



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0060/19
2	Advertiser	Yum Restaurants International
3	Product	Food / Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	06/03/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.1 (b) - Contravenes community standards
RCMI 1.1 - Advertising Message AFGC - Advertising Message
QSR - 1.1 - Advertising and Marketing Message Advertising and Marketing Message
must comply
- Other Social Values
2.1 - Discrimination or Vilification Age

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features a family watching their son in a school play. The family appears bored as they watch their son perform until the older sister leans over and shows her mum an advert for the \$4.95 Fill-Up box. With excitement, the mum says 'shut-up and take my money'. The Advertisement then cuts to the family enjoying KFC \$4.95 Fill-Up boxes whilst the school play continues.

THE COMPLAINT

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

With children watching the cricket they are told that their concert is of little importance compared to a deal on KFC /offensive to all





Not only is this add advertising bad food but promoting bad parenting. KFC should be ashamed of themselves and so should anyone who thinks this add is funny

The ad features adults scoffing down KFC (seen both on TV and online). This ad is promoting unhealthy eating habits. Children who view this ad will see the adults (role-models) eating KFC, therefore misleading them into thinking that KFC is a healthy choice. This is irresponsible in the midst of the childhood obesity epidemic we are experiencing.

Another aspect of this ad is that the content is demeaning to children based on their age. It shows that adults hate going to performances and would rather focus on eating junk food, this could be distressing to children watching this ad and could damage their self-confidence and self-worth.

THE ADVERTISER'S RESPONSE

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

Description of Advertisement

The Advertisement to which the Complainant refers to is a free to air TV commercial for the KFC brand and the \$4.95 Fill-Up Box (Advertisement). The Advertisement is targeted at adults and was advertised across a general entertainment programs from 1 January 2019 to 18 February 2019.

The Advertisement is a humorous depiction of a relatable moment of a family watching their son in a school play. The family appears bored as they watch their son perform until the older sister leans over and shows her mum an advert for the \$4.95 Fill-Up box. With excitement, the mum says 'shut-up and take my money'. The Advertisement then cuts to the family enjoying KFC \$4.95 Fill-Up boxes whilst the school play continues.

The complaints and relevant codes

The Complainants have expressed concern regarding the contravention of community standards, the representation of an unhealthy lifestyle to children and discriminating against or vilifying persons in the community based on age.

The following concerns are cited in the complaints:

Section 2.1 of the Food & Beverages Advertising & Marketing Communications Code; Section 1.1 of the Quick Service Restaurant Initiative for Responsible Advertising and Marketing to Children (QSRI); and Section 2.1 of the Australian Association of National Advertisers Code for Advertising



and Marketing Communications to Children (Code for Advertising to Children).

No Contravention of Prevailing Community Standards

The Advertisement does not display any illegal behaviour and does not breach safety laws. All references to food name and food contents are displayed clearly in the Advertisement and do not mislead the audience. No health benefits of eating KFC are displayed on screen or mentioned in any manner that could be linked with consuming KFC as a health benefit. KFC includes all information on nutritional value and products online for each of the items included in this Advertisement. This information can be easily accessed by any individual looking to find the exact nutrition and allergen facts.

As such, KFC considers that the Advertisement does not breach Section 2.1 of the Food & Beverages Advertising & Marketing Communications Code.

No Advertising to Children

The Advertisement is not directed to children and does not appear during children's programming times. The Advertisement has a W rating and was screened on television during appropriate hours to target an adult audience, not children. Please refer to the attached programming schedule for broadcasts.

KFC has been a member of QSRI for responsible advertising to children since 2008. Since then KFC has continued to honour its commitment to not advertising during children's programming or advertising specific products (including children's meals) directly to children.

No Representation of Unhealthy Lifestyle or Eating Habits

KFC is committed to supporting responsible dietary choices for people of all ages. In this regard, KFC has taken a number of steps to improving the nutritional quality of its food, part of which has involved reducing salt content in KFC products and transitioning to the use of canola oil to cook KFC products in store. Customers can access nutritional information about KFC's products, in-store and on KFC's website at <http://kfc.com.au/nutrition/index.asp>.

KFC views that its meal as depicted in the Advertisement has a place as a treat. KFC does not condone or promote inactive lifestyles and nothing in the Advertisement suggests this.

As such, KFC considers that the Advertisement does not breach Section 1.1 of the QSRI.

No Discrimination or Vilification based on Age

The Advertisement has been CAD approved under a W rating meaning it cannot be played during P (Parental Guidance) and C (Children) scheduled programs. The target



audience is 18 - 54 year olds. No discriminatory references have been made to any age group in the Advertisement either verbally or visually. The characters in the Advertisement range from a variety of age groups and is inclusive of all ages within a family.

As such, KFC considers that the Advertisement does not breach Section 2.1 of the Code for Advertising to Children.

With respect to other sections of the Code of Ethics, I note that the Advertisement:

does not employ sexual appeal in a way that is exploitative or degrading of any individual or group of people (section 2.2);

does not present or portray violence (section 2.3);

does not depict or treat sex, sexuality and nudity in any way nor without sensitivity to the relevant audience (section 2.4);

only uses language which is appropriate in the circumstances (including appropriate for the relevant audience and medium) with no use of strong or obscene language (section 2.5);

does not depict any material contrary to Prevailing Community Standards on health and safety (section 2.6); and

the Advertisement is clearly distinguishable as an advert and uses KFC branding to that effect (section 2.7).

Therefore, for the reasons outlined above, KFC believes that the Advertisement complies with section 2 of the Code in its entirety.

