

COMPLAINT NUMBER	20/575
ADVERTISER	Beam Suntory New Zealand Out of Home
ADVERTISEMENT	Effen Vodka
DATE OF MEETING	8 December 2020
OUTCOME	Not Upheld No further action required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a billboard advertisement for Effen Vodka with the text: "How Effen Good". The Board said the advertisement didn't reach the threshold to cause serious or widespread offence. Effen is the brand name for the product and the text in the advertisement is a reference to the brand name.

Advertisement

The billboard advertisement shows a bottle of Effen Vodka with text across the bottle which reads "How Effen Good".

Summary of the Complaint

There were two complaints about this advertisement.

The first Complainant said it was clear the wording was a stand in for the phrase "so fucking good."

The second Complainant was also concerned the advertisement was offensive and:

- the placement of the advertisement was inappropriate because it was highly visible to children.
- the humour in the advertisement was deliberately pitched at teenagers, the majority of whom are below the legal age to purchase alcohol, and
- the promotion of an alcoholic beverage adjacent to a motorway network appears to run counter to the anti drink-drive message, that is still not being heeded by many.

Issues Raised:

- Social Responsibility
- Offensiveness
- Placement of Alcohol Advertising

Summary of the Advertiser's Response

The Advertiser defended the advertisement and said Effen is their brand name and none of the billboards were located within 500 metres of sites that are near primary or secondary schools.

Relevant ASA Codes of Practice

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

CODE FOR ADVERTISING AND PROMOTION OF ALCOHOL

Principle 1: Alcohol Advertising and Promotions shall observe a high standard of social responsibility.

Guideline 1 (g): Alcohol advertising and promotions shall not cause widespread or serious offence, taking into account prevailing community standards, context, audience, medium and product.

Principle 3: Alcohol Advertising and Promotions shall be directed at adult audiences. Alcohol Advertising and Promotions shall not be directed at minors nor have strong or evident appeal to minors in particular. This applies to both content and placement.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 19/045 and 19/432, both of which were Upheld.

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

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

Decision 19/045 concerned a large outdoor poster for Remedy Kombucha drink showed a photo of a hand holding a bottle of Remedy Kombucha. The text said: “Tell sugar to get Fruct”. The Complaints Board agreed the use of the word “Fruct”, as contained in the phrase “Tell sugar to get frucked”, was offensive. This is because the word “Fruct” acts as a place holder or euphemism for the word “Fuck”, which is generally regarded as offensive. The Complaints Board said the poster advertisement was located in public places, such as shopping malls, and this means there was unrestricted access for anyone in the vicinity, including children.

Decision 19/432 concerned a billboard advertisement for PAKn’SAVE, which was located on a street corner in Auckland, said “Ruck Me! That’s low prices... Sideline Supporter Deals.” The Complaints Board said the use of the phrase “Ruck me” in the advertisement was offensive. This is because the word “ruck” acted as a place holder or euphemism for the word “Fuck”, which is generally regarded as offensive.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was this is a vodka ready to drink product with the brand name Effen. The text in the advertisement is a play on words, with reference to the phrase “How effing good”.

Audience

The Complaints Board agreed the advertisement had an unrestricted audience, as it was an outdoor billboard located in urban areas. The Board noted the Advertiser had instructed their agency not to place any billboards within 500 metres of sites that are near primary or secondary schools.

The Complaints Board noted the comment from the Advertiser that the target market was those aged 18 and over.

Is the advertisement offensive?

A majority of the Complaints Board said the advertisement didn't reach the threshold to cause serious or widespread offence. The majority said Effen is the brand name for the product and the text in the advertisement is a reference to the brand name.

The majority said "How good" is the name of the campaign promoting this product and the phrase "How good" is commonly used by the target market for Effen vodka.

The majority compared the text "How Effen Good" with other advertisements in the precedent decisions. The majority said as an enthusiastic endorsement for a drink which is named after the brand name of a product this advertisement was less offensive than the advertisement for Remedy Kombucha which said: "Tell sugar to get Fruct".

The term "How Effen Good" is a reference to the term "How effing good", which is a milder term than the phrase "How fucking good".

The majority said that while the advertisement does not reach the threshold to cause serious offence, it acknowledges that the text in the advertisement was likely to cause moderate offence to some people. The majority said while the advertisement did not breach Guideline 1(g), in the current context, this might not be the case if any aspect of the presentation was significantly altered.

A minority disagreed. The minority said the text used in the advertisement was clearly a reference to the term "how fucking good", and this did reach the threshold to cause serious offence.

