



## Case Report

1	Case Number	0293/15
2	Advertiser	Coca-Cola Amatil
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	12/08/2015
6	DETERMINATION	Dismissed

### ISSUES RAISED

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

### DESCRIPTION OF THE ADVERTISEMENT

The Advertisement features several scenes of everyday Australians struggling to open or eat fruit. The Advertisement contains scenes of a blender overflowing, a man trying to open a coconut by karate-chopping it with his hands, a child splitting a watermelon with a cricket bat, and a mother cutting a rockmelon with a kitchen knife. The Advertisement resolves with a hand easily peeling open an SPC Fruit Cup and taking a spoonful of peaches, with an end-frame that reads "The best way to fruit." The accompanying music is Sweet Brown's "Ain't nobody got time for that", which is a song that features in a viral internet video.

### THE COMPLAINT

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

*I feel in the current violent climate we do not need to be seeing ineffective advertising using graphic violence - mainly the knife and the rockmelon and the boy with a cricket bat. I appreciate good advertising and this is not it.*

*My objection is that the message to eat their product is 'the best way to eat fruit' where this is factually incorrect. Nutritionally eating whole fruit is far superior; this message that young children form a belief that eating fruit in pieces from a container from a supermarket shelf is healthy and better. To show people smashing rockmelons and other large fruits as the only fruit and compare this to pieces of peach in a plastic container is false.*

*My complaint with this commercial lies in the fact that it is misleading.*

*It is manipulation of truth and gives the message that packaged fruit, preserved in sugar, is the best way to eat it, when it is not.*

*This is not a debatable fact, this is truth. Raw, in its natural form is the best way to eat fruit. SPC should be ashamed to be associating their brand with this image. I do not have a problem with the company in itself, I actually quite enjoy their preserved fruit as a treat, however that is what it should be, and it should be transparently advertised as such, not labelled as "real fruit" (this is the writing on the lid) or in their commercial as "the best way to fruit". In other words they are saying, the best way to eat fruit.*

*I am coming from the perspective of a school teacher who sees every day the effects of advertisements like this on children's food choices. I am disappointed every day at the way marketing is aimed at children, to manipulate them into making unhealthy choices. They don't know any better; they are simply choosing what is appealing and what tastes best. However just because SPC tastes good, doesn't mean it is best or a replacement for real raw fruit.*

*Children are so mouldable and they don't know better, they go for what is engaging and upbeat and what tastes best. Imagine all our companies start taking this advertising technique, in the same way that American companies do! Our children will grow up believing packaged/preserved fruit is the best way to eat it. We already have a problem with obesity in this country, we don't need to add mis-advertising to brainwash children to it.*

*In addition, throughout the commercial SPC show people breaking open watermelon and rockmelon, these are not fruits they even offer in their range, so not sure what image they are trying to portray there. Overall it is a disappointing commercial.*

*I am not making this complaint because I take this lightly. I have been thinking this through and it doesn't sit right with me. I would appreciate hearing back from your team once you have reviewed the commercial.*

## **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 letters regarding the above complaints (TVC and internet) received by the ASB in respect of an SPC Ardmona Operations Limited ("SPCA") SPC Fruit Cups television commercial ("Advertisement").*

*SPCA seeks to ensure that, at all times, it complies with the AANA Advertiser Code of Ethics (the "Code"). SPCA wishes to note at the outset of this letter, that it would like to work with the Advertising Standards Bureau (the "ASB") to resolve any concerns that the ASB may have in relation to this Advertisement.*

*We understand that the ASB has received a complaint (TVC and internet) regarding the Advertisement.*

*We respectfully maintain that the Advertisement's focus is on the convenience of packaged fruit. The Advertisement does so in a light hearted manner that highlights the various*

*challenges that non-packaged fruit can present. . It is in this context that the tagline “the best way to fruit” is presented. This is further exemplified by all visuals in the Advertisement, and the accompanying music.*

*We understand that section 2.1 of the Code provides that:*

*2.1 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.*

*In our submission, the Advertisement is truthful and honest, and is not misleading or deceptive or designed to be misleading or deceptive. The Advertisement emphasises the convenience of packaged fruit products and does not, through its content or context, make any claims, implied or actual, regarding the nutritional value or health benefits of the product.*

*While we continue to maintain that the Advertisement does not focus on health claims, it is important to note that, contrary to the complainant’s submission, the SPC Fruit Cup products are not preserved in sugar. Further, we disagree that our products are inherently high in sugar. By way of example, a raw peach has approximately 8.4g per 100g of sugar, whereas a 120g pack of SPC Diced Peaches in Juice has 9.0g per 100g of sugar.*

*Further, we believe that the Advertisement does not contravene Prevailing Community Standards as it is intended to parody situations that viewers would consider comical or humorous.*

