



Case Report

1	Case Number	0425/12
2	Advertiser	Goodman Fielder Limited
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	14/11/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

Two young children are shown walking out of a house carrying what is labelled as "2.5kg saturated fat from butter" whilst a child's voiceover explains that their mum is saving them from 2.5kg of saturated animal fat each year by using Meadow Lea. We then see the children embrace their mum whilst saying "Thanks mum".

THE COMPLAINT

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

There are two points to be raised with this ad, both of which I find either unethical or downright misleading.

The main point is the actual claim made by the ad. I can see that this ad treads very carefully with its claim, stating precisely (although in fine print) that by using Meadow Lea spreads over butter, the consumer will save themselves ingesting a specific amount of saturated animal fat per year. Assuming that Meadow Lea contains less saturated animal fat than butter (I've checked & it does) - indeed this claim made by Meadow Lea will be true.

However, its delivery is such that the consumption of fat will be considerably less if the consumer uses Meadow Lea's product. This is illustrated by the 'before & after' of the unhappy child with the lump of fat vs. the happy, Meadow Lea eating child carrying no fat. It inducement is such the total fat consumption will be considerably less, if not eliminated altogether, by using the Meadow Lea product over butter. I remind Meadow Lea of section 52 of the Trade Practices Act (Cth), which expressly prohibits conduct which is likely to

deceive in order to induce a sale of their product. I believe that Meadow Lea has crossed this line & will induce consumers to buy the product thinking they will save themselves/their children from fat consumption. This is not true. I do acknowledge that the ad is careful in the way it describes the 'type' of fat which is saved, stating at each reference 'saturated animal fat'. It's the use of the illustrations which misleads the viewer. Why not show the happy children holding a different lump of fat with the words 'Meadow Lea Trans Fat' emblazoned across the front of it? It would've made a better radio commercial.

The next point to raise here is the lack of evidence in the ad. It's clear that Meadow Lea wants to instil in the viewer that their spread is a healthier alternative than butter (again, not expressly stated, but inferred clearly through illustration). I wish to remind Meadow Lea that several scientific studies exist which contradicts this statement. Hydrogenated vegetable oils as found in Meadow Lea pose significant health risks when consumed frequently and in some studies is shown to cause more health damage than animal fats which are unprocessed (hydrolysed) and remain in their natural state i.e. butter. There are also studies which maintain that generally butter & other unaltered fats are easily processed by the body whereas these processed vegetable fats as in Meadow Lea do not conform well with the normal lipid processes in the body.

THE ADVERTISER'S RESPONSE

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

We have attached digital copies of the advertisements, which have appeared during a large variety of comedy, drama, soap opera, cooking, news, movie and health/lifestyle programs including The Simpsons, The Brady Bunch, Cheers, Everybody Loves Raymond, Modern Family, MacGyver, Neighbours, Ready Steady Cook, My Kitchen Rules, Sunrise, The Project, The Morning Show, Entertainment Tonight, Dr Phil and Harry's Practice.

In our view the audience of these programs is not predominantly made up of children, a conclusion supported by the TARPs (Target Audience Rating Points) falling to 200-300 when adjusted for children aged 2-9 and 5-12. Our media buyer bought timeslots in these programs at 500-600 TARPs for "mothers with children" and "grocery buyers". As you can see, the TARPs falls by 50% when adjusted for children.

Our specific response to the complaints follow.

Complainant 1

We reject the complainant's assertion that the TVC gives the impression that fat consumption per se will be significantly lower with a switch from butter to Meadow Lea spread.

The basic premise of the TVC is that saturated fat will be reduced. The word "saturated" appears on the fat blob shown and the word "saturated" is clearly used in the voiceover.

The complainant asks why the child eating the Meadow Lea spread is not shown carrying the blob representing 2.5kg of saturated fat. The answer is because that "blob" represents the annual saturated fat saving a person will achieve by switching from butter to Meadow Lea spread, spreading 20g on 3-4 slices of bread daily. It would therefore not make sense to show

the child carrying the “saving”, having made the switch.

The complainant also asks why the happy children are not holding a lump of fat labelled with the words "Meadow Lea trans fat". We submit that would make no sense whatsoever, as all Meadow Lea products are virtually free of trans fats (99.5% trans fat free).

There are two sources of trans fats in the human diet, industrial and ruminant, and both are the result of a process called partial hydrogenation¹. In response to a request from The Australia and New Zealand Food Regulation Ministerial Council., Food Standards Australia New Zealand (FSANZ) estimated the trans fat content of the Australian and New Zealand diets in 2007 and 2009.^{2,3} In the more recent study,³ mean trans fat intake in Australia was estimated to be 0.5% of dietary energy, half the upper limit recommended by the World Health Organization.⁴ Falls in intakes of both industrial and ruminant trans fats have occurred since the early 1990s, the fall in ruminant trans fats most likely being due to lower use of tallow and increased use of palm oil as a frying medium and in baked goods. The fall in intake of industrial trans fats has been significantly greater as the use of partially hydrogenated fats has been phased down or out in many product categories especially margarines. Industrial trans fats now comprise just one-eighth of one percent of dietary energy. Ruminant sources contribute 73% of total trans fat in the current Australian diet.³

We also reject the complainant's assertion that there is a lack of evidence supporting the proposition that using spreads made from plant seed oils are healthier than using butter. The existence of "several [contradictory] scientific studies" (none of which the complainant has referenced) does not, we submit, mean the general consensus within the scientific/nutritionist community is wrong or inaccurate.

Saturated fat is not an essential nutrient and plays no positive role in the health of children, other than the provision of energy (calories). The argument for restricting dietary saturated fat intake in children is the same as for restriction in adults i.e.

That saturated fat increases blood cholesterol

Raised blood cholesterol is associated with increased risk for coronary heart disease

Lowering blood cholesterol reduces coronary risk

Lifelong lower coronary risk lowers the risk of a coronary event (usually in the 4th, 5th, 6th or 7th decade of life).

This is the basis of the recommendations for restricting saturated fat in children's diets outlined by the Australian National Health and Medical Research Council in 2003⁵ and the American Heart Association in 2005⁶, ⁷

The process of atherosclerosis which leads to heart disease begins early in childhood and is influenced over the life course by potentially modifiable risk factors, such as the blood cholesterol concentration (AHA, 2007)⁷. Supporting evidence comes from autopsy studies, such as the Pathobiological Determinants of Atherosclerosis in Youth (PDAY study, Mc Gill HC 1997)⁸ and the Bogalusa Heart Study (Berenson GS 1998)⁹, which have demonstrated that the atherosclerotic process begins in childhood. In the Muscatine Study, intimal medial thickness (IMT) of the carotid arteries, which has been shown to be an indicator of the

atherosclerotic process in adults, was associated with increased blood cholesterol concentration in childhood (Davis PH et al) 10. The Cardiovascular Risk in Young Finns Study also showed a positive relationship between adolescent risk factors and subclinical measures of atherosclerosis in adulthood (Raitakari OT et al 2003)11.

The potential of high blood cholesterol to increase coronary risk in children is highlighted in cases of familial hypercholesterolaemia (FH), a genetic condition associated with high blood cholesterol levels from birth. Atherosclerosis in subjects with FH begins in early childhood and progresses at a rate proportional to blood cholesterol concentrations (Wiegman A 2004)12. Advanced coronary heart disease may be evident by the late teenage years or early 20s (Mabuchi 1989)13

Butter and margarine both contain five essential nutrients – vitamin A, vitamin D, vitamin E and the two essential fatty acids – linoleic acid and alpha-linolenic acid. The vitamin A contents of butter and margarine are comparable (margarine is slightly higher). The other four nutrients are present in much higher quantities in margarine than butter14. Shrapnel and Baghurst (2006) 15 modelled the effects of including butter and different margarines on the content of most of these nutrients in theoretical diets and found margarines to be superior.

We therefore contend there are no scientific grounds on which to argue that butter is healthier than margarine.

Complainant 2

The complainant discusses fractionation and interestification in detail but does not actually link this with any alleged breach of Section 2 of the AANA Advertiser Code of Ethics. It might be inferred that she believes either or both of these processes means that plant seed oil is bad or unhealthy.

The complainant goes on to allege that the suggestion that Meadow Lea is a healthier alternative to butter is misleading, because it is an "artificial creation" containing "harmful oils and trans fats". We reject this assertion - Meadow Lea spreads contain less than 0.5% trans fat.

We refer you to several organisations below which conclude that reduction of saturated fat, including through the switch from butter to unsaturated fat spreads, is a recommended health initiative.

The Australian Heart Foundation16, the Australian Dietary Guidelines17 and the new Dietary Guidelines for Americans recommend the replacement of saturated fat with unsaturated fats (e.g. replacing butter with margarine spreads) to lower coronary risk. The current Dietary Guidelines for Australians 17state “ As a spread for bread and for baking, choose (reduced-salt) unsaturated margarines ... rather than butter ...”

