

<b>COMPLAINT NUMBER</b>	17/244
<b>COMPLAINANT</b>	T. Bromley
<b>ADVERTISER</b>	Air New Zealand Ltd
<b>ADVERTISEMENT</b>	Air New Zealand Ltd, Digital Marketing
<b>DATE OF MEETING</b>	8 August 2017
<b>OUTCOME</b>	Not Upheld

## SUMMARY

The Air New Zealand 'A Fantastical Journey' advertisement appeared on Facebook and YouTube and was a promotional version of an inflight safety video. It featured Katie Holmes and Cuba Gooding Jr. as deities and showed an array of scenes including a windfarm with colourful toy windmills instead of turbines, people white-water rafting on clouds, a marshmallow being dipped in hot mud in Rotorua and a giant cyclist riding over the Auckland Harbour Bridge. The advertisement also provided several safety instructions and concluded with the onscreen statement: "Thanks for coming on this fantastical journey".

The Complainant said the advertisement was irresponsible as it depicted an unsafe practice of dipping a marshmallow into boiling mud pools which could be emulated by children.

The Advertiser said consumers would realise, when viewed in context, that the brief scene was in keeping with the 'fantasy' theme of the advertisement and disagreed the marshmallow being dipped in mud would encourage unsafe or dangerous behaviour.

The Complaints Board acknowledged the concerns of the Complainant about the dangers of mud pools but said the advertisement did not reach the threshold to encourage a disregard for safety. It said the medium in which it appeared, the likely audience and its hyperbolic nature saved the advertisement from breaching Basic Principle 4 and Rules 1, 2 and 12 of the Code of Ethics.

The Complaints Board ruled the complaint was Not Upheld.

### **[No further action required]**

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

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## COMPLAINTS BOARD DECISION

### **Jurisdiction**

As a preliminary matter, the Chair directed the Complaints Board to consider whether the Air New Zealand content met the definition of an advertisement.

The Complaints Board noted the Complainant's view the safety video was advertising as it appeared on Facebook and YouTube and had been viewed many times. The Complainant

said, in part: “Whilst the primary purpose of an Air NZ safety video used to be to inform, and demonstrate clearly, safety on the aircraft, they now serve the dual purpose of advertising Air NZ, our country, and in this case specific tourist destinations via mediums other than on the aircraft.”

The Advertiser disagreed. It noted a precedent Decision (14/155) where it was accepted by the Complaints Board that an Air NZ safety video fell outside the ASA’s jurisdiction. In Decision (14/155), the majority of the Complaints Board found that:

“the item could be considered to have ‘imparted knowledge’ under the definition of an advertisement, however it noted it appeared in the context of an inflight safety briefing video to passengers on board an aeroplane required by the Civil Aviation Authority.

The Complaints Board also noted the video clearly identified the Air New Zealand brand, which could be considered a promotional tool, however in its view, as the item was played as part of an on board safety briefing for Air New Zealand aircraft, it fell outside the jurisdiction of the Advertising Standards Complaints Board. The Complaints Board was of the view that the item complained of was not an advertisement for the purposes of its codes, but rather fell into the category of compulsory instructional video content. It confirmed that compulsory instructional video content was not within its jurisdiction and that accordingly it therefore did not have jurisdiction to consider the item.”

The Advertiser continued that “there is no attempt to persuade any consumer to purchase any products or services within any of our safety videos... We maintain the view that how Air NZ delivers its safety messages to passengers in-flight, isn’t a matter for the ASA to be involved in.”

The Complaints Board noted the Advertising Standards Authority’s current expansive definition of an advertisement:

“Advertising and advertisement(s) are any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or behaviour of those to whom it is addressed.”

The Complaints Board took into account the view from both parties and the precedent Decision (14/155). It accepted the item served the primary purpose of an instructional safety video, however, it was of the view in the Facebook and YouTube environments the content was promotional in nature. It said the content was controlled directly by the Advertiser, appearing on their Facebook page and YouTube channel and appeared to be actively promoted as sponsored content. The Complaints Board said it had the look and feel of an advertisement and noted it had been viewed many times. The Complaints Board said the material promoted the Air New Zealand brand and its services, as well as New Zealand as an appealing travel destination, appearing in a medium where it could influence the choice, opinion or behaviour of consumers.

