



## CASE REPORT

1. Complaint reference number	349/07
2. Advertiser	Subway Sandwiches & Salads (Drive Thru)
3. Product	Restaurants
4. Type of advertisement	TV
5. Nature of complaint	Discrimination or vilification Disability – section 2.1
6. Date of determination	Tuesday, 13 November 2007
7. DETERMINATION	Dismissed

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement shows a couple at a drive-through fast food restaurant, giving their order to the attendant. The male in the car asks "Yeah, can I get the love handles, double chin and... some blubber?" The attendant asks "Do you want the double blubber?" to which the male replies "Sure!" The female in the car adds "... and I'll have the same thing, but instead of the blubber, can I get some thunder thighs and err, B-donk a donk Butt?" A male voiceover asks "When you get greasy fast food, what are you really getting? Introducing new Subway Fresh Fit Meals. A tasty low fat sub, new better-for-you sides, like drinks, apple slices and yoghurt. Get a Subway Fresh Fit Meal today! Subway - eat fresh."

There are shorter versions of this advertisement featuring the man only, and the woman only.

## THE COMPLAINT

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

*It is offensive towards the larger built people in this country who don't actually eat junk food some of us actually have medical conditions which cause weight gain and these advertisements give cheeky people incentive to make degrading comments to fat people without knowledge of the reason why they are big, this ad is just having a dig at fat people and should be toned down in some way so as not to offend us people who are doing everything in their power to lose the weight.*

*I find this very offensive and degrading to people who have a weight (sic) problem due to medical reasons. Do advertisers even think of the effect their ads may have on these people at all, I think not for I am one of these so called people who find the ad degrading and offensive. I do not eat take-away food due to my medical problem and I am proverbly (sic) only one person out of hundreds or thousands who is willing to speak out against this ad of Subways.*

## THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

*We are sorry that our Drive Thru advertisement caused any viewers personal offence. We are not trying to discriminate against or vilify anyone or anything except greasy fast food. We want all consumers to pay attention to what they order at quick service restaurants and to choose Subway's healthier meal options over the traditional burger, fries and sugared soda combinations offered by many of our competitors. Indeed, the commercial introduced the new Subway Fresh Fit meals, which include tasty, low fat subs, low or no calorie drinks and better for you sides such as apple slices and yoghurt. While we do not promote Subway Fresh Fit meals as a diet program, we believe that consumers will benefit from eating healthier meals, including the options available at*

*Subway restaurants.*

*Humor is a particularly useful tool when communicating to young adults. This group needs to begin making wiser decisions when ordering at quick service restaurants. For example, a recent university study showed that young adults (ages 18-30) who eat frequently at quick service restaurants gain more weight and have a greater increase in insulin resistance in early middle age.*

*The 2004-05 National Health Survey (NHS) showed that overall 32.6% of adults in Australia were reported as overweight and 16.4% of adults were reported as obese. In comparison, the 1995 NHS showed that only 29.5% of Australian adults were overweight and 11.1% obese. The problem has simply grown over time.*

*We designed our commercial to inspire consumers to make smarter and healthier choices in what they order and eat from quick service restaurants. Again, we apologize if anyone thought we might be trying to degrade overweight people.*

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted complainants' concerns that the advertisement discriminated against overweight people. The Board viewed the advertisement and considered that it is a humorous depiction of the nutritional value of certain types of 'fast food'. The Board considered that the advertisement was clearly designed to differentiate the nutritional value of one 'fast food' type against another. The Board considered that the references to 'double chin' and other physical characteristics that are often associated with being overweight were not likely to be taken as a criticism or vilification of overweight people, nor to suggest that the only reason people are overweight is that they eat nutritionally poor 'fast food'. The Board considered that most people would consider the advertisement a humorous way of selling lower fat products and not as vilification of or discrimination against overweight people.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.