

COMPLAINT NUMBER	20/260
COMPLAINT ON BEHALF OF	Healthy Auckland Together
ADVERTISER	Hell Pizza
ADVERTISEMENT	Hell Pizza, Facebook
DATE OF MEETING	21 July 2020
OUTCOME	Not Upheld No Further Action Required

Summary of the Complaints Board Decision

The Complaints Board did not uphold a complaint about a Hell Pizza Facebook advertisement which included a colouring in competition to win a child's pizza. The Complaints Board said while the product and activity in the 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.

Advertisement

The Facebook advertisement for Hell Pizza said "We need the help of your little devils to make HELL bright again! We have 666 free 333 kids pizzas to give away when we open back up again. Just take a photo of your little devil(s) holding up their creations and win! Ts&Cs in the comments below." The colouring picture is an image of a hearse driving on a road with a figure looking out the back window.

Summary of the Complaint

The Complainant is concerned the advertisement for occasional food targets children and young people. The colouring competition and question about favourite pizza is aimed at retaining brand loyalty during the Covid-19 lockdown by having the parents engage with the child about pizza. The concern is that the Advertiser exploited Covid-19 to push greater consumption of occasional foods to children. The Complainant also said the image contained a picture of an unrestrained child in a car which raises safety issues.

Issues Raised:

- Social Responsibility
- Targeting Children
- Portion Size
- Promoting a sense of urgency
- Safety

Summary of the Advertiser's Response

The Advertiser defended the advertisement and said it was aimed at parents through the words "We need the help of your little devils." Facebook requires users to be 13+ and the Advertiser said its 333 pizzas meet the guidelines of sometimes food not occasional food. The Advertiser provided Facebook statistics regarding targeting and audience numbers.

Relevant ASA Codes of Practice

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

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(b) Safety: Advertisements must not condone, encourage or unreasonably feature behaviour that could be dangerous to copy, unless the purpose of the advertisement is to discourage such behaviour.

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

Rule 1 (l) Promotional offers: Advertisements featuring a promotional offer of interest to children or young people which is linked to food and beverage products must avoid creating a sense of urgency or encouraging the purchase of an excessive quantity for irresponsible consumption.

Relevant precedent decisions

In considering this complaint the Complaints Board referred to two precedent decisions, Decision 18/405 and 20/017, 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 18/405 concerned a Facebook advertisement for Hell Pizza's child-sized 333 pizza and showed a child converting pizza boxes into a space suit and flying into the sky.

The Complaints Board said while the product and the overall presentation of the advertisement had high appeal to children, the Advertiser had taken sufficient steps to ensure the advertisement was not likely to be seen by a significant proportion of children under 14 due to its targeted placement on Facebook.

Decision 20/017 concerned a television advertisement for Griffins biscuits which showed a girl in a cardboard box pretending it was a racing car.

The Complaints Board said there were enough elements of imaginative play to suggest the child's ride down the stairs was an imaginary scenario.

Complaints Board Discussion

Consumer Takeout

The Complaints Board agreed the likely consumer takeout is the advertisement tells parents about a colouring competition for children. And if the parents choose to enter their child's picture, they could win a child-sized pizza at the end of the lockdown period.

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 based on the precedent decision 18/405 the 333 Hell pizza fell into the "occasional food" category of the Food and Beverage Classification System. The Children and Young People's Advertising Code definition for an occasional food or beverage product is as follows:

"Occasional Food and Beverage Products" are those food and beverage products which are high in fat, salt or sugar and classified under the Food and Beverage Classification System (FBCS) as being intended for occasional consumption. If a particular product is not classified under the FBCS but is comparable or equivalent to a product which is classified, then it shall be deemed to have the same classification. If a particular product is not classified under the FBCS and is not comparable or equivalent to a product which is classified, then it shall be deemed to be an "Occasional food and beverage product" if it has less than 3.5 stars under the Health Star Rating System.

Under the FBCS, pizza is classified in the "Mixed meal dishes" category and is an "occasional" food if either as a "primary" food that provides more than 1800kj of energy per serve or one which is a "secondary" food that provides more than 2200kj of energy per serve.

The Complaints Board agreed the 333 pizza product has high appeal to children. This is because the product is specifically referred to as a "kid's" pizza, contains ingredients designed to appeal to children, and is a small size.

Presentation

The Complaints Board agreed the execution of the advertisement with the colouring competition and the incentive of winning a pizza would be of moderate to high appeal to children, especially those who enjoyed colouring in and /or were bored during the lockdown period. The Board noted that children would only be aware of the promotion if a parent or caregiver allowed the child to see and engage with the advertisement.

Placement

The Complaints Board noted that Advertisers need to demonstrate 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 on the Advertiser's Facebook page, which has an age restriction of 13 years old and that 99.5% of the audience on the Hell Pizza Facebook page are over 18 years of age. The Board noted under the Code it was required to consider the expected average audience likely where the advertisement appeared. The Complaints Board said placement on Facebook mitigated the high product appeal and the moderate to high appeal and subsequent engagement of children, based on the advertisement's execution.

