



ABAC Adjudication Panel Determination 171/25

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| Determination Date | 22 December 2025 |
| Brands/Company | VB/Asahi Beverages |
| Media | Kayo TV |
| ABAC Code provisions | Part 4 (b), (c) and (d) |
| Outcome | Dismissed |

Part 1 - Determination Overview

Complaint:

Advertising for the 'VB Drinks Break' during the broadcast of the first Ashes cricket Test on Kayo TV is inappropriate, given the number of children that will be watching.

Key findings:

The Panel dismissed the complaint, finding that:

- Available age restriction controls were utilised.
- More than 80% of the reasonably expected audience for the Ashes Test is adults.
- While an Ashes Test Match has appeal across age groups, the broadcast of the game is not primarily aimed at minors.

Marketing Placement:

The alcohol marketing communication for VB was broadcast on Kayo TV during the Ashes Test Match.

Part 2 - The Panel's View

1. This determination arises from a complaint regarding VB's marketing during the First Ashes Test broadcast on Kayo TV. The VB brand is associated with the drinks break taken during a game session, as broadcast on the subscription TV service Kayo. The complainant believes this form of alcohol marketing is irresponsible and would be viewed by large numbers of children.
2. The complaint invokes the ABAC Placement Standards, which state that alcohol marketing should be directed towards adults and, to the extent reasonably possible, away from minors. The applicable standards for the broadcast of alcohol ads on TV are as follows:

- Placement provisions within media codes must be complied with - Part 4 (a);
 - Available age restrictions controls to exclude minors must be applied - Part 4 (b);
 - If minors cannot be excluded, then alcohol marketing can only be placed where the reasonably expected audience is at least 80% adults - Part 4 (c);
 - Alcohol ads cannot be placed with programs or content aimed primarily at minors - Part 4 (d).
3. Television advertising is regulated at the national level by the Australian Communications and Media Authority (ACMA). ACMA has approved several codes of practice governing the different technologies used to transmit TV content. The Commercial Television Industry Code of Practice (CTICP) applies to what might be called 'traditional' TV, i.e. the free-to-air networks and transmissions requiring an aerial to be picked up and relayed to a TV. The Subscription Broadcast Television Codes of Practice apply to subscription services, such as Kayo Sports, that rely on cable, satellite, or broadband technology.
 4. While the CTICP contains time-of-day restrictions on the airing of alcohol ads, the Subscription Broadcast code contains no such restrictions. In any event, the CTICP permits alcohol advertising in conjunction with the broadcast of live sports. Accordingly, there is no media code provision prohibiting alcohol advertising from being shown during the cricket match, and the Part 4 (a) standard has not been breached.
 5. To access Kayo Sports, a customer must hold a subscription to Foxtel or another service and open an account with Kayo Sports. As noted by Asahi Beverages in their response to the complaint, a subscription account must be held by an adult. This is relevant to the assessment of the age-restriction control requirement in Part 4(b). Digital providers such as Meta and Google, and their social media platforms like Instagram, have age restriction controls that enable alcohol marketers to exclude minors from being served with alcohol marketing communications. The same applies to digital TV platforms such as 9Now or SBS On Demand.
 6. While this exclusion capability can be effective when content is accessed on an individual level, such as a person using their smartphone to access Facebook or another social media account, it is far less effective for TV. This is because, while a TV subscription account may be held in the name of an adult, in most households a program is co-viewed by the family, including children, even though the account may be in the name of a parent or other adult. Hence, the fact that the alcohol ads are only going to an account held in an adult's name doesn't mean minors aren't watching.
 7. That's when the standard in Part 4 (c) carries weight. This standard imposes the 80% adult audience benchmark on the program or content in which an alcohol ad may be placed. It is intended to ensure that alcohol advertisements are likely to be seen by adults rather than minors. While it can sometimes be challenging to determine the audience composition for a marketing item, the long-established TV ratings system provides reliable demographic breakdowns of TV programs.

