



Ad Standards Community Panel
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Ad Standards Limited
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Case Report

1. Case Number :	0250-20
2. Advertiser :	McDonald's Australia Limited
3. Product :	Food/Bev Venue
4. Type of Advertisement/Media :	TV - Pay
5. Date of Determination	26-Aug-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This Pay TV advertisement features an image of a phone alarm going off at 6:30 in the morning and a man groans as he turns it off. A woman is shown walking through her house as a man asks, "have you seen my keys Darl?" She responds, "where you left them." She pauses in the doorway of the bathroom where a young girl is eating toast and holding a toothbrush. The woman says, "Ah toast then teeth. Come on." The family get into a car, the father says, "put your belt on" and the mother asks, "got your boots?".

The car reverses out of the driveway and pulls into McDonalds.

A voice over states, "there's always time for a smooth and delicious McCafé coffee. Made by our baristas just the way you like it." Image of the coffee being made is shown, followed by an employee saying, "hey" at a counter.

The car pulls into a carpark at a sportsground.

The parents are shown drinking coffee and standing next to a field talking to other parents. The young girl runs up to them and says, "Hey Dad, did you see my goal"? The dad unconvincingly states, "I sure did".

The voice over states, "Coffee whenever you need it most. McCafé. We're coffee people."

THE COMPLAINT



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

I object to the car reversing very quickly out of their drive at speed without stopping to look or check if there are pedestrians on the pavement. This is a major cause of childhood death and it sends the wrong signals to the public. It is reckless driving and a terrible example for everyone - children and adults.

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 our response to complaint number 0250-20 (Complaint). We note that the Complaint is made under section 2.6 of the Australian Association of National Advertisers Code of Ethics ("Code of Ethics"). McDonald's takes its obligations seriously in respect of adherence to the Code of Ethics, as well as all other relevant codes of practice ("Codes") administered by Ad Standards.

McDonald's refutes any suggestion in the Complaint or otherwise that the Advertisement breaches the Code and set out our response in detail below.

Code of Ethics –Section 2.6

Section 2.6 provides the following:

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

In the current case, the complaint claims that the advertisement depicts the "car reversing very quickly out of their drive [sic] at speed without stopping to look or check if there are pedestrians on the pavement."

We submit that our advertisement does not breach section 2.6 on the basis that: 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 296 of the Road Rules 2014 (NSW) states that "the driver of a vehicle must not reverse the vehicle unless the driver can do so safely". This requirement is consistent across all the States and Territory. In the advertisement, all the children of the family are positioned in the back passenger seats (as seen at 0:00:08), there are no vehicles and pedestrians approaching or in close proximity to the family vehicle or the driveway and there are no nearby parked cars, trees or signs to obscure the driver's vision to render the situation unsafe to reverse out of the driveway in the manner as depicted in the advertisement.

There is nothing in the advertisement that depicts or suggests that the driver is reversing from the driveway without looking or checking if there are pedestrians on the pavement. We submit that this is an erroneous assumption made by the complainant.

The complainant has also made an erroneous assumption that the vehicle is reversing "very quickly" on the basis of the theme of the advertisement, which creates a sense of



haste and excitement, when in fact the driver is at total control and reversing safely without contravening any State or Territory laws.

In the unfortunate cases where a child is killed by motor vehicles at home, majority the drivers involved is either a parent or relative. In the current advertisement, both children of the family are securely positioned in the back seats of the vehicle.

In the advertisement, the family vehicle is not seen reversing completely out of the driveway as such it is incorrect to say that the car reverses “very quickly out of their drive [sic] at speed without stopping to look or check if there are pedestrians on the pavement.”

Code of Ethics –All Parts of Section 2

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 2.6 of the Code of Ethics and request that the Panel dismiss the complaint 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 complainant’s concern that the advertisement depicts unsafe driving behaviour.

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

The Panel considered whether the advertisement complied with Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.



The Panel noted the complainant's concern that the advertisement depicts a vehicle reversing quickly out of a driveway, which is unsafe.

The Panel noted the advertiser's response that the advertisement does not depict any vehicles or pedestrians nearby when the vehicle reverses.

The Panel considered that the theme of the advertisement is one of haste, a family running late to sport. The Panel considered that this contributes to the feeling that the vehicle is reversing at speed, as does the sound of the vehicle's engine revving. However, the Panel considered that there is no actual indication of the speed that the vehicle is travelling, there is no image of a speedometer or a reference point for speed, and it is not obviously speeding.

The Panel noted that the advertisement does not show the vehicle leave the yard or cross the footpath when reversing. The Panel noted that there are no pedestrians depicted or present in the vicinity of the reversing car.

The Panel also considered the scene depicting the vehicle parking at the sports field. It noted that, as with the vehicle reversing scene, there is no reference point for the speed of the vehicle and its speed is not manifestly excessive. The Panel noted that this scene is very brief, less than a second, and only shows the vehicle swinging into the parking spot. The Panel considered that it is not apparent that the action of parking was performed unsafely.

The Panel noted that advertisers should take care to ensure that depicting unsafe behaviour does not occur as a result of the creative storyline of an advertisement.

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.

The Panel noted that some members of the community may be concerned about the father in the advertisement appearing to lie to his daughter when she asks if he saw her kick a goal. The Panel noted that this is not an aspect of complaint that it could consider under the Code. The Panel nevertheless noted that while some members of the community may find this dishonest interaction to be distasteful, the depiction of a father not wanting to hurt his daughter's feelings was a scenario many parents would relate to and the actions of the father did not show behaviour that would be considered malicious or hurtful.

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