



## Case Report

1	Case Number	0229/17
2	Advertiser	McDonald's Aust Ltd
3	Product	Food / Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	07/06/2017
6	DETERMINATION	Dismissed

### ISSUES RAISED

Food and Beverage Code 2.2 - healthy lifestyle / excess consumption

### DESCRIPTION OF THE ADVERTISEMENT

The advertisement is a 15 second edited version of a 30 second commercial. It shows a boy, woman and man selecting a Family McValue Box and enjoying it in a McDonald's restaurant.

The 30 second version of the advertisement shows the same boy with his mother and a man outside, and shows that the boy is angry or suspicious of this new person. It shows the boy enjoying time with the man fixing a bicycle, the man and woman discovering a photograph of the three of them that the boy has framed and left for them to find as a gift. The 30 second commercial then ends with the same content as the 15 second version.

### THE COMPLAINT

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

#### *Reasons for complaint*

*1. The advertisement breaches the AANA Food and Beverage Advertising and Marketing Code*

*The Obesity Policy Coalition (OPC) and the Parents' Voice (PV) submit that this advertisement breaches clause 2.2 of the AANA Food & Beverages Advertising & Marketing Communications Code (Food & Beverages Code) because:*

*1. It is an advertising or marketing communication for a food and beverage product, and*

2. *It undermines the importance of healthy lifestyles, undermines the promotion of healthy balanced diets and encourages what would reasonably be considered as excess consumption through the representation of products and/or portion sizes disproportionate to the setting portrayed or by means otherwise regarded as contrary to Prevailing Community Standards. It is clear that the advertisement is an advertising or marketing communication for a food and beverage product.*

*The Advertisement undermines the promotion of healthy lifestyles and healthy balanced diets. We argue that due to its nutritional profile, in particular its high levels of fat, sodium and sugar, the consumption of this meal of fries, hamburgers and soft drinks has no place as part of a healthy lifestyle and a healthy balanced diet. We submit that by promoting this unhealthy product to a young family and associating it with enjoyable family time, the advertisement has the effect of undermining the importance of healthy lifestyles and the promoting of healthy balanced diets.*

*Credible nutrition authorities would recognise that the nutritional profile of food is poor. It contravenes established recommendations for a healthy meal. The Australian Dietary Guidelines recommend limiting intake of foods containing saturated fat, added sugars and added salt. The products in the Family McValue Box contain excessive amounts of these properties when measured against recommended intake guides. For instance a cheeseburger, quarter of the family serve of fries and a small coke would constitute 50.6%, 45.9% and 65.6% of the recommended daily intakes for a 9 year old boy of saturated fat, sodium and sugar respectively. A one third share of the Family McValue Box would constitute, 62.5%, 56.7% and 68.7% of the recommended daily intakes for a man as depicted, of saturated fat, sodium and sugar respectively. This is significant as this is only one of three main meals and snacks that would be consumed in a day.*

*To promote this food accordingly undermines the promotion of healthy lifestyles and healthy balanced diets. The guidance provided in the practice note states that the test the Board will apply is “whether the communication is disparaging of healthy foods or food choices or disparaging of physical exercise. Such disparagement need not be explicit, and the Board will consider the message that is likely to be taken by the average consumer within the target market of the communication.”*

*The OPC and the PV would argue that the average consumer would see that this advertisement undermines healthy balanced diets and healthy lifestyles as it is encouraging the Family McValue Box as a suitable meal choice for families, despite the clear lack of nutritional value.*

*In addition, this advertisement promotes the Family McValue Box as the perfect midweek meal. It is suggesting that this meal in its entirety provides a suitable evening meal for a family. We note that in the recent Bakers Delight Case (0072/17) the Board considered a billboard showing savoury rolls and mini finger buns as a lunchbox suggestion. In that case, a majority of the Board found that the advertisement’s text and image amount to the message that is likely to be taken by the average consumer within the target market, was that the finger buns could be included with a savoury bun as a complete lunch. The Board considered that this message was not consistent with the promotion of healthy balanced diet for a school lunch.*

*This advertisement under consideration is very similar, as McDonald’s undermines the promotion of a healthy balanced diet by presenting the Family McValue Box as a complete meal. The voiceover of the advertisement says “McDonald’s Family McValue Box, made for midweek dinners, made for families” promotes a meal lacking in nutritional value as a good choice for weekday meals on a regular basis. That McDonald’s is promoting the meal to be*