The Complaints Board said the item before it met the definition of an advertisement as, in this instance, the item complained about appeared in an Advertiser controlled advertising medium. It therefore fell within the jurisdiction of the Advertising Standards Complaints Board.

### **The Codes**

The Complaints Board noted the Complainant raised concerns under the Code for Advertising to Children. The Complaints Board said while children could be exposed to the advertisement, it was not targeting them directly in the medium in which it appeared and, taking in to account the intent of the Code for Advertising to Children, it ruled that code did not apply to the advertisement before it.

The Chair directed the Complaints Board to consider the complaint with regard to Basic Principle 4 and Rules 1, 2, and 12 of the Code of Ethics.

The Complaints Board was required to consider whether the advertisement was distinguishable and readily recognisable as such and whether it contained any statement or visual presentation or created an overall impression that was likely to mislead or deceive consumers. The Complaints Board were to consider whether the advertisement, unless justifiable on educational or social grounds, contained any visual presentation or any description of dangerous or illegal practices or situations which encouraged a disregard for safety. The Complaints Board were to determine whether the advertisement had been prepared with a due sense of social responsibility to consumers and society required by Basic Principle 4 of the Code of Ethics.

### **The Complaints Board ruled the complaint was Not Upheld.**

#### **The Advertisement**

The Air New Zealand 'A Fantastical Journey' advertisement appeared on Facebook and YouTube and was a promotional version of an inflight safety video.

The advertisement featured Katie Holmes and Cuba Gooding Jr. as deities creating the world and featured many hyperbolic and fantastical scenes from around New Zealand which were conspicuously blended with computer generated images. Some of the scenes included a windfarm with colourful toy windmills instead of turbines, people white-water rafting on clouds, a marshmallow being dipped in hot mud in Rotorua, a giant cyclist riding over the Auckland Harbour Bridge, a clothesline forming part of a mountain chairlift and a mountain biker riding an off-road trail through the cinnamon dust on top of a cappuccino.

The advertisement also provided several instructions relevant to inflight safety and concluded with the onscreen message:

“Thanks for coming on this fantastical journey”.

#### **The Complaint**

The Complainant raised concerns about the Air New Zealand 'A Fantastical Journey' safety video as it appeared on Facebook and YouTube and was primarily concerned that a scene in the advertisement depicted a marshmallow being dipped into bubbling mud. The Complainant was of the view this would be seen by children and tourists and be able to be easily replicated. The Complainant said the advertisement was “showing the mud pools as something safe, something a child could dip a marshmallow into. There have been deaths in these mud pools, and very young children (0-3 yrs) do not grasp the difference between fantasy and reality... Many tourists visit the thermal reserves and do not understand the dangers. Many young children definitely don't... It is not until 3 – 5 years children develop the ability to understand fantasy from reality.”

The Complainant was also concerned that children would be made to watch the video on the plane and said, in part: “there are children on almost every flight. Some of them may not understand English or the safety messages, or the dangers of NZ thermal regions, nor may their parents, but they will sure understand marshmallows and chocolate. While it is up to the

parents / caregivers to keep their children safe around the mud pools, and the businesses involved in managing the attractions to provide safety information in regard to visiting them, putting the idea into even one toddler's head that it is chocolate and you can dip a lolly into it is extremely dangerous and irresponsible. Showing this done with one of most toddlers' favourite treats, that comes with their fluffy, even worse."

### **The Advertiser's Response**

The Advertiser said the advertisement was fantastical in nature and disagreed the scene showing the marshmallow being dipped in mud would encourage unsafe behaviour.

In relation to the brief part of the video subject to complaint, the Advertiser said, in part: "the marshmallow scene is in keeping with the 'fantasy' theme in that the boiling mud is metaphorically compared to molten chocolate. We see no reason to view that scene in isolation to the others within the Safety Video. No children are involved in the scene, and while it does include a form of confectionary that children would enjoy (as do adults), we're confident that children wouldn't particularly like to eat confectionary caked in mud and it is unlikely that the scene would be re-enacted by a child.

