



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0228/17</b>
<b>2</b>	<b>Advertiser</b>	<b>Unilever Australasia</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>07/06/2017</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

Food and Beverage Code 2.1 (a) - Misleading / deceptive

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens showing a farmer walking across a field early in the morning. The farmer stretches his arms wide preparing for a day's work. The advertisement cuts to the wings of a butterfly opening, mirroring his actions. The farmer and his daughter open the gate and a tractor drives by. Farmhands carry trays of parsley and we see ants climbing along a tree branch carrying leaves.

The farmer opens his hand to reveal pumpkin seeds - cut to flowers blossoming – cut to red tomatoes. A voiceover says, "Farmed in Harmony with nature". We see an outdoor bench with fresh pumpkin, parsley, garlic, wheat, tomatoes, corn and onions, and the voiceover continues, "Because at Continental we believe that real sustainably grown ingredients taste great".

The fresh ingredients change to parsley, garlic granules, dried wheat kernels, semi-dried tomato, corn kernels and chopped onions then to dried pumpkin, dried tomato, garlic and onion powder, chopped parsley and pasta are shown in dried form.

The Continental range is then shown:

Continental Gourmet Range Creamy Pumpkin Sage & Bacon  
Continental Pasta And Sauce Alfredo With Garlic & Herbs  
Continental Cup A Soup Tasty Tomato  
Continental Pasta And Sauce Creamy Chicken Stroganoff  
Continental Recipe Bases Spaghetti Bolognese

Continental Pasta And Sauce Creamy Bacon Carbonara

Continental Seasoned Rice Oriental Fried Rice

The farmer and his daughter are eating on the veranda in the evening. Cut to farmer checking his crops in the dark with a flashlight.

The Continental logo appears on screen and the Super reads, "Flavour to feel good about".

## **THE COMPLAINT**

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

*The central messaging - that ingredients for Continental Foods are grown "in harmony with Nature" - is a complete over-claim and is misleading. The only form of farming that is "in harmony with Nature" is organic. Farmers and farming enterprises supply Continental Foods' ingredients do not follow an organic farming regime and are not certified organic. Therefore Continental Foods is deliberately misinforming consumers and giving the illusion that their foods are naturally/organically produced. The use of associated healthy environmental and biodiversity visual cues - like the butterfly, frog and ladybug. The use of these visuals is insidious. With this advertisement Continental Foods is passing itself off as being "natural and organic". It is simply a cynical example of the shift from greenwashing to sustainability sleight of hand in action. To explain: the frog is the certification symbol for Rainforest Alliances Sustainable Agriculture standard and the ladybug is indelibly linked to - and globally recognized to be - the de facto visual symbol of organic farming. While Unilever - owner of Continental - vigorously claims to be sourcing ingredients that are produced in sustainable agricultural practices there is no way that these sustainable practices maintain or re-generate agro-biodiversity as is suggested in the advertisement. Food ingredients produced in sustainable agricultural practices - are subject to chemical fertilizer, pesticides and herbicides - that cause damage to the environment and the food produce still have toxic residues the only form of agriculture that - based on evidentiary science - maintains and re-generates agro-biodiversity and produces pesticide-free foods and beverages - is organic. Just as pharmaceutical advertising carries an entire set of disclaimers do too should this commercial. This is not truth in advertising.*

## **THE ADVERTISER'S RESPONSE**

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

*We refer to your letter in relation to a complaint about a TV commercial (the "TVC") for the following Continental food products (the "Products"):*

*Continental Gourmet Range Creamy Pumpkin Sage & Bacon*

*Continental Pasta And Sauce Alfredo With Garlic & Herbs*

*Continental Cup A Soup Tasty Tomato*

*Continental Pasta And Sauce Creamy Chicken Stroganoff*

*Continental Recipe Bases Spaghetti Bolognese*

*Continental Pasta And Sauce Creamy Bacon Carbonara*

*Continental Seasoned Rice Oriental Fried Rice*

*A copy of the TVC is enclosed.*

*Unilever is a responsible advertiser and has numerous internal review processes, including review by Unilever's Legal and Corporate Relations Departments to review all advertisements to ensure compliance with legal and ethical considerations. Unilever takes the AANA Food & Beverages Code and the AANA Code of Ethics seriously and we have taken great care to ensure that the TVC complies with these Codes.*

