



**ADVERTISING
STANDARDS
BUREAU**

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**Ms Caroline Mills
100 Drummond Street
CARLTON VIC 3053**

18 June 2013

1. Complaint reference number: **0144/13**
2. Advertiser: **Kellogg (Aust) Pty Ltd**

Dear Ms Mills,

We refer to your complaint regarding the above advertisement.

The Advertising Standards Board reviewed this advertisement and considered your complaint at its recent meeting.

The Board upheld your complaint, determining that the advertisement breached one or more of the advertiser codes administered by the ASB.

A copy of the case report of the Board's determination is enclosed. The response and action of the advertiser to the Board determination to uphold the complaint(s) about this advertisement are outlined in the attached case report. Please be aware that, like all complainants, the advertiser is entitled to seek a review of this decision. Information about the review process can be found at <http://www.adstandards.com.au/process/theprocesssteps/independentreviewofasbdeterminations>.

Thank you for your participation in the self regulation system. It would be appreciated if you would complete a short survey about your views on the complaint adjudication process. The survey link is at <http://www.surveymonkey.com/s/RXTBH9C>

With regards,

Nikki Paterson/ Daniela Gray

Case Managers

Advertising Standards Bureau

complaint@adstandards.com.au



Case Report

1	Case Number	0144/13
2	Advertiser	Kellogg (Aust) Pty Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	TV
5	Date of Determination	22/05/2013
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

RCMI a - Advertising Message AFGC - Advertising Message

DESCRIPTION OF THE ADVERTISEMENT

The advertisement features a close up of a bowl of Coco Pops and milk. The Coco Pops are swimming in the milk and playing 'Marco Polo'. Some of the Coco Pops are scooped up by a spoon and the remaining Coco Pops call out, "fish out of water" and "hey, no peeking!" We then see that the Coco Pops are being eaten by a young boy who is sat in a kitchen with his mum watching him as he drinks the remaining milk and cereal from the bowl. A voiceover then states, "Just like a chocolate milkshake only crunchy".

THE COMPLAINT

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

The Obesity Policy Coalition (OPC) submits this advertisement breaches the Responsible Children's Marketing Initiative (RCMI). As a signatory to the RCMI, Kellogg has committed not to advertise its products to children under 12 years in media unless those products represent healthy dietary choices, consistent with established scientific or Australian government standards.

In our submission the advertisement breaches the RCMI because: -

- 1. It is a communication directed primarily to children;*
- 2. Coco Pops do not represent a healthy dietary choice consistent with established scientific or Australian government standards; and*
- 3. It does not promote healthy dietary habits or physical activity.*

The advertisement is a marketing communication directed primarily to Children

This advertisement is, on any common sense view of its themes, visuals and language, a marketing communication directed primarily to children, within the meaning of the RCMI and associated guidelines.

The Board is requested to carefully consider the following salient features, which the OPC argues conclusively establish the advertisement is directed primarily to children:-

- 1. the advertisement uses a cartoon-like animation that runs for a majority of the advertisement;*
- 2. the Coco Pops are depicted as a large group of children enjoying a pool party;*
- 3. the Coco Pops are depicted playing Marco Polo, a children's game;*
- 4. the Coco Pops use expressions commonly used by children at play such as "no peeking!" and "fish out of water!", which are not used by adults;*
- 5. the animated Coco Pops behave and speak teasingly in childish voices to each other;*
- 6. the scene is not depicted from the point of view of parents or onlookers, but draws the viewer right inside the animated scene of play and fun, in a manner that will appeal overwhelmingly to children;*
- 7. the advertisement uses multiple voices of laughing children in the final sing-song voiceover: "just like a chocolate milkshake only crunchy".*

These highly evocative aspects of the advertisement will strongly appeal to children's sense of playfulness. This targeted marketing approach is consistent with Kellogg's acknowledgment that Coco Pops are a product designed for, and promoted to children (product information on Kellogg's website notes "Coco Pops is the tasty breakfast treat that kids have loved for generations. Coco Pops and milk are just like a chocolate milkshake, only crunchy!" http://www.kelloggs.com.au/en_AU/coco-pops-product.html). The advertisement makes no appeal to parental or adult interests, directing its themes, visuals and language specifically at young children.

