



**ADVERTISING
STANDARDS
BUREAU**

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Mrs Nicole Antonopoulos
100 Drummond Street
CARLTON VIC 3052

29 August 2011

1. Complaint reference number: 0282/11
2. Advertiser: Hungry Jacks

Dear Mrs Antonopoulos ,

We refer to your complaint regarding the above advertisement.

The Advertising Standards Board viewed the advertisement and considered your complaint at its recent meeting. We have to advise you that the Board did not uphold your complaint.

A copy of the case report reflecting the Board's determination is enclosed.

Please note that if you are dissatisfied with the determination it may be possible for you to request a review, within 10 business days of the date of this letter. Before submitting a request for review, please refer to the information about the Independent Review process. This will ensure that you have the right information to decide if you have grounds to make the request. This information is available on our website at

<http://www.adstandards.com.au/process/theprocesssteps/independentreviewofasbdeterminations>

Please consider completing a survey about your ASB experience at
<http://www.surveymonkey.com/s/8QXBRSF>.

Thank you for writing to us.

With regards,

Daniela Gray/Nikki Paterson

Case Managers

Advertising Standards Bureau

complaint@adstandards.com.au



Case Report

1	Case Number	0282/11
2	Advertiser	Hungry Jacks
3	Product	Food and Beverages
4	Type of Advertisement / media	Internet
5	Date of Determination	10/08/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

Advertising Message QSR - 4.1 - Advertising and Marketing Message

DESCRIPTION OF THE ADVERTISEMENT

Kids Club page of the Hungry Jack's corporate website at www.hungryjacks.com.au/kids_club.php

THE COMPLAINT

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

We believe the Hungry Jack's website breaches clauses 4.1 of the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (QSR Initiative) and clause 2.1 of the AANA Food & Beverages Advertising and Marketing Communications Code.

Breach of clause 4.1 of the QSR initiative

Clause 4.1 of the Initiative states:

Advertising or Marketing Communications to Children for food and/or beverages must:

- (a) Represent healthier choices as determined by a defined set of Nutrition Criteria for assessing children's meals (see Appendix 1); and/or*
- (b) Represent a healthy lifestyle designed to appeal to the intended audience through messaging that encourages:*
 - (i) healthier choices as determined by a defined set of Nutrition Criteria for assessing children's meals (see Appendix 1); and*
 - (ii) physical activity.'*

We believe the website is a Marketing Communication to Children for food and/or beverages as it promotes Hungry Jack's Kids Meals (which typically consists of a burger fries and a soft drink) and Hungry Jack's burgers to children (see current range of Hungry Jack's Kids Meals at http://www.hungryjacks.com.au/menu_category_kids_meals).

Clause 7 of the QSR Initiative defines 'Advertising and Marketing Communications' as 'any matter generated by a Participant which is published or broadcast using any Medium for payment or other valuable consideration...'. Clause 7 defines 'Medium' as 'television radio newspapers magazines outdoor billboards and posters emails interactive games cinema and internet sites'.

The AANA Food and Beverages Advertising and Marketing Communications Code (AANA Food Code) includes substantially the same definitions of 'Advertising and Marketing Communications' and 'Medium' as the QSR Initiative. The Advertising Standards Board has determined that the AANA Food Code applies to company-owned websites because they fall within the definition of Advertising and Marketing Communications (McDonald's Australia Ltd (Shrek – internet) case number 256/07 14 August 2007). The Board noted in its determination that a McDonald's website was 'considered to be within the definition of advertising and/or marketing communications within the scope of the Food Code as it is material that is published that the company has incurred cost in publishing the material and that it is material that draws the attention of the public or a segment of it to a particular product in a manner calculated to promote that product.' While the Board recently determined that the McDonald's Happy Meal website did not constitute an Advertising and Marketing Communication within the meaning of the QSR Initiative (McDonald's Australia Ltd – internet case number 0103/11) it did appear to accept that company-owned websites are covered by the QSR Initiative if they promote a product service person organisation or line of conduct.

It follows from the Board's previous determinations that company-owned websites must prima facie fall within the definition of Advertising and Marketing Communications in the QSR Initiative and that the Hungry Jack's website is covered by the Initiative.

