



## Case Report

1	Case Number	0299/16
2	Advertiser	Mondelez Australia Pty Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	Internet-Social-FB
5	Date of Determination	27/07/2016
6	DETERMINATION	Dismissed

### ISSUES RAISED

Food and Beverage Code 2.2 - healthy lifestyle / excess consumption  
Advertising to Children Code 2.14 Food and beverages  
RCMI 1.1 - Advertising Message AFGC - Advertising Message

### DESCRIPTION OF THE ADVERTISEMENT

This animated advertisement features a male voice over describing a story about two best friends - Cadbury Dairy Milk and Oreo cookies. We see a square of Dairy Milk walking along a path and looking at happy couples - ducks, fish, people playing volleyball. The Dairy Milk's emotions are expressed via emojis which appear in a thought bubble above its head. We then see an Oreo cookie roll in to the square of Dairy Milk. The Oreo cookie also has a thought bubble and we see a happy emoji in both the Oreo cookie and the Dairy Milk's thought bubbles. We then see the Dairy Milk and Oreo cookie hanging out together at the beach, at a sports event, camping, and climbing the Harbour Bridge before the final scene shows them both being eaten by a woman. The on-screen text reads, "Double the yum! Double the fun!" and we see an image of the new Dairy Milk Oreo chocolate bar.

### THE COMPLAINT

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

*The advertisement has been viewed more than 2 million times on Facebook. The advertisement can be viewed at the following link:  
<https://www.youtube.com/watch?v=HrhHtDtZw20>. There is also a shorter version of the same advertisement, here: [https://www.youtube.com/watch?v=w7wcGp20\\_a8](https://www.youtube.com/watch?v=w7wcGp20_a8). This*

*complaint is about both versions of the advertisement.*

*The full-length advertisement is an 80 second film clip depicting a story of friendship and adventure between a square of Cadbury chocolate and an Oreo biscuit. The advertisement begins with a voice saying “here’s a little story of two best friends” and a single square of chocolate wandering away from an open pack being eaten by someone sitting on the ground. An Oreo biscuit runs into the chocolate and together they embark on various childhood activities – going to the beach, attending a sporting match, climbing up the Sydney Harbour Bridge and camping. As they travel along a kitchen bench, both the chocolate and the Oreo are snapped together and eaten. The advertisement concludes with the tagline ‘Double the yum! Double the fun!’ and a shot of a Cadbury Oreo block.*

*Throughout the advertisement emoticon bubbles pop up to tell viewers how the characters are feeling. The chocolate initially shows negative emotions, these change to smiles of happiness when the chocolate and Oreo meet. During the adventures shown, the chocolate and Oreo experience different emotions; happiness at the beach, cheering at the sporting match, fear at an unknown figure in the tent and surprise at seeing someone in the kitchen.*

*As well as this main advertisement, Cadbury has released smaller extracts of the original film onto its Facebook page accompanied by competitions based on parts of the advertisement – asking viewers to write 100 words or less explaining why a chosen friend is a “favourite camping buddy”, “great sporting companion”, “best beach buddy” or has shared the “best karaoke moment”. Cadbury has also extended the campaign with outdoor billboards, radio advertisements and television commercials partnered with Woolworths.*

*Reasons for complaint*

*1. The advertisement breaches the RCMI*

*The Obesity Policy Coalition (OPC) submits that this advertisement breaches the Responsible Children’s Marketing Initiative (RCMI). As a signatory to the RCMI, Mondelez has committed not to advertise its products to children under 12 years in media unless those products represent healthier dietary choices, consistent with established scientific or Australian government standards.*

*In our submission the advertisement breaches clause s1.1 of the RCMI because: -*

- 1. It is a communication directed primarily to children;*
- 2. Cadbury Dairy Milk chocolate with Oreo does not represent a healthier dietary choice consistent with established scientific or Australian government standards; and*
- 3. It does not promote healthy dietary habits or physical activity.*

