



ABAC Adjudication Panel Final Determination 86/25

Determination Date	18 August 2025
Brand/Company	Zingle, Mango No 5, Cherry Amore, Chockers/Funsters (Bunsters)
Media	Packaging & Website
ABAC Code provision	Part 3 (b)(i)
Outcome	Upheld

Part 1 - Determination Overview

Complaint:

The complainant believes the packaging of four products and the accompanying website have a strong or evident appeal to minors as:

Packaging

- All product labels resemble popular confectionery products, including Snickers, Cherry Ripe, and Fruit Tingles, and use designs, bright block colours, and imagery that appeal strongly to minors.
- Product names are a parody of the well-known confectionery products.

Website

- Popular confectionery products such as 'Snickers', 'Cherry Ripe' and 'Fruit Tingles' are used as props alongside the Funster cocktail products.
- The rolling carousel style display on the homepage includes emojis featuring mangoes, cherries, chocolate bars and lollipops along with the names of popular confectionery products such as Fruit Tingles, Cherry Ripe, Snickers and mango ice-cream.
- The use of bright colours and 'bubble' style font is used by products such as Hubba Bubba bubble gum and other products sold to minors.

Additionally, there is no age verification gate on the Website's Home page.

Key findings:

The Panel made a provisional determination and, thereafter, a final determination following a rehearing on the packaging of the Zingle product. Taken together, the Panel found as follows.

On the Cherry Amore product, a breach of Part 3 (b)(i) of the Code, noting

- The product packaging contains sufficient cues to establish that it is an alcoholic beverage, and it would not likely be confused with a soft drink.
- The colour scheme and font used on the packaging resemble those used on the Cherry Ripe chocolate bar wrapping, and a reasonable person will recognise this association.
- Given the long history and sustained popularity of Cherry Ripe chocolates, the branding elements on the packaging will likely create an illusion of a smooth transition from a non-alcoholic to an alcoholic beverage.
- A reasonable person would understand that the packaging has a strong or evident appeal to minors.

On the Mango No 5 product, no breach of Part 3 (b)(i) of the Code, noting

- The dominant imagery of the label is a sedate beach scene at sunset, which evokes an adult romanticised atmosphere rather than a playful beach scene engaging minors.
- While the descriptor of ice cream would have appeal to minors, the flavour descriptor of mango is not particularly popular with minors.
- The packaging uses the alcohol term 'liquor', and this, together with other cues, will establish the product as alcoholic, preventing confusion with a soft drink.
- A reasonable person would not consider the packaging to have a strong or evident appeal to minors.

On the Chockers product, no breach of Part 3 (b)(i) of the Code, noting

- The packaging contains imagery of chocolate and peanut confectionery items, which would elevate the appeal to minors and contribute to an illusion of a smooth transition from non-alcoholic products to alcohol consumption.
- That said, the packaging design is mature, doesn't reference any recognisable confectionery brands and includes the alcohol cues such as 'liquor' and a prominent alc/vol information, meaning the product would not be confused with a soft drink.
- The flavour profile, as described on the labelling, has broad appeal and would not be regarded as more attractive to minors than it would be to adults.
- The appeal of the packaging to minors would be incidental rather than strong and evident; and
- On balance, a reasonable person would understand that the packaging has no greater appeal to minors than it would to adults.

On the website content, a breach of Part 3 (b)(i) of the Code, noting

- Displays confectionery products popular with minors (e.g. Snickers, Cherry Ripe, Fruit Tingles) alongside the Company's products, with the confectionery items identifiable as lollies and chocolate bars.
- Uses copy referencing popular chocolate brands and treats (e.g. 'Boozy versions of your favourite treats'; 'Sip Snickers or Swig Cherry Ripe, Adulting just goes a whole lot sweeter'), which may attract minors' attention and imply an easy transition from non-alcoholic to alcoholic products.
- Features a rolling display with images of mangoes, cherries, chocolate bars, lollipops, and references to popular confectionery, appealing to all ages, including minors.
- Employs bright, contrasting colours and 'bubble' style fonts likely to attract minors.
- Overall, these elements combine in a manner that creates a strong or evident appeal to minors.

On the age gating of the website, no breach of Part 4 (b) of the Code, noting.

- The website employed an age restriction control.

After rehearing, on the Zingle product, a breach of Part 3 (b)(i) of the Code, noting

- The product packaging contains sufficient cues to establish that it is an alcoholic beverage, and it would not likely be confused with a soft drink.
- The packaging, by combining the name Zingle with the fruit images, multiple bright colours and the descriptor 'Fruit Tingle Flavoured Liquor', will be recognised by a reasonable person as referencing the Fruit Tingle confectionery.
- The bar cocktail Fruit Tingle is named after the confectionery. While a consumer might understand the product is a pre-packaged version of the cocktail, this does not diminish the underpinning reference to the well-known confectionery.
- The Fruit Tingle confectionery is long-established and widely available through supermarkets and other retail outlets, and will be known to consumers, including minors.
- While data on the consumers of the confectionery is not publicly readily available, it can be reasonably assumed that the lolly is consumed more extensively by minors than adults and the appeal of the lolly's flavour profile to adults is based on nostalgia from childhood use.
- The Zingle label design features a bright geometric pattern and fruit slice images that are likely to be eye-catching to minors.
- The overall impact of the labelling combined with the colour of the product is dynamic and likely to be eye-catching to minors.

