



## Case Report

<b>1</b>	<b>Case Number</b>	<b>0190/13</b>
<b>2</b>	<b>Advertiser</b>	<b>Smith's Snackfood Co Ltd The</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>12/06/2013</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

### ISSUES RAISED

Food and Beverage Code 2.1 (b) - Contravenes community standards  
RCMI a - Advertising Message AFGC - Advertising Message  
RCMI b - Personality/Characters AFGC - Personalities-Characters

### DESCRIPTION OF THE ADVERTISEMENT

We open on Mr. Potato Head in his home, saying that he never normally eats potato snacks. Mr Potato gestures to himself, and the fact that after all he is a potato. Mr. Potato Head is then seen coming out of a shop. He bumps into Smith's spokesperson, comedian Stephen Curry and notices that Stephen's just purchased some new Smith's Popped Snacks. Mr. Potato Head picks up a packet and takes out a popped snack to inspect it and then tastes it and to his surprise, he absolutely loves it. Stephen Curry explains they are – not fried, but air popped. We then see Mr. Potato Head at the beach eating Smith's Popped snacks. People around him are enjoying them too, but when they see Mr. Potato Head eating them, they look on surprised..... as he is a potato!

### THE COMPLAINT

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

*Mr. Potato and the Toy Story franchise are children's programing. In no way legally or otherwise should children's icons, figures or celebrities be used in the advertising of 'junk food' or unhealthy food products.*

*Smiths Chips are advertising to children; with recognizable children's characters; during children's programing hours; on a show targeting a child audience; they have chosen to*

*target children with the new Smith's chips advertisement.*

*This advertisement breaks the Broadcasting Services Act 1992, and every ethical and moral responsibility for Channel 10 to not advertise junk food to children.*

## **THE ADVERTISER'S RESPONSE**

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

*The advertisement referred to in Mr. Morgan's complaint to the Advertising Standards Bureau is part of a campaign to launch a new product called Smith's Popped potato snacks. The role of the advertisement is to inform viewers that this snack is different from other potato snacks in that they are cooked in hot air, not oil, and as a consequence are 50% lower in fat than other similar products.*

*This advertisement is not targeted at children, it is not scheduled during children's viewing time, and is not knowingly placed in programming that has a large viewing audience of children 12 and under.*

*The advertisement is not targeted at children*

*The advertisement includes comedian and Smith's spokesperson, Stephen Curry and Mr Potato Head, in his first appearance in a Smith's commercial. The Mr. Potato Head character was "born" in 1949 and since then has appealed to a wide range of audiences. In the Smith's Popped advertisement he is a symbolic representation of a middle aged person who is delivering a serious message targeted at adults 25-54 years.*

*Mr. Potato Head by his very name is the expert on potatoes. In this advertisement he admits that he does not normally eat potato snacks – he is after all a potato and through his words ("I never normally eat potato snacks. Because, well ...you know...") and gestures in a way that implies that it would be bit like eating himself. However, he becomes convinced Smith's Popped are a healthier choice and that even a potato would want to snack on them.*

*His potato like shape adds further impact to deliver the message - the new Smith's Popped potato snacks are cooked in hot air, not oil, so they are 50% lower in fat than chips that are fried.*

*The use of an animated character in advertising does not automatically mean that the communication is targeted at children. A multitude of other animated characters in advertising have delivered adult messages, for example Louie the Fly and more recently the animated bread campaign for Cruskits <http://www.bestadsontv.com/ad/50691/Arnotts-Cruskits-Carbs-Dont-Fight-Fair-Fight-Back-with-Cruskits>.*

*In the case of this advertisement, it is clear that the animated character is delivering a message that focuses on the improved nutritional properties of the product, a message that is obviously designed for an adult audience as this is not something that would have any relevance to or interest for, children.*

*The advertisement is not scheduled in children's viewing time.*

*The commercial was submitted to CAD and was given a "W" rating". Details are Key number TSC268330; CAD Approval Number WXSE0FSA.*

*The target audience for the advertisement is people aged between 25-54 years who are looking for 'better for you' snack options.*

*We have adhered to the CAD "W" rating in the placement and have and will not place the advertisement in children's viewing time. We assure the ASB that in scheduling the placement of the commercial we were mindful of the CAD "W" rating guideline as well as our commitments under the AFGC Responsible Children's Marketing Initiative (RCMI) and thus*

*the time at which Mr. Morgan saw the advertisement for Smith's Popped was outside children's television viewing times.*

*The advertisement is not knowingly placed in programs targeted at children*

*The advertisement has not and will not knowingly be placed in programs that are promoted for viewing by children or likely to attract substantial numbers of children. All television programs in which the Smith's Popped advertisement appear in fall well below the children audience levels specified by the RCMI. In this specific case, children 12 and under represent 22% of the viewing audience for 'The Simpsons', well below the 50% threshold set out in the RCMI.*

*While The Simpsons is an animated program it is not a program that is designed for children – this is apparent in the adult and mature nature of some of the content, and is reflected in the audience make up. Other programs in the Smith's Popped TV schedule include "The Block" and "Two and a Half Men."*

*Consumer feedback we have received to date regarding the commercial has been very positive. Over 600 people have liked the advertisement on our Smith's Facebook site (audience 14 years plus) and there have been 480 Views on You Tube with overwhelming positive consumer comments. Most negative comments relate to the fact that Mr. Potato Head appears to have decided to eat himself.*

