



Ad Standards Community Panel
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Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0285/18
2	Advertiser	Mondelez International
3	Product	Food and Beverages
4	Type of Advertisement / media	Internet
5	Date of Determination	20/06/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code 2.2 - healthy lifestyle / excess consumption
Food and Beverage Code (Children) 3.4 undermine parent
Food and Beverage Code (Children) 3.5 pester power
Food and Beverage Code (Children) 3.6 premium
Advertising to Children Code 2.01 Community Standards
Advertising to Children Code 2.07 Parental Authority
Advertising to Children Code 2.11 Premiums
Advertising to Children Code 2.14 Food and beverages
RCMI 1.1 - Advertising Message AFGC - Advertising Message

DESCRIPTION OF THE ADVERTISEMENT

This website advertisement features a photograph of a family looking at a game, an image of the three games available for purchase, and an image of 2 blocks of chocolate. Above the imagery is text stating that consumers can buy any 2 blocks of Cadbury Dairy Milk and redeem a free Cadbury board game, and a REDEEM button to begin the process of redeeming a game.

THE COMPLAINT

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





This advertisements promote excess consumption - Cadbury's stipulate that you need to purchase 2 large blocks in of chocolate in 1 transaction to get the free game board. Also urges the buyer to collect all three game boards which would require 6 blocks of large chocolate.

The game boards on offer are very childlike, simplistic and would primarily appeal to children as they are based on traditional child games 'snap', 'memory' and 'snakes and ladders'. The only difference is that they feature cadbury's chocolate as the main components of each game, again primarily appealing to children which would unduly promote children to pester their parents to buy the products. In this obesity epidemic, using 'free' traditional board games (that doesn't promote physical activity) and replacing the key components with chocolate is a manipulative tactic to hook kids into pestering their parents and adults alike to consume (and over consume) unhealthy products.

THE ADVERTISER'S RESPONSE

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

Complaint reference number 0285/18

We write in response to your letter dated 8 June 2018. Thank you for providing us with the opportunity to respond to the complaint regarding the Share the Taste 'Games Night In' Promotion.

As one of Australia's largest food manufacturers and advertisers, Mondelez International (MDLZ) takes every step to ensure the marketing and advertising of its products is done responsibly and appropriately.

The complainant has raised a number of issues that fall within the Australian Association of National Advertisers (AANA) Advertiser Code of Ethics, AANA Food and Beverages Advertising and Marketing Communications Code, AANA Code for Advertising and Marketing Communications to Children and the Australian Food and Grocery Council Responsible Children's Marketing Initiative (RCMI).

MDLZ has an internal policy commitment not to advertise its products to audiences where 35% or more are children under the age of 12 years and all of marketing briefs reflect this. On a local level, MDLZ is a signatory to the RCMI and is committed to its company action plan.

We ensure that this policy is shared and understood by all advertising agencies prior to the commencement of any marketing activity and all teams undertake regular and rigorous Marketing to Children/RCMI training to ensure adherence.



On review of the complaints received and close examination of the Games Night In promotion, we believe that the creative and its placement is consistent with the principles outlined in the AANA's codes, the AFGC's RCMI and our company's strict internal policies.

Before responding directly to the complainant's specific reasons for concern, we wanted to tell you a bit about the inspiration behind our overall Share the Taste campaign.

Our insights are telling us that these days, Australian's are facing more time pressures than ever before - that we're often so busy with day-to-day activities that it can be difficult to find time to spend quality time with loved ones.

We saw this as an opportunity to play our part in helping to create real moments of connection between friends and families. For context, our board games are our take on the traditional board games "snakes and ladders", "memory" and "snap".

The Share the Taste "Games Night In" promotion reflects the intent of this campaign in that it aims to bring the family together, to create moments of real connection by developing and making available through a 'gift with purchase' promotion, a set of limited edition Cadbury board games.

