



## ABAC Adjudication Panel Determination 153/25

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|----------------------------|--|
| <b>Determination Date</b>  | 2 December 2025                                |
| <b>Brand/Company</b>       | Suntory -196/Suntory Global Spirits            |
| <b>Media</b>               | Outdoor  |
| <b>ABAC Code provision</b> | Part 3 (a)(iv), (b)(i), (c)(ii) and Part 4 (a) |
| <b>Outcome</b>             | Dismissed                                      |

### Part 1 - Determination Overview

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

The complainant is concerned that marketing for Suntory -196 at the Chatswood NSW train and bus interchange:

- Has been placed in locations frequented by a large number of children.
- Uses language and visuals similar to those seen when gaming, which:
  - Result in the marketing having a strong or evident appeal to minors, due to many gamers being children, and the product resembling a soft drink; and
  - Imply that the product's consumption or presence contributes to success.
- Encourages product choice by emphasising the increasing alcohol strength across various versions of the product.

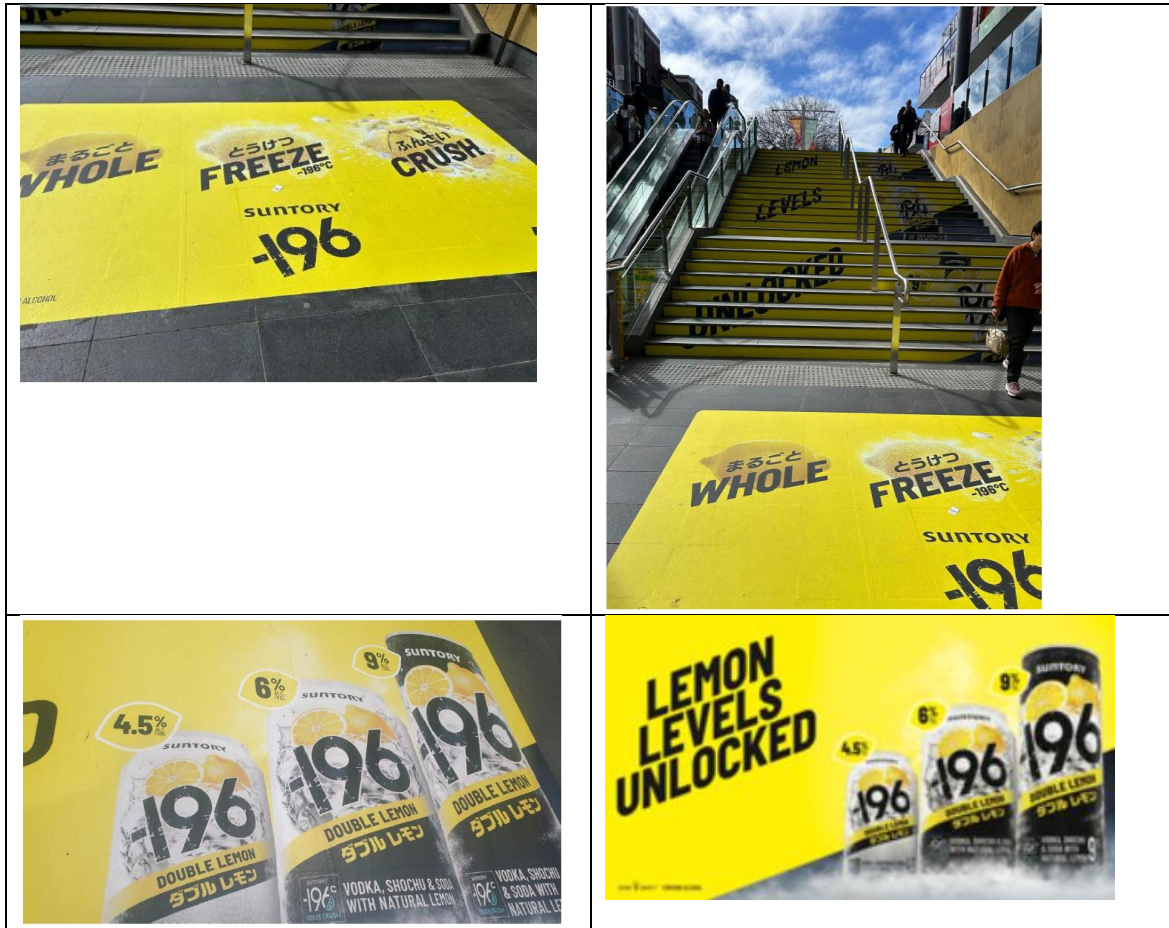
#### ***Key findings:***

The Panel dismissed the complaint, finding:

- The marketing was placed outside the 150-metre exclusion zone for alcohol ads in the vicinity of schools.
- The marketing would not have a strong or evident appeal to minors.
- The marketing does not suggest that the use of the product contributes to the achievement of success.
- The marketing identifies the different ABVs of the three product variants but does not encourage choosing the higher-strength variant over the lower-strength variants.

