



ABAC Adjudication Panel Determination 99/25

Determination Date	6 August 2025
Brand/Company	Woodford Reserve/Brown-Forman Australia Pty Ltd
Media	TV-Digital
ABAC Code provision	Part 4
Outcome	Dismissed

Part 1 - Determination Overview

Complaint:

The complainant is concerned that they and their children saw a TV ad for Woodford Reserve while watching a cheerleading documentary 'Cheer' on Netflix at 7 pm on a Wednesday, a time when they did not expect to see alcohol advertising.

Key findings:

The Panel dismissed the complaint, finding that the ABAC Placement Standards were not breached:

- Time-of-day restrictions on alcohol advertising do not apply to streaming services.
- Available age restrictions were applied, and the ad was served to Netflix accounts held by adults.
- The expected audience for 'Cheer' probably meets the 80% adult benchmark.
- The program is directed towards adults and is not primarily directed to minors.

Marketing Communication:

The complaint concerns alcohol advertising being seen while watching the Netflix documentary 'Cheer' at 7 pm on a Wednesday.

Part 2 - The Panel's View

2. Cheer is an American sports documentary series available in Australia on the Netflix streaming service. The series follows the members of the Navarro College Cheerleading Team located in Texas. The complaint arises from the placement of an advertisement for the bourbon Woodford Reserve with the documentary, which was

seen at 7 pm on a weeknight. The complainant was surprised to see an alcohol ad at this time when children were watching the program.

3. The ABAC contains standards for the content of alcohol marketing and its placement. As the concern is not about the content of the ad but where and when it was viewed, the complaint raises the ABAC Placement Standards. These standards have the policy aim that alcohol marketing should be directed towards adults and, to the extent reasonably possible, away from minors.
4. The Placement Standards establish a series of requirements related to the technical capabilities of various technologies and media for targeted marketing. For a streaming service accessed over an internet-connected TV, potentially four standards are applicable:
 - All applicable media codes applying to alcohol advertising must be complied with, i.e. the Commercial Television Industry Code of Practice (CTICP) - Placement Standard 1;
 - Available age restriction controls must be applied to exclude minors from viewing an alcohol marketing communication – Placement Standard 2;
 - The advertisement may only be placed with programs where the audience is reasonably expected to comprise at least 80% adults - Placement Standard 3; and
 - The advertisement must not be placed with programs or content primarily aimed at minors - Placement Standard 4.
5. Brown-Forman (the Company) argues that placement of the ad is consistent with ABAC standards, contending:
 - A paid subscription can only be purchased by those 18 years and above. Furthermore, as explicitly stated on Netflix's Terms of Use, 'Minors may only use the service under the supervision of an adult.'
 - The ad was placed on a subscription service where it was reasonably expected all subscribers and the vast majority of viewers to be Legal Drinking Age (LDA) and above due to (a) Netflix's internal policy requirements, (b) the content and nature of the programme itself which concerns university aged students participating in a national cheerleading competition in the United States, and (c) the data showing a target audience of 94.9% LDA.
 - According to Netflix Ad Policies, alcohol ads are restricted to age-appropriate audiences and content. Netflix has a team of editorial experts that review its content to make sure alcohol ads are not placed against kids or family titles – being titles intended to appeal specifically to kids or a broad age range (i.e. are enjoyed equally by adults or children or watched together as a family

experience). This team of experts reviewed the Series and was not flagged as either a kids or family title.

