

ABAC Adjudication Panel Final Determination No. 34/19

Product: Jedi Juice
Company: Hop Nation
Media: Packaging
Date of decision: 1 July 2019
Panelists: Professor The Hon Michael Lavarch (Chief Adjudicator)
Ms Debra Richards
Professor Richard Mattick

Introduction

1. This final determination by the ABAC Adjudication Panel (“the Panel”) concerns packaging of Jedi Juice by Hop Nation (“the Company”) and arises from a complaint received 3 May 2019.
2. On 3 June 2019 the Panel made a provisional determination on the complaint. In accordance with the rules and procedures applying to the ABAC Scheme a marketer is entitled to a rehearing of a provisional determination which finds a product name and packaging in breach of the Code. On 17 June the Company sought a rehearing of the complaint and provided additional submissions for the Panel’s reconsideration in making a final decision. This final determination flows from the rehearing process.
3. Alcohol marketing in Australia is subject to an amalgam of laws and codes of practice, that regulate and guide the content and, to some extent, the placement of marketing. Given the mix of government and industry influences and requirements in place, it is accurate to describe the regime applying to alcohol marketing as quasi-regulation. The most important provisions applying to alcohol marketing are found in:
 - (a) Commonwealth and State laws:
 - Australian Consumer Law – which applies to the marketing of all products or services, and lays down baseline requirements, such as that marketing must not be deceptive or misleading;
 - legislation administered by the Australian Communications and Media Authority – which goes to the endorsement of industry

codes that place restrictions on alcohol advertising on free to air television;

- State liquor licensing laws – which regulate retail and wholesale sale of alcohol, and contain some provisions dealing with alcohol marketing;

(b) Industry codes of practice:

- AANA Code of Ethics – which provides a generic code of good marketing practice for most products and services, including alcohol;
- ABAC Responsible Alcohol Marketing Code (“ABAC”) – which is an alcohol specific code of good marketing practice;
- certain broadcast codes, notably the Commercial Television Industry Code of Practice – which restricts when advertisements for alcohol beverages may be broadcast;
- Outdoor Media Association Code of Ethics – which places restrictions on the location of alcohol advertisements on outdoor sites such as billboards.

4. The codes go either to the issue of the placement of alcohol marketing, the content of alcohol marketing or deal with both matters. The ABAC deals with both the placement of marketing i.e. where the marketing was located or the medium by which it was accessed and the content of the marketing irrespective of where the marketing was placed. The ABAC scheme requires alcohol beverage marketers to comply with placement requirements in other codes as well as meeting the standards contained in the ABAC.
5. For ease of public access, Ad Standards provides a common entry point for alcohol marketing complaints. Upon a complaint being received by Ad Standards, a copy of the complaint is supplied to the Chief Adjudicator of the ABAC.
6. The complaint is independently assessed by the Chief Adjudicator and Ad Standards and streamed into the complaint process that matches the nature of the issues raised in the complaint. On some occasions, a single complaint may lead to decisions by both the Ad Standards Community Panel under the AANA Code of Ethics and the ABAC Panel under the ABAC if issues under both Codes are raised.
7. The complaint raises concerns under the ABAC Code and accordingly is within the Panel’s jurisdiction.

The Complaint Timeline

8. The complaint was received on 3 May 2019 with the provisional determination made on 3 June 2019. Generally, the Panel endeavours to make a decision within 30 business days of the receipt of a complaint but this timeline is not

applicable due to the two-part process involved in determinations concerning product names and packaging.

Pre-vetting Clearance

9. The quasi-regulatory system for alcohol beverage marketing features independent examination of most proposed alcohol beverage marketing communications against the ABAC prior to publication or broadcast. Pre-vetting approval was not obtained for this marketing communication.

The Marketing Communication

10. The complaint refers to the following packaging.



The Complaint

11. The complainant is concerned that the packaging attracts under 18 year olds as he went to a bottleshop with a friend's teenage boys (14-15) and they were very excited when they saw the 'Jedi Juice' packaging asking if they could purchase it as it was 'so cool'.