Our other specific responses to the complaint are as follows:

1. The complainant claims that the advertisements promote excess consumption by stipulating that consumers need to purchase two blocks in of chocolate in one transaction to redeem the free board game and encouraging consumers to collect all three board games. (Food and Beverage Code 2.2 and Advertising to Children Code 2.14 Food and beverages).

Consumers have come to expect that instore gift with purchase requires a clear and simple criteria in order to be eligible to receive the gift. The requirement to purchase two eligible products is typical gift with purchase promotions conducted by consumer goods companies at supermarkets, in fact some manufacturers require more than two products to be purchased.

We do not believe that our gift with purchase promotion itself promotes excess consumption of our chocolate products and would like to highlight the following key points:

- The average purchase of chocolate blocks when it is discounted is 1.9 blocks per occasion, so the promotion does not require consumers to buy any more than they currently do on average when our products are discounted.



- Optimal shelf life for our block chocolate is 420 days, so consumers can choose to consume our blocks on any occasion over a 420 day period. Like many long-life pantry goods, it is common practice for consumers to purchase two more blocks of our chocolate to keep in the pantry for consumption over an extended period, or for sharing on social occasions. This behaviour shown by our consumers when our products are put on special at the retailers, irrespective of whether we offer a gift with purchase or not (given the purchase frequency mentioned in point 1 above).

- The 'occasion' we are representing here is a family sharing occasion.

- The promotion runs for a total of nine weeks (May 28-July 31), so there is a significant promotion period in which to consume products should they wish to eat them during the promotion period (which is not essential, given the 420 day shelf life).

We also respectfully submit that none of the advertising for this promotion actually shows any excess or irresponsible consumption of our chocolate products. We are also not overtly connecting the eating of chocolate with eligibility for the gift with purchase. It would not be practical and uncommercial for us to conduct a gift with purchase promotion unless consumers were required to purchase a small number of our products.

2. The complainant claims that the imagery on the board games has primary appeal to children, which would encourage children to pester their parent to buy the products. (Food and Beverage Code (Children) 3.4 undermine parent Food and Beverage Code (Children) 3.5 pester power Food and Beverage Code (Children) 3.6 premium Advertising to Children Code 2.01 Community Standards Advertising to Children Code 2.07 Parental Authority Advertising to Children Code 2.11 Premiums)

We refute the above claims as we have marketed the promotion in an appropriate and responsible way. While the Cadbury board games do feature Cadbury-themed imagery, such as our icons which represent the various flavours of our blocks, we believe it is not unreasonable to expect that we will depict or connect our Cadbury brand in some way to extend our branding to the board games and relevant advertising. All imagery on the board games is consistent with the Cadbury icons which feature on the blocks of chocolate. You can see the example of some of our blocks vs. the board games below (which shows the consistency of the imagery):

In addition, the rules and/or object of the games themselves, have no connection to consumption, and we've chosen a premium which promotes family time and a fun and interactive way of learning.

Campaign aimed at the grocery buyer and families



Our entire marketing campaign for the Games Night In promotion has been aimed at the grocery buyer.

Not only does the language and the setting of the creative speak to the grocery buyer and families (see attached description and scripts), it promotes family time and a fun and interactive way of learning, encourages sharing (“Share the Taste on your family games night”), and is done in an appropriate way, with none of the visuals in the advertisement which encourage inappropriate or excess consumption of the product. The promotion television commercial featuring Andrew O’Keefe shows a family setting, with the family enjoying playing our board games together.

Our media placement for the entire campaign has targeted the main grocery buyer.

For the very first page of the promotional website for prize redemption, it specifies that people need to be 18 years or over to participate, and is age-gated/restricted accordingly. You cannot proceed to participate to redeem a prize unless you are 18 years or older (with the exception of fraudulent claims).

3. The complainant states that this promotion doesn’t promote physical activity. (Food and Beverage Code 2.2 and Advertising to Children Code 2.14 Food and beverages)

Board games have been around for centuries are traditionally a special family activity played together with parents and/or carers and this aligns strongly with the intent of our campaign: to bring the family together to create moments of real connection.

