



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0028/16</b>
<b>2</b>	<b>Advertiser</b>	<b>Yum Restaurants International</b>
<b>3</b>	<b>Product</b>	<b>Food / Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>10/02/2016</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

- 2.6 - Health and Safety Unsafe behaviour
- 2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

The Advertisement portrays 'Plucka Duck', a well-known Australian television character from the 90's Australian television show "Hey Hey It's Saturday", longboard skateboarding down a winding mountainous road in New Zealand. The Advertisement is set to a punk music song titled "Surfin Bird" and features an on-screen disclaimer, "Filmed overseas under supervised, controlled conditions on a closed road with a professional stunt performer wearing appropriate safety gear".

As Plucka Duck slows to a stop at the end of the Advertisement, he looks out at the expansive landscape. This shot is accompanied by the on-screen text "Life should always be... Finger Lickin' Good", alongside KFC's trade mark.

## THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

*I am objecting to this ad as Plucka Duck is a human dressed in a costume and I think skateboarding on a road is dangerous where a person can get killed if and when a car comes. The ad may have made it safe for him to do, but youngsters will go out and copy him as he is an icon for them. It is presenting a danger to children and young teenagers alike.*

*This advertisement glorifies a dangerous and illegal practice. It will likely encourage young people to attempt skateboarding downhill on our roads which could cause accidents and possible fatalities.*

*In the ad it is clear that that the activity is being conducted on a closed road but does not make it any less dangerous and at the speeds these skate boarder were traveling at an accident can have terrible consequences.*

*The activity could encourage young people to take up this dangerous and illegal activity as a dare after such an activity was posted on social media.*

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

*We refer to your correspondence in respect of the above complaints regarding KFC's brand television commercial which features 'Plucka Duck' (Advertisement).*

### *Description of Advertisement*

*The Advertisement portrays 'Plucka Duck', a well-known Australian television character from the 90's Australian television show "Hey Hey It's Saturday", longboard skateboarding down a winding mountainous road in New Zealand. The Advertisement is set to a punk music song titled "Surfin Bird" and features a sequence of shots of Plucka Duck's physical journey which encapsulates exhilaration, adventure, fun and freedom. These shots are accompanied by the on-screen disclaimer, "Filmed overseas under supervised, controlled conditions on a closed road with a professional stunt performer wearing appropriate safety gear".*

*As Plucka Duck slows to a stop at the end of the Advertisement, he looks out at the expansive landscape. This shot is accompanied by the on-screen text "Life should always be...Finger Lickin' Good", alongside KFC's trade mark.*

*KFC is a company founded on a history of originality, stemming from Colonel Sanders' original recipes, old world values and life embracing approach. KFC's Advertisement for its brand aims to bring these ideals to life by connecting consumers to the ethos of Colonel Sander's motto that "life should always be finger lickin' good". As such, the Advertisement uses the adventurous Plucka Duck to exemplify the brand's confident and completely original characteristics in a fun and engaging manner.*

### *Complaints*

*The complainants raise several issues about the Advertisement, summarised as follows:*

- 1. The Advertisement encourages young people to engage in unsafe behaviour.*
- 2. The Advertisement is contrary to prevailing community standards relating to health and safety.*

3. *The Advertisement depicts illegal activity.*

#### *Relevant Codes & Initiatives*

*Australian Association of National Advertisers Code of Ethics (“Code”)*

*There is a suggestion that the Advertisement breaches section 2.6 of the Code.*

*Australian Association of National Advertisers Food and Beverages Marketing and Communications Code (“F&B Code”)*

*There is no suggestion that the Advertisement breaches the F&B Code.*

*Australian Association of National Advertisers Code for Advertising and Marketing Communications to Children (“Children’s Code”)*

*There is no suggestion that the Advertisement breaches the Children’s Code.*

*Quick Service Restaurant Initiative for Responsible Advertising and Marketing to Children (“QSRI”)*

*There is no suggestion that the Advertisement breaches the QSRI.*

*Has the Code been breached?*

*KFC considers that the Advertisement does not breach the Code.*

#### *Plucka Duck’s Actions*

*Firstly, KFC is of the view that the Advertisement does not in any way encourage or promote people, whether adults or children, to engage in unsafe behaviour or practices.*

