



# Case Report

1	Case Number	0560/16
2	Advertiser	Boost Juice Bars Australia
3	Product	Food and Beverages
4	Type of Advertisement / media	Email
5	Date of Determination	18/01/2017
6	DETERMINATION	Dismissed

## ISSUES RAISED

2.5 - Language Inappropriate language

## DESCRIPTION OF THE ADVERTISEMENT

This advertisement, which was received via a link in an email to a Boost Juice customer, features and image of a protein ball in a green box against a green background. The text reads, "The Ball Box. (Because a Ball Bag would just be rude).

## THE COMPLAINT

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

*This is offensive full stop. I had to explain to my child why a ball bag is rude. If they were trying to be funny with "tongue in cheek" humour it has failed with the use of a subtitle. Old Benny Hill shows never had subtitle captions explaining as to why a joke might be rude. Smut, utter smut.*

## THE ADVERTISER'S RESPONSE

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

*Complaint reference number 0560/16*

*We refer to your letter and the complaint received by the Advertising Standards Bureau in respect to an advertisement by Boost Juice (Complaint).*

*Specifically, the Advertisement:*

- *was displayed on a Boost Juice landing page (Landing Page) during the period 5 December 2016 to 12 December 2016 (a period of seven days);*
- *was linked to an email newsletter sent to Boost Juice “Vibe Card” members (which is the customer database maintained by Boost Juice) on or about 5 December 2016 (Email Newsletter);*
- *prominently advertised Boost Juice’s “BALL BOX” product, which is a box containing 12 protein balls that is available for sale at selected Boost Juice outlets in Australia (Ball Box Product); and*
- *included the words “(Because a Ball Bag would just be rude!)” (Subject Text) in small text under the prominent text “BALL BOX”.*

*The Email Newsletter did not feature the Subject Text. A recipient of the Email Newsletter would need to click-through to the Landing Page before reaching the Advertisement.*

*We respond to the Complaint by direct reference to each part of section 2 of the AANA Code of Ethics (noting that the Bureau has specifically specified section 2.5 (language) of the AANA Code of Ethics as the section the Advertisement may have breached):*

#### *Section 2.1 – discrimination or vilification*

*The Advertisement does not portray people or depict material in a way which discriminates against or vilifies a 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 – exploitative and degrading*

*The Advertisement does not employ sexual appeal in a manner which is exploitative and/or degrading of any individual or group of people.*

#### *Section 2.3 – violence*

*The Advertisement does not present or portray violence.*

#### *Section 2.4 – sex, sexuality and nudity*

*The Advertisement does not reference sex, sexuality or nudity.*

#### *Section 2.5 – language*

*The Advertisement uses language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). In this regard, Boost Juice submits the following:*

- *the majority of VIBE Card members are aged between 15 years old and 30 years old;*
- *the Advertisement was not publicly available to any user of the Internet. The Advertisement could only be accessed if the Email Newsletter recipient clicked the Ball Box Product section of the Email Newsletter;*
- *the Email Newsletter did not contain the Subject Text;*
- *Boost Juice's records indicated a total of 2084 email recipients clicked-through to the Ball Box Product section of the Landing Page during the period the Subject Text was featured;*
- *Boost Juice has not used the Subject Text on its store-based DigiPos screens;*
- *protein balls, including those in the Ball Box Product, are not intended for persons younger than 15 years old;*
- *the term "BALL BAG" (being the focus of the Complaint) and the Subject Text is not inappropriate, nor is it smut or a joke as specified in the Complaint. The Subject Text merely draws on BALL BAG's meaning by pointing out that calling the product BALL BAG rather than BALL BOX would be rude. Whether it would actually be considered rude or not is entirely subjective. If Boost Juice decided, for example, to package its protein balls in a bag and name the product BALL BAG, it could not be in breach of section 2.5 as it would be a factual description of the product. There are currently a range of third party products available using the term BALL BAG; and*
- *Boost Juice has not received any other complaint in respect to the Advertisement, the Subject Text or the branding of its Ball Box Product.*

*The Advertisement does not use strong or obscene language.*

#### *Section 2.6 – health and safety*

*The Advertisement does not depict material contrary to prevailing community standards on health and safety.*

#### *AANA Code for Advertising and Marketing Communications to Children*

*The Advertisement and associated marketing communication was not aimed at or intended for children. As specified above, protein balls including those in the Ball Box Product are not intended for persons younger than 15 years old.*

#### *AANA Food and Beverages Marketing and Communications Code*

*The advertising and marketing communications for the Ball Box Product is truthful and honest, and is not designed to mislead, deceive or contravene prevailing community standards.*

#### *Action by Boost Juice*

*While Boost Juice denies the Advertisement is in breach of the AANA Code of Ethics, Boost Juice regrets the Subject Text has caused one of its VIBE Card members concern to complain to the Bureau. In response, on a without admission as to liability basis, Boost Juice:*

- *has removed all references to the Subject Text from its online and email advertising; and*
- *agrees not to feature the Subject Text on any DigiPos advertising screens at its stores.*

*If you have any questions or wish to discuss this matter further, please contact me.*

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant’s concerns that the advertisement uses language which is offensive and rude.

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

The Board considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided”.

The Board this advertisement was accessed via a link in an email sent to Boost Juice Vibe Card members and features an image of a protein ball in a green box with the text, “The Ball Box (because Ball Bag would be just rude).

The Board noted that ‘ball bag’ is a slang term for a man’s testicles but considered it is not a commonly used term. The Board noted that a protein ball in a box is depicted in the advertisement and considered that the use of the phrase ‘Ball Box’ is clearly in reference to this image.

The Board acknowledged the complainant’s dislike of the mild innuendo in the advertisement but considered that the use of an uncommon term in an advertisement accessed by a link in an email to Boost Juice Vibe card holders is not inappropriate in the context of the limited audience and in the Board’s view the language is not of itself strong or obscene.

The Board considered that the advertisement did not use strong, obscene or inappropriate language.

The Board determined that the advertisement did not breach Section 2.5 of the Code.

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

