



Case Report

1	Case Number	0192/10
2	Advertiser	McDonald's Aust Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	12/05/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Other

DESCRIPTION OF THE ADVERTISEMENT

A family is eating McDonald's at the dinner table. 'Mum' tells 'Dad' that she ran into their old school friend, Simon, earlier that day, and how Simon has let himself go a bit with 'a little less hair' and 'a bit more around the middle'. In reality 'Mum' is still very impressed with the fit, handsome Simon in his suit. The jealous 'Dad' describes his rival as "fat boy Simon", but is actually relieved that his wife has made the right choice by choosing him. The voiceover says "let the stories begin", to emphasise the "storytelling" theme of this commercial.

THE COMPLAINT

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

The derogatory underpinnings conveyed in the attitude and words communicated in the advertisement is highly discriminatory.

Surely McDonalds cannot expect to target already vulnerable persons when the Government and other aspects of society are trying so hard to address this crippling disease. Some people are for one reason or another no doubt severely handicapped and marginalised by obesity as perhaps the rest of us cannot know. That powerbrokers think they can ridicule and target such person thus crippling their very psyches and procuring the rest of us to wantonly abuse fat people is horrific.

I for one will never shop at MacDonalld's and I will make sure that others do not respond favoruably to such an abusive advertisement.

I cannot imagine how degraded and miserable some people are feeling. This is the second time I have seen this assault.

THE ADVERTISER'S RESPONSE

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

This television commercial (TVC) is part of a series that takes a humourous look at family interaction over dinner. Respectfully, we do not agree that this TVC targets or marginalises vulnerable or handicapped persons as the complainant alleges.

The "Stories" series of McDonald's Family Dinner Box commercials revolve around a family eating dinner, and telling one another stories about their experiences that day. There are three "stories" commercials, one featuring mum, one with dad and one featuring the big sister. In each, the main character tells the family a story about their day, but the story being told in each case is either an exaggeration of what really happened or a slightly "tweaked" version of what really happened. We see what really happened on screen, as the main character narrates their version to the family. For example, in Dad's Story he regales the family with a tale of his Herculean effort at the gym, when in reality he is struggling, huffing and puffing, easily outclassed by a much fitter person; in the Daughter's Story she tells of her sudden inspiration to learn guitar – but fails to mention the cute guitar-playing guy at school behind the inspiration.

Likewise, in the TVC the subject of the complaint, Mum tells Dad about running into their old school mate, Simon. Dad responds with a jealous glance, and Mum – catching on to Dad's jealousy, back peddles a bit and describes Simon as having "let himself go", saying he's got "a bit less hair, a little bit more around the middle" – when in reality, we see Mum blushing and flirting with a handsome Simon, who has all of his hair and looks very fit and sharp in his suit. Dad, relieved, chortles and says "fat boy Simon", in a joking tone of voice. The voiceover says "let the stories begin", emphasising the "storytelling" theme of these commercials.

The comment made by the dad character is not directed at anyone, and is said in a humourous and light way, more to express Dad's disdain for Simon personally as a rival for his wife's affections and Dad's feeling of happiness at his wife confirming that she made the right choice. It is not a comment on society as a whole or a particular group in the community, and certainly has no connection to discrimination as the complainant alleges.

Referring to the AANA Code of Ethics, and in particular, Section 2.1, we strongly disagree that we are in breach of this section or any other part of the Code.

Section 2.1 reads as follows:

Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.

Noting that the Code of Ethics does not define discrimination, we have consulted the federal Disability Discrimination Act (1992), for guidance. Under that Act, discrimination is essentially treating a person or group differently because of their disability – that is, a denial of equal rights and opportunity. Clearly, there is no denial of rights or opportunity depicted in this TVC.

The TVC does not target a particular group or person, and certainly does not procure others to “wantonly abuse fat people” as the complainant alleges. It is simply a humourous, off the cuff remark made by one fictional character about another fictional character in the context of a funny television commercial about the tendency of people to exaggerate and embroider their stories in a comical way.

McDonald’s certainly does not encourage, condone or participate in any activity which would result in discrimination or vilification of any person or group of persons with a disability. To do so would be a contravention of our company’s core values and our Global Standards of Business Conduct. As an organisation McDonald’s has an active Disability Action Plan in place that is in line with the federal government’s Disability Discrimination Act, 1992. This Action Plan is regularly reviewed and updated. Where possible, we aspire to work to the spirit of the Disability Discrimination Act rather than to basic compliance and we have made good progress.

Since the lodgement of our first Action Plan in 1998 we have progressively worked towards ensuring that McDonald’s operates at best practice level in relation to customers and employees with a disability. Through the employment of hundreds of individuals with disabilities throughout the McDonald’s system in Australia, we are part of an extensive network of community organisations, groups and citizens, proactive in supporting people with disabilities

McDonald’s is a Foundation Charter Member of the Australian Employers’ Network and a signatory to the Employment Charter for People with a Disability and we receive frequent recognition for our commitment to providing employment opportunities to people with a disability. Clearly, disability discrimination is not something we would participate in and accordingly we reject the complainant’s allegation that we have breached section 2.1 of the AANA Code of Ethics.

On reviewing the TVC and the complainant’s submission, we believe that it is clear that this TVC does not portray people or depict material in way which discriminates against or vilifies a person or section of the community on account of disability. The TVC does not depict a person with a disability nor does it imply that a person has a disability. No one in the commercial is treated differently or denied an opportunity as a result of a disability, nor is any person vilified or defamed as a result of a disability.

Thank you for the opportunity to respond to the complaint received. Please do not hesitate to contact me if you require further information.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant’s concern that the advertisement is highly discriminatory and 'wantonly abuses fat people'.

The Board viewed the advertisement and noted the advertiser's response that the advertisement is part of the “Stories” series of McDonald’s Family Dinner Box commercials which revolve around a family eating dinner, and telling stories about their experiences that day.

The Board considered whether the advertisement was in breach of section 2.1 of the Code. Section 2.1 of the Code states: “Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of ... disability”.

The Board considered the depiction of Dad’s jealous reaction to Mum telling him about running into their old school friend prompted her to change her story to reflect that Simon had let himself go, even though she was quite taken with him, was embroidered in a humorous way to reassure Dad that ‘fat boy Simon’ was not a rival for her affections. The Board also noted the complainant’s reference to “fat people” in the advertisement and agreed that neither ‘Dad’ nor ‘Simon’ were depicted as overweight, and considered the complainant may have misunderstood the irony in the advertisement as there was no clear connection to this reference in the advertisement.

The Board considered that, while the complainant was offended by this advertisement, most people in the community would appreciate that the advertisement was humorous and did not encourage, condone or participate in any activity to discriminate or vilify overweight people or any other identifiable section of the community. The Board determined that the advertisement did not breach section 2.1 of the Code on the basis of disability.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.