*The advertisement is a marketing communication directed primarily to Children*

*The RCMI applies to material that is published or broadcast on television, radio, print, cinema and internet sites. This advertisement has been published on the internet sites Facebook ([www.facebook.com](http://www.facebook.com)) and YouTube ([www.youtube.com](http://www.youtube.com)) and therefore the RCMI applies.*

*This advertisement is, on any common sense view of its themes, visuals and language, a marketing communication directed primarily to children, within the meaning of the RCMI.*

*The Board is requested to carefully consider the following features, which the OPC argues conclusively establish the advertisement is directed primarily to children:-*

*1. Although use of animation is not, of itself, determinative on the issue of whether an advertisement is directed to children, the advertisement uses a simple, playful and whimsical animation style that would have primary appeal to children.*

*2. The theme of the advertisement is a childlike story of “best friends” going on fun and exciting adventures together, and shows the characters engaging in typical children’s activities, including building sandcastles at the beach, watching sport and talking by torchlight while sharing a tent with a friend.*

*3. The scenes are depicted from the point of view of the childlike characters looking onto the adults’ world, for example watching the football game from under the bench, travelling along a car dashboard and sneaking along the kitchen bench. There is a sense of children conspiring to defy authority as they whisper conspiratorially in the tent. This depiction is likely to appeal to children who see the world from a different perspective to adults, similar to the perspective experienced by the characters in the advertisement.*

*4. The advertisement clearly encourages child viewers to imagine themselves participating in fantastic, magical adventures such as climbing the Sydney Harbour Bridge, associating fun and imagination with the consumption of the product.*

*5. The advertisement is presented as a reading of a children’s story with narrator speaking very slowly and simply, and beginning the story with the opening words “Here’s a little story about two best friends.” It is a story with a simple uncomplicated plot structure that would appeal to children.*

*6. The language used in the product tagline is simplistic language that would appeal to children: ‘Double the yum! Double the fun!’.*

*These highly evocative aspects of the advertisement will strongly appeal to children’s sense of adventure, playfulness and friendship. The advertisement makes no appeal to parental or adult interests, directing its themes, visuals and language specifically at children.*

*The placement of the advertisement also supports a conclusion that it is directed primarily to children. The advertisement is currently available on Facebook and YouTube, both sites commonly used by children. A 2013 report into young Australians’ experience of social media found that YouTube was the most popular social network with children aged 8 to 11, with half of 8-9 year olds (53%) and seven in ten 10-11 year olds (69%) having used it and 60 per cent of 10-11 year olds having used it in the last four weeks (reference: Australian Communications and Media Authority ‘Like, post, share: Young Australians’ experience of social media’, 2013. Accessed at*

*[http://www.cybersmart.gov.au/About%20Cybersmart/Research/~/\\_/media/Cybersmart/About%20Cybersmart/Documents/Newspoll%20Quantitative%20Like%20Post%20Share%20%20final%20PDF.pdf](http://www.cybersmart.gov.au/About%20Cybersmart/Research/~/_/media/Cybersmart/About%20Cybersmart/Documents/Newspoll%20Quantitative%20Like%20Post%20Share%20%20final%20PDF.pdf)). The report also shows the popularity of Facebook with children, despite its*

*policy of restricting access to those aged over 13 years, with 16 per cent of 8-9 year olds and 31 per cent of 10-11 year olds having used it.*

*As explained above, Cadbury has extended the campaign to include competitions, radio advertisements, outdoor billboards and a television commercial partnered with Woolworths. In our view, these additional advertisements, in particular those on billboards, television and radio, will be seen or heard by children and may motivate children to view the advertisement online. This is likely to extend the reach of the advertisement to more children.*

