

*Case study by Tom Reichert – Based on Molson Coors Beverage Company-NAD Case #7183 (NARB #315) – case decisions, appeals and press releases.*

**Title:** “Light Beer Shouldn’t Taste Like Water”—Puffery or Provable? AB InBev successfully challenges Miller Lite claims through industry regulation

**Keywords:** advertising, beer, self-regulation, puffery

### **Abstract**

What recourse is there if you believe one of your largest competitors is disparaging your product in national advertising? That is what happened in 2023 when Anheuser-Busch InBev (AB InBev) alleged that Molson Coors advertised that its light beer tasted like water. Fortunately, there is a robust self-regulatory mechanism that allows for a fair hearing. Through that mechanism, Molson Coors ultimately agreed to drop the advertising appeal in question. This relevant and timely case demonstrates how a national advertiser can confront a competitive misrepresentation using the self-regulatory process.

### **Beer is Big Business**

Americans love their beer. In 2022, beer and related sales topped \$139 billion in the US. Beer has seen steady growth compared to wine and distilled spirits, but the category is facing headwinds such as consumer concerns about healthy lifestyles and an increase in new types of alcoholic beverages such as seltzers and canned spirits.

Overall, AB InBev, headquartered in Belgium, is a global market leader that sells about one of every four beers consumed globally. In the US, AB InBev dominates as well with a 33% market share. Its leading brands include Bud Light, Michelob, Budweiser, and Busch. In 2016, Molson Coors acquired SABMiller to form the Molson Coors Beverage Company. It is now the second largest beer company in the US with an 18% market share. Its leading brands include Miller, Coors, and Blue Moon, among others.

Within the overall beer category, light beer—low-category beer—is the leader at about 45% of all beer sales. In the US, four of five the top leading brands are light beer: Bud Light (1), Coors Light (2), Miller Lite (3), and Michelob Ultra (5). Advertising for these brands is often in the tens of millions of dollars each year. In 2022, for example, Molson Coors invested over \$274 million in advertising just in the US.

### **Light Beer Advertising**

In addition to high levels of advertising, the light beer market is highly competitive, with brands vying for consumer attention and loyalty, especially as consumers increasingly seek healthier options, unique flavors, and locally-produced beers. The advertising space is crowded, making it difficult for brands to stand out and reach their target audience.

The light beer market has undergone significant shifts in recent years, with changing consumer preferences and a competitive landscape impacting market share and advertising strategies. The first successful campaign for light beer began in 1975 for Miller

Lite's long-running "tastes great/less filling" commercials. Athletes argued whether they preferred Miller Lite because of taste or because it was less filling than regular beer.

Today, light beer advertising is moving away from traditional humor and sports-centric themes. Brands are focusing on more personal stories, social responsibility, and highlighting taste profiles. In addition, digital advertising is playing an increasingly important role, with brands utilizing social media, influencers, and targeted online campaigns to reach specific demographics.

## **AB InBev takes issue with Miller Lite ads**

### Controversial Advertising Claim

In 2022, it was two Miller Lite commercials focusing on taste—or lack thereof—that crossed the line as far as AB InBev was concerned. In one of the videos, a male cyclist is portrayed pedaling hard to reach the top of a mountain. When he reaches the summit, he opens a blue slender can labeled, "Extremely Light Beer." The tired cyclist refreshes himself by pouring the beer over his head and the announcer says, "Light beer shouldn't taste like water. It should taste like beer." The next shot shows a can of Miller Lite and concludes, "More taste, 96 calories. Miller Lite." Another video with the same slogan features a female athlete strenuously exercising at a boot camp. She also refreshes herself at the end of a workout by, again, pouring a beer labeled, "Extremely Light Beer," over her head. The line also appeared on the Miller Lite website.

Miller Lite competitor, AB InBev, took issue with the commercials because it argued that the videos falsely disparage Michelob Ultra and other light beers by claiming that consumers find them to be tasteless or having a taste similar to water. It also argued that the can labeled, "Extremely Light Beer," had a similar shape and color to its popular brand Michelob Ultra. AB InBev further challenged that the ads falsely denigrated the entire light beer category by communicating that competing light beers are of little or no value to drink, and are only good for pouring out of the can to shower oneself as with water.

### Challenge

In 2023, AB InBev brought these arguments to the National Advertising Division (NAD) of BBB National Programs. NAD provides independent self-regulation and dispute resolution services, guiding the truthfulness of advertising across the US. It also reviews national advertising in all media and its decisions set consistent standards for advertising truth and accuracy, delivering meaningful protection to consumers and leveling the playing field for business.

