

## Decision and reasons for decision

In the matter of an application under section 153 of the *Liquor Control Reform Act 1998* by 80Proof Australia Pty Ltd for an internal review of a decision by a member of the Commission to ban the advertising or promotion of the supply of the liquor product known by the name of 'Wet Pussy'.

**Commission:**

Mr John Larkins, Acting Chair  
Mr James O'Halloran, Deputy Chair  
Ms Thu-Trang Tran, Commissioner

**Appearances:**

Mr Philip Cadman of Counsel (instructed by Zervos Lawyers) for the Licensee  
Ms Karan Kahlon, Counsel Assisting the Commission

**Date of Hearing:**  
**Date of Decision:**  
**Date of Reasons:**

**15 February 2024**  
**3 September 2024**  
**3 September 2024**

**Decision:**

The Commission has determined to affirm the Original Decision with a variation to the Effective Date to 28 days after the date of this decision

**Signed:**



**John Larkins, Acting Chair**

## Background

### Original Decision

1. 80Proof Australia Pty Ltd (**Licensee**) holds a 'pre-retail licence' number 33766338 pursuant to the *Liquor Control Reform Act 1998* (Vic) (**LCR Act**). A pre-retail licence under section 12 of the LCR Act authorises the Licensee to, among other things, supply liquor at any time and on any premises to a person who holds a licence under the LCR Act (such as 80Proof Online Pty Ltd).
2. The Licensee sells a pre-mixed beverage, containing peach and cranberry liqueur. The Licensee sells that beverage under the name 'Wet Pussy' (**Product**). The Product is also sometimes known as a 'Wet Pussy Shot'.
3. On 8 August 2023, the Victorian Liquor Commission (**Commission**) sent a letter (**Show Cause Letter**) to the Licensee advising that the Commission has the power to ban inappropriate advertising or promotions in accordance with section 115A of the LCR Act and sought submissions as to why it should not ban any advertising or promotion of the Product, including any advertising or promotion, being static, online or otherwise, which contains the text 'Wet Pussy'.
4. The Show Cause Letter, among other things:
  - (1) clarified that the Commission considered the name of a liquor product, as well as the wording on its label, and also the name of any website used to promote/purchase the Product, were 'advertising or promoting' for the purposes of section 115A of the LCR Act;
  - (2) enclosed a copy of the Victorian Gambling and Casino Control Commission's Responsible Liquor Advertising and Promotion Guidelines (**VGCCC Guidelines**), drawing particular attention to Principle 4 of those Guidelines;
  - (3) provided some examples of the relevant images of the Product contained on the Licensee's website and social media platforms;
  - (4) enclosed a copy of a determination of November 2021 by the Alcohol Beverages Advertising Code Scheme Ltd's Adjudication Panel (**ABAC Determination**). Within that ABAC Determination, a number of matters were raised, including:
    - (a) reference to the determination dated 8 September 2021 of a complaint by the Community Panel of Ad Standards Ltd (**Ad Standards Determination**) relating to the Product, which was responded to by the Licensee; and
    - (b) that the ABAC Determination found that a reasonable person would recognise the Product's name on its packaging (and the bar cocktail list version) "as referencing the vagina of a sexually aroused woman".
5. In the Ad Standards Determination, the Community Panel considered that the name of the Product, in combination with the gross exaggeration of female arousal is a portrayal which vilifies a section of the community on account of gender in that it humiliates and incites contempt.

6. It found that the brand and product name, 'Wet Pussy Shot' in conjunction with the line 'ready to be naughty with a little bit of nice' was a reference to sexual arousal and sexual matters which would constitute sexual appeal'. It considered the name of the Product was directly related to female sexual arousal. In the context of the phrases used in the advertisement, the Community Panel considered that the advertisement as a whole, did employ sexual appeal in a manner which was degrading to women.
7. In the ABAC Determination, the ABAC Panel accepted the Product name (and the bar cocktail list versions) would be recognised by a reasonable person as referring to the vagina of a sexually aroused woman. It referred to the Ad Standards Determination, having also accepted that the product name drew attention to female sexual arousal and the slang term for a woman's genitals, and so rejected the submission that the recognition of 'wet pussy' as slang for the vagina of a sexually aroused woman was merely a subjective opinion. The Panel found that the product name would be considered offensive and demeaning by some in the community but noted that it was not a matter for consideration by the ABAC.
8. On 30 August 2023, the Licensee provided a response to the Show Cause Letter.
9. On 18 October 2023, a member of the Commission gave a notice to the Licensee under section 115A(1) banning it from advertising or promoting the supply of the 'Product (**Original Decision**)'. The Original Decision was to take effect on and from 16 November 2023 (**Effective Date**).
10. At the request of the Licensee, the Effective Date for compliance with the Original Decision was extended to 13 December 2023.

