

COMPLAINT NUMBER	19/384
COMPLAINANT	F Schatz & 39 Others
ADVERTISER	Coca-Cola Amatil
ADVERTISEMENT	L&P, Television
DATE OF MEETING	30 October 2019
OUTCOME	Not Upheld No further action required

Description of Advertisement

The television advertisement for L&P shows a pair of zombie friends exploring a post-apocalyptic cityscape. In one scene one of the zombies finds the remains of a used can of L&P, which he pours into his mouth. In another scene some humans spot the zombies beside an urban swimming pool and turn away in fright. The advertisement ends with the text “Refreshingly Different”.

Summary of the Complaints

The ASA received 40 complaints about this advertisement. The Complainants said the content of the advertisement was in poor taste and would have a harmful effect on the mental health of children and vulnerable members of society. Some complainants were concerned that the advertisement played when children would be watching television.

Issues Raised

- Social Responsibility
- Decency and Offensiveness
- Violence and Anti-social behaviour
- Fear and Distress

Summary of the Advertiser’s Response

The Advertiser said the advertisement was a light-hearted parody of ‘zomedy’ movies. Care was taken to ensure that the zombies’ appearance was not unnecessarily frightening, and it was unlikely to cause serious or widespread offence. The advertisement had been placed appropriately for its classification and target market and aired within the constraints of its classification.

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a television advertisement for L&P featuring zombies exploring a post-apocalyptic cityscape. The Complaints Board said while this advertisement may be distasteful to some viewers, it did not reach the threshold to be considered likely to cause harm or serious or widespread offence. The Board accepted that the advertisement had played within the constraints of its classification.

Relevant ASA Codes of Practice

The Chair directed the Complaints Board to consider the complaint with reference to the following codes:

ADVERTISING STANDARDS CODE

Principle 1: Social Responsibility: Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

Rule 1(c): Decency and Offensiveness: Advertisements must not contain anything that is indecent, or exploitative or degrading, or likely to cause harm, or serious or widespread offence, or give rise to hostility, contempt abuse or ridicule.

Rule 1(f): Violence and Anti-social Behaviour: Advertisements must not, unless justifiable on educational or social grounds, contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property.

Rule 1 (g): Fear and Distress: Advertisements must not cause fear or distress without justification.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 18/234, which was Settled and Decision 19/111, which was Not Upheld.

The full versions of these decisions can be found on the ASA website:

<https://www.asa.co.nz/decisions/>

Decision 18/234 concerned a poster advertisement for the television programme “Wellington Paranormal”. The poster contained an image of a demonic-looking possessed girl posing in a police mugshot style photo. The Advertiser acknowledged that the image on the poster could be confronting for some children and advised its media providers to remove any posters on display. The Complaints Board ruled that the complaint was Settled.

Decision 19/111 concerned a Partners Life television advertisement for life insurance, set in a fantasy “Afterlife Transit Lounge”. There are a range of people there, each having died for different reasons. One woman choked on an apricot, another was a smoker and one man died naked. The advertisement ends with the text: “Being dead is easier when your family’s taken care of”. The Complaints Board ruled, by majority, the advertisement didn’t reach the threshold to cause harm, or serious or widespread offence. The majority acknowledged that while some people may find the imagery in the advertisement in poor taste, serious health events and making provision for those that might be left behind are important subjects to be discussed.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the consumer takeout was here are some zombies having fun in a post-apocalyptic cityscape. The zombies enjoy drinking L&P.

The Complaints Board noted the advertisement played at a range of times and was classified as GXC (General Except Children’s Programmes).

The Complaints Board noted there had been a significant number of complaints about this advertisement and the advertisement had played in such programmes as The Chase, One News, Master Chef, Married at First Sight and Australian Motor Cop.

The Complaints Board noted the soundtrack for the advertisement is a Sheryl Crowe song "All I Wanna Do", which has the line "All I want to do is have a little fun before I die". This set the scene for the fun the zombies were shown as having.

Does the advertisement contain anything that is likely to cause harm, or serious or widespread offence?

The Complaints Board agreed the advertisement did not contain anything that is likely to cause harm, or serious or widespread offence.

The Complaints Board acknowledged that the inclusion of zombies may be offensive to some viewers.

The Complaints Board said the advertisement portrays zombie characters which are very similar to those portrayed in popular comedy zombie movies.

