



Ad Standards Community Panel
PO Box 5110, Braddon ACT 2612
P (02) 6173 1500 | F (02) 6262 9833

AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0058-21
2. Advertiser :	Kellogg (Aust.) Pty Ltd
3. Product :	Food/Bev Groceries
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	24-Mar-2021
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Food and Beverages Code\2.1 Truthful Honest Not Misleading or deceptive

DESCRIPTION OF ADVERTISEMENT

This television advertisement is for Pringles and features a group of friends sitting around a couch. The lead female actor pops open a can of Pringles and looks into the can. The ad then moves to a fictional scene set inside the can where a crowd of adults are dancing around. The music then stops and the lights go off. The ad moves back to the first scene on the couch, with a close up of the lead actor who grabs a chip from the top of the stack and eats one. The advertisement then shows a product image of the can.

THE COMPLAINT

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

I object to the advertisement because they market the product with their container size that is sold in the USA (8cm) as compared to what is actually available in Australia (7cm). I find the ad to be misleading as they advertise their product in a container size no longer available in Australia since 2016.



THE ADVERTISER'S RESPONSE

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

I refer to your letter dated 4 March 2021 regarding the complaint received by Ad Standards in relation to the above mentioned advertisement.

The concept behind the advertisement is to appeal to the main grocery buyer with a reminder of the fun and quirky Pringles brand credentials and how Pringles inspires playful curiosity, as well as the great taste and crunch of Pringles chips.

The target audience for Pringles in general is the main grocery buyer aged 18-54. We note that for this specific television advertisement, our media buy was targeted to Females aged 40 years and over.

The 15 second advertisement is set in a lounge room with a group of friends sitting around a couch. The lead female actor pops open a can of Pringles and looks into the can (0 to 1 second). The ad then moves to a fictional scene set inside the can where a crowd of adults from different walks of life are dancing around, with bold, vibrant outfits and dance moves. Some of the dancers hold Pringles cans, though due to the nature of these high energy scenes, the size of the cans are not easily discernible. The music then stops and the lights go off (2 to 9 seconds). The ad moves back to the first scene on the couch, with a close up of the lead actor who grabs a chip from the top of the stack and eats one (10 to 11 seconds). The advertisement then shows a product image of the can (the Australian Pringles Original can) and food, and the iconic trade mark with voiceover, "Once you Pop You Can't Stop" (12 to 15 seconds).

The complaint is made under Section 2.1 of the AANA Food and Beverages Advertising and Marketing Communications Code (the Code). The substance of the complaint is that the advertisement is misleading because, "they market the product with their container size that is sold in the USA (8cm) as compared to what is actually available in Australia (7cm)." The complainant states the advertisement is "misleading as they advertise their product in a container size no longer available in Australia since 2016".

Our response to the substantive complaint is set out below.

*1) AANA Food and Beverages Advertising and Marketing Communications Code –
Section 2*

Kellogg respectfully submits that the advertisement is truthful and is not misleading or deceptive, nor designed to be misleading or deceptive, or otherwise in contravention of Prevailing Community Standards.

As is evident from the outset, the advertisement makes no representations relating to can size, nor does the can visual used in the advertisement make any quantity representation, whether volume or weight. This is deliberate so that a global advertisement has the flexibility to adapt for various markets around the world.



Accordingly, in all scenes featuring the Pringles can, a “clean” container is shown, that is, with no weight statement, dietary intake thumbnail, promotional banners or any other fine print. The can simply displays:

- the distinctive Pringles branding: the Pringles trade mark with the Mr P logo and the famous red Pantone colour – which is common to all Pringles cans around the world in respect of the Pringles Original variant;*
- a plain food image showing one chip; and*
- the variant name, “Original”.*

To suggest that the advertisement is misleading because of a perception of can diameter is therefore difficult to establish. The advertisement does not make representations about can diameter. In fact, the product is required by Trade Measurement regulations to be sold in Australia by weight and not by volume. For conduct to be misleading or deceptive, there must be a real and not remote chance that the conduct will mislead or deceive. We respectfully submit that a consumer in the target audience, viewing this advertisement, in its context, would draw no implications relating to can diameter and so would not be misled or deceived.

Moreover, in the unlikely and remote case where any such implication is drawn, there is nothing in the advertisement that would give cause to the consumer to rely on the advertisement to their detriment or loss. Can diameter is simply not a feature or focus of the advertisement.

