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BUREAU**

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ACN 084 452 666

**Ms Caroline Mills
615 St Kilda Road
MELBOURNE VIC 3078**

25 February 2014

1. Complaint reference number: **0033/14**
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 advertising complaint adjudication process. Your comments will assist the ASB in delivering a best practice complaints system. The survey link is at <https://www.surveymonkey.com/s/8HL8GMD>.

With regards,

Nikki Paterson/ Daniela Gray

Case Managers

Advertising Standards Bureau

complaint@adstandards.com.au



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Case Report

1	Case Number	0033/14
2	Advertiser	Kellogg (Aust) Pty Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	Internet
5	Date of Determination	12/02/2014
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

Food and Beverage Code 2.1 (a) - Misleading / deceptive
RCMI 1.1 - Advertising Message AFGC - Advertising Message

DESCRIPTION OF THE ADVERTISEMENT

Coco Pops website called Coco Beats. "The website invites children, with their parents, to "jam" to "beats", using web cam and Coco Pops packaging to undertake musical activities."

THE COMPLAINT

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

Reason for the complaint

The OPC considers the website, and its activity breaches the recently amended Responsible Children's Marketing Initiative (January 2014) (RCMI) and the AANA Food and Beverages Advertising and Marketing Communications Code (AANA Code) because: -

- 1. The website is an advertising and marketing communication for food/beverages (Coco Pops) (S1.1);*
- 2. The website is directed primarily to children (S1.1);*
- 3. Coco Pops do not represent a healthy dietary choice consistent with established scientific or Australian government standards (S1.1(a));*
- 4. The website does not reference healthy lifestyle through messaging that encourages good dietary habits (S1.1(b)(i) or physical activity (S1.1(b)(ii)).*

The website is an advertising and marketing communication for food and/or beverages

The new RCMI covers "advertising and marketing communications" which include any

material published or broadcast in any “medium”. The definition of “medium” includes “internet sites”, a definition which has been expanded from the RCMI’s predecessor (RCMI dated March 2011), which covered only third-party internet sites.

The Coco Beats website is, on any analysis, an “internet site”, which has been created by, or on behalf of, the advertiser. It features “Coco” the highly recognisable monkey mascot of CocoPops, as well as prominent branding for “Kellogg’s Coco Pops”. Further, the activity requires specially marked boxes of Coco Pops to be purchased in order to participate.

Clearly the website is an advertising and marketing communication, within the meaning of the RCMI, which is for a food product (Coco Pops).

The website is directed primarily to children

When regard is had to the theme, visuals, and language used, the website is clearly a marketing communication directed primarily to children. We anticipate the advertiser will assert the website is directed at parents. The fact that parents are required to play the activity with their children, and that the language on the site (“parents, make sure you’ve cut out the instruments from the back of the box”) does not mean that the website is directed at the parents. Parents would not participate in the activity on their own, and there is no content on the site to appeal to parents independently of their children’s participation. The site and its activities exist primarily for the use of children. This is clear from the simple design of the game, its association with a children’s product (Coco Pops), the heavy use of the childish cartoon character Coco, and the fact that children are encouraged to “have fun” using two different jingly tracks that are clearly designed to appeal children. The purpose of the website is clearly to engage young children with the Coco Pops brand, associating Kellogg’s branding and characters with fun and enjoyment, notwithstanding that the site contemplates that their parents will also be present. We submit that, very obviously, the website, is directed primarily to children under 12.

We also note that, as the advertisement is directed primarily to children under 12, the website’s requirement of parental consent and supervision is not relevant pursuant the RCMI. Advertising material that targets children, with or without their parents’ consent or supervision, is clearly prohibited.

The food product advertised (Coco Pops) is not a healthier choice.

