

COMPLAINT NUMBER	20/261
ADVERTISER	Krispy Kreme
ADVERTISEMENT	Krispy Kreme Digital Marketing
DATE OF MEETING	31 July 2020
OUTCOME	No Grounds to Proceed

Advertisement: The Krispy Kreme New Zealand Facebook and website advertisements promoted the "Throwback Arcade" and encouraged people to download and play four "retro" arcade games involving the Krispy Kreme brand. The text for the Facebook advertisement says "...Four doughnut-inspired games you can get stuck into from the comfort of your phone's browser!" The text on the web page says "4 games inspired by our doughnuts that are all about your childhood retro arcade games of the 90's."

The Chair ruled there were no grounds for the complaint to proceed.

Complaint:

Complaint: Krispy Kreme Virtual Arcade Game Campaign.

This complaint is made by the members of Healthy Auckland Together listed in Appendix A. We consider that the Krispy Kreme advertisements breach the Children and Young People's Advertising Code and the Advertising Standards Code.

We submit that the advertisements breach the following principles and rules of the Code:

1. Principle 1 of the Children and Young Peoples Advertising Code: the advertisements do not observe a high standard of social responsibility because they promote unhealthy eating behaviours for children and young people, thereby causing harm.
2. Rule 1 (i) of the Children and Young Peoples Advertising Code: the advertisements target occasional foods and beverages to children. The products promoted in the game such as doughnuts and shakes are generally appealing to children, and the presentation of the advertisement content appeals to children due to its interactive nature and animations.
3. Rule 1(j) of the Children and Young Peoples Advertising Code: A special duty of care has not been applied to occasional food and beverage product advertising to young people. The webpage is socially irresponsible in that it shows excessive amounts of occasional food and drinks in a way that is likely to entice young people to buy these products.
4. Rule 1 (k) of the Children and Young People Advertising Code: The quantity of the food in the website advertisement exceeds portion sizes that would be appropriate for consumption on one occasion by any child or young person.
5. Principle 1 of the Advertising Standards Code: The advertisements are not prepared with a due sense of social responsibility to children or young people as it promotes unhealthy eating behaviours.
6. Rule 1(h) of the Advertising Standards Code: The advertisement undermines the health of children and young people by targeting them with occasional food and beverage products and promotes the overconsumption of these products.

The Advertisements:

Krispy Kremes Facebook post advertisement was viewed on 9 April 2020 at 4pm from Krispy Kremes Facebook page <https://www.facebook.com/KrispyKremeNZ>. The ad has a picture of a gaming console with the wording play all the games on our profile on the console screen. There are colourful stickers on the console with the words wow and radical. The ad encourages people to play Krispy Kremes four virtual arcade games, which they state are doughnut-inspired games. The blurb for the ad states Bored? Stuck at home? and that the arcade games will help you get through self-isolation.

The Krispy Kreme arcade game webpage was viewed on 9 April 2020 at 4.15pm from <https://www.krispykreme.co.nz/throwback-arcade>. The main page of the website is titled Throwback Arcade and showcases the four doughnut inspired games (Krispy Kart, Doughnut Fight, Sprinkle Fantasy and Doughnut Bash). All of the games involve animated pictures of doughnuts, shakes and desserts. The bottom of the page states check out our doughnut range.

Nutritional Information

The website advertisement shows a range of occasional food products. See below for the nutritional information for one Krispy Kreme choc iced sprinkles doughnut.

Nutritional Information FBCS Choc Iced Sprinkles Doughnut

Energy per 100g >1800kj/100g 1690kj/100g

Energy per serve >900kj/serve 1230kj/serve

Saturated fat >3g/serve 8.9g/serve

Sodium >300mg/serve 80mg/serve

Fibre <1.0g/serve Unknown

Total sugar >25g/serve 26.8g/serve

The majority of products frequently shown in the games are other types of occasional food and drinks, such as shakes and desserts.

Analysis under the Children and Young Peoples Advertising Code

We believe that the website advertisement breaches both the Children and Young Peoples Advertising Code and the Advertising Standards Code as it shows a quantity of food that exceeds the appropriate portion size any adult, young person or child should consume in one occasion. All areas of the website, including within the games, show excessive numbers of occasional food and drink products. The main page of the website includes images of at least 25 doughnuts, four desserts and four shakes.

The webpage is clearly used to increase brand awareness of Krispy Kreme and to promote their products including doughnuts, desserts and shakes. We believe that these products are generally appealing to children and young people due to how they look and the high sugar and saturated fat content. The content of the website advertisement appeals to children and young people due to its interactive nature and animated pictures. The bright colours, arcade game style music, and the act of being physically involved in a game with its sense of fun and competition make the campaign attractive to young people.

Although the advertisements suggest that adults should play in order to have nostalgia from the 90s, we believe the games will also attract children and young people who regularly play games. We would expect that a large proportion of people visiting the website are children and young people.

Analysis under the Advertising Standards Code

We believe that the advertisements undermine the health of children and young people as they promote unhealthy eating behaviours. The website shows quantities of food and drink that exceed the appropriate portion size any adult, young person or child should consume in one occasion, as discussed above. This occurs in all areas of the website.

The World Health Organization (WHO) recommends a maximum intake of sugars of less than 10% of total energy intake for adults and children, and less than 5% for better health,

excluding sugars found in whole fruits, milk and vegetables. That is about 50g, or around 12 teaspoons per day (one teaspoon = 4g of sugar). As the above examples shows, a Krispy Kreme donut can have 26.8g of sugar, which is more than half the recommended maximum daily intake for a single serving.