- The Series is intended for mature audiences as indicated by the Series' latest rating of MA15+ by the Australian Classification Board. Taking into consideration the 'strong references to sexual violence' advisory, it's clear that the Series deals with mature themes and is therefore not appropriate for children or a family audience.
6. It is possible the complainant was aware of the time of day restrictions for free-to-air broadcast television and assumed these equally applied to streaming services. The free-to-air limits are contained in the Commercial Television Industry Code of Practice (CTICP). This is a longstanding code that regulates advertising. As a general proposition, alcohol advertising is restricted on 'traditional' TV to specific times of day and, in the evenings, to slots after 8:30 pm.
 7. The CTICP does not apply to Netflix and other streaming services. There are no time-of-day restrictions on alcohol ads for these services. Hence, Placement Standard 1 does not apply in this instance.
 8. Placement Standard 2 requires that alcohol marketers apply available age restriction controls to exclude minors from being served with alcohol ads.
 9. The age restriction controls are adequate when minors typically have an individual internet-capable device, like a smartphone or tablet. This is because the minor will have an account in their name, and the ads can be excluded from the minor's account. The standard is less effective in the case of a family internet-connected TV, with streaming services such as Netflix, because the account will generally be in the name of a parent or other adult, and the family co-view shows rather than the one-on-one viewing that occurs with a phone or tablet.
 10. To view Netflix, a customer must have an account. The Company advised that the available restrictions were applied, and there is no information before the Panel suggesting that a minor with an account in the complainant's household has been served with the ad.
 11. This means Placement Standard 3 does most of the work when a subscription service can be co-viewed within a family. The standard establishes the 80% adult audience benchmark for the placement of alcohol marketing. The Company advised that it reasonably expected that the audience of Cheer was over 80% legal drinking age due to:
 - The latest Roy Morgan Asteroid data from April 2024 to March 2025 shows that the viewing population of Netflix as a whole is almost 95% adults.
 - Netflix has a team of editorial experts that reviews its content to make sure alcohol ads are not placed against kids or family titles.

- 'Cheer' is intended for mature audiences as indicated by the Series' latest rating of MA15+ by the Australian Classification Board. A MA15+ classification suggests that the Series deals with mature themes and is therefore not appropriate for children or a family audience.
12. Unfortunately, the Company advised that Netflix does not supply precise audience data broken down by age groups for 'Cheer'. In these circumstances, the Panel has to make its assessment of the expected audience. It seems more probable than not that the audience for the documentary will meet the 80% adult benchmark, given the other indicators about the program.
 13. Placement Standard 4 states that alcohol ads cannot be placed with content aimed primarily at minors, irrespective of the audience. Netflix describes 'Cheer' as a *gripping documentary series following the ups and downs of Navarro College's competitive cheer squad as they work to win a coveted national title*. The Company advises that the content and nature of the programme concerns university-aged students participating in a national cheerleading competition in the United States.
 14. Cheerleading and shows about cheerleading are gaining in popularity in Australia. Further, it is likely the sport is of interest across age groups, including young adults and teens. That said, the documentary is about university student-athletes and their personal lives. The second series of Cheer deals with the issue of sexual abuse. The Panel does not believe the program could be reasonably concluded as being primarily directed at minors, and it is focused more squarely on adults.
 15. Accordingly, based on the available information, the Panel concludes that 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 Richard Mattick AM, and Panellist Cristiano Lima.

Applicable ABAC Responsible Marketing Code Standard

Code Part 4:

- (a) An Alcohol Marketing Communication must comply with code provisions regulating the placement of Alcohol marketing and an Alcohol Alternative Marketing Communication must comply with code provisions regulating the placement of Alcohol Alternative marketing that have been published by Australian media industry bodies (for example, Commercial Television Industry Code of Practice and Outdoor Media Association Placement Policy).*
- (b) Available Age Restriction Controls must be applied to exclude Minors from viewing an Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication.*
- (c) If a digital, television, radio, cinema or broadcast print media platform does not have age restriction controls available that are capable of excluding Minors from the audience, an Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication may only be placed where the audience is reasonably expected to comprise at least 80% Adults (based on reliable, up-to-date Australian audience composition or social media follower data, if such data is available).*
- (d) An Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication must not be placed with programs or content primarily aimed at Minors.*

