



CASE REPORT

1. Complaint reference number	348/09
2. Advertiser	Meat & Livestock Australia
3. Product	Food & Beverages
4. Type of advertisement	TV
5. Nature of complaint	Food and Beverage Code – untruthful/dishonest
6. Date of determination	Wednesday, 12 August 2009
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement shows Sam Neil and Dennis the orangutan. It starts with Sam saying “well I’ll be a monkey’s uncle, hey Dennis fishing for some brain food eh”! Sam describes to Dennis the benefits of red meat for the brain which helps us to concentrate, keep alert, stay healthy and keep happy. As a woman walks past, Dennis the orangutan is shown to lose focus and turns to follow the woman. In a later scene, Sam highlights to Dennis that ‘to keep our brains active and firing we need a potent bundle of nutrients every day to help us concentrate, keep alert, think clearly and stay happy. ..not just Omega 3 but iron, zinc, amino acids and vitamin B12. And those five critical nutrients can be found in one amazing food...red meat.’ Dennis the orangutan is then shown enacting a self-deprecating gesture, by slapping his hand to his forehead, so hard that he knocks himself over. Sam then says, “red meat, you’d be silly not to eat it”.

THE COMPLAINT

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

I object to these adds because it is advertising a trained Orangutan who does not eat meat,(they are vegetarians) I feel this is false advertising.Because meat is the product of slaughtered animals,I'm sure the Orangutan would not approve these advertisements of another species that has been killed for the sake of man's consumption. The training of an Orangutan is also wrong, so many animal lovers condemn the training of wild animals in the circus, and this add has gone backwards in advertising this cruel act. When an Orangutan grins, it is because the animal is stressed. I have volunteered in helping the plight of endangered Orangutans and studied their behaviour.

I work with several Orangutan conservation groups whose main objective is to raise awareness about the plight of Orangutans, a critically endangered species. This MLA advertisement directly undermines our efforts and puts us back decades in terms of the way humans view the treatment of animals.

It's enough that Orangutans are prime targets for the illegal pet trade, and worse that their numbers are declining every day due to expanding palm oil plantations. Apparently now they are being usurped for use in movies and advertisements with ex-Hollywood stars who have no idea of their plight. It is an absolute disgrace. Thank you for your time.

This advertising contravenes section 2.8 of the AANA code of ethics: specifically Sections 2.1, 2.2, 2.3, 2.4 and 2.5.

Claimed nutritional values and health benefits:

Red meat consumption in Australia is already excessive, massively increasing heart disease, high blood pressure, obesity, diabetes and many cancers [1,2,3,4,5]. Any advertising that promotes this killer is highly irresponsible, misleading and deceptive.

Implication that humans evolved brains needed meat to grow:

The assertion that humans needed meat to evolve and develop large brains has been comprehensively refuted [6]. Man's greatest cultural developments were made possible by breakthroughs in plant agriculture. Einstein and Newton were vegetarians!

1. Campbell TC, Campbell TM., II *The China Study, Startling Implications for Diet, Weight Loss, and Long-Term Health*. Dallas, Tx: BenBella Books Inc; 2005.

2. McDougall J. *The Atkins scientific research—deceit and disappointment*. McDougall Newsletter. 2004;3:1–17.

3. Gardner CD, Kiazand A, Alhassan S, et al. *Comparison of the Atkins, Zone, Ornish, and LEARN diets for change in weight and related risk factors among overweight premenopausal women: the A TO Z Weight Loss Study: a randomized trial*. JAMA. 2007;297:969–977.

4. Esselstyn CJ. *Prevent and Reverse Heart Disease*. New York, NY: Avery; 2007.

5. Ornish D, Brown SE, Scherwitz LW, et al. *Can lifestyle changes reverse coronary heart disease?* Lancet. 1990;336:129–133.

6. Nestle, M. *Animal v. plant foods in human diets and health: is the historical record unequivocal?* Proceedings of the Nutrition Society (1999), 58:211-218.

This statement is untrue, and is designed to create fear, uncertainty and doubt in the minds of those who might otherwise adopt a healthy vegetarian diet. It may well succeed in confusing the issue in the minds of the public, lead to greater red meat consumption (which, after all, is the purpose of the ad) - and consequently increased health risks for those persuaded by the advertising to eat more red meat. Recent reports by the European Prospective Investigation into Cancer and Nutrition (EPIC) which has analysed the dietary habits of 500,000 people over a period of ten years shows a direct correlation between the consumption of red meat and bowel cancer, one of the forms of cancer which is high in Australia.

Similar claims made by other industries would create an outcry by public health professionals (e.g. "Smoking is an essential habit to maintain human health"?), yet the claim made here has the potential to do more damage to public health than even smoking.