*Cadbury Dairy Milk with Oreo does not represent a healthier dietary choice*

*Cadbury Dairy Milk with Oreo is a chocolate confectionary product and can in no way be considered a healthier dietary choice. The Australian Guide to Healthy Eating shows chocolate as one of the foods that should be consumed only sometimes and in small amounts. This is supported by the Australian Dietary Guidelines, which recommend that foods containing saturated fat, added sugar and added salt should be limited. The World Health Organization (WHO) also supports the limited intake of sugar, recently releasing updated guidelines regarding the health impacts of sugar consumption and recommending daily sugar intake be reduced to 10% of daily dietary intake and ideally, for the best health outcomes, to 5% (reference: World Health Organization 'Guideline: Sugars intake for adults and children'. Geneva, 2015.).*

*Cadbury Dairy Milk with Oreo is approximately 45% sugar and close to 30% fat. It is not a healthy food choice for children, and does not represent a healthier dietary choice consistent with prevailing government standards. Consumption of energy dense, high-sugar products such as Cadbury Dairy Milk with Oreo can contribute to weight gain and obesity in children. It is not appropriate to promote a product so high in sugar and fat to children for consumption, particularly at a time when 27.4% of Australian children ages 5-17 are overweight or obese (reference: Australian Bureau of Statistics, Australian Health Survey: First Results, 2014-2015).*

*Mondelez's RCMI Company Action Plan says it will only advertise products to children between 6 and 12 years of age in accordance with its Sensible Solution nutritional criteria. The criteria break down food products into categories, assigning each category nutritional criteria it must meet before qualifying as a "Sensible Solution". The criteria Mondelez applies to chocolate, however, is not clear. There is no category for confectionary or chocolate, and other categories, such as dessert or salty snacks, do not appear appropriate. We argue that regardless of how Mondelez categorises chocolate within its own nutritional guidelines, it cannot demonstrate that chocolate is a healthier dietary choice consistent with established scientific or Australian government standards.*

*We note that in addition to the action plan made under the RCMI, Mondelez's global approach to marketing to children is that, as of 1 January 2016, it will not advertise its products in any media primarily directed to children aged under 12, irrespective of the product's nutritional profile (reference: Mondelez International, 'empower through information' accessed at <http://www.mondelezinternational.com/well-being/mindful-snacking/empower-through-information>). Mondelez says this covers any advertising where 35% or more of the total viewing audience is under the age of 12 and applies to advertising in TV, print, radio, internet (its own and third party websites) and more.*

*The advertisement does not promote good dietary habits or physical activity*

*Even in the case of a product that represents a healthy dietary choice, the RCMI provides that Mondelez may only advertise the product to children if the advertising and/or marketing communication activities reference, or are in the context of, a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages:*

- 1. Good dietary habits, consistent with established scientific or government criteria; and*
- 2. Physical activity.*

*The Board has previously noted, in its decision 0454/11, that merely omitting any references to unhealthy eating choices is not sufficient to discharge this obligation. It is quite clear that the advertiser is required to positively encourage good dietary habits and physical activity, which Mondelez has failed to do in this advertisement.*

*The advertisement does not positively encourage good dietary habits as the only food or drink shown to be consumed is chocolate. A bowl of fruit can be seen on a bench towards the end of the advertisement, however we submit that this is not sufficient to encourage good dietary habits. We note the Board's previous finding in its decision 0144/13 that "...the depiction of a healthier choice product on a kitchen bench does not necessarily encourage good dietary habits".*

*We also submit that the advertisement does not positively encourage physical activity. The Board has previously found that mere suggestion of "adventure" in advertising does "not amount to an implication or encouragement of physical activity" (decision 0454/11). Consistent with that approach, we submit that although the advertisement showing the characters embarking on a series of adventures may promote "fun", it does not meet the test of positively promoting physical activity. Although the characters are depicted engaging in a number of different activities, there is no depiction of any significant physical activity, other than climbing the Sydney Harbour Bridge. In our view these scenes encourage or show adventure rather than physical activity suitable for children, as climbing a bridge would not be physical activity that could be safely engaged in by children.*

