



ABAC Adjudication Panel Determination 180/25

Determination Date	7 January 2026
Brands/Company	Cocktails/MXTology
Media	Digital – Instagram
ABAC Code provisions	Part 3 (a)(iv), (d)
Outcome	Upheled

Part 1 - Determination Overview

Complaint:

That three social media posts for MXTology Cocktails emphasise its alcoholic strength as a reason to choose the product, and one post encourages alcohol consumption whilst in and around water.

Key findings:

The Panel upheld the complaint, finding that:

- Three posts directly describe the product as strong and use this as a reason for a consumer to choose the product.
- One post positions the product with a person seated on the edge of a swimming pool, thereby implying that the product will be consumed in conjunction with swimming.

Marketing Communications:

<p>Post 1</p> <p>Instagram</p>  <p>mxtoLOGY 3w Your standards are high, your cocktails should be too. Strong is sexy and so is sipping something made with real spirits and premium ingredients. Here's to powerful women who don't settle.</p> <p>No comments yet. Start the conversation.</p> <p>3 likes November 22</p> <p>Add a comment...</p>	<p>Post 2</p> <p>Instagram</p>  <p>mxtoLOGY 3w Strong back. Strong mindset. Strong standards. So why sip anything weak?</p> <p>When you grind this hard, your reward should hit different — crafted with top-shelf spirits and fresh ingredients, just like the ones you favourite bar uses.</p> <p>This is what strong tastes like. MXToLOGY: Real strength, real flavour.</p> <p>No comments yet. Start the conversation.</p> <p>1 like November 22</p> <p>Add a comment...</p>
<p>Post 3</p> <p>Instagram</p>  <p>mxtoLOGY 3w This isn't your typical EDD. We use Canberra Distillery Grey Earl Gin, real elderflower and the same ingredients you'd get from a high-end bar. Because strong women deserve real cocktails — not white-label knockoffs. ❤</p> <p>No comments yet. Start the conversation.</p> <p>3 likes November 22</p> <p>Add a comment...</p>	<p>Post 4</p> <p>Instagram</p>  <p>mxtoLOGY 3w Who needs a swim-up bar in Bali... when world-class cocktails follow you wherever you go?</p> <p>Sun out. Legs out. Cosmo in hand. This is premium summer. MXToLOGY style.</p> <p>Poolside. beachside. fireside. Luxury is now portable.</p> <p>No comments yet. Start the conversation.</p> <p>1 like November 22</p> <p>Add a comment...</p>

Part 2 - The Panel's View

1. This determination concerns social media marketing for MXToLOGY ('the Company'), Cocktails ('the product'). The complainant argues that three posts encourage the choice of the product by emphasising its alcoholic strength. A fourth post is contended to encourage alcohol consumption whilst in and around water.
2. These concerns enliven the following ABAC Standards, requiring 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).

- 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 the control of a motor vehicle, boat or machinery or swimming – Part 3 (d).

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 and serves as the benchmark.

Alcoholic Strength

- 4. The complainant believes that Posts 1, 2 and 3 emphasise the strength of the alcoholic beverage as a selling point. It is permissible for alcohol marketing to reference a product's alcohol-to-volume content, and such information may be necessary for consumers to make an informed choice. The prohibition established by the Part 3(a)(iv) standard extends to marketing that goes beyond the provision of factual information and uses the alcoholic strength or intoxicating effect of a product as a reason to choose the product.
- 5. While each case must be assessed on its own merits, some considerations as to whether the standard has been breached 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 relative to similar products.
- 6. The Company argued that the posts do not breach ABAC standards. In considerable measure, however, the Company addressed issues not raised in the complaint, such as whether the posts strongly appealed to minors. To the extent that the Company's response approached the Part 3 (a)(iv) standard, it submitted:

- The marketing is consistent with both the letter and the spirit of the ABAC Code. The intention is solely to describe the product accurately as a real cocktail — identical to what an adult might order at a bar.
- Only factual information is stated, i.e. that the product 'contains real ingredients' and is 'a real cocktail.' It is not suggested that consuming the product will improve your life, mood, attractiveness, sex appeal, success or status.
- The representation is consistent with a real-world bar cocktail: an alcoholic beverage served responsibly, not a 'lifestyle booster' or 'miracle drink.'

7. The Post 1 image bears the caption, in large letters, 'Strong girls deserve strong cocktails,' and an illustration of a cocktail appears in the bottom-right corner. The following words accompany the post:

 **mxtology** 3w
Your standards are high.
Your cocktails should be too.
Strong is sexy and so is sipping something
made with real spirits and premium
ingredients.

Here's to powerful women who don't
settle

8. Post 2 depicts an image from behind of a man lifting weights. The following text accompanies the picture:

 **mxtology** 3w
Strong back. Strong mindset. Strong
standards.
So why sip anything weak?

When you grind this hard, your reward
should hit different — crafted with top-
shelf spirits and fresh ingredients, just like
the ones your favourite bar uses.

This is what strong tastes like.
MXTology. Real strength, real flavour.

9. The Post 3 image reads in large letters, 'Real Cocktails. Real Spirits. Really Strong.' An illustration of a cocktail is shown in the bottom left of the image, and '16% ABV' in the bottom right. The following words accompany the post:

 **mxtology** 3w
This isn't your typical RTD.
We use Canberra Distillery Grey Earl Gin,
real elderflower, and the same ingredients
you'd get from a high-end bar.
Because strong women deserve real
cocktails — not white-label knockoffs. ❤

10. The Company is entitled to position its pre-mixed cocktail as the equivalent in quality (or as a superior quality product) to the best cocktails made in bars. There is no ABAC barrier to a brand position of this nature. What is not permitted in adopting this brand posture is emphasising the product's alcoholic strength as a reason to choose the product. The Panel believes the three posts go beyond making a factual statement about the product's alcohol-to-volume content and use references to the product's strength as a selling point. For instance:

- Post 1 prominently displays the strapline 'Strong girls deserve strong cocktails', which clearly asserts the strength of the product as a selling point.
- Post 2 uses text – 'Strong back. Strong mindset. Strong standards. So why sip anything weak?' which directly implies the cocktails are 'strong'.
- Post 3 prominently uses the strapline 'Real Cocktails. Real Spirits. Really Strong,' which clearly asserts the product's strength as a selling point.

