Case Report

1. Case Number :	**0335-24**
2. Advertiser :	**McDonald's Australia Limited**
3. Product :	**Food/Beverages**
4. Type of Advertisement/Media :	**Billboard**
5. Date of Decision:	**22-Jan-2025**
6. Decision:	**Dismissed**

ISSUES RAISED

AANA Food and Beverages Code\3.1 Must not target children
AANA Advertising to Childrens Code\2.1 Prevailing Community Standards

DESCRIPTION OF ADVERTISEMENT

This billboard advertisement is promoting the McDonald's Squid Game Meal. The Advertisement depicts three adults wearing pink jumpsuits holding a Dalgona candy alongside a Squid Game Meal Box which features the McDonald's logo and cartoon doll featured in the show. The accompanying text says "Squid Game 2. Only on Netflix. 26 December," along with an MA 15+ logo.



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

I am complaining because the ad in question I believe was inappropriate, it was marketed towards children. Due to the violent nature of Squid Games, I think

purchasing this Happy Meal will promote it to children, who don't need to be exposed to the show.

THE ADVERTISER'S RESPONSE

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

Whether the audience of the program is predominantly children

No, the audience of the advertisement is not predominantly children, and targeted out of home to reach adults 18+ who are fans of the show. In line with the Outdoor Media Association policies, these billboards were not in close proximity of children's zones, such as schools.

Advertiser's response to complaint

Thank you for requesting a response to complaint number 0335-24 (Complaint).
We note that the Complaint has raised issues under the following codes of practice:

- *AANA Food and Beverages Code – section 3.1 Must not target children\advertising for OFBP must not target children.*
- *AANA Advertising to Childrens Code – section 2.1 Prevailing Community Standards\must not contravene prevailing community standards.*

McDonald's takes its obligations seriously in respect of adherence to all the codes of practice administered by Ad Standards. McDonald's entirely refutes any suggestion in the complaint or otherwise that the Advertisement breaches the Codes. Please see details below.
AANA Food and Beverages Advertising Code:

Section 3.1 provides the following:

"Advertising (including sponsorship advertising) of Occasional Food or Beverage Products must not target Children".
In the current case, the complainant claims McDonald's is advertising unhealthy foods to children. We submit that our advertisement does not breach section 3.1 on the following basis:

Reason one: The nature and intended purpose of the product being promoted has a broad appeal to adults and fans of the Netflix series Squid Game, rather than principally or significantly children.

The advertisement is promoting an adult meal bundle, linked with the Netflix series Squid Game. The meal contains 10-piece Chicken McNuggets, served with limited-time Korean BBQ Sauce, a medium or large Fries and a Drink, along with the Dalgona Candy. The complainant has made an erroneous assumption that the product is a Happy Meal. This meal is not in any way associated to McDonald's children's Happy Meal product and has not been marketed or labelled as such in any McDonald's advertising, communications or menu boards.

The Dalgona Candy is a popular street food snack originating from South Korea and enjoyed by a person of any age. This product featured in season one of the Netflix series Squid Game as a challenge for the characters to cut out the shape and became a popular trend for fans of the show to recreate at home. The McDonald's Squid Game Meal targets these fans of the show wanting to try out the challenge for themselves, with the nature and intended purpose of the product having a broad appeal to adults and fans, not principally or significantly children.

Reason two: The content of the advertisement is aimed at adults and fans of the Netflix series Squid Game, rather than primarily children.
Under the Food and Beverages Advertising Code, the second criteria for an advertisement to target children is that the content must be principally appealing to children. This advertisement integrates the popular Netflix program Squid Game, which is rated MA15+ in Australia and enjoyed by adults. Whilst the content featured in the show can be violent or graphic, nowhere within the advertisement are there any depictions of violent or graphic material, nor any weapons or guns that would allude to the violence or killings within the show. The MA15+ Australian classification logo is also featured on the billboard in the Advertisement, informing consumers who are curious about the Netflix show that it is only suitable for those over the age of 15, as well as further highlights that the advertised Squid Game Meal is also aimed at adults and not children under 15 years.

The visuals of the advertisement depict three adults in pink jumpsuits holding a Dalgona Candy. These characters are well recognised by fans of the show and are not shown in a violent or menacing way. In contrast to advertisements that target children, this Advertisement features real people, with talent all over the age of 18, and no children being present or pictured with the meal. The visuals and tone of the Advertisement are in a dramatic, dark and more serious style, similar to the Netflix show, and would be appealing to adults and fans of the series rather than children.

