



Case Report

1	Case Number	0463/12
2	Advertiser	McDonald's Australia Limited
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	12/12/2012
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

Food and Beverage Code 2.2 - healthy lifestyle / excess consumption
QSR - 4.1 - Advertising and Marketing Message Advertising and Marketing Message must comply

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement shows three people escaping from their outdoor exercise class so they can go to McDonald's and eat Blazing Omelette McMuffins. We see the ingredients of the McMuffin and then the three people eating whilst one of them places a napkin over her mobile which is being rung by the exercise instructor.

THE COMPLAINT

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

I am offended because the government with my taxes finances TV campaigns against obesity and builds gyms all over Australia and these people make fun of people that stay in shape. These guys are already overweight and they should keep working out, not eating burgers, it is a bad message to kids.

McDonalds has been quite vocal about their initiatives with regard to encourage healthy eating in response to objections to the toys in children's food packages etc. Here is an example of appealing to another vulnerable group, the 'should try harder' portion of the community who are exercise resistant and unfit. It is a calculated grasp at people who are wavering in their attempt to manage their weight, and a kick in the teeth to the health lobby

in general.

The combination of lying to a health support person, and eating junk food in fitness attire, struck me as quite an untenable position. Is the burger healthy and they failed to mention it had a low calorific value in the advertisement?

It is the conflicting messages that I am responding to.

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 0463 of 2012 (Complaint).

We do not consider that the television commercial (TVC) the subject of the Complaint promotes excessive consumption of food or unhealthy lifestyles. Accordingly, we do not believe that the TVC is in breach of clause 2.2 of the AANA Food & Beverages Advertising & Marketing Communications Code (Code).

The TVC is part of a series of television commercials which promote a range of McDonald's products available as part of the McDonald's Summer Tastes Menu.

The tone of the TVC is light and playful and obviously tongue in cheek. The part of the TVC in which the two characters leave the training session is done in a humorous manner and clearly does not make any suggestion that people should not exercise.

In the scene where the two characters are eating McDonald's product, each character is shown eating one product only which is not excessive.

There was no intention to undermine healthy lifestyles or promote excessive consumption of food and we believe that it would be taking the TVC out of context to conclude that there is a breach of the Code.

It is our view that a common sense approach should be adopted by the ASB in reviewing this Complaint and we request that the Complaint be dismissed.

After the initial discussions of the Board. The advertiser was asked to provide further information in relation to the nutritional criteria of the advertised product and whether or not it represents a healthier choice.

I can confirm that the food in the advertisement the subject of the complaint, Blazing Omelette McMuffin, does not represent a healthier choice as defined under the QSR Initiative.

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 complainants’ concerns that the advertisement is sending a message to children that they should eat an unhealthy product and not exercise and that the advertisement is targeting a vulnerable group of people to undermine exercise and healthy eating efforts.

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

The Board first considered the definition of food or beverage products within the Code which means any food or beverage products other than alcoholic beverages as defined in and subject to regulation by the Alcohol Beverages Advertising Code.

The Board considered 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.

The Board considered section 2.2 of the Food Code which provides: 'Advertising or marketing communications for food or beverage products shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered as 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 the complainant’s concerns regarding the depiction of people leaving a boot camp or training session that they are part of in order to head to McDonalds for a Blazing Omelette McMuffin.

The Board noted that the people leaving the boot camp are firstly seen participating in the exercise activity before they disappear from the back of the group. The Board considered that although the people choose to drop out of the particular session, it is not apparent that they do this regularly or often. The Board considered that the decision to go to McDonald’s for breakfast after leaving the training session early is not undermining the importance of a healthy lifestyle- but rather is simply intended to be a humorous depiction of someone’s behavior on a particular morning.

The Board determined that the advertisement was not condoning the avoidance of exercise, with the sneaking away clearly seen as undesirable or inappropriate. The Board also considered that the advertisement depicts the people eating one product each only and makes no suggestion that eating breakfast at McDonald’s is a frequent occurrence.

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, something which is contrary to prevailing community standards.

In the Board's view the advertisement does not undermine the importance of healthy or active lifestyles, does not encourage excess consumption and does not otherwise breach prevailing community standards and therefore does not breach section 2.2 of the Food Code.

The Board then considered whether section 3 of the Food Code applied to this advertisement. The Board noted that for section 3 of the Food Code to apply the advertisement must be 'having regard to the theme, visuals and language used, directed primarily to children (14 years or younger) and be for a Children's food or beverage product.

The Board considered that the advertisement itself is not directed primarily to children 14 years or younger and that the product advertised is a product targeted to adults. The Board determined that Part 3 of the Food Code and the entirety of the AANA Code for Advertising and Marketing to Children do not apply.

The Board noted that one complainant had referred to the advertisement presenting a bad example to children. The Board therefore considered whether the advertisement complied with the Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (the 'QSR Initiative').

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 was amended with effect from 1 November 2012 and that the requirements of the Initiative apply to 'advertising and marketing communication to children where:

- The communication is directed primarily to children (regardless of its placement); and/or
- The Medium is directed primarily to children (in relation to children this includes all C and P programs and G rated programs that are directed primarily to children); and/or
- The medium attracts an audience share of greater than 50% children.'

The Board first considered that whether the communication is directed primarily to children (regardless of its placement). In the Board's view the advertisement is not directed primarily to children as it is clearly targeting an adult audience in the theme, visuals and content of the advertisement itself.

The Board then considered whether the advertisement is directed primarily to children (in

relation to children this includes all C and P programs and G rated programs that are directed primarily to children). The Board noted the extensive media schedule provided by the advertiser which listed all the programming and times at which the advertisement was shown. The Board considered that the advertisement was clearly intended to be primarily shown in programming of interest to and directed to older teenagers and adults. The Board noted however that the advertisement was shown in a small number of children's programmes specifically: Total Girl, and programmes on K-Zone. The Board noted that the broadcast in children's programmes was not intended by the advertiser and that the advertiser has taken steps to ensure that it does not happen again. The Board however determined that the advertisement had been broadcast in programmes that are directed primarily to children.

In order to meet the requirements of the QSR Initiative, a program that is advertised directly to children must, among other things, represent a healthier choice. The Board noted the advertiser's advice that the Blazing Omelette McMuffin does not represent a healthier choice as defined under the QSR Initiative. The Board determined therefore that the advertisement breached Principle 3.1 of the QSR Initiative.

Finding that the advertisement breached the QSR Initiative the Board upheld the complaints.

ADVERTISER RESPONSE TO DETERMINATION

The advertisement was not meant for children and McDonald's did not intend for the advertisement to be shown in any medium covered by the QSR Initiative. The advertisement was mistakenly placed in the time slots covered by the QSR Initiative without any direction by McDonald's. McDonald's has a strict brief in place with our media buying agencies to only place Happy Meal advertising that complies with the QSR Initiative in time slots where the majority of viewers are children. McDonald's takes its responsibilities under the QSR Initiative seriously and McDonald's and its media agencies are working closely with the TV networks to review how the mistake happened and to prevent any reoccurrence.