



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 :	0362-19
2. Advertiser :	Carlton United Brewery
3. Product :	Alcohol
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	13-Nov-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Environmental Code\1 Truthful and Factual
AANA Environmental Code\3 Substantiation
AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This television advertisement features the voiceover:
"When we clock on it's there; Ready to squeeze the sweat from our burnt brows;
While we're trying to earn our bacon, it's trying to turn us into it; But times are
changing; Soon the sun will be working for us; Because in 2020 VB will be brewed with
100% solar [Super: VB will be brewed with 100% offset solar electricity in 2020.]; So
next time the sun is making you hot; Just remember that it'll also be making you a
cold one.

THE COMPLAINT

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

*Breweries operate 24 hours a day, so it would be impossible for VB to be 100% solar
powered. Also in the mix is the fuel to operate, trucks, cars, forklifts and emergency
power generators.*

THE ADVERTISER'S RESPONSE



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

Description

Advertisement proudly promotes the initiative of Victoria Bitter (part of Carlton & United Breweries) to power its brewing operations via offset solar electricity via the Karadoc solar farm (the location of the TVC). The advertisement depicts men and women working at the Karadoc solar farm, before knocking off at the end of the day together with a Victoria Bitter.

Program: Aired nationally during AFL & NRL Finals programming for the weekends commencing 13 Sep, 20 Sep, 27 Sep and 4 Oct 2019.

Introduction

The Complaint relates to a TV advertisement for Victoria Bitter (VB), which announces that in 2020 VB will be brewed with 100% offset solar electricity (Advertisement). The complainant alleges that the Advertisement includes a claim that “VB is now 100% solar powered” and disputes the merits of this claim given “breweries operate 24 hours a day, so it would be impossible for VB to be 100% solar powered” given fuel to operate trucks, cars, forklifts and emergency power generators should be factored. Ad Standards has noted that the issues raised pertain to sections 1(a) and 3(a) of the AANA Environmental Code (Environmental Code). With respect to the Panel and the complainant, we submit that the Advertisement does not breach any sections of the Environmental Code including sections 1(a) and 3(a), nor any other relevant AANA Codes as explained below.

Section 1(a) of the Environmental Code

Under section 1(a), environmental claims in the Advertisement must not be misleading or deceptive (or likely to mislead or deceive). We submit that the Advertisement does not breach section 1(a) as it is not misleading or deceptive for the following reasons:

(i) For clarity, the Complaint does not correctly refer to the claim made by VB. The correct claim is “In 2020, VB will be brewed with 100% offset solar electricity”, not that “VB is now 100% solar powered”. They are two very different claims both in terms of timeframe (now vs 2020) and in terms of scope which is addressed in paragraph (ii) below.

(ii) The claim made in the Advertisement is limited to the energy required for the brewing process only, as stated by both the voiceover and in the disclaimer that appears on screen at the time the claim is made (disclaimer discussed further in paragraph (iii) below). The claim was deliberately limited to the brewing process, thereby excluding all energy requirements which are unrelated to the brewing process e.g. the fuel to operate trucks, cars, forklifts etc which are referred to in the Complaint.

(iii) We made particular efforts to ensure the disclaimer featured in the Advertisement was sufficiently prominent and clear, and compliant with the Clear Ads Handbook’s guidance on disclaimers (which can be found on page 76 of the handbook



<https://www.clearads.com.au/wp-content/uploads/2019/09/clearads-handbook-version-ca12.pdf>), noting:

a. the text is on screen for a duration significantly greater than the minimum of 0.2 seconds per word, and is on screen long enough to ensure that all text on screen can be read by the general public;

b. we ensured the text was of a sufficient size and font so as to make it clear and legible; and

c. the text disclaimer is placed on screen at the same time the claim is made in the voice over.

As per the guidance provided in the Practice Note to Section 1(a) of the Environmental Code, the voiceover and disclaimer ensure that the communication of the solar offset is “clear and unambiguous”.

(iv) By asserting that “breweries operate 24 hours a day” and that somehow this detracts from VB’s claim, the complainant is implying that VB’s solar electricity sources are from on site solar panels that could only provide power during daylight hours. We dispute this on the basis the on screen text in the Advertisement makes it clear that VB is brewed with offset solar electricity, meaning solar electricity generated from a solar farm (in this case Karadoc solar farm) which is then offset via the energy grid, meaning VB can draw on it during its evening operating hours in order to power its brewing operations.

Section 3(a) of the Environmental Code

Under section 3(a), environmental claims in the Advertisement must be able to be substantiated and verifiable. Respectfully, we submit that the Advertisement does not breach section 3(a) as CUB can substantiate the claim as follows:

(i) Total offset solar energy supplied to CUB from Karadoc solar farm pursuant to a power purchase agreement with CUB’s solar supplier is approximately 74 GWh per annum;

(ii) Total energy requirements for CUB’s entire brewing operations is approx. 66 GWh per annum and this is for all of CUB’s brands, not just for VB;

(iii) There is therefore a significant surplus of offset solar that CUB receives each year as compared to VB’s brewing requirements given VB only accounts for 16% of CUB’s overall production.

