



ADVERTISING
STANDARDS
BUREAU

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Case Report

1	Case Number	0038/14
2	Advertiser	Brumby's Bakeries Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	26/02/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

The Advert introduces Brumby's new Get Active range of products and features a variety of different breads. In particular, and as mentioned above, a statement is made in the Advert (from 16 seconds of the enclosed electronic copy) which says: "...just one serve of this [Brumby's] Swiss Soy and Linseed [Loaf] contains more protein than an egg", (the "Statement"). Simultaneously, there is:

- close up footage on the screen of a person cutting slices of the Brumby's Bakery Swiss Soy and Linseed Loaf; and
- a disclaimer is displayed on the bottom of the screen which reads "**See in-store for specific benefits of each Get Active Range loaf."

THE COMPLAINT

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

This cannot be true from the Nutritive Values of Australian Foods.

1 egg- whole, hard boiled contains approx. 13.2g per 100 g or 6.3g per average serve which is 48g.

1 slice of mixed grain bread contains on average about 10.1g per 100g or 2.8g per average serve, 28g slice.

Also the quality of the protein is different with egg protein considered the gold standard from which other proteins are judged. No plant protein can be considered a complete protein which is mischievously implied in the advertisement.

I request that Brumby's for the record tell the viewing public what the Australian analysed figures are for their advertised bread and to withdraw the advertisement after an apology.

THE ADVERTISER'S RESPONSE

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

We refer to your letter dated 31 January 2014 advising of the complaint received by the Advertising Standards Bureau about the Brumby's Bakery television advertisement introducing its "Get Active" range of bread products (the "Advert").

Brumby's Bakery ("Brumby's") takes its responsibilities under the AANA Advertiser Code of Ethics seriously and we thank the Board for giving Brumby's an extension of time to properly consider and respond to the Complaint.

In summary, the Complaint alleges a statement made in the Advert in that one serve of a particular bread product contains more protein than an egg - is untrue. It appears to infer a breach of clause 2.6 of the AANA Code of Ethics ("Code of Ethics") We respectfully reject this claim.

Clause 2.6 of the Code of Ethics states that:

Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety. We note community standards are those standards as determined by the Board prevailing at the relevant time.

The Advert

The Complaint relates to an alleged statement within the Advert that '1 slice of grain bread had more protein than an egg'. We would respectfully submit that the Advert does not contain the statement alleged. The correct statement within the Advert, of which, is supported by appropriate scientific evidence meeting the requirement of the Australian New Zealand Food Standards Code, states that '...just one serve of this Swiss Soy and Linseed contains more protein than an egg' and depicts the promoted product being sliced.

We respectfully submit this statement is true and cannot reasonably be categorised as deceiving or misleading current community expectations on health.

On the contrary the statement is:

- a) specific to the promoted product, being the Brumby's Bakery Swiss Soy and Linseed Loaf;*
- b) an accurate statement as it relates specifically to that promoted product;*
- c) communicated in a manner appropriate to the level of understanding of the target audience;*
- d) presented in a non misleading and non deceptive manner clearly understandable by the average consumer; and*
- e) as aforementioned, is supported by appropriate scientific evidence meeting the requirement of the Australian New Zealand Food Standards Code.*

We elaborate on these matters below, addressing the information as requested by the ASB in its letter dated 31 January 2014.

Target audience

The Advert has been made to target a broad appeal amongst the general community.

With respect to the AANA Code for Advertising and Marketing Communications to Children, it is

submitted that the Advert is not predominately directed to, targeted towards nor has a principal appeal to children.

Brumby's is not a signatory to either:

- a) the Australian Food and Grocery Council Responsible Children's Marketing Initiative; or*
- b) the Australian Quick Service Restaurant Industry Code for Responsible Advertising and Marketing to Children.*

Substantiation of the Statement in question

1) Protein in the Brumby's Bakery Swiss Soy and Linseed Loaf

Brumby's engaged the services of Advanced Analytical Australia Pty Ltd (AAA) to conduct independent laboratory testing of its new Get Active product range.

AAA is a reputable company which provides chemistry, microbiology and DNA-based analytical testing services, to customers in the Environmental, Food, Agrichemical and Biopharmaceutical market sectors. The testing conducted by AAA complies with the Australian New Zealand Food Standards Code.