### Application for Internal Review

11. On 16 November 2023, the Licensee applied for an internal review of the Original Decision (**Review Application**) determined by a member of the Commission on 16 October 2024.
12. As part of the Review Application, the Applicant sought a stay of the Original Decision. The Commission granted the stay application on 22 November 2023.

## Legislation and the Commission's task

### The Commission's internal review power

13. Division 2 of part 9 of the LCR Act governs internal review applications. Under section 152, the decision made by the member of the Commission in the Original Decision is a reviewable decision and the Licensee is an eligible person to apply for a review of that Original Decision. The Review Application was made pursuant to section 153.

14. Pursuant to section 157(1), the specific task for the Commission with respect to the Review Application is to make a fresh decision that:
  - (a) affirms or varies the Original Decision; or
  - (b) sets aside the Original Decision and substitutes another decision that the Commission on review considers appropriate.<sup>1</sup>
15. In effect, the Commission on review stands in the shoes of the original decision maker and must make a fresh decision with respect to the Original Decision.

### Exercising the internal review power

16. Sections 172D(3) and 172U(3)(b) require the Commission, in exercising its internal review power, to have regard to the objects of the LCR Act and any decision-making guidelines in respect of the regulation of liquor issued by the Minister.<sup>2</sup>
17. The objects of the LCR Act are set out at section 4(1) as follows:

*The objects of this Act are—*

  - (a) *to contribute to minimising harm including by—*
    - (i) *providing adequate controls over the supply and consumption of liquor; and*
    - (ii) *ensuring as far as practicable that the supply of liquor contributes to, and does not detract from, the amenity of community life; and*
    - (iii) *restricting the supply of certain other alcoholic products; and*
    - (iv) *encouraging a culture of responsible consumption of alcohol and reducing risky drinking of alcohol and its impact on the community; and*
  - (b) *to facilitate the development of a diversity of licensed facilities reflecting community expectations; and*
  - (c) *to contribute to the responsible development of the liquor, licensed hospitality and live music industries; and*
  - (d) *to regulate licensed premises that provide sexually explicit entertainment.*
18. Section 4(2) further provides that:

*It is the intention of Parliament that every power, authority, discretion, jurisdiction and duty conferred or imposed by this Act must be exercised and performed with due regard to harm minimisation.*<sup>3</sup>

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<sup>1</sup> Section 157(2) to (5) further prescribes the manner in which the Commission is to undertake internal reviews.

<sup>2</sup> The Commission notes there are no Ministerial Guidelines applicable in this matter.

<sup>3</sup> See further *Kordister Pty Ltd v Director of Liquor Licensing* (2012) 39 VR 92; [2012] VSCA 325, which confirms that harm minimisation is the primary regulatory object of the LCR Act and therefore the primary consideration in liquor licensing decisions (although not to the exclusion of the other objects).

19. Section 3(1) defines “harm” as follows:

*harm means harm arising from the misuse and abuse of alcohol, including—*

- (a) harm to minors, vulnerable persons or communities, including groups within communities; and*
- (b) family violence; and*
- (c) anti-social behaviour, including behaviour that causes personal injury or property damage.*

20. In exercising the internal review power, the Commission:

- (a) must consider all the information, material and evidence before the original decision maker;<sup>4</sup> and*
- (b) may consider further information, material or evidence.<sup>5</sup>*

21. Section 172W(3) provides that the Commission is not bound by the rules of evidence but may inform itself in any way it thinks fit and is bound the rules of natural justice.

