



ABAC Adjudication Panel Determination 84/25

Determination Date	20 June 2025
Brand/Company	Liquorland/Flybuys
Media	Direct Email Marketing
ABAC Code provision	Part 4 (e)
Outcome	Dismissed

Part 1 - Determination Overview

Complaint:

The complainant is dealing with alcohol dependence and is concerned by:

- Repeated alcohol advertising via email and the Flybuys app, promoting “offers just for you,” “bonus points,” and “extra points” earned when shopping at Liquorland.
- The continuation of advertising despite deleting the ads and requesting an opt-out from ads via the FlyBuys online ‘chat to us’ function.

Key findings:

The Panel dismissed the complaint, as it was not possible to establish what occurred with the Flybuys chat function using the available information.

The Panel draws the complainant’s attention to the opt-out processes outlined in Part 3 of this Determination. It encourages Liquorland and Flybuys to ensure that these opt-out processes are clearly communicated to customers.

Marketing Communication:

The complainant is concerned by direct email marketing for alcohol offers by Liquorland via their Flybuys app and emails.

Part 2 - The Panel's View

1. This determination arises from a complaint about direct marketing for Liquorland via the Flybuys app and emails. The complainant is dealing with an alcohol dependency and does not wish to receive direct alcohol marketing material. It is explained that attempts to have the marketing cease have been unsuccessful.
2. Navigating a society where alcohol references are extensive, from social settings to entertainment and marketing, is understandably challenging for a person dealing with alcohol addiction. While the ABAC standards aim to have alcohol use modelled in marketing moderately and responsibly, the available mechanisms to avoid alcohol marketing altogether are limited.
3. One specific ABAC obligation on marketers is the standard in Part 4 (e)(iii). This standard provides that an alcohol marketing communication must not be delivered directly to any person who has sought removal from the alcohol company's marketing list. The issue for assessment is whether Liquorland has met this obligation, given the actions taken by the complainant to have the FlyBuys marketing cease.
4. FlyBuys has explained that it offers several avenues for members to opt out of alcohol marketing. These avenues are:
 - Selecting opt-out from the FlyBuys website or App.
 - Calling the FlyBuys Service Centre.
 - Using the online chatbot and following prompts, or connecting from the chatbot to speak to a human agent.
 - Choosing to unsubscribe from Liquorland via FlyBuys' direct email.
5. The Panel has not sought to test these options or assess their user-friendliness in practice. It is not suggested that the avenues are not easily used; it is simply noted as a general observation that to be meaningful, online systems, including chat functions, need to be intuitive and human-centric to be effective.
6. Liquorland and FlyBuys note that, without personal identification and member details from the complainant, they are unable to address the point about the complainant seeking to use the online chat to opt out of marketing. Equally, the Panel can't make a finding of a breach of the Part 4 (e)(iii) standard, nor confirm that a failure did not occur.
7. The Panel draws the complainant's attention to the opt-out processes provided by FlyBuys and detailed in Part 3 of this Determination. It also encourages Liquorland and Flybuys to ensure that these opt-out processes are clearly communicated to consumers.
8. The complaint is dismissed on the basis that it is not possible to determine what occurred on the FlyBuys online chat function with the available information.

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 Richard Mattick AM and Panellist Jeanne Strachan.

Applicable ABAC Responsible Marketing Code Standard

Code Part 4 -

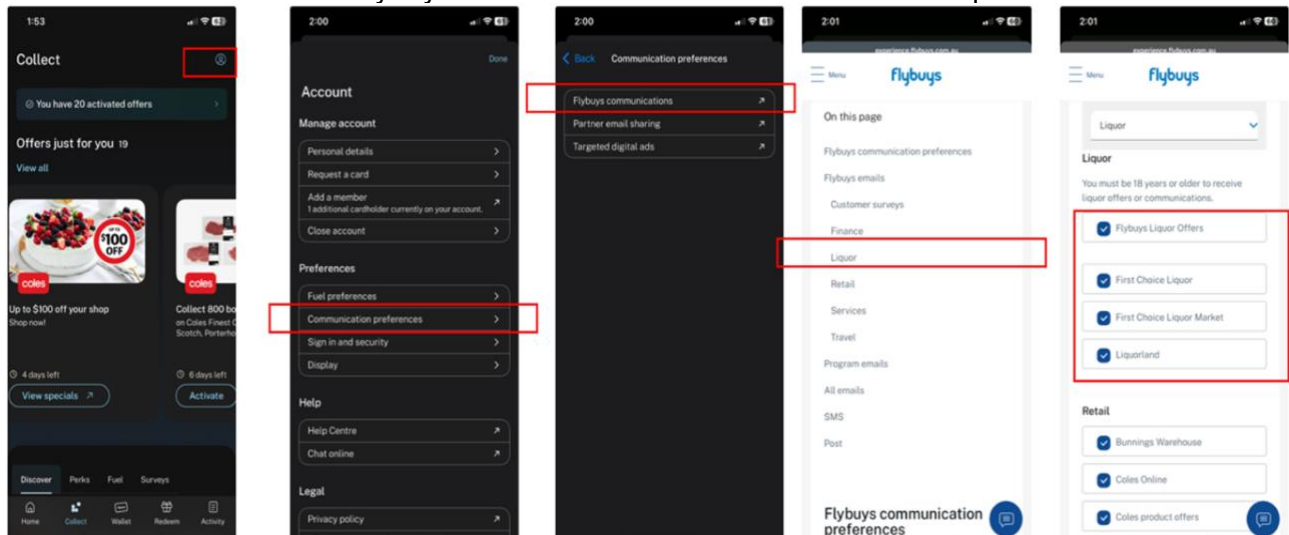
- (e) *An Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication must not be delivered directly to:*
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 - (iii) *any person that has sought removal from the marketing list.*