The ABAC Code

12. Part 2(a) of the ABAC Code provides that The Code APPLIES to all Marketing Communications in Australia generated by or within the reasonable control of a Marketer, except as set out in Section 2(b). This includes, but is not limited to:

....

(d) product names and packaging

....

13. Part 3 of the ABAC Code provides that a Marketing Communication must NOT:

(b)(i) have Strong or Evident Appeal to Minors;

14. Definition in Part 6 of the ABAC provides:

Strong or Evident Appeal to Minors means:

- (i) likely to appeal strongly to Minors;
- (ii) specifically targeted at Minors;
- (iii) having a particular attractiveness for a Minor beyond the general attractiveness it has for an Adult;
- (iv) using imagery, designs, motifs, animations or cartoon characters that are likely to appeal strongly to Minors or that create confusion with confectionary or soft drinks; or
- (v) using brand identification, including logos, on clothing, toys or other merchandise for use primarily by Minors.

A **Minor** means a person who is under 18 years of age and therefore not legally permitted to purchase an alcohol beverage in Australia.

The Company's Response

15. On 13 May 2019 the Company responded to the complaint and this response is Attachment 1 to this determination. On 17 June 2019 the Company exercised its entitlement to a rehearing and made additional submissions which is Attachment 2 to this determination.

The Panel's View

Introduction and Background

16. Hop Nation is an Australian craft brewery located in the Melbourne suburb of Footscray. Since 2015 the Company has been releasing products, with the Jedi Juice NEIPA style beer first produced for a specialty festival in May 2017. The

packaging for Jedi Juice adopts a similar branding in terms of style, imagery and colouring to 5 other Company products, namely:

- The Punch – moose goose
 - Karma – oatmeal stout
 - The Heart – pale ale
 - The Chop - ipa
 - The Damned - pilsener
17. The Company is not a signatory to the ABAC Scheme and as such is not contractually bound to abide with Panel decisions. The Company has, however, fully co-operated with the determination process and has made use of the ABAC pre-vetting service on a number of occasions in relation to its products, including The Heart, The Damned and The Punch.
18. The Australian craft brew industry has grown in size and product range in recent years. The industry through its peak body, The Independent Brewers Association supports good practice in alcohol marketing and has engaged with the ABAC Scheme but has not as yet joined the Scheme. The willingness of individual craft brewers such Hop Nation to engage with the ABAC Scheme is to be commended and demonstrates that the Company takes seriously its social license responsibilities.
19. The complaint goes to the name and packaging (the artwork on the can) of Jedi Juice. The ABAC Scheme provides a differential process for complaints that go to product names and packaging as compared to complaints that go to advertising or other marketing of alcohol. For name and packaging complaints the decision making process is in two parts when the Panel makes a finding of a breach of an ABAC standard, with the marketer able to seek a rehearing of a provisional determination. This second stage of the process recognises that the consequences of an adverse ruling on a Company will be significant if it is obliged to remove a product's branding from the market as opposed to a single advertisement or even an entire marketing campaign.
20. The Panel made a provisional determination to uphold the complaint and the Company has sought a rehearing of this decision. A rehearing means that the Panel looks at the complaint afresh and makes a new decision having regard to the complaint, the submissions of the Company and the product materials.

