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| <b>COMPLAINT NUMBER</b> | 19/160                       |
| <b>COMPLAINANT</b>      | R Booth                      |
| <b>ADVERTISER</b>       | Health Pride PTY Ltd         |
| <b>ADVERTISEMENT</b>    | Touch n Go Can Opener, Print |
| <b>DATE OF MEETING</b>  | 14 May 2019                  |
| <b>OUTCOME</b>          | Not Upheld                   |

## SUMMARY

The Health Pride flyer advertisement for the Touch N Go (Push Once) electric can opener shows a series of pictures of the product opening a can and an explanation of how the can cuts beneath the lid rather than through the top of the can, making the sides of the lid smooth. It says the lid will have “no sharp dangerous edges”.

The Complainant is concerned the advertisement is misleading to suggest there are no sharp dangerous edges on the can at all.

The Advertiser says its only claim is the opener cuts beneath the lid, not through the top, so the sides of the lid will be smooth with no sharp dangerous edges.

The majority of the Complaints Board said that most consumers would not expect that a can could be opened without at least one of the edges being sharp. It said most consumers would interpret the advertisement to mean the edge of the lid would be made safer by the way the product worked. The majority agreed the safety benefits of a smooth edge on the edge coupled with the magnet was unlikely to mislead or deceive those viewing the advertisement. It also noted that a can with sharp edges is likely to be easier to handle than a lid.

The majority of the Complaints Board said taking into account context, medium, audience and product, the advertisement was not in breach of Principle 2 or Rule 2(b) of the Advertising Standards Code.

A minority said the emphasis on safety in the advertisement was exaggerated and the advertisement was misleading by omission, given that the sharp dangerous edges were moved to another part of the can.

In accordance with the majority, the Complaints Board ruled the complaint was Not Upheld.

**[No further action required]**

Please note this headnote does not form part of the Decision.

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## COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the complaint with reference to Principle 2 and Rule 2(b) of the Advertising Standards Code.

Principle 2 required the Board to consider whether the advertisement was truthful, balanced and not misleading.

Rule 2(b) required the Board to consider whether the advertisement was misleading or likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission, false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

**The Complaints Board ruled the complaint was Not Upheld.**

### The Complaint

The Complainant is concerned the advertisement is misleading to suggest there are no sharp dangerous edges. As the opener removes the lid with some of the side attached to it, a sharp edge will still exist, as well as a sharp edge on the can.

### The Advertiser's Response

The Advertiser says its only claim is the opener cuts beneath the lid, not through the top, so the sides of the lid will be smooth with no sharp dangerous edges. The Advertiser said the edge of the can was likely to be sharp but was not referred to in the advertisement.

### Complaints Board Discussion

#### *Consumer Takeout*

The Complaints Board said the likely consumer takeout of the advertisement was that the electric can opener would open a can safely with no sharp edges on the lid and safe removal via a magnet.

#### *Are the claims about the safety of the lid removal method misleading?*

The Complaints Board said the medium of the advertisement, a flyer distributed via letterbox or printed publications meant the audience had the opportunity to fully examine what the product is offering. It said most consumers would understand the technique being used and its benefits.

The majority of the Complaints Board said that most consumers would not expect that a can could be opened without at least one of the edges being sharp. It said most consumers would interpret the advertisement to mean the edge of the lid would be made safer by the way the product worked. The majority agreed the safety benefits of a smooth edge on the edge coupled with the magnet was unlikely to mislead or deceive those viewing the advertisement. It also noted that a can with sharp edges is likely to be easier to handle than a lid.

The majority of the Complaints Board said taking into account context, medium, audience and product, the advertisement was not in breach of Principle 2 or Rule 2(b) of the Advertising Standards Code.

A minority of the Complaints Board disagreed and said it was misleading to state there are no sharp edges, when there will be a residual sharp edge somewhere on the can.

