



## CASE REPORT

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| 1. Complaint reference number | 491/08  |
| 2. Advertiser                 | Nutricia Australasia Pty Ltd                                      |
| 3. Product                    | Food & Beverages  |
| 4. Type of advertisement      | TV  |
| 5. Nature of complaint        | Health and safety – section 2.6<br>Food and Beverage Code – other |
| 6. Date of determination      | Wednesday, 10 December 2008                                       |
| 7. DETERMINATION              | Dismissed   |

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement for Nutricia's Karicare Toddler Gold Plus opens showing a mother and young daughter in a park blowing bubbles. Viewers hear a female voice say, "She's got a lot to learn and so does her immune system. That's why I choose Karicare Toddler Gold Plus". The advertisement then cuts to show a tin of Gold Plus. The voice over lists the ingredients which are also shown as words swirling around the tin. The girl is then seen running in the park and shown playing in a sandpit. The advertisement ends with a shot of the tin and the voice over saying, "Karicare supporting their immune system".

## THE COMPLAINT

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

*The mother says "I know I'm doing my best" when referring to giving her child that particular type of formula. This is incorrect and misleading. The mother should know that doing her best would be breastfeeding her daughter.*

## ADVERTISER'S RESPONSE

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

*I note that the alleged complaint refers to Section 2.4 - Food and Beverage Code – misleading nutrition/health comparisons and Section 2.6 - Health and Safety.*

*Nutricia denies any validity to this complaint and therefore I am providing the requested information and the following response.*

*This complaint lacks substance due to the misunderstanding of the type of product, its usage in a toddler's diet and the strict regulations under which this has been developed and is marketed. I have detailed these points below.*

*The complaint refers to the Karicare product as a "formula". This is not the case; this product is neither an infant formula nor a follow-on formula. The product being advertised is Karicare Gold Plus Toddler Supplement. This product is produced under the Food Standards Code 2.9.3 Formulated Meal Replacements and Formulated Supplementary Foods.*

*Products developed under this Standard are intended to provide a supplement to a child between 1 and 3 years of age, at times when their dietary intake is insufficient. Subclause 7(c) of Standard 2.9.3 states:*

*(3) The label on a package of formulated supplementary food for young children must include a description of the role of the food as a supplement to a normal diet to address situations where intakes of energy and nutrients may not be adequate to meet an individual's requirements.*

*The consumption of these products are intended to be an important part of the diet at such times as when a child's intake is inadequate – for whatever reason – and whether the child is breast fed or not.*

*As you will see from the attached text, this is clearly stated at the end of this advertisement.*

*Further, this product is not within the scope of the World Health Organisation's Code of Practice for the Marketing of Breast-milk Substitutes. In fact, the scope of the Australian interpretation (as provided by the WHO for national, local interpretations) is for infants up to 12 months, only, which is clearly not the target audience, nor the purpose of, this product.*

*The statement in the advertisement from the mother "I know I am doing my best" must be viewed in the context of the actual product being advertised; that is, of providing support when a toddler's diet is inadequate. In this context, the provision of a dietary supplement would well be regarded as the mother doing her best by providing the needed, additional nutritional support through a supplement.*

*It must also be noted that Nutricia would argue that a mother is doing her best by providing a product with added Nutricia Prebiotics, which are not available in other dietary supplements for toddlers.*

*The fact that the advertisement does not reference breastfeeding, or the benefits of breastfeeding, is due to the use of this product: it is NOT a replacement for breastfeeding; it is a supplement for a toddler's diet when their intake is inadequate. Additionally, during the voice over, this is advised via a written banner as follows: Supplements the diet of active toddlers when their regular intake doesn't meet their needs.*

*I trust that the provision of the facts about the type of product being advertised, and the role of the product in a toddler's diet, will clarify the misconceptions of the complainant.*

## **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.