

COMPLAINT NUMBER	21/264
ADVERTISER	Glacial
ADVERTISEMENT	Glacial Instagram
DATE OF MEETING	12 July 2021
OUTCOME	Settled

Advertisement: The Thirsty Liquor Havelock North Facebook post promotes Glacial Hard Seltzer as a new product that they are stocking. The image shows alternating flavours of the Glacial product arranged in diagonal rows. The accompanying caption provides product details such as flavours and price, and in bullet points, highlights that the product is "Made with collagen", "low sugar" "sparkling glacial water" and "7% ABV".

The Chair ruled the Complaint was Settled.

Complaint: This complaint relates to an alcohol advertisement for Glacial Hard Seltzer posted on the Thirsty Liquor Havelock North and Glacial NZ Facebook accounts: <https://www.facebook.com/havelockliquor.co.nz/photos/a.1864734836931356/4836612343076909/>
<https://www.facebook.com/Glacial.NZ>

Details of the advertisement are appended at the end of this letter. This advertisement was posted on November 23, 2020 on the Thirsty Liquor Havelock North Facebook account and Glacial shared that post on their own Facebook account on the same date.

Rule 2g of the Advertising Standards Code under Principal 2: Truthful Presentation states: *Food and Beverage claims must be factual and able to be substantiated and must not be misleading. ... Advertisers who make nutrient, nutrition or health claims about a food or beverage in an advertisement must adhere to the requirements of the Australia and New Zealand Food Standards Code, specifically Food Standard 1.2.7*

Food Standard 1.2.7-4(c) states:

*Nutrition content claims or health claims not to be made about certain foods
A nutrition content claim or *health claim must not be made about:*

...

(c) a food that contains more than 1.15% alcohol by volume, other than a nutrition content claim about:

- (i) energy content, carbohydrate content or gluten content; or*
- (ii) salt or sodium content about a food that is not a beverage*

Food Standard 1.2.7-12 states:

*(1) If a *property of food is mentioned in Column 1 of the nutrition content claims table (section S4-3), a nutrition content claim may only be made about that property of food in accordance with this section.*

...

(3) If a claim made in relation to a food about a "property of food mentioned in Column 1 of the nutrition content claims table uses a descriptor mentioned in Column 3 of the table, or a

synonym of that descriptor, the food must meet:

...

(b) the specific claim conditions in Column 4 of the table for the relevant descriptor

S4-3 requires foods that are advertised as low in sugar to [meet]:
The food contains no more sugars than:

(a) 2.5g/100ml for liquid food

The image in the advertisement contains rows of Glacial product and in the accompanying caption "Made with collagen", "Low sugar" and "7% ABV" are stated.

The Glacial NZ Instagram account (<https://www.instagram.com/glacial.nz/>) states in their bio that their products contain 3.6g of sugar per 100ml (screenshot below).

We submit that this advertisement breaches Principal 2, Rule 2g of the Code by not complying with Food Standard 1.2.7-4(c) which prevents a claim about sugar or collagen content in an alcohol product of this strength ABV from being made at all, and that even if a sugar content claim were allowed Rule 2g is still breached by non-compliance with Food Standard 1.2.7-12 and Schedule 4 which prevent a low sugar claim from being made about a product with a sugar content this high.

We ask that the Complaints Board consider whether this advertisement breaches the advertising rule as referred to above, and whether this advertisement is socially responsible.

Procedural note

The Alcohol Advertising and Promotion Code came into force effective 1 July 2021 for all advertisements including those recently posted on social media prior to that date. The complaint was made about an advertisement posted when the Code for Advertising and Promotion of Alcohol was still in force. Unfortunately, there was some delay before the secretariat were successful in contacting the Advertiser. The Advertiser was therefore asked to respond to the complaint under the Alcohol Advertising and Promotion Code

The relevant provisions were Advertising Standards Code - Principle 2, Rule 2(g), Alcohol Advertising and Promotion Code- Principle 1, Rule 1(d).

Advertising Standards Code-

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

Rule 2(g) Food and Beverage Claims: Food and Beverage claims must be factual and able to be substantiated and must not be misleading.

Alcohol Advertising and Promotion Code-

Principle 1: Social Responsibility- Alcohol Advertising and Promotion must be prepared and placed with a high standard of social responsibility to consumers and society.

Rule 1(d): Alcohol effects- Alcohol advertising and promotion must not portray or suggest that the effects of consuming Alcohol can improve or enhance a situation or any personal attributes.

The Chair noted the Complainant's concern that the advertisement does not adhere to the requirements of the Australia and New Zealand Food Standards Code.

The Chair acknowledged the Advertiser had removed the advertisement after receiving the complaint. The Advertiser also reached out to the stockist to request that the content be removed from their account.

Given the Advertiser's co-operative engagement with the process and the self-regulatory action taken in removing the advertisements, the Chair said it would serve no further purpose to place the matter before the Complaints Board.

The Chair ruled the matter was Settled.

Chair's Ruling: Complaint **Settled**

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. Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.