



Case Report

1	Case Number	0114/13
2	Advertiser	Woolworths Supermarkets
3	Product	Food and Beverages
4	Type of Advertisement / media	Print
5	Date of Determination	01/05/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.1 (a) - Misleading / deceptive

DESCRIPTION OF THE ADVERTISEMENT

Image of the Caffitaly coffee capsule machine and three mugs of coffee. The text reads, "Cafe quality in your kitchen. Only from Woolworths".

THE COMPLAINT

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

I believe that the above mentioned advertisement may not compile with 2.1 and 2.6 of AANA Food & Beverages Advertising & Marketing Communications Code (based on my interpretation of the code).

Firstly the advertisement makes a claim of cafe quality coffee. This is not a complaint about the coffee beans (cause they are horrible coffee beans anyway) but Woolworths has made this claim that it is cafe quality without explaining why or telling the customer how they can find out why it is cafe quality. To the layman this this claim may be based on the use of Gloria Jeans Beans in some of the capsules, however to the best of my knowledge there are no cafes that sell coffees made with Gloria Jeans or Select Capsules. Coffee made in cafes is ground when it is needed and the extraction system is different to what is used by a capsule machine. The ground coffee used in Select and Gloria Jeans capsules has to stay fresh so may have gases in it to keep it fresh, it is also stored in plastic not aluminium like beans in cafes usually are. To get to the point the ground coffee used in cafes is not the same coffee used in the capsules, it is also prepared in a different manner.

Secondly the system used in the advertisement. The system that is used is placed next to three

mugs of coffee with coffee art on top of them. Firstly the placing of these coffees next to the system implies that with the press of the button you can get coffee which look the same as the ones pictured (there are not disclaimers saying that the coffees used are for demonstration purposes only and results from the machine may vary). This is misleading for a couple of reasons, firstly to have milk in your coffee you need to purchase a milk frothing machine which is not pictured in the advertisement. The advertisement does not mention that you need to purchase the milk frothing device so therefore consumers may not be aware of this additional purchase and as it is implied through the placement of the cups that the milk comes out of the same machine this is misleading. In addition because there is no disclaimer saying that 'coffee art' is just for the ad and cannot be produced by the everyday person the use of coffee which has been prepared by a professional and not a everyday person is misleading as person may purchase the machine thinking they can replicate the coffee in the advertisement.

As a side note, Nespresso Coffee is actually sold in a cafe in QLD. And this compliment could have been avoided and fixed with a simple disclaimer. Sloppy copy work in my opinion.

THE ADVERTISER'S RESPONSE

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

I refer to your letter dated 28 March 2013.

Woolworths does not consider the advertisement to be in breach of the Code because:

- Capsule based coffee systems are now a well-established method of delivering a "quality" coffee at home. The February 2013 Choice article (copy attached) scored the Woolworths "System S14" 75% on the taste test;*
- The manufacturer 'Caffitaly' stands by the representation made regarding its product;*
- Gloria Jeans, as the other coffee capsule vendor, also stands by its representation as to its coffee used in the product; and*
- The advertisement merely announces to Woolworths' customers the availability of the Caffitaly "System S14" in store.*

Woolworths does not consider that the purpose or intent of the advertisement was to mislead consumers as to the use or capability of the product.

Woolworths appreciates the ASB's careful consideration of a complaint and will accept Woolworths' submission that this complaint should be dismissed.

Thank you for your assistance.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Board noted the complainant’s concerns that the advertisement is misleading in its use of the phrase “café quality coffee and its depiction of milky coffee made from a machine without a milk frother.

The Board viewed the advertisement and noted the advertiser’s response.

The Board noted that the product advertised is food and that therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply. In particular the Board 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 Board noted the complainant’s concerns that the advertisement is misleading in its claims the product produces café quality coffee. The Board considered that as the phrase ‘café quality’ is subjective there is no community standard on how the quality of café style coffee should be assessed. The Board also noted that consumers can buy coffee from a well-known café chain, Gloria Jeans, to use with this system. In the Board’s view the advertisement is not misleading in its use of the descriptor of ‘café quality coffee’ as most members of the community would understand that this reference suggests that the machine advertised will make a quality coffee at home.

The Board noted the complainant’s concerns that the advertisement is misleading in its depiction of three mugs of coffee which could not have been made using the advertised machine as it does not have a milk frothing capability. The Board noted that whilst a separate milk frothing machine would need to have been used in the making of the coffees as they are depicted in the advertisement, the Board considered that most reasonable consumers would be able to tell that the product only makes the black coffee and that milk will need to be added separately. The Board noted that the advertisement does not make any claims suggesting that the product advertised can make the coffees as shown in the advertisement and considered that the advertisement is not misleading in its depiction of a final product which involved the use of the advertised machine.

Based on the above the Board considered that the advertisement did not breach Section 2.1 of the Food Code.

Finding that the advertisement did not breach the Food Code the Board dismissed the complaint.

