



Case Report

1	Case Number	0104/11
2	Advertiser	McDonald's Aust Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	13/04/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

Advertising Message QSR - 4.1 - Advertising and Marketing Message

DESCRIPTION OF THE ADVERTISEMENT

A voiceover say "dinner's ready' and a hand places a McDonald's family dinner box on the table. The voiceover then say that the dinner displayed will "save over \$13 with MacDonal'sfor just \$19.95".

THE COMPLAINT

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

The Incredibles is a children's movie which started at 6:30pm on Saturday night. Clearly ads shown in this movie are directed to children so this ad is definitely promoting fast food for children which is not a healthy choice.

The ad also would encourage children to ask their parents to buy this meal. They would pester not only because they like to have takeaway but because they would believe that they would be saving their parents money when in fact it would be much cheaper to buy fresh ingredients and definitely much better for children's health and rising rates of obesity.

THE ADVERTISER'S RESPONSE

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

We refer to complaint number 0104 of 2011 and thank the Bureau for the opportunity to respond. As the Bureau and Board are aware, McDonald's is committed to the self-regulation of the advertising industry and we take our obligations as a national advertiser very seriously.

We are firmly of the opinion that this advertisement is not in breach of any of the advertising codes of practice, and we set out our response below for the Board to consider.

BASIS OF COMPLAINT

We note that the reason for the complainant's concern is that they believe the McDonald's "Family Dinner Box" television commercial (TVC) is in breach of the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (QSR Code), specifically clause 4.1 of that Code.

Clause 4.1:

"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; and

(ii) physical activity".

ADVERTISING AND MARKETING TO CHILDREN

It is important to note the definition of "Advertising and Marketing Communications to Children".

"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 food/beverage products" [emphasis added].

This complaint is not considering the "theme, visuals and language" of the TVC, but instead is focusing on the placement of the TVC during "PG" rated programming stating "The Incredibles is a children's movie which started at 6.30pm on a Saturday night, clearly ads shown in this movie are directed to children". We note The Incredibles is rated PG (parental guidance) on account of the film containing mild animated violence.

As the Board will appreciate, the complainant's reasoning is very similar to the complainant's reasoning in respect of complaint 0084/11 which the Board dismissed recently. As with that complaint, this complainant ignores the distinction between advertising and advertising to children.

There are genres of film and television that appeal only to children – for example, The Wiggles, Sesame Street, Playschool. There are genres of film and television that are clearly only for adults, for example crime dramas like Law & Order or shows dealing with adult themes like Sex and the City. The television ratings system reflects this, and the Children's Television Standard 2009 regulates the placement of advertising for children in periods of programming that are specifically for children alone.

However, there are also a very broad range of film and television genres that appeal to a broad spectrum of ages that one would reasonably expect would be watched by all members of a family - for example popular animated films, PG rated films, television programs that

are appropriate for all ages like cooking shows, travel shows and talent shows. Just because a television commercial is placed in a program that might be watched by a proportion of children, does not automatically mean that the advertisement is “directed primarily” to children, and certainly this is not what the QSR Code says.

The Children’s Television Standard 2009 sets out the rules for when advertisements meant for children can be aired, this is not the role of the QSR Code. The role of the QSR Code is to ensure that where signatories to the code are advertising to children, that the content of the advertisements fits the parameters of the code. Whether a particular piece of advertising can be classified as “Advertising or Marketing to Children” is assessed by “having regard to the theme, visuals and language” of the advertisement. For example, some of our Happy Meal advertising is intended for children and parents. Using fun colours, music and effects, with stories featuring kids doing fun, exciting things, there is no doubt that the theme, visuals and language of those advertisements is directed primarily to children. All of these advertisements are put together with the greatest regard for the QSR Code and always adhere to the letter and the spirit of the Code.

IS THIS TVC “DIRECTED PRIMARILY TO CHILDREN”?

To establish the answer to this question, the QSR Code requires that the Board have regard to the theme, visuals and language.

THE THEME OF THE TVC: VALUE, FAMILY DINNER CONVENIENCE

The TVC in question here is a TVC promoting McDonald’s range of Family Dinner Boxes. The main themes of this TVC are value (as the Dinner Boxes represent a significant discount from the a-la-carte prices, “giving you the best deal ever”) and convenience. Value is something that matters very little to children, as it is widely understood that children, especially younger children, generally do not have a clear concept of the value of money. It is our understanding that this is the reason why clause 2.8 of the Code for Advertising & Marketing Communication to Children has been included – as children don’t really have a concept of the difference between \$2 and \$200 and so it would be unfair for an advertiser to say in an advertisement directed to children that a toy is “ONLY \$200!” as a child could easily be lead to believe \$200 is not a lot of money based on the presentation and language. Value is, however, a key driver for adults and an important factor in purchasing decisions for many, if not most, adults. Adults have a keen concept of what value for money is and what type of pricing represents good value for money. This is clearly not a theme that is directed to, or would even appeal to, children as most children don’t understand or care about the concept of value.

