



## ABAC Adjudication Panel Determination 103/25

<b>Determination Date</b>	14 August 2025
<b>Brand/Company</b>	Alcohol Delivery / Uber Eats
<b>Media</b>	Digital - Website
<b>ABAC Code provision</b>	Part 4 (e)(iii)
<b>Outcome</b>	Dismissed

### Part 1 - Determination Overview

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

The complainant is concerned that despite self-excluding themselves from being able to purchase alcohol products from the Uber Eats website:

- Thumbnail images of alcohol retailers with specific alcohol products (with discount offers) were displayed on the website alongside thumbnails from general supermarkets and other non-alcohol providers.
- The website landing page should be able to be configured so alcohol retailers/products do not appear to a user who has opted to self-exclude from alcohol purchases.
- The exclusion did operate to the extent clicking on the alcohol retailer thumbnail does not show products.







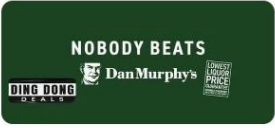





#### ***Key findings:***

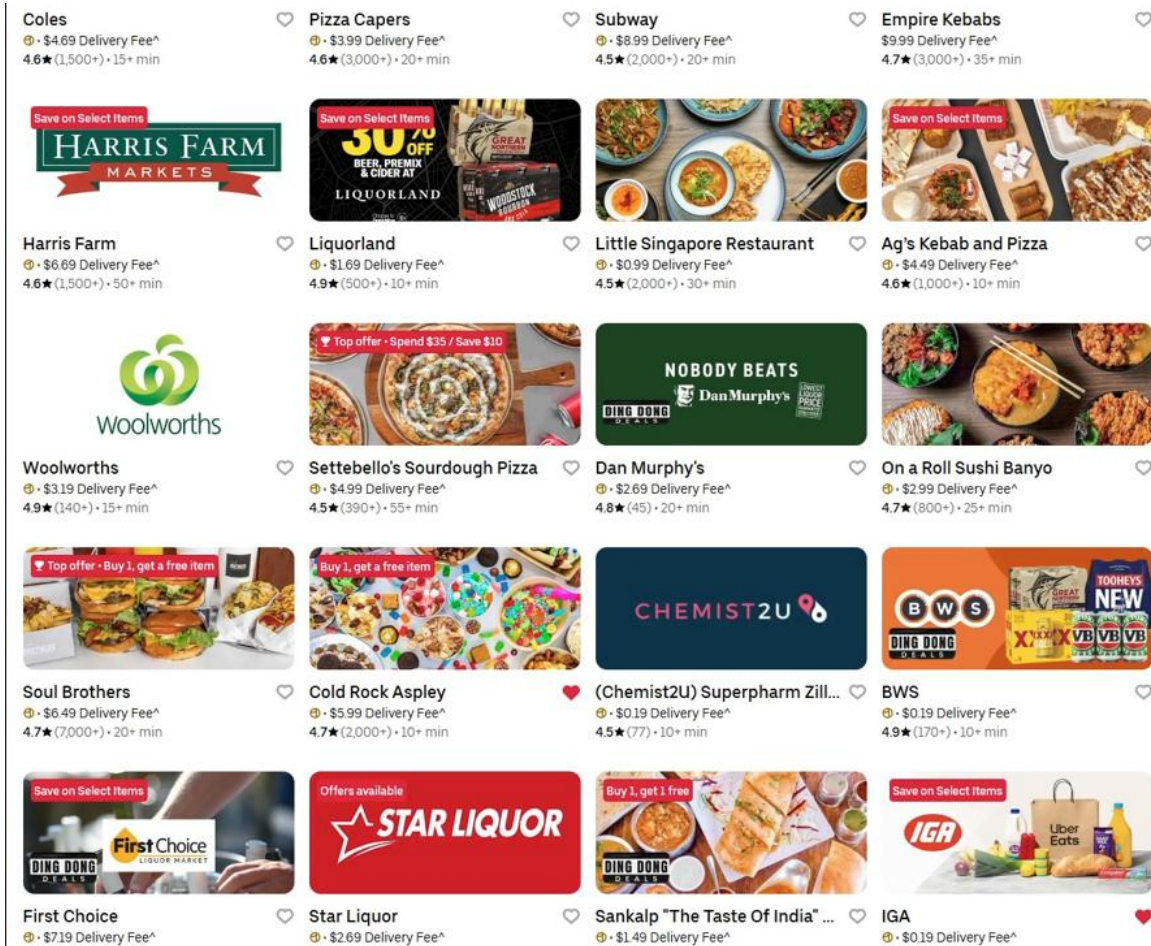
The Panel dismissed the complaint finding:

