

Case Report

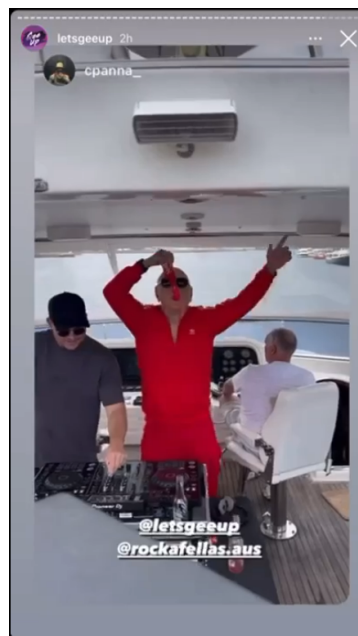
1. Case Number :	0050-23
2. Advertiser :	80Proof Australia Pty Ltd
3. Product :	Alcohol
4. Type of Advertisement/Media :	Internet - Social - Instagram
5. Date of Determination	22-Mar-2023
6. DETERMINATION :	Upheld - Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This Instagram advertisement is a shared story on the @letsgeep account. It depicts a man on a boat consuming a beverage quickly.



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

They are promoting rapid consumption of their Alcoholic product 'Gee Up' on a boat. They have a DJ rapidly drinking a full bottle of Gee Up Vodka through a device known as a snorkel.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

80Proof Australia Pty Ltd (80Proof) makes this submission in response to complaint number 0050-23 (Complaint) under section 2 of the Australian Association of National Advertisers (AANA) Code of Ethics (Code).

1. 80Proof Gee Up Launch

1.1 General

- a) *80Proof is an Australian based producer of alcohol products. It produces the 'Gee Up' products.*
- b) *As a corporate group that produces alcoholic beverages, 80Proof works hard to fulfill its responsibility to:
 - i. *promote responsible drinking; and*
 - ii. *eradicate the harmful consumption of alcohol.**
- c) *80Proof is aware of the requirements under the Code and recognises their importance in setting standards for responsible and ethical alcohol marketing in Australia.*

1.2 80Proof Gee Up launch

- a) *The video subject of the Complaint was filmed at a boat party as part of the 80proof 'Gee Up' launch marketing campaign (Campaign). The Campaign includes a collaboration between 80Proof and influencer Troy Williams. Troy Williams is a social media personality that is known publicly by the name Troy Candy (Troy Candy).*
- b) *The Campaign's intention is to create consumer awareness of the availability of their new range of 'ready to drink' vodka beverages that are sold under the brand 'Gee Up' and comes in 3 flavours: raspberry, grape and cotton candy (Products).*
- c) *The Campaign utilises 80Proof's social media marketing strategies to reach their target market of those aged 18 - 40 years (and is specifically not targeted to those under 18 years).*
- d) *The Products were first supplied for retail sale in Australia on 16 February 2023.*

2. Case number 0050-23

2.1 Advertisement description

- a) *The Complaint refers to a video that was originally posted by a third party Instagram account @cpanna that was re-shared as an Instagram Story (that only remains visible for 24 hours) on the Gee Up Instagram Account*

*@letsgeeup, operated by 80Proof (**Gee Up Account**) on or around 27 February 2023.*

- b) The video depicts third party DJ 'Rockafellas' (**Rockafellas**) consuming a drink using a drink snorkel. Rockafellas was engaged by 80Proof to provide their DJ services at the launch boat event for the Product. Rockafellas is not a contracted influencer for the Product, or representative of, or under the reasonable control of, 80Proof.*

2.3 Advertising

(a) Advertisement shall not discriminate or vilify (section 2.1 of the Code)

80Proof submit they have not breached section 2.1 of the Code on the basis that the video does not:

- (i) portray people or contain material that depicts unfair or less favourable treatment to a person or group based on any of the defined attributes in the Code; and*
- (ii) depict humiliation, intimidation, contempt or ridicule, nor does it incite hatred towards a person or group of people based on the defined attributes in the Code.*

(b) Advertising shall not employ sexual appeal in a manner which is exploitative or degrading or where minors are used (section 2.2 of the Code)

80Proof submit they have not breached section 2.2 of the Code on the basis that the video does not depict:

- (i) anyone as an object or commodity nor focus on any body parts;*
- (ii) content that is degrading of a person or group of person; and*
- (iii) any minors.*

(c) Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised (section 2.3 of the Code)

80Proof submit they have not breached section 2.3 of the Code as the video clearly does not portray any violence or sexual violence.

