



Case Report

1	Case Number	0225/12
2	Advertiser	Kraft Foods Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	27/06/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

Advertising Message AFGC - Advertising Message

DESCRIPTION OF THE ADVERTISEMENT

A girl and her brother are sitting in a kitchen with Oreo Double Stuff cookies on a plate. Offering one to her brother, she starts to explain the Oreo ritual: "OK...first you twist it, then you lick it..." Her brother interrupts her, "Then you dunk it!" The top twists and the biscuit flips open to show the original cream filling. An additional dollop of cream lands on the cookie and the cookie closes. A graphic appears above it that reads: Double the cream.

THE COMPLAINT

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

We believe the advertisement breaches The Responsible Children's Marketing Initiative of the Australian Food and Beverage Industry (RCMI).

Breach of the RCMI

We believe the advertisement breaches the RCMI because it is directed primarily to children and because Double Stuff Oreo cookies do not represent a healthy dietary choice consistent with established scientific or Australian government standards.

This advertisement is clearly a communication activity directed primarily to children within the meaning of the RCMI and associated guidelines. The advertisement features two children having fun and playing a game while eating an Oreo cookie. It would clearly appeal to children to eat an Oreo while emulating the game being played. The voice over is also in a

fun tone that would appeal to children. In particular its reference to Double Stuff Oreos cookies being “double the fun” would primarily attract the interest of children.

We believe that Oreos cookies are a snack product of primary appeal to children. They are marketed to children and are shown in this advertisement being eaten by children. Clearly the advertisement is promoting consumption of Oreos cookies by children.

The advertisement has been shown during programs such as Dancing with the Stars Home and Away and Australia’s Got Talent which are watched by high numbers of children.

Nutritional content of Oreos Double Stuff Cookies

According to the Dietary Guidelines for Children and Adolescents in Australia care should be taken in relation to children’s diets to limit saturated fat and moderate total fat intake and consume only moderate amounts of sugars and foods containing added sugars.

Oreos Double Cream cookies are extremely high in added sugar and also very high in saturated and total fat. Sugar is the first ingredient in the cookies constituting 45.3% of the product. They also contain 12.7% saturated fat and 23.4% total fat.

Therefore Oreos Double Cream cookies are not a healthy snack choice for children and do not represent healthy dietary choices consistent with the Dietary Guidelines for Children and Adolescents in Australia.

Consumption of energy dense high-sugar snack products such as Oreos may contribute to weight gain and obesity in children. The OPC believes it is irresponsible for companies to advertise such foods directly to children particularly at a time when children’s diets include too many “extra” foods and a quarter of Australian children are overweight or obese.

We ask the Advertising Standards Board to request Kraft to withdraw the Oreos Double Cream cookies advertisement on the basis that it breaches the RCMI and to urge Kraft to cease advertising its Oreos products to children.

THE ADVERTISER’S RESPONSE

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

As one of Australia’s largest food manufacturers and advertisers, Kraft Foods has a significant role that we take very seriously in marketing and advertising our products. The company ensures that parental guidance is promoted around food and lifestyle choices through a policy whereby marketing is not targeted towards children.

We follow the marketing to children principles outlined in the Australian Food and Grocery Council’s (AFGC) Responsible Children’s Marketing Initiative (RCMI) of which Kraft Foods is a founding signatory to, the AANA Code of Ethics incorporating the Code for Advertising & Marketing Communications to Children and Food & Beverages Advertising & Marketing Communications Code (AANA Code), and our company’s more robust internal marketing to children policy.

We note that the RCMI states, amongst other things, that participants will not advertise food and beverage products to children in media unless those products represent healthy dietary choices, and are consistent with established scientific or Australian Government standards.

We believe that no breach of the RCMI has occurred in relation to this complaint as the relevant criteria for breaching the RCMI have not been met.

Kraft Foods does not advertise products that do not meet our Sensible Solution criteria during television programs viewed primarily by children aged six to 12 years. In addition, we

do not market any products during television programs viewed primarily by children aged under six.

The complainant has raised a number of issues that fall within the AANA code and the AFGC's RCMI including that:

- 1. the ad creative is directed primarily to children;*
- 2. the product does not represent a healthy dietary choice; and that*
- 3. the ad is aired during programs watched by a high number of children - including Dancing with the Stars, Home and Away and Australia's Got Talent.*

On review of the complaint received and examination of information surrounding the development and placement of the Oreo Double Stuff TVC, we firmly believe that the TVC does not breach the RCMI, and is consistent with the principles outlined in the AANA's Code and is not directed primarily to children.

Our response to each of the items raised is outlined below.

1. Issue raised: The ad creative is directed primarily to children.

Response: The RCMI follows the definition of 'Advertising or Marketing Communications to Children' contained in the AANA Code, which means advertising or marketing communications which, having regard to the theme, visuals or language used, are directed primarily to children.

Kraft Foods took a very considered approach when creating the TVC to ensure it was directed primarily to main grocery buyers through the theme, and through language, visual and executional cues as follows:

- The children are dressed in block primary colours, as florescent shades are more likely to appeal to children. The background is calm, uncluttered, clean and fresh; the voiceover pitch is neutral; and the sophisticated acoustic music is calming. Kraft Foods sought advice from an independent psychologist who advised that these elements appeal to adults.*
- Although the TVC has children appearing in it, it is directed at the main grocery buyer who will appreciate and enjoy the light-hearted portrayal of the way the kids make games out of everyday scenarios.*
- 'Mum' has a voyeuristic presence in the TVC – she has placed three biscuits on the plate (a serving size that an adult would share with children) and she is experiencing an engaging moment, watching her children having fun from off-screen which is demonstrated with a camera shot through the window. The 'double the fun' voiceover is directed at the primary audience, the main grocery buyer, who will have double the fun watching the children.*
- The visual tagline at the end of the TVC is product-based (Double the cream) and is presented using a hard font with straight lines which has broad appeal.*

Each of the factors listed above demonstrate that the advertising is not directed primarily to children, but instead is directed primarily to the main grocery buyer.