We note the board has previously found that Coco Pops represent a “healthier choice” within the definition contained in Kellogg’s Company Action Plan (‘CAP’), on the basis that one serve contains 11g of sugar, and the definition of “healthier choices” includes products that contain less than 12g of sugar per serve. The kilojoule content, trans fat and sodium are also relevant measures

However, since the CAP was drafted, the Australian Dietary Guidelines 2013 (‘Guidelines’) have been amended to 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. That is, they are energy dense and nutrient poor, features that are characteristics of unhealthier choices, not healthier choices. The Guidelines note that foods with a higher energy density encourage energy intake above requirements and tend to be highly palatable, which is associated with increased food intake in single-meal studies. Sugar is positively associated with energy density, while water and dietary fibre are negatively associated (Australian dietary guidelines, Guideline 1.3). Although a variety of nutritious grain foods are recommended for consumption, refined grain (cereal) food products are excluded, particularly those with high levels of added sugar, fat (in particular saturated fat) and/or salt/sodium. A small, persistent energy imbalance is enough to cause excess weight gain in both children and adults, and energy-dense, nutrient poor foods like Coco Pops contribute large quantities of energy from sugar to diets. In short, Coco Pops are precisely the kind of food that the Guidelines suggest be minimized as part of a healthy diet.

To put the amount of sugar contained in Coco Pops in perspective: the World Health Organisation ('WHO') recommends limiting the intake of 'free sugars' (referring to sugars added to food by the manufacturer, cook or consumer, plus sugars naturally present in honey, syrups and fruit juices) to no more than 10% of total dietary energy contribution. An eight year old girl's energy requirements are around 2,700 kilojoules, (see Australian Government National Health and Medical Research Council website. Dietary energy. <http://www.nrv.gov.au/energy.htm>), meaning the recommended energy from free sugar would be approximately 270 kilojoules. A serve of Coco Pops contains 11g of sugar (assumed free sugar), which delivers around 175 kilojoules. That is, a single 30g serve of Coco Pops contributes around two thirds of the child's recommended free sugar intake. For younger children, a serve of Coco Pops would provide an even greater proportion of the total recommended daily intake of free sugar. The 12g of sugar defined in the CAP as the maximum dose per serve that may be considered a "healthier choice", is in fact represents 85% of a five year old girl's total recommended daily free sugar intake in one sitting (delivering around 194 kilojoules to total dietary energy needs of 2,300 kilojoules – 2350 from free sugar).

Deriving such a huge proportion of total added sugar from one serve of energy-dense, nutrient poor breakfast cereal, could not be considered a "healthier choice" on any common sense analysis. To maintain the CAP's present reference values for "healthier choice" products would run contrary to current research, government recommendations (both Australian (Guidelines) and international (WHO)) and the health and interests of Australian children. In light of the evidence and analysis here presented, the advertiser cannot maintain the assertion that a serve of Coco Pops represents a healthier dietary choice for children. These proportions of total dietary sugar are far in excess of what might be inferred from reading the nutrition information on the pack. The nutrition information panel on Coco Pops represents that the sugar in one serve represents 12% of recommended daily intake, whereas it may in fact represent around 85% for a five year old (as discussed above). The information on the pack is based on an adult energy intake of 8,700 and a recommended sugar allowance of 17.5% daily energy (90g). This figure is not applicable for children.

The prevalence of overweight and obesity in Australia has increased dramatically over the past 30 years, and 25% of children and adolescents are currently overweight or obese. Overweight in childhood is linked to heightened risk of overweight and obesity in adulthood. Obesity, in turn, is a leading risk factor for heart disease and several types of cancer including endometrial, oesophageal, gallbladder and bowel. This means Australians face a future of high rates of non-communicable disease and disability related to overweight and obesity and it is simply unacceptable to define a product like Coco Pops as a "healthier choice" in light of the known impact of licensed characters and targeted marketing on children's food preferences and diets. (for news coverage of the latest research into the lifelong impacts of licenced characters in food packaging, see <http://www.cass.city.ac.uk/news-and-events/news/2014/january/is-tony-the-tiger-making-you-fat>)

*The advertisement does not promote good dietary habits or physical activity
Even in the case of a product that (unlike a Coco Pops) represents a healthy dietary choice, the RCMI provides the advertiser may only promote 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 website does not reference healthy lifestyle messages as required under the RCMI. 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 Streets has failed to do in this advertisement. Playing music does not amount to promotion of physical activity and good dietary habits are not promoted. There is nothing in the marketing website to positively promote either good dietary habits or physical activity. Therefore, regardless of the advertiser's un-substantiated definition of "healthier choices" contained in the CAP, the promotion of Coco Pops to young children breaches the RCMI's stated objective to "use Advertising and Marketing Communications to Children to help promote healthy dietary choices and healthy lifestyles amongst Australian children". We submit the advertising of Coco Pops to children is entirely inconsistent with this pledge and that the website therefore breaches the RCMI.

