



ADVERTISING  
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## Case Report

1	Case Number	0221/14
2	Advertiser	Kellogg (Aust) Pty Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	Free TV
5	Date of Determination	09/07/2014
6	DETERMINATION	Dismissed

### ISSUES RAISED

RCMI 1.1 - Advertising Message AFGC - Advertising Message

### DESCRIPTION OF THE ADVERTISEMENT

The advertisement opens with a bowl of Coco Pops being pushed by a wooden rooster into a series of cups, which eventually empties into a second bowl where milk is poured over the cereal. This causes a toaster to set off a variety of percussive instruments made up of objects such as spoons, cereal bowls and milk containers. The sequence ends with a bowl of Coco Pops on a wooden trolley going down a ramp, triggering a series of xylophones, until it hits a wall, which is revealed to be an alarm clock. The advertisement then cuts to a family setting showing a mother preparing breakfast and packed lunches for her two sons, who are dressed for soccer practice and shown playing with a ball. The voiceover says “nothing gets the morning moving like the fun of Coco Pops and milk”. The final scene of the advertisement depicts the mother and her sons leaving the house, with the words “get the morning done” appearing on the screen.

### THE COMPLAINT

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

*Reason for complaint – The advertisement breaches the Responsible Children’s Marketing Initiative (RCMI).*

*As a signatory to the RCMI, Kellogg has committed not to advertise its products to children under 12 years in media unless those products represent healthier dietary choices, consistent with established scientific or Australian government standards.*

*In our submission the advertisement breaches the RCMI because: -*

- 1. It is a communication directed primarily to children;*
- 2. Coco Pops do not represent a healthy dietary choice consistent with established scientific or Australian government standards; and*
- 3. It does not promote healthy dietary habits or physical activity.*

*The advertisement is a marketing communication directed primarily to Children*

*This advertisement is, on any common sense view of its themes, visuals and language, a marketing communication directed primarily to children, within the meaning of the RCMI.*

*The Board is requested to carefully consider the following salient features on which the OPC relies in support of this submission: -*

- 1. the advertisement uses a marvellous contraption of a kind reminiscent of children's literature and films such as Roald Dahl's Charlie and the Chocolate Factory;*
- 2. the colours are simplistic, childlike and happy – pale and white;*
- 3. the components of the contraption are depicted as wooden toys of a type popular with very young children;*
- 4. the language used in the body of the ad is simply the word "yum" seen on the contraption: a word more commonly used by, or when addressing, children.*

*These highly evocative aspects of the advertisement will strongly appeal to children's sense of playfulness. This targeted marketing approach is consistent with Kellogg's acknowledgment that Coco Pops are a product designed for, and promoted to children. The major sequence in the advertisement makes no appeal to parental or adult interests, directing its themes, visuals and language specifically at young children.*

*We further ask that the advertiser disclose to the board which programs the ad has been broadcast in and whether those programs are themselves directed primarily to children.*

*We anticipate the advertiser may argue that the ad is directed at parents / adults / grocery buyers as the voiceover at the end appeals to parents need to "get the morning done". This type of argument has not been accepted by the Board previously, however, in near identical circumstances. Specifically, in decision 0144/13 the Board rejected Kellogg's argument that a similar ad for Coco Pops, the majority of which was dominated by childish, fun-evoking animated scenes, with only a short voice-over appeal to grocery buyers at the end, was directed primarily to adults. The Board reasoned as follows:*

*"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 (child watching and then eating the coco pops in the bowl), the visuals (the coco pops playing a game of "marco polo? in the milk) and the language used (female voiceover suggesting you "when coco pops and milk come together, it's all fun and games" and sounds of children laughing and playing in a pool)."*

*"The Board agreed that the advertisement could be aimed at the grocery buyer as children are generally not the member in the home who buys the groceries for the family, and that the depiction of a kitchen bench with the inclusion of a bowl of fruit and "lite" milk indicates that the advertisement is aiming at an audience of parents or those responsible for buying groceries and/or preparing breakfast for children. However, in this instance, the Board agreed that the primary focus of the advertisement would be to attract children because of the focus on the young boy eating the cereal and the game being played in the milk. The Board noted that the focus of the advertisement is predominantly on the Coco Pops in the milk pool. The Board also noted that the voices used for the Coco Pops, which dominate the advertisement, are childlike and use language that would be commonly used by children. On balance, the Board considered that this advertisement was clearly directed primarily to children under 12."*

