



Case Report

1	Case Number	0363/10
2	Advertiser	Kraft Foods Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	25/08/2010
6	DETERMINATION	Dismissed

ISSUES RAISED

Advertising Message AFGC - Advertising Message

DESCRIPTION OF THE ADVERTISEMENT

Television advertisement with two boys in a school playground, sitting down eating their lunch and the boys are playing a game with their Oreos by pulling it apart and seeing who gets the side with the icing. One of the boys says that if you get the cream side, you have to marry The other boy is displeased and screws his face up. A young girl (one of the girls they have been talking about) runs nearby to collect her basketball, smiles and then runs off with the ball, back to her friends.

THE COMPLAINT

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

Directed primarily to children.

It is clear that the ad is directed primarily to children as it features two primary-school aged boys in school uniform daring each other to a challenge involving pulling apart Oreos. The boys are sitting in a bench in a schoolyard and children can be seen and heard playing in the background. In addition Oreos are a product that would appeal primarily to children and are normally marketed to children.

Nutritional content of Oreos

According to the Dietary Guidelines for Children and Adolescents in Australia (National Health and Medical Research Council. Dietary Guidelines for Children and Adolescents in Australia 2003; Canberra: Commonwealth of Australia

<http://www.nhmrc.gov.au/_files_nhmrc/file/publications/synopses/n34.doc>) 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 are extremely high in added sugar and also very high in saturated fat and total fat. Sugar is the first ingredient in Oreos constituting 40.4% of the product. Oreos also contain 10.5% saturated fat and 19.8% total fat.

Therefore clearly Oreos 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 foods high in energy fat and sugar such as Oreos may contribute to weight gain and obesity in children (National Health and Medical Research Council. Dietary Guidelines for Children and Adolescents in Australia 2003). The OPC believes it is highly irresponsible for companies to advertise such foods directly to children particularly at a time when a quarter of Australian children are overweight or obese (Australian Bureau of Statistics. 4364.0 - National Health Survey: Summary of Results 2007-2008 (Reissue); Canberra: Australian Bureau of Statistics 2009).

THE ADVERTISER'S RESPONSE

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

Kraft Foods is committed to responsible marketing of foods and beverages and it is not our intention to cause any offence or misunderstanding to any member of the community through our marketing activities. Accordingly, we have sought to give detailed consideration to this recent complaint in order to provide a comprehensive and appropriate response.

For the reasons outlined below, we do not consider that the areo TVC breaches the Code. We also do not consider that the Oreo TVC breaches the AANA Code for Advertising and Marketing Communications to Children, the AANA Food and Beverages Marketing Communications Code or the Responsible Children's Marketing Initiative that Kraft Foods is a part of ("Initiative").

Advertising Context and Description of the Oreo TVC

The idea and intent behind the Oreo TVC is to deliver a light hearted portrayal of the way kids make games out of every day objects and scenarios. While the ad features children, it is designed for parents who will appreciate the way the ad dramatises and celebrates an innocent and natural part of childhood. The areo TVC features two boys in a school playground, sitting down eating their lunch.

The boys are playing a self made game of chance with an areo by pulling it apart and seeing who gets the side with the cream. The boy who gets the side with the cream has to marry a girl. For the boys (11-12 years of age) the mere thought of marriage strikes fear into them. They pull apart the Oreo and it has cream on both sides. The boys give each other a high five and say "Bachelors!". Just then, a young girl (one of the girls they have been talking about) runs nearby to collect her basketball, smiles and then runs off with the ball, back to her friends. When the boys see the charming, smiling girl, the foolishness of their thinking and game becomes apparent. They decide to play again.

The Current Advertising Campaign: Complaint Response The ASB notification contains three complaints about the Oreo Tve. The ASB has dealt with

two of the complaints previously and determined that the Oreo TVC was not in breach of section 2.3 of the Code as, contrary to the complaints, the ad was not sexually suggestive and did not portray any negative elements which would be considered to be the 'sexualisation of children'. The ASB stated: "Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint" (emphasis added).

The concern of the new complaint received by the ASB appears to be that Oreos are not a healthy snack choice for children and do not represent healthy dietary choices and as such it is irresponsible for companies to advertise such goods directly to children. Kraft Foods maintains an industry lead position on "Marketing to Children" and enforces the highest standards associated with the protection of children. Kraft Foods has affirmed its commitment by being a signatory to the Initiative and has agreed to marketing communications directed to children under 12 only when it will further the goal of promoting healthy dietary choices and healthy lifestyles.

