

COMPLAINT NUMBER	17/454
COMPLAINANT	M Hale
ADVERTISER	Coca Cola Oceania
ADVERTISEMENT	Coca Cola Oceania, Out of Home, Poster
DATE OF MEETING	13 February 2018
OUTCOME	Upheld, in part

SUMMARY

The Coca-Cola advertisement appeared on a bus stop on Kepa Road close to the intersection with Kohimarama Road in Auckland. The majority of the advertisement featured a vintage style Santa Claus riding in a car holding two glass bottles of Coca-Cola, one labelled No Sugar, doing a peace sign with his other hand and stating: "IT FEELS GOOD TO GIVE". The bottom of the advertisement included the Youthline and Coca-Cola logos and said: "Join us in giving to Youthline. TXT 'YL' to 5144 to give \$3".

The Complainant said the advertisement for Youthline which included an image of Santa holding bottles of Coca-Cola Classic and Coca-Cola No Sugar, was a sponsorship advertisement which showed an occasional beverage. The Complainant argued the advertisement targeted children and young people as it was placed at a bus stop opposite local shops where many children and young people stop on their way to and from school.

The Advertiser said the advertisement was not a sponsorship advertisement and the bus shelter in which the advertisement was placed was 550 metres from St Thomas' Primary school and 290 metres from Selwyn College. The Advertiser said the purpose of using Santa in the advertisement was to appeal to families and young people were not a significant proportion' of the expected average audience.

The Complaints Board ruled the advertisement before it was a sponsorship advertisement from Coca-Cola for Youthline which targeted children and young people and included the 'occasional beverage' product, Coca-Cola Classic. The Complaints Board ruled the advertisement was therefore in breach Principle 1 and Rule 1(i) and Principle 3 and Rule 3(a) of Children and Young People's Advertising Code.

The Complaints Board ruled the advertisement was not in breach of Rules 1(h) or 1(j) of the Children and Young People's Advertising Code.

Accordingly, the Complaints Board ruled the complaint was Upheld, in part.

[Advertisement removed]

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

COMPLAINTS BOARD DECISION

The Chair directed the Complaints Board to consider the complaint with reference to Principle 1, Rule 1(h), Rule 1(i), Rule 1(j) and Principle 3, Rule 3(a) of the Children and young People's Advertising Code.

Principle 1 requires that advertisements targeted at children or young people must not contain anything that is likely to result in their physical, mental or moral harm and must observe a high standard of social responsibility.

Rule 1(h) required the Complaints Board consider whether licensed and proprietary characters and celebrities, popular with children or young people, are used in a responsible manner in advertisements.

Rule 1(i) required the Complaints Board to consider whether advertisements (including sponsorship advertisements) for occasional food or beverage products targeted children or were placed in any media where children were likely to be a significant proportion of the expected average audience.

Rule 1(j) requires that advertisements for Occasional Food and Beverage product which is advertising to young people require the Advertiser and Media had applied a special duty of care.

Principle 3 and Rule 3(a) required the Complaints Board to consider whether a special duty of care was exercised for Occasional Food and Beverage Product sponsorship targeted to young people and must not show an occasional food or beverage product, or such product's packaging, or depict the consumption of an occasional food or beverage product.

The Complaints Board ruled the complaint was Upheld.

The Advertisement

The Coca-Cola advertisement appeared on a bus stop on Kepa Road close to the intersection with Kohimarama Road in Auckland. The majority of the advertisement featured a vintage style Santa Claus riding in a car holding two glass bottles of Coca-Cola, one labelled No Sugar, doing a peace sign with his other hand and stating: "IT FEELS GOOD TO GIVE". The advertisement included the Youthline and Coca-Cola logos and said: "Join us in giving to Youthline. TXT 'YL' to 5144 to give \$3".

Complaint from M. Hale on behalf of Healthy Auckland Together Coalition

The Complainant was of the view the advertisement was a 'sponsorship' advertisement for Youthline. As it showed two bottles of Coca-Cola, one full-sugar, an occasional beverage product, the Complainant said this went against the requirements of Rule 3(a) of the Children and Young People Advertising Code which restricts the inclusion of occasional food or beverage products in sponsorship advertisements.

The Complainant said the placement of the bus stop advertisement was also irresponsible as it appeared "opposite the local shops where many children and young people stop on their way to and from school... to purchase food and drinks... Many children congregate outside the dairy, fish and chip shop, bakery and pizza place that are located in the block of shops."

The Complainant was also concerned the image of Santa in the advertisement would be appealing to children and young people, stating: "Santa Claus is probably one of the best loved characters by children of all ages as the bringer of gifts and joy to family Christmas

time. In the poster he is holding out two bottles of coke in a very inviting manner that we contend will appeal to children and young people.”

