



**ADVERTISING
STANDARDS
BUREAU**

Level 2, 97 Northbourne Avenue, Turner ACT 2612
Ph (02) 6173 1500 | Fax (02) 6262 9833
www.adstandards.com.au
ACN 084 452 666

**Mrs Nicole Antonopoulos
615 St Kilda Road
MELBOURNE VIC 3004**

30 July 2015

1. Complaint reference number: **0279/15**
2. Advertiser: **McDonald's Aust Ltd**

Dear Mrs Antonopoulos,

We refer to your complaint regarding the above advertisement.

The Advertising Standards Board reviewed the advertisement and considered your complaint at its recent meeting. We have to advise you that the Board did not uphold your complaint.

A copy of the case report reflecting the Board's determination is enclosed.

Please note that if you are dissatisfied with the determination it may be possible for you to request a review, within 10 business days of the date of this letter. Before submitting a request for review, please refer to the information about the Independent Review process. This will ensure that you have the right information to decide if you have grounds to make the request. This information is available on our website at <http://www.adstandards.com.au/process/theprocesssteps/independentreviewofasbdeterminations>

Thank you for your participation in the self-regulation system. It would be appreciated if you would complete a short survey about your views on the advertising complaint adjudication process. Your comments will assist the ASB in delivering a best practice complaints system. The survey link is at <https://www.surveymonkey.com/s/LL8YLNV>.

With regards,

Nikki Paterson/ Daniela Gray

Case Managers

Advertising Standards Bureau

complaint@adstandards.com.au



Case Report

1	Case Number	0279/15
2	Advertiser	McDonald's Aust Ltd
3	Product	Food / Beverages
4	Type of Advertisement / media	Radio
5	Date of Determination	22/07/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

QSR - 1.1 - Advertising and Marketing Message Advertising and Marketing Message must comply

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement features an adult voiceover discussing the new Extra Value Meal that McDonalds is currently offering to adults, which is titled the Minions Quarter Pounder Extra Value Meal. The value meal includes a Quarter Pounder burger, fries, beverage and a Banana Choc McFlurry.

THE COMPLAINT

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

We submit that this advertisement is an advertising communication to children which does not meet the requirement under this initiative, to:

- 1. Represent healthier choices, as determined by a defined set of Nutrition Criteria for assessing Children's meals; and*
- 2. Reference, or be in the context of, a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages:*
 - 1. Good dietary habits, consistent with established scientific or government criteria; and*
 - 2. Physical activity.*
- 1. It is a communication directed primarily to children.*

This advertisement promotes a tie-in to a movie that is directed primarily to children. The movie is set to be the number one movie among children these school holidays. McDonalds clearly recognise that this movies is targeted to children as it is also promoting on television a Happy Meal featuring a minion toy. The voice over focusses on the movie and would be of

primary appeal to children.

2. The Quarter Pound meal advertised does not represent a “healthier dietary choice”™ consistent with established scientific or Australian government standards (S.I.1.a); The advertisement promotes a Quarter Pound meals, featuring a Quarter Pounder, Fries, Coke and McFlurry. This meal clearly does not fit within the criteria of a healthier dietary choice.

3. It does not promote healthy dietary habits or physical activity.

The advertisement promotes only the movie and Quarter Pounder Meal. It does not promote healthy dietary habits in any way or physical activity.

Request for action

We submit that this radio advertisement breaches the QSRI and we ask that the Board require the advertiser to withdraw it from all radio schedules in Australia immediately. Your urgent response is sought given this is clearly a short term advertising campaign tied into the broadcast of the Minions movie in cinemas, and most likely the school holiday period. A determination of this complaint after the advertising campaign has finished will be futile. We would also ask that you raise concerns with McDonalds about its in-store promotions featuring this movie-tie in, particularly in relation to a meal that clearly fails to meet the criteria for healthier options. The McFlurry packaging clearly constitutes marketing directed to children and is contrary to McDonalds commitment to promote only healthier options to children.