*In respect of the current advertisement, we submit that the short appeal to parents at the conclusion of the advertisement is not sufficient to overcome the overwhelmingly child-focused major section of the ad. Where “primarily” means “in the first place”, this entrancing, toy-like, whimsical advertisement makes it clear the “primary” target for this ad is young children.*

*The food product advertised (Coco Pops) is not a healthier choice.*

*We note the board has previously found that Coco Pops represent a “healthier choice” within the definition contained in Kellogg’s Company Action Plan (‘CAP’), on the basis that one serve contains 11g of sugar, and the definition of “healthier choices” includes products that contain less than 12g of sugar per serve. The kilojoule content, trans fat and sodium are also relevant measures. To maintain the CAP’s present reference values for “healthier choice” products, however, would run contrary to current research, government recommendations (both Australian (Guidelines) and international (WHO)) and the health and interests of Australian children.*

*Since the CAP was drafted, the Australian Dietary Guidelines 2013 (‘Guidelines’) have been amended to recommend that Australians limit intake of foods and drinks containing added sugar and salt. Coco Pops contain 36.5% sugar, moderate levels of salt and are very low in dietary fibre. That is, they are energy dense and nutrient poor, features that are characteristics of unhealthier choices, not healthier choices. The Guidelines note that foods with a higher energy density encourage energy intake above requirements and tend to be highly palatable, which is associated with increased food intake in single-meal studies. Sugar is positively associated with energy density, while water and dietary fibre are negatively associated (Australian dietary guidelines, Guideline 1.3). Although a variety of nutritious grain foods are recommended for consumption, refined grain (cereal) food products are excluded, particularly those with high levels of added sugar, fat (in particular saturated fat) and/or salt/sodium. A small, persistent energy imbalance is enough to cause excess weight gain in both children and adults, and energy-dense, nutrient poor foods like Coco Pops contribute large quantities of energy from sugar to diets.*

*The World Health Organisation (‘WHO’) recommends limiting the intake of ‘free sugars’ (referring to sugars added to food by the manufacturer, cook or consumer, plus sugars naturally present in honey, syrups and fruit juices) to no more than 10% of total dietary energy contribution. It considers that further health benefits follow if the contribution of dietary energy from sugar is kept to only 5%.*

*Importantly, data released in May 2014 has revealed that the greatest risk factor contributing to disease burden in Australia is poor diet, followed by high body mass index (see 2014 results from the Global Burden of Disease study here:*

*<http://www.healthdata.org/results/country-profiles>). Diets high in energy dense and nutrient poor foods such as Coco Pops are associated with increased risk of overweight and obesity. Obesity, in turn, is a leading risk factors for non-communicable diseases including heart disease and several types of cancer including endometrial, oesophageal, gallbladder and bowel.*

*For the advertiser to rely on its out-of-date Company Action Plan in light of these circumstances would be such a gross distortion of the definition of “healthier” as to render the RCMI entirely meaningless. In light of the evidence and analysis here presented, the advertiser cannot maintain the assertion that a serve of Coco Pops represents a healthier dietary choice for children.*

*The advertisement does not promote good dietary habits or physical activity*

*Even in the case of a product that (unlike Coco Pops) represents a healthy dietary choice, the RCMI provides that Kellogg may only advertise the product to children if the advertising and/or marketing communication activities reference, or are in the context of, a healthy*

*lifestyle, designed to appeal to the intended audience through messaging that encourages:*

- 1. Good dietary habits, consistent with established scientific or government criteria; and*
- 2. Physical activity.*

*The Board has previously noted, in its decision 0454/11, that merely omitting any references to unhealthy eating choices is not sufficient to discharge this obligation. It is quite clear that the advertiser is required to positively encourage good dietary habits and physical activity, which Kellogg has failed to do in this advertisement.*

#### *Good dietary habits*

*We anticipate the advertiser will here argue that because the ad depicts a mother handling bananas, and milk is shown, that the ad promotes good dietary habits. This argument is not supported by previous decisions made by the Board in nearly identical circumstances.*