*The TVC*

*The TVC opens showing a farmer walking across a field early in the morning.*

*SUPER: Continental logo*

*The farmer stretches his arms wide preparing for a day's work. The TVC cuts to the wings of a butterfly opening, mirroring his actions.*

*The farmer and his daughter open the gate and a tractor drives by. Farmhands carry trays of parsley. The TVC cuts to ants climbing along a tree branch carrying leaves.*

*The TVC cuts to a frog leaping and then shows the daughter's gum boots splashing in a puddle. The farmer, daughter and farm hands take shelter from the rain in a shed.*

*The farmer is shown in a cornfield wiping the sweat off his forehead. The TVC cuts to a bird rubbing his head with its wing.*

*The farmer opens his hand to reveal pumpkin seeds - cut to flowers blossoming – cut to red tomatoes.*

*VO: Farmed in Harmony with nature*

*The farmer looks at a ladybug on his hand - cut to the daughter calling out to her dad - cut to the father as he looks up.*

*LOGO: Continental*

*SUPER: Farmed in Harmony with Nature*

*LOGO: Towards sustainability by 2020*

*An outdoor bench is shown with fresh pumpkin, parsley, garlic, wheat, tomatoes, corn and onions.*

*VO: Because at Continental we believe that real sustainably grown ingredients taste great*

*The fresh ingredients change to parsley, garlic granules, dried wheat kernels, semi-dried tomato, corn kernels and chopped onions.*

*The ingredients then change to dried pumpkin, dried tomato, garlic and onion powder, chopped parsley and pasta are shown in dried form.*

*Pack shot showing:*

*Continental Gourmet Range Creamy Pumpkin Sage & Bacon*

*Continental Pasta And Sauce Alfredo With Garlic & Herbs*

*Continental Cup A Soup Tasty Tomato*

*Continental Pasta And Sauce Creamy Chicken Stroganoff*

*Continental Recipe Bases Spaghetti Bolognese*

*Continental Pasta And Sauce Creamy Bacon Carbonara*

*Continental Seasoned Rice Oriental Fried Rice*

*The farmer and his daughter are eating on the veranda in the evening. Cut to farmer checking his crops in the dark with a flashlight.*

*LOGO: Continental*

*SUPER: Flavour to feel good about*

*CAD Approval & Spot List*

*The TVC has received CAD approval No: W4N5NFPA, placement code “W” (General/Care in placement). A copy of the spot list is attached.*

*Compliance with AANA Food & Beverages Code (the “Code”)*

*5.1 Section 2.1 of the Code: Advertising or Marketing Communications for Food or Beverage Products 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.*

*5.2 We submit that the TVC is truthful and honest in its description of the farming practices for the key ingredients in the Continental products that are depicted in the TVC. Unilever takes its obligations under the Australian Consumer Law seriously. All advertising claims in the TVC are fully substantiated and approved by rigorous internal processes prior to being submitted for approval by CAD.*

*Use of sustainably farmed ingredients*

*The following ingredients are depicted in the TVC in fresh, semi-dried and dried form:*

*Tomato, Pumpkin, Garlic, Parsley, Corn, Onion, Wheat (pasta)*

*Unilever submits that all the depicted ingredients are sustainably sourced in accordance with Unilever’s Sustainable Agriculture Code (attached and described below). Each of the Continental products shown in the TVC contains one or more of the sustainably sourced Tomato, Pumpkin, Garlic, Parsley, Corn, Onion and/or Wheat:*

*Continental Gourmet Range Creamy Pumpkin Sage & Bacon*

*Continental Pasta And Sauce Alfredo With Garlic & Herbs*

*Continental Cup A Soup Tasty Tomato*

*Continental Pasta And Sauce Creamy Chicken Stroganoff*

*Continental Recipe Bases Spaghetti Bolognese  
Continental Pasta And Sauce Creamy Bacon Carbonara  
Continental Seasoned Rice Oriental Fried Rice  
Claim: Farmed in Harmony with Nature*

*The complainant states that, in his/her opinion, organic farming is the only form of farming that is "in harmony with nature" and that Continental gives the illusion that its foods are naturally/organically produced.*

