

Case Report

1. Case Number :	0147-25
2. Advertiser :	Lactalis Australia Pty Ltd
3. Product :	Food/Beverages
4. Type of Advertisement/Media :	Billboard
5. Date of Decision:	23-Jul-2025
6. Decision:	Dismissed

ISSUES RAISED

AANA Advertising to Childrens Code\2.1 Prevailing Community Standards
AANA Code of Ethics\2.5 Language

DESCRIPTION OF ADVERTISEMENT

This billboard advertisement features a white teddy bear and a carton of OAK milk. The teddy bear has a pixelated hand with one finger up. The words "Give winter the finger. Heat your OAK" are also featured.



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

*The use of known a children's toy (big friendly white cuddly teddy bear with a raised middle finger that communicates to "f*** off!"
Children will be attracted to the toy and those in primary school who can read and understand the gesture may believe that this aggressive communication is socially acceptable.*

This is subversive and disrespectful and is discrimination towards children and where adults have not considered the negative impact it may have on children. Where adults are responsible in the best interest of children to do no harm. Children have the right to be protected from violent and abusive behaviour such as this advertisement. With an emotionally safe environment to live in. Children have the right to live without exploitation and corruption of items that they associate as belonging to children and in children's lives. Plus this sign is within 200 meters of a kindergarten, a primary school and a major road used by the community to commute their children to and schools. Very inappropriate and offensive with a lack of respect for our community.

THE ADVERTISER'S RESPONSE

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

Lactalis Australia Pty Ltd (Lactalis) respectfully submits that the out-of-home billboard advertisement (Billboard) for OAK does not breach Section 2 of the AANA Code of Ethics or the AANA Code for Advertising and Marketing Communications to Children.

1. Campaign context and description of the advertisement

The Billboard is part of the OAK Winter campaign, a continuation of the brand's long-standing irreverent tone and a new iteration of its Winter campaign. It features an OAK white bear character lying on its side against a red background. The bear is depicted wearing a bow tie, a visual cue that reinforces its stylised, satirical character and distinguishes it from a typical children's toy. The bear makes a pixelated gesture with its paw, consistent with the gesture used in OAK's 2020 Masterbrand TVC. The headline "Give Winter the Finger" continues the campaign's cheeky tone, evolving from the 2024 tagline "Grab Winter by the Warm and Furrles." In front of the bear is a 600 ml carton of OAK Chocolate Milk, and to the bottom right is a call to action "Heat Your OAK," accompanied by an image of a red mug. The creative is designed to be humorous, irreverent, and clearly targeted at adults.

2. Lactalis comprehensive comment in relation to the complaint

Lactalis rejects any suggestion that the Billboard breaches the following provisions of the AANA Advertising Code of Ethics (Ethics Code):

- 2.1 - Discrimination or vilification;*
- 2.2 - Exploitative or degrading;*
- 2.3 - Violence;*
- 2.4 - Sex, sexuality and nudity;*
- 2.6 - Health and safety;*
- 2.7 - Distinguishable as advertising.*

a. *Language (Section 2.5)*

Section 2.5 of the Ethics Code states:

"Advertising or Marketing Communication shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided."

The phrase "Give Winter the Finger" is a metaphorical and humorous expression of frustration with cold weather. It does not contain strong or obscene language, nor does it use explicit language, rhyming or substitute words for profanity. The phrase is widely understood in the Australian vernacular and is used here in a light-hearted, non-aggressive manner. The subject of the phrase is the season of winter, not an individual, making the tone irreverent rather than aggressive or demeaning.

This approach aligns with the precedent set in the Ad Standards Case Report for KFC (0351/18, August 2018), where a billboard advertisement for a food product that used the phrase "Cluck yeah" was found not to breach section 2.5. As in that case, any perceived obscenity in the OAK Billboard is implied rather than explicit and not offensive in context.

The gesture made by the bear is intentionally pixelated, rendering it ambiguous and non-specific. The bear is clearly stylised and does not have fingers or claws. Its paws are rounded and indistinct. The pixelation ensures that the gesture is not explicit and leaves its interpretation open to the viewer.

The accompanying Practice Note to section 2.5 of the Ethics Code states that:

"Advertising which sufficiently beeps or censors' language so that it cannot be understood will not be seen to be strong or obscene language."