The minority noted that although the text states the “sides of the lid will be smooth with no sharp, dangerous edges”, the wording under the image of the hand holding the lid makes a more general claim “cuts from the side with no sharp, dangerous edges.”

A minority said the emphasis on safety in the advertisement was exaggerated and the advertisement was misleading by omission, given that the sharp dangerous edges have moved to another part of the can.

In accordance with the majority, the Complaints Board ruled the complaint was Not Upheld.

## DESCRIPTION OF ADVERTISEMENT

The Health Pride flyer advertisement for the Touch N Go (Push Once) electric can opener shows a series of pictures of the product opening a can and an explanation of how the can cuts beneath the lid rather than through the top of the can, making the sides of the lid smooth. It says the lid will have “no sharp dangerous edges”.

## COMPLAINT FROM R BOOTH

Picture No 4 - No sharp edges Picture sides are smooth and safe to handle Block 6 ...cuts top so the sides of the lid will be smooth with no sharp dangerous edges...Most tin openers cut the lid from the top inside the top edge of the tin so you get a sharp edge on the removed lid and inside the top of the can. With this advertised opener you get the top removed with some of the side attached to the removed lid so there exists a sharp edge. In addition you have the side of the top of the tin a cut edge which is easy to provide a cut when the lid is removed or the tin is subsequently handled. The sides may be smooth but the top edge is very dangerously sharp. I feel the ad is not factual or fair and dismisses a real danger by its overclaims. There should be warnings not misleading assurances. .

## CODES OF PRACTICE

### ADVERTISING STANDARDS CODE

**Principle 2: Truthful Presentation:** Advertisements must be truthful, balanced and not misleading.

**Rule 2(b): Truthful Presentation:** Advertisements must not mislead or be likely to mislead, deceive or confuse consumers, abuse their trust or exploit their lack of knowledge. This includes by implication, inaccuracy, ambiguity, exaggeration, unrealistic claim, omission false representation or otherwise. Obvious hyperbole identifiable as such is not considered to be misleading.

### RESPONSE FROM ADVERTISER, HEALTH PRIDE

In response to your email dated the 29<sup>th</sup> April 2019, the advertisement in question states that “*Touch n Go cuts beneath the lid, not through the top, so the sides of the lid will be smooth with no sharp, dangerous edges.*” There is also a photo clearly indicating that it is from the side of the lid on the hand. With a normal hand operated can opener there can be some jagged edges that can hang down at the side of the lid and this is what we were trying to show, that this would not happen.

We have been advertising this product for, many years and have never had a customer complaint. Reference is only made to the sides of the lid and as such do not believe the advertisement is any way misleading.

## FURTHER RESPONSE FROM ADVERTISER TO SECRETARIAT QUERY REGARDING SHARPNESS OF CAN ONCE LID IS REMOVED

The can is not mentioned in the advertisement, though I assume it would be sharp, we only mention the lid. The other thing to mention is that the lid is removed via a magnet so in reality they do not even need to touch the lid.

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|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|
| A basic, neutral description of the advertisement                                                                                              | Easy to use electric can opener                                                                                                     |
| Date advertisement began                                                                                                                       | September 2007                                                                                                                      |
| Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)                                                         | Inserts into various magazines, in our catalogues sent to our customers and other 3 <sup>rd</sup> party mailings and on our website |
| Is the advertisement still accessible – where and until when?                                                                                  | Yes at the moment on our website, in the insert named AA68 and in our latest April 2019 catalogue called HP109                      |
| A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version. | Attached with this email                                                                                                            |
| Who is the product / brand target audience?                                                                                                    | 50+                                                                                                                                 |
| Clear substantiation on claims that are challenged by the complainant.                                                                         | In our response letter attached to this email.                                                                                      |
| What platform tools have you used to target your audience?                                                                                     | We do not use any we simply put our web address on our catalogues, inserts and mailings                                             |

### APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website [www.asa.co.nz](http://www.asa.co.nz). Appeals must be made in writing via email or letter within 14 days of receipt of this decision.