The Provisional Determination

21. In the provisional determination the Panel concluded that the product name and packaging was in breach of the ABAC standard in Part 3(b) namely that a marketing communication must not have strong or evident appeal to minors. In reaching this conclusion the Panel had regard to the following:

- As a result of its longevity and enormous popularity Star Wars has created a series of characters who are highly recognisable across all age demographics of the population. Princess Leia is one of the principal characters in the franchise and the Jedi are a group of characters also immediately associated with Star Wars.
- The image used on the product is clearly derived from the Princess Leia character and while it is by no means a direct translation of the character, the image when combined with the term 'Jedi' leaves no doubt as to a Star Wars reference.
- Stars Wars appeal is probably strongest amongst males aged in the 30 and upwards bracket but the appeal is strong across all age groups and would clearly be strong amongst those aged under 18.
- The appeal of the Star Wars characters and themes amongst minors can be reasonably assumed based on the sheer number of collateral items branded and marketed to minors extending from clothing, toys, games and children focussed derivative Star Wars stories.
- Taken as a whole, the product packaging combining the elements of its name and its imagery would be understood by a reasonable person as likely having a strong and evident appeal to minors.

Arguments by the Complainant and the Company

22. The complainant's argument as to why the packaging is inconsistent with the Code standard is that the packaging is attractive to under 18s providing the example of his friend's two teenage boys (14-15) being 'excited' by the product, wanting to purchase it and commenting that it was 'cool'.
23. The Company's arguments drawn both from its initial response to the complaint and its additional submissions to the provisional determination can be summarised as follows:
 - Star Wars is a pop culture phenomenon loved by people of all ages, and while the product may have consequential or residual appeal to minors through the reference to Star Wars the product does not have a particular attractiveness for minors beyond the general attractiveness it has for an adult, referencing:
 - research that that the average Star Wars devotee is male, aged 18-44 that watches science, history and horror TV;
 - that Star Wars films over time have become more dark and violent with the last two films released in 2015 and 2017 respectively (Episode VII: The Force Awakens and Episode VIII: The Last Jedi) being classified as "M" for mature audiences; and
 - the films and their associated characters and imagery do not have a strong appeal to Minors.
 - The reference to 'Juice' in the name describes of the taste and aroma of the beer (New England Indian Pale Ale) which is commonly referenced as a 'hazy and juicy Indian Pale Ale'.

- The image on the can is stencil art of a woman who resembles Princess Leia covered in tattoos holding a smoking gun, with the depiction resembling street art or graffiti rather than a cartoon or animation.
- The product is clearly labelled as alcohol and would not be confused with a soft drink.
- The label is very similar to that of other Hop Nation products that have received pre-vetting approval.
- The teenage boys that saw the packaging may have been attracted to the label as it has an image of a young woman on it. Such an image is attractive to males of all ages and this does not make it particularly appealing for minors.
- Hop Nation's social media following and clientele in their tasting room is predominantly 25-44 year old males and doesn't include minors and this is the group we target in developing marketing.
- The flavour profile and price point of the beer is targeted to beer enthusiasts over the age of 25.
- The product is no more attractive to minors than other craft beer products on the market.
- The production of an artistic and meaningful label is appreciated by customers and creates a point of difference with commercially produced beer. By limiting imagery and references that can be used on labels the ABAC Panel will be stifling creativity and limiting a brand's freedom of expression.
- Beers with strong or evident appeal to minors have received pre-vetting approval and a variety of Star Wars themed alcohol beverages are sold in Australia. Finding against Jedi Juice will open the floodgates.

Pre-vetting Approval and the Complaints Process

24. The Company draws attention to the fact that it has received pre-vetting approval for the packaging of other products which have adopted a similar style in terms of design and colouring to that used on Jedi Juice. The point being made by the Company is that if these other products have been approved as meeting ABAC requirements then it is reasonable to think that Jedi Juice would also meet the standards. It should be noted that:
- the public complaints process and the decisions reached by the Panel is completely separate and independent from the advice given by the ABAC pre-vetting service. The Panel makes its own assessment of complaints and is not bound by pre-vetting advice; and
 - the Jedi Juice name and packaging was not submitted for pre-vetting.