## Prohibition on advertising or promotion under section 115A

22. Section 115A of the LCR Act states as follows:

*(1) The Commission may give a notice to a licensee banning the licensee from advertising or promoting—*

- (a) the supply of liquor by the licensee; or*
- (b) the conduct of licensed premises by the licensee—*

*if, in the opinion of the Commission, the advertising or promotion, or the proposed advertising or promotion, is likely to encourage irresponsible consumption of alcohol or is otherwise not in the public interest.*

*(1A) For the purposes of subsection (1), advertising or promotion that is not in the public interest includes the following—*

- (a) advertising or promotion that is likely to appeal to minors;*
- (b) advertising or promotion that is likely to encourage or condone violence or antisocial behaviour;*
- (c) advertising or promotion that is directly or indirectly sexual, degrading or sexist;*
- (d) any other prescribed advertising or promotion.*

*(2) A licensee to whom a notice applies must comply with the notice.*

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<sup>4</sup> LCR Act, section 157(2).

<sup>5</sup> LCR Act, section 157(3).

23. The LCR Act defines 'supply' of liquor.<sup>6</sup> 'Supply' includes sell, offer or expose for sale, exchange, dispose of and give away. The LCR Act does not define what is 'sexual, degrading or sexist.' They take their ordinary meanings. The Macquarie Dictionary defines 'sexual' to mean, relevantly to this context 'having a strong sex drive or having the ability to arouse strong sexual interest;'<sup>7</sup> 'degrading' as lowering in character or quality, or to lower in dignity or estimation;<sup>8</sup> and 'sexist' as 'of an attitude which stereotypes a person according to gender or sexual preference, rather than judging on individual merits.'
24. Section 115A refers to 'advertising or promotion'. Neither term is defined, however section 115B defines 'alcohol advertising' for the purposes of that section (not for section 115A) as 'any information, term, expression, symbol or other thing that gives publicity to, or otherwise promotes liquor'.
25. The ordinary meaning of 'advertise' is the act or practice of bringing anything, such as one's requirements or one's business or products into public notice, including by paid announcements in periodicals, on posters etc, or on television.<sup>9</sup>
26. Promotion is not the same as 'advertising'. Its ordinary meaning as set out in the Macquarie Dictionary, includes to 'advance, or to further the growth, development, progress etc of,' something.<sup>10</sup>
27. The power at section 115A was inserted into the LCR Act by the *Liquor Control Reform Amendment Act 2007* (Vic). The Second Reading Speech to the Liquor Control Reform Amendment Bill 2007 (Vic) indicates that it arose from a number of instances where the nature of liquor advertising or promotion or conduct in relation to liquor consumption has caused community concern, the example there given being 'inappropriate promotion of free alcohol supply to those women prepared to wear a bikini to the venue'.
28. Section 115(1A) was inserted into the LCR Act by the *Liquor Control Reform Amendment Act 2021* (Vic) (the Amending Act). It commenced operation on 15 March 2022. In her Second Reading Speech to the Liquor Control Reform Amendment Bill 2021 (Vic), the Minister said this:

*The Bill will further strengthen the harm minimisation provisions of the Act by clarifying what advertising and promotions are not in the public interest, and therefore able to be banned. This will include advertising that promotes violence or advertising that directly or indirectly appeals to minors or is of a sexual, degrading or sexist nature.*<sup>11</sup>
29. Further, in considering whether or not to exercise its power under section 115A, the Commission may have regard to Liquor Control Victoria's Responsible Alcohol Advertising and Promotion Guidelines (**LCV Guidelines**), which replaced the VGCCC Guidelines following the commencement of the Commission. Principle 4 of the LCV Guidelines describes the following principle:

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<sup>6</sup> LCR Act, s 3.

<sup>7</sup> Macquarie Dictionary Online, at paragraph [4] of 'sexual'.

<sup>8</sup> Ibid, at paragraphs [2] and [3] of 'degrade'.

<sup>9</sup> Macquarie Dictionary Online.

<sup>10</sup> Macquarie Dictionary Online.

<sup>11</sup> Victorian Parliamentary Debates, Legislative Assembly, 23 June 2021, p2308 (Horne).

