

## Case Report

1. Case Number :	0101-23
2. Advertiser :	Coles
3. Product :	Food/Beverages
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	28-Jun-2023
6. DETERMINATION :	Dismissed

### ISSUES RAISED

AANA Environmental Code\1 Truthful and Factual  
AANA Food and Beverages Code\2.1 Not misleading or deceptive

### DESCRIPTION OF ADVERTISEMENT

This television advertisement features TV chef Curtis Stone cooking and using ingredients including carbon neutral beef.



### THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*I find it very hard to believe that this statement is true and / or is very misleading.*

*How can beef be carbon neutral. I can accept carbon reduced.*

*In my view this is false and misleading advertising.*

*They also state this on their website ( with clarifications). And it is not carbon neutral.*

## THE ADVERTISER'S RESPONSE

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

*Coles understands that the complaint relates to a TV advertisement promoting Coles Finest Carbon Neutral Scotch Fillet Steak (the product) that the complainant viewed on Channel 10, on 19 May 2023.*

*The advertisement is a fifteen second clip which reveals Coles Ambassador Curtis Stone preparing a steak, which is identified as the product, and is accompanied by price and offer details for purchase. The ad then closes with a voiceover stating, "that's value the Australian way, at Coles" (the advertisement).*

*Coles understands the complainant viewed the advertisement at approximately 7pm on 19 May 2023. Coles confirms that the advertisement was aired on Channel 10 at 6:59pm on that date.*

*Product Certification – Climate Active:*

*The product is certified as carbon neutral from farm to store through Climate Active [1]. Climate Active is an Australian Government initiative developed and administered by the Australian Government Department of the Environment and Energy and was designed to drive collaboration between the federal government and Australian businesses to take meaningful action to measure, reduce, and offset carbon emissions.*

*As an organisation they have developed the Climate Active initiative and Climate Active Carbon Neutral Standards which provide support and guidance for businesses seeking to account for and reduce their emissions. They have also created the Climate Active stamp which helps the community identify and choose brands or products that are certified as carbon neutral.*

*Carbon neutral product certifications are granted to organisations that credibly demonstrate that they have reached a state of carbon neutrality in relation to the relevant product or service. The process for certification is lengthy and includes a technical assessment and an independent third-party validation of the findings, as well as publication of the products disclosure statement and annual reviews [2].*

*Coles Certified Carbon Neutral Beef Products:*

*Selected Coles Finest premium beef products (including the product referenced in the advertisement) were certified as carbon neutral from farm to store in April 2022 by Climate Active. Details regarding the certification of the product are available in the enclosed Public Disclosure Statement.*

*The Public Disclosure Statement details Coles' Emissions Reduction Strategy which includes working with farmer partners to reduce emissions through best practice farming and investment in emission reduction initiatives including:*

- 1. improving herd productivity,*
- 2. feed supplements that reduce enteric methane; and*
- 3. carbon sequestration.*

*Coles offsets remaining emissions associated with the product with carbon credits [3].*

*Coles is of the view that as the product has received certification through the Australian Government's Climate Active program, the promotion of the product as carbon neutral does not breach the provisions of the AANA Environmental Claims Code or the AANA Code of Ethics by engaging in misleading or deceptive conduct.*

*AANA Environmental Claims Code:*

*Coles confirms that the promotion of the product as carbon neutral is an environmental claim under AANA Environmental Claims Code (the Code).*

*Coles believes that the TV advertisement for the product and Coles' use of the term carbon neutral complies with sections 1, 2 and 3 of the Code. The claim refers specifically to the product which has been assessed and certified as a carbon neutral product under Climate Active's Carbon Neutral Certification program.*

*Coles submits that the claim within the advertisement is a truthful and accurate claim, which can be verified and substantiated, and is unlikely to mislead consumers regarding the nature or the environmental benefits of the product.*

*AANA Code of Ethics:*

#### *2.1 Discrimination or vilification*

*Coles does not believe the advertisement portrays people or depicts material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual orientation, religion, disability, mental illness or political belief.*

#### *2.2 Exploitative and degrading*

*Coles does not believe the advertisement employs sexual appeal where images of minors, or people who appear to be minors, are used; or in a manner which is exploitative or degrading of any individual or group of people.*

### 2.3 Violence

*Coles does not believe the advertisement presents or portrays violence.*

### 2.4 Sex, sexuality and nudity

*Coles does not believe advertisement presents or portrays sex, sexuality or nudity in any way.*

### 2.5 Language

*Coles believes the advertisement uses language appropriate in the circumstances. The content does not include any strong or obscene language.*

### 2.6 Health and Safety

*Coles does not believe the advertisement depicts material that is contrary to Prevailing Community Standards on health and safety.*

### 2.7 Distinguishable as advertising

*As noted above, the TV advertisement was aired on Channel 10 and, in Coles' view, is clearly distinguishable as advertising.*

*1 <https://www.climateactive.org.au/buy-climate-active/certified-members/coles>*

*2 Further information relating to Climate Active can be accessed on their website, <https://www.climateactive.org.au>*

*3 For further information refer to Climate Active, Public Disclosure Statement - Coles Supermarkets Australia, Product Certification.*

### Additional information from advertiser

*Coles is currently in the process of renewing our certification with Climate Active. Coles' documentation has been submitted to Climate Active and has been accepted. Our status has remained active throughout this process, as can be seen on Coles' Certified Member page: <https://www.climateactive.org.au/buy-climate-active/certified-members/coles>.*

