



Case Report

1	Case Number	0133/15
2	Advertiser	Woolworths Supermarkets
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	29/04/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

The Easter adverts for Woolworths show that oven fresh Hot Cross Buns are sold where there is an in-store bakery. On both Saturday and Sunday the actual Hot Cross Buns on display to sell were actually freezing cold and on Sunday, still had ice on them after coming from freezers. I spoke with staff member who told me Woolworths have never baked Hot Cross buns at their Findon Store, they are all frozen and usually left 2 days to thaw.

THE COMPLAINT

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

Untrue advertising presumably to fool people that products are freshly made.

THE ADVERTISER'S RESPONSE

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

Woolworths takes its advertising obligations very seriously. It is Woolworths' submission that the complaint should be dismissed and no further action taken in the matter for reasons expressed below.

The Woolworths Findon Store is not an "in store bakery" designated Supermarket in which

full line production of Hot Cross Buns would occur in addition to other such product lines. In such stores, relevant product is identified and advertised as freshly baked in store.

The Findon Store is part of a network of smaller stores which have a maxi bakery production facility for par baked/frozen product. Such stores do not identify and advertise such product as fresh.

There is a clear disclaimer on the advertisement which states that such product is "Only available in a store with an in store Bakery." A similar qualification is placed in weekly brochure advertising.

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

THE DETERMINATION

The Advertising Standards Board ("the 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 suggestion that the advertised product is freshly made when in their local store the product is thawed from frozen and not freshly baked on premises.

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

The Board noted that the product advertised is food and 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 advertisement features a variety of bread products available at Woolworths including sliced loaves, six pack lunch rolls and hot cross buns and that shows scenes of the products being baked in store.

The Board noted the complainant's concerns that the advertisement is misleading because the hot cross buns in the complainant's local store are not freshly baked but thawed from frozen.

The Board noted the Practice Note to Section 2.1 of the Food Code which provides:

"The Board will not attempt to apply legal tests in its determination of whether advertisements are truthful or 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 be truthful and honest, the Board will consider whether the information most likely to be taken from the advertisement by an average consumer in the target market would be reasonably regarded as truthful and honest."

The Board noted the advertisement features an on-screen disclaimer which states, "Available at all Woolworths stores with an in store bakery". The Board noted the complainant's concern that their local Woolworths store does not have a bakery and that the hot cross buns are thawed from frozen and not freshly baked. The Board noted that the disclaimer clearly states that only stores with a bakery can provide freshly baked products and considered that

the advertiser is not obliged to list all the stores that do or do not have a bakery. The Board considered therefore that the advertisement did not suggest all hot cross buns in all Woolworths stores are freshly baked – and did make it clear that stores with an in-store bakery did have freshly baked hot cross buns, rolls or loaves available. The Board noted that whether or not bakery goods available at stores with an in-store bakery were ‘freshly baked’ or not, was not the issue under consideration and had not been addressed by the advertiser and was therefore not considered by the Board in this case.

Based on the above the Board considered that the advertisement is not misleading or untruthful and determined 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.