



Case Report

1	Case Number	0139/12
2	Advertiser	Lindt
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	11/04/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code healthy lifestyle/excess consumption
Advertising to Children Code 2.15 Food and beverages

DESCRIPTION OF THE ADVERTISEMENT

The TVC is for Lindt Easter chocolates. It shows a Lindt chocolate store with Lindt chocolatiers. A young girl asks "Where have all the bunnies gone?" The Chocolatier says "Well they're very shy. But as it's Easter, maybe you can find one." There is also an animated Gold Bunny and banner across the bottom of the screen during the TVC, which promotes a consumer promotion to find the Lindt Gold Bunny for the opportunity to win daily prizes.

THE COMPLAINT

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

This advertisement is in breach of the AANA Code for Advertising & Marketing Communications to Children. We believe the ad breaches 2.15a of the Code that advertising or marketing communication for food or beverages must neither encourage nor promote an inactive lifestyle or unhealthy eating and drinking habits.

The advertisement was directed to children as it was shown during two movies popular with children including a G rated movie. The ad features a young girl as the main character and is centred on a children's game- a mystery to find where all the bunnies have gone. The bunnies come to life and twitch their noses and eyes as if they are real animals. This ad plays with children's imagination by using magic and the well-known theme of inanimate objects

coming to life. The ad also encourages unhealthy eating habits as the young girl carries away a 1kg chocolate bunny.

This ad is certainly for a product aimed at children- chocolate Easter bunnies.

Broadcast

This advertisement was shown twice on channel 9;

On March 10th 2012 at 8.01pm during Bee Movie. This movie is rated G.

On March 17th 2012 at 7.54pm during Harry Potter and The Goblet of Fire. This movie is rated PG.

Nutrition Information

The product advertised is of poor nutritional quality with a high energy (2271kJ/100g) fat (33g/100g) saturated fat (20g/100g) and sugar (49g/100g) contents. In addition an overconsumption of this product is encouraged as the young girl holds a large 1kg gold bunny at the end of the advertisement.

THE ADVERTISER'S RESPONSE

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

The ASB has asked Lindt & Sprungli (Australia) Pty Ltd (Lindt) to provide comprehensive comments in relation to the Complaint. In particular, the ASB has asked Lindt to consider any issues within the TVC that fall within section 2 of the AANA Code of Ethics (Code), the AANA Code for Advertising and Marketing Communications to Children (Children Code) and the AANA Food and Beverages Marketing Communications Code (Food Code), which are incorporated under section 2 of the Code. In particular, we note that the copy of the Complaint attached to the ASB's letter specifies that the relevant issues pertain to section 2.15(a) of the Children Code, namely "Food and Beverages" in advertising and marketing communications to children.

Lindt takes its obligations under the Code, the Children Code and the Food Code very seriously. Lindt strongly believes that the TVC does not breach the Code, the Children Code (including section 2.15(a) of the Children Code), nor the Food Code.

5.1 The Code

The ASB's letter indicates that the ASB will review the TVC against section 2 of the Code.

The ASB has asked us to address any issues within the TVC which fall broadly within section 2 of the Code.

None of the provisions in section 2 of the Code are relevant to, or breached by, the TVC.

5.2 Section 2.15(a) of the Children Code

Section 2.15(a) of the Children Code provides that "Advertising or Marketing Communications to Children for food or beverages must neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits".

We strongly believe that the TVC does not encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits, and is not otherwise in breach of any provisions of the Children Code.

The Complaint claims that the TVC encourages unhealthy eating habits because the young girl in the TVC carries away a large Lindt chocolate bunny and because the TVC is allegedly directed at children. Lindt strongly disagrees with these claims for the reasons set out below.

(a) Advertising of chocolate products

We submit that the advertising and promotion of chocolate, per se, is not inconsistent with or undermining of healthy eating habits or a balanced diet. The ASB has supported this view in several previous determinations under the Code regarding advertisements for lollies, biscuits and other products, including its recent determinations regarding the Kraft Food Ltd television commercial for Chips Ahoy (Ref# 0229/11 dated 13 July 2011) and the Myriad Marketing television commercial for Push Pops (Ref# 0394/11 dated 26 October 2011).

