ABAC Adjudication Panel Determination 181/25

Determination Date	9 January 2026
Brand/Company	Beer/Sanctus Brewing Co
Media	Digital – Facebook and Instagram
ABAC Code provisions	Part 3 (b)(i)
Outcome	Dismissed

Part 1 - Determination Overview

Complaint:

A social media post promoting Sanctus Brewing Co.'s Family Day features Santa Claus as the dominant figure, indicating that the marketing is centred on a character highly recognised by and relatable to minors.

Key findings:

The Panel dismissed the complaint, finding that:

- The dominant feature of the post is a photograph of a man in a Santa costume seated in a utility vehicle, holding a four-pack of beer. The accompanying text is less prominent than the image and states that the Company is having a family day.
- While minors will recognise and relate to the Santa character, the overall setting of the character in a ute, without any other Christmas-themed imagery, would not have particular appeal to minors.
- The Santa character is a standard Christmas trope used across age groups. In the current context, the character is used to establish the nature of the Company event rather than present Christmas as a child-focused occasion, such as opening presents on Christmas Day.
- The post would likely have an incidental rather than a strong appeal to minors.

Marketing Communication:

Part 2 - The Panel's View

1. This determination concerns a social media post by Sanctus Brewing Co. (the Company) promoting its Family Day. The marketing shows a man dressed in a Santa Claus costume holding a package of four beers out of the window of a ute. The text accompanying the post describes the Family Day.

2. The complainant contends that the post will have high appeal amongst minors due to the popularity of Santa Claus with minors. This concern brings into focus the ABAC standard in Part 3 (b)(i) of the Code that provides that alcohol marketing must not have a strong or evident appeal to minors.

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.

Strong and Evident Appeal to Minors

4. The Part 3 (b)(i) 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, such that the marketing communication is likely to appeal strongly to minors.

5. The Panel has considered the Part 3 (b) standard on many occasions. While each marketing communication must always be assessed individually, some characteristics within marketing material that may make it strongly appealing to minors include:

    - the use of bright, playful, and contrasting colours;
    - aspirational themes that appeal to minors wishing to feel older or fit into an older group;
    - the illusion of a smooth transition from non-alcoholic to alcoholic beverages;
    - creation of a relatable environment by use of images and surroundings commonly frequented by minors;
    - depiction of activities or products typically undertaken or used by minors;
    - language and methods of expression used more by minors than adults;
    - inclusion of popular personalities of evident appeal to minors at the time of the marketing (personalities popular to the youth of previous generations will generally not have strong current appeal to minors);
    - style of humour relating to the stage of life of a minor (as opposed to humour more probably appealing to adults); and
    - use of a music genre and artists featuring in youth culture.

6. It should be noted that only some of these characteristics are likely to be present in a specific marketing communication, and the presence of one or even more of the characteristics does not necessarily mean that the marketing item will have a strong or evident appeal to minors. It is the overall impact of the marketing communication, rather than any individual element, that shapes how a reasonable person will understand the item.

7. In response to the complaint, the Company advised that:

    - The post was intended to promote the Family Fun Day to adult patrons, rather than any specific alcohol product or drinking behaviour.
    - We actively seek to ensure our content is directed to an adult audience. While the image included a male dressed as Santa Claus, this individual was depicted in an adult context and was associated with our licensed premises.
    - There was no call to action to purchase or consume alcohol, no pricing or promotional messaging, and no suggestion that alcohol was intended for or appropriate for minors. The marketing was certainly not designed to promote minors' drinking alcohol in any way.

- Sanctus Brewing Co does not consider that the post breached Part 3(b)(i) of the Code, as the content did not promote alcohol consumption, did not encourage or depict minors drinking alcohol, and was intended to promote a community event at a licensed venue rather than appeal to minors in relation to alcohol.

8. The inclusion of Santa Claus is a common practice in the marketing of various products in the lead-up to Christmas, and alcohol marketers have used Santa images and references over the years. Not surprisingly, this has seen several complaints and Panel decisions on the concern that the use of Santa in an alcohol marketing communication will have a strong or evident appeal to minors.

9. A review of the past decisions shows several recurring points, namely:

    - There is no prohibition on referencing Santa Claus in alcohol marketing.

    - That said, the inclusion of a Santa Claus character in marketing will invariably increase the likelihood that the marketing communication will have a strong appeal to minors.

    - Whether the individual marketing communication has a strong appeal to minors is always a case-by-case assessment, and

    - The context of the use and depiction of the Santa Claus character is key in determining the appeal of the marketing communication to minors.