Having reviewed the relevant codes and the Initiative, in our view no breach has occurred, given that: .

- The Oreo TVC is not directed primarily at children - As set out above, even though the ad features children and takes place in a school setting, it is directed at parents who will appreciate and enjoy the light hearted portrayal of the way the kids make games out of every day objects and scenarios. The media schedule that Kraft Foods brought to air the Oreo TVC was primarily targeted to the parents of kids aged 6-12 (grocery buyers aged 25-54). Kraft Foods considers that parents are the gatekeepers of their children's diet and as such do not direct advertising of products with 'treat like' nutritional content to audiences composed primarily of children under 12.

- The Oreo TVC does not encourage unhealthy eating habits or undermine or disparage the promotion of healthy, balanced diets - At the start of the Oreo TVC, there is a screen shot of the boy's lunch box which includes a sandwich, an apple and two Oreo biscuits. The boys are not snacking on Oreo biscuits alone. This is clearly part of a balanced diet which includes both a sandwich and a serving of fruit.

- The Oreo TVC does not encourage what would reasonably be considered as excess consumption - There is a clear inference in the Oreo TVC that the boys are sharing the biscuits. Thus, even if the boys play the game again with the remaining Oreo, they will only be eating one biscuit each. This is an appropriate serving size and there is clearly no suggestion of over consumption.

- The Oreo TVC does not in any way encourage or promote an inactive lifestyle (or undermine the importance of a healthy and active lifestyle) - The boys are taking a break to eat their lunch. They are sitting on a bench inside a basketball court where others around them are engaging in sports, including the girl who comes to collect her basketball. There is also a football on the bench next to the boys. There is no suggestion that the boys will not join their schoolmates once they finish their lunch.

For these reasons, our considered assessment is that the Oreo TVC does not breach the Code, the AANA Code for Advertising and Marketing Communications to Children, the AANA Food and Beverages Marketing Communications Code or the Initiative.

THE DETERMINATION

The Advertising Standards Board (Board) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code") and Section 1 of the AFGC Responsible Children's Marketing Initiative of the Australian Food and Beverage Industry.

The Board reviewed the advertisement and noted the advertiser's response.

The Board noted the complainant's concern that the advertisement is directed at children, and that the product advertised is not a healthy snack choice.

The Board considered whether the advertisement is advertising or marketing communications to children. Under the Children's Code the Board must consider whether the advertisement 'having regard to the theme, visuals and language used are directed primarily to children and are for product.' The Board first considered whether the advertisement is directed primarily to children. The Board noted that the advertisement uses child actors and that this can indicate that an advertisement is targeted to children. However the Board considered that the visuals, language and theme of this advertisement create an overall impact of this advertisement that is not specifically directed or designed to be appealing to children. The Board also noted the media schedule and placement for this advertisement and the advertiser's statement that the advertisement is targeted to the main grocery buyer (aged 25 – 54). The Board noted that the advertisement is not broadcast during programs that are likely to have a significant child audience but acknowledged that some children will see the advertisement.

The Board also considered whether the product is a good that is targeted to and of principal appeal to children. The Board agreed that the advertised product 'Oreos' biscuits are a product that is appealing to children. However they considered that this biscuit is not a product that is 'targeted toward and of principal appeal to children' as it is equally enjoyed by adults.

Overall the Board considered that, although the advertisement will be seen by children, it is not directed to children and is not a product that is targeted to and of principal appeal to children. The Board therefore considered that the Children's Code and Part 3 of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food and Beverages Code) do not apply to this advertisement. The Board also noted that as the advertisement is not broadcast in programmes with a significant child audience, that the AFGC Responsible Children's Initiative does not apply.

The Board considered that the advertisement complied with all relevant provisions of the Food and Beverages Code, in particular that it did not encourage excess consumption and clearly depicted the children consuming the product in the context of active lunchtime play.

The Board noted that it had previously considered this advertisement in 2009 (Case Report 437/09). In 2009, the Board considered whether the advertisement was in breach of section 2.3 of the Code. Section 2.3 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone".

The Board agreed that the boys in the advertisement were portrayed in a manner which represented the typical sentiments of most pre-pubescent boys towards their female school mates and was neither sexualised nor objectifying towards boys or girls. By contrast, the Board considered that the girl depicted in the advertisement was portrayed to be confident,

strong and engaging. The Board considered that the advertisement was not sexually suggestive and did not portray any negative elements which would be considered to be the "sexualisation of children" and was not in breach of section 2.3 of the Code.

Finding that the advertisement did not breach the Code on any other grounds, the Board dismissed the complaint.