*The advertising or promotion of alcohol must not contain any directly or indirectly sexual, degrading, sexist, offensive or discriminatory content, such as sexual, degrading, sexist or offensive images, symbols, figures or innuendo which imply sexual or social success.*

30. Under the LCV Guidelines, the rationale for the prohibition of sexual, degrading, or sexist advertising under Principle 4 is said to be this:

*Linking liquor promotion explicitly or implicitly with messages about achieving sexual or social success may contribute to a culture around alcohol use that places pressure on people to either drink more or to rely on liquor as a “social lubricant” and a way of achieving social acceptance.*

## Material before the Commission

31. The Commission on review had before it, and considered, all the materials before the member of the Commission. The Commission also received and considered the following materials:
- (a) Original Decision and Reasons for the Original Decision dated 18 October 2023;
  - (b) Review Application and supporting submissions received on 16 November 2023;
  - (c) submissions presented at the hearing of the Review Application on 15 February 2024; and
  - (d) further submissions received by email on 29 February 2024, including a signed undertaking by the Licensee.

## Hearing

32. A hearing was held in relation to the Review Application on 15 February 2024 (**Hearing**). Mr Philip Cadman of Counsel appeared on behalf of the Licensee and was instructed by Zervos Lawyers.
33. At the Hearing, no witnesses were called and no further evidence presented. However, Mr Cadman elaborated on the written submissions accompanying the Review Application.

## Applicant’s Submissions at the Hearing

34. Mr Cadman submitted that the effect of the Commission’s banning notice was to ban a product itself, rather than banning advertising or promotion<sup>12</sup>. He submitted that section 115A empowers the Commission to “give a notice banning the licensee from advertising or promoting the supply of liquor by the licensee or the conduct of licensed premises by the licensee. So, really, the subject of the ban is the supply or the conduct.... that’s quite different from banning a product”.<sup>13</sup>
35. The Commission agrees that it is not empowered to ban a product. The Product is a pre-mixed peach and cranberry liquor product. The Commission has not and is not considering banning this product. The subject of the ban being considered by the

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<sup>12</sup> Transcript of Hearing, p3, line 33.

<sup>13</sup> Transcript of Hearing, p3, lines 40-45.

Commission is the advertising or promotion of this premixed product by the Licensee which uses the words 'Wet Pussy'. This is considered in detail below. For further clarification, the Commission has never banned and is not currently considering banning the Licensee from advertising or promotion of the Product other than using the words 'Wet Pussy'.

36. Mr Cadman also submitted that the fact that, in real terms, the Product can be understood to have a sexual reference, is not the end of the inquiry. He submitted that the Commission must also separately and additionally consider whether the advertising or promotion is 'not in the public interest'. He submitted that although subsection (1A) "goes on to list advertising or promotion that is directly or indirectly sexual, degrading or sexist", which appears to give a free-standing head of power in relation to sexual advertising, it "still requires this additional consideration of whether sexual advertising or promotion is in the public interest, or more particularly, the banning power is only engaged where that advertising or promotion, that may be sexual, is not in the public interest"<sup>14</sup>;
37. The Commission does not agree with Mr Cadman's submission. Section 115A clearly states that for the purposes of the Commission's consideration of banning of advertising or promotion, such advertising or promotion is 'not in the public interest' if it is 'directly or indirectly sexual, sexist or degrading'.<sup>15</sup>
38. The Commission, however, notes that, in accordance with s172D(3), "The Commission, when performing functions or duties or exercising powers, must have regard to the objects of this Act" and, in accordance with section 4(2) "every power, authority, discretion, jurisdiction and duty conferred or imposed by this Act must be exercised and performed with due regard to harm minimisation".
40. The Commission does accept the broad proposition that the fact that advertising or promotion is "directly or indirectly sexual" does not conclusively mean the Commission should ban it. The Commission accepts that there is a further step of the broad consideration and balancing of all the objects of the LCR Act, with harm minimisation as the primary object. This is the case in deciding whether or not to issue a notice banning advertising and promoting the supply of the Product using the words 'Wet Pussy'.
41. Mr Cadman also submitted on behalf of the Licensee that it was possible to have advertising and promoting of the supply of the Product using the words 'Wet Pussy' in a way that is not sexual advertising. He gave the example that "a black bottle with Wet Pussy written on it does not necessarily become sexual advertising, merely because it has that name". Although he conceded that "a large proportion of over 18s, who are in the bracket of liquor consumers in Victoria, might well make the link to the sexual reference of the words 'Wet Pussy', others may not. He submitted that if "any person were to enter into Google 'wet pussy', they may get pictures of literally soaking cats, cats that have been in the rain...".<sup>16</sup>

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<sup>14</sup> Transcript of Hearing, p4, lines 18-23.

