



ABAC Adjudication Panel Determination 105/25

Determination Date	8 September 2025
Brand/Company	Brookvale Union Alcoholic Ginger Beer / Carlton & United Breweries
Media	Packaging
ABAC Code provision	Part 3 (b)(i)
Outcome	Dismissed

Part 1 - Determination Overview

Complaint:

The packaging of Brookvale Union Alcoholic Ginger Beer (330ml can, 6.0% ABV) has a strong or evident appeal to minors due to the packaging featuring:

- Cartoon-like and fantasy imagery reminiscent of children's books, animated programs, and fantasy comics.
- Surreal and playful design incorporating bright, clashing colours and surreal imagery (such as an elephant wearing a flaming crown) that create a comic-book aesthetic.
- Humorous and imaginative branding that creates a light-hearted tone, potentially masking the seriousness of the product as an alcohol beverage for younger or less discerning consumers.

Key findings:

The Panel dismissed the complaint, finding:

- The packaging, through its use of alcohol descriptors, identifies the product as being alcoholic.
- The packaging does not resemble any well-known soft drink, and it is unlikely the product would be confused with a soft drink.
- The imagery employed is akin to surrealism in style and is not similar to animal depictions used in well-known children's animation.
- The overall style of the design is adult in nature, and
- Taken as a whole, the packaging would, at its highest, have an incidental and not strong or evident appeal to minors.

Marketing Communications:

The complaint concerns the packaging of Brookvale Union Alcoholic Ginger Beer 6%



Part 2 - The Panel's View

1. This determination arises from a complaint about the packaging of Brookvale Union (the Company) Alcoholic Ginger Beer – 6% (the product). The complainant contends that the packaging is strongly appealing to minors in breach of Part 3 (b)(i) of the Code. This 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, such that the marketing communication is likely to appeal strongly to minors.
2. In a thoughtful submission, the complainant referenced two previous Panel decisions (Fairy Floss Vodka 2021 and Pre's Green Apple Vodka 2024) as supporting the conclusion that the packaging would breach the Part 3 (b)(i) standard. In a similar vein, the Company drew heavily on Determination [59/24](#) to buttress its argument that the packaging is consistent with the standard.
3. Several points can be made about the significance of Panel precedents, namely:

- The Panel is not a Court or Tribunal, and it is not strictly bound to follow its previous decisions as such.
 - That said, the Panel has always recognised the critical importance of consistency in the interpretation of Code standards and that, as a matter of fundamental fairness, like marketing material should be treated in a like way;
 - Invariably, each marketing communication considered by the Panel has its own distinctive features and will not be identical to the material considered in an earlier case. Given that the assessment of the consistency of the material always needs to be undertaken on its own merits and that sometimes the decision is quite finely balanced, even slight differences in colours, fonts, language, and design will be important as to whether an individual marketing communication is consistent with a Code standard compared to an earlier, somewhat similar but not identical example.
 - The interpretation of Code standards is based on the probable understanding of the marketing communication by a reasonable person, i.e., a community standards benchmark.
 - Community standards evolve, and that is why the ABAC Scheme conducts periodic community standards research to test whether the Code standards and the Panel's interpretation of the standards align with community expectations.
 - Given that the ABAC Scheme has been operating since 1998 and the Panel has made around 1,200 determinations, as a general proposition, community attitudes reflected in the first decade of Panel decisions may have shifted in some respects compared to current community perceptions.
4. The two decisions advanced by the complainant involve marketing material found to have a strong appeal to minors. While the underlying considerations used by the Panel to assess the material in these cases are equally applicable in the current complaint, the actual material in those earlier examples is not similar to the design of the packaging of the product. In contrast, Determination [59/24](#) deals with a variant in the Brookvale Union RTD range that shares most (not all) of the design features of the packaging of Brookvale Union Alcoholic Ginger Beer – 6%
5. The complainant contends that the packaging is strongly appealing to minors, particularly through:
- Utilising styles commonly found in children's books, animated content, and fantasy comics can be highly appealing to minors.
 - The packaging illustrations have a strong or evident appeal to minors, including:
 - A large, cartoon-like elephant with a flaming crown
 - Bright, clashing colours which create a comic-book aesthetic
 - Human and animal figures, rendered in a fantastical and humorous style