While this advertisement may be distasteful to some viewers, it did not reach the threshold to be considered likely to cause harm or serious or widespread offence.

Does the advertisement contain anything that condones or is likely to show, violent or anti-social behaviour or damage to property, without justification?

The Complaints Board agreed the advertisement did not contain anything that condones or is likely to show, violent or anti-social behaviour or damage to property, without justification.

The zombie characters did not behave in an anti-social way and the setting was clearly fictitious and humorous.

Is the advertisement likely to cause fear or distress without justification?

The Complaints Board agreed the advertisement was not likely to cause fear or distress without justification.

The Complaints Board said in the context of the whole advertisement the part where the zombies bare their teeth and hiss at the humans, then smile at each other and give a high five, did not reach the threshold to cause fear or distress.

The Complaints Board noted the advertisement had consistently been screened according to its Commercial Approvals Bureau rating, GXC.

Several of the complaints referred to the advertisement playing during the News at 6pm which is categorised as Unclassified Programming.

The Broadcasting Standards Authority refers to Unclassified Programming as "news, current affairs, sports and live content that is not, because of its distinct nature, subject to classification. However, broadcasters must be mindful of children's interests and other broadcasting standards and include audience advisories (i.e. a warning) where appropriate."

The Complaints Board noted that since receiving complaints the Advertiser had decided to reschedule the advertisement to be screened after 7pm.

The Complaints Board said the advertisement was socially responsible, taking into account context, medium, audience and product and was not in breach of Principle 1 or Rules 1(c), 1(f) or 1(g) of the Advertising Standards Code.

Outcome

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

No further action required.

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.

APPENDICES

1. Complaint
 2. Response from Advertiser
 3. Response from Media
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Appendix 1

There were forty complaints about this advertisement. The Secretariat chose the following complaints as representative of the issues raised:

COMPLAINT FROM F SCHATZ

At approx 6:46pm on Sunday 29 September 2019, when watching "Friends" on the TV2 plus 1 channel, an advertisement for L&P was played. The ad featured a number of people made up to resemble zombies. It ended with zombies sitting poolside and pulling frightening faces to scare away people. The ad seemed to be comedic, but it was very frightening for the children who were watching TV. I would expect this ad to be played either after 8:30pm or during mature-rated TV.

COMPLAINT FROM J NORTHOVER

The L & P advertisement features quite grotesque faces on the people in it and they look like something from the grave. It is most disturbing looking at them and I cannot understand why an advert for L & P should find it necessary to make this type of advertisement. It is an affront to anyone looking at it, especially in the dinner house. I have also seen the advertisement before but not sure what time that was. It is not the time I am complaining, but the content.

COMPLAINT FROM K JAMES

I would like to complain about this L&P advertisement due to the theme of horror and violence including disturbing zombie characters of a father and son. This advert is inappropriate to be shown in the time slot it appears, which is during children's normally accepted viewing times (as suggested by the broadcasting standards association). As a parent of four children and as a registered counsellor who works with young people struggling with anxiety and depression, I feel strongly opposed to this advertisement due to the detrimental effect and emotions that young children and people may experience.

COMPLAINT FROM M UREN

The add has scary zombie people. I find it really disturbing. The faces appear like decomposing bodies. I am an adult and find the images frightening and understand that they are not real. These images would be terrifying to children. There is no prior warning that this is going to be shown so I was unable to change the channel and therefore had to see it. I am sure that the company could show something pleasant rather than these horrible monster people

COMPLAINT FROM R ASHWORTH

Add is repugnant and inappropriate for any age target audience. I saw it twice earlier this evening, once was during The Chase on TV1. which is at a time when a younger audience would be watching. It's completely horrible and unnecessary to advertise any product in such an horrific way. It would be very scary for a younger audience to see such graphic ghoulish people such as are portrayed I ... find the add very disturbing.

Appendix 2

RESPONSE FROM ADVERTISER, COCA-COLA AMATIL (NZ) LIMITED

RE: COCA-COLA AMATIL (NZ) LIMITED – COMPLAINT 19/384

1. Thank you for your letter of 7 October 2019 in which you advised that the Advertising Standards Complaints Board (the **Board**) has received complaints about the L&P 'Best Day Ever' television commercial (the **Advertisement**).

2. The complainants have alleged that the Advertisement has breached certain Principles/Guidelines in the Advertising Codes of Practice (the "**Code**"). In particular, the complainants have alleged that the Advertisement "*was very frightening for the children who were watching TV*" and that it "*should not be screened at prime time*".

