



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0025-21
2. Advertiser :	Bellamy's Organic
3. Product :	Food/Bev Groceries
4. Type of Advertisement/Media :	Internet
5. Date of Determination	
6. DETERMINATION :	

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

This internet advertising features two banner images of Tasmanian landscape with words superimposed over them. They read:

- A Pure Start to Life premium Certified Organic formula and baby food made right here in Australia
- Winner #1 favorite organic brand 2020

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 image is accompanied by the phrase 'Premium Certified Organic formula and baby food made right here in Australia' implying through the image that here is Tasmania.

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 a banner on the Bellamy's Organic website - <https://www.bellamysorganic.com.au/>. 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.'

Bellamy's Organic disagrees with the complaint that the use of the picture of 'The Nut' and the copy in the advertisement 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 the advertisement does not make any claim to the source of milk in Bellamy's Organic products. The copy ('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).

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 the advertisement 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 the advertisement 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 ‘made right here in Australia’ and considered that this was a claim the product was made in Australia, and not a claim that it was made or produced in Tasmania.

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

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.