### Marketing Communication:

The complainant refers to marketing for -196 Suntory at the Chatswood train and bus stations:



### Part 2 - The Panel's View

1. This determination arises from a complainant's concern that marketing for Suntory -196 at the Chatswood NSW train and bus interchange:

- Has been placed in locations frequented by a large number of children.
- Uses language and visuals similar to those seen when gaming, which:
  - Result in the marketing having a strong or evident appeal to minors, due to many gamers being children; and
  - Imply that the consumption or presence of -196 Suntory contributes to achieving success.
- Emphasises the increasing alcohol strength of various versions of the alcohol product.

2. These concerns enliven both the ABAC Placement and Content Standards. The relevant Placement Standard provides:
- An alcohol marketing communication must comply with code provisions regulating the placement of alcohol marketing that have been published by Australian media industry bodies, such as the Outdoor Media Association Placement Policy – Part 4(a).
  - The Content standards stipulate that an alcohol marketing communication must not:
    - Encourage the choice of a particular alcohol product by emphasising its alcohol strength (unless emphasis is placed on the alcohol product's low alcohol strength relative to the typical strength for similar products) or the intoxicating effect of alcohol – Part 3 (a)(iv).
    - Have a strong or evident appeal to minors – Part 3 (b)(i).
    - Show (visibly, audibly or by direct implication) the consumption or presence of alcohol as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success – Part 3 (c)(ii).
3. The complainant identified two different marketing items, namely:
- Marketing Item 1 - shows the words "Lemon Levels Unlocked" in black font against a bright yellow background. The item has been placed on the railway station stairway, with the word "Lemon" at the top, "Levels" halfway down, and "Unlocked" at the bottom. Three product variants are displayed: the 4.5% ABV product at the top of the stairway, the 6% variant halfway down, and the 9% variant at the bottom.
  - Marketing Item 2 - has a bright yellow background and again uses the words "Lemon Levels Unlocked". Images of three cans are shown alongside each other: the 4.5% ABV product is shown at the back and is shorter, while the 9% product variant is shown at the front and is taller. The 6% ABV variant is shown in between, taller than the 4.5% ABV variant and shorter than the 9% ABV variant.
4. The consistency of a marketing communication with an ABAC standard is assessed from a reasonable person's probable understanding of the marketing. A 'reasonable person' refers to the life experiences, values, and opinions held by most members of the community, serving as the benchmark. A person who interprets the marketing item differently is not 'unreasonable', but most people may not share their interpretation.

### **Placement Standard**

5. The complainant points out that the Chatswood train and bus station interchange is used by students attending Chatswood Public School (capacity: ~1,150 students) and Chatswood High School (capacity: ~2,000 students). It is argued that these schools are located within 250 metres of the Chatswood Transport Interchange. Further, students

at several independent schools would also use the interchange and see the advertising. The complainant contends that during peak school periods, the audience of the advertising will comprise hundreds, if not thousands, of children, and this will undermine parental, school, and community efforts to delay drinking initiation and reduce long-term harm.

6. The desirability of placing alcohol ads on sites controlled by public transport authorities is a valid question of public policy. In some Australian States, it is not permitted to place alcohol advertising at railway stations under direct government regulation, although it is allowed in most jurisdictions, including NSW. While the Panel acknowledges the point the complainant is making, its remit is confined to applying the terms of the ABAC Code.
7. The ABAC Placement Standards have a policy goal that alcohol marketing should be directed towards adults and, to the extent reasonably possible, away from minors. The standards do this by imposing on marketers a series of obligations to target their marketing based on the technical capabilities of the medium used to deliver it.
8. The Placement Standards work most effectively with digital media that enable age-restriction controls and audience demographics to target alcohol marketing. Outdoor marketing (also known as Out Of Home advertising (OOH)) is a broadcast medium, and there is no direct means to target an ad placed on a billboard or bus shelter towards only adults. Instead, the Outdoor Media Association (OMA) restrictions on alcohol are incorporated into the ABAC and provide that OOH alcohol ads must not be placed:
  - On bus shelters within 150 metres of the boundary of a school;
  - On any outdoor site within a 150-metre sightline from the boundary of a school; and
  - On dedicated buses servicing schools (noting that sometimes an unexpected and unavoidable operational contingency might result in a general bus with alcohol advertising being used on a school route).
9. The OMA advises that the 150-metre sightline requirement is based on the readability of a sign, which is generally only 140 metres, even for a large sign such as a billboard. Accordingly, it is contended that if a school is more than 150 metres from a sign, students on the school grounds will not be able to read the sign's messaging.
10. The database for OOH site locations is available in the OMA's Measurement of Outdoor Visibility and Exposure (MOVE) tool. This tool lists some 77,500 out-of-home advertising sites within the five capital cities of Sydney, Melbourne, Adelaide, Brisbane and Perth. Attached to MOVE is the school mapping tool, which contains the boundary locations of some 12,185 schools.
11. Suntory Global Spirits (the Company) has advised that the advertising placement is not within 150 metres of a school, and a review of the sites on Google Maps confirms this.

