

COMPLAINT NUMBER	20/220
ADVERTISER	Domino's Pizza Enterprises Ltd
ADVERTISEMENT	Domino's Pizza Enterprises Ltd Digital Marketing
DATE OF MEETING	23 June 2020
OUTCOME	Not Upheld No further action required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about Domino's Pizza Enterprises Ltd (Domino's) Facebook and website advertisements for their new Value Chicken Mega Box. The Board said the advertisements did not encourage excessive consumption or undermine the health and wellbeing of individuals.

Description of Advertisement

The Domino's Facebook and website advertisements promote their new Value Chicken Mega Box. The value chicken mega box contains 50 southern fried chicken bites for \$10. The advertisement has a photo of the product accompanied by text saying: "Introducing our NEW Value Chicken Mega Box! 50 pieces of savoury chicken bites coated in southern style crumb. Perfect for sharing, or not!"

Summary of the Complaint

The Complainant was concerned the advertisements undermined the health and wellbeing of individuals by encouraging the consumption of an excessive portion of chicken bites in one sitting.

Issues Raised:

- Social Responsibility
- Health and well-being

Summary of the Advertiser's Response

The Advertiser defended the advertisements and said the nature of the product itself, 50 chicken bites, is clearly a product to be shared by multiple people. The Advertiser said the advertisements do not condone or encourage excessive consumption. The Advertiser said the product represents the equivalent of 43.3% of an average adult's energy requirements, which is less than half of the recommended daily intake for an average adult. Notwithstanding this, the Advertiser said they have removed the text "Perfect for sharing, or not!".

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following codes:

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(h) Health and well-being: Advertisements must not undermine the health and well-being of individuals.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 19/088, which was Upheld and 20/125 which was Not Upheld.

The full versions of these decisions can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 19/088 concerned a television advertisement for Burger King where one customer, who has been using boxing gloves to eat a burger, says he could “Go another round”. Another customer holds out his tray and says he “Just need another three.”

The Complaints Board was of the view that the language used could encourage excessive consumption and therefore undermine the health and wellbeing of individuals.

Decision 20/125 concerned a television advertisement for the KFC Boom Box combo which shows a child playing rugby with some toy dinosaurs in the background and relying on his father to play a crowd cheering sound via the speaker when he scores. The father is distracted by the KFC meal he is eating. The advertisement offers consumers the chance to win an Ultimate Ears Boom 3 Speaker.

The Complaints Board noted the Boom Box combo with a Coke Zero drink option was 53% of the average adult’s daily recommended intake, but agreed in this instance the meal size and the way it was promoted did not meet the threshold to undermine the health and well-being of individuals. The Complaints Board said the advertisement was not targeting children.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the consumer takeout was: Buy a big box of chicken bites, which are value for money, which you can share, if you choose to.

Does the advertisement undermine the health and well-being of individuals?

A majority of the Complaints Board said the advertisement did not undermine the health and well-being of individuals. This is because the Value Chicken Mega Box meal did not encourage excessive consumption, as it was not being promoted as a meal for one person. The majority said the inclusion of the phrase “Perfect for sharing, or not!” indicates that this meal is intended to be shared and is not being promoted as a single serving. At the same time however, the advertisement suggests, in a humorous way, that eating the whole box without sharing it is also an option.

The majority noted that if a consumer did choose to eat the Value Chicken Mega Box meal, without sharing it, this was 43.3%, or less than half of the average adult’s daily recommended intake.

A minority disagreed. The minority said the phrase “Perfect for sharing, or not!” normalises the practice of one person eating a Value Chicken Mega Box on their own, and this was not encouraging healthy eating. The minority noted the New Zealand Health Survey 2017/18 found that 1 in 3 adults (32%) in New Zealand are classed as obese.

Is the advertisement socially responsible?

A majority of the Complaints Board said the advertisement was socially responsible, taking into account context, medium, audience and product and was not in breach of Principle 1 or Rule 1(h) of the Advertising Standards Code.

A minority disagreed. The minority said the advertisement was not socially responsible because it undermined the health and well-being of individuals.

Outcome

The Complaints Board ruled the complaint was **Not Upheld**.

No further action required.

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 calendar days of receipt of this decision.

