



## Case Report

1	Case Number	0204/15
2	Advertiser	Coca-Cola South Pacific
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	10/06/2015
6	DETERMINATION	Upheld - Modified or Discontinued

### ISSUES RAISED

RCMI 1.1 - Advertising Message AFGC - Advertising Message

### DESCRIPTION OF THE ADVERTISEMENT

This television commercial features the animated characters known as the FANTA Crew. The FANTA Tastes Like campaign focuses on the great taste of FANTA. The Advertisement features analogies which compare, with words and visuals, the amazing orange taste of FANTA to sensorial experiences which play on the product attributes such as bubbles, orange flavour and liquid. The FANTA Crew show what FANTA tastes like to them such as an 'awesome ride', a 'bubble explosion' and 'busting out to my favourite beats'.

### THE COMPLAINT

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

*The advertisement breaches the Responsible Children's Marketing Initiative.*

*Coca-Cola is a signatory to the Responsible Children's Marketing Initiative (RCMI). As a signatory to the RCMI, Coca Cola has committed not to advertise its products to children under 12 years in media unless those products represent healthier dietary choices, consistent*

*with established scientific or Australian government standards.*

*In our submission the advertisement breaches the RCMI because: -*

- 1. It is a communication directed primarily to children;*
- 2. Fanta does not represent a healthy dietary choice consistent with established scientific or Australian government standards; and*
- 3. It does not promote healthy dietary habits or physical activity.*

*1. It is a communication directed primarily to children.*

*This advertisement is, on any common sense view of its themes, visuals and language, a marketing communication directed primarily to children, within the meaning of the RCMI. The ad is a whimsical, playful animation that features brightly coloured characters obviously intended to appeal to children. The emphasis on imagery such as a rollercoaster, other rides in a theme park and playground, and wording such as 'bubble explosion' and 'it's always full of fun' are clearly child-oriented in nature.*

*These highly evocative aspects of the advertisement will strongly appeal to children's sense of playfulness. Furthermore, Fanta is a bright orange drink with strong appeal to children. We further note that in March this year, the advertisement was broadcast during the programs watched by the largest numbers of children under 12 years for the March period, including My Kitchen Rules and I'm A Celebrity.. Get Me Out Of Here.*

*2. Fanta does not represent a 'healthier dietary choice' consistent with established scientific or Australian government standards (S.1.1.a);*

*The advertisement features bottles of Fanta which could in no way be defined as a 'healthier dietary choice'. Coca Cola South Pacific does not have its own definition of a 'healthier dietary choice' in its Company Action Plan as it states it will undertake no direct targeting of children under 12 years in any media for any brand messaging (i.e. not only advertisements featuring product).*

*For completeness, Fanta is a sugar-sweetened beverage (SSB) containing between 12-14 teaspoons of sugar per 450ml bottle. The impact of SSBs on the health of children has been well documented. The World Health Organization (WHO) recently released updated guidelines regarding the health impacts of sugar consumption, recommending daily sugar intake be reduced to 5-10% of daily dietary intake. According to the Australian Dietary Guidelines produced by the National Health and Medical Research Council (NHMRC), sugar-sweetened drinks (which include sugar-sweetened soft drinks and cordials, fruit drinks, vitamin waters, energy and sports drinks) are the largest source of sugars in the Australian diet, with consumption highest in adolescents and children. The Guidelines recommend that the consumption of added sugar in the diet be limited, particularly sugar-sweetened drinks. These recommendations are based upon evidence of a probable association (Grade B evidence) between sugar-sweetened beverage consumption and an increased risk of weight gain in adults and children. They are also based upon evidence of a suggestive association (Grade C evidence) between soft drink consumption and an increased risk of dental caries in children, as well as an increased risk (from cola drinks) of reduced bone strength.*

