



Summary of Outcome

On 4 December 2008, the OPC, Australian Dental Association and Parents Jury lodged a complaint with the Australian Competition and Consumer Commission (ACCC) regarding Coca-Cola's 'Myth Busting' advertisement that appeared in a number of Australian newspapers, magazines and on the internet. The complaint alleged that the claims made in Coca-Cola's 'myth busting' campaign (that it is a myth that Coca-Cola 'makes you fat', 'rots your teeth' and is 'packed with caffeine') created an overall misleading and false impression that Coca-Cola is not an unhealthy product in breach of section 52 (misleading and deceptive conduct) and sections 75AZC(1)(a) and (e) (false and misleading representations) of the *Trade Practices Act 1974*.

The ACCC took action in response to this complaint and today announced a court enforceable undertaking entered into by Coca-Cola South Pacific Pty Ltd (Coca-cola) which has the following elements and requirements.

The ACCC's view

The ACCC took the view that the advertisements *were likely* to be misleading and deceptive to consumers (within the meaning of s.52 of the Trade Practices Act) by representing that:

- Coca-cola cannot contribute to weight gain;
- Coca-cola cannot contribute to tooth decay;
- 250ml of Diet Coke contains only half of the amount of caffeine as that contained in 250ml of tea'
- a response parent can include Coca-Cola in a family diet without any regard whatsoever for the potential for weight gain or tooth decay arising from consuming Coca-Cola

Undertaking given by Coke

1. For the next three years Coca-Cola will not make representations that:

- that consumption of Coca-Cola cannot contribute to weight gain unless that claim can be substantiated;

- that consumption of Coca-Cola cannot contribute to tooth decay or that tooth decay is declining globally, unless the particular claim made can be substantiated;
- that 250ml of the Coca-Cola Product bearing the brand name "Diet Coca-Cola" contains only one half of the amount of caffeine as that contained in a cup of tea, without further qualification, unless that claim can be substantiated.

2. It will publish a corrective advertisement in every publication in which the ad was published - (The Australian, Sydney Morning Herald, The Age, Brisbane Courier Mail, Adelaide Advertiser, Perth West Australian, Hobart Mercury). The ad must be placed in a position of equal prominence and be equal in size as the Coke advertisement that was published in the relevant newspaper, it must also be in colour. The corrective advertisement must also be placed on the www.makeeverydropmatter.com.au website for 28 days.

3. Coca-Cola will have its procedures, as they relate to advertising and promotion for their products, reviewed by a law firm with trade practices expertise. This review must be conducted in 3 months and Coke must act on any reasonable and appropriate recommendations. It will also ensure that in future its advertising is approved by the heads within Coca Cola

The undertaking and corrective advertisement are available at <http://www.accc.gov.au/content/index.phtml/itemId/867216> . Key things to note in relation to the advertisement is that Coca-Cola do not admit that their conduct was misleading. They state that their ad 'should have been clearer". They also maintain that it can be consumed as part of a "balanced and sensible diet combined with an active lifestyle" (i.e. as opposed to a 'healthy' diet). i think the comments regarding kilojoules in Coca-Cola and its impact on tooth decay and erosion could have been stronger but overall the corrective advertisement is very good. It is great that it is in colour and has the Coke bottle on it.