



Case Report

1	Case Number	0155/17
2	Advertiser	Doughnut Time
3	Product	Food and Beverages
4	Type of Advertisement / media	Poster
5	Date of Determination	12/04/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.1 (b) - Contravenes community standards
Food and Beverage Code 2.2 - healthy lifestyle / excess consumption

DESCRIPTION OF THE ADVERTISEMENT

A yellow poster with a picture of a doughnut, a character from Adventure Time and the logo of Adventure Time, Doughnut Time Logo and tag line.

THE COMPLAINT

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

We are in the midst of an obesity epidemic in Australia with more than a quarter of our children are regarded as overweight or obese. Being overweight as a child increases the likelihood of being an overweight adult which is linked to heart disease, diabetes and certain types of cancer and the effects of chronic disease estimated to cost \$19 billion in NSW alone. It is well documented that a multi-faceted approach is needed to help reduce obesity rates, one of which is to stop junk food marketing communications that targets children and to promote healthy balanced diets and active lifestyles.

I am appalled that there has been an alliance between Cartoon Network and Doughnut Time to promote a high fat, sugary food product. Adventure Time is a popular cartoon aimed at children, therefore having a doughnut that resembles 'Jake the Dog' would greatly appeal to children. Furthermore to the theme, the language used and colourful visuals would also attract children.

The poster undermines the importance of a healthy or active lifestyle by stating that 'It's

Always Adventure Time' and 'It's always a good time' could be interpreted that doughnuts are ok to eat all of the time, when a sugary-laden fatty doughnut is clearly not an 'always time' food. Doughnuts are definitely not part of the Australian Guide to Healthy Eating Plate <https://www.eatforhealth.gov.au/guidelines/australian-guide-healthy-eating>

This poster also promotes excess consumption with three doughnuts visible within the picture, therefore again does not promote a healthy balanced diet.

There was a further article from Mumbrella that has a quote from Suzie Shaw the Managing Director from the agency that was responsible for this marketing campaign stating that it was clearly aimed at children – "As a mum, I know that this element of the campaign brings together two things kids love: Adventure Time and Doughnut Time." So there is clear evidence that this campaign was aimed at children which is shocking.

<https://mumbrella.com.au/cartoon-network-appoints-social-unveils-bacon-pancake-doughnuts-431240>

Overall both Doughnut Time and the Cartoon Network should be ashamed of using a popular cartoon to promote junk food.

THE ADVERTISER'S RESPONSE

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

We refer to the complaint made in relation to a Doughnut Time & Adventure Time Co-promotion poster that was sighted outside of Doughnut Time Store located at The Galleries, Lower Ground Floor, 500 George Street, Sydney 2000 on 17th March 2017 and thank you for the opportunity to provide a response. As this campaign only ran for a short period of time, commencing on 9th March 2017 and ending on 24th March 2017, we would also like to advise that all posters have since been removed on 24th March 2017 due to the end date of the campaign.

We are committed to conducting all advertising and promotions to its highest standards and we work diligently to ensure that it complies with all codes and initiatives set by the Australian Association of National Advertisers (AANA).

Having scrutinised the advertisement and complaint received, we respectfully object to the complainant's allegation and declare that the poster does not contravene with any sections of the AANA Code of Ethics, the AANA Food & Beverage Code or the AANA Code for Advertising & Marketing Communications to Children.

We will not be responding to any parts in relation to The Australian Food and Grocery Council Responsible Children's Marketing Initiative or the Australian Quick Service Restaurant Industry Code for Responsible Advertising and Marketing to Children, as Doughnut Time is not a signatory to these initiatives.

In relation to the mention of an article from www.mumbrella.com.au, Doughnut Time did not endorse, approve or engage in all or any part of this article, nor did we have any communication with the reporter Zoe Samios, any statements made by Suzie Shaw, and the publisher of Mumbrella. Due to null involvement by Doughnut Time in regards to this article, any statements within the article was written at free will by the reporter and was not in any way contrived by Doughnut Time.

We submit that the advertisement does not fall within the definitions of the AANA Code for Advertising and Marketing Communications to Children. Respectively, the AANA Code for Advertising and Marketing Communications to Children does not apply to the advertisement with the main reason being:

Definitions: Children

- *Means persons 14 years old or younger and child means a person 14 years old or younger.*

Doughnut Time's success and business model is heavily relied upon using Social Media Platforms, with the main 2 platforms being Facebook & Instagram.

