



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
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Case Report

1	Case Number	0178/19
2	Advertiser	Coles
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	10/07/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.1 (a) - Misleading / deceptive
Green Code 3 - Substantiation 3)i - claims able to be substantiated and verifiable

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features Curtis Stone on a fishing boat talking about Coles salmon.

THE COMPLAINT

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

Coles is advertising Tasmanian Salmon as being responsibly sourced. This is a clear lie. Not only have I personally witnessed the enormous damage these farms are causing to the marine environment, there has been a long history of proven complaints from the public, community groups and scientists reported in the mainstream media. It is a huge public issue in Tasmania. The farms, openly using political corruption and threats of violence, are engaged in a massive "land grab" which is rapidly becoming as bad as the notorious woodchip industry that funded the farms' creation. Any survey of hobart based media will turn up huge amounts of environmental problems over years, and an attitude of "screw the public and the environment" from the companies concerned. Coles needs to publicly retract their false and misleading statements and withdraw its



public association with these massively destructive salmon farms. This retraction needs to be loud and clear to partially compensate for the saturation advertising they have given their lie.

Coles salmon is not wild caught salmon, it is farmed. It is not from the ocean, as the ad clearly wants the consumer to believe. This ad is a clear example of a supermarket giant using deceiving advertising to suggest that their salmon has been caught in the ocean. Consumers may not be aware of the distinction between farmed and wild caught salmon. The ad should be removed to avoid the risk of confusion.

THE ADVERTISER'S RESPONSE

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

Coles note the complaints relate to a 15 second TV commercial (the Advertisement) that promotes Coles Fresh Aussie Salmon Skin on Portions 4 pack (the Product) as being \$13.00 each. The Advertisement features Curtis Stone on a boat advertising that all Coles Brand seafood is responsibly sourced (the Claim).

The purpose of the Advertisement is to communicate that all Coles Brand seafood is responsibly sourced and to advertise the price of the Product. Coles regrets that the two complainants believe the advertisement contains potentially misleading, or unsubstantiated claims about a Coles' responsibly sourced seafood product.

Coles acknowledges that there is genuine community concern regarding the ethical sourcing of seafood and that consumer opinions reflect a high standard in regard to claims about responsible sourcing. Coles is proud to have received the Marine Stewardship Council (MSC) Oceania Sustainable Seafood Supermarket of the Year Award for the last three years (2017, 2018 & 2019) in recognition of Coles' work in supporting responsible sourcing of seafood see: <https://www.msc.org/en-au/media-centre-anz/press-releases/the-winner-is-coles-crowned-best-supermarket-in-wave-of-change-awards>).

AANA Food and Beverage Code 2.1 - Misleading / deceptive

Coles does not believe the Advertisement is misleading or deceptive in any way. All Coles Brand fresh, deli, frozen and canned seafood is responsibly sourced, including the Product. Our Responsibly Sourced Seafood program recognises a range of certification and assessment programs, including the Coles Responsibly Sourced Seafood criteria, all of which ensure potential impacts on marine health and the environment are carefully monitored. All Coles Brand seafood products carry either independent certification, or meet the Coles Responsibly Sourced Seafood criteria. The independent certifications utilised by Coles branded products include the MSC,



Aquaculture Stewardship Council (ASC), Best Aquaculture Practice (BAP), and GlobalGAP. Coles' Responsibly Sourced Seafood criteria were developed in collaboration with WWF and MSC, and the fisheries are independently assessed against the criteria by MRAG Asia Pacific. For each product carrying the Responsibly Sourced Seafood logo, MSC logo or ASC logo, Coles can provide certification documents as required to support the corresponding claim. Because the Product is responsibly sourced, we do not consider the Claim to be misleading.

There is no representation during the Advertisement that all Coles responsibly sourced seafood is ocean or wild. The Product supplied by Huon Operations is responsibly sourced from Tasmanian salmon farms located in Flathead Bay and Storm Bay. Other than the Claim, the Advertisement does not make any representations regarding the origin and/or method of fishing used for Coles Brand Seafood.

