



Case Report

1	Case Number	0124/12
2	Advertiser	Coca-Cola South Pacific Pty Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	11/04/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code Misleading / deceptive

DESCRIPTION OF THE ADVERTISEMENT

To prove to consumers that 'Coke Zero' really does taste like 'Coke', Coca-Cola invited consumers to a movie screening. The consumers are given 'Coke' and popcorn and take their seats in the cinema. They are then told to open the lid of their cups to reveal a 'Coke Zero' inside.

THE COMPLAINT

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

1. It is implied that the only difference between Coca-Cola and Coke Zero is the lack of sugar in coke zero. Coke Zero contains phenylalanine which is an ingredient that must be listed separately from the 'Ingredients List' in much the same way that Caffeine is listed on labels. I believe it's misleading to claim they are the same when Coke Zero contains this other product which has arguably been linked to health issues.

2. The nature of the ad implies that it was a real event - the date at the beginning of the advertisement the naming of the Cinema it took place in and the style of filming they used - appearing like a 'secret camera'. I believe the ad makes it appear that it's permissible to switch someone's product without their prior consent or knowledge. If I bought Coca-Cola and received Coke Zero I would be infuriated as I choose not to put phenylalanine into my body. The shot of the audience laughing when they realise their product has been switched furthers my theory that it makes it appear that it's ok to swap the product. Because the ad may establish with people that it's ok to do this it may incite copy-cats. Whether you believe

in the health risks associated with phenylalanine and artificial sweeteners or not I believe people have a right to know what they put in their body.

THE ADVERTISER'S RESPONSE

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

We understand from your letter regarding the complaint and the complaint itself, that the complainant believes the advertisement contravenes Section 2 of the AANA Advertiser Code of Ethics, which also incorporates the AANA Code for Advertising and Marketing Communications to Children and the AANA Food and Beverage Marketing Communications Code. We disagree that we have breached Section 2 and the subsequent codes.

The advertisement has been designed to communicate that 'Coke' and 'Coke Zero' have very similar tastes and that many people are not able to tell them apart. It has been done in a way to communicate this message in an entertaining way.

'Coke Zero' is sweetened with Aspartame. Aspartame is one of the most thoroughly researched food ingredients in use today. Numerous studies have confirmed its safety, and it is permitted for use in more than 100 countries.

Aspartame is safe for use by nearly all populations, including children, people with diabetes and women who are pregnant or lactating. The only exception is that people born with phenylketonuria (PKU) cannot metabolize phenylalanine and therefore should avoid aspartame. Infants are tested at birth for this condition and there are around one in 10,000 babies born in Australia with PKU. As required by the Food Standards Code, we carry a statement on our labels alerting people with PKU to the presence of phenylalanine.

The scenario in the TVC was set up by inviting members of the 'Coca-Cola' loyalty program, 'Coke Unleashed', to a private screening of a movie. This was an invitation only event and precautions were taken to ensure the health and safety of participants.

As a condition of accepting the invitation to the event all participants signed a talent waiver and provided dietary information to ensure no attendees had any food allergies or sensitivities (e.g. PKU).

The TVC was filmed and communicated in a manner in which we thought was self evident that the scenario was controlled and with invitation-only participants. However, following consumer feedback after going to air, it became evident that this was not the case - therefore, we decided to make a minor change to include a super that communicated to consumers that indeed the TVC was shot under controlled conditions and that precautions had been taken to protect participants. As such, from 4 March, the following super was added:

"This invitation-only real life event was filmed on the 19th December under controlled conditions. The activity must not be replicated in any other circumstances."

The TVC was on air for 2 weeks without the above super.

Therefore, we respectfully disagree with the complainant that the advertisement is misleading or deceptive. Further we have proactively taken steps to ensure that is clear to the view that this should not be replicated.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) or section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant’s concern that the advertisement is misleading in its suggestion that Coca-Cola and Coke Zero are the same and that the substitution of one drink for the other is not acceptable given that some members of the community are unable to consume the ingredient phenylalanine.

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

The Board noted that the product advertised is food and therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply. In particular the Board considered section 2.1 of the Food Code which provides:

'Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.'

The Board noted that the voice over in the advertisement describes Coke Zero as having “great Coke taste, zero sugar” and considered that the most likely interpretation of the advertisement is that Coke Zero is similar in taste to Coca-Cola and not that it is the same.

The Board considered that the advertisement was not misleading or deceptive and did not breach Section 2.1 of the Food Code.

The Board then considered whether the advertisement was in breach of 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 at the start of the advertisement there is a disclaimer which states that the participants were all invitation only and that the advertisement was filmed under controlled conditions and should not be copied.

The Board noted the advertiser’s response that all the invited participants signed waivers which stated that they did not have any food allergies and considered that the disclaimer at the beginning of the advertisement makes it quite clear that the act of switching people’s drinks without their knowledge is not to be copied.

The Board noted that both Coca-Cola and Coke Zero drinks will have their contents clearly stated on the product labels and so consumers who cannot consume any of the ingredients of the products such as phenylalanine will be able to check.

Based on the above, the Board determined that the advertisement did not depict material contrary to prevailing community standards on health and safety and did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach any of the Codes on any grounds, the Board dismissed the complaint.