

COMPLAINT NUMBER	20/262
COMPLAINT ON BEHALF OF	Healthy Auckland Together
ADVERTISER	New Zealand Football/Nestlé
ADVERTISEMENT	New Zealand Football/ Nestlé, Facebook
DATE OF MEETING	11 August 2020
OUTCOME	Not Upheld No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a New Zealand Football/Nestlé advertisement which promoted a ball game to play during the COVID-19 lockdown. The Complaints Board said while the product and activity shown in the advertisement had appeal to children and young people, the targeted audience was adults and the product was consumed in moderation and as part of an active lifestyle.

Advertisement

The Milo and NZ Junior Football video advertisement was posted on the New Zealand Football Facebook page and shared to the Fit4Football Facebook page. It promotes an exercise game to keep children entertained through the lockdown period. The '4 corners running game' commences with the words 'Family Fun Fitness' and shows two balls branded with the Milo logo. Two children and two adults demonstrate the game; with words explaining the rules and upbeat music in the background. The advertisement shows a girl having a Milo drink and saying, "I love family fun fitness brought to you by Fit4Football and Milo." She drinks the Milo and puts her thumbs up. The final frame shows the Fit4Football logo following "brought to you by Milo."

Summary of the Complaint

The Complainant was concerned the advertisement is socially irresponsible by targeting an occasional beverage to children and young people. It says the presentation, use of a training game and the ultimate audience normalises the product as being acceptable for everyday consumption.

The Complainant said the presentation and placement of the advertisement would have high appeal to children and young people and was seen on a 13 year old's Facebook page.

Issues Raised:

- Social Responsibility
- Health and Well-being
- Targeting Children and Young People

Summary of the Advertiser's Response

The Advertiser's (New Zealand Football (NZF) and Nestlé) jointly defended the advertisement and said the Fit4Football programme, which is a player welfare strategy, posted this advertisement as part of a wider campaign to get families active during COVID-19 restrictions.

The Advertiser said Milo has an appropriate place in a balanced diet and the advertisement fits within recommendations for physical activity and dietary guidelines in NZ and provides

nutritional information. The Advertiser notes Milo is classified as a Formulated Supplementary Food by the Australia New Zealand Food Standards Code, which is developed to provide additional nutritional support to address situations where intakes of energy and nutrients may not be adequate to meet an individual's requirements, such as after playing sport.

The Advertiser said the advertisement on Facebook was not targeting children who need to be 13 years old to access the platform. The Advertiser provided evidence the targeted adult audience was reflected in the engagement of the Facebook pages

Relevant ASA Codes of Practice

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

CHILDREN AND YOUNG PEOPLES 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.

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.

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

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.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 18/107 and 20/260, both of which were Not Upheld.

The full versions of decisions since 2015 can be found on the ASA website:

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

Decision 20/260 concerned a Facebook advertisement for Hell Pizza Hell which included a colouring in competition to win a child's pizza.

The Complaints Board said while the product and activity in the precedent advertisement had appeal to children, the audience being directly targeted was exclusively over 18 year of age and any engagement with children was at the discretion of parents.

Decision 18/107 concerned a television advertisement for McDonalds Restaurants which showed a girl in various scenarios in the middle seat in the back of a car. The girl's face lit up when she saw the McDonalds 'golden arches'. She ate a French fry after her father placed a bag of McDonalds in the centre console where only she could reach them. The majority of

the Complaints Board said the advertisement was a product advertisement that promoted McDonalds fries. The Complaints Board said French fries were a product with high appeal to children and young people and were an occasional food.

The majority said the presentation of the advertisement, including the humour and the music and brand recognition with McDonalds would also appeal to both children and young people. However, the Complaints Board said as the advertisement was placed where both children and young people were not a significant proportion of the likely audience, there was no breach of Rule 1(i) or 1(j) of the Children and Young People's Advertising Code.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement is it shows an exercise for families to stay active and have fun together during the COVID-19 lockdown using a ball game promoted by New Zealand Football and Milo.