AANA Environmental Claims Code - Substantiation 3) a - claims able to be substantiated and verifiable

Details of the Coles Responsibly sourced seafood program have been provided above. The Product supplied by Huon Operations has been independently assessed to be ASC certified as responsibly sourced from its two farms in Flathead Bay and Storm Bay (Appendix A).

In addition to this, Coles notes that in accordance with the AANA Environmental Claims Code practice note, advertisers have a variety of avenues at their disposal for making information available to consumers, for example, websites, brochures, labels, shelf-talkers; such information does not need to be included in the advertising or marketing communications itself. Coles has attached photos of the packaging of this product which illustrates that this product carries the Coles Responsibly Sourced Logo (Appendix B). Coles' website provides a comprehensive view to consumers on what this logo means. <https://www.coles.com.au/corporate-responsibility/sustainability/responsible-sourcing>

AANA Code of Ethics

2.1 Discrimination or vilification

Coles does not believe this advertisement discriminates against, or vilifies a person or section of the community on account of race, ethnicity or nationality.

2.2 Exploitative and degrading

The advertisement does not depict anything that is exploitative or degrading in relation to any individual or group of people.



2.3 Violence

At no time does the Advertisement present or portray violence.

2.4 Sex, sexuality and nudity

Curtis Stone is appropriately dressed and is not portraying or communicating a message of a sexual nature.

2.5 Language

The Advertisement uses language appropriate in the circumstances. The Advertisement does not include any strong or obscene language.

2.6 Health and Safety

The Advertisement does not depict material that is contrary to Prevailing Community Standards on health and safety.

2.7 Distinguishable as advertising

The Advertisement is clearly distinguishable as advertising.

AANA Code for Advertising and Marketing Communication to Children

The advertisement was not aired on any children's programs. A copy of the programs and times Coles booked is provided (Appendix C).

Conclusion

Coles submit that The Advertisement is compliant with all relevant Code requirements and the complaint should be dismissed. If you have any further questions or concerns, please do not hesitate to contact me.

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) and the AANA Environmental Claims in Advertising and Marketing Code (the Environment Code).



The Panel noted the complainants' concerns that the advertisement makes a false claim that the seafood is responsibly sourced, claims that the seafood is sustainable and that the advertisement misleadingly suggests the Coles Salmon is wild caught salmon.

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

The Environment Code applies to 'Environmental Claims' in advertising and marketing communications. An 'Environmental Claim' is defined as 'any representation that indicates or suggests an Environmental Aspect of a product or service, a component or packaging of, or a quality relating to, a product or service.'

An 'Environmental Aspect' means 'the element of a product, a component or packaging or service that interacts with or influences (or has the capacity to interact with or influence) the Environment.'

The Environment is given a broad definition in the Code but, according to the dictionary definition means 'the broad natural surrounding conditions, such as the bush, the rivers, the air, the sea in which human beings live.'

The Panel noted section 3(a) of the Environment Code which states that "Environmental Claims in Advertising or marketing Communication shall be able to be substantiated and verifiable. Supporting documentation shall include sufficient detail to allow evaluation of a claim."

The Panel considered the complainants' concern that the advertisement's claim that Coles seafood is sustainable is incorrect because salmon farms cause enormous damage to the marine environment.

The Panel considered that a claim of seafood products being responsibly sourced is not a claim about sustainability of commercial fish farming, nor is it a claim about the environmental benefits or otherwise of commercial fish farming.

The Panel considered that the advertisement does not make any claims about sustainability, rather the advertisement references 'responsibly sourced seafood'.

The Panel noted the complainants' concern that Coles salmon is not responsibly sourced.

The Panel noted the advertiser's response that Coles salmon has been certified as responsibly sourced by the Aquaculture Stewardship Council (ASC).

The Panel considered whether the claim 'responsibly sourced' is an environmental claim.



The Panel considered that the claim ‘responsibly sourced seafood’ is a claim most members of the community would understand to mean that Coles understand where their seafood is caught and that the manner sourcing of their seafood would have lower impact on the aquatic ecosystem than seafood captured using less responsible fishing methods.

The Panel noted that the definition of responsibly sourced available on the Westfarmers website is:

“Responsibly sourced seafood means Coles knows how and where its seafood is caught, ensuring fish populations and the impact on surrounding habitats and ecosystems are monitored to meet robust sourcing standards.”

