



## **CASE REPORT**

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| 1. Complaint reference number | 16/09  |
| 2. Advertiser                 | Yum Restaurants International  |
| 3. Product                    | Food & Beverages   |
| 4. Type of advertisement      | TV   |
| 5. Nature of complaint        | Health and safety – section 2.6<br>Food and Beverage Code – undermines healthy lifestyle<br>Advertising to Children Code - Other |
| 6. Date of determination      | Wednesday, 21 January 2009   |
| 7. DETERMINATION              | Dismissed  |

## **DESCRIPTION OF THE ADVERTISEMENT**

This series of three television advertisements for Yum Restaurant's KFC food products feature Australian cricketers. The cricketers are seen on the cricket field during a match. A voice is dubbed over the action. One advertisement is for 'KFC Fillers', one is for the 'Backyard Bucket' and the other is for the 'KFC Snack Box'.

## **THE COMPLAINT**

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

[The advertisement] glorifies fast food by making it look like the professional cricketers are wanting the game to finish so they can eat said fast food.

The food being advertised has a very high kilojoule count but little nutritional value. Australia has an obesity epidemic - this kind of fast food should be treated in the same way that alcohol and tobacco products are treated. It is advertised during the actual match when children and vulnerable adults are watching.

## **THE ADVERTISER'S RESPONSE**

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

We refer to your email dated 9 January, 2009 in relation to the above complaint. In that regard, we wish to provide a response to the complaint that was received by the Advertising Standards Bureau.

There are a number of variations of the KFC Cricket television advertisements. They all show scenes from real cricket matches with players voices 'dubbed'. The scripts of these advertisements are entirely tongue-in-cheek, light-hearted and humorous and relate to the players having conversations about various KFC products (collectively, the Advertisements).

## **THE COMPLAINT**

In short, the complaint is that the food being advertised was a high kilojoule content and little nutritional value and should be regulated in the same way as alcohol and tobacco products.

## **RELEVANT CODES**

Australian Association of National Advertisers Code of Ethics (the Code) Section 2.6 of the Code

has been cited as relevant. This provides that communications shall not depict material contrary to Prevailing Community Standards on health and safety.

Australian Association of National Advertisers Food and Beverages Advertising and Marketing Communications Code (the F&B Code) Section 2.2 of the F&B Code has been cited as relevant. This provides that communications shall not undermine the importance of healthy and active lifestyles nor the promotion of healthy balanced diet, or encourage what would reasonably be considered as excess consumption through the representation of products or portion sizes disproportionate to the settings portrayed or by means otherwise regarded as contrary to prevailing community standards.

#### HAVE THE CODES BEEN BREACHED?

The Advertisements do not constitute a breach of either the Code or the F&B Code. The relevant aspects of the provisions of the Code and F&B Code are considered together below.

Prevailing Community Standards KFC is broadly consumed by the Australian community. Our products meet the prevailing standards of the Australian community in respect of food. In this regard, we believe that the Australian community prioritises balance. The KFC menu offers foods that can be enjoyed as an occasional treat and can easily fit into a healthy lifestyle. Nutritional information in respect of this food can be found in every store and also online at [www.kfc.com.au](http://www.kfc.com.au). Advertisements which show the consumption of KFC food could not, therefore, be considered to offend Prevailing Community Standards in respect of health and safety.

A healthy and active lifestyle KFC encourages all Australians to maintain a healthy and active lifestyle. In that regard, please see the enclosed pamphlet which is available online ([www.kfc.com.au](http://www.kfc.com.au)) and will soon be available in all stores. A healthy and active lifestyle includes combining a sensible and balanced diet composed of a variety of foods from all of the main food groups, with appropriate physical activity. The Advertisements, showing images of active sportspeople, do not undermine this and nor does the consumption of KFC products as an occasional treat.

Encouraging excess consumption KFC offers a variety of menu options that may be consumed by one or more people. These individual and group meals are sold in responsible portions and nutritional information in respect of all KFC menu items is available in store.

The light-hearted and tongue-in-cheek humour of the Advertisements Like most sports broadcasts, the viewing audience does not hear a great deal of conversation between the participants on the field. The concept that the cricket players are talking to each other about KFC and what they're going to eat for lunch more generally is extremely humorous. It would be inconceivable that the players are in fact having these discussions or thoughts in the middle of a game.

