

COMPLAINT NUMBER	20/125
ADVERTISER	Restaurant Brands NZ Ltd
ADVERTISEMENT	KFC, Television
DATE OF MEETING	12 May 2020
OUTCOME	Not Upheld No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a KFC television advertisement. The Complaints Board said the advertisement was not targeting children and did not undermine the health and well-being of individuals.

Description of Advertisement

The television advertisement for KFC promoted its Boom Box combo meal deal by giving consumers chances to win an Ultimate Ears Boom 3 Speaker. The advertisement shows a child playing rugby with some toy dinosaurs in the background and relying on his father to play a crowd cheering sound via the speaker when he scores. The father is distracted by the KFC meal he is eating.

Summary of the Complaint

The Complainant was concerned the advertisement targeted Pacific peoples and they are disproportionately represented in obesity statistics. They considered the advertisement normalises excessive consumption of unhealthy food through the portion size and the time-limited promotion which encourages repeat participation.

The Complainant said the advertisement appeals to children in terms of the promotional offer and showing rugby playing dinosaurs and it is unrealistic to believe the child would not eat any of the KFC.

Issues Raised:

- Social Responsibility
- Health and Wellbeing
- Body Image
- Targeting Children

Summary of the Advertiser's Response

The Advertiser defended the advertisement and provided evidence of the ad placement targeting to 18-54 year olds. No particular demographic or ethnicity was targeted in the selection of the actors and it provided evidence to support this.

The Advertiser provided the kilojoule value of the Boom Box and said it used the default serve of Coke Zero for the treat meal, which should be enjoyed as part of a balanced lifestyle.

Summary of the Media Response

The Commercial Approvals Bureau (CAB) said although a child features in the advertisement, they are not shown with any connection to the food. CAB said the aspect of racial profiling should not be considered as Pacific peoples cannot be excluded from advertising. CAB deferred to the Advertiser's response for the concerns about portion size.

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(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.

Rule 1(e) Body image: Advertising must not provide an unrealistic sense of body image or promote an unhealthy lifestyle.

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.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 18/107 and 19/330, 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 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.

Decision 19330 concerned an advertisement for McDonalds which showed a meal deal with two cheeseburgers, fries, and a drink for \$5.

The Complaints Board said the advertisement did not show excessive consumption or promote the meal in a way that undermined the health and well-being of individuals.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the likely consumer takeout of the advertisement was you can enter a draw win a Ultimate Ears Boom 3 Speaker by purchasing a KFC Boom Box combo meal.

Children and Young People's Advertising Code

The Complaints Board began by addressing whether the advertisement targeted children, which for the purposes of the Code are defined as below the age of 14 years.

Does the advertisement target children?

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.
2. Presentation of the advertisement content (e.g. theme, images, colours, wording, music, and language used) is appealing to children.
3. Expected average audience at the time or place the advertisement appears includes a significant proportion of children.

Product

The Complaints Board agreed that the occasional food product is likely to have high appeal to children. The opportunity to win an Ultimate Ears Boom 3 Speaker would add to this appeal.

Presentation

With regard to the execution of the advertisement, the majority of the Board said that despite showing a child in the advertisement, the general narrative of the story does not target children. The child did not show any interest in the food, and the majority of the Board said the execution had only a moderate appeal to children. A minority of the Board said the child playing rugby with dinosaurs and the Ultimate Ears Boom 3 Speaker offer had a high appeal to children.

Placement

The Complaints Board noted that Advertiser's 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.

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 Complaints Board noted the placement of the advertisement in programming which targeted an 18-54 age bracket meant only 6% of the viewing audience were children aged 5-

17 years. The Complaints Board said this placement mitigated the high product appeal and what the majority considered was the moderate appeal of the advertisement's execution.

The Complaints Board ruled the advertisement was not targeting children and was not in breach of Principle 1 or Rules 1(e) and 1(i) of the Children and Young People's Advertising Code.

Advertising Standards Code

Does the advertisement contain anything that could undermine the health and well-being of individuals?

The advertisement showed one adult eating one Boom Box meal. The Complaints Board noted the Boom Box combo with a Coke Zero drink option was 53% of the average adult's daily recommended intake but agreed in this instance the meal size and the way it was promoted did not meet the threshold to undermine the health and well-being of individuals.

The Complaints Board said it did not consider the advertisement encouraged excessive consumption even with the promotional element of the draw to win a speaker. It said the promotion may prompt consumers to choose this meal over other takeaway options. The terms and conditions of the offer confirmed seven speakers were given away each week for the period of the promotion.

The Board discussed the Complainant's issue relating to the ethnicity of the actors in the advertisement. The Board agreed this was not a matter it could rule on. It said the scenario in the advertisement was not reliant on the ethnicity of the actors and there was nothing in the advertisement to support the idea it was targeting particular groups of people in New Zealand.

Has the advertisement been prepared and placed with a due sense of social responsibility?

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 and Rule 1(h) of the Advertising Standards Code.

