



Case Report

1	Case Number	0449/11
2	Advertiser	McDonald's Aust Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	Pay TV
5	Date of Determination	23/11/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code untruthful/dishonest

DESCRIPTION OF THE ADVERTISEMENT

We open on a McDonald's crewmember putting together a Birthday McMuffin. The voiceover says, "Introducing the new Birthday McMuffin. With a sausage pattie, freshly cracked egg, golden potato rosti, a rasher of bacon and barbeque sauce..."

THE COMPLAINT

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

The ad stated that the Birthday McMuffin had a freshly cracked egg. My experience with McDonalds is that the eggs are reconstituted. The picture in the ad also displayed an egg with no clear separation between the yolk and the albumen. A fresh egg would have a clear separation and the reconstituted egg would not.

There is a disconnect between what is being stated, displayed and provided. The ad is not stating true and correct information by falsely stating that it is a "freshly cracked egg" when clearly it is not.

THE ADVERTISER'S RESPONSE

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

Thank you for the opportunity to respond to this complaint.

The complainant's information in relation to our ingredients is incorrect.

McDonald's only uses Grade A fresh eggs sourced from various Australian suppliers. Fresh eggs are delivered to our restaurants every week. To prepare a McMuffin, our fresh eggs are taken straight from the egg carton and cracked directly into egg rings on the hotplate in the restaurant kitchen. Once cooked, the eggs are transferred to a hot holding tray on the "made for you" product assembly line, where they are added to a McMuffin or breakfast wrap and served to a customer.

McDonald's does not use "reconstituted" egg or any other egg substitute in our McMuffin products.

Accordingly, the voice over line ""with a sausage pattie, freshly cracked egg..." is not misleading or untrue - our eggs are freshly cracked every time.

On this basis, we respectfully submit that the complaint should be dismissed.

THE DETERMINATION

The Advertising Standards Board ("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 concern that the advertisement is misleading because it states that McDonald's use freshly cracked eggs but the egg pictured appears to be reconstituted.

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

The Board determined that the advertisement is not directed to children or likely to appeal to children and that the AANA code for Advertising and Marketing to Children does not apply.

The Board noted that the product advertised is food and that 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 that 'prevailing community standards' means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it sees fit, in relation to the advertising or marketing of food or beverage products taking into account at a minimum the requirements of the Australia New Zealand Food Standards Code, the Australian Dietary Guidelines as defined by the National Health and Medical Research Council and the National Physical Activity Guidelines as published by the Federal Government of Australia.'

The Board noted the explanatory notes to the Food Code prepared by AANA which, in relation to Section 2.1, provide:

“The Board will not attempt to apply legal tests in its determination of whether advertisements are truthful and honest, designed to mislead or deceive, or otherwise contravene prevailing community standards in the areas of concern to this Code.

In testing the requirement that advertisements and/or marketing communications should be truthful and honest, the Board will consider whether the information most likely to be taken from the advertisement by an average consumer in the target market would be reasonably regarded as truthful and honest.

In testing the requirement that advertisements and/or marketing communications should not be designed to be misleading or deceptive, or otherwise contravene prevailing community standards, the Board will consider the advertiser’s stated intention, but may also consider, regardless of stated intent, that an advertisement is by design misleading or deceptive, or otherwise contravenes prevailing community standards in particular regard to stated health, nutrition and ingredient components of the food or beverage product.

Thus, advertising and/or marketing communications may make reference to one or more of the nutritional values and/or health benefits of a product but such references must be accurate and appropriate to the level of understanding of the target audience, and must not misleadingly represent the overall nutritional or health benefits of the product...’

The Board noted that the advertisement states that the new Birthday McMuffin contains a freshly cracked egg and we see a sausage pattie and egg being placed on a muffin.

The Board noted the advertiser’s response that McDonald’s only uses fresh eggs and that to make a McMuffin an egg is cracked directly in to an egg ring on the hotplate.

The Board noted the complainant’s concerns that the depiction of the egg in the advertisement shows “no clear separation between the yolk and the albumen” which suggests the egg is reconstituted. The Board considered that the appearance of the egg in the advertisement is in keeping with the cooking method of cracking a fresh egg in to an egg ring.

Based on the information provided by the advertiser assuring that only fresh eggs are used in the product, the Board considered that the statements in the advertisement are not misleading or deceptive.

The Board considered that the advertisement was not misleading or deceptive and did not breach Section 2.1 of the Code.

Finding that the advertisement did not breach the Code on any grounds, the Board dismissed the complaint.