3. While none of the complaints referred to a specific section of the ASA Codes, the Board has indicated that the following Principles/Guidelines of the Code are relevant to the complaint:

- a. Advertising Standards Code – Principle 1; Rule 1(c);
- b. Advertising Standards Code – Principle 1; Rule 1(f);
- c. Advertising Standards Code – Principle 1; Rule 1(g).

4. Amatil disagrees with the Complainant's assertions and submits that the Advertisement complies with Principle 1 of the Code and with Rules 1(c), 1(f) and 1(g).

5. In support of its submissions, Amatil notes that the Advertisement was:

- a. approved internally in line with standard Amatil process before it was screened in public, and during that process no infraction of any Principle, Rule, or Guideline was identified;

- b. classified by the Commercial Approvals Bureau (**CAB**) as '*General Except Children's Programmes*'¹, and was scheduled and broadcast in accordance with this classification; and

- c. submitted to the ASA's AdHelp Information Service on the initial storyboards, which resulted in scenes that could have been interpreted as showing unsafe or anti-social behaviour being removed prior to scripting.

¹ A commercial classified as 'General Except Children's Programmes' (**GXC**) is permitted to be broadcast at any time except during programmes which are intended specifically for children under the age of 13.

THE ADVERTISEMENT

6. The Advertisement the subject of the complaints is a television commercial for L&P (the **Product**). Building on L&P's 'refreshingly different' campaign, the creative brief for the Advertisement was "*a refreshingly light look at life... ...a refreshingly New Zealand antidote to a serious world*".

7. The Advertisement is a light-hearted parody of 'zom-com' or 'zomedy' movies such as 2004's *Shaun of the Dead* and 2013's *Warm Bodies*. Viewers follow Darryl and Levi, a pair of zombie friends, on a light-hearted and humorous journey through a dystopian cityscape as they 'live' their best day ever. Within this clearly fantastical environment, and set to the tune

of Sheryl Crowe's *'All I Wanna Do'*, the Advertisement uses hyperbole and humour to show Darryl and Levi enjoying a range of very 'human' activities together (e.g. rugby, swimming at the beach, pillow fights).

PRINCIPLE 1: SOCIAL RESPONSIBILITY

Advertisements must be prepared and placed with a due sense of social responsibility to consumers and to society.

8. Care has been taken to ensure that the Advertisement observes a high standard of social responsibility to satisfy Principle 1. Those efforts include clear directions provided to the creative agency that was responsible for filming and producing the Advertisement and careful review and revision of each shot. Under the Advertiser's direction, careful consideration was given to ensuring that:

- a. within the context of the post-apocalyptic environment, the zombies are shown engaging in 'harmless' fun;
- b. while Darryl and Levi are clearly identifiable as zombies, their appearance is not unnecessarily frightening or gruesome (for example, no missing body parts, deep cuts or gore); and
- c. having regard to Amatil's responsibilities under the Children and Young People's Advertising Code, the Advertisement does not appeal to children or young people.

Rule 1(c): Decency and Offensiveness

9. Rule 1(c) states that Principle 1 may be breached where advertisements contain anything that is "*indecent, or exploitative, or degrading, or likely to cause harm, or serious or widespread offence...*". The grounds for offence set out in the Guidelines include gender; race; colour; ethnic or national origin; age; cultural, religious, political or ethical belief; sexual orientation; gender identification; marital status; family status; disability; occupational or employment status.

10. Several of the complaints referred to the Advertisement as "*offensive*", "*disgusting*" and "*distasteful*". As few complaints expanded beyond these (or similar) brief descriptors, the grounds on which the Advertisement is alleged to have breached Rule 1(c) are not clear. Those complaints that did provide reasoning focused on:

- a. the appearance of the zombies (e.g. "*horrible zombie people that look disgusting*" and "*quite grotesque faces*");
- b. an aversion to zombies generally (e.g. "*the theme of horror and violence including disturbing zombie characters*" and "*zombies walking around is not an acceptable form of advertisement*"); and
- c. an overarching "*sense of doom*" that was irresponsible in the context of world events and could lead to young people experiencing feelings of anxiety or depression.