- While the thumbnails referencing alcohol retailers and products are alcohol marketing communications for ABAC purposes;
- Part 4 (e)(iii) of the Code obliges an alcohol marketer not to directly deliver alcohol marketing material to a person who has sought removal from a marketing list. This provision was added to the Code in 2023 and the Review leading to the new provision references respecting options to stop Electronic Direct Mail as the rationale for the provision.
- Given the intent of the provision was to capture direct marketing techniques such as emails and SMS push messaging, the Panel does not believe it is open to it to apply the provision to website content.

## Marketing Communications:

The complaint concerns thumbnail images promoting alcohol retailers on the Uber Eats website, which remain visible to those who have self-excluded themselves from alcohol delivery services.

 <p><b>Harris Farm</b> 📍 • \$6.69 Delivery Fee^ 4.6★ (1,500+) • 50+ min</p>	 <p><b>Liquorland</b> 📍 • \$1.69 Delivery Fee^ 4.9★ (500+) • 10+ min</p>	 <p><b>Little Singapore Restaurant</b> 📍 • \$0.99 Delivery Fee^ 4.5★ (2,000+) • 30+ min</p>	 <p><b>Ag's Kebab and Pizza</b> 📍 • \$4.49 Delivery Fee^ 4.6★ (1,000+) • 10+ min</p>
 <p><b>Woolworths</b> 📍 • \$3.19 Delivery Fee^ 4.9★ (140+) • 15+ min</p>	 <p><b>Settebello's Sourdough Pizza</b> 📍 • \$4.99 Delivery Fee^ 4.5★ (390+) • 55+ min</p>	 <p><b>Dan Murphy's</b> 📍 • \$2.69 Delivery Fee^ 4.8★ (45) • 20+ min</p>	 <p><b>On a Roll Sushi Banyo</b> 📍 • \$2.99 Delivery Fee^ 4.7★ (800+) • 25+ min</p>
 <p><b>Soul Brothers</b> 📍 • \$6.49 Delivery Fee^ 4.7★ (7,000+) • 20+ min</p>	 <p><b>Cold Rock Aspley</b> 📍 • \$5.99 Delivery Fee^ 4.7★ (2,000+) • 10+ min</p>	 <p><b>(Chemist2U) Superpharm Zill...</b> 📍 • \$0.19 Delivery Fee^ 4.5★ (77) • 10+ min</p>	 <p><b>BWS</b> 📍 • \$0.19 Delivery Fee^ 4.9★ (170+) • 10+ min</p>



## Part 2 - The Panel's View

### Background

1. Uber Eats is a home food delivery service that commenced operations in Australia in 2016, with the delivery of alcohol products beginning in 2017. The status of Uber Eats under the ABAC Scheme was fully considered in Determination 109/22, with the Panel concluding:
  - Uber Eats is a technology services provider that provides the IT logistics and payment system to enable consumers to purchase items from source retailers and have the items delivered by a delivery contractor.
  - While Uber Eats enables consumers to purchase and have delivered alcohol products, it is not an 'alcohol retailer' within the intended scope of the ABAC Scheme.
  - That said, Uber Eats is a participant in the alcohol industry and a range of legal responsibilities that attach to alcohol retailers equally apply to Uber Eats, e.g. ensuring that persons purchasing alcohol via the Uber Eats platforms are of legal drinking age and stipulations on the home delivery of alcohol are followed by delivery contractors.

