



Case Report

1	Case Number	0368/11
2	Advertiser	Kraft Foods Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	28/09/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

Food and Beverage Code (Children) misleading/deceptive

DESCRIPTION OF THE ADVERTISEMENT

The infomercial, using the Adverlife masthead opens on a female presenter asking whether you have high cholesterol and if you do you've probably had to cut down on cheese as a result. She then suggests you can try Kraft liveactive – as one mini-tub of cream cheese or two slices of cheese a day can help reduce your cholesterol by up to 10 per cent over three weeks. The closing frame then has a tight pack-shot of the Kraft liveactive products with a super that states Australia's first cheese proven to lower cholesterol – Kraft liveactive.

THE COMPLAINT

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

This ad is very deceptive and misleading in its nature leading people to believe that you can eat cheese to reduce cholesterol.

THE ADVERTISER'S RESPONSE

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

We refer to your letter of 8 September 2011. Thank you for providing us with the opportunity to respond to this complaint.

Kraft Foods maintains an industry-leading approach to the marketing of all products, and seeks extensive regulatory and legal advice prior to marketing a new product.

1. Relevant provisions of the AANA Advertiser Code of Ethics

You have asked that we address any relevant issues that arise under the AANA Advertiser Code of Ethics (Ethics Code) and AANA Food and Beverages Advertising and Marketing Communications Code (Marketing Code). We have identified the following as relevant provisions under these Codes:

- 1. the prohibition on misleading or deceptive conduct in advertising (provision 1.2 of the Ethics Code);*
- 2. the requirement that advertising food or beverage products is truthful and honest, and not 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 with an accurate presentation of all information including any references to nutritional values or health benefits (provision 2.1 of the Marketing Code);*
- 3. the requirement for appropriate scientific support for health or nutrition claims (provision 2.3 of the Marketing Code); and*
- 4. the requirement that advertising of food including claims about nutrition and health benefits be specific to the promoted product and accurate in all representations (provision 2.6 of the Marketing Code).*

The Advertisement is clearly not directed at children and, therefore, the ANNA Code for Advertising and Marketing Communications to Children is not relevant to the Kraft liveactive cheese products.

2. Response to the complaint

The complaint is that the advertisement is misleading and deceptive in 'leading people to believe that you can eat cheese to reduce cholesterol'.

Kraft Foods agrees that the advertisement makes the claim that Kraft liveactive cheese products can lower cholesterol when consumed by individuals with elevated cholesterol in accordance with the recommended serving size.

The simple answer to the complaint is that the claim is true. The products are cheese products enriched with an appropriate amount of plant sterols so that, when used as directed, they can lead to a reduction in elevated cholesterol levels.

The claim is made after careful research and detailed regulatory review of the addition of phytosterols.

Katan (2003) provides an analysis of 41 clinical trials that considered the efficacy of foods containing phytosterols. The authors conclude that an intake of two grams per day of phytosterols results in a reduction of low density lipoprotein (LDL) cholesterol. This is also supported by a number of recent systematic reviews.

Korpela (2006) and Jauhiainen (2006) specifically conclude that consumption of both hard and fresh cheeses enriched with phytosterols results in a reduction of LDL cholesterol and serum total cholesterol. In addition, Kraft Foods engaged Professor Peter Clifton while he was the Head of Clinical Research Unit at CSIRO Health Sciences and Nutrition to independently verify the functional cholesterol lowering attributes of plant sterols in Kraft liveactive cheese. Professor Peter Clifton, now head of the Baker IDI Heart and Diabetes Institute's Nutrition Intervention Laboratory, is a world-leader in relation to dietary responsiveness to fat and cholesterol.

In addition to this data, Kraft Foods sought regulatory review by Food Standards Australian New Zealand (FSANZ) prior to marketing the Kraft liveactive cheese products.

FSANZ concluded that the Australia New Zealand Food Standards Code should be amended to permit the addition of phytosterols to cheese and processed cheese. FSANZ reached this conclusion having been satisfied of the safety, efficacy and the cholesterol-reducing benefits of the addition of phytosterols to lower-fat cheese and processed cheese products.

For these reasons, it is clear that the advertisement is not misleading or deceptive, or untruthful or dishonest, or otherwise contrary to community expectations (provision 1.2 of the Ethics Code and provision 2.1 of the Marketing Code), that the claim to cholesterol reduction has appropriate scientific support (provision 2.3 of the Marketing Code), and that the claim is specific and accurate for the Kraft liveactive products shown in the advertisement (provision 2.6 of the Marketing Code).

For these reasons, Kraft Foods concludes that the advertisement does not contravene the Ethics Code or the Marketing Code.

Please contact us should you have any further questions in relation to this matter.

Footnotes

1 Katan et al, Mayo Clinical Proceedings 2003; 78:965-978.

2 Demonty et al, J Nutr. 2009 Feb; 139(2):271-84.

3 Wu et al, Asia Pac J Clin Nutr. 2009;18(2):179-86.

4 Korpela et al, European Journal of Clinical Nutrition 2006;60;5:633-642.

5 Jauhiainen et al Eur J Clin Nutr. 2006 (60:11) 1253-7.

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<http://www.foodstandards.gov.au/foodstandards/applications/applicationa1019phyt4161.cfm>.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”) or the AANA Food and Beverages Advertising and Marketing Communications Code.

The Board noted the complainant’s concerns that the advertisement is misleading in its suggestion that eating cheese can lower cholesterol.

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

The Board considered whether the advertisement was in breach of Section 2.1 of the AANA Food and Beverages Advertising and Marketing Communications Code. Section 2.1 of the Code states:

"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 Board noted the advertisement is for Liveactive cheese which Kraft claim can lower cholesterol up to ten percent.

The Board noted the advertiser's response that they have scientific evidence that this product can lower cholesterol levels up to ten percent and noted that the supporting evidence provided backs up this claim. The Board also sought independent advice from a food expert whose findings also support the claims made in the advertisement:

“Having reviewed the advertisement and attached story boards and considered the rebuttal provided by the Advertiser including the quoted scientific papers, it is my opinion that when consumed daily in the amounts indicated for a period of 3 weeks, Kraft Liveactive cheese can produce a reduction in blood cholesterol averaging 10%. The advertisement is careful to state the reduction is up to 10%. This is because in some individuals it will be less and of course in others more, as it is an average reduction across a population of people. It is not therefore, in my opinion, misleading or deceptive and it is quite specific that it is this cheese (Liveactive) and not all cheeses that deliver this outcome. Therefore it is unlikely that the average person would infer from these facts that any or all cheese consumption would reduce cholesterol.”

The Board noted that the advertisement does not suggest eating any cheese can lower cholesterol, only Kraft Liveactive can, and considered that the advertisement does not make any claims which are misleading.

Based on the above, the Board determined that the advertisement did not breach Section 2.1 of the Food and Beverages Code.

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