- These factors contribute to an illusion of a smooth transition from a well-known non-alcoholic product to an alcoholic beverage.
- While no single factor is decisive in itself, a reasonable person would probably understand that the packaging has a strong or evident appeal to minors.

The complaint is dismissed regarding the packaging of the remaining products and the concern that the website did not employ age restriction controls.

Marketing Communications:

Packaging







Website

LOVE THESE DRINKS OR GET YOUR MONEY BACK - THEY'RE THAT GOOD

Funsters Home Shop All Bundle Builder Who We Are Help

Money Back Guarantee

Boozy versions of Your Fave Treats

Sip Snickers or Swig Cherry Ripe. Adulting just got a whole lot sweeter

Shop Now

Unreal Cocktails at home in an instant.

30-Day Money-Back Guarantee

ANGO ICECREAM SNICKERS CHERRY RIPE FRUIT TINGLES MANGO ICECREAM

BY TO SIP OR MIX RECIPES INCLUDED READY TO SIP OR MIX RECIPES INCLUDED

SALE

Same old drinks? **NOT** on our watch!

Ridiculously Fun Party Pack

~~\$236.00~~ **\$200.00**

Add To Cart

Part 2 - The Panel's View

Background and the Provisional Determination

1. Bunsters (the Company) is a Perth-based producer of hot sauces and alcohol products. Within the Company's alcohol range are products with the brand names of Zingle, Mango No 5, Cherry Amore and Chockers. The complaint is directed at the packaging (branding and labelling) and the website for these products.
2. The complainant argues that the product packaging resembles popular confectionery products, including Snickers, Cherry Ripe, and Fruit Tingles, and uses designs, bright block colours, and imagery that appeal strongly to minors. Furthermore, the website is argued to present products in a manner that appeals to minors and fails to be age-gated to exclude them.
3. The Company refutes the complaint and argues that both the product packaging and its website are consistent with ABAC standards. On 16 July 2025, the Panel made a provisional determination that the product packaging of the Zingle and Cherry Amore products breached the ABAC standard in Part 3 (b)(i) by strongly or evidently appealing to minors. It was also found that elements of the Company website had a strong appeal to minors. The provisional determination dismissed the complaint regarding the packaging of the Mango 5 and Chockers products and accepted that the Company has applied an age restriction control to its website.
4. Under the ABAC Rules and Procedures, an alcohol marketer can seek a rehearing of a breach finding on product brand names and packaging. The Rules do not provide for a rehearing of a breach finding on other marketing communications, such as websites. On 28 July 2025, the Company sought a rehearing of the breach findings regarding the Zingle product packaging and the website.
5. As a result, this determination contains the findings on the packaging of the Mango 5, Chockers and Cherry Amore as per the reasoning in the provisional determination. Further, as mentioned, while the Company sought a rehearing of the breach finding regarding the website, this is not an avenue permitted under the ABAC Scheme Rules; hence, the determination records the decision on the website made on 16 July 2025.
6. The determination also deals with the rehearing of the provisional determination on the packaging of the Zingle product. Accordingly, the determination is structured as follows:
 - General Observations and the Part 3 (b) standard
 - Findings on the product packaging of the Mango No 5, Chockers and Cherry Amore products
 - The website
 - Re-hearing regarding the Zingle Packaging
 - Conclusion

General Observations and the Part 3 (b) Standard

7. Alcohol as a product and the marketing of alcohol fall within a shared regulatory space with baseline direct government regulation overlaid by industry codes of practice. Direct government regulation is sourced at the Commonwealth level, such as the requirements on what information must be placed on the product labelling and at the State/Territory level. The foundation for alcohol regulation is the State and Territory Liquor Acts and liquor licensing regimes. Several observations flow from these foundations and how they interact with the ABAC Scheme:

- The jurisdictional regimes create responsible liquor promotion requirements for licencees. Further, some State laws enable the prohibition of products as 'undesirable' because of their appeal to minors, based both on the physical product itself and how the product is promoted.
- For its part, the ABAC Scheme does not purport to regulate physical alcohol beverages. Therefore, the flavour, colour, viscosity and other physical properties of a product are not within the remit of the Panel.
- ABAC standards are directed solely to the marketing of products, including brand names and product packaging. A product will not breach the Code standard because its taste is contended to strongly appeal to minors if its marketing is not strongly appealing to minors. Equally, marketing that is reasonably regarded as strongly appealing to minors will not be saved by an argument that the product's taste will not be popular with minors.
- A physical property of a product, such as its colour, will not of itself be the basis for a breach of the Code; however, in assessing the packaging of the product in a clear container where the colour of the liquid is visible, this visual element forms part of the overall assessment of the packaging.
- While the flavour of the product itself is not within the scope of the ABAC, descriptions of the flavour contained in marketing material, including on product labelling, are a consideration in how the marketing would be understood.

