

## Case Report

1. Case Number :	0188-24
2. Advertiser :	McDonald's Australia Limited
3. Product :	Food/Beverages
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	24-Jul-2024
6. Decision:	Upheld – Modified or Discontinued

### ISSUES RAISED

AANA Food and Beverages Code\3.1 Must not target children

### DESCRIPTION OF ADVERTISEMENT

This television advertisement depicts children in Minions costumes playing in a McDonald's playground.

A voice-over says, "Despicable Me 4 has landed at Maccas".

As food arrives at a table a man calls out "Hey minions", all of the children stop to look, and he clarifies, "my minions".

The voice-over says, "Try our banana desserts range for despicable grown ups and a Happy Meal for your little minions.



### THE COMPLAINT

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

*A children's toy happy meal was on air during prime time tv. Advertising fast food at children during prime time is against the advertising guidelines.*

## 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 0188-24 (Complaint).*

*We note that the Complaint has raised issues under the following codes of practice:*

- *AANA Food and Beverages Code – section 3.1 Must not target children\advertising for OFBP must not target children.*

*McDonald's takes its obligations seriously in respect of adherence to all the codes of practice administered by Ad Standards. McDonald's entirely refutes any suggestion in the complaint or otherwise that the Advertisement breaches the Codes. Please see details below.*

*AANA Food and Beverages Advertising Code:*

*Section 3.1 provides the following:*

*"Advertising (including sponsorship advertising) of Occasional Food or Beverage Products must not target Children".*

*In the current case, the complainant's concerns are that there was "a children's toy was on air during prime time tv" and "advertising fast food at children during prime time is against the advertising guidelines". We submit that our advertisement does not breach section 3.1 on the following basis:*

*Reason one: the nature and intended purpose of the product being promoted has a broad appeal to parents and families, rather than principally or significantly children.*

*The advertisement features a Despicable Me themed dessert range and Despicable Me themed Happy Meal. Whilst Happy Meal does have an appeal to children, the overall advertisement and products shown including the dessert range also have a significant appeal to an adult and family audience. When viewing the advertisement as a whole, the products are aimed primarily at a parent/adult audience.*

*It should also be noted that whilst the advertisement does feature occasional food or beverage products, the advertisement does not show any of the children consuming or interacting with any of the occasional food or beverage products featured in the advertisement, only the adult talent who the products are principally aimed at. The food and beverage displayed with the Happy Meal in the advertisement that the children are consuming are a wholemeal grilled chicken snack wrap, apple slices and water Happy Meal bundle. This bundle complies with the Food Standards Australia Nutrient Profile Scoring Criterion as published by Food Standards Australia New Zealand as the McDonald's Quality Assurance team has confirmed that each food item*

*in the bundle meets the NPSC score of <4 and the beverage is <1, and therefore is not considered an Occasional Food and Beverage Product (as defined in the code).*

*Reason two: The content of advertisement is aimed at a broad audience of parents and families, rather than primarily children.*

*Under the Food and Beverages Advertising Code, the second criteria for an advertisement to target children is that the content must be principally appealing to children. This advertisement integrates the popular film franchise Despicable Me, which is commonly enjoyed amongst families as well as people of all ages. The mere use of characters does not mean the advertisement directly appeals to children as this has been considered and dismissed by the Ad Standards Panel in previous decisions such as case 0280/15 and 0304-17. In the prior decision 0280/15, the Panel commented on the franchise noting “that the Minion movie is popular with children but considered that many families would watch the movie together and also enjoy the associated marketing material”. Therefore, the use of Despicable Me is not in the first instance targeting children but rather a broad family audience.*

*The language and music used also speaks clearly to parents and families rather than children. This is evident in the male voice over’s call to action with “try our banana desserts range for despicable grown-ups and a Happy Meal for your little minions”. A reasonable consumer would interpret this as the advertisement talking to parents who would buy a treat for themselves and a Happy Meal for their children. This is similar language to that used in case 0304-17, whereby the Panel noted “the voiceover did not have a childlike tone and considered the language was not of principal appeal to children” with it being determined as aimed at adults. It should also be noted that the advertisement uses a 90’s RnB track that is specific to target millennial parents and does not have the same appeal to children.*

*The theme of the advertisement is also aimed at parents and families by depicting a typical family’s dine in experience at McDonald’s. The 15 second advertisement shows the parents encouraging the children to pay at the front counter, whilst the 30 second advertisements shows the parents waiting for their meals and trying to get their children’s attention while their children are playing on the playground. Both advertisements close with the family sitting around the table enjoying their meals together which would be relatable to many adults and families who take their children to McDonald’s.*

*Reason Three: The placement of the advertisement is not targeting children as the expected average audience at the time and place the advertisement appears did not have a significant proportion of children as the audience.*

*Both the 15 second advertisement and 30 second advertisement were only placed in television spots where the predicted average audience did not have 25% or more*

*children as the audience, as required under the Food and Beverages Advertising Code. Therefore, the advertisement was not targeting any children under 15 years old in the placement.*

