



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0493/10</b>
<b>2</b>	<b>Advertiser</b>	<b>Coca-Cola South Pacific Pty Ltd</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>08/12/2010</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

Advertising to Children Code 2.1 Community Standards  
Advertising to Children Code 2.15 Food and beverages  
Advertising Message AFGC - Advertising Message

### DESCRIPTION OF THE ADVERTISEMENT

At a party, an animated girl walks into a glass door and gets embarrassed when people start to laugh. She overcomes this embarrassing moment by pretending it was a mime and getting others involved.

### THE COMPLAINT

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

*Fanta advertisement – breach of the Responsible Children's Marketing Initiative of the Australian Food and Beverage Industry and the AANA Code for Advertising and Marketing Communications to Children*

*We write to complain about a television advertisement for Fanta which we consider to breach the Responsible Children's Marketing Initiative of the Australia Food and Beverage Industry (RCMI) and the AANA Code for Advertising & Marketing Communications to Children.*

*We believe the advertisement breaches the RCMI because it was shown during programs directed primarily to children and because Fanta does not represent a healthy dietary choice consistent with established scientific or Australian government standards.*

*Description of advertisement*

*Animated party. Girl with glasses acting cool crashes into a glass wall. Music beats emits from her hands when she touches the glass she dances to it and others join in. Product shot. Endline: More Fanta. Less Serious*

#### *Complaint*

*The advertisement would attract children to view it because it is bright and animated and accompanied by a catchy beat.*

*The ad has been broadcast several times during Junior Masterchef a show about children aimed primarily at children and during the Simpsons a cartoon program aimed primarily at children. Recent ratings data indicates that Junior Masterchef and The Simpsons are two of the highest rating programs for children younger than 12. The ad was also shown during the Commonwealth Games broadcast particularly in the afternoons when there are high numbers of children in the audience. It was also shown during Night at the Museum an adventure-comedy film based on a children's book.*

*Examples of when the ad was broadcast:*

*Junior Masterchef TEN Sydney 17/10 8:08pm TEN Sydney 18/10 8:21pm TVQ10 Brisbane 22/10 7:44pm*

*Commonwealth Games TEN Sydney 10/10 4:28pm 11/10 2:28pm 13/10 2:32pm 14/10 4:50pm*

*Simpsons TEN Sydney 15/10 6:08pm 17/10 6:10pm 19/10 6:07pm*

*Movie- Night at the Museum TEN Sydney 16/10 7:19pm*

*This advertisement is being broadcast during programs primarily directed to children.*

*We believe the advertisement breaches the Responsible Children's Marketing Initiative of the Australian Food and Beverage Industry as this advertisement does not "represent healthy dietary choices". The Dietary Guidelines for Children and Adolescents in Australia advise "Consume only moderate amounts of sugars and foods containing added sugars"*

*Research shows that consumption of high-sugar soft drinks such as Fanta is associated with energy intake weight gain and obesity. It is irresponsible for companies to advertise such beverages directly to children particularly at a time when a quarter of Australian children are overweight or obese.*

#### *Advertising Messaging*

*Participants will not advertise food and beverage products to children under 12 in media unless:*

*1. those products represent healthy dietary choices consistent with established scientific or Australian government standards.*

*This advertisement is also in breach of clause 2.15 (a) of the AANA Code for Advertising & Marketing Communications to Children as it encourages unhealthy drinking habits (consumption of high-sugar soft drinks). As noted above research shows that consumption of high-sugar soft drinks is associated with energy intake weight gain and obesity. The ad associates Fanta with animated characters and having fun and so encourages children to consume Fanta.*

#### *2.15 Food and Beverages*

*(a) Advertising or Marketing Communications to Children for food or beverages must neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits. We request the Advertising Standards Bureau consider whether the Fanta advertisement breaches clause 4.1 of the Responsible Children's Marketing Initiative of the Australian Food and Beverage Industry and clause 2.15(a) of the AANA Code for Advertising & Marketing Communications to Children.*

## **THE ADVERTISER'S RESPONSE**

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

*This advertisement was created specifically to appeal to teens and young adults, and plays on the awkward social situations they can find themselves in. It also represents the 'less serious' personality of the Fanta brand. This was in no way created to appeal to children under 12 years old.*

*The complainant objects to the media placement of this advertisement, namely during Junior Masterchef, the Simpsons and other programs. The audiences for all the programs mentioned in the complaint were primarily over 12 year of age.*

*The Coca-Cola Company adheres to both the AANA Marketing to Children Policy as well as its own Marketing to Children Policy (policy attached). and therefore we do not place any advertising in children's programming. We strictly adhere to not marketing any of our brands, including Fanta to children under the age of 12.*

*We thank you for contacting us regarding this advertisement however in this instance we disagree that we have contravened the code as this is an advertisement which clearly does not target children under 12 and was not placed in children's programming.*

## **THE DETERMINATION**

The Advertising Standards Board (Board) considered whether this advertisement breaches Section 2 of the AANA Advertiser Code of Ethics (the "Code"), 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 Coca Cola does not represent a healthy dietary choice.

