



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 :	0295-21
2. Advertiser :	Grill'd
3. Product :	Food/Bev Venue
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	27-Oct-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Food and Beverages Code\2.1 Truthful Honest Not Misleading or deceptive
AANA Environmental Code\2 Genuine Environmental Benefit
AANA Code of Ethics\2.3 Violence

DESCRIPTION OF ADVERTISEMENT

There are two versions of this television advertisement

Version 1 features a bird enveloped by green smoke from a plane and then shown as a skeleton. A burger superhero appears and takes down the plane.

Version 2 has a 15 and 30 second version featuring cows being injected from above with a green substance that makes them larger. A burger superhero appears and frees the cows.

THE COMPLAINT

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

Meat is not sustainable. Nor is it particularly healthy. This commercial is misleading. The fact that Grill'd claim to have more sustainable practices than other fast food outlets, doesn't make their product sustainable or healthy. In the face of climate catastrophe which the farming industry is a leading driver of - this sort of stuff is very damaging. The meat industry needs to be held to higher standards than this.

Their burgers are healthier, more natural than others



It condones violence.

These ads are too graphic and depict horrible events. My young children have viewed them and I am disgusted how early these ads are allowed to be on tv.

THE ADVERTISER'S RESPONSE

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

1. Applicable Codes

We have considered the complaints and the advertisement in question in light of the provisions of the AANA Code of Ethics ("the Code"), the AANA Environmental Claims Code ("Environmental Code"), and the AANA Food and Beverages Code ("the F&B Code").

We note that the majority of the complaints relate to concerns that the advertisement in question contains material which is in breach of the Environment Code, specifically in relation to the claims of sustainability being misleading or deceptive.

We have carefully considered the Code, the Environmental Code, and the F&B Code and have assessed their respective applicable provisions against the content of this advertisements. We submit that the advertisements do not breach the Code, the Environmental Code or the F&B Code on any of the grounds set out in the same.

2. AANA Code of Ethics

We understand complaints have been raised in respect of provision 2.3 of the Code.

We note that provision 2.3 of the Code sets out that "Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised."

We note that each advertisement depicts some very mild forms of violence in an animated form. The cartoon nature of the violence is consistent with animated programs and is justifiable in the context of the product being advertised in this fashion. We note that the superhero persona of the burger is consistent with the messaging of the advertisement, being a "righteous" figure who combats against perceived "evils" in the industry (in this case, using growth hormones in beef cattle and pesticides on crops).

We note some of the complaints received express concern at the violent actions of the superhero burger, however we submit that the actual actions depicted of the animated burger: (i) throwing a tomato disc at the evil scientist, knocking him into a vat of chemicals in the cow ad; and (ii) throwing a stick at a plane, causing it to crash



(and the pilot to turn into a skeleton, albeit still moving) in the cropduster ad, are extremely mild in the context and presentation of the scene

Accordingly, we submit that the advertisements do not breach provision 2.3 of the Code.

In respect of the remaining provisions of the Code, we submit that there is nothing else in the advertisements that would breach any other provisions.

3. Environmental Code

We note concerns have been raised in respect of provisions 2(a), 2(b) and 2(c) of the Environmental Code.

We note that the Environmental Code applies to “Environmental Claims”, which are defined 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.”

We note that the only portion of the advertisements that could possibly be regarded as an Environmental Claim is the inclusion of the word “Sustainable” in the final frame. In this respect, please refer to the attached substantiation document with regard to the “Sustainable” claim.

Accordingly, in respect of provisions 2(a) and 2(b) of the Environmental Code, we note that based on the information presented in our substantiation document, the claim of simply being “Sustainable” is not misleading and cannot be regarded as being overstated.

Further, in respect of provision 2(c), we note that nothing in the advertisements imply that Grill’d products are more social acceptable than others, the advertisements simply highlight some negative practices of the industry generally and positions Grill’d as a champion against these causes.

On this basis, we submit that the advertisements do not breach the Environmental Code.

4. AANA Food and Beverages Code

In respect of the F&B Code, we note that provision 2.1 sets out that “Advertising or Marketing Communication 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.”



We note that no nutritional or health claims are made in the advertisements. The advertisements primarily advertise the Grill's brand and its values, by casting its brand as an anthropomorphic superhero burger that fights against figures that are broadly representative of competitors in the market. We note the final frame of the advertisements make broad claims that Grill'd burgers are "Natural, Sustainable and Healthy". Grill'd is capable of substantiating these claims, please refer to the attached substantiation document for more information.

