



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	<b>Case Number</b>	<b>0106/18</b>
2	<b>Advertiser</b>	<b>Hungry Jacks</b>
3	<b>Product</b>	<b>Food / Beverages</b>
4	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
5	<b>Date of Determination</b>	<b>21/03/2018</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

Food and Beverage Code 2.1 (a) - Misleading / deceptive

## DESCRIPTION OF THE ADVERTISEMENT

Television advertisement featuring a man answering a burger phone to a man saying the deal is real. Voiceover offering free chips and a coke with every Whopper or Chicken TenderCrisp purchase.

## THE COMPLAINT

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

*When I went to Hungry Jacks and ordered a double whopper I was told that this whopper is not in this promotion. It has got to be either (with all whoppers or with some whoppers). I believe hungry jacks are guilty of false advertising.*

## THE ADVERTISER'S RESPONSE

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

*In response to the complaint that our Free Chips & Coke TVC was guilty of false*





*advertisement, we don't feel that we've misled or misinformed the public for the following reasons:*

*a) We explicitly call out 'Buy a Whopper or a TenderCrisp'.*

*b) We only feature the 'Whopper' and 'TenderCrisp', both at the start and finish of our commercial.*

*c) The offer terms and conditions are further supported in the form of a disclaimer which appears on screen for the mandated period as per CAD rules. Disclaimer on TVC: "Free small chips and Coke® with the purchase of a Whopper® or TenderCrisp® only. At participating stores only".*

*d) A Whopper is our trademarked signature burger and isn't the same as a modified variant such as a 'Double Whopper' or 'Veggie Whopper'.*

*The 'Free Chips and Coke' promotion is in its 2nd year and we have extended the offer to include our TenderCrisp burger this year.*

*At this stage, we haven't looked at extending this offer to include other burgers such as the 'Double Whopper' but will certainly take this into consideration.*

*Please do not hesitate to get in touch if you have any further questions.*

## **THE DETERMINATION**

The Ad Standards Community Panel ("Panel") considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Panel noted the complainant's concerns that the advertisement is misleading.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel 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. In particular the Panel considered section 2.1 of the Food Code which provides:

'Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any



references to nutritional values or health benefits.'

The Panel noted that the television advertisement depicts a man answering a phone shaped like a hamburger. A voice tells him 'the deal is real' and a voice-over describes a deal where if you buy a Whopper or a Whopper Tender Crisp you will receive a free chips and a coke.

The Panel noted the complainant's concern that the advertisement is misleading as he purchased a Double Whopper and did not receive the free chips and coke.

The Panel noted that the advertisement features the words 'a' Whopper, not 'any' Whopper, and considered that the complainant may have incorrectly interpreted the offer outlined in the advertisement. The Panel considered that the Whopper is not a collection of items, but is a single item.

The Panel noted that the imagery used in the advertisement showed a Whopper, not a Double Whopper. The Panel noted that most reasonable members of the community would interpret the deal as referring to the specific Whopper product and not any Whopper.

In the Panel's view the advertisement was not misleading or deceptive or otherwise contravenes prevailing community standards, and did not breach Section 2.1 of the Food Code.

Finding that the advertisement did not breach the Food Code or any other grounds the Panel dismissed the complaint.

