



Ad Standards Community Panel  
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Advertising Standards Bureau Limited  
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# Case Report

1	Case Number	0216/18
2	Advertiser	McDonald's Aust Ltd
3	Product	Food / Beverages
4	Type of Advertisement / media	Internet-Social-FB
5	Date of Determination	09/05/2018
6	DETERMINATION	Dismissed

## ISSUES RAISED

Advertising to Children Code 2.07 Parental Authority  
QSR - 1.1 - Advertising and Marketing Message Advertising and Marketing Message  
must comply

## DESCRIPTION OF THE ADVERTISEMENT

The ad opens with the text, "bite-size fun with Peter Rabbit" and follows on to show the available Happy Meal toys. Then, the text says, "continue the fun...with your free Happy Meal toy" and shows the Happy Meal box and toy selection.

## THE COMPLAINT

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

*This ad is blatant manipulative advertising to entice kids to have junk food. Using the popular Peter Rabbit movie to promote unhealthy food is not on when we are in the midst of a childhood obesity epidemic. Kids love cartoons and toys, How about be responsible and only allow toys with Happy Meals that are the \*cough\* 'healthier choice'?*

*Overall I'm offended by the manipulative marketing tactics McDonald's are using to entice our kids to pester.*



## **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 0216/18 (Complaint).*

*The Complaint refers to a Facebook advertisement for the Peter Rabbit Happy Meal promotion (Advertisement). The Complaint is made under section 2.7 of the AANA Code of Advertising and Marketing Communications to Children (Children's Code) and section 1.1 of the Quick Service Restaurant Initiative (QSRI) (all of the above together, the Codes). The Complaint alleges that the Advertisement is advertising to children, primarily, advertising unhealthy eating habits to children.*

*The Advertisement does not breach the Codes for the reasons stated below.*

*The content of the Advertisement is not directed to children  
Whilst the content of the Advertisement is advertising the McDonald's Happy Meal, the Advertisement is directed to the parents. The Advertisement features no animation, or visuals that would appeal to children, rather the visuals of the Advertisement are functional, only show what the parent can expect their child to receive which is conveyed through static images of the toys. The Advertisement is without sound. Furthermore, the copy accompanying the Advertisement includes a call to action for adults whereby they can "bring home all the fun" with the promotion.*

*The placement of the Advertisement is not directed to children*

*Facebook's terms and conditions clearly state that no one under the age of 13 is allowed to use the website (section 3). Therefore, as children do not represent 35% or more of its audience we are not in breach of the QSRI. It is not relevant for the Board to consider that some parents allow children under this age to browse the website. The Board can only apply the provisions of the Children's Code and QSRI assuming that a parent or carer has followed the relevant rules. If the Complaint is upheld, this will set a precedent that we cannot advertise on Facebook at all.*

*The Codes do not apply because the Advertisement is not directed to children*

*There is also no food displayed or even mentioned in this Advertisement and so the complaint under section 1.1 of the QSRI is invalid. Furthermore, since the content and placement of the Advertisement are not directed to children and do not constitute advertising to children under the QSRI, the Children's Code does not apply.*

*There are no food or beverage products used in the Advertisement*



*In the event the Board decide that the Advertisement is advertising to children, the QSRI will still not apply as there are no food or beverage products featured in the Advertisement. The QSRI provides the common framework to ensure that only food and beverages that represent healthier choices are promoted directly to children. If McDonald's aimed to advertise the toys of the new Peter Rabbit Happy Meal promotion, or the Happy Meal itself, to the children, it would have followed its standard procedure in ensuring that our healthy options, being the grilled chicken Snack Wrap, fruit slices and water (a bundle which complies with the nutrition criteria of the QSRI) was featured, as well as a message to encourage physical activity. McDonald's also would have advertised on a medium more accessible to children such as during children's programming times. Also, McDonald's have not paired this Advertisement which is directed to parents with food choices which would suit them, like the Big Mac burger and large Fries. The Advertisement is purely focused on informing parents the toys they can expect out of the Happy Meal promotion.*

*McDonald's do not have a strategy to manipulate children*

*Our partnership with the Alliance for a Healthier Generation (Clinton Global Initiative) commits us to promoting the benefits of an active lifestyle and nutritious food in all our communications to children – in advertisements and on our Happy Meal boxes. The Quick Service Restaurant Initiative also encourages kids to live healthy and active lifestyles, to which McDonald's are a signatory to.*

*Accordingly, the Advertisement complies with the Codes and so 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.*

## **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 reviewed the advertisement and noted the advertiser's response.

The Panel noted that McDonald's 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 that the advertisement appeared on Facebook which is included under the medium of internet sites. The Panel noted that Facebook is a website which is restricted to people over 13, and considered that this was a medium which was unlikely to be considered a Medium that was directed primarily to children or a medium that was likely to have an audience of over 35%, and therefore was not captured by point 2 or point 3.

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 advertiser’s response that the advertisement was directed to



parents and not to children.

The Panel noted the Facebook advertisement featured the accompanying text 'Bring home all the fun from Mr McGregor's vegetable garden. Each week there's a different Peter Rabbit toy to collect, free with every Happy Meal. So hop into Macca's before they run away and see Peter Rabbit in cinemas now.' The video has a bright yellow background and features the words 'bite-size fun with Peter Rabbit', an image of a toy rabbit and an animated red ball, the words 'continue the fun at Macca's with your free happy meal toy'. and a Happy Meal box and four rabbit toys.

A minority of the Panel considered that the advertisement was for a product of principal appeal to children and featured visuals including bright yellow background and toys which would be of appeal to children. A minority of the Panel considered the language in the advertisement featured the words 'your free Happy Meal toy' which was directed to children who would want the toy, and not to parents or other adults.

A minority of the Panel considered that the themes, visuals and language used in the advertisement were directed primarily to children under 14.

The majority of the Panel considered the language in the advertisement included a paragraph of accompanying text which would be unlikely to attract the attention of children. The majority of the Panel also noted that the advertisement did not have sound and was not likely to attract the attention of children.

The majority of the Panel considered that the product in the advertisement was one of principal appeal to young children, however considered that the static, non-animated toy rabbits were unlikely to attract the attention of young children. The Panel considered the product and visuals would be unlikely to be of appeal to older children and young teenagers.

The majority of the Panel considered that the theme of the advertisement was that Peter Rabbit toys are currently available with Happy Meals. The majority of the Panel considered that this is a theme that would appeal to children and to parents who would like to buy a treat for their children.

In this instance the Panel considered that the theme, visuals and language of the advertisement were promoting Happy Meal toys parents could buy for their children, and considered that this advertisement 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 QSRI 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 transport advertisement is not directed primarily to Children, the Children's Code and Part 3 of the Food Code do not apply.

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