*Request for action*

*For the above reasons, the OPC asks the ASB to request that Mondelez withdraw the Cadbury Daily Milk with Oreo advertisement immediately on the basis that it breaches the RCMI.*

- 2. The advertisement breaches the Code for Advertising & Marketing Communications to Children*

*The OPC submits that this advertisement breaches clause 2.14 of the Code for Advertising & Marketing Communications to Children (Children's Code) because:*

- 1. It is an advertising or marketing communication to children, and*
- 2. It encourages and promotes unhealthy eating habits*

*The advertisement is an advertising or marketing communication to children*

*The Children's Code applies to material that is published or broadcast on any medium, including the internet and outdoor media. This advertisement has been published on the internet sites Facebook (www.facebook.com) and YouTube (www.youtube.com) and therefore the Children's Code applies.*

*This advertisement is, on any common sense view of its themes, visuals and language, an advertising or marketing communication to children, within the meaning of the Children's Code. Please refer to the analysis above under the RCMI for the factors that mean the advertisement is directed at children. We also wish to highlight the following factors listed in the Children's Code Practice Note:*

- 1. The product, being a Cadbury chocolate with Oreo biscuit combination, would primarily appeal to children as it is a simple combination of two sweet discretionary foods, one of which is positioned as a biscuit aimed at children.*
- 2. The advertisement is shown from a child's perspective, or the perspective of its child-like characters. This can be demonstrated in the children's activities engaged in by the characters and also by the depiction of scenes from the point of view of the characters looking onto the adults' world.*
- 3. The advertisement has a simple, uncomplicated plot structure that is directed primarily to children.*
- 4. The simple, whimsical animation style is a visual technique that would appeal to a child's imagination and sense of wonderment.*
- 5. The advertisement uses simplistic language that is appropriate for comprehension by children 14 years old and younger, including the simple children's story introduction of a '...story of two best friends' and the tagline of 'Double the yum! Double the fun!'*

*The advertisement promotes unhealthy eating habits*

*The advertisement promotes the consumption of Cadbury Dairy Milk with Oreo and encourages children to associate the product with fun, adventure and friendship. As outlined above, Cadbury Dairy Milk with Oreo is an unhealthy product with very high levels of sugar and fat. The promotion of this product encourages children to consume it and thereby promotes unhealthy eating habits. In addition, the chocolate bar shown as being consumed at the start of the advertisement appears to be a family sized block of chocolate, yet is being consumed by one person. This suggests that it is appropriate for one person to consume a family sized chocolate bar and encourages excessive consumption.*

*Request for action*

*For the above reasons, the OPC asks the ASB to request that Mondelez withdraw the Cadbury Dairy Milk with Oreo advertisement immediately on the basis that it breaches the Children's Code.*

- 3. The advertisement breaches the Food & Beverages Advertising & Marketing*

## *Communications Code*

*The OPC submits that this advertisement breaches clause 2.2 of the Food & Beverages Advertising & Marketing Communications Code (Food & Beverages Code) because:*

- 1. It is an advertising or marketing communication for a food and beverage product, and*
- 2. It undermines the importance of healthy lifestyles, undermines the promotion of healthy balanced diets and encourages what would reasonably be considered as excess consumption through the representation of products and/or portion sizes disproportionate to the setting portrayed or by means otherwise regarded as contrary to Prevailing Community Standards.*

*It is clear that the advertisement is an advertising or marketing communication for a food and beverage product.*

*We argue that due to its nutritional profile, in particular its very high levels of sugar and fat, the consumption of Cadbury Dairy Milk with Oreo has no place as part of a healthy lifestyle and a healthy balanced diet. We submit that by promoting this unhealthy product to children, associating it with fun, adventure and friendship and by encouraging children to consume it, this has the effect of undermining the importance of healthy lifestyles and the promotion of healthy balanced diets.*