*From a review of Climate Active's Climate Active Guide (<https://www.climateactive.org.au/sites/default/files/2022-07/climate-active-guide.pdf>), page 10, Coles understands that cancellation is the term used for use of a carbon credit purchased to offset an emission (on a 1 credit to 1 tonne of emissions ratio). Under the heading offsetting emissions, it notes that "[t]o offset your emissions and make a claim of carbon neutrality, you need to cancel eligible offset units equivalent to your carbon footprint. Cancellation is done through an official credit register which ensures the credit cannot be sold or used again." The Australian Carbon*

*Credit Units that are purchased for Coles Finest Carbon Neutral range are voluntarily retired via the Clean Energy Regulator's ANREU Registry and removed from circulation to offset emissions under the Climate Active scheme.*

## **THE DETERMINATION**

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Environmental Claims Code (the Environmental Code) or the AANA Food and Beverages Advertising Code (the Food Code).

The Panel noted the complainant's concern that the advertisement is misleading as beef cannot be carbon neutral.

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

### **The Environmental Code**

#### Is an Environmental Claim being made?

The Panel considered whether the advertisement made an Environmental Claim.

The Environment Code applies to 'Environmental Claims' in advertising and marketing communications.

The Code defines Environmental Claims as *“any express or implied representation that an aspect of a product or service as a whole, or a component or packaging of, or a quality relating to, a product or service, interacts with or influences (or has the capacity to interact with or influence) the Environment”*.

The Panel considered that the advertisement includes the environmental claim that the depicted product is carbon neutral.

#### 2 a) Environmental Claims shall not be misleading or deceptive or be likely to mislead or deceive.

The Panel noted that the Practice Note for this Section includes:

*“It is not intended that legal tests be applied to determine whether advertisements are misleading or deceptive, or likely to mislead or deceive, in the areas of concern to this Code.*

*“Instead, consideration will be given as to whether the average consumer in the target market would be likely to be misled or deceived by the material.*

*“Factors to consider include:*

- *An advertisement may be misleading or deceptive directly or by implication or through emphasis, comparisons, contrasts or omissions. It does not matter whether the advertisement actually misled anyone, or whether the advertiser intended to mislead – if the advertisement is likely to mislead or deceive there will be a breach of the Code.*
- *The target market or likely audience of the advertising or marketing communication should be carefully considered when making environmental claims. Therefore all advertising should be clear, unambiguous and balanced, and the use of technical or scientific jargon carefully considered.*
- *Any comparative claim should be specific and make clear the basis for the comparison. Points of comparison, where appropriate, should reflect a body of evidence including recognised benchmarks or standards where appropriate.*
- *Environmental claims relating to future matters or commitments should be based on reasonable grounds as at the time the claim was made, even if the future matter does not come to pass. The fact that a person may believe in a particular state of affairs does not necessarily mean that there are reasonable grounds for the belief.*
- *Environmental claims should not lead the consumer to conclude a business has voluntarily adopted an environmental practice if that practice has been legally mandated.*
- *Environmental claims should not be made in a manner that implies, directly or indirectly, a correlation between the environmental aspects of the product/service and any social initiative of the advertiser when none exists. For example, the advertising of a “partnership” with or “sponsorship” of an environmental group should not imply that the partnership has improved environmental aspects of the company’s product/ services where this is not the case.*
- *The use of any symbol or logo should be explained unless the symbol is required by law, or is underpinned by regulations or standards, or is part of an authoritative certification scheme. Symbols or logos should only be used in an advertisement when the source of the symbol or logo is clearly indicated, and there is no confusion over the meaning”.*

The Panel noted that the advertiser had provided substantiation detailing its involvement in the Australian Government initiative ‘Climate Active’. The Panel noted that this initiative gives carbon neutral product certifications to organisations that credibly demonstrate that they have reached a state of carbon neutrality in relation to the relevant product or service.

The Panel considered that by receiving certification through an Australian Government program, it was not misleading or deceptive for the advertisement to use terminology that is authorised under that initiative.

The Panel noted that the advertiser's certification was currently undergoing a renewal process, but acknowledged that under the terms of the initiative, it was permitted to continue using the phrasing 'carbon neutral' during the renewal process.

The Panel noted that some members of the community may doubt the legitimacy of the initiative or claims of carbon neutrality in general, however considered that this is not by itself a matter under the Code.

#### Section 2 a) conclusion

The Panel determined that the advertisement did not breach Section 2 a) of the Environmental Claims Code.

#### **Environmental Code conclusion**

The Panel found that the advertisement did not breach any other Sections of the AANA Environmental Claims in Advertising and Marketing Code.

#### **The Food Code**

The Panel noted that the product advertised is food and that therefore the provisions of the Food Code apply.

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.

For the reasons discussed above, the Panel considered that the advertisement was not misleading or deceptive.

#### Section 2.1 Conclusion

Overall, the Panel considered that the advertisement was not designed to be misleading or deceptive and was communicated in a manner appropriate to the understanding of the target audience. The Panel determined that the advertisement did not breach Section 2.1 of the Food Code.

#### **Food Code conclusion**

The Panel found that the advertisement did not breach any other Section of the AANA Food and Beverages Code.

## **Conclusion**

Finding that the advertisement did not breach the AANA Environmental Claims Code or the AANA Food and Beverages Code, the Panel dismissed the complaint.