

COMPLAINT NUMBER	19/045
COMPLAINANTS	D Revans & M Wagstaff
ADVERTISER	Remedy Kombucha
ADVERTISEMENT	Remedy Kombucha Poster
DATE OF MEETING	12 March 2019
OUTCOME	Upheld

SUMMARY

The 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”.

There were two complaints about this advertisement. D Revans was concerned the slogan “TELL SUGAR TO GET FRUCT” was too close to the f-word and completely inappropriate for a shopping centre where children can see it. M Wagstaff said the advertisement was offensive and designed to shock, and obviously meant to be a play on a commonly used expletive.

The Advertiser said the advertisement does not contain any strong or obscene language. The word “fruct” is a shortened term for “fructose”, which is a type of sugar. The slogan “TELL SUGAR TO GET FRUCT” is a bold way of saying “no” to sugar. The advertisement does not depict the actual word “f--k” and “fruct” is not used in an aggressive manner or in conjunction with any offensive imagery.

The Complaints Board agreed the use of the word “Fruct”, as contained in the phrase “TELL SUGAR TO GET FRUCT”, 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.

The Complaints Board said the advertisement was not socially responsible and was in breach of Basic Principle 4 and Rule 5.

The Complaints Board ruled the complaint was Upheld.

Advertisement to be removed.

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

COMPLAINTS BOARD DECISION

As the complaint was lodged on 18 January 2019, prior to the date when the new Advertising Standards Code came into force for all advertisements, the Chair directed the

Complaints Board to consider the complaint with reference to Basic Principle 4 and Rule 5 of the Code of Ethics.

Basic Principle 4 required the Complaints Board to consider whether the advertisement had been prepared with a due sense of social responsibility.

Rule 5 Offensiveness required the Complaints Board to consider whether the advertisement was likely to cause serious or widespread offence.

The Complaints Board ruled the complaint was Upheld.

The Complaints

There were two complaints about this advertisement. D Revans was concerned the slogan "TELL SUGAR TO GET FRUCT" was too close to the f-word and completely inappropriate for a shopping centre where children will be able to see it. M Wagstaff said the advertisement was offensive and designed to shock, and obviously meant to be a play on a commonly used expletive.

The Advertiser's response

The Advertiser said the advertisement does not contain any strong or obscene language. The word "fruct" is a shortened term for "fructose", which is a type of sugar. The slogan "TELL SUGAR TO GET FRUCT" is a bold way of saying "no" to sugar. The advertisement does not depict the actual word "f--k" and "fruct" is not used in an aggressive manner or in conjunction with any offensive imagery.

Precedents

In considering the issues raised by the Complainants, the Complaints Board referred to two precedent decisions, 16/129 and 09/098.

In its decision for Complaint 16/129, which was Not Upheld, the Complaints Board said the advertisement for Handee Ultra handy towels did not reach the threshold to cause serious or widespread offence. The advertisement was therefore not in Breach of Basic Principle 4 or Rules 4 or 5 of the Code of Ethics. The television advertisement showed people attending to spills around the home with a handy towel. When one of them spilt something, they would say "sheet". The advertisement concluded with the message "This is good sheet".

In its decision for Complaint 09/098, which was Upheld, the majority of the Complaints Board said the poster advertisement for Void Clothing's "F#□K'N Hot Summa ! Sale !" had not been prepared with a due sense of social responsibility and was in breach of Basic Principle 4 of the Code of Ethics. The advertisement was displayed in a shop window. The combination of letters and symbols would be largely understood by consumers to refer to a swear word.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the consumer takeout of the advertisement was "Tell sugar to get fucked", or, in other words: "Get rid of sugar". The Complaints Board said not all consumers would be familiar with the word "fructose" and that it is a type of sugar. "Fruct" is not commonly accepted as shorthand for the word "Fructose".

Who is the audience?

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.

The Complaints Board said the product, a soft drink, is something that would have appeal to children, as well as adults.

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

The Complaints Board agreed the use of the word "Fruct", as contained in the phrase "TELL SUGAR TO GET FRUCT", 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 noted the letter "R" in the word "Fruct" was smaller than the other letters.

The Complaints Board referred to the Broadcasting Standards Authority report "Language that May Offend in Broadcasting", published in June 2018. The term "Get fucked" is ranked at number eight on the list of the 31 most unacceptable words or phrases in broadcasting. The word "fuck" is number thirteen on the ranking.

Is the advertisement socially responsible?

The Complaints Board said the poster advertisement in shopping malls was not socially responsible, taking into account context, medium, audience and product and was in breach of Basic Principle 4 and Rule 5 of the Code of Ethics.