This means that the Placement Standard contained in Part 4(a) of the Code has not been breached.

### **Content Standards- Responsibility toward Minors and Alcohol Contributing to Success**

12. Beyond concerns about the ads' location, the complainant believes their content is irresponsible. This is based on the connotations to be drawn from the use of the expression 'Lemon Levels Unlocked' and an argued association with video games. From this, it is submitted:

- The ads appeal to minors by using language and imagery similar to those in video games, noting that many gamers are children and young adults. Further, it is argued that the product images blur the distinction between a soft drink and an alcohol beverage.
- The ads suggest that the use of the product will lead to social success

13. These concerns raise two ABAC standards, which will be examined in turn. The first issue is whether the marketing items have a strong or evident appeal to minors in breach of the ABAC standard in 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, so the marketing communication is likely to appeal strongly to minors.

14. The complainant's argument is based on two grounds. Firstly, the ads will evoke gaming connotations, which will resonate strongly with minors. Secondly, the product's images might be mistaken for those of a lemon soft drink. While the Panel understands the point being made, it does not think the ads breach the ABAC standard.

15. Gaming is a popular pastime for most Australians, with the Interactive Games & Entertainment Association 'Australia Plays' Report 2023 recording over 80% of Australians play video games, ranging from 54% of 1 to 4-year-olds to 75% of people aged 44 to 75. Over 90% of Australians aged 5 to 24 play video games.

16. Accordingly, gaming is now a universal form of entertainment and is by no means dominated by under-18-year-old players. Indeed, most minors (like most adults) play games, but this does not mean that gaming automatically implies a strong appeal to minors. Like TV, social media, or other digital entertainment channels, the appeal of a

specific program or game to a different age group will depend on the content, theme, and design of the program/game itself.

17. For its part, the Company submits that the marketing does not have a strong or evident appeal to minors, arguing:

- Gaming links were not intended, and none appear in the creative.
- Regardless, the area of 'Gaming' should not be considered a child's activity, as 71% of gamers in Australia are over 18, with the average age of gamers being 35.

18. The argument advanced is that the phrase 'Lemon Levels Unlocked' brings to mind unlocking levels in a game. It is debatable whether a reasonable person would draw the same connection to gaming from the 'Lemon Levels Unlocked' phrase that the complainant is making, but even if this were the case, simply bringing to mind an expression used in some games does not of itself make the ad strongly appealing to minors.

19. The ad's imagery does not resemble video game graphics as such, let alone the style of a popular game with minors, e.g., Minecraft. It is a very long bow to conclude that the ad would be strongly appealing to minors, essentially based on the use of the term 'levels unlocked'.

20. The second argument is that the ad doesn't make clear that the product is an alcoholic beverage. The requirements to specify alc/vol information on alcohol packaging are sourced directly in government regulation rather than the ABAC standards, with a failure to adequately label a product as alcoholic potentially being a factor in whether an item of marketing has a strong appeal to minors.

21. The Panel believes the ad adopts a graphic style often used for Japanese beverage products, and that this would have no greater appeal to minors than to adults. At its highest, any appeal to minors is incidental rather than strong or evident.

22. The complainant is also concerned that the use of the words 'Lemon Levels Unlocked' links the consumption of alcohol to success. It is argued that, in general, unlocking new levels of gaming is often achieved by meeting certain game milestones or demonstrating a predetermined level of competence.

23. The applicable Code standard on this point is contained in Part 3 (c)(ii). It requires that an alcohol marketing communication must not show the consumption or presence of alcohol as a cause of or contributing to the achievement of sporting or other success.

24. The Company submits that the marketing does not breach the Part 3 (c)(ii) standard, arguing:

- The headline referring to 'levels unlocked' indicates that Suntory -196 is now available at different ABVs, whereas it had been available only at 6% ABV for many years.