8. The issue raised by the complaint is the consistency of the design of the packaging of four products and the website with the ABAC standard in Part 3 (b)(i) of the Code. This standard provides that an alcohol marketing communication must have a strong or evident appeal to minors. The 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.
9. 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 are 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 featured in youth culture.
10. 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 an individual element, shapes how a reasonable person will understand the item.
11. Product packaging can give rise to a strong appeal to minors if it creates confusion with confectionery or a soft drink. Confusion with confectionery might occur if:
- The packaging fails to identify the product as an alcohol product by not using terms like beer, ale, vodka, or a style of wine.
 - The packaging features a visual design reminiscent of soft drinks or confectionery, characterised by fruit images, bright colours, and a font style commonly used in these products.
 - 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 by soft drinks, fruit juices or other products used extensively by minors, e.g. prisma-style juice boxes.
12. In assessing whether a Code standard has been breached, the Panel is to consider the probable understanding of the packaging by a reasonable person taking the contents of the packaging as a whole. The reference to a 'reasonable person' is drawn from the common law system and means that the opinions, values, and life experiences common in most of the community are to be the benchmark.

Findings on the product packaging of the Mango No 5, Chokers and Cherry Amore products

13. The complainant contends that the packaging of each of the four products has a strong appeal to minors, arguing that the labels resemble popular confectionery products, including Snickers, Cherry Ripe, and Fruit Tingles, and use designs, bright block colours, and imagery that appeal strongly to minors. Further, it is submitted that the product names are a parody of the well-known confectionery products.
14. The Company contends the complaint is misconceived and that its product packaging is consistent with the ABAC standard. It is submitted:
- Its advertising is targeted at people aged over 35.
 - ABAC doesn't cover product flavours, and it is reasonable and required that the flavour of a drink be identified on product labelling.
 - The colour of the products is as distilled, and it is reasonable that the colour should be visible in a standard glass bottle.
 - Cherry Amore label imagery is artistic and sophisticated, and deliberately looks like it's a Cherry Brandy, not something that would appeal to minors, and Cherry Ripe is not referenced.
 - Chockers' label looks nothing like a Snickers packet, nor is the name similar, and chocolate bars and caramel are appealing to everyone, not just minors.
 - The tropical sunset on Mango No. 5 is not specifically appealing to minors.
 - Confectionery is appealing to people of all ages, and great care has been taken with the packaging to ensure that it does not have any visual link to confectionery that would entice/confuse minors.
 - The packaging would not imply a smooth transition from non-alcoholic to alcoholic beverages.
15. It is noted that the Company's website, as at the time of this determination, is showing product packaging that has been altered from the time of the complaint. Most notably, the Cherry Amore packaging is substantially different, with a changed design, colour scheme and font type. Further, the Mango No. 5 product at the time of the complaint

references the descriptor 'ice cream', whereas now it uses the term 'Gelato'. There are minor changes to the other products.

16. The Panel reviews marketing communications as the complainant saw them, and accordingly, the packaging being considered in this determination is as shown above. Hence, the determination does not go to the revised product labelling as it is now displayed on the Company's website.

17. The Panel believes the product packaging for the Mango No. 5 product does not breach the Part 3 (b)(i) standard. In reaching this conclusion, the Panel noted:

- The dominant imagery of the label is a sedate beach scene at sunset, which evokes an adult romanticised atmosphere rather than a playful beach scene engaging minors.
- While the descriptor of ice cream would have appeal to minors, the flavour descriptor of mango is not particularly popular with minors.
- The packaging uses the alcohol term 'liquor', and this, together with other cues, will establish the product as alcoholic, preventing confusion with a soft drink.
- A reasonable person would not consider the packaging to have a strong or evident appeal to minors.

18. On balance, the Panel believes the product packaging for the Chockers product does not breach the Part 3 (b)(i) standard. In reaching this conclusion, the Panel noted:

- The packaging contains imagery of chocolate and peanut confectionery items, which would elevate the appeal to minors and contribute to an illusion of a smooth transition from non-alcoholic products to alcohol consumption.
- That said, the packaging design is mature, doesn't reference any recognisable confectionery brands and includes the alcohol cues such as 'liquor' and a prominent alc/vol information, meaning the product would not be confused with a soft drink.
- The flavour profile, as described on the labelling, has broad appeal and would not be regarded as more attractive to minors than it would be to adults.
- The appeal of the packaging to minors would be incidental rather than strong and evident; and
- On balance, a reasonable person would understand that the packaging has no greater appeal to minors than it would to adults.

19. The assessment of the Cherry Amore packaging is also an on-balance decision, with the labelling having elements that likely resonate with minors. The Company recognises there is potential for comparisons with the 'Cherry Ripe' confectionery but argues it has been careful to mitigate this risk, contending:

- The label identifies the product's flavour, which is reasonable.

- The label is artistic and sophisticated and would not appeal to minors.
20. There is limited public data on the consumers of Cherry Ripe chocolates, but what is available indicates;
- Cherry Ripe is one of the best-selling confectionery items in Australia.
 - The confectionery has been on the Australian market since 1924 and is present in most supermarkets, convenience stores and petrol stations.
 - Cherry Ripes are consumed across age groups, with likely a more substantial take-up among adults aged 35 and over than younger cohorts.
21. The Panel believes the Cherry Amore packaging does breach the Part 3 (b)(i) standard. In reaching this conclusion, the Panel had regard to:
- The product packaging contains sufficient cues to establish that it is an alcoholic beverage, and it would not likely be confused with a soft drink.
 - The colour scheme and font used on the packaging resemble those used on the Cherry Ripe chocolate bar wrapping, and a reasonable person will recognise this association.
 - Given the long history and sustained popularity of Cherry Ripe chocolates, the branding elements on the packaging will likely create an illusion of a smooth transition from a non-alcoholic to an alcoholic beverage.
 - A reasonable person would understand that the packaging has a strong or evident appeal to minors.

