



## Case Report

1	Case Number	0280/15
2	Advertiser	McDonald's Aust Ltd
3	Product	Food / Beverages
4	Type of Advertisement / media	Internet
5	Date of Determination	22/07/2015
6	DETERMINATION	Dismissed

### ISSUES RAISED

QSR - 1.1 - Advertising and Marketing Message Advertising and Marketing Message must comply

### DESCRIPTION OF THE ADVERTISEMENT

The Microsite features the events, products and information that form part of the McDonald's Minions campaign. The Microsite directs parents and guardians to bring their family to a McDonald's restaurant to experience and create moments of family connection, including a family fun day at participating restaurants. The Microsite lists the food and beverages on offer during this promotional period and informs parents that a Minions mini movie will be playing at selected McDonald's restaurants until 30 June 2015. Finally, the Microsite promotes a game of skill competition where eligible entrants (must be 14 or over) can post an image featuring Minions merchandise using the hashtag #minionsatmaccas on social media for the opportunity to win tickets to the Minions Movie.

### THE COMPLAINT

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

*The advertisement breaches the Quick Service Restaurant Initiative for Responsible Advertising and Marketing to Children (QSRI).*

*We submit that webpage on the McDonald's website is an advertising communication to children which does not meet the requirement under this initiative, to:*

- 1. Represent healthier choices, as determined by a defined set of Nutrition Criteria for assessing Children's meals; and*
- 2. Reference, or be in the context of, a healthy lifestyle, designed to appeal to the intended*

audience through messaging that encourages:

1. Good dietary habits, consistent with established scientific or government criteria; and
2. Physical activity.
3. It is a communication directed primarily to children.

*This webpage promotes a tie-in to a movie that is directed primarily to children. The movie is set to be the number one movie among children these school holidays. McDonalds clearly recognise that this movies is targeted to children as it is also promoting on television a Happy Meal featuring a minion toy. The webpage is fun, promotes the movie and features the minions characters which are no doubt intended to appeal primarily to children.*

*The Quarter Pound meal advertised does not represent a 'healthier dietary choice' consistent with established scientific or Australian government standards (S.1.1.a);*

*The webpage promotes a Quarter Pound meals, featuring a Quarter Pounder, Fries, Coke and McFlurry. This meal clearly does not fit within the criteria of a healthier dietary choice. It does not promote healthy dietary habits or physical activity.*

*The promotes only the movie and Quarter Pounder Meal. It does not promote healthy dietary habits in any way or physical activity.*

*Request for action*

*We submit that this webpage on the McDonald's website breaches the QSRI and we ask that the Board require the advertiser to withdraw it from the website immediately. Your urgent response is sought given this is clearly a short term advertising campaign tied into the broadcast of the Minions movie in cinemas, and most likely the school holiday period. A determination of this complaint after the advertising campaign has finished will be futile. We would also ask that you raise concerns with McDonalds about its in-store promotions featuring this movie-tie in, particularly in relation to a meal that clearly fails to meet the criteria for healthier options. The McFlurry packaging clearly constitutes marketing directed to children and is contrary to McDonald's commitment to promote only healthier options to children.*

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

*We submit that the Advertisement is not in breach of the Australian Food and Grocery Council Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children ("QSR Initiative"), the AANA Code for Advertising and Marketing Communications to Children ("AANA Children's Code") or the AANA Food and Beverages Advertising and Marketing Communications Code ("AANA Food Code") (together, the "Codes").*

*McDonald's has rigorous internal checking processes for all of its consumer communications and is acutely aware of the reach of its advertising. McDonald's is very sensitive to ensuring that it complies with the QSR Initiative and the Codes.*

*We provide our reasons in respect of each of the Codes below.*

*QSR Initiative*

*We disagree with the Complaint and submit that the Microsite is not directed primarily to children under 14 and accordingly does not fall within the ambit of the QSR Initiative.*

*The Microsite would be only caught by the QSR Initiative if it could be considered that:*

1. The medium is directed primarily to children; or  
2. The medium attracts an audience share of greater than 35% of children; or  
3. The Advertisement is directed primarily to children (irrespective of placement).  
We submit that the overall content of the Microsite is directed to adults. We are of the view that the Microsite does not fall under any of the above provisions for the reasons set out below.

