



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

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Ad Standards Limited
ACN 084 452 666

Case Report

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| 1. Case Number : | 0116-20 |
| 2. Advertiser : | Coles |
| 3. Product : | Food/Bev Groceries |
| 4. Type of Advertisement/Media : | Internet |
| 5. Date of Determination | 25-Mar-2020 |
| 6. DETERMINATION : | Upheld - Modified or Discontinued |

ISSUES RAISED

AANA Advertising to Childrens Code\2.2 Factual presentation
AANA Advertising to Childrens Code\2.3 Placement
AANA Advertising to Childrens Code\2.7 Parental Authority
AANA Advertising to Childrens Code\2.8 Qualifying statements
AANA Advertising to Childrens Code\2.9 Competitions
AANA Advertising to Childrens Code\2.11 Premiums

DESCRIPTION OF ADVERTISEMENT

This YouTube advertisement depicts four plastic miniature versions of food products available at Coles. A child's voice over states, "Australia, there are rare Coles stikeez to collect.

There's a bronze Ella Egg!

A sparkly Connor!

A silver Buster!

And a glow in the dark Chip!

Can you collect them all?

New stikeez fresh friends from Coles. Good things. Great value."

Each toy mentioned is shown as an animated character, and children are depicted playing with the toys.

THE COMPLAINT

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

This ad pretty brazenly breaks a number of rules in the AANA code for marketing and advertising to children.



2.2.(d) (i): Price. The price of the product or conditions required to receive the product are not specified at all. Distinctions are not made between the prices or steps required to obtain the different varieties of toy, either based on their shapes or their rare alternate variants.

2.3. Placement: The ad was shown to me, and was unskippable, right before a video of a violent videogame with an ma15+ rating.

2.7. Parental Authority: The ad is clearly designed to target children in order to manipulate them into convincing their parents to shop only, and frequently, at coles supermarkets. Coles is primarily a seller of food and household goods, the only reason to make an ad not advertising any of those products aimed at kids is manipulation. That is a clear breach of the spirit of the code.

2.9. Competitions: Challenging a child to collect all of the many, many small toys is competitive. Dates are not stated for when these toys will be available and no odds are given for the toys you will receive. The toys themselves have no value or use outside of as an obscenely cheap collectible to laud over other children. That is gambling aimed at children with the intent of using the children as psychological pressure on parents to buy products they don't need.

2.11. Premiums: These toys are clearly not a product in their own right. They cannot be bought individually with knowledge of what variant you are going to receive, or the rarity of different variants. That violates section (a) as it doesn't give children an accurate or understandable impression of the premium item.

These are collectible premiums, not products being sold directly (otherwise they should have prices listed for children). This breaches section (c) by convincing children the premium is what the store sells, and (d) as the premium is what the ad is all about - it isn't just premiums being mentioned more than incidentally, the product isn't mentioned at all.

Having no details on odds and date ranges on availability of the premium breaches section (e).

The collectable element promotes buying the shops actual products even if they are not needed. That violates section (f).

In summary, this is an advertising tactic that was shut down in fast food happy meal toys decades ago, and it is far more egregiously presented here, with less clarity, many more varieties, and with more requirements on purchases. It's using the psychological tricks of gambling to against children, using them as agents to advertise to their parents, and to recruit other children into the gambling collectible game. It is like a virus targeting the minds of kids, it breaches the majority of your AANA code and you have a responsibility to put a stop to it.

THE ADVERTISER'S RESPONSE

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

The relevant advertisement

Coles notes the complaint relates to a 15 second commercial which ran on YouTube (the Advertisement). The Advertisement promotes shopping at Coles Supermarkets



and Coles Express with the opportunity to collect 4 rare Coles Stikeez as part of the broader Coles Stikeez campaign. The Advertisement shows text at the bottom of the screen stating "Animation used. Multiple products shown. Collector case can be purchased for \$4.00 from Coles Supermarkets and selected Coles Express sites". The text then changes to state, "Spend \$30.00 in one transaction and receive a Coles Stikeez at Coles or Coles Express. Excludes eBay and UberEats purchases. While stocks last. See coles.com.au/stikeez for full terms and conditions. Animation used. Multiple products shown."

The CAD reference number is 2862261 and the Advertisement was rated 'C'. The advertising agency was Big Red and the media buyer was Optimum Media Direction Pty Ltd (OMD). The script and a copy of the Advertisement have been provided by way of online portal upload.

Response

Coles does not believe the Advertisement breaches any section of the AANA code of Ethics (the Code) for the reasons set out below.

