



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0378-20
2. Advertiser :	Coles
3. Product :	Food/Bev Groceries
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	16-Dec-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

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

DESCRIPTION OF ADVERTISEMENT

This television advertisement features Curtis Stone advertising Christmas pork meals. It features him holding a roast pork, carving a roast pork and images of people celebrating Christmas. There is also vision of farms and farmers.

He says, "For me, the best pork for Christmas has to be Coles Aussie pork. And all Coles brand fresh pork is 100% Aussie. 100% sow-stall free. From farmers like Brett Hanson. And, 100% free from artificial growth promotents. Because I believe that pork that's raised better, tastes better. Especially at Christmas."

A voice-over says, "Coles brand pork leg boneless roast just \$7.50 a kilo".

Curtis Stone says, "perfect, succulent pork roast. Doesn't get any better than that. Coles. Value the Australian way."

The advertisement includes images which look like approval stamps/logos which state 'Sow stall free' and 'Australian Grown'.

THE COMPLAINT

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

I am a conscientious consumer and I always ensure I am aware about the welfare standards behind the products I purchase. I am aware that Coles pork is NOT 100%



sow stall free - the sow is still put into a gestation stall for up to 24 hours after mating. Also, the sow is moved to a crate 1 week before she gives birth and she can stay in that tiny crate for 6 weeks. This advertising is very misleading. To say "100% sow stall free" means that no stalls or crates are used AT ALL, which is not the case for Coles pork.

Coles pork is not 100% sow stall free. The farmers still use crates that they put the sow in after she is mated with (approx. 24 hours), and then she is moved to another crate 1 week before she has her piglets - and she stays in that crate for 6 weeks. To say that their pork is 100% sow stall free is not true. I object to this greatly because I always try to buy the most ethical food products and this advertising tricks people into thinking that they are doing good by the animals. They are making out that they are true free range but the sow still has to endure confinement in crates and stalls for Coles fresh brand pork. Coles should not be allowed to do this, especially since they are a major retailer.

To make the statement "100% sow stall free" means and represents that the sow (female pig) is not kept in a stall or crate or any such confinement at all. This is not true of Coles brand fresh pork. The sow is actually confined to a gestation sow stall for up to 24 hours after mating. Also, she is moved to another crate a week before she gives birth, and she stays confined in the crate for approx. 6 weeks. To this point, I had to google the difference between a sow stall and a gestation crate. Myself and the average viewer would not/do not know the difference between these stalls and crates. Confinement is confinement. Coles should not be making these 100% claims - they are very misleading and they need to be removed.

This advertisement is highly misleading for the following reasons:

- Sows used in Coles' fresh pork brand are not 100% sow stall free. They are placed in gestation sow stalls for up to 24 hours after mating. To say 100% sow stall free means at no time are the sows placed in stalls.*
- The average consumer would not know the difference between a gestation sow stall and then a farrowing crate. They are essentially the same thing, and in fact the farrowing crate is smaller than the gestation sow stall. Here, the sow is put in the farrowing crate 7 days before giving birth, and she stays confined for approximately 6 weeks. A consumer that chooses pork based on 100% sow stall free claims clearly does not want the sow to be confined. And would likely not realise that a stall and a crate are 2 different things, and so 'any' confinement would be unacceptable to this consumer. It is very misleading to allow any claims about "stall free" to continue in this regard. Unless they are particularised and explained/defined. Regardless - the 100% sow stall free is not correct.*
- The scenes with the farmers showing open skies and open barns is also highly misleading. This advertisement creates the impression that all Coles brand fresh pork is produced in outdoor bred systems. Also highly misleading is that the scenes show what's known as 'grower pigs' and not sows. Which have very different husbandry practices. Grower pigs are irrelevant to the sow claims made in this advertisement.*



The fact that Coles are claiming they only sell 100% sow stall free pork is very misleading and dishonest to consumers- I did a double take when I heard this claim being made. None of their pork products are 100% sow stall free, this is very dishonest and misleading marketing. To claim that their products are 100% sow stall free would mean that none of their producers confine their animals at any time during the lifespan of mother pigs. Coles producers still confine their mother pigs in crates before and after they give birth for up to 6 weeks. This means that their animals are still confined in crates and unable to move freely and express their normal and natural behaviors. This is really misleading for customers who genuinely want to ensure they buy more ethical products that do not include severe confinement of animals. It's also unfair to those producers who genuinely don't use these severe confinement practices.