Children and Young People's Advertising Code

Does the advertisement target children and young people?

How is targeting assessed?

'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.

Children

The Complaints Board considered whether the advertisement before it was targeting *children*, which for the purposes of the Code are defined as below the age of 14 years.

Product

The Complaints Board said the chocolate and malt flavoured Milo drink had a moderate to high appeal to children.

Presentation

The Complaints Board then considered whether the overall presentation of the advertisement was appealing to children. The Board said the images of a family having fun playing an exercise game together would be of moderate appeal to children. The presentation would be of particular appeal to children who were interested in sporting challenges and the format of a child narrating the advertisement would further engage some children if they were shown the advertisement. Some Board members said the instructional nature of the advertisement may lessen the appeal for some children.

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 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 advertisement was posted on the New Zealand Football Facebook page and the Fit4Football Facebook page available to users of 13 years and over. The Board noted under the Code it was required to consider the expected average audience likely where the advertisement appeared. The Complaints Board acknowledged the Complainant had highlighted a 13 year old had viewed the advertisement on their Facebook account, however the audience figures provided by the Advertiser confirmed this age group was a small proportion of the viewing audience. The Complaints Board said placement on Facebook had mitigated the moderate to high product appeal and the moderate appeal and subsequent engagement of children, based on the advertisement's execution.

The Complaints Board said it was important to note parents or caregivers viewing the advertisement on Facebook would act as gatekeepers of whether children under the age of 13 were exposed to and permitted to engage with the advertisement focused on a family activity.

The Complaints Board ruled that the advertisement was not targeted at children under the age of 14 and was therefore not in breach of Rule 1(i) of the Children and Young People's Advertising Code.

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 of age.

Product

The Complaints Board said the chocolate and malt flavoured Milo drink had a moderate to high appeal to young people.

Presentation

The Complaints Board then considered whether the overall presentation of the advertisement was appealing to young people. The Complaints Board said the appeal of the advertisement to young people was likely to be a low to moderate level of engagement depending on an interest in sports and fitness. The Board said the 4 corners running game was aimed at a younger age group and the child in the advertisement would be less appealing to young people.

Placement

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

The Complaints Board noted the information provided by the Advertiser demonstrated that young people were not a significant proportion of the average audience. The Advertiser confirmed the New Zealand Football Facebook page is targeted at adults which is reflected in

an audience age range predominately aged 25-44, with only 1.7% of the audience aged between 13-17. The Fit4Football page has an audience range of 18-54 year olds with only 1.97% of audience between 13-17 years of age.

In determining whether the advertisement was targeting young people, the Complaints Board said there was a moderate appeal presented by the product and the overall presentation of the advertisement, however, the advertisement was not seen by a significant proportion of young people on the Facebook platform. The Complaints Board said the advertisement was not targeting young people.

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

Advertising Standard Code

Does the advertisement undermine the health and wellbeing of individuals or promote an unhealthy lifestyle?

The Complaints Board considered the nutritional information for a single serving of MILO powder with 200mL trim milk, which was the serving size advertised, and noted the 4.5 star rating under the Government's Health Star Rating system. The Complaints Board agreed the advertisement did not undermine the health of individuals or encourage an unhealthy lifestyle. The Board said the majority of the advertisement was about physical activity and there was not undue focus on the Milo logo. The Board agreed the scene showing the girl drinking Milo showed an appropriate serving size and there was nothing in the advertisement to suggest excessive consumption or daily frequency.

The Complaints Board said the advertisement had been prepared and placed with a due sense of social responsibility, taking into account context, medium, audience and product and was not in breach of Principle 1 or Rule 1(h) of the Advertising Standards Code.

Summary

The Complaints Board ruled the complaint was Not Upheld under Principle 1 and Rules 1(i) and 1(j) of the Children and Young People's Advertising Code. The Complaints Board ruled the complaint was Not Upheld under Principle 1 and Rule 1(h) 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 calendar days of receipt of this decision.