25. As a matter of good practice, the ABAC Scheme as a whole, i.e. in the pre-vetting advice and Panel decisions on complaints, seeks to achieve consistency in the interpretation and application of Code standards. Consistency is an important policy goal as this helps industry in working within the regulatory system and as a matter of equity like issues should receive like outcomes. And while statistically pre-vetting approval is very likely to be reflected in a subsequent public complaint being dismissed, there will be occasions where a marketing communication will fall in a zone where reasonable minds might differ as to whether the marketing is consistent with a standard or not. Accordingly, from time to time a complaint will be upheld even when prior pre-vetting approval had been obtained.

Similar concept products

26. Another point raised by the Company was that there are a number of other 'Star Wars' referencing alcohol products on the market. The argument is that if the Company's product is considered in breach of the Part 3 (b) standard on strong appeal to minors then a range of other products would also be in breach. While the point made is understandable, it cannot have any weight in the Panel's decision. The ABAC Scheme for over 20 years has featured a public complaints process which results in an individual assessment of the concerns raised in the complaint against the applicable Code standards. The adjudication process is triggered by a complaint. It is the Jedi Juice product which has drawn a complaint and hence the determination.
27. If other marketing, including packaging, is complained about then that complaint will be assessed thoroughly and fairly. This involves considering the concerns expressed by the complainant, the brand owner of the product having the right of natural justice by responding to the complaint and this being considered by the Panel. In short, the Panel has no other complaints regarding any other products but if complaints are received then these complaints will be decided on their merits and not pre judged.

Strong or Evident Appeal to Minors

28. Part 3 (b) of the Code provides that a marketing communication (including a product name and packaging) must not have strong or evident appeal to minors (under 18 year olds). The Code goes on to give a list of instances when the standard might be breached including marketing communications:
- likely to appeal strongly to minors;
 - specifically targeted at minors;
 - having a particular attractiveness for a minor beyond the general attractiveness it has for an adult; or
 - using imagery, designs, motifs, animations or cartoon characters that are likely to appeal strongly to minors or that create confusion with confectionery or soft drinks.
29. In assessing if a Code standard has been breached the Panel is to have regard to the probable understanding of the packaging by a reasonable person taking

the contents of the packaging as a whole. The reference to a 'reasonable person' is borrowed from the common law system and means that the opinions, values and life experiences common in a majority of the community is to be the benchmark.

30. Over time the Panel has made a number of decisions about alcohol marketing and product names and packaging, in particular in relation to consistency with the standard going to strong appeal to minors. From these previous cases the following general considerations can be derived:
 - each case has to be considered on its own merits and it is the overall impression created by the packaging that is to be assessed by a combination of features such as imagery, colour, use of language, product name and type of product container;
 - it is possible that a marketing item might have some residual or incidental appeal to minors while not strongly or evidentially appealing to minors; and
 - the intention of the marketer as to its intended audience is not the test but the understanding of the marketing item by a reasonable member of the community.
31. The Company argues that it did not intend that its Jedi Juice product should be appealing to minors. It points out that the flavour of the product is highly unlikely to be palatable to a younger person and that the price point of the product places it at the premium end of the market and probably out of the price range of younger drinkers. The actual consumers of the product according to the Company's data are older males.
32. Each of these points can be accepted but they are not arguments which really go to the probable understanding of the product name and packaging and the appeal of this marketing material to minors. The Panel is not assessing the appeal of the taste of the actual alcohol beverage to different demographic groups nor passing an opinion on the pricing strategy. It is the name and packaging that has to be considered.
33. It is recognised that Jedi Juice adopts a style of packaging which is similar to other Company products in colour and artistic design but none of these other products reference the Star Wars movies and depict a character which is clearly a representation of Princess Leia. It is the Star Wars linkage which is pivotal in the Panel's view on how the product name and packaging would be understood by a reasonable person.
34. Stars Wars is one of a handful of fictional creations that can be fairly said to have had a whole of culture impact. This arose firstly from the continuing movie franchise but then grew into television animated series, story books, and countless items of merchandise from children's pyjamas, to lego blocks, to toys and figurines and numerous other items. The description of Star Wars being its own universe is not a huge exaggeration.
35. As pointed out by the Company the style of Star Wars movies has altered over time and it would be reasonable to think that the single largest demographic group engaged in the movie franchise would be males aged 18 to 45. That

said, the movies are only part of the picture. The ubiquitous nature of the collateral merchandise referencing Stars Wars also appears to have expanded over time and with the acquisition of the Intellectual Property rights in the movies by the Disney Corporation in 2012 the collateral use of the Stars Wars brand has increased.