It is clear that the themes, visuals and language of the website are directed primarily to children. The website promotes the Hungry Jack's Kids Club children's birthday parties and games. The Hungry Jack's Kids Club is open only to children aged 12 years and under. The invitation on the website encourages children to join and states: "Being a member of HUNGRY JACK'S KIDS CLUB is great fun because you will get special free treats not just on your birthday but all through the year". See <http://www.hungryjacks.com.au/join-kids-club.php> . Children are also encouraged to have their next birthday party at Hungry Jacks and send Hungry Jack's themed invitations to their friends thereby enabling them to promote Hungry Jack's to their friends. See http://www.hungryjacks.com.au/kids_club.php Furthermore the website includes Hungry Jack's Kids Club games with pictures for children to download and colour in. The pictures display the Hungry Jack's logo. See <http://www.hungryjacks.com.au/kids-club-games.php>

It is also clear that the website is intended to promote and has the overall effect of promoting Kids Meals and individual food products to children and is therefore an advertising or marketing communication 'for food and/or beverages'. Children are encouraged to join the Kids Club and to have their birthday at Hungry Jack's to receive a free kids club meal and other food offers throughout the year. The "Party Package" is promoted as including a Hungry Jack's Kids Meal. Children that join the Hungry Jack's Kids Club subsequently receive vouchers in the mail to receive a free kids club meal on their birthday and other products once a month for a year including burgers chips soft drinks and ice-cream. The constituent products of the Kids Meals are not featured on the Kids Club website so the effect of the website is to promote Kids Meals in general rather than a particular meal. The

QSR initiative requires that only meals that meet the nutrition criteria in the Initiative can be advertised to children. The Board recently determined that a McDonald's Happy Meal website banner promoted Happy Meals generally and was therefore an advertisement for all such meals including those that do not meet the nutrition criteria.

The types of Kids Meals available are identified on the Hungry Jack's website at http://www.hungryjacks.com.au/menu_category_kids_meals . The meals consists of a range of combinations including hamburgers chips and soft drink or chicken nuggets chips and soft drink. Clearly many of the Kids Meal combinations do not meet the QSR Initiative nutrition criteria. Hungry Jack's burgers are also promoted at the top of each of the Kids Club sub-pages via the Hungry Jack's logo and the term "The Burgers are better at Hungry Jack's". Burgers do not represent a healthier choice.

Therefore the website does not represent healthier choices as required by clause 4.1 of the QSR Initiative. Nor does the website represent a healthy lifestyle as it does not encourage healthier choices or physical activity.

Breach of clause 2.1 of the Food Code:

Clause 2.1 of the Food Code states:

Advertising or Marketing Communications for Food or Beverage Products 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.

We believe that the website contravenes Prevailing Community Standards about unhealthy food advertising to children via the internet. In a 2010 national survey by Cancer Council Victoria just under 9 in every 10 consumers surveyed responded that the government should regulate the featuring of unhealthy food products in games and competitions on websites aimed at kids with 42% in favour of stopping it completely.

Conclusion

A number of the products available at Hungry Jack's are high in energy, fat, sugar and/or salt. Such products may contribute to weight gain, obesity and other health problems. We believe it is irresponsible for Hungry Jack's to advertise its food directly to children \ particularly when nearly one quarter of Australian children are overweight or obese. We ask the ASB to consider the issues we have raised and to request Hungry Jack's to withdraw the Kids Club website.

THE ADVERTISER'S RESPONSE

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

Hungry Jack's Pty Ltd (Hungry Jack's) writes in response to the above complaint which was referred to us on 15 July 2011. Given the extent and content of the complaint, we are grateful to the Board for allowing us additional time (to 29 July 2011) to provide our response.

The Complaint

The complainant identifies the specific advertisement complained of as:

“The Hungry Jack’s Kids Club Website at http://www.hungryjacks.com.au/kids_club.php promotes Hungry Jack’s burgers and Hungry Jack’s Kids Meals to children.

It is important to note that this is the Kids Club Page.

The complainant describes the advertisement complained of in the following terms:

“The website features the slogan “The Burgers are Better at Hungry Jack’s”, an invitation to join the Hungry Jack’s Kids Club and information about Kids Club parties. It also includes Hungry Jack’s Kids Club games with pictures for children to download and colour in.”