This principle applies equally to visual representations. The gesture is not directed at any person or group and may be interpreted in a number of ways, including:

- 1. Gesturing a "talk to the hand" motion;*
- 2. Pointing or motioning away from itself;*
- 3. Waving or gesturing goodbye;*
- 4. Clenching its paw in frustration*
- 5. Striking a playful or exaggerated pose*
- 6. Or conveying something else entirely.*

The ambiguity is deliberate and consistent with the brand's established tone.

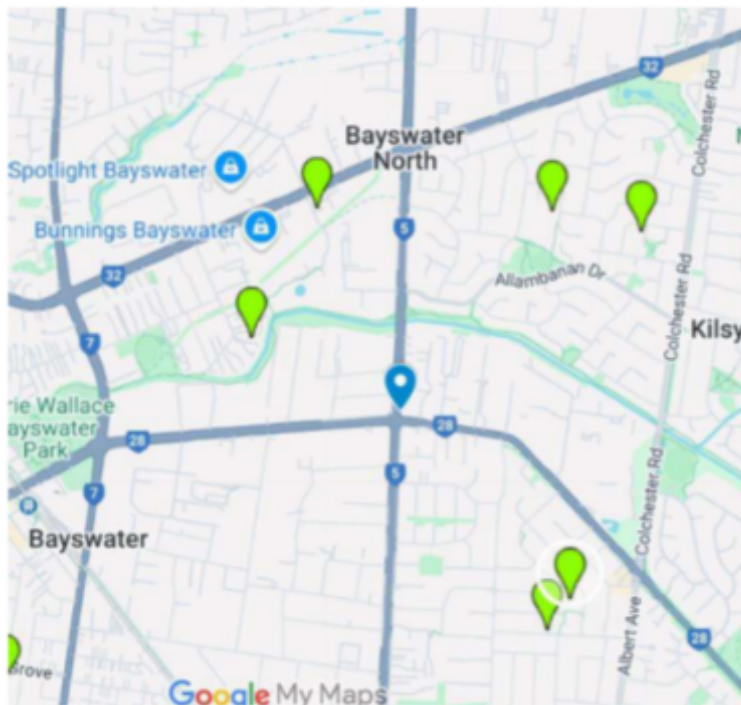
b. *Children Code- Section 2.1*

Expected Average Audience

The Billboard, marked by the blue pin on the accompanying map, is located on a public main road and is intended for a general audience. Surrounding schools, kindergartens, and childcare centres (green pins) are all situated at least 600 metres away, well beyond the Outdoor Media Association's (OMA) 150-metre sightline restriction for occasional food advertising. The average audience of a main road does not include a substantial proportion of children under 15.

Lactalis, in coordination with its media buyer, takes deliberate steps during the media planning and buying process to ensure advertising placements are targeted to audiences aged 18-54.

This reflects our commitment to responsible advertising and ensures alignment with our intended adult audience.



Is the Advertisement targeting Children under the age of 15?

The Billboard is not directed at children under 15. While teddy bears are familiar to all age groups, the bear in this advertisement is stylised, sarcastic, and clearly part of a campaign aimed at adults. The creative tone, language, and messaging are consistent with OAK's irreverent brand identity, which is designed to appeal to adults. The call to action "Heat Your OAK" and the visual of a steaming mug further reinforce adult consumption habits, as heating beverages is not typically associated with children's preferences or behaviours.

Is the Product of Significant Appeal to Children?

OAK Chocolate Milk is not a product of significant appeal to children. While chocolate milk may be consumed by all age groups, OAK's 600 ml format, bold flavour profile, and brand positioning are designed for adult consumers aged 18 and over. Lactalis offers other chocolate milk products such as Pauls Bluey Chocolate Milk, that are specifically targeted at children. The OAK brand, by contrast, is positioned as a full-flavoured, indulgent beverage for adults.

Even if the Children's Code were to apply, the Billboard does not breach prevailing community standards. The tone is humorous, not harmful, and the creative execution is consistent with responsible advertising practices.

Lactalis acknowledges the complainant's concerns regarding the use of a teddy bear and the interpretation of the gesture. However, the bear's design, tone, and context clearly indicate that it is not a children's character, but a satirical brand mascot used consistently in OAK's adult-targeted campaigns since 2012. The gesture is pixelated and ambiguous, and the phrase "Give Winter the Finger" is not obscene, but a colloquial, metaphorical expression understood in Australian culture.

