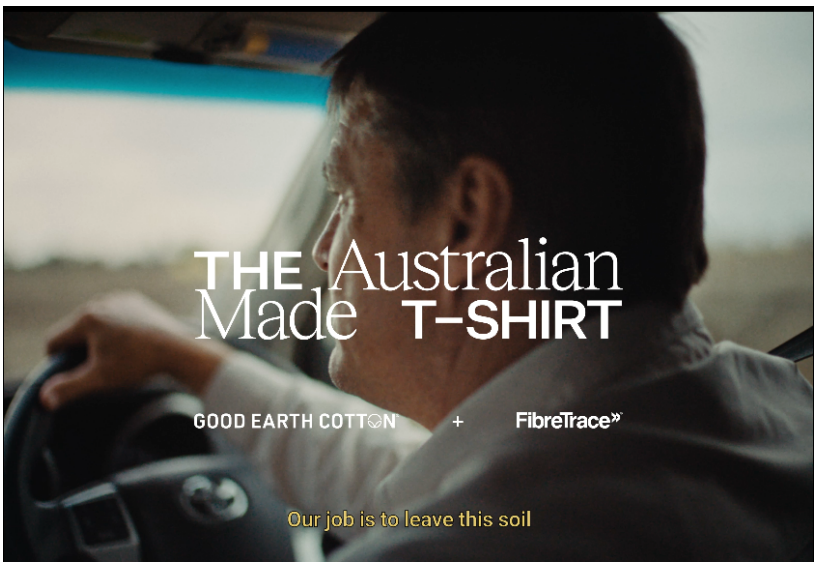
Case Report

1. Case Number :	**0185-23**
2. Advertiser :	**Country Road Clothing Pty Ltd**
3. Product :	**Clothing**
4. Type of Advertisement/Media :	**TV - On Demand**
5. Date of Decision:	**13-Sep-2023**
6. Decision:	**Dismissed**

ISSUES RAISED

AANA Environmental Code\1 Truthful and Factual

DESCRIPTION OF ADVERTISEMENT



This on demand TV advertisement features cotton farmers stating, “Our job is to leave this soil in just as good a shape as what we found it, and if not better, for the next generation. FibreTrace® technology ensures that our fibre that leaves this shore, that comes back to this shore, is 100% Australian. I think it’s just fantastic that it’s an Australian grown product, and made product, for a great Australian brand.”

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

** cotton uses a lot of chemical pesticides and herbicides*
** cotton uses massive amounts of river water from the Darling / Barka and Murray River systems, including the storage of flood plain harvested waters. This takes an awful toll on downstream land and rivers and the domestic and wild animals and birds that are dying of thirst, without this water or the food from the nourishing floodplain water*
** 300 year old river red gums are dying for kilometre after kilometre along the rivers despite previously surviving since time began in this way.*
** cotton deprives remote Aboriginal communities downstream from Bourke of their drinking water, grey water and cultural water. These communities were left to buy bottled drinking water themselves or to rely on charitable trucked in supplies during the last drought, while the cotton industry exported its products to Asian sweatshops to produce destructive "fast fashion"*
** cotton is recognised by scientists as an inappropriate crop for inland Australia.*

This is false information, misleading and causes destruction to Australian wildlife and Aboriginal communities downstream. Please rethink your advertising of Australian cotton products and in particular please carefully research the veracity of the advertisements you air. Lies and disinformation are rampant in our Australian media as we battle to survive climate change and this advertisement is an example of inappropriate advertising.

THE ADVERTISER'S RESPONSE

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

The Complaint submitted states "I object to the false claim in the Australian Cotton T-shirt advertising that cotton farmers are leaving their soil in a better condition than it was".

Country Road respectfully disagrees that a claim of this nature has been made in "The Australian Made T-Shirt" commercial (Country Road Ad).

The Country Road Ad makes no claims about cotton farmers in general, or the Australian Cotton industry, but instead specifically highlights and promotes the Good Earth Cotton® (branded cotton) used in Country Road's men's and women's Australian Made Cotton T-Shirts and the farming practices used to produce of this particular cotton.

Good Earth Cotton® is the branded cotton produced from a cotton farming program established in Moree, New South Wales on a large farm called "Keytah" which is owned and operated by David and Danielle Statham . through their company Sundown Pastoral Company Pty Ltd.

At the commencement of the Country Road Ad, David Statham, Director of Sundown Pastoral Company Pty Ltd makes the statement "Our job is to leave this soil in just as good a shape as what we found it, and if not better, for the next generation" as he drives through the Keytah farming lands. This statement by Mr Statham is aspirational in nature and describes the aims and intentions of Sundown Pastoral Company Pty Ltd in the farming practices used at Keytah to produce Good Earth Cotton® branded cotton.

