



**ADVERTISING  
STANDARDS  
BUREAU**

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## Case Report

<b>1</b>	<b>Case Number</b>	<b>0408/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Burger Urge</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Mail</b>
<b>5</b>	<b>Date of Determination</b>	<b>24/10/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Upheld - Modified or Discontinued</b>

### ISSUES RAISED

Food and Beverage Code 2.2 - healthy lifestyle / excess consumption  
2.4 - Sex/sexuality/nudity S/S/N - general

### DESCRIPTION OF THE ADVERTISEMENT

Image of woman wearing only lacy underpants straddling a man wearing only jeans. The woman's nipple is blacked out and she is kissing the man. The text reads, "i only have one urge....burger urge taste addiction."

The reverse side of the flyer features an image of two burgers and the text, "2-4-1 voucher. Purchase any burger and chips and receive another burger and chips absolutely FREE!"

### THE COMPLAINT

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

*I raise objections to its pictorial content and implication as a method of advertising a food product, hence I am bringing it to your notice. There is no satisfactory information regarding a point of contact to which I could make a complaint to the company directly. Perhaps you have authority to ensure appropriate guidelines are followed by 'Burger Urge' in future advertising.*

### THE ADVERTISER'S RESPONSE

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

*The advertiser did not provide a response.*

## **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) or section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant’s concerns that the advertisement features inappropriate imagery for advertising a food product.

The Board viewed the advertisement and noted that the advertiser did not provide a response. The Board noted that the leaflet includes an image of woman wearing only lacy underpants straddling a man wearing only jeans. The woman's nipple is blacked out and she is kissing the man. The text reads, "i only have one urge....burger urge taste addiction." The reverse side of the flyer features an image of two burgers and the text, "2-4-1 voucher. Purchase any burger and chips and receive another burger and chips absolutely FREE!"

The Board considered 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.

The Board considered section 2.2 of the Food Code which provides:

'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.'

The Board considered that, consistent with previous decisions, promotion of a product which may have a particular nutritional composition is not, per se, something which is contrary to prevailing community standards.

The Board also considered whether excess consumption of the product is being encouraged. The Board considered that the promotion of a 2-4-1 deal is a commonly used marketing tool to entice buyers to purchase at least one of the advertised product. The Board considered that there is nothing suggesting that any one consumer will eat both of the burgers or that they must accept the second burger being offered.

Based on this, the Board considered that the advertisement was not encouraging what would reasonably be considered excess consumption and did not breach Section 2.2 of the Food Code.

The Board then considered whether the advertisement was in breach of Section 2.4 of the Advertiser Code of Ethics (the “Code”). Section 2.4 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Board noted the complainants concerns about the use of images that are inappropriate and offensive.

The Board noted that the intention of the campaign was to draw a connection with the name of the business ie: burger urge and an urge of a sexualised nature between a man and a woman. The Board noted that the image on the pamphlet is highly sexualised in nature and that although the nipple of the woman is covered, there is a significant level of nudity and the position of the woman on top of the man is sexually suggestive.

The Board considered that most members of the community would understand the relationship between the name of the business, the name of the burgers available and the urge portrayed in the image, however the Board agreed that the imagery was inappropriate for viewing by a broad audience that would likely include children.

The Board agreed that the imagery did not treat sex, sexuality and nudity with sensitivity to the relevant audience and did breach section 2.4 of the Code.

Finding that the advertisement did breach the Code of Ethics on the above grounds the Board upheld the complaint.

## **ADVERTISER RESPONSE TO DETERMINATION**

Please be advised the advertisement has been withdrawn.