...We disagree that by including this three second scene, Air NZ has been socially irresponsible, because it neglected to consider that children younger than three, might happen to slip their parent's attention while visiting the mud pools in Rotorua and attempt to recreate that scene by dipping confectionary in those hot mud pools."

### **The Complaints Board Discussion**

The Complaints Board confirmed the item before it fell within its jurisdiction due to its placement and promotion in the social media environment.

The Complaints Board said the advertisement was identifiable as such in the social media environment and it would be clear to consumers that it was promoting the brand and services of Air New Zealand. The Complaints Board said as the item was readily recognisable as an advertisement in the context of its placement in the Facebook and YouTube environments, it had met the requirement for identification and was not in breach of Rule 1 of the Code of Ethics.

The Complaints Board considered the placement of the advertisement and the likelihood children would be exposed to it and its level of appeal to children. The Complaints Board noted the Complainant said children would be made to watch the video while on board an aircraft, however, the Complaints Board noted in that instance, it would defer to the Civil Aviation Authority, as the material would be considered an inflight safety briefing video to passengers rather than an advertisement. In terms of the video appearing on Facebook and YouTube, the Complaints Board said young children's exposure to the advertisement would be low. While it acknowledged the advertisement might have some appeal to children in terms of its vivid presentation, they were not the primary target audience and any exposure to content on Facebook and YouTube, which have age restrictions should be mitigated by a parent or guardian.

The Complaints Board then turned to consider whether the advertisement contained any visual presentation or description of a dangerous practice or situation which encouraged a disregard for safety or any statement or visual presentation likely to deceive or mislead the consumer required by Rules 2 and 12 of the Code of Ethics.

The Complaints Board considered the overall context of the advertisement and the specific scene subject to complaint. The Complaints Board said the advertisement was clearly hyperbolic in nature, featuring a creationism narrative interspersed with real New Zealand locations blended with computer-generated images. It took into account the various

situations presented and considered these to be light-hearted fantasy. It said the scene showing the marshmallow dipped in mud was brief and, noting the medium and target audience, it was unlikely to encourage children to emulate the action of dipping a marshmallow into a mud pool.

The Complaints Board acknowledged the sincere safety concerns held by the Complainant relating to the danger around mud pools and the potential for serious harm. However, the Complaints Board said the advertisement did not go far enough to be considered to depict a dangerous situation and was saved by the hyperbolic and fantastical nature of the advertisement.

As such, the Complaints Board ruled the advertisement was not in breach of Rules 1, 2 or 12 of the Code of Ethics and had been prepared with a due sense of social responsibility to consumers and society required by Basic Principle 4 of the Code of Ethics.

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

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## **DESCRIPTION OF ADVERTISEMENT**

The Air New Zealand 'A Fantastical Journey' advertisement appeared on Facebook and YouTube and was a promotional version of a safety video. It featured Katie Holmes and Cuba Gooding Jr. as deities creating the world. The promotional video featured many scenes including a windfarm with colourful toy windmills instead of turbines, people white-water rafting on clouds, a marshmallow being dipped in hot mud in Rotorua, a giant cyclist riding over the Auckland Harbour Bridge, a clothesline forming part of a mountain chairlift and a mountain biker riding an off-road trail through the cinnamon dust on top of a cappuccino. The advertisement provided several safety instructions and concluded with the onscreen statement:

"Thanks for coming on this fantastical journey".

## **COMPLAINT FROM T BROMLEY**

I wish to lay a complaint regarding Air New Zealand's latest advertisement on Facebook and YouTube called Fantastical Journey. This is their latest 'Safety Video', safety portrayed within the context of which is clearly advertising. Audience of which has hit 1.7 million plus online in less than 5 days since AIR NZ posted it on both their Facebook page and on their YouTube Channel, and presumably being shown on their aircraft already to passengers of all ages.

Approximately 60% of this video is advertising or entertainment, 40% is safety messages conveyed in a fantastical manner, some safety information is missing e.g. how to open and put on your lifejacket (which, among other things, I will be taking up with the CAA)

Whilst the primary purpose of an AIR NZ safety video used to be to inform, and demonstrate clearly, safety on the aircraft, they now serve the dual purpose of advertising AIR New Zealand, our country, and in this case specific tourist destinations via mediums other than on the aircraft.