The advertisement breaches the AANA Food and Beverage Code.

Further, and in the alternative, the OPC submits that the website breaches clause 2.1 of the AANA Food and Beverages Code, which states:

"Advertising or Marketing Communications for Food or Beverage Products 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's responsibility to protect children from advertising of unhealthy foods that contravenes community standards stems from children's susceptibility to advertising, particularly advertising featuring licenced characters like Coco, animals and engaging activities that appeal to children's imagination. Online marketing strategies are cost effective for advertisers, and can engage children and young people in interactive activities and games associated with brands or products for much longer periods than traditional forms of advertising such as TV commercials.

Marketing through websites and interactive games is of particular concern because children may not perceive the promotional or commercial nature of the communication, lacking the experience and cognitive ability necessary to interpret advertising messages critically (see Kunkel, D., Wilcox, B.L., Cantor, J., Palmer, E., Linn, S. and Dowrick, P. 'Report of the APA Task Force on Advertising and Children. Washington, DC: American Psychological Association, February 20, 2004). This means promotional material like the Coco Beats website is powerfully influential over children, taking advantage of a power imbalance between advertiser and consumer.

Community standards are generally understood to be norms bounding acceptable conduct. We submit the Coco Beats website contravene prevailing community standards by promoting unhealthy food and beverages through engagement in musical, visually appealing activities, which take advantage of their credulity. We submit that to use target vulnerable child consumers through branded online activities is contrary to prevailing community standards, in breach of the AANA code.

Conclusion

We ask that the Board require the advertiser to remove the Coco Beats website immediately.

THE ADVERTISER'S RESPONSE

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

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.

Please note that we have not provided any substantiation data regarding health, nutrition or ingredient claims or statements, as no such claims or statements are made on the Website.

Description of Advertisement and Summary of Complaint

The material that is the subject of the complaint is an interactive website.

It is intended that the website be used by parents (and other adult carers) as a fun, interactive tool to help their child learn about music and rhythm. To use the website it is necessary to purchase a specially marked 375g, 650g or 1.06kg box of Kellogg's Coco Pops which features Coco the Monkey

and his drum kit on the front of the box. To activate the website parents need to cut out the instruments on the back of the pack, and then hold the pack towards the webcam until Coco the Monkey appears on stage. The user then hits the A, S, K, L keys or moves the mouse to control Coco the Monkey, with the game incorporating a scoring system based on the user's accuracy.

The complaint is made under the Australian Food and Grocery Council Responsible Children's Marketing Initiative (RCMI) and the AANA Food and Beverages Advertising and Marketing Communications Code (Food Code). The substance of the complaint is that:

- i) the Website is a marketing communication directed primarily to children;*
- ii) Coco Pops are is not a healthy dietary choice consistent with scientific or Australian Government standards; and*
- iii) the Website does not promote healthy dietary habits or physical activity.*

Furthermore, the complainant submits that the advertisement breaches section 2.1 of the Food Code.

Our response to the substantive complaint is set out below.

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

The complainant alleges that Kellogg has breached the advertising messaging section of the RCMI.

It is Kellogg's submission that the website is not an "Advertising or Marketing

Communication to Children”. The definition of “Advertising or Marketing Communication” is: Any material which is published or broadcast using any Medium ...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,

To activate the website it is necessary to purchase a specially marked box of Kellogg’s Coco Pops. A copy of the packaging is enclosed with this response. Because of this it cannot be said that the website “draws the attention of the public in a manner calculated to promote” Coco Pops, because the features of the website cannot be accessed in isolation of the packaging. Accordingly the website is not an “Advertising or Marketing Communication”.

Further, Kellogg’s subjective intention in developing the website was to create an interactive, shared experience using “augmented reality” that parents could use to help their child learn about music and rhythm. The website has a learning and ‘shared experience’ focus (teaching children about music and rhythm and encouraging parents and children to interact and participate together, whilst ‘sharing a moment of fun’) and is very clearly intended to be used only under parental supervision. To activate the website it is necessary to purchase a specially marked box of Kellogg’s Coco Pops. Children under 12 years old do not typically buy grocery items such as Kellogg’s Coco Pops meaning that a child cannot use the website unless a parent or other carer has purchased a pack of Coco Pops for them. Further, the instructions on the packaging and website are clearly directed at adults (“Parents, make sure you’ve cut out the instruments from the back of the box”) and as an additional control to ensure that the website is accessed under the supervision of an adult it is necessary for the supervising adult to enter their date of birth before they can access the main features of the website. It was Kellogg’s intention that the features of the website and the requirements for participation in the experience be set up in a way that required operation by an adult or adult supervision.