*Unilever submits that all ingredients depicted in the TVC are sustainably sourced in accordance with Unilever's Sustainable Agriculture Code. Ingredients that are farmed in compliance with the Unilever Sustainable Agriculture Code are "farmed in harmony with nature". The code covers the following 11 topics as indicators for sustainable sourcing.*

*Agriculture – Crop and Pasture Nutrient (Fertilisation) Management  
Agriculture – Pest, Disease and Weed Management  
Agriculture – Soil Management  
Water Management (Resource and Environmental Management)  
Biodiversity and Ecosystem Services  
Energy and Greenhouse Gas (Carbon) Emissions  
Waste Management  
Social  
Animal Husbandry  
Value Chain*

*Continuous Improvement (including Metrics)*

*The complainant states that, in his/her opinion, organic farming is the only form of farming that is "in harmony with nature".*

*Unilever submits that the term 'organic' is not defined by Australian legislation or regulations. Several private organisations certify products as organic in accordance with their own guidelines and definitions. Growing organic products does not necessarily involve the application of overall sustainable farming practices such as the 11 indicators for sustainable sourcing in the Unilever Sustainable Agriculture Code. The Unilever Sustainable Agriculture Code covers many aspects that are typically associated with organic farming such as soil and nutrient management and responsible use of pesticides which often appear in definitions of the term organic.*

*Unilever's definition of sustainable agriculture as well as the verification and compliance process followed are explained in detail in the Unilever Sustainable Agriculture Code. The Unilever's Sustainable Agriculture Code defines the Unilever requirements for sustainable agriculture and our raw material suppliers need to comply with to become approved as suppliers of ingredients from a sustainable source.*

*While there are many sustainability standards available, the Unilever Sustainable Agriculture Code is globally recognized as one of the most comprehensive and thorough standards in the industry. It was created on the basis of 10 years of field experience with sustainable agriculture practices, based on a variety of crops, and benchmarked against standards of leading agriculture programs present across the world, like Rainforest Alliance*

*and Fair Trade.*

*The Unilever Sustainable Agriculture Code is supported by a detailed implementation guideline document which defines how suppliers and farmers have to ensure implementation of the Unilever Sustainable Agriculture Code and compliance with the detailed requirements. The Unilever Sustainable Agriculture Code criteria are divided into three categories:*

- mandatory with which non-compliance is unacceptable,*
- must, which are obligatory and for which an 80% level of compliance is required (details are listed in Unilever Scheme Rules), and*
- should criteria, which are strongly advised and may become must criteria in the near future.*

*How does Unilever assure sustainable sourcing of agricultural raw materials?*

*Unilever has developed and published Scheme Rules (attached) which outline the assurance process leading to the classification of a raw material as originating from sustainable agriculture.*

*The Unilever sustainable sourcing program as detailed in the Scheme Rules operates through two different assurance mechanisms:*

*a. Third party certification standards formally recognized by Unilever as compliant with the principles and practices of sustainable agriculture as defined in the Unilever Sustainable Agriculture Code. Third party certification standards have been benchmarked against the Unilever Sustainable Agriculture Code. All certification standards that we deem equivalent with the Unilever Sustainable Agriculture Code are mentioned in Annex I to the Scheme Rules e.g. Rainforest Alliance, Forest Stewardship Council (FSC), Marine Stewardship Council (MSC), Fairtrade, Roundtable on Sustainable Palm Oil (RSPO). Other annexes mention standards which are partly equivalent.*

*b. Self-assessment against the Unilever Sustainable Agriculture Code is primarily used for our fruit, vegetables, herbs and spices because there is no globally relevant external sustainability standard available.*

*In the vast majority of cases, fruit, vegetable, herb and spice suppliers to Unilever buy the fresh produce directly from contract farmers. The supply chain is therefore short and traceability of raw materials under this system is available.*

*How does Unilever assess and track compliance with its suppliers through self-assessment?*

*Suppliers of fruit, vegetables, herbs and spices to Unilever are required to do annual assessments of their agricultural operating practices and those of their farmers based on one of the above mentioned assurance mechanisms.*

*Suppliers and farmers approved as eligible for sustainably sourced materials are subject to an annual independent verification audit to determine if the self-assessment process was done correctly and truthfully. A sample of suppliers is selected for such an audit on an annual basis.*