36. Media reports indicate that Disney paid 4 billion US dollars for rights to the films and the Star Wars brand. The same report noted that since the 1977 premier of the first movie some 12 billion dollars had been made in toy and merchandise sales with 700 million dollars coming in for toys sales in 2015 alone based around the instalment 'The Force Awakens' which relaunched the movies. Forbes magazine noted the three revenue sources other than box office receipts and merchandise are video games, home videos and books which had earned 13 billion dollars between 1977 and 2015.
37. As a general approach the Panel does not endeavour to draw implications from outside a direct examination of the content of the marketing communication. This is because the Panel cannot hope to undertake comprehensive research of topics and often any implications drawn will be contested. On a few occasions however the Panel believed it was both safe and necessary to properly assess the marketing communication from the standpoint of a reasonable person to assume an understanding of the popular culture references flowing from the marketing item. This occurred in Determination 37A/14 which considered a product named and packaged as 'Duff' beer taken from the 'Simpsons' TV series.
38. Taking into account the detailed submissions of the Company and weighing up the arguments, the Panel believes the product name and packaging of Jedi Juice does breach Part 3 (b). In reaching this conclusion, the Panel noted:
 - the Jedi Juice name and the recognisable Princess Leia sourced image on the packaging would be taken by a reasonable person as a clear play on the Star Wars movie;
 - Stars Wars is widely recognised in the community as a 'universe' of characters and plot lines derived from a movie franchise which has been on periodic release since 1977;
 - the appeal of Stars Wars is across demographic groups and flows from the movies and related expansions of the storylines and characters into TV animation, video games, toys, books and comics;
 - taken as a whole this multimedia and multi format dissemination has created a brand which has had a whole of popular culture impact in many countries including Australia;
 - the brand has been exploited through merchandising via collateral items, notably children's toys and clothing lines;
 - while the appeal of Star Wars is broad based there can be no doubt that Stars Wars does have strong and evident appeal to under 18 year olds,

as demonstrated, for instance, through the amount of Star Wars toys and children's merchandise purchased each year; and

- the product name and imagery would be highly recognised by under 18 year olds and a reasonable person would probably understand the product name and packaging as having a strong appeal to minors flowing from its referencing to Star Wars.

39. In coming to this view the Panel acknowledges the Company did not intend to create a product which would appeal strongly to minors and the beer style and pricing reinforce this point. The intention of the marketer is not however the test, but how the marketing communication would be understood by a reasonable person.
40. The Panel makes a final determination that the product name and packaging is in breach of Part 3(b) of the Code.

Attachment 1

Re: ABAC Complaint 34/19 – Jedi Juice

Thank you for bringing this complaint to our attention and for giving us the opportunity to respond.

Hop Nation Brewing Co. (“**Hop Nation**”) is not a signatory to the ABAC scheme and as such is not contractually bound to meet ABAC standards or to comply with the ABAC Adjudication Panel’s (the “**Panel**”) decisions. However, Hop Nation understands the important role that the ABAC scheme plays within the alcoholic beverages industry and is therefore committed to co-operating with the Panel’s processes. Hop Nation will ultimately accept the Panel’s decision in relation to this complaint.