*We also argue that the advertisement encourages excess consumption of the product by depicting the consumption of what appears to be a family sized block of chocolate by one person at the beginning of the advertisement. We consider this to be a portion size that is disproportionate to the setting. We highlight the Food & Beverages Code Practice Note, which says that when considering whether an advertisement encourages excess consumption, the Board will consider whether members of the community in the target audience would most likely take a message condoning excess consumption. We argue that children are the target audience of this advertisement, and that they are most likely to receive a message that condones excess consumption, being consumption of an entire family sized chocolate bar by one individual.*

### *Request for action*

*For the above reasons, the OPC asks the ASB to request that Mondelez withdraw the Cadbury Dairy Milk with Oreo advertisement immediately on the basis that it breaches the Food & Beverages Code.*

## **THE ADVERTISER'S RESPONSE**

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

*Thank you for providing us with the opportunity to respond to the two complaints regarding the Cadbury Dairy Milk with Oreo creative that is seen on Facebook (0299/16) and YouTube (0300/16).*

*As one of Australia's largest food manufacturers and advertisers, Mondelez International has a significant role that we take very seriously in marketing and advertising our products responsibly and appropriately.*

*The complainant has raised numerous issues that fall within the Australian Association of National Advertisers (AANA) Advertiser Code of Ethics, AANA Food and Beverages Advertising and Marketing Communications Code, AANA Code for Advertising and Marketing Communications to Children and the Australian Food and Grocery Council Responsible Children's Marketing Initiative.*

*The complainant makes numerous claims regarding the creative, which in summary, suggest that the creative and placement appeals to children.*

*On review of the complaints received and close examination of the creative and placement of the Cadbury Dairy Milk with Oreo communication, we believe that the creative and its use is consistent with the principles outlined in the AANA's codes, the AFGC's RCMI and our company's even tighter internal policies and do not appeal primarily to children.*

*Our responses to the complainant's claims are as follows:*

*Not a sensible solution product and is a product for family sharing: We do not classify chocolate as a sensible solution product therefore many of the complainant's statements do not apply. Cadbury Dairy Milk with Oreo is a product developed for family sharing for purchase by the main grocery buyer in the household and in no way is a product 'positioned' as a children's product as the complainant states.*

*The detailed animation style appeals to adults: The style of the animation is as sophisticated as it can be and often looks life-like. The environment is realistic rather than cartoon-like, and detailed, busy and complex which does not appeal to children. The animation style is the most complex style of animation possible, displaying multiple layers of imagery in the scenes, textures and details in the visuals (e.g. landscape detail), gradients in the colour rather than flat colours, and highly detailed elements are incorporated throughout.*

*The theme of the creative appeals to adults: The creative shows a story of friendship between adults, demonstrated by the events they are at (football), the activities they undertake (surfing, driving, climbing the Sydney Harbour Bridge). The strategic idea for the ad is that the sum is great than the parts, that is, when two greats, Cadbury Dairy Milk and Oreo, come together, the result is something spectacular. As such, the last frame of the animation is the Cadbury Pip and Oreo Biscuit being eaten together. This is a metaphor for friendship demonstrating people are happier when they are connected to others. Friendship is universal, something that emerges as friendships mature and people get older.*

*The characters are emojis, an adult communication form, and they participate in adult activities: Emojis are an adult form of communication that are used on adult communication devices such as Facebook and texting on mobile phones. The characters have adult personalities and are participating in an adult world; the adventures are sophisticated adult activities: surfing, driving, watching a sports match (demonstrated by the size of shoes in comparison to the ball), climbing the Sydney Harbour Bridge, camping and being at the beach.*

*Uncomplicated plot structure appeals to children: The creative is a long 80 second video accompanied by a music track with a complex beat structure and adult voices used throughout (for example, in the volleyball scene). The plot is layered with symbolism which culminates in the Cadbury pip and the Oreo biscuit forming a new style of chocolate pip and getting eaten together. The activities the characters experience together are activities that only adults can do - driving a car, climbing up the Sydney Harbour Bridge and playing a game of beach volleyball. The long length of the video, music choice, adult appearance, sophisticated symbolism and display of adult interests clearly demonstrate that this creative is targeted at adults.*

