



Case Report

1	Case Number	0282/15
2	Advertiser	McDonald's Aust Ltd
3	Product	Food / Beverages
4	Type of Advertisement / media	TV - Free to air
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 Advertisement features an adult tradesman in his late twenties to early thirties enjoying a Minions Quarter Pounder Extra Extra Value Meal in a typical McDonald's restaurant. When the tradesman picks up his Banana Choc McFlurry, the Advertisement features the ingredients of the dessert. The final scenes of the Advertisement reveal the tradesman enjoying his Banana Choc McFlurry. The Extra Extra Value Meal includes a Quarter Pounder burger, fries, a beverage and a Banana Choc McFlurry, a product range that has historically been marketed to adults.

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 this advertisement 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.*

1. *It is a communication directed primarily to children.*

As part of a Quarter Pounder Meal, this advertisement promotes a Minions McFlurry which is clearly a product directed to children. The Minion's 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.

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

The advertisement promotes a Quarter Pound meal, featuring a Quarter Pounder, Fries, Coke and Minions McFlurry. This meal clearly does not fit within the criteria of a healthier dietary choice.

3. *It does not promote healthy dietary habits or physical activity.*

The advertisement 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 TV advertisement breaches the QSRI and we ask that the Board require the advertiser to withdraw it from all TV schedules in Australia 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:

McDonald's thanks the Advertising Standards Bureau ("ASB") for the opportunity to provide submissions in response to complaint number 0282 of 2015 ("Complaint") in respect of the Minions Quarter Pounder Extra Extra Value Meal television advertisement ("Advertisement").

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").

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

QSR Initiative

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

The Advertisement 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 Advertisement, including the product is directed to adults. We are of the view that the Advertisement does not fall under any 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 Advertisement was featured on free-to-air television from 14 June 2015 until 30 June 2015. The media placement did not air on any C or P rated programs.

We note that the complainant viewed the Advertisement during the coverage of Australian Football League (AFL). We submit that the Advertisement 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 Advertisement was specifically created for a target audience of adults aged 18 onwards who are aware of and are purchasers of a McDonald's Extra Value Meal.

Development of the Advertisement

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.

A number of versions of the script were drafted, considered and amended before the Advertisement was internally approved by McDonald's. Further, McDonald's regularly provides training to its agencies and marketing team on its obligations under the Codes and the importance of meeting those obligations.

Throughout the drafting stages of the Advertisement, McDonald's specifically avoided using language, themes and visuals that may appeal to children (discussed below).

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 Minions 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 Minions 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 the Minions Quarter Pounder Extra Extra Value Meal was not promoted in conjunction with the Minions Happy Meal (where a Minions toy was provided with a Happy Meal).

1) Theme

One of the main themes of this Advertisement is value, with the opportunity for adults to purchase an Extra Value Meal which also includes a dessert. A McDonald's Extra Value Meal usually includes a burger, beverage and choice of salad or fries. Value is something that matters very little to children, as it is widely understood that children, especially younger children, generally do not have clear concept of the value of money. Value is, however; a key driver for adults and an important factor in purchasing decisions for many, if not most, adults.

In addition to the value message, we submit that the Advertisement incorporates other adult

themes such as tongue in cheek humour (with the adult coincidentally looking similar to the Minion) and a focus on romancing the products including the McFlurry ingredients in the opening frames. The humour continues throughout the Advertisement and concludes with the end frames, where a short burst of Minions language / laughter is incorporated to the usual McDonald's sting.

2) Visuals

The Advertisement is set in a typical McDonald's restaurant. The setting has not been dressed up to be overly attractive to kids. McDonald's was conscious to not include any elements of a McDonald's restaurant which could be considered to appeal to children; therefore the McDonald's playground and children are not featured. Only one adult is presented as the main character in the Advertisement, and all other talent portrayed in the Advertisement are also adults. There are no Minions toys on display or any mention of the Minions Happy Meal.

The Advertisement is set in a real life setting, focusing on an adult tradesman enjoying his meal. The Advertisement does not include any animation or special effects that may appeal to a child's imagination and sense of play and wonderment. The Advertisement is shown from an adult perspective and heroes the food throughout the execution.