(d) Advertising shall treat sex, sexuality and nudity with sensitivity to the relevant audience (section 2.4 of the Code)

80 Proof submit they have not breached section 2.4 of the Code as the video does not contain sex, sexuality or nudity.

(e) Advertising shall only use language which is appropriate in the circumstances and strong or obscene language shall be avoided (section 2.5 of the Code)

80 Proof submit they have not breached section 2.4 of the Code as the video does not contain any strong or obscene language.

(f) Advertisement shall not depict material contrary to prevailing community standards on health and safety (section 2.6 of the Code)

- i. 80Proof note that the video subject of the complaint does contain footage that depicts Rockafellas using a drink snorkel to consume an alcoholic*

beverage. However, it does not appear to depict any illegal drugs, smoking or gambling.

- ii. 80Proof did not direct nor instruct Rockafellas to rapidly consume the drink. 80Proof does not condone or support any unsafe behaviour under any circumstance, including the excessive or rapid consumption of alcohol or misuse or abuse of alcohol inconsistent with the Code, or any other codes or Australian alcohol guidelines.*
- iii. 80Proof takes its responsibility to ensure its marketing and advertising adheres with the Code seriously and would never intentionally breach the Code. 80Proof is focussed on being vigilant regarding the nature of any stories and third party posts it is tagged in and has also implemented the following processes, documents, and policies to ensure its advertising and marketing complies with the Code:*

- A. an influencer guideline document has been rolled out to social personnel and all 80Proof staff, including influencers as part of their influencer agreement. This includes the requirement to comply with the Code, advertising disclosure requirements, and safety requirements. A copy of these Influencer Guidelines is set out in Schedule 1;*
- B. social media monitoring processes which include reviewing any tags on social media daily, to ensure any material that tags the Gee Up Account, that is not in compliance with the Code, is promptly removed; and*
- C. a Responsible Consumption & Supply of Alcohol Policy has been implemented and is available on the Lets Gee Up website and extracted below:*

“Responsible Consumption & Supply of Alcohol

80Proof Australia Pty Ltd ('80Proof') is a socially responsible corporate group that manufactures and markets alcohol beverages. In pursuit of responsible consumption and supply of alcohol, this policy has been developed and implemented at 80Proof. In this regard, 80Proof is also focussed on raising public awareness about responsible drinking and defining and enforcing stringent voluntary standards on alcohol advertising and promotion activities. We educate and train our staff on responsible consumption and supply of alcohol. Moderate and responsible drinking can be part of a balanced and sociable lifestyle and 80Proof does not approve excessive or binge drinking. In our business activities, 80Proof will comply with laws and regulations, and voluntary standards set by the industry and 80Proof, including the AANA Code of Ethics and the relevant guidelines of the Victorian Gambling and Casino Control Commission. The 80Proof staff will be mindful of their responsibilities toward society and act responsibly, by acquiring correct knowledge and deepening understanding in relation

to responsible drinking. As a corporate group that produces alcoholic beverages, 80Proof promote its efforts to fulfill its responsibility to promote responsible drinking and eradicate the harmful consumption of alcohol. 80Proof is aware of the importance of standards for responsible alcohol marketing in Australia.”

(g) Advertising shall be clearly distinguishable as such (section 2.7 of the Code) 80Proof submits the video subject of the complaint does not breach section 2.7 of the Code as it is distinguishable as advertising, noting it was shared to the Gee Up Account Instagram story and featured footage of the Product.

