

CASE REPORT

1. Complaint reference number	161/09
2. Advertiser	Meat & Livestock Australia P/L
3. Product	Food
4. Type of advertisement	Print
5. Nature of complaint	Advertising to Children Code - Factual presentation – section 2.4 Food and Beverage Code – untruthful/dishonest Advertising to Children Code - Other
6. Date of determination	Wednesday, 8 July 2009
7. DETERMINATION	Upheld – discontinued or modified

DESCRIPTION OF THE ADVERTISEMENT

This advertisement is a four page print advertorial. At the top of each page of the advertorial is the word 'Advertisement'. At the bottom right hand corner of the first and fourth page is the text 'RED MEAT We were meant to eat it Themainmeal.com.au'.

Page one depicts a boy in the outdoors swinging on a rope. Text on the page includes: 'Kids', 'learn& play', 'Learning about the benefits of red meat has never been so fun'.

Page Two is headed 'learn and play'. There is a Word Search and a recipe for beef fajitas. There is a circle which states "Meat increases the absorption of iron by up to four times from foods like cereals, vegetables, legumes, eggs or nuts." There is also a sudoku which has a sentence to complete. If completed correctly the sentence is 'We should eat red meat three to four times a week'. There is also a picture of a piece of meat with the following statements:

- 'Iron the iron in red meat helps stop your memory from going rusty'
- Omega-3s Red meat is the second greatest provider of omega-3s in the Australian diet
- Zinc The zinc in red meat helps keep your immune system strong
- Protein Red meat is high in protein for growth and development
- Vitamin B12 Vitamin B12 is only found naturally in red meat and other animal foods

Page Three is headed 'learn and play'. This page includes a recipe for lamb kebabs, a word change and picture to colour in and the statements: 'Did you know? The redder the meat, the higher the iron content.' and 'Remember...red meat is rich in iron which gives you energy.'

Page Four is headed 'learn and play'. This page includes a word mixing game, a maze puzzle which is accompanied by the words 'Health bodies need a balanced diet. Start at the vegetables. Can you find your way to the meat?'. There is also a statement on the page 'Did you know? 1 in 3 young females in Australia has low iron levels.' There is also a quiz which is headed 'Can you beat Mum and Dad? See how smart Mum and Dad are with this fun quiz.' and contains the following questions with answers:

'Protein is essential for keeping us feeling fuller for longer and growth and development'

'Which food is the richest source of zinc for the immune system?: Red meat'

'Lean red meat should be consumed 3 to 4 times a week to meet requirements for: Iron'

'Which is not an example of red meat: Pork'

'Which food is the richest source of vitamin B12 for normal brain development: Red meat'

THE COMPLAINT

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

I speak on behalf of myself and other members of ALV who have contacted me quite distressed after seeing this ad. We find this ad offensive in that it misleads and deceives children into thinking that "we are meant to eat red meat" which is only the opinion of the advertiser. Young children would not be able to distinguish their opinion from fact. We were not 'meant' to eat red meat, anymore than we were 'meant' to smoke cigarettes. Key studies by the American Diabetic Association have stated that vegetarians enjoy a lower incidence of cancer and cardiovascular disease. There is enormous scientific evidence that red meat contributes to the high incidence of cancer and cardiovascular disease in Western nations. We believe it's wrong of the advertiser to entice impressionable young children to their product with games and activities which do not fairly represent to children the product, that is they are 'selling' through 'fun games' and the kids would not comprehend this is an advertisement but see it as a colorful school project or something of that nature based on fact rather than a business selling a product.

Alarmingly, the meat lobby is trying to indoctrinate impressionable children with their slogan "Red meat. We were meant to eat it". Exposed for horrific animal cruelty in abattoirs and factory farms, the red meat industry is targeting gullible children in a desperate attempt to boost their declining market. The methods involve colourful games and puzzles aimed at children as young as five years old. Some of the statements in the ad are misleading and suggestive towards what the advertisers would like to plant in the minds of children. That meat is happy, fun, necessary for good health and part of a good life. Meat production wastes water and land resources that could otherwise grow more sustainable plant foods, enormously contributes to global warming, and causes cruelty and pain to animals suffering in crates, transport, feedlots and slaughterhouses. Red meat producers are cynically targeting children in this spurious advertising, and we ask them to be reprimanded by the Advertising Standards Bureau.

