

Case Report

1. Case Number :	0020-24
2. Advertiser :	Steakhouse Grill 66
3. Product :	Food/Beverages
4. Type of Advertisement/Media :	Internet - Social - Instagram
5. Date of Decision:	7-Feb-2024
6. Decision:	Upheld – Not Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.7 Distinguishable advertising

DESCRIPTION OF ADVERTISEMENT

A series of Instagram posts were published by eight individual influencers about their visit to the Steakhouse Grill 66 restaurant. All posts include imagery of the food and venue.

Post 1: It's the time of the year to treat yourself a good steak [emoji]
@steakhouse_66 has such a nice waterfront location in dockland to enjoy steak with a harbour view. Ordered: Rose & Lychee Spritz; Bruschetta; Crispy Pork Belly; T-BONE Angus steak; [pin emoji] Steakhouse Grill 66. 66 Newquay Promenade, Docklands.
[invite/collab] @steakhouse_66 @bluemoonfoodie__ #steakhouse #steakgrill
#HiddenGem #FoodAdventures #MelbourneEats #Foodstagram #melbournebar
#melbournefoodies

Post 2: Tag who needs to bring you to this steakhouse [steak emoji] True fire at Steakhouse Grill 66 last week [fire emoji] From the live grill action on TV to trying the perfectly grilled T-bone steak! Every bite is an experience worth [steak emoji] We ordered our T-Bone middle rare and it is cooked perfectly. The steak itself is juicy and tender, dipped in garlic butter, it is just so good [fire emoji] This waterfront restaurant is located in dockland, perfect view for a family gathering, romantic dinner or catchup with your friends. [pin emoji] Steakhouse Grill 66. 66 Newquay Promenade, Docklands. Thanks @bluemoonfoodie for the invitation and @steakhouse_66 for the warm hospitality and great foods and drinks. #melbournesteak #steakhouse #docklands #docklandsmelbourne #HiddenGem #FoodAdventures #MelbourneEats #Foodstagram #melbournebar #melbournefoodies

Post 3: Riverside dining, flaming hot grills and melt in your mouth steaks at the spacious @steakgrill66 [steak emoji] [fish emoji] Gin cured kingfish [oyster emoji] Baked Hervey Bay scallops [steak emoji] Grilled beef cevapi [oyster emoji] Oysters -

natural w shallot vinaigrette + Kilpatrick w bacon Worcestershire. Deluxe land & sea platter (serves 3-4) [steak emoji, sheep emoji, pig emoji, chicken emoji] Wagyu porterhouse 300g, lamb cutlet, crispy pork belly, 1/2 chicken,[fish emoji] Grilled market fish, [oyster emoji, prawn emoji] Oysters, scallops, calamari, tiger king prawn, [potato emoji, mushroom emoji] Mash & roasted mushrooms. [steak emoji] Angus rib-eye 400g - mb3+ [steak emoji] Wagyu scotch fillet 300g - mb9 [chips emoji] Steak fries [salad emoji] Waldorf salad - fruit salad. Starting off with a fresh selection of entrees, we had all the fresh and fun seafood selections along with beef tartar. The kingfish was so beautifully plated. Shared mains, the deluxe land & sea platter was a feast on it's own. Not just a meat/seafood platter it came with oysters, mash & shrooms too, and 3 sauces. The Angus rib-eye was the perfect balance of firmness and melt in your mouth, while the Wagyu scotch fillet was heaven. Both are excellent, depending on what you like. Cooked perfectly to medium. Don't forget to order sauce, the mushroom is always a winner but there's blue cheese on offer too. Steak fries balanced out the meats, while the Waldorf salad was something different. Washed down by a select of fun drinks it was a lovely long lunch. [steak emoji] @steakhouse_66 [pin emoji] Docklands [gift emoji] #invite