*Specifically, the Board ruled, in relation to complaint 0144/13, that though the ad then in question depicted a bowl of fruit and reduced fat milk on the bench in close proximity to where child was eating Coco Pops, the boy was not seen consuming any of the fruit, nor did the voiceover refer to consumption of the cereal with some of this fruit. The majority of the Board concluded that the depiction of a healthier choice product on a kitchen bench does not encourage good dietary habits and that this advertisement did not depict the product in the context of a healthy lifestyle that would encourage good dietary habits. For the Board's findings to retain legitimacy, the decision in this case should be consistent as there are no relevantly distinguishable circumstances.*

#### *The ad does not promote physical activity*

*We anticipate the advertiser will argue that the boy seen holding a soccer ball amounts to promotion of physical activity. We submit that this bare suggestion that the boys are going to play sport is fleeting, shown at the end of the commercial, and is not sufficient to amount to the promotion of physical activity. Conclusion*

*We submit this advertisement breaches the RCMI and we ask that the Board require the advertiser to withdraw it from all TV and online platforms in Australia immediately.*

## **THE ADVERTISER'S RESPONSE**

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

### *Advertising Standards Bureau ("ASB") Complaint 0221/14*

*I refer to your letter dated regarding the complaint received by the ASB in relation to the above mentioned advertisement.*

*Please note that we have not provided any substantiation data regarding health, nutrition or ingredient claims or statements, as such claims or statements are not made in this advertisement.*

*Prior to addressing the substantive issues, Kellogg would like to confirm its long-standing support for the ASB and its commitment to uphold the relevant Codes together with its own internal guidelines.*

#### *1) Description of Advertisement and Summary of Complaint*

*The concept behind the advertisement is that "a fun breakfast of Coco Pops and milk makes*

*the morning run smoother for mums". The advertisement features an elaborate and musical mechanical breakfast making contraption. The advertisement opens with a bowl of Coco Pops being pushed by a wooden rooster into a series of cups, which eventually empties into a second bowl where milk is poured over the cereal. This causes a toaster to set off a variety of percussive instruments made up of objects such as spoons, cereal bowls and milk containers. The sequence ends with a bowl of Coco Pops on a wooden trolley going down a ramp, triggering a series of xylophones, until it hits a wall, which is revealed to be an alarm clock. The advertisement then cuts to a family setting showing a mother preparing breakfast and packed lunches for her two sons, who are dressed for soccer practice and shown playing with a ball. The voiceover says "nothing gets the morning moving like the fun of Coco Pops and milk". The final scene of the advertisement depicts the mother and her sons leaving the house, with the words "get the morning done" appearing on the screen.*

*The complaint is made under the Australian Food and Grocery Council Responsible Children's Marketing Initiative (RCMI). The substantive complaint under the RCMI is that :*

- i) the advertisement is a marketing communication directed primarily to children;*
- ii) Coco Pops are not a healthy dietary choice consistent with scientific or Australian Government standards; and*
- iii) the advertisement does not promote healthy dietary habits or physical activity.*

*Our response to the substantive complaint is set out below.*

## *2) Advertising to Children*

*Kellogg submits that the advertising messaging section of the RCMI does not apply in this instance as the advertisement is not directed at children.*

*The RCMI only applies to "marketing communications to children". The relevant definitions in the RCMI are set out below:*

### *Content*

*Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for food and/or beverage products.*

### *Placement*

*Advertising or Marketing Communications that are placed in Medium that is directed primarily to Children (in relation to television this includes all C and P rated programs and other rated programs that are directed primarily to Children through their themes, visuals and language); and/or where Children represent 35 per cent or more of the audience of the Medium.*

### *Theme, visuals, and language*

*Kellogg submits that that the advertisement is not a "marketing communication to children" because, having regard to the theme, visuals and language used, it is not directed primarily at children.*

*Kellogg acknowledges that the advertisement is whimsical, however, mere whimsy is an insufficient basis for a finding that the advertisement is primarily directed at children, as whimsy is a quality that appeals to people of all ages. Further, as held in case number 0258/13, the fact that an advertisement may be attractive to children does not necessarily mean that an advertisement is primarily directed at children.*

*The concept behind the advertisement is that “a fun breakfast of Coco Pops and milk makes the morning run smoother for mums”. It is based upon the target audience insight that Main Grocery Buyers (MGBs) yearn for smoother mornings, and want their kids to start the day in a good mood. The MGB knows that putting a fun, light hearted spin on everyday chores makes even the dullest task seem easier. This time of the day can be stressful for MGBs – getting the kids out of bed, washed, dressed, fed and out the door for the day on schedule, while still helping the kids to feel cheerful and lively and to start the day in a good mood.*