The Website

22. The complainant contends that some pages of the Company's website have a strong appeal to minors. It is argued that the website references popular confectionery products such as 'Snickers', 'Cherry Ripe' and 'Fruit Tingles' alongside the Funster cocktail products. Additionally:
- The rolling carousel style display on the homepage includes emojis featuring mangoes, cherries, chocolate bars and lollipops along with the names of popular confectionery products such as Fruit Tingles, Cherry Ripe, Snickers and mango ice-cream.
 - The use of bright colours and 'bubble' style font is used by products such as Hubba Bubba bubble gum and other products sold to minors.
 - There is no age verification gate on the website's home page.
23. The Company submitted that the content of its websites is not within the scope of the ABAC standards, but in any event, its website does not offend ABAC standards. It argues that confectionery is appealing to people of all ages, and no packaging is

shown on the website that would imply a smooth transition from non-alcoholic to alcoholic beverages. Further, the website uses adult-targeted language, the emojis used are not branded, and there is no reference to Hubba Bubba or bubble gum. It explains that the site employs an age gate.

24. The Company is mistaken that the ABAC Code has no application to website copy. The ABAC Scheme applies to all alcohol marketing communications, and since 2004, has expressly applied to internet marketing and websites.

25. The Panel believes that some material on the website is in breach of the Part 3(b)(i) standard, specifically:

- Confectionery products, which are popular with minors, such as 'Snickers', 'Cherry Ripe' and 'Fruit Tingles', are displayed alongside cocktail products, and while the company states that the branding isn't used, the confectionery items are identifiable as lollies and chocolate bars;
- The following copy, which references popular chocolate bar brands, Cherry Ripe and Snickers, and the reference to 'treats' would attract the attention of minors and create an illusion of a smooth transition from a non-alcoholic to an alcoholic product:
 - 'Boozy versions of your favourite treats'; and
 - Sip Snickers or Swig Cherry Ripe. Adulting just goes a whole lot sweeter.
- A rolling display on the homepage includes images of mangoes, cherries, chocolate bars and lollipops along with the names of popular confectionery products such as Fruit Tingles, Cherry Ripe, Snickers and mango ice-cream, which are popular with all ages, including minors;
- The use of bright and contrasting colours and 'bubble' style font is likely to attract the attention of minors; and
- Overall, these elements in combination indicate that the website page would have a strong or evident appeal to minors.

26. The complainant submitted that the website was not age-restricted. Part 4 (b) of the Code provides that available age restriction controls must be applied to exclude minors from viewing an alcohol marketing communication. Available age restriction controls are defined to mean age restriction, targeting or affirmation technologies available to restrict a marketing communication to adults.

27. The Company has advised that they have age restricted their website; however, the age gate only appears for an individual IP address the first time the website is accessed in 30 days. The Company confirms that the age gate has been tested and is operating. It surmises that the complainant may have accessed the website multiple times without realising the initial age verification question during their first visit.

28. The Code does not specify which age restriction technology should be used, given the different platforms over which marketing is hosted and transmitted. It is accepted that the Company has in place an age gate, and hence, the standard has been met. However, the effectiveness of the technique is questionable, particularly if it is a device shared within a family by adults and children.

Rehearing regarding the Zingle Packaging

29. In its provisional determination, the Panel found that the packaging for the Zingle product breached the Part 3 (b)(i) standard. The Panel concluded:

- The product packaging contains sufficient cues to establish that it is an alcoholic beverage, and it would not likely be confused with a soft drink.
- The Zingle brand name with the descriptor 'fruit tingle flavour liquor' will elevate the association of the packaging with the fruit tingle confectionery, which is a well-known and popular treat with minors.
- The overall impact of the labelling combined with the colour of the product is dynamic and likely to be eye-catching to minors.
- These factors contribute to an illusion of a smooth transition from a well-known non-alcoholic product to an alcoholic beverage.
- While no single factor is decisive in itself, a reasonable person would probably understand that the packaging has a strong or evident appeal to minors.

30. The Company requested a rehearing of this finding. A rehearing involves the Panel looking afresh at the issue, taking into account the complaint, the Company's initial response to the complaint and any additional submissions on the provisional finding. The complainant argued the Zingle packaging strongly appealed to minors through a combination of:

- Its resemblance to the well-known Fruit Tingle confectionery and the name Zingle being a parody of the Fruit Tingle name, and
- The labelling's design and its use of bright colours and imagery would appeal strongly to minors.

31. The Company's initial response to the complaint contended that the Zingle packaging would not strongly appeal to minors. It submitted:

- We need to describe the drink's flavour so people know what it tastes like. It tastes like a Fruit Tingle cocktail, a beverage that has been popular since the 1960s.
- We deliberately did not use the colours used on Fruit Tingle lollies to differentiate our product from confectionery. We deliberately used similar colours to another Fruit Tingle cocktail for sale in mainstream liquor stores that have not had any ABAC complaints.

- Zingle is not a word associated with any confectionery, and it is trademarkable in our category because no other companies have used this name for their products. It is our IP. It is noted that Brandy rhymes with candy.
- Further, it is usual to package alcoholic beverages in glass bottles, and this will show the colour of the beverage. The Zingle product is purple in colour.

