



ABAC Alcohol & Alcohol Alternative Packaging Compliance Guide

Overview

The ABAC Scheme (ABAC) is a regulatory initiative funded by industry and administered with the support of Government. The key components of the Scheme are the ABAC Responsible Alcohol Marketing Code (Code), the ABAC Pre-vetting Service (Pre-vetting) and the ABAC complaints handling process (Panel).

The Code is designed to ensure that alcohol and alcohol alternatives are marketed in a responsible manner to adults.

Purpose

ABAC has developed this Guide to assist alcohol companies, advertising agencies and product designers meet the Code standards. The Guide is not intended to replace or extend the provisions of the Code itself.

This Guide represents the opinions of ABAC's administrators and is based on previous decisions made by the independent ABAC Adjudication Panel ('the Panel'). The ABAC website – www.abac.org.au – includes an advanced search facility that enables all adjudication decisions relating to alcohol packaging to be located and accessed.

Notwithstanding the content of this Guide, the Panel remains the final arbiter on how the Code should be interpreted and applied at the complaint adjudication stage and a pre-vetter remains the final arbiter at the pre-vetting stage.

While Pre-vetters undertake to provide the best possible advice, any complaint regarding packaging will be assessed through the ABAC complaints handling process. It should be noted that successful pre-vetting does not serve as a guarantee or an argument that a complaint should be dismissed. The ABAC complaints handling process and the ABAC Pre-vetting Service are conducted separately by independent experts.

Other Regulation

Alcohol packaging must also meet relevant Australian laws and standards that are not addressed in this Guide, in particular:

- Food Standards Australia New Zealand – Food Standards Code ([Alcohol Labelling Guidance](#))
- [Competition & Consumer Act 2010](#)
- State Liquor Licensing Legislation, Regulation & Guidelines

ABAC Compliance Checklist

This Guide focuses on the requirement that packaging not have strong or evident appeal to minors, however all [Code](#) standards must be met.

The following checklist is designed to assist producers meet Code standards in relation to their packaging. Further guidance on each Code requirement and the precise Code standards can be found in the [ABAC Guidance Notes](#).

Alcohol Packaging must not:

	show, directly imply, encourage or treat as amusing excessive alcohol consumption (more than 10 standard drinks per week or more than 4 standard drinks on any one day), or alcohol consumption while pregnant or breastfeeding.
	show, directly imply, encourage or treat as amusing, rapid alcohol consumption, misuse or abuse of alcohol or irresponsible or offensive alcohol related behaviour
	challenge or dare people to consume alcohol or portray the refusal of alcohol or choice of abstinence in a negative light
	encourage choice of an alcohol beverage by emphasising its alcohol strength/intoxicating effect
	have strong or evident appeal to minors
	show under 25 year olds (or over 25 year olds that look like they are under 18 years of age)
	suggest the consumption/presence of alcohol could contribute to an improvement in mood or environment
	show or directly imply the consumption or presence of alcohol as leading to personal, business, social, sporting, sexual or other success
	suggest that the success of a social occasion depends on the presence or consumption of alcohol
	suggest the consumption of alcohol offers a therapeutic or health (including mental health) benefit, is needed to relax, or helps overcome problems or adversity
	show or directly imply the consumption of alcohol before or during any activity that for safety reasons requires you to be alert or physically co-ordinated (i.e. driving or swimming)

In applying the Code standards, the alcohol industry is strongly encouraged to work within both the spirit and the policy intent of the Code as it stands. Examples, real or perceived, of attempts to circumvent the provisions of the Code threaten the industry's reputation for responsible regulation and are in direct conflict with the interests of industry and the wider community.

Strong or Evident Appeal to Minors

This Guide focuses on the Code requirement that alcohol and alcohol alternative packaging must not have strong or evident appeal to minors (Part 3(b)(i) & 5(a)). Variants of this standard are present in State Liquor Licensing requirements and in marketing codes globally. While Code standards are to be assessed on an objective basis, i.e. the reasonable person test, this provision can be challenging and on occasions reasonable subjective opinions might vary as to whether the appeal of packaging to minors is 'strong or evident' or only incidental. In addition, 'minors' covers younger children and teenagers up to the age of 17, and material strongly appealing to a 12 year old can be quite different to that appealing to a 15 or 16 year old.

Alcohol is defined in the Code as a beverage or related consumable product (ice block, vapour etc) containing more than 0.5% alcohol by volume.

Alcohol Alternative is defined in the Code as a beverage that is at or less than 0.5% alcohol by volume that:

- has an appearance and style commonly associated with Alcohol; and
- uses a brand or descriptors commonly associated with Alcohol, such as, beer, wine, spirit or other; and
- is not a beverage commonly understood as non-alcoholic, such as fruit juice, soft drink, flavoured milk or other.

