

## Decision of the ADVERTISING REGULATORY BOARD

Advertiser	Tubatron (Pty) Limited t/a Mamma's Bread
Consumer/Competitor	Premier FMCG (Pty) Limited
File reference	4108 - Tubatron - Premier FMCG
Outcome	Partially Upheld
Date	5 September 2025

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Premier FMCG (Pty) Limited against claims made by Tubatron (Pty) Limited t/a Mamma's Bread on its MAMMA'S bread packaging.

### Description of the advertising

The complaint relates to claims made on the packaging of white and brown bread products sold under the MAMMA'S brand by Tubatron (Pty) Limited t/a Mamma's Bread ("the Advertiser"). The packaging, depicted below, has the following claims:

- a. "*nutritious brown bread*" and "*nutritious white bread*" on the principal display panel; and
- b. "*Mamma's Bakery is founded on the values and principles of providing high nutrition baked products to restore and sustain healthy living*" on the back panel;

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(collectively “the advertising claims”).



The MAMMA'S products are sold in the South African market and positioned as competitors to Premier FMCG (Pty) Limited's ("the Complainant") bread brands, which include BLUE RIBBON, MISTER BREAD, STAR, and BB Bakeries.

## Complaint

The Complainant submits that the advertising claims contravene Clause 4.2.1 of Section II of the Code of Advertising Practice, as well as Clause 7 governing comparative advertising. The Complaint is grounded in the following key assertions:

### 1. Misleading and Unsubstantiated Claims (Clause 4.2.1)

The advertising claims "nutritious brown bread", "nutritious white bread", and "high nutrition baked products to restore and sustain healthy living" create the impression that MAMMA'S bread products offer a nutritional advantage and are of superior quality and strength compared to other bread products on the market.

The phrase "restore and sustain healthy living" constitutes a therapeutic claim, implying that the bread has health-restorative properties akin to medicine.

The Complainant argues that a hypothetical reasonable consumer may be misled into believing that the products possess enhanced nutritive or medicinal qualities, which is not supported by the nutritional information provided.

The packaging does not disclose a list of ingredients, and a comparison of nutritional tables reveals no material advantage over competing products. Nutritional data for the Complainant's own bread products was submitted in support.

The therapeutic claim is further alleged to contravene:

- Section 5(1) of the Foodstuffs Act, which prohibits false or misleading advertising;
- Regulations 13(d), (e), and (g) of R146, which prohibit health-giving descriptors, terms such as "nutritious," and medicinal or therapeutic claims;

- the definition of “medicine” under the Medicines and Related Substances Act, rendering such claims inappropriate for a foodstuff.

## 2. Implicit Comparative Advertising (Clause 7)

The Complainant contends that the advertising claims implicitly position MAMMA'S bread as superior to other bread products, thereby triggering Clause 7 of Section II.

Specifically, the claims are said to breach:

- Clause 7.1.1 by failing to meet the applicable legal requirements dealt with above;
- Clause 7.1.4 by lacking substantiation;
- Clause 7.1.6 by inviting unfair and disparaging comparisons;
- Clause 7.1.7 by relying on criteria that have not been fairly selected.

The Complainant submits that, taken together, the claims are misleading, unsubstantiated, and improperly comparative and, therefore, contravene the Code on multiple grounds.

## Response

Despite all reasonable attempts to elicit a complaint from the Advertiser, the Advertiser did not respond to the Complaint.

## Application of the Code of Advertising Practice

The following clauses were cited by the Complainant in this matter:

- Misleading claims – Clause 4.2.1 of Section II
- Comparative advertising – Clauses 7 of Section II

## Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

### Jurisdiction

The Directorate notes that the Advertiser is not a member of the ARB and it did not respond to the complaint. The Directorate therefore presumes that the Advertiser does not submit to the jurisdiction of the ARB.

For the purpose of clarity, the Directorate notes that Clause 3.3 of the Memorandum of Incorporation of the ARB states:

*“3.3 The Company has no jurisdiction over any person or entity who is not a member and may not, in the absence of a submission to its jurisdiction, require non-members to participate in its processes, issue any instruction, order or ruling against the non-member or sanction it. However, the Company may consider and issue a ruling to its members (which is not binding on non-members) regarding any advertisement regardless of by whom it is published to determine, on behalf of its members, whether its members should accept any advertisement before it is published or should withdraw any advertisement if it has been published.”*

This position has been confirmed by the Supreme Court of Appeal, in a judgement against which leave to appeal to the Constitutional Court was refused.

The ARB will therefore proceed to consider this matter for the guidance of its members.

### Merits

Clause 4.2.1 of Section II prohibits advertisements that contain any statement or visual presentation which, whether by omission, ambiguity, or exaggeration, is likely to mislead the consumer regarding the nature, characteristics, or benefits of the advertised product.

The Directorate has considered the claims “nutritious brown bread”, “nutritious white bread”, and “high nutrition baked product to restore and sustain healthy living”.

Nutritious is defined as, “efficient as food; nourishing” ([languages.oup.com](https://languages.oup.com)). The Directorate accepts that all bread can be described, to some extent, as nutritious. It is also accepted that just because not all technically “nutritious” food makes the claim, it does not mean that nobody can make the claim for ordinarily nutritious food.

However, the word “nutritious” is not used in isolation. The phrase “high nutrition baked products to restore and sustain healthy living” (our emphasis) takes the “nutritious” claim further. These statements collectively convey an impression that the MAMMA'S bread products offer enhanced nutritional or therapeutic benefits when compared to standard bread offerings.

The nutritional information submitted does not support this impression. The products do not demonstrate any material nutritional advantage over comparable bread products available in the market. The Advertiser has also not submitted any response that would give context to the basis of these claims. In the absence of substantiating evidence, the claims amount to an exaggerated representation of the product's qualities.

**Accordingly, the Directorate considers the advertising claims to be misleading and in contravention of Clause 4.2.1 of Section II of the Code.**

The Complainant also alleges that the Advertiser's material constitutes comparative advertising in breach of Clause 7 of Section II of the Code.

However, having considered the content and context of the advertisement, the Directorate is not persuaded that the material meets the threshold for comparative advertising as contemplated by the Code.

Comparative advertising typically involves an express or implied comparison between the advertiser's product or service and that of a competitor, with the intention of highlighting superiority or preference. In this regard, Clause 7 defines its own scope, stating, "Advertisements in which factual comparisons are made between products and/or services...". The Code goes on to require that such comparisons be fair, substantiated, and not misleading or disparaging.

In this instance:

- the advertisement does not reference any identifiable competitor by name, brand, or product;
- there is no explicit or implicit comparison drawn between the advertiser's offering and that of another party;
- the messaging is self-promotional in nature and does not suggest superiority over any particular competing product or service;
- the tone and content do not amount to a claim of market leadership, preference, or performance advantage that would trigger the comparative advertising provisions.

In the absence of a clear comparative element, the advertisement falls outside the scope of Clause 7.

**Accordingly, the Directorate is of the view that the advertised claims are not in breach of Clause 7 of Section II of the Code.**

## Instruction to members

In terms of Clause 15.3.7 of the Procedural Guide, the Advertiser, should it submit to the decision, has three months to amend its packaging.

Members of the ARB are, therefore, advised not to accept advertising or stock bearing the advertising claim below from 5 December 2025:

- *“Mamma’s Bakery is founded on the values and principles of providing high nutrition baked products to restore and sustain healthy living”.*