Whilst the Squid Game Meal box packaging features a cartoon picture of the doll featured in the Netflix show, as previously considered and dismissed by the Ad Standards Board in case 0280/15, the mere use of characters does not mean the advertisement directly appeals to children, and instead it is clear when viewing the advertisement as a whole that in the first instance it is targeting an adult audience who can watch MA15+ programs and fans or familiar the Netflix show.

Reason Three: The placement of the advertisement is not targeting children as the expected average audience at the time and place the advertisement appears does not have a significant proportion of children as the audience.
This Advertisement was only placed in spots where the predicted average audience did not have 25% or more children as the audience as required under the Food and Beverages Advertising Code. The billboards were targeted to reach adults 18+ who are fans of the show. In line with the Outdoor Media Association policies, these billboards were not in close proximity of children's zones, such as schools. Therefore, the advertisement was not targeting any children under 15 years old in the placement. Given the above, the Advertisement does not advertise occasional food or beverage products to children.

AANA Advertising to Children Code
Given the above, McDonald's also does not believe it is in breach of any section of the AANA Advertising to Children Code, in particular section 2.1, on the following basis
We submit that this Code is not applicable to the Advertisement considering that the language used, theme and placement of the Advertisement have a primary appeal to adults rather than children aged 15 years or younger. However, in the event the panel considers this advertisement having a primary appeal to children, McDonald's does not believe it is in breach of any section of the AANA Advertising to Children Code as the advertisement does not promote products or services that are unsuitable or hazardous to a child or encourage any unsafe practices.

As mentioned above, should a child have viewed the advertisement, there are no depictions of any violent or graphic material, no weapons, or scenes from the Netflix program. McDonald's is not promoting any product that is unsuitable or that encourages any unsafe practices for children, nor encouraging a person to engage in the violent themes seen in the Netflix show.

AANA Code of Ethics
McDonald's does not believe the Advertisement is in breach of the following parts of section 2 of the Code of Ethics:
- *2.1 – Discrimination or vilification;*
- *2.2 – Exploitative and degrading;*
- *2.3 – Violence;*
- *2.4 – Sex, sexuality and nudity;*
- *2.5 – Language;*
- *2.6 – Health and Safety; and*
- *2.7 – Distinguishable as advertising*

AANA Food and Beverages Advertising Code
McDonald's does not believe the Advertisement is in breach of any of the parts of the Food and Beverages Advertising Code. Please see response above.

Conclusion

McDonald's concludes that the Advertisement does not breach any of the codes, and in particular does not advertise occasional food and beverage products to children. Therefore, McDonald's respectfully disagrees with the complaint and request that the Panel dismiss the complaint on this basis.

THE DECISION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Food and Beverages Advertising Code (the Food Code) or the AANA Children's Advertising Code (The Children's Code).

The Panel noted the complainant's concern that the advertisement was promoting an inappropriate product to children.

The Panel viewed the advertisement and noted the advertiser's response.

Food Code Section 3.1 Advertising (including sponsorship advertising) of Occasional Food or Beverage Products must not target Children.

Is the advertisement for an Occasional Food or Beverage Product?

The Panel noted that the definition of an Occasional Food or Beverage Product in the Food Code is: "*food or beverages products which do not meet the Food Standards Australia Nutrient Profile Scoring Criterion as published from time to time by Food Standards Australia New Zealand*".

The Panel noted the advertisement is promoting the Squid Games meal. The Panel noted the advertiser had not provided information as to whether the product meets the FSANZ criteria, however as the advertised product includes chicken nuggets, chips, a soft drink and a sweet, it is likely to be an occasional food product.

Does the advertisement target children?

The Panel noted that the Food Code defines "target children" as:

> *"Target Children is determined by the context of the advertisement and the following three criteria:*
>
> 1. *Nature and intended purpose of the product being promoted is principally or significantly appealing to Children;*
> 2. *Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is principally appealing to Children;*

3. *Expected average audience at the time or place the advertisement appears includes a significant proportion of Children."*

The Panel noted that the Practice Note provides guidance on the interpretation of "target children":

