



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0042/19
2	Advertiser	McDonald's Aust Ltd
3	Product	Food / Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	20/02/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.2 - healthy lifestyle / excess consumption
2.6 - Health and Safety Unsafe behaviour
2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The advertisement opens on a man enjoying a double Big Mac on the beach. He does not notice that his beach umbrella has detached itself and is flying away. Two women notice the incoming beach umbrella and move out of the way.

THE COMPLAINT

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

This to my understanding of OH&S this commercial breaches rules in relation to umbrellas on beaches. My understanding is that all such devices are to be securely anchored to prevent such as depicted in the commercial.

A number of years ago a friend's young, son was sitting on the beach in Mordialloc Victoria enjoying himself when a gust of wind blew an umbrella along the beach and sadly the umbrella penetrated the young boy's head and instant death. Each time I see this commercial it brings back memories of that young boy's life ended so tragically. His Mother campaigned for years in Victoria to have all umbrellas and such needing to



be securely tethered with sand bags to reduce the chances of further injury or death from flying beach umbrellas and the like. She succeeded in have a law made that all umbrellas and the like are to be securely tethered.

I did try to contact MacDonaldis to speak with their advertising manager but could not get past the person on the switchboard and they did not want to take my name or details to discuss this commercial with them. Most disappointing!!

I look forward to your reply.

"Maccas" is trying to convince fast food takeaway buyers to take advantage of this promotion (which equates roughly to gluttony). Some of their other ads are trying to convince customers that their products are "healthy" . Everything in moderation is not one of the company's tenets!

THE ADVERTISER'S RESPONSE

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

The Complaint refers to a TV advertisement as part of the McDonald's 2018/19 Summer campaign (Advertisement). The Complaint is made under section 2.2 of the Food and Beverages Advertising & Marketing Communications Code (Food Code) and under section 2.6 of the AANA Code of Ethics (Code) and alleges that the Advertisement promotes behaviour that is contrary to prevailing community standards on health and safety.

In substance, the Complaint is claiming that the mere advertisement of a product with a particular nutritional composition is a breach of the Food Code. As with previous Ad Standards decisions (0101/14, 0262/15, 0593/16, 0072/17), the promotion of a product which may have a particular nutritional composition does not automatically undermine the importance of a healthy or active lifestyle, nor is it contrary to prevailing community standards. For an advertisement to disparage healthy lifestyles, either explicitly or implicitly, there must be some signal, indication, body language or commentary that makes fun of, or criticises people who are healthy or active. Even in cases where there are subtle suggestions that it's more fun to eat chocolate than exercise (Nestle, 0262/15), Ad Standards has dismissed complaints as they do not disparage healthy lifestyles.

McDonald's is only advertising a new product with this Advertisement. Even if, as the Complaint alleges, McDonald's is promoting excessive consumption, the double Big Mac in the Advertisement is 2990kJ which is still considerably under the daily energy intake of 8700kJ. The Advertisement gives no encouragement to consumers to enjoy



the product three times a day. The Advertisement simply promotes to the consumer that the product is now available and nothing more. We encourage the Ad Standards panel to adopt a common sense approach when deciding on this matter and to continue to adopt the mainstream definition of the standard of 'excessive'.

Accordingly, the Advertisement complies with the AANA Code and the Complaint should be dismissed. We have considered other matters under section 2 of the AANA Code of Ethics and submit that the Advertisement does not breach any of the other matters covered by that section or by any of the other applicable codes.

McDonald's sympathises with the complainant and the deceased boy's family over their tragic loss. Nonetheless, the intention of the AANA Code is to not depict highly unsafe activities, particularly those that are likely to be copied. An example of material that would depict unsafe practices which can be copied would be (as explained in the Code's practice note) bike riding without helmets, or not wearing a seatbelt in a moving vehicle. Such unsafe practices are usually prohibited by legislation. Despite what is said in the Complaint, there is no law which requires beach umbrellas to be securely tethered with sand bags. Nonetheless, in the Advertisement the beach umbrella is secured into the sand. In fact, it is a manufacturer fault that allows the wind to detach the umbrella from the middle. The beach umbrella bounces slowly twice, giving the two women in the Advertisement enough time to notice the incoming beach umbrella and get out of the way. The male actor does not notice the fleeting beach umbrella as he is distracted by the McDonald's product he is enjoying, as mentioned in the voiceover. There is no promotion of unsafe practices.