In Decision 19/102 for Cookie Time Limited, the Complaints Board agreed the advertisements undermine the health and well-being of individuals. This is because a bowl of biscuits and milk is not a healthy breakfast option and the serving size shown in the photo well exceeds three biscuits, which is the recommended serving on Cookie Time packaging. The Complaints Board stated that the amount of sugar contained in the depicted serving is very high and well above recommended healthy levels.

We ask the ASA take into consideration that this campaign was promoted during the COVID-19 pandemic when New Zealand was at Alert Level 4. The majority of New Zealanders were vulnerable and a captive market due to their enforced isolation. The post targeted young peoples boredom, with young people looking for activities to keep them occupied. We acknowledge that the Krispy Kreme arcade game can be seen as helping people throughout this difficult time. However, these advertisements undermine government efforts to improve obesity rates. In addition, we believe Krispy Kreme exploited the pandemic to push greater consumption of their unhealthy food products to children and young people. We recognise that these are exceptional circumstances but the codes still need to be adhered to.

Summary

The Krispy Kreme arcade campaign clearly targets occasional food and drink products to children and young people through the use of fun and interactive games. The campaign is socially irresponsible as it promotes unhealthy eating behaviours to children and young people and shows excessive amounts of occasional food and drink products. We believe that releasing the advertisement during the COVID-19 pandemic is unethical and exploits communities during this vulnerable time.

Appendix A:

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 Māori, Pacific and lower-socioeconomic communities. With a broad range of coalition partners - including health, central government (including Ministry of Health and New Zealand Transport Agency), local government (including Auckland Council and Auckland Transport), sport, iwi, 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. Marketing to children is a key component of the environmental work undertaken by Healthy Auckland Together.

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

- Asian Network
- Auckland Dental Association
- Auckland District Health Board
- Auckland Regional Public Health Service
- Auckland Council
- Auckland Transport
- Auckland War Memorial Museum
- CCS Disability Action & Disabled Person's Assembly
- Counties Manukau Health
- Diabetes Foundation Aotearoa
- Hapai te Hauora, Māori Public Health
- The New Zealand Heart Foundation
- Healthy Families New Zealand

- Healthy Families Waitakere
- Healthy Families Manukau, Manurewa - Papakura
- Mana Whenua I Tamaki Makaurau
- National Institute of Health Innovation
- Pacific Heartbeat
- Primary Health Organisations (7)
- Stroke Foundation NZ
- Te Runanga o Ngati Whatua
- Toi Tangata
- The University of Auckland
- Waitemata District Health Board

The relevant provisions were Advertising Standards Code - Principle 1, Rule 1(h); Children and Young People Advertising Code - Principle 1, Rule 1(i), Rule 1(j), Rule 1(k);

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(h) Health and well-being: Advertisements must not undermine the health and well-being of individuals.

CHILDREN AND YOUNG PEOPLE'S ADVERTISING CODE

Principle 1: Social Responsibility: 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.

RULES – FOOD AND BEVERAGE ADVERTISEMENTS

Rule 1 (i) Targeting children:

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.

Guidelines:

- 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
- 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:
 - Where accurate data exists 25% or more of the expected average audience will be children.
 - Child viewing time zones.
 - Content with significant appeal to children such as programmes, artists, playlists, video, movies and magazines.
 - Locations where children gather (eg schools, school grounds, pre-school centres, playgrounds, family and child clinics and paediatric services and during any children's sporting and cultural events).

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

Rule 1 (k) Portion size: The quantity of the food in the advertisement should not exceed portion sizes that would be appropriate for consumption on one occasion by a person or persons of the age depicted.

The Chair noted the Complainant's concerns the advertisements targeted occasional food and drink products to children and young people, promoted unhealthy eating behaviours for children and young people, showed excessive amounts of occasional food and drink products and were unethical because they exploited communities during the COVID-19 pandemic.

The Chair considered the Complaint under the Children and Young People's Advertising Code:

Did the advertisements target children or young people?

The Chair said the advertisements for doughnuts, an occasional food, did not target children or young people. The Chair noted the Krispy Kreme Facebook page would be accessible to all Facebook users, who are required to be aged 13 or over.

The Chair noted that young people were not a significant proportion of the audience, based on the demographics provided by the Advertiser. The Chair referred to information provided by the Advertiser, that very few people under 18 are likely to have seen this post.

The Advertiser said around 4,300 people viewed the post and, of those people, only 138 people engaged with it. They do not have a further breakdown of those 4300 people, as the post was not specifically targeted, but they advised that only a very small proportion (less than 1%) of people who "liked" their NZ Facebook page are under 18.

The Chair said the text on the website advertisement that the games are "all about your childhood, retro arcade games of the 90's" clearly indicates the target audience is people who were children more than fifteen years ago.

The Chair said while the product had high appeal to children and young people this appeal had been mitigated by the placement of the posts in an age-restricted environment (Facebook) and the retro theme (website).

The Chair then considered the Complaint under the Advertising Standards Code:

Do the advertisements undermine the health and well-being of individuals?

The Chair said the advertisements did not reach the threshold to undermine the health and well-being of individuals. This is because the advertisements do not suggest any particular serving size or frequency or encourage excessive consumption. Instead they explain the product range available and encourage viewers to play the online games.

The Chair said the advertisements did not exploit communities during the COVID-19 pandemic but appeared to be brand engagement. The Chair said any engagement most children had with the advertisement would be at the discretion of parents or caregivers.

The Chair ruled the advertisements did not reach the threshold to be in breach of the Children and Young People's Advertising Code or the Advertising Standards Code.

The Chair ruled there were no grounds for the complaint to proceed.

Chair's Ruling: Complaint **No Grounds to Proceed****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 calendar days of receipt of this decision.