- The background is filled with vibrant and detailed imagery resembling a comic book or animated scene, with exaggerated facial expressions and action poses; and
 - The style and branding convey a light-hearted, humorous, and imaginative tone, which may mask the serious nature of the product and its alcohol content to minors.
6. The Company argues that the packaging is consistent with the Part 3 (b) standard. Its main points include
- While this product features animal characters (an elephant, tiger and snake), these are depicted in an abstract and alternative way and are quite 'old-fashioned'.
 - The animal figures have been designed to ensure they resonate with a mature audience. The characters are clearly distinguishable from normal animals that minors would typically be drawn to.
 - The animals are not portrayed in a child-like, animated or 'cutesy' manner such that the inclusion of these characters is likely to increase the appeal of the packaging to minors.
 - The colours on this packaging are not bright or contrasting at all – at a glance, a consumer would only see the dominant black tone, followed by the clear product name and brand in white. The colours of this product would not be eye-catching for a minor any more than they would be for an adult.
 - While the product's design is intricate, it does not resemble a comic book or animated scene for children.
 - We have taken great care to ensure that the product is clearly alcoholic in nature. We have included a large, clear and prominent 'alcoholic' callout on the front of the can. This callout features on the front and back of all packaging formats. The 'ALCOHOLIC' copy on the can is in white, block text in uppercase, in front of a black background to aid visibility.
 - We firmly refute the claim that the packaging possesses a particular attractiveness for a minor beyond the general attractiveness it has for an adult.
7. The Panel has considered the Part 3 (b) standard on many past occasions. 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 used more by minors than 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 featuring in youth culture.
8. 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 even more of the characteristics does not necessarily mean that the marketing item will have a strong or evident appeal to minors. It is the overall impact of the marketing communication rather than an individual element that shapes how a reasonable person will understand the item.
9. Product packaging can give rise to a strong appeal to minors if it creates confusion with confectionery or a soft drink. Confusion with a soft drink might occur if:
- The packaging fails to clearly identify the product as an alcohol beverage through the use of an alcohol term like beer, ale, vodka, style of wine, etc, or reliance is made of more subtle alcohol references or terms understood by regular adult drinkers but less likely to be understood by minors, e.g. IPA, NEIPA.
 - The packaging features a visual design reminiscent of a soft drink, characterised by fruit images, bright block colours, and a font style or iconography commonly found on soft drinks or fruit juices.
 - 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 and whether this is similar to that used by soft drinks or fruit juices, e.g. Prima style juice box.
10. An assessment as to the appeal of packaging is based on how a reasonable person will understand the labelling. A 'reasonable person' has the attitudes, values and life experiences shared by most people in the community. Most influential in understanding product packaging will be:
- the front of the packaging rather than the rear and sides;
 - messaging in a larger rather than a smaller font;

- the dominant design aspects;
- the prevailing colour scheme; and
- the overall impact of these features combined.

11. As mentioned, the product is a variant in the Company's RTD range, and the packaging is very similar to that considered in Determination [59/24](#). Two products were considered in the Determination [59/24](#), including a 4% ABV alcoholic ginger beer. The packaging of the 4 % variant also featured a menagerie of animals, including the two prominent elephants and the tiger, in the same positions. The differences between the 4% variant and the current packaging are:

- The current product packaging features a grey/black background colour, whereas the 4% variant has a lighter sepia background and uses more colours.
- The 4% variant displays more extensive (and coloured) flowers and has more animal characters.
- The 4% variant shows a mountain range image, which is not used on the current product.

12. In Determination [59/24](#), the Panel believed the appeal of the packaging to minors was incidental rather than strong or evident, finding:

- The packaging, through its use of alcohol descriptors, identifies the products as being alcoholic.
- The packaging does not resemble any well-known soft drink, and it is unlikely the products would be confused with a soft drink.;
- The imagery employed is akin to surrealism in style and is not similar to animal depictions used in well-known children's animation.
- The overall style of the design is adult in nature, and
- Taken as a whole, the packaging would, at its highest, have an incidental and not strong or evident appeal to minors.

13. While the differences between the current case and the earlier product, particularly the background colour scheme, give the 6% variant a distinctive look (necessitating an independent assessment of its consistency with the Part 3 (b (i) standard), the Panel does not believe the current packaging breaches the Code standard for the same reasons stated in Determination [59/24](#).

14. 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 Debra Richards.

