



**Ad Standards** Community Panel  
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Advertising Standards Bureau Limited  
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# Case Report

1	<b>Case Number</b>	<b>0059/19</b>
2	<b>Advertiser</b>	<b>Campbell's Australia</b>
3	<b>Product</b>	<b>Food and Beverages</b>
4	<b>Type of Advertisement / media</b>	<b>Transport</b>
5	<b>Date of Determination</b>	<b>06/03/2019</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

Food and Beverage Code 2.1 (a) - Misleading / deceptive  
Food and Beverage Code 2.1 (b) - Contravenes community standards  
Food and Beverage Code (Children) 3.1 misleading/urgency/price minimization  
Advertising to Children Code 2.02 Factual presentation

## DESCRIPTION OF THE ADVERTISEMENT

The transport advertisement features an image of the Shapes box and the words "This summer, open something real."

## THE COMPLAINT

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

*This advertisement was on the side of a designated school bus that was parked outside a primary school. Hundreds of children would have seen this ad that has simple language and visuals that would appeal. Arnott's Barbecue shapes are not a healthy choice (Health Star Rating of 2) therefore should not be marketed to children.*

*The words 'This summer, open something real' appear on the advertisement. This is blatantly misleading and deceiving, as the ingredients are far from 'real' would be considered a highly processed product. Children that read this poster would be*



*mislead that this product is healthy.*

*Furthermore I am outraged that the Health Star Rating (which usually appears on the box in the supermarket) has been omitted from the advertisement. The Health Star Rating is a simple and easy to use food labeling system that both adults and children can identify what is healthy and not healthy. This is an obvious omission on Arnott's part as they don't want to alert people to the fact that this product is a discretionary product and not part of the plate on Australian Guide to Healthy Eating. Very misleading and very disappointing.*

#### **THE ADVERTISER'S RESPONSE**

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

*The original advertisement (outdoor advertising) was displayed on the side of a public bus. It says, "This summer, open something real." We do not consider the advertisement makes any health or nutrition claims. We will address the issue of ingredient claims below in direct response to the various Code sections identified in page 5 of your letter.*

*You have also asked us to address Section 2 of the AANA Advertiser Code of Ethics.*

##### *Section 2.1*

*The advertisement does not discriminate against or vilify any person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.*

##### *Section 2.2*

*The advertisement does not contain any sexual content.*

##### *Section 2.3*

*The advertisement does not contain any violence.*

##### *Section 2.4*

*The advertisement does not contain any sexual references or nudity. Section 2.5*

*The advertisement does not contain any strong or obscene language.*



## *Section 2.6*

*The advertisement does not depict material contrary to Prevailing Community Standards on health (further detail below) and safety.*

## *Section 2.7*

*The advertisement is clearly branded using the names and logos of Arnott's and Shapes, and we submit is clearly distinguishable as advertising.*

*Food and Beverage Code sections 2.1 & 3.1 and Advertising to Children Code section 2.2*

*We do not agree with the complainant's stance that this poster is an advertisement "directed primarily at children". With regard to the relevant AANA Practice Note, we note this poster (and the "Open Something Real" campaign as a whole): is directed to the general grocery-buying public;*

- advertises a product that is enjoyed generally by families and adults;*
- does not use children's themes or characters;*
- does not utilise a child's perspective;*
- does not utilise any storyline, let alone one would appeal to children;*
- does not utilise visuals that would appeal specifically to children;*
- does not utilise any actors or characters, let alone any aged under 15; and*
- includes a call to action to the general public including families and adults.*

*We made enquiries of APN Outdoor and were informed that our advertising material for bus sides was placed into general distribution for public buses. APN Outdoor advises that public buses may occasionally be used for school routes, if the need arises. They are not able to track where a particular poster goes for advertisers through the bus route system, and cannot guarantee that a poster appearing on a public bus will never be used on a school route, because the buses are deployed to meet public transport demands as they arise. Consequently, in addition to the reasons outlined above, we believe it unreasonable to characterise this poster as an "advertisement directed primarily at children" because the bus carrying it has allegedly been used for a school route (possibly only once).*



*Nonetheless, in order to provide a thorough reply, we address the specific concerns raised under these Code sections below.*

*The complainant alleges that the words “open something real” are misleading and deceptive, because a processed food product cannot be “real” and because*

*readers/children will interpret this line as a statement that the food is healthy. We disagree with both assertions. The line makes no reference at all, either express or implied, to the healthfulness of the product.*

*We submit that processing an ingredient does not make it less “real”. Many, if not most, natural ingredients are processed in some way to enable safe and/or palatable consumption – for example the milling of wheat, extraction of sugar from sugarcane, pasteurisation of milk, and the cooking of meat.*

*We chose the tagline “Open something real” to emphasise the traditional and original taste of Arnott’s products that Australians have grown up with and loved for decades. There are a number of copycat products (e.g. Aldi Snakos) in the market now, and we believe this line reminds consumers that their Arnott’s favourites are the genuine article – the real deal, in other words.*

*The complainant also alleges that the omission of the Health Star Rating from the poster is misleading and deceptive. Health Star Rating labelling is currently voluntary. Arnott’s has done a lot of work to roll out the Health Star Rating across many of its packs, including Barbecue Shapes. The Health Star Rating has been omitted on pack shots in some advertising to “clean up” the look of the packaging (for aesthetic value), and where it would be unclear or illegible in certain formats. If Arnott’s wanted to “hide” the Health Star Rating of Barbecue Shapes, it would not have voluntarily placed it on pack, where it has the most impact (consumers can see the Rating at the point of selection and purchase). We however note the complainant’s outrage and will be more mindful of including actual pack shots in future advertising.*