32. The Company advanced extensive and thoughtful additional submissions in response to the provisional determination. These submissions are set out in full in the Background section of this determination. In summary, it was argued that Zingle's packaging is consistent with adult-targeted alcohol marketing, aligns with industry norms, and does not present a strong or evident appeal to minors. Its principal points were:

- The product is inspired by the classic "Fruit Tingle" cocktail (a known alcoholic drink since the 1960s).
- It is sold exclusively online via an age-gated store requiring age affirmation, credit card verification, and residential delivery and hence is not readily available to minors.
- The labelling contains clear and prominently displayed alcohol indicators: 'vodka' and '20% ALC/VOL'.
- The labelling imagery does not have youth-appealing features such as fruit or candy references, nor does it have children's product associations.
- The design uses abstract patterns and stylised fonts, and these do not resemble those typically linked to children's products or games.
- The 'Zingle' brand name is an invented trademark and avoids direct confectionery branding.
- The ABAC does not explicitly regulate fonts, and the stylised/rounded fonts used do not create a strong appeal to minors.
- There are comparable industry examples (e.g., Gage Roads' *Pinky's Sunset*, *Hazy As*, *Cheeky Pash*, *She's Golden*) which use similar playful fonts yet are sold widely without ABAC complaints.
- Other alcohol products feature literal cartoon imagery, which is more youth-appealing than Zingle's design.
- The product's colour palette is inspired by Vok Fruit Tingle RTD, a product that has not attracted complaints.

33. The Company's contextual arguments regarding the range of other products on the market are acknowledged. The Australian alcohol market is extensive, with thousands of individual alcohol beverages available for purchase and many tens of thousands of alcohol marketing communications being disseminated each year via media channels

extending from traditional broadcast media, eg TV and radio, to numerous digital and social media platforms. Given the sheer scale of alcohol marketing, at a given point in time, it is almost inevitable that a proportion of the marketing will not meet the standards set out in both government regulation and industry codes of practice.

34. It cannot be a defence to a complaint about an item of alcohol marketing to submit that there are other examples of marketing which do not meet appropriate standards or are on par with the material being complained about. This would be like arguing against a speeding ticket by contending there are other speeding cars on the road.
35. Equally, the test for assessing the consistency of an item of marketing against the ABAC standards is the probable understanding of the marketing by a reasonable person, i.e. a community standards benchmark. It is not an 'industry common practice' test. It is, of course, the goal that industry practice will align with community standards and expectations for responsible alcohol marketing. However, a marketing communication that does not meet the community standards test will not be saved by contending that it aligns with other examples of marketing.
36. It is also acknowledged that the Company employs appropriate measures to restrict online sales and deliveries of its products to adults and that the product is not sold in alcohol retail outlets. It is unlawful to sell or deliver alcohol to persons under the legal drinking age of 18. Compliance with this requirement is a baseline stipulation in maintaining a liquor license from a State/Territory liquor licensing authority. Operating lawfully by not supplying alcohol to minors and having a product sales system that limits the potential exposure of the products to minors is not an answer to the question about the appeal of product packaging to minors.
37. The issue the Panel is to assess is whether a reasonable person would probably understand that the product packaging has a strong or evident appeal to minors. It is accepted that the packaging does not explicitly target minors, but does it have an appeal to minors beyond its appeal to adults and/or does it use branding and design elements likely to appeal strongly to minors?
38. The central contention of the complaint is that the appeal to minors stems from the association drawn between the product packaging and the confectionery Fruit Tingles. A brief internet search suggests that Fruit Tingles have been a popular confectionery since their introduction on the Australian market in the 1930s. Public information about Fruit Tingles includes:
 - The lollies are widely available from supermarkets, convenience stores and petrol stations.
 - There is no readily available demographic sales data on Fruit Tingles to verify the typical age of consumers. Still, anecdotally, the sweets are popular amongst children, with the appeal to older consumers based on nostalgia from childhood consumption.
 - More recently, a chocolate-coated Fruit Tingle variant has been released by the lolly's current manufacturer, Darrell Lee, and this is available in major supermarkets.

39. The Panel has recognised in decisions such as Determination 119 and others/23 (Hard Solo) that alcohol packaging that adopts the branding of well-known and iconic soft drinks or confectionery items consumed by minors will be influential in the probable understanding of the appeal to minors. The long history of Fruit Tingles and the extensive distribution of the lollies mean the confectionery and its core branding elements of bright rainbow colours will be familiar to most consumers, including minors.
40. Alcohol products alluding to the fruit tingle name have been considered in earlier Panel decisions. In Determination 118/22, the Panel considered a vodka RTD product branded as 'Fruit Tangle'. The packaging was found in breach of Part 3 (b)(i) with the Panel noting:
- The name 'Fruit Tangle' strongly resembles and is easily confused with 'Fruit Tingle', the name of a confectionery item commonly consumed by children.
 - The wavy blocks of bright colours used on the can are themselves eye-catching and appealing to children. They are also similar (not identical) to those used on the confectionery packaging.
 - The alternating use of bright colours for different letters making up the words 'Fruit Tangle', which would be eye-catching and appealing to children, and
 - Taken as a whole, a reasonable person would conclude that the packaging has a strong or evident appeal to minors.
41. The Company's submission is that the name Zingle has no reference to confectionery and that the packaging design does not contain fruit imagery or references to children's products. Further, the abstract patterns and stylised fonts used on the packaging are not typically associated with children's products.
42. While accepting this is a decision upon which reasonable minds might differ, the Panel believes on the balance of probabilities that a reasonable person would understand the product packaging does have a strong or evident appeal to minors. In reaching this conclusion, the Panel noted:
- The product packaging contains sufficient cues to establish that it is an alcoholic beverage, and it would not likely be confused with a soft drink.
 - The packaging, by combining the name Zingle with the fruit images, multiple bright colours and the descriptor 'Fruit Tingle Flavoured Liquor', will be recognised by a reasonable person as referencing the Fruit Tingle confectionery.
 - The bar cocktail Fruit Tingle is named after the confectionery. While a consumer might understand the product is a pre-packaged version of the cocktail, this does not diminish the underpinning reference to the well-known confectionery.
 - The Fruit Tingle confectionery is long-established and widely available through supermarkets and other retail outlets, and will be known to consumers, including minors.

