



Case Report

1	Case Number	0057/17
2	Advertiser	McDonald's Aust Ltd
3	Product	Food / Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	08/02/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.2 - healthy lifestyle / excess consumption

DESCRIPTION OF THE ADVERTISEMENT

The advertisement shows a woman and a man in an office setting. We then see hotcakes being prepared - hot butter melting on hotcakes before being covered with syrup - and then we see that the woman is eating hotcakes whilst sat at her desk. A man next to her is eating a sandwich but does not look happy about it and is looking over at the woman's hotcakes.

THE COMPLAINT

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

I do not object they have a commercial for their products. I do object that the man is having the healthy choice and looks like he is sad for having a healthy sandwich. It's just wrong with so many obese persons that the healthy option is ridiculed.

THE ADVERTISER'S RESPONSE

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

Thank you for requesting a response to complaint number 02057/17 (Complaint).

The Complaint refers to the all day breakfast television commercial promoting McDonald's Hotcakes and their 24 hour availability (Advertisement). The Complaint is made under

section 2.2 of the AANA Food and Beverages Marketing and Communications Code (AANA Food Code).

The Advertisement does not breach the AANA Food Code for the following reasons:

Hotcakes can be part of a balanced diet

Enjoying hotcakes with butter and syrup, living a healthy lifestyle, and having a balanced diet are not mutually exclusive. A healthy lifestyle and balanced diet does not demand the exclusion of all pancakes and sweet breakfast foods. People who have heavy exercise regimes often have high carbohydrate diets, and people who have moderate or no exercise regime are still able to consume hotcakes with butter and syrup as a treat. There is nothing in the Advertisement that suggests that hotcakes should be consumed for every meal, every day, nor is there any encouragement or discouragement of either exercise or laziness.

The serving size is appropriate

Showing a person eating three hotcakes does not encourage excess consumption, nor could the sizes and proportions shown be considered excessive. Three hotcakes with a small amount of butter and syrup is 1660kJ per serve, which is a reasonable amount for a single meal. If the Advertisement had shown a stack of 10 hotcakes with 10 portions of butter and 1 litre of syrup, then we could accept the Complaint, but the amount shown is reasonable and balanced.

This would set an unreasonable precedent

If the Complaint is upheld, it would set a precedent that desserts and other sweet foods cannot be advertised. This would be a severely unjust and undesirable outcome, affecting a large range of businesses. The purpose of section 2.2 of the AANA Food Code is to prevent advertisers from promoting excessive consumption, not to ban desserts from all forms of advertising.

A sandwich is not necessarily healthy

The complainant makes an unreasonable assumption that the sandwich shown in the advertisement is 'healthy'. There is no indication of the contents of the sandwich, and for all we know the sandwich could contain a combination of mayonnaise, foie gras, thickly spread butter, and pork lard with added monosodium glutamate. For the Complaint to hold any weight whatsoever there needs to be a more credible claim than 'sandwiches are healthy'. The Complaint's key argument is that promoting hotcakes while not promoting sandwiches is equivalent of promoting unhealthy food over healthy food, but this is an over-simplified view, based entirely on assumptions without any evidence to support them.

No health claims are made

The Advertisement does not make any health claims about hotcakes, nor does it encourage the consumption of unhealthy foods in preference to healthy foods. The primary message of the Advertisement is the celebration of eating traditional breakfast foods at lunch time. Telling consumers that they will enjoy doing something different by having a breakfast food at lunch, being a more exciting choice than a typical sandwich time is a perfectly reasonable

marketing claim.

It is acceptable to advertise food as ‘tasting good’

The comparison in the Advertisement between the sandwich and the hotcakes is about taste. It is a common marketing claim in any food advertising that a meal or product tastes good. The comparison between the sandwich and the hotcakes is about taste, not health. Even if the Complaint’s baseless assumption (that the sandwich is healthy) were to be accepted, it is reasonable to make the subjective claim that hotcakes taste better than the sandwich (the content of the sandwich being unknown).

Accordingly, the Advertisement complies with section 2.2 of the AANA Food Code and the Complaint should be dismissed. We have considered other matters under section 2 of the AANA Code of Ethics and submit that the Advertisement does not breach any of the other matters covered by that section.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Board noted the complainants’ concerns that the advertisement ridicules a healthy food option and promotes eating pancakes.

The Board viewed the advertisement and noted the advertiser’s response.

The Board noted that the product advertised is food and that therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply.

The Board noted in particular Section 2.2 which states: ‘the advertising or marketing communication...shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered excess consumption through the representation of product/s or portion sizes disproportionate to the setting/s portrayed or by means otherwise regarded as contrary to prevailing community standards.’

The Board considered that, consistent with previous decisions (0101/14, 0262/15, 0593/16), the promotion of a product which may have a particular nutritional composition is not, per se, undermining the importance of a healthy or active lifestyle or contrary to prevailing community standards.

The Board then noted the Practice Note to section 2.2 which states:

“The Board will not apply a legal test, but consider material subject to complaint as follows:

(1) In testing whether an advertising or marketing communication undermines the importance of a healthy lifestyle, the Board will consider whether the communication is disparaging of healthy foods or food choices or disparaging of physical exercise. Such disparagement need not be explicit, and the Board will consider the message that is likely to be taken by the average consumer within the target market of the communication.”

The Board noted the complainant’s concern that the advertisement depicts a woman eating hotcakes looking happy while a man eating a healthy sandwich looks sad. The Board noted that the woman is depicted as being relaxed and comfortable (wearing slippers and dressing gown and seated with her legs resting on her work desk) and clearly enjoying her food and considered that the man appears to be jealous of the woman’s overall comfort and enjoyment of her meal. In the Board’s view the focus of the advertisement is having the product available all day and available as a lunch option. The Board noted that we do not know what is in the sandwich the man is eating and considered that there is no nutritional comparison as we don’t know what is in the sandwich. The Board considered that the advertisement does not say that you should not eat sandwiches, or any other type of food, but rather promotes the hotcakes as a food that can be eaten at any time of the day, not just breakfast.

The Board noted that the advertisement makes no reference to exercise and considered that overall the advertisement is not disparaging of healthy food choices or of physical exercise.

“(2) In testing whether an advertising or marketing communication encourages excess consumption through representation of products or portion sizes disproportionate to the setting portrayed, or by any other means contrary to prevailing community standards, the Board will consider whether members of the community in the target audience would most likely take a message condoning excess consumption.”

The Board noted that the advertisement depicts a woman eating hotcakes and considered that the close up shots of the hotcakes being prepared, whilst designed to increase the appeal of the product, only show one portion size and in the Board’s view there is no suggestion that the woman is eating more than a regular portion of the advertised product. The Board considered that the advertisement does not depict, encourage or condone the excess consumption of the product.

The Board determined that the advertisement did not breach Section 2.2 of the AANA Food Code.

Finding that the advertisement did not breach the Food Code, the Board dismissed the complaint.

