



Ad Standards Community Panel
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Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0340/18
2	Advertiser	McDonald's Aust Ltd
3	Product	Food / Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	08/08/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.2 - healthy lifestyle / excess consumption
Advertising to Children Code 2.14 Food and beverages
QSR - 1.1 - Advertising and Marketing Message Advertising and Marketing Message must comply

DESCRIPTION OF THE ADVERTISEMENT

The television advertisement opens on a teenager sitting on a bean bag chair on her phone. Her mother calls out to her "have you walked the dog?" to which she responds, "doing it now". Her dog is then seen walking on a treadmill. The next scene shows the mother and daughter at a McDonald's restaurant, the daughter paying for her order.

THE COMPLAINT

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

Walking a dog should be an opportunity for the girl to do physical exercise, instead the ad. depicts her doing nothing then heading to a fast food outlet presumably to spend money that she had been paid to give the dog exercise. This is sending the wrong message, no exercise and rewarded with fast unhealthy food.



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 0340/18 (Complaint).

The Complaint refers to a television commercial as part of the 2018 McDonald's Loose Change Menu campaign (Advertisement). The Complaint is made under section 2.2 of the AANA Food and Beverages Advertising and Marketing Communications Code (Food Code), section 2.14 of the AANA Code for Marketing and Advertising Communications to Children (Children's Code) and section 1.1 of the Quick Service Restaurant Initiative (QSRI) (all together, the Codes). The Complaint alleges that the Advertisement is encouraging an unhealthy lifestyle to children.

The key issue in this Complaint is whether the Advertisement is targeted at children. Our submissions below outline why the Advertisement is clearly of broad appeal and not targeted primary at children. The Advertisement does not breach the Children's Code or the QSRI for the reasons stated below:

The content of the Advertisement is not directed to children

The Advertisement is not directed to children as the content of the Advertisement is not of primary appeal to children. The key theme of this Advertisement is value, a concept which is not appreciated by children. The accompanying music is, "I Need a Dollar" by Aloe Black. This song is about a person on their way to homelessness and alcoholism because they "need a dollar" i.e. they are going broke. This song would not be fully appreciated and of primary appeal to children under 14 years. The visuals of the Advertisement are of broad appeal. The actor in the Advertisement is in a room which is assumed to be the fitness room of the house due to the gym equipment it houses. The actor is dressed in active wear too despite the Complaint alleging that the actor has done no physical activity at all.

We suspect that what prompted this Complaint was the complainant's assumption that the actor in the advertisement is a child. The actor is 16 years old and so does not fall into the category of a child under the QSRI and Children's Code. The suite of advertisements a part of this campaign uses the humour of the creative entrepreneurship skills of adolescents to promote consumers to get smart about the way they earn their money and accordingly spend it. This is supported by the language of the Advertisement, "a little stroke of genius goes a long way". Furthermore, it is shown in the expression of the mother's face in the end scene that she is impressed by her daughter's method of earning her pocket money and supportive of the way her daughter is choosing to spend it.



The placement of the Advertisement is not directed to children

Under the QSRI, an advertisement can be 'directed primarily to children' if it is placed in a medium that is directed at children. The QSRI requires that children are 35% or more of the audience of the medium for an advertisement to be placed in a medium directed at children. In this case, Advertisement was not placed in such a medium.

Accordingly, since the content and placement of the Advertisement are not directed to children and do not constitute advertising to children under the QSRI, the Children's Code does not apply.

The Advertisement does not disparage a healthy lifestyle

The household is clearly an active one, with gym wear and exercise equipment. The humour in the Advertisement is not disparaging of exercise, but requires the viewer to acknowledge that the character is 'cutting corners' and not doing their chores the right way. Far from disparaging healthy lifestyles, the Advertisement's humour relies on the understanding that the characters are doing things the wrong way and implies that there is a right (active) way to do things, and a wrong (lazy) way to do things. If the Advertisement showed someone doing their chores the right way and being paid their pocket money, there wouldn't be any humour. If the Advertisement were disparaging of people who lived active lifestyles it would be more comparative, and show someone doing things the right way but not receiving the reward. It's obvious that someone who completes their chores properly would also receive pocket money, but it should not be necessary to actually depict this occurring for the Advertisement to comply with the Codes; that would be a needlessly onerous requirement.

The Advertisement makes no comment, one way or the other, about healthy or active lifestyles or the promotion of healthy balanced diets. The Advertisement also makes no comment 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.

McDonald's uses its advertising to promote healthy food options to children, and only depicts 'treat foods' in commercials targeted at adults or with broad appeal. In fact, our partnership with the Alliance for a Healthier Generation (Clinton Global Initiative) commits us to promoting the benefits of an active lifestyle and nutritious food in all our communications to children – in advertisements and on our Happy Meal boxes. The Quick Service Restaurant Initiative also encourages kids to live healthy and active lifestyles, to which McDonald's is a signatory to. McDonald's devotes significant resources to encouraging healthy lifestyle and eating to children as we are aware of the community's concern in this space.