Notwithstanding that the complaint is directed to the Kids Club Page, the Complainant seeks (impermissibly in our view) to substantiate the complaint by referring to other elements of the broader (corporate) Hungry Jack’s Website, which is located at

"<http://www.hungryjacks.com.au>" under the 'reason for concern' section of the complaint.

We deal with that further, where necessary, in the course of this response.

Essence of the complaint

The argument in support of the complaint is developed on the basis that the Site as a whole or alternatively, the Kids Club Page considered within the context of the Site breaches:

clause 4.1 of the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (QSR Initiative); and

clause 2.1 of the AANA Food & Beverages Advertising and Marketing Communications Code. (AANA Food Code).

For the purposes of attempting to bring the complaint within clause 4.1 of the QSR Initiative the Complainant asserts that the "website" is "a Marketing Communication to Children for food and/or beverages" and that the "website" promotes "Hungry Jack's Kids Meals ... and Hungry Jack's burgers to children".

The Complainant then references a subset of the menu of Hungry Jack's products and food options which is found at the web address

"http://www.hungryjacks.com.au/menu_category_kids_meals". The complainant draws the various allegations together to assert that the "website":

fails to meet the requirements of the code in that it fails to represent healthier choices as defined by a set of Nutrition Criteria for assessing children’s meals (Criteria) and/or;

fails to represent a healthy lifestyle designed to appeal to the intended audience through messaging that encourages healthier choices as measured by the Criteria and physical activity.

For the purposes of attempting to bring the complaint within clause 2.1 of the Food Code the Complainant asserts that the "website" "contravenes Prevailing Community Standards about unhealthy food advertising to children via the internet".

However, notwithstanding the above, the true 'complaint' is summed up in the Complainant's conclusion, namely:

"A number of the products available at Hungry Jack's are high in energy, fat, sugar and/or salt. Such products may contribute to weight gain, obesity and other health problems. We believe it is irresponsible for Hungry Jack's to advertise its food directly to children, particularly when nearly one quarter of Australian children are overweight or obese."

In truth, the complaint is directed to the fact that Hungry Jack's advertises its products at all. The fact is that Hungry Jack’s is entitled to advertise its products – and even to advertise its products to children – provided that in doing so it complies with the QSR Initiative and the AANA Food Code.

Hungry Jack’s believes that if and to the extent that either of the QSR Initiative and the AANA Food Code apply to the Kids Club Page, that page complies and there is no breach of any applicable advertising code or standard.

Response to the complaint

Given that the complaint mixes different aspects of the Site together with different interpretations of the various advertising codes, we thought it might be helpful to the Board to step through the process of applying one or more codes to the content of the website.

Is the Site an Advertising or Marketing Communication?

For the purposes of the Australian Associated National Advertisers Code of Ethics (AANA Code) an "Advertising or Marketing Communication" is defined to mean:

“(a) matter which is published or broadcast using any Medium in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct; or

(b) any activity which is undertaken by or on behalf of an advertiser or marketer for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct.

But does not include Excluded Advertising or Marketing Communications.”

The site within which the advertisement complained about is contained (Site) is the corporate website of Hungry Jack's. It is Hungry Jack's corporate online presence. The Site performs a variety of functions, including:

providing a 'store finder' facility which locates a store near the postcode input by the user; providing details on employment and training opportunities with Hungry Jacks through its employment pages;

a new events service under its "what's happening" section;

corporate information about Hungry Jacks and franchise opportunities through its "about us" section; and

contact details for the state offices of Hungry Jacks together with the ability to provide feedback through its "contact us" section.

The Site therefore performs a variety of functions some of which cannot legitimately be said to be for the purpose of promoting or opposing directly or indirectly Hungry Jack's products, its services, its people or a line of conduct.

An appropriate analogy may be that of a newspaper, in that the newspaper is the medium through which a variety of publications are made, some of which will fall within the definition of an "Advertising and Marketing Communication" and some of which will not. Importantly, the newspaper as a whole is not said to be an "Advertising or Marketing Communication".