*eaten on a regular basis is reinforced by the fact that this advertisement forms part of a series of advertisements that promote the consumption of the Family McValue Boxes as a complete meal many different family settings.*

*The Advertisement encourages excess consumption*

*We also argue that the advertisement encourages excess consumption by depicting a significant amount of food to be shared between 3 people. The advertisement shows a child of approximately 9 and his parents consuming 4 small soft drinks, 4 burgers (2 large and 2 small) and a family size packet of fries. We highlight the Food & Beverages Code Practice Note, which says that when considering whether an advertisement encourages excess consumption, the Board will consider whether members of the community in the target audience would most likely take a message condoning excess consumption. We argue that a small family are the target audience of this advertisement, and that they are most likely to receive a message that condones excess consumption, being that it is appropriate to share a family serve of fries, 4 burgers and 4 small soft drinks among 3 people. This would amount to an average of 3,917 kilojoules per person, based on dividing the total amount of calories of the Family McValue Box into 3 even portions. We acknowledge that the portions are unlikely to be split evenly but that however the meal is split, it an excessive amount of food for 3 people. We note that under a similar code administered by the ASB, the Quick Service Restaurant Initiative, the maximum meal energy limit for the 9-13 age group is 2,770 kilojoules. We also note that 3,917 kilojoules constitutes 45% of the maximum recommended daily energy intake for an average adult. The kilojoule amount per person is excessive on both these measures and the OPC and the PV would argue it constitutes excessive consumption.*

*Request for action*

*For the above reasons, the OPC and the PV ask the ASB to request that McDonald's refrain from using this advertisement and the similar advertisements referred to in this complaint.*

## **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 0229/17 (Complaint).*

*The Complaint refers to the McDonald's Family McValue Box television commercial (Advertisement). The Complaint is made under section 2.2 of the Food and Beverages Advertising & Marketing Communications Code (AANA Code).*

*It is important to start by explaining the storyline depicted in the longer form of the Advertisement, as the story gives important context to the meal that is depicted at the end, and is an essential part of determining how consumers will perceive it. The Advertisement that is the subject of the Complaint is the last section of a longer commercial which is also regularly broadcast. As is common, this short form advertisement is designed to remind consumers of the longer form version, without playing the longer version in full. The average consumer that sees the 15 second version of the commercial would also likely see the 30 second version. Accordingly it is essential to consider this Advertisement alongside the*

*longer form version, as that is the context in which the average consumer would see it.*

*The longer version of the Advertisement tells the story of a single mother, with a young son, and a new partner. There is a montage of scenes showing how the boy initially reacts with suspicion to his mother's new partner. The story develops over a montage, as the boy slowly starts to build a relationship with his mother's new partner. The ordinary consumer knows that it would take days, if not months or longer, for the boy to build trust and familiarity with the man depicted. Despite the fact that the Advertisement tells a story that spans many days or longer, the family is only shown eating the meal once.*

*In that context, the Advertisement does not breach the AANA Code for the reasons stated below:*

*Reason 1: The Advertisement makes no comment on healthy or active lifestyles or the promotion of healthy balanced diets*

*There is nothing in the Advertisement which makes any comment, one way or the other, about healthy or active lifestyles or the promotion of healthy balanced diets. There is nothing in the Advertisement that comments on whether active lifestyles are good or bad. The Complaint's claim that the Advertisement is disparaging of healthy lifestyles has no basis in fact and accordingly should be dismissed.*

*The Complaint rightly points out that the practice note on the AANA Code says the test the Advertising Standards Board (ASB) will apply is: "whether the communication is disparaging of healthy foods or food choices or disparaging of physical exercise. Such disparagement need not be explicit, and the Board will consider the message that is likely to be taken by the average consumer within the target market of the communication." However the Complaint then goes on to claim that the average consumer would take away a message of disparagement, even though there is nothing in the Advertisement that makes any comment on the matter one way or the other. There is no evidence of any disparagement in the Advertisement, and the suggestion that it disparages healthy lifestyles, in the absence of such evidence, is completely imaginary.*

