



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0111-21
2. Advertiser :	Carlton and United Breweries
3. Product :	Alcohol
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	12-May-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Environmental Code\3 Substantiation
AANA Environmental Code\1 Truthful and Factual

DESCRIPTION OF ADVERTISEMENT

This television advertisement features:

Audio:

VO: 'When we clock on it's there, ready to squeeze the sweat from our burnt brows...'

VO: '...while we are trying to earn our bacon, it's trying to turn us into it.'

VO: 'But times are changing. Now the sun is working for us...'

VO: '...because VB is being brewed with 100% solar.'

On screen text: 'VB is brewed with 100% offset solar electricity'

VO: 'So next time the sun is making you hot, just remember that it is also making you a cold one.'

On screen text: 'For a hard earned thirst' as well as a white 18+ symbol and capitalised text: 'For People Over The Age Of 18 Only.'

Visual:

A male labourer is looking up at the sun. It is a hot day. The male labourer and another male labourer carry a metal beam.

The sun is overhead. The male labourers dump metal parts on to the ground in quick succession.

The two male labourers work together to erect a long metal beam.

There is a close-up of a female labourer drilling. The camera zooms out to depict a large solar field. It is now apparent that the metal parts are parts of solar panels and



infrastructure. A bird's eye view of the solar field reveals the extent of its size. The solar panels almost cover the entirety of the field.

There is a close-up of a male labourer's face set against a sunny background. Sweat drips from his nose.

The sun is bright and centre of screen. Two male labourers lift up their construction face shields and nod at each other.

The scene depicts four labourers and an older man. It appears they are finished working and about to relax. One male labourer hands the other labourers a bottle of beer.

A close-up of a Victoria Bitter Twist Top bottle being opened is shown. A male labourer drinks from the dewy bottle.

Against the background of the solar field and sky, a 'Victoria Bitter' logo is shown with the text and symbol listed on the left

THE COMPLAINT

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

*They claimed their beer is made with 100% renewable energy using solar panels. How can they substantiate this when they cannot pick or choose the electrons from the grid given the grid is a mix of coal, gas solar and wind.
I believe they are virtue signalling to the climate mob in order to sell more beer*

THE ADVERTISER'S RESPONSE

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

Thank you for your recent correspondence regarding a complaint with reference number 0111-21 and for providing CUB with the opportunity to respond.

Description of Victoria Bitter Advertisement

The advertising complained of was created for the Victoria Bitter (or VB) product. The advertisement was a 30-second television commercial that launched in September 2019 and was updated in April 2020 (Advertisement or TVC).

The tone of the Advertisement is light-hearted. It opens with a montage of scenes in which actors who appear to be labourers are toiling at work in the sun. The voiceover laments how hard it is working in the sun, but that 'times are changing' and 'now the sun is working for us'. The frame then pans further out to display a large field of solar panels, and it becomes apparent that the labourers are carrying parts of solar panels and infrastructure to build a solar field. On the frame of a large solar field, in white text the claim "VB is brewed with 100% offset solar electricity" is displayed (the Claim). The Advertisement concludes with the labourers enjoying a bottle of cold VB while the



voice over says, 'so the next time the sun is making you hot, just remember that it is also making you a cold one'.

Details of the programs in which the Advertisement appears

CUB has stringent controls in place that ensure our advertisements are only shown to people over the age of 18, and CUB gave instructions to the media buyer to book placements for an audience aged 18 – 54 years old. The networks have confirmed to CUB that they also apply 18+ targeting at their end and do not allow alcohol advertising to be shown to minors or within programs featuring content primarily aimed at minors. The media buyer has advised that this Advertisement appeared on the free-to-air channels 7, 9, and 10 across Sydney, Melbourne, and Brisbane on metro and regional TV, as well as catch-up TV (among other digital channels) at the appropriate adult broadcast timing. It also appeared during AFL and NRL television broadcasts consistent with CUB's sponsorship arrangements.

