

## Decision of the ADVERTISING REGULATORY BOARD

Complainant	Mr. Jean Naude
Advertiser	Woolworths (Pty) Ltd
Consumer/Competitor	Consumer
File reference	Woolworths - Jean Naude - 10-01-19
Outcome	Uphold
Date	4 February 2018

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Jean Naude against the packaging of Woolworths' Sliced Sandwich Ham.

### Description of the advertising

The following emblem appears on the packaging of the product in question:



On the ingredient list, it states that the pork content is 70%.

## Complaint

The Complainant submitted that the packaging claims that the product is 100% pork. However, under the ingredients list it lists the following ingredients: Pork meat (70%), Water, Starch, Salt etc.

The packaging is therefore patently false.

## Response

The Advertiser submitted that its aim in labelling is to provide customers with sufficient and accurate product information. The "South Africa 100% Pork" stamp was introduced as a design element in 2015. The stamp is used on prepared Woolworths Pork, Beef and Chicken products.

It submitted that the stamp is used to inform customers that the product carrying the stamp is made using only South African meat raw material.

It was further argued that "Pork meat" declaration is called Quantitative Ingredient Declaration (QUID) and is a legal requirement under Foodstuffs, Cosmetics and Disinfectants Act. The QUID value is the percentage of raw ingredient (uncooked) in the final product (cooked). The Respondent added that QUID assist customers with informed product choices, as the percentage of any characterising ingredients is declared, thus providing information to compare the composition of products.

To clarify the 70% pork meat that the sandwich contains is of 100% South African origin, as per the original stamp.

## Application of the Code of Advertising Practice

The following clauses were considered in this matter:

Misleading claims - Clause 4.2.1 of Section II

### Decision

Having considered all the material before it, the Directorate of the ARB issues the following finding.

Clause 4.2.1 of Section II states, “the advertisement should not contain any statement or visual presentation, which directly or by implication, omission, ambiguity, inaccuracy, exaggerated claims or otherwise, is likely to mislead a consumer”.

The question before the Directorate is whether the stamp mark is misleading.

The Directorate starts, in background, by taking cognisance of the QUID Regulations and notes in this regard that:

- It appears that a product may be called pork if it has 70% pork content;
- The Advertiser is required to spell out this content in the ingredient label.

However, the issue before the Directorate is not whether the product can be called “pork” and is not whether the ingredient listing is acceptable – the question is whether the crafted “stamp” is misleading. This bears no relation to the QUID requirements as the stamp is a crafted element over and above the ingredient list. The question is whether a consumer might understand that the product is 100% pork, when it is common cause that it is not.

The Directorate considered the stamp and is of the opinion that it can be read in two ways:

1. That the product is 100% South African pork. This is the interpretation the Advertiser ascribes to it.
2. That the product is from South Africa and is 100% pork.

Clause 4.2.1 of Section II is clear that an ambiguous communication is misleading. The Directorate therefore must consider whether the second interpretation is one that the hypothetical reasonable consumer might reasonably have.

In this regard the Directorate noted:

- The words used are “South Africa” and not “South African”. In other words, it is a noun and not an adjective, and the consumer would therefore not necessarily expect it to attach to the rest of the wording in the stamp;
- The 100% is clearly linked to the word “pork” and not the word “South Africa”. It appears horizontally (and not as part of the circle, like “South Africa”) and it appears after the words “South Africa” and before the word “pork”.
- The spacing is such that the words “South Africa” are somewhat separated from the concept “100% pork”.

Given this, the Directorate considers that the hypothetical reasonable consumer might well understand the stamp to mean that the product is from South Africa, and 100% pork.

**The packaging is therefore ambiguous at best, and therefore in breach of Clause 4.2.1 of Section II.**

## Sanctions

In light of the above decision, the packaging in its current form must be amended.

The Respondent is required to:

- Withdraw the advertising in its current format;

- The process of withdrawing this commercial must be actioned with immediate effect;
- The process of withdrawing the commercial must be completed within the deadlines stipulated in Clause 15.3 of the Procedural Guide. In the case of packaging, this is three months; and
- The advertising may not be used again in the future in its current form.