*3. It does not promote healthy dietary habits or physical activity.*

*The ad opens with a group of six cartoon characters sitting on a lawn drinking Fanta. Featuring children in an amusement park or on the steps of a playground could hardly be considered to be promoting physical activity. There is clearly no promotion of healthy dietary habits in the ad.*

*Request for action*

*We submit Coca-Cola's Fanta advertisement breaches the RCMI and we ask that the Board require the advertiser to withdraw it from all TV schedules in Australia immediately.*

## **THE ADVERTISER'S RESPONSE**

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

*Thank you for your letter regarding a complaint received in relation to Coca-Cola South Pacific Pty Ltd's ("CCSP") FANTA Tastes Like television commercial. We thank you for bringing this matter to our attention and respond to the points raised as follows:*

*Please find attached the spot lists for the subscription and free-to-air television programs in which the Advertisement appeared.*

*Whether the audience of the programs is predominantly children*

*CCSP's media buyer, Universal McCann, buys advertising in accordance with The Coca-Cola Company's Responsible Marketing Policy, a copy of which is attached. In accordance with the Responsible Marketing Policy, Universal McCann did not place the Advertisement in any television programs where the audience is predominantly children. As set out in the Responsible Marketing Policy, the Company defines media that directly targets children as media in which 35% or more of the audience is composed of children under 12.*

*Substantiation of any health, nutrition or ingredient claims or statements in the Advertisement.*

*The Advertisement does not contain any health, nutrition or ingredients claims or statements.*

*Comprehensive comments in relation to the complaint*

*The complainant alleges that the Advertisement breaches the Australian Food and Grocery Council's Responsible Children's Marketing Initiative ("RCMI") to which CCSP is a signatory. Specifically, the complainant alleges that the Advertisement breaches the RCMI by advertising primarily directed to children a sugar sweetened sparkling beverage.*

*Children are defined in the RCMI as "Persons under 12 years of age". The word "primarily" is not defined and therefore is interpreted using its dictionary definition of "in the first place". We note that this interpretation is supported in the AANA Code of Advertising and Marketing Communications to Children Practice Note.*

*CCSP submits that, having regard to the theme, visuals and language used, the Advertisement is not primarily directed to persons under 12 years of age. Rather, it is directly primarily to teens aged between 15 – 17 years as outlined below.*

*The FANTA Crew featured in the Advertisement is a group of eclectic friends representing a diverse cross section of teens you'd see in any high school, each with his or her own unique style, interests, tastes and personality. They love music, the beach, dance, sport and, above everything else, hanging out with each other. The FANTA Crew have been drawn to represent 17 year olds. The theme of the Advertisement is teens out and about with their friends, enjoying the unsupervised freedom that comes with high school. The Crew are visually depicted as older teens by their body shapes, hairstyles, wardrobe, facial expressions, body language, gestures, accessories and "tools of play" (such as beat blankets, electric guitars and skateboards) – all designed to reflect older teen culture with 15 – 17 year old appeal. The language and audio, including the Crew's tone of voices and the pop/rock sound track similarly reinforce the upper teen stage of life of the Crew.*

*The animation style utilised in the Advertisement is unlike popular animated children's*

*programs such as Peppa Pig, Arthur and Little Princess. Similarly, the characters are not reminiscent of popular characters in children's animated programs. Rather, the psychedelic three dimensional elements of the computer generated character animation are intended to appeal to an older audience. Animation is widely accepted as being a media that appeals to many different age groups, not only primarily to children. Many of the most popular animated television programs, including Family Guy, South Park and the Cleveland Show are consistently classified as M or above. Even The Simpsons has M classified episodes. We note that Code of Advertising and Marketing Communications to Children Practice Note acknowledges that animation is not necessarily indicative of a marketing communication directed primarily to children.*