Safety

11. Post 4 depicts a person sitting on the side of a pool with their feet in the water. They are holding a MXTOLOGY Cocktail pouch. The post is accompanied by the words 'Who needs a swim-up bar in Bali...when world-class cocktails follow you wherever you go?' The concern expressed by the complainant is that the post encourages the consumption of alcohol before or while swimming.

12. Part 3 (d) of the 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.

13. 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. 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.

14. It is important to note that the Code standard does not prohibit an alcohol brand from being associated with a sport or activity, such as paddleboarding or any other water-based pursuit. 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. What this means for water-based activities is that an item of marketing can:

- show an alcohol product at a beach or adjacent to a swimming pool if it is clear that alcohol is not being consumed; or

- show alcohol consumption, but it is clearly established that the dangerous activity, like swimming, surfing, scuba diving, etc, has finished and will not be recommenced.

15. What factors would likely influence a reasonable person's understanding of a marketing communication set at a beach as to whether a person depicted would consume alcohol and then enter the water to swim? Some factors might be:

- How is the person dressed, e.g. are they fully clothed or wearing swimming gear, or are they wearing a floppy hat and sunglasses, or a swimming cap and goggles?
- the positioning of the person, i.e. is the person in the water, immediately adjacent to the water or some distance from the water;
- whether the person is shown consuming the product (including, if not actually shown, but is directly implied);
- How is the alcohol product presented, e.g. is it an open can or bottle or closed, or does it seem the product has already been partially consumed; and
- The time of day depicted in the scene, e.g., is more likely to indicate that the activity is completed if it is late afternoon than if it is morning.

16. In response to the complaint about this post, the Company submitted that:

- We have not suggested drinking to excess, nor depicted irresponsible behaviour (e.g., drinking and driving, dangerous activities, or misuse).
- Our marketing does not breach the ABAC Code.

17. While this is a more 'on balance' judgement than the other posts, the Panel believes that the Part 3 (d) standard has been breached. In reaching this conclusion, the Panel had regard to:

- The person is positioned with the product on the pool's edge with their feet apparently in the water.
- The person is in swimwear, and the time of day suggests swimming is likely.
- The accompanying text is suggestive of swimming occurring by referring to a 'swim-up bar'.
- Taken as a whole, a reasonable person would likely understand that the post is endorsing the consumption of the product in conjunction with swimming.

18. It is noted that the Company is not an ABAC signatory, but it does engage with the public complaints process. This speaks well of the Company's recognition of the need to promote responsible marketing. The Company would benefit from undertaking ABAC

online training and from obtaining advice on adjusting its marketing messaging to align with best-practice standards.

19. The complaint is upheld.

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 [Name], and Panellist [Name].

Applicable ABAC Responsible Marketing Code Standard

Part 3 of the Code requires that an Alcohol Marketing Communication must NOT:

(a)(iv)	<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>
(d)	<i>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 the control of a motor vehicle, boat or machinery or swimming.</i>

Company Response:

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

- Thank you for raising your concerns under the ABAC Scheme. Below is our response and the reasons we believe our recent marketing does **not** breach the ABAC Responsible Alcohol Marketing Code.

Our content does not target minors or appeal to underage persons

- The promotional material portrays adults of legal drinking age; we have not used imagery, language, themes or design that might have “strong or evident appeal to minors.”

- We do not use cartoons, juvenile themes, or child-like branding. The product is presented as a real cocktail — the kind that adult consumers expect in a bar setting.

We do not encourage excessive or irresponsible consumption

- The marketing does not depict excessive drinking, binge drinking, or rapid/compulsive consumption.
- We have not suggested drinking to excess, nor depicted irresponsible behaviour (e.g., drinking and driving, dangerous activities, or misuse).

We do not claim that alcohol leads to success, mood enhancement, health benefits or social status.

- We only state factual information: that our product “contains real ingredients” and is “a real cocktail.” We do not suggest that consuming the product will improve your life, mood, attractiveness, sex appeal, success or status.
- The representation is consistent with a real-world bar cocktail: an alcoholic beverage served responsibly, not a “lifestyle booster” or “miracle drink.”

We comply with applicable placement and responsible marketing standards

- Our marketing communications have been directed at adult audiences (where expected) and are not placed or targeted to minors or youth audiences.

Conclusion & Request

- In light of the above, we respectfully submit that our marketing is consistent with both the letter **and the spirit** of the ABAC Responsible Alcohol Marketing Code. We are not advocating excessive consumption, nor glamorising alcohol, nor targeting minors. Our intention is solely to describe the product accurately as a real cocktail — identical to what an adult might order at a bar.
- We welcome any further feedback or clarification you may require.

Marketing Best Practice:

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

- Thank you for raising your concerns under the ABAC Scheme. We take responsible alcohol marketing very seriously.
- We recognise that the Code works alongside other legislation and advertising standards (e.g., general advertising ethics, broadcast/placement rules) and we endeavour to comply with all relevant laws.

- We are committed to working collaboratively to ensure all marketing remains compliant.

The Panel notes that the Company:

- Is not an ABAC signatory.
- Did not submit the marketing materials for ABAC pre-vetting approval.
- Has not required its employees to complete the ABAC Online Training.