



**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>0230-20</b>
<b>2. Advertiser :</b>	<b>McDonald's Australia Limited</b>
<b>3. Product :</b>	<b>Food/Bev Groceries</b>
<b>4. Type of Advertisement/Media :</b>	<b>TV - Free to Air</b>
<b>5. Date of Determination</b>	<b>12-Aug-2020</b>
<b>6. DETERMINATION :</b>	<b>Dismissed</b>

### ISSUES RAISED

AANA Food and Beverages Code\2.1 Truthful Honest Not Misleading or deceptive

### DESCRIPTION OF ADVERTISEMENT

This television advertisement features a man driving through a McDonald's drive through at night. As the man passes the speaker to place an order he whispers, "Hi, can I have a strong skim latte" as he drives past.

The drive through employee watches him drive past and looks confused.

He drives past the speaker again and says, "Strong skim latte please".

Through the speaker the employee says, "Sorry could you repeat that please?"

As he drives past the window the employee notices that he has a sleeping infant in the back of his car. She smiles in understanding. As the man drives past the window again she says through the speaker, "Sir, did you say strong skim latte?" He says back, "yeah medium please".

He is then handed the coffee and gives a thumbs up out the window as he leaves.

A voice over states, "Grab a hot medium McCafe coffee for two dollars for a limited time on the my Maccas app."

And the text "\$2 Medium Hot Coffee only on the mymacca's app" appears on the screen. A disclaimer states: "Available for a limited time at participating restaurants.

One redemption per customer per week. Only available on the mymacca's app.

Additional charges may apply for soy, syrup and other variations. Excludes McDelivery."

### THE COMPLAINT





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

*The add shows a car going through a drive through, ordering a \$2 medium coffee through the speaker (of sorts), his order is confirmed by the drive through attendant, he receives the coffee and drives away without stopping.*

*My problem is that at the end of the add it says something like “ \$2 medium coffee. Only avail on the mymacas app.” There is also extremely fine print stating one per person per week.*

*If I simulate that add I can’t actually buy the product they are selling, as it is NOT available to order in the drive through.*

*Confusing and misleading at best.*

#### **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 0230-20 (Complaint).*

*We note that the Complaint is made under section 2.1 of the Australian Association of National Advertisers Food and Beverages Code (“Food and Beverages Code”).*

*McDonald’s takes its obligations seriously in respect of adherence to the Food and Beverages Code, as well as all other relevant codes of practice (“Codes”) administrated by Ad Standards.*

*McDonald’s entirely refutes any suggestion in the complaint or otherwise that the Advertisement breaches the Code. Please see details below.*

*Food and Beverages Code*

*Section 2.1 provides the following:*

*“2.1 Advertising or Marketing Communications for Food or Beverage Products shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene Prevailing Community Standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.”*

*In addition, pursuant to the Practice Code relating to the Food and Beverage Code, the Panel “will consider whether the information most likely to be taken form the advertisement by an average consumer in the target market would be reasonably regarded as truthful and honest.”*

*In the current case, the complaint suggests that the Advertisement is “confusing and misleading” because the complainant claims that he “can’t actually buy the product...as it is NOT available to order in the drive through.”*



*We submit that our Advertisement is truthful and honest and is not designed to be misleading or deceptive or otherwise contravene Prevailing Communication standards on the basis that the offer was redeemable via our drive-throughs in the following manner:*

*Step 1: The customer places the order via the mymacca's app;*

*Step 2: The customer announces their order number via the speaker at the drive-through; and*

*Step 3: The customer pick up their coffee from the drive-through.*

*We further submits that our target audience, particularly those who have used the mymacca's app is well aware of the above functionality as the app prompts "drive-thru" as one of the pickup options, so on this basis the advertisement is not misleading or deceptive.*

*Australian Association of National Advertisers 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; and*

*2.7 – Distinguishable as advertising.*

*Australian Association of National Advertisers Code for Advertising and Marketing Communication to Children*

*McDonald's submits that the Advertisement is not considered as being directed to children or predominantly directed to children and as such does not believe that any section within this Code has been breached.*

*Conclusion*

*McDonald's concludes that the Advertisement in no way depicts material contrary to the Codes and in particularly section 2.1 of the Food and Beverages Code and request that the Panel dismiss the complaint on this basis.*

## **THE DETERMINATION**

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Panel noted the complainant's concern that the advertisement is misleading as a person cannot replicate the behaviour depicted in the advertisement and still receive the offer being promoted.

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



The Panel noted that the product advertised is food and that therefore the provisions of the Food Code apply. In particular the Panel considered section 2.1 of the Food Code which provides:

*“Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.”*

The Panel noted the Practice note for the Food Code states: *“In testing the requirement that an advertising or marketing communication should be truthful and honest, the Community Panel will consider whether the information most likely to be taken from the advertisement by an average consumer in the target market would be reasonably regarded as truthful and honest.”*

The Panel noted that the advertiser’s response that the target audience/market for this advertisement would be McDonald’s customers and particularly those who have previously used or are familiar with the mymacca’s app.

The Panel noted the complainant’s concern that the advertisement depicts a man going through a drive-through several times and ordering a coffee, and that the promotion on screen requires a person to pre-order using the mymacca’s app in order to receive the offer. The Panel noted that the complainant considers this misleading as a person cannot replicate the behaviour depicted in the advertisement and still receive the offer being promoted.

The Panel noted that it had previously considered an earlier version of this advertisement in case 0333-18, in which the specific promotion of a \$2 coffee purchased via the app was not depicted.

The Panel noted that this advertisement had been broadcast in various forms since 2018, and considered that many people in the community would be familiar with previous iterations of this advertisement. The Panel considered that it is not uncommon for advertisers to use the same advertisement content across a time period with different promotions associated to the central imagery.

The Panel considered that the end of the advertisement does feature a full screen static image with details of the promotion and the text “Only on the mymacca’s app” is very prominent. The Panel noted the complainant’s concern that there is a disclaimer in small print stating that the offer is for a limited time only, but considered that this is very common on advertisement for promotions and that most members of the community would be aware of the content of the small print, even if they did not specifically read it.



The Panel noted that the man in the advertisement is not depicted asking for a \$2 coffee, he asks for a medium skim latte. The Panel considered that while this is technically a medium coffee, his request is different enough from the promotion voiceover and text that most members of the target audience of the advertisement would not consider that he is ordering the offer/deal being promoted at the end of the advertisement. The Panel considered that the advertisement depicts a man going through a drive-through, which is consistent with the offer being promoted, and contains a very visible and clear disclaimer advising that the offer is only available through the mymacca's app.

The Panel considered that the advertisement would not be considered by most members of the community to be misleading as they would be familiar with previous iterations of the advertisement and the offer details are prominently displayed in the advertisement. The Panel considered that the target audience of this advertisement in particular would understand that using the mymacca's app means that a customer pre-orders before reaching the drive-through. The Panel considered that the overall promotion incorporating the onscreen disclaimer highlighting the use of the app to order a \$2 coffee was communicated in a manner appropriate to the level of understanding of the target audience and was not misleading.

The Panel noted that advertisers should exercise caution when amending or repurposing existing advertising content with a different value proposition.

The Panel determined that the advertisement did not breach Section 2.1 of the Food Code.

Finding that the advertisement did not breach any other sections of the Food Code the Panel dismissed the complaint.