The Complaints Board said it was important to note that parents or caregivers viewing the advertisement were the gatekeepers of whether children were permitted to engage with the colouring competition and had control over whether the advertisement was exposed to children. Adult engagement was also required for the competition entry to be submitted to win a pizza. The Complaints Board said the advertisement had been targeted at adults as brand engagement rather than directly targeting children, although it agreed the activity within the advertisement was intended for children.

The Complaints Board ruled that due to audience targeting, the advertisement was not in breach of Rule 1(i) of the Children and Young People's Advertising Code.

Is the advertisement condoning or encouraging unsafe behaviour?

The Complaints Board agreed the advertisement did not meet the threshold to encourage or condone unsafe behaviour. This is because the black pen outline image depicted in the colouring competition was not realistic and it was unlikely that parents or caregivers would allow children to replicate the scene in their own vehicles.

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

Does the quantity of food in the advertisement exceed appropriate portion size?

The Complaints Board agreed the advertisement did not suggest inappropriate portion sizes. The Board noted the 333 pizzas are small and intended for children. The nutritional information for 333 Hell Pizzas indicates they range between 2430kj and 2650kj. In the context of a competition prize (or treat), the Board agreed the quantity of food referred to in the advertisement was not in breach of Rule 1(k) of the Children and Young People's Code.

Does the advertisement create a sense of urgency or encourage an excessive quantity of consumption?

The Complaints Board agreed the advertisement did not create a sense of urgency or encourage excessive consumption. This is because the terms and conditions shown in the comments under the competition in the Facebook post state there is only one entry permitted per child per family. The Board said there was no sense of urgency or instant gratification as winners had to wait until the end of the end of lockdown before claiming the prize and the competition remains open until 2021.

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

In Summary

The Complaints Board ruled the advertisement did not target children and was not in breach Principle 1 or Rules 1(b) and 1(i), 1(k) and 1(l) of the Children and Young People's Advertising 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: **Hell Pizza's 333 Pizza colouring competition**

This complaint is made by the members of Healthy Auckland Together listed in Appendix A ('We'). We consider that Hell 333 Pizza advert for the colouring competition is in breach of the Children and Young People's Advertising Code.

We submit that the advertising campaign 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 (b)** of the Children and Young People's Advertising Code: children are shown a child in the back of a car who is not in a car seat or buckled in.
3. **Rule 1 (i)** of the Children and Young People's Advertising Code: the advertisement targets occasional foods and beverages to children and young people. The Hell colouring Competition is printed out on paper and given to children and young people to colour in. Having the ages on the sheet and the wording of 'kids' in the advert shows the ultimate target is children and young people.
4. **Rule 1 (k)** of the Children and Young People's Advertising Code: the advertisement and the giveaway is for a Pizza that exceeds the energy requirement for a meal for a child, therefore exceeding the portion size for a child.
5. **Rule 1 (l)** of the Children and Young People's Advertising Code: the advertisement seeks to create a sense of demand by having a promotional offer of a free children's pizza. The large number of giveaways (666) entices entrants as there is a good chance to win.

The Advertisement:

The advertisement below was seen on Face book and was posted on 8th April 2020 <https://www.facebook.com/hellpizza/photos/a.119635667224/10158049001362225/>. This was during New Zealand's level 4 lockdown in response to the COVID-19 pandemic and schools were closed. The advertisement asks for children (little devils) to colour in a picture and go in to a competition to win one of 666 free 333 kid's pizzas. To enter the competition entrants needed to send in photo of a child (little devil) holding their colouring competition. The colouring sheet has the Hell logo, website details, and phone number prominently displayed. It also asks for the entrant's, name, age, date and favourite pizza. On the colouring sheet a child who is not wearing a seat belt is facing out of the back window of a car. The competition appeals to both parents/caregivers and children as providing something to do during level 4 lock down and a great chance to win a prize.

Analysis of Children and Young People's Advertising Code breaches:

Nutritional information

Hell's 333 Pizza is classified as an occasional food under the Food and Beverage Classification System (FBCS) mixed meal dish category. This has been confirmed by ASA in case 18/405. The pizza is still classified as an occasional food due to the high energy content of the pizza.

The competition giveaway is for a Hell's 333 kid's pizza which has high appeal to children. This is because the product is specifically referred to as being a kid's pizza, contains ingredients designed to appeal to children and is a small size (From case 18/405).

This advertisement for occasional food targets children and young people. The Hell colouring competition is on paper that is given to children to colour in. Having the ages on the sheet and the wording of the advert shows the ultimate target is children e.g. "We need the help of your little devils..."

The presentation of the colouring appeals to children and young people. The character in the back of the car and the scene appeals to children and young people. The large number of giveaways (666) entices entrants as there are multiple chances to win.