Post 4: [pin emoji] Steakhouse Grill 66 | Docklands. With views of the waterfront by the pier, this restaurant is the perfect for a date day/night! [starry eyes emoji] Started off our meal with scallops and the beef tartare. And let me tell you the beef tartare was super delicious [savouring food emoji] We decided try a bit of everything for mains. Pork belly was delicious but probably a bit too fatty for my liking [pig emoji] Tiger king prawn was huge and was also served on a massive mountain of Asian slaw [prawn emoji] For the steaks we got the Angus rib eye on the bone and wagyu scotch fillet and both were super tender and seasoned perfectly [steak emoji] Would definitely return and order the Angus rib eye as it's more bang for your buck! For the sauces the red wine juice was everyone's favourite [drooling emoji] Highly recommend this place for some yummy steaks [praise emoji] What we got: - Baked harvey bay scallops \$24 - Wagyu beef tartare \$24 [star emoji] - Tiger king prawn \$45 - Crispy pork belly \$38 - Angus rib eye 400g \$79 [star emoji] - Wagyu scotch fillet 500g \$160 [star emoji] - Garden salad \$9 - Paris mash \$12 [star emoji] [star emoji]: 4.2/5. [dinnerplate emoji]: @steakhouse_66 [pin emoji] 66 Newquay Promenade, Docklands VIC

Post 5: Must visit modern Australian steakhouse by the water [steak emoji] [pin emoji] @steakhouse_66. 66 Newquay Promenade, Docklands VIC 3008. [camera emoji] Featured: [dinnerplate emoji] Deluxe land & sea platter (feeds 3-4) \$380 [steak emoji] Scotch fillet wagyu mb9+ 300g \$95 [steak emoji] Rib eye angus mb3+ 400g \$79 [fish emoji] Gin cured kingfish \$24 [oyster emoji] Oysters - natural 1/2 doz \$30; kilpatrick 1/2 doz \$32 [squid emoji] Lemon pepper calamari \$16 [steak emoji] Wagyu beef tartare \$24 [salad emoji]Wardolf salad \$14. You must try the steaks here and watch the chef cook them expertly on the hot grill live in person or on tv. Both cuts of steak were great but I loved the A5 wagyu porterhouse steak cut from the platter the most! The platter was the highlight and great for sharing. It's got steak, crispy pork belly, juicy lamb cutlets, chicken, market fish, oysters, scallops, calamari, tiger king

prawn, mash & roasted mushroom and comes with 3 sauces. The seafood was fresh and delicious both raw and cooked. We have a lovely feast and catch up! Thanks to @bluemoonfoodie for organising the #invite and @steakhouse_66 for the hospitality and fantastic feast [savouring food emoji] [steak emoji] #melbourne #melbournefoodie #melbourneeats #melbournecity #melbournetodo #whatsonmelbourne #wheretomelbourne #melbournefood #foodiesinternationalchat #theloserfam #cameraeatsfirst #fyp #discoverunder7k #steak #steaknight #wagyu #steakhouse #docklands #viralreel

Post 6: [steak emoji] Steakhouse 66. Good vibes, views and food then steakhouse 66 is your go to. We enjoyed a great breakfast by the pier and absolutely loved the vibes here [star emoji] [ticket emoji] (invite) #breakfast #eggsbenedicts #melbfood #melbournefoodblogger #melbbrunch #melbcafe #melbbreakfast #zomato

Post 7: [steak emoji] @STEAKHOUSE_66. [pin emoji] Docklands. — Oysters half natural (\$30) & kilpatrick (\$32)— Gin cured kingfish (\$24)— Wagyu beef tartare (\$24)— Deluxe land & sea platter (\$380)— Wagyu scotch fillet 300g (\$95)— Rib eye angus 400g (\$79)— Lemon pepper calamari (\$30)— Wardolf salad (\$14)— Steak fries (\$12). The ultimate steak feast! Don't worry friends, I got to share this with meal with other foodies. For starters, you have to get oysters. These were fresh and a great way to start the meal. I'm a natural oysters kind of gal so these hit the spot! The kingfish was presented so beautifully! Light and fresh, just how I like it. The wagyu tartare was seasoned to perfection and went really well with the rice crisp. For mains, the start of the show was the land & sea platter which consisted of A5 Wagyu Porterhouse 300g, lamb cutlet, crispy pork belly, ½ chicken, grilled market fish, oysters, scallops, calamari, tiger king prawn, mash & roasted mushroom, tartare, lemon, choice of 3 sauces. Holy moley this platter was incredible. It really showcased all their produce on one plate. But of course we had to add more steak to our table. Out of the wagyu and angus, the wagyu was soo tender. But that's a given when it comes to steak. Wagyu is always more tender. But nevertheless, the rib eye was still delicious. The sides, the wardolf salad is a must. They used seasonal fruits with a dill dressing which complimented all the heavy proteins. Lemon pepper calamari was light and well fried. Safe to say, I had to be rolled out of the restaurant. Everything was heavy but so delicious. I couldn't have fault anything. Thank you @steakhouse_66 for the hospitality and @bluemoonfoodie for organising! I had a blast meeting other melb foodies. #melbfood #foodporn #melbournefood #instafood #foodie #yummy #foodstagram #foodblogger #instareels #discoverunder10k #reels #bhfyp #discoverunder5k #foodstagram #steak #fries #chips #wagyu #seafood #cocktail #bluemoon #instafood #foodgasm #reels #reelsinstagram #explore