- Merchant Agreements between Uber Eats and alcohol retailers such as BWS and Liquorland require Uber Eats to meet regulatory requirements for alcohol sales, and this includes the ABAC standards on responsible alcohol marketing.
2. While not formally bound by the ABAC requirements, Uber Eats have accepted that cooperation with the ABAC complaints process is consistent with its corporate and social responsibilities as an alcohol industry participant. Further, Uber Eats has utilised the ABAC pre-vetting service on occasion for some marketing campaigns.
  3. Drawing this together, the Panel accepts public complaints concerning Uber Eats marketing referencing alcohol products, and Uber Eats entirely cooperates with the complaints process. This enables the Panel to make determinations about Uber Eats.

### **The Complaint and consistency with the ABAC Standards**

4. The complainant has an account with Uber Eats and accessed the Uber Eats website, where they were disappointed to find the home page featured thumbnails of several alcohol retailers, including BWS, Liquorland, and Dan Murphy's, alongside general retailers such as Woolworths and Harris Farms, and various food outlets. The distress arose because the complainant had opted to self-exclude from alcohol purchases and hence expected thumbnails of alcohol retailers would not appear on the website.
5. The complainant went on to explain that the self-exclusion was effective in that clicking on the thumbnail did not further display alcohol products. It was argued, however, that Uber Eats would serve different retailers/products to other accounts, and it would be expected that self-exclusion from alcohol would stop the alcohol retailer thumbnails.
6. Uber Eats provided a detailed response to the complaint. In short, it contended:
  - The website storefront thumbnails should not be considered 'marketing communications' that promote alcohol use, but rather serve to identify merchants and product categories.
  - Self-exclusion removes alcohol items from in-store catalogues and prevents users from purchasing alcohol products. It does not remove non-alcoholic items from retailers offering alcohol and non-alcoholic products, nor does it remove the merchant's storefront thumbnails from the Uber Eats website.
  - In any event, self-exclusion from the purchase of alcohol does not equate to the delivery of a marketing communication to someone who has sought removal from a marketing list as required by Part 4 (e)(iii) of the Code.
7. The Panel believes the website thumbnails referencing the alcohol retailers are 'alcohol marketing communications' for ABAC purposes. While a principal aim of the thumbnails is to identify the alcohol retailers from whom an order might be made, this does not preclude the thumbnails from also being a 'marketing communication'. This is because:

- The ABAC captures the marketing of alcohol retailers as a freestanding entity as well as the marketing of alcohol products that the retailers sell.
  - The thumbnails do more than simply identify the retailer but also reference alcohol products e.g. the Liquorland and BWS thumbnails include images of various alcohol products.
  - The thumbnails can include promotional information such as discounts on specific products e.g. the Liquorland offers a 30% discount on select items
8. Part 4 (e)(iii) was added to the Code in August 2023 following a review of the ABAC Scheme. This standard requires that alcohol marketers respect and act on an option taken by a consumer to be removed from a marketing list so that marketing communications are not directly delivered to that consumer. The background to this amendment of the Code is explained in the Report of the Code Review process that it was intended to cover the delivery of marketing material by companies to consumers by means such as electronic direct mail, SMS messaging and similar techniques.
  9. The issue raised by the complaint is whether the Part 4 (e)(iii) provision has a wider application to self-exclusion options from the purchase of alcohol. Uber Eats argues the provision does not apply to its website or app for two reasons, namely:
    - The thumbnails are not 'delivered directly' to a consumer but rather are part of the website browser interface. They allow a website user to identify a merchant and connect to the merchant's products as opposed to the merchant actively delivering marketing material.
    - Self-exclusion does not relate to a removal from a marketing list but the removal of the ability to purchase products.
  10. It is pointed out Uber Eats does offer a pathway to manage direct marketing and stop emails and push notifications. This captures marketing material of this type across the board including but not limited to alcohol. The complaint does not raise any issue about this style of marketing and the complaint is directed at the website thumbnails.
  11. The complainant raises an interesting point about the ability of Uber Eats (and other marketers) to use data analytics to customise the landing page an account holder sees when entering the website. In other words, there is no single landing page, with the content of the page i.e. the merchants and products displayed being shaped by factors such as the geographic location of the user and presumably past user choices on products ordered.
  12. Following this line of reasoning, should the obligation on the alcohol marketer be to extrapolate a self-exclusion option on the purchase of alcohol to ensure there are no references to alcohol in the website/app browsing experience of a consumer who opts for self-exclusion?