This is why CUB can confidently claim that VB is brewed with 100% offset solar electricity.

Section 2 of the AANA Ethics Code



Respectfully, we submit that the Advertisement does not breach section 2 of the AANA Ethics Code because the Advertisement does not:

- portray people or depict material in way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief (section 2.1)*
- employ sexual appeal (section 2.2);*
- present or portray violence (section 2.3);*
- treat sex, sexuality or nudity with a lack of sensitivity (section 2.4);*
- use inappropriate, strong or obscene language (2.5); or*
- depict material contrary to Prevailing Community Standards on health and safety (2.6),*

and the Advertisement is clearly distinguishable as advertising and marketing communications to the relevant audience.

AANA Code for Advertising and Marketing Communications to Children

The AANA Code for Advertising and Marketing Communications to Children is not applicable to this Complaint, given that the Advertisement is in respect of an alcoholic beverage, and CUB do not market their products to children.

AANA Food and Beverages Advertising Code

The Advertisement does not breach the AANA Food and Beverages Advertising Code (Food Code). CUB always advertise within the parameters of the Food Code and submit that no aspect of this advertisement has breached this Code.

Conclusion

For the reasons set out above, and again with respect to the Panel and the complainant, we submit that the Advertisement does not breach any sections of any of the relevant AANA Codes, including the Environmental Code and we ask that the Panel dismiss the complaints on this basis.

Should the Panel have any further queries, or wish to review our supporting evidence in respect of Section 3(a) of the Environmental Code, please do not hesitate to contact us.

THE DETERMINATION

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

The Panel noted the complainant's concerns that the advertisement is misleading as:

- it claims that VB is now 100% solar powered
- breweries operate 24 hours so it is impossible for it to be 100% solar powered, not to mention the need for fuel to operate trucks, cars, forklifts and emergency generators.

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



The Panel considered whether the advertisement made an Environmental Claim. 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 section 1a of the Code which requires that 'Environmental Claims in Advertising or Marketing Communications...Shall not be misleading or deceptive or be likely to mislead or deceive.'

The Panel considered the statement "by 2020 VB will be brewed with 100% solar". The Panel considered that this statement is a claim in that it highlights an environmental aspect of a service.

The Panel noted that the claim was also supported by an on-screen disclaimer stating, "VB will be brewed with 100% offset solar electricity in 2020."

The Panel noted the advertiser's response that the claim made is that VB will be brewed with 100% offset solar electricity, not that VB is 100% solar powered.

The Panel noted that the Practice Note to the Environment Code states that "it is not intended that legal tests be applied to determine whether advertisements are misleading or deceptive, or likely to mislead or deceive, in the areas of concern to this Code, Instead consideration will be given as to whether the average consumer in the target market will be likely to be misled or deceived by the material."

The Panel noted that the advertisement was broadcast on free-to-air television during a football game and was therefore targeted to a broad audience.

Taking into consideration the information provided by the advertiser and the general consumer audience, the Panel considered that the overall impression to a consumer the advertisement is that the brewing process for VB will be made with 100% solar energy by 2020. The Panel considered that most members of the community would understand the claim of solar-powered would likely be referencing offset solar power, where excess power is fed into the grid during the day and offset electricity used during the night. The Panel considered that most members of the community would understand that this was not a claim that all aspects of the brewery would be powered directly from solar panels.



The Panel noted the complainant's concerns that the claim did not take into account the fuel used to operate trucks, cars, forklifts and backup generators. The Panel considered that the claim was limited to VB being brewed with offset solar electricity, and that this was not a claim that all aspects of the business were solar-powered.

The Panel considered that the environmental claim made in the advertisement was not misleading or deceptive, or likely to mislead or deceive. The Panel determined the advertisement did not breach Section 1a of the Environmental Code.

The Panel noted section 3 of the Environmental 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 considered that the advertiser provided sufficient documentation to the Panel to substantiate the claims made in the advertisement.

The Panel determined that the advertisement did not breach Section 3a of the Environmental Code.

The Panel then considered whether the advertisement was in breach of Section 2.6 of the Code of Ethics. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Panel noted that the workers in the advertisement were not shown wearing appropriate sun protection when depicted working outside.

The Panel considered that sun safety is an important issue in the community and that most businesses would require their workers to be appropriately protected when working out in the hot sun.

The Panel considered however that the overall feel of the advertisement was nostalgic and the depiction of the workers in the sun was part of the narrative relating to the power of the sun.

The Panel considered that most members of the community would not consider the advertisement to undermine important sun safety messaging, nor encourage people working outside to inadequately protect themselves against the sun.

The Panel considered that the advertisement did not depict material contrary to prevailing community standards on sun safety and did not breach Section 2.6 of the Code.

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