#### *Food and Beverage Code section 2.2*

*The complainant alleges that the advertisement should not have been placed in view of children, presumably because this is contrary to Prevailing Community Standards. With reference to the Code, we do not believe the advertisement breaches Section 2.2. In no way does the advertisement undermine the importance of a healthy lifestyle or a balanced diet. Nor does it encourage excess consumption. Arnott’s Shapes are commonly found at social gatherings in summer such as pool parties and barbecues. We do not consider that the occasional enjoyment of Shapes in such settings represents behaviour that is contrary to Prevailing Community Standards.*

*As explained above, the advertisement was not deliberately placed on a bus*



*designated for school routes. It was placed into the general advertising pool for public buses, which are occasionally used for school routes. We do not consider that such action is contrary to Prevailing Community Standards.*

## **THE DETERMINATION**

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (the Children's Code), the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code), and the AFGC Responsible Children's Marketing Initiative of the Australian Food and Grocery Council (the AFGC RCMI).

The Panel viewed the advertisement and noted the advertiser's response.

The Panel noted that Campbell's Australia is a signatory to the RCMI. The Panel first considered the provisions of the AFGC RCMI. The Panel noted that the medium the subject of complaint is transport, and that this is not a medium which falls within the scope of the AFGC RCMI.

The Panel noted that the product advertised is a packaged food product and that therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply. In particular the Panel considered section 2.1 of the Food Code which provides:

*"Advertising or Marketing Communications for Food or Beverage Products 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 Panel noted that this transport advertisement features a box of Shapes Originals with the wording "This summer open something real. There is no substitute" and features the Arnott's logo.

The Panel noted the complainant's concern that the advertisement not containing health star rating was misleading consumers about the healthiness of the product.

The Panel noted the advertiser's response that the health star rating has voluntarily been added to packets of Shapes in store, however was removed from the advertising for aesthetic value, not with the aim to mislead consumers. The Panel also noted the



advertiser's response that they would be more mindful of including actual pack shots in future advertising.

The Panel noted there is no requirement under the Food Code for advertisements to contain Health Star ratings, and the omission of these ratings on its own is unlikely to be seen as misleading or deceptive or otherwise contravene Prevailing Community Standards.

The Panel then noted the complainant's concern that the advertisement is misleading and deceiving as the ingredients for the product are highly processed and not 'real'.

The Panel noted the advertiser's response that the advertisement does not make any statements about the health of the product and the statement 'open something real' was emphasising the traditional taste of a real Arnott's product.

The Panel then considered the use of the word 'real'. The Panel considered that the advertisement does not make any reference to ingredients and that there is no suggestion that the word 'real' is in relation to the ingredients of the product being advertised. The Panel considered that the wording 'there's no substitute' in combination with the phrase 'open something real' creates an overall impression that the advertisement is referring to the taste of the brand name product in comparison to similar products from competitors, rather than a reference to the products ingredients.

The Panel considered that the advertisement did not contain any statements about ingredients or nutritional value of the product, and was therefore not misleading or deceptive and did not otherwise contravene Prevailing Community Standards.

The Panel determined that the advertisement did not breach Section 2.1 of the AANA Food Code.

The Panel then considered Section 3.1 Of the Food Code which provides:

"Advertising or Marketing Communications to Children shall be particularly designed and delivered in a manner to be understood by those Children, and shall not be misleading or deceptive or seek to mislead or deceive in relation to any nutritional or health claims, nor employ ambiguity or a misleading or deceptive sense of urgency, nor feature practices such as price minimisation inappropriate to the age of the intended audience."

The Panel noted the complainant's concern that the advertisement advertises a food that is not a healthy choice to children in a way that may mislead them into believing the product is a healthy choice.



The Panel first considered whether the advertisement was Advertising or Marketing Communications to Children. The Panel noted the definition:

“means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for a Children’s Food or Beverage Product”

The Panel also noted the Definition of a Children’s Food or Beverage Product:

“means any food or beverage product other than alcoholic beverages as defined in and subject to regulation by the Alcohol Beverages Advertising Code, which is targeted toward and has principal appeal to Children.”

The Panel considered the theme of the advertisement was to promote the taste of original Shapes product over non-brand substitutes. The Panel considered that this was a theme which may appeal to children, however would be more likely to appeal to an older audience.

The Panel considered that the main visual in the advertisement was a picture of the product and considered that this was a visual that would be of general appeal and was not directed primarily to children.

The Panel then considered the language of the advertisement. The Panel considered that the advertisement did not use childlike language and did not directly address children. The Panel considered the language of the advertisement would be of general appeal and was not directed primarily to children.

The Panel considered the Product advertised is Arnott’s Shapes and that this is a Product which would be considered to have general appeal to both adults and children, and is not a product which is targeted towards and has principal appeal to children.

Finding that the advertisement was directed primarily to Children, and was not for a product targeted towards and of principal appeal to Children, the Panel considered that Section 3 of the Food Code did not apply.

The Panel then considered whether the advertisement complied with the Children’s Code. The definition of “advertising and marketing communications to children” in the AANA Children’s Code is: Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and



are for Product. '

For the same reasons noted above the Panel considered that this advertisement, considering its overall impact and the theme, visuals and language used are not directed primarily to children and it is not for a Product of principal appeal to Children. The Panel therefore considered that the AANA Children's Code did not apply.

Finding that the advertisement did not breach the Food Code or the Children's Code on other grounds, the Panel dismissed the complaint.