*The Advertisement’s target audience is parents who are searching for convenient, lunchbox-friendly packaged fruit that does not easily bruise or go off, and can survive a trip at the bottom of a school bag.*

*Schedules 3, 4 and 5 indicate when the Advertisement has been aired on Channels Seven and Ten to date. The target audience is grocery buyers with children between 5-12 years of age. It is apparent from the transmission reports that the TVC airs in line with the target audience’s television consumption habits. All of these times fall outside of traditional school drop off times.*

*We therefore respectfully submit that the Advertisement is not in breach of section 2 of the Code.*

*While this complaint (TVC and internet) is the only consumer complaint that we are aware of in respect of the Advertisement, we take all consumer complaints seriously and want to work with the ASB to address the complainant’s concerns.*

*Complaint*

*We understand that the ASB has received an updated complaint regarding the Advertisement.*

*The Advertisement is intended to portray humorous and comical situations with a variety of fruits as a reference to popular culture and potential situations that arise in eating fruit. It carries the general message that SPC Fruit Cups are a convenient way to eat fruit, illustrated by showing how messy and difficult it can be to open certain fruits. This intentionally avoids a more literal interpretation that our packaged peaches/pears/mangoes are strictly better than non-packaged peaches/pears/mangoes.*

*The decision to broaden the range of fruit portrayed beyond the fruits in SPC's range was based on the consideration that showing only those fruits contained in the range would invite direct comparison of that variety of fresh peach/pear/mango with our packaged version, which was not SPC's intention.*

*It is in this context that the tagline "the best way to fruit" is presented. This is further exemplified by all visuals in the Advertisement, and the accompanying music.*

*We understand that section 2.1 of the Code provides that:*

*2.1 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.*

*In our submission, the Advertisement is truthful and honest, and is not misleading or deceptive or designed to be misleading or deceptive. The Advertisement emphasises the convenience of packaged fruit products and does not, through its content or context, make any claims, implied or actual, regarding the nutritional value or health benefits of the product. The Advertisement does not make any claim that the SPC products actually contain the fruits depicted.*

*Further, we believe that the Advertisement does not contravene Prevailing Community Standards as it is intended to parody situations that viewers would consider comical or humorous.*

*The Advertisement's target audience is parents who are searching for convenient, lunchbox-friendly packaged fruit that does not easily bruise or go off, and can survive a trip at the bottom of a school bag.*

*Schedules 3, 4 and 5 (previously supplied in our response dated 21 July 2015) indicate when the Advertisement has been aired on Channels Seven and Ten to date. The target audience is grocery buyers with children between 5-12 years of age. It is apparent from the transmission reports that the TVC airs in line with the target audience's television consumption habits. All of these times fall outside of traditional school drop off times.*

*We therefore respectfully submit that the Advertisement is not in breach of section 2 of the Code.*

*We take all consumer complaints seriously and want to work with the ASB to address the*

*complainant's concerns.*

## **THE DETERMINATION**

The Advertising Standards Board (“the Board”) considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the “Code”), the AANA Food and Beverages Advertising and Marketing Communications Code (the “Food Code”), or the AANA Code for Advertising and marketing Communications to Children (the Children’s Code).

The Board noted the complainants’ concerns that the advertisement is misleading in its suggestion that SPC fruit cups are a better alternative to eating fresh fruit.

The Board viewed the advertisement and noted the advertiser’s response.

The Board first considered whether the advertisement is advertising or marketing communications to children.

The Board considered the definition of advertising or marketing communication. Under the Children’s Code, Advertising or Marketing Communications to Children means “Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product.” The Board noted that Children are defined as “...persons 14 years old or younger” and Product is defined as “...goods, services and/or facilities which are targeted toward and have principal appeal to Children.”

The Board noted the advertisement features several scenes of people struggling to open or eat fruit. The advertisement contains scenes of a blender overflowing, a man trying to open a coconut by karate-chopping it with his hands, a child splitting a watermelon with a cricket bat, and a mother cutting a rockmelon with a kitchen knife. The advertisement ends with a hand easily peeling open a SPC Fruit Cup and taking a spoonful of peaches. The text reads “The best way to fruit”, next to three SPC packs and an open SPC cup of peaches. The accompanying music is Sweet Brown’s “Ain’t nobody got time for that.”

The Board considered the theme of the advertisement (the promotion of a convenient option of packaged fruit for hard to prepare fruits).

The Board noted that the particular fruits shown as being difficult to prepare include coconut, watermelon and rockmelon. The Board noted that the depiction of the people trying to prepare these fruits is exaggerated and intended to appear humorous and light hearted. The Board considered that the overall theme is about convenience and that this is a concept directed to the main grocery buyers and is not directed primarily to children.

The Board then considered the visuals of the advertisement. The Board noted the scenes as described above. The Board noted that the scenes involve adults and children. The Board noted that the child is smashing a watermelon with a cricket bat and that this scene in particular may have some appeal to children but considered that on balance the visuals were equally as appealing to adults and was not directed primarily to children.