- While data on the consumers of the confectionery is not publicly readily available, it can be reasonably assumed that the lolly is consumed more extensively by minors than adults and the appeal of the lolly's flavour profile to adults is based on nostalgia from childhood use.
 - The Zingle label design features a bright geometric pattern and fruit slice images that are likely to be eye-catching to minors.
 - The overall impact of the labelling combined with the colour of the product is dynamic and likely to be eye-catching to minors.
 - These factors contribute to an illusion of a smooth transition from a well-known non-alcoholic product to an alcoholic beverage.
 - While no single factor is decisive in itself, a reasonable person would probably understand that the packaging has a strong or evident appeal to minors.
43. It is important to note that the Panel is not suggesting that the product is unable to be marketed as the ABAC Scheme does not regulate physical beverages. Nor is the Panel finding that any one element of the packaging, such as the name Zingle, is of itself unable to be used in alcohol marketing, including on product packaging. The Panel's finding goes to the impact of the combined elements of the packaging at the time of the complaint.
44. The Company has already flagged that it will be modifying the packaging to update the descriptor from "*Fruit Tingle Flavoured Vodka*" to "*Fruit Tingle Cocktail Flavoured Vodka*". The Company should seek pre-vetting advice on its revised packaging to take into account the findings in this determination.

Conclusion

45. Between its provisional and final determinations, the Panel makes the following findings on the consistency of the marketing communications and Part 3 (b)(i) of the ABAC:
- The complaint is upheld regarding the product packaging of the Cherry Amore and Zingle products.
 - The complaint is upheld regarding elements of the Company website.
 - The complaint is dismissed regarding the product packaging of the Mango No. 5 and Chockers products.

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 Louisa Jorm, and Panellist Cristiano Lima.

Applicable ABAC Responsible Alcohol Marketing Code Standard

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

In response to the complaint, the Company was provided with an opportunity to respond to the complaint, and in summary, initially advised:

- The complainant has not seen an advertisement for Funsters drinks. They specifically visited our website, examined our products, and attempted to link ABAC faults to them without understanding the scope of the ABAC scheme. The complaint is vexatious, time-wasting, and not appropriately crafted.
- Although the flavours of these products might 'read' as being appealing to a minor, this is not what the ABAC scheme covers. Notwithstanding this, we have taken great care in our packaging, website, and advertisements to ensure they don't have any visual link to confectionery that the products taste like, which could entice or confuse minors.

Zingle:

- We need to describe the drink's flavour so people know what it tastes like. It tastes like a Fruit Tingle cocktail, a beverage that has been popular since the 1960s.
- We deliberately did not use the colours used on Fruit Tingle lollies to differentiate our product from confectionery. We deliberately used similar colours to another Fruit Tingle cocktail for sale in mainstream liquor stores that have not had any ABAC complaints.

- Zingle is not a word associated with any confectionery, and it is trademarkable in our category because no other companies have used this name for their products. It is our IP. It is noted that Brandy rhymes with candy.
- The liquid is purple and the glass is clear.

Cherry Amore:

- We need to describe the drink's flavour so people know what it tastes like.
- The image is artistic and sophisticated, resembling a Cherry Brandy, and would not appeal to minors. This was deliberate.
- If there were an issue with this, Cadbury would be the ones concerned, not ABAC, and Cherry Ripe has not been mentioned.

Chockers:

- We need to describe the drink's flavour so people know what it tastes like.
- As covered in a previous ABAC complaint, chocolate bars and caramel are appealing to everyone, not just minors.
- This label looks nothing like a Snickers packet, nor is the name similar.

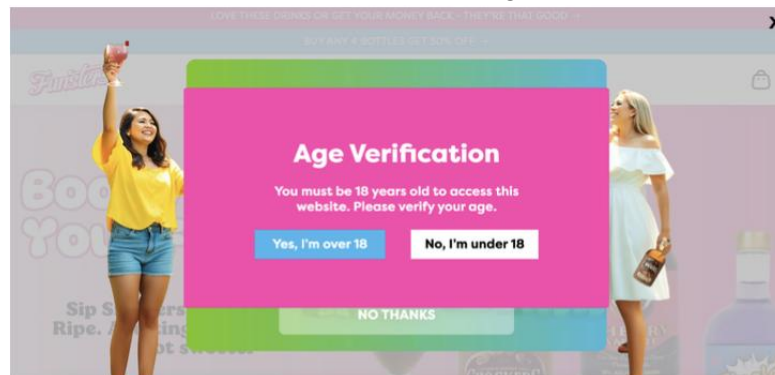
Mango No 5:

- This is the flavour descriptor, lest people not know what it tastes like.
- What is appealing to minors about a tropical sunset? The complainant has not made themselves clear on this point.
- The liquid is orange and the glass is clear.

