



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0172/19
2	Advertiser	Craveable Brands
3	Product	Food / Beverages
4	Type of Advertisement / media	Poster
5	Date of Determination	26/06/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

This poster advertisement is for a new burger product, the "Hellfire". The poster depicts a burger with two meat patties.

THE COMPLAINT

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

The image of the burger within the advertisement that was on the counter, shows a burger containing 2 fillets and also cheese.

It offers an option to choose your spice level, but does not indicate that the burger also has the option of choosing a "single" or "double" (the double Having 2 fillets and cheese added as per the picture shown)

The advertisement does not indicate that the burger pictured is actually a double which you must pay more for.

Because of this when I ordered a Hellfire burger it was missing several of the



ingredients I expected it to have.

When I raised this with Red Roosters head office (Cravable Brands) I was dismissed, and they tried to blame the issue on the cashier for not explaining that the burger pictured was in fact a double and said the cashier should have told me this so I could have paid more to get the burger pictured.

I find it reprehensible that they could not accept the issue may be a breach of standards, and that they tried to blame it on their cashier.

I have an image of the advertisement question and also correspondence from cravable brands, but cannot see where to attach it to this form.

I am happy to email it to you.

THE ADVERTISER'S RESPONSE

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

I am writing to you on behalf of Craveable Brands Pty Ltd, the owner of the Red Roster brand (Red Rooster) concerning your letter dated 3 June 2019 in relation to complaint number 0172/19 (Complaint).

Thank you for the opportunity to respond to this complaint. Red Rooster takes its advertising responsibilities very seriously, and is mindful of its obligations under the Codes administered by the Panel.

1. The advertisement

1.1 Red Rooster understands that the Complaint concerns a poster contained in the Windsor NSW store (Advertisement). A copy of the poster is provided with this letter (Annexure A).

1.2 We also attach the relevant panel from the menu board (Annexure B) and a communication we sent to all stores relating to the sale of the Hell Fire Burger (Annexure C).

1.3 This Advertisement was developed and distributed by Red Rooster.

2. The Complaint

2.1 Red Rooster understands that a Complaint was received on 28 April 2019 to the



effect that the picture of the burger displayed in the poster misrepresents what Red Rooster is selling by showing ingredients it does not contain.

2.2 You have identified that section 2 of the AANA Food and Beverages Marketing and Communications Code (Code) in particular is relevant to the Complaint. Section 2 provides:

“Section 2.1: The Advertisement is truthful and honest, is not misleading nor deceptive, does not otherwise contravene Prevailing Community Standards (as to which, please also see paragraph 3.5), and is communicated in a manner appropriate to the level of understanding of the target audience.

As a consequence, we have addresses the provision of the Code and the Complaint.

3. AANA Food and Beverages Marketing and Communications Code

3.1 The target audience for the Advertisement is adults aged 18 to 35 years and over. The Advertisement forms part of a campaign relating to a new burger launched by Red Rooster called the “Hell Fire Burger”.

4. AANA Food and Beverages Marketing and Communications Code

4.1 Red Rooster is asked to comment on the application of the AANA Food and Beverages Marketing and Communications Code (Food Code), as to which Red Rooster submits that:

(a) The Hell Fire Burger comes in several different combinations:

- Firstly you can order it in mild, medium or hot;*
- Secondly you can order it with a single or a double fillet;*
- Thirdly you can order it as a single burger combo or double burger combo.*
- It is also available in classic mayo.*

It should be noted that the double fillet also contains a slice of cheese (as depicted in the pictures) as between the two fillets because this was determined as necessary in order to deliver a balanced burger build considering the use of two chicken patties.

(b) The Poster depicts a Hell Fire Burger with a double fillet and Habanero sauce (the medium heat level available). The Poster must not be viewed in isolation however. Out menu panel (Annexure B) in each store makes it very clear that you can choose a single or double fillet and the price point for each.

(c) As such, there is nothing misleading or deceptive about the pictures. The picture depicted is a Hell Fire Burger.



(d) Further and in addition, it is important to note that at the point of sale, the customer will actually be asked how they want to customise their Hell Fire Burger. I attach a communication that Red Rooster sent to each Red Rooster store on 17 April 2019 (including the Windsor store) which actually depicts graphically the dialogue which a Red Rooster staff member should have with a customer ordering the burger. You will note that we specifically call out whether they want a single or a double fillet.

(e) Having regard to the above, you cannot view the poster in isolation to the menu panel. Even if you did, the poster is not misleading or deceptive as it depicts a Hell Fire Burger. Viewed in totality with the menu panel, together with the suggested selling dialogue, it is very clear to customers that they have the option of purchasing a Hell Fire Burger as a single fillet or as a double.

5. Conclusion

5.1 For the reason above, Red Rooster submitted that the complaint should be dismissed and no further action taken.

THE DETERMINATION

The Ad Standards Community Panel (the 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 a burger and that therefore the provisions of 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 this poster advertisement depicts a "Hellfire" burger. The image on the poster has two meat patties.



The Panel noted the complainant's concern that the advertisement is misleading as it shows the double burger with two fillets and cheese but does not state it's a double, and therefore when the complainant ordered the burger they were given a single which was missing ingredients advertised on the poster.

The Panel noted the Practice note for the Food Code states: "In testing the requirement that an advertising or marketing communication should be truthful and honest, the Community Panel will consider whether the information most likely to be taken from the advertisement by an average consumer in the target market would be reasonably regarded as truthful and honest."

The Panel considered that many fast food outlets have various options available for their products, and it is not a requirement that every version of the product be shown in advertising materials, or even the base product.

The Panel noted that the advertisement does not specify that the product depicted is the "double" option of the burger, however considered that the advertisement does list spice options, and considered that this makes it clear that there are options available for the burger.

The Panel noted that there is no price displayed on the advertisement.

The Panel disagreed with the advertiser's response that consumers will be asked at the point of sale to specify options for their burger, and considered that although this may be best practice it will not always be the case for every customer.

The Panel considered the advertiser's response that the business's full menu is displayed in store and lists the single and double options available for the "Hellfire" burger.

The Panel noted that this is a new product available, however considered that the target audience for the advertisement would be average consumers who eat Red Rooster and that this target audience would be familiar with concept of various options available for products.

The Panel considered that given the preexisting knowledge of the target audience in combination with the image of the product displayed in the advertisement and in conjunction with the full menu displayed in store would mean that the advertisement was not misleading consumers in relation to burger ingredients.

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.