Also, it is the position of the American Dietetic Association that appropriately planned vegetarian diets, including total vegetarian or vegan diets, are healthful, nutritionally adequate, and may provide health benefits in the prevention and treatment of certain diseases. Well-planned vegetarian diets are appropriate for individuals during all stages of the life cycle, including pregnancy, lactation, infancy, childhood, and adolescence, and for athletes. An evidence-based review showed that vegetarian diets can be nutritionally adequate in pregnancy and result in positive maternal and infant health outcomes. The results of an evidence-based review showed that a vegetarian diet is associated with a lower risk of death from ischemic heart disease. Vegetarians also appear to have lower low-density lipoprotein cholesterol levels, lower blood pressure, and lower rates of hypertension and type 2 diabetes than non vegetarians. Furthermore, vegetarians tend to have a lower body mass index and lower overall cancer rates.

All cooked meats contain hetero cyclic amines which are cancer causing. Meat is also the cause of thousands of cases of food poisoning each year.

THE ADVERTISER'S RESPONSE

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

We refer to your email dated 17 July 2009 in relation to complaint reference 348/09.

The complaints relate to a Meat & Livestock Australia Pty Ltd (MLA) television commercial for red meat titled "Nutrition" featuring the actor Sam Neill and an orangutan named Dennis. A copy of this advertisement and the script are attached. The advertising agency was Brand Council and Brain Surgery and the media buyer was Universal McCann.

Background

The "Nutrition" television commercial makes very few nutritional claims with respect to red meat which require scientific substantiation. The advertisement clearly states that "there's more than one food that can feed the brain you know" and states that five critical nutrients, namely Omega-3, Iron, Zinc, Amino Acids and B12 "can be found in one amazing food: Red Meat". This is a statement of fact which MLA can substantiate and has substantiated in the past (in the context of complaints about earlier advertising). In any event, none of the complaints allege that these statements are misleading.

Given the lack of controversial scientific claims, MLA does not consider that the Advertising Standards Bureau (ASB) needs to obtain independent expert advice on the statements made in the

advertisement. In the event that the ASB considers that expert input is required, MLA wishes to be consulted on the process by which this is to occur, as it is not set out on the ASB website or in the information provided when the complaint was brought to MLA's attention.

The use of an Orangutan

MLA submits that some of the complaints relate to an ideological issue regarding the use of wild animals in advertising. However, there are no provisions in the AANA Code of Ethics that relate to the treatment of animals in advertising. Section 2.2 of the Code, to which one of these complaints has been seen to relate, relates to the portrayal of violence but makes no mention of wild animals. Even if there were a relevant standard, MLA notes that the orangutan featured in the television commercial was not taken from a wild habitat for the purpose of the advertisement. The featured orangutan is a zoo animal that resides in a controlled environment under supervision, and is already involved in activities of this kind. Further, the television commercial does not "present or portray violence" towards the orangutan which could possibly breach section 2.2 of the Code. While opinions will differ on the use of animals in advertising, there are no provisions under the Code that address this issue.

Misleading Health Claims

Another basis for the complaints is that the advertisement of red meat, in general, is somehow misleading and deceptive due to alleged health risks caused by the consumption of red meat. The complaint seems to be that the advertisement encourages the eating of red meat as being healthy when, allegedly, it is not and that this makes the advertisement misleading. The complaint is not about any specific claim – in effect it is a complaint that any advertising of red meat that suggests that it has nutritional benefits will be misleading because it is, allegedly, inherently unhealthy.

MLA wishes to draw the attention of the ASB to the recommendation to include red meat 3 to 4 times a week indicated in the Australian Dietary Guidelines published by the Australian Government Department of Health and Ageing and the National Health and Medical Research Council (NHMRC)¹.

In view of this Australian Government recommendation, MLA submits that to the extent that the advertisement conveys a message that red meat can be an important part of a healthy diet and deliver nutritional benefits it is not untruthful, dishonest, misleading or deceptive or likely to mislead or deceive or otherwise be in breach of the AANA Food & Beverages Advertising & Marketing Communication Code.

Humans are by nature omnivorous and it is consensus science, recognised by the NHMRC, that red meat delivers accepted nutritional benefits as part of a diet. It is for proponents of different diets to set out the alleged benefits of those diets, not to prevent the communication of facts about a diet to which they are opposed for philosophical, religious or other reasons.

Specific issues raised by the complaints

MLA wishes to respond to the following specific statements included within the complaints:

(a) the complaint dated 13 July 2009 states that she "does not like being called silly because [she] choose[s] not to eat animal flesh on animal welfare grounds". The statement of "You'd be silly not to eat it" is not intended to offend viewers and does not relate to a nutritional claim.

The context in which the statement is made is some byplay between Sam Neill and a predominantly fruit eating species of ape. Sam Neill claims "and those five critical nutrients can be found in one amazing food: Red meat". In response, Dennis covers his eyes and falls over, after which Sam Neill says "You'd be silly not to eat it". Dennis does the "crazy" sign with his finger to imply that Sam Neill does not comprehend that Dennis (as an orangutan) does not eat red meat. In any case, while MLA, like any other advertiser, does not set out to offend viewers it notes that if some viewers take offence this is not of itself a breach of the Code;

(b) the anonymous complaint received on 13 July 2009 does not appear to relate to the "Nutrition" television commercial. The description of the advertisement fails to mention an orangutan and purports to refer to the statement "Lean red meat is an essential part of the diet...", which is not made in the relevant television commercial. MLA submits that this complaint probably relates to a previous MLA advertisement and that the same issue has already been the subject of a determination by the ASB in respect of that advertisement; and

(c) the complaint received on 15 July 2009 alleges that the television commercial contains an assertion that humans needed meat to evolve and develop large brains. MLA notes that there is no such assertion made in the "Nutrition" television commercial. Again, MLA submits that this complaint probably relates to a previous MLA advertisement and that the same issue has already been the subject of a determination by the ASB in respect of that advertisement.