David and Danielle Statham have worked hard and have taken measurable steps to make this aim a reality. This has been recognised by a number of independent third parties, as discussed further below.

Good Earth Cotton® is grown at Keytah using farming practices that focus on improving soil health and yield, with data collected directly from the farm to track changes over time. Crops are harvested with minimal disruption to the soil and plant waste is left on the ground, acting like a mulch to reduce erosion and increase moisture retention. After each season, cotton crops are rotated with wheat and legumes to aerate and feed the soil with nutrients, increasing its overall health and biodiversity.

At 'Keytah', Sundown Pastoral Company Pty Ltd has consistently implemented regenerative farming practices to reduce the cotton production system's environmental impact and increase the productivity, resilience, and drought tolerance of the soil at Keytah. Changes in farming practices have aimed to enhance soil health, improve fertiliser use efficiency and reduce the reliance on chemical pest management. For example, crop rotations, minimum till, use of natural amendments such as biochar and manure along with permanent cropping bed practices that minimise soil disturbance have been introduced to improve soil organic carbon (SOC) and biodiversity.

Since 2013, the following practices have been introduced at Keytah:

- *Converting from conventional tillage to reduced or no-till farming to minimise topsoil and nutrient loss from the soil (e.g., the loss of soil carbon and nitrogen).*
- *Introducing crop rotations of cotton-wheat-legumes to increase soil microbe diversity, and cover cropping during fallow periods to reduce N-fertiliser usage and prevent nutrient leaching and topsoil loss.*
- *Organic plant matter is left in the field and cotton plant trash recycled into fields after ginning to decompose and act as a mulch. This practice improves not only Soil Organic Carbon (SOC) but also the water holding capacity of the soil.*

- *Solar power has been applied to infrastructure to reduce Keytah's consumption of fossil fuels.*
- *The application of organic amendments (e.g., animal manure, biochar and compost) in place of synthetic fertilisers. This activity is currently on a trial scale with the expectation of applying the most efficient result to the whole farm.*
- *The preservation of native vegetation areas on the farm to provide windbreaks for crops and a habitat for birds, insects and animals, improving the biodiversity of the whole farm area and its natural waterways.*

Independent recognition of the impact of farming practices at 'Keytah' by Sundown Pastoral Company Pty Ltd.

Certified Climate-positive by Carbon Friendly Pty Ltd

The Good Earth Cotton® branded cotton, used for Country Road's Australian Made T-shirt (featured in the Country Road Ad), is from the 2021/2022 cotton crop harvested at Keytah. This cotton crop has been independently audited and certified by Carbon Friendly Pty Ltd to the Carbon Friendly Carbon Net-ZeroPlus standard meaning it captures and stores more carbon than it emits. As part of this audit process, the 2021/2022 cotton crop from "Keytah", when measured against the "base year" of 2017/18, saw an improvement in the annual soil organic carbon (SOC) at Keytah (see below referenced Report).

Attached is:
a) a copy of the Sustainable Agricultural Certification "Certificate of Compliance" issued by Carbon Friendly Pty Ltd;
b) a copy of the Report detailing the examination and verification undertaken against Carbon Friendly® Agricultural Standard (CFAS IP AUST 2110771), a voluntary standard developed in compliance with ISO 14064-2 (ISO, 2019) to quantify, monitor and report greenhouse gas emissions, reductions, or removal enhancements of agricultural production systems.
c) a letter from Carbon Friendly Pty td confirming that Sundown Pastoral Company Pty Ltd is authorised to use the term "climate positive".
RegenAgri certified

In addition, Sundown Pastoral Company Pty Ltd is third party certified to the "RegenAgri Standard Criteria". A copy of this certification, issued by Control Union, is attached.

As noted in The regenagri Standard Criteria v 3.0 (also attached to this Response) – the Standard Criteria looks holistically at the entire farming operation, considering the different management strategies and practices used, and assesses the farm's regenerative impact.

