



**ADVERTISING
STANDARDS
BUREAU**

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Case Report

1	Case Number	0523/10
2	Advertiser	McDonald's Aust Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	Internet
5	Date of Determination	19/01/2011
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

Advertising Message QSR - 4.1 - Advertising and Marketing Message

DESCRIPTION OF THE ADVERTISEMENT

The banner begins with a boy holding his arms in the air. The banner pans up and reveals that the boy was holding a yellow board with copy that says "Kids it's your call. It's called Mighty Me, Mighty Us". After a few seconds the sign drops down out of the frame. The next copy frame is revealed and it says "10c from this month's Happy Meal goes to Ronald McDonald House Charities". The sign features the Happy Meal circle logo, the Ronald McDonald House Charities house logo and the Mighty Me, Mighty Us logo. The copy frame then drops down again. The final frame is revealed with call to action that says "Go to happymeal.com.au to choose how the money is spent! Choose Now >". The banner pans down and reveals the boy from the first frame.

THE COMPLAINT

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

We are an independent not-for-profit organisation that conducts research cancer prevention and support programs and advocacy in order to reduce the burden of cancer on the community. We are concerned about rising rates of overweight and obesity in Australia particularly in children due to the role overweight and obesity plays in increasing people's risks of developing certain cancers.

1. Breach of Clause 4.1 of the Initiative - Advertising and Marketing Messaging The advertisement breaches Clause 4.1 of the Initiative which reads:

'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 (See Appendix 1); and/or

(b) Represent a healthy lifestyle designed to appeal to the intended audience through messaging that encourages:

(i) healthier choices as determined by a defined set of Nutrition Criteria for assessing children's meals (see Appendix 1); and (ii) physical activity.

The advertisement is clearly an 'Advertising or Marketing Communication to Children' as defined by Clause 7 of the Initiative. The advertisement reads 'Kids - It's Your Call' uses a bright yellow background coloured writing and an image of a small child. The theme, visuals, and language all clearly indicate it is an Advertising Communication to Children.

The Nutrition Criteria for assessing children's meals is outlined in Appendix 1 to the Initiative. Only meals that meet the Nutrition Criteria which stipulates maximum allowable kilojoules and amounts of saturated fat, sodium and sugar may be featured in Advertising or Marketing Communications to Children. Further the McDonald's Company Action Plan which outlines how McDonald's will meet the requirements of the initiative states that for a meal to be considered a healthier choice according to the Appendix the meal:

- Should reflect general principles of healthy eating as defined by credible nutrition authorities; and*

- Must comply with defined criteria for energy (kilo joules) saturated fat, sugar and sodium.*

The advertisement does not feature a specific Happy Meal. The information on the McDonald's Australia website" reveals that if all the Happy Meal choices (main, side, drink) are available in a restaurant of the total 144 possible combinations only 18 in fact meet the Nutrition Criteria. The combinations that meet the criteria involve a wrap or small nuggets as a main, a fruit bag as a side, and either juice, a diet soft drink or water as a drink.

As the advertisement does not feature a specific Happy Meal choice it therefore advertises all Happy Meals the vast majority of which fail to meet the Nutrition Criteria outlined in the Initiative.

We consider the advertisement in breach of Clause 4.1 as it advertises food that does not meet the Nutrition Criteria stipulated by the Initiative. We urge the ASB to act swiftly to rectify the breach.

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"), the AANA Code for Marketing and Advertising Communications to Children as well as the AANA Food and Beverage Code (including those code provisions relating to children), and are of the view no breach of any of the codes has been committed.

By way of background, "Mighty Me, Mighty Us" is a program that we run annually. For each Mighty Me, Mighty Us Happy Meal sold, 10c is donated to Ronald McDonald House Charities ("RMHC"). Children or parents who purchase a Happy Meal during the Mighty Me, Mighty Us program may go online and choose which of the various RMHC initiatives they would like their 10C donation to go towards – for example, they can choose the Houses

(that are located at every children's hospital in Australia), the Ronald McDonald Learning Program which provides coaching for kids who miss school due to illness or the Family Rooms program which builds "family rooms" in major hospitals for parents to take some time to rest. If no election is made the donation is still made to RMHC. From our perspective, this program is a nice way for children and parents to get involved in fundraising, and it also raises awareness of the plight of children living with serious illness or injuries.

We find it somewhat disappointing that a complaint has been made about an advertisement that highlights and benefits a children's charity that supports seriously ill children and their families.

The Complaint alleges a breach of clause 4.1 of the QSR Code.

That clause is one of the overarching core principles of the code, and it requires signatories to the QSR Code to represent healthier choices and a healthy lifestyle in children's marketing. Since becoming a signatory to the QSR Code, McDonald's has shifted the way we market our Happy Meals. We are committed to the QSR Code, and we only ever advertise meals which meet the nutrition criteria, and we have reduced the amount of airtime given to the toy component of the meal.

The online banner that is the subject of the complaint is an example of this – no food is shown, no toy is shown. The advertisement simply draws attention to the Mighty Me, Mighty Us program by informing customers of the mechanic of the program and of its association with RMHC – with a link through to the Happy Meal website. Again, there is no mention of food whatsoever on the Happy Meal website.