Hungry Jack's suggests that websites should therefore be viewed similar to newspapers in that they might contain one or more "Advertising or Marketing Communication(s)" with each communication to be viewed (and reviewed) separately and individually as to whether it is, or is not, an "Advertising or Marketing Communication" and further, whether it is, or is not, in breach of any advertising code.

Is there an Advertising or Marketing Communication to Children?

The AANA Code, the Food & Beverage Advertising and Marketing Code (Food Code), the Advertising and Marketing Communications to Children Code (Children Code) all use the following common definition for "Advertising and Marketing Communication to Children":

“Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product.”

Within the above definition are two further defined terms. For the purposes of the above codes "Children" means:

“persons 14 years old or younger.”

The Food Code and Children code also define "Product" to mean:

“goods, services, and/or facilities which are targeted toward and have principal appeal to Children.”

The Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (QSR Initiative) uses a similar, but not identical, definition for "Advertising and Marketing Communications to Children" being:

“Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for food and/or beverage products.”

The Codes make it clear that Advertising and Marketing Communications to Children are a limited subset of other advertising or marketing communications that an advertiser may publish.

The home page of the Site shows a number of current promotions of Hungry Jacks. Only one minor aspect of the home page in any way relates to a children's meal, being the "smart pick" option located in the bottom left corner of the page. In all other respects, any Products communicated on that home page are targeted directly at, and communicated on that basis to, adults.

Hungry Jack's submits that the Site's home page is not an Advertising or Marketing Communication that, having regard to the theme, visuals and language used, is directed primarily to Children or in respect of goods, services and/or facilities which are targeted toward and have principal appeal to Children.

In any event, the home page only advertises the "smart pick" kids value meal. That meal is a healthier alternative that is compliant with the nutritional guidelines contained in the QSR Initiative. The nutritional content of that "smart pick" kids value meal is detailed under the Menu pages on the Site.

Given the above, even if the Board were to find that the home page is an Advertising or Marketing Communication directed primarily to Children and is for a Product, the only Product advertised, being a product that has principal appeal to Children, is compliant with the AANA Code, the Food Code, the Children Code and the QSR Initiative as it is a healthier alternative meal.

Are the "Menu" pages Advertising or Marketing Communications to Children?

As already noted, the complaint is specific to the Kids Club Page. However, as the complainant seems to “reach out” to the Menu page at the Site in an attempt to prove a contravention in respect of the Kids Club Page, we thought it prudent to address that page first.

The "Menu" is a sub page that identifies the range of products offered by Hungry Jack's restaurants. From that sub page (located at <http://www.hungryjacks.com.au/menu.php>) the various categories of products including breakfast items, hamburgers, chicken products, deserts, drinks, kids value meals and sides/salads are available for selection. Each different category, once selected, will take the user to its own unique page.

Each page under the "menu" subpage provides the nutritional content of each of the products offered. Each of those pages features nothing more than the product on offer together with its nutritional content. In essence, the menu subpage is provided purely to provide information to a potential customer and it does not include any 'call for action to children'. Having regard to the theme, visuals and language used, none of the menu pages, including the kids value meal page, have any characteristics that suggest that the menu pages are 'primarily directed to Children'. In fact, Hungry Jack's submits that, given the content of each of the menu pages, Children would be completely disinterested in those pages and would not be attracted to them at all.

In respect of the specific category 'kids value meal', the default product advertised is the 'smart pick' meal which, as identified and described above, is compliant with the nutritional

requirements under the QSR Initiative and which represents an alternative healthier choice meal in compliance with 4.1(a) of the QSR Initiative. Therefore, even if the Board considered the menu pages to be a marketing communication to Children in respect of food and/or beverages, it is compliant with the Food Code, the Children Code and the QSR Initiative.

Is the "Kids Club Page" Advertising or Marketing Communications to Children?

The Site includes a sub page under the heading "Kids Club" for a range of services offered by Hungry Jack's restaurants directed to Children. From that sub page (located at http://www.hungryjacks.com.au/kids_club.php) further information on what the Kids Club is, access to colouring in pictures, how to join the Kids Club and a copy of Hungry Jack's' QSR Initiative action plan are accessible via the menu on the left hand side. Further, a copy of the QSR Initiative is able to be downloaded from the sub page.