I write the above to demonstrate my belief this should be viewed as an advertisement and therefore within your jurisdiction.

Specifics of my complaint:

Please refer to the Fantastical Journey from 0:57 seconds in:

There is your star of the ad, holding a marshmallow on a stick, it then advertises Rotorua in the top right hand corner of the screen while showing a hand reaching down with the marshmallow on a stick, dipping it into the hot mud pool (we are meant to believe is

chocolate for purposes of the video), and removing it, dripping in mud (chocolate) ready to eat.

AIR NZ show a complete lack of sensitivity and social responsibility by showing the mud pools as something safe, something a child could dip a marshmallow into. There have been deaths in these mud pools, and very young children (0-3 yrs) do not grasp the difference between fantasy and reality.

I believe this is in breach of your code of Ethics:

- All advertisements should be prepared with a due sense of social responsibility to consumers and to society. – When people and children have died falling into these mud pools, it shows a complete lack of social responsibility on AIR NZ's behalf to depict them as pools of chocolate you can dip a lolly into. Many tourists visit the thermal reserves and do not understand the dangers. Many young children definitely don't.
- Safety – Advertisements should not, unless justifiable on educational or social grounds, contain any visual presentation or any description of dangerous or illegal practices or situations which encourage a disregard for safety.
- 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). - This video WILL be seen by children who WILL NOT necessarily understand the hyperbole in putting a lolly into what looks like chocolate. This exploits children's naivety and their inquisitive nature. I see the hyperbole clearly with all the others but in the case with the marshmallow and hot mud they've got it wrong, as it is entirely possible to do. Children have already died getting too close to these mud pools. Many tourists have never seen them or understand the danger.

Children learn to walk often around 12 months, or slightly earlier (in my friends' sons case 9 months), my daughter was slightly later. They start loving to put things in their mouths, and dip spoons into things and eat them, dip banana into yoghurt, maybe even a strawberry into chocolate. It is not until 3 – 5 years children develop the ability to understand fantasy from reality. Helped along by the fact that by that age parents can start communicating with their kids better and explain things to them. But the age from around 1 to 3 you are constantly keeping an eye on them and they are quick, they run, they love lollies, they have no concept of what is real and what is fantasy.

There is no doubt that children WILL see this video and be made to watch it on the plane. 1.7 million views in less than 5 days on Facebook, almost 75,000 views on AIR NZ's YouTube channel where they also advertise it! There are children on almost every flight. Some of them may not understand English or the safety messages, or the dangers of NZ thermal regions, nor may their parents, but they will sure understand marshmallows and chocolate.

AIR NZ's response to my query was:

"Sandra Freeman has referred your email on to me as I look after brand and content marketing at Air New Zealand and this includes producing our inflight safety videos.

Thank you for once again for sharing your feedback with us, I understand you have been in touch with our Social Media team earlier today.

Safety is paramount to Air New Zealand and as with all our safety videos, A Fantastical Journey conveys important safety messages in line with New Zealand regulatory requirements yet in a fun and engaging way. For your background, we always have a member of our safety team on set ensure the necessary safety messages are communicated clearly and in line with New Zealand regulatory requirements. The finished product is also always shared with the Civil Aviation Authority of New Zealand prior to release.

With this latest safety video, we've taken a different approach by incorporating a large amount of special effects to play on the magical theme of the video. We believe the nature of the effects make it quite clear elements of the video aren't real (whether it be the person

mountain biking down a coffee cup or a clearly much larger person cycling over the Auckland Harbour Bridge) and are confident that our visitors and customers will realise all is not exactly how it appears in the video and will exercise a degree of common sense and supervise any young children in and around our tourist attractions.

Kind regards”

AIR NZ are not at all willing to take into account the risk to children on this. And politely disregarded my concerns. I did reply to Jodi explaining that I would be taking this further.

