

## ABAC Adjudication Panel Determination 81/25

<b>Determination Date</b>	17 June 2025
<b>Brand/Company</b>	Sazerac/Fireball Whisky
<b>Media</b>	Social Media (Instagram)
<b>ABAC Code provision</b>	Part 3 (a)(i) & (a)(ii)
<b>Outcome</b>	Upheld

### Part 1 - Determination Overview

#### **Complaint:**

The complainant is concerned that two Instagram posts by Sazerac ('the Company') promoting Fireball Whisky violate the ABAC standards.

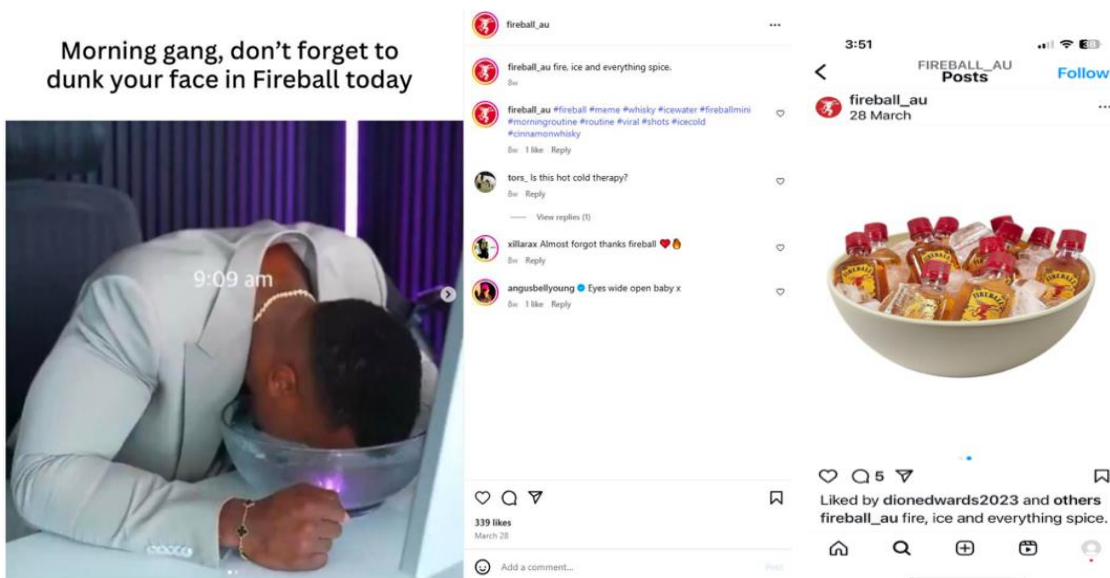
#### **Key findings:**

The Panel upheld the complaint, finding that a reasonable person would probably understand the posts are implicitly condoning excessive alcohol consumption or irresponsible actions related to alcohol use.

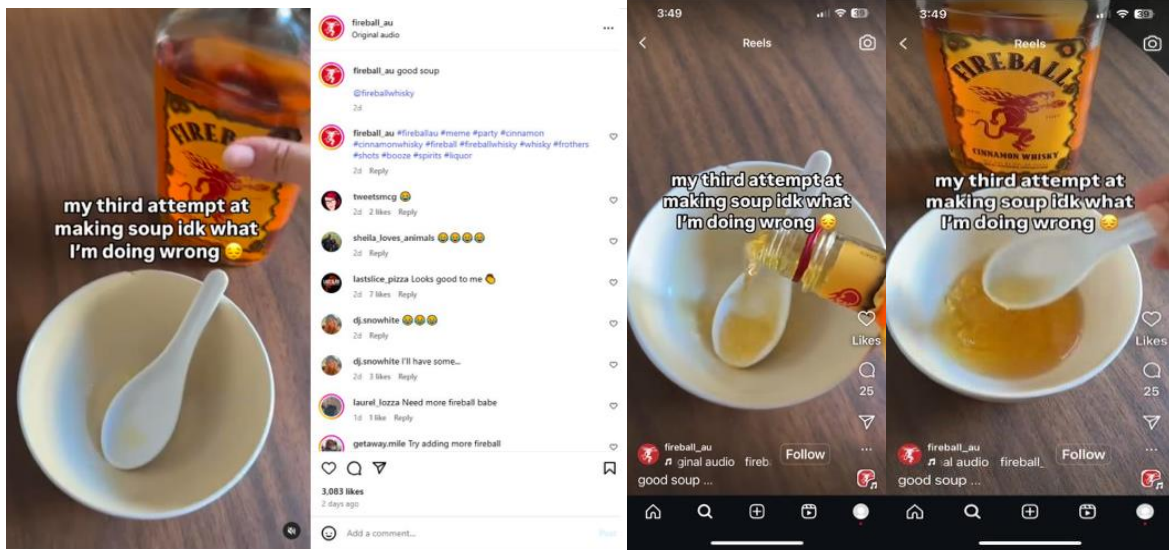
#### **Marketing Communications:**

The complaint refers to the following Instagram posts.

