



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0126/13</b>
<b>2</b>	<b>Advertiser</b>	<b>Unilever Australasia</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>01/05/2013</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

Food and Beverage Code 2.1 (b) - Contravenes community standards  
2.6 - Health and Safety Within prevailing Community Standards

### DESCRIPTION OF THE ADVERTISEMENT

Image on billboard of two Magnum ice creams: Pink Marc de Champagne and Black Espresso. The Pink Magnum is shown on a black background and the Black Magnum is shown on a pink background. The text reads, " Different Magnums...For different moments".

### THE COMPLAINT

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

*This is clearly promoting alcohol to children & young adults. Any argument that it is not targeting the young is superfluous. Ice creams- children- alcohol. Not an acceptable linkage.*

### THE ADVERTISER'S RESPONSE

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

*The complaint*

*The complaint alleges that the advertisement is promoting alcohol to children.*

*Response to Complaint*

### *Target Market for Magnum Pink and Magnum Black*

*Magnum ice cream products are not children's products and are specifically designed for and marketed to adults. The target market for Magnum Pink and Magnum Black is 20-35.*

### *Alcohol in Foods*

*The Magnum Pink product contains an alcoholic ingredient known as "Marc de Champagne". The total alcohol content of the Magnum Pink product is 0.66% by volume.*

*Magnum Pink is not the only food product that contains alcohol. There are many common foods which contain alcohol at a moderate level including various types of breads and cakes, and it is an essential functional part of many flavouring and essence ingredients. Ice cream products containing alcohol and bearing alcoholic names have been sold in the market for a substantial amount of time (eg Rum and Raisin Ice Cream). The alcohol content of these foods is low enough not to cause an intoxicating effect.*

*In recognition of the many foods which contain alcohol at low levels and the safety of such foods, the Australia New Zealand Food Standards Code sets out that foods containing alcohol do not need to be labelled with alcohol content if the alcohol level is below 1.15% by volume. It is therefore the opinion of Food Standards Australia New Zealand that foods containing less than 1.15% alcohol by volume is safe for general consumption without any requirement to warn or label.*

### *Advertising of Magnum Pink*

*We note that the reference to alcohol in the Magnum Pink advertisement is limited to the descriptor "Marc de Champagne" under the name of the product. We note that the use of the term Marc de Champagne in relation to the Magnum Pink product is consistent with the use of the word "Espresso" in relation to the Magnum Black product.*

*In no way does the reference to "Marc de Champagne" seek to promote, encourage or glorify the consumption of alcohol.*

*The term "Marc de Champagne" is included in the descriptor of the product as it is an ingredient in the product that characterises the product.*

### *Conclusion*

*Given that the use of the Marc de Champagne name is used in no way other than as an informative descriptor on a food product that meets all safety standards, we do not see any basis for an allegation that the advertisement breaches prevailing community standards on health and safety.*

*We are confident that the advertisement complies with all aspects of the AANA Code of Ethics.*

## **THE DETERMINATION**

The Advertising Standards Board (“Board”) considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (Children’s Code) and the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Board noted the complainant’s concerns that the advertisement is promoting alcohol to children.

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

The Board noted that the advertisement is on a billboard therefore the provisions of the AFGC RCMI do not apply in this instance.

The Board considered the definition of advertising or marketing communications to children under the Children’s Code. Advertising or marketing communication 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 dictionary definition of “primarily” is “in the first place” and that to be within the Children’s Code the Board must find that the advertisement is aimed in the first instance at children 14 years old or younger.

The Board noted that the advertisement features images of two Magnum ice-creams: Pink Marc de Champagne and Black Espresso. The Board noted that Magnum ice-creams are aimed at adult consumers and considered that in this instance the flavours of the ice-creams are clearly aimed at adults and not children.

The Board agreed that the theme, visuals and language of the advertisement being a depiction of two Magnum ice-creams in flavours aimed at an adult’s palate with the text, “different Magnums for different moments” are not directed at children.

Finding that the advertisement is not directed primarily at children the Board considered that the advertisement did not fall under the provisions of the Children’s Code.

The Board noted that the product advertised is food and that therefore the provisions of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code) apply. In particular the Board considered section 2.1 of the Food Code which provides: '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.'

As noted above, the Board considered that Magnum ice-creams in Marc de Champagne and Espresso flavours are products which are of appeal to adults, not children. The Board noted the advertiser’s response that the alcohol content of the Marc de Champagne version of the product is well below the content considered safe for general consumption by all members of the community including children and considered that a depiction of a product named after an alcoholic beverage is not of itself a depiction which advertises alcohol to, or encourages

alcohol consumption by, children.

Based on the above the Board considered that the advertisement did not breach Section 2.1 of the Food Code.

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