



CASE REPORT

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| 1. Complaint reference number | 169/07 |
| 2. Advertiser | McDonald's Australia Ltd (Happy Meals - cat/aliens) |
| 3. Product | Restaurants |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Advertising to Children Code – Safety – section 2.4 |
| 6. Date of determination | Tuesday, 12 June 2007 |
| 7. DETERMINATION | Upheld – discontinued or modified |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement is titled "Kate and the Cat" and features animated characters in the following scenario:

Kate is walking along when she spots a kitten marooned on the top branch of a tree.. "Kate saw a kitten up a tree, and went to save it instantly". When she reaches the top branch, Kate, clutching the kitten to her chest, thumbs a lift from a passing flying saucer. "They flew back down on a UFO to cheers from the crowd below". They arrive back down on the ground and everyone in the city has come out to cheer the brave heroine. The Martians said, "For saving kitty, come for a Happy Meal in the city!"

Kate proudly climbs on to the roof of the UFO and off they go. Everyone waves from the windows of the high rise office blocks as they zoom by. "They picked up Dad along the way, making it Kate's perfect day." Kate appears at the window of an office, high up in a tower block. As the UFO hovers, Dad sees her and smiles. He goes to the window, walks across the walkway that suddenly extends from the flying saucer and joins Kate on the UFO. Finally, we see Kate enjoying her Happy Meal in a McDonald's restaurant with Dad and all the funny-looking Martians. The story concludes "This month Hello Kitty toys, and Yu-gi-oh GX for the boys", followed by still shots of the Pasta Zoo Happy Meal and toys of the month.

THE COMPLAINT

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

I am distressed that this ad condones getting in a vehicle with strangers (they may be aliens but they are still strangers) for a ride to the city for a happy meal as a "reward". In the ad they pick up dad along the way, but what is to stop a would be abductor using the same ploy and saying "oh its alright we will pick up your dad along the way" as a way to get the child to get into the car. Just last week two boys in Brisbane were almost taken by a man asking for their help with a puppy. I just feel this ad portrays dangerous behavior to young children.

I am concerned that the ad suggests to children that it would be OK to get in a car with strangers, if they were told that they had been good and were being taken for a treat, or that it was OK because they would pick up Mum or Dad on the way. I think that this ad has not been well thought out, with the safety of children in mind.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

The scenarios take a true "family/kid" insight and develop it through imagination and animation to show an imaginery fun and magical day through the eyes of a child eg. having fantasy fun with a

cat, Martians and going to McDonald's with her father.

The TVC is deliberately over-played and over-fantasised as a situation that couldn't be replicated in reality and features UFOs flying round the city, and as children "imagine" their perfect day ending in the McDonald's restaurant with the Martians and her father.

Given the animated style and the nature of activity and the over-exaggeration of the imagination and fantasy, we would submit that the ad is not in breach of clause 2.2.1(a).

A similar TVC for a motor vehicle currently uses the same fantastic theme as do some well known animation series.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches the AANA Advertising to Children Code (the Children's code).

To come within the Children's Code, the material being considered must be an "advertisement". The Children's Code defines an "Advertisement" as follows:

"matter which is published or broadcast in all of Australia or in a substantial section of Australia for payment or other valuable consideration and which draws the attention of the public or a segment of it to a product, service, person, organisation or line of conduct in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct".

The Board decided that the material in question was broadcast in all of Australia or a substantial section of Australia for valuable consideration, given that it was being broadcast on television in Australia. The Board determined that the material draws the attention of the public or a segment of it to a "product" being McDonald's Happy Meals "in a manner calculated to promote...that product".

The Board then needed to determine whether the advertisement is an "Advertisement to Children", which is defined in the Children's Code as meaning:

"Advertisements which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product".

"Children" are defined in the Children's Code as being 14 years old or younger. The Board determined that noting the product, music, theme and visuals used in the advertisement, the advertisement was directed primarily towards children and was therefore within the scope of the Children's Code.

Having concluded that the material is an "advertisement to Children" as defined by the Children's Code, the Board then had to determine whether the advertisement is for a "Product". "Product" is defined in the Children's Code as *meaning*:

"goods, services and facilities which are targeted toward and have principal appeal to Children".

The Board determined that the McDonald's Happy Meal is a "good" targeted toward and having principal appeal to Children and accordingly is a Product.

The Board determined that the advertisement should be considered under the AANA Children's Code. The Board noted the complaints about the advertisement and considered particularly the elements of the advertisement that involved a child climbing into a tree to save a kitten, and going off with Martians for a reward.