APPENDICES

1. Complaint
 2. Response from Advertiser
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Appendix 1

COMPLAINT

Complaint: Milo '4 corners running game' Digital Advertisement

This complaint is made by the members Healthy Auckland Together (HAT) as listed in Appendix A ('We'). We consider the '4 corners running game' digital advertisement for Milo® to be in breach of the Children and Young People's Advertising Code and the Advertising Standards Code.

We submit that the digital advertisement breaches the following principles and rules of the Codes:

1. **Principle 1** of the Children and Young People's Advertising Code: the advertisement does not observe a high standard of social responsibility because it promotes unhealthy eating behaviours to children, thereby causing harm.
2. **Rule 1 (i)** of the Children and Young People's Advertising Code: the advertisement targets occasional foods and beverages to children. Milo is generally appealing to children, and the advertisement content is appealing to children.
3. **Rule 1 (j)** of the Children and Young People's Advertising Code: the advertisement targets occasional foods and beverages to young people. Milo is generally appealing to young people, and the advertisement promotes frequent consumption of an occasional beverage to young people. No better-for-you option was promoted.
4. **Principle 1** of the Advertising Standards Code: The advertisement is not prepared with a due sense of social responsibility to parents/caregivers or children and young people as it promotes unhealthy eating behaviours by encouraging the consumption of occasional food products to children and young people
5. **Rule 1(h)** of the Advertising Standards Code: The advertisement undermines the health of individuals by promoting the consumption of an occasional food product after exercise to children and young people, encouraging unhealthy eating practices.

The Advertisement:



The digital advertisement in question was seen on a 13 year old's Facebook page on 25th May 2020 and was posted by NZ Junior Football. The '4 corners running game' advertisement commences with the words 'Family Fun Fitness' and shows two balls with Milo on them. Two young children and two adults demonstrate the game; with words describing what is happening and up beat modern music in the background. The next frame shows a girl having a milky Milo® drink. She says "I love family fun fitness brought to you by Fit4Football and Milo®." She then has a drink of the Milo® and puts her thumbs up. It closes with the following:



BROUGHT TO YOU BY



<https://www.facebook.com/NZJuniorFootball/videos/867664430399399/>

Analysis:

According to Nestle, a 200ml Milo® prepared with reduced fat milk contains 1.1g saturated fat and 19.2g of sugar ¹(6.7g added sugar, if Milo® is added in the recommended quantities). Under the Food and Beverage Classification System (FBCS) "Ministry of Health and Ministry of Education also recommends schools be plain water and reduced-fat milk only". Sweetened milk drinks such as Milo® are therefore not compliant.

The updated Ministry of Health Food and Drink Guidance² – Schools (2020), clearly shows sweetened milk-drinks as a 'red' item, which should not be available in schools.

Under the WHO nutrient profile model³ Milo® is not permitted to be advertised to children because it has added sugars.

NZ Football's Fit4Football website ⁴(in partnership with ACC SportSmart) provides Everyday Nutrition Guidelines which state "drink plenty of water throughout the day and limit sugary drinks". This advice contradicts the advertising they support.

Although the advert was released on Facebook where children are unlikely to have an account, the post is very likely to be shown to children and young people to introduce them to the '4 corners game' In addition the fact that the advert appeared on the Facebook page of 13

¹ Milo nutrition retrieved 26/5/2020 from <https://milo.co.nz/products-and-nutrition>

²Ministry of Health Food and Drink Guidance <https://www.health.govt.nz/publication/healthy-food-and-drink-guidance-schools>

³ WHO Nutrient profile model for the Western Pacific Region. A tool to protect children from food marketing Retrieved 26/5/20 from <https://iris.wpro.who.int/handle/10665.1/13525>

⁴ Fit4Football website <https://fit4football.co.nz/nutrition/nutrition>

year old shows the advertisement targeted children and young people, particularly those with an interest in sport.

The content of the advert appeals to children and young people in a number of ways by:

- children playing the game with adults
- child actors
- simple wording
- upbeat modern music .

In addition Milo® (a sweet, chocolaty, malty beverage) is highly appealing to both children and young people. The digital advertisement encourages children and young people to have a drink of Milo® following the training game.