2. Issue raised: the product does not represent a healthy dietary choice.

Response: Kraft Foods takes a leading role on educating consumers on the energy value of a serving size through an energy thumbnail front-of-pack visual. On-pack labelling provides consumers with full nutrition information to allow them to incorporate treats sensibly into a balanced diet.

We recognise that Oreo Double Stuff is a treat therefore we advertise the product in compliance with the RCMI, AANA Codes and our further, more stringent, internal marketing to children policy. As outlined in section 1 of this letter, Kraft Foods has advertised the product to the main grocery buyer in compliance with the RCMI.

The Oreo TVC does not encourage unhealthy eating habits and does not undermine or disparage the promotion of healthy, balanced diets. Appropriate consumption is demonstrated by the placement of three biscuits, for sharing between two children. This is scaled down from a typical serving size of 2-3 biscuits for an adult and there is clearly no suggestion of over consumption.

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THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches the Responsible Children’s Marketing Initiative of the Australian Food and Beverage Industry (“RCMI”), the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code), or the AANA Code for Advertising and Marketing Communications to Children (the Children’s Code).

The Board noted the complainant’s concern that the advertisement is directed to children and encourages the consumption of an unhealthy product to children.

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

In order for the Board to consider the advertisement within the scope of the RCMI, the Board would first need to determine whether the advertisement was directed to “...audience that is predominantly children and/or having regard to the theme, visuals, and language used are directed primarily to children...”

The Board noted that the advertisement was given a W rating from CAD which means that the advertisement may be broadcast at any time except during P and C rated programs or adjacent to these periods. Therefore the advertisement was not shown in programming where >50% of the audience was under 12 years.

The Board then considered that actual programs and noted that the advertisement was aired in programs such as Dancing with the Stars, Home and Away and Australia’s Got Talent. The Board noted that these programs are G rated and although these programs would have appeal to children, the Board considered that they are not programs that are directed primarily to children.

The Board considered with regard to the theme, visuals and language, whether the advertisement itself is directed primarily to children. The Board noted that there were elements of the advertisement that would draw the attention of children to the advertisement and that the setting of a brother and sister having a snack after school was an activity that many children would relate to. However, the Board considered that the language of the voiceover and the theme, visuals and language are adult in theme and not primarily directed to children but rather to the main grocery buyer.

The Board considered that as the advertisement is not broadcast in “media” as defined by the RCMI, the provisions of the RCMI do not apply.

The Board then considered whether the advertisement complied with the AANA Children’s Code. To come within the Children’s Code the advertisement must be ‘primarily directed to children and be for a product of principal appeal to children.’

The Board noted that within the Children's Code the age definition for children is 'under 14' as opposed to that of the RCMI which is 'under 12'. The Board considered whether the advertisement would appeal to the greater age range but for the reasons mentioned above, determined that the advertisement is not primarily directed to children but rather to the main grocery buyer.

The Board determined that the advertisement is not directed primarily to children and that the AANA Code for Advertising and Marketing Communications to Children does not apply.

The Board then 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, consistent with previous decisions (Hungry Jacks 282/11, Mars 208/11), the promotion of a product which may have a particular nutritional composition is not, per se, encouraging or promoting an inactive lifestyle or unhealthy eating habits. The Board considered that there was nothing in this particular marketing communication that would be considered by reasonable people to be a depiction of an inactive lifestyle or unhealthy eating habits.

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 2.2 of the Food Code which provides:

'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 presentation of product/s or portion sizes disproportionate to the settings portrayed or by means otherwise regarded as contrary to Prevailing Community Standards'

The Board noted that 'prevailing community standards' means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it sees fit, in relation to the advertising or marketing of food or beverage products taking into account at a minimum, the requirements of the Australia New Zealand Food Standards Code, the Australian Dietary Guidelines as defined by the National Health and Medical Research Council and the National Physical Activity Guidelines as published by the Federal Government of Australia.'

The Board noted the explanatory notes to the Food Code prepared by AANA which, in relation to Section 2.2, provide:

'In testing whether an advertising or marketing communication undermines the importance of a healthy lifestyle, the Board will consider whether the communication is disparaging of healthy foods or food choices or disparaging of physical exercise. Such disparagement need not be explicit, and the Board will consider the message that is likely to be taken by the average consumer within the target market of the communication'.

‘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 considered that, consistent with previous decisions (Hungry Jacks 282/11, Mars 208/11), the promotion of a product which may have a particular nutritional composition is not, per se, encouraging or promoting an inactive lifestyle or unhealthy eating habits. The Board considered that there was nothing in this particular marketing communication that would be considered by reasonable people to be a depiction of an inactive lifestyle or unhealthy eating habits.

The Board noted that the television advertisement showed only three biscuits on the plate which would reasonably be considered as a biscuit for each child and then ideally one to share. The Board agreed that this message was indicative and supportive of the idea that the biscuit would best be consumed as a treat after school and not suggesting that it should be consumed in excess. The game like interaction between the siblings was encouraging of a competition to lick the icing quickly to win the race, but not then to consume an entire packet or excessive amounts of biscuits.

The Board determined that the advertisement did not undermine the promotion of a healthy balanced diet and did not encourage excess consumption and therefore did not breach Section 2.2 of the Code.

Finding that the advertisement did not breach the RCMI, AANA Food Code or AANA Children’s Code on any grounds, the Board dismissed the complaint.