Background of the beer

Hop Nation first produced Jedi Juice in May 2017 as a festival beer for the annual Great Australian Beer Spectacular (“**GABS**”) Festival. Since that time, Jedi Juice has been produced and distributed nationally across all states in Australia. In both 2018 and 2019, the beer was voted into the top 10 in the GABS Hottest 100 Aussie Craft Beers and it has amassed an extensive following. Hop Nation did not seek and therefore did not receive Alcohol Advertising Pre-vetting Service Approval prior to Jedi Juice entering the market. Nevertheless, this is the only complaint that Hop Nation has ever received in relation to this product.

The Complaint

Hop Nation denies that the marketing of Jedi Juice breaches Part 3 (b) (i) of the ABAC Code as it does not have strong or evident appeal to Minors. The definition of “strong or evident appeal to Minors” in Part 5 of the Code provides:

“Strong or evident appeal to Minors means:

- (i) Likely to appeal strongly to Minors;
- (ii) Specifically targeted at Minors;
- (iii) Having a particular attractiveness for a Minor beyond the general attractiveness it has for an adult;
- (iv) Using imagery, designs, motifs, animations or cartoon characters that are likely to appeal strongly to Minors or that create confusion with confectionary or soft drinks; or
- (v) Using brand identification, including logos, on clothing, toys or other merchandise for use primarily by Minors.

A 'Minor' is defined as a person who is under 18 years of age and therefore not legally permitted to purchase an alcoholic beverage in Australia."

In reaching its decision and in response to the questions raised in your letter, dated 3 May 2019, Hop Nation would like the Panel to consider the following arguments:

(a) The Name

In relation to the name Jedi Juice, the word 'Jedi' commonly refers to a member of the mystical knightly order in the Star Wars films, trained to guard peace and justice in the Universe. The Star Wars franchise began in 1977 and has become a worldwide pop-culture phenomenon with a total of 9 films being released to date.

Quantcast, an online audience measurement company based in San Francisco, has conducted research which demonstrates that the average Star Wars devotee is male, aged 18-44 that watches science, history and horror TV. This research is supported by the fact that the Star Wars films over time have become more dark and violent with the last two films released in 2015 and 2017 respectively (Episode VII: The Force Awakens and Episode VIII: The Last Jedi) being classified as "M" for mature audiences. As such, these films and their associated characters and imagery do not have a strong appeal to Minors. It is submitted that there may be a consequential or residual appeal to Minors through the reference to Star Wars on the Hop Nation product but given that Star Wars is a pop-culture phenomenon loved by people of all ages, the product does not have a particular attractiveness to Minors beyond the general attractiveness it has for an adult.

In reference to the 'Juice' component of the name, the 2018 Brewers Association Beer Style Guidelines categorises the New England Indian Pale Ale ('NEIPA') style as a 'Juicy or Hazy Indian Pale Ale', whilst also noting that the term 'juicy' is frequently used to describe taste and aroma attributes often present in these beers as a result of a late, often very large addition of hops. There are several breweries across Australia that have used the word 'Juice' in the name of their NEIPAs as it is now synonymous with the style; For example, Biggie Juice by Feral Brewing, Hang Loose Juice by Capital Brewing, Juice Train by Quiet Deeds, Galaxy Juice by 3 Ravens and Beetle Juice by Back Hops. The word 'Juice' was also chosen by our marketing team as a form of alliteration to have a word indicating a beverage that had the same letter and sound as 'Jedi'.

(b) The Image

The image that is present on the centre of the Jedi Juice can is of a woman holding a smoking gun. This woman resembles Princess Leia from Star Wars due to her famous hairstyle but has been recreated by our artist as a piece of stencil art. The woman is covered in various tattoos (which are illegal for an under 18 year old to get without the permission of a parent or guardian) including a heart that depicts a love for 'hops', a key ingredient in this style of beer. Hop Nation submits that the image is not a cartoon or animation specifically targeted at Minors and instead resembles graffiti/street art with adult themes and a rebellious undertone similar to the work of the famous artist 'Banksy'.