Thank you for your consideration about our sincere concerns

ps It was upsetting to also read in that same edition of the SUNDAY AGE featuring this advertisement, an article written by the Production Editor of the Sunday AGE, Michael Coulter slamming vegans and referring to them as zealots and moral snobs. Neither of which is true.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

Meat & Livestock Australia (MLA) writes in response to concerns raised by the complaint in relation to the MLA four-page advertorial for red meat, 'Kids learn & play' published in the Sunday Age on 29 March 2009. In response to comments made that the advertorial is "misleading", "deceiving" and "based on opinion", MLA is rigorous in ensuring all nutrition statements are based on sound scientific evidence. We access a wide range of scientific evidence including:

- Biological evidence on the role of nutrients in red meat on health
- Intervention studies on the effect of nutrients in red meat on health
- Prevalence studies on the extent of nutritional issues (eg. Iron deficiency) in at risk population groups
- Anthropological evidence on the role of red meat in human evolution

We also consult with leading world authorities in specialised areas to ensure that the messages are credible and accurately portrayed. For instance, in relation to the statement, 'Red meat. We were meant to eat it', contained in the newspaper advertorial, we consulted with leading anthropologists including: Dr Mark Horton (Head of Dept of Archaeology and Anthropology, University of Bristol); Prof Loren Cordain (Dept of Health and Exercise Science at Colorado State University); Prof Mike Richards (Dept of Human Evolution, Max Planck Institute for Evolutionary Anthropology) and Prof

Neil Mann (Dept of Applied Sciences, RMIT).

Similarly, we consult with relevant professional associations, such as the Dietitians Association of Australia and the Heart Foundation to ensure our messages are consistent with current food and nutrition policies.

Much of this evidence can be found in the report ‘The Role of Red Meat in Healthy Australian Diets’ produced by leading Australian nutrition experts and published in the peer reviewed journal, Nutrition & Dietetics, volume 64, issue S4.

Please find attached the specific evidence supporting all the nutrition claims made within the advertorial. (Contact ASB for information)

In response to comments made that this advertorial unfairly targets children, it is important to look at this advertorial as part of a broader campaign, including the television advertisement ‘Library’ which has been on air since 2006. The message communicated by the campaign highlights the important contribution red meat makes to a healthy balanced diet in providing the key nutrients - iron, omega-3s, zinc and vitamin B12 – that are essential for healthy brain development and function.

The advertorial was intended as an interactive communication for both parents and children on the nutritional benefits of red meat, as part of a healthy balanced diet including fruit and vegetables. We understand many parents read this section with their children. Consequently, the activities were designed to give parents the opportunity to work together with their child and open up the discussions around health and nutrition.

We believe that our advertising is consistent with the Advertiser Code of Ethics. More specifically, we believe that the advertising is consistent with sections 2.4 and 2.8.

In relation to children (AANA Code for Advertising and Marketing Communications to Children – section 2.4):

- It is based on factual information (substantiation attached). It clearly indicates what nutrients are found in red meat and explains the benefits of these nutrients. (2.2 (a); (b))
- The communication is clearly marked “advertisement” on each page and the logo and website of the campaign is clearly placed on the front of the section (2.2. (c) (iv))
- The placement of the advertorial was determined by the publication. MLA has no influence or control on editorial in any section of the paper (2.3).
- The advertorial does not demean any particular eating style. It simply indicates what nutrients are found in red meat and the role these nutrients play in the body (2.6 (b)).
- The advertorial doesn’t suggest that red meat is the only source of these nutrients. For instance, it indicates the vitamin B12 is found in other animal foods and that there are other contributors to omega 3. It does not encourage pester power. Instead, it allows parents to discuss alternative sources of nutrients where special diets are required (2.7).
- It encourages the consumption of a healthy balanced diet including vegetables and fruit, consistent with the Department of Health’s Go for 2 fruit and 5 veg message. Several activities specifically refer to vegetables including “What’s left”; “plate”; “mix it up” and the recipes (2.15 (a)).