The colouring competition is advertising. We assume the colouring competition was intended to give families an activity to do during lock down. However, the requirement of the colouring competition was for children to identify their favourite Hell Pizza this was to retain brand loyalty¹ during lockdown level 4. The use of branding in a prominent position also shows the commercial intent.

The placement was directed to parents who then decided whether to give the colouring competition to children. The large number of likes (744), comments (275) and shares (124) suggests that this has been an effective technique to increase both children's and parents/caregivers brand awareness of Hell's pizza.

We do not have exact details of the competition entrants but it is likely to reflect the entries seen on Facebook, the majority of which were children under 10 years of age. It appeared that only 2 entrants were over the age of 18, the campaign was clearly highly appealing to children. The remaining entrants were young people (11-18) showing a moderate appeal. The ultimate target of the advertisement was children who would not understand that the competition was in fact an advertisement for Hell Pizzas. Young people's brains are more biased to rewards and will be influenced by this type of advertising²

Promotional offers such as giveaways are an advertising technique, especially to build brand loyalty³. This advertisement is a promotional offer for occasional food and beverage product targeting children and young people.

While there is no image of the product in the advertisement, by getting the child (or young person) to recall their favourite product it is still putting that image, taste and smell in to their conscious.

Additionally, the advertisement shows a child in the back of a car who is not in a car seat or buckled in. This is a dangerous and illegal activity.

¹ Bowes, D. (2020). Retrieved from <https://stoppress.co.nz/opinion/social-media-messaging-in-a-time-of-crisis/>

² Unicef (2018) A Child Rights-Based Approach to Food Marketing: A Guide for Policy Makers

³ Kotler, P., Hollensen, S., Opresnik M.O., (2017) Social Media Marketing: A Practitioner Guide,

We ask that the ASA considers that this advertisement was posted when New Zealand was in level 4 lockdown for COVID-19. The majority of New Zealanders were vulnerable and a captive market due to their enforced isolation. Hell targeted their uncertainty, isolation, and boredom.

Parents/caregivers were particularly vulnerable as they had children at home and likely to be seeking 'activities' to keep children occupied. The opportunity for the free pizza after lockdown is likely to have been appealing to parents/caregivers and they may not have thought too much about the 'pester power' that would accompany this competition.

Summary

In conclusion, the advertisement breaches the Children and Young People Advertising Code principal 1 and rules 1 b, i, k and l. This colouring competition was not in the best interests of the child or young person or in fact their families. Little care was taken to show that the colouring competition was appropriate for the intended audience. This is an advertisement for a fast food outlet that only offers occasional food and beverages.

We believe that Hell's Pizza are exploiting the COVID-19 pandemic to push greater consumption of occasional foods and drinks to children and young people.

Appendix A:

Healthy Auckland Together is a coalition of organisations within the Auckland region that aims to: improve nutrition, increase physical activity and halt rising rates of obesity among Aucklanders. A priority focus within these aims is equitable outcomes for Māori, Pacific and lower-socioeconomic communities. With a broad range of coalition partners - including health, central government (including Ministry of Health and New Zealand Transport Agency), local government (including Auckland Council and Auckland Transport), sport, iwi, and non-government organisations - Healthy Auckland Together's aim is to encourage change in the regional environment so it contributes to Aucklanders' health and does not impede it. Healthy Auckland Together made a submission to the review of the Children's Code for Advertising Food and the Code for Advertising to Children. Marketing to children is a key component of the environmental work undertaken by Healthy Auckland Together.

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

- Asian Network
- Auckland Dental Association
- Auckland District Health Board
- Auckland Regional Public Health Service
- Auckland Council
- Auckland Transport
- Auckland War Memorial Museum
- CCS Disability Action & Disabled Person's Assembly
- Counties Manukau Health
- Diabetes Foundation Aotearoa
- Hapai te Hauora, Māori Public Health
- The New Zealand Heart Foundation
- Healthy Families New Zealand
- Healthy Families Waitakere
- Healthy Families Manukau, Manurewa - Papakura
- Mana Whenua I Tamaki Makaurau
- National Institute of Health Innovation

- Pacific Heartbeat
- Primary Health Organisations (7)
- Stroke Foundation NZ
- Te Runanga o Ngati Whatua
- Toi Tangata
- The University of Auckland
- Waitemata District Health Board

Appendix 2

RESPONSE FROM ADVERTISER, HELLS PIZZA

We refute the complaint you received from Healthy Auckland Together in regards to our 333 Pizza Colouring in Competition for the following reasons:

- This ad is clearly aimed at parents, it is their decision if it is something they want to share with their kids. The wording of the ad leaves no ambiguity 'We need the help of your little devil'. Also this post was on our Facebook page, you must be at least 13 years old to have a Facebook account.
- Our 333 pizzas were developed with the help of a nutritionist and meet the guidelines of sometimes food not occasional food.

The Advertiser provided Facebook statistics which showed the target audience was the 25-65+ demographic. The data confirmed that 99.5% of audience engagement were over the age of 18.