(b) Unhealthy eating habits and excessive consumption

We strongly believe that the TVC does not promote nor encourage unhealthy eating habits nor excessive consumption of chocolate because:

- The TVC does not depict the main character (the girl) actually consuming the Lindt Gold Bunny nor taking away the Lindt Gold Bunny that she picks up at the end of the TVC. There is no strong inference in the TVC that the girl is consuming, or going to consume, the entire chocolate. Further, even if it can be inferred that the girl is going to take away the Lindt Gold Bunny, there is no strong inference that she is going to consume the entire chocolate by herself. The ASB supported a similar view in its determination regarding the Kraft Food Ltd television commercial for Chips Ahoy (referenced above).*
- The Lindt Gold Bunnies and chocolate Easter eggs depicted throughout the TVC are of various sizes, including the standard Lindt Gold Bunny size of 100g. The 1kg Gold Bunny is only depicted very briefly at the end of the TVC to highlight the girl successfully finding the Gold Bunny at the end of the "hunt", akin to winning a prize. It is not depicted in a way that encourages the girl or the target audience (whom we note are women aged 25-54 years, as discussed below) to consume the entire Gold Bunny. In fact, the 1kg Gold Bunny depicted at the end of the TVC only has extremely limited distribution and Lindt's primary objective is to promote its more popular standard 100g sized Gold Bunnies and Easter egg products.*
- The TVC is clearly promoting the Lindt Gold Bunny and Easter eggs as part of Lindt's Easter campaign, as we have done for many years. This suggests that the products are occasional treats to be consumed and enjoyed as part of Easter holiday celebrations and not necessarily on a regular basis. Further, it suggests that the products are to be consumed and enjoyed together with family and friends as part of the holiday celebrations and not solely by the purchaser. The ASB supported a similar view in its determination regarding the Coca-Cola South Pacific Pty Ltd television commercial for Coke (Ref# 0493/10 dated 8 December 2010).*
- Lindt strongly disagrees that the brief depiction of the large Gold Bunny at the end of the TVC encourages a "'habit'" of unhealthy eating in the sense that it encourages regular and mass consumption of unhealthy foods. As discussed below, the overall message of the TVC is the "'hunt'" for the Lindt Gold Bunny for individual enjoyment over Easter. The TVC does not in any way depict nor encourage mass or regular consumption of the Gold Bunny or any other Lindt product.*
- Lindt strongly believes that the reasonable viewer would not view the TVC as encouraging excessive or mass consumption of the Lindt Gold Bunny by anyone, including children.*

(c) Target audience

The TVC is not directed at children, which are defined in section 1 of the Children Code as persons 14 years or younger. Lindt's target audience for all of its advertising campaigns regarding the Lindt chocolate Gold Bunny, including the TVC, is women aged 25-54 years, either in their capacity as parents or for adult-to-adult gifting.

Further, the TVC includes a prominent call to action to direct consumers to the website www.goldbunny.com.au to participate in an online competition, in which consumers can "hunt" for the hidden Gold Bunny in a detailed online illustration to receive various prizes (such as cinema tickets and Lindt products) (Competition). The Competition was only open to entrants aged 18 years and over. The entry mechanic of the Competition and the prizes were designed for the target audience for Lindt Gold Bunny products of women aged 25-54 years. A copy of the Terms and Conditions for the Competition are attached separately to this letter.

The subject matter of the TVC is complementary to the Competition in its concept and theme of "hunting" for the Lindt Gold Bunny, which is primarily directed at adults.

(d) Message and theme of the TVC

Lindt strongly disagrees that the TVC encourages overconsumption of the featured Gold Bunny. The overall concept and theme of the TVC is the "hunt" for the Lindt Gold Bunny. This is conveyed, for example, by the girl's question "Where have all the bunnies gone?" and the chocolatier's answer "Well they're very shy. But as it's Easter, maybe you can find one." This concept is complementary to the Competition that is promoted in the TVC, as discussed above.