Response from the Advertiser, Coca-Cola Oceania

The Advertiser said Principle 3 and Rule 3(a) did not apply as the advertisement “does not constitute sponsorship advertising due to our relationship with Youthline being a corporate partnership and not a sponsorship relationship.”

The Advertiser said the “Coca-Cola Contour bottles shown in the advertisement have been included to highlight our Corporate Brand – the Contour Bottle; which is a registered trade mark of The Coca-Cola Company and widely recognised around the world. This contrasts significantly with sponsorship advertisements for products where the nature and intention is to raise the purchase intent of the products featured. Further, the way in which Santa Claus is holding the bottles of Coke has not been done with the intention of appealing to young people. Rather, the feature of our Contour bottles is a reference to our Corporate Brand as a gesture of giving and sharing, which ties in which the tagline ‘It feels good to give.’ Also, the call to action on the creative does not relate to consumption or purchase of product, rather it encourages support in our charity partner; Youthline.”

The Advertiser acknowledged Coca-Cola Classic, pictured in the advertisement, “falls into the definition of an Occasional Food under the Food and Beverage Classification System Nutrient Framework for Schools (‘the Framework), Coca-Cola No Sugar does not meet this definition.” The Advertiser said “Coca-Cola No Sugar falls under the definition of a Sometimes Beverage. Consequently, we argue that the Coca-Cola No Sugar product depicted in the advertisement is excluded from this section of the Code.”

In terms of placement of the advertisement, the Advertiser said, “the bus shelter in which the advertisement is placed is 550 metres from St Thomas’ Primary school and 290 metres from Selwyn College” and argued “the total number of students at both schools only amounts to 8% of total traffic of Kapa Rd”. The Advertiser said the median age of people in the surrounding households were between 38.5 and 47.5 years and children and young people were not a significant proportion’ of the expected average audience.

The Advertiser addressed the Complainant’s concerns about the use of Santa Claus in the advertisement, stating, in part: “We agree that Santa Claus is a much-loved character and is often considered as the bringer of gifts and joy to families at Christmas time. Coca-Cola and the image of Santa Claus have a long history together... The purpose of using Santa in our advertisement is to appeal to families, it is not to target children or young people. We have consciously excluded elements from this advertisement regularly associated with Santa Claus which may appeal to Children such as presents, toys or other characters (e.g. elves and reindeers). Therefore, we submit that our use of Santa Claus in this advertisement has been done so in a responsible manner.”

The Advertiser said that the advertisement did not target children and young people and “in the case the advertisement has been viewed by a young person under the age of 18, we submit that we have taken a special duty of care by taking the following measures:

- 1.The tagline of our campaign; “It feels good to give” promotes the message of the importance of giving back at Christmas time.
- 2.The call to action (“txt ‘YL’ to 5144 to give \$3”) on the creative does not relate to consumption or purchase of product.
- 3.The underlying purpose of our campaign is to give to Youthline, which again gives a very positive and important message to consumers about giving back at Christmas time.

4. Further, as outlined above, Santa Claus holding the bottles of Coca-Cola has not been done with the intention of appealing to children and young persons or with the intention of encouraging the consumption of product. Rather, he is holding out the bottles as a gesture of giving and sharing which ties in with our tagline of "It Feel Good to Give" and the call to action of donating to Youthline. Also the use of the registered trade mark of the Contour Bottle links back to our corporate branding as outlined below."

Response from Media, Adshel

The Media, Adshel, said it has "rules in place to ensure that advertising of sugary/occasional food and beverage is not placed within 250m of the main entrance to a school. In this situation the bus shelter in question is actually over 500m from the front gate of Selwyn College and even further away from the main entrance of St Thomas's School... We do have check and balances in place to ensure that material supplied to us is not an obvious breach of the ASA Guidelines and the guidelines agreed with our City Council partners. In situations where we see an obvious breach we will engage with the advertiser regarding our concerns and their options."

Complaints Board Discussion

The Complaints Board noted the predominant image in the advertisement before it was Santa Claus riding in a car holding bottles of Coca-Cola Classic and Coke No Sugar, followed by the call to action to donate to Youthline. The Complaints Board confirmed that Coca-Cola Classic met the definition of an occasional beverage under the Food and Beverage Classification System Nutrient Framework for Schools.

Sponsorship advertisement

The Complaints Board were required to consider whether the advertisement before it was a sponsorship advertisement for Youthline.

The Complaints Board said the advertisement was a sponsorship advertisement for Youthline and rejected the Advertiser's assertion it did not constitute sponsorship advertising due to the relationship with Youthline being a "corporate partnership" and not sponsorship relationship. The Complaints Board noted a clear association was made between Coca-Cola and Youthline in the advertisement and a primary focus of the advertisement was the call to action to donate to the youth organisation, rather than to purchase Coca-Cola products.

