



ABAC Adjudication Panel Determination 176/25

Determination Date	31 December 2025
Brands/Company	XXXX Ginger Beer/Lion Beer Spirits & Wine Pty Ltd
Media	Digital – Facebook and Instagram
ABAC Code provisions	Part 3 (d)
Outcome	Dismissed

Part 1 - Determination Overview

Complaint:

A social media post by Lion ('the Company') to promote XXXX Ginger Beer ('the product') encourages alcohol consumption in and around water.

Key findings:

The Panel dismissed the complaint, finding that:

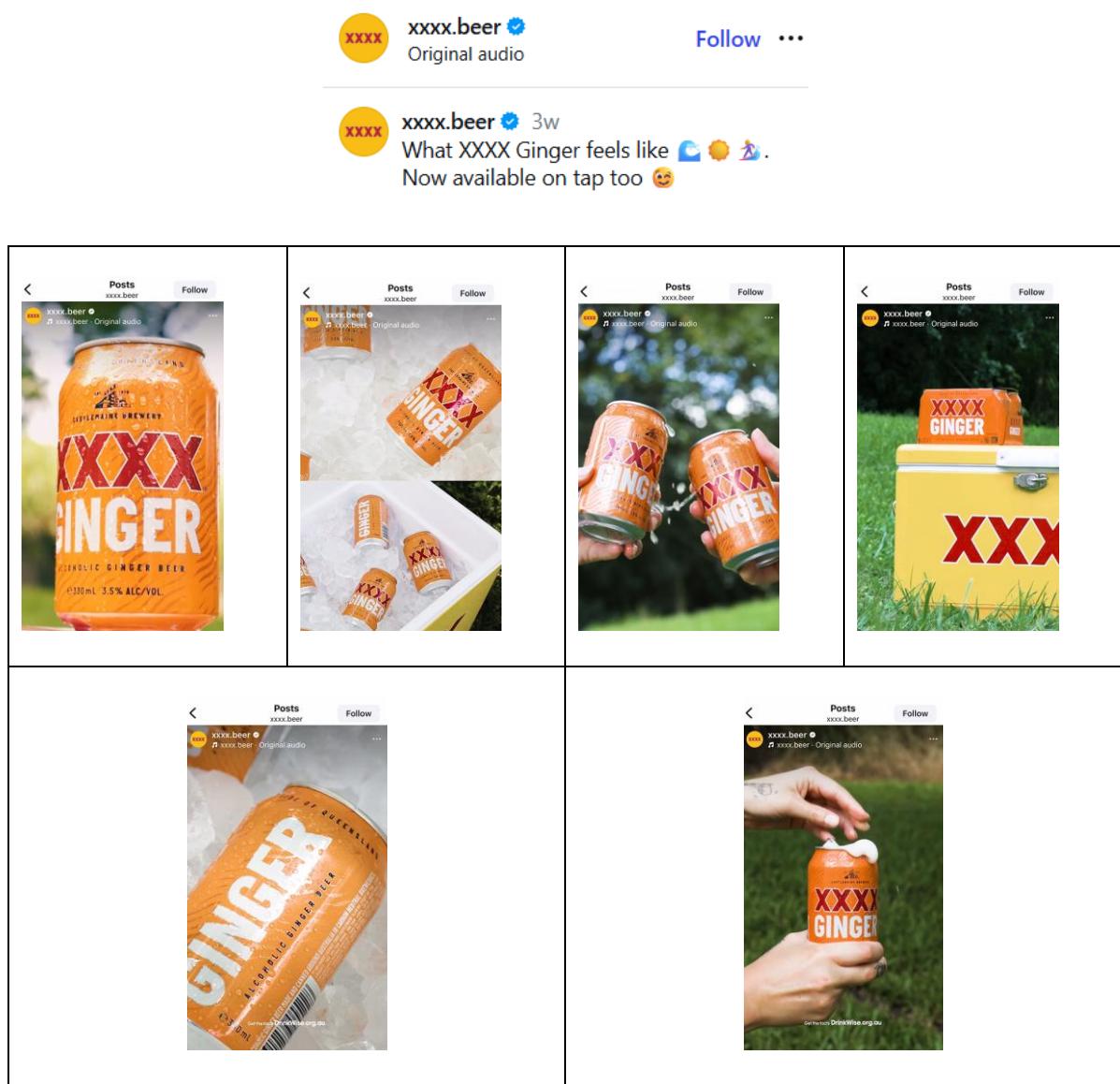
- In the context of a social media video, a reasonable person will typically view the post once before scrolling to the next post. Accordingly, a video won't normally be studied in fine detail, meaning the most prominent visual aspects will be the most influential in shaping how the video's messaging is understood, rather than subtle details and accompanying text.
- The predominant feature of the post is video imagery depicting the product cans. It does not depict any water-based activities.
- The text accompanying the post is titled 'What XXXX Ginger feels like' and includes emojis of the sea, sun, and surfing. A reasonable person would likely take the emojis as meaning 'feels like summer'.
- The post does not show the consumption of alcohol before or during any water-based activities. It requires a series of unlikely extrapolations to conclude the post is endorsing unsafe alcohol use.

Marketing Communication:

The marketing communication can be viewed at the following link:

Instagram

The social media post consists of a video showing various shots of cans of XXXX Ginger Beer in an esky on ice and also being opened. The following text accompanies the post:



Part 2 - The Panel's View

1. This determination concerns a social media post promoting Lion's XXXX Ginger Beer. The post consists of a video showing images of cans of the product in an ice-filled esky, followed by the cans being opened. The text accompanying the post reads "What XXXX Ginger feels like" ☁ ☀ 🕺".