*Kellogg draws the Board’s attention to the following factors that Kellogg submits demonstrate that the advertisement is not directed primarily at children:*

- the breakfast making contraption is somewhat old fashioned, featuring wooden instruments, kitchen appliances and utensils, and is designed to appeal to MGB’s sense of nostalgia and not young children. We note that the Practice Note to the AANA Code of Advertising and Marketing Communications to Children states that, “Marketing communication which appeals to an adult using imagery reminiscent of childhood may be directed to adults and not to children”;*
- the opening sequence is not animated and consists entirely of live action sequences. Further, children’s characters have been deliberately avoided;*
- the advertisement is not shown from a child’s perspective;*
- the voice over is an adult’s voice and the language used, whilst straightforward, is not such that it could be argued to be child-focused. The voiceover speaks to MGBs, not children.*

*The complaint attaches some significance to the colour scheme used in the opening sequence, describing the colours used as “childlike”. Kellogg submits that this aspect of the complaint is misguided, with the yellow and white colour scheme intended to evoke two things, namely:*

- bright, sunny mornings (with the advertisement clearly being set in the morning); and*
- the standard background colour used on packs of Coco Pops.*

#### *Media Buy*

*Objectively, Kellogg’s media buy is targeted at MGBs and Kellogg has gone to great lengths to ensure that the advertisement was not placed in any media directed primarily to children. As stated in the Practice Note to the AANA Code of Advertising and Marketing Communications to Children, it is not the intent of the AANA for the Code to apply to advertising or marketing communication that may be seen by children, but is not directed primarily to them. This reasoning is equally applicable to the RCMI.*

*The advertisement has a CAD placement code of “W” which means:*

*“May be broadcast at any time except during P and C programs or adjacent to P or C periods. Exercise care when placing in cartoon and other programs promoted to children or likely to attract a substantial child audience”.*

*Kellogg’s standing instructions to its media buyer are:*

- Strive to buy into TV programs that audience profile less than 25% against children 0-14 and avoid animations or family movies (based on historical ratings data).*
- Do not buy Preschool or Children’s time on Free to air TV.*
- Do not accept bonus or makegood activity that is not guaranteed to avoid children’s programming.*
- Do not buy children targeted Pay TV channels e.g. Nickelodeon, CBeebies.*

*We refer you to the enclosed media buy information for free-to-air and pay TV, and a spreadsheet summarising actual audience demographics for the free to air spots. This demographic information was sourced from ratings information which records actual, post viewing data against audience characteristics. The information clearly shows that the proportion of viewers in the 0-12 demographic for each of the slots that the advertisement was broadcast in was under the 35% threshold in the RCMI. We note that 5 of the booked slots exceed Kellogg’s target of less than 25% child audience share, however, this was unintended, with each of these programs typically recording an audience share of only 5 – 7% in the 0-12 demographic.*

*Kellogg respectfully submits that by targeting its media buy to programs where the proportion of children under 14 years of age is below 25%, it goes further than required of it under the 35% threshold contained in the RCMI’s placement rules. In addition, Kellogg maintains an internal approval process for the review of all externally facing media. Within those internal processes, we discuss the requirements of the RCMI and other applicable advertising codes and take all steps to ensure that Kellogg complies with the requirements and the spirit of the codes.*

### *3) Healthy Diet/Lifestyle*

*If the ASB takes a different view and finds that the advertisement is an “Advertising or Marketing Communication to Children”, it is Kellogg’s submission that the advertisement does not breach the requirements of the RCMI. The RCMI states:*

*S1.1 Advertising and Marketing Communications to Children for food and/or beverages must:*

- a. Represent healthier dietary choices, consistent with established scientific or Australian government standards, as detailed in Signatories’ Company Action Plan; and*
- b. Reference, or be in the context of, a healthy lifestyle, designed to appeal to Children through messaging that encourages:*
  - i. Good dietary habits, consistent with established scientific or government standards; and*