It confirmed that sponsorship advertisements for occasional food or beverage products must not target children or be placed in any media where children are likely to be a significant proportion of the expected average audience. A special duty of care must be exercised for sponsorship advertisements for occasional food and beverage products targeted to young people and they must not show an occasional food or beverage product, or such product's packaging, or depict the consumption of an occasional food or beverage product.

Having established the item before it was a sponsorship advertisement, taking the above in to account, the Complaints Board was then required to determine whether the sponsorship advertisement was targeting children and/or young people, and therefore, whether the Children and Young People's Advertising Code applied.

The Complaints Board noted the criteria for 'targeting' in the Children and Young Peoples Code as follows;

'Targeting' is determined by the context of the advertisement and the relationship between the following three criteria;

1. Nature and intended purpose of the product or service being promoted is principally or generally appealing to children or young people.

2. Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is appealing to children or young people.
3. Expected average audience at the time or place the advertisement appears includes a significant proportion of children or young people.”

General or Principal Appeal to Children

The Complaints Board considered whether the advertisement before it was principally or generally appealing to *children*, which for the purposes of the Code are defined as under 14 years old.

Product

The Complaints Board considered whether Coca-Cola Classic or No Sugar beverages were generally or principally appealing to children. It said the advertisement contained a no sugar or diet cola and a full sugar cola. The Complaints Board said of the range of products available to children, diet or no-sugar carbonated drinks were not likely to have strong or evident appeal to children. However, a full-sugar or ‘Classic’ Coke would appeal to children and fell in to the Occasional category of the Food and Beverage Classification System Nutrient Framework for Schools.

The Complaints Board also considered whether the Youthline organisation or donating to Youthline were likely to have a strong appeal to children or encourage them to engage with the advertisement. It said while some children may be aware of Youthline, for most, it was not likely to have strong appeal as it was a helpline facility aimed predominantly at young people. The Complaints Board said the Youthline message would not be the primary message read by children under 14 years of age.

Presentation

The Complaints Board then considered whether the overall presentation of the advertisement was generally or principally appealing to children. The Complaints Board said that the primary image that children would associate with was Santa Claus. The predominant image in the advertisement was Santa Claus and it took into account the association between Santa and Christmas, including giving and receiving gifts and children asking Santa for presents which would encourage children to engage with the content.

The Complaints Board said the image of Santa would have strong appeal to children, albeit somewhat mitigated by the vintage nature of the image.

Placement

The Complaints Board then considered the placement of the advertisement and whether the expected average audience included a significant proportion of children.

The Complaints Board noted that Advertisers need to demonstrate that care is taken when evaluating the expected average audience composition prior to the placement of occasional food or beverage advertisements to ensure they are not targeted at children, particularly in an out of home environment.

The Complaints Board noted the 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;

1. Where accurate data exists, 25% or more of the expected audience will be children.
2. Child viewing time zones.
3. Content with significant appeal to children such as programmes, artists, playlists, video, movies, and magazines.

4. Locations where children gather (e.g. schools, school grounds, pre-school centres, playgrounds, family and child clinics and paediatric services and during any children's sporting and cultural events).

The Complaints Board noted the Advertiser's view that "the total number of students at both schools only amounts to 8% of total traffic of Kapa Rd" and therefore "the advertisement is not primarily directed to children or young persons."

The Complaints Board took into account the locations of the nearby college and primary school and said that some children aged under 14 could be exposed to the advertisement but it was unlikely to be seen by a significant proportion of primary school students. The Complaints Board said it was more likely that younger primary students caught the bus from stops, and congregated at the shops, closer to their school rather than the bus stop in question. The Complaints Board said there would be students from Selwyn College who would be under 14, and they would be much more likely to catch the bus from the bus stop where the advertisement was placed and gather at the shops opposite to the bus stop.

The Complaints Board said with regard to the placement of the advertisement before it, children under the age of 14 were unlikely to be a significant proportion of the audience but erred on the side of caution and took a common-sense approach due to a lack of actual data.

The Complaints Board acknowledged the challenge presented to out of home mediums in accurately measuring audience data compared to other mediums. It noted that out of home mediums had an elevated risk for Advertisers who have an intention to target a specific audience due to their unrestricted nature. The Complaints Board said it was particularly important to consider the placement of advertisements where either the product or its presentation in an advertisement were likely to have any general or principal appeal to children.

Was the advertisement targeting children?

In determining whether the advertisement was targeting children, the majority of the Complaints Board said there was high appeal presented by the use of Santa and Classic Coke, and while somewhat moderated by the distance of the bus stop from St Thomas Primary, the advertisement did have general appeal to children. The majority said as the advertisement was targeting children the Children and Young People's Advertising Code applied.

