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BUREAU

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Case Report

1	Case Number	0232/14
2	Advertiser	Kellogg (Aust) Pty Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	
5	Date of Determination	23/07/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.1 (a) - Misleading / deceptive

DESCRIPTION OF THE ADVERTISEMENT

The advertisement features cartoon characters and starts with the mother asking “did you know there’s iron in Kellogg’s cereal”? The characters of two children and their mother are in the home eating breakfast and discussing the benefits of the breakfast cereal and the inclusion of iron and calcium in Kellogg cereal.

THE COMPLAINT

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

I'd like to report a Kellogg's advertisement for false advertising.

Kellogg's recent cereal advertisement stated that drinking milk gives you strong bones. This is a commonly spread myth and it is not backed up by science. Since this advertisement is designed to be appealing to children, this is teaching them this commonly believed myth as a fact and in doing so has created false advertising.

Many scientific studies have shown the negative effects that are caused by drinking milk. This includes the weakening of bones, which leads to an increased risk of a fracture.

THE ADVERTISER’S RESPONSE

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

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

Description of Advertisement and Summary of Complaint

The purpose of the advertisement is to communicate to Main Grocery Buyers (MGBs) the presence of iron and calcium in a bowl of Kellogg's cereal (Corn Flakes/Sultana Bran) with milk, and the benefits of these nutrients. The advertisement is animated and features over the top, exaggerated 1930's style imagery. The advertisement depicts a mother with her two children at a breakfast table.

The advertisement opens with the mother asking "did you know there's iron in Kellogg's cereal"? The imagery depicts packs of Kellogg's Sultana Bran and Corn Flakes cereals in colour throughout the advertisement. The male child's hands then morph into a giant magnet, attracting metal items such as the fridge, with him asking whether iron makes him magnetic. The mother responds by saying that "no, iron is good for your brain", while at the same time a super appears clearly on screen that "iron contributes to normal cognitive development in children as part of a healthy and varied diet". The boy then asks whether iron will make your brain grow huge, to help read minds, while his head is shown expanding in size and apparently reading the dog's mind. The female child then asks if it gives you x-ray vision, while rays are shown coming through her eyes and seeing through a wall, showing a family member exercising on the other side of the wall. The mother responds "no – but calcium in milk gives you stronger bones" while at the same time a super appears clearly on screen which says "250 ml of milk provides calcium which enhances bone mineral density as part of a healthy varied diet high in calcium". The boy then asks, "bones of steel so your body can get blowed up and still be alive" while being shown as a metal skeleton with a missile hitting him. The girl then asks if it will "give you udders" while the boy is shown with the body of a cow, to which the mother responds "no". A voiceover then asks "with the goodness of iron and calcium imagine what Kellogg's cereal and milk can do?" with the onscreen words "Iron and calcium help support growing brains and bones".

The complaint alleges that Kellogg has engaged in "false advertising". The complaint alleges that the claim made in the advertisement that "calcium in milk gives you stronger bones" is a "myth and is not backed up by science". The complaint therefore raises issues under section 2.1 of the AANA Food and Beverages Advertising and Marketing Communications Code (AANA Food Code).

1) AANA Food and Beverages Advertising and Marketing Communications Code

Section 2.1 of AANA Food and Beverages Advertising and Marketing Communications Code (AANA Food Code) provides:

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 complaint alleges that “many scientific studies have shown the negative effects that are caused by drinking milk. This includes the weakening of bones, which leads to an increased risk of fracture”. As the complaint has not provided any references in support of this assertion Kellogg is unable to comment on their findings, other than to say that should such studies exist they are not consistent with mainstream nutrition science, nor position statements from authoritative and regulatory bodies, regarding the benefits of calcium consumption on bone density and the important nutritional contribution of milk.

Enclosed with this response is the substantiation material that was provided to CAD prior to the advertisement being aired. Kellogg particularly draws the Board’s attention to the fact that the claim “calcium enhances bone mineral density” is a pre-approved health claim for the purposes of Standard 1.2.7 of the Food Standards Code in respect of foods containing 200mg of calcium per serving (or more). This means that the scientific evidence underpinning the claim has been reviewed by Food Standards Australia New Zealand (FSANZ) who has determined that the claim is capable of substantiation. The fact that the claim “calcium enhances bone mineral density” has been pre-approved by FSANZ demonstrates that the claim is not controversial and is supported by the weight of scientific evidence on the issue. The claim made in the advertisement “calcium in milk gives you stronger bones” is consistent with the claim that has been pre-approved by FSANZ and was intended by Kellogg to be a more consumer-friendly articulation of the pre-approved claim.