Further, the convenience of feeding a family of four with one meal deal is also not a concern one would reasonably expect to attribute to a child. Clearly, this advertising is directed to parents.

THE VISUALS OF THE TVC

The TVC is shot in a very simple style, with the focus on the food quality and the different options available. There is no animation, sound effects, bright colours or characters – it is very adult in tone and style. The meal portions shown are clearly adult portions directed at adult customers. The TVC does not feature any of our children’s products such as Happy Meal, CalciYum Milk etc. There are no toys or premium offers.

As per the script, the background music for the TVC is a light, upbeat instrumental. It is not childish or whimsical.

THE LANGUAGE OF THE TVC

Please refer to the script we have provided.

The voiceover is spoken by a male who sounds like he is probably in his thirties. The voiceover points out that the Family Dinner Boxes are “the best deal ever” and describes the variety of items available. The super is “Save \$13+”. Clearly, the voiceover is focussing in

on the value proposition of the meal deal. It is not childish, fun or whimsical, but focuses in on the content of the dinner boxes and the great value the meals represent. In addition, the Family Dinner Boxes are only available between 5pm and 11pm, and are designed to feed 4 people. As this is a family meal proposition, it is clear that this offering is primarily placed to appeal to adults who are looking to feed a family of four on-the-go, and is intended for an adult audience.

CONCLUSION

This TVC cannot reasonably be said to be “Advertising or Marketing to Children” within the context of the QSR Code, or any other code for that matter. It is quite clearly an advertisement that is directed primarily to adults. To classify an advertisement by reference to its placement is incorrect and not in accordance with the QSR Code, which requires a consideration of the “theme, visuals and language” when making this judgement. Provided that the placement of the commercial is not in breach of the Children’s Television Standards 2009 then placement has no other relevance under the QSR Code.

Accordingly, this advertisement is not in breach of clause 4.1 or the QSR Code. On reflection of the other applicable codes, we believe that this advertisement is compliant in all respects.

We thank the Bureau and Board for accepting our submission and look forward to the Board’s determination in due course.

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), Section 2 of the AANA Advertiser Code of Ethics (the “Code”) and the AANA Code for Advertising and Marketing Communications to Children.

The Board noted the complainant’s concern that the advertisement is directed to children as it is shown in a children’s movie, promotes unhealthy food to children and encourage children to pester their parents to purchase the product.

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

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.’ Under this initiative children means “persons under the age of 14 years of age.”

The Board noted that the program in which the advertisement is shown is not relevant to the determination of whether or not an advertisement is directed primarily to children.

The Board noted that the advertisement features a description of a value pack family meal, with the voiceover describing the value of the family pack. The Board considered that the family pack as described in this advertisement – primarily in terms of value and then images of a range of the products which do not include any of the particularly child focused products - would have principal appeal to adults. The Board considered that the language used in the voiceover was aimed at adults.

The Board considered that the overall theme (the family pack meal), visuals (the pack) and language used are not directed to children. The Board considered that the references to ‘family’ are directed to adults as they are in the context of feeding the entire family with the family pack. The Board considered that this advertisement is not directed primarily to children and therefore that the provisions of the QSR Initiative do not apply.

The Board then considered the advertisement under the AANA Code for Advertising and Marketing Communications to Children. The definition of what is advertising and marketing communications to children' in the AANA Children's Code is largely the same as that in the QSR Initiative. For the same reasons noted above, the Board considered that this advertisement is not primarily directed to children; therefore the provisions of the Children's Code are not applicable in this case. The Board noted that the Children’s Code contains a provision preventing direct appeals to children to ask their parents or carers to purchase a product (section 2.7(b)). Although this provision of the Code does not apply to this advertisement (as the advertisement is not directed primarily to children), the Board noted that this advertisement would not breach section 2.7(b) as a reference to value would not be considered ‘an appeal to children to urge their parents or carers to buy a product for them.’)

The Board then considered the advertisement under the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code). The Board considered that an advertisement for a family pack meal is not, of itself, an advertisement that would 'otherwise contravene prevailing community standards'. In the Board’s view, the advertising of a product that is high in fat and salt and does not meet criteria for a ‘healthy choice meal’ does not of itself breach community standards. The Board determined that the advertisement did not breach section 2.1 of the Food Code.

The Board noted that Part 3 of the Food Code does not apply as the advertisement is not directed primarily to children and is not for a product that is of principal appeal to children and determined that the advertisement did not breach any other provisions of the Food Code and.

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