13. While the Panel acknowledges the argument, its mandate is to apply the Code as drafted and the scope of Part 4 (e)(iii) is on directly delivered marketing material e.g. direct mail and SMS push messaging etc. The Code review process establishes that the provision was not intended to apply to the content of websites as such.
14. Drawing this together, the Panel believes that the ABAC standard has not been breached given:
- The complainant sought to be excluded from the ability to purchase alcohol products via Uber Eats and this exclusion was acted upon.
  - While the website thumbnails for alcohol retailers are ABAC marketing communications, Part 4 (e)(iii) of the Code is not applicable to website content but rather requires that direct delivery of marketing material to a consumer cease if the consumer has requested to not receive alcohol marketing material.
15. 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 under the ABAC Rules and Procedures, taking into account 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**

*Part 4 (e) of the Code provides that an Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication must not be delivered directly to:*

*(iii) any person that has sought removal from the marketing list.*

### **Company Response**

The Company was provided with an opportunity to respond to the complaint and advised that:

- We have reviewed the details of the complaint provided in the letter from ABAC. This complaint is about the browsing experience of an Uber Eats user who has used our self-exclusion feature to prevent themselves from future purchases of alcohol on Uber Eats.
- Uber Eats takes its obligations to the community to market its services responsibly seriously. While we do not believe the specific activities referenced in the complaint are subject to the Code (as detailed below), we are operating in a way that is responsible and aligned with industry standards.
- We acknowledge the Panel's previous determination in ABAC Adjudication Panel Determination No. 109/22 dated 4 January 2023, which came to the view that "on the available information, Uber Eats is not itself an alcohol retailer within the intended scope of the ABAC... That said, it is now a participant in the alcohol industry, and it is fully appropriate that its operations reflect that fact." We appreciate the feedback and rationale provided in that determination.
- As stated by the Panel in Determination 109/22, the Code does not endeavour to precisely define a 'marketing communication' and a common-sense approach is to be applied and not a technical interpretation of a 'marketing communication', which then enables the Code to adapt to changes in marketing techniques and the emergence of new media.



- Uber Eats respectfully maintains its view that the store thumbnail images, as presented on the general browsing interface of the Uber Eats platform, are primarily informational — serving to identify available merchants and product categories to users, rather than to promote or encourage the consumption of alcohol.
- Nonetheless, we remain committed to operating responsibly and welcome ongoing engagement with ABAC regarding the application of the Code to our platform.
- Consumers can access self-exclusion options through the “Help” section of the Uber Eats app. These dedicated self-exclusion pages offer users the option to permanently or temporarily exclude themselves from alcohol purchases on Uber Eats.
- Uber Eats’ self-exclusion feature removes alcohol items from in-store catalogues and prevents users from purchasing any alcohol products. This item-based approach allows users to continue shopping for non-alcoholic products from merchants that offer both alcoholic and non-alcoholic items, maintaining a wider choice. While alcohol purchasing is blocked, the self-exclusion feature does not prevent the user from seeing a merchant’s storefront thumbnail image or other incidental references to alcohol within our application.
- We are reviewing our communications and descriptions of the self-exclusion feature to ensure users have clear expectations regarding the continued visibility of alcohol-related images on store thumbnails and incidental references to alcohol within our application after self-exclusion.
- Uber Eats maintains that Part 4(e)(iii) of the Code is not relevant to the in-app self-exclusion in this case for two primary reasons.
  - The communications in question are not ‘delivered directly’. As detailed in our response to Question 1, store thumbnail images and incidental references to alcohol in the Uber Eats application (the subject of this specific user complaint) are part of the general Browse interface. These elements serve to identify available merchants and product categories to users navigating the platform, rather than being actively ‘delivered directly’ as a targeted marketing communication, such as an email or push notification. As such, the presence of these images during a user’s general in-app Browse experience does not constitute a direct delivery of an Alcohol Marketing Communication under Part 4(e)(iii).
  - Self-exclusion does not primarily constitute a request for removal from a marketing list. The self-exclusion option offered by Uber Eats is designed mainly to prevent future purchases of alcohol and remove alcohol items from in-store catalogues. This functionality is distinct from a user’s request to manage or cease direct marketing communications. Uber Eats offers the option for a user to opt out of all direct marketing communications, consisting of emails and push notifications, through a separate mechanism described below. It’s important to note that Uber Eats describes the self-exclusion