A minority disagreed. It said the advertisement was unlikely to be seen by a significant proportion of children under the age of 14, due to the distance of St Thomas Primary from the bus stop which mitigated the appeal of Santa, and the bottle of Classic Coca-Cola.

General or Principal Appeal to Young People

The Complaints Board considered whether the advertisement before it was targeting *young people*, which for the purposes of the Code are defined as 14-<18 years old.

Product

The Complaints Board considered whether Coke No Sugar or Coke Classic were generally or principally appealing to young people. It said diet or no-sugar carbonated drinks had more appeal to young people than children but said a full-sugar or 'Classic' Coke was appealing to young people generally.

The Complaints Board also considered Youthline and donating to Youthline, was likely to have high appeal as a recognisable organisation for young people and was likely to

encourage them to engage with advertisement. It said Youthline would be familiar to most young people as an organisation and was likely to have strong appeal and be a primary message read by young people between 14-<18 years of age.

Presentation

The Complaints Board then considered whether the overall presentation of the advertisement was appealing to young people. The Complaints Board noted that Santa Claus did not have the same level of appeal to young people as he would to children however, his vintage appearance did make him more attractive compared to a cartoon illustration of Santa. The Complaints Board also noted Santa riding in a car, pulling the peace sign, holding two bottles of Coca-Cola, coupled with the direct call to action to donate Youthline, was likely to appeal to young people.

Placement

The Complaints Board then considered the placement of the advertisement and whether its expected average audience included a significant proportion of young people.

The Complaints Board took into account the close proximity of nearby Selwyn College and said the advertisement was likely to be exposed to a significant proportion of young people. The Complaints Board said it was probable that young people caught the bus from the bus stop in question and would gather at the shops opposite the bus stop due to its location.

Was the advertisement targeting young people?

In determining whether the advertisement was targeting young people, the Complaints Board said the limited appeal presented by Santa was outweighed by the recognition of Youthline, the vintage style of the advertisement, the full sugar cola shown, as well as, the placement in a bus stop opposite shops where young people were likely to gather. The Complaints Board said on consideration of the above, the advertisement was targeting young people therefore the Children and Young People's Advertising Code applied.

Potential Breach of Codes

Children

Having established the item before it was a sponsorship advertisement and that it was targeting children, the Complaints Board considered the advertisement against each relevant Rule.

The majority of the Complaints Board said as the sponsorship advertisement for Youthline with significant appeal to children, included an occasional beverage product– Coca-Cola Classic, it was in breach of Rule 1(i) Children and Young People's Advertising Code and did not observe a high standard of social responsibility in breach of Principle 1 of that Code.

A minority of the Complaints Board said the advertisement was unlikely to be seen by a significant proportion of children under the age of 14 due to the distance of St Thomas' Primary from the bus stop where the advertisement was placed. The minority said the advertisement did not reach the threshold to be considered to target children and was not in breach of Principle 1 or Rule 1(i) Children and Young People's Advertising Code.

The Complaints Board ruled the advertisement was not in breach of Rule 1(h) of Children and Young People's Advertising Code as it did not use characters and celebrities popular with children in a way that was irresponsible. The Complaints Board was of the view that while Santa Claus was appealing to children, the inclusion of the occasional beverage was the primary concern, and therefore this aspect of the complaint was Not Upheld.

In accordance with the majority, the Complaints Board ruled the advertisement was not in breach of Rule 1(h) and was in breach of Principle 1 and Rule 1(i) of the Children and Young People's Advertising Code. The Complaints Board ruled the complaint was Upheld, in part in relation to children.

Young People

Having established the item before it was a sponsorship advertisement and that it was targeting young people, the Complaints Board considered the advertisement against each relevant Code.

The Complaints Board said as the advertisement before it was found to be a sponsorship advertisement for Youthline, the inclusion of the product in the advertisement was a breach of Principle 3 and Rule 3(a) of the Children and Young People's Advertising Code which prohibits showing an occasional beverage product in sponsorship advertisements. The Complaints Board said the Advertiser had therefore not exercised a special duty of care and the advertisement did not observe a high standard of social responsibility to young people in breach of Principle 1 of the Code.

The Complaints Board said the advertisement was not in breach of Rule 1(h) or Rule 1(j) of Children and Young People's Advertising Code as it did not use characters and celebrities popular with young people in a way that was irresponsible, and the advertisement was a sponsorship advertisement rather than an advertisement for an occasional food and beverage product. The Complaints Board ruled this aspect of the complaint was Not Upheld.