Further, the advertisement was broadcast during many daytime and weekend programs, including Australia's Funniest Home Video Show (broadcast on Saturday 23 March 2013 at 7.15pm on channel NWS9), and The Block (broadcast on Monday 18 March 2013 at 7.15pm on channel STW9), which are watched by large numbers of children.

Coco Pops do not represent a healthy dietary choice

According to the Dietary Guidelines for Children and Adolescents in Australia, care should be taken in relation to children's diets to consume only moderate amounts of sugars and foods containing added sugars. The recently released Australian Dietary Guidelines 2013 also recommend that Australians limit intake of foods and drinks containing added sugar and salt.

Coco Pops contain 36.5% sugar, moderate levels of salt and are very low in dietary fibre. Coco Pops are not a healthy food choice for children, and do not represent healthy dietary choices consistent with prevailing government standards. Consumption of energy dense, high-sugar products such as Coco Pops can contribute to weight gain and obesity in children. It is irresponsible to promote a product so high in sugar to children for consumption, particularly at a time when a quarter of Australian children are overweight or obese.

We anticipate Kellogg will assert that Coco Pops are a "treat" food, that may be consumed occasionally within the context of a balanced diet. The Board should not accept any argument along these lines for the following reasons: -

- 1. Coco Pops are widely understood to be a breakfast cereal; a meal which is consumed daily, and children are therefore very likely to infer Coco Pops are appropriate for daily consumption;*
- 2. There is nothing in the advertisement to suggest to the children viewing the advertisement that Coco Pops should be consumed only occasionally;*
- 3. There is nothing in the advertisement to suggest that frequent consumption may not be*

consistent with healthy dietary choices;

4. Children viewing the advertisement will naturally want to have “fun and games” as frequently as possible.

In our submission, the advertisement therefore cannot reasonably be construed by the Board as promoting only occasional consumption of Coco Pops.

The advertisement does not promote good dietary habits or physical activity

Even in the case of a product that (unlike Coco Pops) represents a healthy dietary choice, the RCMI provides that Kellogg may only advertise the product to children if the advertising and/or marketing communication activities reference, or are in the context of, a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages:

- 1. Good dietary habits, consistent with established scientific or government criteria; and*
- 2. Physical activity.*

The Board has previously noted, in its decision 0454/11, that merely omitting any references to unhealthy eating choices is not sufficient to discharge this obligation. It is quite clear that the advertiser is required to positively encourage good dietary habits and physical activity, which Kellogg has failed to do in this advertisement.

Relevantly, the Board has previously found that mere suggestion of “adventure” in advertising does “not amount to an implication or encouragement of physical activity” (decision 0454/11). Consistent with that precedent, it is submitted that although the advertisement showing Coco Pops wallowing in milk may promote “fun”, it does not meet the test of positively promoting physical activity.

For the above reasons, the OPC asks the ASB to request that Kellogg withdraw the Coco Pops advertisement immediately on the basis that it breaches the RCMI.

THE ADVERTISER’S RESPONSE

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

Advertising Standards Bureau ("ASB") Complaint 0144/13

I refer to your letter dated 23 April 2013 regarding the complaint received by the ASB in relation to the above mentioned advertisement.

Please note that we have not provided any substantiation data regarding health, nutrition or ingredient claims or statements, as such claims or statements are not made in this advertisement.

Prior to addressing the substantive issues, Kellogg would like to confirm its long-standing support for the ASB and its commitment to uphold the relevant Codes together with its own internal guidelines.

