



CASE REPORT

1. Complaint reference number	570/09
2. Advertiser	McDonalds
3. Product	Food & Beverages
4. Type of advertisement	Pay TV
5. Nature of complaint	Other - Social values
6. Date of determination	Wednesday, 9 December 2009
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This pay TV advertisement depicts a school playground and two boys are choosing from a group of students (boys and girls) who will be on their sports team. One boy says, Christian, the other boy says Jessie. It then shows two girls braiding Jessie's hair and one says, your hair is beautiful to Jessie. A boy is then shown to be asking Jessie if he can carry her bag for her and she says, that'll be nice, thanks. A birthday party at MacDonal'd's is as much fun as ever surrounded by friends and family in a great atmosphere, your child will love this special day as much as you did. The advertisement depicts a woman working at McDonalds, carrying a birthday cake over to the children's party and all the children singing happily.

THE COMPLAINT

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

This is a disgraceful manipulation of children's emotions and teaches children that they can gain popularity by having a McDonalds birthday party.

THE ADVERTISER'S RESPONSE

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

McDonald's does not consider that this television commercial is in breach of the Australian Association of National Advertisers Code, and we thank you for the opportunity to make submissions to the Board in support of this view.

Overview of the television commercial

This television commercial, entitled "Birthday Girl" was created as part of the recent relaunch of McDonald's children's birthday parties. "Birthday Girl" portrays a character named Jesse at school. At school, her classmates give her special attention. In the first scene we see team captains choosing players. The first captain calls Christian – who walks forward and gives the captain a grateful pat on the shoulder. The second captain calls Jesse – who also walks forward and likewise gives the team captain a grateful pat. Next we see Jesse having her hair braided by two friends who say her hair is beautiful. Jesse smiles happily. Finally, a little boy offers to carry Jesse's school bag, and she accepts his offer with thanks. The viewer is not immediately sure why Jesse is so special. A super then appears on screen as she walks off - "Love being the birthday girl". We now understand that Jesse is being favoured with extra attention because it is her birthday.

The scene changes and Jesse is having a McDonald's birthday party, surrounded by family and friends, adults and children. The voice over reminds us that having a McDonald's party is as much

fun as ever.

Sections of the Code cited by the Complainant

The Complainant cites Section 3.3 of the AANA Food & Beverage Code: “Advertising or marketing communications to children shall not state nor imply that possession or use of a particular children’s food or beverage product will afford physical, social or psychological advantage over other children or that non possession of the children’s food or beverage product would have the opposite effect”.

McDonald’s does not agree that “Birthday Girl” breaches this section of the Food & Beverage Code. The special attention that Jesse receives in the commercial flows from the fact that it is her birthday – not because she is having a McDonald’s party. In fact, the party is not mentioned or alluded to at all in the beginning of the commercial. Having the party has nothing to do with making Jesse special on the day shown, hence the super “love being the birthday girl”. Jesse is not seen handing invitations to any children or indicating that their conduct has earned them an invite to a party. There is no sign at all in the commercial that the conduct of the characters relates in any way to the party.

*Further, we submit that this commercial was not aimed at children. The campaign was based around the concept of reminding parents how much fun a McDonald’s party is – as many parents of young children now were children in the 70’s and 80’s when McDonald’s parties were first launched and were very popular. This is evident from the voiceover: “A birthday party at McDonald’s is as much fun as ever! Surrounded by friends and family in a great atmosphere, **your child will love their special day as much as you did**”.*

Sections of the Code cited by the ASB

The ASB has asked us to consider Section 2 of the AANA Code of Ethics and comment on any matters we feel fall broadly within this Section of the Code. We consider that only Section 2.4 and 2.8 are relevant, but that these matters are adequately addressed by the above submissions.

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 this advertisement sends out the message that children can gain popularity by having a MacDonalD's birthday party and that one will gain special favourable attention from classmates if they have a party at McDonalds and invite lots of friends.

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

The Board considered whether the advertisement was in breach of section 3.3 of the Food and Beverages Advertising and Marketing Communications Code (the F & B Code).

Section 3.3 of the Code states:

"Advertising or Marketing Communications to Children shall not state nor imply that possession or use of a particular Children's Food or Beverage product will afford physical, social or psychological advantage over other children, or that non possession of the Children's Food or Beverage Product would have the opposite effect."

The Board also noted clause 2.7(c) of the AANA Code for Advertising and Marketing Communications to Children (the Children's Code) provides a similar limitation.

The Board noted that the advertisement depicts children in a school environment treating Jessie (the character of the advertisement who has a MacDonalD's birthday party) favourably. The Board noted the advertisement placement schedule provided by the advertiser and considered that the advertisement is not broadcast to children, was not directed to children and instead was directed to parents who may have children. The Board noted that the tag-line at the end of the advertisement says "*your child will love this day at McDonald's as much as you did.*"

The Board determined that the advertisement is not directed to children and that the Children's Code and Part 3 of the F & B Code do not apply.

The Board empathised with the complainants' concerns and some members of the Board felt that the advertisement could be construed as implying to parents that their children might become popular by having a McDonald's birthday party. The Board noted that this is an inference that would not be appropriate were the advertisement directed to children, and that it should be used with caution in advertising directed to adults for this type of product.

The Board agreed that the advertisement was not in breach of section 3.3 of the F & B Code nor clause 2.7 of the Children's Code.

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