(<http://2016.sustainability.westfarmers.com.au/case-studies/sourcing/responsibly-sourced-seafood/>)

The Panel considered that this is an environmental claim.

The Panel noted that Coles salmon is certified as responsibly sourced by the ASC and that the ASC website states that this means that the salmon farms minimize impacts on the local ecosystem in a number of ways, and have set requirements on monitoring feed sourcing, pollution and disease (<https://www.asc-aqua.org/what-we-do/our-standards/farm-standards/the-salmon-standard/>).

The Panel noted that the claim made in the advertisement related to all Coles seafood is responsibly sourced – not just the salmon.

The Panel noted the advertiser’s response, and information available on the Coles website (<https://www.coles.com.au/corporate-responsibility/sustainability/responsible-sourcing>) indicates that all seafood at Coles is certified by ASC, The Marine Stewardship Council or meet Coles Responsibly Sourced Seafood criteria, which looks at:

“ - Target fish stocks: The health and robustness of the target fish population and the measures in place to ensure they remain healthy in the future;

- Ecosystem impacts: The impact of the fishing method on other species and the surrounding ecosystem; and

- Fishery Management: The effectiveness of the fishery management system in promoting healthy fish stocks and ecosystems.”

The Panel considered that the certification process, and the measures put in place by Coles in assessing “responsibly sourced” criteria would be considered by most



reasonable members of the community to meet the threshold of an environmental claim about responsibly sourced seafood.

The Panel considered that the advertiser provided sufficient documentation to the Panel to substantiate the claims made in the advertisement as their products are certified by ASC and that the ASC system meets criteria for a claim of responsibly sourced and that the advertisement did not breach Section 3(a) of the Environment Code.

The Panel noted that the product advertised is salmon 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 noted this television advertisement features Celebrity Chef Curtis Stone on a boat. He asks "ever wonder if your seafood is responsibly sourced? All Coles brand seafood is responsibly sourced." Vision of a salmon in ice and the salmon product being promoted is shown as a voice over states "like Coles fresh Aussie salmon skin on portions just \$13 a pack". Curtis Stone then states "for responsibly sourced seafood, good things are happening at Coles" and he is seen looking at fish on the boat.

The Panel noted the complainant's concern that the advertisement gives the misleading suggestion that Coles Salmon is wild caught, not farmed.

The Panel noted the advertiser's response that there is no representation about whether all Coles responsibly sourced seafood is ocean or wild caught.

The Panel noted the Practice note for the Food Code states: "In testing the requirement that an advertising or marketing communication should be truthful and honest, the Community Panel 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 Panel considered that the portions of the advertisement featuring Curtis Stone on a boat were clearly distinct in location from the promotion of the salmon product shown in packaging for the price indicated, and that Curtis Stone does not make any direct references to salmon. The Panel considered that the advertisement appeared



as though the same Curtis Stone content would run each week and the advertiser would place a different product promotion in the middle of the advertisement each week depending on the current specials. The Panel considered that while there were fish being shown to be caught on the boat, none of these fish were salmon.

The Panel noted the scene in the advertisement of the salmon on ice with a hand brushing the ice off it, is very similar to the image of Curtis Stone brushing ice off a fish on the boat, and cautioned that the advertiser must be clear in separating images of wild caught fish with a product that is not wild caught.

The Panel considered that in the overall advertisement there is no claim or statement made about how the seafood was captured and there was no statement indicating that the products on special were wild caught.

The Panel considered that the average consumer would be unlikely to consider that “responsibly sourced” meant either wild caught or farmed.

The Panel considered that the most likely interpretation of this advertisement was that Coles Salmon is responsibly sourced, and considered that the presence of Curtis Stone on a boat in the context of promoting seafood products does not establish a misleading impression that all seafood products are wild caught.

In the Panel’s view the advertisement was not misleading or deceptive or otherwise contravenes prevailing community standards and did not breach Section 2.1 of the Food Code.

Finding that the advertisement did not breach the Food Code or the Environment Code the Panel dismissed the complaint.

