

IP, Advertising & Technology Alert December 2007

The Ogre in Children's Advertising

Australian Advertising Standards Board Dismisses Seven Complaints

In August 2007, the Advertising Standards Board ("**ASB**") considered and ultimately dismissed complaints made about seven separate advertisements for a range of products including Nutella, McDonalds' Happy Meals, McDonalds' Pasta Meals, M&M's and Kelloggs' cereals across a range of media ("**Advertisements**").

The common element to the Advertisements was that they all promoted the Shrek The Third movie in some form or other (usually by offering merchandise as a premium with the product purchased). The common element to all of the complaints was that they alleged that the Advertisements in some way contravened either or both of the AANA's Code for Advertising to Children ("**CAC**") or the AANA Food & Beverages Advertising and Marketing Communications Code ("**Food & Beverage Code**").

One of the clauses considered was clause 3.5 of the Food & Beverage Code, the "pester power" provision, which provides that "Advertising and/or Marketing Communications directed towards Children for Food and/or Beverage Products shall not include any

appeal to Children to urge parents and/or other adults responsible for a child's welfare to buy particular products for them".

As reported in the case reports for the McDonalds' products, McDonalds' response to the complaints made against their products refers the ASB to the Practice Note for the Food & Beverage Code which states that to contravene the Food & Beverage Code an "appeal" must be a "direct" appeal rather than an indirect appeal. The ASB agreed with McDonalds' position in this regard. Essentially what this means is that as long as the advertiser falls short of directly appealing to children to ask their parent to buy the product for them (ie "Hey kids, ask your mum or dad to buy you a Happy Meal" or showing children asking their parents for the product in the particular advertisement) then they are unlikely to breach clause 3.5 of the Food & Beverage Code.

Amid growing consumer concern regarding obesity in children, there is significant community debate regarding the role of advertising to children of food and beverage products, particularly those that



utilise character merchandising to leverage appeal to children. At present, the issues raised all fall within the advertising industry's self-regulation scheme. The ASB maintains that it has upheld both the intention and the letter of the codes. However, some consumer groups take the view that the self regulation codes fall short of what is required and that the self regulation system is not working. Such groups are calling for the Australian government to legislate to overcome the perceived deficiencies of the system.

On 4 December 2007, in its annual "Shonky" awards for poor consumer standards, CHOICE (an independent non-profit consumer research and lobbying organisation) awarded the ASB a "Shonky" for dismissing all complaints in respect of Shrek food merchandising campaigns.

The previous federal government resisted calls to legislate against advertising of particular food types to children, citing that it is a matter for the parents and left it up to the self-regulation system. However,

with lobby group pressure mounting and a recent federal election in November resulting in a change of government, watch this space.

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