



Case Report

1	Case Number	0005/12
2	Advertiser	McDonald's Aust Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	Pay TV
5	Date of Determination	08/02/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code Misleading / deceptive

DESCRIPTION OF THE ADVERTISEMENT

We open on a warm summer's day and see a young woman walk into the lobby of an inner-city office building. She is holding a bag of McDonalds in one hand and a new McDonald's Choc Whirl frappe in the other.

The woman presses the button for the elevator and takes a sip of her frappe. We hear the ding of the elevator, the door opens and then in slow-motion a wave of choc sauce comes flooding out of the elevator. We then see close ups of the frappe mixture being poured over ice and then blended.

THE COMPLAINT

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

I object to the false and misleading way in which the coffee frappe is shown....milky coffee is shown flowing into a cup with ice then being processed into a "frappe"....I have ordered and enjoyed several of these coffee frappes (formerly available through their McCafe as a "latte frappe") but believe and have seen that it is made with ice and a powdered "milk-coffee" product NOT coffee and ice.

This is a blatant misrepresentation of how a coffee frappe is ACTUALLY made.

THE ADVERTISER'S RESPONSE

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

First, we thank you for the opportunity to respond to this complaint.

Noting that the Complainant has raised the following concerns: "I object to the false and misleading way in which the coffee frappe is shown....milky coffee is shown flowing into a cup with ice, then being processed into a "frappe"I have ordered and enjoyed several of these coffee frappes (formerly available through their McCafe as a "latte frappe") but believe, and have seen, that it is made with ice and a powdered ""milk-coffee"" product NOT coffee and ice. This is a blatant misrepresentation of how a coffee frappe is ACTUALLY made"; we wish to comment as follows:

- 1. The television commercial depicts a Choc Whirl frappe being made, not a coffee frappe. We did not produce a television commercial showing a coffee frappe being made. It is clear from the voiceover and the colour of the product that the television commercial is showing a Choc Whirl frappe, and not a coffee one.*
- 2. The coffee frappe available at McDonald's front counter and in drive-thru as part of this new range of frappes and smoothies is an entirely different product to that has been sold in McCafes (and is still available in most McCafes). The method for making the two frappes is different, although both are essentially ice-blended drinks.*
- 3. The method for making the Coffee Kick and Choc Whirl Frappe beverages is as depicted in the television commercial. Ice and frappe mixture (in liquid form, not powdered) is blended in a blender jug and then poured into a cup for serving. There are no powdered ingredients used in-restaurant to make either of the frappes.*
- 4. In the frappe television commercial blender scene, we filmed the real chocolate frappe mixture that is used in our restaurants. It is a true and accurate representation of the way the product is made.*

Accordingly, we do not believe that this television commercial is misleading or deceptive in that it provides an accurate representation of the way the product is made.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Board noted the complainant's concern that the advertisement is misleading in its depiction of how a coffee frappe is made.

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

The Board determined that the advertisement is not directed to children or likely to appeal to children and that the AANA code for Advertising and Marketing to Children does not apply.

The Board noted that the product advertised is food and that therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply. In particular the Board considered section 2.1 of the Food Code which provides:

'Advertising or marketing communications for food ...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.'

The Board noted that 'prevailing community standards' means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it sees fit, in relation to the advertising or marketing of food or beverage products taking into account at a minimum the requirements of the Australia New Zealand Food Standards Code, the Australian Dietary Guidelines as defined by the National Health and Medical Research Council and the National Physical Activity Guidelines as published by the Federal Government of Australia.'

The Board noted that the advertisement features a woman drinking a choc whirl frappe and we see chocolate coloured liquid being poured over ice and then topped with whipped cream whilst a female voiceover describes the frappe.

The Board noted the complainant's concerns that the advertisement implies coffee frappes are made with coffee rather than with "powdered milk-coffee" and considered that the advertisement is focused on a chocolate whirl frappe not a coffee frappe and that whilst we see a liquid being poured over ice, the advertisement makes no claims regarding whether it uses powdered ingredients or not.

The Board noted the advertiser's response that the coffee kick frappe is part of a new range of drinks and is different to the coffee frappe the complainant refers to having bought at McCafes in the past.

The Board accepted the advertiser's response that the advertisement depicts an accurate portrayal of how the new frappes are made and that they do not use powder in these particular drinks.

Based on the information provided by the advertiser, the Board considered that the advertisement is not misleading or deceptive.

The Board considered that the advertisement was not misleading or deceptive and did not breach Section 2.1 of the Code.

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