Medium is not directed primarily to children and does not attract an audience of greater than 35% of Children

The Microsite forms part of McDonald's corporate website designed to provide adults with information regarding McDonald's restaurants, products and promotions on offer. The Microsite can, and should, be distinguished with the Happy Meal website

([www.happymeal.com.au](http://www.happymeal.com.au)) which is a separate platform not referenced on the Microsite.

Data collected provides that approximately 21% of visitors to the Microsite were aged 18-24, over 30% of visitors were aged 25-34 and 30% of visitors were aged 35-44. We submit that medium is not a medium directed primarily to children and that the Microsite would not attract an audience share of greater than 35% of children (aged 14 years or younger).

Advertisement is not directed primarily to Children (irrespective of placement)

We submit that the content of the Advertisement is not directed primarily to children, as would be required for the QSR Initiative to apply, for the reasons set out below.

Directed "primarily" to children

The purpose of the Microsite is to provide nutritional information, promotional offers, and restaurant updates. The Microsite provides adults with information on which participating restaurants were holding screenings of the Minions mini movie, as well as a family fun day. It also provides the terms and conditions of the game of skill that was being run during the month of June for Australian residents aged 14+. We submit that none of this content was directed to children.

Minions Movie

We submit that the Minions movie has broad appeal for adults, children and the family, generally. We disagree with the complainant's comments that the Minions movie is targeted to children only. We are of the view that the movie provides enjoyment, and appeals, to adults as it incorporates cultural / movie references, irony and sarcasm. We note that in the Australian market, the Minions movie was released with the rating of "PG" parental guidance required for viewers under 15 years of age on account of the film containing mild animated violence.

Given the broad appeal of the movie, McDonald's offered food and beverage items featuring Minions for adults and children. In doing so, McDonald's carefully considered all campaign material to ensure that any products offered to adults featuring Minions were not promoted in conjunction with the Minions Happy Meal (where consumers receive a free Minions toy when a Happy Meal is purchased).

1) Theme – family connection

Other than to provide information to parents and guardians, one of the main themes of the Microsite is "family connection". Family connection is something that is not widely understood by children, especially younger children. Adults are often looking for activities and events that the family can enjoy together which is often an important factor in purchasing decisions for many, if not most, adults.

2) Visuals

The Microsite generally reflects the other pages of the McDonald's corporate website. Pages on the website are updated from time to time.

*The Microsite includes images of Minions as well as the trailer for the Minions movie. However, we submit that these images and trailer are appealing to adults for the same reasons that the Minions movie appeals to adults. In any event the Minions trailer does not automatically load, requiring the user to click on the link to play.*

*The Microsite does not mention the specific Minions Happy Meal product which includes a Minions toy. Instead, the Microsite focuses on the limited time offer that would appeal to adults (rather than directly to children), a free banana with every Happy Meal purchase. As discussed previously, the Microsite also promotes the game of skill competition. The Microsite also displays entries that have been submitted in the competition. Only Australian residents aged 14+ can enter the promotion, and they are required to upload their entry on social media (Facebook, Twitter and Instagram). These social media websites are only accessible to people who are at least 13 years of age.*

### *3) Language*

*At all times, the language in the Microsite is directed to an adult audience. The Microsite does not speak to children, and instead there is a clear call to action to adults (primarily parents and guardians). Such examples include:*

*1. "Bring your family to your local McDonald's restaurant on 20th June for a Minions family fun day and creative moment of family connection through a magical McDonald's experience"; and*

*2. "To celebrate the release of MINIONS, in cinemas 18 June, selected McDonald's restaurants will be showing "Despicable Me Presents: Minions Madness" mini movie for the whole family until 30 June 2015"*

*The food and beverage items on offer during the promotion are also conveyed to adults using adult language. The Microsite uses terms such as "Indulge" and flavour cues such as "delicious", "decadent hot fudge and banana sauces".*

*The Microsite also informs adults and legal guardians, that for a limited time, the Happy Meal will be provided with a free banana. This offer of free fruit would directly appeal to adults.*

### *AANA Children's Code & AANA Food Code*

*For the same reasons as outlined above, McDonald's is of the view that the Website is not in breach of the Children's Code.*

*We submit that the Website is also not in breach of the Food Code as the Website does not undermine the importance of a balanced diet or healthy lifestyle or encourage excessive consumption by means contrary to prevailing community standards.*

*We note the complainant's concerns regarding the McFlurry packaging, however packaging is not an advertising or marketing communication under these Codes.*

### *Conclusion*

*We submit that the Website is not in breach of the Codes and the Complaint should be dismissed.*

*We thank the ASB for providing us the opportunity to respond to the Complaint and look forward to learning the outcome. McDonald's takes its responsibilities under the Codes very seriously and is committed to ensuring ongoing compliance.*

## **THE DETERMINATION**

The Advertising Standards Board ('the Board') considered whether this advertisement breaches the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (the 'QSR Initiative - QSRI'), the AANA Food and Beverages Advertising and Marketing Communications Code (the 'Food and Beverages Code'), and the AANA Code for Advertising and Marketing Communications to Children (the 'Children's Code').

