



Case Report

1	Case Number	0229/16
2	Advertiser	Unilever Australasia
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	25/05/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement shows an Italian farmer with his cow amongst olive groves. A series of scenes show him trying to combine olives with butter, unsuccessfully. He is then seen tasting Bertolli with butter and is happy. The voiceover describes it as 'a delicious blend with butter and olive oil.'

THE COMPLAINT

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

I object because the produce is 31% vegetable oil, 21% butter and 20% olive oil. This should be advertised as a vegetable oil spread with butter and olive oil added.

THE ADVERTISER'S RESPONSE

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

*Compliance with the AANA Code of Ethics (the "Code")
Under section 2.1(a) of the Code Advertising or Marketing Communications shall not be*

misleading or deceptive or likely to mislead or deceive.

The complaint incorrectly quotes the Advertisement that Bertolli with Butter is an “olive oil and butter spread”. We submit that the Advertisement uses the product name “Bertolli with Butter” and the statement “A delicious blend with butter and olive oil” to describe the product.

Bertolli with Butter is made with 31% vegetable oils, 21% butter and 20% olive oil. The name “Bertolli” in “Bertolli with Butter” refers to the Bertolli spreads with olive oil that have been on the market for many years.

The statement “A delicious blend with butter and olive oil” represents that the product is a margarine spread blend that also contains butter and olive oil. The word “with” in this statement makes clear for consumers that the product is a blend that also contains added butter and olive oil. The Advertisement does not represent that Bertolli with Butter is a blend made from butter and olive oil only and does not contain any other oil or fat ingredients.

We submit that viewers will understand that Bertolli with Butter is a blend with added butter and olive oil. Consumers who are interested in the exact product formulation can see the ingredient list on the product label when looking at the product at a retailer. The ingredient list also clearly states that the product contains “Vegetable oils (51%) (including 20% olive oil), butter (21%) (butter fat, water, buttermilk) [...]”.

In summary, the Advertisement represents the true nature of the product and its ingredients correctly.

Conclusion

We submit that the representations in the Advertisement are not misleading or deceptive and comply with the Code of Ethics.

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 claims that the product is butter with olive oil, when it contains 31% vegetable oil, 21% butter and 20% olive oil.

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 Practice Note supporting the Food Code provides that 'The Board 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 Board 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 Board considered whether the presentation of the 'Bertolli with Butter' product, when it also contains other ingredients, is misleading. In the Board's view the advertisement does not suggest that the product is purely butter and olive oil, it is highlighting the combination of butter and olive oil without making any representation as to the other components of the product.

The Board noted the advertiser's response that the advertisement does not represent that Bertolli with Butter is a blend made from butter and olive oil only and does not contain any other oil or fat ingredients.

The Board considered that the use of the word 'with' is critical in the name of the product as it suggests that there may be other ingredients. The Board noted that consumers would be able to look at the label and see the full list of ingredients listed on the packaging and considered that an advertiser is not under any obligation to state all the ingredients in a product name providing they are listed on the packaging. This is consistent with the reasoning in Case 0225/15:

"The Board noted in particular that its role is to apply the view of a reasonable consumer and not apply a legal test".

The Board considered that the description of the product as butter with olive oil, without mentioning other ingredients, is not misleading or deceptive, as the full list of ingredients is available on the packaging.

Based on the above the Board considered that the advertisement was not misleading and 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.

