

Decision of the ADVERTISING REGULATORY BOARD

Complainant	Rina Hartzenberg
Advertiser	Uber Eats South Africa Proprietary Limited
Consumer/Competitor	Consumer
File reference	2247 – Uber Eats – Hartzenberg
Outcome	Upheld
Date	26 October 2022

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint against a television commercial advertising Uber Eats.

Description of the advertising

The television commercial features a group of four friends toasting a “birthday girl”, then deciding to order some food to celebrate. One muses “chicken Thai green curry”. The birthday girl then fantasises about a hamburger with a sparkler in it – the visual cuts away to this scene. A granny on a scooter encourages her to live her best life, as she’s not getting any younger. We cut back to her party and she tells her friends she would like to order a double cheeseburger. The other women are sceptical, but she says, “It’s my thing.” We hear a doorbell. An Uber Eats package is handed over, and we see the five women enjoying their food. The birthday cheeseburger is visible, but one girl is eating what appears to be a green curry, while another is eating something with chopsticks. The pay-off line is “Uber Eats. We’ve got your thing.” The commercial closes on a top view of the table, where we see a hamburger, a green curry, a burger and chips, and sushi. “Uber Eats. Get Anything” appears on the screen.

Complaint

In essence, the Complainant submitted that Uber Eats is creating the perception that you can order foods from different merchants in one order, but their terms and conditions say that you can only order from one merchant per order.

Response

The Advertiser responded, *inter alia*:

- *“In all of our current advertisements, the scenes do not explicitly depict a person completing an order (single or multiple) through the Uber Eats app. Rather the advertisements depict individuals saying their orders, one person opening the app, and orders arriving, and thereafter, the various groups enjoying their various meals. As such, the advertisements do not necessarily intend to create any impression or perception that food from multiple vendors/restaurants may be ordered via one single order and, in our view, do not in fact do so.”*
- *“The intention of the advertisements is not show that multiple types of food are available on the Uber Eats app. Users can either order such foods from several different vendors/restaurants in different orders, or several types of food from one, as many restaurants may also provide the user with various food choices from a single restaurant.”*
- *“We have also noted in the advertisement disclaimers that offerings may vary by location.”*
- *“The real-world user experience on the platform does enable access to a variety of menus from different restaurants, or restaurants that have a variety of foods on a single menu. Accordingly, the intention and focus of the advertisements is to highlight that, indeed, users may order different types of food from the Uber Eats app in general.”*
- *“In light of the foregoing, Uber submits that the complaint has no merit in relation to any false or misleading advertising.”*

Application of the Code of Advertising Practice

The following clause was considered in this matter:

- Misleading claims – Clause 4.2.1 of Section II

Decision

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

Section II Clause 4.2.1 of the Code of Advertising Practice states that: *“Advertisements should not contain any statement or visual presentation which, directly or by implication, omission, ambiguity, inaccuracy, exaggerated claim or otherwise, is likely to mislead the consumer.”*

The Directorate is therefore called upon to decide whether the scene that plays out in the Uber Eats commercial has been misleading in suggesting, as the Complainant believes, that it is possible to order takeaways from multiple restaurants in a single Uber Eats order.

The Advertiser stated that *“In all of our current advertisements, the scenes do not explicitly depict a person completing an order. . . through the Uber Eats App. Rather, the advertisements depict individuals saying their orders, one person opening the app, and orders arriving, and thereafter, the various groups enjoying their various meals.”*

The Advertiser further states, *“As such, the advertisements do not necessarily intend to create any impression or perception that food from multiple vendors/restaurants may be ordered via one single order.”*

The Directorate considered the narrative flow of the television commercial and believes that the scenes depicted in the commercial do in fact depict a person completing an Uber Eats order. The characters and scenes show a believable step-by-step process (the only exception being the cut-away to the fantasy cheeseburger, which by the very nature of it being in a different location, is understood to be a fantasy). The commercial shows one person with their phone out, ordering, as opposed to each woman ordering her own choice. It also shows one delivery in one bag, not many.

The final scene in which all the women at the party each enjoy a different type of food suggests that each woman received the meal that she wanted.

The commercial sets up the challenge that everybody in the group wanted something different. The fact that the commercial then concludes with everyone enjoying the meal that they hoped for, suggests that Uber Eats is proposing to solve the original problem: that everyone can't have what they want.

The “We’ve got your thing” pay-off line is not applied to a multitude of different scenarios, but rather to a single event, whereas it is not actually possible to use the app to satisfy the conflicting requirements of all the women in a single order.

The Directorate acknowledges that it is possible to order more than once, or for different people to place separate orders, but this is not what is portrayed in the commercial through, for example, each woman clearly placing their own order and/or multiple deliveries arriving at the house.

Given this, the advertising is misleading and in breach of Clause 4.2.1 of Section II.

Sanction

The Advertiser is instructed to remove or amend the commercial in question within the deadlines set out in Clause 15. 3 of the Procedural Guide, which in the case of television advertising is immediately, as deadlines permit.