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 30-second TV commercial (the Advertisement) that promotes Coles Brand fresh pork leg boneless roast (the Product) which is \$7.50 per kilogram (national, excluding WA) and \$7.00 per kilogram (WA only). The Advertisement features Curtis Stone at a Christmas dinner party advertising that Coles Brand fresh pork is "100% sow-stall free" (the Claim).

Response

The purpose of the Advertisement is to communicate that all Coles Brand fresh pork is responsibly sourced and to advertise the price of the Product. Coles disagrees with the complainant's assertions that the Advertisement contains potentially misleading or un-substantiated claims about Coles' sow-stall free fresh pork product.

Coles acknowledges that there is genuine community concern regarding the ethical sourcing of pork and other animal proteins and that statements concerning responsible sourcing must be accurate. Coles' vision is to 'become the most trusted retailer in Australia and grow long-term shareholder value', and we believe that protecting and improving the welfare of animals in our supply chains is central to gaining and maintaining customer trust.

AANA Food and Beverage Code \ 2.1 – Truthful Honest Not Misleading or Deceptive

Advertising or Marketing Communications for Food or Beverage Products 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

All Coles Brand fresh pork, including the Product, is 100% sow stall free. Consequently, Coles considers that the Advertisement is neither misleading or deceptive and does not contravene 2.1 of the AANA Food and Beverage Code.



In 2014, Coles launched Coles Brand sow-stall free fresh pork, the first major Australian supermarket to do so. This means that approximately ninety thousand sows, that produce the pigs for Coles Brand fresh pork nationally, are no longer kept in small, single-pig sow stalls for long periods during their pregnancy. This major animal welfare initiative has meant that for six years, Coles Brand fresh pork has been sourced from farms that do not use sow stalls.

All Coles Brand sow-stall free fresh pork must meet the requirements of the Australian Pork Industry Quality Assurance Program Customer Specifications for Coles Supermarkets Australia Pty Ltd (the Coles Pork Standard). The Coles Pork Standard extends above the current pork industry standard in Australia. Suppliers of Coles Brand fresh pork undergo rigorous auditing by independent third-party auditors, AUS-MEAT, to ensure compliance with the Coles Pork Standard. This audit is not merely an assessment at a single point in time, but also a broader assessment of processes, practices and records to ensure compliance.

Historically, sow stalls were introduced for operation efficiency and to avoid bullying between sows, however, they are now recognised as having a highly negative welfare impact. Under the Coles Pork Standard, sows may only be kept to an enclosure for mating purposes (not exceeding 24 hours) and may be moved to a piglet protection pen (or farrowing crate) a few days prior to farrowing (give birth) and may remain there for the duration of the lactation period (not exceeding six weeks). A mating station and piglet protection pen are both very different in purpose compared to confining a sow in a sow stall for long periods during her 16-week pregnancy.

A sow stall differs from a mating station, both in respect of the purpose and duration of use. Mating stations are important as they provide protection for workers who may be performing inseminations or general handling activities on the sow during oestrous. A piglet protection pen differs from sow stalls both in respect of the purpose and structure. The primary purpose of a piglet protection pens is to facilitate a safe environment for piglets during lactation (i.e., protection from being crushed and killed by the sow). This safe environment is facilitated by the structure of the pen, where a heated 'creep' area exists, separate to the area accessible to the sow, that encourages the piglets to remain away from the sow's body if she is in the process of lying down.

A summary of the key differences between a mating station, sow stall and piglet protection pen are set out below in Table 1.

Table 1: The Coles Pork Standard

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	Mating Station	Sow Stall	Piglet Protection Pen
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Permitted	Yes	No	Yes
Purpose	To provide protection for workers who may be performing inseminations or general handling activities on the sow during oestrous.	To house a pregnant sow for long periods during gestation. Historically, introduced for operation efficiencies and to avoid bullying between sows.	To facilitate a safe living environment for piglets during lactation (protection from being crushed and killed by the sow).
Duration	Not exceeding 24 hours	Not Permitted	One week prior to birth for maximum of six weeks

For motivated customers seeking further detail, our “sow stall free” claim has been enhanced for some time by the explanation that “Sow stall-free means that pregnant sows (mother pigs) are not kept in small single-pig stalls for long periods during pregnancy.” Coles’ website provides a comprehensive guide for consumers on Coles’ responsible sourcing initiatives, including sow-stall free pork (<https://bit.ly/3qWSCY6>).