option as relating only to alcohol items *within* the Uber Eats app itself, focusing on preventing purchases and removing alcohol items from in-store catalogues. For your reference, Figures A, B and C in the Appendix illustrate our self-exclusion pages, which explain how users can exclude themselves from alcohol purchases.

- Therefore, given that the communications in question are not directly delivered marketing, and that self-exclusion is not primarily a request for removal from a direct marketing list, we do not consider Part 4(e)(iii) of the Code to be relevant to the act of self-exclusion within the App.
- Uber Eats offers users a clear option to manage their direct marketing communications. Users can opt out of all direct marketing communications, specifically emails and push notifications, via the unsubscribe option available on our Marketing Preferences site, as shown in Figure D in the Appendix. This mechanism removes users from all direct marketing lists maintained by Uber, including alcohol-related marketing.
- When a user selects this option, no email or push notification marketing communication (including any alcohol marketing communication) will subsequently be sent directly to them. Therefore, while Part 4(e)(iii) of the Code is not relevant to the specific complaint, Uber Eats is committed to responsible alcohol marketing and complies with the spirit and intent of Part 4(e)(iii) of the Code by ensuring that individuals who wish to cease receiving marketing messages are effectively removed from these direct communication lists.
- As part of this commitment, we proactively remove users who have self-excluded from alcohol purchases from as many of our direct, targeted alcohol marketing communications as possible, even for those who have not yet opted out of all general direct marketing communications.

## Appendix

4:13 4G 62%

Help



### How do I remove alcohol items on the Uber Eats app?

Uber Eats is committed to the safety and wellbeing of its users and promotes responsible consumption of alcohol.

If you or someone you know may be struggling with alcohol consumption, reach out to your local GP or find more information in the link below.

[DrinkWise Support Services](#)

If you want to exclude someone you care about from seeing alcohol items click the link below:


[I want to nominate someone else from seeing and purchasing alcohol items on their Uber Eats app](#)

If you do not wish to see alcohol items on your Uber Eats app, we're happy to help. Please note that by submitting a request to exclude yourself from alcoholic items, you will no longer be able to view or order alcoholic items on your UberEats app.

You may also request to permanently remove alcoholic items from your UberEats app (this action cannot be reversed).

4:13 4G 62%

Help



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You may also request to permanently remove alcoholic items from your UberEats app (this action cannot be reversed).