We particularly note that the final 3-second end scene (without actors) featuring the can in closer proximity together with the chips, was able to be customised for Australia with the specific Australian can. Whilst the can imagery in market is updated from time to time, depending on the promotions/offers being communicated at the time, the can shown is a ‘clean’ version of the Pringles Original variant from the core range in Australia available during the period this advertisement was broadcast (see Attachment A).

To summarise, in assessing whether conduct is misleading or deceptive, the overall impression conveyed by the advertisement as a whole must be considered. This advertisement features the Pringles Original can in a fun and fast moving format, where references to the can are brief (in keeping with the style of the ad) and the can competes for attention with the vibrant colours and quirky concept. In the only scene where a close up is shown for more than a brief moment, the Australian can is used. Taking into account all relevant considerations, we consider that the advertisement as whole is not misleading or deceptive, or likely to mislead or deceive consumers, and does not breach Section 2.1 of the Code.

Although not the subject of this complaint, for completeness we note that the Pringles brand is undergoing a significant brand “refresh” with the cans featuring the incumbent branding currently being phased out (no change to can size or food). Over the next few months, the can featuring the new branding will enter the market across various retail channels. Since this will be a material change to the trade dress of the can (the first such change in over 12 years), a new advertisement is in production.



As to the remainder of the Section 2 of the Code:

- The advertisement does not at any point undermine the importance of healthy or active lifestyles, nor encourage overconsumption through the representation of product/s or portion sizes disproportionate to the setting portrayed. The advertisement is set in a lounge room with a group of friends, making it clear the product is to be shared. In the main consumption shot, the actor is shown eating just one chip. In every other scene featuring the food, less than one serve size is depicted. In the body of the advertisement, the actors are featured engaging in high energy dancing. The advertisement is true to the brand's credentials, being upbeat and fun. At no point does the advertisement state or imply that this food should replace a healthy diet. Additionally, and consistent with previous decisions of the Panel, advertising the product in and of itself is not, per se, undermining the important of a healthy or active lifestyle (for example, case numbers 0345/17, 282/11 and 0550/17).*
- This advertisement does not make, nor does any can image contain, any health or nutrition claims, nutritional or health related comparisons nor any consumer taste or preference claims. The advertisement does not make any claims relating to material characteristics such as taste, size, content, nutrition and health benefits. The advertisement is not editorial and does not portray the product as a substitute for meals.*

Accordingly, and although not expressly raised by the complainant, Kellogg submits that the advertisement does not breach sections 2.2 – 2.8 of the Code.

2) AANA Food and Beverages Advertising and Marketing Communications Code – Section 3

Kellogg submits that this advertisement is not an Advertising or Marketing Communication to Children. All actors shown in the advertisement are adults, all consumption events feature only adults, and in any event, as set out above, we contend that the advertisement is not misleading or deceptive as to nutritional or health claims and at no stage does it employ a sense of urgency or feature price minimisation. Further, the advertisement does not seek to undermine the role of parents or carers, nor does it include any appeal to children to urge parents or carers to purchase the product.

We draw the Panel's attention to the fact that the advertisement does not feature any children, and its theme, visuals and language used are adult and not remotely childlike. For example:

- the actors are clearly adults;*
- the music is not particularly child-like;*
- there is no animation nor a storyline that would interest children;*
- there is no call to action.*

Further the product itself is not a food product targeted towards children or with principal appeal to children. As noted above, the target audience for the product is



adults aged 18-54 and the advertisement television media buy is for females aged 40+. The advertisement is directly addressed to adults.

Conclusion

For the reasons outlined above, Kellogg respectfully submits that the complaint should be dismissed.

Kellogg is pleased to have had the opportunity to respond to this complaint and to confirm its support for the Advertising Standards Community Panel and the codes to which Kellogg has committed to uphold.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) and the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the advertisement shows a product size that is not available in Australia and such a depiction is misleading.

Food Code Section 2.1: Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.

The Panel noted that the product in the advertisement, a Pringles can, has no identifying marks such as weight to suggest what size it is.

The Panel considered that most members of the community would be unable to identify the dimensions of the product (7cm vs 8cm).

The Panel considered that the main impression of the advertisement is of a promotion for the Pringles brand or products, and the average consumer would not make an inference about the size or volume of the tin used in the advertisement.

Food Code Section 2.1 conclusion

On this basis, the Panel determined that the advertisement was not misleading or deceptive and was communicated in a manner appropriate to the level of understanding of the target audience and did not breach Section 2.1 of the Food Code.

Conclusion



Finding that the advertisement did not breach any other sections of the Food Code the Panel dismissed the complaint.