

Case Report

1. Case Number :	0109-24
2. Advertiser :	Menulog
3. Product :	Food/Beverages
4. Type of Advertisement/Media :	TV - Pay
5. Date of Decision:	1-May-2024
6. Decision:	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This pay TV ad features a menulog driver riding his scooter on a football field being chased by security.



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Meal being delivered on motor bike on NRL oval being chased by security.

This sends wrong message when no one should be on oval.

THE ADVERTISER'S RESPONSE

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

AANA CODE OF ETHICS - CONTENT AND DETAILED COMMENTARY

Thank you for the opportunity for Menulog to provide a response to the Ad Standards Community Panel in response to complaint case file number 010924.

Menulog will address issues raised by the Community Panel under section 2.6 of the AANA

Code of Ethics relating to Health and Safety, motor vehicle related.

Advertisement description



The advertisement in question is a 15 second advertisement that depicts the following: The advertisement exclusively runs (on broadcast and in-stadia) when The Bunker NRL's decision review system) delivers a 'try'/'no-try' decision. For the avoidance of doubt, there are no other circumstances in which this advertisement is run.

The advertisement depicts a Menulog courier, delivering The Bunker's decision. This is a creative interpretation of Menulog's role as a delivery service, and is intended to be fanciful.

The advertisement also includes a security guard attempting to intercept the courier, further highlighting the intentional un-real absurdity/hyperbole of a takeaway food delivery driver being on an NRL field.

The courier is riding a motorised scooter with Menulog decals, and is dressed in compliant PPE for on-demand delivery including a helmet and high-visibility jacket with reflective safety strips.

The security guard is dressed in a high-visibility vest, as is common practice for the security industry.

The production of the advertisement features both real and animated components, including superimposed NRL field markings, goal posts and message graphics (i.e. the “Free Delivery on Groceries” message, and the “TRY”/”NOTRY” decision)*

The advertisement was approved by the NRL who own the media asset. There was no media buying agency involved.

The advertisement was not subject to ClearAds approval, as such there is no associated reference or rating for this advertisement.

Responses to issues raised in complaints

2.1 - Discrimination or vilification

Section Description

Advertising shall not portray people 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 orientation, religion, disability, mental illness or political belief.

Menulog Response

Menulog complies with this section of the code. The complaint in question does not reference anything noted in this section of the code.

2.2 - Exploitative and degrading

Section Description

Advertising shall not employ sexual appeal: (a) where images of Minors, or people who appear to be Minors, are used; or (b) in a manner which is exploitative or degrading of any individual or group of people.

Menulog Response

Menulog complies with this section of the code. The complaint in question does not reference anything noted in this section of the code.

2.3 - Violence

Section Description

Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

Menulog Response

Menulog complies with this section of the code. The complaint in question does not reference anything noted in this section of the code.

2.4 - Sex, sexuality and nudity

Section Description

Advertising shall treat sex, sexuality and nudity with sensitivity to the relevant audience.

Menulog Response

Menulog complies with this section of the code. The complaint in question does not reference anything noted in this section of the code.

2.5 - Language

Section Description

Advertising shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium. Strong or obscene language shall be avoided.

Menulog Response

Menulog complies with this section of the code. The complaint in question does not reference anything noted in this section of the code.

2.6 - Health and Safety

Section Description

Advertising should not depict material contrary to Prevailing Community Standards on health and safety.

Menulog Response

A) The AANA Code of Ethics Practice Note has the following definitions under section 2.6 regarding Health and Safety:

a) Images of biking riding without helmets or not wearing a seatbelt will be contrary to prevailing community standards relating to health and safety.

Similarly, advertisements depicting unsafe practices or images, such as riding down a hill in a wheelie bin, using a mobile phone while driving or apparently hiding in a chest freezer etc are unacceptable. Advertisers should take care not to depict behaviour that children may imitate.

b) Motor vehicle advertisements are subject to the health and safety section. This means that a motor vehicle advertisement cannot depict images contrary to public health and safety notwithstanding the images being unrelated to the motor vehicle advertised.

c) Bullying – the age of the people depicted in an advertisement, their relationship to each other and the nature of the communication are relevant in determining whether an advertisement constitutes bullying and is contrary to Prevailing Community Standards.

d) More care must be taken when the people depicted in an advertisement are children or if there is an unequal relationship between the people in the advertisement, e.g. student and teacher, manager and worker.