Coles chose to partner with The Disney Channel on YouTube as a strategy to buy co-viewing environments. A co-viewing environment is where parents and children can potentially consume content together. Disney is certified by the Internet Advertising Bureau as a Premium publisher. This means all the content on their site is deemed to be brand safe.

Disney advised, "The gaming content is aimed towards kids and therefore forms part of our kid contextual targeting". Regrettably, OMD had not been informed about the inclusion of the 'Disney Influencer', and therefore this information had not been provided to Coles to ensure the appropriate approval process had been followed. The audience should have been 18+ however due to the additional "Disney Influencer" inclusion (not approved by Coles) the execution ran with a MA15+ game review.

AANA Code of Ethics

2.1 Discrimination or vilification

The Advertisement does not portray any content which is discriminatory or vilifies any group of the community.

2.2 Exploitative and degrading

The advertisement does not depict anything that is exploitative or degrading in relation to any individual or group of people.

2.3 Violence

At no time does the Advertisement present or portray violence.



2.4 Sex, sexuality and nudity

There is no content in the Advertisement which breaches this section of the Code.

2.5 Language

The Advertisement uses language appropriate in the circumstances. The Advertisement does not include any strong or obscene language.

2.6 Health and Safety

The Advertisement does not depict material that is contrary to Prevailing Community Standards in relation to health and safety.

2.7 Distinguishable as advertising

The Advertisement is clearly distinguishable as advertising.

Complaints alleging breaches of the AANA Code for Advertising and Marketing Communications to Children

The complainant has raised alleged breaches of the AANA Code for Advertising and Marketing Communications to Children (the Children's Code) which Coles addresses below.

When assessing whether the advertisement could potentially have been considered to be "Advertising or Marketing Communications to Children", Coles notes two important points below:

- Children are defined as 14 years old or younger under the Children's Code; and*
- Marketing communications which are directed to parents, adults or grocery buyers are not subject to the restrictions in the Children's Code.*

In this instance, both of the above criteria have been met. Additionally, the terms and conditions of the campaign were clearly displayed (e.g. \$30 minimum spend threshold etc.)

The Advertisement is advertising the Coles brand and shopping at either a Coles supermarket or a Coles Express store. The Advertisement is directed at and has principle appeal to adults. For these reasons, Coles is of the view that the Children's Code does not apply.

Whilst Coles does not believe the Children's Code applies, the breaches alleged by the complainant have been addressed individually below.

2.2 Factual presentation - Price accurately presented and not minimized



The Advertisement shows text at the bottom of the screen stating “Animation used. Multiple products shown. Collector case can be purchased for \$4.00 from Coles Supermarkets and selected Coles Express sites”. The text then changes to state “Spend \$30.00 in one transaction and receive a Coles Stikeez at Coles or Coles Express. Excludes eBay and UberEats purchases. While stocks last. See coles.com.au/stikeez for full terms and conditions. Animation used. Multiple products shown.” This text is large enough to read on a computer screen while viewing the YouTube commercial.

Coles Stikeez cannot be purchased separately and are only provided once an individual meets the \$30 minimum spend threshold in one transaction as displayed in the text at the bottom of the screen. Additionally, the Advertisement promotes shopping at Coles supermarkets and Coles Express generally, it does not promote a specific product.

2.3 Placement-program content is unsuitable for Children

The Advertisement is not directed at children nor is the Advertisement for a children’s product so the placement of it before the video of a violent game is not a breach of this section of the Children’s Code.

2.7 Parental Authority-not undermine parents and carers

The Advertisement is not directed at children nor is the Advertisement for a children’s product so this section of the Code has not been breached. The Advertisement promotes shopping at Coles Supermarkets and at Coles Express stores to adults.

2.9 Competitions - does not indicate closing date

The Advertisement does not promote a competition.

2.11 Premiums\false or misleading impression of product content

As stated in response to the other alleged breaches, Coles does not believe the Code applies to this advertisement, however, Coles is also of the view that the Advertisement is not misleading in any way.

Conclusion

Coles submits that the Advertisement is compliant with all relevant Code requirements and the complaint should be dismissed.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (the Children’s Code).

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



The Panel noted the complainant's concern that the advertisement is targeted towards children and breaches Sections 2.2, 2.3, 2.7, 2.9 and 2.11 of the Children's Code.

The Panel noted that the definition of advertising and marketing communications to children in this Code:

"Advertising or Marketing Communication to Children means Advertising or Marketing Communication which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product. The Community Panel shall have regard to the Practice Note to this Code in determining whether Advertising or Marketing Communication are to children under this definition."