*In substance, the Complaint is claiming that the mere advertisement of a product with a particular nutritional composition is a breach of the AANA Code. As with previous ASB decisions (0101/14, 0262/15, 0593/16, 0072/17), the promotion of a product which may have a particular nutritional composition does not automatically undermine the importance of a healthy or active lifestyle, nor is it contrary to prevailing community standards. For an advertisement to disparage healthy lifestyles, either explicitly or implicitly, there must be some signal, indication, body language or commentary that makes fun of, lampoons, or criticises people who are healthy or active. Even in cases where there are subtle suggestions that it's more fun to eat chocolate than exercise (Nestle, 0262/15), the ASB has dismissed complaints as they do not disparage healthy lifestyles. In this situation there is not even the slightest suggestion of a comment about healthy or active lifestyles, so it is surprising that the question has even been raised in the Complaint at all.*

*On this basis, the ASB should dismiss the Complaint.*

*Reason 2: The Complaint makes false assumptions about what is depicted in the Advertisement*

*The Family McValue Box has a range of combinations which vary the kilojoule, sugar, saturated fat and sodium contained in the overall meal. The Complaint assumes the combination that contains the highest of each of these factors in order to further its argument, but the assumption can just as easily be applied in the other direction.*

*The most egregious assumption in the Complaint is that all of the beverages shown are Coca-Cola. The child is specifically depicted in the Advertisement drinking Cool Ridge water, which contains no sugar, no saturated fat, and no kilojoules. The Advertisement also depicts the child with a total of four fries next to his burger, but the Complaint assumes that the child has consumed one quarter or one third of the entire family fries. While it is not depicted in the Advertisement, the family fries can also be swapped at no extra charge for two garden salads, and this is made clear to consumers in our restaurants. Two of the burgers depicted in the commercial contain generous servings of lettuce, and while the cups depict the Coca-Cola logo, there are multiple Coca-Cola products with no sugar, available as option in the meal (regardless of the artwork on the cup); these include Diet Coke, Coke Zero and FUZE Tea.*

*Even if the ASB were to accept some of the assumptions in the Complaint, the meal depicted is only one meal. There is nothing suggesting that the meal should be consumed for breakfast, lunch, and dinner each day. The average consumer would also note that there are four burgers and four drinks included in the meal, and while the family of three is shown in the Advertisement, the average consumer would clearly recognise that the meal is generally designed for four people. There is nothing in the Advertisement suggesting that the Family Box is distributed evenly across the three people depicted in the Advertisement. For all we know the family may only eat one burger each and save the remaining food for later.*

*Based on the fact that the Complaint's assumptions are either false, or just as easily interpreted or assumed differently, the ASB should dismiss the Complaint.*

*Reason 3: The Complaint's definition of 'excess consumption' is unreasonable*

*The AANA Code rightly states that advertising cannot "encourage what would reasonably be considered as excess consumption". A key word in this sentence is the word "reasonably", as the Complaint's definition of what is 'excess consumption' is completely unreasonable.*

*The Complaint claims that the Advertisement promotes excess consumption because the meal depicted does not meet the strict nutritional standards that are set out in the Complaint. By this standard the vast majority of food and beverages depicted on television would be considered 'excess' because they do not depict or meet the exact dietary requirements set out in the Complaint. This is an absurd standard that cannot reasonably be upheld by the Advertising Standards Board. Such a decision would lead to banning all advertising of soft drinks, ice-cream, fries, burgers, pizza, pasta and other meals just because they are not water, vegetables, fruit and lean meat. While it may be the intention of the Complaint to create such a standard, and to ban any advertisements that do not meet the complainants' strict standards, we trust that the ASB will resist this extreme ideological position and uphold the mainstream view of what is excessive.*

*It's also important to consider previous Advertising Standards Board decisions. While the Complaint draws the board's attention to the recent Baker's Delight case (0072/17), it is*

*quickly apparent to any reasonable observer that this Advertisement and that case are entirely different.*

*In that case, the distinguishing feature was that the advertisement promoted finger buns as a lunch box option on a day-to-day basis in replacement of other foods. In a 2014 KFC case (0154/14) the ASB also considered this issue. In that case there was a large, full bucket of chicken, in addition to food already on the plates, and the commercial depicted the family eating this large meal over and over. In that case the complaint was upheld, but it is a stark contrast with one family eating one, much smaller meal, only once.*

