



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

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Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0082/18
2	Advertiser	Sanitarium Health Food Company
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	07/03/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

Advertising to Children Code 2.05 Safety
2.6 - Health and Safety Unsafe behaviour

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features a number of scenes including a mum in a kitchen placing packets of Weet-Bix Mini's on the kitchen table a teenage girl and her dad grabbing packets of product from their home bench, a male lifeguard (20's) throwing a biscuit in to the air and catching it in his mouth, a young woman looking to camera and crunching down a biscuit, a mum placing unopened packet of product in a lunchbox, a teenage girl placing product in her mouth and enjoying the taste, two school aged boys sitting together offering to share product, a young woman placing product in her mouth, a mum tipping up an emptied pack in a kitchen.

THE COMPLAINT

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

Tossing and catching food in your mouth (particularly of the size of weet bix minis) which is both shown and recommended in this add is a recognised choking risk. This product is a lurch box snack and is marketed at children. I believe it breaches the AANA Code for Advertising & Marketing Communications to Children,



2.5 SAFETY

Advertising or Marketing Communications to Children: (a) must not portray images or events which depict unsafe uses of a Product or unsafe situations which may

encourage Children to engage in dangerous activities or create an unrealistic impression in the minds of Children or their parents or carers about safety;

THE ADVERTISER'S RESPONSE

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

Sanitarium does not believe the advertisement, the subject of the above complaint, breaches the Advertising Code or the Ethics Code for the reasons noted below.

1. The surfer character in the advertising is an adult male, aged in his 20's, is the only character in the advertising who is shown to throw and catch the Weet-Bix GO Mini with their mouth.

2. The younger people depicted in other parts of the advertising are primary school aged children. The behaviour they display is to pass the product from one to another and the lyrics of the music repeat and support this action. The advertising in no way demonstrates primary school aged children tossing, throwing or catching the product.

These children are over the age of three (3), which is the age most likely to be susceptible to 'choking hazards' and their behaviour in the advertising does not interact with the product in a way that could reasonably result in choking.

We acknowledge that choking "in babies and young children" is an important safety concern, however these children are not the audience of this advertising.

3. Sanitarium takes advertising to children very seriously and is a signatory to the Responsible Children's Marketing Initiative as a member of the Australian Food and Grocery Council. We do not actually advertise this product to children, we buy our television advertising time to reach adults. The advertising received a CAD rating of "W" and as such the advertising would not be positioned in or adjacent to children's programming. Our instruction for media buying is to grocery buyers.

In summary, the advertisement does not in any way encourage or promote individuals, whether adults or children, to engage in dangerous behaviour or practices. We believe that there is nothing about the advertisement that:

1. portrays images or events which depict unsafe uses of a product or unsafe situations which may encourage children to engage in dangerous activities or create an



unrealistic impression in the minds of children or their parents or carers about safety; and

2. is contrary to Prevailing Community Standards on health and safety.

We believe that there is nothing about the advertisement that breaches section 2 of the Ethics Code, specifically:

1. Section 2.1 (Discrimination or vilification): The advertisement does not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

2. Section 2.2 (Exploitative and degrading): The advertisement does not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

3. Section 2.3 (Violence): The advertisement does not present or portray violence.

4. Section 2.4 (Sex, sexuality and nudity): The advertisement does not portray sex, sexuality and nudity.

5. Section 2.5 (Language): The advertisement does not use strong or obscene language.

6. Section 2.6 (Health and Safety): For the reasons noted in paragraph A above, we believe the advertisement does not depict material contrary to the Prevailing Community Standards on health and safety.

We submit that the advertisement in question does not breach section 2.5(a) of the Advertising Code as suggested in the complaint or section 2 of the Ethics Code. We note the placement of the advertising with the free to air TV environment is compliant with our commitment under the Responsible Children's Marketing Initiative.

THE DETERMINATION

The Advertising Standards Panel (“the Panel”) considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (the “Children’s Code?”), 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 concerns that the advertisement depicts someone throwing food in the air and catching it in their mouth which is unsafe and a choking hazard.