The minority said the billboards were an unrestricted medium, able to be seen by all ages, including children. The minority said a higher standard of social responsibility is expected of alcohol advertising.

Is the advertisement directed at minors or does it have strong or evident appeal to minors?

The Complaints Board agreed the advertisement was not directed at minors and did not have a strong or evident appeal to minors.

The Board said the advertisement was located in a very public, busy place. The target audience is those aged 18 and over, which is 25% or more of the total audience. The Board said while the imagery used in the advertisement may have some appeal to minors, for example the pink raspberry colour used, it was not likely to have strong or evident appeal. While teenagers were likely to understand the word play in the text, children were less likely to understand this reference.

Does the advertisement meet a high standard of social responsibility?

A majority of the Complaints Board said the advertisement did meet a high standard of social responsibility. This is because it did not reach the threshold to cause serious or widespread offence, was not directed at minors and did not have a strong or evident appeal to minors.

A minority disagreed. The minority said the advertisement did not meet a high standard of social responsibility. This is because the advertisement was offensive, due to the use of the phrase "How Effen Good".

In accordance with the majority, the Complaints Board said the advertisement did meet a high standard of social responsibility, taking into account context, medium, audience and product and was in breach of Principle 1, Principle 3 or Rule 1(g) of the Code for Advertising and Promotion of Alcohol.

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

COMPLAINTS

There were two complaints about this advertisement:

Complaint 1

Linwood Avenue 2020-11-04 Billboard

Complaint Details:

The advertisement, which is on Billboards around Christchurch and is here seen on Linwood with high school students from nearby in front of it, says "so effen good," a clear stand in for "so fucking good." Did they pick the brand name just to be able to use that in advertising? Regardless, I don't think a public advertisement with wordplay reference to the curse word "fucking" is okay.

Complaint 2

JCDecaux Product/Service: Alcohol Ad Type: Other Ad Details: Billboard

Complaint Details:

Numerous billboard signs are currently prominently displayed in a number of high profile Auckland locations promoting Effen Vodka. These have accompanying captions which are clearly intended to be read by passers by as F***ken good Vodka or with slight variation. While some will no doubt find this amusing, the billboard's placement in locations typically adjacent to the motorway network makes them highly visible to children which in itself is inappropriate while others are very likely to be offended by the thinly veiled messaging. Children are very quick to latch onto this type of thing, and an argument could be made that this type of "humour" is being deliberately pitched at teenagers, the majority of whom are below the legal age to purchase alcohol. The promotion of an alcoholic beverage adjacent to a motorway network would also appear to run counter to the anti drink-drive message that is still not being heeded by many. for reasons that should be self-evident (driving) i am unable to attach images of the offending billboards.

Appendix 2

RESPONSE FROM ADVERTISER, BEAM SUNTORY NEW ZEALAND

Email from the Advertiser:

As promised, please see attached our response to the two complaints that were submitted to us. Attached is both our response and supporting media schedule showing all placements of the campaign across billboards and street posters that along with radio and social has netted a reach of over 13M views with 2 complaints received to date. We believe that we have made every attempt to uphold a high standard of brand and social responsibility, ensure we do not cause widespread offense and confirm that placement of the campaign is within ASA approved locations that target 18+.

Thank you for letting us know of this complaint and allowing us the time to formulate the attached response. If you or the board have any follow up questions, please don't hesitate to reach out.

The following is to be read in conjunction with the Advertiser response document.

- Complaint 1: Christchurch site
- Complaint 2: Auckland CBD/ Motorway sites

Principle 1: Alcohol advertising and promotions shall observe a high standard of social responsibility.

- We believe we have observed a high standard of brand and social responsibility - EFFEN is our brand name, and is Dutch for “smooth, even, and balanced”, which ties to both the unique selling proposition, and the origin of our product (EFFEN is a Dutch vodka). When marketing our product, we cannot shy away from our brand name.
- EFFEN is a genuine global brand that has been around for 17+ years. It originally began as an FBS (full bottle spirit - see appendix 2) but recently extended into RTD format (Ready To Drink) in the New Zealand market only (appendix 3). Here is the link to our global site: <https://www.effenvodka.com/home>

We felt the global campaign available for us to use (Appendix 1) did not uphold a high level of social responsibility. So, we developed a localised brand campaign in “How EFFEN Good”, which was product lead (bottle and brand logo the main