*Therefore, when looking at each of the criteria in determining whether the advertisement is targeting children, it is clear that the overall appeal and theme of the advertisements is targeted principally to an adult audience who would go to McDonald's with their family and buy a treat for themselves and a Happy Meal for their children. Therefore, given the above, and in line with previous Advertising Standards decisions, the Advertisement does not advertise occasional food or beverage products to children.*

#### *AANA Advertising to Children Code*

*We note that this Code is only applicable if the Advertisement is considered as Advertising or Marketing Communications to Children.*

*We submit that this Code is not applicable to the Advertisement considering that the language used, theme and placement of the Advertisement have a primary appeal to adults rather than children aged 15 years or younger. However, in the event the panel considers this advertisement having a primary appeal to children, McDonald's does not believe it is in breach of any section of the AANA Advertising to Children Code.*

#### *AANA Code of Ethics*

*McDonald's does not believe the Advertisement is in breach of the following parts of section 2 of the Code of Ethics:*

- 2.1 – Discrimination or vilification;*
- 2.2 – Exploitative and degrading;*
- 2.3 – Violence;*
- 2.4 – Sex, sexuality and nudity;*
- 2.5 – Language;*
- 2.6 – Health and Safety; and*
- 2.7 – Distinguishable as advertising*

#### *AANA Food and Beverages Advertising Code*

*McDonald's does not believe the Advertisement is in breach of any of the parts of the Food and Beverages Advertising Code. Please see response above.*

#### *Conclusion*

*McDonald's concludes that the Advertisement does not breach any of the codes, and in particular does not advertise occasional food and beverage products to children. Therefore, McDonald's respectfully disagrees with the complaint and request that the Panel dismiss the complaint on this basis.*

## THE DECISION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Food and Beverages Advertising Code (the Food Code).

The Panel noted the complainant's concern that the advertisement was promoting unhealthy food to children.

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

### **Section 3.1 Advertising (including sponsorship advertising) of Occasional Food or Beverage Products must not target Children.**

#### Is the advertisement for an Occasional Food or Beverage Product?

The Panel noted that the definition of Food or Beverage Product in the Food Code is: *"food or beverages products which do not meet the Food Standards Australia Nutrient Profile Scoring Criterion as published from time to time by Food Standards Australia New Zealand"*.

The Panel noted the advertiser's response that the Happy Meal product depicted consists of a wholemeal grilled chicken snack wrap, apple slices, and water, and that this does meet the FSANZ criteria. The Panel also noted the advertiser's response that the advertisement includes products which don't meet the FSANZ criteria including the Minion dessert range.

The Panel noted the advertiser's response that only adults interact with the dessert range, however considered that both products are featured in the advertisement and the advertisement does include occasional food or beverage products.

#### Does the advertisement target children?

The Panel noted that the Food Code defines "target children" as:

*"Target Children is determined by the context of the advertisement and the following three criteria:*

- 1. Nature and intended purpose of the product being promoted is principally or significantly appealing to Children;*
- 2. Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is principally appealing to Children;*
- 3. Expected average audience at the time or place the advertisement appears includes a significant proportion of Children."*

The Panel noted that the Practice Note provides guidance on the interpretation of “target children”:

*“All three criteria will be considered by the Community Panel in determining whether or not advertising targets Children. The weighting given by the Community Panel to each of the three criteria will be determined on a case by case basis. In the event of a complaint being considered by the Community Panel, the advertiser should be in a position to provide details in terms of the nature and intended purpose of the product, the presentation of the advertisement content and the expected average audience at the time or place the advertisement appears.*

*“In relation to the third criteria, measures to determine if Children are likely to be a ‘significant proportion’ of the expected average audience may include one or a combination of the following:*

- Where data exists, 25% or more of the predicted audience will be Children. In relation to outdoor advertising, if across a campaign the data shows a predicted audience with less than 25% Children, and there is a Children’s event or concert that is incidental to the ad placement, the audience of that incidental Children’s concert or event will not be captured.*
- C&P programmes.*
- Programs, artists, playlists, video, movies, magazines or other content with significant appeal to Children (e.g. featuring personalities or characters popular with Children).*
- Compliance with the Outdoor Media Association Placement Policy and Health & Wellbeing Policy which regulate the placement of advertising at primary and secondary schools which are locations where Children regularly and predictably gather. Where accurate program audience data is not available, the Community Panel may have regard to other factors listed above such as the program content, the time or the location where the advertisement is being shown (in line with the above provision).”*

*Point 1: Is the nature and intended purpose of the product principally or significantly appealing to children?*

The Panel considered that Happy Meals are a product which are principally appealing to children.

The Panel noted that the advertisement was also promoting the Minion dessert range, including a banana thickshake, a banana caramel pie and banana caramel McFlurry.

The Panel noted that the test is whether the product is *principally or significantly* appealing to children, not *only* appealing to children, and the Panel considered that desserts, especially those which are themed around an animated movie, are generally a product of significant appeal to children.

