



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	<b>Case Number</b>	<b>0546/18</b>
2	<b>Advertiser</b>	<b>McDonald's Aust Ltd</b>
3	<b>Product</b>	<b>Food / Beverages</b>
4	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
5	<b>Date of Determination</b>	<b>23/01/2019</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

- 2.1 - Discrimination or Vilification Age
- 2.1 - Discrimination or Vilification Gender
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.4 - Sex/sexuality/nudity S/S/N - sexualisation of children
- 2.6 - Health and Safety Bullying (non violent)

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens on two young men sitting on the steps at the beach enjoying a McRib burger. One of them notices a confident man in speedos and watches him walk past. The advertisement then shows the McRib burger followed by the Golden Arches end frame.

## THE COMPLAINT

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

*My complaint is about equality, would the advert have aired if the person walking past was a large woman in a bikini. Is respect for all people, or just women, gays, coulereds and the disabled.*

*sexual/inappropriate reference to 'buns' as a guy in speedos is shown. If it was a*





woman, this Ad would have been removed already.

*The advertisement shows children (clearly underage) eating McRib's. A voice overlay mentions "buns" as a middle aged male walks past in colourful speedos that grab the children's attention - the buns comment is in clear reference to the man's buttocks and the children taking notice of it. The sexualisation of the young boys in the advert towards a middle aged adult is completely unacceptable - I am appalled and deeply offended that McDonald's Australia finds this appropriate.*

*There's nothing funny about it. Nobody should be laughed at and ridiculed in this way. It's cruel and insulting.*

### **THE ADVERTISER'S RESPONSE**

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

*Thank you for requesting a response to complaint number 0546/18 (Complaint).*

*The advertisement that is the subject of the Complaint is part of the 0546/18 summer brand advertisements for McDonald's (Advertisement). The Complaint is made under section 2.1, 2.4 and 2.6 of the Australian Association of National Advertisers Code of Ethics (the AANA Code).*

*McDonald's were disappointed to receive the Complaint regarding the Advertisement; being not only a household family brand, but Australia's largest employer of youth, McDonald's prides itself on its representation of children and young people in its numerous marketing campaigns. Children and young people in our advertisements are always portrayed in a dignified and respectful manner that respects the integrity of the young actors involved. These advertisements are not open to obvious misrepresentation by our audiences, and are certainly not encouraging the sexualisation of children.*

*Nonetheless, the actors in the Advertisement are not children, the youngest one being 16 years old. The response of one of the actors to the man in the speedos is representative of how any person on the beach typically would react to a person wearing such a bold fashion statement. As depicted in the popular Southern Comfort (2012) advertisement, a man who wears speedos to the beach makes a conscious decision to do so and does so confidently. He is aware that this does not fit the norm and will get some looks. The man in the Advertisement fits within this depiction as the audience can tell by the actor's hair, excessive tan and stride. As the Ad Standards board (Board) have previously decided in case 008/12, the confident pose of the [actor] showed that [the actor] was not represented in a manner which could be*



*considered exploitative and degrading. The actors in this Advertisement are not engaging in any sexual or exploitive behaviour. It is simply a confident man being himself, and a young person reacting to what is in front of him in a way that represents the public. The young person is not ridiculing or putting down the man in the speedos.*

*McDonald's is aware of the community sensitivity surrounding the sexualisation of children and continues to implement procedures to ensure the protection of the children appearing in its campaigns. Nonetheless, this is not an advertisement which should alarm the Board. If the Board were to uphold the Complaint, it would set a precedent that brands cannot use innocent stereotypes to produce humour across its audience – no matter how authentic the humour is.*

*Accordingly, the Advertisement complies with the Code and QSRI (if applied) and so the Complaint should be dismissed. We have considered other matters under section 2 of the AANA Code of Ethics and submit that the Advertisement does not breach any of the other matters covered by that section.*

## **THE DETERMINATION**

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement is sexist, ageist, sexualised minors and depicted bullying.

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

The Panel 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 Panel noted that this television advertisement features a two teenage boys at the beach eating McDonalds. One of the boys notices and watches a man in speedos who confidently walks past.

The Panel noted the complainant's concern that the advertisement depicts an overweight older man in a negative light.

The Panel noted the advertiser's response that the advertisement uses a humorous depiction of a confident man making a bold fashion statement, and that the man is not depicted in a way where he is being ridiculed.



The Panel noted the Practice Note to Section 2.1 provides the following definitions:

“Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule.”

The Panel considered that the advertisement portrays the man as being confident in his fashion choice, and speedos are an accepted clothing option at the beach even if they are seen by young people as being out of fashion or inappropriate. The Panel considered that the teenage boy is seen to be distracted by the sight of the man in speedos, however he is not seen to react in a negative way. The Panel considered that the man on the beach is not humiliated or ridiculed and is not shown to receive unfair or less favourable treatment.

The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of gender or age and determined that the advertisement did not breach Section 2.1 of the Code.

The Panel considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: “Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience”.

The Panel considered the complainants’ concern that the advertisement sexualised the teenage boys in the advertisement by depicting them noticing the man’s ‘buns’.

The Panel considered that while the word ‘buns’ is mentioned by the voice-over as the man in speedos walks past, this is a humorous double entendre referencing both the man’s choice of swimwear and the McRib buns being advertised. The Panel considered that the boy’s look and the reference to ‘buns’ were not sexualised.

The Panel considered that the advertisement did not contain or reference sex, sexuality or nudity and did not breach Section 2.4 of the Code.

The Panel considered then Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.

The Panel noted the complainants’ concerns that the advertisement depicted the boys ridiculing the man and laughing at him.

The Panel noted that the issue of bullying can be considered under section 2.6 of the Code, however in this instance the complainants were incorrect about the content of



the advertisement. The Panel considered that the boys were not seen to laugh or point at the man, and while one teenage boy did notice the man as he walked past, his reaction was not negative. In this context, a teenager expressing dislike of someone's fashion choice is not a depiction of bullying.

The Panel considered that the advertisement did not portray bullying and did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaints.

