



Case Report

1	Case Number	0023/12
2	Advertiser	McDonald's Aust Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	08/02/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

Personality/Characters QSR - 4.2 - Personalities/Characters
Advertising Message QSR - 4.1 - Advertising and Marketing Message

DESCRIPTION OF THE ADVERTISEMENT

A boy and girl are eating McDonald's Happy Meals in a McDonald's restaurant, while the chipmunks play tricks in the background. Using the opportunity of distraction, the girl steals her brother's apple slice while he is busy looking over his shoulder to see the chipmunks.

THE COMPLAINT

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

This advertisement was in violation of the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children.

Refer to:

Section 4 (Core Principles) 4.1 (a) Advertising or marketing communications to children for food and/or beverages must represent healthier choices as determined by a defined set of Nutrition Criteria for assessing children's meals - the product advertised does not meet these criteria; and

Section 4.2 Popular personalities or licensed characters must not be used in advertising or marketing communications to children for food and/or beverage produces - the presence of the chipmunks (from Alvin and Chipmunks movies - in cinemas now) clearly violates this principle.

THE ADVERTISER'S RESPONSE

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

We refer to the above complaint which alleges that McDonald's' "Alvin & The Chipmunks 2" Happy Meal television commercial ("TVC") is in breach of the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children ("QSR Initiative").

As always, we thank the Board for the opportunity to respond and acknowledge the importance of industry commitment to the self-regulation of advertising in Australia.

We make a conscious effort within the business to ensure we fully comply with all of the advertising codes through the ongoing training and development of our marketing teams as well as externally with our advertising agencies. Based on our understanding of the QSR Initiative, we believe that the advertisement in question is not in breach of that Initiative or any other applicable code or standard.

First, the Happy Meal featured in the TVC meets the nutrition criteria mandated by the QSR Initiative. The nutritional profile of the meal (seared chicken Snack Wrap, Apple Slices and Calci-yum milk) has been supplied to the ASB previously, and on prior occasions the same meal combination has been noted by the ASB as being compliant with the QSR Initiative.

Accordingly, the complainant's comment that product advertised does not meet section 4.1 of the QSR Initiative because the meal displayed does not meet the nutrition criteria is incorrect and is not supported by the nutrition data.

In respect of the complainant's allegation concerning the use of licensed characters and popular personalities, we comment as follows:

- *The QSR Initiative and the Children's Television Standards ("CTS") do not constitute a blanket ban on the use of popular personalities and licensed characters. Rather, these initiatives restrict the circumstances in which licensed characters and popular personalities can be used by only allowing their use if two criteria are met:*

- o *1: The advertisement must first comply with section 4.1 of the QSR Initiative;*

- o *2: The advertisement must comply with section 22 of the CTS (now CTS 35 under the latest edition).*

- *The TVC in question clearly complies with section 4.1 of the QSR Initiative, as the TVC represents healthier choices by reference to the approved nutrition criteria.*

- *Compliance with the CTS is not in question - the TVC was never broadcast in C or P time (only G time) and accordingly CTS 35(1) does not apply in any event as that part of the CTS relates only to C and P time advertising.*

In respect of other aspects of the codes administered by the AANA and ASB, we cannot see that this television commercial is in breach of any of them and submit that this complaint should be dismissed.

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 reviewed the advertisement and noted the advertiser's response.

The Board noted the complainant's concern that the advertisement is directed to children and does not represent a healthier choice according to the QSR Initiative nutrition criteria and that it features licensed characters.

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.'

The Board considered Article 4.1 of the QSR which 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, 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
 - (ii) Physical activity"

The Board noted the advertiser's response that this advertisement is directed towards children and the featured Happy Meal meets the nutrition criteria set out in the QSR Initiative. The Board agreed that the advertisement is clearly directed to children and that the product advertised must therefore meet the nutrition criteria set out in the QSR Initiative.

The Board noted that it had previously considered an advertisement featuring the same Happy Meal in Case ref 224/10, and that the independent arbiter's advice was that the Happy Meal featured in the advertisement meets the Nutrition Criteria set out in the QSR Initiative:

'The commercial depicts a young girl with her parents at McDonald's eating a Happy Meal with the following products:

- The drink depicted is a CalciYum Flavoured Chocolate Milk
- The main food item depicted is a Seared Chicken Snack Wrap

- The side item depicted is the Apple Fruit Bag

Below are the nutritional values for the child’s meal.

Product	Energy (kJ)	"	Saturated fat (g)	Sugar (g)
Sodium (mg)				
Milk	640		2.2	20.5
110				
Snack wrap	868	2.4	1.5	305
Apple bag	153	0	6.9	0
TOTAL	1661	4.1 (0.28g/100kJ)	28.9 (1.74g/100kJ)	315

The Happy Meal advertised meets the nutrition criteria set out in Appendix 1 of the QSR Initiative.’

The Board determined that as the advertisement meets the requirements for 4.1 (a) the requirements of 4.1 (b) do not need to be considered and the advertisement does not breach article 4.1 of the QSR.

The Board then noted Article 4.2 of the QSR which states, “Popular personalities or Licensed Characters must not be used in Advertising or Marketing Communications to Children for food and/or beverage products, unless such Advertising or Marketing Communications complies with the messaging options set out in Article 4.1 and the specific requirements of Section 22 (Promotions and Endorsements by Program Characters) of the Children’s Television Standards 2005.”

The Board noted that the advertisement does comply with the messaging options of Article 4.1 and can therefore use images of licensed characters. The Board also noted that Section 22 of the CTS provides that, “No material broadcast during a C program or P program, or in the break immediately before or after a C program or P program, may contain an endorsement, recommendation or promotion of a commercial product or service by a principle personality or character from a C program or P program.”

The Board noted that the advertisement had been rated G by CAD therefore it could not be shown in P or C programming and so the advertisement does not breach Section 22 of the CTS.

Finding that the advertisement meets the requirements for messaging options in Article 4.1 and that it is not played in P or C programs, the Board determined that the advertisement did not breach Article 4.2 of the QSR.

The Board determined that the advertisement does not breach the QSR Initiative.

The Board then considered the advertisement under the AANA Code for Advertising and Marketing Communications to Children and the AANA Food and Beverages Advertising and

Marketing Communications Code. The Board considered that there were no issues under any of the sections of these Codes that raised issues of concern in relation to this advertisement.

The Board then considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the “Code”). The Board considered that there were no issues under any of the sections of the Code that raised issues of concerns in relation to this advertisement.

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