Post 8: [pin emoji] Steakhouse Grill 66 - Docklands VIC. For all my steak & seafood lovers out there, do yourself a favour and try this place outttt [heart eyes emoji] What we ordered: [heart emoji] Wagyu beef tartare \$24 [waves emoji] Baked scallops \$24 [steak emoji] Rib eye angus (400g) \$79 [steak emoji] Scotch fillet wagyu (500g) \$160 [prawn emoji] Tiger king prawns \$45 [pig snout emoji] Crispy pork belly \$38 [potato emoji] Paris mash \$12 [salad emoji] Garden salad \$9 [drink emoji] Love thy lychee

mocktail \$16. I genuinely enjoyed all the dishes we had on our table haha ya girl was impressed. The biggest highlight for me would have to be the scotch fillet wagyu - it was just a whole lotta melt in your mouth goodness and 100% worth the splurge! Also this is pretty random but the mash was really bomb too [crying laughter emoji] it was super lush & creamy - all the good things we love & need in a good bowl of mash. PS they also have a weekend breakfast menu if you wanna to get your brunch on and enjoy some morning waterfront views to start your day [sun emoji] Big thanks to @bluemoonfoodie & @steakhouse_66 for inviting me along hehe I had a wonderful time eating some yummy food & meeting other fellow foodies [praise emoji] would highly recommend checking this restaurant out! #steakhousegrill66 #steakhouse #docklandsmelbourne #seafoodlover #steaklover #melbourne #melbournefood #melbournееats #melbournefoodies #melbournefoodie

THE COMPLAINT

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

It appears to be paid advertising without acknowledging it was an add.

THE ADVERTISER'S RESPONSE

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

Advertiser did not provide a response.

THE DECISION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the material is not distinguishable as advertising.

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

Section 2.7: Advertising or Marketing Communication shall be clearly distinguishable as such.

Is the material advertising?

The Panel noted the definition of advertising in the Code. Advertising means: "any advertising, marketing communication or material which is

- published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer, over which the advertiser or marketer has a reasonable degree of control,

- and that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct”.

The Panel considered that the promotion of the product in the advertisement and the use of the brand name '@steakhouse_66' did amount to material which would draw the attention of the public in a manner designed to promote the brand.

With regards to whether the advertiser or marketer had a reasonable degree of control over the posts, the Panel noted that the advertiser had not provided a response. However, the Panel noted that several posts had thanked @bluemoonfoodie for organising the event, and included a link to Blue Moon Marketing. The Panel considered that the repeated mention of Blue Moon Marketing across several of the posts indicated that the advertiser, through the marketing agency, had organised for various influencers to attend an event aimed at promoting the restaurant.

The Panel considered that although some of the posts did not include a link to @bluemoonfoodie, considering all the posts together it was clear that they were part of the same event.

The Panel therefore considered that each of the posts constituted advertising, as defined under the AANA Code of Ethics.

Is the material clearly distinguishable as such?

The Panel noted the Practice Note for the Code states:

“Influencer and affiliate marketing often appears alongside organic/genuine user generated content and is often less obvious to the audience. Where an influencer or affiliate accepts payment of money or free products or services from a brand in exchange for them to promote that brand’s products or services, the relationship must be clear, obvious and upfront to the audience and expressed in a way that is easily understood (e.g. #ad, Advert, Advertising, Branded Content, Paid Partnership, Paid Promotion). Less clear labels such as #sp, Spon, gifted, Affiliate, Collab, thanks to... or merely mentioning the brand name may not be sufficient to clearly distinguish the post as advertising.”