As there is no food depicted, there can be no breach of the nutrition criteria in the QSR Code and to allege that by not showing any one meal we are therefore advertising every possible meal combination is not a commonsense approach, and does not correspond with the wording or the intent of the QSR Code.

We have also considered the remaining voluntary codes and consider that this online banner complies with all of them.

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 nutrient criteria.

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.’

The Board noted that the advertisement appeared on a website www.disney.com.au. The Board noted that the target audience for this website is children. The Board noted that this advertisement is a call for action to children – asking children to visit the website ‘www.happymeal.com.au’ to direct where money should be donated. The Board considered that this advertisement is clearly directed primarily to children.

The Board then considered whether the advertisement is for food and/or beverage products. The Board noted that the primary stated aim of the advertisement is to encourage children to direct where 10c from the Happy Meal they purchased would be donated.

The Board noted the advertiser’s response which indicated that the advertisement ‘highlights and benefits a children’s charity that supports seriously ill children and their families.’ The Board also noted that under the promotion ‘children or parents who purchase a Happy Meal during the Mighty Me Mighty Us program may go online and choose which of the various RMHMC initiatives they would like their 10c donation to go to.

The Board noted that the advertisement contains the McDonald’s Happy Meal logo and specific references to the ‘happy meal’ available in stores. The Board noted that although there is a reference to ‘kids meals’ there are no images of the content of kids’ meals or references to the content of the kid’s meals and that children are directed to visit www.happymeals.com.au.’

A minority of the Board considered that the advertisement is not for a food or beverage product – but rather is an advertisement for Ronald McDonald House Charities.

The majority of the Board considered however that the overwhelming impact of the message of the advertisement to a child would be a promotion of McDonalds Happy Meals.

The Board noted that the advertisement is for Happy Meals rather than a particular Happy Meal. It noted however that the QSR initiative requires that only meals that meet the nutrition criteria can be advertised to children. The Board considered that an advertisement for Happy Meals generally is an advertisement for all such meals – including those that do not meet the nutrition criteria.

The Board noted the complainant's concern that the advertisement breaches article 4.1 of the QSR Initiative on the basis that the advertised product (Happy Meals) does not meet the nutritional criteria set out in Appendix 1 of the QSR Initiative. The Board considered whether the advertised product – the McDonald’s Happy Meals - met the criteria within the QSR Initiative of ‘representing healthier choices’ or ‘representing a healthy lifestyle that encourages healthier choices and ...physical activity.’ The Board noted that a range of Happy Meals do meet the nutrition criteria prescribed under the QSR initiative but noted that the majority of such meal do not meet the relevant criteria. As the advertisement is an advertisement for all Happy Meals, the Board considered that the advertised product does not

meet the requirements of the QSR Initiative by only advertising those products that meet the nutrition criteria.

The Board considered that the advertisement for McDonald's Happy Meals did not meet Article 4.1(a) of the QSR Initiative in that the advertised product (all Happy Meals) does not represent healthier choices.

The Board then considered whether the advertisement met Article 4.1(b) which requires that the advertisement 'represent a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages: (i) healthier choices....and (ii) physical activity.' The Board considered that there was not sufficient information or representations in the advertisement to amount to a message to children to make healthier choices options and engage in physical activity and that the advertisement does not meet the requirement of Article 4.1(b).

The Board determined that the advertisement breached Article 4.1 of the QSR Initiative.

The Board then considered the advertisement under the AANA Code for Advertising and Marketing Communications to Children.

For the reasons mentioned above, the Board determined that the advertisement is directed primarily to children. The Board also considered that Happy Meals are a product targeted towards and having principal appeal to children and that therefore the AANA Children's Code and Part 3 of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply.

The Board considered that the advertisement:

- Is not ambiguous to a child as, in the Board's view, a Happy Meal is a well understood concept and there is no particular information about this product itself in the advertisement so does not breach section 2.2 of the Children's Code or section 2.1 of the Food Code;
- Does not contain an explicit appeal to children to urge their parents or carers to buy a particular product for them (although purchase of the product is required in order to direct to which charity the 10c is directed) and does not breach section 2.7 of the Children's Code or section 3.5 of the Food Code; and
- Does not breach prevailing community standards merely by advertising a Happy Meal to Children and does not breach section 2.1 of the Children's Code or section 2.1 of the Food Code.

The Board considered that the advertisement met all of the other requirements of the Children's Code and Food Code.

The Board then 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 breaches Article 4.1 of the QSR Initiative the Board upheld the complaint.

The Board noted that the concept of encouraging children to donate to charities and the particular charity Ronald McDonald House Charities are worthwhile matters to promote. However the Board expressed concern that responsible and important advertising for such matters should not be undertaken in a manner that contravenes other socially important initiatives around advertising to children.

ADVERTISER RESPONSE TO DETERMINATION

Thank you for providing formal notification of the Board's decision in respect of the 'Mighty Me, Mighty Us' online banner.

We were very disappointed by the decision. We are 100% committed to the QSR Initiative for Responsible Advertising and Marketing to Children and fully support the administrative framework behind the initiative. The banner advertisement has been removed and we have already taken steps to ensure this learning has been implemented in our ongoing marketing communications.