



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0038/12</b>
<b>2</b>	<b>Advertiser</b>	<b>Nestle Australia Ltd</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Billboard</b>
<b>5</b>	<b>Date of Determination</b>	<b>22/02/2012</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

2.3 - Violence Causes alarm and distress

### DESCRIPTION OF THE ADVERTISEMENT

Billboard advertisement for Nestle Peters MAXIBON ice cream product featuring a muscle-bound man holding a Maxibon in one hand and his other hand is raised in a fist as though to punch. The tagline reads, "Do you have the Jawceps to conquer Maxibon? Find out at man-chew.com.au".

### THE COMPLAINT

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

*The image frightened my child who is still talking about it in nervous tones. The man was VERY aggressive-looking ugly threatening with his naked hairy chest and it was AWFUL to see outside of a children's park and adjoining playground. I have complained to the local council in the hope that they will remove it. But I also cannot condone such macho imagery to be connected to ice-creams; I think it's bad for young boys to be induced to aspire to such aggression and macho or girls to feel threatened by it.*

*It's negative ugly and scary to all those who feel vulnerable. It could only appeal to aggressive hairy-chested men and that is NOT MOST OF US!*

*I have complained to Nestle also as I can't find any way to contact Peter's Ice-cream directly.*

## THE ADVERTISER'S RESPONSE

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

*The Advertisement formed part of an outdoor campaign for MAXIBON that commenced on 27 February 2011. Only 5 sites in Western Australia featured the Advertisement and the Advertisement was removed from all sites in Western Australia by 11 August 2011. In this context Nestlé is surprised by the timing of the Complaint, noting it was received by the Advertising Standards Bureau on 30 December 2011. The complainant also contacted Nestlé on this date through its consumer services contact number.*

*From your letter I understand the Bureau is concerned the Advertisement may not comply with Section 2 of the AANA Advertiser Code of Ethics (Ethics Code). On behalf of Nestlé I would like the Board to consider the information below in its consideration of the Complaint. I wish to state at the outset that Nestlé does not consider the Advertisement to be in breach of the Ethics Code and that none of the matters set out in section 2 of the Ethics Code are infringed by the Advertisement.*

1. *It is alleged in the Complaint the Advertisement is likely to cause "young boys to be induced to aspire to such aggression". Nestlé disagrees with this allegation and submits the Advertisement does not portray any aggressive behaviour or violence. It follows that section 2.2 of the Ethics Code bears no relevance to the Advertisement (being the prohibition against presenting or portraying violence that is not justifiable in its context).*

2. *The object of the Advertisement was to reiterate and highlight to the target audience of 18 to 25 year old males that MAXIBON is a substantial ice cream sandwich, containing an unorthodox mixture of ice cream, biscuit, nuts and chocolate. To reinforce this notion the Advertisement suggests in a comical, 'tongue in cheek' and exaggerated manner that "Jawceps" or a powerful bite is required to conquer a MAXIBON. The size of the man featured in the Advertisement is deliberately hyperbolised, particularly his jaw, to support this theme. Nestlé rejects the contention in the Complaint the man appears as aggressive, ugly, scary and threatening. The man is clearly a humorous, overstated image and reasonably cannot be said to be aggressive or threatening. The Complaint also makes reference to the man in the Advertisement having a hairy chest. On this point Nestlé notes this is incorrect.*

3. *Nestlé sought through the Advertisement to entertain MAXIBON's target audience through integration with their lifestyle, inviting them to have fun with Nestlé and to play along with the stereotype of a 'macho' man. The Advertisement is humorous and not scary as suggested by the Complaint.*

4. *The Complaint raises as a concern the Advertisement promotes aggression to children. Nestlé does not see how the Advertisement could be said to promote aggression as the Advertisement does not feature aggression. The Advertisement does not mention or suggest in any way a link between aggression and size, muscle or a macho appearance, nor that these attributes could be used to threaten anyone or specifically those who lack these characteristics. The muscular man and references to jaw strength is an obvious joke on the power of the bite needed to eat MAXIBON.*

5. *In relation to any possible breach by the Advertisement of the AANA's Code for Advertising to Children (Children Code), Nestlé has considered this code and is confident the Advertisement raises no issues under this code. In any event, Nestlé submits that as the Advertisement is directed to adults and is not primarily directed to children, the Children Code does not apply to the Advertisement.*

6. *Other than the Complaint, Nestlé has not received any other complaints that the Advertisement portrays or encourages aggressive behaviour. We have considered above the Ethics Code and the Children Code. You asked that our response also address any issues arising out of the AANA's Food and Beverages Advertising and Marketing Communications Code. We have also considered this code and are confident the Advertisement raises no issues under this code. Please do not hesitate to contact me should you require any further information or wish to discuss our response or the Advertisement.*

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant’s concerns that the advertisement is frightening and inappropriate for viewing especially by children.

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

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 of the Code states: “Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised”.

The Board noted the advertisement features a muscle man holding a Maxibon ice cream. The Board noted that the man’s features have been digitally enhanced to make them larger and more muscle-bound and considered that the image was relevant to the text which reads, “Do you have the Jawceps to conquer Maxibon?”

The Board noted that the man’s fist is clenched and considered that whilst this is a pose consistent with boxing or fighting in general in the Board’s view the advertisement does not depict actual violence but rather a man posed in a manner which best displays his physique. The Board considered that the over the top nature of the image is in keeping with the style of many cartoons watched by children and that most children would not find this image to be too frightening.

The Board considered that the advertisement does not present or portray violence and that it is not inappropriate for viewing by a broad audience including children.

The Board determined that the advertisement did not breach Section 2.3 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.

