



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

**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	<b>Case Number</b>	<b>0101/19</b>
2	<b>Advertiser</b>	<b>Myer Pty Ltd</b>
3	<b>Product</b>	<b>Food and Beverages</b>
4	<b>Type of Advertisement / media</b>	<b>Internet-Social-FB</b>
5	<b>Date of Determination</b>	<b>17/04/2019</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

Food and Beverage Code 2.2 - healthy lifestyle / excess consumption  
Food and Beverage Code (Children) 3.2 encourage excess consumption  
Food and Beverage Code (Children) 3.5 pester power

## DESCRIPTION OF THE ADVERTISEMENT

A girl in a garden holding up a tin of Cadbury Creme eggs that has been personalised with a name.

The message above the image states 'Easter's just around the corner! Make it one to remember with our Personalised CADBURY CREME EGG Chocolate Gift Tin, available exclusively at Myer! Just \$19.99'

## THE COMPLAINT

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

*Childhood obesity is a major concern in Australia, marketing a large amount of discretionary food (cadbury creme eggs) is adding fuel to this epidemic.  
The theme (a joyful young child excited to receive a large amount of chocolate in her very own personalised tin), age of the actor and simple visual of the ad would greatly*



*appeal to children and I believe is marketed to children. It would also encourage kids to pester their parents to purchase the item.*

*Cadbury Creme egg is a discretionary item, and the sheer amount that is advertised (personalised tin that includes 2 packets of mini eggs + one large egg is obviously for one person only - there is no mention of sharing with friends and family) encourages excessive consumption. I did the calculation and a child would consume the equivalent of 47.75 teaspoons of sugar and 7.5 teaspoons of saturated fat.*

*It is promoting unhealthy eating habits. Please stop targeting kids, why didn't you use and ADULT as the actor if it was intending for an adult????*

## **THE ADVERTISER'S RESPONSE**

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

*Myer has reviewed the concerns raised by the complainant regarding the Cadbury Creme Egg image featured on Facebook on 24 March 2019 (advertisement).*

*Myer's Easter campaign is focussed on establishing Myer as the one stop destination for all Easter products, from Easter eggs, food, small appliances, tableware, bakeware, sleepwear and childrenswear.*

*The advertisement forms part of the overall Easter campaign. Specifically for this advertisement, Myer has collaborated with Cadbury to offer personalised tins of the family favourite Cadbury Creme eggs (crème egg). The contents of the tin were specifically separated into three distinct products - one 39g creme egg and two 130g packets of mini crème eggs. The intention of providing the two packets of the mini crème eggs was to encourage the gift recipient to share the eggs with family and friends. The advertisement does not encourage excessive consumption nor does it suggest that the contents should be consumed by one individual in the one sitting.*

*Easter eggs are offered during a short period of time each year and are usually given as gifts. To be able to add free personalisation to the gift is an added touch and uniqueness by the gift giver to the recipient.*

*The creative of the advertisement was designed to be fun and playful and in the spirit of Easter and promote the creme egg in light of traditional family Easter egg hunts, with a focus on the child's experience Easter morning shared with family. The image shows the girl holding one crème egg tin as celebration that she has found her crème egg in the hunt, and no images of the child eating the crème egg was featured.*

*The advertisement has been featured on the Myer Facebook page, through paid Facebook marketing to Myer customers, Instagram, Myer website, Woman's Day*



*magazine and Australian Women's Weekly magazine. In all channels, the key audience are adults, with insights from Instagram and Facebook indicating that less than 2% of Members of Myer's social channels is aged below 18 years\*. The paid Facebook advertisement was targeted at adults 25 years and over. Womens Weekly and Womens Day are magazines targeted generally at adult women.*

#### *Section 2 of the Code of Ethics*

*2.1 - Discrimination or vilification - no such conduct is shown or suggested in the advertisement*

*2.2 - Exploitative and degrading - no such conduct is shown or suggested in the advertisement*

*2.3 - Violence - no such conduct is shown or suggested in the advertisement*

*2.4 - Sex, sexuality and nudity - no such conduct is shown or suggested in the advertisement*

*2.5 - Language - no inappropriate language is used or suggested in the advertisement*

*2.6 - Health & Safety – Myer does not believe that the advertisement promotes unsafe or unhealthy consumption of chocolate. The image does not show the child eating the chocolate.*

*2.7 - Distinguishable as advertising - Myer believe that the advertisement is clear*

*Myer is of the view that the advertisement does not contravene prevailing community standards and does not breach any of the AANA codes. Myer views that most members of the community would not consider the advertisement to be focussed on children, rather it is in line with the personalisation trend offered by Myer.*

*\* Based on followers on the Myer Instagram page and individuals who have liked the Myer Facebook page*

#### **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).

The Panel noted the complainant's concern that the advertisement is marketed towards children, encourages them to pester their caregivers to buy unhealthy options, and encourages excess consumption.

