

COMPLAINT NUMBER	17/173
COMPLAINANT	M Turner
ADVERTISER	Yum! Restaurants International
ADVERTISEMENT	Yum! Restaurants International, Television
DATE OF MEETING	27 June 2017
OUTCOME	Not Upheld

SUMMARY

A KFC promotion for a \$10 Bucket of Popcorn Chicken appeared during a decision pending moment in the Warriors vs Broncos NRL game.

The Complainant said the advertisement was misleading because the offer was not available in New Zealand, despite being aired in this country.

The Complaints Board said in its view, the disclaimer on the advertisement stating that the promotion was only available in Australia was clear and on-screen for the duration of the offer. Therefore, the advertisement was not in breach of the Code of Ethics, and the advertisement had been prepared with a due sense of social responsibility.

The Complaints Board ruled the complaint was Not Upheld.

[No further action required]

Please note this headnote does not form part of the Decision.

COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the advertisement with reference to Basic Principle 4 and Rule 2 of the Code of Ethics. This required the Complaints Board to consider whether the advertisement contained anything which, either directly or by implication, was likely to deceive or mislead the consumer and if it had been prepared with a due sense of social responsibility to consumers and to society.

The Complaints Board ruled the complaint was Not Upheld.

The Advertiser's Response

The Advertiser said the advertisement was not misleading. The Advertiser said in part:

"The purpose of the Advertisement is to provide promotional content to viewers while they are waiting for the pending decision of the referee from the official review room, otherwise known as the "NRL Bunker", on whether or not a try has been scored by a player. The Advertisement displays the words "\$10 Bucket, Popcorn Chicken" and an image of the Popcorn Chicken bucket which is accompanied by the onscreen disclaimer "Australia only and not in all stores". The words "Decision Pending" are displayed in the background as part of the stadium's signage within the Advertisement. The words "No Try" then appear onscreen after the referee's decision has been made."

The Advertiser also confirmed the broadcast arrangements for the NRL games:

"...the Advertisement is targeted at an Australian audience. We note that the vast majority of NRL games are played in Australia (approximately 94%). Out of the 16 NRL teams that compete in the NRL competition, there is only one New Zealand team, namely Auckland Warriors. Out of the 26 NRL games per season that the Auckland Warriors play, only 12 of their games are played in stadiums located in New Zealand. There are a total of 200 games played during the NRL competition."

The Complaints Board Discussion

The Complaints Board reviewed the advertisement and noted it did contain a disclaimer in black print against a green background which read "Australia only and not in all stores". It confirmed that it appeared on the screen for the duration of the advertisement and the Complaints Board agreed that it was clearly visible.

The Complaints Board also noted the response from the Advertiser that the majority of the audience for the games were Australian. The Advertiser confirmed that viewers from Australia and New Zealand see the same footage of the NRL games.

The Complaints Board took into account the NRL coverage was generally targeted at a New Zealand audience and that both countries received the same footage. It agreed a disclaimer on the offer was appropriate and in the advertisement before it, the Complaints Board said the disclaimer about the offer only being available in Australia was clear.

Therefore, the advertisement was not misleading and had been prepared with the due sense of social responsibility required by the Code of Ethics.

Accordingly, the Complaints Board ruled to Not Uphold the complaint.

DESCRIPTION OF ADVERTISEMENT

During a 'bunker' review of play in an NRL rugby league game between the New Zealand Warriors and the Brisbane Broncos, the screen was split between coverage of the players on the field and the decision pending screen. The decision pending screen showed an advertisement for a KFC \$10 Popcorn Chicken Bucket. At the bottom right of the screen it said "Australia only and not in all stores".

COMPLAINT FROM M TURNER

Sky Sport 2 Warriors vs Broncos

During the game, when a try is referred to "The Bunker", an advertisement will often pop up advertising a \$10 Bucket of Popcorn Chicken from KFC, when the Try is given or declined. This is during a game that is played in Auckland New Zealand. (The same ad came up during last weeks game in Hamilton.) I have contacted KFC in New Zealand, who do not offer a \$10 Bucket of Popcorn Chicken. Presumably this means the offer is only for Australia. I understand that this game is broadcast to Australian audiences, but then the ad should make clear that the offer is to Australians only. (This only needs to be made clear on games played in New Zealand.) It's not fair to advertise something in a New Zealand based game and not make clear that it's not available at KFC New Zealand.

CODE OF ETHICS

Basic Principle 4: All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

Rule 2 Truthful Presentation: Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

RESPONSE FROM ADVERTISER: YUM! RESTAURANTS INTERNATIONAL

As the Group Marketing Manager responsible for the relevant advertisement in this instance, I respond to the complaint as follows:

Description of Advertisement

The advertisement to which the Complainant refers to is KFC's video advertisement for its \$10 Popcorn Chicken Bucket displayed at live National Rugby League ("**NRL**") games ("**Advertisement**").

The Advertisement was broadcast across a four week period from 16 May 2017 during NRL games in the 2017 season as part of KFC's sponsorship arrangement with the Australian National Rugby League. The Advertisement is no longer being aired.

The purpose of the Advertisement is to provide promotional content to viewers while they are waiting for the pending decision of the referee from the official review room, otherwise known as the "NRL Bunker", on whether or not a try has been scored by a player. The Advertisement displays the words "\$10 Bucket, Popcorn Chicken" and an image of the Popcorn Chicken bucket which is accompanied by the onscreen disclaimer "Australia only and not in all stores". The words "Decision Pending" are displayed in the background as part of the stadium's signage within the Advertisement. The words "No Try" then appear onscreen after the referee's decision has been made.

The Complaint

The Complainant has expressed concern that the Advertisement promotes the "\$10 Bucket, Popcorn Chicken" and that this offer is not available at KFC restaurants in New Zealand.

Code for Advertising Food

We consider the Advertisement does not breach Principles 1 and 2 of the Code for Advertising Food.

Firstly, the Advertisement is targeted at an Australian audience. We note that the vast majority of NRL games are played in Australia (approximately 94%). Out of the 16 NRL teams that compete in the NRL competition, there is only one New Zealand team, namely Auckland Warriors. Out of the 26 NRL games per season that the Auckland Warriors play, only 12 of their games are played in stadiums located in New Zealand. There are a total of 200 games played during the NRL competition.

The NRL games are broadcast on free to air and subscription television channels operated by or affiliated with Nine Network Australia Pty Limited and Fox Sports Australia Pty Ltd. The free to air broadcast is televised in Australia and subsequently only reaches an Australian audience. However, the subscription television broadcast cannot be geo-blocked to exclude New Zealand viewers or exclude content not applicable to New Zealand viewers. Viewers from Australia and New Zealand both see the same footage of the NRL games.

Lastly, the "\$10 Bucket, Popcorn Chicken" offer is only available to consumers at participating KFC restaurants in Australia. This is clearly and prominently communicated to viewers via the onscreen disclaimer, "Australia only and not in all stores", that is displayed on the bottom right hand corner of the Advertisement. The size and positioning of Advertisement as it appears on television is at the sole discretion of the broadcasters and KFC has no control over this decision.

As such, the Advertisement is not in any way misleading or deceiving. We trust this addresses the Complainant's concerns.

RESPONSE FROM BROADCASTER: SKY TV

Sky TV had no comment to make.