



**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

<b>1. Case Number :</b>	<b>0057-21</b>
<b>2. Advertiser :</b>	<b>Crown Melbourne Limited</b>
<b>3. Product :</b>	<b>Travel</b>
<b>4. Type of Advertisement/Media :</b>	<b>Internet - Social - Instagram</b>
<b>5. Date of Determination</b>	<b>10-Mar-2021</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.7 Distinguishable advertising

### DESCRIPTION OF ADVERTISEMENT

This Instagram advertisement made by Anna Heinrich includes four images of Ms Heinrich and her husband at the hotel, and the text "We can't wait to get back and treat ourselves to a staycay at Crown Towers Melbourne and Perth – both just received the Forbes 5 Star Rating [clap hands emoji].The only hotel group in Australia to win the award for multiple hotels. CONGRATS! #CrownTowers #CrownHotels #crownpartner".

### THE COMPLAINT

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

*Lack of regard to Australian law. Advertising with no transparency re sponsorship  
No sponsorship transparency  
Not using the proper wording for sponsorship*

### THE ADVERTISER'S RESPONSE

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



*Crown Melbourne Limited (Crown) has a confidential agreement in place with Ms Heinrich (“the Agreement”) which includes the production of social media content referring to Crown. The Agreement contains a requirement for Ms Heinrich to use the hashtag “#crownpartner” on all her posts relating to Crown, including the instagram post referred to in the Complaint. The purpose of including that requirement in the Agreement was to specifically disclose the contracted engagement that Ms Heinrich has with Crown.*

*In our view, the hashtag “#crownpartner” does distinguish Ms Heinrich’s posts relating to Crown as advertising, as distinct from organic user-generated content. We note that “#partner” is quite commonly used within the social media/influencer industry to identify posts that are advertising.*

*For these reasons we submit that the post in question is clearly distinguishable as advertising in accordance with the commonly used disclosure approach used in the industry.*

*Notwithstanding this, please note that we have recently updated our processes regarding social media influencers with which we have a contracted engagement. Consistent with the AIMCO Australian Influencer Marketing Code of Practice (1 July 2020) and the AANA Code of Ethics Practice Note (February 2021), we now require all posts referring to Crown that are subject to a contracted engagement to use the hashtag “#sponsored”.*

*We look forward to your response.*

## **THE DETERMINATION**

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

The Panel noted the complainant’s concern that the Instagram post does not have sponsorship transparency.

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

### **Section 2.7: Advertising or Marketing Communication shall be clearly distinguishable as such.**

#### **Is the material advertising?**

The Panel noted that it must consider two matters:

- Does the material constitute an ‘advertising or marketing communication’, and if so
- Is the advertising material clearly distinguishable as such?

#### **Does the material constitute an ‘advertising or marketing communication’?**



The Panel noted the definition of advertising in the Code: “any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer,

- over which the advertiser or marketer has a reasonable degree of control, and
- that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct”.

The Panel considered that the photographs taken inside the hotel in the advertisement, the caption referring to an award and the use of the brand name did amount to material which would draw the attention of the public in a manner designed to promote the brand.

With regards to whether the advertiser or marketer has a reasonable degree of control, the Panel noted that the advertiser had provided a response to the case confirming that they have an agreement with Anna Heinrich for the production of social media material and that therefore they did have a reasonable degree of control over the post.

### **Is the material clearly distinguishable as such?**

The Panel noted the Practice Note for the Code states:

*“Influencer and affiliate marketing often appears alongside organic/genuine user generated content and is often less obvious to the audience. Where an influencer or affiliate accepts payment of money or free products or services from a brand in exchange for them to promote that brand’s products or services, the relationship must be clear, obvious and upfront to the audience and expressed in a way that is easily understood (e.g. #ad, Advert, Advertising, Branded Content, Paid Partnership, Paid Promotion). Less clear labels such as #sp, Spon, gifted, Affiliate, Collab, thanks to... or merely mentioning the brand name may not be sufficient to clearly distinguish the post as advertising.”*

The Panel noted that the post refers to an achievement/award received by the advertiser, and considered that it would unlikely a person would post about such an accolade unless they had an investment in the promotion.

The Panel noted that the post contains several hashtags referring to the advertiser, including one stating #crownpartner.

The Panel considered that the combination of the caption and the hashtags made it clear that the post was sponsored by the advertiser.

### **2.7 conclusion**

In the Panel’s view the advertisement was clearly distinguishable as such and did not breach Section 2.7 of the Code.



### **Conclusion**

Finding that the advertisement did not breach the Code on other grounds, the Panel dismissed the complaint.