Ad Standards Complaint

The complaint sent under cover of your letter dated 30 April 2021 states:

"They claimed their beer is made with 100% renewable energy using solar panels. How can they substantiate this when they cannot pick or choose the electrons from the grid given the grid is a mix of coal, gas solar and wind. I believe they are virtue signalling to the climate mob in order to sell more beer".

CUB and its parent entity Asahi Beverages are committed to ensuring our promotional and marketing material is accurate and verifiable, and not misleading or deceptive.

The Complainant claims the TVC says that VB "is made with 100% renewable energy using solar panels". The Complainant does not correctly refer to the claim made by CUB.

In fact, the Claim that CUB makes in this Advertisement is that 'VB is brewed with 100% offset solar electricity'. This text appears onscreen in the Advertisement, while the voice over says, "But times are changing. Now the sun is working for us because VB is being brewed with 100% solar".

Background on CUB's environmental goals

Following Asahi Beverages' acquisition of Carlton & United Breweries in 2020, an ambitious sustainability agenda has been established by the company, which includes a goal to be powered 100% through electricity sourced from renewables by 2025.

As a part of this sustainability agenda, in 2020 Victoria Bitter proudly achieved its goal of being powered entirely by 100% offset solar energy. CUB continues to work towards its commitment to the environment by setting ambitious environmental targets and



creating engaging sustainability programs for its customers to participate in, such as the VB Solar Exchange program.

AANA Environmental Code section 3(a) regarding substantiating and verifying claims

The complaint made against the Victoria Bitter Advertisement suggests it breaches section 3(a) of the AANA Environmental Code, which requires that “Environmental claims in advertising or marketing communication (a) shall be able to be substantiated and verifiable”. The Ad Standards Practice Note gives the following guidance on substantiating environmental claims:

“Advertisers and marketers should have a reasonable basis for making a claim and therefore should hold appropriate, balanced, comprehensive and credible evidence to substantiate all express and implied claims [...] Factors to consider include: The use of broad or unqualified general claims of environmental benefit should be avoided unless supported by a high level of substantiation or associated with a legitimate connection to an authoritative source [...]”.

We submit that the Claim in the Advertisement does not breach section 3(a), as the Claim can be substantiated and is verifiable for the following reasons:

- a) In accordance with the Claim, CUB offsets solar electricity for its brewing operations (including packaging lines, lighting, bottling, malt processing, and fermentation). This involves CUB utilising Large-Scale Generation Certificates, validated by the Australian Government’s Clean Energy Regulator.*
- b) Total solar energy supplied to CUB from the Karadoc solar farm pursuant to a power purchase agreement with CUB’s solar supplier is approximately 74 GWh per annum (see CUB media release at: <https://cub.com.au/baywa-r-e-carlton-united-breweries-flow-power-and-beon-energy-solutions-celebrate-official-opening-of-victorias-largest-solar-farm/>).*
- c) The total energy requirement for CUB’s brewing operations is approximately 66 GWh per annum for all of CUB’s brands, not just for VB.*
- d) There is therefore a significant surplus of offset solar that CUB receives each year as compared to VB’s brewing requirements given VB only accounts for 16% of CUB’s overall production. CUB retains Large-Scale Generation Certificates in respect of this solar energy.*

CUB can therefore confidently claim that VB is brewed with 100% offset solar electricity.

AANA Environmental Code section 1(a) regarding not misleading or deceiving

The complaint made against the Victoria Bitter Advertisement suggests it breaches section 1(a) of the AANA Environmental Code, which requires that “Environmental



claims in advertising or marketing (a) shall not be misleading or deceptive or likely to mislead or deceive". The Ad Standards Practice Note gives the following guidance on substantiating environmental claims:

"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".