In relation to the general community (AANA Food and Beverages Marketing and Communications Code – section 2.8):

- The information provided is based on appropriate scientific evidence as indicated in the substantiation provided (2.3).
- It is a simple communication of fact (2.1).
- The information provides red meat, in an appropriate serving size, and as part of a healthy balanced diet, including vegetables and fruit (2.2).

Red meat is an important food in the Australian diet. It makes a significant contribution to the intake

of essential nutrients which are important for public health. It is important that all Australians, both young and adult, are informed so that they can make appropriate food choices.

THE DETERMINATION

The Advertising Standards Board (“Board”) considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the “Code”).

The Board noted that the Secretariat had obtained independent advice on the statements made in the advertisement from an expert in Nutritional Physiology and an expert in anthropology.

The Board first considered the advertisement under the AANA Code for Advertising and Marketing Communications to Children (the Children's Code). The Board considered that this material is advertising or marketing communications which is directed primarily to children (14 years or younger) and is for a good which in this advertisement is targeted towards children and that therefore the Children's Code applies.

The Board considered section 1 of the Children's Code which provides that: 'Advertising or marketing communications to Children must not contravene prevailing community standards'.

The Board noted that the material primarily appears as educational material providing children with information about the benefits of red meat and about the importance of particular nutrients in the diet. The Board considered that this advertisement contains some beneficial material and does not contravene section 1 of the Children's Code.

The Board then considered section 2.2 of the Children's Code which provides that:

'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; (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 decided to discuss section 2.2(a) and (b) in conjunction with discussion around section 2.1 of the Food Code.

The Board discussed whether or not the advertisement clearly depicted itself to children as an advertisement (s.2.2(c)(iv)). The Board noted that the material contains the word 'advertisement' at the top of each page, although noted that the focus of the front page is the heading 'Kids. Learn and Play.' The Board noted that the material is targeted to children and considered that much of the content of the material is content likely to be attractive or interesting for children of primary school age. The Board considered that the primary content of the material is educational information about red meat which is presented in the form of games and puzzles and that this format is similar to the children's section in Sunday papers, which is unpaid content. The Board noted that there is no discernible logo in the material and that the campaign slogan 'Red meat, we were meant to eat it' would not necessarily alert a child to the fact that the material is placed by an advertiser and would be very unlikely to identify that the advertiser is Meat and Livestock Australia.

The Board considered that the presentation of this material makes it likely that the material would be considered non-commercial communication by the target audience. The Board considered that despite the inclusion of the word 'Advertisement' at the top of each page, the form and content of the material does not fairly represent in a manner that is clearly understandable by children, particularly younger primary school children, that it is in fact a commercial communication and not other non-commercial communication. The Board considered that the advertisement breached section 2.2(c)(iv) of the Children's Code.

The Board then considered section 2.7(a) of the Children's Code which requires that advertising to children must not undermine the authority of parents or carers. Some members of the Board considered that the advertisement did undermine those parents who choose to raise their children on vegetarian diets or diets with less red meat. The majority of the Board considered however that the advertisement presented a point of view and that the presentation of information that might be contrary to what a parent has said to their own children is not of itself 'undermining the authority, responsibility or judgment of parents or carers.' The Board determined that the advertisement did not breach section 2.7 of the Children's Code.

The Board then considered section 2.15 of the Children's Code which provides that advertisements to children for food and beverages 'must neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits.' The Board considered that the advertisement, although focused on meat, did include references in the games and recipes to fruit and vegetables, playing and depicted children outside. The Board considered that the advertisement did not breach section 2.15 of the Children's Code.