It is widely believed that board games help children develop logic and reasoning skills, improve critical thinking, focus, hand-eye coordination, manual dexterity, visual perception, colour and number recognition, social skills (e.g. taking turns and winning/losing) and boost spatial reasoning. Regular practice and activity improve these basic skills, which is important for children’s development. Furthermore, these board games do require family/adult supervision in order to be played effectively, thus promoting family/adult interaction and communication.

So while the complainant states that this promotion doesn’t promote physical activity, it does promote family time and a fun and interactive way of learning, which you could argue are educational and ‘healthy’ life activities. In fact, we are actively attempting to promote less “screen time” (and the associated family detachment/remoteness) by encouraging the uptake of traditional board games thus promoting social skills, human interaction, connection and a sense of working together.

I would also like to point out that The Board has previously considered that, consistent with previous decisions (Hungry Jacks 0282/11, Mars 0208/11) promotion of a product which may have a particular nutritional composition is not per se undermining the promotion of healthy balanced diets.



Our commitment to improving the obesity epidemic

At Mondelez International, we know that people get pleasure from treats and we value this small part we play in our consumers' wellbeing. However, we also recognise the issue of obesity and that there is more work to be done in this area.

We acknowledge that some of our products are designed to be a treat, so we take a pragmatic approach to being part of the solution:

- we recommend our products are enjoyed as part of a healthy diet and a balanced, active lifestyle.

- we encourage portion control through our participation in the 'Be Treatwise' campaign to help consumers understand how much of their recommended daily intake our products contain. This includes things like fat, sugar, energy and carbohydrates. Everyone's diets and energy requirements are different so this on-pack information helps guide individuals.

- Suggested serving sizes also appear on the back of our products to help people make the right decision for them.

- We have internal nutrition standards that guide our product developments, we've vastly improved the amount of 'Better Choice' options in our portfolio, increased whole-grain content and reduced saturated fat and sodium across all of our products globally including Australia.

- In the community, through our Mondelez International Foundation, we're ramping up efforts to empower families and communities to lead healthier lives by investing in programs to help families make informed food choices, gain access to fresh foods, and get children playing more. In line with this, last year we announced a three year \$750,000 community partnership with Save the Children Australia, titled Healthy Kids, Healthy Communities, which will provide over 11,500 children in Australia with best practice modules that focus on nutrition education, growing healthy foods and physical activity.

We support the values of the community in which we operate, and our strict Marketing to Children Policy guides our commitment to not market to children in any way that undermines these values.

Thank you again for providing us with the opportunity to respond to this complaint. We look forward to hearing the outcome.

THE DETERMINATION



The Ad Standards Community Panel (the “Panel”) considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (the “Children’s 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 (the “AFGC RCMI”).

The Panel noted the complainant's concern that the advertisement promotes excess consumption, is primarily directed to children, and encourages children to pester their parents.

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

The Panel first considered the provisions of the AFGC RCMI. The Panel noted that this is an internet advertisement promoting an offer that consumers can buy 2 blocks of chocolate and redeem a free board game.

The Panel noted that the medium the subject of complaint is internet, and that this falls within the scope of the AFGC RCMI.

The Panel noted the RCMI Initiative provides that advertising or marketing communication activities are advertising or marketing communications to children and therefore captured under the RCMI Initiative if:

1. the content of the advertisement or marketing communication is, having regard to the theme, visuals and language used, are directed primarily to children (and are for food and/or beverage products) or
2. The placement of the advertisement or marketing communication is in a medium that is directed primarily to children, ie:
 - a. in relation to television, all C and P rated programs and other rated programs that are directed primarily to children through their themes, visuals and language; and/or
 - b. where children represent 35 percent or more of the audience of the Medium.

With regards to point 1, the Panel considered the theme, content and visuals of the advertisement. The Panel noted the dictionary definition of ‘primarily’ is ‘in the first place’ and that to be within the AFGC RCMI the Panel must find that the advertisement is aimed in the first instance at children under 12.