These mud pools are accessible in many cases, sometimes just roped off, sometimes not roped off at all. The Rotorua City Council has a hard enough job as it is finding the “fine balance when it comes to fencing off tourist attractions and providing access to the public” quoted from 2012 Coroners enquiry after a child’s death. Safety is an ongoing concern, I am awaiting their response in regards to this AIR NZ advertising too.

In the case of the lolly and the boiling pool of mud, it is not fantastical, it is unfortunately completely possible.

There have been lives lost in our muds pools. To name a couple of incidents:

- a 10 year boy died in 2010 after getting too close and falling in at Kuirau Park in Rotorua
- a 12 year old also slipped and fell into one in 2011.

While it is up to the parents / caregivers to keep their children safe around the mud pools, and the businesses involved in managing the attractions to provide safety information in regards to visiting them, putting the idea into even one toddler’s head that it is chocolate and you can dip a lolly into it is extremely dangerous and irresponsible. Showing this done with one of most toddlers’ favourite treats, that comes with their fluffy,... even worse.

Based on the likelihood of children viewing this ad (both online and on the plane) I believe they may also be in breach of the following parts of the Children’s codes:

Children and Young persons code:

- “Special Duty of Care” is a responsibility to ensure advertising is not likely to result in physical, mental or moral harm.
- “Social Responsibility” is embodied in the Principles and Rules of the Code and is integral to the consideration of the Complaints Board. Previous decisions of the Complaints Board also guide its determinations, as do generally prevailing community standards.
- “Advertising and Advertisement(s)” are any message, the content of which is controlled directly or indirectly by the advertiser, expressed in any language and communicated in any medium with the intent to influence the choice, opinion or BEHAVIOUR of those to whom it is addressed. - Due to the ‘less safety, more funny’, in this case fantastical nature of this video, it absolutely intends to hold your attention, and will of course be more appealing to children to watch.

Code for Advertising to Children:

- Principle 1 – Advertisements should be prepared with and observe a high standard of social responsibility.
- Guideline f. Advertisements, except safety messages (I believe this AIR NZ video for all intents and purposes needs to be categorised as an advert, being both on Facebook and YouTube and also containing a higher percentage of advertising content to safety related content), should not show products being used in an unsafe or dangerous manner (in this case a marshmallow), or which would be unsafe if used by children without proper supervision.
- Principle 2 – Advertisements should not by implication, omission, ambiguity or exaggerated claim mislead or deceive or be likely to mislead or deceive children, abuse their trust or exploit their lack of knowledge or without reason play on fear.
- Advertisements should be understood by children (or anyone surely?) to whom they are directed, not be ambiguous, and not mislead as to the true size, value, nature of the advertised product. The advertised product being Rotorua’s thermal mud pools. The nature of which is in fact extremely dangerous.

Due to the less safety more funny in this case fantastical nature it absolutely intends to hold your attention, and will of course be more appealing to children to watch.

I would also like you to consider that it may breach ‘Identification’ too:

- Identification – Advertisements should be clearly distinguishable as such, whatever their form and whatever the medium used; when an advertisement appears in a medium which contains news or editorial matter (or safety messages?), it must be presented so that it is readily recognised as an advertisement.

- From the childrens' code: Advertisements should be clearly recognisable as such by children and separated from editorial, programmes or other non-advertising content.

In conclusion: The AIR NZ Fantastical Journey 'advertisement', which I have referred you to, has the potential to lead to real harm. AIR NZ needs to be held accountable for the risk they have created here and I believe the advertisement (for Rotorua) should be removed and changed as soon as possible to remove the risk.

AIR New Zealand's safety videos now contain more advertising than safety messages. They are viewed more frequently via Facebook and YouTube than on an aircraft, as promoted by AIR NZ themselves. They are now more an advertisement promoted online, than they are a safety message on a plane, and therefore I believe they need to be held accountable as such and this video should be classed as an advertisement.

## CODE OF ETHICS

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

**Rule 1 Identification:** Advertisements should be clearly distinguishable as such, whatever their form and whatever the medium used; when an advertisement appears in a medium which contains news or editorial matter, it must be presented so that it is readily recognised as an advertisement.