11. Acknowledging that zombies are not universally appealing, Amatil does not agree that the Advertisement has breached Rule 1(c). In particular:

- a. Care was taken to ensure that the zombies' appearance was not unnecessarily intimidating, frightening or gruesome. For example, while Darryl and Levi are clearly identifiable as zombies, common zombie tropes such as missing body parts, deep

cuts and gore are purposely absent from the Advertisement. While some viewers may have found the ‘undead’ appearance unpleasant, Amatil does not consider that the zombies’ appearance indecent or reasonably likely to cause serious or widespread offence.

b. The presence of zombies fits within the context of the post-apocalyptic environment depicted in the Advertisement. Additionally, the Advertisement’s use of hyperbole and humour in its depiction of the zombies and their activities subverts the viewer’s association of the Advertisement with the more traditional themes connected with the zombie genre. Amatil notes that zombies have been accepted in popular culture as having wide appeal, including in entertainment directed at younger audiences (e.g. Michael Jackson’s *Thriller*, the movies *Frankenweenie* and *Hotel Transylvania*, and the computer game *Plants v Zombies*, all of which are popular amongst younger viewers). As such, in the context of the Advertisement and having regard to generally prevailing community standards, Amatil does not agree that the Advertisement’s use of zombies is indecent or reasonably likely to cause serious or widespread offence.

c. In creating the Advertisement Amatil was mindful of its obligations under the Children and Young People’s Advertising Code. Given the fantastical nature of the Advertisement and the potential appeal of zombies to children³ it was necessary to avoid cues that could make Darryl and Levi appealing to children (for example, using a cartoon style or making the zombies friendly).

d. As noted above, the Advertisement is intended as a “*a refreshingly New Zealand antidote to a serious world*”. Starting with a post-apocalyptic environment that is plainly fantastical, and human zombies which are (to the best of Amatil’s knowledge) entirely fictional, the Advertisement follows Darryl and Levi as they reject the drudgery and disorder of ‘typical’ zombie life and enjoy their ‘best day ever’ through series of light-hearted and humorous activities. On this basis, Amatil posits that the Advertisement delivers levity, enjoyment and a sense of hope and possibility to viewers.

e. In an effort to ensure the Advertisement aligned with prevailing community standards, Amatil sought external opinions and incorporated this feedback into the final Advertisement. This included:

- i. engagement with the ASA’s AdHelp Information Service on the initial storyboards, which resulted in scenes that could have been interpreted as showing unsafe or anti-social behaviour being removed prior to scripting;
- ii. submission of the Advertisement for classification by the CAB, resulting in a GXC rating and subsequent scheduling of the Advertisement to broadcast only during programmes targeted at adults and not targeted at children; and
- iii. monitoring social sentiment towards the Advertisement, for example through social media reactions where 96% of the reactions have been either positive or neutral, which has demonstrated that the Advertisement is acceptable to the prevailing community standards.

³ See, for example, ‘*Fun Zombie Activities for Kids*’ (<https://www.thespruce.com/kids-zombie-party-games-2104628>) and *Parent Reviews for Plants v Zombies* (<https://www.common sense media.org/game-reviews/plants-vs-zombies/user-reviews/adult>)

Rule 1(f): Violence and anti-social behaviour

12. Rule 1(f) states that advertisements must not contain anything that condones, or is likely to show, violent or anti-social behaviour or damage to property unless it is justifiable on educational or social grounds to do so.

13. A small number of complaints referred to Darryl and Levi “*pulling frightening faces to scare people away*”, “*being disgusting and irresponsible*” and “*walking around frightening people*”.

14. Property damage is a hallmark of post-apocalyptic fiction, and the environment depicted is in keeping with the level of fantasy obvious throughout the Advertisement. It seems unlikely, however, that the complaints were referring to damage caused by Darryl and Levi in the Advertisement which is limited to:

- a. one already discarded L&P can that Darryl and Levi recycle for use as a golf tee;
- b. four cabbages that were bruised while being used as bowling balls;
- c. four already damaged mannequins that were knocked over by the cabbage bowling balls; and
- d. a shoe that Levi throws into the swimming pool in the end scene.

15. With respect to ‘anti-social behaviour’, the complaints focus on the scene beginning at 50 seconds, where a group of human ‘survivors’ stop in their tracks after unexpectedly finding Darryl and Levi sitting by a pool. Startled by the intrusion, Darryl and Levi turn, bare their teeth, and hiss at the humans. The humans gasp and turn away, while Darryl and Levi turn back to the pool, smile at each other and high-five.