THE ADVERTISER’S RESPONSE

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

McDonald’s thanks the Advertising Standards Bureau (“ASB”) for the opportunity to provide submissions in response to complaint number 0279 of 2015 (“Complaint”) in respect of the Minions Quarter Pounder Extra Extra Value Meal radio advertisement (“Advertisement”). McDonald’s has rigorous internal checking processes for all of its consumer communications and is acutely aware of the reach of its advertising. McDonald’s is very sensitive to ensuring that it meets the QSR Initiative and the Codes.

We are firmly of the opinion that the Advertisement is not in breach of the Australian Food and Grocery Council Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (“QSR Initiative”), the AANA Code for Advertising and Marketing Communications to Children (“AANA Children’s Code”) or the AANA Food and Beverages Advertising and Marketing Communications Code (“AANA Food Code”) (together, the “Codes”).

We provide our reasons in respect of each of the Codes below.

QSR Initiative

We submit that the Advertisement is not directed primarily to children under 14 and accordingly does not fall within the ambit of the QSR Initiative.

The Advertisement would be only caught by the QSR Initiative if it could be considered that:

- 1. The medium is directed primarily to children; or*
- 2. The medium attracts an audience share of greater than 35% of children; or*

3. The Advertisement is directed primarily to children (irrespective of placement).

We submit that the overall content of the Advertisement, including the product on offer is primarily directed to adults.

Medium is not directed primarily to children and does not attract an audience of greater than 35% of Children

The Advertisement featured on the following radio networks, NOVA, Australian Radio Network and Southern Cross Austereo across the Sydney, Melbourne, Adelaide and Perth regions. The Advertisement was played during the hours of 9 am – 7 pm each day of the week on each of the radio networks until 30 June 2015. However, the Australian Radio Network only played the Advertisement during weekdays. The target audience for each station is listed below.

We submit that no commercial radio networks (including those listed above) target children. Booked stations for Minions Quarter Pounder Extra Extra Value Meal activity specifically targets the following audiences.

Network: Southern Cross Austereo

Stations

- Hit (Syd, Mel, Ade): Female 18 - 39*
- MMM (Syd, Mel, Ade): People 40 +*
- Mix 94.5 (Per): People 25 - 54*

Network: Nova

Stations

- Nova (Syd, Mel, Ade, Per): People Under 40*
- Smooth (Syd): Female 25 +*

Network: Australian Radio Network

Stations

- Kiis (Syd, Mel, Ade): Female 25-44*
- WSFM/Gold (Syd, Mel): People 40 - 54*
- 96FM (Per): People 25-44*

We submit that the Advertisement would not attract an audience share of greater than 35% of children. As most children are at school five out of seven days a week during this time, the Advertisement is placed in a medium and timeslot designed to appeal to adults and is intended for an adult audience.

Advertisement is not directed primarily to Children (irrespective of placement)

We submit that the content of the Advertisement is not directed primarily to children, as would be required for the QSR Initiative to apply, for the reasons set out below.

Directed “primarily” to children

The Advertisement was created for a target audience of adults aged 18 onwards who are aware of and purchase a McDonald’s Extra Value Meal. In our view it is clear that the primary target audience is an adult as the themes, visuals and language, as further described below, are all directed to adults (and not understood by children).

The Minions movie is a movie that demonstrates broad appeal for adults, children and the family, generally. We disagree with the complainant’s view that the Minion’s movie is targeted to children only. In Australia, the Minions movie was released with the rating of “PG” parental guidance required for viewers under 15 years of age on account of the film containing mild animated violence. Given the broad appeal of the movie, McDonald’s promoted products separately that featured Minions. In doing so, McDonald’s made sure that the Minions Quarter Pounder Extra Extra Value Meal was not promoted in conjunction with

the Minions Happy Meal.