*The Advertisement uses the iconic comedy character Plucka Duck to have primary appeal to an adult audience who may fondly recall Plucka Duck’s appearance in the popular 90’s television show “Hey Hey It’s Saturday”. The visuals of the duck character riding down a hill on a skateboard are deliberately intended to be fanciful, exaggerated and humorous. The overall theme and tone of the Advertisement is to focus on Plucka Duck’s physical journey of uninhibited fun and freedom, which is the cornerstone of KFC’s brand message “Life should always be...Finger Lickin’ Good”. This is designed to evoke an imaginary journey and sense of excitement for the adult audience as they connect with the adventurous Plucka Duck character. Consequently, the scenes in the Advertisement are so unrealistic that it is highly unlikely that viewers would replicate or mimic Plucka Duck’s actions in real life.*

*We note that the Advertisement has a PG rating and is accordingly screened on television during appropriate hours outside children’s time slots to specifically target an adult audience.*

#### *Health and Safety Measures*

*Notwithstanding the above, KFC implemented measures to ensure that a significant amount of care was taken to meet health and safety requirements during the filming and creation of*

*the Advertisement.*

*The Advertisement was filmed under supervised and controlled conditions in New Zealand, with permission sought and obtained from the Queenstown Lakes District Council (Council). The Council granted a film permit following the submission of compulsory safety, insurance and risk documentation by KFC's advertising agency. In addition, a safety officer and traffic manager known to the Council attended and supervised the filming of the Advertisement. The road closure was operated by the traffic manager in accordance with a traffic management plan approved by the relevant public bodies, Council and the Queenstown Police. KFC's advertising agency also hired safety personnel to operate the road closure.*

*The Advertisement was intentionally filmed on a closed and deserted road. No vehicles, people or obstacles are depicted in the Advertisement which emphasises the safety precautions exercised during the filming of the Advertisement. Due to the absence of any vehicles, people or obstacles on the road, viewers would understand that Plucka Duck is not placed in any danger or posing any danger to others while skateboarding on the road.*

*A professional stuntman dressed in the Plucka Duck costume was used to perform the skateboarding activity in the Advertisement. The professional stuntman was wearing appropriate safety gear, including a helmet, underneath the costume while he was skateboarding. The professional stuntman used is a downhill skateboarding champion who reached a world number 3 ranking during the peak of his career. The professional stuntman was selected based on the requisite skill set required for the Advertisement, taking into account the set location and nature of the road chosen for the filming.*

*The Advertisement emphasises that it does not depict any material which would be contrary to community standards on health and safety through the inclusion of the CAD approved, onscreen disclaimer "Filmed overseas under supervised, controlled conditions on a closed road with a professional stunt performer wearing appropriate safety gear." This disclaimer is clearly and prominently displayed on the Advertisement to discourage viewers from engaging in unsafe skateboarding behaviour or practices and to make viewers aware of the safety measures that were implemented while filming the Advertisement.*

### *Road Rules*

*Whilst the Advertisement was filmed overseas under supervised, controlled conditions on a closed road, serious regard was had to the Australian Road Rules given that the Advertisement was intended for the Australian market.*

*We note that Regulation 240 of the Australian Road Rules states:*

- 1. A person must not travel in or on a wheeled recreational device or wheeled toy on—*
  - a. a road with a dividing line or median strip; or*
  - b. a road on which the speed limit is greater than 50 kilometres per hour; or*
  - c. a one-way road with more than 1 marked lane.*
- 2. A person must not travel in or on a wheeled recreational device—*

- a. *on a road that is declared, under another law of this jurisdiction, to be a road on which wheeled recreational devices are prohibited; or*
- b. *on a road at night; or*
- c. *on a road at any other time if another law of this jurisdiction prohibits wheeled recreational devices from being on all roads, or that road, at that time.*

