



Case Report

1	Case Number	0394/11
2	Advertiser	Myriad Marketing
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	26/10/2011
6	DETERMINATION	Dismissed

ISSUES RAISED

Advertising to Children Code 2.15 Food and beverages
Advertising to Children Code 2.2 Factual presentation

DESCRIPTION OF THE ADVERTISEMENT

Cartoon based commercial featuring a stick figure performing various actions with a Push Pop. The Push Pop is almost the same size as the stick figure and is carried on the figure's back like a backpack. The figure uses the Push Pop to fend off animated dogs, a creature and a cross life guard.

THE COMPLAINT

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

The advertisement was broadcast on commercial free-to-air television station TEN Sydney during the following C programs:

Totally Wild: 10th July 7:22am 24th June 8:10am 15th June 8:11am 8th June 8:22am 5th June 7:21am 3rd June 8:20 am and 8:09am 1st June 8:12am 30th May 8:10am 29th May 7:10am 22nd May 7:20am 8th May 7:19am 29th April 8:11am 20th April 8:10am 18th April 8:09am 17th April 7:19 am 13th April 7:50am

*Me and My Monster: 2nd July 8:50am 4th June 8:50am 14th May 8:51am and 8:40am
Scope: 11th June 9:08am 2nd June 8:19am 12th May 8:19 5th May 8:07am 30th April 9:09 16th April 9:10am 12th April 7:39am.*

The Elephant Princess 12th June 7:40am 5th June 7:21am 29th May 7:39am 1st May 7:53am and 7:39am 24th May 7:40am 17th May 7:54am.

As well it has been shown during other TEN Sydney programs including Toasted TV (most recently 18 July 7:04 am) Giratina and the Sky warrior (most recently 16th July 6:33am) Hot wheels battle force (most recently 15th July 7:11 am) Sponge Bob square pants (most recently 9th July 8:07am) Pokemon (most recently 9th July 7:46 am)

These programs are all clearly aimed at children.

We believe the advertisement breaches AANA Code for Advertising & Marketing

Communications to Children

2.2 Factual Presentation

Advertising or marketing communications to children:

a) must not mislead or deceive children

and

b) must fairly represent in a manner that is clearly understood by children

We believe this advertisement implies children who have a push pop are superior to their peers and it certainly could be interpreted that way by children because it shows the character with the push pop as having superior powers to fend off creatures.

As well the advertisement is misleading as the push pop in the advertisement is the size of a back pack. It would not be clear to children watching this advertisement that this is an incorrect portrayal of the product and even if they realised it is not that large it would still not be clear what the actual size of the product is.

This advertisement does not “represent healthy dietary choices” This breaches AANA Code to children

2.15 Food and Beverages

Advertising or Marketing Communications to Children for food or beverages must neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits and the Responsible Children's Marketing Initiative of the Australian Food and Beverage Industry

Advertising Messaging

Participants will not advertise food and beverage products to children under 12 in media unless:

1. those products represent healthy dietary choices consistent with established scientific or Australian government standards.

The Dietary Guidelines for Children and Adolescents in Australia advise “Consume only moderate amounts of sugars and foods containing added sugars” and “limit lollies”. School Canteen Guidelines around Australia categorise all confectionery in the RED category and so not to be sold from canteens and vending machines. This product is not a healthy choice.

THE ADVERTISER’S RESPONSE

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

Must not mislead or deceive Children.

**The advertisement is produced in cartoon format hence does not have a real life aspect to it.*

**A child of any age would know that lollipops are not the size of a back pack.*

**The character in the ad is not a real person but a stick figure, due to the fact that the character does not even have a face would indicate to children that this is a fun cartoon (not real life) adaptation.*

Healthy dietary choices:

**The Push Pop product is a responsible choice for children in our market, being made from high quality ingredients it represents a healthy small portion size, (15grams)*

**The primary use of the product is a plastic interactive and novel eating experience for the child.*

**The volume of candy is very small relative to the price of the product.*

**If they were buying bagged or bulk confectionery they could purchase up to ten times the volume of candy for the same price.*

**This product is not sold at school canteens or vending machines.*

THE DETERMINATION

The Advertising Standards Board (Board) considered whether this advertisement breaches Section 2 of the AANA Advertiser Code of Ethics (the "Code") and the AANA Code for Advertising and Marketing Communications to Children (Children's Code).

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

The Board noted the complainant's concern that the advertisement is misleading to children in its portrayal of a character with a Push Pop being able to fend off creatures and its depiction of the Push Pop being the same size as a backpack and also that the product is not a healthy choice.

The Board noted that Myriad Marketing is not a signatory of the AFGC RCMI or the QSR Initiative therefore these Initiatives do not apply.

The Board considered the advertisement under the AANA Code for Advertising and Marketing Communications to Children. The definition of what is 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".

The Board noted that Children means, "children 14 years old or younger" and Product means, "goods, services and/or facilities which are targeted toward and have principle appeal to children."

The Board noted the advertisement features a cartoon stick figure carrying an over-sized Push Pop which is used to fend off animated creatures and a bossy life guard.

The Board considered that the theme, visuals and language used in the advertisement are clearly directed at children. The Board considered that Push Pops are a product which would have principle appeal to children.

Finding that the advertisement is directed primarily to children and is for Product, the Board considered that the provisions of the Children's Code do apply.

The Board considered the AANA Code for Advertising and Marketing Communications to Children. The Board noted Section 2.2 which states:

“Advertising or Marketing Communications to Children:

- (a) Must not mislead or deceive Children.
- (b) Must not be ambiguous; and
- (c) Must fairly represent, in a manner that is clearly understood by Children:
 - I. The advertised Product
 - II. Any features which are described or depicted or demonstrated in the Advertising or Marketing Communication
 - III. The need for any accessory parts; and
 - IV. That the Advertising or Marketing Communication is in fact a commercial communication rather than program content, editorial comment or other non-commercial communication.”

The Board noted that the Push Pop is depicted as almost the same size as the cartoon figure carrying it and considered that even young children would understand that this is not a real depiction and that Push Pops are much smaller than actual people.

The Board determined that the advertisement did not breach Section 2.2 of the Children's Code.

The Board considered Section 2.7 (c) which states:

“Advertising or Marketing Communications to Children must not state or imply that a Product makes Children who own or enjoy it superior to their peers”.

The Board noted the complainant's concern that the advertisement “implies children who have a Push Pop are superior to their peers” and considered that the depiction of the cartoon stick figure repelling various cartoon creatures is unlikely to be interpreted by children as meaning they would be better than their peers if they had a Push Pop.

The Board determined that the advertisement did not breach Section 2.7 of the Children's Code.

The Board then considered Section 2.15 which states:

“(a) Advertising or Marketing Communications to Children for food or beverages must neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits.”

The Board considered that the advertising or promotion of lollies is not, per se, inconsistent with or undermining of a balanced diet or healthy lifestyles.

The Board determined that the advertisement did not depict or encourage excess consumption and that there was nothing in this advertisement that would amount to undermining of a balanced diet or healthy lifestyle. The Board noted that the cartoon stick figure is shown out walking and then on the beach and considered that these were consistent with a healthy lifestyle.

The Board determined that the advertisement did not breach any provisions of the Children's Code.

Finding that the advertisement did not breach the AANA Code of Ethics or the Children's Code, the Board dismissed the complaint.