Substantive Response to Complaint (Including Description)

The advertisement contains scenes depicting “Coco Pops” swimming in a bowl of milk and playing “Marco Polo”.

Upon being scooped up by a spoon, some of the “Coco Pops” declare “fish out of water”

and “hey, no peeking”.

A young boy is depicted eating a bowl of Coco Pops while his mother looks on. The accompanying voiceover states: “When Coco Pops and milk come together, it’s all fun and games right down to the last chocolaty drop”.

The concluding scene depicts a pack of Coco Pops placed alongside a carton of low fat milk and a bowl of fruit, with an accompanying voiceover that states: “Just like a chocolate milkshake only crunchy.”

Conceptually, this advertising campaign centres upon prompting nostalgic recollections among main grocery buyers (MGB’s) in relation to the well-known swimming pool game “Marco Polo”.

The theme also promotes Coco Pops as being a “fun” cereal choice that may be enjoyed from time to time as part of a balanced diet, which may include fruit and low fat milk (as depicted in the advertisement).

The complaint is made under the AANA Code of Ethics (Code of Ethics) and the Australian Food and Grocery Council Responsible Children’s Marketing Initiative (RCMI).

The substantive complaints appear to be that the advertisement is a marketing communication:

directed primarily to children;

is not representative of a healthy dietary choice consistent with scientific or Australian Government standards; and

that does not promote healthy dietary habits or physical activity.

Our responses to each of these complaints are contained below.

Australian Food and Grocery Council Responsible Children’s Marketing Initiative (RCMI)

Marketing to Children

We submit that the RCMI does not apply in this instance as the advertisement is not directed at children.

Kellogg acknowledges that the advertisement features a well-known pool game, “Marco Polo”, which has been played by children for generations. Notwithstanding these visuals, this communication is not directed to children, but rather, such imagery is used to prompt nostalgic recollections of MGB’s regarding the “fun” times they may have experienced during their own childhood. In turn, the theme of “fun” is used to convey to MGB’s that Coco Pops is a “fun” food which may be enjoyed from time to time as part of a balanced diet.

The Kellogg’s Usage and Attitudes Survey (2012) conducted by IMI International found that among the survey participants, Coco Pops were consumed by a larger proportion of adults aged 19-70 (55%) compared to those aged 18 and under (45%).

If the Board were to take an alternative view, we contend that that we have not breached the terms of the RMCI, which states:

“Advertising or Marketing Communications to Children is defined by the AANA Code for Advertising and Marketing Communications to Children and means advertising or marketing communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product.”

“Media means television, radio, print, cinema and third-party internet sites where the audience is predominantly children and/or having regard to the theme, visuals, and language used are directed primarily to children. In regards to television, this includes all P and C programs; all programs where more than 50% of the audience is children under 12 years; plus those G rated programs that meet the criteria above as being designed for children.”

i) Specific Response

Kellogg has taken very deliberate steps to ensure that this advertisement is aimed at MGB’s and not children less than 12 years of age. We refer to the terms of the media buy for this advertisement, which are contained below:

The advertisement has a CAD placement code of “W” which means:

“May be broadcast at any time during P and C programs or adjacent to P or C periods. Exercise care when placing in cartoon and other programs promoted to children or likely to attract a substantial child audience”.

Kellogg’s standing instructions to its media buyer are:

- that animated shows and family targeted movies are to be avoided;*
- that bonus spots will not be accepted without prior agreement, in writing, as to the bonus spots on offer; and*
- Kellogg media is to be placed around programs where the proportion of children under 12 years of age is below 25%.*

We refer you to the enclosed spread sheet showing information on the media buy for free to air television spots. In respect of the specific programs referred to in the complaint (“The Block” and “Australia’s Funniest Home Videos”), we wish to highlight that “The Block” is not designed for children nor is it of primary appeal to children. We also understand that in respect of both programs, the proportion of viewers aged 0 to 12 years of age was below 25%.