- The words do not speak to any form of success or encourage a higher strength choice; however, they simply state the fact that there are now alternative options available for the brand.
  - There are no links to gaming or how the brand would make you successful whilst gaming within the creative at all.
25. The key concept in the Part 3 (c)(ii) standard is causation. It is not permitted to suggest that alcohol was a cause or a contributor to achieving success. This means alcohol can be placed with attractive people in an enjoyable situation. It is possible to show someone that it can be readily assumed as successful consuming alcohol. So, in that sense, alcohol can be associated with success. What cannot be suggested is that alcohol played a part in a person's success or in an occasion's success.
26. Again, the complainant's argument requires acceptance that a reasonable person would understand that the ads draw on gaming references and, secondly, that the takeaway from the ads is that the product causes or contributes to social success because of the association with progressing through levels in a game.
27. Several extrapolations are required to sustain this interpretation of the ads, and the Panel does not believe most viewers will take these leaps of reasoning. It seems unlikely that a reasonable person would absorb the message from the ads that using the product leads to success in life.

### **Alcoholic Strength**

28. The final concern is that the -196 Suntory brand is promoting an escalation of alcoholic content, starting at an ABV of 4.5% (1.2 standard drinks per can), 6% (1.6 standard drinks) and 9% (2.4 standard drinks).
29. Part 3 (a)(iv) of the Code provides that a marketing communication must not encourage the choice of a product by emphasising its alcohol strength. This does not mean that the alcohol-to-volume content should not be mentioned, as this is essential information for consumers to make an informed purchasing decision. The issue raised by the standard is whether a marketing communication is simply providing information about a product's strength or goes beyond that to use its strength as a selling point.
30. While each case must be assessed on its own merits, some considerations include whether the marketing communication is:
- Highlighting the product strength by enlarging the font to give prominence to the product's strength beyond providing factual information;
  - Using bold colours relative to other words or features to emphasise the strength;
  - Overly prominent positioning of the strength of the product in proportion to other messaging;

- Repetition in messaging of the strength; or
- The use of straplines, slogans, imagery, or other creative techniques that promote the product's strength as a key distinguishing feature, vis-à-vis other similar products.

31. The Company argued the ads do not breach the ABAC standard, submitting:

- In no way does the creative emphasise the alcohol strength or the intoxicating effect of alcohol.
- Whilst the strength of the drinks is called out, this is done equally across all variants, with no preference or greater focus on the higher-strength products.
- There is nothing in the creative that depicts or alludes to intoxication.
- The idea of a 'stairway motif' was not considered as part of the creative development, but rather a creative choice based on the physical size of the cans (with the 250ml 9% can being taller than the others) and the best layout of the products for a portrait key visual.
- There are various other layouts of the same key visual that have had to be designed due to different media placement size/specs that do not have a 'stairway' look, as this is not the intent of the creative.
- The headline referring to 'levels unlocked' indicates that Suntory -196 is now available at different ABVs, whereas it had been available only at 6% ABV for many years. The words do not encourage a higher-strength choice; instead, they simply state that alternative options are now available for the brand.

32. The Panel believes that the ads do not breach the Part 3 (a)(iv) standard. The ads identify the different alcohol strengths of the three variants by displaying the ABV percentage in a circle next to each product's image. Beyond this, however, the ads don't suggest that the higher-strength variants are superior or should be chosen over the lower-strength variants. The most likely takeaway from the ad is that there are three variants of the product available, not that the higher alcohol content is the reason this particular variant is selected.

## **Conclusion**

33. The complainant has raised a genuine point about the appropriateness of permitting alcohol ads at central public transport hubs, given that the hubs will invariably be used by minors, particularly if the hubs serve education routes. Ultimately, this is a question for government, and the Panel's remit is more limited to the assessment of an individual marketing communication to the standards contained in the ABAC.



34. Beyond the ads' location, the complainant's concern rests on a reasonable person interpreting the ads as drawing on gaming references and, from that, making extrapolations about their messaging. While the complainant's understanding is undoubtedly genuine, the Panel does not believe most members of the community will share it.