The Board noted the complainant's concerns that the current advertisement misleads and deceives children into thinking that "we are meant to eat red meat".

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. 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:

Section 2.1

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

Some complaints made under this Code that the Board is better able to determine under the broader aspects of the AANA Code of Ethics will be considered under that Code e.g. (complaints about matters such as 'taste and decency', language, sex and violence).

The Board noted that section 2.2(a) of the Children's Code also requires that advertising to children 'must not mislead or deceive children, and (b) must not be ambiguous' and considered section 2.2 (a) and (b) in conjunction with section 2.1 of the Food Code. The Board considered section 2.1 of the Code and noted that section 2.1 requires it to consider whether an advertisement is, or is designed to be, misleading or deceptive.

The Board noted that its role is different from the role of the court or the ACCC and that it is not for the Board to see itself in the position of the court. The Board has a special role given the broad principles in the various Codes and its role as set out in the provisions of the Codes and other sources such as the Food and Beverage Practice Note). The Board reflects community standards and expectations and these necessarily change over time. Its task is to deal with complaints. By upholding or rejecting a complaint, it determines whether the community considers an advertisement acceptable or not. In this way, it provides guidance to advertisers and assists in maintenance of confidence in advertising. The Board's task, as properly understood, is not to reflect on or speculate about what a court would do if the advertisements were the subject of an allegation of Trade Practices Act breach nor to reach a legal opinion. Rather, the task is to reflect the community's attitude - to assess whether the advertisements meet current community expectations for truthfulness given what the advertisements convey to ordinary consumers and in light of the relevant circumstances and given the grounds of the complaint.

The Board considered a number of statements in the advertisement regarding the nutritional benefits of red meat, in particular:

- 'Iron - the iron in red meat helps stop your memory from going rusty'
- Omega-3s - Red meat is the second greatest provider of omega-3s in the Australian diet
- Zinc - The zinc in red meat helps keep your immune system strong
- Protein - Red meat is high in protein for growth and development
- Vitamin B12 - Vitamin B12 is only found naturally in red meat and other animal foods

The Board noted the advertiser's response in relation to the statements regarding the importance of various nutrients and their existence in red meat. The Board noted that its own independent advice commented that:

'As detailed in the responses from the MLA, the statements made in the advertisements are all evidence based although the strength of the evidence varies between claims. Whether the evidence would be acceptable for approval of specific claims by FSANZ is uncertain and could only be tested by formal submission to FSANZ. However I personally consider overviews of evidence in the MLA's responses to be reasonable.'

The Board considered that the statement 'The iron in red meat helps stop your memory from going rusty' may not be scientifically correct, however it clearly includes language indicating that it is not a technical or scientific statement and in the Board's view is not such as to be misleading or deceptive.

The Board considered that the information provided about these nutrients and their nutritional benefits was in line with general community understanding. Some members of the Board considered that these statements would be better structured by referring to the role of the nutrient and then stating that red meat contains that nutrient, but considered that the statements in their current form were not likely to be understood by consumers or even by children as meaning that only red meat has these benefits and nutrients.

The Board then considered the advertiser's slogan 'Red Meat: We were meant to eat it'. The Board noted the advertiser response and also noted some independent advice obtained by the Secretariat which stated:

'I am concerned by the implication that this evolutionary benefit [development of brain size] was attributable exclusively to the consumption of red meat. The evidence indicates that it was the result

of adopting an omnivorous diet. Even if red meat was the predominant rich source of protein and other nutrients that enhanced our evolution, other forms of meat and, indeed, fish could also have favoured brain development. Hence there appears little justification for the concluding statement 'Red Meat. We were meant to eat it.' (as opposed to other animal source of nutrients.)'