In applying Code standards material is assessed according to the following criteria.

- Probable understanding of the marketing:
The most likely interpretation will be adopted rather than any possible interpretation.
- By a reasonable person:
The values, opinions and life experiences common in a majority of the community is the benchmark. A person who holds an alternate interpretation of a marketing communication is not 'unreasonable', but possibly their interpretation would not be shared by a majority of the community.
- To whom the material is likely to be communicated:
Alcohol packaging is a form of promotion and while minors can't purchase the product, they may still view it online, when accompanying adults shopping, in homes or restaurants. It is the level of appeal of packaging to a minor that is relevant. Alcohol and alcohol alternative packaging is a marketing communication that is likely to be communicated to all age demographics.
- Taking its content as a whole:
When assessing the content of any marketing it will be viewed as a whole. In the case of packaging, the test is the overall understanding that a reasonable person would gain by a cursory viewing of the packaging. This means that the larger text, colouring and most prominent design features will be most influential. For instance, it cannot be expected that an average consumer will pick up an individual can, turn it around a full 360 degrees and study it in fine detail. Assessing the consistency of packaging with Code standards is a case-by-case exercise in which imagery, use of characters and context is important in deciding the overall impact of the marketing.

Note: It is not ABAC's role to decide whether the physical product, should or should not be available for sale. The regulation of foodstuffs rests with Government and State liquor licensing bodies. The Panel's focus is on how a given product and brand is marketed. Over time, liquor licensing authorities have removed from the market, a range of products including alcoholic ice blocks, alcoholic milk, and some alcoholic powders, vapours and aerosol products. As a matter of practice, the ABAC scheme co-operates with Government authorities on common issues.

ABAC Code Definition of 'Strong or Evident Appeal to Minors'

Packaging that falls within **any one** of the following categories will breach this ABAC standard:

- specifically targets minors
- particular attractiveness for a minor beyond its general attractiveness for an adult
- using imagery, designs, motifs, language, activities, interactive games, animations, or cartoon characters that, are likely to appeal strongly to minors
- creating confusion with confectionery, soft drinks or other similar products, such that the marketing communication is likely to appeal strongly to minors
- using brand identification, including logos, on clothing, toys or other merchandise for use primarily by minors

How Can Alcohol Marketers Achieve Compliance?

Creativity and ABAC compliance can be achieved by understanding the Code standards and Panel decisions on packaging. The Pre-vetting Service is also an opportunity to seek advice from a pre-vetter experienced in the application of the Code standards, to all forms of marketing. [Apply here.](#)

While it is not possible to provide an exhaustive list of possible breaches of this standard, the Panel has, over time, developed an approach and indicators that highlight when caution should be exercised. These indicators and the examples included on the following pages are helpful guidance.

Key Indicators that Alcohol Packaging Could Have Strong or Evident Appeal to Minors

Overall Impact

When developing packaging designs it is the overall impact of the packaging that will be decisive. The Panel assesses a marketing communication by placing itself in the shoes of a reasonable (average) person in the community and adopting the 'most likely' interpretation of the material after reviewing the contents as a whole.

The combined elements of packaging should be viewed as a whole based on a cursory view (not a full 360 degree inspection) to assess whether the overall impression of the packaging could appeal strongly to minors or create confusion with confectionery, a soft drink or other similar products. In the case of alcohol products, obscuring individual cues that the product is alcohol within graphic design elements or in fine print on the reverse of the packaging can impact the overall impression and therefore compliance.

Using adult themes will not be sufficient to achieve compliance if the packaging is found to appeal strongly to minors or create confusion with confectionery, a soft drink or other non-alcoholic beverage. In particular, using nostalgic imagery or themes can breach Code standards if the appeal to adults based on memories of their youth draws on themes that continue to have popularity for the current generation of minors. It should be noted that packaging may have some residual or incidental appeal to minors while not strongly or evidentially appealing to minors.






