult retail channels.
- The logo is a distinctive, stylised wordmark designed for brand identity, not to emulate child-oriented fonts and remaining text in clear, conventional fonts.
- The product flavours are commonly used in adult cocktail recipes, framed within well-known cocktail names and in combination with spirit type, ABV, and cocktail glass icon, are unmistakably positioned as an alcohol beverage for adults.
- The intention of the website's reference to "high strength" was to inform consumers that the product contains 11% ABV, which is higher than that of mainstream ready-to-drink (RTD) beverages.
- The website's reference to "freezable" is contextually consistent with how many classic cocktails are typically consumed by adults, e.g., Frozen Margaritas or Daiquiris.

17. It is recognised that alcoholic beverages will invariably be contained in packaging types that are also used for other non-alcoholic products. For instance, both beer and soft drinks are sold in cans. A fruit juice and an alcoholic spirit may both be sold in glass bottles. The pouch-style packaging is undoubtedly used for children's foodstuffs, but it has also been adopted across a range of product types.

18. The complainant noted that the Company's products are intended to be served cold and will therefore likely be stored in a home refrigerator, where children's pouch foodstuffs are also stored. This is a fair observation, but the same point can be made about a can of beer also being in a fridge with a can of soft drink. The underlying contention is that pouches have been used exclusively for children's food products, and this is an overstatement.

19. A brief survey of items available at major supermarkets reveals that pouch-style packaging is used for products intended for children, including pureed fruit, baby foods,



fruit juices, and yoghurts. Equally, however, pouches are commonly used in a range of other products, including:

- Citrus juices for cooking;
- a wide range of (non-child-focused) food products;
- shampoo and body wash;
- laundry liquid;
- air purifier; and
- dog food.

20. The Company contended that pouches are well established in the RTD alcohol market. In reality, there are some, but a relatively limited number of alcohol products in pouches compared to products in bottles, cans, and cartons. Still, it is accurate to note that alcoholic RTD single-serve pouches are not new, and products of this type have been available on the market for over 15 years.

21. The Company pointed to the product's sales channels, making it unlikely that minors would be exposed to it. This is a fair point to make, but it does not constitute a defence to the obligation to ensure that product packaging is not designed to have a strong appeal to minors. All alcohol companies should seek to limit the potential of their marketing to reach minors. The ABAC has Placement Rules that detail these obligations. Compliance with the Placement Rules does not mean it is ok for the content of alcohol marketing to have a strong appeal to minors.

22. Drawing this together, the Panel believes that the Quips packaging does not breach the Part 3(b)(i) standard. In reaching this conclusion, the Panel noted:

- Pouches are used for a range of products, including, but not exclusively, food and beverages consumed by children.
- Pouches have been adopted for alcohol products, and the ABAC Scheme has no jurisdiction to seek to ban pouches as a packaging type for alcohol products. If this action were to be taken, it would be the responsibility of government liquor licensing authorities to initiate.
- The packaging identifies the product as alcoholic through cocktail names, references to the spirit in the drinks, and the ABV, alongside a prominent image of a cocktail glass.
- Given the clear identification of the product as being alcoholic and the use of pouches for a wide variety of products, it is unlikely that the product would be confused with a children's foodstuff simply based on the pouch packaging type.

- The design, including colours and iconography, would have no greater appeal to minors than it would to adults.
- Taken as a whole, a reasonable person would probably understand that the packaging does not have a strong or evident appeal to minors.

### **Website – alcohol strength**

23. At the time of the complaint, the Company website promoted a list of 6 product attributes, of which the second listing was 'High Strength'.
24. Part 3 (a)(iv) of the Code provides that a marketing communication must encourage the choice of a product by emphasising its alcohol strength. This does not mean that the alcohol-to-volume content should not be mentioned, as this is essential information for consumers to make an informed purchasing decision. The issue raised by the standard is whether a marketing communication is simply providing information about the strength of a product or is going beyond this to use the product's strength as a selling point.
25. While each case must be assessed on its own merits, some considerations include whether the marketing communication is:
- highlighting the product strength by enlarged font to give prominence to the product's strength beyond providing factual information;
  - using bold colours relative to other words or features to emphasise the strength;
  - overly prominent positioning of the strength of the product in proportion to other messaging;
  - repetition in messaging of the strength; or
  - The use of straplines, slogans, imagery, or other creative techniques that promote the product's strength as a key distinguishing feature, vis-à-vis other similar products.
26. It is noted that in light of the complaint, the Company has altered the website so that the attribute is listed as '11 ABV' instead of the previous 'High Strength'. On balance, the Panel believes the layout of the website and the prominent listing of the attributes would be most likely understood as conveying the 'High Strength' message as an encouragement to choose the product rather than as the provision of factual information. Accordingly, the website entry constituted a breach of the Part 3(a)(iv) standard.
27. For completeness, the complainant also believed the website portrayed women disrespectfully. An issue of this nature falls more directly within the AANA Code of Ethics, administered by Ad Standards, as it is not related to alcohol as a product per se. In other words, the same images on a website promoting, for example, milk or

shoes would presumably be of concern. The Panel did not believe the photos of the woman shown with the product contravened any ABAC standard.