Training and playing games every day is encouraged. We believe that promoting the use of occasional beverage products such as Milo® following this activity normalises occasional beverages for everyday consumption and ultimately undermines children's health.

Summary:

The Milo®'4 corners game' digital advertisement posted by NZ Junior Football is socially irresponsible as it clearly targets an occasional beverage to children and young people, with its presentation, use of a training game, and the expected ultimate audience. Using occasional drinks following training games normalises Milo® as being acceptable for everyday consumption, undermining health. No care was taken for the placement of this advertisement as it appeared on a 13 year olds Facebook page. It was disappointing that Fit4Football, NZ Junior Football, NZ Football and ACC Sport Smart were not showing a 'special duty of care' to our children and young people by being associated with this digital advertisement and encouraging consumption of an occasional beverage after a training game.

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 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

Appendix 2

RESPONSE FROM ADVERTISER, NEW ZEALAND FOOTBALL AND NESTLÉ

As this complaint refers to a post regarding the sponsorship of Small Whites Programme in New Zealand by MILO, we have provided a joint response from Nestlé New Zealand Limited (**Nestlé**) and New Zealand Football (**NZF**).

The NZF Small Whites programme is one of New Zealand's highest grassroots participant sport programmes. It's a gender diverse sport providing experiences and opportunities for kids to practice and learn football skills.

Fit4Football is a player welfare and prevention programme for our everyday athletes. It provides support mechanisms for enhancing player performance, injury prevention, welfare and wellbeing. The programme was developed by New Zealand Football in partnership with ACC SportSmart.

This post which is the subject of this complaint was developed as part of a wider campaign focusing on providing examples and suggestions to help New Zealand families get active during recent times when many community sports groups and team activities were cancelled due to Covid-19 restrictions. It was a video posted on the New Zealand Football Facebook page and shared to the Fit4Football Facebook page (**the Advertisement**).

As requested, we have provided a copy of the Advertisement and we thank you for the opportunity to comment on the issues raised in this complaint.

In making our submission, NZF and Nestlé have considered the Advertisement under the following Codes:

- **Advertising Standards Code** – Principle 1, Rule 1(h); and
- **Children and Young People Advertising Code** – Principle 1, Rule 1(i) and Rule 1(j).

The Complaint

The Complainants are concerned the Advertisement is in breach of the above mentioned Codes in that it:

(a) is very likely to be shown to children and young people and appeared on the Facebook page of a 13 year old. The content of the advert appeals to children and young people in a number of ways by:

- children playing the game with adults;
- child actors;
- simple wording;

- upbeat modern music; and
- (b) represents a product which is non-compliant with the following:
- under the Food and Beverage Classification System (FBCS) “Ministry of Health and Ministry of Education also recommends schools be plain water and reduced-fat milk only”. Sweetened milk drinks such as Milo® are therefore not compliant;
 - the updated Ministry of Health Food and Drink Guidance – Schools (2020), clearly shows sweetened milk-drinks as a ‘red’ item, which should not be available in schools; and
 - under the WHO nutrient profile model Milo® is not permitted to be advertised to children because it has added sugars.

NZF and Nestlé have considered in detail the Complaint and respectfully submit that the Advertisement does not breach either the Advertising Code or the Children and Young Persons Code.

We have provided a detailed position below, however with reference to the Complainants’ assertions:

- (a) an advertisement is defined as material over which we (the advertiser) have control over, being the video as posted to the New Zealand Football and Fit4Football Facebook Pages. As Facebook is restricted to users over the age of 13, we do not consider the Advertisement is targeted to children;
- (b) as the Advertisement is not targeted to Children;
- we have not reviewed the product in light of the FBCS given this is not required, however we have provided information regarding the depicted product (MILO) nutritional attributes;
 - we note the updated Ministry of Health Food and Drink Guidance – Schools 2020 is relevant to food and beverage products sold through schools and again not applicable to any assessment of the Advertisement under the ASA Codes; and
 - we note the WHO nutrient profile model is provided as recommendations for member states on considering how to restrict the marketing of inappropriate products to children. We note the ASA Codes as implemented by the ASA work to restrict this type of marketing to children in ways that is appropriate for New Zealand and again, this document is not relevant to any assessment of the Advertisement under the ASA Codes.