Applicable ABAC Responsible Marketing Code Standard

Part 3 (b) of the Code provides that 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*

Complaint

The basis of the complaint is that while the product is clearly labelled as alcoholic, the overall design of the packaging employs visual elements that may strongly attract minors. Specifically, the complainant points to:

- Cartoon-like and fantasy imagery – The central feature of the design is an animated elephant with a flaming crown, presented in a whimsical style and surrounded by a collage of animals, humans, and mythical elements. The complainant contends this style is reminiscent of children's books, animated programs, and fantasy comics.
- Surreal and playful design – The bright, clashing colours and surreal imagery (such as an elephant wearing a flaming crown) create a comic-book aesthetic, which the

complainant argues is similar to visual styles previously found by ABAC to have strong appeal to minors.

- Humorous and imaginative branding – While the product name and labelling identify it as alcoholic, the complainant submits that the overall tone of the branding is light-hearted and humorous, potentially masking the seriousness of the product as an alcohol beverage for younger or less discerning consumers.

The complainant refers to prior ABAC decisions where fantastical or cartoon-style imagery, surreal animal characters, and playful branding were found to breach the Code (e.g., *Fairy Floss Vodka*, 2021; *Pre's Green Apple Vodka*, 2024).

In conclusion, the complainant submits that the combination of fantastical imagery, surreal characters, and playful illustrative style used on the Brookvale Union packaging creates a strong and evident appeal to minors, contrary to the ABAC standard.

Company Response

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

- Brookvale Union (BVU) Alcoholic Ginger Beer has been in the market since 2013. The product has undergone minor packaging changes throughout the past 12 years, including changing format from a bottle to a standard 330mL can. The key features of the product (BVU banner and elephant character) have remained essentially unchanged.
- Since the product entered the market over 12 years ago, it has achieved strong distribution on- and off-premise nationally. The singular complaint received about this product in 2024 (59/24) was considered and dismissed by the ABAC Panel.
- The subject of this complaint (105/25) is the 6% variant of BVU's Alcoholic Ginger Beer 4%. This product features the same branding and illustrations as the product considered in complaint 59/24; however, the 6% variant has two differences:
 - The background colour of the can has changed from a sepia to all black, muting the overall impression of the product, and
 - The addition of a second alcohol cue, an explicit 'six per cent' callout to differentiate the products' two different ABV variants.
- We submit that the packaging changes made to the 6% product make the packaging even less appealing to minors than the product already considered and dismissed by the Panel in the complaint 58/24.
- It is our strong view that Brookvale Union's packaging and creative treatment is adult in nature. The intended demographic for our products is unequivocally individuals aged 18 and over. Asahi Beverages does not engage in marketing towards those who are not legally permitted to consume its products.

- We reject the assertion made by the complainant that the products possess any specific appeal to minors above that which they might have for adults.
- Brookvale Union's illustrative designs are unique; the brand's packaging artwork has been created by one designer (Tim Waters) since the brand's inception. These designs are collage-style illustrations, with Tim using old-fashioned imagery throughout his drawings to convey the origin, flavour profile and consumption occasions for each product.
- The Panel has previously considered the use of stylised animal characters in marketing communications, including product packaging. In Determination 33/19 Cheeky Monkey, the panel noted that:

"There is a heightened risk, but it does not automatically follow that the use of an animal character within a marketing communication will cause the item to strongly appeal to minors".

- Additionally, it was noted that there is a wide variety of animation and cartoon styles by which animals are depicted, with some clearly more childlike in appeal, while others clearly adopt adult and mature styles.
- We firmly believe the Brookvale Union characters are in the latter category. While this product features animal characters (an elephant, tiger and snake), these are depicted in an abstract and alternative way and are quite "old-fashioned".
- The animal figures have been designed to ensure they resonate with a mature audience. The characters are clearly distinguishable from normal animals with which minors would be drawn to. The central elephant holds a pipe – an adult device that minors would not be familiar with or be appealed by.
- The animals are not portrayed in a child-like, animated or 'cutesy' manner such that the inclusion of these characters is likely to increase the appeal of the packaging to Minors.
- The central design of this product features a human body with the head of an elephant. A snake is extending from the elephant's trunk, symbolic of a ginger 'bite'. The head of the elephant is not showing any visible emotion and is not portrayed in an animated, cartoon or 'cutesy' way. While there is clothing adorning the human body, there is no clothing on the elephant's head. The figure is holding a pipe and wearing a tunic; adults predominantly use both items. Its head is also half-opened with a pit of fire floating up through the skull – a design that would clearly steer minors away from drawing parallels between the can and cute cartoon elephants. The primary colour of the product is black, with white and orange highlights. These orange tones are used to communicate the ginger flavour profile of the beverage. The colours on this packaging are not bright or contrasting at all – at a glance, a consumer would only see the dominant black tone, followed by the clear product name and brand in white. The colours of this product would not be eye-catching for

a minor any more than they would be for an adult – they are shaded in line with the brand’s grungy aesthetic.