Company Response

- Netflix, which displayed the Ad, is a personalised subscription service that provides entertainment content. Our placement of the Ad on Netflix aligns with general alcohol and digital advertising requirements as referenced in the Code, the Alcohol Marketing Content Checklist and the Best Practice for Responsible Digital Marketing.
- The placement of the Ad did not breach Part 4 (b) of the Code because it complied with the Code provisions regulating the general placement of Alcohol Marketing. We chose to place the Ad on Netflix because this platform serves ads to its paid subscribers. A paid subscription can only be purchased by those 18 years and above ("LDA"). Furthermore, as explicitly stated on Netflix's Terms of Use, "Minors may only use the service under the supervision of an adult." Accordingly, Minors cannot hold subscriptions and thus are not targeted.
- Given that the Ad was streamed on a platform where all registered, paying users are 18 years old and above, it is reasonable to conclude that the vast majority of

viewers were also 18 years old and above. However, it is within the absolute discretion of paying subscribers to grant access to their accounts to minors. Nevertheless, we are comfortable that the vast majority of viewers are not minors because the latest Roy Morgan Asteroid data from April 2024 to March 2025 (Appendix 1) shows that the viewing population is almost 95% adults. We can therefore reasonably expect that the audience was over 80% LDA. Accordingly, Part 4 (c) of the Code was not breached as Brown-Forman has acted within the boundaries of acceptable industry standards.

- The Ad was placed on a subscription service where Brown-Forman reasonably expected all subscribers and the vast majority of viewers to be LDA and above due to (a) Netflix's internal policy requirements mentioned above, (b) the content and nature of the programme itself which concerns university aged students participating in a national cheerleading competition in the United States, and (c) the data showing a target audience of 94.9% LDA. Accordingly, the placement of the Ad and the nature of the programme itself were not aimed at Minors in breach of Part 4 (d) of the Code.
- The advertisement, which is the subject of this complaint, was viewed during the series "Cheer" (Series) – a Netflix sports documentary about a competitive college cheerleading squad. Audience composition data is not available for the Series as Netflix only collects DOB information from Ads Plan account holders who are required to be 18 years of age or over under Section 4.1 of the Netflix Terms of Use. However, it was reasonable to expect that the audience for the Series would consist primarily of adults based on the following:
 - Under Netflix Ad Policies, alcohol ads are restricted to age-appropriate audiences and content. Netflix has a team of editorial experts that review its content to make sure alcohol ads are not placed against kids or family titles – being titles intended to appeal specifically to kids or a broad age range (i.e. are enjoyed equally by adults or children or watched together as a family experience). This team of experts reviewed the Series and was not flagged as either a kids or family title.
 - The Series is intended for mature audiences as indicated by the Series' latest rating of MA15+ by the Australian Classification Board. Taking into consideration the "strong references to sexual violence" advisory, it's clear that the Series deals with mature themes and is therefore not appropriate for children or a family audience.
- Brown-Forman is committed to maintaining the highest standards in its marketing activities. We believe that the Ad placed on Netflix meets these standards as well as the provisions of the Code, and we respectfully request that the Complaint be dismissed.

Roy Morgan Asteroid Data

ROY MORGAN SINGLE SOURCE AUSTRALIA: APR 2020 - MAR 2025

Survey Period: Apr 24 - Mar 25

Filter: All cases

Weights: Projected population of Australia 14+ (in '000)

No ranking

"To make sure we have a true cross-section of people, would you mind telling me your approximate age?"

		AD TIER - STREAMING VIDEO ON DEMAND USED IN THE LAST 7 DAYS (SVOD)		
		TOTAL	Netflix (from Dec22)	
(unweighted)	69305		6681	
(POPN '000)	22821		2270	
	WC	V%	WC	V%
AGE - summary				
14-17	1301	5.7%	116	5.1%
TOTAL 18+	21520	94.3%	2153	94.9%

Some population estimates are based on a partial sample.

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Roy Morgan Research Ltd., Melbourne, Australia

Marketing Best Practice

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

- Brown-Forman Australia ("Brown-Forman") takes very seriously our responsibility to market our products following all applicable laws, the ABAC Code (the "Code"), and above all, responsibly to Australian consumers. It is therefore always a matter of grave concern for us to receive a complaint from a consumer who believes that we are falling below the high standards we set for ourselves in this regard.