



Case Report

1	Case Number	0192/17
2	Advertiser	Primo Smallgoods
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	10/05/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts a family's house on a typical Saturday morning. It starts with the kids and the mum entering the house after coming from Saturday sports. They see their little brother/ youngest son and dad in the kitchen, preparing breakfast with dad cooking Primo Bacon.

The house is bustling with sounds, i.e. dog barking, kids telling their dad about how they played that morning, sizzling bacon, mum greeting dad and youngest son who is helping set the dining table and carrying orange juice while still in his pajamas.

The breakfast is Primo Bacon with eggs, toast and avocado set on the table. Mum takes a piece of bacon off of dad's pan while he sets up the other plates.

Next scene, breakfast is served. There is utter silence as everyone is happily enjoying their breakfast. The camera highlights the brother's and mum's reaction as they bite into the sumptuous Primo Bacon. It is apparent - they are having a Primo moment.

THE COMPLAINT

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

The inference, to me, of this line is that the Bacon is Australian. As Country of Origin Labelling laws have changed, I wonder why this statement is allowed to be made, when Primo are the biggest importers of pork for use in the manufacture of bacon in this country. For those unaware, I feel this is deceptive.

THE ADVERTISER'S RESPONSE

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

Primo Smallgoods ("Primo") respectfully disagrees with the Complainant's submission that the statement "Australia's favourite bacon" infers that the bacon is Australian.

While Primo notes Primo bacon is made in Australia from local and imported ingredients, it is submitted that the statement "Australia's favourite bacon" does not infer the bacon is Australian. Primo submits that the plain meaning and common usage of "Australia's favourite" as would be understood by the market audience is to make a preference claim, in this case to the effect that more Australian's prefer Primo to any other brand of bacon.

A few examples of recent media use of "Australia's favourite" have been included as part of this submission supporting the position that "Australia's favourite" means preferred (highest selling or most popular) and is not an indicator of the origin of the goods, services or people, as the case may be.

While not in dispute, for completeness Primo has provided quantitative market share data which shows that at the time the advertisement was broadcast, Primo had higher sales of bacon than sales achieved by any other brand.

The above substantiates the statement that Primo bacon is "Australia's favourite bacon", and the statement is therefore not misleading or deceptive.

THE DETERMINATION

The Advertising Standards Board (the "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 suggestion that Primo Bacon is Australian because their bacon is imported.

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 Food Code apply. In particular, the Board considered section 2.1 of the Food Code which states:

'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 that the advertisement depicts a family enjoying Primo Bacon for breakfast while a voiceover describes this product as "Australia's favourite bacon".

The Board noted the advertisement does not talk about the provenance of Primo Bacon and considered that the phrase, 'Australia's favourite bacon' is suggestive of people in Australia preferring this brand of bacon rather than suggesting that the bacon itself comes from Australia.

The Board noted the Practice Note to Section 2.1 of the Food Code which provides:

"The Board will not attempt to apply legal tests in its determination of whether advertisements are truthful or honest, designed to mislead or deceive, or otherwise contravene prevailing community standards in the areas of concern to this Code.

In testing the requirement that an advertising or marketing communication should be truthful and honest, the Board will consider whether the information most likely to be taken from the advertisement by an average consumer in the target market would be reasonably regarded as truthful and honest."

The Board noted the advertisement is promoting bacon and considered that the average consumer in the target market of grocery buyers would interpret the advertisement as saying that Primo's bacon is popular in Australia rather than Primo's bacon is itself Australian, and in the Board's view the complainant's interpretation of the advertisement is unlikely to be shared by the broader community.

The Board considered that the advertisement did not depict material which was misleading or deceptive and determined 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.