The Panel noted the theme of the advertisement. The Panel noted that the theme of chocolate promotion is a theme that appeals to children and the promotion of games and chocolate would be of appeal to children and to adults. The Panel considered that



the advertisement's family theme was aimed at main grocery buyers rather than children.

The Panel noted the language of the advertisement. The Panel considered that the language used in the advertisement is targeted towards adults/parents, rather than children. The Panel considered that the language used was factual, and was providing information on how to redeem the board games.

The Panel noted the visuals of the advertisement. The Panel noted that the colours are bright and are colours that are recognised as Cadbury colours associated with the brand. The Panel noted that there is no animation or childish imagery, but rather a display of the product and the game available, as well as a photograph of a family looking at a game.

The Panel considered that the games shown to be available are versions of Memory, Snap and Snakes and Ladders, and considered that these games have been available for a long time and are of appeal to both adults and children. The Panel noted that board games may have a feeling of nostalgia for adults as well as an attraction for younger viewers.

The Panel noted that terms and conditions are listed at the bottom of the website, and states that consumers must be over 18 to redeem games. The Panel also noted that the website had an age gate, requiring users to confirm their age to access the website. The Panel considered that the majority of children under 14 would not be using the internet unsupervised.

The Panel reiterated that it is essential that they 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.

The Panel noted that the advertisement had a family feel to it, and considered that that advertisement would be brighter or more animated if it was directed primarily to children. The Panel considered that there were no child-like concepts, words or actions in the advertisement. The Panel considered in this case that the games may be attractive to children but that the content of the advertisement was not directed in the first instance to children under 12.

The Panel then considered part 2 in relation to internet. The Panel considered that children were unlikely to be using the internet without supervision and considered that children would not represent 35% or more of the audience.

Finding that the advertisement did not meet point 2 of the Initiative the Panel considered that the Core Principles of the RCMI did not apply to this advertisement.



The Panel then considered whether the advertisement complied with the Children's Code. The definition of "advertising and marketing communications to children" in the AANA Children's Code is: Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product.'

For the same reasons noted above the Panel considered that this advertisement, considering its overall impact and the theme, visuals and language used is not directed primarily to children. The Panel therefore considered that the AANA Children's Code did not apply.

The Panel then considered whether the advertisement complied with relevant provisions of the Food Code.

The Panel considered 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 Panel noted that the advertised product is a chocolate item. The Panel considered that, consistent with previous decisions (Ferrero 0345/17, Hungry Jacks 282/11, and Mondelez 0550/17), promotion of a product which may have a particular nutritional composition is not, per se, undermining the importance of a healthy balanced lifestyle.

The Panel 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 Panel will consider whether members of the community in the target audience would most likely take a message condoning excess consumption.'

The Panel considered that the advertisement does not provide an indication of how many people should eat the chocolate, or how fast it should be eaten. The Panel noted the advertiser's response that Cadbury chocolate has a shelf life of 420 days, and that consumers often purchase more than 1 block at a time to keep in the pantry.

The Panel noted that the photograph on the website is of a family, and the imagery in the top left corner states "share the taste". The Panel also noted that the website address was 'sharethetaste.com'. The Panel considered that the advertisement does



not show any chocolate being consumed. The Panel considered that the likely interpretation of the advertisement is that the product advertised is intended to be shared at home by the family and that there is no suggestion of frequency of consumption and there is no one person seen consuming the entire product.

The Panel considered that the advertisement did not encourage excess consumption. The Panel noted the advertiser's response that the advertisement encourages sharing and that the premium promotes family time and an interactive way of learning which are important for both adults and children.

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

For the reasons identified above the Panel determined that Section 3 of the Food Code, dealing with the marketing of food and beverage products to children, also did not apply.

Finding that the advertisement did not breach the Children's Code, the AFGC RCMI or the Food Code the Panel dismissed the complaint.