*The Advertisement shows Plucka Duck moving at a quick pace on his skateboard (i.e. a “wheeled recreational device”) due to the downhill slope of the road. However, the Advertisement does not depict Plucka Duck riding the skateboard on a road with a speed limit above 50km/h. We note that there are no road signs indicating a speed limit featured in the Advertisement. Plucka Duck is also not skateboarding at night, on a road with a dividing line or medium strip or on a one-way road with more than one marked lane.*

*Furthermore, the Advertisement does not refer to any speed capabilities of the skateboard or suggest that the skateboard is actually speeding or travelling at any unsafe speed. The Advertisement does not feature any speedometer, police speed indicator, tyre marks, burnouts, sudden swerving or debris flying behind the skateboard. There are also no vehicles travelling next to Plucka Duck which would indicate a comparable speed. Whilst some sparks appear when Plucka Duck touches the ground, these are merely included for dramatic effect and Plucka Duck’s skateboarding is not depicted as unsafe, reckless or menacing. As Plucka Duck descends the mountain, the pace he is travelling at remains constant and he is always in control of the skateboard. Throughout the Advertisement Plucka Duck’s skateboarding pace is depicted appropriately in accordance with the activity being performed in a safe manner.*

*We therefore do not believe that the Advertisement breaches any applicable road rules or promotes any illegal activity such as speeding.*

*We trust this addresses the complainants’ concerns.*

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainants’ concern that the advertisement depicts a man dressed as Plucka Duck, not wearing a safety helmet and skateboarding at speed down a windy public road which is dangerous, illegal and could encourage copycat behaviour.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.

The Board noted that this television advertisement depicts a television character from the 90s,

Plucka Duck, skateboarding down a windy mountainous road.

The Board noted it had recently considered a similar complaint in case 0462/15 where:

“The Board noted that this television advertisement features a man skateboarding through the streets of Sydney to meet friends at the beach. The Board noted the man is skateboarding on a public road and that he is not wearing any safety equipment such as a helmet or knee pads...

... The Board noted that riding a skateboard without a helmet is illegal in South Australia. In the current advertisement the Board noted that the advertisement was filmed in Sydney and that there are no laws in NSW which require the wearing of a helmet when riding a skateboard. Consistent with its previous determination the Board considered that whilst many people would consider wearing a helmet and other appropriate safety gear when riding a skateboard would be preferable it is not a legal requirement in most of Australia and overall the advertisement depicts a scene which is consistent with how skateboards are ridden.”

The Board noted the advertiser’s response that the advertisement was filmed overseas and considered that although the onscreen disclaimer also states this, and confirms that the stunt rider was wearing appropriate safety equipment, the disclaimer is very small. The Board considered however that the depiction of a large duck skateboarding is unlikely to encourage people to copy its actions. The Board noted that there are no other road users visible when Plucka Duck is skateboarding and considered that Plucka appears to be confident and in control of the skateboard at all times.

The Board noted the complainants’ concerns that it is illegal for a skateboard to be ridden on a road. The Board considered the Australian Road Rules as follows:

240 Wheeled recreational devices and toys not to be used on certain roads

(1) A person must not travel in or on a wheeled recreational device or wheeled toy on:

(a) a road with a dividing line or median strip; or

(b) a road on which the speed-limit is greater than 50

kilometres per hour; or

(c) a one-way road with more than 1 marked lane.

The Board noted the definition of a wheeled recreational device means “a wheeled device, built to transport a person, propelled by human power or gravity, and ordinarily used for recreation or play, and:

(a) includes rollerblades, rollerskates, a skateboard, scooter,

unicycle or similar wheeled device...”

The Board noted that the road in the advertisement does not have any dividing lines or a median strip and it is not clear what the speed limit is or what speed Plucka is travelling at. The Board noted the overall theme of the advertisement, a skateboarding duck, and considered that the image of a duck riding a skateboard is unrealistic and the tone of the advertisement is laid-back and there is no suggestion of danger, either to Plucka Duck or to other road users or pedestrians.

Overall the Board considered that the depiction of a man dressed as Plucka Duck riding a skateboard without safety equipment does not encourage copycat behaviour and does not breach Community Standards on health and safety.

The Board determined that the advertisement did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaints.