



CASE REPORT

1. Complaint reference number	29/09
2. Advertiser	Domino's Pizza Australia Pty Ltd
3. Product	Food and Beverages
4. Type of advertisement	Internet
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Wednesday, 11 February 2009
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This internet advertisement from Domino's Pizza for its online ordering service tells people they can win a game and game console if they order online. It then advertises the 8 meats pizza with double smoked sauce showing a bottle of Jim Beam sauce.

THE COMPLAINT

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

The Coalition believes that the Dominos 8 Meats pizza with Jim Beam BBQ sauce advertisement is in breach of:

a) section (b) of ABAC on the basis that it has a strong or evident appeal to children or adolescents and encourages alcohol consumption by underage persons;

(b) section 2.1 of the Children's Code given that its explicit promotion of the Jim Beam brand, and association with alcohol, is highly inappropriate to market and sell to children. It is, therefore, contrary to the prevailing community standard of responsible alcohol advertising; and

(c) section 2.13 of the Children's Code given that the Jim Beam BBQ sauce is an "alcohol product" that is prominently associated with alcohol and improperly marketed to children.

The Coalition believes that the Dominos 8 Meats pizza with Jim Beam BBQ sauce advertisement is in breach of Section 2.1 of the Children's Code, which specifies that Advertising or Marketing Communications to Children must not contravene Prevailing Community Standards. The relevant prevailing community standard here is for responsible alcohol advertising. In the Coalition's view, responsible alcohol advertising involves promotions that are not aimed at young people or children.

Legislation and alcohol industry positions confirm this community standard. The need for responsible alcohol advertising aimed at adults is substantiated by research that shows that alcohol advertising can significantly influence young people's decisions about drinking and their expectancies related to alcohol use. The more desirable young people judge the attributes associated with alcohol consumption to be, the more strongly they identify with advertising and the more persuasive its effects. Further, research also suggests that alcohol advertisements can lead to a young person's early initiation into drinking, which in turn may lead to negative health and Social effects such as poor academic performance, violence and criminal activity. In effect, the more aware and familiar young people are of alcohol through advertising, the more likely they are to drink now and in the future. Therefore, the Coalition considers that the Jim Beam BBQ sauce is a highly inappropriate product to market to children. While the BBQ sauce does not actually contain alcohol, there is still a strong association between it and alcoholic beverages. This is illustrated by the appearance of the BBQ sauce bottle to resemble an alcoholic drink and the

prominent references throughout the advertisement to Jim Beam - a well-known brand of alcoholic beverages. This is not at all consistent with the prevailing standard of responsible alcohol advertising. Rather, in the Coalition's opinion, the advertising of the Dominos 8 Meats Pizza in combination with the Jim Beam BBQ sauce is an extremely irresponsible and inappropriate marketing activity on the part of both companies given that young people are considered to be more susceptible to advertising messages and more likely to experience harm as a result of risky drinking behaviour.

The intention of Jim Beam's advertising partnership with Dominos is to encourage consumers to develop familiarity with, and loyalty to, the Jim Beam brand. However, this advertising tactic is not appropriate to target at young people from the Coalition's perspective. Research indicates that alcohol is already a substantial problem for young people in Australia with associated detrimental health and safety effects. These negative consequences are part of the reason for the development of the prevailing community standard - that responsible alcohol advertising should not be aimed at children and underage persons - in the first place. Yet, the Coalition believes that products such as the Jim Beam BBQ sauce that prominently display and promote its links to alcohol and that are available for viewing and purchase by children and young people only exacerbate this problem. For these reasons, the Coalition believes that the Dominos 8 Meats pizza with Jim Beam BBQ sauce advertisement is in breach of the prevailing community standard of responsible alcohol advertising and, therefore, section 2.1 of the Children's Code. The Coalition believes that the Dominos advertisement has an explicit association with alcohol and the Jim Beam alcohol beverage brand. The advertisement strongly promotes a product - BBQ sauce - that is expressly branded by Jim Beam, a prominent advertiser and manufacturer of alcoholic drinks. The Jim Beam brand name is reinforced through several written and verbal references to it throughout the advertisement. Even the product name reflects the brand - being "Jim Beam BBQ sauce" rather than just BBQ sauce. While the BBQ sauce product itself contains no alcohol, its connection to, and association with, alcohol is further accentuated by the BBQ sauce bottle's resemblance to an alcoholic drink in the Coalition's view. On this basis, the Coalition considers that the Dominos 8 Meats Pizza with Jim Beam BBQ sauce advertisement clearly promotes an "Alcohol Product" in breach of the Children's Code.

The Coalition also considers that the Dominos pizza advertisement is an "Advertising or Marketing Communication to Children, because it is primarily directed at, and appeals to, children. The nature of the products being advertised - pizza and the tie-in X-box promotion - are both immensely appealing items to children. As illustrated above, the Dominos pizza and X-box products have also been advertised during movies that are likely to attract a large number of children, especially boys, as illustrated by the Jurassic Park example. In the Coalition's opinion, the effect of this advertisement is to unnecessarily and improperly increase young people's familiarity with the Jim Beam brand. While the Jim Beam BBQ sauce does not contain alcohol, most of other Jim Beam beverage products do. By advertising the Jim Beam brand in combination with an everyday food item such as pizza, the Coalition is concerned that young children may perceive all Jim Beam products as risk-free items that are "normal" to be consumed in conjunction with food.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

The advertisements in question are light-hearted ads for our recent promotion, 8 Meats Pizza with Jim Beam BBQ Sauce and subsequent promotion to win an Xbox 360.

