



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

**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	<b>Case Number</b>	<b>0485/18</b>
2	<b>Advertiser</b>	<b>Coca-Cola South Pacific</b>
3	<b>Product</b>	<b>Food and Beverages</b>
4	<b>Type of Advertisement / media</b>	<b>Internet-Social-FB</b>
5	<b>Date of Determination</b>	<b>14/11/2018</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

RCMI 1.1 - Advertising Message AFGC - Advertising Message

## DESCRIPTION OF THE ADVERTISEMENT

This Facebook advertisement features people dressed as zombies singing and dancing in a cemetery.

## THE COMPLAINT

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

*As the practice of trick or treating is an exclusively children's focused activity, Fanta's use of lyrics which reference putting their product in your trick or treat bag is clearly a children focused strategy.*

*As the responsible children's marketing initiative states advertising should "Represent healthier dietary choices, consistent with established scientific or Australian government standards, as detailed in Signatories' Company Action Plan", this advertising clearly contravenes these guidelines as no Australian dietary recommendations or scientific evidence support the consumption of products such as Fanta.*

## 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 dated 30 October 2018 regarding a complaint received in relation to Coca-Cola South Pacific Pty Ltd's ("CCSP") FANTA Halloween video posted on Facebook. We thank you for bringing this matter to our attention and respond to the points raised as follows:*

*A description of the Advertisement*

*The video referenced in the complaint features a rapper and dancers, in a Halloween-themed rap music video. All three performers are adults, who are presented to appeal to a teenage and young adult audience. The advertisement features song lyrics in relation to the Fanta product and a Halloween theme, with a music and dance style typical of music videos targeted to teens and young adults.*

*Whether the audience is predominantly children*

*CCSP places its 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, CCSP did not place the Advertisement in any forum 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. The Advertisement the subject of this Complaint was placed on Facebook, which requires its users to confirm that they are at least 13 years of age. In addition, our paid targeting of the Facebook advertisement was directed to users aged 13-25.*

*Accordingly, the audience exposed to this Advertisement is not predominantly children.*

*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, music and language used, the Advertisement is not primarily directed to persons under 12 years of age. In particular, CCSP considers the style, lyrics, visual components and broader theme of the music video are much more mature and “spooky” than would be directed to children. Rather, it is directly primarily to teens and young adults aged between 13 – 25 years as outlined below. The filming style, the performers’ dress and makeup, the rap soundtrack and dance style similarly reinforce the young adult target audience, and is unlike the style of typical children’s programs. A digital copy of the Advertisement and a copy of the song lyrics are attached to this response.*

*The performers featured in the Advertisement are aged between 19 and 24, and were selected to represent and appeal to viewers aged 13-25. The rap was written and sung, and the video produced, by Australian artist Aaron Lee, whose audience and target market are adults with an average follower age of 27. Further, the majority of views of the Advertisement occurred among an audience aged 18-24. As such the overall target age group and actual audience of the Advertisement are teens and young adults, and not children.*

*The complainant alleges that the concept of “trick or treating” referred to in the Advertisement is a concept targeted exclusively to children, and used to advertise FANTA products to children directly. Our analysis of online and social media conversations among social media and blog users who have provided their ages indicates that this is not the case. Rather, a review of social media user ‘conversation’ indicates only 12% of these online conversations in relation to Halloween-related topics occur among an audience under 18, with the most occurring among adults aged 25-34. In particular, our research shows only 10% of conversations in relation to “trick or treat” (and variants on the phrase) occur among an audience under 18. This is supported by sales of adult sized Halloween costumes.*

*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.*

#### *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 directed 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 14 – 25 year old teens and young adults. 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 and young adult culture with an emphasis on music and dance. The performers themselves are young adults, not children.*

#### *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 Halloween Facebook Advertisement does not breach any of these codes requirements.*

*We are very happy to answer any further questions you may have and please let us know if you need more information.*

## **THE DETERMINATION**

The Ad Standards Community Panel (the "Panel") considered whether this advertisement breaches the AFGC Responsible Children's Marketing Initiative of the Australian Food and Grocery Council (the "AFGC RCMI").

The Panel noted the complainant's concern that the advertisement is directed to children and does not represent healthier dietary choices as required by the AFGC RCMI.

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

The Panel first considered the provisions of the AFGC RCMI. The Panel noted that this is a Facebook advertisement promoting Fanta in a Halloween style.

The Panel noted that the medium the subject of complaint is internet/social media, and that this falls within the scope of the AFGC RCMI.

The Panel 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 is, having regard to the theme, visuals and language used, are directed primarily to children (and are for food and/or beverage products); or
2. The placement of the advertisement or marketing communication is in a medium that is directed primarily to children, ie:
  - a. 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
  - b. where children represent 35 percent or more of the audience of the Medium.

With regards to point 1, the Panel considered the theme, content and visuals of the advertisement. The Panel noted the dictionary definition of 'primarily' is 'in the first place' and that to be within the AFGC RCMI the Panel must find that the advertisement is aimed in the first instance at children under 12.

The Panel noted the theme of the advertisement. The Panel noted that the theme of Halloween is of appeal to both adults and children. The Panel considered that the 'spooky' theme of the advertisement, set in a cemetery with zombie characters, was attractive to a range of ages including younger children, teenagers and young adults.

The Panel noted the language of the advertisement. The Panel considered that the language used in the advertisement is a rap style song, and that the music and delivery of the lyrics was not child-like and was more likely to be aimed at teenagers and young adults.

The Panel noted the visuals of the advertisement. The Panel noted that the colours are not bright or pretty, and the entire advertisement has a dark and spooky feel. The Panel noted that there is no animation or childish imagery.

The Panel noted the complainant's concern that the advertisement referenced trick-or-treating and that this is an exclusively children's focussed activity. The Panel were of the view that while trick-or-treating was an activity connected to Halloween, the reference to that activity in the advertisement was designed to connect the theme of the advertisement to Halloween, rather than trick-or-treating specifically. The Panel also considered that a drink such as Fanta is not a typical product that would be used as a trick-or-treat option.

The Panel considered that Fanta is a long established brand and product that is of appeal to both adults and children alike.



The Panel reiterated that it is essential that they consider all elements of the advertisement and to make a decision based on how all of the elements of the advertisement interact, and the overall impression that they make, in determining whether an advertisement is clearly directed primarily to children.

The Panel considered that there were no child-like concepts, words or actions in the advertisement. The Panel considered in this case that the product may be attractive to children but that the advertisement itself, based on the themes, visuals and language was attractive to both younger and older children and was not directed in the first instance to children under 12.

The Panel then considered part 2 of the RCMI Initiative in relation to internet/social. The Panel noted that Facebook requires users to be over 13 in order to create an account, and considered that the majority of children under 12 would not be using the internet unsupervised. The Panel also note the advertiser's response that the paid targeting of the advertisement was directed to Facebook users aged 13-25. The Panel determined that the placement of the advertisement within Facebook was not a medium that is directed primarily to children under 12. In line with earlier decisions, the Panel also determined that Facebook is not a medium where children under 12 make up more than 35% of the viewer audience.

Finding that the advertisement did not meet points 1 or 2 of the Initiative the Panel considered that the Core Principles of the RCMI did not apply to this advertisement.

For the reasons identified above the Panel determined that Section 3 of the Food Code, dealing with the marketing of food and beverage products to children, also did not apply.

Finding that the advertisement did not breach the AFGC RCMI the Panel dismissed the complaint.