The Board noted the complainant's concern that the advertisement is directed to children and does not represent a healthier choice according to the QSR Initiative.

The Board noted that the QSRI is designed to ensure that only food and beverages that represent healthier choices are promoted directly to children.

The Board considered the definition of advertising or marketing communications to children within the QSR Initiative. 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 Board first considered whether the Microsite is an Advertising or Marketing communication. The Board noted it had previously considered complaints relating to the McDonald's Happy Meal microsite (0221/12) and determined in that case that microsites do fall within the definition of advertising or marketing communication.

The Board noted that the QSR Initiative 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.

With regard to point 1, the Board noted they must consider whether the communication activity having regard to the theme, visuals and language used, is directed primarily to Children.

The Board noted that the dictionary definition of "primarily" is "in the first place" and that to be within the QSRI the Board 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 Board first considered the theme of the promotion (a website page featuring the characters from the Minions movie and special limited edition products available as part of cross promotions with the Minion movie).

The Board noted that the landing page of the website features three of the Minions characters underneath the heading “Bring your family to Minions Mania at McDonald’s.” The Board noted that the theme throughout the rest of the page does not specifically make a call to action for children to visit McDonald’s or purchase food from there. The Board noted that the microsite makes several references to ‘family’ and ‘family fun days’ and ‘bringing the family into McDonald’s.’

The Board noted the strong connection with the Minion movie and Minion characters and considered that the use of particular cartoon character from a movie does not immediately make it directed primarily to children. The Board noted that the Minion movie is popular with children but considered that many families would watch the movie together and also enjoy the associated marketing material.

The Board then considered the visuals of the advertisement. The Board noted the landing page includes the images of the Minions and also includes the movie trailer, product information and promotion of the “game of skill” competition and images of entries that have been submitted in the competition.

The Board noted that page is not interactive and does not include significant colour or activity that would capture the attention of children. The Board noted that the drop down menus include text and words and though there is a drop down menu that links to games on the website, it is not immediately visible and is not directly encouraging children to play games. The Board considered that overall the visuals of the landing page and entire website are not aimed in the “first instance” to children.

The Board then considered the language on the page and noted that while the language is simple, there is a lot of text and a lot of information for parents and adults regarding ordering, menu options and product information.

The Board noted that the extra value meal promoted on the page as part of a limited time option is a quarter pounder meal (with a banana choc McFlurry) and that a quarter pounder is not a menu item that is likely to appeal to children.

It is essential for the Board to consider all elements of the advertisement and to make a decision based on how all of the elements of the advertisement interact, and the overall impression that they make, in determining whether an advertisement is clearly directed primarily to Children. In this instance the Board considered that whilst the theme, visuals and language of the ‘Minions Mania’ page would be attractive to children it was not considered to be directed primarily to Children.

With regards to points 2 and 3, the Board considered that the page is not necessarily accessible by children under the age of 14 years and as part of the corporate mcdonalds.com.au website is not available in a medium that is directed primarily to Children or would attract an audience of greater than 35% of Children. In addition, the Board noted the advertiser’s response that stated that data collected provides that approximately 21% of visitors to the Microsite were aged 18-24, over 30% of visitors were aged 25-34 and 30% of visitors were aged 35-44 and therefore did not attract an audience share of greater than 35% of children (aged 14 years or younger).

On this basis the Board determined that the advertisement did not meet points 2 or 3 of the

QSRI in that it was not broadcast in a Medium that is directed primarily to Children or where Children represent 35 per cent or more of the audience of the Medium.

Based on the requirements outlined in the Initiative the Board 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 QRSI does not apply in this instance.

The Board 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 Board considered that the advertisement is not directed primarily to Children.

The Board determined that as this page 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 Board dismissed the complaint.