Below the image is the word "NEIPA" which is a widely used acronym for the beer style of "New England Indian Pale Ale". The use and placement of this acronym in the front centre of the can is to make it clear to the consumer that this is a beer product. On one side of the label is the product and standard drink information including in bold text the words "Beer – Product of Australia" again making it clear that the product is an alcoholic beverage.

(c) Confusion with confectionary or soft drink

The current complaint specifically notes that the association and connection to Star Wars via the name and the image on the product, could create confusion with a fruit juice or soft drink. Hop Nation denies this argument on the following bases:

- (i) The can is not brightly coloured. It has a minimalist look with the main colours being black and white with aspects of green (denoting the colour of hops);
- (ii) The style and colouring of the can is consistent with alcohol products;
- (iii) The can does not display images of fruit or other food items;
- (iv) Although, the term 'Juice' is used in the name, this is in reference to the juicy beer style as detailed above and is not intended to reference a non-alcoholic drink;
- (v) The label clearly contains alcohol content information;
- (vi) The term NEIPA which references the beer style is prominent on the can; and
- (vii) The product retails for approximately \$9.00 for a single can, which is far more than any soft drink or non-alcoholic beverage.

Thank you again for allowing us to respond to this complaint. Please do not hesitate to contact me if you have any queries regarding the above or if you require any further information.

Attachment 2

On 3 June 2019, the ABAC Adjudication Panel made a Provisional Determination that the product name and packaging of Hop Nation's Jedi Juice was in breach of Part 3 (b) of the ABAC Code as it has a strong appeal to Minors. Hop Nation disagrees with this decision and seeks a rehearing of the determination.

In addition to the submissions previously made by the company in a letter, dated 13 May 2019, Hop Nation asks the ABAC Adjudication Panel to consider the following further submissions in making a fresh determination in relation to this matter.

Submission 1

The Jedi Juice label is incredibly similar in style, imagery and colour to the other 5 Hop Nation beers that have previously passed the ABAC pre-vetting process; The Punch, Karma, The Heart, The Chop and The Damned. Please refer to the below images of each of these labels which all include a piece of stencil art in the front centre of the can.

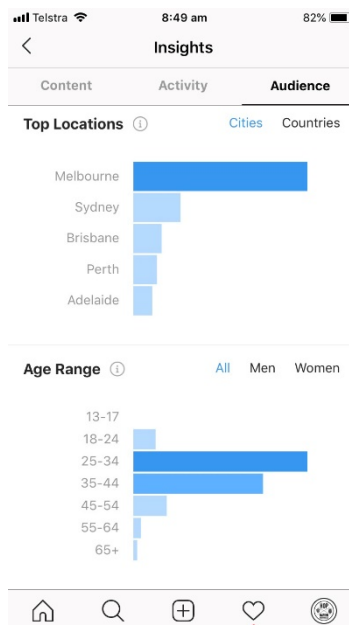


The complainant noted that the 14 and 15-year-old boys thought the Jedi Juice label was “so cool”. The boys may have been attracted to the can due to several reasons including it having an image of a young woman on it. Males of any age could be attracted to a product for this reason and it does not therefore make it particularly appealing for Minors.

Submission 2

Hop Nation has been producing and distributing beers nationally across all states in Australia since we first began in 2014. We make no effort to advertise, market or appeal to Minors and this is reflected in the demographics of our social media followers and of our clientele at our tasting room in Footscray.

Below is a snap shot of the age groups and following of our brand from our 16,233 Instagram followers. As you can see, our target market is individuals between the ages of 25 and 44 years old, of which 72% are men. There would be no point in us marketing to individuals outside of this demographic given the flavour profile and the price point of our beers.



We take these demographics into consideration when we develop our annual marketing plan. For example, when we sponsor advertising on Facebook, we either choose our specific Facebook followers or men aged between 25 and 44 as these are the individuals who will ultimately purchase our beer.