It is our view that MILO has an appropriate place in a balanced diet and the Advertisement fits firmly within recommendations for physical activity and dietary guidelines in New Zealand.

Overview of the Advertisement

The Advertisement was posted to the NZ Football page on 25 May and reposted to the Fit4Football Facebook page on the same day.

The Advertisement opens with the heading FAMILY FUN FITNESS and introduces the 4 corners running game.

As two adults and two children are seen to be participating in the game, the instructions are provided on screen in titles:

- Mark the centre of the 4 corners on a pitch or court (you can even use a rugby ball!)
- Players then run from one corner, touch the centre and onto the next corner

- Race to see who can compete it the fastest or run as a relay

At the conclusion of the game, one of the child participants is shown with a can of MILO and a glass of MILO and Trim milk, takes a sip and says:

"I love family fun fitness, brought to you by Fit4Football and MILO."

The closing frame includes the FIT4FOOTBALL logo with the wording "brought to you by" and the MILO logo.

Alleged breaches of the Codes

Advertising Standards Code Principle 1:

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

This partnership between New Zealand Football and MILO and the specific involvement with Junior Small Whites Programme is focused on making junior football more accessible to children throughout New Zealand.

The Advertisement itself was developed as part of a campaign to reflect that Covid-19 restrictions had stopped the ability of family members to participate in team sports, and so was developed to provide resources for the members of the NZF Facebook page ideas on how to continue to be active with their family.

The Advertisement is almost entirely centred on the encouragement of healthy physical activity with the family.

The partnership with MILO is one that draws on the very unique formulation of MILO, which is an appropriate nutrient rich drink to supplement a normal diet through the provision of additional nutrients. In this regard we note MILO is a Formulated Supplementary Food, regulated under Standard 2.9.3 of the Australia New Zealand Food Standards Code, in that it is "specifically designed as a supplement to a normal diet to address situations where intakes of energy and nutrients may not be adequate to meet an individual's requirements". Under the Food Standards Code, such foods are required to contain minimum levels of energy, protein, vitamins and minerals.

In relation to a serve of MILO with Trim milk, it has the following nutrition credentials:

- it scores 4.5 stars under the Government's Health Star Rating (as prepared);
- it is fortified with 8 vitamins and minerals and contributes at least 20% of the RDI of those vitamins and minerals and contributes to the daily dairy intake recommendations;
- it is a source of protein; and
- it is Low Gi.

The specific formulation of Formulated Supplementary Food such as MILO is developed to provide additional nutritional support when this may be required, such as is depicted in the Advertisement (after playing sport).

For the above reasons, we disagree with the Complainants' assertions that the Advertisement promotes unhealthy eating behavior.

Advertising Standards Code Rule 1(h): Health and well-being.

Advertisements must not undermine the health and well-being of individuals.

Under the Food and Nutrition Guidelines for Healthy Children and Young People, the guideline statements include the following relevant guidelines (emphasis added):

1. *Eat a variety of foods from each of the four major food groups each day:*
 - *vegetables and fruit, including different colours and textures*
 - *breads and cereals, increasing wholegrain products as children increase in age*
 - ***milk and milk products or suitable alternatives, preferably reduced or low-fat options***
 - *lean meat, poultry, fish, shellfish, eggs, legumes, nuts and seeds*
3. *Prepare foods or choose pre-prepared foods, snacks and drinks that are:*
 - *low in fat, especially saturated fat*
 - *low in sugar, especially added sugar*
 - *low in salt (if using salt, use iodised salt)*
4. *Drink plenty of water during the day. Include reduced or low-fat milk every day.*
 - ***Limit drinks such as*** *fruit juice, cordial, fruit drink, fizzy drinks (including diet drinks), sports drinks and sports water*
8. *Be physically active:*
 - *Take part in regular physical activity, aiming for 60 minutes or more of moderate to vigorous activity each day*
 - *Spend less than two hours (out of school time) in front of television, computers and gaming consoles*
 - *Be active in as many ways as possible, for example, through play, cultural activities, dance, sport and recreation, jobs and going from place to place*
 - *Be active with friends and whānau, at home, school, and in your community*