The Panel noted the definition of Product in this Code is:

"Product means goods, services and/or facilities which are targeted toward and have principal appeal to Children."

The Panel noted that the definition of Children in this Code is:

"persons 14 years old or younger".

The Panel noted that the Practice Note for the Children's Code provides guidance on how to determine if an advertisement is directed to children, and recommends that the Panel take into account the following:

- is the advertisement aimed in the first instance at children
- Is the product targeted towards and have principal appeal to children
- Is theme of the advertising and marketing communication directed to children.
- Is the advertisement seen from a child's perspective
- Is the storyline of the advertisement simple and easy to follow
- Are the visuals appealing to children
- Is the language appropriate and easily able to be understood by children
- Does the advertisement feature children
- Is there a call to action directed at children?

The Panel considered that the advertisement was voiced by a child, and featured children who appeared under 14 and that this would be of appeal to children. The Panel considered that the main visuals in the advertisement were animated toys and that this would also be of appeal to children under 14. The Panel considered that the spoken language in the advertisement was easily understood by children and is a call to action to Children to collect all the Stikeez. The Panel considered that the message of the advertisement is that collectible 'stikeez' characters are available to collect at Coles – including rare ones. The Panel considered that this is a message which was targeted towards Children under 14.

Overall the Panel considered that the themes, visuals and language used in the advertisement were directed primarily to Children.



The Panel then considered whether the advertisement was for a Product which is targeted towards and of principal appeal to Children. The Panel noted that the Stikeez products are rewarded when the customer spends over \$30 in one transaction at Coles supermarkets or petrol station. The Panel considered that whilst the Coles brand is being advertised, the main call to action and product depicted in the advertisement were the collectable Stikeez and the container that can be purchased to put them in. The Panel noted that the 'Stikeez' logo in the advertisement was larger than the Coles logo. The Panel considered that the product being advertised was the Stikeez collectables and that this is a product which is targeted towards and of principal appeal to Children.

Finding that the themes, visuals and language in the advertisement were directed primarily to children and that the advertisement was for a product that would have principal appeal to Children, the Panel determined that the provisions of the Children's Code do apply.

The Panel noted the complainant's concern that the advertisement breaches Section 2.2 (d) (i) of the Children's Code as the price of the product was not stated.

The Panel noted that Section 2.2 (d) (i) of the Children's Code provides:

"Prices, if mentioned in Advertising or Marketing Communication to Children, must be accurately presented in a way which can be clearly understood by Children and must not be minimised by words such as "only" or "just";"

The Panel noted that the voice over to the advertisement does not mention prices.

The Panel noted the advertiser's response that the advertisement includes disclaimers on screen with text large enough to read on a computer screen while viewing the YouTube commercial.

The Panel noted that the disclaimers in the advertisement state, ""Animation used. Multiple products shown. Collector case can be purchased for \$4.00 from Coles Supermarkets and selected Coles Express sites". and "Spend \$30.00 in one transaction and receive a Coles Stikeez at Coles or Coles Express. Excludes eBay and UberEats purchases. While stocks last. See coles.com.au/stikeez for full terms and conditions. Animation used. Multiple products shown."

The Panel considered that the wording in the disclaimers is targeted towards adults, not children, and that many young children would not be able to read or understand the disclaimers on the screen. The Panel noted that the Code clearly requires pricing information to be presented in a manner that is clearly understood by children. The Panel considered that the pricing information in the advertisement was not presented in a way which would be clearly understood by children 14 and under, in particular by young children.



The Panel determined that the advertisement breached Section 2.2 (d) (i) of the Children's Code.

The Panel noted the complainant's concern that the advertisement breached Section 2.3 of the Children's Code as it was played before a video of a violent videogame with an MA15+ rating.

The Panel noted Section 2.3 of the Children's Code provides, "Advertising or Marketing Communication to Children must not be placed in Media where editorial comment or program content, in close proximity to that communication, or directly accessible by Children as a result of the communication, is unsuitable for Children according to Prevailing Community Standards."

The Panel noted the complainant viewed the advertisement before a YouTube video featuring a review of an adult video game.

The Panel noted the advertiser's response that Coles had partnered with the Disney Channel on YouTube to ensure this advertisement was played to appropriate audiences, and that the advertisement had inadvertently played before a video linked to a Disney influencer account. The Panel noted the advertiser's response that the audience for the YouTube video should have been 18+.