Accordingly, the Complaints Board ruled the advertisement was not in breach of Rules 1(h) and 1(j) and was in breach of Principles 1, 3 and Rule 3(a) of the of the Children and Young People's Advertising Code and the complaint was Upheld, in part.

Summary

The Complaints Board ruled the advertisement before it was a sponsorship advertisement from Coca-Cola for Youthline which targeted children and young people and included an occasional beverage product, a bottle of Coca-Cola Classic. The Complaints Board ruled the advertisement was therefore in breach Principle 1 and Rule 1(i) Principle 3 and Rule 3(a) of Children and Young People's Advertising Code.

The Complaints Board ruled the advertisement was not in breach of Rules 1(h) or 1(j) of the Code.

Accordingly, the Complaints Board ruled the complaint was Upheld, in part.

DESCRIPTION OF ADVERTISEMENT

The Coca-Cola advertisement appeared on a bus stop at on Kepa Road close to the intersection with Kohimarama Road in Auckland. The majority of the advertisement featured a vintage style Santa Claus riding in a car holding two glass bottles of Coca-Cola, one labelled No Sugar, doing a peace sign with his other hand and stating: "IT FEELS GOOD TO GIVE". The bottom of the advertisement included the Youthline and Coca-Cola logos and said: "Join us in giving to Youthline. TXT 'YL' to 5144 to give \$3."

COMPLAINT FROM HEALTHY AUCKLAND TOGETHER COALITION

This complaint is made by the members of the Healthy Auckland Together coalition, listed in Appendix A.

The listed members believe that a current Coca Cola campaign breaches the Children and Young People's Advertising Code.

This complaint relates to ADSHEL bus shelter posters. The example shown in Appendix B was photographed close to the corner of Kepa and Kohimarama Roads opposite the local shops where many children and young people stop on their way to and from school.

ADSHEL Poster

The code principle and rules that we believe have been breached are:

Principle 1: Advertisements targeted at children or young people must not contain anything that is likely to result in their physical, mental or moral harm and must observe a high standard of social responsibility.

Rule 1(h)

When licensed and proprietary characters and celebrities popular with children or young people are used in advertisements, they must be used in a responsible manner.

Rule 1(i)

Advertisements (including sponsorship advertisements) for occasional food or beverage products must not target children or be placed in any media where children are likely to be a significant proportion of the expected average audience.

Rule 1(j)

A special duty of care must be applied to occasional food and beverage product advertising to young people.

Supporting Evidence for breach of Principle 1 and rules 1(h) 1(i) 1(j)

All beverages other than milk and water are classified as occasional under the Ministry of Health Food and Beverage Classification System used by the ASA.¹

Santa Claus is probably one of the best loved characters by children of all ages as the bringer of gifts and joy to family Christmas time. In the poster he is holding out two bottles of coke in a very inviting manner that we contend will appeal to children and young people.

Appendix C shows the position of the bus shelter in relation to a primary and secondary school. The bus shelter is opposite to the local shops where many of the children walking to and from both schools stop to purchase food and drinks on their way to and from school. Many children congregate outside the dairy, fish and chip shop, bakery and pizza place that are located in the block of shops.

Because of the position of the bus shelter there are large numbers of children and young people passing the poster advertisement several times a day.

Healthy Auckland Together does not believe this is responsible advertising despite the good cause that the funds are being donated to.

Principle 3: A special duty of care must be exercised for Occasional Food and Beverage Product sponsorship advertising targeted to young people.

Rule 3(a)

¹ <http://www.asa.co.nz/wp-content/uploads/2017/02/FBCS-Nutrient-Criteria-March-2016.pdf>

Sponsorship advertisements must not show an occasional food or beverage product, or such product's packaging, or depict the consumption of an occasional food or beverage product.

Supporting Evidence for breach of Principle 3 and rule 3(a)

The poster in Appendix B clearly shows two bottles of Coca Cola.

Summary

Youthline is a very valuable and commendable organisation and Healthy Auckland Together values its work. However if companies do sponsor organisations especially ones that involve children or young people as this one does, it is important that they adhere to the spirit and letter of the Children and Young People's Advertising Code. The power of the code to regulate harmful marketing to children and young people is undermined if it is ignored by advertisers.

Appendix A: Healthy Auckland Together signatories

Healthy Auckland Together is a coalition of organisations within the Auckland region that aims to: improve nutrition, increase physical activity and halt rising rates of obesity among Aucklanders. A priority focus within these aims is equitable outcomes for Maori, Pacific and lower-socioeconomic communities. With a broad range of coalition partners - including health, local government, sport, iwi, transport and non-government organisations - Healthy Auckland Together's aim is to encourage change in the regional environment so it contributes to Aucklanders' health and does not impede it.

Healthy Auckland Together made a submission to the review of the Children's Code for Advertising Food and the code for Advertising to Children. Our submission drew attention to the issue of sponsorship.