**I wish to be excluded from being able to view or purchase all alcoholic products on my UberEats app** ☐

**I wish to make this change permanent** ☐

**Submit**

Figure A - In-app help page for submitting a self exclusion request

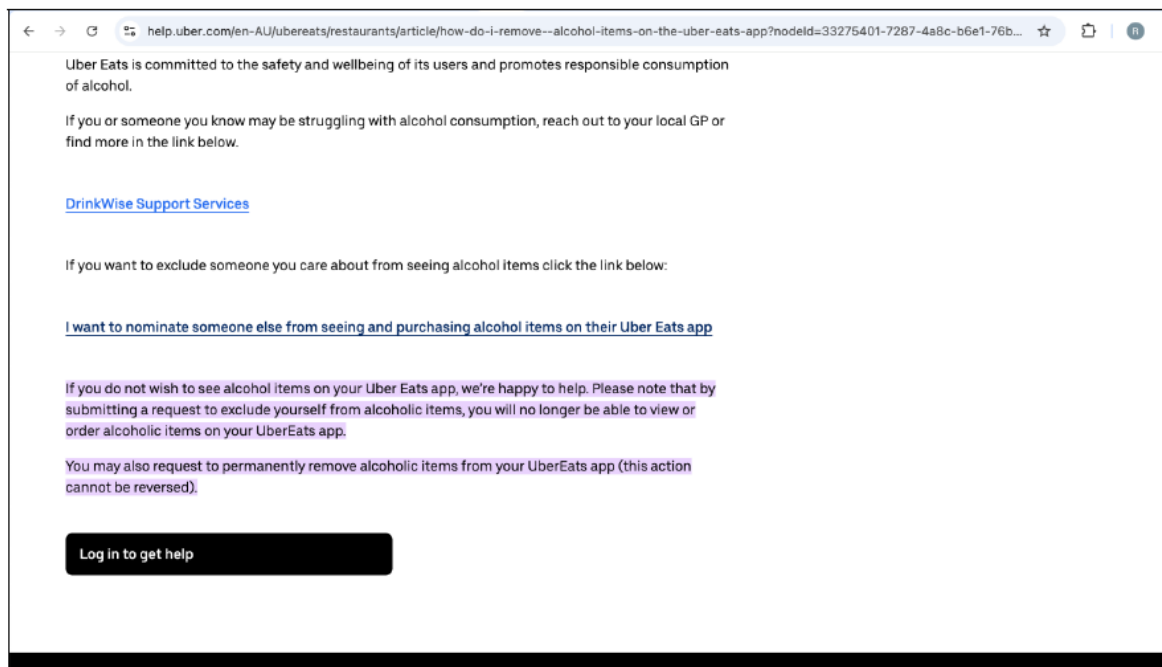
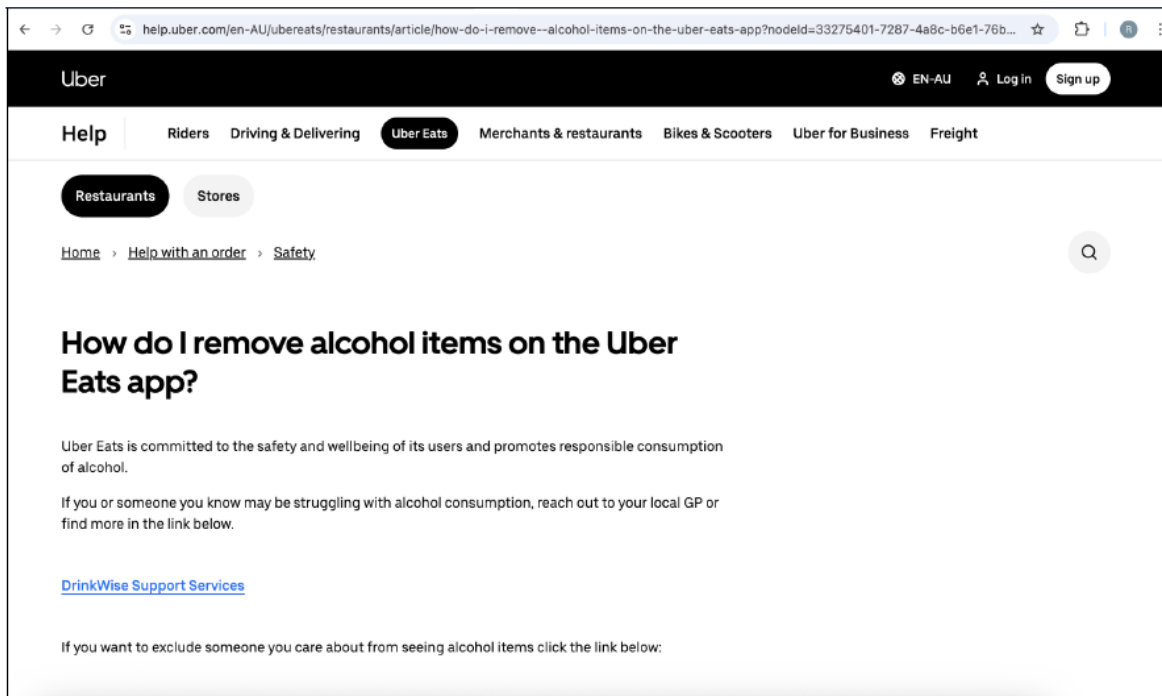