- There are no elements of this product that depict children’s fantasy/comic scenes. While the packaging features a tiger in the background, this is a lifelike drawing that is more ominous than cute – the tiger’s eyes are menacing. There is a second elephant featured on the back of the can; however, this is a surreal depiction of the animal, drawn by line and without animation. There are no facial expressions or characteristics shown on this elephant. A large white moon is also included on the back of the can with a vintage facial demeanour.
- Brookvale Union is known for its eccentric packaging that creatively depicts a montage of odd retro symbols and designs, evoking steampunk and grunge aesthetics. While the product’s design is intricate, it does not resemble a comic book or animated scene for children. We have taken great care to ensure that the product is clearly alcoholic in nature – we object to the assertion that the serious nature of the alcoholic product is marked by its design. The overwhelming impression from the product is that it is an alcoholic beverage.
- We have included a large, clear and prominent ‘alcoholic’ callout on the front of the can. This callout features on the front and back of all packaging formats. The ‘ALCOHOLIC’ copy on the can is in white, block text in uppercase, in front of a black background to aid visibility. The prominence and size of this ‘alcoholic’ callout are comparable to other leading brands in the Alcoholic Ginger Beer category.
- The product’s ABV (6%) is also clearly communicated twice on the front of the can. The ABV appears once in a large white, blocked text with a contrasting background (‘SIX PERCENT’) and again in numerical form on the bottom of the can.
- We submit that a reasonable person would not believe that this product possesses any specific appeal to minors above that which it might have for adults. While this product depicts animal-like figures and detailed designs, these are adult in nature and not appealing to minors.
- As the Panel noted in the Brookvale Union case 59/24:
 - *Care always needs to be exercised when using depictions of animals in alcohol marketing due to a potential for elevated appeal to minors. That said, it is permitted to use animations and animal characters, and each case must always be assessed individually. In the current case, **the animal depictions don’t readily bring to mind children’s material, with the sense being closer to surrealist depictions directed towards adults.***
 - *Further, both products have flavour profiles better known as soft drink beverages than as alcohol products. It should be noted that the ABAC Scheme does not regulate physical beverages, and the Code standards do not go into physical characteristics such as taste and colour. Importantly, the products do not lead with branding elements drawn from recognised or*

iconic soft drink branding, in contrast with the Hard Solo packaging considered by the Panel in 2023.

- *The Panel does not believe the can label breaches the Part 3 (b)(i) standard. In reaching this conclusion, the Panel noted:*
 - *The packaging, through its use of alcohol descriptors, identifies the products as being alcoholic.*
 - *The packaging does not resemble any well-known soft drink, and it is unlikely the products would be confused with a soft drink.*
 - *The imagery employed is akin to surrealism in style and is not similar to animal depictions used in well-known children's animation.*
 - *The overall style of the design is adult in nature, and*
 - *taken as a whole, the packaging would at its highest have incidental and not strong or evident appeal to minors.*
- We firmly refute the claim that the packaging possesses a particular attractiveness for a Minor beyond the general attractiveness it has for an Adult.

Marketing Best Practice

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

- Asahi Beverages takes the responsible advertising of alcohol seriously. We are aware of the Code requirements, and our policy and practice are in line with ensuring compliance with all relevant alcohol and marketing guidelines.
- Asahi Beverages is committed to ensuring our promotional and marketing material, and that of our associated entities, does not promote or encourage any irresponsible or illegal consumption of alcohol. Our goal is for adults to enjoy our products responsibly and in moderation.
- Asahi Beverages is an ABAC signatory and has committed to meet ABAC Code Standards and comply with Panel determinations.
- Asahi Beverages team members have completed the current ABAC online training course.
- Asahi Beverages has taken other steps to ensure marketing practices and materials meet community expectations for responsible alcohol marketing.
- The Brookvale Union packaging was not submitted for pre-vetting approval.