



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

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Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0195-21
2. Advertiser :	ALDI Australia
3. Product :	Food/Bev Groceries
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	14-Jul-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.7 Distinguishable advertising

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a woman speaking. She has been blurred out to indicate she does not want to be identified and text on screen refers to her as a Supermarket Whistleblower.

THE COMPLAINT

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

For two nights after seeing this promotion I was waiting expecting to see the current affairs program with the expose story about the Supermarket whistleblowers that had been promoted. It wasn't until the third time I saw the ad that I realized that this was an ad for Aldi.

I might be an old man but I am not stupid and this ad was clearly trying to trick viewers into thinking that there was a newsworthy story here.

I think that there should be a law against advertisers tricking viewers into thinking that advertisements are from objective news media companies.

I waited watching channel 9 after the news for this story to come on the television.

There is nothing that makes this look like a commercial and I didn't think it was. I feel a bit silly but I actually feel fooled by this advertising.



THE ADVERTISER'S RESPONSE

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

Please find ALDI's response outlined below and supporting documents attached.

Description of advertisement

The complaint to which we are responding does not specify which ALDI ad is the subject of the complaint. In the period 30 May 2021 to 26 June 2021, ALDI ran a series of TVCs with a common theme: disguised former employees of Coles and Woolworths revealing that while employed by one of those supermarkets they shopped at ALDI in preference to Coles or Woolworths because of the savings they were able to achieve.

While each of these ads employs a humorous "mockumentary style" format, only the first ads in the series included a reference to "supermarket whistleblowers". In light of the complainant referring to "supermarket whistleblowers", we have responded in relation to the ads that fit this description (the advertisements complained of).

The advertisements complained of included the following:

Teaser TVC (30 May 2021 to 1 June 2021 in NSW, SA, VIC, QLD, WA) This ad featured three disguised former Coles and Woolworths employees who are described by the voice over as "the supermarket whistleblowers". This ad operated as a "teaser" for a campaign which ran for the following month. The voice over referred to "the expose of the year", and "a major undercover investigation", featured two of the women blowing whistles loudly, and ended with the ALDI logo and the ALDI Good. Different tagline used in ALDI main media advertising since May 2017.

Alice 15 seconds and 30 seconds TVC (30 May 2021 to 7 June 2021 in NSW, SA, VIC, QLD, WA): These ads featured "Alice", a disguised former Woolworths employee who said she shopped at ALDI for the entire 18 months that she worked at Woolworths. (While the name of her former employer is "beeped" out for dramatic effect, "Alice" is clearly identifiable as a former Woolworths employee by her green work uniform.) The ad opens with the voice over "the supermarket whistle blowers" as two women are seen blowing whistles loudly. We then see "Alice" as she describes how shopped at ALDI for the whole time that she worked for [name of supermarket beeped out for dramatic effect]. The voice over repeats some of what Alice says in a clearly over-the-top mock dramatic fashion: "the whole time!", "hidden bags!", "disguises!", "cheaper groceries!". The ad finishes with the voice over saying "It's shocking how much you'll save" as the ALDI logo and the ALDI tagline Good. Different appears onscreen.

The complaint



The complaint that we are responding to states that the advertisements complained of "look like a news program", and that they were designed to "trick viewers" into thinking that they were a news story rather than an ad for ALDI.

The relevant provision

The relevant provision is section 2.7 of the AANA Code of Ethics (the Code) which provides that "Advertising shall be clearly distinguishable as such".

The Code of Ethics Practice Note contains the following guidance:

Advertising or marketing communication should not be disguised as, for example, new [or] current affairs... There is no absolute requirement that advertising or marketing communication must have a label however it must be clear to the audience.

Guidance can be found in the determinations of the Advertising Standards Board (the Board) when considering complaints alleging a breach of s 2.7 of the Code. In Case 0028/18 - a complaint regarding an advertisement for Lottoland that appeared at first glance to be a news bulletin - the Board noted that the ads "initially look like news bulletins", and "were designed to look like a news bulletin reporting on people celebrating [Lottoland] wins".

However, the Board went on to note that

[While] it may not be immediately clear within the first few seconds that this is an advertisement... the use of logos, disclaimers and wording would make it clear to most viewers that this is an advertisement.