*If during the independent audit the verification of the sample indicates that a supplier and/ or its farmers are not in compliance with the Scheme Rules as per their self-assessment, the total volume of the raw material from that supplier is considered as not sustainably sourced.*

*Sustainably sourced raw materials can be distinguished from 'conventional' raw materials through their Unilever internal raw ingredients specification. An internal process control software ensures that we keep track of which consumer products are being produced with "Sustainably sourced" raw materials.*

*Scope of the claim 'Farmed in Harmony with Nature'*

*The TVC makes clear that the claim 'Farmed in harmony with nature' relates to the key ingredients in the depicted Continental products. The word 'Farmed' in the claim is unambiguous and excludes any ingredients that are not grown.*

*The key ingredients pumpkin, parsley, garlic, wheat, tomatoes, corn and onions are the main subject throughout the TVC including the growing and harvesting of the crops. The story of the TVC also makes clear that the claim refers to these ingredients. The claim first appears when an outdoor bench with fresh pumpkin, parsley, garlic, wheat, tomatoes, corn and onions is shown. The claim then remains visible while the form of the ingredients changes to parsley, garlic granules, dried wheat kernels, semi-dried tomato, corn kernels and chopped onions and then to dried pumpkin, dried tomato, garlic and onion powder, chopped parsley and pasta until the Product packs appear. (Pumpkin is not shown in the semi-dried (second) ingredient scene because there is no semi-dried state in the process).*

*Conclusion:*

*Unilever submits that the claim 'Farmed in Harmony with Nature' is truthful and honest in its description of the farming practices for the key ingredients in the Continental products that are shown in the TVC. Each of the ingredients depicted in the TVC - pumpkin, parsley, garlic, wheat, tomatoes, corn and onions – is sourced in accordance with the Unilever Sustainable Agriculture Code. Each of the Continental products shown in the TVC is made with one or more of these sustainably sourced ingredients.*

*The depiction of plants, vegetables and grain in the TVC explains the Products and their ingredients to consumers. The ingredients shown in the TVC are grown and then harvested and dried. Accordingly, the TVC shows the plants on fields and how vegetables are harvested. The ingredients are then shown in fresh, semi-dried and dried form to make clear that the final product contains dried ingredients. Finally, the farmer and his daughter can be seen eating the final Continental product on their veranda.*

*Claim: Towards sustainability by 2020 (logo)*

*In Unilever's Sustainable Living Plan, published in November 2010 Unilever globally committed to source 100% of its agricultural raw materials sustainably by 2020. Already the majority of Unilever's agricultural raw materials used for Continental in Australia are sustainably sourced in accordance with the Unilever Sustainable Agriculture Code. For example, 88% of agricultural raw materials used in Unilever's food factory in Tatura are sustainably sourced under the Unilever Sustainable Agriculture Code and work is actively underway with the suppliers of the remaining ingredients to ensure that all code*

*requirements are met by 2020.*

*Depiction of butterfly, frog and lady bug*

*The complainant states:*

*“... Therefore Continental Foods is deliberately misinforming consumers and giving the illusion that their foods are naturally/organically produced. The use of associated healthy environmental and biodiversity visual cues - like the butterfly, frog and ladybug. The use of these visuals is insidious. With this advertisement Continental Foods is passing itself off as being "natural and organic". It is simply a cynical example of the shift from greenwashing to sustainability sleight of hand in action. To explain: the frog is the certification symbol for Rainforest Alliances Sustainable Agriculture standard and the ladybug is indelibly linked to - and globally recognized to be - the de facto visual symbol of organic farming. ...”*

*Unilever submits that the butterfly, frog, bird, ants and ladybug are a humorous visualisation of daily life on a vegetable farm.*

*The farmer stretches his arms wide preparing for a day's work. The TVC cuts to the wings of a butterfly opening, mirroring his actions.*

*Farmhands carry trays of plants. The TVC cuts to ants climbing along a tree branch carrying leaves.*

*The TVC shows a frog leaping and then shows the daughter's gum boots splashing in a puddle.*

*The farmer is shown wiping the sweat off his forehead. The TVC cuts to a bird rubbing his head with its wing.*

*The farmer opens his hand to reveal pumpkin seeds - cut to flowers blossoming – cut to red tomatoes - cut to the farmer looking at a ladybug on his hand.*

