

**NARB PANEL #315 – March 20, 2023**

**Appeal of NAD’s Final Decision #7183 Regarding Claims for  
Molson Coors Beverage Company, Miller Lite**

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## REPORT OF NARB PANEL 315

Decision Issued: March 20, 2023

### Appeal of NAD's Final Decision #7183 Regarding Claims for Molson Coors Beverage Company, Miller Lite

The advertiser is Molson Coors Beverage Company (“Molson Coors” or “Advertiser”), which owns Miller Lite. The challenger is Anheuser-Busch Companies LLC (“A-B” or “Challenger”), which owns Bud Light and Michelob Ultra.

A-B challenged Molson Coors’s advertising claim that “light beer shouldn’t taste like water. It should taste like beer,” which the National Advertising Division (“NAD”) recommended be discontinued (Case # 7183, 2/03/2023). The claim appeared in two 15-second advertisements promoting Miller Lite that ran on television early last year and still appear on the Miller Lite website.

#### A. Background/SWIFT Appeal

NAD’s Decision in this matter was issued as part of NAD’s Fast Track SWIFT procedures. Footnote 1 in NAD’s Decision contains a useful summary of SWIFT proceedings, which are limited to challenges that involve “a single, well-defined issue . . . that does not require review of complex legal arguments or evidence.” The question of whether a challenged claim is appropriate for review in a SWIFT proceeding is determined by NAD and is not reviewed by NARB.

#### B. Discussion

The basic issue is whether or not the slogan “light beer shouldn’t taste like water. It should taste like beer,” is considered “puffery” as the advertiser argues, or is a comparative claim about competing light beers that lacks substantiation and is misleading, as the challenger argues and NAD found.

The advertiser argues that the challenged statement that light beer should not taste like water but should taste like beer is an opinion and truism – puffery. The advertiser states that the two ads depicting athletes pouring a can of a generic “extremely light beer” over their heads are humorous exaggerations illustrating its opinion. The opinion is used to emphasize its unchallenged slogan that Miller Lite has “more taste.”

The advertiser argues that consumers will understand that “by comparing itself to a fictional beer that is so watery as to be dumped on your face after exercise, Molson Coors makes the humorous and obviously exaggerated point that Miller Lite will not chase the evermore-light concept at the

expense of taste.” The advertiser argues that “no reasonable consumer will think that the statements [Light beer shouldn’t taste like water. It should taste like beer], in the context of the two challenged ads, is a factual claim that competing beers actually taste like water,” which would require substantiation.

The challenger argues and NAD found that the ad slogan is not puffery but is a comparative claim requiring substantiation in the form of a well-conducted consumer taste test. The challenger argues and NAD found that the claim, although humorous and exaggerated, conveys to reasonable consumers that competing light beers have a watered-down taste or no taste at all. The challenger argues that the light beer “tastes like water” statement is not mere puffery when placed in the context of the 15-second commercials using a generic “extremely light” labeled beer can that mimics a Michelob Ultra beer can in color and shape, and then contrasts that can with the Miller Lite beer can while the screen and voiceover states “more taste.” The challenger argues and NAD found that a comparative claim regarding a key attribute (taste) of a food/drink product or an entire category of competing food/drink products requires substantiation.

NAD recommended the claim “Light beer shouldn’t taste like water. It should taste like beer,” be discontinued and the advertiser brought this NARB appeal.

### **C. Panel Findings**

The panel agrees with NAD and the challenger that in the context in which it is used in the challenged ads, the ad slogan is not puffery but is a comparative claim requiring substantiation in the form of a well-conducted consumer taste test. The panel finds that the advertiser did not provide substantiation for the claim nor did it provide any consumer research regarding its argument that reasonable consumers would *not* take away a comparative claim.<sup>1</sup> In addition, the panel finds the challenger’s evidence that the advertiser’s intent was “to take a jab” at the challenger’s brand as part of a long-running advertising rivalry targeting existing beer drinkers ages 25 to 45 relevant in determining whether a comparative claim would likely be conveyed to reasonable consumers.

In the context of the two commercials challenged, the panel concludes that the compare-and-contrast visuals and voiceover placement of the slogan at issue likely communicates a comparative claim to at least a significant minority of reasonable consumers. The panel finds that the ads’ voiceover stating “light beer shouldn’t taste like water” while depicting pouring a royal blue slender can of “extremely” light beer (“extremely” being a synonym for “ultra”) over the athlete’s head, followed by a close-up screen shot of a can of Miller Lite while the voiceover states “light beer should taste like beer; more taste” in one ad, and “more taste” in the other ad, creates a comparative claim requiring substantiation.

<sup>1</sup> The NARB panel notes that nothing in NAD’s SWIFT procedures prevents an advertiser from presenting non-complex substantiation evidence or consumer research in its defense.

The panel recognizes and agrees with NAD that nothing in this decision precludes the advertiser from making claims relating to consumers' taste preferences or other claims pertaining to the taste qualities of its beers or competing beers as long as they are properly substantiated.

**D. Conclusion and Recommendation**

The Panel recommends that Molson Coors discontinue the claim "light beer shouldn't taste like water. It should taste like beer," in the context of the two challenged advertisements.

The Panel thanks Molson Coors and A-B for participating in industry self-regulation in the interests of promoting truth in advertising.

**E. Advertiser's Statement**

Molson Coors supports the NAD and NARB self-regulatory process and will comply with the recommendation of the NARB. Molson Coors appreciates the significant change that NARB made to NAD's recommendation to expressly note that the recommendation is limited to the "context of the two challenged advertisements." Notwithstanding, Molson Coors continues to disagree that the phrase "light beer shouldn't taste like water. It should taste like beer" is anything but 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.