



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0376/14</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>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>24/09/2014</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

Food and Beverage Code 2.1 (a) - Misleading / deceptive

## DESCRIPTION OF THE ADVERTISEMENT

The advertisement is a television commercial for McDonald's new McMate burger. In the TVC we see a role reversal of McDonald's crew members and customers, as customers takeover the kitchen to prepare the burger for the crew to taste.

## THE COMPLAINT

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

*McDonalds keeps showing us that they cook there meat on a hot plate in store when in fact there meat is pre-cooked and goes into a warmer when you order. They also show that they cut there lettuce and tomatoes in store fresh when they are also pre packed. The people out there need to know this because cooking something fresh has no preservatives, while pre-cooked frozen have absolutely nothing made in there is fresh yet they advertise that way that is misleading and it happens on all there commercials. How have they been able to get away with it for so long?*

## THE ADVERTISER'S RESPONSE

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

*We thank the Advertising Standards Bureau (ASB) for the opportunity to provide a response to complaint number 0376 of 2014 (Complaint).*

*By way of background, the television commercial the subject of the Complaint is an advertisement for McDonald's new McMate burger (TVC). The McMate burger was created from favourite ingredients voted by members of the public as part of a McDonald's promotion. The promotion also called for names for the burger and the name 'McMate' was selected as the winning entry. The TVC brings to life the concept a burger created for McDonald's by the public with a role reversal of McDonald's crew members and customers. In the TVC we see customers takeover the kitchen to prepare the burger for the crew to taste. In the final scenes we see the members of the public looking relieved and pleased with themselves as the crew members enjoy a McMate and a laugh together. The tone of the TVC is warm, friendly and playful.*

*Turning to the Complaint, we disagree that the TVC is misleading in relation to the ingredients shown or the preparation of the ingredients in restaurant. Accordingly, we do not believe that the TVC is in breach of clause 2.1(a) of the AANA Food & Beverages Advertising & Marketing Communications Code (Code).*

*As depicted in the TVC, beef patties and bacon are cooked on our two-sided grill in McDonald's restaurants. Meat is not "pre-cooked" outside of restaurants as the complainant appears to suggest. The meat may be held in our hot holding units for a limited time prior to placing on a burger (which may be what the complainant refers to as "warmer"), however the TVC does not depict any meat being placed directly on a burger from the grill or create any inference of same. We also note that the beef patties are frozen raw for delivery to restaurants for food safety and quality reasons. They do not contain any preservatives as seemingly alleged by the complainant.*

*We also disagree that the TVC depicts lettuce being "cut...in store fresh" as intimated by the complainant. In the TVC the lettuce is only shown shredded in a bowl which is an accurate portrayal of the product. Lettuce is delivered fresh (already shredded) by our suppliers into restaurants. Similarly, fresh tomatoes are accurately depicted in the TVC. Tomatoes are also delivered fresh to restaurants and are featured being sliced in the TVC using the same procedure that takes place in restaurant.*

*McDonald's was disappointed to learn of the Complaint. We note that the TVC received CAD approval and there was no intent to be misleading or deceptive in the TVC. The advertisement has been well-received by the public and we are not aware of any other complaints to date.*

*In light of the above, we respectfully request that the Complaint be dismissed.*

## **THE DETERMINATION**

The Advertising Standards Board ("the Board?") considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the "Food Code?").

The Board noted the complainant's concerns that the advertisement is misleading in its depiction of the products being made in store when they are pre-packaged.

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

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, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.'

The Board noted the advertiser's response that the advertisement is for a burger created for McDonald's by the public and shows the roles of the staff and the public reversed, with the public in the kitchen making the new burger. The Board noted that the advertiser detailed the actual methods used which matched up with what was depicted in the advertisement.

The Board noted that the visuals include bacon and meat patties being cooked as well as tomatoes being sliced, lettuce being taken from a bowl and the application of two sauces onto the burger. The Board noted that the voiceover in the advertisement describes the products that are being added to the new burger but does not mention cooking methods and does not mention the term 'fresh'.

The Board noted that overall the most likely interpretation of the advertisement is that the burgers are cooked in store but that the level of cooking required and the techniques adopted by McDonald's are not clear in the advertisement and cannot be commented on by the Board.

Based on the above the Board considered that the advertisement was not misleading or deceptive in that the promotion did not claim that the ingredients were fresh or produced in store and the Board determined that the advertisement did not breach Section 2.1 of the Food Code.

Finding that the advertisement did not breach the Food Code on any other grounds the Board dismissed the complaints.