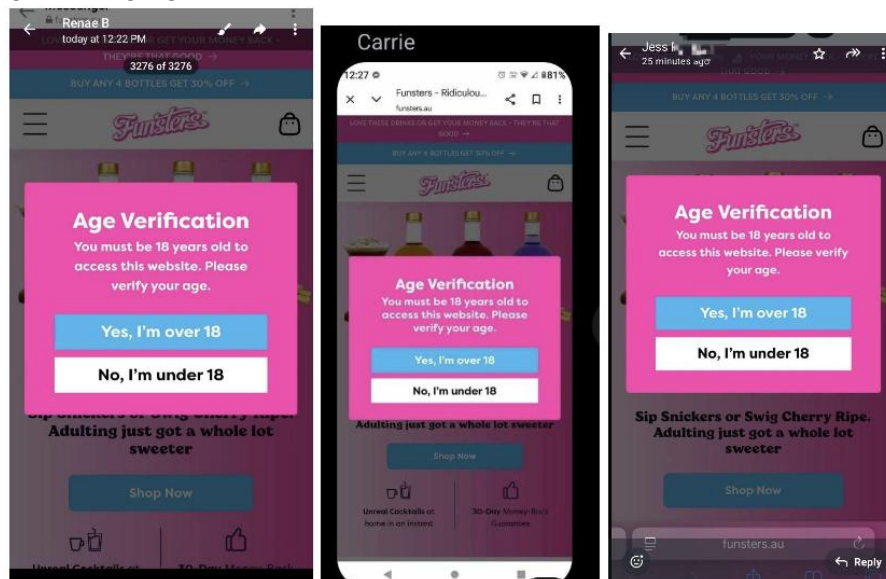
Website:

- The confectionery items on the 'Funsters' website are appealing to people of all ages, not just minors. No confectionery packaging has been shown, which would imply a smooth transition from non-alcoholic to alcoholic.
- ABAC does not vet website copy. They cover advertising and packaging. However, I will address this complaint anyway:
 - Our products are appealing to people of all ages.
 - No confectionery packaging is shown on our website.
 - The copy used is adult-targeted language. Minors do not use words like Boozy, Swig, or "Adulting."
 - The Emojis on our website are not branded. Emojis do not have branding.
 - There is no reference to Hubba Bubba or even bubble gum.

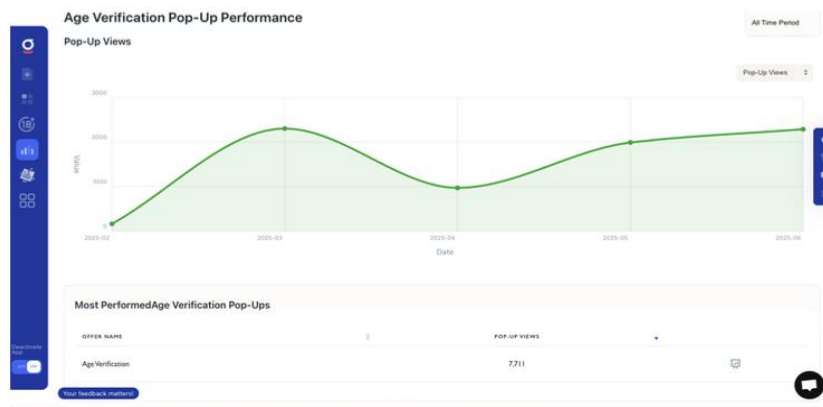
- We do have an age gate on our website, as we always follow best practice guidelines. We target all of our advertising at people over the age of 30, as people in the younger demographic usually cannot afford our products and become profitable customers.
- The age gate only has to be clicked 'Yes, I am over 18' once per IP address every 30 days. I assume the complainant has visited our site multiple times, so they're not seeing the age gate repeatedly. They've likely forgotten they've already clicked it. This is how it looks on desktops when viewed incognito within that 30-day window:



- I just accessed www.funsters.au from my mobile, and two friends also just tested it and got the age gate as well. See dates and time stamps:



- We take our compliance obligations under the ABAC Scheme very seriously. We are committed to ensuring that our digital platforms, including our app "Age Verification by Good Apps", prevent underage access to alcohol-related websites.
- In response to this complaint, we have reviewed the performance data provided by our app developer and can confirm that the AgeGate tool is indeed firing as intended. Attached is a chart showing the monthly trigger instances of the AgeGate mechanism, which demonstrates ongoing and consistent activity.



- However, if any ABAC Panel members are unable to see the Age Gate in practice, we consider this a serious issue. If there is a glitch, we would like to know from fresh IP addresses like yours.
- While our data confirms functionality, any failure in visibility, especially from the perspective of compliance, is of significant concern to us. If necessary, we are prepared to engage a new app provider to guarantee absolute assurance that our AgeGate mechanism is both functional and visible to all users.
- Please let us know if further information or clarification is required. We are more than willing to cooperate and take all necessary steps to ensure ongoing compliance with ABAC standards to set a good example for online alcohol retailing.