NB: Statistics are available indicating facebook "likes" and Instagram statistics.

Based on these statistics, it clearly shows that our target market is not children. Out of 90,000 likes on our Facebook page, 87% are 18 years old and above. Out of approximately 177,000 followers on Instagram, 89% are 18 years old and above.

Pictures were taken at 2 different locations during the promotion of this co-campaign with Adventure Time and it shows our predominant target market age which are ages 18 – 34. Adventure Time is a show that is enjoyed by many people aged 15 & over.

We submit the following responses for your review as requested in your letter, in accordance with Section 2 of the AANA Code of Ethics:

2.1 Discrimination or Vilification

The advertisement does not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

2.2 Exploitative and Degrading

The advertisement does not employ sexual appeal with the use of minors or people that appear to be minors, nor does it employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

2.3 Violence

The advertisement does not present or portray any violence.

2.4 Sex, Sexuality & Nudity

The advertisement does not present or portray and sex, sexuality or nudity.

2.5 Language

The advertisement contains suitable language and does not contain any strong or obscene language. The only words utilised in the advertisement that does not relate to the brand's tag line is:

- *"HERE FOR A LIMITED TIME ONLY!"*

These words relate to advertising and marketing communications that communicate to the audience that these doughnuts are available for purchase for a limited time only, suggesting

that the sale of this particular doughnut will only be available for a short period of time in Doughnut Time Stores.

Other words utilised in this advertisement that relate to the brand's tag line are:

- "IT'S ALWAYS A GOOD TIME" – This is the tag line for Doughnut Time's brand and is used throughout all our marketing and advertising material. It is standard practice to include the brand's tag line on all marketing and advertising material. This tag line was not inserted as a one off advertising campaign in conjunction with Adventure Time to suggest that it is an "always time" food as alleged by the complainant.*
- "IT'S ALWAYS ADVENTURE TIME" – The co-campaigner's brand is called "Adventure Time". Our brand is called "Doughnut Time". The collaboration between the 2 brands works well due to having similar names. Adding the words "IT'S ALWAYS" in front of Adventure Time was a play on words in collaboration with Doughnut Time's tag line "It's always a good time".*

2.6 Health & Safety

The advertisement does not depict material contrary to prevailing community standards on health and safety.

We submit the following responses for your review as stated with the complaint, the issues raised in accordance with Food and Beverage Code 2.1 and Food and Beverage Code 2.2:

2.1 Contravenes community standards

The advertisement is truthful and honest, it has not been designed to be misleading or deceptive, it does not contravene with prevailing community standards, and are communicated in a manner that is appropriate to the level of understanding of the target audience of the advertisement. The brand tagline "Its always a good time" is referring to the brand name Doughnut Time. The word "time" is used in both the brand and tagline which promotes continuity within the brand, suggesting that when consuming a doughnut, it's delicious so you're having a "good time" while consuming it. It is not a health claim or likely to mislead consumers suggesting that doughnuts should be consumed all the time. Furthermore, the average consumer and purchaser of a doughnut is between 18-34 years of age so the advertisement is not targeted to children.

2.2. Healthy Lifestyle / Excess Consumption

The advertisement does not undermine the importance of healthy or active lifestyles and does not encourage or suggest to consumers that they should be consuming doughnuts in excess or "all the time".

On the basis of the above, we do not consider that the advertisement contravenes with the AANA Code of Ethics, the AANA Food & Beverage Code or the AANA Code for Advertising & Marketing Communications to Children.

THE DETERMINATION

The Advertising Standards Board (the "Board") considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (the

“Children’s Code”) and the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

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

The Board considered whether the advertisement complied with the requirements of the AANA Code for Advertising and Marketing Communications to Children (The Children’s Code).

The Board noted that Advertising or Marketing Communications to Children means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product.

The Board noted that the definition for Product means goods, services and/or facilities which are targeted toward and have principal appeal to Children.

The Board noted that for the purposes of the Children’s Code, Children means persons 14 years old or younger and Child means a person 14 years old or younger.