The Board noted clause 2.2.1 of the Children's Code which provides:

'Advertisements to children (a) must not portray...unsafe situations which may encourage children to engage in dangerous activities.'

The Board considered the depiction of the child climbing the tree to rescue the cat. The Board noted that a child climbing a tree is not uncommon and the danger is usually limited by the physical ability of the child. The Board considered that this depiction was unlikely to encourage children to engage in

dangerous activity and did not breach section 2.2.1(a).

The Board considered the depiction of a child going with a stranger (albeit a Martian) at the promise of a reward. The Board considered that this was a depiction of a potentially unsafe situation. The Board found the text of the advertisement 'For saving kitty, come for a Happy Meal in the city!' troublesome as it is the type of language that has potential to encourage a child to go off with a stranger. The Board also considered that the statement 'They picked up Dad along the way, making it Kate's perfect day' was troublesome as it is this type of statement that can encourage a child to go with a stranger. The Board considered that this element of the advertisement may well encourage young children to engage in a dangerous activity, ie: going off with a stranger.

The Board also considered the advertisement against clause 2.4.1 of the Code which provided '*Advertisements to children (a) must not undermine the authority, responsibility or judgment of parents or carers.*' In this regard the Board noted that parents, child care centres, and preschool settings all actively aim to teach young children of 'stranger danger'. The Board considered that this advertisement did undermine the authority of parents or carers in its message that it is acceptable to go with a stranger for a reward. The Board noted that a breach of clause 2.4.1 of the Code can result from the overall impact of an advertisement and does not require the advertisement to contain an explicit statement that a parent's judgement or advice is wrong.

The Board noted that the advertisement is animated and clearly a cartoon and discussed whether this minimised its impact on the target audience - young children. The Board considered that animation can reduce the extent to which a viewer will consider an advertisement a depiction of reality or a depiction of likely behaviour. The Board considered that in this advertisement the animation and the assistance of the aliens did minimise the reality of the advertisement and increased the 'fantasy' element of the advertisement. The Board compared this advertisement to the McDonald's advertisement which depicted a child going down a drain (the drain advertisement) at the request of a woman and then going to McDonald's with the woman. The Board considered that the current advertisement (involving the kitten and aliens) was less likely to encourage dangerous behaviour by children as the advertisement used aliens rather than a woman to take the children for a treat. The Board considered that this advertisement was less problematic than the drain advertisement but the overall theme and message of the advertisement was still strong enough that the troubling elements of it were not diminished to a sufficient extent by the animation.

The Board determined that the advertisement breached clause 2.2.1(a) and 2.4.1 of the Children's Code and upheld the complaints.

The Board then considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code). The Board considered that the advertisement did not breach the Food Code. Finally, the Board considered whether the advertisement breached the AANA Code of Ethics (the Code). The Board noted that clause 2.6 of the Code does not apply to advertisements to which the Children's Code applies. The Board considered that the advertisement did not breach any other provisions of the Code.

ADVERTISER'S RESPONSE TO DETERMINATION

Comments which the advertiser made in response to the Board's determination to uphold the complaints included the following:

At McDonald's we understand the integral part we play in the daily lives of many Australians, and we have a responsibility to ensure that we work with, educate and look after those that visit us in the communities in which we operate - especially children.

We have developed Community Safety Announcements focusing on road, fire and pool safety and encouraging children to have an active lifestyle, to help younger audiences learn these important messages in a fun way.

From the above you can see we take our role in the community very seriously and would not deliberately produce TVC's that we felt did not meet with our community responsibility.

The TVC in question is deliberately over-played and over fantasises the story, therefore showing the situation in a fantasy world, not reality. As everyone knows, even children know that green monsters don't exist and UFO's do not fly around the city. We were feeding the imaginations that we know every child has, whilst growing up. Many animated TV programs currently on air,

contain content that we feel is controversial to the education of younger viewers, but because this is classed as programming rather than advertising it does not come under the same level of scrutiny.

Like many of our TVC's, this script was researched amongst parents and children and the 'Stranger Danger' comments were not raised as a concern in any of these groups. If it had of been raised, we would have addressed the issue up front prior to the TVC going on air.

The TVC in question ceased airing on the 17th May, 2008.

Thank you for the opportunity to comment on the ruling and you can rest assured we take our position in the community very seriously at McDonald's and would not do or communicate anything that we feel would deliberately put our younger consumers in danger.