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), the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (the QSRI) and the AANA Code of Ethics (the Code).

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

The Panel noted that KFC is a signatory to the QSRI and determined that the provisions of the QSRI apply to this marketing communication.

The Panel noted that the QSRI is designed to ensure that only food and beverages that represent healthier choices are promoted directly to children.

The Panel considered the definition of advertising or marketing communications to children within the QSRI. The definition states that '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.’ Under this initiative children means “persons under the age of 14 years of age.”

The Panel noted that the QSRI captures Advertising and Marketing Communications to Children where:

1. ...the theme, visuals and language used, are directed primarily to Children and are for food and/or beverage products;
2. Advertising or Marketing Communications that are placed in Medium that is directed primarily to Children (in relation to television this includes all C and P rated programs and other rated programs that are directed primarily to Children through their themes, visuals and language); and/or
3. Where Children represent 35 per cent or more of the audience of the Medium.

The Panel noted that with regards to point 1 the Panel must consider whether the communication activity is directed primarily to Children – regardless of its placement.

The Panel noted that the dictionary definition of “primarily” is “in the first place” and that to be within the QSRI the Panel must find that the advertisement is clearly aimed in the first instance at Children under 14 and that it must have regard to the ‘theme, visuals and language’ used in determining this issue.

The Panel noted that the advertisement featured a family watching a children’s performance before being distracted for a deal on KFC.

The Panel considered that while the situation (a school performance) may be attractive to children the main perspective in the advertisement is that of the parents and older sibling. The Panel considered that feeling bored and hungry at a school performance is a theme that would be relatable to adults and considered that the main theme of the advertisement was directed primarily at adults.

The Panel considered that the visuals of colourful costumes on stage may be appealing to children, however the majority of the advertisement features visuals of the audience and of the family enjoying KFC and considered that the visuals would be of appeal to a general audience and not directed primarily to children.

The Panel considered that the language in the advertisement, including the dialogue ‘shut up and take my money’ would be of appeal to a general audience and not directed primarily to children.



The Panel considered that collectively, the overall impact of the advertisement is one of general appeal and is not directed primarily to children under 14.

The Panel noted that the advertisement appeared on television, and noted the advertisement had been given a “W” rating by CAD. The Panel noted that advertisements with a W rating may be broadcast at any time except during P and C programs or adjacent to P or C periods. Exercise care when placing in programs principally directed to children.

The Panel was provided with a copy of the spot list for this advertisement. The Panel noted that the advertisement had not been played during programming with primarily appeal to children under 14 or which was likely to have a high child audience.

The Panel considered that advertising was placed during programming that did not have audience of more than 35% children and was not placed in programs directed primarily to children. On this basis the Panel determined that the advertisement did not meet points 2 or 3 of the QSRI in that it was not broadcast in a Medium that is directed primarily to Children or where Children represent 35 percent or more of the audience of the Medium.

Based on the requirements outlined in the QSRI the Panel considered that as the advertisement was not directed primarily to Children, did not appear in a medium directed primarily to Children and did not appear in a medium which attracts an audience share of more than 35% of Children, the QRSI does not apply in this instance.

The Panel then considered whether the advertisement complied with all relevant provisions of the Food Code.

The Panel considered section 2.1 of the Food Code which provides:

“Advertising or Marketing Communications for Food or Beverage Products 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 Panel noted the complainant’s concern that the advertisement would mislead children into believing that KFC was a healthy choice.

The Panel considered that the advertisement does not make any nutritional claims about the healthiness of the food.



The Panel considered that the main message of the advertisement is that eating KFC is more fun than watching a school performance. The Panel considered that children, or adults, watching the advertisement would be unlikely to be misled into believing that the KFC meal is a healthy choice.

The Panel considered that, consistent with previous decisions (MacDonalds 0378/18, Ferrero 0345/17, Hungry Jacks 282/11, and Mondelez 0550/17), promotion of a product which may have a particular nutritional composition is not in itself contrary to Prevailing Community Standards.

The Panel determined that the advertisement did not breach Section 2.1 of the AANA Food Code.

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

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

The Panel noted the Practice Note to Section 2.1 provides the following definitions:

"Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule."

The Panel noted the complainants' concerns that the advertisement discriminates against the young child in the advertisement by suggesting that his school play is unimportant and that his family would rather be eating KFC.

The Panel noted the advertiser's response that no discriminatory messages are made to any age group.

The Panel considered that this was a humorous depiction of a common parent situation of watching their own child perform in a long performance. The Panel considered that the parents in the advertisement were shown to be doing the wrong thing and that the majority of the audience were watching the children perform. The Panel considered the reaction of the other adults in the audience to the mother's loud comment depicts the adults to be doing the wrong thing, not the child. The Panel considered that the family's actions were not due to the age of the boy, but to the



situation that they were in.

The Panel considered that the young child on the stage dressed as a tree is not shown to receive unfair or less favourable treatment due to his age. Further the advertisement does not humiliate, intimidate or incite hatred, contempt or ridicule of the boy based on his age.

The Panel considered that the advertisement content did not humiliate, intimidate, incite hatred, contempt or ridicule of young people..

The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of age and determined that the advertisement did not breach Section 2.1 of the Code.

The Panel noted the complainants' concerns that the adults are shown behaving in a rude manner and were being disrespectful in the situation.

The Panel acknowledged that some members of the community would prefer unsociable behaviour not to appear in advertising, however considered that this is not an issue which falls under the Code and therefore could not be considered by the Panel.

Finding that the advertisement did not breach the Code on any other grounds and did not breach the QSRI or the AANA Food Code the Panel dismissed the complaints.