APPENDICES

1. Complaint
2. Response from Advertiser

Appendix 1

COMPLAINT

The Advertisements

Domino's Facebook advert was viewed at 9am on May 26, 2020. The Facebook advert <https://www.facebook.com/photo?fbid=10157575221507462&set=a.432151607461> introduces Domino's new Value Chicken Mega Box. The Domino's webpage <https://www.dominos.co.nz/menu-side/value-chicken-mega-box-S00329> was viewed at 9.15am on May 26, 2020. The webpage is very similar to the Facebook advert. The ads include a photo of a large box or bowl of southern fried chicken bites. Both of the adverts state '50 pieces of savoury chicken bites, coated in southern-style crumb. Perfect for sharing, or not!'

Breaches of the Advertising Standards Code:

The adverts breach Principle 1 and Rule 1(h) of the Advertising Standards Code. I believe the adverts were not prepared with a due sense of social responsibility as they undermine the health and wellbeing of individuals by encouraging the consumption of an excessive portion of chicken bites in one sitting.

By promoting the 50 pack 'mega' box as perfect for eating on your own, the adverts clearly encourage excessive consumption of an occasional food item. The ads also physically show a quantity of food that exceeds the portion size appropriate for consumption by any one adult.

The Complaints Board has previously upheld a relevant complaint, decision 19/088. Decision 19/088 concerned a television advertisement for Burger King. The advert showed people eating burgers and then asking for more. One customer holds out his tray and says: "Just need another three". The Complaints Board said the advert could be seen to normalise excessive consumption and there was not sufficient context or exaggeration for the statement to be dismissed as hyperbole.

Nutritional information:

The total number of kilojoules for the 50 pack of chicken bites is 3770kj.

	Total (per 50 pack)	% Intake*	Daily (per 50 pack)
Energy (KJ)	3770	43.0% ¹	
Calories (CAL)	800	32%	

¹ Nutrition Information User Guide based on an 8700 kJ - Food Standards Australia New Zealand Retrieved 20th March 2020 from <https://www.foodstandards.govt.nz/code/userguide/pages/nutritioninformation1406.aspx>

Protein (g/serve)	55	84%
Total Fat (g/serve)	40	74%
Sodium (mg/serve)	1850	80.4% ²
Dietary fibre, Total (mg/serve)	<5mg	17% (for 5mg)

Food Standards NZ sets out the percentage daily intake information for nutrition information panels and this is based on 8700kJ diet for an 'average' adult. The chicken bites depicted represent equivalent to 43.3% of an average adults energy requirements. This is an excessive amount of energy for one food item that is typically classified as a side. There is also a lack of fibre and vegetables which are vital for good health and wellbeing.

The meal is also high in sodium, contributing 80.4% of an adult's recommended daily intake. Diets high in sodium are associated with increased risk of cardiovascular disease, which is the major cause of death for New Zealand males and females.

The promotion of high energy, fat, sugar and sodium containing foods is causing harm to New Zealanders with 1 in 3 adults found to be obese (32%) in the 2017/18 NZ Health survey. It is of even greater concern when these foods are advertised to be consumed in large quantities. Food retailers and manufacturers need to promote their offerings in a more responsible way to avoid undermining the health and well-being of individuals. In particular, high energy, high sugar, high fat, and high sodium food items.

Thank you for considering these adverts and I encourage the Complaints Board to consider that Domino's have been socially irresponsible in how and what they are advertising and promoting their food items.

Appendix 2

RESPONSE FROM ADVERTISER, DOMINO'S PIZZA ENTERPRISES LTD

Advertising Standards Authority – Chicken Mega Box Response

- Reference: Complaint 20/220
- Advertiser: Domino's Pizza New Zealand Limited (**Domino's**)
- Response required: **16 June 2020** (per email from ASA Complaints Manager dated 8 June 2020)

Complaint Summary:

Ad Description: Facebook advertisement posted by Domino's New Zealand on 25 May 2020 featuring a photograph of the Southern Fried Chicken Value Mega Box, 50 pieces for \$10. Accompanying caption states: *"Introducing our NEW Value Chicken Mega Box! 50 pieces of savoury chicken bites, coated in southern-style crumb. Perfect for sharing, or not!"* (**Advertisement**).

² The maximum daily amount of salt recommended for adult New Zealanders is about 6g (2300mg sodium). That's about 1 teaspoon from all food sources. Retrieved 3rd June 2020 from <https://www.stroke.org.nz/sites/default/files/inline-files/slash-the-salt.pdf>

Reason for Concern: Complainant alleges that the Advertisement breaches Principle 1 and Rule 1(h) of the Advertising Standards Code, in that the Advertisement was not prepared with a due sense of social responsibility as it undermines the health and wellbeing of individuals by encouraging the consumption of an excessive portion of chicken bites in one sitting.