Please note that due to last minute programming changes, several programs were changed to children skewed programs. However, these changes occurred in relation to 7 out of the 556 television spots that formed part of our media buy.

Kellogg respectfully submits that by airing this advertisement during programs where the proportion of children under 12 years of age is below 25%, it goes further than required of it

under the 50% threshold contained in the definition of “Media” under the RCMI. In addition, Kellogg maintains an internal approval process for the review of all externally facing media. Within those internal processes, we discuss the requirements of the RCMI, Code of Ethics and other codes where applicable.

Further, the use of an adult voiceover which states: “When Coco Pops and Milk come together, it’s all fun and games right down to the last chocolaty drop” is intended to attract the interest of MGB’s and not children.

For the reasons stated above with reference to the targeted media buy and the adult voiceover addressing MGB’s, we strongly contend that this is not an advertisement that falls within the meaning of Advertising or Marketing Communication to Children under the RCMI or Part 3 of the Food and Beverages Advertising & Marketing Communications Code. Where the Board takes an alternative view, we submit that this advertisement does not contravene the RCMI or Part 3 of the Food and Beverages Advertising & Marketing Communications Code due to the submissions contained above.

Healthy Dietary Choices and Activity

We submit that the RCMI does not apply in this instance as the advertisement is not directed at children.

The RCMI states:

“Participants will not advertise food and beverage products to children under 12 in media unless:

- 1. Those products represent healthy dietary choices, consistent with established scientific or Australian government standards; and*
- 2. The advertising and/or marketing communication activities reference, or are in the context of, a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages:*
 - a. good dietary habits, consistent with established scientific or government criteria*
 - b. physical activity.”*

ii) Specific Response

In respect of the above requirements and to address the specific point set out in the complaint about Coco Pops and existing dietary guidelines, we submit that this advertisement does not contain any express or implied statements or claims regarding the nutritional content, benefit or value of the product.

If the Board were to take an alternative view, we contend that that we have not breached the terms of the RCMI as Coco Pops complies with the Kellogg Company Action Plan, which was developed in accordance with the RCMI. The Company Action Plan provides:

All products advertised to children under 12 must comply with Kellogg Global Nutrient

Criteria, outlined below:

- *Calories: No more than 200 calories (836kj) per serving*
- *Sat/Trans Fat: No more than 2g saturated fat / 0g trans-fat per serving*
- *Sodium: No more than 230 mg of sodium per serving*
- *Sugars: No more than 12g (label) of sugars per serving (excluding sugars from fruit and dairy).*

The Nutrient Criteria are derived from both governmental U.S. (FDA) and scientific (National Academy of Sciences Institute of Medicine (“IOM”) standards. We started with macronutrient standards set by IOM as they apply to an overall, daily diet. Specifically, we derived total daily recommendations/Dietary Reference Intakes from various IOM reports for calories (2,000), saturated fats (20g based on 10%calories from saturated fat), sodium (2300mg based on the Upper Tolerable Level established for sodium) and sugar (125g based on IOM recommendations to limit added sugars due to concerns about nutrient dilution). For trans-fat, we used the FDA “0” labeling standard of less than 0.5g per serving. To convert these daily intake levels to individual food values for calories, saturated fat, sodium and sugar, we looked to the FDA disqualifying nutrient criteria percentage (20%) and conservatively halved that to develop the 10%upper threshold levels of each nutrient as set forth above.

In addition, we endeavour always promote good dietary habits by advertising Coco Pops in the context of a balanced breakfast containing fruit and low fat milk, as depicted in this advertisement, for the following reasons:

- i) Consuming low fat milk is a healthy dietary habit. Calcium is the most at risk nutrient in Australian children’s diets with most children’s intake of dairy foods falling below the recommended levels; and*
- ii) Consuming fresh fruit is a healthy dietary habit. Most Australian children’s intake of fruit also falls below the recommended levels.*

We submit that the phrase “Just like a chocolate milkshake only crunchy” does not suggest that Coco Pops be consumed in excess or every day. We endeavour to convey to consumers that Coco Pops is a product that may be enjoyed from time to time as part of a balanced diet.