The footage used in the TVC was captured at Edson Piggery, a current sow-stall free pork supplier to Coles that utilises ‘eco-shelters’, the common form of housing used for grower pigs under the Coles Pork Standard. Edson Piggery is representative of the suppliers of Coles Brand sow-stall free fresh pork. There is no representation in the Advertisement that all Coles Brand fresh pork is produced in outdoor bred systems (systems where the sow is housed outdoors) or that all Coles Brand fresh pork is free range. The footage used features grower pigs, reflecting the animal that is ultimately purchased by our customers.

The Advertisement refers exclusively to sow stalls and there is no representation that no single-pig stall is used at any time. As set out above, the Product is 100% sow stall free and therefore Coles does not consider the Advertisement to be misleading or deceptive.

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 has been provided.

Conclusion

Coles submits that The Advertisement is compliant with all relevant Code requirements and the complaint should be dismissed.

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 complainants' concerns that:

- the statement Coles pork is 100% sow stall free misleading as:
 - the sow is still put into a gestation stall for up to 24 hours after mating.



- the sow is moved to a crate 1 week before she gives birth and she can stay in that tiny crate for 6 weeks.

and the average consumer would not know the difference between a gestation sow stall and then a farrowing crate and a regular sow stall

- It implies the products are free range when they are not, especially in the use of farm visuals

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

Section 2.1: 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.

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.”

Does the statement '100% sow stall free' imply that the sows are never confined?

The Panel noted the advertiser response that “All Coles Brand sow-stall free fresh pork must meet the requirements of the Australian Pork Industry Quality Assurance Program Customer Specifications for Coles Supermarkets Australia Pty Ltd (the Coles Pork Standard). The Coles Pork Standard extends above the current pork industry standard in Australia. Suppliers of Coles Brand fresh pork undergo rigorous auditing by independent third-party auditors, AUS-MEAT, to ensure compliance with the Coles Pork Standard. This audit is not merely an assessment at a single point in time, but also a broader assessment of processes, practices and records to ensure compliance.”

The Panel also noted the advertiser response that sow stalls are different from mating stations or piglet protection pens.



The Panel noted that the RSPCA website provides information on the meaning of sow-stall free: <https://kb.rspca.org.au/knowledge-base/what-is-the-difference-between-free-range-outdoor-bred-organic-sow-stall-free-rspca-approved/>

The Panel noted that the RSPCA definition allows for mating stalls to be used for up to five days and differentiates between sow stalls and farrowing crates. This is relevant to the advertiser's position.

A minority of the Panel considered that the average consumer would not be familiar with the technical definitions of the different sow housings, and would consider the phrase '100% sow stall free' to mean that the sows were never confined to any type of stall.

The majority of the Panel considered however, that although the target audience may not be familiar with the technical definitions of 'sow stall free', most consumers are aware that terms such as this would have particular criteria which would need to be met in order to be certified. The Panel considered that most members of the community would not interpret the phrase 'sow-stall free' to mean that the pigs were not confined in any way at any time.

The Panel considered that the phrase '100% sow stall free' was clearly in reference to 100% of the products meeting the criteria to be called sow stall free, and was not an indication that the pigs were never confined.

The Panel considered that most members of the community would consider the RSPCA's definitions to be in line with community standards regarding the treatment of animals, and that the Coles products met these definitions.

The Panel further noted that the advertiser published information on the meaning of sow-stall free on their website and interested consumers could find this information easily.

Overall, the Panel considered that the phrase 100% sow stall free was not misleading or deceptive and did not otherwise contravene prevailing community standards. The Panel determined the advertisement was communicated in a manner appropriate to the level of understanding of the target audience.

Does the advertisement imply that all Coles pork is free range?

The Panel noted the advertiser response that: "There is no representation in the Advertisement that all Coles Brand fresh pork is produced in outdoor bred systems (systems where the sow is housed outdoors) or that all Coles Brand fresh pork is free range. The footage used features grower pigs, reflecting the animal that is ultimately purchased by our customers."

The Panel noted that most consumers would be aware that unless a product is specifically called 'free range' that it is unlikely to be free range. The Panel considered



that at no point in the advertisement were the words 'free range' used. The Panel noted that the advertiser had used footage of a pig farm that provides pork to Coles. The Panel considered that there was no suggestion in the advertisement that all pork products were sourced from this farm, or that all farms used similar methods.

Overall, the Panel considered that the advertisement was not misleading or deceptive and did not state or imply that the pork products sold are free range.

Section 2.1 conclusion

On this basis, the Panel determined that the advertisement was not misleading or deceptive and was communicated in a manner appropriate to the level of understanding of the target audience and did not breach Section 2.1 of the Food Code.

Conclusion

Finding that the advertisement did not breach any other sections of the Food Code the Panel dismissed the complaints.