



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0501/12</b>
<b>2</b>	<b>Advertiser</b>	<b>McDonald's Aust Ltd</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>16/01/2013</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.1 - Discrimination or Vilification Age

### DESCRIPTION OF THE ADVERTISEMENT

The TVC the subject of the Complaint is accompanied by background music with the lyrics “do the sneak” and “do the slurp” and proceeds to show the man sneaking a sip of his partner’s Caramel Crush Frappe (the advertised product) while she is looking away after he pointed to something in the distance. The lyrics continue with “do the HEY!” once the woman realises what the man has done.

### THE COMPLAINT

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

*It depicts senior people acting in a childish manner, making them look stupid. Also as they only have one drink between them indicates that they could not afford to buy two drinks which adds to the offence. It is degrading to seniors and if supposed to be humorous is way off the mark.*

### THE ADVERTISER’S RESPONSE

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

*McDonald's thanks the Advertising Standards Bureau (ASB) for the opportunity to provide a response to complaint number 0501 of 2012 (Complaint).*

*The television commercial the subject of the Complaint (TVC) is part of the 2012/2013 summer brand ads for McDonald's. The 2012/2013 brand ads for McDonald's contain numerous fun moments which are shown with supporting background music.*

*The TVC the subject of the Complaint is accompanied by background music with the lyrics "do the sneak" and "do the slurp" and proceeds to show the man sneaking a sip of his partner's Caramel Crush Frappe (the advertised product) while she is looking away after he pointed to something in the distance. The lyrics continue with "do the HEY!" once the woman realises what the man has done. McDonald's denies that it has discriminated against the couple's age by showing them acting in a childish manner and thereby "appearing stupid". On the contrary, we believe the playful/cheeky nature of the banter between the couple shows they are 'young at heart'. McDonald's cannot see how it could be inferred that the couple are acting 'stupid'.*

*McDonald's also rejects that the TVC is degrading to seniors by suggesting they could not afford to buy more than one Caramel Crush Frappe. The intention of the TVC was to show 'food envy' on the part of the man for not having chosen to get the Caramel Frappe for himself. This is a theme which is common in food advertising.*

*The Age Discrimination Act 2004 (C'TH) states that a person discriminates against another person on the ground of age if "the discriminator treats or proposes to treat the aggrieved person less favourable than... the discriminator would treat a person of a different age" and the discriminator does so "because of a characteristic that appertains generally to persons of the age of the aggrieved person". On the basis of this understanding of age discrimination; McDonald's does not believe it has breached clause 2.1 of the AANA Code of Ethics.*

*McDonald's does not condone discrimination on any grounds and does not believe it has discriminated or vilified the elderly in the TVC the subject of the Complaint. The TVC could have seamlessly portrayed a sibling relationship; a parent/child relationship; or a young couple relationship in exactly the same cheeky manner.*

*McDonald's were surprised to receive this Complaint as there was no intention to discriminate or vilify on the grounds of age. McDonald's has always had a strong commitment to equal opportunity and anti-discriminatory practices.*

*Having considered clause 2.1 of the Code of Ethics, and more generally the entirety of clause 2 of the Code, we are of the view there is no breach as there is no depiction of discrimination in any form.*

*Accordingly, we respectfully request that the Complaint be dismissed.*

## **THE DETERMINATION**

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board noted the complainant's concerns that the advertisement is degrading in its portrayal of older people behaving in a childish manner and sharing a drink rather than buying one each.

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

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race,

ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

The Board noted that the advertisement features a man distracting his wife so he can steal a sip of her caramel frappe.

The Board noted the complainant's concerns that depicting the man trying to take his wife's drink is degrading as it makes them appear stupid. The Board considered however that the most likely interpretation of the advertisement is that this couple have been together a very long time and are wise to each other's ways and that their behaviour is playful rather than stupid. The Board noted that the interaction between the couple when the man tries to take the drink is reflective of a typical loving relationship and considered that this depiction is not degrading or demeaning to people of any age.

The Board noted the complainant's concerns that by showing the couple sharing a drink, the advertisement suggests that they cannot afford to buy a drink each and this is also offensive. The Board noted that it is common practice amongst couples to share food and drink and considered that the advertisement is not suggesting that this couple cannot afford to buy separate drinks based on their age or any other reason.

Based on the above the Board determined that, in this instance, that the advertisement did not depict any material that discriminated against or vilified any person or section of society. The Board determined that the advertisement did not breach Section 2.1 of the Code.

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