#### Post 1 – 28 March 2025



## Post 2 – 23 May 2025



### Part 2 - The Panel's View

1. The complaint concerns two Instagram posts promoting Fireball Whisky. While the complainant has not elaborated why it is believed the posts breach the ABAC standards, the Panel has taken the concern to be that excessive consumption and/or irresponsible behaviour related to alcohol use is shown or encouraged. This enlivens Part 3 (a)(i) and (ii) of the Code.
2. The first Instagram post is a meme showing a man dunking his face in a bowl, with the text '9:09 am' superimposed on the image and the message above the photo: 'Morning gang, don't forget to dunk your face in Fireball today.' The second image is of bottles of the product in a bowl of ice. The caption for the post is 'fire, ice and everything spice,' followed by a range of hashtags, including # morningroutine, #routine, and #shots.
3. The second Instagram post is a video that shows a fireball whisky being poured into an empty soup bowl, accompanied by a soup spoon. The video cuts to the whiskey in the bowl as a hand lifts the spoon and then drops it, accompanied by a gesture indicating frustration. The video features a superimposed message reading, 'My third attempt at making soup, idk what I'm doing wrong.' The accompanying text captions the video as 'good soup'.
4. Combined, Parts 3 (a)(i) and (ii) provide that an alcohol marketing communication should not show or directly imply excessive alcohol consumption, rapid consumption of alcohol, misuse or abuse of alcohol or irresponsible or offensive behaviour that is related to the consumption or presence of alcohol.
5. 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 that the community's values, opinions, and life experiences serve as 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 Company responded to the complaint, contending:

Post 1

- The post did not suggest or depict the act of drinking or consuming the liquid, and the phrase "dunk your face" literally and visually implied external interaction only.
- The concept was intended as a tongue-in-cheek play on morning wellness trends (ice baths, cold plunges, facial dunking), not endorsing morning alcohol use;
- Morning routines vary across industries, particularly for shift workers, many of whom finish work during unconventional morning hours.
- The post was not boosted and was only visible to the followers of the Instagram page.
- The concern and capacity for misunderstanding were acknowledged, and the post was removed.

Post 2

- The creative idea played on the absurdity of using whisky as soup, highlighting, through repeated failure, that it doesn't work;
- At no point is consumption shown or directly suggested.
- The implication is not that three bowls were consumed, but that the idea continues to go wrong — emphasising that whisky is not, in fact, a suitable food substitute - with the frustration with the soup spoon (and throwing it back into the bowl) visual shorthand for the ongoing disappointment without even attempted consumption;
- This post was boosted with a minimal budget against an 'interest targeting' demo only (18-45, with interests in competitor brands, spirits, alcoholic beverages, clubs, nightlife, and bars).

7. The advertiser has noted that the ad's reach was confined to Fireball Whisky followers, with minimal or no boosting, and was subsequently boosted to an over-18 audience. 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 is not a defence to the obligation to ensure that all content standards are met.
8. The Panel believes that both posts breach Part 3(a)(ii) of the Code. In reaching this conclusion, the Panel noted:

- While the Company may not have intended the posts to convey irresponsible messaging about alcohol use, the benchmark is how the posts would most likely be understood by a reasonable person, rather than the marketer's intended meaning.
- A reasonable person has a robust sense of humour and will not take the posts as seriously advocating dunking your head in whiskey or endeavouring to make soup with whiskey. That said, the humour of the posts is drawn from an assumed common experience that people will sometimes do stupid and irresponsible things when consuming alcohol, and it is this implicit message that excessive alcohol consumption and/or irresponsible alcohol use is socially acceptable, which is inconsistent with the ABAC standards.
- The most probable interpretation of both posts is that excessive alcohol consumption and/or an irresponsible approach to alcohol use is implicitly condoned, such as:
  - consuming shots in the morning
  - excessive consumption
  - equating alcohol with food

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

The Panel comprised Chief Adjudicator Professor the Hon. Michael Lavarch AO, Health Sector Panellist Professor Louisa Jorm and Panellist Debra Richards.

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

*Code Part 3 (a) provides that 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.*

### **Company Response**

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

#### Post 1

- We acknowledge the concern raised regarding the post and appreciate the opportunity to respond.
- Importantly, at no point did the post suggest or depict the act of drinking or consuming the liquid. The phrase "dunk your face" was used literally and visually to imply external interaction only.
- The concept was intended as a tongue-in-cheek play on morning wellness trends (e.g. ice baths, cold plunges, facial dunking), not an endorsement of morning alcohol consumption. Jumping onto trending themes and memes is a common practice across social media to maximise engagement.
- Morning routines vary across industries, particularly for shift workers such as healthcare professionals, hospitality staff, and emergency services, many of whom finish work during unconventional morning hours.
- Please note: There was no boosting against this post; it was purely organic (ie, only followers of the Fireball page).
- *That said, we understand how the imagery may have been interpreted differently by some viewers. As such, and out of respect for all audiences, the post has been removed to avoid future misunderstanding.*

#### Post 2

- The creative idea played on the absurdity of using whiskey as soup, highlighting, through repeated failure, that it doesn't work.
- The core joke and implication from the video is that it's "*still wrong*," even after multiple attempts.
- At no point is consumption shown or directly suggested.

- The implication is not that three bowls were consumed, but that the idea continues to go wrong, emphasising that whiskey is not, in fact, a suitable food substitute. The frustration with the soup spoon (and throwing it back into the bowl) is visual shorthand for the ongoing disappointment that occurs even before attempted consumption.
- This post was boosted with a minimal budget (\$851) against an 'interest targeting' demo only (18-45, with interests in competitor brands, spirits, alcoholic beverages, clubs, nightlife, and bars).

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

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

- Fireball does endeavour to meet the ABAC Code Standards and comply with all Panel determinations.
- Fireball seeks pre-vetting on all significant media investments (TV, radio, digital, OOH, etc), especially given these channels have less control over consumer demographic targeting. However, our always-on social posts are often in response to trending topics and memes, and as such, we cannot pre-vet all content due to the fast turnaround.
- We will ensure that all newer members of our marketing team complete the current ABAC online training course.

It is noted that the Company is not a signatory to the ABAC Scheme.