Company Response

Liquorland and Flybuys were given the opportunity to respond to the complaint. Their principal comments were:

- Liquorland submits that the marketing activity described in the complaint does not breach Part 4(e) of the Code for the following reasons:
 - A Flybuys member would only get these emails or offers if;
 - The member has opted in to receive promotional emails via Flybuys from Flybuys partners;
 - The member is at least 18 years old;
 - The member does not reside in a dry zone or other area where alcohol advertising restrictions apply; and
 - The member has not opted out, as detailed below.
 - Customers have a variety of opt-out options as outlined in the information provided by Flybuys, set out in the following paragraphs. It is unclear whether the complainant took any of the available steps to opt out.

- Flybuys has provided the following information:
 - Flybuys is Australia's favourite rewards program, offering members the opportunity to collect Flybuys points when they shop with our partners, such as Liquorland and scan their Flybuys. Flybuys members can also collect bonus points when they activate personalised bonus point offers. Depending on member communication preferences, members may receive emails about these offers and can activate offers in the Flybuys app or when logged into their account online.
 - Flybuys manages all emails that are sent directly from Flybuys and manages the content that is available on the Flybuys app. Flybuys does not manage emails that are sent directly by Liquorland.
 - A Flybuys member would only get these emails or offers if:
 - The member is at least 18 years old;
 - The member does not reside in a dry zone or other area where alcohol advertising restrictions apply; and
 - The member has not opted out, as detailed below
 - Members can opt out of receiving Liquorland via Flybuys communications from the app, web (logged in state) or email in the following ways:
 - To opt out via the Flybuys App, the customer journey is detailed below. If a member selects all the options below regarding liquor, as shown in the last screenshot, the member opts out of receiving any Flybuys offers and communications related to liquor.



- Opt out by calling the Flybuys Service Centre on 13 11 16 from Mon to Fri, 9 am – 7 pm AEST; and

- If a member is in the Flybuys app or website and clicks on Chat online, a 'Chat now' window will open. Flybuys' virtual agent 'Max' will then ask how they can help the member. The member can then ask a question. If the member decides that the FAQ links received do not help them resolve this question, they can choose to 'Chat with an agent'. At this point, they will enter a queue to speak with a human agent, who will request their date of birth, member number, and full name for security purposes. Once the member passes security, they can request to be opted out of receiving liquor-related communications from Flybuys, and the agent can carry out this request on their behalf. This takes 24 hours to take effect on the member's account.
- Additionally, members can opt out via the "unsubscribe" link at the bottom of any Liquorland via Flybuys eDM. This only unsubscribes the member from promotional emails from Liquorland via Flybuys and all Flybuys liquor offers. This does not unsubscribe members from receiving communications from other Flybuys liquor retailers. If members wish to unsubscribe from other liquor retailers via Flybuys, this can be done in the Flybuys Communication Preferences.

You are subscribed to Flybuys as [xxx@xxx.xx](#). If you no longer wish to receive these messages, please click to **unsubscribe**.

- It is not clear in the complaint if the member took any of the above steps to opt out. The complaint states that the member has "deleted and removed these advertisements", selecting "not interested" as a reason for why, when prompted, however, there is no option to select "not interested" in either the app or when opting out via email. Instead, depending on the version of the app the member has, the options available to them could include "activate" or "hide" the offer. Taking the action to hide the offer would not opt the member out of receiving Flybuys marketing communications.
- Requesting an opt-out of marketing via the "chat to us" function (as outlined above) is a valid way to opt out, and the Flybuys LiveChat agents action these requests. Without the member details, Flybuys are unable to locate the specific interaction to determine what was requested by the member.
- Flybuys has outlined our established opt-out processes above and notes that the complaint does not provide specific member details. Without member details, Flybuys are unable to investigate or speak to the particular circumstances of the complainant. Flybuys advises that the complainant can contact us directly via resolutions@flybuys.com.au, and we will investigate the matter further.

Marketing Best Practice

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

- Liquorland has been a signatory to the Alcohol Beverages Advertising Code since 2013. We take our alcohol advertising obligations very seriously and are committed to industry best practice, including compliance with the spirit and intent of the ABAC Responsible Alcohol Marketing Code (ABAC Code). We will accept the Panel's decision.
- Liquorland has demonstrated a long-standing commitment to the responsible service, supply, advertising, and promotion of alcohol.
- Liquorland is also a key contributor to DrinkWise, an independent, not-for-profit organisation whose primary focus is to help bring about a healthier and safer drinking culture in Australia.
- As a preliminary matter, Liquorland is mindful of the importance of responsibly advertising alcohol products. To this end, Coles Liquor never intends to publish advertisements that could contravene the ABAC Code.
- Liquorland confirms that the ABAC Pre-Vetting Service was not used for these promotional activities, and the team members responsible for making these ads may not have completed the current ABAC online training course.
- Liquorland submits that robust internal compliance processes regarding liquor advertising are maintained, and a strong culture of compliance training has been embedded throughout the business. Liquorland's internal ABAC Code training is assigned to relevant team members to ensure our teams have the necessary skills to navigate this heavily regulated environment successfully.
- Liquorland would like to reiterate its commitment to industry best practice, including compliance with the Code's spirit and intent.