In Summary

The Complaints Board said the advertisement was not targeting children and did not breach Principle 1 or Rules 1(e) and 1(i) of the Children and Young People's Advertising Code. The Complaints Board also unanimously ruled the advertisement was not in breach of Principle 1 or 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
3. Response from Media

Appendix 1

COMPLAINT

Details of the advert:

Date and time seen: 16th March 2020. 7:15pm Duke, Two and half Men. KFC UE Boom. I would like to ask the ASA Complaints Board to also consider any instances of this advert in other media including their website. Due to the limited time of the promotion I would like to see the ASA act with urgency to ask for the advert to be withdrawn.

<https://www.youtube.com/watch?v=x0Lu2t7hgNA>

Overview: A seemingly overweight Pacific adult male is shown eating a large KFC 'boom box' meal for one as a child is seen playing with toy dinosaurs in the background. The child has to call out twice to the adult eating the KFC meal, asking for crowd music to be played on the 'boom speaker'.

Website:



KFC NZ | Box Meals for One
kfc.co.nz

You get:

- 1x Snack Burger
- 1x Secret Recipe Chicken
- 1x Wicked Wing
- 1x reg Chips
- 1x reg Potato & Gravy
- 1x reg Drink

Breaches of the Advertising Standards code:

I believe that KFC are targeting Pacific people in their advertising. Of particular concern with this approach is that 66.5% of Pacific people in New Zealand are classed as obese¹. This type of advertising contributes to unhealthy eating behaviours for our Pacific people. (Principal 1)

I believe that this advertisement undermines the health and wellbeing of individuals (**Rule 1(h)**) as well as being socially irresponsible (**Principal 1**). The advert is seen to normalise excessive consumption of unhealthy food and beverages. The KFC box meal is advertised for one person – refer to the nutritional information of the meal below. The portion size shown includes excessive amounts of energy, protein, fat, and sodium; it also has a lack of fibre and vegetables.

¹ New Zealand Health Survey 2018/19

No care was taken to show a “No Sugar” drink option (Principal 1, and Rule 1(h))

Nutrients in the KFC Box meal:

	% Daily Intake* (per Serving) ²
Energy (KJ)	60%
Calories (CAL)	48%
Protein (g/serve)	84%
Total Fat (g/serve)	78%
Sodium (mg/serve)	107%
Dietary fibre, Total (mg/serve)	26%

The advert promotes a time limited competition to win a: unique, perceived high value, and appealing item (e.g. *KFC Ultimate Ears Boom 3*) It encourages repeated participation and hence consumption of more KFC meals. By giving away multiple prizes (e.g. 3 boom boxes a day) it creates interest and more entries because people recognise they have better odds of winning. (Principal 1, and Rule 1(h))

Breaches of the Children and Young People Advertising Code:

The advert includes a young boy playing with toy dinosaurs. There are a number of items included in the advertisement that clearly appeal to children. The speaker itself is highly appealing to children, and children are likely to want to go to buy KFC to enter the draw to win the speaker. **(Rule 1 (I))**

The advertisement shows toy dinosaurs and has the suggestions of rugby which children are likely to be drawn to. I believe that it is a very unlikely scenario for an adult to be eating a KFC meal directly in front of a child without the child consuming anything. This scene is unrealistic and although the child is not eating, it does not take away from the advertisement promoting the consumption of unhealthy food and beverages to children and families. (Principle 1 and Rule 1 (e))

Thank you for considering this advert and I encourage the board to consider that KFC have been socially irresponsible in how and what they are advertising and promoting.

² Nutrition Information User Guide based on an 8700 kJ - Food Standards Australia New Zealand Retrieved 20th March 2020 from <https://www.foodstandards.govt.nz/code/userguide/pages/nutritioninformation1406.aspx>

Appendix 2

RESPONSE FROM ADVERTISER, RESTAURANT BRANDS NZ LTD

Please find attached our response and supporting documentation having reviewed the Complaint on KFC boom box meal advertisement

Please also note that the advertisement that has been raised in the complaint has not been used since 25 March 2020 and will not be used again. (please refer the attached spot list for confirmation both of last airing date and the programmes the advertisement played in.

KFC's target market is all people 18 – 54. You will see from the attached TV spot list that no children's shows were targeted and in total only 6% of the airtime was viewed by children (ages 5-17). Digital video targeting was AP 18 – 54 and for social channels the target is AP 18 – 49 including negative exclusions on children's content.

We do not target any particular demographic or ethnicity when casting talent for KFC advertising. We always apply an open ethnicity brief. Please see casting brief as evidence of this..

I hope this addresses all the concerns raised in the complaint and I would like to reassure you of our ongoing commitment to adhering to the ASA principles and guidelines.

A basic, neutral description of the advertisement	<p>This is the story of a father and son in their home. The boy is playing an imaginary game of rugby with his toys while the father looks on eating his KFC Boom Box meal.</p> <p>The boy shouts 'and the crowd cheers', prompting his father to play crowd cheering sounds from this phone via a UE Boom 3</p> <p>The VO says Be into win a UE Boom 3 every day with a KFC Boom Box.</p>
Date advertisement began	25 th Feb 2020
Where the advertisement appeared (all locations e.g. TV, Billboard, Newspaper Website)	TV, Digital YouTube, TVNZ OnDemand, KFC YouTube
Is the advertisement still accessible – where and until when?	No, the final viewing date was 25 March 2020.