*It is important to note that the Advertisement uses the singular “made for mid-week dinner” rather than the plural “made for mid-week dinners”. The Complaint uses the plural which may intentionally or unintentionally misdirect the Advertising Standards Board into believing that the Advertisement suggests that the meal should be consumed on every night of the week. We strongly urge the ASB to closely consider the difference between the word used in the Complaint and the words actually used in the Advertisement, as the words actually used suggest that it is suitable for dinner on one night in the middle of the week, not every night.*

*In the Complaint, the submission is made that the amount of salt, saturated fat, sugar and kilojoules consumed is a large amount for one meal. However none of the amounts are more than a person’s daily intake, and no reference is made to what the individuals consumed for breakfast or lunch. It is realistic that the individuals consumed a small breakfast and lunch, and across the day, their intake is within the reasonable limits. Even if that is not the case, the possibility that someone had slightly more salt in one day than they should, is not excessive consumption.*

*Accordingly, the Advertisement complies with the AANA Code and 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 or by any of the other applicable codes.*

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Board noted the complainant’s concerns that the advertisement promotes a family meal box as suitable meal choice for families and therefore undermines the importance of a healthy lifestyle, undermines the importance of healthy, balanced diets, and encourages excess consumption.

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

The Board noted that the product advertised is food and that therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply.

The Board noted in particular Section 2.2 which states: ‘the advertising or marketing

communication...shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered excess consumption through the representation of product/s or portion sizes disproportionate to the setting/s portrayed or by means otherwise regarded as contrary to prevailing community standards.’

The Board then noted the Practice Note to section 2.2 which states:

“The Board will not apply a legal test, but consider material subject to complaint as follows:

(1) In testing whether an advertising or marketing communication undermines the importance of a healthy lifestyle, the Board will consider whether the communication is disparaging of healthy foods or food choices or disparaging of physical exercise. Such disparagement need not be explicit, and the Board will consider the message that is likely to be taken by the average consumer within the target market of the communication.”

The Board noted the complainant’s concern that the advertisement promotes a family meal box, which has a lack of nutritional value, and suggests it is a suitable meal choice for families during the week.

The Board considered that, consistent with previous decisions (0101/14, 0262/15, 0593/16, 0057/17), the promotion of a product which may have a particular nutritional composition is not, per se, undermining the importance of a healthy or active lifestyle or contrary to prevailing community standards.

The Board noted that the advertisement advertises the meal in a manner that does not disparage or refer to other food choices or exercise and that overall the advertisement undermines the importance of a healthy lifestyle.

(2) In testing whether an advertising or marketing communication encourages excess consumption through representation of products or portion sizes disproportionate to the setting portrayed, or by any other means contrary to prevailing community standards, the Board will consider whether members of the community in the target audience would most likely take a message condoning excess consumption.”

The Board noted that the advertisement depicts a family sitting together to eat a McDonald’s Family McValue Box meal and that the meal includes a choice of four burgers, four small soft drinks, four small soft drinks and a family size fries.

The Board noted that there are only three family members sitting at the table to eat this meal and noted that there are only three drinks on the table. The Board considered that the purchase of the Family box although inclusive of four serves does not mean that all four serves need to be included or should be consumed. The Board considered that the family have made the decision to select enough food for their own needs.

The Board noted the tagline that appears on screen, which reads ‘Made for Sharing. Made for Family’ and considered this wording, in conjunction with two adults and a child sharing a meal, is strongly suggestive of the food depicted being shared between a number of people and is not disproportionate for the number of people at the table.

The Board noted that the family in the advertisement is shown to eat the meal but considered

that this scene is brief and there is no suggestion that any member eats more, or less, than their fair share of the meal. The Board noted that the advertisement does not suggest that the meal box should be eaten regularly, or that it should be eaten by one person only, and considered that the promotion of a meal to be shared by a family does not of itself encourage excess consumption.

The Board considered that the advertisement does not depict, encourage or condone the excess consumption of the advertised product and determined that the advertisement did not breach Section 2.2 of the AANA Food Code.

Finding that the advertisement did not breach the Food Code, the Board dismissed the complaint.