8. The Ashes Test is a major sporting event in Australia and has followers across age groups, including minors. That said, attendance at Test matches and TV viewership indicate that it draws an overwhelmingly adult audience. Asahi Beverages has provided data from last summer indicating that 95% of the audience watching the Ashes Test is expected to be over 18 years of age.
9. The Part 4 (d) standard prohibits the placement of alcohol ads with programs or content primarily directed at minors. While Ashes Cricket has appeal across age groups, including minors, its broadcast cannot be said to be aimed primarily at minors. In fact, the audience data strongly suggests that the appeal of the Ashes Cricket is mainly to adults.
10. 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 Cristiano Lima.

Applicable ABAC Responsible Marketing Code Standard

Part 4 of the Code requires that:

| | |
|-----|--|
| (b) | <i>Available Age Restriction Controls must be applied to exclude Minors from viewing an Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication.</i> |
| (c) | <i>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).</i> |
| (d) | <i>An Alcohol Marketing Communication and an Alcohol Alternative Marketing Communication must not be placed with programs or content primarily aimed at Minors.</i> |




Company Response:

The Company was provided with an opportunity to respond to the complaint. Its principal comments were:

- A user must be 18 years of age or older to have a Foxtel/Kayo subscription. The Drinks Break creative is available only on Foxtel/Kayo.
- Notwithstanding that a user must be 18+ to have a Foxtel/Kayo subscription and that the Drinks Break creative runs only on Foxtel/Kayo, the ordinary audience composition exceeds 80% adults.
- Nielsen CMV data, which accounts for potential U18 co-viewing, indicate that 18+ accounts for 93-95% of the audience on the Foxtel/Kayo platforms.
- While the viewership for the First Ashes Test Match of 2025 hasn't been released yet, it can't be argued that the viewership will have evolved substantially from previous series. In addition, Test Match cricket attracts a comparatively lower younger audience than other sports. The Ashes, in particular, over-indexes among consumers aged 40+, compared with AFL or NRL (see Table 1 below).
- Audience statistics from the previous Ashes series are:

| | Total People | P 18+ | 18+ (%) |
|----------------|--------------|---------|------------|
| Network 7: | | | |
| Summer 2024/25 | 672,447 | 626,336 | 93% |
| Foxtel: Summer | | | |
| 2024/25 | 211,822 | 200,285 | 95% |

Table 1:

| Consumer (P4wks) | |  AFL Consumers* |  NRL Consumers* |  Men's Test Consumers* |
|------------------|--------|--|--|--|
| Gender | Base | 7,198,000 (~35% of pop >15) | 4,760,000 (~23% of pop >15) | 6,091,000 (~29% of pop >15) |
| | Male | 58.7% | 60.7% | 66.5% |
| | Female | 41.3% | 39.3% | 33.5% |
| Age | 12-17^ | 2.95% | 2.52% | 2.07% |
| | 18-24 | 11.5% | 10.06% | 8.24% |
| | 25-39 | 26.69% | 25.08% | 23.38% |
| | 40+ | 58.86% | 62.31% | 66.29% |

Note: Sporting code consumption data sources from NIELSEN FANLINKS Database, Q4 2022
 *Consumer defined as "I watch on TV or online or attend"
 ^FANLINKS database captures data from 14 years plus only.

- The answer and data provided above clearly demonstrate that the audience is primarily adults.

Marketing Best Practice:

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

- Asahi Beverages takes the responsible advertising of alcohol seriously. We are aware of the Code requirements, and our policies and practices are designed to ensure compliance with all relevant alcohol and marketing guidelines.
- 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 additional steps to ensure that its marketing practices and materials comply with community expectations regarding responsible alcohol marketing.
- Asahi Beverages is committed to ensuring that our promotional and marketing materials, and those of our associated entities, comply with the ABAC Code. Our goal is for adults to enjoy our products responsibly and in moderation.
- Asahi Beverages is committed to ensuring that our promotional and marketing materials comply with the ABAC standards. Our goal is for adult consumers to enjoy our products responsibly and in moderation, and to uphold community standards regarding the placement and content of our advertising.