If the ASB takes a different view and finds that the website is an Advertising or Marketing Communication to Children, Kellogg’s submission that the website does not breach the requirements of the RCMI. The RCMI states:

S1.1 Advertising and Marketing Communications to Children for food and/or beverages must:

a. Represent healthier dietary choices, consistent with established scientific or Australian government standards, as detailed in Signatories’ Company Action Plan; and

b. Reference, or be in the context of, a healthy lifestyle, designed to appeal to Children through messaging that encourages:

i. Good dietary habits, consistent with established scientific or government standards; and

ii. Physical activity

Healthier Dietary Choices

The requirement in S1.1(a) is that advertisers must not advertise food or beverage products to children unless the product represents “healthier dietary choices, consistent with

established scientific or Australian government standards, as detailed in Signatories' Company Action Plan”.

Kellogg's Company Action Plan, developed in accordance with the RCMI, provides as follows:

“All products that are 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)”*

Coco Pops meets the Kellogg Company Action Plan. A 30g serve of Coco Pops contains:

- 480 kJ;*
- 0.1g saturated fat;*
- 0g trans fat;*
- 139mg sodium; and*
- 11g of sugars.*

Reference to a Healthy Lifestyle

While the website does include Coco Pops branding, it does not include any health or nutrition messages and nor does it depict the consumption of Coco Pops (or any other food). To use the website it is only necessary to purchase a single box of Coco Pops meaning that the structure of the campaign does not encourage overconsumption. The website depicts Coco the Monkey drumming which is a physically demanding activity. By depicting drumming as a fun activity the website directly promotes physical activity.

Further, a ‘User Break Activity Message’ appears on screen after 15 minutes of continuous play to remind users to take a break and stretch. This message states:

Coco's arms need a break! Take a moment to stretch with your child before the next round. Stand up and raise your arms into the air. Can you touch your toes?

The message appears for 1 minute and while it is on screen the user is unable to close or avoid the alert.

Accordingly the website encourages a healthy lifestyle as required by S1.1(b) of the RCMI.

Timing

For the reasons stated above it is Kellogg's position that the website does not breach the RCMI.

However, should the ASB come to a different conclusion, by way of mitigation Kellogg notes that the website was launched on 15 July 2013 and was only intended to run until November/December 2013. While most stock of specially marked packs had sold though by November 2013, there were still some residual packs left on shelf at the end of 2013, and in the circumstances a decision was made to keep the website running longer than was originally intended to account for the small amount of stock in trade. This was to ensure that consumers who purchased the pack were able to access the website. Kellogg notes that at the time that the website was launched company-controlled websites fell outside the scope of the RCMI, and it is only very recently (January 2014) that company-controlled websites have been included in the definition of "media" in the RCMI. While Kellogg's position is that even had company-controlled websites fallen within the RCMI's scope that there is no breach, Kellogg raises this to show that on no view has Kellogg deliberately breached its RCMI obligations.

AANA Food and Beverages Advertising and Marketing Communications Code (Food Code)

The complaint also alleges that the advertisement contravenes section 2.1 of the Food Code, which states:

"Advertising or Marketing Communications for Food or Beverage Products 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 complainant alleges that the website contravenes section 2.1 of the Food Code "promoting unhealthy food and beverages through engagement in musical, visually appealing activities, which take advantage of their credulity".

This aspect of the complaint is, in Kellogg's submission, completely unfounded.

Firstly, the website, while branded, does not include any nutrition or other claims relating to the product. Accordingly, on no view of the website could it be characterised as being misleading or deceptive. Secondly, while the website is intended to be used by children, it has a learning and 'shared experience' focus and is only intended to be used under parental supervision. Accordingly the website does not otherwise contravene prevailing community standards.