*ii. Physical activity*

*Healthier Dietary Choices*

*The requirement in S1.1(a) is that advertisers must not advertise food or beverage products to children unless the product represents “healthier dietary choices, consistent with established scientific or Australian government standards, as detailed in Signatories’ Company Action Plan”.*

*Kellogg’s Company Action Plan, developed in accordance with the RCMI, provides as follows:*

*“All products that are advertised to children under 12 must comply with Kellogg Global Nutrient Criteria outlined below:*

- Calories: No more than 200 calories (836kJ) per serving*
- Sat/Trans Fat: No more than 2g saturated fat / 0g trans fat per serving*
- Sodium: No more than 230 mg of sodium per serving*
- Sugars: No more than 12g (label) of sugars per serving (excluding sugars from fruit and dairy)*

*Coco Pops meet the Kellogg Global Nutrient Criteria. A 30g serve of Coco Pops contains:*

- 480 kJ;*
- 0.1g saturated fat;*
- 0g trans fat;*
- 139mg sodium; and*
- 11g of sugars.*

*Healthy Lifestyle*

*Kellogg has in good faith undertaken to ensure that the advertisement encourages good dietary habits and physical activity. Kellogg draws the Board’s attention to the following matters:*

- a balanced breakfast of fruit, wholegrain toast, and glasses of milk, which have been partially consumed, are depicted on the breakfast table;*



- *the MGB is shown to be packing two nutritious lunch bags, consisting of a wholegrain salad sandwich and a banana. In the final scene the MGB is shown handing the lunch bags to her children;*
- *the children are clearly dressed for morning sport and are shown playing with a soccer ball.*

*Accordingly it is Kellogg's submission that the advertisement encourages good dietary habits and physical activity.*

#### *4) AANA Food and Beverages Advertising and Marketing Communications Code (Food Code)*

*In addition, and although not expressly raised by the complainant, Kellogg submits that the advertisement does not breach section 2.2 of the Food Code. For the reasons stated above it is Kellogg's submission that the advertisement encourages good dietary habits and physical activity. Further, Kellogg has been careful to ensure that the children in the advertisement are depicted as having been provided a 30g serve of Coco Pops with milk, meaning that the advertisement does not encourage overconsumption.*

#### *Conclusion*

*For the reasons stated above the complaint should be dismissed in its entirety.*

*Kellogg is pleased to have had the opportunity to respond to this complaint and to confirm its support for the ASB and the codes to which Kellogg is subject.*

## **THE DETERMINATION**

The Advertising Standards Board (Board) considered whether this advertisement breaches the 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 breaches the RCMI because it is an advertisement directed primarily to children and because Kellogg's Coco Pops do not represent a healthy dietary choice and the advertisement does not promote a healthy lifestyle.

The Board noted the complainant's concerns that since the Kellogg's Company Action Plan was initially drafted the Australian Dietary Guidelines have been updated and that the product would not now meet those Guidelines as a 'healthier choice' product.

The Board noted that its role is to consider the advertisement's compliance with the AFGC RCMI and the issue of whether or not the product is a 'healthier choice' is only relevant once the Board has determined that the advertisement is directed primarily to children but noted that the advertiser should make itself aware of any changes to compositional criteria that might be relevant.

The Board considered whether the advertisement met the requirements of the AFGC RCMI. The RCMI applies to advertising or marketing communications to children (under 12 years of age). The Board noted the RCMI Initiative provides that advertising or marketing communication activities are captured under the RCMI if they are:

#### Content

Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for food and/or beverage products Placement

Advertising or Marketing Communications that are placed in Medium that is directed primarily to Children (in relation to television this includes all C and P rated programs and other rated programs that are directed primarily to Children through their themes, visuals and language); and/or where Children represent 35 per cent or more of the audience of the Medium.’’

The Board also noted that the definition of Children in the Initiative means persons under 12 years of age.

The Board first considered the programming in which the advertisement was broadcast. The Board noted the information provided by the advertiser outlining the programs in which the advertisement had been aired. The Board noted that these programs included Seven News, Friends, The Big Bang Theory, Bogan Hunters and similar and considered that these programs are not directed primarily to children under 12.

The Board also noted the information provided by the advertiser that the programs in which the advertisement was broadcast do not have audiences where children represent 35 percent or more of the audience of the Medium.