- feature), and, utilising supporting copy “How Good” – a positive and feel good saying/sentiment that has slipped into the kiwi vernacular in recent years.
 - We feel the creative depicts our offering responsibly via a refreshing glass Vodka RTD presented with a combination of the brand name (exploded off the bottle to drive awareness – important for a new brand in the NZ market place), a light/bright colour palette, and positive connotations to create a brand that kiwis recognise and can enjoy responsibly.
 - Important to note that while working through creative concepts with agency partners, we highly scrutinised anything that used the word EFFEN in a negative connotation so as to uphold a high standard, present our brand tactfully and convey a positive message/tone. This ultimately meant turning down a number of creative ideas and directions presented we felt had the potential to cause offence.
- Furthermore, while developing the campaign we engaged with multiple stakeholders to ensure that the campaign adhered to advertising guidelines:
 - We engaged with LAPPS on multiple occasions along the way to ensure we were upholding the standards put in place by the authority. This covers multiple channels for EFFEN such as billboards, street posters, social media, radio, instore POS etc to ensure we are compliant. See reference number for OOH ‘How EFFEN Good’ creative approval: RB6132. Other media approvals: RB6189-90, RB6181, RB6144, RB6114-15, RB6070, RB6051, RB5818.
 - Although not a visual site, we also worked closely with Mediaworks on bringing “How EFFEN Good” to air. Very aware that along with our standards, they have their own set of broadcasting standards that they strictly adhere to. Direct from their team: “Scripts and other elements are approved by the MW content team prior to it going to the agency/client. The approval is based on appropriateness

against the station's brands and worthiness of going to air adhering to broadcast standards". We did this rigorous process with Media Works to ensure they were comfortable with using our brand name and campaign on air. We also put strict briefs and guidelines in place so that presenters weren't taking liberties with the name.

- This is the same for the additional work we did with NZME on our radio scripts. See appendix 5 below on the guidelines that they follow prior to launching a new campaign on air.
- Due to this rigorous consultation process with both major radio broadcasters, we reached 1.08M consumers with the campaign and did not receive a single complaint or piece of negative feedback.

Addressing the principles/ guidelines the complainant believes we are in breach of:

Guideline 1(g): Alcohol advertising and promotions shall not cause widespread or serious offence, taking into account prevailing community standards, context, audience, medium and product.

- We do not believe that our "How EFFEN Good" brand campaign has caused widespread, or even serious offence. "How EFFEN Good" had an estimated total reach of over 13M New Zealand consumers and has resulted in two complaints to date. The touchpoints and audiences they have generated are listed below:
 - Social Media: 727,545
 - Billboards: 401,895
 - Street Posters: 10,248,910
 - Radio: 1.08M
 - Influencers: 587,100
- To provide further context as to why we don't think our advertising would cause serious offence –
 - We have used our brand name/ logo on a billboard along with our product to drive brand awareness for EFFEN Vodka RTD.
 - We have included messaging "How Good", which has become a part of the kiwi vernacular to depict something positive, which is where we are taking the brand. As brand custodians we have made a conscious decision to portray the EFFEN brand in a positive way.
 - You can see through multiple examples on social below (appendix ||||) of how our seeding 'How EFFEN Good' is being used in a positive sense and how we are working with influencers on those 'feel good' moments.

Principle 3: Alcohol advertising and promotions shall be directed at adult audiences. Alcohol advertising and promotions shall not be directed at minors nor have strong or evident appeal to minors in particular. This applies to both content and placement.

We have planned all EFFEN billboard sites with responsibility at the forefront of our decisions and have instructed our agency not to place any billboards within 500m of sites that are in proximity to primary and secondary schools (this is above and beyond the ASA guidance of 300m). Our brief was strict to our creative design agency and in-

house senior designer to ensure that the creative doesn't lend itself to minors (including but not limited to no cartoons, illustrations etc) or copy that doesn't look to infer negative or vulgar connotations.

Message from our media agency: *“All media activity for Beam Suntory is planned and bought against an 18+ audience and all placements are always optimised to this audience. We have very strict parameters around all media placements for EFFEN and all Beam Suntory brands, and this is always very clearly outlined in all briefs to all partners and suppliers. Upon booking, all placements are then checked that they meet and abide by ASA standards. What this means by media channel:*

- *Television spots are always bought post 8:30pm aligning to ASA timezone regulations*
- *All Outdoor sites are selected based on their reach against an 18+ audience and no placements will be within 500m from a school (above the 300m ASA requirement)*
- *Radio activity is always planned against an 18+ audience and stations are selected based on their reach for people 18+*
- *All social activity is bought against an 18+ audience”*

Appendix 3

RESPONSE FROM MEDIA, JC DECAUX

Looks like this is to do only with creative. I won't make any other comment except to say this has passed our own self-regulatory process with regard to creative.