Specifically, AB InBev initiated a Fast-Track SWIFT challenge to get Molson Coors to discontinue the claim that, "Light beer shouldn't taste like water. It should taste like beer." A Fast-Track SWIFT challenge is an expedited process designed for single-issue advertising cases and not a review of any potentially implied messages of a general taste preference.

In response to the AB InBev's arguments, Molson Coors said that the challenged tagline was not an express claim but rather a subjective opinion about what beer should and should not taste like which cannot be objectively proved or disproved. The advertiser also contended that the statement was "puffery" because it is not sufficiently specific and

material enough to create expectations in consumers. Puffery is typically defined as an exaggerated claim that most people would recognize as subjective on behalf of the advertiser. For example, “we’re the best,” or our products have “better ingredients,” are claims that many would view as boastful. Puffery is generally considered protected speech in advertising and not subject to the need for empirical substantiation.

### Initial Ruling

After reviewing the ads and listening to arguments on both sides, the NAD recommended that Molson Coors discontinue the claim in question. The activity depicted—athletes cooling off their bodies by showering themselves with a can of light beer rather than drinking it—is exaggerated and humorous, but it speaks to the attribute of taste and serves to bolster the specific message about other light beers tasting “like water.” Therefore, the NAD determined, that the claim cannot be considered puffery or mere opinion.

Although no specific competing light beer is identified by name in the challenged videos, NAD determined that tasting “like water” is a measurable attribute. As such, reliable sensory testing could demonstrate whether consumers detect a watery taste or the complete absence of taste. Consumers may also reasonably expect that the statement is supported by evidence. Because Molson Coors did not submit evidence supporting the claim that any other light beers “taste like water,” NAD recommended that the claim be discontinued. In the past, NAD has ruled that claims about foods or beverages having a bad taste or no taste require substantiation.

NAD said that Molson Coors can make other claims relating to consumers’ taste preferences, or other claims pertaining to the taste qualities of its beers or competing beers, as long as those claims are truthful and not misleading.

### Appeal

Molson Coors was disappointed with the ruling. They stated: Molson Coors “disagrees with the decision and recommendation of the National Advertising Division and will appeal the decision to the National Advertising Review Board,” based on our belief that, “the ads do not expressly identify Michelob Ultra or any other light beers,” and we should not be precluded from publicly sharing our “opinion” that light beer should not taste like water.” They continued, “It is our firm belief – one we believe is shared by our customers – that light beer should not taste like water, and we should not be precluded from sharing that opinion.”

As Molson Coors mentions, there is a route for advertisers to pursue if they believe the initial verdict is unfair. The National Advertising Review Board (NARB) is the appellate body for BBB National Programs’ advertising self-regulatory programs. NARB’s panel members include 85 distinguished volunteer professionals from the national advertising industry, agencies, and public members, such as academics and former members of the public sector. NARB serves as a layer of independent industry peer review that helps engender trust and compliance in NAD and other areas under its purview.

### Resolution

Unfortunately for Molson Coors, after a full review of the case, the NARB upheld the initial ruling. They agreed that within the challenged ads, the ad slogan is not puffery, but it is a comparative claim requiring substantiation in the form of a well-conducted consumer taste test. The NARB panel further concluded that, in context, the compare-and-contrast visuals and voiceover placement of the slogan likely communicates a comparative claim to at least a significant minority of reasonable consumers.

After the appeal ruling, Molson Coors said it supported the NAD and NARB self-regulatory process and will comply with the recommendation of the NARB. It did note, however, the change would be limited to the two challenged advertisements. They also noted that they respectfully continue to believe that the phrase, “Light beer shouldn’t taste like water. It should taste like beer,” is puffery, even in this context. Finally, Molson Coors notes that this decision does not impact its longstanding “more taste” claim, which NAD upheld in a prior challenge.

### Questions

- Did you see the commercials discussed in this case? If so, what was your impression?
- In your opinion, does the Miller Lite claim imply that most light beers taste like water?
- How would you have ruled if you were the NAD or NARB? Explain why.
- Is it better for voluntary business organizations to adjudicate these claims—and advertisers adhere to them—or should the government get involved?

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### What is BBB National Programs

BBB National Programs, a non-profit organization, is the home of U.S. independent industry self-regulation, currently operating more than a dozen globally recognized programs that have been helping enhance consumer trust in business for more than 50 years. These programs provide third-party accountability and dispute resolution services that address existing and emerging industry issues, create a fairer playing field for businesses, and a better experience for consumers. BBB National Programs continues to evolve its work and grow its impact by providing business guidance and fostering best practices in arenas such as advertising, child-and-teen-directed marketing, data privacy, dispute resolution, automobile warranty, technology, and emerging areas. To learn more, visit [bbbprograms.org](http://bbbprograms.org).