The Board then considered the language in the advertisement (aside from the music and lyrics). The Board noted the voiceover which is a young woman who states “new SPC fruit cups, the “best way to fruit.”” The Board considered that the voiceover in combination with the music was not directed primarily to children.

Based on the above, the Board considered that the advertisement was aimed at the main grocery buyer and may have appeal to children but was not directed primarily to children and therefore the Children’s Code and part 3 of the Food Code do not apply.

The Board then 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 Board noted the advertisement features various people struggling to open fruit: a man attempts to open a coconut with his bare hand using a karate chop, a young boy uses a bat to open a watermelon and a woman struggles to cut open a rock melon with a kitchen knife. A voiceover then says, "SPC Fruit Cups. The best way to fruit".

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 that it had previously upheld a similar complaint about an advertisement for the same product in case 0036/11 where:

"The Board noted that the advertisement shows various children using different methods to get rid of their fruit: one boy hides a banana in another boy's bag, a girl kicks her pear under a locker and two boys play cricket with an orange. The Board noted that the boys are participating in a healthy activity and that the advertisement does not encourage excess consumption of the advertised product.

The Board noted the advertiser's response that the message of the advertisement is that children do waste fruit, not that they should waste fruit, and that if children were given SPC instead there would be no waste.

The Board agreed that it can be difficult for parents to encourage children to make healthy food choices and noted that the advertised product is a fruit product. The Board noted the Australian Government, Australian Guide to Healthy Eating, which recommends that people over four eat between 1 – 5 standard serves of fruit per day. The Board noted that the Guide includes, as fruit, '1 cup diced pieces or canned fruit', followed by further recommendation '•For convenience use canned fruit as a nutritious replacement for fresh fruit, especially those varieties that are canned in natural juice or without added sugar.'

The Board noted that the advertised product in this advertisement is fruit in jelly with a fruit content of only 28%, with sugar added as a component of the jelly. The Board considered that this product would be unlikely to be seen as a substitute for a piece of fruit.

The Board noted that in its 2006 consideration of this advertisement the (then) Board had commented that 'given the current community concern as to obesity in children, the concepts presented in the advertisement endorsing processed products over fresh fruit were unfortunate.'

The Board considered that over the past five years the level of community concern in this area has increased.

The Board considered that even though it may be true that some children would prefer to throw fruit away rather than eat it, this fact should not be advertised in a manner that suggests that parents/carers replace fresh fruit with the advertised product. The majority of the Board considered that the advertisement is encouraging consumers to choose the advertised product over fresh fruit or over a product which would be consistent with dietary guidelines and is therefore contrary to prevailing community standards."

The Board noted that in contrast to the above advertisement the current matter is for the SPC product as it is packaged in juice or syrup and not in jelly and that this product is referenced as a substitute for fruit "for convenience" in the National Dietary Guidelines.

The Board noted that the advertisement is highlighting a message of convenience and a comparison between the conveniences of packaged fruit products versus fresh fruit. The Board noted the end text that states “the best way to fruit” and considered that the advertisement was not suggesting that packaged fruit is better than fresh but that the ‘best’ aspect is its convenience. The Board noted that based on the guidelines mentioned above, canned or packaged fruits can be used as a replacement for fresh fruit.

Based on the above the Board considered that the information most likely to be taken from the advertisement by an average consumer is that the packaged fruit option is a convenient one and considered that the message would be reasonably regarded as truthful and honest and determined that the advertisement did not breach Section 2.1 of the Food Code.

The Board considered section 2.2 of the Food Code which states that: “Advertising or Marketing Communications for Food or Beverage Products shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered as excess consumption through the representation of product/s or portion sizes disproportionate to the setting/s portrayed or by means otherwise regarded as contrary to Prevailing Community Standards.”

In particular the Board noted that though the advertisement is highlighting an alternative to fresh fruit, is not suggesting an unhealthy product as an alternative and is not suggesting that fruit should be avoided altogether. The Board noted that the snack pack is designed to be eaten as one serve and the advertisement does not suggest consumption of several packs. The Board considered that the advertisement did not depict material contrary to community standards and did not breach section 2.2 of the Food Code.

The Board then considered whether the advertisement was in breach of Section 2.3 of the Code of Ethics. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Board noted this television advertisement features a child smashing a watermelon with a bat. The Board noted that watermelons are a difficult fruit to open and considered that the use of the bat to carry out this activity is likely to be something that was approved by an adult and considered that the action is not aggressive or specifically aimed at a person and was meant to appear fun and light hearted.

The Board considered that the advertisement did not present or portray violence and determined that the advertisement did not breach Section 2.3 of the Code.

Finding that the advertisement did not breach the Food Code or the Code of Ethics, the Board dismissed the complaints.