



ABAC Alcohol & Water Safety Compliance Guide

Overview

The ABAC Scheme (ABAC) is an industry funded, independently operated regulatory initiative, overseen by a Management Committee that includes a Government representative. Key components of the Scheme are:

- The ABAC Responsible Alcohol Marketing Code (Code)
- The ABAC Pre-vetting Service (Pre-vetting)
- The ABAC complaints handling process (Panel)

While this Guide relates to the Code's standard in Part 3(d), all Code standards must be observed. Additional guidance on each Code requirement and the specific Code standards is available through:

- [ABAC Guidance Notes](#)
- [ABAC Online Training Course](#)
- [The Pre-vetting Service](#)

Purpose

This Guide aims to assist alcohol companies and advertising agencies in meeting the Part 3(d) Code standard, specifically focussing on its application to content displaying water-based activities.

The policy intent of Part 3 (d) is to prevent alcohol marketing from depicting alcohol consumption before or during inherently dangerous activities, such as driving or swimming. This is because alcohol impairs physical and mental abilities, reduces coordination, and can lead to poor judgment.

The standard has been in place since the Code commenced in 1998. Notably, recent years have seen an increase in Panel breaches related to alcohol use with water-based activities.

[Royal Life Saving Australia reports](#) that alcohol consumption impairs cognitive functions, affecting behaviour and risk perception. The Australian Water Safety Strategy 2030 identifies alcohol and drug use as a major risk factor in drowning incidents.

The Guide is not intended to replace or extend the provisions of the Code itself. It reflects the views of ABAC's administrators and is based on previous Panel decisions. The [ABAC website](#) includes an advanced search feature that allows users to access all adjudication decisions related to alcohol consumption and water-based activities.

Other Regulations

Alcohol marketing must comply with all relevant Australian laws and standards, including State and Territory Liquor Licensing Legislation, Regulations, and Guidelines. These regulations often prohibit promotions that link alcohol consumption with risky activities, are inconsistent with responsible alcohol use, or conflict with the public interest.

The 'Alcohol & Safety' Code Standard

An Alcohol Marketing Communication must NOT show (visibly, audibly or by direct implication) the consumption of Alcohol before or during any activity that, for safety reasons requires a high degree of alertness or physical co-ordination, such as the control of a motor vehicle, boat, or machinery or swimming (Part 3(d) ABAC Code)

Definitions:

Alcohol means a beverage or related consumable product (e.g. ice block, vapour, etc) containing more than 0.5% alcohol by volume.

Alcohol Alternative means a beverage that is at or less than 0.5% alcohol by volume that:

- has an appearance and style commonly associated with Alcohol; and
- uses a brand or descriptors commonly associated with Alcohol, such as beer, wine, spirits or other; and
- is not a beverage commonly understood as non-alcoholic, such as fruit juice, soft drink, flavoured milk or other which fall outside the Code remit.

The Code standard in Part 3 (d) applies to alcohol marketing; however, it also applies to alcohol alternative marketing if it does not clearly and prominently identify the product as an alcohol alternative or promotes an alcohol product (beyond a common brand name) or alcohol use.

Achieving Compliance

Understanding Code standards and Panel decisions can help achieve ABAC compliance. The ABAC Pre-vetting Service is also available to assist you. While it is impossible to provide an exhaustive list of possible breaches of this standard, the Panel has, over time, developed an approach and indicators to guide alcohol marketers, as outlined below.

Key Indicators

The Code standard does not prevent an alcohol brand from being associated with a specific sport or activity. Its purpose is to ensure that alcohol is not consumed before or while participating in these activities and that marketing does not imply it is acceptable to use alcohol in this way. For water-based activities, this means that a marketing item can:

- Show an alcohol product at a beach, river or adjacent to a swimming pool if it is clear that alcohol is not being consumed; or
- Show alcohol consumption where it is established that dangerous activities like swimming, surfing, scuba diving etc have finished and will not be recommenced.