*The Coca-Cola Company has always taken seriously its commitment to market responsibly, across the globe, across all advertising media, and across all of our beverages. Our company has been a leader in the area of Responsible Marketing and honouring the rights of parents and caregivers to make the appropriate choices for their children is a cornerstone of our Responsible Marketing Policy. Our company is also committed to monitoring and measuring our adherence to the Responsible Marketing Policy across all the markets we serve, and has established a Children's Review Process to help guide the Responsible Marketing Policy. We publish compliance findings within our corporate sustainability report. CCSP is absolutely committed to ensuring the Responsible Marketing Policy is implemented in Australia and this commitment is reinforced by our voluntary signature of the RCMI and associated RMCI Action Plan (a copy of which is attached). It is of fundamental importance to us to be part of, and responsible to, the communities in which we operate.*

*As outlined above, the placement of the Advertisement was carefully implemented to avoid programs with an audience primarily consisting of children. In line with the RCMI, the Company's Responsible Marketing Policy includes a wide safeguard in relation to placement by requiring that we do not buy advertising in programs with an audience profile higher than 35% of children less than 12 years of age. We acknowledge that some children may be attracted to the Advertisement or view it during programs in which it was placed. However, we submit that the Advertisement is not, either by its content or placement, advertising directed primarily to children and therefore falls outside the scope of the RCMI.*

#### *Other Codes*

*Whilst we note that the complainant has not raised objections under any other advertising codes, as requested, we have also considered the complaint in light of the AANA Advertiser Code of Ethics, the AANA Code for Advertising and Marketing Communications to Children and the AANA Food and Beverages Marketing and Communications Code. We comment as follows:*

#### *AANA Code for Advertising & Marketing Communications to Children ("Children's Code")*

*The Children's Code defines "Advertising or Marketing Communications to Children" as "... Advertising ... which, having regard to the theme, visuals and language used, are directed primarily to Children ...". The Children's Code defines "Children" as "... persons 14 year old or younger ...". The Children's Code Practice Note provides that the Children's Code does not apply to advertising which is directed at older children, or may be seen by children but is not directed primarily to them.*

*We submit that the Advertisement was not directly primarily to children aged 14 years or younger and therefore falls outside of the scope of the Children's Code. The Children's Code Practice Note establishes that whether advertising is directed primarily to children is an objective test based on a number of factors including visual techniques, the product being advertised and the age of the characters in the advertising. As outlined above, the Advertisement was aimed in the first instance at 15 – 17 year old teens. The FANTA product itself is enjoyed by a wide age group, some of which may be children under the supervision of parents in a family environment, however the product is not targeted to children in accordance with the Company's Responsible Marketing Policy and the RCMI. As discussed above, the themes were specifically designed to speak to teen culture with an emphasis on clothes, hairstyles and sub-cultural archetypes such as the surfer dude, the techie and the social butterfly. The Crew themselves are drawn to be 17 years old.*

*We note that the definition of a child/children in the Children's Code differs from the RCMI. We understand that this difference may originate from the disparity between the states and territories in relation to the age at which children commence high school. Nevertheless, whether a child is defined as being 12 or 14 years of age or under, we submit that the Advertisement is not primarily directed to children and therefore falls outside the scope of the Children's Code.*

*AANA Food and Beverages Marketing and Communications Code (the "Food & Beverages Code")*

*The Food & Beverages Code contains a number of provisions in relation to truthful, honest advertising (2.1), not undermining the importance of healthy or active lifestyles (2.2), making health claims (2.3) and advertising to children (3). We have considered each of the provisions of the Food & Beverages Code and it is CCSP's view that the Advertisement complies with all elements of the Food & Beverages Code.*

*AANA Advertiser Code of Ethics (the "Code of Ethics")*

*The Code of Ethics contains a number of provisions in relation to not depicting people or material in a way which is discriminatory (2.1), sexually exploitative or degrading (2.2), violent (2.3) or employs obscene language (2.5). We have considered each of the provisions of the Code of Ethics against the content of the Advertisement and it is CCSP's view that the Advertisement does not contain any material which breaches the Code of Ethics.*

*CCSP takes its obligations in relation to responsible advertising seriously. We consider that the Advertisement, due to the nature of its content and placement, is not advertising directed primarily to children and therefore falls outside the scope of both the RCMI and the Children's Code. We also consider that, when assessed against the provisions of the Food & Beverages Code and the Code of Ethics in light of prevailing community standards, the FANTA Tastes Like television commercial does not breach any of these codes requirements.*

## **THE DETERMINATION**

The Advertising Standards Board (Board) considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (the Children's

Code), the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code), and the AFGC Responsible Children's Marketing Initiative of the Australian Food and Grocery Council (AFGC RCMI).