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

The Panel noted that this advertisement is a Facebook post which has a picture of a girl holding a personalised egg-shaped tin. The caption of the picture is "Easter's just around the corner! Make it one to remember with a Personalised CADBURY CRÈME EGG Chocolate Gift Tin, available exclusively at Myer! Just \$19.99".



The Panel considered whether the advertisement complied with relevant provisions of the Food Code.

The Panel considered section 2.2 of the Food Code which states: “the advertising or marketing communication...shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered 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 Panel noted that the advertised product is a chocolate item. The Panel considered that, consistent with previous decisions (Ferrero 0345/17, Hungry Jacks 282/11, and Mondelez 0550/17), promotion of a product which may have a particular nutritional composition is not, per se, undermining the importance of a healthy balanced lifestyle.

The Panel noted the AANA Food and Beverages Advertising and Marketing Communications Code – Practice Note which provides that: “In testing whether an advertising or marketing communication encourages excess consumption through representation of products or portion sizes disproportionate to the setting portrayed, or by any other means contrary to prevailing community standards, the Panel will consider whether members of the community in the target audience would most likely take a message condoning excess consumption.”

The Panel noted that the chocolate is shown in a personalised egg shaped tin, and considered that such novelty items are often shared amongst others, particularly during periods such as Easter. The Panel considered that there is no suggestion of frequency of consumption and there is no one person seen consuming the product.

The Panel considered that the advertisement did not encourage excess consumption. The Panel noted that most children will receive chocolate for Easter, and that the advertisement specifically states “Easter’s just around the corner! Make it one to remember...”. The Panel noted that the child in the advertisement is outdoors.

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

The Panel considered whether the advertisement complied with Section 3.2 and 3.5 of the Food Code.

To fall within this section of the 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 [14 years and



younger] and are for Product”.

The Panel considered the theme, content and visuals of the advertisement. The Panel noted the dictionary definition of ‘primarily’ is ‘in the first place’ and that to be within this section of the Food Code the Panel must find that the advertisement is aimed in the first instance at children under 14.

The Panel noted that the advertisement features a picture of a girl holding a personalised egg-shaped tin. The text above states Easter’s just around the corner! Make it one to remember with a Personalised CADBURY CRÈME EGG Chocolate Gift Tin, available exclusively at Myer! Just \$19.99”.

The Panel noted the theme of the advertisement. The Panel noted that the theme of chocolate promotion is a theme that appeals to children and the promotion of Easter chocolate would be of appeal to children and to adults.

The Panel noted the language of the advertisement. The Panel considered that the language used in the advertisement, specifically the phrase ‘Make it one to remember”, is targeted towards adults/parents, rather than children. The Panel considered that the language used was not child-like or targeted to children.

The Panel noted the visuals of the advertisement. The Panel noted that the colours are not bright and there are no animations. The Panel noted that the child in the advertisement is pictured outdoors with a limited background, and is wearing a grey shirt. The Panel considered the visuals of the advertisement to be quite muted, and not targeted towards children.

The Panel reiterated that it is essential that they consider all elements of the advertisement and to make a decision based on how all of the elements of the advertisement interact, and the overall impression that they make, in determining whether an advertisement is clearly directed primarily to children.

The Panel noted that this advertisement was displayed on Facebook, a medium which requires users to be 13 to sign up.

The Panel considered in this case that the advertisement was attractive to a broad audience and was not clearly directed in the first instance to children under 14. The Panel considered that that advertisement would be brighter or more animated if it was directed primarily to children.

The Panel considered that this advertisement, considering its overall impact and the theme, visuals and language used are not directed primarily to children. The Panel therefore considered that Section 3 of the Food Code did not apply.



Finding that the advertisement did not breach the Food Code the Panel dismissed the complaint.