



Case Report

1	Case Number	0042/13
2	Advertiser	Subway Franchisee Advertising Fund
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	13/02/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.1 (a) - Misleading / deceptive

DESCRIPTION OF THE ADVERTISEMENT

The ad starts off to reveal a bright yellow egg yolk rising from the bottom of the screen (like a sunrise) with a voice over saying "Breakfast Dan's Way." A cooked egg is cut in half and placed on top of the bacon on the sub and cheese is shown being placed on top followed by tomato relish being lifted from a bowl.

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

My Partner and I object to this ad as we believe it is false advertisement. The ad advises that their new breakfast sub has poached eggs and shortcut bacon- upon us trying the new sub we were greeted by powdered atrocities definitely not 'poached' as their ad describes. We believe this is misleading and disappointing and a poor representation of product.

THE ADVERTISER'S RESPONSE

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

The new Bacon, Poached Egg and Cheese Subway® Footlong Sub is made using whole cooked eggs from Sunny Queen. The whole eggs have no other ingredients and are made

from fresh Sunny Queen eggs. The footage of the eggs displayed in the advertisement are of the actual real whole egg product used in store. No health or nutritional claims were made in the advertisement.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Board noted the complainant’s concerns that the advertisement is misleading in its depiction of real eggs being used to make the breakfast sub.

The Board viewed the advertisement and noted the advertiser’s response.

The Board noted that the product advertised is food and that therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply. In particular the Board considered section 2.1 of the Food Code which provides: 'Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.'

The Board noted the complainant’s concerns that the advertisement shows a real egg being used whereas the complainant believes that the breakfast sub contains powdered eggs. The Board noted the Advertiser’s response that only whole fresh eggs are used in Subway’s breakfast subs and considered that as Subway have confirmed that they do not use powdered eggs in their breakfast subs the advertisement is presenting a depiction of the product which is not misleading or deceptive but is an accurate representation.

Based on the above the Board considered that the advertisement did not breach Section 2.1 of the Food Code.

Finding that the advertisement did not breach the Food Code the Board dismissed the complaint.