The new (2012) draft Australian Dietary Guidelines say with regard to saturated fat, that foods rich in unsaturated fats should replace saturated fat in the diet:

“Limit intake of foods containing saturated fat such as many biscuits, cakes, pastries, pies, processed meats, commercial burgers, pizza, fried foods, potato chips and crisps and other savoury snacks.and, Replace high fat foods which contain predominantly saturated fats such

as butter, cream, cooking margarine, coconut and palm oil with foods which contain predominantly polyunsaturated and monounsaturated fats such as oils, spreads, nut butters/pastes and avocado.”

And with regard to trans (partially hydrogenated) fat there is no reference in the new (2012) draft Australian Dietary Guidelines, as most of the trans fats in the Australian diet now comes from meat and dairy fat – advice to lower saturated fat from these sources also serves to further lower intake of trans fats.

The complainant alleges that the industry did not change practice in relation to trans fats until 2007. This is not the case – the actual situation is that in early 1990, after the adverse effects of trans fats on serum lipoproteins were first observed, the National Health and Medical Research Council (NHMRC) released a report recommending that trans fats be considered as equivalent to saturated fats in relation to their effect on blood cholesterol. Two years later the National Heart Foundation of Australia argued a similar case in a review of dietary fats and cholesterol and forecast likely changes to relevant criteria for the Foundation’s Tick program.

After consultation with the margarine industry the Heart Foundation introduced a new Tick program criterion for table margarines in early 1996, the previous limit on saturated fats being replaced by a limit on the sum of saturated and trans fats. In that year, leading margarine manufacturers removed trans fats from table spreads resulting in a considerable fall in the amount of trans fat present in the Australian food supply. Insight into the effects of this change on individual intakes of trans fats was gleaned from a study conducted at the Commonwealth Scientific and Industrial Organisation (CSIRO) 18 in Adelaide. Adipose tissue biopsies of fatty acids were collected from two groups of subjects between 1995 and 1997, which coincided with the margarine company’s removal of trans fats from its products. In both groups of subjects, adipose tissue levels of trans fats fell by 23%, suggesting a fall in dietary intake of trans fatty acids of that order.

Consequently, we believe the complaints do not establish any breach of the AANA Advertiser Code of Ethics and submit they should be dismissed.

1. Expert Panel on Trans Fatty Acids and Coronary Heart Disease

Risk, Kris-Etherton PM, ed. Physicochemical properties, intake, and metabolism. Am J Clin Nutr 1995; 62: 659S–69S.

2. Food Standards Australia New Zealand. Trans fatty acids in the New Zealand and Australian food supply: Review Report (2007). Commonwealth of Australia. (Available from http://www.foodstandards.gov.au/_srcfiles/Transfat%20report%202007.pdf)>http://www.foodstandards.gov.au/_srcfiles/Transfat%20report%202007.pdf, accessed 1 October 2010).

3. Food Standards Australia New Zealand. Intakes of trans fatty acids in New Zealand and Australia: Review Report – 2009 assessment. Commonwealth of Australia. (Available from http://www.foodstandards.gov.au/_srcfiles/TFAs_intakes_2009.pdf, accessed 1 October 2010).

