

## ABAC Adjudication Panel Determination 179/25

<b>Determination Date</b>	7 January 2026
<b>Brand/Company</b>	Heineken/Lion Beer Australia
<b>Media</b>	Digital – Instagram
<b>ABAC Code provisions</b>	Part 2, Part 3 (c)(i)
<b>Outcome</b>	Dismissed

### Part 1 - Determination Overview

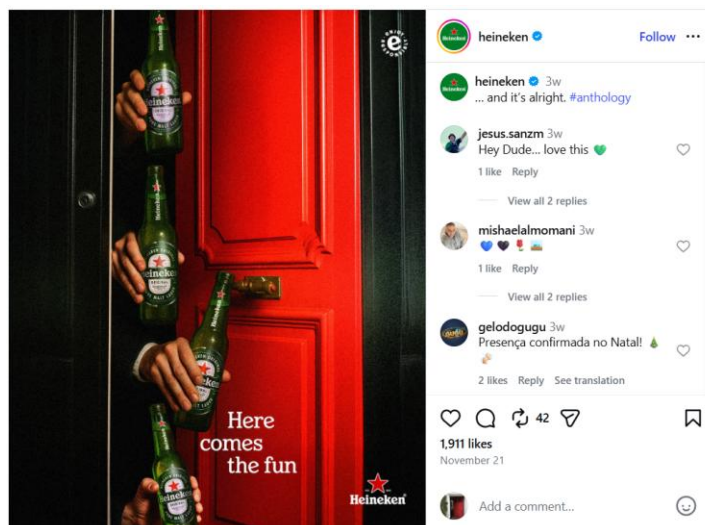
#### ***Complaint:***

The complainant is concerned that a social media post for Heineken breaches ABAC standards, specifically by suggesting that alcohol consumption can improve mood or environment.

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

The Panel dismissed the complaint, finding that the post is outside the jurisdiction of the ABAC Scheme as it is not under the reasonable control of an alcohol marketer with a discernible and direct link to Australia.

#### ***Marketing Communications:***



## Part 2 - The Panel's View

1. This determination concerns a complaint regarding a post made on an Instagram account associated with Heineken. The post depicts four hands, each holding a bottle of Heineken, around the edge of a red door. The words 'Here comes the fun' are superimposed over the bottom of the image. The complainant believes the post breaches the ABAC standard in Part 3 (c)(i).
2. Heineken is a global alcohol brand founded and based in the Netherlands. In Australia, the brand is produced and sold under license by Lion. Lion advises that the post was not created by them, but by the Heineken parent company, and was placed on the Heineken Global Instagram account. The threshold issue for assessment is whether the post is within the jurisdiction of the ABAC Scheme.
3. While some alcohol brands and social media platforms operate globally, the ABAC scheme is limited in its reach to marketing that is linked to Australia. This is reflected in the Code, which describes its application to a 'marketing communication for alcohol, in any media, generated by, for, or within the reasonable control of an alcohol producer, distributor or retailer, that has a discernible and direct link to Australia'.
4. This means the Scheme and the Panel's remit do not extend to every alcohol marketing item that can be accessed in Australia via a global digital platform. To fall within the ambit of the Scheme, the marketing item must have a discernible and direct link to Australia, such as:
  - The Instagram account is under the control of an Australian alcohol marketer; or
  - If the Instagram account is under the control of an international entity, there is a discernible and direct link to Australia, so there is an Australian entity to which the ABAC obligations can attach, i.e. an Australian entity with reasonable control over the marketing communication.
5. Lion contends that:
  - The post was on an Instagram account owned and managed by The Heineken Company NV (Heineken Global).
  - Heineken Global created the post.
  - Lion maintains a separate Instagram account for the brand in Australia.
  - Heineken is a global brand, so the Heineken Global Instagram account is not intended for a specific country.
  - Lion has no control over the Heineken Global Instagram account or the content posted on that account.

