

Decision of the ADVERTISING REGULATORY BOARD

Complainant	Natalie Boyd
Advertiser	Masstores (Pty) Ltd trading as Makro
Consumer/Competitor	Consumer
File References	860 – Makro – Natalie Boyd
Outcome	Dismissed
Date	23 July 2020

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Natalie Boyd against an advertisement on Makro's website.

Description of the advertising

The complainant submitted the following images:

An image of the product packaging



A screen-grab of the advertisement as it appeared on the Advertiser's website

**Empisal Expression 889
Sewing Machine**

Product ID: 000000000000300017_EA

★★★★★

Write a review



R 1,999⁰⁰

eBucks 19990
UCount rewards 19990

Can I buy this item in store?

Germiston, Gauteng

10 - 14 working days

Store collection Available

Locker collection Available

Returns Policy

ADD

ADD TO LIST

Details

Reviews

Sewing Machines

Stitch	36 stitch functions
Needle	Twin needle
Feed	Drop feed

Complaint

In essence, the Complainant is of the view that the advertisement is misleading as it claims that the advertised product offers 36 stitch functions, whereas in reality it only offers 18 stitches, which is half of the promised stitches. The Complainant further added that she tried to question the Advertiser regarding the discrepancy by telephoning the Advertiser's offices both on the 26th and the 31st of May, but did not receive any response.

Response

The Respondent submitted that:

- It confirms that it is currently not bound by nor is it a member of the Advertising Regulatory Board, and as such is not obliged to respond to the complaint, but it does so as part of its commitment to its valued customers.
- The claim as stated on its website that the advertised product has 36 stitch functions is correct, as it (the sewing machine) comes with 18 built-in stitches. When the length/width of each stitch is adjusted, these turn into multiple stitch functions which will turn into 36 stitch functions.
- It therefore disagrees with the basis of the complaint as the product was correctly advertised in line with the sewing machines industry standard practice, and the advertisement is therefore not in any way misleading or factually inaccurate.
- It however apologizes for the lack of feedback from its call center and will take appropriate remedial action to improve its complaints process.

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.

Jurisdiction

The Directorate notes that the Advertiser does not fall under the jurisdiction of the ARB but has co-operated fully in supplying a response.

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.”

The matter will therefore be considered for the guidance of the members of the ARB. It remains the Advertiser’s prerogative whether or not to submit itself to the decision.

Merits

Lack of feedback

The Directorate, however, notes that it is limited in its mandate in considering certain issues raised in the complaint, and cannot widen its consideration to issues related to service delivery. The Directorate will therefore only deal with the issue of a potential misleading claim that appeared in the Advertiser's website, as alluded to by the Complainant, and also as guided by the Code.

Misleading claims

In essence, the Complainant is of the view that the advertisement is misleading as the actual product only features 18 stitches, as opposed to the promised 36.

The Advertiser submits that the sewing machine comes with 18 built-in stitches, and when the length/width of those stitches is adjusted, these turn into 36 stitch functions.

Clause 4.2.1 of Section II states that advertisements 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.

The Directorate starts by noting that Empisal lists the main features of the relevant product on its website, <https://www.empisal.co.za/products/sewing-machines/empisal-expression-889-sewing-machine/>, as:

- **36 Stitch functions**
- ***Front load bobbin***
- ***On/off switch***
- ***Left and middle needle position***
- **18 Stitches**

- ***4 Step buttonhole***
- ***Stitch width control***
- ***4.5mm Maximum stitch width***
- ***Soft cover***
- ***4.5mm Maximum stitch length***

(our emphasis).

It is clear that there is a difference between a “stitch” and a “stitch function”. The wording on the image of the packaging provided by the Complainant states “18 stitches” and not “18 stitch functions”. The advertising, however, refers to 36 “stitch functions”.

The Directorate understands that a first-time buyer of such products, or a person who is not experienced or well-versed in the way that sewing machine features are presented and promoted, could believe that the claim “*36 stitch functions*” is an indication that they are buying a product with 36 stitches.

However, the Directorate notes:

- It appears to be factually correct that the machine has 36 stitch functions, which is what the advertising claims;
- The images of all the built-in stitches of the advertised product, 18 in all, plus 3 buttonhole stitches, are prominently displayed on the top right-hand side of the sewing machine picture that appears on the packaging. As such, the consumer is made aware of exactly what functionality the machine has.

Arguably the communication in the advertisement could have been clearer if the Advertiser had indicated that the product has 18 built-in stitches that offers 36 stitch functions, rather than just promoting the stitch functions.

However, based on the above, the Directorate cannot find that the advertisement is misleading in the manner envisaged by the Code, as there is no promise or claim that the product features 36 stiches. The claim is that the product has 36 stich functions, which is factually correct.

It is in this context that the Directorate finds that the claim “*36 stitch functions*” is not misleading, and it is therefore not in contravention of Clause 4.2.1 of Section II of the Code.