



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0346/14</b>
<b>2</b>	<b>Advertiser</b>	<b>McDonald's Aust Ltd</b>
<b>3</b>	<b>Product</b>	<b>Food / Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Promo Material</b>
<b>5</b>	<b>Date of Determination</b>	<b>24/09/2014</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Upheld - Modified or Discontinued</b>

## ISSUES RAISED

QSR - 1.5 - Product/vouchers at childrens sporting events products/vouchers meet nutritional criteria

## DESCRIPTION OF THE ADVERTISEMENT

Team Spirit Award containing a food voucher granted to young participants in the University of Sunshine Coast Basketball Club Competition. The food voucher is redeemable for a 'Small Cheeseburger Meal' or 'Seared Snack Wrap, Apple Bag & Small Orange juice' at eight (8) McDonald's restaurants in the Sunshine Coast, Queensland.

## THE COMPLAINT

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

*McDonalds is a signatory to the Quick Service Restaurant Initiative for Responsible Advertising to Children (QSRI). The QSRI provides that signatories must not give away food and/or beverage products or vouchers to children as awards or prizes at children's sporting events unless those products meet the Nutrition Criteria set out in the QSRI (s.1.5).*

*These vouchers breach the advertiser's commitments under the QSRI because:*

- 1. The vouchers are clearly advertising communications.*
- 2. The vouchers are directed to young children registered in under 10 and under 8's basketball.*
- 3. Organised basketball competitions are clearly sporting events within the meaning of the QSRI.*
- 4. The vouchers promote small cheeseburger meals, which are not healthier dietary choices when measured against the Nutrition Criteria.*

*The product promoted does not represent a healthier dietary choice, as determined by the Nutrition Criteria:*

*Pursuant to the nutrition criteria in Schedule 2 of the QSRI, meals promoted in advertising communications should reflect general principles of healthy eating (S2.1a). The Nutrition Criteria outline requirements relating to meal composition, energy composition and nutrients that should not be consumed to excess.*

*S2.2 of the QSRI sets out the maximum energy content that may be contained in a meal considered a healthier dietary choice. The maximum energy limits for each target age group are as follows:*

- i. 4-8 years - 2080 kJ per meal*
- ii. 9-13 years - 2770 kJ per meal*

*S.2.3 concerns 'nutrients of public concern' and provides that a meal must not exceed maximum quantities as follows:*

- i. Saturated fat - 0.4g per 100kJ;*
- ii. Sugar - 1.8g per 100kJ; and*
- iii. Sodium - 650mg per serve.*

*The meal depicted comprises a cheeseburger, small coke and small fries. According to McDonald's information published online, a cheeseburger contains 1,180kJ, 6.1g of saturated fat (.5g per 100kJ) and 672 mg of sodium. This element alone means that the meal exceeds the threshold levels of saturated fat and salt. A small serve of French Fries contains 1,070kJ, 1.6g of saturated fat and 245mg of sodium. A small coke contains 25g of sugar, 23mg of sodium and 428kJ.*

*In combination, this meal contains 2,679kJ, 7.7g of saturated fat, 940 mg of sodium, and more than 30g of sugar. These quantities of nutrients of concern far exceed the threshold levels in the nutrition criteria. The total energy contained in the meal also exceeds the maximum recommendations for children aged 4-8 despite these vouchers being handed out to children aged younger than 8 years.*

*The advertising communications (vouchers) breach the QSRI. We ask that these vouchers and all similar vouchers for McDonalds products be withdrawn from children's sporting clubs across Australia.*

*Concern about repeated breaches of the QSRI*

*We note that in relation to complaint 0230/14, considered by the Board last month, the advertiser confronted an instance of vouchers for small fries being handed out at a children's playground. The advertiser noted it believed this was an isolated incident concerning the Nominated Restaurants only. Clearly this is not the case. We ask that the Board inquire of the advertiser, in responding to this complaint, as to what action it proposes to take to ensure it is informed of all McDonalds advertising activities in children's sporting clubs and events across Australia. The repeated breaches of the QSRI by this advertiser suggest it does not take its commitments seriously and has very little concern for the dietary health of Australian children.*

## **THE ADVERTISER'S RESPONSE**

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

*McDonald's was disappointed to learn of complaint number 0346 of 2014 (Complaint) in respect of a Team Spirit Award containing a food voucher granted to young participants in the University of Sunshine Coast Basketball Club Competition (Award). We understand that food voucher is redeemable for a 'Small Cheeseburger Meal' or 'Seared Snack Wrap, Apple*

*Bag & Small Orange juice' at eight (8) McDonald's restaurants in the Sunshine Coast, Queensland (the Participating Restaurants).*

*McDonald's operates a franchise system of restaurants and as part of McDonald's commitment to local communities, franchisees are encouraged to sponsor various activities in their areas, including sporting competitions or events. It is also often the case that sporting organisations request McDonald's to provide awards or rewards as part of their sponsorship. Whilst McDonald's has strict approval processes for all sponsorship arrangements, it appears that they were not followed in this instance as the Award was not passed through our usual review and approval channel. As soon as McDonald's became aware of the Award, it instructed the Participating Restaurants to withdraw the Award and any similar awards. McDonald's confirms that the Award is no longer available.*