6. In Determination 139/24, the Panel considered a complaint concerning a post on the Heineken Global Instagram account. It concluded that the post was created outside Australia and posted on an Instagram account not explicitly directed at Australian consumers. It was noted that, although Heineken is freely available in Australia and is marketed in Australia by Lion, the product's Instagram marketing in Australia for Australian consumers is conducted through a separate account. Lion Australia lacked the requisite control to bring the global Heineken account within the scope of the ABAC.
7. Upon further review, it is evident that the model adopted by Heineken is for the Global Instagram account to be supported by numerous national Instagram accounts, including the USA, NZ, UK, Canada, Indonesia, Paraguay, and many others. All national accounts appear to be accessible to Australia; for example, Heineken does not employ geo-blocking to restrict access to its accounts to its specific national target audience.
8. Each national account follows a standard format, but there are variations in the extent to which global content is supplemented by localised content. For instance, the UK account contains extensive local content, whereas the Australian account operated by Lion appears to carry only a curated subset of the global content. The post complained about was not placed on the Australian Heineken account.
9. Consistent with its decision in Determination 139/24, the Panel finds that the post is not a marketing communication within the jurisdiction of the ABAC Scheme. This does not mean that the content of the Global account is unregulated, as it will be subject to the national regime of the Netherlands and to potentially other national and supranational regulations, such as those imposed by the European Union.
10. Further, as provided in the Rules and Procedures governing the ABAC Scheme, the concern raised by the complainant regarding the post will be referred to the Netherlands, as the more appropriate adjudication forum.
11. Accordingly, the Panel lacks jurisdiction to determine the complaint under the ABAC standards, and the complaint must be dismissed for this reason.

## 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 Louisa Jorm and Panellist Cristiano Lima.

***Applicable ABAC Responsible Marketing Code Standard***

*Part 2 of the ABAC Code provides that:*

(a)	<i>Parts 3 and 4 of the Code APPLY to all Alcohol Marketing Communications.</i>
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*Part 3 of the Code requires that an Alcohol Marketing Communication must NOT:*

(c)(i)	<i>suggest that the consumption or presence of Alcohol may cause or contribute to an improvement in mood or environment;</i>
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*Part 8 of the Code provides the following definition:*

***Alcohol Marketing Communication*** means a marketing communication for Alcohol, in any media, generated by, for, or within the reasonable control of an Alcohol producer, distributor or retailer, that has a discernible and direct link to Australia, apart from the exceptions listed in Part 2(b).

***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 there has been no breach of Part 3(c)(i) of the ABAC Code by Lion and the Complaint should be dismissed by the ABAC Panel.
- Heineken Global/International (based in Amsterdam, the Netherlands) is the owner of the Instagram account @heineken.
- Lion did not create the post; it was created by Heineken Global (based in Amsterdam, the Netherlands).
- We are not fully aware of Heineken Global's specific targeting strategy. However, given that Heineken is one of the world's largest and most recognised international beer brands, the audience for the account and its posts is inherently global, reflecting the brand's international presence and appeal.
- Lion has no control over the account or the content posted. The Instagram account is managed exclusively by the Heineken Global team based in Amsterdam, the Netherlands. Lion does not have administrative access to the account and therefore cannot request that posts be removed or modified, even if they were found to be inconsistent with the ABAC.

- Additionally, Lion has no oversight or creative input into the development of content for this account – the Heineken Global team makes all decisions regarding creative direction.
- There is an Australian-specific Heineken Instagram account, which we manage locally under the handle @heinekenau. The post in question has not been published on this account.
- The Advertisement does not suggest that the consumption or presence of alcohol will cause or contribute to an improvement in mood or environment. The creative concept was a playful, reactive asset posted on the day The Beatles Anthology 4 was released and is a visual nod to the iconic song “Here Comes the Sun.” The text “Here comes the fun” and the caption “...and it’s alright. #anthology” clearly reinforces this connection with reference to the lyric. We believe the intent was to celebrate a cultural moment, not to imply that alcohol creates fun or improves mood.
- The image features four hands holding Heineken bottles, symbolically referencing the four members of The Beatles. The individuals are depicted wearing the band's iconic black suits, reinforcing the creative intent as a tribute to their legacy rather than implying any association between alcohol and mood enhancement.
- For the reasons set out above, we do not consider that the advertisement is in breach of Part 3(c)(i) 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:

- Lion reiterates its commitment to the ABAC Scheme and that it takes its obligations to responsibly promote its products seriously.
- Lion is an ABAC signatory.
- 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.
- 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.