<sup>15</sup> Section 115A(1A)(c).

<sup>16</sup> Transcript of Hearing, p8 lines 34-44.



42. Mr Cadman conceded that there may have been some promotions in the past that were problematic<sup>17</sup>. He submitted that the Licensee would be willing to give the Commission an undertaking that it would not advertise or promote in a way that is sexual, and therefore not in the public interest and would use its best endeavours to prevent that occurring in any circumstance.<sup>18</sup>
43. The Commission does not accept the proposition that it is possible to use the words 'Wet Pussy' in advertising and promoting the Product in a way that is not directly or indirectly sexual. The mere fact that it may be possible for a google search to produce an image of a soaking wet cat does not deprive the words 'wet pussy' from having a directly or indirectly sexual characterisation.

### Licensee's further written submissions

44. On 29 February 2024, Zervos Lawyers provided further written submissions on behalf of the Licensee, which:
  - (a) referred to the discussion before the Commission during the Hearing and re-emphasised that:
    - (i) the Licensee does not currently, nor does it have any future intention to, advertise or promote the supply of the Product (or the conduct of licensed premises) in a manner that is directly or indirectly sexual, degrading or sexist and therefore not in the public interest;
    - (ii) the advertising or promotion of concern to the Commission identified at paragraphs [57] and [58] of the Statement of Reasons for the Original Decision has ceased and the images referred to are no longer on display on social media or elsewhere;
    - (iii) the Licensee has taken steps, including by changing its website name and ceasing the social media advertising, to prevent any advertising or promotion of the Product that is directly or indirectly sexual, degrading or sexist;
    - (iv) the Licensee sells the Product wholesale to retailers, and sells the Product direct to customers solely via its website;
    - (v) in addition to refraining from undertaking any sexual advertising or promotion itself, the Licensee is prepared to use its best endeavours to ensure that retailers to whom it sells the Product do not advertise or promote the supply of the Product, or the conduct of their licensed premises involving the Product, in any manner that is directly or indirectly sexual, degrading or sexist;
  - (b) submitted that:
    - (i) the Commission has the power under section 133F(1)(a) to accept a written undertaking given by a licensee in connection with a matter in relation to which the Commission has a power or function under the LCR Act, including in this instance. Reference was made to the matter of Pizza Religion (Geelong) Pty

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<sup>17</sup> Transcript of Hearing, p4, line 30.

<sup>18</sup> Transcript of Hearing, p17, lines 40-43.

Ltd at Pizza Religion (Geelong) premises (Liquor - Internal Review) [2018] VCGLR 5 (8 February 2018), in which the Commission's predecessor, the Victorian Commission for Liquor and Gambling Regulation accepted an undertaking from a liquor licensee to resolve an internal review application of a non-disciplinary licensing decision;

- (ii) given the breach of an undertaking under section 133F of the LCR Act is a ground for taking disciplinary action, the giving of an undertaking by the Licensee is a serious matter that has the potential to attract serious repercussions for the Licensee. As a result, it is more than sufficient to allay any concerns the Commission may have that the Product will be advertised or promoted in a manner that is not in the public interest in future;
  - (iii) the Licensee has included in the undertaking that its best endeavours referred to will include not only refraining from planning or engaging in any directly or indirectly sexual advertising or promotion together with its customers, but will also include notifying any customer of its commitment not to advertise or promote the Product in a sexual manner, immediately that the Licensee becomes aware of any such directly or indirectly sexual advertising or promotion;
  - (iv) the acceptance of the attached undertaking by the Commission will address any of the potential harms that may be thought to arise from the advertising or promotion of the Product, and serve the same purpose as any appropriate action under section 115A of the Act to ban particular advertising or promotion (rather than banning the Product itself); and
  - (v) in these circumstances, it is appropriate for the Commission to set aside the Original Decision and substitute a decision to accept the written undertaking of the Licensee.
45. A signed written undertaking was provided by the Licensee essentially addressing the matters set out in paragraph 44(a)(iii) above.

