



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0552/17</b>
<b>2</b>	<b>Advertiser</b>	<b>How Now</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Internet</b>
<b>5</b>	<b>Date of Determination</b>	<b>19/12/2017</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

Online advertisement, How Now. Kind Milk, From a Better Place.

## THE COMPLAINT

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

*The above is incorrect. This company also send these calves to the abattoirs but when they are 3 years old. I just wrote her an email and got a response that it is only the cows that live until old age. They are playing on people's guilty consciousness to sell a product that is the same as any other company (with some delay). These calves are still by-products and nowhere do they mention that they are still killed long before their natural age. They do not "value all life" as they claim. It is false advertising, they try to make profit by taking an ethical stand against something they also do, they're just hiding that fact.*

## THE ADVERTISER'S RESPONSE

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

*Definitions:*

*A “bobby calf” is a calf up to 10 days of age. It is the age at which most unwanted calves (the vast majority males) are slaughtered. There is more than half a million such calves killed each year in Australia and millions internationally.*

*A “calf “ is a young bovine up to the age of about 3 months. It is not gender specific with the language being a heifer calf or a bull calf.*

*“Weaners’ are calves in the transition from receiving most of their nutrition from milk to obtaining most of their nutrition from grass or other solid ration. Then the young cattle become yearlings and at 2 years old heifers or bulls, and at this time are considered adult cattle. They are fully mature at 3 to 4 years of age.*

*The Complaint: Slaughter of bobby calves*

*How Now dairy does not kill any bobby calves. NONE. In fact this was the major motivation to begin How Now dairy! It does not kill any calves at all. Nor does How Now Dairy kill weaners, yearlings or heifers. It is likely that some of our adult cattle (3+ years) will be slaughtered at some point. To date, no cattle have been sent to slaughter by How Now Dairy.*

*How Now has recently made a commitment to find a way to dairyfarm with no slaughter at all, but as yet have not made any such claim in any form of advertising. This will involve retiring old dairy cows and allowing them to live until they die naturally. We are yet to determine how long we can keep our cows healthy with high milk quality beyond the norm, as our ground breaking style of*

*dairy farming is undocumented. Our herd is also very small, so we do expect it to be several years longer than average. Nevertheless, the logistics of such a commitment are huge, but we have some time since the current herd is young.*

*Finally, How Now uses sexed semen to ensure that the calves born are female and will grow up to join the milking herd in 2 ½ - 3 years time. Or if the interest continues to grow as it is currently, these cows would be sold to another farm that wants to come into the How Now way.*

*Further:*

*The real issue from both the Consumer’s and the Industry’s perspectives, is around severing the mother-baby bond. The industry thinks this is either irrelevant or the “cows get over it quickly”. Our real commitment, which is stated very clearly, is that we will never slaughter any animal where that*

*maternal bond still exists. Normally, naturally, this bond is broken at weaning (7-11 months of age) in cattle as the mother prepares for her new baby.*

*Further, we have committed to providing any of the males born on our property (as has happened and will happen again from time to time as we grow and purchase new cows) with a life of approximately 3 years – well in excess of the 10 days -11 months explained above.*

*We do not play on anyone’s guilty conscious. All milk consumers are already happily buying milk – for the most part, ignorant of what happens to the cows and calves. In fact, to our horror, most consumers have no idea that almost 70% of all dairy calves born are slaughtered within a week of birth. What we do is give people who love dairy produce AND are concerned about what happens in the industry a more ethical choice. We have explained we are on a journey of continuous improvement around ethical dairying, and a long way from where we hope to finish.*

## **THE DETERMINATION**

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

The Board noted the complainants’ concerns that the advertisement is misleading in its representation of information regarding the slaughter of the animals and their ethical standards.

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 AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply. In particular the Board considered section 2.1 of the Food Code which provides:

'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 the compilation of information on the website [www.hownowdairy.com.au](http://www.hownowdairy.com.au).

The Board considered that the company is clearly marketing its product in a way to appeal to people seeking milk from farmers operating in an ethically sound way.

The Board noted that the website overall tone is intended to give the impression that the husbandry practices are conducted in a way that has the animals best interests at heart. The Board noted the website uses phrases such as: “kind milk is made with cow and calf as the priority,” “kind to cows, kind to calves, kind to farmers and guilt free for the consumer,” and “we will never be the big cold-hearted production systems some dairy farms have become.”

The Board noted the advertiser’s response regarding the technical aspects of the farming processes as mentioned in the complaint regarding the age of the herd and the correct terminology for their relevant ages.

The Board considered that generally, members of the community understand that a calf (up to 3 months) is a young animal and noted that the website reflects that these animals are not removed from their mothers at this age “calves are not separated from their loved ones.” The Board noted that the fact that older animals (approximately 3 years) could be sent away does not make the information on the website misleading or untrue and that this does not negate statements on the website such as “we value all life.”

The Board considered that most members of the community would not know specifics of the age of the animals and would be concerned about the general farming methods, and in the context of a website promoting ethical practices, would be concerned more broadly about the treatment of the animals rather than their specific ages.

The Board considered whether the information on the website is communicated in a manner

that is appropriate to the level of understanding of the target audience. The Board considered that in this case, the target audience would be adults making decisions about the milk they will purchase based on the farming methods, generally for personal reasons and that this audience would likely have a greater level of understanding about the conditions and the information before them.

The Board noted that the website overall includes information about the product, husbandry practices and other general information.

The Board considered that the overall tone and theme of the marketing communication was to promote a product that may be suitable for some people seeking certain things. The Board considered that the use of the terms that describe the 'better place' and 'better environment' that the herd are kept in, is not intended to give false impression or to mislead the reader about the age of the cattle, the method of slaughter or the farming practices carried out at this particular farm.

The Board considered that the information on the website overall was communicated in a manner appropriate to the level of understanding of the target audience and 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.