*In light of this Complaint, complaint number 0230/14 and our ongoing continued commitment to the Quick Service Restaurant Initiative for Responsible Advertising to Children (QSRI), McDonald's has updated its guidelines in consultation with the ASB in relation to its compliance requirements when providing food or beverage vouchers to children under 14 years of age. All members of the McDonald's system will be reminded of their responsibilities under the QSRI to ensure that only food and beverages that represent healthier choices are promoted to children. We have also reaffirmed our standard advertising review protocol which requires advertising to be approved through appropriate channels. Training has and will continue to be undertaken with relevant McDonald's team members to improve understanding in these areas.*

*In any event, McDonald's believes that this complaint and complaint number 0230/14 are each isolated, unrelated incidents concerning only a very minor number of restaurants within a business of over 920 restaurants Australia wide. We continue to strive for excellence in achieving compliance with our responsibilities under the QSRI.*

## **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'), AANA Code for Advertising and Marketing Communications to Children (the 'Children's Code') and the AANA Code of Ethics for Advertising (the Code).

The Board noted the complainant's concern that the advertisement is advertising fast food to children.

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

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 first considered whether the material complained about is an advertising or marketing communication as defined in the QSRI. Specifically this is defined as:

'any material which is published or broadcast using any Medium which is undertaken by, or on behalf of a Signatory, and

- Over which the Signatory has a reasonable degree of control, and
- That draws the attention of the public in a manner calculated to promote or oppose

directly or indirectly a product, service, person, organisation or line of conduct

But does not include labels or packaging for products, public relations communications or in-store point of sale material.’

The Board considered two elements of the definition: was the material published using any ‘medium’ and is the material in-store point of sale material?

The Board noted that the definition of Medium in the QSRI is ‘television, radio, newspaper, magazines, outdoor billboards and posters, emails, interactive games, cinema and internet sites.’ The Board considered that the material in question was not easily identifiable as any of these medium. However the Board noted that the substantive provisions of the QSRI refer to ‘products or vouchers’ as a matter within the control of the QSRI and also considered the objectives of the QSRI including the objective of ‘reducing advertising and marketing communications to children for food and beverage products that do not represent healthier choices.’ The Board considered that a broad interpretation of the definition of ‘medium’ to include a form mentioned elsewhere in the QSRI (ie a voucher) would be consistent with the stated objectives of the QSRI.

The Board therefore considered that the advertising material (a McDonald’s meal voucher handed to a child for participating in a sporting event) is therefore material published using any medium.

The Board considered then whether the material is advertising or marketing communications to children. 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 advertisement was directed primarily to children. The Board noted the advertisement is featured on a sports certificate handed out to children who have taken part in a Basketball competition for under 10s and under 8s. The Board also considered that the advertisement is for food, namely McDonald’s fries, burger and soft drink. The Board determined that the advertisement is directed primarily to children under 14. Finding that the advertisement did fall under the provisions of the QSRI on the basis that it is a marketing communication directed primarily for a food product, the Board considered the complaint under Schedule 1.5 of the Code which provides:

“Signatories must not give away food and/or beverage products or vouchers to Children as awards or prizes at Children’s sporting events unless those products meet the Nutrition Criteria.”

The Board noted that McDonald’s does offer a healthy choice menu for children there is mention of the healthy choice product as well as an alternative in the advertisement.

As part of its commitment under the Initiative, the signatory companies have agreed to only market healthy choice products directly to children.

The Board considered that the inclusion of references to, or images of both the healthy choice option as well as other products is a breach of the signatory company commitment.

The Board determined that the advertisement breached S1.5 of the QSRI. The Board noted the advertiser’s response which indicated that this had been an inadvertent breach and the promotion would cease immediately.

For the reasons mentioned above, the Board considered that the advertisement is directed primarily to children. The Board considered that the product – a voucher offered as a reward for team spirit is a product targeted to and of principal appeal to children. The Board determined therefore that the AANA Food Code and Children’s Code applied.

The Board considered whether the advertisement complied with all relevant provisions of the AANA Food and Beverages Code.

The Board noted in particular 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 Board noted that the advertised product is a voucher for a small cheeseburger meal or seared snack wrap apple bag and small orange juice. . The Board considered that, consistent with previous decisions (Hungry Jacks 282/11, Mars 208/11), promotion of a product which may have a particular nutritional composition is not, per se, undermining the importance of a healthy or active lifestyle.

The Board noted that the food item being promoted includes limitations and restrictions on the quantity allowed per customer, per day and considered that the likely interpretation of the advertisement is that the product advertised is intended as a treat or to supplement a meal.

The Board considered that the advertisement did not encourage excess consumption or otherwise undermine the importance of a healthy active lifestyle. The Board determined that the advertisement did not breach Section 2.2 or any other provision of the Food Code.

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 the advertisement must be “having regard to the theme, visuals and language used [...] be directed primarily to children and are for product.” The Board determined that the advertisement is directed primarily to children and for a product and as such the provisions of the Children's Code do apply.

For the reasons mentioned above, the Board considered that the hand out of a voucher that contains limitations and restrictions for use was not of itself encouraging or promoting an inactive lifestyle or unhealthy eating or drinking habits and did not contravene prevailing community standards relating to the consumption of food.

The Board determined that the advertisement did not breach the provisions of the Food Code or the Children’s Code.

Finding that the advertisement breached s1.5 of the QSRI the Board upheld the complaint.

## **THE ADVERTISER'S RESPONSE TO DETERMINATION**

As soon as McDonald’s became aware of the Award, it instructed the Participating Restaurants to withdraw the Award and any similar awards. McDonald’s confirms that the Award is no longer available.