



Case Report

1	Case Number	0430/10
2	Advertiser	McDonald's Aust Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	27/10/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

Personality/Characters QSR - 4.2 - Personalities/Characters
Food and Beverage Code (Children) consumption of excess
Advertising Message QSR - 4.1 - Advertising and Marketing Message
2.8 - Food and Beverage Code undermines healthy lifestyle

DESCRIPTION OF THE ADVERTISEMENT

The commercial shows city office workers heading to work in the morning. Passing by Customs House, they see a gigantic playground... seeing no signs or ropes, one adventurous man decides to take off his shoes and go play. One by one, he is joined by dozens of suited-up professionals and workers who slide, swing and play - rediscovering the fun of McDonald's.

THE COMPLAINT

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

Re: McDonalds advertisement – breaches of the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children and the AANA Code for Advertising and Marketing Communications to Children

We write to complain about the advertisement for McDonalds which is currently aired on television including Channel 9 Sydney on Friday 17th September at 7:50am.

Description of advertisement

The advertisement shows adults playing on McDonald's play equipment including a Hamburglar swing Ronald McDonald bench slides and Fillet-O-Fish bouncers. It is backed by children singing "I'm into something good".

Complaint

The advertisement is directed to children as:

- (a) it features child specific features of McDonalds restaurants ie the children's playground and McDonald's characters*
- (b) it is backed by a song sung by children*
- (c) The overall concept of adults acting like children and playing in a children's playground would be very appealing to children*
- (d) The whole advertisement features equipment and characters from a McDonald's playground which would compel children to stop and watch it and relate directly to the playground fun and McDonald's.*

These features appeal directly to children and would create in children a lasting memory of the advertisement.

We believe the advertisement breaches Clause 4.1 (a) of the Australian Quick Service Restaurant Industry Initiative For Responsible Advertising And Marketing To Children as this advertisement does not "represent healthier choices as determined by the defined nutrient criteria". While not specifically showing food the advertisement is for McDonald's restaurants and is therefore indirectly an advertisement for food and beverage products. Children would primarily associate McDonald's with classic McDonald's products such as Big Macs and Cheese Burgers and these products do not represent healthy dietary choices. It also breaches Clause 4.2 as it features popular characters including Ronald McDonald which directly appeal to children.

4.1 Advertising and Marketing Messaging

Advertising or Marketing Communications to Children for food and/or beverages must:

- (a) Represent healthier choices as determined by a defined set of Nutrition Criteria for assessing children's meals*

4.2 Popular Personalities and Licensed Characters

Popular Personalities or Licensed Characters must not be used in Advertising or Marketing Communications to Children for food and/or beverage products unless such Advertising or Marketing Communications complies with the messaging options set out in Article 4.1 and the specific requirements of Section 22 (Promotions and Endorsements by Program Characters) of the Children's Television Standards 2005.

This advertisement is also in breach of clause 2.15 (a) of the AANA Code for Advertising & Marketing Communications to Children as it encourages the consumption of unhealthy fast food. Being appealing to children this advertisement advertises McDonald's meals to children. If a child enters a McDonald's restaurant to choose a meal combination approximately 20% of the options for children fit the healthier choices criteria if we use the QSRI Initiative nutrition criteria to assess them. Therefore this advertisement encourages the consumption of unhealthy fast food.

2.15 Food and Beverages

- (a) Advertising or Marketing Communications to Children for food or beverages must neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits. We request the Advertising Standards Bureau consider whether the McDonalds advertisement breaches clause 4.1 and 4.2 of the Australian Quick Service Restaurant Industry Initiative For Responsible Advertising And Marketing To Children and clause 2.15(a) of the AANA Code for Advertising & Marketing Communications to Children.*

THE ADVERTISER'S RESPONSE

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

We have reviewed the letter of complaint lodged in conjunction with the Australian Quick Service Industry Initiative for Responsible Advertising and Marketing to Children ("QSR Code") and the AANA Code for Marketing and Advertising Communications to Children ("Children's Code"), and are of the view that this television commercial does not breach any of the codes because those codes do not apply to the commercial in question.

We note that the CAD number for this television commercial is CST1RERA, and that CAD gave this commercial a rating of "C".

We would like to take this opportunity to give the Bureau some background to this television commercial, and also to explain why we are of the view that the codes do not apply to this commercial.