Requested information from Appendix 1:

Digital media file(s) copy of the Advertisement: Attached as Annexure 1 and enclosed with our covering email.

Is the advertisement still accessible – where and until when?

The Advertisement is still featured on the Domino's New Zealand Facebook page, but the words "*Perfect for sharing, or not!*" have been removed. The Advertisement will remain on the Facebook page indefinitely.

List all media where the Advertisement is placed

Facebook

Who is the target audience for the product?

Over 18s – skewed towards males.

What tools and/or data were used to target this audience?

No specific tools or data were used to target the audience – the Advertisement was simply posted on the Domino's New Zealand Facebook page.

Response:

We refer to your letter dated 8 June 2020 enclosing a complaint received by the Advertising Standards Authority (**ASA**) in relation to the Advertisement.

Firstly, thank you for providing Domino's with the opportunity to respond to the complaint regarding the Advertisement. Domino's takes its responsibility as an advertiser very seriously and encourages any feedback from the community to better understand and respond to any issues or concerns that may be raised in connection with our advertisements.

We note the concerns of the complainant as outlined above. Domino's entirely refutes any suggestion in the complaint or otherwise that the Advertisement breaches the Advertising Standards Code (**Code**), or any food and nutrition policies of the Government and the Ministry of Health, such as the Food and Nutrition Guidelines or the Eating and Activity Guideline.

Principle 1 of the Code, relating to Social Responsibility, states:

"Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society."

Rule 1(h) of the Code, relating to health and well-being, relevantly states:

"Advertisements for food or beverages must not condone or encourage excessive consumption or show a quantity of food or beverage that exceeds the portion size that would be appropriate for the consumption by the person or people of the age depicted in the advertisement."

We note the following reasons as to why the Advertisement is not in breach of the Code:

1. The Advertisement features the statement: "*Perfect for sharing, or not!*". The primary message in this statement is that the product is perfect for sharing. The nature of the product itself, being 50 chicken bites, is clearly a product to be shared by multiple people. The product is not, and is not being promoted as, a meal intended for one person. The depiction of the product as a shared item is socially responsible and does not condone or encourage excessive consumption.
2. The words "*Perfect for sharing, or not!*" present an option to the consumer – ie that the product may be shared (which is the primary intention and message, as above), or it does not have to be shared. The words "*or not*" is using humour to insinuate that the product is so delicious that the consumer may choose not to share it. By presenting the options this way, the Advertisement does not condone or encourage excessive consumption by one person. Further, the option of not sharing the product does not imply that the product must be eaten by one person in one sitting, as the complainant indicates.
3. The Advertisement does not promote the product as "*perfect for eating on your own*", as claimed by the complainant. As above, the Advertisement states that the product is perfect for sharing.
4. The Advertisement does not depict an individual consuming the product by themselves, which would result in a contravention of rule 1(h).
5. The complainant has stated that the product equates to an equivalent of 43.3% of the total average adult daily energy intake, according to Food Standards NZ. This shows that even if an individual did consume the product themselves (which is not represented, encouraged, condoned or otherwise intended by the Advertiser in the Advertisement), their energy consumption will be less than half of the recommended daily intake for an average adult.
6. The Food Standards NZ nutritional information provided by the complainant shows that the total calories of the product equates to 32% of the daily adult recommended intake. If an individual did consume the product as one of their three meals of the day (which is not represented, encouraged, condoned or otherwise intended by the Advertiser in the Advertisement), their calorie consumption for the meal would not be inappropriate, as it would be roughly one-third of the daily recommended calorie intake for an average adult.
7. We note that the complainant has noted a previous complaint (number 19/088) against Burger King that was upheld by ASA, which depicted people eating burgers and then asking for more. The Advertisement is completely different to the Burger King advertisement in that no people are shown eating the product or asking for more, while a reasonable consumer would contemplate sharing a product like chicken bites before they would a burger, which is widely accepted as an individual meal.

For the above reasons, we respectfully submit that the Advertisement is not in breach of the Code.

Notwithstanding the position explained in this response, the Advertiser has removed the words "*Perfect for sharing, or not!*" from the Advertisement.

If you require any further information, please do not hesitate to contact us at ask.legal@dominos.com.au.