Further:

- *That calcium enhances bone mineral density is supported from an extensive literature review done for FSANZ by Professor Ian Reid on the relationship between dietary calcium intake and the risk of developing osteoporosis. This review concluded that the evidence is convincing with respect to the positive effects of calcium supplementation on bone mineral density across a broad age range.[1]*

- *The European Food Safety Authority (EFSA), one of the most respected nutrition regulatory bodies globally and recognised for their strict scientific standards, has also reported an established cause and effect relationship between the intake of calcium and normal growth and development of bone (bone mineral density or bone mineral content) in children. The EFSA’s comprehensive review included 18 randomised controlled trials in humans, two meta-analysis and one pooled analysis of the human intervention studies, two systematic reviews and 8 reports from authorities bodies/reviews.[2]*

- *The NHMRC Nutrient Reference Values for Australia and New Zealanders state that calcium is required for the normal development and maintenance of the skeleton. The background content to the NRVs for calcium makes reference to two comprehensive Cochrane reviews which again conclude that calcium supplementation has a positive effect on bone density.[3]*

- *The NHMRC 2013 Australian Dietary Guidelines, which provide the recommendations*

and the evidence that underpins dietary advice for health professionals and policy makers, recommend that Australians enjoy milk, yoghurt, cheese and/or alternatives on a daily basis for both their positive association with health and their positive contribution to a wide variety of nutrients, including calcium. [4]

· Encouraging the intake of dietary calcium is of significant public health importance, as many children fall short of their calcium requirements [5]. Dairy milk is well known to be a good source of calcium and is the leading contributor to children's calcium intake across all age groups[6].

For the reasons stated above the allegation that Kellogg has engaged in false advertising is entirely without merit and the complaint should be dismissed on this basis.

2) RCMI

Your letter indicates that the Board will review the advertisement against all relevant Codes that it is responsible for administering, and that Kellogg should "address any issues within your advertisement against all of the Codes". While it is Kellogg's submission that it would be a clear breach of procedural fairness for the Board to make an adverse finding against Kellogg in relation to an issue that is not specifically raised in a complaint (on the basis that it deprives Kellogg of the opportunity to properly respond to the issue), we would like to take this opportunity to say a few words in relation to the Australian Food and Grocery Council Responsible Children's Marketing Initiative (RCMI).

In developing the advertisement it was Kellogg's subjective intention to target MGBs, and Kellogg does not concede that the advertisement is an "Advertising or Marketing Communication to Children" within the meaning of the RCMI. In this regard I refer you to the attached media buy information which clearly is targeted at adults, not children. Further, the focus of the advertisement is iron and calcium, which are not product attributes that would appeal to children under 13. However, in any event, it is Kellogg's submission that the advertisement fully complies with the substantive 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

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)”*

Both Corn Flakes and Sultana Bran meet the Kellogg Global Nutrient Criteria. A 35g serve of Corn Flakes contains:

- *540 kJ;*
- *Less than 0.1g saturated fat;*
- *0g trans fat;*
- *192mg sodium; and*
- *2.8g of sugars.*

A 45g serve of Sultana Bran contains:

- *640 kJ;*
- *0.2g saturated fat;*
- *0g trans fat;*
- *121mg sodium; and*
- *10.2g of sugars (of which over 2/3 is from the sultanas).*

Further, Kellogg has gone to great lengths to ensure that the advertisement encourages good dietary habits and physical activity. Kellogg draws the Board’s attention to the following matters:

- *the Corn Flakes are shown as being served with strawberries;*
- *there is a plate of chopped fruit along with glasses of milk on the breakfast table shown throughout the TVC;*
- *the children are depicted as being lively and active;*
- *in the final scene the children are depicted running and throwing a ball (girl) and skateboarding (boy);*
- *in the x-ray vision scene, the family member behind the wall is shown doing squats;*
- *in the “bones of steel” scene, the family member on the upper level of the house is shown exercising on a stationary bicycle;*
- *the calcium claims are clearly contextualised (by means of a super) as part of a “healthy varied diet high in calcium”; and*
- *the final scene of the advertisement includes a super that the products should be enjoyed “as part of a balanced diet and active lifestyle”.*

Accordingly, even if the Board were to take the view that the advertisement is a “Advertising or Marketing Communication to Children” the advertisement does not breach the RCMI.

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.