As mentioned above, the large Gold Bunny is only depicted very briefly at the end of the TVC to highlight the girl successfully finding the Gold Bunny at the end of the "hunt", akin to winning a prize. It is not depicted in a way that encourages the girl or the target audience to consume the entire Gold Bunny.

5.3 Other provisions of the Children Code

The only provision of the Children Code that is relevant to the TVC is section 2.15(a), which is discussed above. None of the other provisions of the Children Code are relevant to, or breached by, the TVC.

5.4 Food Code

The ASB's letter also refers to the Food Code. We strongly believe that the TVC complies with the Food Code. In particular, we note that section 2.2 of the Food Code is similar to section 2.15(a) of the Children Code, as it provides that advertisements for Food or Beverage Products "shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered as excess consumption...". We submit that the same considerations relevant to section 2.15(a) of the Children Code that we discuss above apply to section 2.2 of the Food Code, and that the TVC does not breach section 2.2, nor any other provision, of the Food Code.

Further, in compliance with the Food Code, we strongly believe that:

- (a) the TVC is not misleading or deceptive, and is communicated in a manner appropriate to the level of understanding of the target audience of women aged 25-54 years;
- (b) the TVC accurately represents the featured Lindt products; and
- (c) the TVC does not encourage unhealthy eating habits nor excessive consumption of the featured products (as discussed above), and does not make inaccurate health or nutrition claims about the featured products.

5.5 Other considerations – number of complaints and campaign history

Only one complaint has been received in relation to the TVC. Further, the same TVC has been broadcast in Australia as part of Lindt's Easter campaign each year for the past 5 years without any complaints. We consider this is pertinent to the ASB's consideration of Prevailing Community Standards that apply to the TVC.

7. CONCLUSION

Lindt submits that the TVC does not breach any provisions of the Code, the Children Code (including section 2.15(a)) nor the Food Code.

We hope that the information set out above assists the ASB in considering the Complaint and making its determination.

THE DETERMINATION

The Advertising Standards Board ('The Board') considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (Kids Code), the AANA Food and Beverages Code (Food Code) and Section 2 of the AANA Advertiser Code of Ethics (the "Code").

The Board noted the complainant's concern that the advertisement promotes unhealthy food to children and encourages excess consumption.

The Board noted that Lindt is not a signatory of the AFGC RCMCI therefore this Code does not apply.

The Board reviewed the advertisement and noted the advertiser's response.

The Board considered the advertisement under the AANA Code for Advertising and Marketing Communications to Children. The definition of what is advertising and marketing communications to children' in the AANA Children's Code is "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 Children means, "children 14 years old or younger" and Product means, "goods, services and/or facilities which are targeted toward and have principal appeal to children."

The Board noted the advertisement features a young girl in a Lindt shop with animated gold Lindt bunnies and a master Chocolatier. A minority of the Board considered that the use of the animated bunnies and the young girl combined to make the advertisement directed primarily to children. The majority of the Board however considered that the language of the advertisement ("quality" and "Master Chocolatier") was directed more to adults and that the overall theme and visuals of the advertisement would be of appeal to a wide range of ages and not just children. The Board considered that the advertisement was not directed primarily to children and therefore the provisions of the Kids Code do not apply.

The Board then considered the AANA Food and Beverages Code. The Board considered section 2.2 of the Food Code which provides that: Advertising or marketing communications for food or beverage products shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets or encourage what would reasonably be considered as excess consumption through the representation of product/s or portion sized disproportionate to the setting/s portrayed or by means otherwise regarded as contrary to prevailing community standards.'

The Board noted the complainant's concerns that the girl is holding a large chocolate bunny at the end of the advertisement and that this encourages excess consumption. The Board noted that whilst the girl is shown holding the large bunny there is no suggestion that she is going to eat it or that the bunny should be eaten by one person. The Board noted that it is reasonable for an advertiser to use their range of products in an advertisement and considered that an image of a large chocolate bunny does not of itself amount to a depiction which would encourage or condone excess consumption. The Board determined that the advertisement did not breach Section 2.2.

Finding that the advertisement did not breach any of the Codes on any grounds, the Board dismissed this complaint.