



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0127-22
2. Advertiser :	The Collagen Co.
3. Product :	Health Products
4. Type of Advertisement/Media :	Internet - Social - Other
5. Date of Determination	22-Jun-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.7 Distinguishable advertising

DESCRIPTION OF ADVERTISEMENT

This TikTok advertisement features a video of a woman making a jug of the collagen product and her voice-over stating, "so my mum was like, 'hey you're 30 now so you're gonna have to start taking collagen or your face will become more wrinkly and you need more strength for your nails and etcetera'. So now I include this collagen into my drinks and it's amazing because there are different flavours like berry, mango, passionfruit, watermelon and there's also non-flavoured. I'm going to see my mum in a week in Croatia and she was like 'Bring me some collagen'".

The caption to the post was, "@The Collagen Co [three raspberry emojis] #thecollagenco #experiencetheglow #fyp #foryoupage #collagen #asiandontraisin"

THE COMPLAINT

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

She did not place an advertisement disclosure in any part of this video (including caption or in the comments), and consumers may be misled by this advertisement. She has positioned the brand's packaging in a way to deceive consumers, and promoting the product's benefits which could be harmful as she does not talk about the negative consequences of consuming the product.



THE ADVERTISER'S RESPONSE

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

Advertiser did not provide a response in time for the Panel's consideration. The advertiser subsequently responded that it would add #ad in a pinned comment.

THE DETERMINATION

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

The Panel noted the complainant's concern that the advertisement is misleading as it does not disclose that the post is an advertisement.

The Panel viewed the advertisement and noted the advertiser did not provide a response.

Section 2.7 Advertising or Marketing Communication shall be clearly distinguishable as such to the relevant audience.

Does the material constitute an 'advertising or marketing communication'?

The Panel noted the definition of advertising in the Code. Advertising means: "any advertising, marketing communication or 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 noted the advertiser had not provided a response and the exact nature of the agreement between the influencer and the brand was not known.

The Panel considered that the post did draw attention of the public to the product through the focus on the benefits of the product.

The Panel noted that the precise nature of the relationship between the advertiser and the influencer was not known, however it appeared likely the advertiser was aware of her position as an influencer. It understood that the advertiser provided the product to the influencer. The Panel considered that in choosing to do so the advertiser was exercising a degree of control, and the post did draw the attention to the product. For these reasons, the Panel considered that the post did meet the definition of advertising in the Code.



The Panel determined that the TikTok video was an advertisement.

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 TikTok post included information on the product through the description of the various flavours available and the product benefits of preventing wrinkles and strengthening nails. The Panel noted that the post included vision of the product packaging and the product being used. The Panel also noted that the advertiser was tagged in the post and hashtags.

The Panel noted that it had considered a similar issue in case 0207-21, after an independent review was conducted, the Panel had found:

“...the Panel considered that the combination of the themes, visuals and language of the ad and the use of the brand and product name multiple times, did mean that the post was clearly commercial in nature...The Panel considered that the individual use of the brand name, hashtags or product images would not be sufficient to distinguish this material as advertising, but the combination of these elements meant that the commercial nature of this post was clear, obvious and upfront and expressed in a way that is easily understood.”

Consistent with the determination in case 0207-21, in the current case the Panel considered that the presentation of the product on the video, the influencer’s commentary and the tagging of the brand all combined in a way which pointed to and made apparent a commercial arrangement between the advertiser and influencer.

Section 2.7 Conclusion

The Panel considered that the advertisement was clearly distinguishable as such.

Conclusion

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