## Reasons for decision on review

### Issues for determination on review

46. In making its decision on review, the Commission must determine the following issues in exercising its powers under section 115A of the LCR Act:
- (a) Is the name of a product, in this case 'Wet Pussy', advertising or promotion?
  - (b) Is such advertising and promotion made in respect of the supply of liquor<sup>19</sup>?
  - (c) Are the words 'Wet Pussy' (in a product name) advertising or promotion that is - directly or indirectly sexual, degrading or sexist and thus not in the public interest?
47. In making its decision on review, the Commission must consider the objects of the LCR Act, with harm minimisation as the primary object.

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<sup>19</sup> It is acknowledged that issues related to the conduct of licensed premises being s115A[1][b] have no application to this matter.

48. Each of these issues are discussed in turn.

**Is the name of a product, in this case 'Wet Pussy', advertising or promotion?**

49. Section 115A of the LCR Act refers to 'advertising or promotion'. Neither term is defined, however section 115B defines 'alcohol advertising' for the purposes of that section (not for section 115A) as 'any information, term, expression, symbol or other thing that gives publicity to, or otherwise promotes liquor'.
50. The ordinary meaning of 'advertise' is the act or practice of bringing anything, such as one's requirements or one's business or products into public notice, for example by paid announcements in periodicals, on posters etc, or on television.<sup>20</sup>
51. Promotion is not the same as 'advertising'. Its ordinary meaning as set out in the Macquarie Dictionary, includes to 'advance, or to further the growth, development, progress etc of,' something.<sup>21</sup>
52. The Commission considers that the label/packaging of the Product and the name of the Product are each intended to draw public attention and attraction to the Product and are powerful factors in the ultimate decision of the customer to purchase the Product and accordingly are considered by the Commission to be 'advertising' of the Product.
53. The Commission notes that this is consistent with the Licensee's submissions that:
- (a) there is a significant familiarity and popularity with the Product amongst the liquor consuming community, and in particular with the name 'Wet Pussy'; and
  - (b) 'Wet Pussy' identifies as an established brand name.

**Is such advertising and promotion made in respect of the supply of liquor?**

54. The Licensee attracts potential customers and sells and supplies the Product to customers (whether they be individuals or retailers etc) including via its website. As such, the Licensee is supplying the Product. The Licensee makes its potential customers aware of the availability of the Product and attracts them to purchase the Product by listing it for sale by the name 'Wet Pussy' and also by having images of it including on its website, using the words 'Wet Pussy'. Accordingly, the Commission considers that the Licensee is advertising or promoting the supply of liquor using the words "Wet Pussy".
55. The Commission notes that the Licensee has amended the name of the website to remove the words 'Wet Pussy'; however, once on the website, the name of the Product as 'Wet Pussy' is still clearly visible. The Commission considers that the Licensee is advertising or promoting supply of the Product, through its website and through the name and label/packaging of the Product.

**Are the words 'Wet Pussy' (in a product name) advertising or promotion that is - directly or indirectly sexual, degrading or sexist and thus not in the public interest?**

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<sup>20</sup> Macquarie Dictionary Online.

<sup>21</sup> Macquarie Dictionary Online.

56. The Commission agrees with the ABAC Adjudication Panel finding that ‘wet pussy’ is a commonly recognised slang term denoting the vagina of a sexually aroused woman.<sup>22</sup>
57. As stated above, the Licensee conceded that “a large proportion of over 18s, who are in the bracket of liquor consumers in Victoria, might well make the link to the sexual reference of the words ‘Wet Pussy’. However, the Licensee also submitted that if “any person were to enter into Google ‘wet pussy’, they may get pictures of literally soaking cats, cats that have been in the rain...”.<sup>23</sup>
58. Even allowing for the possibility that a google search may throw up a non-sexual image, this does not in any way alleviate the Commission’s concern that the expression ‘wet pussy’ has a well known and assuredly sexual connotation.
59. Accordingly, the Commission finds that advertising and promoting the supply of liquor using the words ‘Wet Pussy’ is ‘directly or indirectly sexual’ and accordingly not in the public interest in accordance with section 115(1A)(c) of the LCR Act.