1) Theme – Value & Romancing the products

One of the main themes of this Advertisement is value, with the opportunity for adults to purchase an Extra Value Meal which includes a dessert. Value is something that matters very little to children, as it is widely understood that children, especially younger children. Value is, however; a key driver for adults and an important factor in purchasing decisions for many, if not most, adults. It is clearly not a theme that is directed to, or would even appeal to, children as most children don't understand or care about the concept of value.

Additionally, the Advertisement romances the food and beverage products, especially the "delicious" Banana Choc McFlurry, which again is not a theme, understood by children. We submit that the Advertisement would have principal appeal to adults.

2) Visuals

As the Advertisement is featured on radio, there are no visuals to comment on.

As a result, the music and sound effects of the Advertisement were judiciously selected with considerable care as to not have principal appeal to children. During the voiceover, there is no whimsical music in the background and the usual McDonald's sting as featured in many McDonald's advertisements is played in the closing seconds. As noted above and below, Extra Value Meal products and McFlurry desserts are products which are enjoyed by adults (and not children), and as such have historically been marketed to adults only (and will continue to be marketed by McDonald's only to adults).

3) Language

The language of the Advertisement is directed to an adult audience by using adult concepts and vernacular and, in our view, is unlikely to capture a child's attention or engage a child. The Advertisement uses terminology that would not be understood by children or capture their attention.

Relevantly, the Advertisement uses the following adult concepts: (i) the "value" of a meal; and (ii) the adult theme of treating one's self. The Advertisement uses the phrases "Indulge the Minion in you" and "Extra Extra Value Meal". The Advertisement also romances the McFlurry dessert by using flavour cues such as "delicious" and "indulge".

Finally, the voiceover is spoken by a male who sounds like he is probably in his late twenties or early thirties. It is not childish, fun or whimsical, but focuses in on the content of the Minions Quarter Pounder Extra Extra Value Meal. The adult voiceover is promoting a product that is not targeted toward and of principal appeal to children. We disagree with the complainant's comments that the voice over focuses on the Minions Movie. The Advertisement does not refer to the Minions Movie in the Advertisement, instead focusing on the products of the Extra Extra Value Meal.

It is our position that the Advertisement, its objective and the overall look and feel of the Advertisement is directed to adults and accordingly the Advertisement does not fall under the QSR Initiative.

AANA Children's Code & AANA Food Code

McDonald's is of the view that the Advertisement is not in breach of the AANA Children's Code as the Advertisement, for the reasons mentioned above, is not directed to children nor are the products (including the Banana Choc McFlurry) of principal appeal to children.

Given the broad appeal of the Minions Movie, McDonald's purposefully created a separate campaign directed to children featuring a Nutrition Criteria compliant meal as defined by the QSR Initiative. Notably, Happy Meals (children's product) are never featured, nor alluded to in the Advertisement.

It is our submission that the Advertisement is also not in breach of the AANA Food Code as the Advertisement does not undermine the importance of a balanced diet or healthy lifestyle or encourage excessive consumption by means contrary to prevailing community standards.

Conclusion

We submit that the Advertisement does not breach the Codes and the Complaint should be dismissed.

We thank the ASB for providing us the opportunity to respond to the Complaint and look forward to learning the outcome. McDonald's takes its responsibilities under the Codes very seriously and is committed to ensuring ongoing compliance.

THE DETERMINATION

The Advertising Standards Board ('the Board') considered whether this advertisement breaches the Australian Quick Service Restaurant Industry Initiative for Responsible Advertising and Marketing to Children (the 'QSR Initiative'), the AANA Food and Beverages Advertising and Marketing Communications Code (the 'Food and Beverages Code'), and the AANA Code for Advertising and Marketing Communications to Children (the 'Children's Code').

The Board noted the complainant's concern that the advertisement is directed primarily to children and is not representing healthier choices or encouraging good dietary habits and physical activity.