The Board reviewed the advertisement and noted the advertiser's response.

The Board noted the complainant's concern that the advertisement breaches the AFGC RCMI because it is directed primarily to children, and because Fanta does not represent a healthy dietary choice.

The Board considered whether the advertisement met the requirements of the AFGC RCMI.

The Board noted the relevant requirement is that the company does not advertise food and beverage products to children under 12 in 'media' unless those products represent healthy dietary choices.

Medium is defined as: 'Television, radio, print, cinema, internet sites'.

The Board noted the RCMI Initiative provides that advertising or marketing communication activities are advertising or marketing communications to children and therefore captured under the RCMI Initiative if:

1. the content of the advertisement or marketing communication which, having regard to the theme, visuals and language, are directed primarily to children (and are for food and/or beverage products).
2. the placement of the advertisement or marketing communication is in a medium that is directed primarily to children. (in relation to television, all C and P rated programs and other rated programs that are directed primarily to children through their themes, visuals and language); and/or
3. where Children represent 35 percent or more of the audience of the Medium.

The Board noted the information provided by the advertiser about the range of programmes in which the advertisement was broadcast. The Board noted that the programmes in which the advertisement appears are programmes that are directed to adults and families and are not programmes which are primarily directed to children or likely to have predominantly child audiences. The Board considered that the programming in which the advertisement appeared was not directed primarily to children – although undoubtedly a significant number of children may view some of the programmes.

On the basis of the viewing audience the Board determined that the advertisement was not broadcast in a program where the audience is predominantly children or the program is directed primarily to children.

The Board noted however that it also must consider whether the advertisement or marketing communication is, having regard to the theme, visuals and language used, directed primarily to children (and are for food and/or beverage products).

The Board noted the dictionary definition of 'primarily' is 'in the first place' and that to be

within the AFGC RCMI the Board must find that the advertisement is aimed in the first instance at children under 12.

The Board considered the theme of the advertisement (animated characters from the Fanta Crew describing what their Fanta tastes like), the visuals (animated characters at a theme park and hanging out with musical instruments etc.) and the language used (teen style voices using terms such as ‘awesome’ and ‘busting out to my favourite beats’). The Board noted the advertiser’s response that the advertisement was intended to represent and appeal to teens aged 15-17 years.

The Board noted it had previously considered a number of advertisements under the AFGC RCMI which feature cartoon animation, including case 0493/10 where:

“The Board considered the theme of the advertisement (an awkward moment turned into a cool dance), the visuals (a group of cartoon teenagers or young adults at a pool party) and the music (hip hop dance music). The Board noted the advertiser’s response that the advertisement was intended to appeal to teens and young adults. The Board considered that the advertisement’s cartoon images and dance music would be attractive to children but considered that the advertisement was more clearly directed to teenagers and young adults. The Board considered that this advertisement was not clearly directed primarily to children under 12.”

The Board had also considered case 0464/14 where:

“The Board noted the theme and visuals of the advertisement (singing animated marshmallows) and the language (deep voice, call to action). A minority of the Board considered that animated marshmallows singing a simplistic jingle amounts to an overall depiction which, consistent with its determination against 0463/14, is directed primarily to children. Following considerable discussion however the majority of the Board considered that whilst animation has become more sophisticated over the years the use of animation or animated characters in an advertisement does not necessarily mean it is directed at children (0229/11, 0190/13). The Board noted that the giant marshmallow uses a deep voice and considered that whilst the advertisement would be of appeal to a broad audience of all ages in the Board’s view this advertisement is not clearly directed primarily to children but rather is likely to be appealing to all audiences.”