Overall Healthy Auckland Together is concerned about the use of sponsorship as a marketing strategy by food manufacturers to imply to children that their 'occasional' products are foundational ingredients of success in elite sport.

This complaint is made by the following members of the Healthy Auckland Together coalition.

- Auckland District Health Board
- Auckland Regional Public Health Service
- Counties Manukau Health Alliance
- Disability interest groups
- Hapai te Hauora Tapui
- Healthy Families Manukau, Manurewa-Papakura
- Healthy Families Waitakere
- Heart Foundation
- Mana Whenua i Tamaki Makaurau
- National Institute for Health Innovation
- New Zealand Transport Agency
- Pacific Heartbeat
- Primary Health Organisations
- The Asian Network
- Toi Tangata
- University of Auckland - School of Population Health
- Waitemata District Health Board.

CHILDREN AND YOUNG PEOPLE ADVERTISING CODE

Principle 1: Advertisements targeted at children or young people must not contain anything that is likely to result in their physical, mental or moral harm and must observe a high standard of social responsibility.

Rule 1(h): When licensed and proprietary characters and celebrities popular with children or young people are used in advertisements, they must be used in a responsible manner.

Rule 1(i): Advertisements (including sponsorship advertisements) for occasional food or beverage products must not target children or be placed in any media where children are likely to be a significant proportion of the expected average audience

Rule 1(j): A special duty of care must be applied to occasional food and beverage product advertising to young people.

Principle 3: A special duty of care must be exercised for Occasional Food and Beverage Product sponsorship advertising targeted to young people.

Rule 3(a): Sponsorship advertisements must not show an occasional food or beverage product, or such product's packaging, or depict the consumption of an occasional food or beverage product.

RESPONSE FROM ADVERTISER COCA-COLA OCEANIA

Thank you for your letter dated 21 December 2017 regarding a complaint received in relation to Coca-Cola Oceania Limited's (CCO) Out of Home advertisement on ADSHEL bus shelter posters in Auckland.

The Out of Home advertisement to which the complaint relates depicts Santa Claus leaning out of a car making a 'peace' sign and holding two Coca-Cola beverages. One of the Coca-Cola beverages is a Coca-Cola Classic and the second is a Coca-Cola No Sugar. The advertisement includes the words "It feels good to give" followed by the call to action "Join us in giving to Youthline."

The location of the advertisement to which the complaint relates is on the corner of Kapa and Kohimarama Roads in Auckland. This advertisement began on 26 November 2017 and completed on 10 December 2017.

We note that this complaint was made by members of the Healthy Auckland Together ('HAT') coalition and we thank you for bringing this matter to our attention.

The Advertisement

The particular ADSHEL in question was part of a wider campaign called "It feels good to give" which was created in the spirit of Christmas to help raise both awareness and monetary donations for our key charity partner; Youthline. The key call to action for the campaign was to invite consumers to "TXT 'YL' to 5133 to give \$3" to Youthline. The campaign's target audience was household shoppers who have the financial capacity to donate and not at children who do not have the financial ability to make a donation.

Youthline and CCO have had a partnership relationship for over 8 years. Within that time, CCO has raised over one million dollars for Youthline in the form of direct donations,

donations received at Coca-Cola Christmas In the Park, funding of the Youthline & Coca-Cola Good2Great programme and through means such as via advertising campaigns.

The Complaint

The complainants claim that the Out of Home advertisement listed above has breached the following sections of the ASA's Children and Young People's Advertising Code ('the Code'):

- 1.Principle 1; Rules 1(h), 1(i) and 1(j); and
- 2.Principle 3; Rule 3(a).

CCO's response to claim of breach of Principle 1; Rules 1(h), 1(i) and 1(j):

Principle 1:

Principle 1 states that advertisements targeted at children or young people must not contain anything that is likely to result in their physical, mental or moral harm and must observe a high standard of social responsibility. We submit, that having regard to the placement, theme, visuals, language and underlying messaging, the advertisement in question observes a high standard of social responsibility and does not target children or young people nor contain anything likely to result in their physical, mental or moral harm.

Rule 1(i):

Rule 1(i) provides that advertisements for occasional beverages must not target children or be placed in any media where children are likely to be a significant proportion of the expected average audience. We note that the bus shelter in which the advertisement is placed is 550 metres from St Thomas' Primary school and 290 metres from Selwyn College.

We have undertaken a search of data from Auckland Transport to gauge an idea of the average number of motor vehicles¹ that pass Kepa Road. From this we found the Average Daily Traffic of motor vehicles over a 5 day period on Kepa Road is 22,355 motor vehicles.¹ We have compared this with a roll count of students from Selwyn College which we found to be a total of 1,049² students, and a roll count from St Thomas which we found to be 813³ students.