In view of the above, MLA respectfully submits that these complaints should not be upheld as the "Nutrition" television commercial complies with the provisions of the AANA Code of Ethics and the AANA Food & Beverages Advertising & Marketing Communication Code.

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 the complainants' concerns that the advertisement is exploitative of animals because it portrays the orangutan as a plaything for humans.

The Board reviewed the advertisement and considered the application of Section 2.2 of the Code.

Section 2.2 relates to portrayal of violence. The Board considered the response of the advertiser which explained that the featured orangutan is a zoo animal who resides in a controlled environment, under supervision and is already involved in activities of this kind.

Whilst opinions differ on the use of animals in advertising, there Board found that there was no breach of section 2.2 of the Code.

The Board also considered whether the advertisement discriminated against or vilified people on account of being vegetarian. In particular the Board considered the statement 'you'd be silly not to eat it'. The Board noted that this is an advertisement for red meat and is clearly indicated as such. The Board considered that the community would see this statement as part of an advertising message aimed to increase meat consumption and would be unlikely to be seen as a statement of fact or as discriminating against or vilifying people who choose not to eat red meat. The Board considered that this statement did not breach section 2.1 of the Code.

The Board then considered the requirements of the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code). The Board noted key elements of the Code in particular:

- that the advertisements shall be truthful and honest, not be or be designed to be misleading or deceptive (section 2.1),
- that any health or nutrition claims must be supportable by appropriate scientific evidence meeting the requirements of the Australia New Zealand Food Standards Code (section 2.3)
- any claims relating to material characteristics such as nutrition and health benefits shall be specific to the promoted product and accurate in all such representations (section 2.6);
- not otherwise contravene community standards (section 2.1); and
- be communicated in a manner appropriate to the level of understanding of the target audience with an accurate representation of all information including any references to nutritional values or health benefits (section 2.1)

The Board considered that the advertisement did not breach section 2.2, 2.4, 2.5

In relation to the complainant's concerns regarding untruthful and dishonest nutrition claims, the Board considered the information supplied by the advertiser which drew upon the Government recommendation indicated in the Australian Dietary Guidelines published by the Australian Government Department of Health and Ageing and the National Health and Medical Research (2003). The Board noted that the Australian Dietary Guidelines recommend the consumption of red meat 3 to 4 times a week to obtain necessary levels of iron but notes that iron can be obtained from other foods.

The advertiser submitted that to the extent that the advertisement conveys a message that red meat can be an important part of a healthy diet and deliver nutritional benefits it is not untruthful, dishonest, misleading or deceptive or likely to mislead or deceive.

The Board noted the references in the advertisement to 'brain food', 'more than one food that can feed

the brain' and the statement ' to keep our brains active and firing we need a potent bundle of nutrients every day to help us concentrate, keep alert, think clearly and stay happy. ...not just Omega 3 but iron, zinc, amino acids and vitamin B12. And those five critical nutrients can be found in one amazing food...red meat.'

The Board considered that this advertisement discussed the importance of certain nutrients in brain function and then states that these nutrients are found in red meat. The Board considered that reasonable members of the community would consider that this advertisement is suggesting that these nutrients can be found in red meat. The Board considered that there is no suggestion in the advertisement that red meat is the only product in which these nutrients can be found or that these nutrients cannot be found in other products.

The Board noted the advertiser response which included information substantiating that red meat provides these nutrients. The Board considered that on the basis of the information provide by the advertiser, that the product advertised does generally contain the nutrients referred to in the advertisement. On this basis the Board determined that the advertisement did not breach sections 2.1, 2.3 or 2.6 in relation to the nutrient claims in the advertisement.

The Board noted some complainant concern that it is misleading to promote red meat as a product with nutrients as it fails to indicate that the product can increase health risks. The Board noted the Australian Dietary Guidelines regarding the consumption of red meat and considered that the community would consider advertising red meat as in line with community standards.

After considering this information the Board discussed the concept of such statements made in advertising and whether or not some of the claims would be seen as advertising 'puffery' and exaggeration by the target audience, and not as scientific fact. The Board also commented that the target and likely audience would be able to distinguish this advertisement as just that, an advertisement for red meat.

The Board also considered that the advertisement represented the nutrition information about the product in a manner which was appropriate for the target audience of grocery buyers and adults.

The Board considered that the advertisement did not breach the AANA Food and Beverages Advertising and Marketing Communication Code.

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