In the current advertisement the Board noted the theme of describing the taste of the product and considered that this concept would be of appeal to a broad section of the community and not primarily children. The Board noted the visuals and considered that unlike in case 0493/10 which featured a pool party setting, the current advertisement features a park, a theme park and a dancing scene. The Board noted that theme parks are aimed at a broad range of the community but considered that by using animated characters riding on a roller coaster and then jumping in to a pool filled with bubbles the advertisement is targeting younger children rather than older teenagers or young adults.

The Board noted its previous decision regarding a matter for Mondelez (0247/13) where the Board found that the theme of the advertisement was sharing biscuits (the advertised product) and presented a variety of situations where sharing a biscuit leads to a different (better) outcome than might be expected based on the initial image of the cartoon character.

Similar to its decision in case 0247/13, the Board considered the theme of the current advertisement which shows the characters sipping their drink and then describing how it tastes and actions that support the flavour (eg landing in a pool of bubbles). The Board considered that the theme is not complex and, in the Board's view, young children would certainly understand the theme of a flavour tasting like something fantastical.

The Board considered the visuals of the advertisement i.e.: the group of cartoon characters shown hanging out with one another in a park. This Board noted the advertisement consists solely of cartoon images. In the Board's view the cartoon characters are intended to represent young teenagers and in the Board's view based on their own experiences with young children and teenagers, these representations are more likely to appeal to younger children who aspire to be teenagers and would consider teenagers as role models rather than being of stronger specific interest to teenagers. The Board considered therefore that the visuals of the teenage characters are visuals that are directed primarily to children under 12.

The Board noted the language used, specifically 'awesome ride' and 'bubble explosion', 'yeah' and considered that unlike the language used in case 0463/14 which was adult-like, this simple language spoken in child-like tones would be of principal appeal to younger children.

A minority of the Board agreed broadly with the advertiser's statements and considered that, although attractive to children, the overall impression of the advertisement is equally directed to an older audience.

However, the majority of the Board considered that the advertisement is more than just attractive to children and is clearly directed primarily to children. The Board considered, for the reasons outlined above regarding the visuals, language and themes that the advertisement is likely to be enjoyed by a general audience but considered that it is most attractive to and directed primarily to children under 12.

The Board considered that the advertisement includes animation, colours and images of young teens on rides, all of which appeal to child audiences and determined that the advertisement is clearly directed primarily to children under 12 and that the first part of s1.3 is satisfied.

The Board noted that as the advertisement is directed primarily to children and includes the signatory's brand, it must comply with core principle s1.1 of the AFGC RCMI.

S1.1 requires that Advertising and Marketing Communications to Children for food and/or beverages must:

a. Represent healthier dietary choices, consistent with established scientific or Australian government standards, as detailed in Signatories' Company Action Plan;

And

b. Reference, or be in the context of, a healthy lifestyle, designed to appeal to Children through messaging that encourages:

i. good dietary habits, consistent with established scientific or government standards;  
and

ii. physical activity

The Board first considered whether the product is a healthy dietary choice.

The Board noted the advertiser's response that the Company Action Plan developed pursuant to the AFGC RCMI does not include nutrition criteria used to determine healthier dietary choices for children because it is the firm policy (consistent with the Company's global policy) not to engage in direct marketing our beverages to children under 12.

The Board noted that the advertiser provided an ingredient list and a nutrition information panel for a 375ml can of Fanta. The Board sought advice relating to the nutritional content of the product and whether it would meet the criteria above relating to established scientific or Australian government standards.

