



Ad Standards Community Panel
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Case Report

1. Case Number :	0066-20
2. Advertiser :	McDonald's Australia Limited
3. Product :	Food/Bev Venue
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	26-Feb-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AFGC - Quick Service Restaurant Initiative\QSRI 1.1 Advertising and Marketing Message
AANA Food and Beverages Code\2.1 Truthful Honest Not Misleading or deceptive
AANA Food and Beverages Code\2.2 Healthy lifestyle/ excess consumption
AANA Food and Beverages Code\3.5 Pester Power

DESCRIPTION OF ADVERTISEMENT

This television advertisement is promoting a new series of mini games within the mymacca's app. The advertisement shows two adults playing the mymacca's mini games on their phones, where they themselves become the characters in the game. There are three versions - 15sec featuring a maze, 15sec featuring mini golf, 30 sec featuring a maze and mini golf.

THE COMPLAINT

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

TVC was aired on TV during family friendly times . The animation and 'cool looking game' appealed to my children. The advergame on the app is primarily directed at children as it uses simple language, easy to use and has an image of a child completing the tasks. To quote Brent Clarke the Digital Director of McDonalds 'They're quick, they're fun and they're easy.' (Daily Mail). The games use McDonalds foods as obstacles (e.g. nuggets and burger images) and has an image of a child running



through the obstacles to win instant prizes. This would greatly appeal to children. The constant images of the food products coupled with 'winning an instant prize' not only promotes gambling but also consumption of unhealthy foods. Where are the salads?? It's all about burgers, nuggets and chips. This game promote pester power and at the least should have an age gate so kids cannot get into the app.

THE ADVERTISER'S RESPONSE

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

Thank you for requesting a response to complaint number 0066-20 (Complaint).

The Complaint refers to advertisements as part of the Macca's Mini Games promotion (Advertisement). The Complaint is made under sections 1.1 and 1.3 of the Quick Service Restaurant Industry Initiative (QSRI) and section 3.5 of the AANA Food and Beverages Code (Food Code).

The key issue in this Complaint is whether the Advertisement is targeted at children. Our submissions below outline why the Advertisement is of broad appeal, and not targeted primarily at children. The Advertisement does not breach the QSRI or the Food Code for the reasons stated below:

Reason 1: The content of the Advertisement is of broad appeal, and not targeted primarily to children.

As the Board have noted in previous decisions (e.g. 0132-17), the mere presence of animation does not make the advertisement directed to children. All elements of the advertisement are to be considered with the overall impression made to determine whether an advertisement is directed primarily to children. In this case, the Advertisement is merely a projection of the two young actors' experience of the mini games. This is reflected with the camera panning in directly into the phone of the actor playing the game, and the actor reacting to their experience in the game. The Advertisement demonstrates to the audience what is involved in the game in order to attract the audience into participating.

Reason 2: The placement of the Advertisement is not directed to children.

Under the QSRI, an advertisement can be 'directed primarily to children' if it is placed in a medium that is directed at children. The QSRI requires that children are 35% or more of the audience of the medium for an advertisement to be placed in a medium directed at children. The Advertisement was not placed in either of those mediums. A full listing of where the Advertisement is placed is attached to this response and confirms this.



For the reasons outlined above, the Advertisement has broad appeal and is not directly advertising to children. Accordingly, the QSRI does not apply and section 3 of the Food Code does not apply.

In conclusion, the Advertisement complies with the Codes 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.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (the Children's Code), the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) and the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (the QSRI).

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

The Panel noted that McDonalds 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 considered the definition of Medium in advertising or marketing communications to children within the QSRI which includes “television, radio, newspaper, magazines, outdoor billboards and posters, emails, interactive games, cinema and internet sites.” The Panel considered that television is covered by this definition.

The Panel 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 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.

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 the complainant’s concern that the advertisement is targeted towards children and promotes unhealthy foods.

The Panel noted the advertiser’s response that the advertisement is of broad appeal and not targeted directly to children.

The Panel noted that the advertisement contained pictures of food products and the theme of the advertisement was that you could play games on an app to win food prizes. The Panel considered that the voice over to the advertisement was an adult male and the language he used was not childlike.

The Panel noted that the game imagery and characters are animated but noted that the presence of animated imagery does not of itself make an advertisement targeted towards children.

The Panel noted that the stylised nature of the game was similar to apps popular with adults, such as Farmville and Fruit Ninja. 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.

In this instance the Panel considered that the theme, visuals and language of the advertisement were advertising a beverage, and the message was equally attractive to adults and children and was not directed primarily to Children under 14.

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 the requirements of the AANA Code for Advertising and Marketing Communications to Children (The Children's Code).

To fall within this Code, or Part 3 of the AANA Food and Beverages Advertising and Marketing Communications Code (The Food Code), "Advertising or Marketing Communications to Children means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product".

For the reasons outlined above, the Panel considered that the advertisement is not directed primarily to Children.

The Panel determined that as this television advertisement is not directed primarily to Children, the Children's Code and Parts 3 and 4 of the Food Code do not apply.

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 considered whether promoting a game that provides non-healthy food as a prize is contrary to prevailing community standards.

The Panel noted that McDonalds is a business which is legally allowed to sell and advertise their products, and considered that competitions and promotions are frequently used by businesses to promote their products.



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.

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