The Advertisement uses tongue in cheek humour, as the tradesman subtly and coincidentally looks similar to a Minion. This subtly would not be understood by a child.

3) Language

We submit that the language of the Advertisement is directed to an adult audience as it uses adult concepts and vernacular and, in our view, is unlikely to capture a child's attention. The voiceover uses phrases such as "Indulge the Minion in you" and "with our delicious Banana Choc McFlurry" and "Extra Extra Value Meal", which is language directed only to adults. "Indulge the Minion in you" is a clear call to action to adults, and would not be understood by a child.

Finally, the voiceover is spoken by a male who sounds like he is probably in his late twenties or early thirties. The voiceover is not childish, fun or whimsical, but focuses in on the content and flavours of the Minions Quarter Pounder Extra Extra Value Meal.

Product

The Minions Quarter Pounder Meal Extra Extra Value meal is a large meal and is enjoyed more generally by adults. Quarter Pounder meals have never been communicated as a meal for kids.

As discussed previously, McDonald's has a separate Minions Happy Meal TVC. The Advertisement does not feature, nor allude to, the Minions Happy Meal.

AANA Children's Code & AANA Food Code

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

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

Conclusion

We submit that the Advertisement 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'), 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 primarily to children and is not representing healthier choices or encouraging good dietary habits and physical activity.

The Board reviewed the advertisement and noted the advertiser's response.

The Board noted that McDonald's is a signatory to the Quick Service Restaurant Initiative for Responsible Advertising and Marketing for Children (QSRI).

The Board noted that the QSR Initiative 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 also 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.

The Board first considered whether the communication itself was directed primarily to children.

The Board noted that the advertisement is a television advertisement that features a young man dressed in a hi-vis shirt sitting in the restaurant with his meal on the table in front of him. There are images of the Minions behind the man. The voiceover describes the limited offer and how to "indulge the Minion" with the new banana choc McFlurry as part of the "extra, extra quarter pounder value meal at McDonald's. The man is seen eating some of the McFlurry.

With regards 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 noted that the theme of the advertisement (the promotion of a limited offer extra, extra value meal) is a theme commonly associated with McDonald's advertising. The Board noted that the advertising of a meal that is promoting extra value is a concept that is of appeal to an adult audience. The Board noted that the meal promoted in the advertisement is a quarter pounder meal and considered that the quarter pounder burger is not a menu item that is typically chosen by children.

The Board considered the visuals of the advertisement. The Board noted that the focus of the advertisement is on the man and that the other customers shown briefly in the advertisement are adults. The Board noted the posters that are situated behind the man eating his meal and that the images are of Minions. The Board noted the clear connection between the use of the Minions as part of the current release of the movie at cinemas and the colours and images of the meal deal including a Mc Flurry that also includes Minions branding. The Board considered that the association between McDonalds and the Minions movie is well recognised, but in this case was not directly targeted to children but also to adults who would equally enjoy both the movie and the McFlurry advertised as part of the limited time offer. The Board then considered the language used in the advertisement. The Board noted that the voiceover used is a mature male voice and considered the style and tone of his voice is one that is used consistently throughout many television advertisements for McDonald's. The Board noted that the voiceover refers to the "Minion" in you and a "Minion" quarter pounder meal was aimed at an older audience. The Board considered that the language used was not child-like or of appeal to children and that a reference to Minions is not in itself a call to children to visit a McDonald's restaurant.

The Board considered that overall, the theme, visuals and language of the advertisement were not directed primarily to Children under 14.

With regards to points 2 and 3, the Board noted the advertiser's response regarding programming and considered that this particular television advertisement is not being aired in a medium that is directed primarily to Children or would attract an audience of greater than 35% of Children.

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 programming that would attract 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 and that the Children's Code does not apply.

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

In particular the Board 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..."

The Board considered that, consistent with previous decisions (Hungry Jacks 282/11, Mars 208/11, Fyna Foods 0101/14), the promotion of a product which may have a particular nutritional composition is not, per se, contravening prevailing community standards and did not breach the Food Code.

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