Elements

When developing packaging designs producers and their agencies and designers should be aware that the use of the following elements could contribute to an overall impression of the packaging that breaches this Code standard:

- Using names, colours, fonts, imagery, language and overall messaging that appeal strongly to minors
- Imagery, designs, motifs, animations, pop culture references or cartoon characters (including parodies) that appeal strongly to minors
- Imagery that creates confusion with confectionery, soft drinks or other similar products, such that the packaging is likely to appeal strongly to Minors. Such as the presence of visual design features that would be commonly used on these products, such as fruit images, bright block colours and the use of a font style typically found on soft drinks
- The use of words or names commonly associated with a soft drink, fruit juice or other similar beverage e.g. orange, lemon, blueberry, pop, smash, milkshake, fruit, juice, seltzer etc
- The type of physical package used and whether this is similar to that used by soft drinks, fruit juices or other non-alcoholic beverages e.g. prima style juice box
- In the case of alcohol products, failing to clearly identify the product as an alcohol beverage through the use of clear alcohol descriptions like beer, ale, vodka, wine etc. Using the term "brewed" may not be sufficient as this word can be associated with non-alcoholic beverages such as kombucha or ginger beer. Use of terms not commonly known within the broader community, particularly a younger audience (e.g. IPA, Berliner Weisse, Fruit Sour, Mid etc) will be insufficient to identify the product as alcohol and for these styles it would be helpful to use the 'parent' descriptor e.g. 'beer' or 'wine' – refer to [community research](#) on recognition of emerging alcohol descriptors
- Creation of an illusion of a smooth transition to alcohol products by using descriptors or names such as choc milk, fairy floss, bubble-gum, marshmallow etc

Examples of packaging the Panel assessed as failing to comply with this Code standard

Note – Click on images to access the relevant ABAC Adjudication Panel Determination

	<ul style="list-style-type: none"> • Bright colours are the most striking feature of the packaging design • Unicorn/lamb creature • Clouds • Style of font and representation of the name 'fantasy' • Overall impact of the packaging as a whole
	<ul style="list-style-type: none"> • Clear plastic gives prominence to the product's bright colours • Fruit depictions and flavour descriptions • Packaging similar to icy poles popular with children • References to lemonade/lemon commonly used on soft drinks • Each element, in combination, would lead a reasonable person to most likely understand that the packaging has an evident appeal to minors
	<ul style="list-style-type: none"> • Jedi Juice name and Princess Leia image a clear play on Star Wars • Star Wars brand has had a whole of popular culture impact in Australia • Stars Wars appeals across demographic groups and flows from the movies and related expansions of storylines/characters into TV animation, video games, children's toys etc • Star Wars appeal is broad based but has strong appeal to minors demonstrated through the volume of children's merchandise purchased • Product name and imagery would be highly recognised by minors • A reasonable person would most likely understand the product name and packaging as having strong appeal to minors flowing from Star Wars references
	<ul style="list-style-type: none"> • Blood orange block packaging • A sliced citrus fruit is the largest graphic • 'Squish' prominently displayed, adding to an orange soft drink impression • Cues, 'citrus IPA' and small print mentions of beer, don't clearly establish the product is alcohol when viewed with the other features • Overall impression is of an orange soft drink, which is likely to be strongly appealing to minors
	<ul style="list-style-type: none"> • Bounty bar reference brings to mind confectionary far more than alcohol • The can depicts an action scene which would have appeal across age groups • The colour palette is bright and eye catching • 'Milk choc stout' would be more associated with a non-alcoholic drink than a beer • Stout and 'ABV' is in small font on the front of the can, however the overall impression created by the most impactful features of the can is not of an alcohol beverage and may create confusion with a soft drink • while no one element in isolation means the packaging has strong appeal to minors, taken as a whole the packaging would have strong appeal to minors
	<ul style="list-style-type: none"> • The name 'JuiceBox' and the image of a juice box suggests the product is a fruit juice akin to that found in a prima juice box used extensively by minors • Lack of clear alcohol descriptors on the front of the can could cause confusion with a fruit juice • Even if recognised as an alcohol beverage, the name and juice box imagery give an illusion the product could be a smooth transition from a non-alcoholic to alcohol beverage for a minor • the imagery used on the packaging is familiar to minors and would likely have an attractiveness to minors beyond its attractiveness to adults



- the name 'Breakfast Juice' when combined with the stylised fruit images on the label strongly suggests the product is non-alcoholic
- lack of visually prominent cues that the product is a beer on the front of the label
- while the style of artwork on the can is not a type likely to strongly appeal to minors this does not sufficiently mitigate from the appeal to minors created overall by the combination of the product name, the fruit images and the failure to clearly identify the product as an alcoholic beverage



- the use of bright and contrasting colours will be eye catching to minors;
- the product name 'pink lemonade' is more widely associated with a soft drink that appeals to minors rather than alcohol beverages;
- the product name of 'pine lime' is most closely associated with the well-known Splice Pine Lime ice block and is also a flavour commonly used for non-alcohol beverages such as cordial, flavoured syrup and soft drink;
- the combination of the colour scheme, product name and overall impression of the packaging means the packaging has strong or evident appeal to minors.