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

The Panel considered whether the Children's Code applied.

The Panel considered the definition of advertising or marketing communication to children. Under the Children's Code, Advertising or Marketing Communications to Children 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 Panel noted that Children are defined as "...persons 14 years old or younger" and Product is defined as "...goods, services and/or facilities which are targeted toward and have principal appeal to Children."

The Panel considered whether the advertisement is directed primarily to children (14 years or younger). The Panel noted the practice note for the Food and Beverages Code which states that whether an advertisement or marketing communication is "directed primarily to children" is an objective test based on several factors including, but not limited to the combination of visual techniques, product and age of characters and actors. The use of any one factor or technique in the absence of others may not necessarily render the marketing communication "directed primarily to children."

The Panel noted that the dictionary definition of "primarily" is "in the first place" and that to be within the Children's Code the Panel must find that the advertisement is aimed in the first instance at children.

The Panel noted the marketing communication is a television advertisement which has been rated W by CAD.

The Panel noted the theme of the advertisement, a snack that can be enjoyed on the go. The Panel noted that the advertisement features multiple people including the product including children and adults, and in the Panel's view the theme of the advertisement is of appeal to adults and not primarily to children.

The Panel noted the visuals of the advertisement and considered that the opening scene of the product, followed by adults and older children interacting with the product, with one brief scene of children at lunch is likely to be attractive to adults rather than children.

The Panel then considered the language used in the advertisement. The Panel noted that we hear an upbeat song which contains words like 'grab them', 'toss them' and 'crack them' with a voice over at the end which describes the product. The Panel considered that the music and language may be attractive to children, but would be equally attractive to adults and is therefore not directed primarily to children.



The Panel then considered whether the product itself was directed to children. The definition in the Children's Code states that "product means goods, services and/or facilities which are targeted toward and have principal appeal to Children."

The Panel noted that Weet-Bix is a well-known breakfast cereal brand and this product is for a snack that pack version of the product. The Panel considered that while this Product may be used in school lunches it is of equal appeal to adults as a snack.

Overall the Panel considered that the advertisement is not directed primarily to children and the product is not a product targeted and of principal appeal to children therefore the provisions of the Children's Code do not apply.

The Panel then considered Section 2.6 of the AANA Code of Ethics. Section 2.6 of the Code states: "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety".

The Panel noted the complainant's concerns that there is a high risk of choking when you throw and catch food in your mouth and that the advertisement could encourage children to copy this behaviour.

The Panel noted that only one character in the advertisement is seen to throw food in the air and catch it, and this is one of the adult actors not a child.

The Panel noted the advertisers response that the product and this behaviour may be a choking hazard for children under three, but that the advertisement does not depict or target this audience.

The Panel noted that it had previously dismissed a similar complaint about throwing and catching peanuts in case 0094/12 where:

"The Panel noted that whilst it is possible to choke on nuts thrown in to the air and caught in the mouth, in the Panel's view most members of the community would consider that whilst it is not the most sensible way to eat nuts or other foods, the advertisement is not encouraging or condoning behaviour which would be contrary to prevailing community standards on health and safety to the point it would breach the Code.

The Panel noted the complainant's concerns that children could copy the advertisement and considered that young children viewing this W rated advertisement should be accompanied by a responsible adult who could explain the possible repercussions of throwing a nut and catching it in their mouth."

The Panel acknowledged that this behaviour may be dangerous for young children,



however noted that the advertisement had been rated W by CAD and considered that consistent with its previous determination in case 0094/12, young children watching this advertisement should be accompanied by a responsible adult who could explain the possible repercussions of throwing food and catching it in their mouth.

The Panel considered that throwing food in the air and catching it is a normal behaviour practiced by many members of the community and would not be considered to be contrary to Prevailing Community Standards on Health and Safety.

The Panel determined that the advertisement did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Children's Code or the Code of Ethics, the Panel dismissed the complaint.