Tobacco and alcohol advertising Food is vastly different from tobacco and alcohol products. Smoking, in any amount, poses an inherent health risk while consumption of alcohol has a number of side effects including the impairment of judgement and motor skills. In contrast, the consumption of a variety of food products (including fats) is essential to life. Ultimately, the decision whether to regulate a class of products is one for the legislature and not for the Advertising Standards Bureau.

Yum! Restaurants International is committed to complying with all codes and applicable laws related to advertising. Yum! will continue to ensure that its advertisements do not offend prevailing community standards.

#### **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 there were several versions of the advertisement for its consideration. The Board noted the complainants' concerns about the advertising of the product during the cricket and that the manner in which it was promoted as a food choice of the cricketers was contrary to promoting a healthy lifestyle, particularly for children.

The Board firstly gave consideration to the Children's Code. The Board considered that the advertisement is not an "Advertising or Marketing Communication to Children" as defined in the Children's Code and that the Children's Code therefore does not apply. This is because the product advertised is not "goods, services and/or facilities which are targeted toward and have principal appeal to Children". The Board noted that, while the product would certainly have appeal to children as well as adults, it was not targeted toward that market and it could not be said that its principal appeal was to children. Additionally, the Advertising was not such that, "having regard to the theme, visuals and language used, are directed primarily to Children". In particular, it is considered that the tongue-in-cheek humour used in the advertisement is directed towards an adult audience. There was nothing in the advertisement to suggest that its primary target was children.

The Board then considered whether the advertisement breached any aspect of Section 2 of the F&B Code. The Board noted that Section 2.2 of the F&B Code requires that:

"Advertising and/or Marketing Communications for Food and/or Beverage Products shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets ..."

The Board considered that the use of dubbed voices over footage of cricketers to promote the product was humorous in tone and clearly not a realistic depiction of what the cricketers might have been saying during a match. The Board considered the advertisement was not advocating the product as a principal or regular part of the cricketers' diet. The Board therefore did not consider the advertisement undermined the importance of a healthy lifestyle or healthy balanced diet. The Board found no breach of Section 2.2 of the F&B Code.

The Board noted that Section 2.7 of the F&B Code makes reference to the use of sporting personalities as part of an advertising or marketing communication. It provides:

"Advertising and/or Marketing Communications for Food and/or Beverage products appearing within segments of media devoted to general and sports news and/or current affairs, shall not use associated sporting, news and/or current affairs personalities, live or animated, as part of such Advertising and/or Marketing Communications without clearly distinguishing between commercial promotion and editorial or other program content."

The Board noted that Section 2.7 applies to advertising or marketing communications for food or beverage products appearing "within segments of media devoted to general or sports news and/or current affairs". As these advertisements featured during broadcasting of live cricket matches and not during news or current affairs coverage, the Board noted that this Section would not apply. In any case, it is noted that the advertisement is clearly distinguished as a commercial promotion, through the humorous and unrealistic tone to the dubbing and the fact that the majority of the advertisement is devoted to highlighting the particular product and advertiser.

The Board also noted that it found no other breaches of Section 2 of the F&B Code.

The Board then considered the application of Section 3 of the F&B Code and in particular Section 3.6, which provides:

"Advertising and/or Marketing Communications directed towards Children for Food and/or Beverage Products shall not use popular personalities or celebrities (live or animated) to advertise or market products, premiums or services in a manner that obscures the distinction between commercial promotions and program or editorial content."

The Board considered that the advertisement was not "directed towards Children" (for the reasons discussed above) and therefore determined that Section 3 of the F&B Code did not apply. In any case, it is considered that Section 3.6 would not apply for similar reasons to those noted in regard to Section 2.7 of the F&B Code in regard to the distinction between commercial promotions and program content.

The Board also considered the application of Section 2.6 of the Code, relating to prevailing community standards on health and safety. For the same reasons as noted above in relation to Section 2.2 of the F&B Code, the Board found that the advertisement was not contrary to prevailing community standards on health. In addition the Board noted that the advertisement of KFC products

was legal and that, while some members of the community consider that there should be no advertising of certain types of food, at present the advertising of KFC is not contrary to any identifiable community standard on public health even if such advertising connects the product with a national sport. The Board therefore found no breach of Section 2.6 of the Code.

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