*Substantiation of Claims in Advertisement*

*As part of our claims substantiation to CAD we supplied the following information:*

*Substantiation for "Fat" Claim*

*"He said they're naturally lower in fat and better for the whole family.*

*\*50% lower in fat compared to potato chips cooked in oil".*

*The substantiation for this claim is based on the fact that the majority of products in the Australian potato chip market, including market leader Smith's Crinkle Cut Chips are fried in oil. The fat content for the Smith's Popped range v's key products in the market including market leader Smith's Crinkle Cut, shows that Popped is 50% lower in fat.*

*Substantiation for Revolutionary Process Claim*

*Smith's Popped are made with potato flakes and potato starch using a new technique that creates a light texture. Unlike the majority of snacks currently on the market which are fried in oil, Smith's Popped are cooked in hot air. The result is a potato snack that is light and crispy in texture with 50% less fat than with frying. They're also seasoned using healthier canola oil and don't contain any artificial colours or flavours.*

*The advertisement went to air on 26th May on metropolitan and regional markets and free to air and subscription television for a 6 week activity burst.*

*We have a responsibility to ensure our advertising and promotion meets appropriate community standards. We believe that we have met these standards and those detailed as part of our commitments under the RCMI.*

## **THE DETERMINATION**

The Advertising Standards Board (Board) considered whether this advertisement breaches section 2 of the AANA Advertiser Code of Ethics (the "Code"), the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code), and the AFGC Responsible Children's Marketing Initiative of the Australian Food and Grocery Council (AFGC RCMI).

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

The Board noted the complainant's concern that the advertisement is directed to children and does not represent a healthy dietary choice.

The Board firstly considered whether the advertisement met the requirements of the AFGC RCMI. The Board noted that under the AFGC RCMI the relevant requirement is that the company does not advertise food and beverage products to children under 12 in 'media' unless those products represent healthy dietary choices.

Media is defined as: 'Media means television, radio, print, cinema and third-party internet sites where the audience is predominantly children and/or having regard to the theme, visuals, and language used are directed primarily to children.'

The Board also noted the Guideline to the RCMI Initiative which provided that advertising or marketing communication activities are captured under the RCMI Initiative if:

1. the audience of the communication activity is predominantly children (under 12);
2. the media in which the communication activity appears is clearly directed primarily to children (under 12)
3. the communication activities are, regardless of the audience, clearly directed primarily to children under 12.

The Board also noted that under the Guideline 'the key to determining whether the media or communication activities are directed to children is whether the themes, visuals, language and concepts are those that are attractive to children under 12.' The Board noted, however, that while useful in determining whether the advertisement is directed to children, the requirement is that the advertisement is 'clearly directed primarily' to children.

The Board noted the information provided by the complainant that the advertisement was viewed during the program The Simpsons. The Board noted that The Simpsons is listed in Appendix II to the AFGC RCMI under 'Programs not covered by the RCMI' and considered that whilst the Simpsons could be of appeal to children it is directed at a family audience and is not directed primarily to children.

The Board also noted that the program in which the advertisement was broadcast does not have an audience which is predominantly children. On this basis the Board determined that the advertisement was not broadcast in programs where the audience is predominantly children or the program is directed primarily to children.

The Board noted that the guidelines require that the Board also consider whether the 'communication activities are, regardless of the audience, clearly directed primarily to children under 12'.

The Board noted the dictionary definition of 'primarily' is 'in the first place' and that to be within the AFGC RCMI the Board must find that the advertisement is aimed in the first instance at children. The Board considered the theme of the advertisement (the discussion of a new popped potato chip), the visuals (Mr Potato head talking to the camera and with actor Stephen Curry) and the language used (Mr Potato Head talking about the new method of manufacture).

The Board agreed that the advertisement would be attractive to children because of the focus

on Mr Potato Head and his popularity through the movie Toy Story but overall considered that the advertisement is not ‘primarily directed to children under 12’. The Board considered that the advertisement was aimed at the grocery buyer and that the descriptive dialogue used by the character is factual in its content and not childlike. The Board considered that many adults would appreciate that Mr Potato Head – “the toy” was actually created well before the movie Toy Story.

On balance, the Board considered that this advertisement was not clearly directed primarily to children under 12 and did not breach the provisions of the AFGC RCMI.

The Board then 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 largely the same as that in the RCMI. For the same reasons noted above, the Board considered that this advertisement is not primarily directed to children; therefore the provisions of the Children's Code and of Part 3 of the AANA Food and Beverages Code are not applicable in this case.

The Board then considered whether the advertisement complied with all other relevant provisions of the Food and Beverages Code.

The Board noted section 2.1 of the Food Code which provides that: advertising or marketing communications for food or beverage product shall not...otherwise contravene Prevailing Community Standards...’

The Board considered that advertising a snack is not, of itself, something which is contrary to prevailing community standards and that there is nothing contrary to community standards in the manner in which the product is promoted in this particular advertisement.

The Board determined that the advertisement did not breach Section 2.1 of the Food Code.

The Board noted section 2.2 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 Board considered that the advertising or promotion of snacks is not, per se, inconsistent with or undermining of a balanced diet or healthy lifestyles. The Board also considered that there was nothing in the advertisement which suggested or promoted excess consumption.

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

The Board determined that the advertisement did not breach the AANA Food Code.

Finding that the advertisement did not breach the AANA Code of Ethics, Food Code or AFGC RCMI, the Board dismissed the complaint.