In relation to physical activity, we submit that the imagery used to depict “Marco Polo” indirectly promotes swimming and pool games as being fun and highly enjoyable activities.

For the reasons stated above, we strongly contend that this is not an advertisement that falls within the meaning of Advertising or Marketing Communication to Children under the RMCI or Section 2 of the Code for Advertising and Marketing Communications to Children. Where the Board takes an alternative view, we submit that this advertisement does not contravene the RCMI or Section 2 of the Code for Advertising and Marketing Communications to Children due to the submissions contained above.

AANA Code of Ethics

The Code of Ethics applies to:

“Advertising or Marketing Communications means any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer, and: over which the advertiser or marketer has a reasonable degree of control, and that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct”.

We acknowledge that our advertisement is subject to the Code of Ethics; however, we respectfully submit that our advertisement does not contravene Section 2 of the Code of Ethics for the reasons set out below.

General Comments

We submit that this advertisement does contravene Section 2 of the Code of Ethics, in particular point 2.6 of the Code of Ethics which states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.”

We endeavour always to show Coco Pops in the context of a balanced breakfast containing fruit and low fat milk, as depicted in this advertisement and for the reasons contained point 3 (b) (ii) above. Furthermore, this advertisement does not contain any express or implied statements or claims regarding the nutritional content, benefit or value of the product.

Specific Response

Under the Code of Ethics, Advertising Communications must comply with the requirements set out in Section 2 which requires the following:

“2.1 Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

We submit that our advertisement does not contain any elements that discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.

2.2 Advertising or Marketing Communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

We submit that our advertisement does not objectify any individuals.

2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

We submit that our advertisement does not contain images of a violent nature.

2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with

sensitivity to the relevant audience.

We submit that our advertisement does not contain elements relating to sex, sexuality or nudity.

2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.

We submit that our advisement does not contain strong or obscene language.

2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.”

We submit that our advertisement does not contain elements which would be contrary to any Prevailing Community Standards in respect of Health and Safety.

Conclusion

For the reasons stated above the complaint should be dismissed in its entirety.

Kellogg is pleased to have had the opportunity to respond to this complaint and to confirm its support for the ASB and the codes to which Kellogg is subject.

THE DETERMINATION

The Advertising Standards Board (Board) considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (the Kids Code), the AANA Food and Beverages Advertising and Marketing Communications Code (the Food Code), and the AFGC Responsible Children’s Marketing Initiative of the Australian Food and Grocery Council (AFGC RCMI).

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

The Board noted the complainant's concern that the advertisement breaches the RCMI because it appeared in media directed primarily to children, is an advertisement directed primarily to children and because Kelloggs Coco Pops do not represent a healthy dietary choice or promote a healthy lifestyle.

The Board firstly considered whether the advertisement met the requirements of the AFGC RCMI. The Board noted that under the AFGC RCMI the relevant requirement is that the company does not advertise food and beverage products to children under 12 in ‘media’ unless those products represent healthy dietary choices.

Media is defined as: ‘Media means television, radio, print, cinema and third-party internet sites where the audience is predominantly children and/or having regard to the theme, visuals,

and language used are directed primarily to children.’

The Board noted the RCMI Initiative provides that advertising or marketing communication activities are captured under the RCMI Initiative if:

1. the audience of the communication activity is predominantly children; and/or
2. the media in which the communication activity appears is clearly directed primarily to children; and/or
3. the communication activities are, regardless of the audience, clearly directed primarily to children.

The Board also noted that it should consider whether the themes, visuals, language and concepts are those that are attractive to children under 12.