A Report of Analysis and in particular relating to the laboratory test results of the Swiss Soy and Linseed Loaf being laboratory reference A13/2075/2 is available.

The Board will note that the protein contained in the Swiss Soy and Linseed Loaf (A13/2075/2) is 17.0g per 100g. This means that each serve of the Brumby's Bakery Swiss Soy and Linseed Loaf contains the following protein:

<i>Serve</i>	<i>Protein</i>
<i>Swiss Soy and Linseed Loaf – sandwich serve ie 2 slices (68g)</i>	<i>11.6g per serve</i>

<i>Swiss Soy and Linseed Loaf – toast serve ie 2 thicker slices (87g)</i>	<i>14.8g per serve</i>
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2) Protein in an egg

Brumby's obtained their data in relation to the egg from the Food Standards Australia New Zealand ("FSANZ") database.

FSANZ is an independent statutory agency established by the Food Standards Australia New Zealand Act 1991 who is part of the Australian Government's Health portfolio. FSANZ maintain 3 different databases relevant to nutritional information being:

- a) NUTTAB;*
- b) AUSNUT; and*
- c) Nutrition Panel Calculator.*

Comments relating to the Complaints themselves

1) Paragraph 1 – Incorrect extract of Statement

The Statement as summarised by the Complainant is incorrect in that the Advert refers to:

- a) 1 serve of the product (as opposed to "1 slice" as stated by the Complainant); and*
- b) a specific product being the Brumby's Bakery Swiss Soy and Linseed Loaf (as opposed to "grain bread" as stated by the Complainant). Brumby's Bakery does not have a product called "grain bread".*

The Complainant has stated that the Statement cannot be true from the "Nutritive Values of Australian Foods". Brumby's is not aware of nor has any knowledge of the "Nutritive Values of Australian Foods" method of calculating nutritional values of food or any official Australian organisation with that title.

As mentioned above, Brumby's has relied on its own independent laboratory testing of its

products to enable it to make the Statement in question.

2) Paragraph 2 – Nutritional breakdown of average egg

We cannot confirm or deny the Complainant's data in relation to the protein in an egg, although the board will note that the claim is not materially different to the data collected by Brumby's as referred to above.

3) Paragraph 3 - Nutritional breakdown of generic mixed grain bread Brumby's cannot comment on the nutritional breakdown of the "mixed grain bread" referred to because:

a) the Complainant refers to the nutritional value of 1 slice of unidentified "mixed grain bread";

and

b) as mentioned above, Brumby's does not and has not stocked a product called "mixed grain bread". As such, Brumby's submits that the Complainant has referred to a generic nutritional breakdown of an unidentified "mixed grain bread" which is not a Brumby's product.

The Board will note that the Advert specifically and clearly refers to 1 serve of the Brumby's Bakery Swiss Soy and Linseed Loaf in order to obviously distinguish this product from any other "mixed grain" generic bread.

4) Paragraph 4 – Quality of protein

The Board will note that the Advert does not comment on the quality of protein and does not imply any reference to such matter hence Brumby's respectfully submits that the Complainant's comment is not warranted.

Irrespective of the above, Brumby's notes that the quality of protein is the subject of on-going scientific research and to date the Australian New Zealand Food Standards Code does not require the nutritional information panel on food product labels to include the breakdown of the quality or type of protein contained in food products. In addition, Protein is defined in the English Oxford Dictionary as:

"any of a class of nitrogenous organic compounds which have large molecules composed of one or more long chains of amino acids and are an essential part of all living organisms, especially as structural components of body tissues such as muscle, hair, etc., and as enzymes and antibodies: 'a protein found in wheat' 'animal proteins'.

We respectfully submit that Brumby's has referred to the word protein in the usual and ordinary manner which is understood by the general public as being something arising from sources such as meat, fish, nuts, grains, dairy products and beans.

5) Paragraph 5 – Complainant's request for withdrawal of advertisement

Brumby's is not aware of the measure of "Australian analysed figures" however we invite the Complainant's attention to our website www.brumby's.com.au which contains the nutritional data for all of the Brumby's products.