35. 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 in accordance with the [ABAC Rules & Procedures](#) and has regard to 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 of the Code requires that an Alcohol Marketing Communication must NOT:*

|                |   |
|----------------|---|
| <i>(a)(iv)</i> | <i>encourage the choice of a particular Alcohol product by emphasising its alcohol strength (unless emphasis is placed on the Alcohol product's low alcohol strength relative to the typical strength for similar products) or the intoxicating effect of Alcohol.</i>  |
| <i>(b)(i)</i>  | <i>have Strong or Evident Appeal to Minors, in particular;<br/>(A) specifically target Minors;<br/>(B) have a particular attractiveness for a Minor beyond the general attractiveness it has for an Adult;<br/>(C) use imagery, designs, motifs, language, activities, interactive games, animations or cartoon characters that are likely to appeal strongly to Minors;<br/>(D) create confusion with confectionery, soft drinks or other similar products, such that the marketing communication is likely to appeal strongly to Minors; or<br/>(E) use brand identification, including logos, on clothing, toys or other merchandise for use primarily by Minors</i> |

|         |   |
|---------|---|
| (c)(ii) | <i>show (visibly, audibly or by direct implication) the consumption or presence of Alcohol as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;</i> |
|---------|---|

*Part 4 of the Code requires that:*

|     |   |
|-----|---|
| (a) | <i>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).</i> |
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### **Company Response**

The Company was provided with an opportunity to respond to the complaint, and its principal comments were:

#### **Responsible and moderate portrayal of Alcohol**

- In no way does the creative emphasise the alcohol's strength or intoxicating effect. Whilst the strength of the drinks is called out, this is done equally across all variants, with no preference or greater focus on the higher-strength products. Furthermore, there is nothing in the creative that depicts or alludes to intoxication.
- The idea of a 'stairway motif' was not considered as part of the creative development, but rather a creative choice based on the physical size of the cans (with the 250ml 9% can being taller than the others) and the best layout of the products for a portrait key visual. Please note that various other layouts of the same key visual have had to be designed due to different media placement sizes/specs that do not have a 'stairway' look, as this is not the intent of the creative.
- The headline referring to 'levels unlocked' indicates that Suntory -196 is now available at different ABVs, as it had only been available at 6% ABV for many years. The words do not speak to any form of success or encourage a higher strength choice; however, they simply state the fact that there are now alternative options available for the brand.
- Note that the creative was approved via the ABAC pre-vetting service application number. 10987-2025.

#### **Responsibility toward Minors**

- As noted above, both the 'stairway' motif and the headline were deliberate creative choices, designed to deliver a strong creative execution and convey to consumers that

there are now different options available for purchase. There are no links to gaming within the creative at all.

- Regardless, we also note that the area of 'Gaming' should not be considered a child's activity, as 71% of gamers in Australia are over 18, with the average age of gamers in Australia being 35.

### **Responsible depiction of the effects of Alcohol**

- As noted above, both the 'stairway' motif and the headline were deliberate creative choices, designed to deliver a strong creative execution and convey to consumers that there are now different options available for purchase. Notwithstanding the view that we believe Gaming is not exclusively an activity for Minors, there are no links to gaming, nor how the brand would make you successful whilst gaming within the creative at all.

### **Placement Standards**

- Val Morgan Outdoor (the managing director of Chatswood Interchange) has confirmed that all campaigns placed with them are subject to the Alcohol Beverages Advertising Code (ABAC), the Outdoor Media Association (OMA) Code of Ethics, and, in the case of Chatswood Interchange, the property owner's advertising guidelines. The advertisement in question was approved through these processes and is fully compliant with the current regulatory and industry codes.
- Concerns around proximity to schools and potential exposure to minors were noted; however, independent audience composition data demonstrates that the majority of viewers at this site are adult commuters. This is consistent with Transport for NSW data showing that child and school travellers on this line are a tiny percentage of total travellers. On this basis, the campaign is consistent with the placement rules set by ABAC and OMA.
- Furthermore, the advertising is not visible from primary or secondary schools, with all schools within the area beyond the 150m requirement.

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

The Company was asked how it demonstrates a commitment to alcohol marketing best practices. It advised:

- Suntory Global Spirits takes its adherence to the ABAC and responsible marketing code seriously, and we are active members of the ABAC, utilising the pre-vetting service to ensure the execution of marketing and advertising materials in line with the spirit of the code.
- Please note Suntory Global Spirits also has its own responsible marketing code, which all marketing materials and activities must adhere to. Suntory is committed to the highest standards of responsible marketing practices across product, consumer marketing, and communications through our own responsible marketing code, the

principles of drink smart®, as well as local advertising regulations and the ABAC code. Responsible marketing of our products is at the core of our commercial purpose and our commitment to conducting our business the right way. We believe this advertisement has been placed in line with these codes; as a company, we would never encourage excessive consumption or target those under legal drinking age with our advertising.

- Note that the creative was approved via the ABAC pre-vetting service application number. 10987-2025.