



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0346/10</b>
<b>2</b>	<b>Advertiser</b>	<b>Hungry Jacks</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>11/08/2010</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

Advertising to Children Code - 2.15 Food and beverages  
2.8 - Food and Beverage Code - undermines healthy lifestyle

### DESCRIPTION OF THE ADVERTISEMENT

A young woman is watching a tennis match. She opens up the wrapping of a burger and the sound of blues music is emitted. She quickly closes the wrapping and the music stops, and then starts again when she re-opens the wrapping. We hear the umpire calling for quiet. We then see a young man sat in a darkened cinema, also with a burger. The same thing happens when he opens the wrapping: blues music can be heard. A male voiceover then describes the burger as "...smooth new taste playing at Hungry Jack's" and goes on to describe the ingredients. The name of the burger is the Bourbon Whopper and the final shot is of the Hungry Jack's logo and the tagline "The burgers are better".

### THE COMPLAINT

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

*This add promotes Alcohol consumption to young people who are the primary customers of Hungry Jacks Hamburgers.*

*I believe this add is suggestive to Young People that the consumption of Alcohol is good.*

### THE ADVERTISER'S RESPONSE

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

*As a responsible corporate citizen, Hungry Jack's are always concerned to hear of any complaints in regard to one of our advertisements.*

*Firstly, the burger itself. The name is derived directly from Bourbon Street, in New Orleans: home to a vibrant jazz and blues music scene. The advertising reflects this blues link.*

*At all times during the development of this product, Hungry Jack's was deeply conscious of the possibility that some people may link this product to a type of alcohol. Every possible effort was made to ensure that there was no association with alcohol in either the visual or audio components of the commercial.*

*The sauce is described in the voiceover as a "Bourbon Flavoured" sauce. When the sauce is shown it is disclaimed with a super clearly stating that it is a "non-alcoholic sauce". There are many non-alcoholic bourbon flavoured bbq sauces available on the market.*

*Apart from the "non alcoholic sauce" super there is no mention or depiction of "alcohol." There is no message either explicit or implied in the commercial that encourages the consumption of alcohol.*

*We therefore refute the claim that the product promotes alcohol consumption at all. We also refute the claim that the advertisement is directed at "young people." This is a very broad generalisation and the complainant seems to be implying that all our advertising is targeted at this group.*

*The fact a 'Junior' sized product was offered is a recognition of the fact that some customers, females in particular, may have a smaller appetite and therefore appreciate a smaller option being available. This is supported by the inclusion of a young woman shown in the TVC opening the product. The 'Junior' offering was never intended to appeal to children as is clearly demonstrated by the content and tone of voice of the TVC.*

*The primary market in the media schedule for this campaign, like all Hungry Jack's advertising is targeted to people 18-39 years of age. This is our core audience. The secondary market buy is all people 18 years +.*

*In summary, we therefore reject the claim that this commercial is aimed at "young people" and that it does anything to encourage alcohol consumption. The only consumption encouraged is the eating of the burger being advertised.*

*We therefore respectfully request that the complaint be dismissed.*

## **THE DETERMINATION**

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

The Board noted the complainant's concerns about the association in the advertisement between a food product enjoyed by children as well as adults and a company that supplies alcoholic beverages.

Section 2.1 of the AANA Food and Beverage code states that “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...”.

The Board recognised the complainant's concerns were directed to the association of the Jim Beam brand with alcohol products and its "co-branding" with Hungry Jacks in this advertisement. The Board noted some community concern about advertising alcohol and noted that it is not its role to say whether or not a product can associate itself with an alcoholic beverage. The Board considered that the reference to Bourbon is relatively subtle and unlikely to be understood by children. The Board considered that the advertisement did not contravene prevailing community standards. The Board considered that the majority of the community would not find the reference to be offensive and therefore found no breach of Section 2.1 of the F&B Code.

The Board noted that the reference to Bourbon could cause some people to think the barbecue sauce contained alcohol but noted that the sauce is described in the voiceover as a “Bourbon Flavoured” sauce, and that it is clearly stated on the screen that the sauce is ‘non-alcoholic’. The Board considered that the advertiser has made it clear that the sauce does not contain alcohol and that the reference to Bourbon sauce was not misleading. The Board found no other basis on which to uphold the complaint under the F&B Code.

The Board noted that, in order for the Children’s Code to have application, the advertising or marketing communication must be directed primarily towards children and to be for a product that is targeted toward and has principal appeal to children, as defined in the Children’s Code.

The Board noted that this advertisement is rated PG and that the content and tone of the advertisement is not aimed at children. The Board considered the advertiser’s response that the primary market in the media schedule for this campaign is people aged 18-39 years, and that a junior sized product is offered in recognition of the fact that some customers, females in particular, may have a smaller appetite and therefore appreciate a smaller option being available. The Board noted the advertisement placement and considered that the advertisement was not directed to children or placed in programming that is directed to children. Based on this, the Board determined that the advertisement was not directed primarily to children and was not a product that has principal appeal to children and therefore found the Children’s Code and Part 3 of the Food and Beverage Code do not apply.

The Board determined that the sale of the product was not 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 on other grounds, the Board dismissed the complaint.