### **Consideration of the objects of the LCR Act, with harm minimisation as the primary object.**

60. The Commission considers that the term ‘wet pussy’, in addition to its explicit connotations of a sexual nature described above, also appears to objectify women. As the name of the Product, the term suggests that one can achieve sexual arousal or sexual success from the consumption of the beverage. The Commission acknowledges that both the ABAC Panel and the Ad Standards Community Panel accepted the Product name would be recognised by a reasonable person as referring the vagina of a sexually aroused woman and would be considered as offensive by some in the community.
61. The Licensee has submitted that the name of the Product, properly understood against a background of current community standards, is not offensive to a significant portion of the community and can be considered as positive and empowering for women. There is no evidence before the Commission in this regard and the Commission does not accept this proposition.
62. In fact, as submitted by the Licensee, the Product has been around a very long time and is well known as ‘Wet Pussy’. Over the years, in addition to the advertising through the name of the Product (including those attached to the Show Cause Letter in this matter), there have been numerous static and video promotions (including on Instagram, websites, social media etc), whether or not by the Licensee, some of which the Licensee itself admits were “problematic”. Thus, through this history of promotions, the association of the words ‘wet pussy’ with the objectification of women and the promotion of sexual success for men by the consumption of this Product by women has been further forged. This association remains even though previous promotions may have now ceased.
63. The Commission considers that the words ‘wet pussy’ objectifies women by focussing on one particular body part and sexualising that body part.
64. Further, the Commission considers that permitting advertising or promotion of liquor in a manner that seeks to exploit the idea of sexual success or normalise attitudes of lubricating” women through alcohol to achieve sexual success is inconsistent with the

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<sup>22</sup> See example, ABAC Adjudication Panel Final Determination No 216 and 217/21 dated November 2021 (the ABAC Determination), at [46].

<sup>23</sup> Transcript of Hearing, p9, lines 34-44.

objectives of the LCR Act. In particular, it is inconsistent with the principal object of minimising harm arising from the misuse and abuse of alcohol to vulnerable persons including women.

65. Additionally, the Commission considers that advertising or promotion of the Product that uses the words 'wet pussy' does not contribute to the responsible development of the liquor industry and is therefore inconsistent with this object of the LCR Act.
66. It is not in the public interest to condone advertising or promotion of liquor that objectifies woman and promotes the idea that consumption of liquor is linked to sexual success or is a social or sexual lubricant (as stated in LCV's Guidelines)<sup>24</sup>.
67. In light of all available material, in the opinion of the Commission the Licensee's advertising and promoting the supply of the liquor using the words 'Wet Pussy', (including on the label/packaging) is directly or indirectly sexual, degrading or sexist, and thus not in the public interest.

## Consideration of an Undertaking from the Licensee

68. The Commission acknowledges that the Licensee has proposed and provided a signed undertaking. However, the Commission considers that ultimately the undertaking does not address or ameliorate concerns regarding the Licensee's advertising or promoting supply of the Product which uses the words 'Wet Pussy'.
69. While the undertaking offers a commitment by the Licensee to not advertise or promote the supply of the Product in a manner that is directly or indirectly sexual, degrading or sexist, the Product bearing the name 'Wet Pussy' does and will remain, for sale on the Licensee's website. Therefore, even if additional sexual text or images in an advertisement or promotion of the Product are removed, the sexual connotations and innuendo connected to the supply of the Product remain.

## Decision on review

70. For the reasons set out above, the Commission affirms the Original Decision of the issuing of a notice under section 115A(1) banning the Licensee from advertising or promoting supply of liquor using the words 'Wet Pussy'; and that such a ban is appropriate in all the circumstances.
71. The Commission on review has therefore determined to affirm the Original Decision and vary the Effective Date to take effect 28 days after the date of this decision. This is to allow the Licensee time to fully comply with the notice under section 115A(1), including with respect to its current stock labels, website and any other advertising or promotion which includes the words 'Wet Pussy'.

***The preceding 71 paragraphs are a true copy of the Reasons for Decision of Mr John Larkins (Acting Chair), Mr James O'Halloran (Deputy Chair) and Ms Thu-Trang Tran (Commissioner)***

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<sup>24</sup> LCV Guidelines, Principle 4.