Figure B - Web-based help page for submitting a self exclusion request

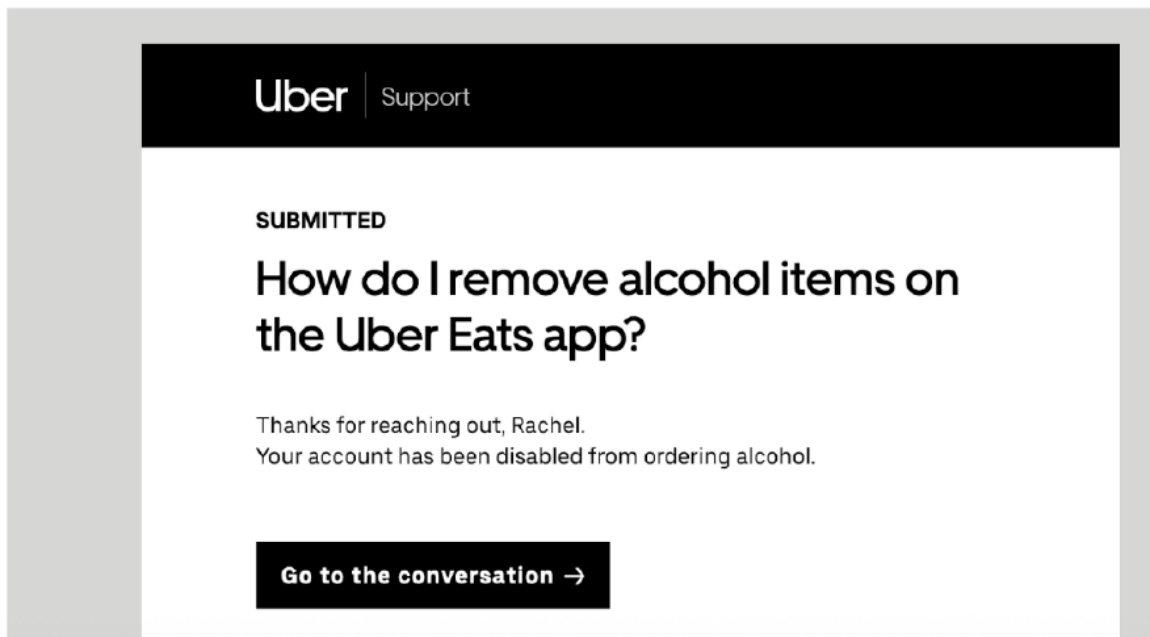
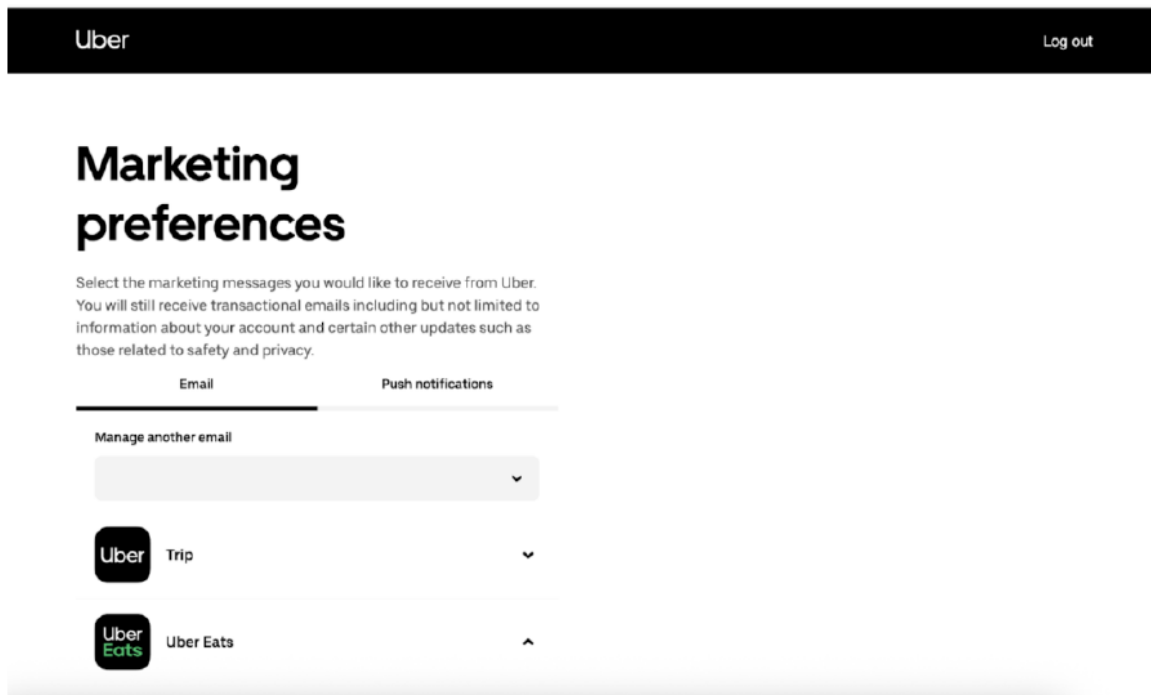