- individual serve, 250ml Tetra Pak type packaging, with a straw attached to the side is associated with non-alcoholic beverages commonly consumed by children, as is the presentation in a shrink wrapped six pack
- the colours are muted rather than bright and contrasting however fruit images of on the pineapple & orange Mai Tai and Pink Gin Daiquiri add to likely appeal to minors
- taken as a whole a reasonable person would probably understand the packaging has a strong or evident appeal to minors



- fails to unambiguously establish the product as being a beer on the front of the can
- Fairy Cake is far more associated with a non-alcohol than an alcohol product
- the pattern of sprinkles and mixed colours would resonate and be familiar to minors
- the overall impact of the packaging creates relatable imagery for minors inclusive of the product name and cake decoration pattern
- taken as a whole a reasonable person would probably understand the packaging as having a strong and evident appeal to minor



- while 'Ale' is a strong signifier of a product being alcoholic, the front of the label with a milkshake, striped background, and 'Cream Soda' means the product might be confused with a soft drink
- while the packaging might invoke a sense of nostalgia amongst adult consumers, the appeal of soft drinks and milkshakes for minors remains strong and has not 'faded'
- the packaging creates a relatable image for minors and suggests a smooth transition from a non-alcoholic to an alcoholic beverage
- the use of bright and contrasting colours would likely be eye-catching for minors
- milkshakes are consumed more frequently by minors than adults



- the unicorn name and imagery is used on many products and services directed towards minors creating an inherent possibility of the branding having a strong appeal to minors
- the Company's labelling uses a unicorn image, which combined with the colour of the products and the addition of the 'shake me' message, gives the label a strong appeal to minors due to:
 - creates an illusion a smooth transition from non-alcoholic to alcohol beverages
 - the use of imagery familiar to minors
 - the creation of a relatable product for minor



- packaging does not clearly identify the product as alcoholic and it could be easily confused with a fruit flavoured soft drink
- use of fruit images and terms 'lime' and 'mango' combined with the lack of a highly prominent alcohol term further increases the prospect of confusion with a soft drink
- packaging imagery is relatable to minors and raises an illusion of a smooth transition from non-alcoholic to alcoholic beverage.

Examples of packaging the Panel assessed as complying with this Code standard

Note – Click on images to access the relevant ABAC Adjudication Panel Determination

	<ul style="list-style-type: none"> • The name 'Bluey' has a long and varied history of use in Australia and cannot be confined to relate solely to a current TV animated series • Depiction of a blue heeler dog on the packaging does not resemble the TV animated character either in appearance or colouring • Packaging is typical of that employed on beers and would not be confused with a soft drink • Taken as a whole the packaging does not have features likely to be strongly or evidently engaging to children or adolescents.
	<ul style="list-style-type: none"> • Overall design features are not likely to draw the attention of minors as it is sedate in colouring and design doesn't have dramatic eye-catching impact • Marginal assessment on whether the product could be confused with soft drink and while the packaging could do more to convey it is an alcohol beverage, the product doesn't resemble any immediately recognised soft drink brand or type, and on balance is not considered as causing confusion with a soft drink
	<ul style="list-style-type: none"> • The label depicts a drawing and not a 'cartoon' as such • The imagery is mature, stylised and quirky and does not resemble popular children's characters • The principle 'rat' character is presented in a passive way and is not active and engaging • The label uses black and white colours and not bright contrasting colours more likely to strongly appeal to minors • There is no likelihood the product packaging could be confused with a non-alcoholic drink or other product used extensively by minors • Taken as a whole the packaging would appeal more to an older demographic
	<ul style="list-style-type: none"> • the packaging does establish the product as being an alcoholic beverage • the colour scheme and can label design relies on pastel colouring, which are attractive, but are not considered as particularly eye-catching to minors • 'fizzer' lollies are not a household staple to immediately be suggested by the use of the same name on the packaging (by contrast – Freddo Frog, Cherry Ripe,) • the font and colouring of the name fizzer as used on the packaging is different from that used on the confectionery of the same name, • there is no basis to believe expression 'coco mango' is more likely to be used by minors than adults
	<ul style="list-style-type: none"> • it is clear the product is an alcohol beverage and there is no reasonable prospect the product would be confused with a soft drink • the overall tone of the product packaging is mature • while the similarities between the labelling of GTA and the product might be recognised by some minors, the fact the game is played more heavily by adults and is rated unsuitable for minors and the differences between the packaging and game labelling diminishes the potential impact on minors • taken as a whole, the packaging would primarily appeal to older males and any appeal to minors would likely be incidental rather than strong or evident