



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0215-20</b>
<b>2. Advertiser :</b>	<b>Campbell Arnott's</b>
<b>3. Product :</b>	<b>Food/Bev Groceries</b>
<b>4. Type of Advertisement/Media :</b>	<b>Radio</b>
<b>5. Date of Determination</b>	<b>22-Jul-2020</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Food and Beverages Code\2.1 Truthful Honest Not Misleading or deceptive

### DESCRIPTION OF ADVERTISEMENT

This radio advertisement has two versions.

Version 1 features well-known personalities Ryan "Fitzy" Fitzgerald and Michael "Wippa" Wipfli.

FITZY - Wip, what's the Aussieest thing to put on a Jatz? cheese?

WIPPA - Gotta love Jatz and cheese! But there are so many tasty options. Shake it up a bit.

FITZY - Maybe... dipping them in tzatziki or hummus?

WIPPA - Now you're talking.

FITZY - Or Jatz with spicy chorizo?

WIPPA - Yes!

FITZY - I've got it! Jatz, with a shaving of Tasmanian smoked salmon, goats cheese AND a sprinkling of capers...

WIPPA - (IN AWE) What have you been reading? I mean, you're not that fancy!

ANNOUNCER - Make your next get-together a cracker. With Jatz. They're Aussie as!



Version 2 is read by a general announcer.

"It's a fact. Aussies just love their Jatz. But what's the best thing to pop on a Jatz at your next get together? Well, the Aussie thing you can do...is to mix it up. Try Jatz with a dip, like tzatziki. Or maybe Jatz with a slice of spicy chorizo? And of course, you can't really go wrong with a Jatz topped with a humble wedge of your favourite cheese. There's nothing you can't do with Jatz. So, make your next get-together a cracker...with Jatz. They're Aussie as."

### **THE COMPLAINT**

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

*It's a short ad claiming that Arnotts Jatz are as "Australian as". I believe Arnotts is owned by an American private equity firm and I firmly believe that the main outcome from the ad by consumers would be that the product is Australian owned.. Broadcast in contrary to rules outlined in section 32 of the Trade Practices Act. I work in marketing and play by the rules. I do believe this to be 'passing off' and should be pulled.*

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

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

*I refer to your letter of 6 July 2020 and attach the requested copy of the Jatz radio advertisements in audio format.*

*The advertisement has run across Nova nationally since 15 June 2020. Outlined plan is provided.*

*The audience of the program is not predominantly children. The advertisement does not include any claims or objective statements relating to health, nutrition or ingredients.*

*The subject of the complaint is the statement that Jatz is "Aussie as."*

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

#### *Section 2.1*

*The advertisements do 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 advertisements do not contain any sexual content.*

#### *Section 2.3*

*The advertisements do not contain any violence.*

#### *Section 2.4*

*The advertisements do not contain any sexual references or nudity.*



*Section 2.5*

*The advertisements do not contain any strong or obscene language.*

*Section 2.6*

*The advertisements do not depict material contrary to Prevailing Community Standards on health and safety.*

*Section 2.7*

*The advertisement is clearly branded using Jatz throughout the script, and we submit it is clearly distinguishable to a general audience as advertising.*

*You have also asked us to address Section 2.1(a) of the AANA Food and Beverage Code.*

*The complainant alleges that it is misleading to describe Jatz (crackers) as “Aussie as” because Arnott’s Biscuits Limited is owned by KKR (the latter being an American private equity firm).*

*We reject the complainant’s position and his interpretation of this statement. The statement “Aussie as” clearly and unequivocally refers to the Jatz cracker product. It is not a reference to our wider business as a whole, much less the parent company of that business.*

*We believe our Jatz crackers are truly Australian for several reasons. All Jatz crackers are manufactured locally in our bakeries in Huntingwood (NSW) and Virginia (Queensland) and always have been. Our business has never made Jatz at a bakery outside Australia. The vast majority of Jatz crackers that we bake are sold in Australia and are consumed by Australians.*

*The recipe for Jatz was developed in Australia in the 1950s, and Arnott’s has owned an Australian trademark registration for Jatz since 1952. For decades, Jatz crackers have been loved by Australians. It is one of Arnott’s top-sellers.*

*The advertisement does not make any reference concerning nationality of corporate ownership. We reject the idea that KKR’s ownership of Arnott’s Biscuits Limited means that Jatz crackers can no longer be described as “Australian” or “Aussie”. Jatz crackers are an Australian-made snack that many Australians love and have grown up with. We submit that listeners to these advertisements would ordinarily understand the line about Jatz being “Aussie as” to mean that the biscuits were baked in Australia, that Jatz is an Australian brand, that Jatz crackers are made to an Australian recipe, and that Jatz crackers are an Aussie favourite.*

*Accordingly, we stand by these advertisements and submit that they are not misleading or deceptive.*



## **THE DETERMINATION**

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Panel noted the complainant's concern that the phrase 'Aussie as' is misleading as the Arnott's company is not Australian owned.

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

The Panel noted that the product advertised is food and that therefore the provisions of the Food Code apply. In particular the Panel 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."

In relation to section 2.1 of the Code the Panel considered the Practice Note to the Food code which provides that

"The Panel will not attempt to apply legal tests in its determination of whether advertisements are truthful and 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 not be designed to be misleading or deceptive, or otherwise contravene prevailing community standards, the Panel will consider the advertiser's stated intention, but may also consider, regardless of stated intent, that an advertisement is by design misleading or deceptive, or otherwise contravenes prevailing community standards in particular regard to stated health, nutrition and ingredient components of the food or beverage product.

"Thus, an advertising or marketing communication may make reference to one or more of the nutritional values or health benefits of a product but such references must be accurate and appropriate to the level of understanding of the target audience, and must not misleadingly represent the overall nutritional or health benefits of the product."

The Panel noted the advertiser's response that the phrase 'Aussie as' is used to describe the Jatz product, not the wider business as a whole. The Panel further noted



the advertiser's response that Jatz crackers are manufactured in Australia and have been since the 1950s.

A minority of the Panel considered the phrase 'Aussie as' could be interpreted as meaning that you could not get anything more Australian. A minority of the Panel considered that this phrase could be interpreted by a consumer to mean that the Jatz crackers are wholly Australian owned and produced, and that the phrase 'Aussie as' is therefore misleading.

The majority of the Panel considered that the phrase 'Aussie as' was not a specific claim relating to the ownership of the company, rather was an indication that the Jatz product was a uniquely Australian product. The majority of the Panel considered that this advertisement employed puffery to tap into the Australian sentiment associated with the brand, but was not making a claim about the ownership of the company which produced the product.

The majority of the Panel considered that the Jatz product is made in Australia, is sold in Australian stores and is purchased by Australians, and that it is this connection of the Jatz product that would be sufficient in the mind of an average consumer in the target audience to support the claim that the product is 'Aussie as'.

On this basis, the Panel determined that the advertisement was not misleading or deceptive and was communicated in a manner appropriate to the level of understanding of the target audience and did not breach Section 2.1 of the Food Code.

Finding that the advertisement did not breach any other sections of the Food Code the Panel dismissed the complaint.