



Case Report

1	Case Number	0326/10
2	Advertiser	Kellogg (Aust) Pty Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	11/08/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

Advertising to Children Code 2.1 Community Standards

DESCRIPTION OF THE ADVERTISEMENT

A school boy asks his friend, Warren, if he has a Kellogg's LCM bar in his lunchbox. Warren replies that he does, and if his friend can guess which kind, he will share the bar with him. The friend then runs off to ask all the other children on the school playground to help him guess which kind of bar it is and we see the children writing up lists of names for those voting for each kind of bar.

Warren opens his lunch box and it turns out his friend guessed correctly. The voiceover then describes the LCM bars and we see images of the different types of bars available.

THE COMPLAINT

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

The ad depicts children running bookies totes i.e. like horse racing where the other children can bet on who will get what flavour of LCM. I object to having children involved in gambling of any kind and to show children running a tote is not acceptable. I have called Kellogg's to voice my concerns but was met with stony silence

i feel that this particular advert portrays gambling onto minors i feel that as the advert was in a school environment gambling should not be seen in any circumstance

This ad has one child asking another what type of Kellogg's LCM they have in their lunch box. The other child answers that if you can guess I will share it with you.

The first child then asks all the other children which LCM they think he has. The ad then shows children writing on horse betting tote boards which LCM they think he has.

I find this ad offensive in portraying children pretending to bet on what food another child has. In a society where gambling is becoming an epidemic I thought the answer was to discourage people from betting not advertising children acting out betting. I feel this ad needs to be removed from being aired anywhere not only for children but adults.

THE ADVERTISER'S RESPONSE

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

Kellogg does not believe that the Advertisement is in breach of the Advertiser Code of Ethics or in breach of the AANA Food & Beverages Advertising & Marketing Communications Code.

Kellogg does not believe that the Advertisement comes within the Children's Code however if the Board takes the view that the Advertisement does come within the scope of the Children's Code, the Advertisement is not in breach of that Code.

Section 2 of Advertiser Code of Ethics and Section 2.1 of the Children's Code

Kellogg does not believe the Advertisement comes within the Children's Code because the theme, visuals and language of the Advertisement is not directed primarily to children, rather the theme, visuals and language of the Advertisement is directed primarily to the main grocery buyer. Kellogg refers to the use of the words "With the goodness of puffed grains of rice, Kellogg's LCMs range of lunchbox treats will keep your kids guessing in the best way possible". Kellogg notes that the overall aim of the Advertisement is to grab the attention of the main grocery buyer who purchases school lunch box treats for the purposes of promoting the variety and range of LCMs. Kellogg also notes that the media buy for the Advertisement is restricted to grocery buyers with kids aged 5 to 12. If, however the Board takes the view that the Advertisement does fall within the Children's Code, Kellogg does not believe that the Advertisement is in breach of the Children's Code. The Advertisement does not breach section 2 of the Children's Code and in particular does not breach section 2.1 (as alleged by the Complainant).

This is because the guessing competition which is the basis of the storyline of the Advertisement does not depict children gambling or running bookies totes or placing bets on which LCM flavour will appear in Warren's lunch box. Gambling generally involves playing games of chance for money, especially for high stakes, with one of three results for the bettor: return of initial investment or return of initial investment plus additional monies or loss of initial investment. At no point in the Advertisement do any of these actions take place. Instead Children are registering on the voting boards their name (first name only) as to which LCM bar they think will be in Warren's lunch box for the sole purpose of assisting James incorrectly guessing which LCM bar is in Warren's lunch box.

The game which the children are playing is a guessing competition for no reward and without any initial investment. The only reward that might arise is if James correctly guesses the LCM bar in Warren's lunch box as Warren has promised James to share the LCM bar with him if James guesses correctly.

This is supported by the following language of the children who are taking registrations by way of the LCM coloured tallyboards:

- "vote 1 Kaleidos"*
- "Who says Split Stix?"*

- "Choc Chip is a hit",
as well as the following visuals:
- 6 coloured tally boards consistent with the LCM variant for example purple for Kaleidos and Brown for Choc.Chip;
- The tally boards showing the voter's first name; and
- The person taking the registrations for each of the LCM bars is wearing a coloured hat consistent with the coloured tally board.

Kellogg does not believe that the delivery of the guessing competition is depicting children gambling or encouraging children to gamble and consequently Kellogg does not believe that the conduct of the guessing competition is contrary to prevailing community standards.

Kellogg also notes that the Children's Code requires that advertisements to children must neither encourage nor promote an inactive lifestyle or unhealthy eating habits and must not portray images or events which depict unsafe situations or encourage children to engage in dangerous activities. The Advertisement does not breach these prohibitions.

The Advertisement is a creative fun way of advertising, by way of a guessing competition, to the main grocery buyer of a household with school children that there are 6 choices of LCMs bars from which they could purchase a lunch box treat.

Kellogg takes compliance with the Codes very seriously. Kellogg looks forward to receiving the Board's determination with regard to the Complaint.

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code") and the Code for Advertising and Marketing Communications to Children (the Children's Code).

The Board noted the complainant's concern that the advertisement depicted children gambling.

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

The Board firstly needed to determine whether the advertisement is "Advertising or marketing

Communications to Children", which is defined in the Children's Code and Food and Beverages Code as meaning:

"Advertising or marketing communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product". "Children" are defined in the Codes as being 14 years old or under.

The Board then considered whether the advertised product is 'goods...which are targeted toward and have principal appeal to children.' The Board considered the look, theme and visuals of the advertisement. The Board noted the advertiser's response that their intended audience for the advertisement is the main grocery buyer and noted the media placement schedule for the advertisement which indicates that the advertisement is not shown in

programming likely to be attractive to children. The Board noted that although the advertisement features children, the wording used in the advertisement is directed at adults. The Board considered that the advertisement is not targeted towards children, and so in this instance the Children's Code is not applicable.

The Board then considered whether the advertisement complied with section 2.6 of the Code which requires that advertisements not depict material that is 'contrary to prevailing community standards on health and safety.'

The Board considered that the children in the advertisement are taking part in a guessing game. The Board noted that there is no exchange of money, and the children are not offered any prizes for guessing correctly, except for the main child who is offered a share of the LCM Bar should he guess correctly which flavour it is. The Board considered that the advertisement does not depict or strongly suggest gambling.

For these reasons the Board found that the advertisement does not breach section 2.6 of the Code.

Further finding that the advertisement did not breach the Code on any other grounds, the Board dismissed the complaint.