The Panel noted that the content of the game review was not known, however considered that as it was for a violent game rated MA15+ the video content was likely to be violent and not suitable for children. The Panel considered that most members of the community would consider a video of this nature not to be suitable for children aged 14 and under. The Panel considered that the advertisement was placed in Media where the program content, in close proximity to the advertisement, was unsuitable for Children according to Prevailing Community Standards. The Panel determined that the advertisement breached Section 2.3 of the Children's Code.

The Panel noted the complainant's concern that the advertisement breached Section 2.7 of the Children's Code as it was clearly designed to manipulate children into convincing their parents to shop at Coles.

The Panel noted Section 2.7 of the Code Provides:

"Advertising or Marketing Communication to Children:

- (a) must not undermine the authority, responsibility or judgment of parents or carers;
- (b) must not contain an appeal to Children to urge their parents, carers or another person to buy a Product for them;
- (c) must not state or imply that a Product makes Children who own or enjoy it superior to their peers; and
- (d) must not state or imply that persons who buy the Product are more generous than those who do not."

The Panel noted the advertisement includes a call to action for children asking 'can you collect them all?'.



The Panel considered that the advertisement does not explicitly state that children should ask their parents to shop at Coles, does not state that the product will make children who own the product to be superior to their peers, or suggest that parents who shop at Coles are more generous than those who do not. The Panel considered that whilst there is a call to action to try and collect all the Stikeez there is nothing in the advertisement which would undermine the authority, responsibility or judgement of parents or carers.

The Panel determined that the advertisement did not breach Section 2.7 of the Children's Code.

The Panel noted that Section 2.8 of the Code provides:

"Any disclaimers, qualifiers or asterisked or footnoted information used in Advertising or Marketing Communication to Children must be conspicuously displayed and clearly explained to Children."

Similar to the discussion under Section 2.2 of the Children's Code, the Panel considered that the wording of the disclaimers in the advertisement were not clearly explained to children. The Panel considered that the disclaimers used language which targeted adults, not children, and that there was nothing in the content of the advertisement itself which explained to children that the products would only be available with a \$30 purchase from Coles supermarkets or Coles express.

The Panel determined that the advertisement did breach Section 2.8 of the Code.

The Panel noted the complainants' concern that the advertisement breached Section 2.9 of the Code as the advertisement challenges children to collect all of the toys.

The Panel noted that Section 2.9 of the Code relates to competitions, and that this promotion does not meet the parameters of a competition. The Panel considered that Section 2.9 of the Code did not apply.

The Panel noted the complainant's concern that the advertisement breached Section 2.11 of the Children's Code as the toys are not a product in their own right.

The Panel noted that Section 2.11 of the Children's Code provides:

"Advertising or Marketing Communication to Children, which include or refer to or involve an offer of a Premium:

- (a) must not create a false or misleading impression in the minds of Children about the content of the Product;
- (b) must be presented conspicuously;
- (c) must not create a false or misleading impression in the minds of Children that the product being advertised or marketed is the Premium rather than the Product;
- (d) must not refer to the premium in more than an incidental manner to the advertised product;



(e) must make the terms of the offer clear as well as any conditions or limitations; and (f) must not use Premiums in a way that promotes irresponsible use or excessive consumption of the Product.”

The Panel noted that Premium is defined in the Code as being: “anything offered either free, at a reduced price, or with an additional cost and which is conditional upon the purchase of an advertised product.”

The Panel considered that the Stikeez would meet the definition of a Premium as they are offered free with the purchase of Coles products.

The Panel considered that the advertisement featured a promotion for the Stikeez exclusively, and did not mention clearly that these are provided with a \$30 purchase from the advertiser.

The Panel considered that Children viewing the advertisement would view it as an advertisement for Stikeez, not for Coles, and that this was a breach of Section 2.11 (c).

Further, the Panel considered that the Stikeez were the focus of the advertisement and were not mentioned in an incidental manner, and that this was a breach of Section 2.11(d).

Similar to the discussions under Sections 2.2 and 2.8 of the Children’s Code, the Panel considered that the advertisement did not make the terms of the offer clear in a way which would be understood by Children viewing the advertisement, and that the advertisement breached Section 2.11 (e).

The Panel determined that the advertisement breached Section 2.11 of the Code.

Finding that the advertisement breached Sections 2.2, 2.3, 2.8 and 2.11 of the Code the Panel upheld the complaint.

THE ADVERTISER’S RESPONSE TO DETERMINATION

The advertisement is no longer running on YouTube and it won’t run again as the Stikeez campaign is finished.