Accordingly, we submit that the advertisements do not breach provision 2.1 of the F&B Code, nor any of the other provisions.

6. Conclusion

On this basis, we submit that the advertisements do not breach any relevant provision of the AANA Code of Ethics or any other relevant codes. There is no breach of any of the relevant provisions of any of the AANA codes noted above.

Accordingly, we submit that all complaints should be summarily dismissed.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code), AANA Environmental Claims in Advertising and Marketing Code (the Environmental Code) and the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that:

- Meat is not particularly sustainable or healthy
- Although Grill'd has more sustainable practices than other food outlets that doesn't make their products sustainable or healthy
- The advertisement claims their burgers are healthier, more natural than others
- The advertisement promotes violence.

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

The Food Code

The Panel noted that the product advertised is food and that therefore the provisions of the Food Code apply.

The Panel noted the complainants' concerns that:

- Meat is not particularly sustainable or healthy
- Although Grill'd has more sustainable practices than other food outlets doesn't make their products sustainable or healthy



- The advertisement claims their burgers are healthier, more natural than others.

Section 2.1 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 Panel Noted the Practice Note to this section of the Food Code which includes:

“The Panel will not attempt to apply legal tests in its determination of whether advertisements are truthful and honest, designed to mislead or deceive, or otherwise contravene prevailing community standards in the areas of concern to this Code.

“In testing the requirement that an advertising or marketing communication shall be truthful and honest, the Community Panel will consider whether the information most likely to be taken from the advertisement by an average consumer in the target market would be reasonably regarded as truthful and honest...”

The Panel noted that the target audience for this advertisement would be anyone watching free-to-air television, particularly those interested in healthier eating.

Natural

The Panel noted the advertisement includes a photo of a burger with the words ‘Natural. Sustainable. Healthy.’

The Panel noted the advertiser had provided information to show that its beef, lamb and chicken is 100% antibiotic free, hormone free, chemical free and preservative free, its buns are free from refined sugar and that all its burgers have no artificial colours, flavours and preservatives, excluding a few specific identified ingredients, such as vegan cheese, in certain burgers.

The Panel considered that the average member of the target market would interpret the word ‘natural’ to mean made of naturally occurring ingredients and without artificial ingredients. The Panel considered that the vast majority of the burger range would meet this definition, and therefore the average consumer would reasonably regard the claim of ‘natural’ to be truthful and honest.

Sustainable

The Panel noted the advertisement includes a photo of a burger with the words ‘Natural. Sustainable. Healthy.’



The Panel also noted the complainants' concern that meat burgers could not be sustainable due to farming practices. The Panel noted that the advertiser also offers a range of vegan and vegetarian options.

The Panel noted the advertiser had provided information to show that it sources its food products locally, recycles cooking oil, uses packaging made from sustainably planted forests, is in the process of making more restaurants powered by Green Energy and established a Meat Free Monday campaign to encourage more sustainable eating.

The Panel considered that the claim of 'sustainable' is not qualified in the advertisement, however its appearance under the burger would lead consumers in the target market to believe that the burger products are produced in a sustainable way. The Panel considered that the information provided by the advertiser shows that the advertiser in undertaking multiple initiatives to increase the sustainability of their products, and the average consumer would reasonably regard the claim of 'sustainable' to be truthful and honest.

Healthy

The Panel noted the advertisement includes a photo of a burger with the words 'Natural. Sustainable. Healthy.'

The Panel noted that substantiation provided by the advertiser shows that all its burger products are high in protein and fibre and provide at least seven essential vitamins, minerals and nutrients including thiamine, iodine, niacin, magnesium, phosphorous, iron and selenium. The Panel further noted the advertiser's response that 88% of Grill'd burgers pass the Nutrient Profiling Scoring Calculator established by Food Standards Australia and New Zealand as a benchmark for whether a product is healthy overall.

The Panel noted that healthy is a subjective term which can be defined by different people to mean different things. However, based on the information provided by the advertiser on the nutritional content of the Grill'd burger range, the Panel determined that the average consumer would reasonably regard the claim of 'healthy' to be truthful and honest.

Section 2.1 Conclusion

Overall, the Panel considered that the advertisement was not designed to be misleading or deceptive and was communicated in a manner appropriate to the understanding of the target audience.

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



Food Code conclusion

The Panel found that the advertisement did not breach any other Section of the AANA Food and Beverages Advertising and Marketing Communications Code.

The Environmental Code

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 the complainant’s concerns that:

- Meat is not particularly sustainable or healthy
- Although Grill’d has more sustainable practices than other food outlets doesn’t make their products sustainable or healthy
- The advertisement claims their burgers are healthier, more natural than others.

The Panel noted the advertisement includes a photo of a burger with the words ‘Natural. Sustainable. Healthy.’

The Panel considered that the advertisement includes the implied environmental claim that its burger products are natural and sustainable.

2 b) Environmental Claims must...not overstate the claim expressly or by implication

The Panel noted that the Practice Note for this Section includes:

“Advertisers and marketers should avoid making claims that expressly or impliedly overstate an environmental benefit. Consideration should be given to whether there is sufficient disclosure of any negative impacts. For example, whether negative impacts have been withheld which, if known, would diminish the positive attribute.”

The Panel noted the advertiser had provided substantiation in relation to the claims made in the advertisement about the burgers being natural and sustainable.

The Panel noted the advertiser had provided information to show that it sources its food products locally, recycles cooking oil, uses packaging made from sustainably



planted forests, is in the process of making more restaurants powered by Green Energy and established a Meat Free Monday campaign to encourage more sustainable eating.

The Panel noted the advertiser had provided information to show that its beef, lamb and chicken is 100% antibiotic free, hormone free, chemical free and preservative free, its buns are free from refined sugar and that all its burgers have no artificial colours, flavours and preservatives, excluding a few specific identified ingredients, such as vegan cheese, only in certain burgers.

The Panel considered that the claims of 'sustainable' and 'natural' had been reasonably substantiated by the advertiser. The Panel considered that the claims made were not overstated and were reasonable summaries of the product.

The Panel considered that the advertisement did not overstate the claim expressly or by implication.

Section 2 b) conclusion

The Panel determined that the advertisement did not breach Section 2 b) of the Environmental Claims Code.

Environmental Code conclusion

The Panel found that the advertisement did not breach any other Sections of the AANA Environmental Claims in Advertising and Marketing Code.

The AANA Code of Ethics

Section 2.3: Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised

The Panel noted the complaints' concerns that the advertisement promotes violence and is not suitable to be seen by children.

The Panel noted that the Practice Note to the Code includes:

"Although the depiction of violence in an advertisement may be relevant to the story being told in the advertisement, any violence must also be justifiable in the context of the product being advertised, or else will be in breach of this section of the Code. ...In considering whether the violence or menace depicted in an advertisement is justifiable, the Community Panel may have regard to the audience of the advertisement. Graphic depictions of violence or a strong suggestion of menace have been found to present violence in an unacceptable manner especially when visible to a broad audience which includes children...More leeway is permitted where the depiction is stylised rather than



realistic. However, advertisers should exercise caution when using cartoon violence as a cartoon style may be attractive to children.”

The Panel noted that version one of the advertisement featured a number of scenes which contained violence, including:

- a bird who is enveloped by green smoke from a plane and then shown as a skeleton
- the burger character removing the stick from himself and throwing it into the plane, causing the green smoke to get in and the pilot to turn into a skeleton
- The plane crashing causing an explosion.

The Panel noted that version two of the advertisement featured a number of scenes which contained violence, including:

- Cows being injected with needles
- The burger character removing a slice of tomato from himself and throwing it like a frisbee to knock the evil character into the vat of hormones, causing him to grow larger than the building and his eye to pop out.

The Panel noted the scenes of animated violence were related to the themes of the product being healthier and more natural than competitor products. The Panel considered that, although exaggerated, the violent scenes in the advertisement were related to the product branding.

The Panel considered that the animated violence was highly stylised and unrealistic, and that the overall impression was of very low-level violence which was justifiable in the context of advertising the product.

The Panel determined that the advertisement did contain violence, and that this violence was justifiable in the context of advertising a burger chain.

Section 2.3 Conclusion

The Panel determined that the violence portrayed in the advertisement was justifiable in the context of the product advertised and did not breach Section 2.3 of the Code.

Code of Ethics conclusion

The Panel found that the advertisement did not breach any other Section of the AANA Code of Ethics.

Conclusion

Finding that the advertisement did not breach the AANA Food and Beverages Advertising and Marketing Communications Code, AANA Environmental Claims in Advertising and Marketing Code and the AANA Code of Ethics, the Panel dismissed the complaints.