



Ad Standards Community Panel
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Case Report

1. Case Number :	0267-20
2. Advertiser :	ALDI Australia
3. Product :	Food/Bev Groceries
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	9-Sep-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Food and Beverages Code\2.2 Healthy lifestyle/ excess consumption

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a woman watching TV in bed on a laptop computer. She is nibbling a single chip from a packet of chips. There are various snack foods and drinks on bed-side tables on either side of her. These foods and drinks are neatly placed and unopened. The words "Other Supermarkets \$53.87" appear on one side and the words "ALDI \$33.37" appear on the other side.

The voiceover states "Happy Binge Watching Day!"

The woman throws the sheets over her head and says "I'm not doing face-to-face time right now".

Voiceover: That's cool. I can see the party's already started. You've got your chips, chocolate, those chips...and all for 38% less by switching to these ALDI brands.

The woman says "Don't judge me".

Voice-over: Not judging, celebrating Binge Watching Day. Just one of 365 days to save at ALDI. Good. Different.

The screen pans out to reveal other rooms in the house, including the kitchen, where a child is sitting at a table with a meal including vegetables and a glass of water.

Behind the child is a bench containing fresh fruit and vegetables.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:



Binge watching. Binge eating giant packets of snacks. Offensive, playing on people's vulnerabilities given the number of people suffering from diabetes. 280 people diagnosed with diabetes every single day in Australia (2013). Irresponsible, beyond comprehension.

THE ADVERTISER'S RESPONSE

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

For the reasons set out below, ALDI submits that the advertisement does not breach section 2.2 of the Food and Beverages Code.

Prohibition on advertising that undermines the importance of healthy or active lifestyles, or the promotion of healthy balanced diets

In considering whether an advertisement is in breach of this limb of section 2.2, the Advertising Standards Board (the Board) has previously considered whether promotion of products that have a particular nutritional composition can be said to be, per se, undermining of the importance of a healthy balanced diet, and held that it cannot. See for example case report 0416-19, involving a complaint against an advertisement for Gelatissimo that offered a free scoop of ice-cream for children on Halloween night. The Board noted that its decision in this case was in line with previous decisions: Ferrero 0345/17, Hungry Jacks 282/11, and Mondelez 0550/17. The same approach was followed in McDonalds 0042-20.

ALDI submits that these determinations show that the promotion of foods and beverages that may be classified as discretionary foods cannot, in itself, be said to convey a message to the average supermarket consumer that is undermining of the importance of a healthy lifestyle. The scene that has been complained of - that is, a woman consuming chips (shown on screen as less than one chip, nibbled slowly) in bed could not be mistaken as setting an example of over consumption. The scene is accompanied by a backdrop of a normal household which comes into view, including a scene of a child consuming a meal that included vegetables and water, and a kitchen well stocked with fresh fruit and vegetables.

Prohibition on advertising that 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

We submit that the advertisement is not capable of being understood by reasonable supermarket consumers as encouraging excess consumption.

The reference to "bingeing" is a reference to "binge watching" - that is, the practice of watching multiple episodes of a television programme in rapid succession - not to binge eating. The woman at the centre of the advertisement wants to avoid judgment for what is called out as binge watching. Reasonable supermarket consumers would



not understand the advertisement to be encouraging or promoting excess consumption. The portrayal of a wide range of snack foods on either side of the bed would not be understood as conveying a suggestion that these would be opened in the same session at all, let alone all be eaten in one sitting. Rather that these are a basket of goods of the type a viewer might eat or drink, while binge watching television for which a price comparison is being made.

Compliance with the Code

ALDI respectfully submits that the eating of a chip in the context of this advertisement would not (consistently with the Board's previous approaches) undermine healthy lifestyles or the promotion of healthy balanced diets; and that the presence of other foods and drink presented as described above would not be perceived as encouraging excess consumption.

For the sake of completeness we have also considered the AANA Code of Ethics and the AANA Code for Advertising and Marketing Communications to Children, and consider that the advertisement also complies fully with these provisions.

We respectfully request that the complaint be dismissed.

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 concern that the advertisement promotes binge eating, which is irresponsible.

The Panel viewed the advertisement and noted the advertiser's response.

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 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 Panel will consider whether members of the community in the target audience would most likely take a message condoning excess consumption."



The Panel noted the advertiser's response that the reference to binging in the advertisement was a reference to binge watching a television show, not binge eating.

The Panel noted that the woman is only seen to have one packet of chips open, and there is no other open or discarded packaging. The Panel noted that the food on each side of the bed was displayed to illustrate a comparison between foods available at this retailer compared to other retailers and the price difference. The Panel considered that there was no indication the woman was going to consume all the foods herself, or in the one sitting.

The Panel noted the voice over refers to 'Binge watching day' and that it is 'just one of 365 days to save'. The Panel considered that this is an indication that this is a rare event and not something which is done every day.

The Panel considered that the woman hiding under her blanket was an indication she was embarrassed by her current appearance and activity, and that this was not a usual activity for her.

The Panel considered that the advertisement did not encourage excess consumption. The Panel determined that the advertisement did not breach Section 2.2 of the Food Code.

Finding that the advertisement did not breach any other Section of the Food Code the Panel dismissed the complaint.