The Board considered that the concept of whether or not humans are 'meant to eat red meat' is subject to some debate (in the sense of which particular colour of meat), but that humans are certainly capable of eating meat and have been for some time. The Board then compared this statement 'Red Meat: we were meant to eat it' to a recent advertisement for chicken (214/08) which made comments about people who did not like chicken. In that advertisement the Board considered that the advertisement was clearly intended to be 'humorous and push the boundaries of what is considered acceptable to the community in relation to the use of humour in advertising. In that advertisement the Board further considered the premise of 'there's something wrong with you if you don't like chicken' was so silly that it could not be taken seriously.'

The Board considered that the statement 'Red Meat: we were meant to eat it' is, like the chicken advertisement, a slogan and unlikely to be seen as a statement of fact. The Board noted young children would be unlikely to see this slogan as an advertising technique and that the slogan's use in the children's advertorial may lead children to ask their parents or carers about eating red meat. The Board considered that parents and carers would be able to provide supplementary information that reflects the role of red meat consumption within their own family or home. The Board considered that, in a diverse community, children will often be presented with information that does not reflect the information they are provided with in their own home but this does not mean that advertisements must present only homogenous information, provided that such information is not misleading or otherwise in breach of the Codes.

The Board noted the statement in the advertisement "Lean red meat should be consumed 3 to 4 times a week to meet requirements for: Iron". The Board noted the advertiser response that this statement is justified by the Australian Dietary Guidelines which recommends the 'inclusion of red meat three to four times a week: otherwise high iron replacement foods will be needed.' The Board noted that the Australian Dietary Guidelines. The Dietary Guidelines for Children and Adolescents state that: 'Children and adolescents should be encouraged to:....• Include lean meat, fish, poultry and/or alternatives'. The Board noted that the 'Background information' to the dietary guidelines states that: 'The Australian Guide to Health Eating recommends that red meat be eaten three to four times a week; less than this and high iron replacement foods will be required.' It also states that: 'Earlier editions of the dietary guidelines included a guideline encouraging the consumption of 'iron-rich foods'. In this revision—to more clearly define the concept of variety, to provide advice consistent with the Australian Guide to Healthy Eating, and to take a more consistent food-based approach—this guideline has been replaced by one encouraging inclusion of lean meats and fish, poultry or their alternatives, with an emphasis on these foods 'value as a source of dietary iron, zinc and B12 as well as protein.'

The Board considered that the statement "Lean red meat should be consumed 3 to 4 times a week to meet requirements for: Iron" was correct although it did not reflect the full requirements of the dietary guidelines recommendations on iron consumption, which clearly stated that children and adolescents should be encouraged to include lean meat, fish, poultry and alternatives. The Board noted that there is no requirement that advertisements reflect the full text of dietary guidelines, just a requirement that the advertisement is not misleading or incorrect. The Board considered that the take out message from the advertisement was unlikely to be 'red meat is the only source of iron' as the advertisement does refer to other foods containing iron on page 2 of the advertisement.

The Board considered the message that children would take from the advertorial as a whole. The Board considered that young children would be unlikely to take any lasting message from the

advertisorial - they would be likely to do one or two of the puzzles and then move on to another activity. The Board considered that older children would be unlikely to take out a message any more specific than 'red meat contains iron and other important vitamins and minerals and has a role in your diet'. The Board considered that this was not misleading information. The Board determined that the advertisement did not breach section 2.1 of the Food Code or section 2.2(a) of the Children's Code. The Board considered that the information in the advertisement was not ambiguous and did not breach section 2.2(b) of the Children's Code.

The Board considered that this advertisement and the information contained therein, was presented in a fun and attractive manner, and that much of the nutritional and dietary information provided was beneficial to the community and to children. However, having considered that the advertisement did not fairly represent, in a manner that is clearly understandable by children, that the advertisement is a commercial communication, the Board determined that the advertisement breached section 2.2(c)(iv) of the Children's Code and upheld complaints.

ADVERTISERS'S RESPONSE TO THE DETERMINATION

Comments which the advertiser made in response to the determination regarding this advertisement included the following:

This is to confirm that we have discontinued this advertisement.