



Case Report

1	Case Number	0518/17
2	Advertiser	Hungry Jacks
3	Product	Food / Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	06/12/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.2 - healthy lifestyle / excess consumption

DESCRIPTION OF THE ADVERTISEMENT

A man is consuming a beverage ie: wheatgrass juice at a health food bar and the plastic burger phone rings he answers it and a voice is heard on the other end. The man throws the drink over his shoulder and is then seen consuming a slushie beverage from Hungry Jacks.

THE COMPLAINT

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

This is sending the wrong message to people implying the healthy drink is not good for you and that an icy soft drink is better for you. There have been other ads along this line from this fast food merchant, like a man on a bus eating a healthy yoghurt/muesli breakfast, the plastic burger phone rings and he ditches his healthy breakfast option for a burger. Much scientific evidence exists out there showing that fast food is bad for us and here we have a company explicitly encouraging people to ditch the healthy options to buy their burgers and other fatty food options.

THE ADVERTISER'S RESPONSE

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

Please find below and attached the details required to address the complaint.

As a proud Australian brand, Hungry Jack's has dedicated itself to improving foods standards across the board covering a wide range of initiatives from 100% Aussie (locally sourced) beef that is hormone free, fresh cage free eggs and real vegetables.

With regards to this particular spot, the action of the talent was not about a rejection of healthy food but rather a statement that a miniature size glass of juice will not help the individual to cool down at the beach as they could with an icy beverage.

We can confirm that the audience of programs we are advertising within is not predominantly children.

No health, nutrition or ingredient claims or statements were made in the advertisement – we have attached reference to the price point substantiation.

In terms of addressing the complaint based on the below advertising codes:

2.1 There is no discrimination towards or vilification of anyone in this communication

2.2 There is nothing visually or verbally that is exploitative or degrading

2.3 There is no violence

2.4 There is no sex, sexuality or nudity present

2.5 There is no use of inappropriate language

2.6 There is no risk to health or safety of the individual's featured and the kilojoules are displayed as per guidelines

2.7 The advertising is clearly distinguishable as advertising

The spot in question aired in Family Food Fight on the 9 Network in WA. This program is classified as PG.

Response to follow as supps

THE DETERMINATION

The Advertising Standards Board ('the 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 concern that the advertisement is promoting unhealthy eating and sending the wrong message.

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

The Board noted that the product advertised is food and therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply.

The Board noted in particular 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 noted the advertisement depicts young man looking awkwardly at a small glass filled with a green substance. The sign near to him reads “organic wheat grass.” The advertisement shows a hamburger phone ringing and Jamie throws the drink over his shoulder, which lands on some other patrons. The voice on the phone tells him – “Jamie you can’t cool down with that, keep it real.” A different voiceover then talks about the deal being offered at Hungry Jacks, “get 50 % extra free, new \$1 jumbo.”

The Board noted that the advertisement is promoting a jumbo size frozen soft drink for summer and that this would generally be considered a high sugar product.

The Board considered that, consistent with previous decisions (0101/14, 0262/15, 0593/16, 0057/17), the promotion of a product which may have a particular nutritional composition is not, per se, undermining the importance of a healthy or active lifestyle or contrary to prevailing community standards.

The Board then noted the Practice Note to section 2.2 which states:

Part (a) –“The Board will not apply a legal test, but consider material subject to complaint as follows:

In testing whether an advertising or marketing communication undermines the importance of a healthy lifestyle, the Board will consider whether the communication is disparaging of healthy foods or food choices or disparaging of physical exercise. Such disparagement need not be explicit, and the Board will consider the message that is likely to be taken by the average consumer within the target market of the communication.”

The Board noted that the advertisement makes no reference to exercise though there is an inference that the men in the background exercise regularly as they are muscular and strong looking. The advertisement focuses on the character about to drink a small glass of what looks like - but is not confirmed as - a wheatgrass juice which he throws away in reaction to the voiceover telling him he cannot keep cool with that. The Board considered that the voice over focuses on the drink not being able to keep him cool – which he then disposes of in favour of the frozen soft drink. The Board considered that the focus is on the comparative cooling effect of the drinks and not on their relative healthiness. The Board considered that the man disposed of the small green drink is not disparaging of healthy food choices or of physical exercise.

The Board considered that the promotion of a product from Hungry Jacks is not in breach of community standards generally and that the promotion of this product as the current deal and promoted as a better option for cooling down is not inconsistent with or undermining of a healthy diet or healthy lifestyles.

The Board noted that the advertisement focuses on the Jumbo size of the frozen drink product and considered whether this is encouraging excess consumption.

The Board then considered Part (b) of the Practice Note – “ 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 Board will consider whether members of the community in the target audience would most likely take a message condoning excess consumption.”

The Board considered that the tone of the advertisement is the depiction of the young man on holidays and at a resort or getaway place that is hot. The Board noted that the advertisement does not depict or suggest how often the man will consume the jumbo drink and in the advertisement there is only one drink shown.

The Board considered that the consumption of a large slushie style drink in the context of a holiday getaway is not promoting the excess consumption of these types of beverages.

Overall the Board considered that the advertisement did not depict, encourage or condone excess consumption and determined that the advertisement did not breach Section 2.2 of the Food Code.

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