McDonald's takes safety very seriously, and in the filming of the Advertisement all precautions were taken to ensure the safety of the two women when they were filmed. This included a first aid officer on set monitoring the shoot who was tasked to identify any issues during filming to which the team would respond accordingly. If the Ad Standards panel look closely, they will see that the beach umbrella is controlled by a string. The string was attached to a pole that was being dragged by the film crew to create the illusion of a loose beach umbrella.

Accordingly, the Advertisement complies with the Code and so the Complaint should be dismissed. We have considered other matters under section 2 of the AANA Code of Ethics and submit that the Advertisement does not breach any of the other matters covered by that section.

THE DETERMINATION

The Ad Standards Community Panel (the "Panel") considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the "Food Code") and the AANA Code of Ethics (the "Code").



The Panel noted the complainants' concerns that the advertisement promotes excess consumption and depicts material contrary to health and safety standards.

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

The Panel noted that the product advertised is a food product and that therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply. In particular the Panel considered section 2.2 of the Food Code which provides:

“Advertising or marketing communications...shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered excess consumption through the representation of product/s or portion sizes disproportionate to the setting/s portrayed or by means otherwise regarded as contrary to Prevailing Community Standards.”

The Panel noted that this television advertisement is promoting a limited time menu item at McDonald's, the “Double-up” which is available on several burger options.

The Panel noted a complainant's concern that the advertisement promotes excess consumption.

The Panel noted that the advertised product is McDonald's burgers. The Panel considered that, consistent with previous decisions (Ferrero 0345/17, Hungry Jacks 282/11, and Mondelez 0550/17), promotion of a product which may have a particular nutritional composition is not, per se, undermining the importance of a healthy balanced diet.

The Panel noted the advertiser's response that the double Big Mac depicted in the advertisement is 2990kJ which is under the recommended daily energy intake of 8700kJ.

The Panel noted that the advertisement has no messaging around frequency of consumption, and cannot be reasonably interpreted to be encouraging the purchase of more than one product or promoting 'buy them all'. The Panel determined that the advertisement is not encouraging excess consumption of the product.

The Panel determined that the advertisement did not breach Section 2.2 of the Food Code.

The Panel then considered whether the advertisement complied with the requirements of the AANA Code of Ethics (the Code).



The Panel considered Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.

The Panel noted this television advertisement depicts an umbrella coming loose at the beach and flying away across the sand.

The Panel noted a complainant’s concern that the advertisement is contrary to rules in relation to umbrellas on beaches, which provides that umbrellas must be securely anchored.

The Panel noted the practice note to section 2.6 which provides:

“Images of bike riding without helmets or not wearing a seatbelt will be contrary to prevailing community standards relating to health and safety. Similarly, advertisements depicting unsafe practices or images, such as riding down a hill in a wheelie bin, using a mobile phone while driving or apparently hiding in a chest freezer etc are unacceptable. Advertisers should take care not to depict behaviour that children may imitate.”

The Panel noted that the action of the umbrella flying away was not the result of the man being apathetic about safety, but rather the umbrella is secured into the sand and it is the centre section which detaches and allows the umbrella to fly away.

The Panel considered that the overall impression of the advertisement is that the man is not undertaking unsafe or dangerous activities, and that the outcome of the umbrella flying away is not through the fault of the man in the advertisement. The Panel noted that no one is injured in the advertisement.

The Panel considers that most members of the community would not consider the advertisement to be a depiction of material contrary to Prevailing Community Standards on health and safety. The Panel determined that the advertisement did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on any other grounds and did not breach the AANA Food Code, the Panel dismissed the complaint.