*[1] Food Standards Australia New Zealand (2013) Reviews of food-health relationships for high level health claims: The Relationship Between Dietary Calcium Intake, Alone or in Association With Vitamin D Status, and Risk of Developing Osteoporosis.
<http://www.foodstandards.gov.au/consumer/labelling/nutrition/pages/reviewsforhighlevelc3090.aspx>*

[2] Scientific Opinion of the Panel on Dietetic Products, Nutrition and Allergies on a request from Transformation Laitiere Francaise (ATLA) on the scientific substantiation of a health

claim related to calcium and bone growth. The EFSA Journal (2008) 826, 1-11

[3] National Health and Medical Research Council (2005), Nutrient Reference Values for Australia and New Zealand, Calcium <http://www.nrv.gov.au/nutrients/calcium>

[4] National Health and Medical Research Council (2013) Australian Dietary Guidelines. Canberra: National Health and Medical Research Council, p 56-58. <https://www.nhmrc.gov.au/guidelines/publications/n55>

[5] Australian Government Department of Health (2014), 2007 Australian National Children's Nutrition and Physical Activity Survey – Main Findings, <http://www.health.gov.au/internet/main/publishing.nsf/Content/phd-nutrition-childrens-survey>

[6] Australian Bureau of Statistics. Australian Health Survey: Nutrition First Results - Foods and Nutrients, 2011-12 4364.0.55.007, Canberra 2014.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code).

The Board noted the complainant’s concerns that the advertisement is misleading in its suggestion that the calcium in milk gives you stronger bones.

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

The Board noted that the advertisement features cartoon characters of two children and their mother in the home eating breakfast and discussing the benefits of the breakfast cereal and the inclusion of iron and calcium in Kellogg cereal. 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 2.1 of the Food Code which provides: 'Advertising or marketing communications for food ...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 that the children conjure up images of what iron and calcium can do for the body like “make me magnetic” or give “x-ray vision.” The Board noted that as the cartoon scene continues, the Mother continues to offer genuine benefits for the vitamins and minerals mentioned and correct what the children have suggested. The Board noted that the Mother did suggest that the cereal would do things such as provide iron that is “good for the brain” and that calcium in milk “gives you stronger bones.”

The Board noted the complainant’s concerns about the claim related to the calcium in milk

The Board noted the information provided by the advertiser regarding the substantiation provided to CAD regarding the claims made in the advertisement. The Board noted that the source for the claim regarding calcium is the Australia New Zealand Food Standards Code, Standard 1.2.7 which provides that food with no less than 200mg of calcium per serving can be considered to enhance bone mineral density.

The Board noted that the above substantiation includes confirmation that the claims made in the advertisement regarding the claim “calcium gives you stronger bones.”

The Board also noted the Australian Dietary Guidelines (Department of Health and Ageing, 2013) which state that: “Milk, yoghurt and cheese are rich sources of calcium and other minerals, protein, and vitamins, including B12.”

The Board then sought independent advice on the accuracy of the nutritional information provided.

The Board noted the advice provided by the Independent Expert that:

“FSANZ has approved a claim regarding the health benefit of calcium consumption. The substantiated claim is “calcium enhances bone mineral density” in the context of a “diet high in calcium” and where the food serving contains at least 200mg of Calcium.

According to the Australian dietary guidelines, dairy foods are a good source of calcium and milk is recognised in its own right as a good source of calcium.

The advertisement has used “stronger bones” which is a more consumer friendly way of conveying similar information to the substantiated health benefit of “enhances bone mineral density”. The result of increased bone mineral density of bone is a stronger bone.

In my opinion, the claim “Calcium in milk gives you stronger bones” contained in the advertisement is truthful.”

Based on the advice provided above, the Board determined that the claim was truthful and did not breach section 2.1 of the Food Code.

The Board then considered section 2.3 of the Food Code which provides: “Advertising or Marketing Communications for Food or Beverage Products that include what an Average Consumer, acting reasonably, might interpret as health or nutrition claims shall be supportable by appropriate scientific evidence meeting the requirements of the Australia New Zealand Food Standards Code.

The Board noted the Independent Expert’s advice that:

“The advertisement has used “stronger bones” which is a more consumer friendly way of conveying similar information to the substantiated health benefit of “enhances bone mineral density”. The result of increased bone mineral density of bone is a stronger bone. “

Based on the above the Board considered that as per the advice of the expert the advertisement has appropriately contextualised as per the requirements of Standard 1.2.7 of the Australia New Zealand Food Standards Code and therefore the advertisement has referred to claims that are understandable by an average consumer and therefore did not breach section 2.3 of the Code.

Finding that the advertisement did not breach the Food Code the Board dismissed the complaint.