The Board noted the information provided by the complainant that the advertisement was viewed during programs such as Australia’s Funniest Home Videos and The Block. The Board noted that Australia’s Funniest Home Videos is listed in Appendix II to the AFGC RCMI under ‘Programs not covered by the RCMI’ and considered that whilst The Block could be of appeal to children it is directed at a family audience and is not directed primarily to children. The Board also noted that the programs in which the advertisement was broadcast do not have audiences which are predominantly children. On this basis the Board determined that the advertisement was not broadcast in programs where the audience is predominantly children or where the program is directed primarily to children.

The Board noted that the AFGC RCMI requires that the Board also consider whether the ‘communication activities are, regardless of the audience, clearly directed primarily to children under 12’.

The Board noted the dictionary definition of ‘primarily’ is ‘in the first place’ and that to be within the AFGC RCMI the Board must find that the advertisement is aimed in the first instance at children. The Board considered the theme of the advertisement (child watching and then eating the coco pops in the bowl), the visuals (the coco pops playing a game of ‘marco polo’ in the milk) and the language used (female voiceover suggesting you “when coco pops and milk come together, it’s all fun and games” and sounds of children laughing and playing in a pool).

The Board agreed that the advertisement could be aimed at the grocery buyer as children are generally not the member in the home who buys the groceries for the family, and that the depiction of a kitchen bench with the inclusion of a bowl of fruit and ‘lite’ milk indicates that the advertisement is aiming at an audience of parents or those responsible for buying groceries and/or preparing breakfast for children.

However, in this instance, the Board agreed that the primary focus of the advertisement would be to attract children because of the focus on the young boy eating the cereal and the

game being played in the milk. The Board noted that the focus of the advertisement is predominantly on the Coco Pops in the milk pool. The Board also noted that the voices used for the Coco Pops, which dominate the advertisement, are childlike and use language that would be commonly used by children. On balance, the Board considered that this advertisement was clearly directed primarily to children under 12.

The Board noted that as the advertisement is directed primarily to children it must comply with the Advertising Messages requirements of the AFGC RCMI. The AFGC, RCMI requires that:

Participants will not advertise food and beverage products to children under 12 in media unless:

1. those products represent healthy dietary choices, consistent with established scientific or Australian government standards

And

2. the advertising and/or marketing communication activities reference, or are in the context of, a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages:

good dietary habits, consistent with established scientific or government criteria

physical activity

The Board first considered whether the product is a healthy dietary choice.

The Board noted the advertiser's response that the advertised products, Coco Pops, do meet the requirements of the company action plan for a healthier dietary choice. The Board also noted the independent arbiter's confirmation that the advertised product meets the requirements for a healthier dietary choice:

“...in the opinion of the arbiter, the Coco Pops product served with or without milk is consistent with the nutrient criteria detailed in the Kellogg Global Nutrient Criteria, which are themselves consistent with established scientific standards. Therefore, the advertising of Coco Pops does not breach the nutritional standards that Kellogg (Aust.) Pty Ltd committed to under the Australian Food and Grocery Council's Responsible Children's Marketing Initiative.”

On the basis of the confirmation by the Independent Arbiter that the product meets the criteria for a healthier choice product, the Board considered that the product was a healthier dietary choice and is permitted to be advertised to children under 12.

The Board then considered whether or not the advertising and/or marketing communication

activities, reference, or are in the context of, a healthy lifestyle, designed to appeal to the intended audience through messaging that encourages:

- . Good dietary habits, consistent with established scientific or government criteria
- . Physical activity

The Board noted that that requirement is a positive obligation on the advertiser to ensure that the advertisement encourages both good dietary habits and physical activity.