The Panel noted that several posts had used the ‘partnership tag’. The Panel noted that this is a feature which allows for two accounts to share a post or Reel. The original author can tag another account to become a collaborator, or co-author, which allows the post to be posted from two accounts. The second account must approve this. The Panel noted that if both account names appear in the header of the post, the advertiser had approved the collaboration with the influencer.

Post 1

The Panel noted that the post featured a video of various items available from the venue, a list of items ordered, and the location of the venue. The Panel also noted that the influencer used the partnership tag (making the post in conjunction with the advertiser), tagged the brand twice in the caption, and included the text “[invite/collab]”.

The Panel considered that this combination of elements meant that the material was clearly distinguishable as advertising.

Post 2

The Panel noted that the post featured a video of various items available from the venue, a list of items ordered, and the location of the venue. The Panel also noted that the influencer used the partnership tag (making the post in conjunction with the advertiser), tagged the brand in the caption, and included text thanking the organiser and venue for the invitation and hospitality.

The Panel considered that this combination of elements meant that the material was clearly distinguishable as advertising.

Post 3

The Panel noted that the post featured a series of photos of various items available from the venue, a list of items ordered, and the location of the venue. The Panel also noted that the influencer used the partnership tag (making the post in conjunction with the advertiser), tagged the brand twice in the caption, and included the text “#invite”.

The Panel considered that this combination of elements meant that the material was clearly distinguishable as advertising.

Post 4

The Panel noted that the post featured a video of various items available from the venue, a list of items ordered, and the location of the venue. The Panel also noted that the influencer used the partnership tag (making the post in conjunction with the advertiser) and tagged the brand twice in the caption. The Panel noted that the text did not include words that indicated that they were invited to an event or to the restaurant as part of a promotional activity.

The Panel considered that while it may be clear to some people viewing the material that this was an advertisement, the written style of the post could also be interpreted as an organic post about the influencer’s experience at the venue. The Panel considered that there was nothing in the wording or imagery that clearly identified the nature of the relationship between the influencer and brand.

The Panel considered that in this case tagging the brand and using a collaboration tool was not sufficient to satisfy the Code’s requirement that the post be clearly distinguishable as advertising.

Post 5

The Panel noted that the post featured a video of various items available from the venue, a list of items ordered, and the location of the venue. The Panel also noted that the influencer used the partnership tag (making the post in conjunction with the advertiser) and tagged the brand in the caption.

The Panel also noted that the post included the following text: “Thanks to @bluemoonfoodie for organising the #invite and @steakhouse_66 for the hospitality..”.

The Panel considered that this combination of elements meant that the material was clearly distinguishable as advertising.

Post 6

The Panel noted that the post featured a video of the venue and various items available from the venue and the general location of the venue. The Panel also noted that the influencer used the partnership tag (making the post in conjunction with the advertiser and included the text “[invite]”.

The Panel considered that this combination of elements meant that the material was clearly distinguishable as advertising.

Post 7

The Panel noted that the post featured a video of various items available from the venue, a list of items ordered, and the location of the venue. The Panel also noted that the influencer used the partnership tag (making the post in conjunction with the advertiser), tagged the brand in the caption, and included text thanking the organiser and the venue for the hospitality.

The Panel considered that this combination of elements meant that the material was clearly distinguishable as advertising.

Post 8

The Panel noted that the post featured a video of various items available from the venue, a list of items ordered, and the location of the venue. The Panel also noted that the influencer used the partnership tag (making the post in conjunction with the advertiser), tagged the brand in the caption, and included text thanking the organiser and venue for the invitation and hospitality.

The Panel considered that this combination of elements meant that the material was clearly distinguishable as advertising.

Section 2.7 Conclusion

The Panel considered that Posts 1, 2, 3, 5, 6, 7, and 8 were clearly distinguishable as advertising.

The Panel considered that Post 4 advertisement was not clearly distinguishable as advertising and did breach Section 2.7 of the Code.

Conclusion

Finding that Post 4 did breach Section 2.7 of the Code, the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DECISION

The advertiser has not provided a response to the Panel's decision. Ad Standards will continue to work with the relevant authorities regarding this issue of non-compliance.