3. AANA Code for Advertising and Marketing Communications to Children

- a) 80Proof submits that the video subject of the Complaint does not fall within the scope of the AANA Code for Advertising and Marketing Communications to Children.*
- b) 80Proof are aware of their responsibility to ensure any marketing communications they generate comply with the Code, and do not employ any themes, visuals or language that are primarily directed to children in its marketing communications.*
- c) Considering the Product is an alcoholic beverage, and it is a mandatory requirement to be over 18 years of age to purchase and consume the Products in Australia, 80Proof’s target market is consumers aged 18 - 40 years old.*
- d) 80Proof also notes both their Lets Gee Up website <https://letsgeep.com.au/> and the Gee Up Account where they host advertisements and marketing communications are age gated to only allow access to those over 18 years of age.*

4. AANA Food and Beverages Marketing and Communications Code

- a) The video subject of the Complaint contains footage of an alcoholic beverage product that contains more than 0.5% alcohol by volume. Therefore, 80Proof submit the video does not fall within the scope of the AANA Food and Beverages Marketing and Communications Code.*
- b) 80Proof has already provided submissions to the Alcoholic Beverages Advertising Code Scheme in relation to the video subject of the Complaint.*

5. Conclusion

As set out by 80Proof above, 80Proof do not support or condone any behaviour that is unsafe, dangerous, or contrary to prevailing community standards on health and safety and would never intentionally breach the Code. In any event, it is noted the video subject of the Complaint is no longer able to be viewed on the Gee Up Account

THE DETERMINATION

The Ad Standards Community Panel (Panel) considered whether the advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the advertisement promotes dangerous drinking behaviour.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel noted that the video was not created by the advertiser, however considered that the video is promoting the Gee Up product, and sharing the video on their own page amounted to a degree of control and therefore the video was advertising.

Section 2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel noted that the product that the man uses in the advertisement is a snorkel, which is designed to allow air to enter the beverage as it is consumed, allowing the beverage to flow out of the bottle very quickly. The Panel acknowledged that there is a high level of concern in the community regarding binge drinking behaviours and the unsafe consumption of alcohol, and that many people would consider the use of such a product itself to be unsafe.

The Panel noted that Australian Alcohol Guidelines recommend that healthy adults drink no more than four standard drinks a day (<https://www.health.gov.au/news/australian-alcohol-guidelines-revised>).

The Panel noted that in the short 15 second video the man is only seen to consume one alcoholic beverage and that this quantity by itself is not in excess of the Alcohol guidelines.

The Panel noted that the guidelines do not contain any recommendations about the speed of alcohol consumption.

The Panel noted that the man appears to finish the drink in a few seconds and this is a very short amount of time to consume an alcoholic beverage. The Panel considered that the impression of the advertisement is that being able to consume alcohol this quickly is desirable.

The Panel considered that the overall impression of the advertisement is of alcohol consumption which would be considered unsafe by most members of the community.

Section 2.6 conclusion

The Panel considered that the advertisement did contain material contrary to Prevailing Community Standards on health and safety and determined that it did breach Section 2.6 of the Code.

Conclusion

Finding that the advertisement breached Section 2.6 of the Code, the Panel upheld the complaint.

ABAC

The Panel noted that advertisements about alcohol products may be considered against the provisions of the AANA Advertiser Code of Ethics as well as the Alcohol Beverages Advertising Code Scheme (ABAC). The Panel noted that complaint/s in this case were referred to ABAC for assessment. The Panel noted that the ABAC Responsible Alcohol Marketing Code (ABAC Code) is an alcohol specific code of good marketing practice and has specific standards which apply to the promotion of alcohol products. The Panel further noted that it can only consider complaints about alcohol advertising under the concept of prevailing community standards as set out by the AANA Code of Ethics. The Panel noted that the advertisement may be considered by the ABAC Chief Adjudicator or the ABAC Adjudication Panel applying the ABAC Code, as well as this determination under the Code of Ethics

THE ADVERTISER'S RESPONSE TO DETERMINATION

80Proof respects and acknowledges the Panel's determination in the Case and without admission of liability, confirms that the video subject of the Case is no longer able to be viewed on the @letsgeepup Instagram account operated by 80Proof. 80Proof remains committed to ensuring that its advertisements comply with the Code and will continue to work hard to fulfill its responsibility to promote responsible drinking and eradicate the harmful consumption of alcohol in the community.

80Proof does not condone, support or encourage any unsafe behaviour under any circumstances, including the excessive or rapid consumption of alcohol or misuse or abuse of alcohol. 80Proof is also focussed on being vigilant regarding the nature of any third-party posts or videos the @letsgeepup Instagram account is tagged in or shares and has implemented the preventative processes and policies outlined in clause 2.3(f)(iii) of 80Proof's response to the Case. 80Proof appreciates the work of the Panel and its important role in regulating advertisers' compliance with the Code and will continue to support the Panel and promote compliance with the Code in the industry.