**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).

**Rule 12 Safety:** Advertisements should not, unless justifiable on educational or social grounds, contain any visual presentation or any description of dangerous or illegal practices or situations which encourage a disregard for safety.

## CODE FOR ADVERTISING TO CHILDREN

**Principle 1:** Advertisements should be prepared with and observe a high standard of social responsibility.

**Guideline 1(f):** Advertisements, except safety messages, should not show products being used in an unsafe or dangerous manner, or which would be unsafe if used by children without proper supervision.

**Principle 2:** Advertisements should not by implication, omission, ambiguity or exaggerated claim mislead or deceive or be likely to mislead or deceive children, abuse their trust or exploit their lack of knowledge or without reason play on fear.

**Guideline 2(a):** Advertisements should be clearly recognisable as such by children and separated from editorial, programmes or other non-advertising content.

## RESPONSE FROM ADVERTISER: AIR NEW ZEALAND

Your letter raises two separate issues relating to the recent “Fantastical Journey” in-flight safety video (the “**Safety Video**”).

Issue One: Does the Advertising Standards Authority (the “**ASA**”) have jurisdiction over the Safety Video?

Issue Two: If the answer to Issue One is “Yes”, does the Safety Video in breach any of the Advertising Codes of Practice.

We respond to each of the above issues in turn.

### **ISSUE ONE: JURISDICTION**

We refer to the ASA decision dated 29 April 2014 (Complaint Number 14/155 – Complainant T. Rowden).

We note in that decision, the ASA accepted that the Air New Zealand safety video in question fell outside the ASA’s jurisdiction.

We agree with that decision, and maintain that position should remain the case for the same reasons we raised in relation to that complaint.

In our response to Complaint Number 14/155, we argued that the ASA’s definition of “Advertisement” inadvertently refers to “advertising” within that definition. This means that any interpretation of “advertising” should be considered alongside its ordinary meaning<sup>1</sup>.

There is no attempt to persuade any consumer to purchase any products or services within any of our safety videos.

In the ASA’s response to Complaint Number 14/155, *“the Complaints Board noted that the item could be considered to have “imparted knowledge” under the definition of an advertisement”* and accordingly fell within the ASA’s definition of “Advertisement”. In our view, that broad interpretation isn’t particularly relevant. Documentaries and instruction manuals would all fit within that broad definition. We maintain the view that how Air NZ delivers its safety messages to passengers in-flight, isn’t a matter for the ASA to be involved in.

Finally, we note that in the ASA decision dated 29 April 2014 (Complaint Number 14/155) the majority of the Complaints Board considered that because the safety video in question, fell into the category of “compulsory instructional video content” the safety video fell outside the jurisdiction of the ASA. We weren’t able to find that exception to jurisdiction on the ASA’s website. In the absence of publishing those exemptions, we’d ask that the ASA maintains a consistent position on the issue of jurisdiction.

For those reasons, we’d request that the ASA declines this complaint on the basis that it lacks jurisdiction.

### **ISSUE TWO: ADVERTISING STANDARDS CODES**

We have reviewed the original complaint and the 8 separate Advertising Codes/Rules that the ASA considers are at issue as set out in your letter.

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<sup>1</sup> The Cambridge online dictionary defines “Advertising” as “the business of trying to persuade people to buy products or services”. <http://dictionary.cambridge.org/dictionary/english/advertising>

It is particularly difficult for Air NZ to respond to these 8 separate codes individually. As we read T Bromley's complaint, there isn't any coherent argument as to why some of these are even at issue.

For example, the ASA has asked Air NZ to respond to Rule 1 (*Identification*). It isn't clear why that should be the case. T Bromley doesn't make any argument that suggests breach. Rather the complainant invites the ASA to consider whether it is breached. Is it expected that Air NZ refute an argument that hasn't been made?

Furthermore, T Bromley calls into question whether the Code for Advertising to Children should apply. From what we can tell, her argument is supported by the fact that children will see this Safety Video as passengers on an Aircraft. We take no issue with those Codes for Advertising to Children, but it does appear to hinge on whether the advertisement is promoting a particular product or service to a child. That isn't the case here. There is no promotion of a service or product to a child. T Bromley's arguments aren't particularly well structured on why these codes are at issue. The complainants' arguments are highly subjective and personal and rely on a child viewing the scene and attempting to replicate it.

