



CASE REPORT

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| 1. Complaint reference number | 323/03 |
| 2. Advertiser | McDonald's Australia Ltd (Finding Nemo) |
| 3. Product | Food |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Advertising to Children Code – Other – section 2.4 |
| 6. Date of determination | Tuesday, 14 October 2003 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

The advertisement opens with a digital animation sequence of a plastic “Nemo” fish falling out of a McDonald’s Happy Meal package into the ocean where it is met by two animated characters from the Disney Film “Finding Nemo”. The advertisement then shows children sitting in a timber row boat in open water playing with the McDonald’s toys. The three children are all wearing lifejackets. The McDonald’s toys are then shown to be floating in the water. The camera angle then cuts to an overview shot of the boat sitting in the water. There are oars present in the boat. A shot of the McDonald’s Happy Meal pack with the words “Happy Meal” written underneath it appear at the end of the advertisement.

THE COMPLAINT

Comments which the complainant/s made included the following:

“Should children be presented with a narrative that says plastic in the fragile marine environment, like the reef, is fine? I seriously doubt that any fish, animated or real, would play with a plastic object that had carelessly drifted into their underwater environment. More likely they’d try to eat it, choke on it and die. Also, is it advisable to show very young children unsupervised on a flimsy dingy in the middle of the ocean? Last I checked most parents would freak out if this were to happen to their kids. All in all highly irresponsible.”

THE ADVERTISER’S RESPONSE

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

“Like the movie, the commercial is intended to be a fantasy depiction of marine life... we have taken every step to ensure that the commercial is to be viewed as part of the same fantasy depicted in the film...the narrative does not intend to trivialise the seriousness of environmental pollution but rather tell the fantastical tale of the toys coming to life...”

“We ensured that all safety standards were adhered to with regard to the persons in the boat. All the children are wearing lifejackets, the boat has two oars resting inside, the setting is a bay with a wharf as opposed to the ocean as the background shows land is clearly visible all around the boat and that there are sailboats anchored close by.”

THE DETERMINATION

The Advertising Standards Board (“the Board”) considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (“the Code”).

The Advertising Standards Board (“Board”) was required to determine whether the material before it

was in breach of the AANA Code of Advertising to Children.

To come within the AANA Code of Advertising to Children, the material being considered must be an “advertisement”. The AANA Code of Advertising to Children defines an “Advertisement” as follows:

“matter which is published or broadcast other than via internet, direct mail, point of sale, packaging or direct distribution to individuals, 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 a McDonald’s Happy Meal “in a manner calculated to promote... that product”. Having concluded that the material is an “advertisement” as defined by the AANA Code of Advertising to Children, the Board then had to determine whether the advertisement is for a “Product”. “Product” is defined in the AANA Code of Advertising to Children as meaning:

“goods, services and facilities which are targeted toward and have principal appeal to Children”

“Children” are defined in the AANA Code of Advertising to Children as being 14 years old or younger. The Board determined that, because the McDonald’s Happy Meal is made up of small portions of food for Children and includes a toy that appeals to Children, it is a “good” targeted toward and having principal appeal to Children and accordingly is a Product. The Board then needed to determine whether the advertisement is an “Advertisement to Children”, which is defined in the AANA Code of Advertising to Children as meaning:

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

The Board determined that the theme of the advertisement was of “Nemo”, which is a Disney animation for Children. The Board then considered that the visuals of a plastic “Nemo” like fish being animated and floating in the water, along with Children playing in a boat are for appeal to Children. Finally, the voice over of a young child and simple child-like language used confirmed the Board’s decision that the advertisement is an Advertisement to Children and therefore one to which the AANA Code of Advertising to Children applies.

The Board then analysed the specific sections of the AANA Code of Advertising to Children and their application to the advertisement. The Board identified that clause 2.2.1(a) was relevant in the circumstances.

In order for clause 2.2.1(a) to be breached, the advertisement must:

“portray images or events which depict ... unsafe situations which may encourage Children to engage in dangerous activities”

The Board reviewed the advertisement carefully and noted that each of the Children depicted in the boat was of an age at which they would be expected to be able to swim fairly well. The Board considered in addition, that each child was wearing a secure supportive looking lifejacket and none of them were doing anything which might jeopardise the safety of the boat. Further, the Board noted that the boat was a secure looking boat with two oars present in it and land was clearly visible all around the water.

On the above basis, the Board held that the material before it did not constitute an Advertisement to Children in breach of section 2.2.1(a) of the AANA Code of Advertising to Children.

Accordingly, the complaint was dismissed.