



Case Report

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| 1 | Case Number | 0286/11 |
| 2 | Advertiser | Hog's Breath Cafe (Australia) Pty Ltd |
| 3 | Product | Food and Beverages |
| 4 | Type of Advertisement / media | TV |
| 5 | Date of Determination | 27/07/2011 |
| 6 | DETERMINATION | Dismissed |

ISSUES RAISED

2.8 - Food and Beverage Code undermines healthy lifestyle

DESCRIPTION OF THE ADVERTISEMENT

The TVC is full of colour, dance, fun and movement, showing one young girl smiling and holding a computer generated heart shape and various tiles of her and different food items.

THE COMPLAINT

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

We believe the Hog's Breath Café advertisement breaches clause 2.2 and 2.1 of the AANA Food & Beverages Advertising & Marketing Communications Code (Food Code).

Food Code

Breach of clause 2.2:

Clause 2.2 of the Food Code states:

Advertising or Marketing Communications for Food or Beverage Products shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets or encourage what would reasonably be considered as 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. We believe the advertisement is an Advertising or Marketing Communication to Children and undermines the importance of healthy lifestyles and the promotion of healthy balanced diets as it promotes Hog's Breath Café's unhealthy food and beverages to children.

The advertisement features fun and colourful themes to attract the interest of children and market Hog's Breath Café to them. The advertisement promotes curly fries and ice-creams

which clearly do not represent healthy choices for children. At a time when nearly one quarter of Australian children are overweight or obese we believe it is irresponsible to promote Hog's Breath Café to children and undermine healthy food messages that they may be receiving from their family school and/or community.

Breach of clause 2.1 of the Food Code:

Clause 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.

We believe that the advertisement contravenes Prevailing Community Standards about unhealthy food advertising to children. In a 2010 national survey by Cancer Council Victoria just over 9 in every 10 consumers surveyed responded that the government should regulate advertising on free to air television which markets unhealthy food and drinks to children. We also believe that the placement of this advertisement during children's programs such as Totally Wild and Saturday Disney breaches prevailing community standards about the broadcast of unhealthy food advertising during children's programming. The majority of persons surveyed by Cancer Council in 2010 (83%) responded that unhealthy food advertising should be banned when children are watching television i.e. between 6 and 9am and 4 and 9.30pm.

For all of the above reasons we ask that the ASB request Hog's Breath to withdraw the Hog's Breath Café advertisement.

Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children.

Hog's Breath is not a signatory to the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (QSR II). This is disappointing given there are approximately 70 Hog's Breath Café's across Australia. Hog's Breath Café's are clearly aimed at children and Hog's Breath's marketing strategy (including via its website) is clearly directed to children.

If Hog's Breath was a signatory to the QSR II we believe this advertisement would constitute a breach clause 4.1 as it is an advertising or marketing communication to children for food and beverages that do not represent healthier choices.

Given Hog's Breath is a key member of the quick service restaurant industry in Australia we ask that the ASB and AANA encourage Hog's Breath to become a signatory to the QSR II. In the meantime the ASB and AANA should also urge Hog's Breath to conduct its advertising and marketing communications in a manner that is consistent with industry standards. In particular the ASB and AANA should request that Hog's Breath withdraw this advertisement and refrain from producing advertisements that are directed to children.

THE ADVERTISER'S RESPONSE

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

In first responding I would like to advise that we undertook all processes of a C Class classification. All requirements of the CAD classification process were studied in detail and were adhered to and discussed with CAD during the pre-production, shooting and post-production process, at all stages work in process was monitored by CAD.

Throughout all stages of the production of the Hog's Breath Cafe television commercial we pre-empted and kept relevant people from CAD up-to-date with all undertakings.

Our intention is to deliver a "High Five styled" fun, catchy, music and dance routine as a fun statement. The TVC is full of colour, dance, fun and movement.

This TVC took many months to create correctly and to adhere to all the Approval prerequisites for C or Children classification exposure - with CAD in Australia.

The development of the sequences that made the final TV ad were diligently studied to ensure that all consideration was given to our own correct moral obligations of HBC when advertising and also the understanding of the visual weighting of any menu items when being presented to Children.

For this reason the over whelming majority of food images that are evident in the mosaic/kaleidoscope images are selected Menu items presented as fresh food ingredients, Lettuce, Tomato, Corn, Broccoli, Mushrooms, Cooked Prawns, Capsicum, Avocado, Strawberries, Breads and Oranges etc, are also all present within the TVC.

HBC cooked or prepared menu items where our Signature Hog Tail Fries and fresh made Ice Cream Sundae are only ever presented in their portioned serving to table suggestion or the Hog Tail Fries singularly as a mosaic.

Even in presenting these items our consideration was more in line with limited on screen presence to eliminate any concerns of overexposure.

The complainant has registered the complaint without mention of the positive stance that we have undertaken to promote healthy lifestyles for all ages through in-store menu advice, junior and adult sports sponsorships, sports carnivals and involvement with Australian sporting stars.

In no way is it our intention to deliberately mislead the public or to promote unhealthy eating to children.

I would also like to refer to "Hogsters Health Helpings" from our CURRENT menu to reflect our positive stance. We also include "did you know" health facts throughout our current and previous menus, as well as being one of Australia's first companies to provide Lite Options" and smaller size meals, again throughout our menus.

THE DETERMINATION

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

The Board reviewed the advertisement and noted the advertiser's response.

The Board noted the complainant's concern that the advertisement presents unhealthy food to children.

The Board noted that Hog's Breath Café is not a signatory of the AFGC RCMI or the QSR Initiative therefore these Codes do not apply.

The Board considered the advertisement under the AANA Code for Advertising and Marketing Communications to Children. The definition of what is advertising and marketing communications to children' in the AANA Children's Code is "Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product".

The Board noted that Children means, "children 14 years old or younger" and Product means, "goods, services and/or facilities which are targeted toward and have principle appeal to children."

The Board noted the advertisement is rated C by CAD and features a young girl holding a computer-generated heart shape and that various images of food items and words flash on the screen.

The Board considered that the advertisement is directed to children. To come within the Kids' Code the advertised product must also be of principle appeal to children. In this instance there are no specific products being advertised so the Kids' Code is unlikely to apply. Even if the Kids' Code did apply however there is no content of the advertisement that would breach the Code.

The Board then noted section 2.1 of the Food Code which provides that: advertising or marketing communications for food or beverage product shall not...otherwise contravene Prevailing Community Standards...'

The Board considered that advertising a restaurant which caters for adults and children is not, of itself, something which is contrary to prevailing community standards.

The Board noted section 2.2 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 Board considered that the advertising or promotion of food available at a restaurant is not, per se, inconsistent with or undermining of a balanced diet or healthy lifestyles. The Board determined that the advertisement did not depict or encourage excess consumption and that there was nothing in this advertisement that would amount to undermining of a balanced diet or healthy lifestyle.

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

The Board determined that the advertisement did not breach any provisions of the Code.

Finding that the advertisement did not breach the AANA Code of Ethics, Food Code or Kids Code, the Board dismissed the complaint.