*Use of an adult, male narrator: The technique of telling stories is a popular means of communicating at all stages of life. The use of a mature, male, adult's voice demonstrates a clear adult target market. It is not a fairy tale, or child's story, and there is no explicit link to this.*

*The tagline is complex: Double the Yum refers to product attributes, namely the combination of Cadbury and Oreo. Double the Fun refers to the enjoyment in eating the product. The concept of 'double' is not a concept children would easily understand.*

*Social media approach targets adults: Facebook requires all users to be at least 13 years old before they can create an account. Additionally, we employ demographic targeting to target our main grocery buyer specifically. An accompanying Facebook competition had clearly communicated terms and conditions restricting the age of entrants; the minimum age for entry was 13, with entrants under 18 needing parent/guardian permission to enter. On YouTube, we targeted the main grocery buyer using behavioural and demographic targeting, and excluded all games and kids channels on the channel.*

*Product consumption is appropriately demonstrated: The animation starts with two adults on the picnic mat (shown by two different legs) sharing chocolate. At the end of the animation, there is a lady eating one square of Cadbury Dairy Milk Oreo chocolate; hardly a demonstration of over-consumption.*

*Please contact us should you have any further questions in relation to this matter.*

## **THE DETERMINATION**

The Advertising Standards Board (Board) considered whether this advertisement breaches the Responsible Children's Marketing Initiative of the Australian Food and Grocery Council (RCMI), the AANA Food and Beverages Advertising and Marketing Communications Code (the 'Food Code'), and the AANA Code for Advertising and Marketing Communications to Children (the 'Children's Code').

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

The Board noted the complainant's concern that the advertisement breaches the RCMI, the Children's Code and the Food Code.

The Board noted that its role is to consider the advertisement's compliance with the RCMI and the issue of whether or not the product is a 'healthier choice' is only relevant once the

Board has determined that the advertisement is directed primarily to children.

The Board noted that the advertisement is available on the Cadbury Dairy Milk Facebook page.

The Board considered whether the advertisement met the requirements of the RCMI. The RCMI applies to advertising or marketing communications to children (under 12 years of age). The Board noted the RCMI provides that advertising or marketing communication activities are captured under the RCMI if the:

Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for food and/or beverage products.

Advertising or Marketing Communications that are placed in Medium that is directed primarily to Children (in relation to television this includes all C and P rated programs and other rated programs that are directed primarily to Children through their themes, visuals and language); and/or where Children represent 35 per cent or more of the audience of the Medium.

The Board noted the dictionary definition of “primarily” is “in the first place” and that to be within the RCMI the Board must find that the advertisement is aimed in the first instance at children under 12 years.

The Board noted that the advertisement was on the advertiser’s Facebook page and access to Facebook in accordance with the Facebook user guidelines is for those aged 13 years plus. The Board therefore considered that children under 12 would not be 35% or more of the audience of Facebook generally. In addition the Board noted that the advertisement appears on the Cadbury Facebook page. The Board considered that Cadbury has a range of products of appeal to adults and children alike and considered that the Cadbury Facebook page is not directed primarily to children.

The Board therefore determined that the advertisement was not placed in Medium that is directed primarily to Children and/or where Children represent 35 per cent or more of the audience of the Medium.

The Board then considered the advertisement itself and whether the advertisement is, having regard to the theme, visual and language used, directed primarily to children under 12.

The Board considered the theme of the advertisement. The Board noted the concept of friendship, represented by the relationship between the piece of Dairy Milk chocolate with the Oreo biscuit and considered that this concept would be of general appeal to audiences of all ages, but would not be of primary appeal to children under 12.

