



Case Report

1	Case Number	0204/10
2	Advertiser	Nestle Australia Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	27/05/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

2.4 - Advertising to Children Code Social value
Advertising Message AFGC - Advertising Message

DESCRIPTION OF THE ADVERTISEMENT

Ad 1 - boy out the front of his house with a mate playing with his billycart. The boy doesn't respond when his mother calls that it's time to go. The mother appears to be embarrassed in front of his friend's mother and they are both surprised when he holds up an opened berry Roll Up. End image depicts the boys riding away happily on the billycart.

Ad 2 - We see a young girl playing with her friends on the monkey bars in a public playground who is not happy when her mother calls that this is time to go. She shakes her head and holds up an opened berry Roll Up.

Voiceover for both ads: Rollups have 40% less sugar than other leading kids snack products. So all roll ups come with a licence to play.' with image of box of Uncle tobys Rollups with hand holding opened rollup with caption:40% less sugar 100% more fun and caption: Based on sales of top 5 kids snack products ranged in grocery

THE COMPLAINT

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

This advertisement promotes disobedience in children. It is teaching children that they do not have to listen to their parents.

THE ADVERTISER'S RESPONSE

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

From your email I understand the Bureau is concerned the Advertisement may not comply with Section 2 of the AANA Advertiser Code of Ethics (Code), which incorporates the AANA's Food and Beverages Advertising and Marketing Communications Code (Food Specific Code) and the AANA's Code for Advertising Marketing Communications to Children (Children Specific Code).

On behalf of Nestle I would like the Board to consider the information below in its consideration of the Complaint. I wish to state at the outset that we do not consider the Advertisement to be in breach of the Code, the Food Specific Code or the Children Specific Code.

We have considered the Code and are confident the Advertisements raise no issues specifically under the Code. However we consider below any issues under either the Food Specific Code or the Children Specific Code (both of which are incorporated in the Code). The Advertisements portray children at play, engaging in activities promoting a healthy and active lifestyle. As such it could not be said the Advertisements contravene section 2.15(a) of the Children Specific Code or section 2.2 of the Food Specific Code, each section requiring that advertising must not encourage nor promote an inactive or unhealthy lifestyle.

Nestle disagrees with the assertion made by the complainant that the Advertisements promote ""disobedience in children"" and teaches them ""that they do not have to listen to their parents"".

It was not intended by Nestle in the Advertisements to ""undermine the authority, responsibility or judgment of parents or carers "" , prohibited by section 2.7 of the Children Specific Code. Nestle does not consider the Advertisements have this result nor, to the best of its knowledge, are aware of the Advertisements having this result.

However it was intended by Nestle in the Advertisements:

o by featuring children in the Advertisements wishing to continue to play, to reflect in a humorous manner a fact well known by parents that children like to play and do not like to be told to stop playing;

o to inform parents as to the permissibility of ROLL UPS due to their reduced sugar content;

o to associate ROLL UPS for parents with positive, playful fun; and

o to promote a healthy and active lifestyle for children.

In support of its position that the Advertisements do not and are not intended to ""undermine the authority, responsibility or judgment of parents or carers"", I note the Advertisements were not made for, or broadcast specifically to, children.

The intention of Nestle for the Advertisements was for them to appeal predominantly to female grocery buyers with children and to highlight the permissibility of ROLL UPS due to their reduced sugar content. This is evidenced in the depiction of mothers in the Advertisements and the use of humour targeted to this group. The media schedule for the Advertisements is reflective that Nestle sought to reach this target group.

Nestle specifically targeted the following programs for the broadcast of the Advertisements so as to reach this target group:

o Channel 7: My Kitchen Rules, Grey's Anatomy, Home and Away, Today Tonight, The Morning Show, Better Homes & Garden, Seven News, Bones, All Saints and Cougar Town;

o Channel 9: A Current Affair, Two And A Half Men, Australia's Funniest Home Videos, The Ellen Degeneres Show, Getaway, Domestic Blitz and The Big Bang Theory; and

o Channel 10: The 7pm Project, Law & Order, Neighbours, The Oprah Winfrey Show, The Biggest Loser Australia, So You Think You Can Dance Australia, NelS, House and Bondi Rescue.

Following a request for further information the advertiser replied:

I refer to your email of 17 May 2010 to Nestle requesting substantiation for the statement in the Advertisements that the Roll-ups contain 40% less sugar. Words defined in my letter to you dated 7 May 2010 have the same meaning in this letter.

1. Claim made by Nestle

The Advertisements make the following claim by way of a voice over (Voice Over): "ROLL UPS have 40% less sugar than other leading kid snack products"

Immediately after the Voice Over appears the following super (Super): "Based on sales of top 5 kids snack products ranged in grocery"

This Super re-appears at the end of the Advertisements.

2. Substantiation for claim

ROLL UPS have 2.8g of sugar per 15.6g serve and 17.7g of sugar per 100g.

The table over the page sets out:

(a) the 10 leading kids snack products as determined by dollar sales in national grocery chains (including Woolworths, Coles and IOA) for the 3 month period ending 30 August 2009;

(b) the amount of sugar per serve and 100g for each of these products; and

(c) the percentage difference between the amount of sugar in each of these products as against ROLL UPS per serve and per 100g.

Table not included in case report.

Based on the information in the above table I substantiate on behalf of Nestle that ROLL UPS do have 40% less sugar than other leading kids snack products.

THE DETERMINATION

The Advertising Standards Board (Board) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code"), section 2 of the AANA Food & Beverages Advertising & Marketing Communications Code ("the Food Code") and section 2.7 of the AANA Code for Advertising and Marketing Communications to Children (the Children's Code).

The Board noted the complainant's concern that the advertisement promotes disobedience in children

The Board first considered whether the advertisement is directed for children and is for product. The Board agreed that the advertised product 'roll ups' is a product that is targeted toward and of principal appeal to children. The Board then considered whether the advertisement is advertising or marketing communications to children. The Board noted that the advertisement is placed in programs that are not directed to children and that in the advertiser's intent the advertisement is targeted towards adults. However, considering the theme, visuals and language used in the advertisement the Board considered that the

advertisement could be considered to be advertising to children (being children 14 years or younger), despite it not being shown in children's programming.

The Board then considered the application of part 3 of the Food Code and section 2.7 of the Children's Code. Section 2.7 of the Children's Code requires that advertising to children 'must not undermine the authority, responsibility or judgment of parents or carers'. The Board noted the complainant's concern that the image of the children flashing the product to the parent would be likely to encourage children to be disrespectful. The Board considered that the depiction was unlikely to be an image that would encourage disobedience from children and that the advertisement did not breach the Children's Code.

The Board noted that the advertisement claims that the advertised product has '40% less sugar than other leading kid's snack products'. The Board considered whether the advertisement complied with section 2.1 of the Food Code. Section 2.1 of the Food Code states: "Advertising or Marketing Communications for Food or Beverage Products 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."

The Board noted the information provided from the advertiser about the sugar content of the advertised product and that of the top 10 selling children's snack foods in major retail outlets. The Board considered that, based on the assumption that the information provided by Nestle regarding sugar content is accurate, the advertisement is not misleading. The Board considered that the advertisement clearly identified what the '40% less sugar' claim is related to. The Board considered that this information in the advertisement is not misleading or deceptive.

The Board determined that the advertisement did not breach the Code, the Food Code or the Children's Code in any manner and dismissed the complaints.