The 'reasonable person' test is used to assess how an average Australian would interpret the marketing. The Panel considers the perspective of an individual whose life experiences, opinions, and values align with those typically held by most Australians. The focus is on the perceived message, not the marketer's intention or the factual background.

Factors that individually or in combination could influence how a reasonable person might interpret marketing involving water-based activities include:

- **Actual or Implied Consumption:** Is alcohol being consumed or is it implied that consumption will occur soon? How is the alcohol product presented e.g. is it an open can/bottle or closed, or does it seem the product has been partially consumed?
- **Clothing/Accessories:** Are people fully clothed or wearing swimming gear? Are they wearing a floppy hat and sunglasses or a swimming cap and goggles? Are they carrying beach towels or surf-boards?
- **Proximity to Water:** Is the person in the water, next to it or further away?
- **Time of Day:** What is the time of day of the scene? For example, it is more likely the activity is completed if it is late afternoon instead of the morning, but other cues, related to the activity, will also be important.
- **Contextual Cues:** Captions, voiceovers or other indicators that clarify whether the activity will occur or is completed. The ad as a whole must be clear that activities will not recommence after consuming alcohol.

Examples of marketing the Panel assessed as failing to comply with this Code standard

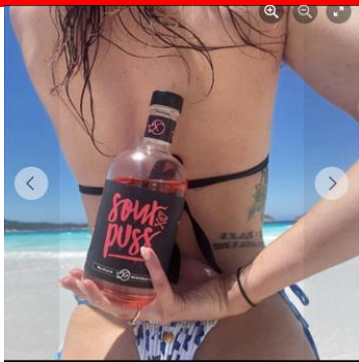
Note – Click on images to access the relevant ABAC Adjudication Panel Determination



- Company advised image was after swimming concluded
- While the photographs might have been taken when swimming had finished for the day, this is not the test of the marketing communication. The test is how a reasonable person would probably understand the post.
- Typically, a viewer of a social media post won't study the post in fine detail but will be guided by the most prominent features. In this case, a man is seen on the edge of a boat, in swimwear, with damp hair, drinking the product. The most probable understanding is that the man is drinking while swimming.



- A woman is wearing swimwear
- She is partially in the pool
- She has a glass of the product implying consumption is occurring
- The post is set at a time of day swimming could be reasonably expected
- Swimming is also mildly suggested by the word 'lapping' in the accompanying text



- Alcohol has been consumed (the bottle is partially emptied)
- The woman has been swimming, evidenced by her being at the beach, wearing swimwear and her hair being wet
- There are no cues that swimming or alcohol consumption has concluded for the day and the time of day and the woman's proximity to the water suggest swimming could likely continue
- A reasonable person would likely conclude that the day will continue in the same way – with alcohol being consumed and swimming occurring



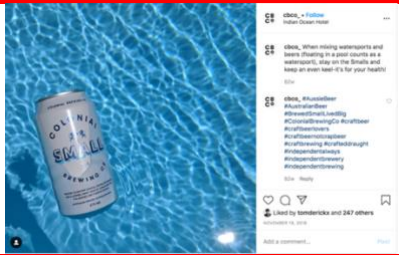
- The most likely interpretation is that the foreground image of the product and the shoes is connected to the background image of four women in swimwear approaching the water's edge, ie the shoes and the product belong to the women
- The women appear to be about to enter the water
- While it is not entirely clear, it seems at least one of the cans has been opened and a reasonable implication is that consumption of the product has occurred



- While it's not entirely clear from the image as to whether the man is actually in the water, the Panel believes the most probable understanding of the post is that alcohol consumption is occurring or is implicitly endorsed as being acceptable with swimming