Hungry Jack's agrees that, having regard to the theme, visuals and language used, the Kids Club Page (and only the Kids Club Page) is directed primarily to Children. However, the only service being offered on the Kids Club Page is access to the "Kids Club" itself, being a service.

Hungry Jack's submits that the Kids Club is focused predominantly on providing games and a mail order program delivering gifts to members on a periodic basis. The Kids Club also promotes Kids Club parties which are essentially children's functions. The Kids Club pages are intended to promote the benefits of the Kids Club parties service which focuses on the provision of function rooms, playground facilities, invitations, party hosts and gifts. The Kids Club Page does not contain images of food or drink supplied by Hungry Jack's nor does it make reference to offers or food promotions. Hungry Jack's submits that the site is predominantly focused on providing an interactive experience for children through its colouring in pictures and also informing parents as to the functions capability of Hungry Jack's restaurants.

No Hungry Jack's meals are in fact offered on the Kids Club Page. What is advertised is the service of Hungry Jack's being able to provide a venue and party host (being a Hungry Jack's staff member) for birthday party functions. The "Kids Club Parties" page informs the reader that the Hungry Jack's Party package includes, among other things, that 'each child will receive a themed box with kids meal'. Hungry Jack's submits that the mere reference to what is included in a 'Party package' is not an advertisement in respect of a food and/or beverage product.

Even if the Board does decide that the "Kids Club Parties" page is an advertisement in respect of food and/or beverages, the 'kids meals' includes the "smart pick" kids meal, which, as detailed above, is a healthier alternative meal which is compliant with the nutritional guidelines found in the QSR Initiative.

The Complainant asserts that the tagline "the burgers are better at Hungry Jack's" at the 'header' of the website is to be read in conjunction with the Kids Club material such that the Kids Club is to be characterise as promoting food and beverages. Hungry Jack's says that the Hungry Jack's tagline is a corporate tagline making a generalised brand statement about the quality of the restaurants and is in no way a communication promoting Kids Value Meals within the Kids Club Page.

Further to the above, no reasonable consumer would interpret the tagline as being in any way incorporated within the Kids Club Page as promoting Kids Value Meals. If the Board were to find that the Hungry Jack's tagline, corporate brand and trade mark was, in and of itself, an advertisement for food and/or beverages, every single advertisement of Hungry Jack's would necessarily fall within the scope of the AANA Food Code – even if the advertisement were directed to attracting employees or franchisees – which is clearly an inconsistent and fictitious result.

The Complainant made reference to Determination 0523/10 in which the Board stated that a banner on the disney.com.au website promoting Happy Meals was an advertisement for McDonalds Happy Meals generally and used this proposition to justify the assertion that a lack of products featuring on the Kids Club cluster of pages has the effect of promoting the Kids Value Meals Range Generally. Hungry Jack's says this is a spurious assertion and reiterates that Hungry Jack's does not include images or references to the Kids Value Meals as it does not intend to promote them through the Kids Club Page. The banner considered in Determination 0523/10 promoted Happy Meals generally. No image, phrase or other representation on the Kids Club page refers to the Kids Value Meal range generally and Hungry Jack's says that determination 0523/10 has no relevance on this basis.

Clause 2.1 AANA Food Code

The Complainant asserts that the Hungry Jack's website contravenes prevailing Community Standards about unhealthy food advertising to children via the internet. The Complainant seeks to rely upon a survey conducted in 2010 to provide justification for the above assertion. Specifically the Complainant states:

"In a 2010 national survey by Cancer Council Victoria, just under 9 in every 10 consumers surveyed responded that the government should regulate the featuring of unhealthy food products in games and competitions on websites aimed at kids, with 42% in favour of stopping it completely."

A search for the above 'national survey', its results and its statistical basis does not identify any publicly available material to support that survey. The above statistics are drawn from data not publicly available and produced by the Cancer Council of Victoria, potentially under funding from the Complainant's employer. Accordingly, Hungry Jack's cannot: confirm or deny the accuracy, validity or appropriateness of the '2010 survey' or its outcomes;

say whether the survey results apply to Hungry Jack's pages;

confirm or indeed question what "games" and "competitions" means in the context of the survey;

identify what qualifies as a "website aimed at kids" for the purpose of the survey or what qualifies as the featuring of unhealthy food products.

