



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0176/18
2	Advertiser	Hungry Jacks
3	Product	Food / Beverages
4	Type of Advertisement / media	Transport
5	Date of Determination	11/04/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.2 - healthy lifestyle / excess consumption
Advertising to Children Code 2.14 Food and beverages
QSR - 1.1 - Advertising and Marketing Message Advertising and Marketing Message must comply

DESCRIPTION OF THE ADVERTISEMENT

This advertisement is a poster featuring four types of frozen drinks on the side of buses. Text reads 'Hungry Jack's Large Frozen Flavours \$1'

THE COMPLAINT

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

We are currently experience a childhood (and adult) obesity epidemic - this poster is contributing to this epidemic. This poster uses very simple language and colourful images of frozen drinks that would predominately appeal to children and adolescents. To add to this, the poster promotes a drink that is excessively large and is not a healthy choice and contains 45.8g sugar. Promoting excessive portion sizes at super cheap price (\$1) has no place in adult diets let alone a child's diet. The Frozen Coke alone has 45.8g sugar per portion which is outrageous. Stop trying to push large portions of nutrient poor drinks at at cheap prices on



children!

THE ADVERTISER'S RESPONSE

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

As a proud Australian brand, Hungry Jack's has dedicated itself to improving foods standards across the board covering a wide range of initiatives from 100% Aussie (locally sourced) beef that is hormone free, fresh cage free eggs and real vegetables.

With regards to this particular OOH piece, the communication involves showing a range of different frozen beverage flavours on offer, clearly stating the size and the price point. The beverage is a value offer to consumers allowing them access to a refreshing beverage at a fair price.

To ensure our guests have a range of options, Hungry Jack's provides a variety of beverage choices on its menu, including natural or sparkling water, orange juice and low or non-sugar carbonated soft drinks.

In terms of addressing the complaint based on the below advertising codes:

2.1 There is no discrimination towards or vilification of anyone in this communication

2.2 There is nothing visually or verbally that is exploitative or degrading

2.3 There is no violence

2.4 There is no sex, sexuality or nudity present

2.5 There is no use of inappropriate language

2.6 There is no risk to health or safety as no talent or scenarios are featured in this ad.

2.7 The advertising is clearly distinguishable as advertising

No health, nutrition or ingredient claims or statements were made in the advertisement.



We can confirm that we are not advertising directly to children. This campaign was targeted and bought against those aged between 18-54.

THE DETERMINATION

The Ad Standards Community Panel (the “Panel”) considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (the “Children’s Code”), the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) and the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (the ‘QSRI’).

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

The Panel noted that Hungry Jacks is a signatory to the QSRI and determined that the provisions of the QSRI apply to this marketing communication.

The Panel noted that the QSRI is designed to ensure that only food and beverages that represent healthier choices are promoted directly to children.

The Panel considered the definition of advertising or marketing communications to children within the QSRI. The definition states that ‘Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for food and/or beverage products.’ Under this initiative children means “persons under the age of 14 years of age.”

The Panel noted that the QSRI captures Advertising and Marketing Communications to Children where:

1. ...the theme, visuals and language used, are directed primarily to Children and are for food and/or beverage products;
2. Advertising or Marketing Communications that are placed in Medium that is directed primarily to Children (in relation to television this includes all C and P rated programs and other rated programs that are directed primarily to Children through their themes, visuals and language); and/or
3. Where Children represent 35 per cent or more of the audience of the Medium.

The Panel considered the definition of Medium in advertising or marketing communications to children within the QSRI which includes “television, radio, newspaper, magazines, outdoor billboards and posters, emails, interactive games, cinema and internet sites.” The Panel considered that transport is covered by this



definition.

The Panel determined that the advertisement did not meet points 2 or 3 of the QSRI in that it was not broadcast in a Medium that is directed primarily to Children or where Children represent 35 per cent or more of the audience of the Medium.

The Panel noted that with regards to point 1 the Panel must consider whether the communication activity is directed primarily to Children – regardless of its placement.

The Panel noted that the dictionary definition of “primarily” is “in the first place” and that to be within the QSRI the Panel must find that the advertisement is clearly aimed in the first instance at Children under 14 and that it must have regard to the ‘theme, visuals and language’ used in determining this issue.

The Panel noted the complainant’s concern that the advertisement uses simple language and colourful images to promote a selection of frozen drinks.

The Panel noted the advertiser’s response that the advertisement was part of a campaign targeted and bought against those aged between 18-54.

The Panel then noted the visuals of the advertisement which shows four frozen drinks on a blue background, with white text stating ‘large frozen flavours \$1’. The Panel noted that the colours are bright and fun and that the pop-art style animation was designed to attract attention. The Panel considered that the language used was not child-like or targeted specifically to children. The Panel considered that the theme would be attractive to children but would be equally attractive to adults. The Panel noted that the flavour lemon, lime and bitters was a flavour more targeted towards adults than children. The Panel noted the words ‘large frozen flavour’ would not be considered to be directed primarily to children.

In this instance the Panel considered that the theme, visuals and language of the advertisement were advertising a beverage, and the message was directed equally to adults and not directed primarily to Children under 14.

Based on the requirements outlined in the QSRI the Panel considered that as the advertisement was not directed primarily to Children, did not appear in a medium directed primarily to Children and did not appear in a medium which attracts an audience share of more than 35% of Children, the QSRI does not apply in this instance.

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



To fall within this Code, or Part 3 of the AANA Food and Beverages Advertising and Marketing Communications Code (The Food Code), “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”.

For the reasons outlined above, the Panel considered that the advertisement is not directed primarily to Children.

The Panel determined that as this transport advertisement is not directed primarily to Children, the Children’s Code and Part 3 of the Food Code do not apply.

The Panel then considered whether the advertisement complied with all relevant provisions of the Food Code.

The Panel considered section 2.2 of the Food Code 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 Panel noted that the advertised product is a frozen coke. The Panel considered that, consistent with previous decisions (Hungry Jacks 282/11, 0132/17), 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 Panel noted that the advertisement has no messaging around frequency of consumption, and cannot be reasonably interpreted to be encouraging the purchase of more than one beverage or promoting ‘buy them all’. The Panel determined that the advertisement is not encouraging excess consumption of the product.

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

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