The Board considered whether the advertisement met the requirements of the AFGC RCMI. The Board noted that under the AFGC RCMI the relevant requirement is that the company not advertise food and beverage products to children under 12 in 'media' unless those products represent healthy dietary choices. The Board noted that the advertised product Coca Cola is not a healthier dietary choice. As a result the product cannot be advertised to children under 12 in 'media'.

Media is defined as: ‘Media means television, radio, print, cinema and third-party internet sites where the audience is predominantly children and/or having regard to the theme, visuals, and language used are directed primarily to children.’

The Board also noted the recent Guideline to the RCMI Initiative which provided that advertising or marketing communication activities are captured under the RCMI Initiative if:

1. the audience of the communication activity is predominantly children (under 12);
2. the media in which the communication activity appears is clearly directed primarily to children (under 12)
3. The communication activities are, regardless of the audience, clearly directed primarily to children under 12.

The Board also noted that under the Guideline ‘the key to determining whether the media or communication activities are directed to children is whether the themes, visuals, language and concepts are those that are attractive to children under 12.’ The Board noted, however, that while useful in determining whether the advertisement is directed to children, the requirement is that the advertisement is ‘clearly directed primarily’ to children.

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.

In particular, the Board noted that the complaint indicates that the television programme in which the advertisement was broadcast was ‘The Simpsons.’, Junior MasterChef, the Commonwealth Games and the movie ‘Night at the Museum’. The Board noted previous decisions where it has determined that the programmes specifically mentioned ‘The Simpsons’, ‘Junior MasterChef’ and the Commonwealth Games are programmes which are seen by children under 12, and indeed may be popular with children under 12, but are programmes that do not have an audience of ‘predominantly’ children and are not primarily directed to children under 12.

The Board particularly noted the viewing of the advertisement during the movie ‘Night at the Museum’. The Board noted that this movie is based upon on a children’s book. The Board noted the viewing audience for this movie was 26% under 12s. The Board considered that the movie is not, under the requirement of the AFGC RCMI, a movie that is clearly directed primarily to children under 12. In the Board’s view the movie is designed to be appealing to and enjoyed by adults and children – although there is a significant percentage of under 12s viewing the programme.

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 that the revised guidelines require that the Board also consider whether the ‘communication activities are, regardless of the audience, clearly directed primarily to children under 12’.

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. 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.

On balance, the Board considered that the visuals, language and theme of this advertisement create an overall impact of this advertisement that is not specifically directed or designed to be clearly directed primarily to children under 12.

On this basis, the Board determined the advertisement is not broadcast within ‘media’ as provided by the RCMI and that the advertisement does not breach the RCMI Initiative.

The Board then considered whether the advertisement complied with the requirements of the AANA Code for Advertising and Marketing Communications to Children (the Children’s Code). To fall within this Code, or Part 3 of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food and Beverages Code), the advertisement must be ‘having regard to the theme, visuals and language used [...] directed primarily to children and are for product.’

The Board first considered whether the advertisement is directed primarily to children. The Board noted the practice note for the Food and Beverages Code which requires that ‘in its determination of whether any advertising or marketing communication is directed toward children, the Board will apply the same criteria as used in considering complaints under the [Children’s Code]. The Board will consider the advertiser’s stated intent but will also make an evaluation based on its own review of the advertising or marketing communication material and the product being promoted.’

For the same reasons as noted in relation to the RCMI Initiative above, the Board agreed that the advertisement is not, in the terms of the Children’s Code, ‘directed primarily at children.’

The Board then considered whether the product is ‘a good that is targeted to and of principal appeal to children’ as required by the Children’s Code. The Board considered that Fanta is a

beverage that is targeted to older children/teenagers and young adults and not of principal appeal to children aged 14 or younger.

The Board therefore considered that the Children's Code and Part 3 of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food and Beverages Code) do not apply to this advertisement.

The Board then considered whether the advertisement complied with all relevant provisions of the Food and Beverages Code, in particular whether it encouraged excess consumption in accordance with section 2.2 of the Food Code.

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.

Under section 2.2 the '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 is not inconsistent with or undermining of a balanced diet or healthy lifestyles. The Board considered that the advertisement depicts a group of people at a party consuming the 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.

Finding that the advertisement did not breach the AANA Code of Ethics, Children's Code, Food Code or AFGC RCMI, the Board dismissed the complaint.