We submit that the Claim in the Advertisement does not breach section 1(a) and is not misleading or deceptive or likely to mislead or deceive for the following reasons:

- a) The Claim that 'VB is brewed with 100% offset solar electricity' appears prominently onscreen during the Advertisement. CUB ensured the Claim featured was sufficiently clear, and in compliance with the Clear Ads Handbook's guidance on disclaimers (See Appendix A, Information Sheets, 'Producing TVCs with Disclaimers & Other On-Screen Text'). We note:*
- i. the text is on screen for a duration significantly greater than the minimum of 0.2 seconds per word, and is on screen long enough to ensure that all text on screen can be read by the general public;*
 - ii. the text is of a sufficient size and font so as to make it clear and legible, and that the white text stands out against the dark background; and*
 - iii. the text disclaimer is placed onscreen at the same time the Claim is made in the voice over.*
- b) The Complainant makes a point that electrons from a grid cannot be selected for electricity use, and that the grid contains a mix of energy sources such as coal, gas, solar, and wind. In response to this point, CUB reiterates that the Advertisement explicitly claims that VB is brewed with 100% offset solar electricity. It is clear that offset solar electricity indicates that the solar electricity generated from the solar farm (namely, Karadoc solar farm) is offset via use of the energy grid, which is common market practice for entities using Large-Scale Generation Certificates under the scheme implemented by the Australian Government Clean Energy Regulator. The Claim is carefully worded to ensure it is clear and accurate.*

Previous complaints in relation to this Advertisement

We refer the Panel to previous complaints in respect of this Advertisement as first launched in September 2019.

We highlight in the table below the copy updated in April 2020 from the voice over in the September 2019 advertisement in underline/bold (Please refer to attachment for formatting). Comparing the advertisements, the only update is the change from future to present tense for the voice over and the onscreen text.



<i>Previous (2019) Voice Over</i>	<i>Updated (2020) Voice Over</i>
<i>VO: When we clock on it's there, ready to squeeze the sweat from our burnt brows...</i>	<i>VO: When we clock on it's there, ready to squeeze the sweat from our burnt brows...</i>
<i>VO: ...while we are trying to earn our bacon, it's trying to turn us into it.</i>	<i>VO: ...while we are trying to earn our bacon, it's trying to turn us into it.</i>
<i>VO: But times are changing. Soon the sun will be working for us...</i>	<i>VO: But times are changing. Now the sun is working for us...</i>
<i>VO: ...because in 2020, VB will be brewed with 100% solar.</i>	<i>VO: ...because VB is being brewed with 100% solar.</i>
<i>On screen text: VB will be brewed with 100% offset solar electricity in 2020</i>	<i>On screen text: VB is brewed with 100% offset solar electricity</i>
<i>VO: So next time the sun is making you hot, just remember that it will also be making you a cold one.</i>	<i>VO: So next time the sun is making you hot, just remember that it is also making you a cold one.</i>

We respectfully submit that the subject matter of this complaint has previously been considered and subsequently dismissed by Ads Standards on two previous occasions as listed in the table above, and in which the exact same provisions of the AANA Environment Code were previously considered i.e. sections 1(a) and 3(a).

Given that the only change between the Advertisement as originally launched in September 2019 and April 2020, is the change in the voice over and Claim from future tense to present tense, reflecting VB having achieved the environmental goal promised in September 2019, we respectfully submit that there is no new claim for the panel to assess afresh.

Thank you for considering this response. If you have any further questions, or wish to review any supporting material in respect of Section 3(a) of the Environmental Code please do not hesitate to contact me.

THE DETERMINATION

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



The Panel noted the complainant's concerns that the advertisement made an environmental claim which is unable to be substantiated and is misleading.

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

The Panel noted that a similar case was considered in 2019 raising the same issues about the claim that VB *will be* brewed using 100% solar energy. The Panel considered that the change from future to present tense necessitated a new case to assess the current claim and substantiation.