The Board noted that in this poster advertisement for Doughnut Time, the image featured a picture of the limited time donut and included the Adventure Time cartoon character Finn in a superman type pose, a large sword through the text “it’s always adventure time” and images of Jake (the dog character).

The Board first considered if the advertisement was for Product.

The Board noted that whilst the cartoon program Adventure time does have a large adult audience, it was the role of the Board to consider the advertisement as it is presented and not the overall appeal of the program.

The Board noted the 2015 Community perceptions on advertising to children research report where the general feeling was that “this product (a Banana Choc McFlurry) would indeed have principal appeal to children. The product packaging, with animated characters on it, was cited as the main reason for this product appealing to children. Some participants discussed that while the flavour might have broader appeal, the product packaging indicated the product is targeted towards children.”

Consistent with the research above, the Board noted that doughnuts appeal to all ages but considered this particular doughnut is designed to be attractive to children. In the Board’s view, the overall impression is that the particular doughnut appearing on the poster and the surrounding features of the poster would have principal appeal to Children and was therefore considered to be for product within the meaning of the AANA Children’s Code.

The Board then noted the theme, visuals and language used in the advertisement.

The Board noted the theme of the advertisement was ‘adventure time’ and considered that the characters used in the advertisement are from the program of the same name and that the promotion is clearly making a connection to the program and the limited time offer.

The Board noted that the visuals include a bright coloured back ground, medieval writing

style and sword and a picture of the adventurous character of Finn whose role within the program is based on the adventures that he has with his best mate Jake. The Board agreed that the bright coloured doughnut itself was of a pattern and colour choice that would have principal appeal to children.

The Board then considered the language within the advertisement and noted that there is very little text on the poster and that the largest writing refers to “it’s always adventure time” and “here for a limited time only.” The Board considered the language itself regarding a limited time offer would attract the attention of adults as much as children and noted however that the font choice is of a creative style that would appeal to children.

The Board considered that it is their role to consider the content of the advertisement as it appears and considered that whilst attractive to adults, In the Board’s view the overall impact of the advertisement is one that regarding the theme, visuals and language would be of principal appeal to children 14 years and younger, and therefore the Children’s Code did apply.

Based on the above, the Board then considered section 2.14 of the Children’s Code. Section 2.14 states that:

- (a) Advertising or Marketing Communications to Children for food or beverages must neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits;
- (b) Advertising or Marketing Communications to Children must comply with the AANA Food & Beverages Advertising & Marketing Communications Code.

The Board first considered part (a) of the clause above.

The Board considered that, consistent with previous decisions (Unilever 465/16, Nestle 385/16), promotion of a product which may have a particular nutritional composition is not, per se, encouraging or promoting unhealthy eating or drinking habits and similarly in in this case, the promotion of a limited time offer doughnut is not promoting unhealthy eating habits.

The Board considered that the advertisement of a special doughnut on its own does not encourage nor promote an inactive lifestyle and the advertisement did not breach section 2.14(a) of the Children’s code.

The Board then considered the provisions of the Food Code.

The Board considered section 2.1 of the Food Code which requires that ‘Advertising or Marketing Communications for Food or Beverage Products shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene Prevailing Community Standards.’ The Board considered that advertising the product ‘donuts’ is not of itself contrary to prevailing community standards and that the advertisement did not breach section 2.1.

The Board then considered 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 noted that the advertised product is a doughnut. The Board considered that, consistent with previous decisions (Hungry Jacks 282/11, Mars 208/11), promotion of a product which may have a particular nutritional composition is not, per se, undermining the importance of a healthy or active lifestyle.

The Board noted the AANA Food and Beverages Advertising and Marketing Communications Code – Practice Note which provides that: ‘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 considered that the likely interpretation of the advertisement is that the product (a doughnut) is intended to be consumed by the one person and that there is no suggestion of frequency of consumption or of consuming multiple doughnuts. The Board noted the inclusion of the text ‘here for a limited time only’ and considered that this was not a suggestion that the buyer should purchase many doughnuts in this time but rather that the particular doughnut will not always be available. The Board noted that there is no direct call to action to buy or to eat multiple doughnuts.

The Board considered that the advertisement did not encourage excess consumption.

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

Finding that the advertisement did not breach the AANA Food Code or the AANA Children’s Code, the Board dismissed the complaint.