



Case Report

1	Case Number	0453/12
2	Advertiser	Boost Juice Bars Australia
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	28/11/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

The advertisement is called 'Squeeze what you love' and shows Janine Allis squeezing an orange and stating that there is nothing else added in Boost Juices.

THE COMPLAINT

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

In the ad, Janine Allis holds a cut orange and says something like: "When we make our juice, all we do is this." and she proceeds to squeeze the orange and it dribbles some juice. My issue is this is a false claim. Boost Juice is marketed as though everything is natural and freshly squeezed when it is not. They consistently source apple and orange juice ingredients from bottled juice you can buy from the super market (publicly accessible brands of juice), which are obviously not fresh and not squeezed by Boost Juice. Much of their ingredients are either bottled juices or frozen (such a berries, mango). They do have fresh ingredients, but the majority of the stock kept in any given boost juice bar is kept in a freezer or bottle. This is based on the various times I have visited or bought from a Boost Juice bar over many years (involving numerous locations). The crux of my complaint is that they are not being true about how "naturally" or "freshly" they extract their juices, when all of my experience is that they use a large proportion of juice ingredients which are not fresh or "natural" (i.e. reconstituted juices).

THE ADVERTISER'S RESPONSE

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

Our position on each of your required points is noted below;

As noted above, and included again for clarity, the advertisement is called 'Squeeze what you love' and is designed to showcase our approach of having as little interference as possible between the 'farm and the store', by showing Janine Allis squeezing an orange and stating that there is nothing else added.

The advertisement is being screened in prime-time TEN programs such as New Girl, Modern Family, The Good Wife, Can of Worms, The Project and Glee. These programs are not aimed at children.

On the specifics that the complainant has raised: the premise on which their complaint is based is fundamentally flawed.

They have stated that Boost Juice; 'consistently source apple and orange juice ingredients from bottled juice you can buy from the super market (publicly accessible brands of juice) which are obviously not fresh and not squeezed by Boost'

This statement is untrue.

The bottled juice we use in-store is produced specifically and exclusively for Boost Juice by SPC from 100% juice ingredients. It is made to our specifications and is not available in supermarkets, or any other store.

Furthermore, this bespoke-produced juice is used in Smoothies only. Every juice we make in store is made from freshly squeezed, or blended, fruit and vegetables. The commercial presently airing does not make reference or comment on our Smoothie range, it is specifically focused on juices, and represents our ingredients accurately.

The complainant goes on to say;

'much of their ingredients are either bottled juices or frozen (such as berries, mango). They do have fresh ingredients, but the majority of stock kept in any given boost juice bar is kept in a freezer or bottle'

We do source some products that we snap-freeze and distribute to stores, this is to manage consistency of supply. It is simply not possible to source some ingredients (mangos and blueberries are examples) out of season all year round, so this approach is necessary.

It does not affect the nutritional quality. Irrespective of that, in our Squeeze campaign, we have not used either of these ingredients to demonstrate our 'squeeze' promise, given the campaign is marketing juice and not smoothies.

The complainant has outlined the crux of their complaint as being that we 'use a large proportion of juice ingredients that are not fresh or natural ie: reconstituted juices'.

As noted, the premise on which this complaint is based is incorrect. Therefore, we do not believe that the advertisement contravenes section 2 of the AANA Code of Ethics as the stated ingredient components of our juice products have been accurately represented. The communications and depictions in the advertisement are truthful and honest and we do not believe that the average consumer in the target market would either be misled or deceived in the circumstances.

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) or section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant’s concern that the advertisement is misleading because it implies that Boost only uses freshly squeezed fruit whereas they do use frozen produce.

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 Board noted that 'prevailing community standards' means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it sees fit, in relation to the advertising or marketing of food or beverage products taking into account at a minimum the requirements of the Australia New Zealand Food Standards Code, the Australian Dietary Guidelines as defined by the National Health and Medical Research Council and the National Physical Activity Guidelines as published by the Federal Government of Australia.'

The Board noted the explanatory notes to the Food Code prepared by AANA which, in relation to Section 2.1, provide:

“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 advertisements and/or marketing communications 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.

In testing the requirement that advertisements and/or marketing communications 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, advertising and/or marketing communications may make reference to one or more of the nutritional values and/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 noted that in the advertisement features Janine Allis holding up an orange and saying that they squeeze oranges to make their juices.

The Board noted the advertiser’s response that the advertisement is promoting their juice range and that although they sometimes use bottled juice in their smoothies, it is correct that they use freshly squeezed oranges in their juices. The Board noted that the store is known for preparing products in view of consumers and considered that most people can see how and from what the products are prepared. The Board noted that Boost stated they sometimes use snap-frozen fruit to ensure consistency of supply to their stores however the Board considered that as the advertisement is promoting juices and as Boost have confirmed they do use freshly squeezed oranges in their juices people in the community are unlikely to take a misleading impression from the advertisement. The Board considered that the advertisement is not misleading.

Based on the information provided by Boost regarding the content of their juices, the Board determined that the advertisement was not misleading or deceptive and did not breach Section 2.1 of the Food Code.

Finding that the advertisement did not breach the Code on any grounds, the Board dismissed the complaint.