



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0191/10</b>
<b>2</b>	<b>Advertiser</b>	<b>Subway Franchisee Advertising Fund</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>12/05/2010</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.8 - Food and Beverage Code      undermines healthy lifestyle

### DESCRIPTION OF THE ADVERTISEMENT

Opens with caption in capital letters: Why is wagyu the most amazing beef?" with female voiceover: It's the marbling or good fats in wagyu that give it the unique flavour and incredible juicy tenderness. Image of Subway Wagyu prime beef Subway burger is depicted throughout the advertisement. Male voiceover: Premium grain fed wagyu beef is now amazing value in the new wagyu beef sub only at your nearest Subway restaurant. Prime flavour now without the guilt

### THE COMPLAINT

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

*I believe the appropriation of Wagyu beef from the gourmet restaurant industry is being used as a vehicle to advertise high-fat content to children. The advert states (non-verbatim) that there is now an excuse to eat this kind of food. They are pitching that the consumption of high-fat food is now acceptable.*

*I disagree with this philosophy and believe it is sending an inappropriate message in regards to the battle against obesity not only in children but the greater Australian public.*

### THE ADVERTISER'S RESPONSE

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

*I am writing on behalf of the Subway Franchisee Advertising Fund in response to the consumer complaint received by your office on 16 April 2010 regarding an advertisement for Subway's "Wagyu Beef" sandwich product. The complaint states that the Subway commercial is "a vehicle to advertise high-fat content to children," "pitch[es] that the consumption of high-fat food is now acceptable," and "send[s] an inappropriate message in regards to the battle against obesity not only in children but the greater Australian public."*

*Subway respectfully disagrees with the complaining consumer's statements about the "What's Your Beef?" commercial and Subway's "Wagyu Beef" sandwich product. Subway takes pride in its product advertisements and the number of "better for you" options available at Subway restaurants in Australia. A simple viewing of the commercial shows that Subway is not directing its Wagyu beef sandwich product to children. Indeed, there is nothing about the commercial that is directed to children. More importantly, Wagyu beef is one of Subway's "better for you" options, not an unhealthy product being forced upon the greater Australian public.*

*Subway's "Wagyu Beef" sandwich product is a "better for you" option for Australian consumers because the meat is premium-grade beef grown from Wagyu cattle. (See Attachment C.) The quality and flavour of Wagyu meat is different from other types of beef commonly eaten in Australia. The beef is described by some as having a smooth caramel/buttery flavour that is intensely sweet and delicate. Wagyu beef is also labelled a premium quality grade because it is so tender. Prior to Wagyu entering the Australian market, the Australian grading system was 0 to 6, with the best of the Australian breeds including Angus, averaging about 2. Since the introduction of Wagyu into Australia, the Australian grading system has been increased to 9. Premium products like Wagyu beef have a different appearance from lower-graded beef because of the amount of visible marbling. (See Attachment D.)*

*The marbling in Wagyu beef is the reason for its unique flavour, texture and moisture. While past public campaigns have educated the Australian public that fatty meat, particularly fatty processed meat, is unhealthy, it is wrong to assume that Wagyu beef is unhealthy because it is heavily marbled. The fat in Wagyu beef is actually different from the fat in more traditional cattle meat. Traditional cattle beef contains high levels of saturated fat. Saturated fats and trans fats are the main dietary factors in raising blood cholesterol.*

*Wagyu beef is celebrated because unlike traditional cattle meat, it is high in monounsaturated fat, not saturated fat. Monounsaturated fat is a type of fat found in most plant-based oils and margarines such as olive, canola and peanut oils, avocados, nuts and leaner meats. Monounsaturated fat is considered to be probably the healthiest type of general fat. It has none of the adverse effects associated with saturated fats, trans-fats or omega-6 polyunsaturated vegetable oils. Monounsaturated fats help to lower levels of "bad" cholesterol without lowering the levels of "good" cholesterol in your blood.*

*Recent research has even shown that substituting monounsaturated for saturated fats may also aid in weight loss as long as the diet is very low in all types of fat.*

*Monounsaturated fatty acids also have a very low melting point (less than 7 degrees Celsius), which means that products like Wagyu beef literally "melt in your mouth" and thus, are more appealing to eat.*

*In summary, Wagyu beef is lean and healthy, without compromising taste. We hope that you will agree that Subway's "Wagyu Beef" commercial does not advertise high-fat content to children and does not pitch that the consumption of high-fat food is now acceptable.*

## **THE DETERMINATION**

The Advertising Standards Board (Board) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code"), section 2 of the AANA Food & Beverages Advertising & Marketing Communications Code ("the Food Code") and section 2.7 of the AANA Code for Advertising and Marketing Communications to Children (the Children's Code).

The Board noted the complainant's concern that the advertisement promotes to children the acceptability of eating high fat food

The Board first considered whether the advertisement is directed to children and is for product. The Board considered that the advertised product Subway rolls are not a product that is targeted toward and of principal appeal to children. The Board then considered whether the advertisement is advertising or marketing communications to children. Considering the theme, visuals and language used in the advertisement the Board considered that the advertisement is not advertising that is directed primarily to children. The Board therefore determined that the advertisement is not advertising to children and that the Children's Code and Part 3 of the Food Code do not apply.

The Board noted that the advertisement claims that the advertised product contains Wagyu beef which has 'good fats'. The Board noted the advertiser's response that Wagyu beef is high in monounsaturated fats and that these fats are generally considered to be a healthier type of fat. The Board considered whether the advertisement complied with section 2.1 of the Food Code. Section 2.1 of the Food Code states: "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, 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 Board noted the information provided from the Advertiser about the type of meat and noted that the advertisement is careful not to make any specific claims about the product other than referring to 'marbling or good fats' giving the product 'unique flavour and incredible juicy tenderness'. The Board considered that the reference to 'good fats' was not misleading as it still clearly indicated that the product contains fat and that the references to unique flavour and tenderness are advertising puffery which do not make any particular representation to consumers. The Board considered that, based on the assumption that the information provide by Subway about the fat content of the meat is accurate, the advertisement is not misleading.

The Board noted that the complainant is concerned that the advertisement is a vehicle to advertise high-fat food to children. The Board noted that the Codes restrict the types of advertising to children but that this advertisement is not within those restrictions. The Board considered that the advertisement did not otherwise depict any material that is contrary to

prevailing community standards on health and safety and did not breach section 2.6 of the Code. Finding that the advertisement did not breach the Code, the Food Code or the Children's Code in any manner, the Board dismissed the complaints.