



Case Report

1	Case Number	0357/13
2	Advertiser	Yum Restaurants International
3	Product	Food / Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	23/10/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.1 (a) - Misleading / deceptive

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement commences with an opening shot of a Zinger Pie accompanied by the super, "Say it with chicken", and a male voiceover which says "Another opportunity to say it with chicken". The Advertisement then depicts three light hearted scenarios where male friends use the Zinger Pie to express their emotions of thanks, apologies and congratulations.

THE COMPLAINT

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

The advertisement clearly shows chunks/pieces of chicken breast in the Zinger Pie after the consumer has bitten into it. In actual fact the pies only contain minced chicken and no chunks/pieces of chicken.

THE ADVERTISER'S RESPONSE

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

Relevant Codes & Initiatives

Australian Association of National Advertisers Code of Ethics (“Code”)

There is a suggestion that the Advertisement may breach the Code in that the Advertisement is allegedly misleading or deceptive.

Australian Association of National Advertisers Food and Beverages Marketing and Communications Code (“F&B Code”)

There is a suggestion that the Advertisement may breach section 2.1 of the F&B Code in that the Advertisement is allegedly misleading or deceptive.

Australian Association of National Advertisers Code for Advertising and Marketing Communications to Children

There is no suggestion that the Advertisement breaches the Children’s Code.

Has the Code & the F&B Code been breached?

KFC considers that the Advertisement does not breach the Code or the F&B Code.

Throughout the Advertisement various shots of the Zinger Pie in its entirety are shown. Towards the end of the Advertisement, viewers see a shot of the inside of the Zinger Pie after it has been bitten into by the male friend dressed in a bumble bee mascot uniform. This shot is the only image of the inside of the Zinger Pie used in the Advertisement and includes a brief close up of the chicken meat and gravy Zinger Pie filling.

We note that the inside of the Zinger Pie shown in the Advertisement is a realistic portrayal of the Zinger Pie filling which consists of chicken meat and gravy. Contrary to the Complainant’s view, the chicken meat in the Zinger Pie filling is chicken breast which is shredded and not chicken mince. There is a shred range which means there may be slight variation in the size of the shredded chicken breast pieces in the Zinger Pie filling.

We trust this addresses the Complainant’s concerns.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Board noted the complainant’s concerns that the advertisement is misleading in its representation of a Zinger Pie containing chicken chunks when in the opinion of the

complainant it only contains minced chicken.

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

The Board noted that the product advertised is food and that therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply. In particular the Board 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 Board noted that it has a special role given the broad principles in the various Codes and Initiatives and its role as set out in the complaints provisions of the Codes and Initiatives and other sources such as the Food and Beverage Practice Note. The Board reflects community standards and expectations and these necessarily change over time.

The Board does not determine as a legal matter whether an advertisement is misleading, nor does it reach a legal opinion. The Board's task is to deal with complaints. In such dealings the task is to reflect the community's attitude - to assess whether the advertisement meets current community expectations for truthfulness given what the advertisement conveys to ordinary consumers and in light of the relevant circumstances and given the grounds of the complaint.

The Board noted the advertisement features men using Zinger Pies to say thank you to other men for various reasons and we see one man bite in to the pie.

The Board noted the complainant's concern that in their opinion Zinger Pies contain minced chicken yet the Zinger Pie featured in the advertisement contains chunks of chicken. The Board noted the advertiser's response that Zinger Pies contain shredded chicken breast and that due to the "shred range" there may be some variations on the size of the chicken pieces.

The Board considered that most consumers expect that a food as promoted on television will be presented in a way that makes the food appear most desirable. In the Board's view, consumers expect a certain amount of puffery or exaggeration in such images.

The Board noted that the scene which shows the content of the pie is very brief and there is not a clear depiction of significant chunks of chicken meat. The Board considered that based on the advertiser's response that the Zinger Pie used in the advertisement is a realistic portrayal of an actual Zinger Pie which is available to consumers to buy, the advertisement gives a fair representation of the content of the product and is not an untruthful or misleading or deceptive image.

Based on the above the Board considered that the advertisement did not breach Section 2.1 of the Food Code.

Finding that the advertisement did not breach the Food Code the Board dismissed the complaint.