The Panel considered that the products were significantly appealing to children.

*Point 2: Is the content of the advertisement principally appealing to children?*

The Panel noted that to be within Section 3 of the Food Code the Panel must find that the advertisement is aimed in the first instance at children under 15.

*Is the theme of the advertisement principally appealing to children?*

The Panel noted the advertiser's response that the theme of the advertisement was families enjoying a meal together, and that this was relatable to adults and families.

The Panel considered that the primary impression of the advertisement is that McDonald's has partnered with the animated movie *Despicable Me 4* and produced a range of products which would appeal to fans of this movie.

The Panel considered that the movie and the minion characters from the movie are highly popular with children. The Panel considered that while some adults may also be interested in the movie and the new product range, the theme in this advertisement would be more appealing to children under 15 than to adults.

*Are the visuals of the advertisement principally appealing to children?*

The Panel noted that the 15 second version of the advertisement featured children in Minion costumes standing at a McDonald's counter attempting to get the attention of the person behind the counter, a focus on the dessert items and the Happy meal, a child playing with the Minion toy, and a family sitting at a table with their food.

The Panel noted that the 30 second version of the advertisement featured children in Minion costumes entering a McDonald's restaurant and seeing a playground filled with other children in costumes. When their food arrives at their table the father calls out to get the attention of "Minions" and when all the children turn around he specifies his Minions. The Minions product range is then shown, followed by a child playing with the Minion toy, and the family sitting at a table with their food.

The Panel noted the advertiser's response that the Panel had previously considered that the use of Minion characters did not make an advertisement targeted at Children.

The Panel noted that it had previously considered a similar issue in case 0280/15 in which:

*“The Panel (sic) noted the strong connection with the Minion movie and Minion characters and considered that the use of particular cartoon character from a movie does not immediately make it directed primarily to children. The Panel (sic) noted that the Minion movie is popular with children but considered that many families would watch the movie together and also enjoy the associated marketing material. The Panel (sic) then considered the visuals of the advertisement. The Panel (sic) noted the landing page includes the images of the Minions and also includes the movie trailer, product information and promotion of the “game of skill” competition and images of entries that have been submitted in the competition. The Panel (sic) noted that page is not interactive and does not include significant colour or activity that would capture the attention of children. The Panel (sic) noted that the drop down menus include text and words and though there is a drop down menu that links to games on the website, it is not immediately visible and is not directly encouraging children to play games.”*

Unlike the previous determination, both versions of the current advertisement feature children in Minion costumes, bright colours and products which would have significant appeal to children.

Overall, the Panel considered that the visuals would be principally appealing to children under 15.

*Is the language/wording/music of the advertisement principally appealing to children?*

The Panel noted the advertiser’s response that the language and music in the advertisement would be principally appealing to adults through the use of RnB music and the call-to-action targeting adults.

The Panel considered that while the call-to-action was targeting adults, the wording of “grown-ups” and “your little Minions” was childlike and likely to appeal to children.

The Panel considered that the language and music of the advertisement would be equally appealing to children under 15 and adults.

Is the content of the advertisement overall principally appealing to children?

The Panel reiterated that it is essential that they consider all elements of the advertisement and make a decision based on how all of the elements of the advertisement interact, and the overall impression that they make, in determining whether an advertisement is principally appealing to children.



The Panel considered that the overall impression of the advertisement is of children wearing costumes based on a popular animated movie, and enjoying time spent at MacDonalds. The Panel considered that while there are elements of the advertisement which would be appealing to adults, the overall impression was of an advertisement which was fun and exciting and which would attract the attention and interest of children under 15 ahead of any other audience.

*Point 3: Does the expected average audience of the advertisement include a significant proportion of children?*

The Panel noted the advertiser's response that the expected average audience at the time and place the advertisement appears did not have a significant proportion of children as the audience.

The Panel noted that the advertisement does not have an expected average audience which would include a significant proportion of children.

Does the advertisement target children?

The Panel noted that in order to determine whether an advertisement targets children it is required to weigh each of the three criteria above.

The Panel considered that:

- the product would have significant appeal to children
- the content of the advertisement was principally appealing to children
- audiences for the advertisement would not include a significant proportion of children.

The Panel considered that the placement of the advertisement did not outweigh that the first two points of the targeting children test had been met and therefore found that the advertisement did target children under 15.

**Section 3.1 conclusion**

The Panel noted that this advertisement for an Occasional Food or Beverage Product did target children, and therefore the Panel determined that the advertisement did breach Section 3.1 of the Food Code.

**Conclusion**

Finding that the advertisement breached Section 3.1 of the Food Code the Panel upheld the complaint.

## **THE ADVERTISER'S RESPONSE TO DECISION**

At McDonald's we take our responsibility as an advertiser very seriously. Whilst we were disappointed with the outcome of the complaint, McDonald's remains committed to ensuring compliance with the AANA Advertising Codes and we respect the final decision from Ad Standards. This advertisement is no longer airing.