On 16 July 2025, the Company was provided with the Adjudication Panel’s Provisional Determination that the packaging of Zingles and Cherry Amore is in breach of Part 3 (b)(i) of the ABAC. Following the ABAC Rules & Procedures, the Company was advised that it was able to seek a rehearing of the provisional determination as it relates to packaging by providing a formal written response and further submission within ten (10) business days of receipt of the provisional determination.

The following written response was received from the Company:

- Thank you for your continued attention to responsible alcohol marketing. We respectfully request that the Panel consider this submission as a request for rehearing of Provisional Determination 86/25 regarding the packaging and website promotion of Zingle. We submit that Zingle does not breach Part 3(b)(i) of the ABAC Responsible Alcohol Marketing Code, and that both the packaging and website are consistent with the Code’s standards and intent.

Product Context and Packaging

- Zingle is inspired by the classic Fruit Tingle cocktail, a long-standing alcoholic mixed drink dating back to the 1960s. It is marketed exclusively through our age-gated online store (www.funsters.au), which is designed for a mature adult demographic and does not operate in physical retail environments. Purchases require age

affirmation, a valid credit card, and delivery to a residential address. Key points in support of compliance:

- The descriptor will be updated from “Fruit Tingle Flavoured Vodka” to “Fruit Tingle Cocktail Flavoured Vodka” to signal its adult cocktail flavour base more clearly.
 - The packaging includes strong alcohol cues: “vodka” and “20% ALC/VOL”.
 - The colour scheme draws inspiration from the Vok Fruit Tingle RTD, a widely retailed product through Endeavour Group stores, which has not attracted ABAC complaints.
 - The product name, Zingle, is an invented and trademarkable term that avoids direct reference to confectionery branding. The packaging contains no fruit imagery, candy references, or visual elements linked to children’s products.
 - The design uses abstract patterns and modern, stylised fonts that do not resemble typefaces typically associated with children’s products, games, or digital media.
- We note that font choice has been a contributing concern in the provisional determination. While ABAC does not specifically reference fonts in the Code, we submit that the use of a stylised or rounded font—absent other youth-oriented elements—does not by itself create a strong or evident appeal to minors.
 - Importantly, bubble-style fonts are common across many alcohol products currently available in major retail outlets. For example, the Gage Roads range, including Pinky’s Sunset, Hazy As, Cheeky Pash, and She’s Golden, all feature creative, rounded, and stylised fonts. These products are sold in physical bottle shops nationwide and have not been subject to upheld ABAC complaints. We respectfully submit that Zingle’s use of font is consistent with industry practice and no more likely to appeal to minors than these widely accepted, adult-targeted products.
 - Furthermore, many alcohol products currently visible on major retailer websites (e.g. BWS) feature literal cartoon imagery, which in our view is far more likely to appeal to minors than the font or design choices on Zingle. Examples include:
 - **Sudo Lager** – features a cartoon street scene that looks like an ice cream shop.



- **Bluey Lager** – includes a cartoon dog and shares its name with Australia’s most popular children’s program. What child would not be attracted to Bluey?



- **Desperados Beer** – uses bright, rainbow-like colours and a highly eye-catching design. Bright colours are only used to catch the eye and stand out in the market. It’s got nothing to do with the beer or flavour profile.



- **Golden Axe Apple Cider** – features a cartoon-style apple that resembles a children’s book illustration.



- **Big Things Shandy & Ginger Beer/Pineapple** – use cartoon images of fruit to sell the product. Looks like a cartoon my children currently watch on TV.



- **Colossal Brewing Phantom Moon** – includes a comic-book-style cartoon character prominently on the label. This looks like it was taken straight from a comic book.



- In contrast, Zingle uses no cartoon imagery, no fruit characters, and no branding elements that mimic children's products. It is positioned as an adult product and is sold exclusively behind an age gate. It is difficult to reconcile the level of scrutiny applied to an online-only, age-restricted product like Zingle with the comparatively lenient treatment of beer and cider packaging that features overt cartoon elements and is sold in physical retail environments with greater incidental exposure to minors. These products compete directly on retail shelves, and it is reasonable to assume that this competitive environment encourages brands to push the boundaries of what is acceptable under the ABAC Scheme. Funsters is not competing against other brands side by side, so it does not need to break the ABAC scheme to "get noticed."
- We respectfully submit that Zingle's design is restrained by comparison and does not demonstrate a strong or evident appeal to minors when considered in the broader context of current alcohol packaging across the Australian market.

Marketing Best Practice

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

- Confirm their support and commitment to upholding the ABAC Responsible Alcohol Marketing Code (ABAC), as well as best-practice marketing standards;
- Only sell products online via advertising targeted at people over the age of 35, our core consumer is a mature adult Spirits consumer who enjoys adult treating, our products are not sold in retail outlets, and while a minor might be able to see one of our organic posts online, they would then have to undertake multiple actions, including fraud, that may prove challenging, before eventually receiving the products in the post weeks later;
- Pre-vetting advice was not sought, as getting ABAC pre-vetting clearance does not guarantee that product packaging (and an advertisement) won't attract a complaint.

It is noted that:

- The Company is not a signatory to the ABAC Scheme.
- A Company staff member has completed the ABAC online training course.