The Standard covers the following regenerative crop production practices focused on improving soil health, used in the production of Good Earth Cotton® branded cotton at the "Keytah" farm:

- *Cover-cropping: Cover crops can encourage soil and crop health in different ways, including - Improving the soil's structural and hydraulic properties, stimulating a higher microbial biodiversity in the soil, and provide vital habitats for birds and insects, an important component for the development of local biodiversity and natural capital.*
- *Tillage management: Conservation tillage has been highlighted as more sustainable and economically viable than a conventional approach to tillage. Conservation tillage practices result in multiple agronomical, environmental, and economic benefits. Farmers protect their soil from erosion, increase soil fertility and biodiversity, and augment the plant's natural response to pests and disease.*
- *Crop rotation: By implementing two or more crops in a crop rotation, farmers can experience higher resistance to diseases (fungi, bacteria, and virus); better weed management (without inputs); higher water conservation levels; better fertiliser efficacy, and limited soil erosion, which can all lead to improved yields.*
- *Natural fertiliser strategies: Soil fertilised with natural and organic fertilisers contains a higher concentration of beneficial microbial life and are rich in organic material. This combined effect will boost soil's biodiversity, allowing soils to store greater quantities of carbon and cycle nutrients more effectively.*
- *Soil Sampling: Sampling the soil is an effective and accurate method for measuring the health of the soil. Soil health can be measured by (1) the percentage of soil organic matter increase, (2) microbial activity (Solvita CO2 Burst), (3) CEC, (4) pH scale of the soil, and (5) albeit to a lesser degree, by ratios of Carbon to N and Calcium to Magnesium. Farmers need to be able to show the results both of their soil analysis (maximum 5 years old) and of their soil management plan.*

FibreTrace verified
Further to the certifications mentioned above, the cotton fibre produced under the Good Earth Cotton® brand is traceable through a physical and digital tracer system called FibreTrace®. This provides a true and robust verified connection between the Good Earth Cotton® branded cotton harvested at Keytah and the actual fibre content of the Country Road Australian Made T-Shirt.

SUMMARY
In summary, Country Road respectfully submits that the Country Road Ad is in no way misleading or deceptive, or likely to mislead or deceive, and is in no way contrary to the requirements of either the AANA Environmental Code, or any part of Section 2 of the AANA Code of Ethics.

As is evident by the matters set out above, the aspirational statement in the Country Road Ad by the Co-Director of Sundown Pastoral Company Pty Ltd that "Our job is to leave this soil in just as good a shape as what we found it, and if not better, for the next generation" is not a whimsical and unachievable goal, but has indeed been

achieved by the farming practices implemented at the Keytah farming lands and in relation to the production of Good Earth Cotton ® branded cotton used in the Country Road Australian Made T-Shirt.

THE DECISION

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

The Panel noted the complainant's concerns that the advertisement is misleading and does not take into account the environmental consequences of cotton farming.

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

Is an Environmental Claim being made?

The Panel noted that the Environment Code applies to 'Environmental Claims' in advertising and marketing communications.

The Panel noted that 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 that this advertisement contains the statement, "Our job is to leave this soil in just as good a shape as what we found it, and if not better, for the next generation."

The Panel considered that this statement is an implication of environmental benefit, and although aspirational, did contain an environmental claim.

1 a) Environmental Claims in Advertising or Marketing Communication…shall not be misleading or deceptive or be likely to mislead or deceive

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

> *"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 would be likely to be misled or deceived by the material.*
>
> *Factors to consider include:*

- *An advertisement may be misleading or deceptive directly or by implication or through emphasis, comparisons, contrasts or omissions. It does not matter whether the advertisement actually misled anyone, or whether the advertiser intended to mislead – if the advertisement is likely to mislead or deceive there will be a breach of the Code.*
- *The target market or likely audience of the advertising or marketing communication should be carefully considered when making environmental claims. Therefore all advertising should be clear, unambiguous and balanced, and the use of technical or scientific jargon carefully considered."*
- *Environmental claims relating to future matters or commitments should be based on reasonable grounds as at the time the claim was made, even if the future matter does not come to pass. The fact that a person may believe in a particular state of affairs does not necessarily mean that there are reasonable grounds for the belief."*

The Panel noted the complainant's concerns relating to the environmental impact the cotton farming industry is having on the Darling / Barka and Murray River systems.

The Panel considered that the advertisement is not making a claim about the cotton farming industry generally. Further, the Panel considered the claim related only to soil health and was not a claim about other environmental effects.

The Panel noted the advertiser had provided evidence of the steps the farmers had taken to achieve their goal of keeping the soil as good, if not better, than they found it.

The Panel noted that this advertisement was on on-demand television and the target audience would be broad, but mostly adults who would have some awareness of the potential environmental impacts of farming.

The Panel considered that most people in the target audience would understand this environmental claim to be limited to the relevant farmers taking steps to look after the soil on their land.

Overall, the Panel considered that the average consumer in the target market would not be misled or deceived by the advertisement.

Section 1 a) conclusion

The Panel determined that the advertisement did not breach Section 1 a) of the Environmental Code.

Decision

Finding that the advertisement did not breach the Environmental Code on any other grounds the Panel dismissed the complaint.