Figure C - Email response to a self exclusion request



Uber

Log out

Subscribed

Promotional offers

Promotional offers, discounts and referral incentive

Membership

Uber One membership benefits and loyalty rewards

Product updates and news

New product updates and interesting news

Recommendations

Recommendations for great food, groceries and more

Reminders

Reminders for unfinished orders

Feedback

User research and marketing surveys

Third-party ads

Promotion from Uber partners

Uber teen accounts

All marketing communications related to Uber teen accounts

Mother's Day

Promotions and discounts for Mother's Day

Father's Day

Promotions and discounts for Father's Day

Uber

Log out

accounts

Mother's Day

Promotions and discounts for Mother's Day

Father's Day

Promotions and discounts for Father's Day

Uber

Drive and deliver

Postmates

Unsubscribe from all Uber marketing emails

Save preferences

Figure D - Marketing Preferences Page

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

The Company was asked how it demonstrates a commitment to best practices for alcohol marketing and advised as follows:

- Uber Eats is not a signatory to the ABAC Code, though we consider it to be a valuable reference for industry standards.
- While not a signatory, Uber Eats respects the ABAC Adjudication Panel's role, and we will review and consider the Panel's determination on this complaint as valuable input to our ongoing efforts to enhance responsible marketing practices.
- Uber Eats uses ABAC's pre-vetting services for some of our larger marketing campaigns involving alcohol. The store thumbnail images referred to in this complaint, being part of the general platform interface, did not receive Alcohol Advertising Pre-vetting Service approval.
- Our staff involved in broader alcohol marketing campaigns are regularly educated on responsible alcohol marketing practices, incorporating ABAC principles.
- We have policies and processes in place aimed at ensuring that we market alcohol responsibly to users. We have outlined some of our policies and processes in this letter, and we are operating in a way that is responsible and aligned with industry standards.