Submission 3

Jedi Juice is what is considered a super-premium beer in the craft beer market and is targeted to individuals over the age of 25. The flavour profile of the beer is extremely hoppy, which is considered challenging even for a mature palate. It is therefore primarily appealing to the keenest of beer enthusiasts. Given that we use premium ingredients in the beer, the price point (\$7.50 - \$9 per can) is also at the upper end of the market only suitable for individuals with a high level of disposable income.

The photo below demonstrates Jedi Juice's placement in a typical bottle shop. The beer sits within the IPA's section and if for some reason, a Minor was within a licensed premises then it is highly unlikely that they would be looking within this expensive and flavour-filled section.

Furthermore, when looking at this fridge it would be hard to argue that a teenage boy would be more attracted to the Jedi Juice beer than the other surrounding beers. Most of the beer labels are colourful and include animated images and satirical references to well-known pop culture. This has become a common feature for craft beer labels which have been likened to album covers and book jacket covers where artists and designers have gone wild experimenting with new styles to match the experimental styles of beers that are now being produced.

Our Customers appreciate the extra effort and skill in producing an artistic and meaningful label. This also creates a point of difference from the labels produced by the two commercial companies that control 85% of the beer industry in Australia.

Hop Nation understands the importance of not creating a product that is appealing to Minors but by limiting the imagery and references that can be used on labels that appeal to all ages, it is submitted that the ABAC Panel will be ultimately stifling creativity and limiting a brand's freedom of expression.





Submission 4

The ABAC Code outlines the standards for alcohol marketing in Australia and the ABAC Adjudication Panel was created to hear and make decisions on complaints in relation to the ABAC Code. In the interests of fairness and consistency, Hop Nation would like to refer to the following 5 Beers that have passed ABAC's pre-vetting process and are available for purchase at Dan Murphy's as well as the following 6 Star Wars themed beers that are available in the Australian market. If the Adjudication Panel determines that Jedi Juice has a strong appeal to Minors then it is submitted that the Panel would be opening the floodgates as the below are merely a small sample of craft beers that could be argued under the Panel's interpretation as having a strong appeal to Minors.

(a) Beers that have passed ABAC's pre-vetting process

1. Nail Brewery - Super VPA

This beer is clearly referencing Superman in both the artwork, the colours and the name of the beer. Superman is a character that has appeared in Comic Books, Movies, Video Games and Television shows. Superman appeals to all ages but has a strong appeal amongst those aged under 18. Furthermore, there are many

collateral items branded and marketed to Minors including clothing, toys and games focused on Superman.



2. Colonial Brewery – Essendon special edition

This beer has a clear association with the Essendon Bombers AFL Team due to the name, colour and imagery on the can. The Essendon Bombers is an AFL team that is loved by people of all ages including a strong fanbase of boys and girls under the age of 18. This beer would therefore have a strong and evident appeal to Minors.



3. Brewdog – Elvis Juice

The beer references the musician Elvis Presley who was known as the King of Rock n Roll. Elvis is widely listened to and loved by people of all ages including under 18 year olds.



4. Panhead Vandal – New Zealand IPA

The front of this beer includes a cartoon image of a car completing a burnout. This could appeal to men of all ages but it would likely have a strong appeal to teenage boys with rebellious and boy-racer tendencies.



5. Kaiju Krush – Tropical Pale Ale

This can is extremely colourful and fun. The imagery would appeal to all ages but it does appear to be childish and it could be argued that due to the inclusion of pictures of fruit that the beverage may be mistaken by a Minor for juice.



(b) Star Wars themed beers in the Australian Market

1. Revenge of the Pith – Imperial Citrus IPA



2. Kereru AT-AT – Imperial Pilsner



3. Holgate Millennium Falcon – Imperial IPA



4. Holgate X-Wing - IPA



5. Noisy Minor Admiral Ackbar – Anti-Imperial Red Ale



6. Australian Brewery Pith Lord – Black IIIPA