McDonald's global office challenged several McDonald's marketing teams around the world to come up with a television commercial to reactivate the "i'm lovin' it" concept for our annual global conference held in America earlier this year. The Australian marketing team came up with the concept of creating a giant Playland for adults, with the idea of reminding adults of what it was like to be a child and to evoke those memories of fun and carefree times. The agency brief focussed on the idea that McDonald's restaurants are casual and carefree, and give adults the freedom to be a kid again. The television commercial was supported by live "activations", encouraging adults to find "play in the everyday" by positioning adult-sized see-saws and slippery dips around the Sydney CBD for city workers to play on. At no point in the development, creation and activation of the commercial were we ever aiming this commercial at children and nor do we agree with the complainant that the commercial is primarily directed at children. It may be the case that children will enjoy this commercial, as it certainly has a wide family appeal and the themes of fun and enjoyment do appeal to all ages. However, the essential question that the Advertising Standards Board needs to consider is whether the commercial is "primarily directed" to children, which it clearly is not. It is an advertisement featuring adults, aimed to appeal to adults and remind them of their childhood days.

We do not think it necessary to make lengthy submissions to the Bureau in respect of the alleged breaches of the QSR Code or the Children's Code as both codes cited do not apply to this television commercial.

The QSR Code was specifically developed and implemented to restrict the advertisement of food and beverages to children. It applies only to advertising and marketing communications that are "directed primarily to children", and to attempt to apply it to any and every television commercial with fun themes, featuring colour, sound and movement is a misinterpretation of the Code that deviates from its core purpose which would lead to absurd outcomes. Certainly it restricts us from advertising to children any food and beverage that does not meet the nutritional criteria, a commitment that McDonald's takes seriously; however it does not create a blanket ban on any brand advertising simply because a child might enjoy a commercial.

Secondly, it follows that the AANA Code for Marketing and Advertising Communications to Children also does not apply to this commercial as it contains the same definition as the QSR Code however with the addition that the marketing must be for a 'Product', defined as a product "targeted toward and with principal appeal to children". As stated above, the target

audience for this television commercial is specifically adults, and it is clear from the nature and theme of the commercial that it intends to capture the imagination of adults by evoking feelings of fun and nostalgia. Further, no actual food or beverage product of McDonald's is shown in the commercial at all. If anything, the commercial "advertises" a fun, active lifestyle and the joy that it brings.

The television commercial in question is a commercial that does not feature food or beverage, and is directed primarily to adults. For these reasons, even if the QSR Code and Children's Code did apply (which they do not), this commercial clearly is not in breach of either.

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), Section 2 of the AANA Advertiser Code of Ethics (the "Code") and the AANA Code for Advertising and Marketing Communications to Children.

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

The Board noted the complainant's concern that the advertisement is directed to children and does not represent a healthier choice as determined by the defined nutrition criteria, and that it encourages excess consumption.

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 noted that the QSR Initiative applies to 'advertising or marketing communications to children' which means '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 noted that the advertisement features office workers playing on oversized play equipment which is located in the street of a normal business district. The Board noted that the song played in the background, although sung by children, is not a song which would be readily recognized by children. The Board noted that there are no children featured in the advertisement.

The Board considered that the overall theme (the size and location of the play equipment), visuals (adults playing with other adults) and language (background song) used are not directed primarily to children. The Board considered that most members of the community would interpret this advertisement as adults recreating their childhoods. The Board considered that this advertisement is not directed primarily to children as defined in the QSR Initiative and that there is no breach of the QSR Initiative.

The Board then considered the advertisement under the AANA Code for Advertising and Marketing Communications to Children. The definition of what is advertising and marketing communications to children' in the AANA Children's Code is largely the same as that in the QSR Initiative. For the same reasons noted above, the Board considered that this advertisement is not primarily directed to children, therefore the provisions of the Children's Code are not applicable in this case.

The Board then considered the advertisement under the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code). The Board considered that an advertisement for McDonald's is not, of itself, an advertisement that would 'otherwise contravene prevailing community standards' and that the advertisement did not breach section 2.1 of the Food Code. The Board determined that the advertisement did not breach any other provisions of the Food Code.

Finally, the Board considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the "Code"). The Board considered that there were no issues under any of the sections of the Code that raised issues of concerns in relation to this advertisement.

Finding that the advertisement did not breach any of the Codes on any grounds, the Board dismissed this complaint.