> *"All three criteria will be considered by the Community Panel in determining whether or not advertising targets Children. The weighting given by the Community Panel to each of the three criteria will be determined on a case by case basis. In the event of a complaint being considered by the Community Panel, the advertiser should be in a position to provide details in terms of the nature and intended purpose of the product, the presentation of the advertisement content and the expected average audience at the time or place the advertisement appears.*
>
> *"In relation to the third criteria, measures to determine if Children are likely to be a 'significant proportion' of the expected average audience may include one or a combination of the following:*
> - *Where data exists, 25% or more of the predicted audience will be Children. In relation to outdoor advertising, if across a campaign the data shows a predicted audience with less than 25% Children, and there is a Children's event or concert that is incidental to the ad placement, the audience of that incidental Children's concert or event will not be captured.*
> - *C&P programmes.*
> - *Programs, artists, playlists, video, movies, magazines or other content with significant appeal to Children (e.g. featuring personalities or characters popular with Children).*
> - *Compliance with the Outdoor Media Association Placement Policy and Health & Wellbeing Policy which regulate the placement of advertising at primary and secondary schools which are locations where Children regularly and predictably gather. Where accurate program audience data is not available, the Community Panel may have regard to other factors listed above such as the program content, the time or the location where the advertisement is being shown (in line with the above provision)."*

Point 1: Is the nature and intended purpose of the product principally or significantly appealing to children?

The Panel noted the advertiser's response that the product would be of principal appeal to adults and fans of the Netflix series Squid Games. The Panel noted that the product comes in a large box, of similar design to a Happy Meal box, which includes a cartoon image of a doll-like character, and comes with a sweet designed to be played with like a toy.

The Panel noted that the test is whether the product is *principally or significantly* appealing to children, not *only* appealing to children, and the Panel considered that a meal similar to a Happy Meal, which contains a playable element would be significantly appealing to children..

The Panel considered that the product was significantly appealing to children.

Point 2: Is the content of the advertisement principally appealing to children?

The Panel noted that to be within Section 3 of the Food Code the Panel must find that the advertisement is aimed in the first instance at children under 15.

Is the theme of the advertisement principally appealing to children?

The Panel considered that the theme of the advertisement draws on the promotion of the Netflix series, using characters and visual elements of the show. The Panel considered this theme would be principally appealing to adults and older teenagers who had watched the Netflix series.

Are the visuals of the advertisement principally appealing to children?

The Panel considered that the characters wearing bright coveralls with simple shapes on their facemasks may attract the attention of young children. The Panel also considered that the depiction of the product, which looks like a Happy Meal box and has a cartoon-like character on it, would also be attractive to children. The Panel considered that the depiction of the dalgona candy game which looks like a cookie would also appeal to children.

However, the Panel considered that the advertisement also included visual elements, such as characters, which would be familiar to fans of the Netflix show. The Panel also considered that the advertisement was quite dark and prominently featured the logo for the Netflix series.

Overall, the Panel considered that the visuals would be equally appealing to children under 15 and adults and were not principally appealing to children.

Is the language/wording/music of the advertisement principally appealing to children?

The Panel considered that the advertisement only featured the name of the meal, and various logos, dates and ratings. The Panel considered that the wording of the advertisement was factual and would be principally appealing to adults.

Is the content of the advertisement overall principally appealing to children?

The Panel emphasised the importance of considering all elements of the advertisement and how they interact to form an overall impression when determining whether it is principally appealing to children.
The Panel considered that the overall advertisement contains elements which relate to the Netflix show and the advertisement would be principally appealing to adults and older teenagers who are familiar with the Netflix show.

Point 3: Does the expected average audience of the advertisement include a significant proportion of children?

The Panel noted the advertiser's response that the advertisement was placed in line with the Outdoor Media Association policies, and the expected average audience of the advertisement did not include a significant proportion of children.

Does the advertisement target children?

The Panel noted that in order to determine whether an advertisement targets children it is required to weigh each of the three criteria above.

The Panel considered that:

- the product would have significant appeal to children
- the content of the advertisement was not principally appealing to children
- audiences for the advertisement would not include a significant proportion of children.

The Panel considered that while the product would have significant appeal to children, it would have equal or greater appeal to adults. The Panel considered that overall advertisement did not target children under 15.

Section 3.1 conclusion

The Panel noted that this advertisement for an Occasional Food or Beverage Product did not target children, and therefore the Panel determined that the advertisement did not breach Section 3.1 of the Food Code.

Children's Code

The Panel noted that for the provisions of the Children's Code to apply, the advertisement must be found to target children under 15 years of age.

For the reasons provided in the Food Code above, the Panel considered that the advertisement did not target children, and the provisions of the Children's Code did not apply.

Conclusion

Finding that the advertisement did not breach the Food Code or the Children's Code the Panel dismissed the complaint.