Specifically when referencing the intake of milk and milk products, the New Zealand Food and Nutrition Guidelines highlight the specific nutritional benefits of consuming milk, providing the following recommended serve per day:

Milk and milk products	Milk (includes calcium-fortified milk alternatives), cheese and yoghurt (choose low-fat options)	Preschoolers and children: at least 2–3 servings Young people: at least 3 servings	Glass of milk or calcium-fortified milk alternative (250 ml) Pottle of yoghurt (150 g) 2 slices of cheese (40 g)
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Finally with reference to flavoured milks, the recommendations state that:

Flavoured milks are not recommended as a main source of milk for children and young people as they are high in sugar. If they are consumed, have them only occasionally, in small serving sizes. Choose low-fat flavoured milks and for younger children dilute flavoured milks with unflavoured low-fat milk.

These guidelines do not suggest restricting the intake of flavoured milk, rather highlight the concern that they tend to be high in added sugars, so if consumed, it should be only occasionally and in small serving sizes.

Given the concern with flavoured milks is the tendency to be high in added sugar, it is relevant to highlight the nutritional composition of MILO and Trim Milk.

MILO powder is specially formulated to be added to milk and consumed as a beverage and provides specific instructions on this point, and is how the product is depicted in the

Advertisement. When assessing the product on an 'as consumed' basis, as a dairy beverage:

- the total sugars in a glass of MILO + trim milk is 19.2g (when made up 200mL of trim milk and 20g of MILO as recommended);
- over half of this sugar, (10g) comes from the 200mL of added Trim milk (in the form of lactose); and
- of the remaining 9.2g of sugars coming from the MILO powder:
 - 2.5g comes from the natural milk sugar lactose and a very small amount of galactose found in the milk powder component of MILO;
 - 2.8g is maltose from the malt extract; and
 - 3.9g is sucrose (added cane sugar).

The World Health Organization (WHO) recommends a maximum intake of free sugars of less than 10% of total energy intake for adults and children. The Eating and Activity Guidelines for New Zealand adults refer to the WHO recommendations to limit intake of free sugars to less than 10% of total energy intake, and to further prevent tooth decay, limit the intake of free sugars to less than 5% of total energy intake. Based on an average adult diet of 8,700kJ, 10% of energy from free sugars is 52g, or around 12 teaspoons per day (one teaspoon = 4.2g of sugar).

A 20g serve of MILO powder in 200ml trim milk provides 6.7g free sugars (1.6 teaspoons), which provides **1.3% of total energy (based on a 8,700kJ diet) from free sugars** or 13% of your total daily intake of free sugars (based on 52g per day).

The nutritional contribution of 20g MILO powder with 200mL trim milk (recommended serve size) is summarised in the table below.

Nutrition Information (average)	20g MILO as prepared in 200mL Trim Milk
Energy (kJ)	660
Protein (g)	10.2
Fat (g)	2.6
Sat Fat (g)	1.1
Carbohydrate (g)	23.1
Total Sugars (g)	19.2
Lactose (g)	12.5
Added Sugars (g)	6.7g

In addition, MILO is fortified with 6 vitamins B2, B3, B6, B12, C and D and 3 minerals calcium, iron and phosphorus provides:

- Calcium – Adding MILO to a glass of trim milk increases the calcium by 68%;
- Iron – Adding MILO to a glass of trim milk provides 32% of the Recommended Dietary Intake (RDI) of iron. As milk only contains trace amounts of iron, MILO provides the main source of iron when added to trim milk;
- Vitamin D – Adding MILO to milk also increases the vitamin D content of milk and provides 39% of the Recommended Dietary Intake (RDI) of vitamin D. MILO provides the main source of vitamin D, as a 200ml serve of trim milk contains 0.6µg vitamin D while a 20g serve of MILO powder provides 3.3µg; and
- A 20g serve of MILO in 200ml trim milk also provides 50% of the Recommended Dietary Intake (RDI) of vitamin B2, 46% of the RDI of vitamin B3, 38% of the RDI of vitamin B6, 50% of the RDI of vitamin B12, 28% of the RDI of vitamin C and 37% of the RDI of phosphorus.

