

## Decision of the ADVERTISING REGULATORY BOARD

Complainant	André Claassens
Advertiser	Coca-Cola Africa (Pty) Ltd
Consumer/Competitor	Consumer
File reference	463- Coca-Cola - Andre Claassens
Outcome	Dismissed
Date	22 November 2019

The Directorate of the Advertising Regulatory Board has been called upon to consider a complaint lodged by Mr Claassens against the label of the Coca-Cola “ORIGINAL TASTE” product.

### Description of the advertising

There are two Coca-Cola products featuring the words “**ORIGINAL TASTE**”. The complainant submitted a photo of two 300ml bottles of Coca-Cola side-by-side (see below). Both labels say “**ORIGINAL TASTE**”. One contains 31,8g of sugar (per 300ml); the other contains 22,5g of sugar (per 300ml). The latter product also has the words “**LESS SUGAR**” below the *Coca-Cola* logo on the front of the label, as well as on the back of the label above the nutritional information.



## Complaint

The Complainant essentially objected to the use of the words “ORIGINAL TASTE” on the label of the product containing less sugar, because he claims it tastes completely different, and “... therefore it is not original Coke.”

The Complainant further submitted that all the available 2L bottles now say “Original taste”, but also say “less sugar”. The actual “original taste” 2L bottles, i.e. those with more sugar, are no longer available. He argued that the Advertiser is deliberately misleading customers because the labels of the two different products look exactly the same. He further submitted that he contacted the Advertiser and was informed that the product with more sugar will only be available in 1L and smaller bottles. He lamented the fact that consumers are now forced to buy two 1L bottles of the product containing more sugar at a much higher price than what a 2L bottle of that same product would have cost. He also pointed out that the Advertiser did not bring down the price of the 2L product with less sugar.

## Response

The Advertiser explained that the newly launched variants contain 30% less sugar, but has retained the same Coca-Cola taste. Worldwide, consumers have expressed the need for reduced sugar alternatives to their favourite drinks which taste the same but deliver fewer kilojoules.

Consumer research was conducted in international markets prior to launching the product in South Africa. Each local launch was also accompanied by consumer research in the local market. The new reduced sugar variant consistently tested at parity with the original variant in terms of taste, meaning that the claims “**ORIGINAL TASTE**” and “**LESS SUGAR**” cannot be regarded as misleading or unsubstantiated.

A confidential PowerPoint presentation was submitted in support of this argument. This presentation highlights key findings from the studies conducted in three international markets. In addition, the Advertiser provided a non-confidential version of this PowerPoint presentation which highlights results from blinded (i.e. with no labels) and branded (i.e. with labels visible) taste tests. On both occasions, the statement “Tastes Like Original Coca-Cola” tested at parity with the control (i.e. the actual “Original” variant).

Finally, the Advertiser submitted written confirmation from MMR Research Worldwide Inc, the market research entity responsible for conducting these tests. This confirmation states, *inter alia*, as follows:

“We confirm that the results sent by Coca-Cola are correct and reflect the findings. We confirm that we conducted research in international markets prior to the South Africa launch. The ‘Original Taste - Less Sugar’ product formula was rated by consumers at parity in overall liking to the ‘Original Taste’ product formula in both blind and branded contexts. Similarly, consumers rated the degree to which they agreed each product ‘Tastes like Original Coca-Cola’ and ‘Original Taste - Less Sugar’ and the ‘Original Taste’ products scored at parity in this measure in blind and branded testing”.

The Advertiser emphasised that “less sugar” does not equate to “less sweet”. In its reduced sugar variants, alternative sweeteners are used to compensate for the removal of sugar, meaning that the product retains its sweetness despite the loss in sugar content.

## Application of the Code of Advertising Practice

The following clauses of the Code were considered in this matter:

- Substantiation – Clause 4.1 of Section II
- 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.

The Complainant took issue with the Advertiser’s decision to stop selling what he refers to as “original Coke”, i.e. the one with more sugar, in 2L bottles, thus making it more expensive to buy an equivalent volume of this product than Coca-Cola “Original Taste” with less sugar. The Directorate notes, however, that this is a business decision that falls outside the jurisdiction of the ARB. The same goes for the pricing of “Original Taste” Coca-Cola with less sugar. The only question that the ARB can look into is whether the Advertiser can substantiate the claim that the product containing less sugar has the same taste as the product containing more sugar, i.e. whether it has the “Original Taste” of the product with more sugar.

Clause 4.1 of Section II outlines the parameters within which substantiation would be required for the claim “ORIGINAL TASTE”, as well as the requirements for such substantiation to be considered adequate within the meaning of the Code. It distinguishes between survey-type evidence, and documentary evidence other than survey data.

Given that the claim “ORIGINAL TASTE” relates to the subjective measure of “taste”, the Advertiser is required to provide survey-type evidence. In this regard, Clause 4.1.3 of Section II stipulates, *inter alia*, the following:

- The survey must emanate from a Southern African Marketing Research Association (SAMRA) Accredited Marketing Researcher, or an entity acceptable to SAMRA.
- The accuracy of the claims based on the survey must be confirmed by a SAMRA Accredited Marketing Researcher or an entity acceptable to the Southern African Marketing Research Association.

The name “MMR Research Worldwide” is listed on the SAMRA directory of members at <https://www.samra.co.za/directory/>. It therefore appears that MMR Research Worldwide is a member of SAMRA, which satisfies Clause 4.1.3 of Section II.

The letter from MMR Research Worldwide confirms, *inter alia*, that “... consumers rated the degree to which they agreed each product ‘Tastes like Original Coca-Cola’ ...” In other words, participants were either handed an original version, or a new version with reduced sugar content, and asked whether they agree that this version “Tastes like Original Coca-Cola”. The letter continues by confirming that “... and ‘Original Taste - Less Sugar’ and the ‘Original Taste’ products scored at parity in this measure in blind and branded testing”.

In short, this confirms that during blinded and branded testing, the number of consumers who agreed that the “Original” variant “Tastes like Original Coca-Cola” and the number of consumers who agreed that the newer “Original Taste – Less Sugar” variant “Tastes like Original Coca-Cola” was at parity (i.e. equal). In other words, in both groups some people agreed that it tastes like the original; and some felt that it did not taste like the original – despite the fact that in the one group, it was, in fact, the original. The number of people who agreed that it tastes like the original was equal, regardless of which variant was tasted. This is indicative that the new, lower sugar variant elicits the response “it tastes like the original” as often as the actual original; meaning that it must taste as much like the original as the original.

The Directorate accepts that something as subjective as taste cannot be generalised to an extent where everyone would agree. This is why the Code allows advertisers to rely on survey-type evidence, but only in instances where credible experts (i.e. SAMRA accredited research entities) verify the acceptability of such claims.

The Advertiser has submitted unequivocal verification from a SAMRA accredited entity of the fact that the statement “Tastes like Original Coca-Cola” applied equally to its newer, reduced-sugar variant and its original variant.

**The claim “ORIGINAL TASTE” therefore appears to have been adequately substantiated within the meaning of Clause 4.1.3 of Section II.**

**By virtue of this, the claim “ORIGINAL TASTE” cannot be said to be misleading or in contravention of Clause 4.2.1 of Section II of the Code.**