



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0265-19
2. Advertiser :	Domino's Pizza Enterprises Ltd
3. Product :	Food/Bev Venue
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	11-Sep-2019
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Food and Beverages Code\2.1 Truthful Honest Not Misleading or deceptive

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a voice over stating "At Domino's, we've been doing our \$5 value range every day for nearly 5 years. But some still don't know it! So just a reminder, our Every Day \$5 Value range is on Monday, Tuesday, Wednesday, Thursday, Friday, Saturday, and Sunday. Everyday! At Domino's." Images of pizza and sides from the \$5 range are shown. Graphics on screen state: "EVERY DAY VALUE RANGE from \$5 each pick up", "LARGE VALUE PIZZAS from \$5 each pick up", "VALUE RANGE SIDES from \$5 each pick up" and "EVERY DAY VALUE RANGE from \$5 each pick up". The disclaimer "Participating stores only. Prices are subject to change. 15% surcharge applies on public holidays. 10% surcharge applies on Sundays." is at the bottom of the screen.

THE COMPLAINT

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

I believe it is misleading because the thrust of the commercial is that the value range of pizzas cost \$5. In fact the pepperoni pizza which features heavily in the visual scenes costs \$5.45. (I have not checked the price of the other varieties in the range).

THE ADVERTISER'S RESPONSE



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

Firstly, thank you for providing Domino's with the opportunity to respond to the complaint regarding the Advertisement. Domino's takes its responsibility as an advertiser very seriously and encourages any feedback from the community to better understand and respond to any issues or concerns that may be raised in connection with our advertisements.

We look to respond to the complaint provided while carefully considering the Advertisement in light of the provisions contained within the AANA Code of Ethics (the AANA Code), the AANA Food and Beverages Code (the F&B Code), the AANA Code for Advertising and Marketing Communications to Children (the AMCC Code), the Australian Food and Grocery Council Responsible Children's Marketing Initiative (the RCMI) and the Australian Quick Service Restaurant Industry Code for Responsible Advertising and Marketing to Children (the QSR Code), and for the purposes of this letter, all together referred to as the "Codes".

In summary, our assessment concludes that the Advertisement does not breach the AANA Code (or the Codes) on the grounds set out below.

The AANA Code of Ethics

As requested in your letter, we have addressed all parts of Section 2 (2.1 to 2.7 inclusive) of the AANA Code specifically as follows:

Section 2.1 – Discrimination or vilification

Domino's does not believe that the Advertisement portrays people or depicts material in a way which discriminates against or vilifies any person or section of a community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

Section 2.2 – Exploitative or degrading

Domino's does not believe that the Advertisement employs sexual appeal which is exploitative or degrading of any individual or group of people in any manner whatsoever.

Section 2.3 – Violence

Domino's does not believe that the Advertisement presents or portrays violence in any manner whatsoever.

Section 2.4 – Sex, sexuality and nudity

Domino's does not believe that the Advertisement displays any sex, sexuality or nudity that is not only not sensitive to the relevant audience, but in any manner whatsoever.

Section 2.5 – Language

Domino's does not believe that the Advertisement uses any inappropriate language whatsoever.



Section 2.6 – Health and safety

Domino's does not believe that the Advertisement depicts any material contrary to prevailing community standards on health and safety.

Section 2.7 – Distinguishable as advertising

Domino's does not believe that the Advertisement is not clearly distinguishable as advertising and is relevant to its audience.

AANA Food and Beverages Code (F&B Code)

We note that Ad Standards has identified Section 2.1 of the F&B Code as the "Issues raised to date". We have reviewed this section, and also considered the balance of the F&B Code. We do not believe that any section within the F&B Code has been breached by the Advertisement.

Section 2.1 of F&B Code provides that:

"Advertising or Marketing Communication 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."

Application Section 2.1 of the F&B Code to the Advertisement

The Advertisement highlights our Value Range offering, including both pizzas and sides. The Value Range is offered at an economical price point, with menu items within the range available from \$5 pick up. As indicated in the Advertisement, we have offered the Value Range to our customers for almost 5 years now.

We have a range of pizzas to meet customer demands at all price points, being the New Yorker Range, Premium Range, Traditional Range and Value Range.

The Value Range comprises seven pizzas (Simply Cheese, Cheesy Garlic with Crème Fraiche, Margherita, Pepperoni, Beef & Onion, Ham & Cheese and Spicy Veg Trio). The Simply Cheese, Margherita and Spicy Veg Trio pizzas are priced from \$5.00, with the remainder of the range being priced from \$5.45.

The intention of the Advertisement is to advertise the range and not a specific menu item. As such no menu items have been specifically mentioned in the voiceover or graphics. Footage of a range of pizzas and sides are used throughout the Advertisement.

Throughout the Advertisement the graphics clearly state that the Value Range pricing is "from \$5 each pick up". Furthermore, a disclaimer is shown at the bottom of screen noting the terms and conditions of the offer contained in the Advertisement as: "Participating stores only. Prices are subject to change. 15% surcharge applies on



public holidays. 10% surcharge applies on Sundays.” As such, we do not consider that the impression is given that every menu item will be priced at \$5. We consider the use of the qualification “from” clearly conveys to customers that within the range some products will be at the “from \$5 price” point, but not all (subject to the circumstances contemplated by the disclaimer). Further we submit that this evidences the Advertisement has neither been designed to mislead or deceive nor in our view does it mislead or deceive.

Notwithstanding our position as stated above, the F&B Code Practice Note suggests that the intent of section 2.1 of the F&B Code is primarily concerned with stated health, nutrition and ingredient components of the food or beverage product within advertisements and whether these are truthful and honest and not be misleading or deceptive. We note that the Advertisement does not feature any specific food products, given the focus is on the range and as such does not make any statements as to health, nutrition or ingredient components.

Further Codes

We further note that the AANA Code also incorporates the AANA Code for Advertising and Marketing Communications to Children and the following initiatives: the Australian Food and Grocery Council Responsible Children’s Marketing Initiative and the Australian Quick Service Restaurant Industry Code for Responsible Advertising and Marketing to Children (Further Codes). As our products are likely to also come within the scope of these Further Codes, we confirm that these Further Codes have also been considered and we do not believe that any section within those Further Codes have been breached by the Advertisement in any way.

For the above reasons, we respectfully submit that the Advertisement is not in breach of the AANA Code or any Further Codes.

If you require any further information, please do not hesitate to make contact with us.

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 pizza 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 the complainant's concern that the advertisement is misleading as it suggests that the value range of pizzas all cost \$5 when in fact the pepperoni pizza costs \$5.45.

The Panel noted the advertiser's response that the graphics on the advertisement say 'from \$5' and that the advertisement is not misleading or deceptive.

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 noted that the voice over refers to the \$5 range, but does not include any qualifiers such as 'from' or 'starting at'. However the Panel noted that the different graphics on screen state: "EVERY DAY VALUE RANGE from \$5 each pick up", "LARGE VALUE PIZZAS from \$5 each pick up", "VALUE RANGE SIDES from \$5 each pick up" and "EVERY DAY VALUE RANGE from \$5 each pick up".

The Panel considered that the voice over does not mention specific items and that many of the items in the \$5 range do cost \$5. The Panel noted that some of the more expensive items are shown on the screen, such as the \$5.45 pepperoni pizza, however considered that these items were shown alongside the graphics stating 'from \$5 each'.

The Panel considered that an average consumer in the target market of take away pizza buyers would consider that that the advertisement was promoting a range of pizzas which were close to \$5 in cost but would not be misled into believing that all of the pizzas available were \$5.

The Panel considered that the advertisement viewed as a whole 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.