In addition, and although not expressly raised by the complainant, Kellogg submits that the advertisement does not breach section 2.2 of the Food Code. For the reasons set out above Kellogg's submits that the advertisement encourages good dietary habits and physical activity and does not encourage overconsumption of the product. Accordingly the website does not breach section 2.1 nor any other provisions of the Food Code.

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 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 Kellogg's Coco Pops do not represent a healthy dietary choice or promote a healthy lifestyle.

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

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.

Medium is defined as: 'Television, radio, print, cinema, internet sites'.

The Board noted that the medium the subject of complaint is an interactive game, and that this falls within the scope of the AFGC RCMI.

The Board noted the RCMI Initiative provides that advertising or marketing communication activities are advertising or marketing communications to children and therefore captured under the RCMI Initiative if:

1. the content of the advertisement or marketing communication is, having regard to the

theme, visuals and language used, are directed primarily to children (and are for food and/or beverage products; or

2. The placement of the advertisement or marketing communication is in a medium that is directed primarily to children, ie:

a. in relation to television, all C and P rated programs and other rated programs that are directed primarily to children through their themes, visuals and language; and/or

b. where children represent 35 percent or more of the audience of the Medium.

The Board noted Core Principle 1.3 which states:

‘Signatories must ensure that any interactive game directed primarily to children which includes the signatory’s food and /or beverage products is consistent with s1.1.’

The Board noted that s1.3 requires that the Board consider whether the ‘communication activities are, regardless of the audience, clearly directed primarily to children under 12’.

The Board considered the theme, content and visuals of the interactive game. 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 (playing an interactive game), the visuals (following along with the coco pops monkey) and the language used (written words encouraging play of the game).

The Board noted that the advertisement is featured on the advertiser’s website page for Coco Pops and is referred to on the box of the product. The Board noted that the website involves an interactive game that requires that a specially marked box of coco pops to be bought and used to log into the game. The Board noted that the game involves the use of a webcam, the keyboard and/or mouse to follow the queues to simulate the playing of drums and other musical instruments.

The Board noted that the game gives log on instructions to a parent and requires a date of birth to be entered which suggests that a child should log in and play under parental supervision. The Board considered that this ‘age gating’ is good practice but does not, in this instance affect whether or not the interactive game is directed primarily to children.

The Board considered that the interactive game is clearly directed primarily to children under 12 and that the first part of s1.3 is satisfied.

The Board noted that the game requires the child to have an appropriately marked box of coco-pops in order to play the game. The Board considered that this factor means that the signatory’s food product is included in the interactive game and that it must therefore

complies with the second component of s1.3.

The Board noted that as the interactive game is directed primarily to children and includes the signatory's product, it must comply with core principle s1.1 of the AFGC RCMI. S1.1 requires that Advertising and Marketing Communications to Children for food and/or beverages must:

a. Represent healthier dietary choices, consistent with established scientific or Australian government standards, as detailed in Signatories' Company Action Plan; and

And

b. Reference, or be in the context of, a healthy lifestyle, designed to appeal to Children through messaging that encourages:

i. good dietary habits, consistent with established scientific or government standards; and

ii. 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 a previous case for the same product (0144/13) where the independent arbiter confirmed 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 earlier 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 standards; and

· 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 marketing communication was limited to the game itself and that while playing the game, there was no other imagery or promotion of good dietary habits. The Board considered that the game did not discourage good dietary habits, but that the omission of anything that would encourage such behaviour, was therefore a failure to meet this requirement.

The Board determined that the advertisement did not include messaging that encourages good dietary habits, consistent with established scientific or government criteria and that the advertisement is in breach of the advertising messaging requirement of the RCMI.

The Board then considered whether the advertisement referenced or was in the context of encouraging physical activity. The Board noted that the activity itself of playing the game on the computer was not a game that required a lot of physical activity per se. The Board agreed, that playing a real set of drums would most definitely require physical contribution. The Board considered that the game itself did not have to include intense physical activity for the player but that the message that the game was delivering was a positive message that would likely encourage children to actively get involved in playing music or imaginative games involving music and movement.

The Board considered that the advertisement did encourage physical activity.

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 promoting 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 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

The business wishes to take down/decommission the website. A 'redirect' has been implemented so that the Coco's Beats website automatically redirects to the Coco Pops page of the Kellogg.com.au home page, and is now inaccessible to the public. The complete code removal from the backend will also occur within the next 24-48 hours.