With regards to visuals in the advertisement, the Board firstly considered the animated nature of the advertisement. The issue of animated characters is one where the Board has previously stated that animation per se does not mean that an advertisement will be considered to be directed primarily to children. Specifically the Board noted a number of other advertisements including animated characters (e.g. Kraft (Chips Ahoy) 0229/11, Smiths Chips 0190/13, and Peters 0146/15) where the Board had considered that the advertisements were not directed primarily to children.

In this case the Board considered the animation was targeted primarily to adults with the visuals of predominantly adults, with the opening scene and football scenes showing adult feet and adult focussed activities including, driving a car, going to the football, playing volleyball and climbing the Harbour Bridge. The Board noted that some scenes, the sandcastles and camping, would have appeal to children but considered that on balance the visuals were equally as appealing to adults and were not directed primarily to children.

With regards to the language used, the Board noted the adult male voice in the advertisement. The Board considered that the tone and delivery of the voiceover in combination with the music was more likely to appeal to an adult and was not directed primarily to children. The Board considered the overall impression is an adult themed advertisement which is much more likely to draw the attention and captivate an older audience as the combined elements create a whimsical feel of nostalgia for adults.

The Board agreed that the advertisement may attract a child's attention and they may be interested in the storyline of the best friends but the Board considered that the advertisement was not directed primarily to children under 12. The Board acknowledged some broad appeal to children in the imagery, for example with some of the activities such as building sandcastles but considered the advertisement was not directed primarily at children given the predominant focus on adult activities, adult sized feet and the adult voice.

The Board considered that the various elements all combine to create an advertisement that is, in the Board's view, of some appeal to children, but whilst they agreed that the advertisement may be attractive to children, considered that it would be not be primarily attractive to children under 12 but rather was of appeal to a broad audience.

The Board determined that as the advertisement is not directed primarily to children under 12, does not appear in media directed primarily to children and does not appear in media where Children represent 35 per cent or more of the audience, the advertisement does not come within the RCMI.

The Board then considered whether the advertisement complied with the AANA Code for Advertising and Marketing Communications to Children.

The definition of what is 'advertising and marketing communications to children' in the AANA Children's Code means: Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product.

The Board noted that the definition is largely the same as that in the RCMI. For the same reasons noted above, the Board considered that this advertisement is not directed primarily to children and that the AANA

Children's Code does not apply.

The Board then considered whether the advertisement complied with all relevant provisions of the AANA Food and Beverages Code.

The Board noted in particular Section 2.2 which states:

‘Advertising or Marketing Communications for Food or Beverage Products shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered as 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 noted the complainant’s concerns that this advertisement encourages consumption of an unhealthy product and excess consumption.

The Board noted that the advertised product is a chocolate bar. The Board considered that, consistent with previous decisions (Hungry Jacks 0282/11, Mars 0208/11), promotion of a product which may have a particular nutritional composition is not, per se, undermining the promotion of healthy balanced diets.

The Board noted that the theme of the advertisement is best friends and the dominant visuals throughout the advertisement are of an active lifestyle, with various activities highlighted including climbing, playing sport, camping and attending sporting activities and that these images did not undermine the importance of healthy or active lifestyles.

The Board considered whether the advertisement was encouraging of what would reasonably be considered excess consumption. The Board noted the image of a block of chocolate at the beginning of the advertisement, and considered that this is being shared between two adults, not one person as indicated by the complainant.

The Board noted that there was no language in the advertisement to encourage excess consumption of the advertised product and considered that overall the content did not undermine healthy eating and was encouraging physical activity.

The Board noted that advertisers are allowed to promote their products being consumed in any manner they wish as long as such depictions are not outside the provisions of the Code. The Board considered in this instance the advertising of the chocolate bar does not promote inappropriate or excess consumption.

The Board determined that the advertisement did not breach Section 2.2 of the AANA Food Code.

Finding that the advertisement did not breach the RMCI, the Food Code, or the Children’s Code, the Board dismissed the complaint.