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 noted that the complainant considered the claim being made is that the beer is brewed with 100% solar energy using solar panels. The Panel noted the advertiser's response that that statement is not made in the advertisement, rather the voiceover states “VB is being brewed with 100% solar” and text on screen on screen states “VB is brewed with 100% offset solar electricity”.

The Panel considered that the claim made in the advertisement is that VB is brewed using 100% solar energy.

1 a) Environmental Claims in Advertising or Marketing Communication shall not be misleading or deceptive or be likely to mislead or deceive

The Panel noted that the Practice Note for this section of the Environmental Code 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.

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.

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.”

Taking into consideration the information provided by the advertiser and the general consumer audience, the Panel considered that the overall impression to a consumer the advertisement is that the brewing process for VB is made with 100% solar energy. The Panel considered that most members of the community would understand the claim of solar-powered would likely be referring to offset solar power, where excess solar-generated power is fed into the grid at times and electricity, offset by the excess solar power fed into the grid, is drawn from the grid at other times.

The Panel noted the complainant’s concerns that the claim did not take into account that the advertiser cannot pick and choose the electrons from the grid given the grid is a mix of coal, gas solar and wind.

The Panel noted the advertiser’s response that the reference to offset solar electricity indicates that the electricity used from the energy grid is offset via energy generated from the solar farm, which is common market practice.

The Panel noted that the disclaimer on screen stating “VB is brewed with 100% offset solar electricity” is on screen for five seconds.

The Panel noted that the advertiser had provided evidence regarding the solar farm used and the utilisation of Large-Scale Generation Certificates.

The Panel considered that the environmental claim made in the advertisement was not misleading or deceptive, or likely to mislead or deceive.

1 a) conclusion

The Panel determined that the claim was not misleading or deceptive and that the advertisement did not breach Section 1 a) of the Environmental Code.

3 a) Environmental Claims in Advertising or Marketing Communication shall be able to be substantiated and verifiable. Supporting information shall include sufficient detail to allow evaluation of a claim



The Panel noted that the Practice Note for this section of the Environmental Code includes:

“Advertisers and marketers should have a reasonable basis for making a claim and therefore should hold appropriate, balanced, comprehensive and credible evidence to substantiate all express and implied claims. Information to support a claim may include, but is not limited to, documentary evidence or data evidencing conformity with an identified standard, research, studies, or an expert independent audit. There is no requirement to use third party verification or certification before an environmental claim is made. An advertiser’s own internal procedures may be able to provide the necessary substantiation.

In testing the validity of any claim the Panel will only rely on information/material provided by the advertiser and the complainant. The Panel may seek expert advice to assist in the consideration of material provided in relation to the complaint. It is not the intent for the Panel to act as an arbiter of scientific fact, or of philosophical approaches to understanding or addressing environmental concerns.

Advertisers have a variety of avenues available for making such information available to consumers, for example, websites, brochures, labels, shelf-talkers; such information does not need to be included in the advertising or marketing communications itself.”

The Panel considered that the advertiser provided sufficient documentation to the Panel to substantiate the claim made in the advertisement.

3 a) conclusion

The Panel considered that the claim was sufficiently substantiated and verifiable and that the advertisement did not breach Section 3 a) of the Environmental Code.

Conclusion

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

ABAC Code

ABAC Code The Panel noted that advertisements about alcohol products may be considered against the provisions of the AANA Advertiser Code of Ethics as well as the Alcohol Beverages Advertising Code Scheme (ABAC). The Panel noted that complaint/s in this case were referred to ABAC for assessment. The Panel noted that the ABAC Responsible Alcohol Marketing Code (ABAC Code) is an alcohol specific code of good marketing practice and has specific standards which apply to the promotion of alcohol products. The Panel further noted that it can only consider complaints about alcohol advertising under the concept of prevailing community standards as set out by the AANA Code of Ethics. The Panel noted that the advertisement may be



considered by the ABAC Chief Adjudicator or the ABAC Adjudication Panel applying the ABAC Code, as well as this determination under the Code of Ethics.