



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Ad Standards Limited  
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## Case Report

<b>1. Case Number :</b>	<b>0213-21</b>
<b>2. Advertiser :</b>	<b>McDonald's Australia Limited</b>
<b>3. Product :</b>	<b>Food/Bev Venue</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - Free to Air</b>
<b>5. Date of Determination</b>	<b>28-Jul-2021</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

### DESCRIPTION OF ADVERTISEMENT

This television advertisement is promoting McDonald's 50th anniversary in Australia and mentions different ways people have interacted with the brand over the 50 years.

One example is "after getting your Ps you made the drive through your first stop. Stop. Stop. Good on ya". A car with four passengers and red P-plates is seen stopping and starting as it enters a drive through.

### THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*Road Safety is pushed so hard and this ad has 4 people in the Jeep where the driver cannot drive properly. He should not be on the road until he can handle the vehicle.*

*Illegal to have three passengers in car driven by red p plater*

### 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 0213-21 (Complaint).*

*We note that the Complaint has raised issues under the following codes of practice:*

- *AANA Code of Ethics – section 2.6;*

*McDonald's takes its obligations seriously in respect of adherence to all the codes of practice administered by Ad Standards. McDonald's entirely refutes any suggestion in the complaint or otherwise that the Advertisement breaches the Codes. Please see details below.*

*AANA Code of Ethics*

*Section 2.6 provides the following:*

*"2.6 Advertising or Marketing Communication shall not depict material contrary to Prevailing Community Standards on health and safety".*

*In the current case, the complaints claim "this ad has 4 people in the Jeep where the driver cannot drive properly" and that it is "illegal to have three passengers in car driven by red p plater".*

*We submit that our advertisement does not breach section 2.6 on the basis that:*

- *The depiction of the young male driving through a McDonald's drive-thru is deliberately intended to be humorous and exaggerated as the overall theme and tone of the advertisement is to evoke feeling of empathy, relatability and nostalgia. It is designed to remind the audience of the first time they were driving as novice drivers.*
- *The advertisement does not depict any unsafe, reckless or menacing driving that would breach any road rules of any State or Territory. For instance, regulation 297 of the Road Rules 2014 (NSW) states that "a driver must not drive a vehicle unless the driver has proper control of the vehicle" and "a driver must not drive a motor vehicle unless the driver has a clear view of the road, and traffic, ahead, behind and to each side of the driver". This requirement is consistent across all the States and Territories. In the advertisement, the driver and passengers are all restrained properly in the vehicle, there are no vehicles and pedestrians approaching or in close proximity to the vehicle or the drive thru and there are no nearby obstructions to obscure the driver's vision to render the situation unsafe to drive forward in the drive thru in the manner as depicted in the advertisement. Bunny hopping a vehicle is not in breach of any of the road rules and can occur unintentionally whilst the driver is maintaining control of the vehicle.*
- *The complainant has also made an erroneous assumption that the advertisement depicts an illegal activity in relation to the number of passengers in the car. In NSW, where the scene was filmed, the P1 licence holder peer passenger conditions state "if you're under 25 and hold a P1 licence, and you are driving between 11pm and 5am you can only carry 1 passenger under the age of 21 who is not an immediate family member". Similar requirements also apply to other States such as SA and VIC albeit with minor differences .*



*There is nothing in the advertisement that indicate the following assumptions is true:*

- a) The driver is under 25;*
- b) Driving occurred between 11pm and 5am;*
- c) The passengers are under 21; or*
- d) The passengers are not the driver's immediate family member.*

*In addition, we further submit that this scene was filmed between the hours of 7pm and 10pm, and at the time of filming the driver in this scene was 25 years old.*

- The scene was filmed in a controlled environment, with traffic control and a safety officer on set. A full safety report was drafted prior to filming to mitigate any risk of unsafe driving practices. The driver of the vehicle was also in possession of an unrestricted drivers licence at the time of filming.*

*Given the above, we submit that the advertising does not depict material contrary to Prevailing Community Standards on health and safety.*

#### *AANA Advertising to Children Code*

*We note that this Code is only applicable if the Advertisement is considered as Advertising or Marketing Communications to Children.*

*We submit that this Code is not applicable to the Advertisement considering the age of the characters in the Advertisement, the language used by the characters and the visuals and theme of the Advertisement have a primary appeal to adults rather than children aged 14 years or younger.*

#### *AFGC- Quick Service Restaurant Initiative*

*The QSRI is applicable if the Advertisement is considered as Advertising or Marketing Communications to Children or the program is directly primarily to children. In this respect, we submit that the Advertisement is not in breach of the QSRI based on our submissions above.*

#### *Other Parts of Section 2 of the AANA Code of Ethics*

*McDonald's does not believe the Advertisement is in breach of the following parts of section 2 of the Code of Ethics:*

- 2.1 – Discrimination or vilification;*
- 2.2 – Exploitative and degrading;*
- 2.3 – Violence;*
- 2.4 – Sex, sexuality and nudity;*
- 2.5 – Language;*
- 2.6 – Health and Safety (see details above); and*
- 2.7 – Distinguishable as advertising*

#### *Conclusion*

*McDonald's concludes that the Advertisement does not breach any of the codes, and in particular does not portray any unhealthy or unsafe behaviour contrary to*



*Prevailing Community Standards. Therefore McDonald's respectfully disagrees with the complaints and request that the Panel dismiss the complaints on this basis.*

## **THE DETERMINATION**

The Ad Standards Community Panel (Panel) considered whether the advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement depicts a person driving in a poor manner and depicts illegal behaviour.

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

### **Section 2.6: Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.**

The Panel noted the Practice Note to Section 2.6 which states:

*"Images of unsafe driving, bike riding without helmets or not wearing a seatbelt while driving a motor vehicle are likely to be contrary to prevailing community standards relating to health and safety irrespective of whether such depictions are for the product/service being advertised or are incidental to the product."*

#### Illegal behaviour

The Panel noted a complainant's concern that the advertisement depicts a red P plater driving with three passengers which is illegal.

The Panel noted that it is not a law enforcement agency and questions of legality are outside its purview, although it may consider the law as relevant to community standards. The Panel noted that the advertiser's response addressing this aspect of the complaint.

#### 'Bunny hop'

The Panel noted the complainants' concerns that the advertisement depicts a person driving in a poor manner. The Panel noted a complainant's comment that the driver should not be on the road until he can handle the vehicle.

The Panel considered that the man driving does not appear to have lost control of the vehicle, nor does he appear to be intentionally making the car jerk. The Panel considered that the driver is depicted as a young adult, and considered that it is likely that a red P plater would still make some mistakes when driving.



The Panel noted that the low speed in which a car is driven through a restaurant drive-through, particularly if the vehicle is a manual, may cause a driver to 'bunny hop' and the Panel considered that this can happen to experienced drivers as well as novices and it is not a suggestion that the driver of the vehicle in the advertisement is driving in an unsafe manner.

### **Section 2.6 conclusion**

The Panel considered that the advertisement did not contain material contrary to Prevailing Community Standards on health and safety and determined that it did not breach Section 2.6 of the Code.

### **Conclusion**

Finding that the advertisement did not breach the Code on other grounds, the Panel dismissed the complaints.