

Case Report

1. Case Number :	0122-25
2. Advertiser :	Entertainment
3. Product :	Food/Beverages
4. Type of Advertisement/Media :	Internet - Social - Instagram
5. Date of Decision:	4-Jun-2025
6. Decision:	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.7 Distinguishable advertising

DESCRIPTION OF ADVERTISEMENT

This Instagram post on the @ellysifeinsydney page on 22 May 2025 features the influencer discussing deals and using the Entertainment app. The post is also shared from the @entertainment_anz account.

The caption reads " ! SAVETHIS ! Not an ad! I have been using @entertainment_anz for the last 3 years! It is \$70 per year with so many coupons on fine dining restaurants, casual eats and desserts as well as activities, travel deals and shopping! I dined at Baia Italian waterfront restaurant in Darling Harbour and saved \$35 on one meal!

The best part is that you always have the coupons on the app so no booking is needed, you can just turn up and show the app when you pay.

Plus, 20% of your membership fee goes to a fundraiser you choose ♥"



THE COMPLAINT

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

Undisclosed ad content

THE ADVERTISER'S RESPONSE

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

I can confirm that this was not a paid/sponsored piece of content. To give some broader context on how this post has come about, see below.

We invited a number of influencers and media to a lunch event earlier this month, with the intention of showcasing our new travel portal, along with the broader range of offers the Entertainment Membership gives a consumer.

It was made clear in the communication that there was not a need to 'do/give anything in return'.

As part of the lunch, we gave each of them a complimentary Membership, which they still have to 'activate' should they decide to post the event (of which 70% did not activate).

[The influencer] chose to post on her own accord, stating in an email to us, post the uploading of content, that she had 'uploaded a story, and was making a reel'. Additionally, she had mentioned she has been using the app for 2+ years, and would be using content she had created over that time for the reel.

Given the content had been created over 2+ years by the influencer themselves, with no engagement/involvement from Entertainment, nor any paid engagement, we did not see this as a 'collaboration' in any way.

We had no oversight, or control of this content (wording, images, or other), again it was posted by the influencer on her own accord, using content from over 2+ years.

We have since asked the influencer to update the post with #gifted, and will continue to follow-up on this until it has been edited.

THE DECISION

The Ad Standards Community Panel (the Panel) considered whether the advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the advertisement contains undisclosed advertising.

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

Section 2.7: Advertising shall be clearly distinguishable as such.

Is the material advertising?

The Panel noted the definition of advertising in the Code: "any 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 noted the advertiser's response that the influencer had been invited to attend a PR event and had been provided with the opportunity to have the product for free if they chose to post about it. The Panel considered that the advertiser has control over the decision to host the event and to offer the product for free.

The Panel noted that the tagging of the brand and the clear focus on the product's benefits would draw the attention of the public in a manner calculated to promote it.

Overall, the Panel considered that the content met the definition of advertising under the Code.

Is the material clearly distinguishable as such?

The Panel noted the Practice Note for the Code states:

"There is no absolute requirement that advertising or marketing communication must have a label however it must be clear to the audience. If it is clear to the audience that the content is commercial in nature (for example by the nature of the content, where the content is placed, how consumers are directed to the content, the theme, visuals and language used, or the use of brand names or logos), then no further disclosure or distinguishing element is needed."

The Panel considered that the advertiser sharing the post, being tagged and the post's clear focus on the product and its benefits were sufficient to distinguish the post as advertising. However, the Panel considered that the use of "not an ad" at the top of the post was seen as misleading and did not clearly disclose the relationship between the brand and the influencer. Overall, the Panel considered that the advertisement was not clearly distinguishable as such.

2.7 conclusion

The Panel concluded that the advertisement did breach Section 2.7 of the Code.

Conclusion

Finding that the advertisement breached Section 2.7 of the Code the Panel upheld the complaint.

THE ADVERTISER'S RESPONSE TO DECISION

I can confirm the post was edited to include the hashtag '#gifted' as per the original request.