



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0274-21
2. Advertiser :	Dinnerly
3. Product :	Food/Bev Groceries
4. Type of Advertisement/Media :	Email
5. Date of Determination	13-Oct-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

This email advertisement features the text:

"Still thinking it over? We're holding your order for you, but please don't wait too long. Start today with \$80 off plus free shipping on our first box!*"

A disclaimer at the bottom of the email states:

"*\$20 off first four boxes, equalling a total of \$80 discount plus free shipping on your first box. Valid for new customers only, once purchase per customer, until 21/09/2021. Can't be combined with other offers. T&Cs of MarleySpoon PTY LTD apply."

THE COMPLAINT

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

\$80 off first box - then subtext to note the discount is over 4 boxes. It is misleading.

THE ADVERTISER'S RESPONSE

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



Advertiser did not provide a response.

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 Code).

The Panel noted the complainant's concern that the advertisement is misleading as it suggests that the \$80 discount is for the first box however is actually an \$80 discount over four boxes.

The Panel viewed the advertisement and noted the advertiser did not respond.

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

Section 2.1 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 Panel considered the Practice Note to this section of the 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 shall be truthful and honest, the Community Panel 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 Panel noted that the advertisement is sent to people who have previously expressed interest in the product by starting an order and not completing purchase.

The Panel noted that the phrase "Start today with \$80 off plus free shipping on our first box!*" includes an asterisk, and that most viewers would recognise the asterisk to mean that there are terms and conditions applicable to the offer.

The Panel noted that below the specified phrase there is a button stating "Pick Recipes" which is a link to a website, and that the terms and conditions for the offer



are directly below that button. The Panel considered that the terms and conditions are visible in close proximity to the offer.

The Panel considered that while the advertisement would benefit from better punctuation to indicate that the \$80 discount and the free shipping on the first box are two separate items, the terms and conditions are clearly visible and the Panel considered that the advertisement overall was not misleading.

Section 2.1 Conclusion

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

Conclusion

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