

Mind the fine print - food producers should beware of placing misleading claims on packaging

By Bernadette Versfeld, Kenan Petersen & Bernadette Lötter

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Recent regulatory developments have tended to regulate food packaging more strictly, following international trends to hold producers, advertisers and retailers responsible for claims that entice consumers to purchase a product.



Image source: cottonbro studio from Pexels

In a complaint against Lactalis South Africa (Pty) Ltd, the producer and promoter of the popular yoghurt brand Parmalat, the Advertising Regulatory Board (ARB) considered whether the labelling of the Parmalat Fruit Cocktail Low Fat Yoghurt made deceptive and misleading claims. On the front label of a 175g tub of yoghurt, it was stated to be yoghurt "with fruit pieces". The label on the back read "mixed fruit (6%)". The complainant diluted his yoghurt with water and found less than half a teaspoon of fruit pieces.

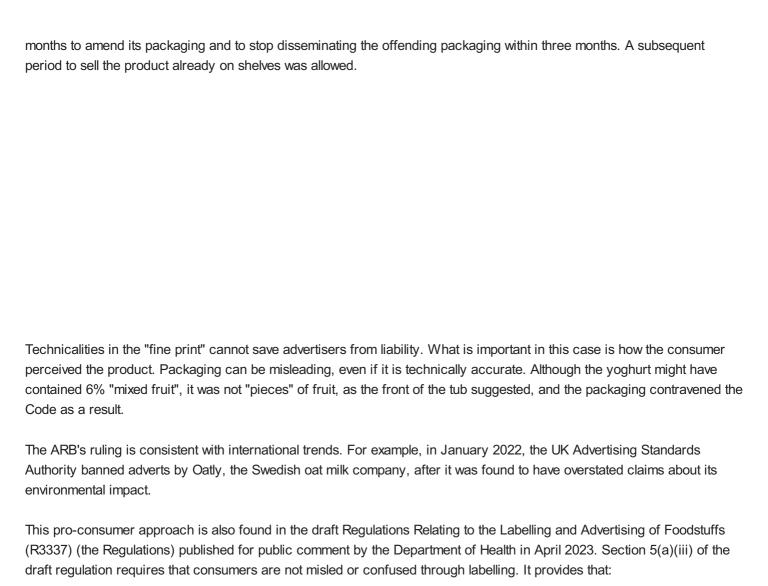
The Code of Advertising Practice (the Code) requires that adverts

should not contain any statement or visual presentation, which directly or by omission, ambiguity or exaggerated claim, is likely to mislead the consumer about the advertised product.

Parmalat insisted that the product did contain 6% fruit "content". It said the softer fruit pieces were typically broken down during the production process, so the fruit content was comprised partially of fruit puree rather than "fruit pieces".

Misleading impression

The complainant said that the packaging, considered holistically, gave the "impression that if you are a consumer wanting pieces of fruit in your yoghurt, this is the product you should choose". The ARB found that the insignificant number of fruit pieces in the product was inconsistent with this impression and the packaging was misleading. Parmalat was given three



there must appear on the label, either in conjunction with, or in close proximity to the name of the foodstuff, such additional words, or phrases as are necessary to avoid misleading or confusing the consumer in regard to the true nature and physical condition of the foodstuffs, including but not limited to the condition or type of treatment it has undergone such as dried, concentrated, reconstituted, or smoked.

In future, advertisements, which include packaging, must be assessed through the lens of the consumer and what the consumer's perception of the advertisement may be.

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