If we assume that the entire student population of both schools use Kepa Road, the total number of students at both schools only amounts to 8% of total traffic of Kepa Rd. Per the guidance notes found in the Code under Rule 1(i), we note that the measures to determine if children are likely to be a 'significant proportion' of the expected average audience are where 25% or more of the expected audience will be children. As per the above which provides evidence that only 8% of the expected average audience are of school age, we argue that the advertisement is not primarily directed to children or young persons.

In addition, according to the latest (2013) census data, the median age of the households "mesh block" households surrounding the bus shelter are 42.5 years of age, 45.2 years of age, 47.5 years of age and 38.5 years of age.⁴ As such, we submit that the primary target audience of the advertisement are over 18 years and children and young persons are not a significant proportion of the expected average audience.

Rule 1(h):

The complainants have raised potential issues under Rule 1(h) of the Code which provides that when licensed and proprietary characters and celebrities popular with children or young people are used in advertisements, they must be used in a responsible manner.

We agree that Santa Claus is a much loved character and is often considered as the bringer of gifts and joy to families at Christmas time. Coca-Cola and the image of Santa Claus have a long history together. Coca-Cola essentially created the modern image of Santa Claus which has been featured in Coca-Cola advertising since the 1920's. Santa Claus has been

part of the Coca-Cola DNA for close to 100 years. The purpose of using Santa in our advertisement is to appeal to families, it is not to target children or young people. We have consciously excluded elements from this advertisement regularly associated with Santa Claus which may appeal to Children such as presents, toys or other characters (e.g. elves and reindeers). Therefore, we submit that our use of Santa Claus in this advertisement has been done so in a responsible manner.

Rule 1(j):

Rule 1(j) provides that a special duty of care must be applied to occasional beverages advertising to young people. As outlined above, we submit that the advertisement does not target young people.

In the case the advertisement has been viewed by a young person under the age of 18, we submit that we have taken a special duty of care by taking the following measures:

- 1.The tagline of our campaign; “It feels good to give” promotes the message of the importance of giving back at Christmas time.
- 2.The call to action (“txt ‘YL’ to 5144 to give \$3”) on the creative does not relate to consumption or purchase of product.
- 3.The underlying purpose of our campaign is to give to Youthline, which again gives a very positive and important message to consumers about giving back at Christmas time.
- 4.Further, as outlined above, Santa Claus holding the bottles of Coca-Cola has not been done with the intention of appealing to children and young persons or with the intention of encouraging the consumption of product. Rather, he is holding out the bottles as a gesture of giving and sharing which ties in with our tagline of “It Feel Good to Give” and the call to action of donating to Youthline. Also the use of the registered trade mark of the Contour Bottle also links back to our corporate branding as outlined below.

CCO’s response to claim of breach of Principle 3 and Rule 3(a):

Principle 3:

Principle 3 states that a special duty of care must be exercised for occasional food or beverage product sponsorship advertising targeted to young people. As this advertisement does not constitute sponsorship advertising due to our relationship with Youthline being a corporate partnership and not sponsorship relationship, we submit that this advertisement does not fall under Principle 3 and therefore this section of the Code does not apply to the advertisement.

Rule 3(a):

Rule 3(a) provides that sponsorship advertisements must not show an occasional food or beverage product, or such product’s packaging, or depict the consumption of an occasional food or beverage product. The complainants suggest that by showing two bottles of Coca-Cola we have breached this section of the Code.

The two Coca-Cola Contour bottles shown in the advertisement have been included to highlight our Corporate Brand – the Contour Bottle; which is a registered trade mark of The Coca-Cola Company and widely recognised around the world. This contrasts significantly with sponsorship advertisements for products where the nature and intention is to raise the purchase intent of the products featured. Further, the way in which Santa Claus is holding the bottles of Coke has not been done with the intention of appealing to young people. Rather, the feature of our Contour bottles is a reference to our Corporate Brand as a gesture of giving and sharing, which ties in which the tagline “It feels good to give.” Also, the call to action on the creative does not relate to consumption or purchase of product, rather it encourages support in our charity partner; Youthline.

Further, we submit that although Coca-Cola Classic falls into the definition of an Occasional Food under the Food and Beverage Classification System Nutrient Framework for Schools (‘the Framework), Coca-Cola No Sugar does not meet this definition. Per the Framework, full-sugar drinks automatically fall into the Occasional category, however artificially sweetened carbonated drinks are not defined under this category. We accept that Coca-Cola No Sugar does not meet the criteria of an Everyday Beverage, but as it is not defined as an Occasional Beverage under the Framework, we submit that Coca-Cola No Sugar falls under the definition of a Sometimes Beverage. Consequently, we argue that the Coca-Cola No Sugar product depicted in the advertisement is excluded from this section of the Code.

