



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0013-21
2. Advertiser :	Bellamy's Organic
3. Product :	Food/Bev Groceries
4. Type of Advertisement/Media :	Billboard
5. Date of Determination	10-Feb-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Food and Beverages Code\2.1 Truthful Honest Not Misleading or deceptive

DESCRIPTION OF ADVERTISEMENT

This billboard advertisement features an image of Tasmanian scenery and the words "Australia's #1 organic brand" with a picture of the product.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

I believe this is misleading advertising because it uses iconic Tasmanian images to promote infant formula produced from Victorian milk. This advertising plays off Tasmania's clean green image.

THE ADVERTISER'S RESPONSE

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

Bellamy's Organic notes the complaint relates to an out-of-home billboard (Advertisement 1) that promotes Bellamy's Organic Toddler Milk (the Product). The advertisement comprises a landscape picture of 'The Nut', located in Stanley, Tasmania and a picture of the Product with the statement 'Australia's #1 organic brand' (Copy 1).

2) A banner on the Bellamy's Organic website - <https://www.bellamysorganic.com.au/> (Advertisement 2). The banner comprises a landscape picture of 'The Nut', located in



Stanley, Tasmania, with the statement 'A Pure Start to Life. Premium Certified Organic formula & baby food made right here in Australia.' (Copy 2).

Bellamy's Organic disagrees with the complaint that the use of the picture of 'The Nut' and the copy in Advertisement 1 and Advertisement 2 raises issues under Section 2.1 of the AANA Food and Beverages Code, which states:

"Advertising or Marketing Communications for Food or Beverage Products shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene Prevailing Community Standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits."

Bellamy's Organic has an undeniably clear Tasmanian Heritage. The brand was founded in 2004 in Tasmania by a Tasmanian mother, who wanted to provide a nutritious organic choice for her children. Bellamy's Organic has since grown to be one of the leading Organic infant nutrition brands in the world, but we are still Tasmania-based - our registered office is in Launceston, Tasmania.

Bellamy's Organic uses Tasmanian milk in Bellamy's Organic infant formula and toddler milk drink products, as well as milk sourced from other locations. Although the Bellamy's Organic website showcases one of the farms we source Organic milk from (in Gippsland, Victoria), this is not the only farm Bellamy's Organic sources Organic milk from.

Bellamy's Organic also has a long-term commitment to further develop the Tasmanian Organic milk pool. In 2018, Bellamy's Organic signed a strategic partnership with Fonterra to jointly build an Organic milk pool in Tasmania. Bellamy's has agreed to take the first 20ML of milk from this Organic milk pool annually (see attached ASX announcement regarding this). Through this partnership, Bellamy's Organic provides Tasmanian farmers with incentive payments to convert their farms to producing Organic milk. Bellamy's Organic has also invested \$5.6m to support construction of Organic milk processing facilities in Spreyton, Tasmania.

Further, the copy in both Advertisement 1 and Advertisement 2 do not make any claim to the source of milk in Bellamy's Organic products. Copy 1 in Advertisement 1 ('Australia's #1 organic brand') relates to our Australian sales performance, which is validated by Euromonitor (the source is noted at the bottom of the advertising). Copy 2 in Advertisement 2 ('A Pure Start to Life. Premium Certified Organic formula & baby food made right here in Australia.') is supported by the fact that all Bellamy's Organic products sold in Australia are Australian Made (as indicated on the Country of Origin labelling on the Product) and are dual-certified Organic by both ACO and NASAA (Australia's peak Organic Certifiers).

AANA Code of Ethics:



Bellamy's Organic does not believe either Advertisement 1 or Advertisement 2 is in breach of the following parts of Section 2 of the AANA Code of Ethics:

- 2.1 – Discrimination or vilification;*
- 2.2 – Exploitative and degrading;*
- 2.3 – Violence;*
- 2.4 – Sex, sexuality and nudity;*
- 2.5 – Language;*
- 2.6 – Health and Safety; and*
- 2.7 – Distinguishable as advertising*

AANA Code for Advertising and Marketing Communications to Children:

Bellamy's Organic submits that Advertisement 1 and Advertisement 2 cannot be considered as being directed to children or predominantly directed to children. Bellamy's Organic does not believe that any section within this Code has been breached.

Conclusion:

Bellamy's Organic submits that the use of a Tasmanian landscape and the copy in Advertisement 1 and Advertisement 2 respects the clear Tasmanian heritage of Bellamy's Organic and the Product and in no way depicts material contrary to the Codes administered by Ad Standards, and in particular Section 2.1 of the AANA Food and Beverages Code. Bellamy's Organic requests that the Panel dismiss the complaint on this basis.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) and the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that through the use of iconic Tasmanian imagery the advertisement suggests that the product's ingredients are from Tasmania.

Food Code Section 2.1: Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.

In relation to section 2.1 of the Code the Panel considered the Practice Note to the Food code which provides that



“The Panel will not attempt to apply legal tests in its determination of whether advertisements are truthful and honest, designed to mislead or deceive, or otherwise contravene prevailing community standards in the areas of concern to this Code.

“In testing the requirement that an advertising or marketing communication should not be designed to be misleading or deceptive, or otherwise contravene prevailing community standards, the Panel will consider the advertiser’s stated intention, but may also consider, regardless of stated intent, that an advertisement is by design misleading or deceptive, or otherwise contravenes prevailing community standards in particular regard to stated health, nutrition and ingredient components of the food or beverage product.”

The Panel noted the advertiser response that the business is Tasmanian and uses some Tasmanian milk in the product, and that the advertisement copy does not make any claim about the source of milk in Bellamy’s Organic product.

The Panel noted the wording ‘Australia’s #1 organic brand’ and that the advertiser had provided the basis of this claim.

The Panel considered that the main impression of the advertisement is that this is a Tasmanian business which produces a product which is popular in the Australian market, and the average consumer would not understand the claim to be that all the ingredients in the product to be produced in Tasmania.

Food Code Section 2.1 conclusion

On this basis, the Panel determined that the advertisement was not misleading or deceptive and was communicated in a manner appropriate to the level of understanding of the target audience and did not breach Section 2.1 of the Food Code.

Conclusion

Finding that the advertisement did not breach any other sections of the Food Code the Panel dismissed the complaint.