4. World Health Organization. *Diet, Nutrition and the prevention of chronic diseases: report of a joint FAO/WHO expert consultation*. Geneva: WHO Technical Report Series 916, 2003.
5. NHMRC/Department of Health & Ageing. *Dietary Guidelines for Children and Adolescents in Australia*. Canberra, 2003.
6. American Heart Association. *Dietary recommendations for children and adolescents*. *Circulation*. 2005;112:2061-2075.
7. American Heart Association. *Primary Prevention of Cardiovascular Disease in Nursing Practice: Focus on Children and Youth*. *Circulation* 2007;116:344-357.
8. McGill HC Jr, McMahan CA, Malcolm GT, Oalmann MC, Strong JP. *Effects of serum lipoproteins and smoking on atherosclerosis in young men and women*. The PDAY Research Group. *Pathobiological Determinants of Atherosclerosis in Youth*. *Arterioscler Thromb Vasc Biol*. 1997;17:95–106.
9. Berenson GS, Srinivasan SR, Bao W, Newman WP III, Tracy RE, Wattigney WA. *Association between multiple cardiovascular risk factors and the early development of atherosclerosis*. Bogalusa Heart Study. *N Engl J Med*. 1998;338:1650–1656.
10. Davis PH, Dawson JD, Riley WA, Lauer RM. *Carotid intimalmedial thickness is related to cardiovascular risk factors measured from childhood through middle age: the Muscatine Study*. *Circulation*. 2001;104:2815–2819.
11. Raitakari OT, Juonala M, Ka`ho`nen M, et al. *Cardiovascular risk factors in childhood and carotid intima-media thickness in adulthood: the Cardiovascular Risk in Young Finns Study*. *JAMA* 2003;290:2277–2283.
12. Wiegman A, de Groot E, Hutten BA, et al. *Arterial intima-medial thickness in children heterozygous for familial hypercholesterolaemia*. *Lancet* 2004; 363: 369-370.
13. Mabuchi H, Koizumi J, Shimizu M, Takeda R., Hokuriky FH-CHD Study Group. *Development of coronary heart disease in familial hypercholesterolemia*. *Circulation*. 1989;79:225-232
14. NHMRC. *Nutrient Reference Values for Australia and New Zealand*. Canberra 2006.
15. Shrapnel B, Baghurst K. *Adequacy of essential fatty acid, vitamin D and vitamin E intake: Implications for the 'core' and 'extras' food group concept in the Australian Guide to Healthy Eating*. *Nutr Diet* 2007;64:78-85.
16. National Heart Foundation of Australia. *Dietary Fats and dietary cholesterol for cardiovascular health: summary of evidence*. NHF 2009
17. NHMRC/Department of health and Aging. *Dietary Guidelines for Children and Adolescents in Australia*. Canberra 2003
18. Clifton PM, Keogh JB, Noakes M. *Trans Fatty acids in adipose tissue and the food*

supply are associated with myocardial infarction. J Nutr 2004;134: 874-9

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) or section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted the complainant’s concern that the advertisement is misleading because it implies that overall fat consumption will be lower by consuming Meadow Lea when in fact it is just the animal fat which will be lower, and because it implies that Meadow Lea doesn’t contain any fats which could also be unhealthy.

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

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 'prevailing community standards' means the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it sees fit, in relation to the advertising or marketing of food or beverage products taking into account at a minimum the requirements of the Australia New Zealand Food Standards Code, the Australian Dietary Guidelines as defined by the National Health and Medical Research Council and the National Physical Activity Guidelines as published by the Federal Government of Australia.'

The Board noted the explanatory notes to the Food Code prepared by AANA which, in relation to Section 2.1, provide:

“The Board will not attempt to apply legal tests in its determination of whether advertisements are truthful and honest, designed to mislead or deceive, or otherwise contravene prevailing community standards in the areas of concern to this Code.

In testing the requirement that advertisements and/or marketing communications should be truthful and honest, the Board will consider whether the information most likely to be taken from the advertisement by an average consumer in the target market would be reasonably regarded as truthful and honest.

In testing the requirement that advertisements and/or marketing communications should not be designed to be misleading or deceptive, or otherwise contravene prevailing community

standards, the Board will consider the advertiser's stated intention, but may also consider, regardless of stated intent, that an advertisement is by design misleading or deceptive, or otherwise contravenes prevailing community standards in particular regard to stated health, nutrition and ingredient components of the food or beverage product.

Thus, advertising and/or marketing communications may make reference to one or more of the nutritional values and/or health benefits of a product but such references must be accurate and appropriate to the level of understanding of the target audience, and must not misleadingly represent the overall nutritional or health benefits of the product..."

The Board noted that the advertisement features a child talking about their mum saving them from 2.5kg of saturated animal fat each year by switching to Meadow Lea.

The Board noted the advertiser's response that as per the on-screen disclaimer, the average person who uses 20g of butter on three to four slices of bread each day could save themselves up to 2.5kg of saturated animal fat by switching to Meadow Lea. The Board considered that the message that a consumer will take from this advertisement is that Meadow Lea does not contain saturated animal fat. The Board noted that this is true and considered that this aspect of the advertisement is not misleading or deceptive.

The Board noted the complainant's concerns regarding any other fats Meadow Lea could contain and which are not declared in the advertisement and which may be more harmful than saturated animal fat. The Board considered that the advertisement is very clearly about reducing consumption of saturated animal fat and that advertisers are not obliged to point out every ingredient of their product in their advertising provided that the advertisement overall does not create a misleading impression about the product.

The Board considered that the fact the advertiser does not state which fats their product does contain does not make the advertisement deceptive or misleading. The contents of the product are clearly labelled and the advertisement is only making claims about saturated animal fats.

The Board considered that the advertisement was not misleading or deceptive and did not breach Section 2.1 of the Food Code.

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