



CASE REPORT

1. Complaint reference number	357/08
2. Advertiser	Australian Fast Foods
3. Product	Food & Beverages
4. Type of advertisement	TV
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Wednesday, 8 October 2008
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for chicken treat products by Australian Fast Foods uses a cartoon chicken "game show host" with a gaming machine, the reels of which spin to show the specials available whenever the chicken pulls the handle.

THE COMPLAINT

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

I think this ad introduces kids to addictive gambling in the form of poker machines. The sight and sounds of the poker machine linked to yummy fast food is very dangerous - kids don't realise that they slowly get conditioned through little reminders like this.

THE ADVERTISER'S RESPONSE

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

Having read the complaint, there would appear to be two aspects of concern that have been raised:

- (1) that the advertisement introduces children to addictive gambling in the form of poker machines; and*
- (2) that the sight and sounds of the poker machine when linked with "yummy" fast food is dangerous.*

The complainant alleges that the advertisement breaches Section 2.6 of the Code of Ethics. In practical terms however Section 2.6 is not applicable as it relates to advertising or marketing communications to children that portray images or events that are unduly frightening or distressing (which this does not) or demean any personal group on the basis of ethnicity, nationality, race, gender, age, sexual preference, religion or mental or physical disability (which this advertisement does not).

Notwithstanding that Section 2.6 does not apply, we consider that the real issue being raised by the complainant is whether or not the advertisement contravenes "Prevailing Community Standards" in accordance with:

- Section 2.6 of the AANA Code of Ethics – which states that advertising must not depict material contrary to "Prevailing Community Standards on health and safety;"*
- Section 2.1 of the AANA Code for Advertising Marketing Communications to Children – which states that advertising to children must not contravene "Prevailing Community Standards;" and*
- Section 2.1 of the AANA Food and Beverages Advertising Marketing Communications Code - which states that advertising must not only be truthful and honest but must not contravene*

“Prevailing Community Standards.”

With respect to the two issues of concern raised by the complainant we set out our comments below:

- *The script demonstrates that the “machine” is not intended to be a “poker machine.” It is meant to depict a “game show machine”.*
- *It was intended that the chicken would be represented as a game show host.*
- *The target audience is not children. It is males and females aged between 18-45 years*
- *The products advertised being quarter chicken and chips, deluxe burgers and chips and wraps are targeted towards 25-39 year old (we were not advertising our kids pack meals);*
- *“Gambling” is defined in various dictionaries to mean: “to play a game for money” or “to bear an uncertain outcome.”*
- *At no time is the chicken “gambling” (IE. the chicken does not insert money into the machine).*
- *Consequently, the advertisement is not intended nor does it depict anyone gambling because the chicken is not playing a game for money.*
- *In addition, it should be noted that unlike other States, Western Australia does not permit poker style machines in clubs or hotels.*
- *So far as I am aware the only poker machines that are legal in this State are actually contained in the Perth Casino (which is not open to children as defined in the Codes being 14 years and under).*
- *This advertisement only airs in Western Australia. It does not air in any other State.*
- *Accordingly, it would seem very unlikely that children watching the advertisement would mistake the game machine for a “poker machine.”*
- *In our opinion whilst the machine may resemble a “poker machine”, given that children in Western Australia have little if no exposure to poker machines, it is unlikely that they view the machine as anything more than for what it was intended – a game show machine.*

With respect to the second issue of concern we have already provided substantive evidence that the advertisement was not targeted towards children.

As for the sounds, these are simply intended to draw adult attention to our advertisements – they are in no way intended to link “yummy” food to the sounds of a “poker machine.”

In summary, the advertisement does not contravene the “Prevailing Community Standards” set out in the respective Codes.

THE DETERMINATION

The Advertising Standards Board (“Board”) agreed that this advertisement was for food or beverages so first considered whether it breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the “F&B Code”).

The Board considered the depiction of the gaming machine was a cartoon which did not resemble a realistic gaming machine and would not entice children to engage in harmful gambling. The Board further considered that the advertisement was clearly directed to advertising chicken, rather than gambling, and that the linkage, if any, between chicken and gaming was incidental and would not be made by the majority in the community.

The Board then considered whether the AANA Code for Advertising and Marketing Communications to Children (the “Children’s Code”) had any application, noting the complainant’s concerns that the advertisement depicted a gaming machine in a context that could be attractive to children. The Board considered that the advertisement was not directed primarily to children and accepted the advertiser’s

submission that the Children's Code did not apply.

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

The Board considered Section 2.1 of the F&B Code and 2.6 of the Advertiser Code of Ethics and found that the advertisement was not misleading or deceptive, or otherwise contrary to prevailing community standards, or standards of health and safety, and therefore was not in breach of either of the Codes.