The Board will note that this information is easily accessible and clearly legible for the general public For ease of reference, an example of the nutritional information currently available on the Brumby's website. For the reasons provided above, Brumby's does not consider that the Advert contravenes the AANA Advertiser Code of Ethics and respectfully submits that:

a) an apology is unnecessary; and

b) the Advert is not required to be withdrawn.

In Summary

Brumby's has invested substantial resources in the testing and development of its new, exciting Get Active range of products, including, but without limitation, engaging (in the usual course of business) the services of an independent food laboratory analyst to ensure that the nutritional content provided to its customers are factually correct prior to the launch of the Get Active product range to customers.

As a result of this prior testing and development process, Brumby's is confident that the particular statement in question is factually correct and Brumby's does not consider that the Advert contravenes section 2 of the AANA Advertiser Code of Ethics.

Brumby's takes a responsible approach in informing its customer base and has taken every care to ensure compliance with relevant advertising codes.

In closing, as mentioned above, Brumby's takes its responsibilities to comply with the relevant advertising codes (including the AANA Advertiser Code of Ethics) seriously and does not consider the Advert to in any way mislead or deceive viewers. There is, simply put, no inaccurate information (intentional or otherwise) in the Advert.

It is noted that Brumby's has not to date received any complaints directly from any customer or viewer of the Advert.

We respectfully maintain that the material complained does not contravene section 2 of the AANA Advertiser Code of Ethics and given the foregoing; we request that the complaint be duly dismissed.

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 concern that the advertisement is misleading in its suggestion that one slice of Brumby's grain bread has more protein than an egg and misleading in making a comparison between protein content of bread versus eggs.

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 advertiser's response that the actual wording of the advertisement is that 'one serve' of the advertised product (not 'one slice') is compared to an egg and that the product advertised is Swiss Soy and Linseed Loaf rather than a 'grain bread'.

The Board noted that the advertisement states: 'just one serve of this swiss soy and linseed contains more protein than an egg.'

The Board noted the nutritional information provided by the advertiser specifically:

The NUTTAB 2010 data that one whole chicken egg contains 6.4g per serve or 12.7 g per 100g

- Product information from the Brumby's website that one serve of the Swiss Soy and Linseed contains 11.6g of protein per serve and 17g of protein per 100g (with higher quantities for the toast slice version)

- One serve of the bread is described as being 68g (for the sandwich slice) or 87g (for the toast slice)

The Board considered that the key issue is whether the advertisement represents a 'serve' in a manner that would amount to a misleading impression. The Board noted that at the point of the advertisement that the protein comparison is made there is a reference to 'one serve' and an image of bread being sliced, with two slices having already been cut.

The Board considered that the advertisement does not refer to a 'slice' of bread, nor does it depict the bread in a way that suggests that a serve is one slice. The Board considered therefore that, on the basis that the advertiser has correctly stated the protein content of the bread, the statement 'just one serve of this swiss soy and linseed contains more protein than an egg' is correct and the manner in which is presented does not misleadingly suggest that one service of the product is one slice.

The Board considered that the wording of the claim that a serve of the advertised product contains more protein than an egg is accurate based on the nutritional analysis provided by the advertiser and considered that this information is presented in a clear manner which is not likely to mislead or confuse the average consumer.

The Board also noted that the advertisement states that a loaf of bread is made with 100% Aussie wheat, and that the Get Active range features loaves that are preservative free ... low GI and high fibre .'

The Board also noted the complainant's concern that the advertisement is misleading in its comparison of soy protein with egg protein. The Board considered section 2.4 of the Food Code which requires that: Advertising or marketing communications for food or beverage products which include nutritional or health related comparisons shall be represented in a non-misleading and non-deceptive manner clearly understandable by an Average Consumer.'

The Board considered the Australian Dietary Guidelines and noted that the background to these Guidelines made numerous recommendations regarding the importance of protein to diets however the Guidelines do not appear to differentiate between various sources of protein. The Board noted that both eggs and grain products are recommended for daily consumption and are both sources of protein.

The Board considered that the comparison between egg protein and protein in the bread was not misleading and was easily understood by an average consumer.

The Board determined that the advertisement did not breach Section 2.1 or Section 2.4 of the Food Code.

Finding that the advertisement did not breach any other provisions of the Food Code the Board dismissed the complaint.