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| COMPLAINT NUMBER       | 21/261            |
| <b>ADVERTISER</b>      | Glacial           |
| <b>ADVERTISEMENT</b>   | Glacial Instagram |
| <b>DATE OF MEETING</b> | 12 July 2021      |
| <b>OUTCOME</b>         | Settled           |

**Advertisement:** The Instagram post on the Glacial NZ account shows an image of a young man reclining on a boat holding a can of the Glacial product, with two cans in front of him. The caption reads "Enjoying a cheeky bevvy or 3 on a boat?! How good!" and credits "@elnino\_peniamina" with the photo.

**The Chair ruled the Complaint was Settled.**

**Complaint:** This complaint relates to an alcohol advertisement for Glacial Hard Seltzer posted on the Glacial NZ Instagram account: <https://www.instagram.com/p/CMMDC8vJiJb/>

Details of the advertisement are appended at the end of this letter. The advertisement was posted on March 9, 2021 on the Glacial NZ Instagram account.

Guideline 3c of the Code for Advertising and Promotion of Alcohol states:

*Anyone visually prominent in alcohol advertising and promotions depicting alcohol being consumed shall be, and shall appear to be, at least 25 years of age with their behaviour and appearance clearly appropriate for people of that age or older. ...*

El Nino Peniamina is visually prominent in this advertisement where he is lying on a boat with two opened cans of Glacial Hard Seltzer in front of him and one can in his right hand. The associated caption reads:

*Enjoying a cheeky bevvy or 3 on a boat?! How good! @elnino\_peniamina*

We submit that the placement of the can in Peniamina's right hand and the two open cans in front of him, along with the caption "*Enjoying a cheeky bevvy or 3 on a boat?!*", makes it reasonable for consumers to conclude that the alcohol is being consumed at that time.

We submit that when this photograph was taken (sometime before March 7, 2020, when Peniamina posted the image on his own Instagram account, <https://www.instagram.com/p/CMGyuZDpJkA/>) and when the advertisement was published on the Glacial NZ account on March 9, 2021, that Peniamina was under 25 years old. Peniamina posted an image of himself with a "Happy 21st El Nino" sign and a birthday cake, on his own Instagram account on September 17, 2019, <https://www.instagram.com/p/B2fGc46pMtx/>.

Given Peniamina's age and the depiction of alcohol being consumed, we submit that this advertisement is inconsistent with Guideline 3c of the Code for Advertising and Promotion of Alcohol. We ask that the Complaints Board consider whether this advertisement breaches the advertising guideline referred to above, and whether this advertisement has observed a high standard of social responsibility.

**Procedural note**

The Alcohol Advertising and Promotion Code came into force effective 1 July 2021 for all advertisements including those recently posted on social media prior to that date. The complaint was made about an advertisement posted when the Code for Advertising and Promotion of Alcohol was still in force. Unfortunately, there was some delay before the secretariat were successful in contacting the Advertiser. The Advertiser was therefore asked to respond to the complaint under the Alcohol Advertising and Promotion Code

**The relevant provision was the Alcohol Advertising and Promotion Code - Principle 1, Rule 1(b).**

**Principle 1 Social Responsibility-** Alcohol Advertising and Promotion must be prepared and placed with a high standard of social responsibility to consumers and society.

**Rule 1 (b) Targeting Adults-** the content of Alcohol Advertising and Promotion must target adults

**The Chair** noted the Complainant's concern that the advertisement uses content from an influencer under the age of 25. The Code provides guidelines to assist in determining whether the Principle 1 social responsibility and Rule 1(b) content must target adults, are breached. Guideline 7(i) states that Adults who are visually prominent in Alcohol Advertising and Promotion must be (a) at least 25 years of age; and (b) appear to be at least 25 years of age with their behaviour and appearance clearly appropriate for people of that age and older.

Upon receipt of the complaint the Advertiser contacted the influencer to request that the content be removed. The Secretariat confirmed the advertisement's removal.

Given the Advertiser's co-operative engagement with the process and the self-regulatory action taken in removing the advertisement, the Chair said it would serve no further purpose to place the matter before the Complaints Board.

The Chair ruled the matter was Settled.

**Chair's Ruling: Complaint Settled****APPEAL INFORMATION**

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website [www.asa.co.nz](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.