[T]here is space for parody and satire in advertising...

[A]lthough the news bulletins may at first appear real, the advertisements do not use real newscasters or station branding and is clearly different from a genuine news bulletin.

The Board found the Lottoland ad to be "clearly distinguishable as advertising material" and determined that it did not breach section 2.7 of the Code.

For the reasons which follow ALDI considers that the advertisements complained of are far more removed from a Code breach than Lottoland advertisement was.

ALDI response to the complaint

ALDI submits that the advertisements complained of could not reasonably be taken as being anything other than advertisements for ALDI and do not breach section 2.7 of the Code.



First and fundamentally, no reasonable viewer would think that the narrative of the advertisements complained of - Coles and Woolworths employees secretly shopping at ALDI - could possibly be the subject of real investigative journalism meriting an "expose". These shopping activities are so far from newsworthy that to make them subject of a "whistleblowing" report sets up the parody of current affairs journalism which is the premise for the humour on which ALDI's messaging is based.

The advertisements complained of employ the following dramatic devices to heighten the absurd and satirical notion of a current affairs style "investigation" into retail shopping habits:

*disguising former Coles and Woolworths employees and beeping out the names of their former employer for dramatic effect, while clearly identifying which supermarket they worked for through the colour of their uniforms
colourful, overly dramatic language: "exposé of the year", "major undercover investigation", "the shocking truth"
references to whistleblowers while actual whistles are being blown loudly (something no actual whistleblowing report would do)
the voice over using a melodramatic narrative style.*

The advertisements complained of end with the ALDI logo and the Good.Different ALDI tagline.

We submit that it is abundantly clear within a few seconds of the commencement of each advertisement and then throughout that viewers are in fact watching an advertisement for ALDI. It is fanciful to suggest that viewers have been tricked into believing that they were watching a real news or current affairs teaser or report.

The advertisements complained of would have been understood as marketing to promote ALDI in compliance with s 2.7 of the Code.

Compliance with the Code

ALDI respectfully submits that applying prevailing community standards, the advertisement cannot be said to be in breach of section 2.7 of the Code or any other part of section 2 of the Code. We respectfully request that the complaint be dismissed.

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 presents itself as a news story or promotion for a news story and it is unclear that it is an advertisement.



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

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

The Panel noted that it previously upheld a similar concern in case 0056-19 in which:

"The Panel noted the television advertisement ran immediately after a segment of the Channel 7 news. The advertisement begins with the Medibank logo and the words 'HEALTH UPDATE' with a voice over stating 'This is a Medibank Health Update with Mia Greves'. Mia Greves is shown speaking into a microphone with Medibank branding. A Channel 7 News 'ticker' is on the bottom of the screen with information about stories that are coming up. Mia speaks about anxiety with infographics supporting the information she is providing. The words 'Medibank health update' are in the top right of the screen throughout the advertisement. Psychologist Dr Michael Carr-Gregg also appears in the advertisement providing information. 'B-roll' footage of young people is shown. Information on Beyond Blue and the Raising Children Network are given. At the end of the news style segment the Medibank Health Update screen is again shown and the voice over states 'to find out more search Medibank Health Updates. The news-style ad is then followed by another advertisement for Medibank with a voiceover speaking about the benefits of Medibank and people giving testimonials.

"...The Panel considered that technically the branding elements may be recognizable as an advertisement to some viewers but in the Panel's view it was not clearly distinguishable to a broad audience of news viewers. Overall, the Panel considered that the advertisement content was not clearly distinguishable as such to the relevant audience."

In contrast to the above case, the Panel considered that the current advertisement does not have any news or current affairs program branding and that the voiceover of the advertisement speaks in a less formal manner and tone than a legitimate news/current affairs program promotion. The Panel noted that the advertisement is not providing advice or serious information.

The Panel noted that the advertisement clearly shows the Aldi logo at the end and considered that it is apparent that it is an Aldi promotion.

The Panel considered that this advertisement, though designed to attract attention by inducing a temporary confusion in the viewer, is clearly distinguishable as advertising material and determined that the advertisement did not breach Section 2.7 of the Code.

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.