



## CASE REPORT

1. Complaint reference number	359/09
2. Advertiser	Heinz
3. Product	Food & Beverages
4. Type of advertisement	TV
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Wednesday, 12 August 2009
7. DETERMINATION	Dismissed

## DESCRIPTION OF THE ADVERTISEMENT

*This television advertisement is promoting Heinz Nurture toddler milk. A woman, Dr Katie Heathershaw, MBBS, FRACP, MD is the prominent figure in the advertisement. She explains how she is a paediatrician and a mother. As she walks through the hospital ward carrying a file, she explains how she knows that toddlers can be fussy eaters, so it is important to provide them with iron and omega 3 and pre and probiotics for a healthy digestive system. The advertisement then shifts to a mother who says that she chooses Heinz Nurture Gold Toddler it is the only one to offer MPD a unique scientific combination of essential nutrients. Heinz Nurture Gold Toddler, Nurture your child's potential.*

## THE COMPLAINT

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

*I object to the advertising of this product-Heinz follow-on type formula for toddler feeding. By promoting these products I believe there is a breach of the World Health Organisation Code of Marketing of Breast milk Substitutes.*

*The code is available at [http://www.who.int/nutrition/publications/code\\_english.pdf](http://www.who.int/nutrition/publications/code_english.pdf) Quoting directly from the Code, some of the sections relevant to this breach, "-Recognizing that the encouragement and protection of breast-feeding is an important part of the health, nutrition and other social measures required to promote healthy growth and development of infants and young children; and that breastfeeding is an important aspect of primary health care -governments should develop social support systems to protect, facilitate and encourage it, and that they should create an environment that fosters breast-feeding, provides appropriate family and community support, and protects mothers from factors that inhibit breast-feeding Affirming the need for governments, organizations of the United Nations system, nongovernmental organizations, experts in various related disciplines, consumer groups and industry to cooperate in activities aimed at the improvement of maternal, infant and young child health and nutrition*

*The Code applies to the marketing, and practices related thereto, of the following products: breast-milk substitutes, including infant formula; other milk products, foods and beverages, including bottle fed complementary foods, when marketed or otherwise represented to be suitable, with or without modification, for use as a partial or total replacement of breast milk; feeding bottles and teasts. It also applies to their quality and availability, and to information concerning their use.*

*"Complementary food" means any food whether manufactured or locally prepared, suitable as a complement to breast milk or to infant formula, when either become insufficient to satisfy the nutritional requirements of the infant. Such food is also commonly called "weaning food" or breast-milk supplement".*

*"Marketing" means product promotion, distribution, selling, advertising, product public relations, and information services.*

*4.2 Informational and educational materials, whether written, audio, or visual, dealing with the feeding of infants and intended to reach pregnant women and mothers of infants and young children, should include clear information on all the following points: (a) the benefits and superiority of breast-feeding; (b) maternal nutrition, and the preparation for and maintenance of breast-feeding;*

*5.1 There should be no advertising or other form of promotion to the general public of products within the scope of this Code."*

## **THE ADVERTISER'S RESPONSE**

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

*The complainant's objection is that the Heinz TVC appears to breach the World Health Organization's International Code of Marketing of Breast-milk Substitutes (WHO code).*

*In Australia, the main principles of the WHO Code have been adopted in the MAIF Agreement, a voluntary self-regulatory code of conduct between the manufacturers and importers of infant formula in Australia. H. J. Heinz Company Australia Limited is a signatory of the MAIF Agreement and takes its obligations very seriously.*

*As you are no doubt aware, both the WHO Code and the MAIF Agreement serve to regulate marketing of breast-milk substitutes (including infant formula and bottle-fed complementary foods) for children up to the age of 12 months.*

*The subject of the Heinz TVC is toddler milk, which is consumed by children above the age of 12 months. This is clearly outside the scope of the WHO code and MAIF Agreement. The Heinz TVC therefore is not a breach of either the WHO code or the MAIF Agreement.*

*In addition, I would also like to clarify that the Heinz TVC is not advertising or marketing directly towards children, nor does it in any way breach the AANA Code of Ethics, the AANA Food & Beverages Advertising & Marketing Communications Code or the AANA Code for Advertising & Marketing Communications to Children.*

## **THE DETERMINATION**

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code") and the AANA Food and Beverages Advertising and Marketing Communications Code (the "F&B Code").

The Board considered the application of the F&B Code. The Board noted that the F&B Code does not require advertisers to present information about alternatives to their product. The Board noted that the nutritional claims made in the advertisement were relevant to the product and considered that they were not in breach of Section 2 of the F&B Code. The Board also determined that the advertisement did not breach any other section of the F&B Code.

The Board then considered the application of Section 2.6 of the Code, relating to health and safety.

The Board considered the complainants' objection was directed more towards the product than the advertisement. The Board noted that the advertiser has a right to advertise its legal product provided that the advertisement complies with the AANA Codes. The Board determined that the advertisement was not contrary to prevailing community standards of health, noting that there are strict rules about the marketing of infant formula and that this product is not an infant formula, and therefore found no breach of Section 2.6.

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