- Two men are shown consuming alcohol
- The men are sitting on a rock overlooking the ocean
- Captioned 'Nothing beats that Friday knock off feeling. Except when you pair it with a case of Sanctus Nor-Easter Lager'
- The image of the man without a shirt and with a towel over his shoulder is highly suggestive that he could begin swimming after the consumption of the product



- Caption, 'When mixing watersports and beers (floating in a pool counts as a watersport), stay on the Smalls and keep an even keel - it's for your health' - 'Smalls' is a low alcohol beer in the Company's range
- The image combined with the accompanying text raises a direct implication that it is acceptable to consume alcohol while swimming and floating in a swimming pool



- The label does not show the man physically drinking from the glass he is holding, but it is a reasonably direct implication that a person shown holding a glass is drinking from the glass
- The probable understanding from the scene is both that consumption in the pool is occurring and that this is an acceptable practice



- Paddleboarding is an activity that, for safety reasons, requires a high degree of alertness or physical coordination
- Alcohol consumption is depicted or directly implied
- Time of day suggests paddleboarding has either ended or would shortly end but image suggests at a minimum she needs to return to shore
- Marketing suggests alcohol consumption with the use of a paddle board is acceptable



- Rock fishing is an activity that requires a high degree of alertness
- 'Rock fishing is considered by many as Australia's most dangerous sport, rock fishing accounts for 4% of all drowning deaths in Australia' (Royal Life Saving, 2024)



- The surfer appears to be dry and has not yet been in the sea
- The scene seems to be in the morning rather than later in the day when it might be assumed that surfing has finished
- It is likely the post would be understood as placing alcohol use prior to entering the water



- It was argued the can was placed on the board from a boat, however with no cues this had occurred, the most likely interpretation was that the can was placed on the board by a surfer with the shot showing the point of view of the surfer
- It is probable the can had been opened given its ring pull is visibly raised creating a strong inference of consumption
- Caption reinforces a direct implication of consumption with surfing/swimming through the phrases -'Great way to start the day with an @swellbrewingco Evening Glass Off DIPA' and 'Perfect accompaniment to a summers day on the water'



- While the boat is stationary there is no doubt that the man consuming the Product is in control of the boat.
- Operating a boat is an activity that requires a high degree of alertness

Examples of marketing the Panel assessed as complying with this Code standard

Note – Click on images to access the relevant ABAC Adjudication Panel Determination



- While the video is set adjacent to the family swimming pool, it is established the woman will not be consuming alcohol and then going into the pool to swim
- The whole narrative of the video is based on the woman looking forward to reading her book when she is interrupted by her daughter
- This means that the scene is near the pool, but there are clear pointers that the pool is not going to be used



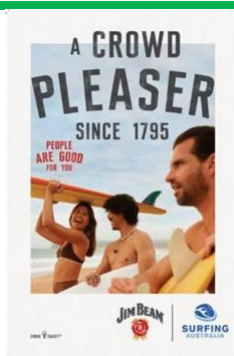
- While the ad is set on a beach, the time of day, the fact the people shown are fully clothed and clearly talking and/or listening to one in the group playing a guitar, establish that swimming is not going to occur.



- There is no depiction or direct implication that the people shown consuming alcohol will then swim in the ocean
- The television advertisement depicts fully clothed people walking and picnicking on a beach, without towels or any other items that would suggest they will swim in the ocean after their picnic



- The photograph is staged to highlight the product and does not show any person in the shot
- The bottles do not appear to be opened, no wine glasses are shown, and no direct implication of consumption, excessive or otherwise, can be drawn
- The accompanying text supports the photograph being a staged shot, and includes no implication of excessive consumption or consumption before or during activities in the pictured swimming pool
- It is consistent with the Code to place an alcohol product in a pleasing setting and a reasonable person would not take the post as encouraging drinking wine before or during an activity that requires a high degree of alertness or physical co-ordination.



- Alcohol consumption is not shown, nor can it be directly implied i.e. there is no product in the scene.
- The people depicted do not appear affected by alcohol.