While we do not believe that the nutritional profile of MILO has been previously subject to a complaint and assessment by the ASA, we can confirm that we have dealt with these issues in detail in response to previous Ad Standards (previously known as the Advertising Standards Bureau) components in Australia (Advertisement Complaint Reference 574/09, 0280/12, 0097/14, 0128/15, 0298/16 0297/16, and most recently 0094/17), each of which were dismissed and MILO with skim milk determined to be an appropriate dietary choice.

To address the specific guidance as provided by the Advertising Standards Code:

- we are comfortable with the position of MILO and Trim milk as an appropriate product to consume within the context of this Advertisement. The product depicted encourages the consumption of Trim milk as is recommended, and the addition of MILO provides the nutrients highlighted above, which help active children such as those depicted in the advertisement to further meet additional energy, vitamin and mineral requirements.
- the product depicted in the Advertisement is within an appropriate portion size for this active age child which is 200mL Trim milk with 20g MILO powder; and
- the Advertisement itself is produced by New Zealand Football as a way of encouraging children to get active with their family, helping children and families to meet guidelines for physical activity

We do not consider the Advertisement in any way undermines the importance of a healthy or active lifestyle nor the promotion of healthy balanced diets, rather we feel strongly that the advertisement supports and illustrates this position which incorporates a product which is specifically formulated to provide additional nutrients to support such an active lifestyle.

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.

As has been highlighted above, we feel that the Advertisement does in fact observe a high standard of social responsibility by encouraging physical activity, time with the family and consumption of an appropriate beverage which fits within the New Zealand Food and Nutrition Guidelines.

We refer below to the discussion around whether the Advertisement is targeted to children or young people.

Children and Young People's Advertising Code. 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.

It is first relevant to determine whether the Advertisement targets Children.

'**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.”

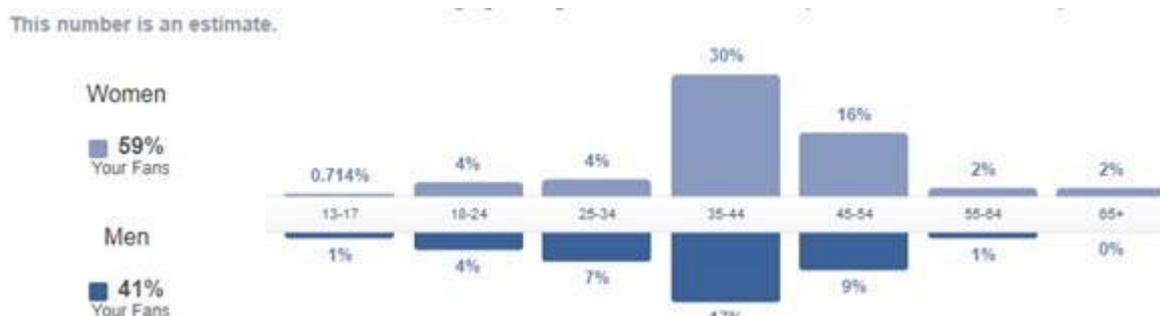
Nature and intended purpose of the product or service being promoted is principally or generally appealing to children or young people.

- The Advertisement demonstrates an active game that can be played by a family and is targeted to the adult/carer who is the ‘fan’ of the NZF Facebook page, who would be responsible for organising family activity during Covid-19 times where social interaction was restricted.
- MILO is a product that is categorised as a formulated supplementary food under the Australia New Zealand Food Standards Code. For this reason the appropriate positioning of this product to help supplement a diet which, due to activity such as sport, may require additional nutrients.