The independent arbiter for the RCMI advised the Board that:

“The Company Action Plan developed by Coca Cola South Pacific pursuant to the RCMI does not include nutrition criteria for determining healthier dietary choices for children because the company has indicated that its policy is to not directly market their beverages to children under 12 years of age. In the absence of defined nutrition criteria in the Company Action Plan, the Advertising Standards Board have requested that the Arbiter provide an opinion on whether the advertised Fanta soft drink products meet the definition of a healthier dietary choice that is consistent with established scientific or Australian government standards.

The Australian Dietary Guidelines for Children and Adolescents (ADGCA) provide dietary recommendations for children and adolescents that are based on scientific evidence. A companion document, the Australian Guide to Healthy Eating (AGHE) assists with translating these recommendations into appropriate food choices. All accepted standards relating to dietary recommendations for children are based on the ADGCA and the AGHE.

Consistent with the ADGCA, the AGHE identifies soft drinks as “extra” foods that do not provide essential nutrients and, because of their high sugar content, should be consumed only occasionally and in small amounts to avoid displacing healthy foods that do provide essential nutrients. Thus, soft drinks cannot be considered a healthy food choice.

Therefore, the Fanta soft drink products that are the subject of the current complaint under the Australian Food and Grocery Council's RCMI do not meet the definition of a healthier dietary choice according to established scientific or Australian government standards.”

Based on the Board's determination that the marketing communication is directed primarily to children and the advice of the independent arbiter that the product does not represent a healthier dietary choice, the Board determined that the marketing communication breached the core principle s1.1 of the RCMI.

The Board then considered whether the advertisement complied with all relevant provisions of the Food and Beverages Code.

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 considered that the advertising of Fanta in family viewing times is not contrary to prevailing community standards and that the advertisement did not breach section 2.1 of the Food and Beverages Code.

Section 2.2 of the Food Code provides that 'advertising or marketing communication...shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered excess consumption through the representation of product/s or portion sizes disproportionate to the setting/s portrayed or by means otherwise regarded as contrary to prevailing community standards.'

The Board considered that the advertising or promotion of a beverage of a particular nutritional composition is not inconsistent with or undermining of a balanced diet or healthy lifestyles. The Board considered that the advertisement depicts characters consuming a beverage. The Board considered that the advertisement did not suggest consumption of excessive amounts of the product. The Board determined that the advertisement did not breach section 2.2 of the Food Code.

The Board considered whether the Children's Code applied.

The Board considered the definition of advertising or marketing communication. Under the Children's Code, Advertising or Marketing Communications to Children means "Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product." The Board noted that Children are defined as "...persons 14 years old or younger" and Product is defined as "...goods, services and/or facilities which are targeted toward and have principal appeal to Children."

The Board noted it had already determined the advertisement was directed primarily to children based on the theme, language and visuals used.

The Board considered whether the advertised beverage meets the definition of Product. The Board noted the advertised product is a fizzy drink, Fanta, and considered that whilst this product would be of appeal to children in the Board's view, Fanta is a product that would also be of appeal to older teenagers and young adults. The Board determined that Fanta is not a product targeted towards, and of principal appeal to, children under 14.

Finding that the advertisement does meet the criteria for Product under the Children's Code the Board considered that this Code does not apply.

Finding that the advertisement did breach the principle s1.1 of the RCMI the Board upheld the complaint.

## **THE ADVERTISER'S RESPONSE TO DETERMINATION**

Coca-Cola is committed to marketing its products responsibly. This commitment is articulated in our Responsible Marketing Policy. Specifically, we do not design marketing communications in a way that directly appeals to children under 12, nor do we place advertising in media which has more than a 35% audience composed of children. This commitment is also demonstrated by CCSP's voluntary signature of the AFGC's RCMI. We are therefore disappointed that the ASB has found that the FANTA Tastes Like television commercial, through its themes, visuals and language, is primarily directed to children. This decision is not reflective of our intention. We respect, however, the decision of the ASB and undertake not to broadcast in the TVC in Australia going forward.