The advertisement does not promote aggression or disrespect toward children or any group. It is not exploitative, violent, or unsafe, and does not encourage inappropriate behaviour.

Conclusion

Lactalis respectfully submits that the Billboard does not breach the AANA Advertising Code of Ethics nor the AANA Children Code. The advertisement is clearly targeted at adults, uses humour in a non - aggressive manner, and aligns with the OAK brand's established tone. We respectfully request that the complaint be dismissed.

THE DECISION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Children's Advertising Code (The Children's Code) or Section 2 of the AANA Code of Ethics (the Code)

The Panel noted the complainant's concern that the advertisement targets children and features inappropriate language.

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

The Panel noted that for the provisions of the Children's Code to apply, the advertisement must be found to target children under 15 years of age.

Does the advertisement target children?

The Panel noted that the Children's Code defines "target children" as:

"Target Children is determined by the context of the advertisement and the following three criteria:

- 1. Nature and intended purpose of the product being promoted is principally or significantly appealing to Children;*
- 2. Presentation of the advertisement content (e.g. theme, images, colours, wording, music and language used) is principally appealing to Children;*
- 3. Expected average audience at the time or place the advertisement appears includes a significant proportion of Children."*

The Panel noted that the Practice Note provides guidance on the interpretation of "target children":

"All three criteria will be considered by the Community Panel in determining whether or not advertising targets Children. The weighting given by the Community Panel to each of the three criteria will be determined on a case by case basis. In the event of a complaint being considered by the Community Panel, the advertiser should be in a position to provide details in terms of the nature and intended purpose of the product, the presentation of the advertisement content and the expected average audience at the time or place the advertisement appears.

"In relation to the third criteria, measures to determine if Children are likely to be a 'significant proportion' of the expected average audience may include one or a combination of the following:

- Compliance with the Outdoor Media Association Placement Policy and Health & Wellbeing Policy which regulate the placement of advertising at primary and secondary schools which are locations where Children regularly and predictably gather. Where accurate program audience data is not available, the Community Panel may have regard to other factors listed above such as the program content, the time or the location where the advertisement is being shown (in line with the above provision)."*

Point 1: Is the nature and intended purpose of the product principally or significantly appealing to children?

The Panel considered that the advertised product is chocolate milk. The Panel noted that the large size of the carton, and the milk brand is more likely to target an adult audience, however considered that the nature of the product would still be significantly appealing to children.

Point 2: Is the content of the advertisement principally appealing to children?

The Panel considered that teddy bears are generally associated with children, and would likely be likely to attract the attention of children. However, the Panel considered that teddy bears also have nostalgic appeal to adults, and the humour of a rough or offensive bear is likely to attract the attention of adults. The Panel considered the theme of heating the chocolate milk product up in winter is likely to appeal to both adults and children.

The Panel considered that overall, the advertisement was likely to have equal appeal to both adults and children, and was not principally appealing to children.

Point 3: Does the expected average audience of the advertisement include a significant proportion of children?

The Panel noted that the outdoor advertisement was placed in accordance with the OMA Placement Policy, and although children would see the advertisement, the audience for the advertisement would not include a significant proportion of children.

Targeting children conclusion

The Panel considered that:

- the product would have significant appeal to children
- the content of the advertisement was not principally appealing to children
- audiences for the advertisement would not include a significant proportion of children.

The Panel therefore found that the advertisement did not target children and the provisions of the Children's Code do not apply.

Code of Ethics Section 2.5: Advertising shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

The Panel noted the Practice Note for this section of the Code includes:

"Words and phrases which are innocuous and in widespread and common use in the Australian vernacular are permitted provided they are used in a manner consistent with their colloquial usage, for example with gentle humour, and not used in a demeaning or aggressive manner."

The Panel noted that the teddy bear's hand was pixelated, and the gesture itself could not be seen. The Panel considered that while the phrase "give winter the finger"

strongly implied that the bear was sticking his middle finger up, neither the gesture or the phrase was used in a demeaning or aggressive way.

The Panel considered that the advertisement used language which was appropriate to the circumstances, and which was not strong or obscene.

Section 2.5 conclusion

The Panel considered that the advertisement did not breach Section 2.5 of the Code.

Conclusion

Finding that the advertisement did not breach any other section of the Children's Code or the Code of Ethics the Panel dismissed the complaint.