



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0016-20
2. Advertiser :	Spiral Foods
3. Product :	Food/Bev Groceries
4. Type of Advertisement/Media :	Internet
5. Date of Determination	22-Jan-2020
6. DETERMINATION :	Upheld – Modified or Discontinued

ISSUES RAISED

AANA Food and Beverages Code\2.1 Truthful Honest Not Misleading or deceptive

DESCRIPTION OF ADVERTISEMENT

This website advertisement is a product listing for Minced Garlic. The page states the word 'source', with the word Australia underneath it.

THE COMPLAINT

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

This infers the product is Australian grown food. It also states the product is 'organic' with no information as to the accuracy of this. On reading the bottle, the product is imported.

The information is misleading ! It is not Australian grown!

THE ADVERTISER'S RESPONSE

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

The word 'Source' – when the website was set up, it was before the Country of Origin labelling laws came into effect. We used the word 'source' which referred to where the



product was made. In light of the Australian labelling laws we are happy to update 'source' to alleviate any future confusion for consumers.

I refer to the new Country of Origin labelling laws giving full transparency to the end consumer. Label clearly states – Made in Australia from 0% Australian ingredients.

The Organic Minced Garlic is made of two ingredients (Organic Garlic (90%), vinegar). These ingredients are imported raw materials that are then manufactured here in Australia. To confirm the finished product is not an imported product.

*Spiral Foods is certified with ACO
Processor # 10650
ACO Logo clearly printed on label.*

THE DETERMINATION

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

The Panel noted the complainant's concern that the use of the words 'source' on the website implies the product is grown in Australia which is misleading.

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

The Panel noted that the product advertised is food and that therefore the provisions of the Food Code apply. In particular the Panel considered section 2.1 of the Food Code which provides:

'Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.'

The Panel considered the advertiser's response that the word 'source' on the website was set up before Country of Origin labelling laws were in effect, and that the label of the product clearly states that it is made in Australia from 0% Australian ingredients.

The Panel further noted the advertiser had provided sufficient evidence to demonstrate the product is organic.

In relation to section 2.1 of the Code the Panel considered the Practice Note to the Food code which provides that



“The Panel will not attempt to apply legal tests in its determination of whether advertisements are truthful and honest, designed to mislead or deceive, or otherwise contravene prevailing community standards in the areas of concern to this Code.

In testing the requirement that an advertising or marketing communication should not be designed to be misleading or deceptive, or otherwise contravene prevailing community standards, the Panel will consider the advertiser’s stated intention, but may also consider, regardless of stated intent, that an advertisement is by design misleading or deceptive, or otherwise contravenes prevailing community standards in particular regard to stated health, nutrition and ingredient components of the food or beverage product.

Thus, an advertising or marketing communication may make reference to one or more of the nutritional values or health benefits of a product but such references must be accurate and appropriate to the level of understanding of the target audience, and must not misleadingly represent the overall nutritional or health benefits of the product.”

The Panel considered that the most likely impression of the information on the website that consumers of the product would take is that the word ‘source’ means where the product’s ingredients come from, and would consider this advertisement to mean the raw ingredients were grown in Australia.

The Panel considered that the advertisement did make a claim that the ingredients of the product were sourced in Australia which was misleading and did breach Section 2.1 of the Food Code.

Finding that the advertisement did breach Sections 2.1 of the AANA Food Code the Panel upheld the complaint.

THE ADVERTISER’S RESPONSE TO DETERMINATION

To confirm the word ‘source’ on the Spiral Foods website will be updated to ‘Country of Origin’ and will include the statement ‘Made in Australia from 0% Australian ingredients’. All information will be updated and completed by 14th February 2020.