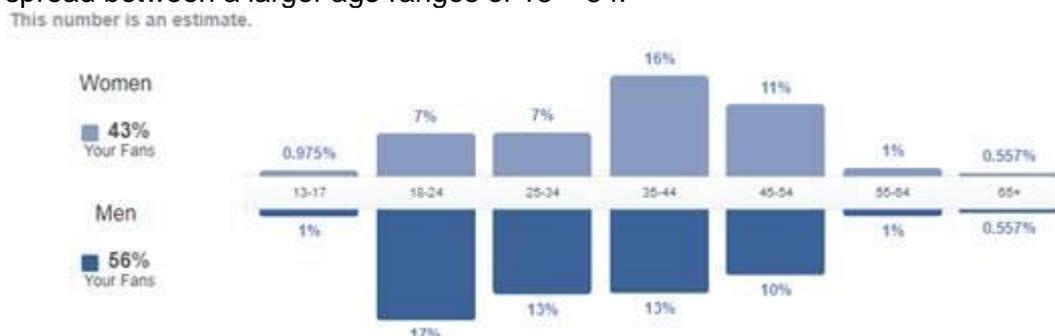
Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is appealing to children or young people.

- The Advertisement is depicted on the Facebook pages of New Zealand Football and reposted on the Facebook page of Fit4Football. Both pages are on Facebook, a social media site which requires the user to be 13 or above. In addition to which, the specific social media pages that the Advertisement was posted to this audience who follow these pages.

The content of the NZF Facebook Page is targeted to an adult audience, which is reflected in the age range of fans of this page who are predominately within the age range of 25-44 as depicted below.



Likewise the Fit4Football Facebook page has a similar audience, however the ages are spread between a larger age ranges of 18 – 54.



It is relevant to note that:

- only 1.714% of the audience of the New Zealand Football Facebook page is between the ages of 13-17;

- only 1.975% of the audience of the Fit4Football Facebook page is between the ages of 13-17;
- the post was not boosted on either of these pages – so the only reach was the Facebook users that follow the pages; and
- the Complainants noted the Advertisement was seen on the Facebook page of a 13 year old child. We note that we have no control over who reposts any content posted to the pages managed by New Zealand Football, and can confirm this child was not requested to share this post.

Expected average audience at the time or place the advertisement appears includes a significant proportion of children or young people.

- As is noted above, given the Advertisement was only posted to Facebook, the proportion of Children that would have seen this Advertisement would be expected to be zero given the age gating of Facebook.
- With regards to Young People, as highlighted above, these figures are also extremely low.
- Only 1.714% of the audience of the New Zealand Football Facebook page is between the ages of 13-17.
- Only 1.975% of the audience of the Fit4Football Facebook page is between the ages of 13-17.

We note this targeting is consistent with recent decisions of the ASA Complaint 19/102 Cookie Time Limited Facebook & Instagram and Complaint 18/107 McDonalds, Television.

Children and Young People’s Advertising Code. Rule 1(j): Targeting Young People.

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

As has been outlined above, the Advertisement encourages a healthy active lifestyle and the preparation of the product in the advertisement supports the consumption of Trim milk (recommended in the New Zealand Food and Nutrition Guidelines for Healthy Children and Young People). The addition of MILO to the trim milk further helps active kids to meet any increased nutritional and energy requirements.

Other relevant information

We confirm that neither New Zealand Football nor Nestlé have had similar complaints about the Advertisement or suggesting the Advertisement is directed to children and in breach of our obligations under the ASA Codes.

Final Comments

The Advertisement is an honest, truthful and responsible representation of the nutritional characteristics of the MILO product and provides an entirely appropriate and positive focus on physical activity.

It is for the above reasons that we respectfully disagree the Advertisement is in contravention of the Advertising Code or the Children and Young Persons Code, and can see no basis for the Complaint.

We respectfully request the Complaint be dismissed.