28. The complaint is dismissed regarding the packaging of the product and upheld regarding the Part 3(a)(iv) issue in relation to the website.

## 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 under the [ABAC Rules & Procedures](#) and has regard to the principles of procedural fairness.

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

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

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

- (iv) *Encourage the choice of a particular Alcohol product by emphasising its alcohol strength (unless emphasis is placed on the Alcohol product's low strength relative to the typical strength for similar products) or the intoxicating effect of Alcohol;*

*Code Part 3 (b) – An Alcohol Marketing Communication must NOT:*

- (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 advised:

- The ABAC Panel previously considered pouch-style packaging in its Determination 100/22 (Wine Not The Brand, 19 December 2022). In that case, the Panel concluded that while pouch formats are sometimes associated with children's products, they are also widely used for adult-targeted goods and are increasingly common in the alcohol industry. The Panel found that when a product identifies its

alcoholic nature, avoids bright, contrasting colours, and omits juvenile elements like cartoons or child-focused imagery, the format alone does not amount to a breach. Our packaging meets all these criteria, as it utilises muted tones, features clear alcohol labelling, adult spirit descriptors, and cocktail names, and avoids any elements that could reasonably be interpreted as appealing to minors.

- The use of a pouch format does not, in itself, indicate appeal to minors. This format is now well-established in the adult ready-to-drink (RTD) market, particularly for festivals and outdoor events, where glass and cans pose safety risks. Our packaging was deliberately designed to avoid any association with children's products - it does not use choke-proof caps, bright colours, cartoon elements, or any other juvenile cues. It is sold exclusively through licensed venues and adult retail channels, leaving little room for misinterpretation about its purpose or audience.
- The Quips logo is a distinctive, stylised wordmark designed for brand identity, not to emulate child-oriented fonts. The remaining text, including spirit type, ABV, and legal information, is presented in clear, conventional fonts consistent with those used in other alcohol products.
- While our cocktails include flavours such as mango, raspberry, and lime, commonly used in adult cocktail recipes, they are always framed within well-known cocktail names. In combination with the clearly labelled spirit type, ABV, and cocktail glass iconography, we believe the product is unmistakably positioned as an alcoholic beverage for adults.
- We acknowledge the concern regarding the previous use of the term “high strength” on our website. We intended to inform adult consumers that our product contains 11% ABV, which is higher than the ABV of many mainstream ready-to-drink (RTD) beverages. However, to avoid any implication of promoting intoxication, this phrase has already been removed from our website and replaced with a factual statement of the alcohol content: “11% ABV.”
- The reference on the website to the product being “freezeable” is entirely appropriate and contextually consistent with how many classic cocktails are consumed by adults. Frozen Margaritas, Daiquiris, and similar drinks are widely served in bars, restaurants, and licensed venues. This preparation style is well-established in adult culture and has no inherent association with children's products. To suggest otherwise overlooks the long-standing role of frozen cocktails in licensed, adult settings. Our intention was never to reference or allude to slushies or anything child-oriented, and the overall design, language, and alcohol cues on our site and packaging make the product's alcoholic nature unmistakably clear.
- Quips prides itself on adopting responsible marketing practices. Our brand targets adults aged 25-35 and employs a bold, cheeky tone designed explicitly for a legal drinking-age audience.

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

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

- Quips is not an ABAC signatory, but it has committed to meeting ABAC Code standards and complying with Panel determinations.
- Pre-vetting advice was sought on the packaging design. We followed the guidance provided, including strong alcohol cues, appropriate messaging, and design considerations. The only changes made after the final submission were to increase the size of the reference to 11% ABV.
- Other steps Quips has taken to ensure marketing practices and materials meet community expectations for responsible alcohol marketing include ensuring the alcoholic nature of the product is unmistakable and avoiding any unintended appeal to minors. Our packaging consists of the following:
  - A large cocktail glass is prominently displayed on the front of each pouch.
  - Clearly labelled ABV (11%), in compliance with legal alcohol labelling standards.
  - The type of spirit is clearly stated on the front: “vodka,” “rum,” or “agave spirit”.
  - Use of classic cocktail names such as “Margarita,” “Daiquiri,” and “Martini”.
  - Inclusion of legal alcohol responsibility messaging.
  - A muted colour palette and minimalist design, with no cartoon characters, bold primaries, or child-like graphics.
  - A standard screw cap, not a choke-proof or child-targeted spout typically seen in baby food packaging.