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, 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 Ad Standards board 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.

For the reasons set out above, the QSRI and Children's Code do not apply to the Advertisement, and the Advertisement otherwise complies with the AANA codes. Accordingly, 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 Ad Standards Community Panel (the "Panel") considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (the "Children's Code"), the AANA Food and Beverages Advertising and Marketing Communications Code (the "Food Code") and the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (the "QSRI").

The Panel noted the complainant's concern that the advertisement is targeted towards children and promotes an unhealthy lifestyle.

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

The Panel noted that McDonald's is a signatory to the QSRI and determined that the provisions of the QSRI apply to this marketing communication.

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

The Panel considered the definition of advertising or marketing communications to children within the QSRI. 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 Panel noted that the QSRI 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 Panel noted that with regards to point 1 the Panel must consider whether the communication activity is directed primarily to Children – regardless of its placement.

The Panel noted that the dictionary definition of “primarily” is “in the first place” and that to be within the QSRI the Panel 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 Panel noted that the girl in the advertisement may gain the attention of children, however considered that she is clearly a teenager and her age is relevant to the theme of a child completing tasks for an allowance. The Panel considered that the depiction of a teenage girl does not of itself mean that the advertisement is directed primarily to children.

The Panel noted the advertiser’s response that the key theme of the advertisement is value, which would not be appreciated by children. The Panel noted that the advertisement uses the phrase “A little stroke of genius goes a long way”. The Panel considered that this language may attract the attention of both adults and children.

The Panel considered that the song used in the advertisement is “I Need A Dollar” by Aloe Blacc. The Panel noted that the music is upbeat, and considered that the music would be equally attractive to adults and children.

The Panel noted that there is no animation in the advertisement, and considered that the product being advertised was a McOz lunch meal, not the kid’s meal, and that this was a product that is attractive to both adults and children.

The Panel considered that the theme, visuals and language of the advertisement were promoting a McOz lunch deal for \$5, and that collectively, the overall impact of the advertisement is one of general appeal and is not directed primarily to children under 14.



The Panel considered the definition of Medium in advertising or marketing communications to children within the QSRI which includes “television, radio, newspaper, magazines, outdoor billboards and posters, emails, interactive games, cinema and internet sites.”

The Panel noted that the advertisement appeared on television, and noted the advertisement had been given a ‘W’ rating by CAD. The Panel noted that advertisements with a W rating may be broadcast at any time except during P and C programs or adjacent to P or C periods. Exercise care when placing in programs principally directed to children.

The Panel was provided with a copy of the spot list for this advertisement. The Panel considered that advertising was placed during programming that did not have audience of more than 35% children and was not placed in programs directed primarily to children. On this basis the Panel 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 percent or more of the audience of the Medium.

Based on the requirements outlined in the QSRI the Panel 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 QSRI does not apply in this instance.

The Panel 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”.

The Panel noted that for the Food Code and Children’s Code, the definition of children is those aged 14 years and younger, which is different to the QSRI Code which defines children as under 14 years of age.

For the reasons outlined above, the Panel considered that the advertisement is not directed primarily to Children. The Panel determined that as this television advertisement is not directed primarily to Children, the Children’s Code and Part 3 of the Food Code do not apply.



The Panel then considered whether the advertisement complied with the requirements of Part 2 of the AANA Food and Beverages Advertising and Marketing Communications Code (the “Food Code”)

The Panel considered 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 Panel considered that, consistent with previous decisions (Ferrero 0345/17, Hungry Jacks 282/11, and Mondelez 0550/17), promotion of a product which may have a particular nutritional composition is not, per se, undermining the importance of a healthy balanced lifestyle.

The Panel noted the AANA Food and Beverages Advertising and Marketing Communications Code – Practice Note which provides that: ‘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 Panel will consider whether members of the community in the target audience would most likely take a message condoning excess consumption.’

The Panel noted that the meal depicted in the advertisement is a small size. The Panel noted that the advertisement features a teenage girl sitting on a lounge while a dog is walking on a treadmill. A voice in the background asks her to walk to dog and she replies that she is. The implication is that the girl is avoiding a chore. The Panel considered however that the home is shown to be active as there is other fitness equipment around the treadmill, and that there is no indication that she lives an unhealthy or inactive lifestyle. The Panel considered that a depiction of the teenage girl not doing the job on this occasion is not undermining the importance of a healthy or active lifestyle.

The Panel considered that there is no suggestion of frequency of consumption in the advertisement and there is no one person seen consuming the entire product. The Panel considered that the advertisement did not encourage excess consumption.

The Panel determined that the advertisement did not breach Section 2.2 of the Food Code.

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