Conclusion

As a global iconic brand, The Coca-Cola Company takes its obligations to do business with integrity and engage in ethical conduct very seriously. Our business is built on this trust and reputation.

Coca-Cola understands the importance of its role, as a global and iconic brand, to encourage positive messaging to all consumers. We take the above Principles and Rules of the Code very seriously. We feel that the underlying messaging of the advertisement is to give back to those less fortunate at Christmas time and reflects a high standard of social responsibility. We feel that the campaign has a very positive message and does not contain anything that could result in the physical, mental or moral harm of children or young people. It is CCO’s view that the Out of Home advertisement, for the reasons listed above, fully complies with all elements of the Code. We consider that when assessed against the relevant Code provisions and the relevant audience, the advertisement does not breach the Code.

We are very happy to answer any further questions you may have and please let us know if you need more information.

1 Based on Auckland Transport Data from 2012 - 2017 <https://at.govt.nz/about-us/reports-publications/traffic-counts/> Kapa Road, row 3462

2 <http://www.educationcounts.govt.nz/find-school/school/population/year?district=7614®ion=2&school=49>

3 <http://www.educationcounts.govt.nz/find-school/school/population/year?district=7614®ion=2&school=1510>

4 <http://archive.stats.govt.nz/StatsMaps/Home/People%20and%20households/2013-census-quickstats-about-a-place-map.aspx>

Contact person for advertising complaints	Karen Thompson
Name and contact at creative agency	Pink Kitsawat, Ogilvy New Zealand Limited
Name and contact at media agency	Will Douglas, Ikon Communications (NZ) Limited
A basic, neutral description of the advertisement	It Feels Good To Give Campaign The Out of Home advertisement in which the complaint relates to depicts Santa Claus leaning out of a car making a ‘peace’ sign and holding two Coca-Cola beverages. One of the Coca-Cola beverages is a Coca-Cola Classic and the second is a Coca-Cola No Sugar. The advertisement includes the words “It feels

	<p>good to give” followed by “Join us in giving to Youthline.”</p> <p>The location of the particular advertisement in which the complaint relates to is on the corner of Kepa and Kohimarama Roads in Auckland, New Zealand. This particular advertisement began on 26 November 2017 and completed on 10 December 2017..</p>
Date advertisement began	26 th November 2017
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website	Bus Shelter Adshel on the corner of Kepa and Kohimarama Roads.
Is the advertisement still accessible – where and until when?	No, the advertisement was removed from this bus shelter on 10 th December 2017.
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	Please see attached.
Who is the product / brand target audience?	<p>14 years and older is the broader demo that we worked to but we did exclude anyone under the age of 18 years given the nature of the campaign.</p> <p>TV was Household Shoppers 25-54, Cinema 18-49, Online Video 18-29, Social 18-49 - . The targeting through Outdoor placements is obviously quite broad, but all placements were in line with our Advertising to Children media guidelines which Ikon work to.</p> <p>The specific adshel in question is outside the 300m around schools which Ikon work to under our Advertising to Children Media Guidelines.</p>
Clear substantiation on claims that are challenged by the complainant.	Please see letter attached
The response from the advertiser is included in the published decision. The ASA is not able to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.	Please see letter attached

For Broadcast advertisements:	N/A
A copy of the script	N/A
A copy of the media schedule and spot list	N/A
CAB key number and rating	N/A
For Digital advertisements:	N/A
What platform tools have you used to target your audience?	N/A

RESPONSE FROM MEDIA - ADSHEL

As per last years review of the rules pertaining to advertising to kids we have rules in place to ensure that advertising of sugary/occasional food and beverage is not placed within 250m of the main entrance to a school. In this situation the bus shelter in question is actually over 500m from the front gate of Selwyn College and even further away from the main entrance of St Thomas's School.

As you know Adshel's role is to simply display the media that is supplied to us. We do have check and balances in place to ensure that material supplied to us is not an obvious breach of the ASA Guidelines and the guidelines agreed with our City Council partners. In situations where we see an obvious breach we will engage with the advertiser regarding our concerns and their options.

Also as you know, a pre vetting system does not exist for OOH Advertising of this nature. So in this situation we saw no known reason to engage with the client or their media agency regarding the unsuitability of the offending advertisement (as proposed in the complaint received by ASA).

From our perspective there is no apparent breach of ASA Guidelines.

APPEAL INFORMATION

According to the procedures of the Advertising Standards Complaints Board, all decisions are able to be appealed by any party to the complaint. Information on our Appeal process is on our website www.asa.co.nz. Appeals must be made in writing via email or letter within 14 days of receipt of this decision.