



Case Report

1	Case Number	0160/12
2	Advertiser	Oporto Franchising Pty Ltd
3	Product	Food and Beverages - QSR
4	Type of Advertisement / media	TV
5	Date of Determination	09/05/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

Advertising to Children Code 2.8 Price
Advertising Message QSR - 4.1 - Advertising and Marketing Message

DESCRIPTION OF THE ADVERTISEMENT

The advertisement shows adults in a car on a road trip. A male voice over asks, "Hungry for some real value? Try Oporto's new Ripper Deal" and describes the contents of the deal. We then see the people sat on a beach eating their food.

THE COMPLAINT

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

We write to complain about the Oporto advertisement that we consider to be in breach of the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (QSR II).

We believe that the advertisement breaches clause 4.1 of the QSR II because it is Advertising and Marketing Communication to Children for food (Oporto Ripper deal) and in breach of clause 2.8a of the AANA Code for Advertising and Marketing Communications to Children. The advertisement was directed to children as it was shown during numerous children's movies including Bee Movie Alice in Wonderland The Lion King Ice Age and the Flintstones.

Broadcast

- January 28th 2012 at 7.11pm 7.40pm and 7.54pm during Night at the Museum: Battle of the Smithsonian on Channel 10. This movie is rated PG.*

- February 3rd 2012 at 8.39pm and 8.53pm during *The Sound of Music* on channel 10. This movie is rated G.
- February 4th 2012 at 8.24pm during *Shark Tale* on Channel 7. This movie is rated G.
- February 18th 2012 at 3.34pm during *The Flintstones: Viva Rock Vegas* on Channel 10.
- March 10th 2012 at 8.08pm during *The Lion King* on Channel 7. This movie is rated G.
- March 10th 2012 at 8.14pm during *Bee Movie* on Channel 9. This movie is rated G.
- March 10th 2012 at 8.20pm during *Ice Age* on Channel 10. This movie is rated PG.
- March 10th 2012 at 8.51pm during *Alice in Wonderland* on Channel 7. This movie is rated G.

Advertising and Marketing Communication to Children

This advertisement was broadcast during 10 television programs which are popular with children. Most of these movies are shown during the Saturday movie timeslot and are rated G highlighting their appeal to children.

Nutrition criteria

The nutrition criteria for assessing meals outlined in clause 3 of Appendix 1 of the QSR II require that a meal must not exceed maximum limits of 2770kJ for children 9-13 years saturated fat (0.4g per 100KJ) sugar (1.8g per 100KJ) and sodium (650mg per serve). The Oporto ripper deal meal contains a total of 3765kJ 1.82g per 100kJ of sugar and 1072mg of sodium. Clearly the advertised meal is not a healthy option for children and exceeds the QSR II nutrition criteria.

AANA Code for Advertising and Marketing Communications to Children

During the advertisement the voice over says that the meal is “only \$4.98”. The use of “only” directly breaches clause 2.8a which states that “Price... must be accurately presented in a way which can be clearly understood by Children and must not be minimised by words such as ‘only’ or ‘just’.”

THE ADVERTISER’S RESPONSE

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

Your comprehensive comments in relation to the complaint

Please find below three key areas (labelled A-C) identified by the complainant and Oporto’s response to each.

A. Directed to children as it was shown during children’s programs

Oporto’s core demographic is 18-25 year olds and all our advertising and marketing communications materials are designed with that group firmly in mind.

The creative treatment of the Oporto Ripper deal is intended to depict a scenario that is relevant to our core demographic, i.e. young adults driving to the beach. The scenario does not contain creative devices such as music, graphics or visuals that could be deemed to be fundamentally appealing to children.

The programs mentioned by the complainant are promoted by their networks as appealing to the family market and were classified as either PG or G.

The “G” classification attained for the Oporto Ripper Deal means that Oporto was permitted to advertise within these programs. Data retrieved from Mitchell and Partners (Oporto’s nominated media agency) showed that the percentage of adult viewers were: Night at the Museum 67%, Sound of Music 86%, Shark Tale 59%, Flintstones 89%, Lion King 64%, Bee Movie 61%, Ice Age 66% and Alice in Wonderland 74%. Oporto is therefore of the view that while there was a percentage of child viewers in these programs, none could be described as being primarily directed to children or likely to have predominantly child audiences. Oporto continues to work with our media buyers regarding the placement of ads during children’s programming.

B. Alleged breach of Clause 4.1 QSR II for advertising foods that exceed the nutrition criteria of the code.

The Oporto Ripper deal was created with a clear intent to appeal to Oporto’s target demographic of people aged 18-25. The QSR II is intended to ensure that direct promotion and advertising to children (under 14 years) represent healthier meal choices. Given that Oporto’s core demographic are not children, this advertisement was not intended to conform with the nutritional criteria of the QSR II.

C. Use of “price minimisation”

According to the AANA Code for Advertising and Marketing to Children Clause 2.8, price minimisation must not be used when the advertisement is directed specifically to children. Therefore it is Oporto’s view that as the target audience of the Ripper Deal was not children, the use of the word “only” is appropriate.

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

The Board noted the complainant’s concern that the advertisement is directed to children, and that the price is minimized by using the words “just” \$4.98.

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 group of young adults in a car, images of the meal deal and then a final shot of the group on the beach. The voiceover describes the value meal on offer.

The Board noted that the images of the meal do not include any child focused products and that the product 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 Ripper Meal), visuals (a group of young adults in a car) and the language used are not directed to children. 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 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 considered the AANA Food and Beverages Code (Food Code). The Board considered the provisions within Food Code and determined that in this instance the advertisement did not breach the Food Code.

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