10. By way of illustration of the importance of context, in Determination 03/08, the Panel considered a TV ad for an alcohol retailer that showed a man in a Santa Claus costume entering the liquor store, approaching the counter, and removing his hat and white beard. The context establishes that he left his pre-Christmas shopping late, and the products were identified as potential purchases. The ad was held not to breach the strong appeal to minors standard, as in the context, the ad established:

    - The man was a customer and not the ‘real Santa’;

    - Much of the ad focused on the products and their prices, which would not appeal strongly to minors; and

    - Taken as a whole, the advertisement would not have strongly appealed to minors.

11. In contrast, the Panel found that the depiction of Santa Claus imagery constituted a breach of the standard in Determination 121/22. This case involved a T-shirt featuring an image of anthropomorphised cans of beer depicting a child sitting on Santa Claus's knee. The combination of Santa Claus's appealing character and the highly relatable scenario of sitting on Santa’s knee to ask for presents was strongly appealing to minors.

12. Equally, in Determination 181/24, a social media post featuring Santa Claus holding a carton of beer, presented as a wrapped Christmas present, was held to breach the

standard, given that Santa holding a Christmas present would be highly relatable and familiar to minors.

13. The Panel believes that the appeal to minors of the current social media post is a decision on which reasonable minds might disagree. The image shows the man in the Santa costume holding a four-pack of beer out of the window of a ute. On balance, the Panel believes the post would not breach the Part 3 (b)(i) standard. In reaching this conclusion, the Panel noted that:

    - The dominant feature of the post is a photograph of a man in a Santa costume seated in a utility vehicle, holding a four-pack of beer. The accompanying text is less prominent than the image and states that the Company is having a family day.
    - While minors will recognise and relate to the Santa character, the overall setting of the character in a ute, without any other Christmas-themed imagery, would not have particular appeal to minors.
    - The Santa character is a standard Christmas trope used across age groups. In the current context, the character is used to establish the nature of the Company event rather than present Christmas as a child-focused occasion, such as opening presents on Christmas Day.
    - The post would likely have an incidental rather than a strong appeal to minors.

14. 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 Louisa Jorm and Panellist Debra Richards.

Applicable ABAC Responsible Marketing Code Standard

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

(b)(i)	*have Strong or Evident Appeal to Minors, in particular;* *(A) Specifically target Minors;* *(B) have a particular attractiveness for a Minor beyond the general attractiveness it has for an Adult;*

	(C) use imagery, designs, motifs, language, activities, interactive games, animations or cartoon characters that are likely to appeal strongly to Minors; *(D) create confusion with confectionery, soft drinks or other similar products, such that the marketing communication is likely to appeal strongly to Minors; or* *(E) use brand identification, including logos, on clothing, toys or other merchandise for use primarily by Minors*

Company Response:

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

- We confirm that the relevant post was promptly removed from Instagram upon becoming aware of the complaint. Due to the automated cross-posting functionality of our social media scheduling platform (Hootsuite), the content was inadvertently removed from Instagram only, not from Facebook. This was an oversight rather than an attempt to leave the content live, and the Facebook post has since been addressed.

- With respect to the substance of the complaint, the marketing in question pertained to a community Christmas Family Fun Day held at our licensed venue. The post was intended to promote the event to adult patrons, rather than any specific alcohol product or drinking behaviour.

- All Sanctus Brewing Co social media accounts clearly display DrinkWise and 18+ messaging in the bio, and we actively seek to ensure our content is directed to an adult audience. While the image included a male dressed as Santa Claus, this individual was depicted in an adult context and was associated with our licensed premises. There was no call to action to purchase or consume alcohol, no pricing or promotional messaging, and no suggestion that alcohol was intended for or appropriate for minors. The marketing was certainly not designed to promote minors' drinking alcohol in any way.

- Sanctus Brewing Co does not consider that the post breached Part 3(b)(i) of the Code, as the content did not promote alcohol consumption, did not encourage or depict minors drinking alcohol, and was intended to promote a community event at a licensed venue rather than appeal to minors in relation to alcohol.

- We acknowledge the sensitivity around the depiction of highly recognisable characters and appreciate the Panel’s consideration of this issue. With the benefit of hindsight, we recognise that the imagery could be interpreted differently from its intended meaning, and we have taken steps to ensure that similar content is avoided in future marketing.

- We appreciate the opportunity to provide our perspective and reiterate that there was no intention to market alcohol to minors. Sanctus Brewing Co remains

committed to responsible alcohol marketing and to working constructively within the ABAC framework.

Marketing Best Practice:

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

- Sanctus Brewing Co. is a member of the Independent Brewers Association and aligns its marketing practices with the Association's values, guidelines, and commitment to responsible alcohol promotion.
- Sanctus Brewing Co will accept and comply with the Panel's determination in relation to this complaint.
- The marketing material was not submitted to the ABAC pre-vetting service before publication.
- As the current team member responsible for social media management, I will complete the ABAC online training course further to strengthen our compliance and understanding of the Code.
- I will ensure that all future marketing and social media content complies with the Code.