

Case Report

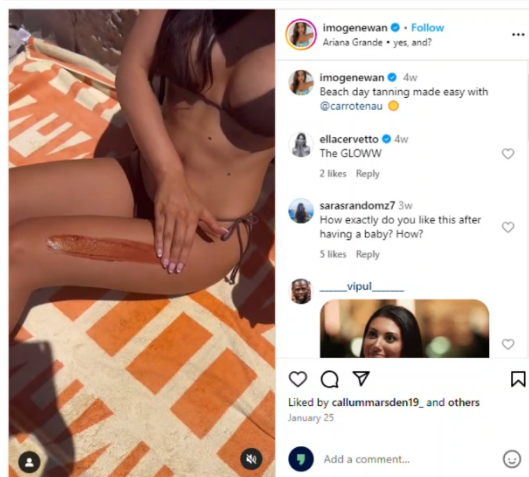
1. Case Number :	0057-24
2. Advertiser :	Carroten
3. Product :	Other
4. Type of Advertisement/Media :	Internet - Social - Instagram
5. Date of Decision:	6-Mar-2024
6. Decision:	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Code of Ethics\2.7 Distinguishable advertising

DESCRIPTION OF ADVERTISEMENT

This Instagram post by @imogenwan features a video of a woman at the beach and using a product, and the text "Beach day tanning made easy with @carrotenau [sun emoji]"



THE COMPLAINT

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

Non disclosure of whether this is a promotion and sponsored. This influencer has done this before multiple times without getting flagged.

THE ADVERTISER'S RESPONSE

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

I can inform you that this was a paid collaboration.

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 advertisement is not distinguishable as such.

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

The Panel noted that the advertiser had confirmed that this post was a paid collaboration between the brand and influencer.

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 considered that while it may be clear to some people viewing the material that this was an advertisement, it could also be interpreted as an organic post about a tanning product. The Panel considered that there was nothing in the wording or pictures of the material which clearly identified the nature of the relationship between the influencer and brand.

The Panel considered that in this case tagging the brand was not sufficient to satisfy the Code’s requirements and that the Instagram post was not clearly distinguishable as advertising.

2.7 conclusion

In the Panel’s view the advertisement was not clearly distinguishable as such and did breach Section 2.7 of the Code.

Conclusion

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

THE ADVERTISER’S RESPONSE TO DECISION

Thank you for sending across this report. We have swiftly taken the steps to modify this advertisement according to the code and case report attached.