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

The Board noted that McDonald's is a signatory to the Quick Service Restaurant Initiative for Responsible Advertising and Marketing for Children (QSRI).

The Board noted that the QSR Initiative is designed to ensure that only food and beverages that represent healthier choices are promoted directly to children.

The Board considered the definition of advertising or marketing communications to children within the QSR Initiative. The definition states that 'Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for food and/or beverage products.' Under this initiative Children means "persons under the age of 14 years of age."

The Board also noted that the QSR Initiative captures Advertising and Marketing Communications to Children where:

1. ...the theme, visuals and language used, are directed primarily to Children and are for food and/or beverage products;
2. Advertising or Marketing Communications that are placed in Medium that is directed primarily to Children (in relation to television this includes all C and P rated programs and other rated programs that are directed primarily to Children through their themes, visuals and language); and/or
3. Where children represent 35 per cent or more of the audience of the Medium.

The Board first considered whether the communication itself was directed primarily to children.

The Board noted that the advertisement is a radio advertisement that features a male voiceover describing the new "extra, extra value meal." The meal is described as offering a banana choc McFlurry with your "Minion" quarter pounder meal. The details regarding participating stores follows.

With regards to point 1, the Board noted they must consider whether the communication activity having regard to the theme, visuals and language used, is directed primarily to

Children.

The Board noted that the dictionary definition of “primarily” is “in the first place” and that to be within the QSRI the Board must find that the advertisement is clearly aimed in the first instance at Children under 14 and that it must have regard to the ‘theme, visuals and language’ used in determining this issue.

The Board noted that the theme of the advertisement (an extra, extra value meal) is a theme commonly associated with McDonald’s advertising. The Board noted that the advertising of a meal that is promoting extra value is a concept that is of appeal to an adult audience. The Board noted that the meal promoted in the advertisement is a quarter pounder meal and considered that the quarter pounder burger is not a menu item that is typically chosen by children.

The Board noted that the advertisement is a radio advertisement and therefore did not include any visuals.

The Board then considered the language used in the advertisement. The Board noted that the voiceover used is a mature male voice and considered the style and tone of his voice is one that is used consistently throughout radio and some television advertising for McDonald’s. The Board noted that the voiceover refers to the “Minion” in you and a “Minion” quarter pounder meal. The Board noted that the Minion movie is currently being aired in Australia and that listeners would be aware of the association between the movie and Minion promotions in store at McDonald’s. The Board considered however that the language used was not child-like or of appeal to children and that a reference to Minions is not in itself a call to children to visit a McDonald’s restaurant.

The Board considered that overall, the theme and language of the advertisement were not directed primarily to Children under 14.

With regards to points 2 and 3, the Board considered that this particular radio advertisement is not available in a medium that is directed primarily to Children or would attract an audience of greater than 35% of Children.

Based on the requirements outlined in the Initiative the Board considered that as the advertisement was not directed primarily to Children, did not appear in a medium directed primarily to Children and did not appear in a medium which attracts an audience share of more than 35% of Children, the QSRI does not apply in this instance.

The Board then considered whether the advertisement complied with the requirements of the AANA Code for Advertising and Marketing Communications to Children (The Children’s Code).

To fall within this Code, or Part 3 of the AANA Food and Beverages Advertising and Marketing Communications Code (The Food Code), “Advertising or Marketing Communications to Children means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product”.

For the reasons outlined above, the Board considered that the advertisement is not directed primarily to Children and that the children’s Code does not apply.

The Board noted that the product advertised is food and therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply.

In particular the Board considered Section 2.1 of the Food Code which provides:

“Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards...”

The Board considered that, consistent with previous decisions (Hungry Jacks 282/11, Mars 208/11, Fyna Foods 0101/14), the promotion of a product which may have a particular nutritional composition is not, per se, contravening prevailing community standards and did not breach the Food Code.

Finding that the advertisement did not breach the QSRI, the AANA Food Code or the AANA Children’s Code, the Board dismissed the complaint.