The Board noted that the advertiser advised that “5 of the booked slots exceed Kellogg’s target of less than 25% of child audience share.” The Board noted that although Kellogg aim to meet the less than 25 percent target this is not specified in the Kellogg’s Company Action Plan and therefore the requirement of the RCMI stands – which is that the audience must be more than 35 percent children for the RCMI to apply. The Board considered that the advertisement was not broadcast in media with a child audience of more than 35 percent.

Although the advertisement was not considered to be advertising or marketing communications to children on account of placement, the Board must also consider whether the Advertising or Marketing Communications, having regard to the theme, visuals and language used, are directed primarily to Children and are for food and/or beverage products. 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 under 12 years.

The Board considered the theme of the advertisement (mechanical preparation of a bowl of cereal), the visuals (wooden levers and pulleys operating on an assembly line) and the language (tinkling music, female voiceover).

The Board noted that it has considered the issue of whether or not an advertisement is directed primarily to children in a number of advertisements.

With regards to visuals in the current advertisement the Board considered the animated nature of the advertisement. The issue of animated characters is one where the Board has previously stated that animation per se does not mean that an advertisement will be considered to be directed primarily to children. Specifically the Board noted scenes in advertisements for Kellogg LCMs (0179/13 and 0180/13) (which predominantly featured real life images of children at school but also included images of cartoon snails and dinosaurs) and for Kellogg’s Coco Pops (0144/13)(which predominantly featured the image of a cartoon bowl of coco

pops playing a well-known pool game). By contrast however in a number of other advertisements including animated characters (eg: Kraft 0229/11 and Smiths Chips 0190/13) the Board had considered that the advertisements were not directed primarily to children. The Board reiterated that it is essential for the Board to 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.

In the current advertisement the Board considered that the visual images are of a “contraption” to serve the cereal, similar to a Honda advertisement from 2009 that does the same thing – conceptually fascinating to watch but in the Board’s view no more compelling to a child than to an adult. The Board noted the bright colours of the advertisement but considered that overall the visuals would be of appeal to a broad audience and in the Board’s view are not directed primarily at children.

With regards to the language the Board noted the advertisement has a unique sound track, with various musical instruments such as a drum and a xylophone making noises to accompany the processes on the assembly line. The Board noted that a female voiceover states at the end of the advertisement that “Nothing gets the morning moving like the fun of Coco Pops and milk”. The Board considered that this language and music was not likely to be of more appeal to children than it would be to adults.

The Board agreed that the advertisement would be attractive to children but considered that it would also be attractive to older teens and adults and that overall it was not possible to reach a decision that the advertisement was directed primarily to children under 12.

The Board noted that, although in this instance it had determined that the advertisement was not of itself directed primarily to children under 12, if an advertiser chooses to make an advertisement which has themes, visuals and language that are attractive to children, it does run the risk of the Board determining that, on balance, the advertisement is in fact directed primarily to children.

The Board determined that as the advertisement is not directed primarily to children under 12, does not appear in media directed primarily to children and does not appear in media attracting an audience share of greater than 35 percent the advertisement does not come within the AFGC RCMI.

The Board then considered whether the advertisement complied with 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 means: 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 shall have regard to the Practice Note to this Code in determining whether Advertising or Marketing Communications are to children under this definition.

The Board noted that the definition is largely the same as that in the RCMI. For the same reasons noted above, the Board considered that this advertisement is not directed primarily to children and that the AANA Children’s Code and Part 3 of the AANA Food Code do not apply.

The Board then considered whether the advertisement complied with all relevant provisions of the AANA Food and Beverages Code. The Board noted in particular 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 noted that the advertised product is Coco Pops – a breakfast cereal. The Board considered that, consistent with previous decisions (Hungry Jacks 282/11, Mars 208/11), promotion of a product which may have a particular nutritional composition is not, per se, undermining the importance of a healthy or active lifestyle.

The Board 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 Board will consider whether members of the community in the target audience would most likely take a message condoning excess consumption.’ The Board noted that the box of cereal is shown being shared between family members and considered that the likely interpretation of the advertisement is that the product advertised is intended to be shared. The Board considered that the advertisement did not encourage excess consumption or otherwise undermine the importance of a healthy active lifestyle. The Board determined that the advertisement did not breach Section 2.2 of the Food Code.

Finding that the advertisement did not breach the AFGC RMCI, the Children’s Code or the Food Code the Board dismissed the complaint.