Menulog takes its corporate social responsibility very seriously, which includes content and

messaging conveyed across all its marketing and advertising. Menulog maintains that throughout the advertisement there are no contraventions of the Prevailing Community

Standards on health and safety, and, does not agree with the complaints' suggestions that the

advertisement based on the following applications of the definitions in the Practice Note:

Unsafe Practices

As stated above, Menulog's advertisement that runs during The Bunker is hyperbolic and is in no way intended to be interpreted literally. It is a clever play on our role as a delivery service and our role in delivering The Bunker's decision.

Menulog acknowledges that the advertisement contains visual representations of a courier riding a motorised scooter on what looks like a NRL field, however these are superimposed images and the courier is not actually driving on a NRL field.

Furthermore, there are no spectators, referees or players that make up a typical NRL game environment.

As the practice note outlines with regards to health and safety, Menulog believes that there is no contravention of this as the courier on the motorised scooter is wearing road safety compliant gear such as a helmet (as prescribed under law) as well as a Menulog high visibility jacket (as prescribed by Menulog's risk management protocols).

Menulog believes that it is unreasonable for a person or child viewing this advertisement to be encouraged or condoning unsafe behaviour due to the exaggerated and fantastical elements within the advertisement.

2.7 - Distinguishable as advertising

Section Description

Advertising should be clearly distinguishable as such.

Menulog Response

Menulog complies with this section of the code. The complaint in question does not reference anything noted in this section of the code. Additionally, the advertisement features superimposed animations showing "Free Delivery on Groceries" as well as a banner at the bottom of the advertisement stating "Delivering Decision...". This clearly distinguishes the video as an advertisement.*

AANA ADVERTISING Codes - Content and Detailed Commentary

1 AANA Code for Advertising and Marketing Communications to Children

a) Menulog Response - Menulog complies with this Code. The complaint in question does not reference anything noted in this section of the code.

2 AANA Food or Beverages Code

a) Menulog Response - Menulog complies with this Code. The complaint in question does not reference anything noted in this section of the code.

3 Wagering Advertising and Marketing Communications Code

a) Menulog Response - Menulog complies with this Code. The complaint in question does not reference anything noted in this section of the code.

4 AANA Environmental Claims Code

a) Menulog Response - Menulog complies with this Code. The complaint in question does not reference anything noted in this section of the code.

5 FCAI Motor Vehicle Code

a) Menulog Response

Menulog acknowledges that the advertisement in question may be subject to the FCAI Motor Vehicle Code. Menulog understands that the general provisions under the FCAI Code are there to serve as a guidance to advertisers in relation to appropriate standards for the portrayal of images, themes and messages relating to road safety. Further, Menulog supports the National Road Safety Strategy and acknowledges the

importance of increased road safety awareness in the Australian community and fully supports the efforts of all relevant Commonwealth, state and Territory authorities to secure this outcome.

Menulog maintains that the advertisement in question, is that of fantasy, humour and self-evident exaggeration in a creative way, and is not a direct advertisement for a motor vehicle.

Finally, as referenced above with regards to health and safety, Menulog believes that there is no contravention of this as the courier on the motorised scooter is wearing road safety compliant gear such as a helmet (as prescribed under law) as well as a Menulog high visibility jacket (as prescribed by Menulog's risk management protocols).

CONCLUSION

As stated in the above commentary, Menulog submits to the Community Panel that the advertisement raised in the Complaints does not breach the AANA Code of Conduct and the other supporting and relevant codes and practice notes. Menulog submits that the complaints should be dismissed.

THE DECISION

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' concern that the advertisement features unsafe behaviour.

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

Section 2.6: Advertising shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel noted that the action in the advertisement appears to take place on the sports field while there is a break in play. The Panel considered that vehicles driving near people playing sport may be unsafe but in this instance there is clearly no-one around except the driver and the security guard.

The Panel considered that the driver is not driving erratically and is wearing appropriate high-visibility clothing and safety gear. The Panel considered that the scene is a light-hearted depiction of the decision being delivered, and was not a depiction which shows, condones or would encourage unsafe behaviour.

Section 2.6 conclusion

The Panel found that the advertisement did not breach Section 2.6 of the Code.

Conclusion

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