



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

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

| | |
|-----------------------------------------|---------------------------|
| 1. Case Number : | 0242-19 |
| 2. Advertiser : | Mitre 10 Australia |
| 3. Product : | Hardware/Machinery |
| 4. Type of Advertisement/Media : | Print |
| 5. Date of Determination | 7-Aug-2019 |
| 6. DETERMINATION : | Dismissed |

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

Page 13 of the Mitre 10 July National Catalogue on sale from July 17-28. Three Outdoor Power Garden tools depicted with the call out "EU5 Emissions Compliant"

THE COMPLAINT

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

Four different petrol powered garden tools are advertised as 'EU5 EMISSIONS COMPLIANT'

The EU5 emissions standard applies to motor vehicles only.

The correct standards that should be referred to are NRMM Standards.

This advertising creates a false illusions of environmentally friendly engines by referencing an unrelated standard, this is deceitful and misleading.

THE ADVERTISER'S RESPONSE



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

To the Ad Standards Community Panel

I refer to Case reference Number 0242-19, received on July 19 2019.

The complaint refers to stated product features, listed on page 13 of the Mitre 10 July Catalogue, on sale from July 17-28. This is a national catalogue distributed across Australia and also available digitally on mitre10.com.au and www.salefinder.com.au.

Three (not five) outdoor/garden power tools are depicted as being EU5 EMISSIONS COMPLIANT. A consumer has noted that the EU5 standard should only be used for motor vehicles and not for Outdoor Power Equipment. However, as per the attached "working towards Australian emission standards for non-road spark ignition engines and equipment" document, we can demonstrate that we are within our rights to use this standard in our advertising. On page 17, below Table 1. you can see where it mentions Euro V as a permissible standard for Outdoor Power Equipment.*

Based on this there is no evidence of deceitful or misleading conduct, and we are within our rights to refer to this emissions standard based on Australian guidelines.

Should there be any other interpretation of the Australian standard for non-road spark ignition engines and equipment by your panel we will refrain immediately from referencing this standard.

Thank you for your consideration, and we await your guidance on this matter

**Australian Government - Department of Environment and Energy, December 2016*

THE DETERMINATION

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

The Panel noted the complainants' concerns that the advertisement uses an environmental standard not related to the product for sale.

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

The Panel noted that the catalogue advertisement features a purple circle with the words 'EU5 emissions Compliant' next to pictures and details of three outdoor power garden tools.

The Environment Code applies to 'Environmental Claims' in advertising and marketing communications. An 'Environmental Claim' is defined as 'any representation that



indicates or suggests an Environmental Aspect of a product or service, a component or packaging of, or a quality relating to, a product or service.'

An 'Environmental Aspect' means 'the element of a product, a component or packaging or service that interacts with or influences (or has the capacity to interact with or influence) the Environment.'

The Environment is given a broad definition in the Code but, according to the dictionary definition means 'the broad natural surrounding conditions, such as the bush, the rivers, the air, the sea in which human beings live.'

The Panel considered that a claim that a product is EU5 emissions compliant is an environmental claim relating to an environmental aspect of that product.

The Panel noted section 3(a) of the Environment Code which states that "Environmental Claims in Advertising or marketing Communication shall be able to be substantiated and verifiable. Supporting documentation shall include sufficient detail to allow evaluation of a claim."

The Panel noted the complainant's concerns that the EU5 emissions standard applies to motor vehicles only and should not be used for power tools.

The Panel noted the advertiser's response that the Department of the Environment and Energy document, "Working towards Australian emission standards for non-road spark ignition engines and equipment – update paper", demonstrates that this standard can be used for power tools.

The Panel noted that its role in this instance is to assess whether the EU5 emissions standard is appropriate to use when referring to power tools, and it has not on this occasion assessed whether the advertised products meet this standard.

The Panel noted information provided on page 17 of the document " Working towards Australian emission standards for non-road spark ignition engines and equipment – update paper" (<https://www.environment.gov.au/system/files/resources/fc00689c-1215-4724-8b25-8dbbad737df8/files/working-towards-australian-emission-standards-nrsiee.pdf>) includes information relating to acceptable overseas standards for engines (=19kW) used in outdoor power equipment.

The Panel noted the document states: "A new EU Regulation (Regulation 2016/1628) updating and repealing Directive 97/68/EC, has now been published and will be phased in throughout the EU during 2018. This new Regulation 2016/1628 implements the Euro V standards. Where importers wish to demonstrate compliance with the Australian non-road rule via an EU certificate, Regulation 2016/1628 will replace Directive 97/68/EC as the acceptable EU standard from 1 July 2020 for importing products (and apply to supply from 1 July 2021)."



The Panel considered that it was appropriate for the Euro V standard to be used when referring to power tools.

The Panel considered that the advertiser provided sufficient supporting documentation to indicate that the environmental claim “EU5 Emissions Compliant” was appropriate to use when referring to power tools. The Panel considered that the advertisement did not breach Section 3(a) of the Environment Code in its use of the reference to the Standard. The Panel reiterated that it had not assessed whether the products advertised met the standard referred to.

Finding that the advertisement did not breach the Environment Code the Panel dismissed the complaint.