16. In the context of a post-apocalyptic world inhabited by zombies, the behaviour exhibited by Darryl and Levi would seem positively neighbourly (i.e. there was no attempt to chase and/or eat the humans). Even measured against the prevailing standards of our own community, it is difficult to discern in the Advertisement the requisite level of nuisance, violence or undue aggression that characterises ‘anti-social behaviour’. To the extent that any element of violence or aggression is present, the clear fantasy, hyperbole and humour (all of which will be recognised as such by most viewers) contextualise the depiction so as to remove any anti-social undertones and make the behaviour unlikely to be able to be replicated.

Rule 1(g): Fear and distress

17. Rule 1(g) states that advertisements must not cause fear and distress without justification. The Guidelines refer to the use of shocking images and attempts to exploit superstitious or vulnerable audiences. Where the use of fear and distress can be justified, it must not be excessive.

18. The majority of the complaints received are concerned with the Advertisement frightening young children and refer to the Advertisement being broadcast at inappropriate times.

19. As noted previously, the Advertisement was classified by CAB as GXC. This classification aligns with the target market for the Product and the Advertisement (i.e. consumers aged 18 to 25 and home shoppers aged 25+). The Spot List provided as **Attachment B** to this letter shows that the Advertisement was placed appropriately for the classification and target market and aired within the constraints of its classification. While the

Advertisement was broadcast during the daytime, it was not placed in programmes targeting, or likely even to have general appeal to, children (for example, *Emmerdale* and *Murder in Mind*).

20. Many of the complaints refer to young children seeing the Advertisement while watching the evening news. As the ASA has noted previously, the news is rated PGR and directed at an adult audience, not children⁵. This also applies to other programmes targeted at adults such as *Married at First Sight NZ* (M) and *Below Decks Mediterranean* (M).

21. Amatil acknowledges that the Advertisement could potentially frighten young children. But Amatil considers that:

- a. the scene that could potentially cause fear or distress (Darryl and Levi hissing at the humans at the 50 second mark) is fleeting and quickly followed by smiling and high-fiving;
- b. the fantasy nature of the Advertisement does not meet reach the threshold to be said to have portrayed violence, undue aggression, or menacing or horrific elements likely to disturb children;⁶
- c. the Advertisement does not play on fear and, when considered in its entirety, can be seen to employ light-hearted comedy through the relationship between Darryl and Levi; and
- d. the Advertisement is targeted at an adult audience that is likely to understand the humour without being offended or frightened.

CONCLUSION

22. For the reasons set out above, and given the rating, content, placement and likely audience, Amatil submits that the Advertisement was prepared and placed with a high standard of social responsibility and that neither Principle 1 nor Rules 1(c), (f) or (g) of the Code have been breached.

23. Amatil acknowledges, however, the concerns expressed in the complaints are genuine and real to the complainants. In an effort to address these concerns, Amatil has voluntarily elected to reposition the Advertisement so that it will only be screened after 7pm during scheduled television broadcasts.⁷

24. For the reasons set out in paragraph 22, and in light of Amatil's rescheduling of the Advertisement to only screen after 7pm during scheduled television broadcasts, Amatil respectfully requests that the Board rule that the complaints are **NOT UPHELD**.

25. Given both the range of issues raised by the complaints and the lack of detail included within them, Amatil welcomes the opportunity to respond to any comments or questions the Board may have.

⁵ For example, see complaints 15/053 and 15/366

⁶ See Complaints Board Decision 14/340, referenced in 15/053

⁷ In line with a PGR or S7 classification

Appendix 3

RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU

Coca Cola Amatil Television Advertisement

COMPLAINT: 19/307

KEY: CCLP45015

RATING: GXC

CAB approved this L&P commercial on 05/08/19 with a GXC classification.

The GXC classification prevents this commercial from playing in programmes designed for child audiences, and matches it only with appropriate viewing times.

Some complainants referenced the New Zealand suicide rate, 'the high negativity of society', and even Satanism, but we can duly disregard these aspects and focus on the child viewer issue.

The very large majority of complainant viewed this commercial during PGR-rated programming, when young children should not be watching anyway.

One child viewed the ad at 9:49pm on a Wednesday night, which is simply an inappropriate TV viewing time for anyone that age.

None of the viewers saw the commercial play outside of the times specified by the GXC classification.

Absolutely none of the viewers saw the commercial play during G-rated children's programming.