Domino's 8 Meats Pizza with Jim Beam BBQ Sauce does not contain any alcohol. All advertising material for this promotion clearly states the Jim Beam BBQ Sauce does not contain alcohol. The use of Jim Beam BBQ sauce on Domino's 8 Meats Pizza does not promote underage drinking, binge drinking or alcohol fuelled violence in any of the promotional materials. It promotes Jim Beam BBQ sauce as a tasty addition to the ultimate meat pizza. The Xbox promotion is aimed at our online ordering target audience of males aged 18-24 years and is in no way directed at children.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code"), the AANA Food and Beverages Advertising and Marketing Communication Code (the "F&B Code") and the AANA Code for Advertising & Marketing

Communications to Children (the “Children’s Code”) .

The Board noted the complainants’ concerns about the association in the advertisement between a food product enjoyed by children as well as adults and a company that supplies alcoholic beverages.

The Board noted it had previously considered a television advertisement by the advertiser where complainants’ raised similar concerns (Case Reference Number 550/08). The Board dismissed the complaints in that case. Its reasons for dismissing the complaints included the following:

The Board determined that the advertisement was not directed primarily to children and was not for a product that has principal appeal to children and therefore found the Children's Code did not apply.

... The Board considered the references to the Jim Beam barbecue sauce in this advertisement did not of themselves contravene any relevant or identifiable community standards of health and safety and therefore found no breach of Section 2.6 of the Code.

... As the Board considered the advertisement was not "directed towards Children", it determined that Section 3 of the F&B Code did not apply. The Board then considered Section 2 of the F&B Code. The Board noted Section 2.1 of the F&B Code requires that Advertising and/or Marketing Communications for Food and/or Beverage Products shall not "... otherwise contravene Prevailing Community Standards".

The Board recognised the complainant's concerns were directed to the association of the Jim Beam brand with alcohol products and its "co-branding" with Dominos Pizza in this advertisement. The Board considered there would be general concern in the community about the association of alcohol-related products with products directed towards children and that if this advertisement was more specifically directed to children there may be grounds for determining that the advertisement did breach a community standard. However, as noted above, the Board considered that the product is not specifically aimed towards children and is targeted towards an older audience. On this basis the Board determined that the advertisement was not in contravention of any identifiable community standard. The Board considered that the majority of the community would not find the reference to be offensive and therefore found no breach of Section 2.1 of the F&B Code.

The Board also noted that the reference to Jim Beam could cause some people to think the barbecue sauce contained alcohol, although noted the inclusion of a disclaimer in the advertisement confirming it did not contain alcohol. The Board therefore considered the reference to Jim Beam barbecue sauce was not misleading. The Board found no other basis on which to uphold the complaint under the F&B Code.

In the present case, the Board noted that, in order for the Children’s Code to have application, the advertising or marketing communication must be directed primarily towards children and be for a product that is targeted toward and has principal appeal to children, as defined in the Children’s Code. The Board noted the advertisement appeared on the online ordering page of the advertiser’s website. The Board determined that the advertisement was not directed primarily to children and was not a product that has principal appeal to children and therefore found the Children’s Code did not apply.

Similarly, the Board noted that, in order for Section 3 of the F&B Code to have application, the advertising or marketing communication must be directed towards children. In this regard, the Board gave consideration to the complainants’ argument that the tie-in of the product with an X-box game promotion suggested that the advertising was directed towards children. However, the Board noted that X-box is not necessarily a product designed for or targeted towards children, and is played by adults and children alike. The Board did not agree that the conclusion could be drawn that the advertisement was directed towards children because of the X-box promotion attached to it. The Board also considered that the website has a more restricted viewing audience than television and that the nature of the advertising was not really appealing to children. As the Board was of the view that the advertisement was not directed towards children, it determined that Section 3 of the F&B Code did not apply.

The Board then considered whether there was any breach of prevailing community standards in general (under Section 2.1 of the F&B Code), or prevailing community standards on health and safety (under Section 2.6 of the Code).

The Board noted that in this advertisement, the only reference to “Jim Beam” is on the image of the bottle on the right hand side of the advertisement. The Board considered that this reference had minimal impact.

As stated in the earlier case cited above, the Board again expressed its view that there would be general concern in the community about the co-branding or association of alcohol-related products with products directed towards children and that if this advertisement was more specifically directed to children there may be grounds for determining that the advertisement did breach a community standard, on health or otherwise.

However, again, because it had concluded that the product was not specifically aimed towards children and is targeted to an older audience, the Board considered the advertisement was not in contravention of any identifiable community standard. While the Board was of the opinion that such co-branding appearing in advertising was taking the advertiser down a “slippery slope” in terms of community opinion, the Board considered that the majority of the community at the present time would not find the inclusion of the image of the Jim Beam BBQ sauce offensive. The Board therefore found no breach of Section 2.1 of the F&B Code or Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.