The Board noted that the advertisement showed images of a bowl of fruit and reduced fat milk on the bench in close proximity to where the young boy is eating his cereal however, the boy is not seen consuming any of the fruit nor does the voiceover refer to consumption of the cereal with some of this fruit. Some members of the Board considered that the depiction of the product in association with fruit and low fat milk is sufficient to establish a context of overall good dietary habits. However the majority of the Board concluded that the depiction of a healthier choice product on a kitchen bench does not necessarily encourage good dietary habits and that this advertisement did not depict the product in the context of a healthy lifestyle that would encourage good dietary habits.

The Board then considered whether the advertisement referenced or was in the context of encouraging physical activity. The Board noted that the intention of depicting the product in an imaginary pool scene was intended to reference children playing in the pool. However, in the Board's view the fact that the advertisement depicted an imaginary pool scene showing the product in milk and described the combination of Coco Pops and milk coming together as "all fun and games" does not amount to an implication or encouragement of physical activity by children. The Board considered that the advertisement does not feature any characters participating in physical activity and that there are no verbal or visual references to children taking part in physical activity.

The Board determined that the advertisement did not include messaging that encourages good dietary habits, consistent with established scientific or government criteria nor did it encourage physical activity. The Board therefore determined that the advertisement is in breach of the advertising messaging requirement of the RCMI.

The Board then considered whether the advertisement complied with the AANA Code for Advertising and Marketing Communications to Children. The definition of what is 'advertising and marketing communications to children' in the AANA Children's Code is largely the same as that in the RCMI. For the same reasons noted above, the Board considered that this advertisement is primarily directed to children.

The Board noted that for the provisions of the Children's Code and Part 2 of the AANA Food and Beverages Code to apply the product must also be a children's product. "Product" is defined in the Children's Code as meaning;

“goods, services and facilities which are targeted toward and have principal appeal to Children”.

The Board determined that although Kellogg Coco Pops are not consumed only by children, it is a cereal that is targeted toward and has principal appeal to Children and accordingly is a Product.

The Board agreed that in this instance the advertisement was directed to children, that the product is of principal appeal to children and therefore that the provisions of the Children's Code and of Part 3 of the AANA Food and Beverages Code are applicable in this case.

The Board considered whether the advertisement complied with Section 2.15(a) of the AANA Code for Advertising and Marketing Communications to Children. Section 2.15 (a) states that:

Advertising or Marketing Communications to Children for food or beverages must neither encourage nor promote an inactive lifestyle or unhealthy eating or drinking habits.

The Board determined that the consumption of Coco Pops as a breakfast cereal is not of itself encouraging or promoting unhealthy eating habits and that the advertisement does not promote an inactive lifestyle.

The Board considered that the advertisement did not breach section 2.15(a) of the Children's Code or any other provision of the Children's Code or of the provisions of Part 3 of the Food Code.

The Board lastly noted section 2.1 of the Food Code which provides that: ‘advertising or marketing communications for food or beverage product shall not...otherwise contravene Prevailing Community Standards...’

The Board considered that advertising Coco Pops is not, of itself, something which is contrary to prevailing community standards and that there is nothing contrary to community standards in the manner in which the product is promoted in this particular advertisement.

The Board also noted section 2.2 which states: “the advertising or marketing communication...shall not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonably be considered excess consumption through the representation of product/s or portion sizes disproportionate to the setting/s portrayed or by means otherwise regarded as contrary to prevailing community standards.”

The Board considered that the advertising or promotion of Coco Pops as a breakfast cereal is not, per se, inconsistent with or undermining of a balanced diet or healthy lifestyles. The

Board also considered that there was nothing in the advertisement which suggested or promoted excess consumption.

The Board noted that the advertisement included visuals of a large fruit bowl and reduced fat milk in accompaniment with the cereal and that there is no suggestion about the frequency of consumption of the cereal.

The Board determined that the advertisement did not breach Section 2.2 or any other provision of the AANA Food Code.

Finding that the advertisement breached the advertising messaging requirements of the AFGC RCMI, the Board upheld the complaint.

ADVERTISER'S RESPONSE TO DETERMINATION

We will discontinue airing this advertisement.