The Complaints Board ruled the complaint was Upheld.

DESCRIPTION OF ADVERTISEMENT

The 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"

COMPLAINT FROM D REVANS

I am writing to complain about remedy kombucha 's inappropriate advert at botany town centre, auckland. They used the slogan 'Tell sugar to get fruct' which is too close to the f-word and completely inappropriate for a shopping centre where families - their children will go and see that word. I noticed that in australia there was a complaint but they withheld it. But this is new zealand and i think we should have our own set of standards here.

COMPLAINT FROM M WAGSTAFF


The inserted advertisement is on display at the entryway to a busy shopping mall , Sylvia Park ,Auckland ,in plain view at ground level on an advertising bill board. It is obviously meant to be a play on a commonly used expletive . My wife and I and I am sure many others are offended and shocked that far from trying to educate the sign is designed to shock and is now offensive. The main thrust of the message and the product being promoted is lost in the language and the way it is written emulates cartoon or the graffiti, tagging style commonly used and splattered on walls and fences at random. Freedom of speech and expression is one thing but so is maintaining and lifting standards in our society where vileness and foul language is becoming a normal way of punctuation and emphasis. We have recently had daily reports of a visiting group of tourists whose vile behaviour have aroused the ire of everyone in this country yet a blind eye is turned to signage that any visitor to our country can judge our apparently low standards by. What values are being passed on to our children of impressionable age when it is hoped only good values are promoted civilly.


CODES OF PRACTICE

Basic Principle 4: All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

Rule 5 Offensiveness - Advertisements should not contain anything which in the light of generally prevailing community standards is likely to cause serious or widespread offence taking into account the context, medium, audience and product (including services)

RESPONSE FROM ADVERTISER, REMEDY KOMBUCHA

<p>A basic, neutral description of the advertisement</p>	<p>The advertisement is an outdoor advertisement featuring a bottle of Remedy Kombucha and the slogan “TELL SUGAR TO GET FRUCT”.</p> <p>We use the word “Fruct” as a shorthand for “Fructose” which is a common form of sugar found in many foods and drinks. One of the key ways in which Remedy Kombucha distinguishes itself from soft drinks is that it does not contain sugar.</p> <p>At Remedy, we are passionate in our belief that soft drinks can be better, including with respect to sugar. The advertisement is intended to be disruptive to get people to rethink the way they currently shop for soft drinks. We want to shake up fizzy drinks for good.</p> <p>This advertisement appears in the context of a broader outdoor advertising campaign (including the following executions) that reaffirms the message that fizzy drinks can be better, and that Remedy (unlike other soft drinks) does not contain sugar.</p> 
<p>Date advertisement began</p>	<p>29th October, 2018</p>
<p>Where the advertisement appeared (all locations e.g. TV, Billboard,</p>	<p>Outdoor: small format billboards and street posters.</p>

Newspaper Website	
Is the advertisement still accessible – where and until when?	No. The last week of New Zealand activity was week commencing 27.01.19.
A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.	
Who is the product / brand target audience?	Our target audience is broad and segmented, however each segment focuses on adults aged 18 and over.
Clear substantiation on claims that are challenged by the complainant.	<p>We have carefully considered the complaints, and the concern raised that the advertisement contains inappropriate language.</p> <p>The advertisement uses the word 'fruct', which is a shortened term for 'fructose', a type of sugar that many people try to avoid and which is not present in Remedy Kombucha.</p> <p>Kombucha is a fermented tea drink which is marketed predominantly to adult consumers. The expectation is that an adult audience for these advertisements may make a connection between 'fruct' and 'f—ked', however this is quite an obscure connection and we do not intend or expect that this connection will be made by young children, especially given the spelling of 'fruct' is quite different to the word 'f—ked', and phonetically "fruct" can be pronounced as either "frooked" or "frucked"</p>

	<p>Fructose, and the shorthand “fruct” are likely to only be understood by adults and in particular the segment of adults that are sugar-conscious, and aware of fructose being a type of sugar.</p> <p>The advertisement does not depict the actual word ‘f—k’, and “fruct” is not used in an aggressive manner, or in conjunction with any offensive imagery.</p> <p>The slogan ‘TELL SUGAR TO GET FRUCT’ is meant to convey a bold, and passionate way of saying “no” to sugar, which aligns with Remedy’s tone of voice and mission to change the drinks landscape for the better and challenge consumers to choose healthier alternatives to regular soft drinks.</p> <p>In our view the advertisement therefore does not contain any strong or obscene language, or language which is inappropriate in the circumstances given the audience.</p>
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RESPONSE FROM MEDIA

No response received.

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.