Rather than running through each of the 8 Rules / Codes that the ASA has asked us to respond to, some of which without any compelling argument as to why they apply, we'll make our position as clearly as we can and leave it with the ASA to consider alongside both the content of the Safety Video and T Bromley's letter.

## **THE SAFETY VIDEO**

We make no apologies for making our safety messages fun, and watchable to ensure that they attract the attention of all passengers on our aircraft. It is our aim, that passengers, watch, critique and find humour in our safety videos and in turn, engage with them and appreciate the safety messages that are delivered within them.

The safety messages within the Safety Video are prescriptive and are required under the Civil Aviation Rules. We don't consider that the ASA ought to be concerned with the actual safety messages (that the Civil Aviation Authority regulates), so we'll focus the remainder of this letter on the "scenes" within the Safety Video (which appear to be at issue).

The Safety Video is titled "Fantastical Journey". The messages within the Safety Video are presented in an "otherworldly" or "fantasy" nature.

The Safety Video presents:

- windfarms as colourful toy windmills;
- an oversized dandelion having its seeds dispersed on a mountain summit;
- a giant Cuba Gooding Jnr, inviting the viewer to consider Cathedral Cove;
- a dinghy rowing across the skyline of a lake vista;
- whitewater rafting on cloud formations;
- a marshmallow being dipped in hot mud in Rotorua;
- a whale swimming through an underground cavern alongside an abseiling individual;
- a giant Cuba Gooding Jnr standing among hot air balloons;
- a giant passenger, seated in an economy class seat, on a braided riverbed valley;
- a giant passenger, seated in a Business Premier seat, in the foreground of the Southern Alps;
- a giant cyclist, riding over the Auckland Harbour Bridge;
- a giant Saturn like planet – "setting" in the horizon of Tologa Bay;
- flowers "blooming" underwater;

- a giant rugby ball perched on Westpac™ stadium as if it were a kicking tee;
- a giant cabin crew staff member, waving away the smoke from White Island;
- a sequence where a giant Kea poses for a photograph for Katie Holmes;
- stars forming an escape path lighting visual;
- a clothesline as forming part of a chairlift;
- whipped cream as snow on a giant pavlova;
- penguins swimming through a native bush scene;
- a child balancing on “Giant” glass marbles, alongside the Moeraki Boulders;
- a scuba diver, swimming through a mountain scene in Fiordland;
- a mountain biker, riding an off-road trail through the froth of a “cappuccino style” coffee; and
- a lighthouse taking off into space as if it were a rocket ship.

We trust that the audience would perceive these scenes as taking place in the “fantasy” realm, and that there is no encouragement on our part, for anybody to recreate any of the scenes in the video.

T Bromley takes issue with only one of those scenes. It is the complainant’s view that the three seconds of footage, that shows a marshmallow being skewered and dipped into a mud pool is irresponsible and throws the Safety Video into breach of several advertising codes. We confirm that T Bromley’s complaint is the only official complaint that we’ve received regarding this Safety Video.

The marshmallow scene is in keeping with the “fantasy” theme in that the boiling mud is metaphorically compared to molten chocolate. We see no reason to view that scene in isolation to the others within the Safety Video. No children are involved in the scene, and while it does include a form of confectionary that children would enjoy (as do adults), we’re confident that children wouldn’t particularly like to eat confectionary caked in mud and it is unlikely that the scene would be re-enacted by a child.

We disagree that by including this three second scene, Air NZ has been socially irresponsible, because it neglected to consider that children younger than three<sup>2</sup>, might happen to slip their parent’s attention while visiting the mud pools in Rotorua and attempt to recreate that scene by dipping confectionary in those hot mud pools.

T Bromley’s concerns about the safety of hot mud pools in the Rotorua region, would be far better directed at the relevant landowner or local council who no doubt have a duty of care to maintain safety standards around those hot mud pools.

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<sup>2</sup> Three being the age at which a child is capable of discerning “fantasy” from reality (according to T Bromley).