2. The complainant contends that the post, specifically the accompanying text, encourages alcohol consumption in and around water. Part 3 (d) of the ABAC Code provides that an alcohol marketing communication must not show (visibly, audibly or by direct implication) the consumption of alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical coordination, such as swimming.
3. 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 for what is reasonable.
4. The policy intent of the Part 3 (d) standard is that alcohol marketing should not model alcohol consumption before or in conjunction with inherently dangerous activities, such as driving a motor vehicle or swimming. This is because alcohol impacts a person's physical and mental capacities, reduces coordination and can contribute to a loss of inhibitions and the making of poor judgements.
5. It is important to note that the Code standard does not prohibit an alcohol brand from being associated with water-based activities. The point of the standard is that alcohol should not be consumed while undertaking the activities, and marketing should not suggest that it is acceptable to use alcohol in this way.
6. The Company submits that the Code standard has not been breached. It is argued:
 - There is no depiction of surfing, swimming, or any other high-alert activity in the imagery.
 - At no point does the ad suggest that the product will be consumed immediately before or during such activities.
 - The caption and accompanying emojis (beach, sun, surfer) are clearly designed to capture the essence of summer and the refreshing nature of XXXX Ginger, rather than suggest any unsafe behaviour.
 - The creative intent behind the post was to communicate the product's summery character and evoke a feeling, not to imply timing or behaviour.
7. The Panel believes that Part 3 (d) of the Code has not been breached. In reaching this conclusion, the Panel noted:
 - In the context of a social media video, a reasonable person will typically view the post once before scrolling to the next post. Accordingly, a video won't normally be studied in fine detail, meaning the most prominent visual aspects will be the most influential in shaping how the video's messaging is understood, rather than subtle details and accompanying text.

- The predominant feature of the post is video imagery depicting the product cans. It does not depict any water-based activities.
 - The text accompanying the post is titled 'What XXXX Ginger feels like' and includes emojis of the sea, sun, and surfing. A reasonable person would likely take the emojis as meaning 'feels like summer'.
 - The post does not show the consumption of alcohol before or during any water-based activities. It requires a series of unlikely extrapolations to conclude the post is endorsing unsafe alcohol use.
8. 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:

(d)	<i>An Alcohol Marketing Communication must NOT show (visibly, audibly or by direct implication) the consumption of Alcohol before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as the control of a motor vehicle, boat or machinery or swimming.</i>
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Company Response:

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

- For the reasons set out below, and with respect to the complainant, we submit that Lion has not breached Part 3(d) of the ABAC Code, and that the ABAC Panel should dismiss the Complaint.
- There is no depiction of alcohol consumption before or during surfing.

- The visual depicts a person opening a can of XXXX Ginger Beer against a grass background.
- There is no depiction of surfing, swimming, or any other high-alert activity in the imagery.
- At no point does the advertisement suggest that the product will be consumed immediately before or during such activities.
- Emojis convey mood and seasonality, not a literal action.
- The caption and accompanying emojis (beach, sun, surfer) are clearly designed to capture the essence of summer and the refreshing nature of XXXX Ginger, rather than suggest any unsafe behaviour.
- The emojis function as a symbolic shorthand for temperature and mood – sunshine, relaxation and summer vibes – not as an instruction or reference to any specific activity.
- The creative intent behind the post was to communicate the product's summery character and evoke a feeling, not to imply timing or behaviour.
- No safety risk is implied.
- The advertisement does not encourage or condone drinking before engaging in any activity that requires alertness or coordination.
- The phrase “What XXXX Ginger feels like...” is subjective and sensory, describing taste and refreshment rather than the timing of consumption.
- The caption does not reference drinking before, during, or in connection with any activity.
- Part 3(d) prohibits showing or implying alcohol consumption before or during high-risk activities.
- The advertisement does not depict or imply such timing; it simply associates the product with a 'summery' lifestyle.
- This XXXX Ginger campaign is part of a broader initiative to position XXXX Ginger as a refreshing ginger beer for relaxed, casual social occasions. Its objective is to increase brand salience during summer by associating the product with seasonal cues such as warmth, the beach, and refreshment. The advertisement was designed to evoke a feeling of summer, consistent with the brand's tone and the overarching objective of presenting XXXX Ginger as a refreshing choice for the season.
- A reasonable adult person would not interpret the advertisement as an instruction or encouragement to drink before engaging in high-risk activities like surfing. The

reasonable viewer would see the act of opening a can as a standalone moment, not linked to any imminent physical activity.

- For the reasons set out above, we do not consider that the advertisement is in breach of Part 3(d) of the ABAC Code, or any other section of the ABAC Code which may apply.

Marketing Best Practice:

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

- Lion reiterates its commitment to the ABAC Scheme and that it takes its obligations to responsibly promote its products seriously.
- Lion conducts periodic training of its marketing team on the ABAC Code, and the current online training course is included in the induction of new members of the Lion marketing team. We confirm that the Lion marketer responsible for creating the advertisement has completed the ABAC Online Training Course.
- The development process for the Advertisement also considered other industry codes, including the AANA Code of Ethics, to ensure it has met community expectations around responsible marketing.
- As a responsible marketer, Lion has demonstrated a long-standing commitment to upholding both the letter and spirit of the ABAC and AANA Codes.