Most importantly, Hungry Jack's cannot comment on (and nor can the Board rely upon) the statistical validity of the source data nor the survey methodology given it has not been disclosed.

The Hungry Jack's Kids Club cluster of pages does not feature unhealthy products. It certainly does not feature unhealthy products in games and competitions nor does it feature images or words promoting any or all of the Kids Club Value Meals. The Kids Club Page makes reference to the availability of a Kids Club meal at Hungry Jack's functions which Hungry Jack's says is a reference to its Kids club 'Smart Pick' value meal and is not intended to promote the Hungry Jack's Kids Value Meals generally.

Summary

Hungry Jack's says that the Kid Club Pages and the broader Hungry Jack's website takes a responsible approach to informing its customers and to ensuring that unhealthy meals are not promoted to children. Hungry Jack's denies that the Hungry Jack's website contravenes Prevailing Community Standards and says that it does not promote food and beverages to Children, and to the extent that the Board takes a different view, the promotion only applies to the Kids Club 'Smart Pick' value meal and only then does it do so on the corporate pages. In producing and maintaining the Kids Club, Menu and Corporate Pages, Hungry Jack's and its agency, Clemenger BBDO, have taken every care to ensure that it complies strictly with the QSR Initiative and the AANA Food Code.

*We ensure that all of our customer services and communications are respectful of the community and in line with general community standards.
We request that the complaint be dismissed.
Please let us know if you require anything further.*

THE DETERMINATION

The Advertising Standards Board ('The Board') considered whether this advertisement breaches the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (the QSR Initiative) and Section 2 of the AANA Advertiser Code of Ethics (the "Code").

The Board noted the complainant's concern that the advertisement is directed to children and does not feature a healthier choice meal.

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

The Board noted that the QSR Initiative is designed to ensure that only food and beverages that represent healthier choices are promoted directly to children.

The Board noted that the QSR Initiative applies to 'advertising or marketing communications to children' which means 'advertising or marketing communications which, having regard to the theme, visuals and language used, are directed primarily to children and are for food and/or beverage products.' Under this initiative children means "persons under the age of 14 years of age."

The Board noted the complainant is concerned with the entire Hungry Jack's website and considered that the QSR only covers advertising material and not corporate material and information.

The Board noted the complainant specifies the Kids Club Parties section of the website and that they are concerned this is advertising to children. The Board considered the language used in the advertisement is clearly directed at adults and is designed to attract parents to book kids' parties at Hungry Jack's. The Board considered that the cartoon food imagery accompanying the Kids Club Parties section is of cakes and these are not items which Hungry Jack's sells. The Board noted that in order to join the Kids Club online, parents are required to complete their details to accompany the child's application. The Board considered that based on the above, the advertisement is not 'primarily directed to children'.

The Board considered that this part of the website is not directed primarily to children and therefore that the provisions of the QSR Initiative do not apply.

The Board then considered the advertisement under the AANA Code for Advertising and Marketing Communications to Children. The definition of what is advertising and marketing communications to children' in the AANA Children's Code is largely the same as that in the QSR Initiative. For the same reasons noted above, the Board considered that this

advertisement is not primarily directed to children; therefore the provisions of the Children's Code are not applicable in this case.

The Board then considered the advertisement under the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code). The Board considered that an advertisement for a company which sells fast food is not, of itself, an advertisement that would 'otherwise contravene prevailing community standards'. In the Board's view, the advertising of a brand which sells products that are high in fat and salt and do not meet criteria for a 'healthy choice meal' does not of itself breach community standards. The Board determined that the advertisement did not undermine the importance of a healthy or active lifestyle, nor the promotion of healthy balanced diets and does not breach sections 2.1 or 2.2 of the Food Code.

The Board noted that Part 3 of the Food Code does not apply as the advertisement is not directed primarily to children and is not for a product that is of principal appeal to children and determined that the advertisement did not breach any other provisions of the Food Code and.

Finding that the advertisement did not breach any of the Codes on any grounds, the Board dismissed this complaint.