<p>A copy of digital media file(s) of the advertisement – if the complaint relates to on-screen graphic, please send a broadcast quality version.</p>	<p>Included in email response</p>
<p>Who is the product / brand target audience?</p>	<p>All people age 18-39</p>
<p>Clear substantiation on claims that are challenged by the complainant.</p> <p>The response from the advertiser is included in the published decision. The ASA is not able to accept confidential or proprietary information. Please contact the Complaints Manager if this is an issue.</p>	<p>KFC's target market is all people 18 – 54. You will see from the attached TV spot list that no children's shows were targeted and in total only 6% of the airtime was viewed by children (ages 5-17), well under the 25% tolerance level.</p> <p>Digital video targeting was AP 18 – 54 and social AP 18 – 49 and includes a negative exclusions on children's content.</p> <p>We do not target any particular demographic or ethnicity. When casting for TV ads, we always apply an open ethnicity brief. Please see casting brief as evidence of this.</p> <p>The KJ value of the Boom Box with a coke zero is 4613kj, or 53% of the RDI.</p> <p>RDI for an average adult is 8700 per day.</p> <p>KFC cups do not have any drink branding on them but the default serve is Coke Zero.</p> <p>KFC is a treat that can be enjoyed as part of a balanced lifestyle, which includes regular exercise.</p>
<p>For Broadcast advertisements:</p>	
<p>A copy of the script</p>	<p>Dialogue:</p> <p>Josh: He's coming towards the line, and he scores, and the crowd cheers! And the crowd cheers!</p> <p>MVO: Be in to win an Ultimate Ears Boom 3 everyday with KFC's Boom Box Meal.</p>

<p>A copy of the media schedule and spot list (Please remove all financial information)</p>	<table border="1" data-bbox="547 253 1050 472"> <thead> <tr> <th data-bbox="547 253 646 309">FEBRUARY</th> <th colspan="4" data-bbox="646 253 1050 309">MARCH</th> </tr> <tr> <td data-bbox="547 309 646 342">23</td> <td data-bbox="646 309 745 342">01</td> <td data-bbox="745 309 844 342">08</td> <td data-bbox="844 309 943 342">15</td> <td data-bbox="943 309 1050 342">22</td> </tr> <tr> <td colspan="5" data-bbox="547 342 1050 376">2: BOOM BOX</td> </tr> <tr> <td data-bbox="547 376 646 409">40%</td> <td data-bbox="646 376 745 409">52%</td> <td data-bbox="745 376 844 409">52%</td> <td data-bbox="844 376 943 409">46%</td> <td data-bbox="943 376 1050 409">41%</td> </tr> <tr> <td data-bbox="547 409 646 443">100</td> <td data-bbox="646 409 745 443">200</td> <td data-bbox="745 409 844 443">200</td> <td data-bbox="844 409 943 443">125</td> <td data-bbox="943 409 1050 443">20</td> </tr> <tr> <td></td> <td data-bbox="646 443 745 472">20</td> <td data-bbox="745 443 844 472">20</td> <td data-bbox="844 443 943 472">25</td> <td data-bbox="943 443 1050 472">8</td> </tr> </thead> </table> <p data-bbox="547 566 805 600">Spot list is attached</p>	FEBRUARY	MARCH				23	01	08	15	22	2: BOOM BOX					40%	52%	52%	46%	41%	100	200	200	125	20		20	20	25	8
FEBRUARY	MARCH																														
23	01	08	15	22																											
2: BOOM BOX																															
40%	52%	52%	46%	41%																											
100	200	200	125	20																											
	20	20	25	8																											
<p>CAB key number and rating</p>	<p data-bbox="547 633 754 667">KFC1577_15_1</p> <p data-bbox="547 696 614 730">GXC</p>																														
<p>For Digital advertisements:</p>																															
<p>What platform tools have you used to target your audience?</p>	<p data-bbox="547 891 1305 965">Digital video targeting was AP 18 – 54 and social AP 18 – 49 and includes a negative exclusions on kids content.</p>																														

Appendix 3

RESPONSE FROM MEDIA, COMMERCIAL APPROVALS BUREAU

We have been asked to respond to a complaint over a KFC commercial, with a focus on issues of racial representations and children’s health.

The complaint describes ‘a seemingly overweight Pacific adult male’ eating a Boom Box meal for one. A child features in the commercial, but is not in the same living space as the adult, and is not shown eating.

Within the framework of the Advertising Standards Code – Principle 1, Rule 1(h), the only real applicable guideline is for the suitability of portion sizes. A commercial cannot be penalized for *not* showing a child eating a takeaway meal. The aspect of racial profiling is not to be considered; Pacific peoples cannot be excluded from advertising and CAB has no desire to discriminate against people’s ethnicities when approving advertising. To do so may constitute a breach of the New Zealand Bill of Rights Act.

CAB supports the response of the advertiser in this matter, and awaits the outcome with interest.