*It is very unlikely that consumers will believe any of these animals are linked to the logo of another organisation, e.g. the frog in the logo of Rainforest Alliance.*

*Unilever disputes that the ladybug a visual symbol of organic farming. Our searches have not resulted with any evidence to support this statement.*

*Compliance with the Code of Ethics*

*The TVC complies with all sections of the Code of Ethics including the following:*

*Section 1.2:*

*“Advertising shall not be misleading or deceptive or be likely to mislead or deceive”.  
Please refer to the response above.*

*Section 1.4:*



*“Advertising or Marketing Communications shall not exploit community concerns in relation to protecting the environment by presenting or portraying distinctions in products or services advertised in a misleading way or in a way which implies a benefit to the environment which the product or services do not have.”*

*The depicted ingredients are the key ingredients in the Products. All of these ingredients are farmed in full compliance with the Unilever Sustainable Agriculture Code.*

### *Conclusion*

*We submit that the visual and verbal representations in the TVC are truthful, honest and not misleading or deceptive. The TVC complies with the Food & Beverages Code and the Code of Ethics.*

## **THE DETERMINATION**

The Advertising Standards Board (the “Board”) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the “Food Code”).

The Board noted the complainant’s concerns that the advertisement is misleading in its declaration that the ingredients for its products are grown in harmony with nature as only organic produce can make this claim.

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

The Board noted that the product advertised is food and that therefore the provisions of the Food Code apply. In particular, the Board considered section 2.1 of the Food Code which states:

*'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.'*

The Board noted that the advertisement depicts a farmer and his produce, described by the voiceover as “farmed in harmony with nature”.

The Board noted the advertiser’s response that the term ‘organic’ is not defined in Australian legislation and considered that the complainant’s belief that only organic produce can be described as being ‘grown in harmony with nature’ is not a claim which can be substantiated. The Board noted that when the ‘farmed’ claim is made in the advertisement we see parsley, garlic, wheat, tomatoes, corn, and onions and considered that the suggestion is that these products have been grown by the farmer on his land therefore the phrase ‘farmed in harmony with nature’ is not misleading or designed to be misleading or untruthful.

The Board considered that the claim made in the advertisement regarding ‘farmed in harmony with nature’ is a non-specific general claim which is intended to be generic regarding farming practices and the imagery used is also generic with regards to a typical farm and typical produce. The Board considered that “farmed in harmony with nature” does not suggest that the products are grown organically, but is a general claim creating the impression of good farming practices.

The Board noted that the advertisement says that “Continental believe that real sustainably grown ingredients taste great” and considered that while Unilever has stated in its response that it has taken steps to develop a Sustainable Agriculture Code, but that the advertisement itself does not lay out the specifics of this Code. In the Board’s view the advertisement is only making a claim about the taste: there is no mention of the farmer depicted, or of any of the farms used by Unilever, only using sustainable produce.

The Board noted the voiceover states “Continental believe that real sustainably grown ingredients taste great” and in the final scene there is a logo included that reads “towards sustainability by 2020.” The Board considered that the combination of the words and logo strengthen the notion of sustainability but is not a strong claim that all of the farms and produce is sustainably grown and note that this is more a reference to plans the business has in place.

The Board noted the complainant’s concerns over the depiction of various animals (butterfly, frog, and lady bug) and that these visual clues are designed to suggest environmental and biodiverse practices such as organic farming. The Board noted the advertiser’s response that these animals are depicted in the advertisement because they are often found on farms and that they are used in the advertisement to mimic the actions of the farmer in a humorous manner. The Board considered that the complainant’s interpretation of these visual aids is unlikely to be shared by the broader community. In the Board’s view, most members of the community would not see a frog and butterfly as linked to a particular environmental organization and that it does not imply that the products are made with organic ingredients, or that it is associated with any organization that does practice organic farming.

The Board considered that the target audience for this product is the main grocery buyer. The Board considered that the target audience of adults will understand the message in the advertisement regarding a general claim about sustainably farmed ingredients and considered that the advertisement was not misleading or deceptive and did not otherwise contravene prevailing community standards.

The Board determined that the advertisement did not breach Section 2.1 of the Food Code.

Finding that the advertisement did not breach the Food Code the Board dismissed the complaint.

