



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0010-22
2. Advertiser :	Oporto Franchising Pty Ltd
3. Product :	Food/Bev Venue
4. Type of Advertisement/Media :	Transport
5. Date of Determination	19-Jan-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Food and Beverages Code\2.1 Not misleading or deceptive

DESCRIPTION OF ADVERTISEMENT

This transport advertisement features a bright orange background and a picture of the meal. The text states, \$9.95 Pita Pocket Deal. *Available for limited time".

THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

I went in to store to purchase the offering but was told they no longer do it and couldn't get it.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

Addressing advertising codes:

- The offer is still valid and available hence the advertising is not misleading or deceptive.*
- The customer was misinformed in store at time of purchase due to one team member's misunderstanding.*



- *Team members understand a limited time offer is not a standard menu item and are advised when they are no longer available.*
- *On this one occasion, one member, advised it was no longer available.*

Actions taken to address complaint and prevent incidents:

- *All limited time offers, and their campaigns have strict training and communication processes including:*
- *weekly team meetings and emails including team newsletters;*
- *store noticeboards;*
- *and an internal team communication platform.*
- *A further team meeting was held post complaint reconfirming offer is valid and available.*
- *Updated the limited time offer in-store team protocol: if item is in the POS (point of sale) it can be sold as these are controlled by OTR (Oporto SA Master Franchisee) head office and aligned with all advertising.*

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Food and Beverages Advertising Code (the Food Code).

The Panel noted the complainant's concern that they were unable to purchase the product at the advertised price.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel noted that the product advertised is a beverage product and that therefore the provisions of the Food Code apply.

Section 2.1 Advertising for Food or Beverage Products must not be misleading or deceptive or likely to mislead or deceive.

The Panel Noted the Practice Note to this section of the Food Code which provides:

"In determining whether advertising for food or beverage products is misleading or deceptive or likely to mislead or deceive, the Community Panel will consider the likely audience for the advertising, including whether the advertisement is directed at the public at large or a more targeted audience. The Community Panel will consider whether or not an Average Consumer within the target audience would have been misled or deceived or likely to be misled or deceived by the advertisement."

The Panel noted that the target audience for this advertisement would be anyone viewing the advertisement.



The Panel noted the advertiser's response that the deal is still available and the customer was misinformed due to a team member's misunderstanding.

The Panel noted the advertiser had detailed steps that were taken to ensure this mistake didn't happen again.

The Panel considered that this one incident was due to human error and was not due to the advertised deal not being available in stores.

The Panel considered that the advertised deal is still available for purchase in stores and the advertisement was therefore not misleading.

Section 2.1 Conclusion

The Panel considered that the advertisement was not misleading or deceptive and did not breach Section 2.1 of the Food Code.

Conclusion

Finding that the advertisement did not breach any other section of the Food Code, the Panel dismissed the complaint.