



**ADVERTISING  
STANDARDS  
BUREAU**

Level 2, 97 Northbourne Avenue, Turner ACT 2612  
Ph: (02) 6173 1500 | Fax: (02) 6262 9833  
[www.adstandards.com.au](http://www.adstandards.com.au)

## Case Report

<b>1</b>	<b>Case Number</b>	<b>0179/13</b>
<b>2</b>	<b>Advertiser</b>	<b>Kellogg (Aust) Pty Ltd</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV</b>
<b>5</b>	<b>Date of Determination</b>	<b>12/06/2013</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Upheld - Modified or Discontinued</b>

### ISSUES RAISED

RCMI a - Advertising Message AFGC - Advertising Message

### DESCRIPTION OF THE ADVERTISEMENT

A young girl in school uniform sits with her lunch box open and as she removes a LCM bar she reads the wrapper that says "snails can sleep up to 3 years." The young girl then peers into the bushes behind her to see 2 cartoon style snails in rocking chairs asleep. She whispers to them "nighty night." The voiceover then describes the promotion of the new write on wrappers.

### THE COMPLAINT

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

*The advertisements and app breach the Responsible Children's Marketing Initiative (RCMI) and the AANA Food and Beverages Advertising and Marketing Communications Code.*

*The advertisement and app breach the 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. The Obesity Policy Coalition ('OPC') submits these advertisements breach the RCMI because: -*

- 1. They are communications directed primarily to children;*
- 2. LCMs do not represent a healthy dietary choice consistent with established scientific or Australian government standards; and*
- 3. They do not promote healthy dietary habits or physical activity.*

*The advertisement is directed primarily at children*

*The Board's responsibility to protect children from advertising of unhealthy foods stems from children's susceptibility to advertising, particularly advertising featuring fantasy, adventure and animal themes. Television provides one of the first, and most familiar, experiences of commercial food promotion and has now been shown to cause significant increases in intake, particularly in overweight and obese children, and enhanced preference for high carbohydrate and high fat foods in children (E Boyland and J Halford, 'Television advertising and branding: effects on eating behaviour and food preferences in children' (2013) 62 Appetite 236.) Research involving 8, 9 and 10 year old children found that use of fantasy themes was associated with positive attitudes toward an advertisement (Gregory Rose et al, 'Fantasy in Advertising Targeted at Children's' Fall 2012 41(3) Journal of Advertising 75-90). The study also found that young children have less subject knowledge than older children and are particularly susceptible to fantasy appeals.*

*The LCM advertisements rely heavily on fantasy themes and animated animals. While the Board has decided previously that certain school-yard advertisements for Kellogg LCM products have not been directed primarily to children (0494/12 and 0228/12), we submit these 'exciting facts' commercials represent a novel and dramatic escalation in the advertiser's strategic targeting of children.*

*Specifically, we submit the following salient features establish these advertisements are directed primarily to children: -*

- 1. the advertisements are shown from the point of view of the children, not from the point of view of adults or onlookers observing the children;*
- 2. they use toy-like animations, depicting the dinosaur and snails as creatures only these particular children can see;*
- 3. the advertisements use both fantasy and animals as devices, both of which are basic themes to which modern advertising literature acknowledges are linked to positive responses in children (see Rose et al, above);*
- 4. the advertisements take the viewer inside the imaginations of the children, to depict whimsical childish characters acting out the facts they have just read, in a manner that will appeal specifically to children's sense of wonderment and adventure.*

*Further, the advertisement was broadcast during many daytime and weekend programs directed at children and watched by large numbers of children. These included Skippy (broadcast at 2.10pm on 22 April 2013 on Channel 9 in Melbourne), RSPCA Animal Rescue (broadcast at 8.13 on 7 May 2013 on Channel 7 in Sydney), and Problem Child 2 (broadcast at 4.45pm on Sunday 21 April 2013 in Brisbane on Channel 7). In short, these advertisements are plainly marketing communications directed primarily to children, within the meaning of the RCMI and associated guidelines. The fact that the voiceover at the end of the commercial appears to address parents does not detract from this.*

*LCMs 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.*

*LCM Original Bars are very high in sugar (30% by weight), contain saturated fat from hydrogenated soyabean oil and are high in energy, containing 1720 kJ per 100g. They are not a healthy snack choice, and the consumption of energy dense, high-sugar products such as LCM Original Bars can contribute to weight gain and obesity in children.*

*We submit the board should not accept any argument from the advertiser that LCMs are a "treat" food, that may be consumed occasionally within the context of a balanced diet, because the app, promoted in the television ad and downloadable online, sends out an*

*exciting fact each day, designed to be written on an LCM package. The app expressly encourages daily consumption, with the promotional web page stating “We know how much your kids enjoy being surprised, which is why we want to help you create fun messages to write on their LCMs wrappers each day” (see <http://www.lcms.kelloggs.com.au/>). The advertisement therefore cannot reasonably be construed as promoting only occasional consumption of LCMs.*

*The advertisement does not promote good dietary habits or physical activity*

*Even in the case of a product that (unlike LCMs) 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 that merely omitting any references to unhealthy eating choices is not sufficient to discharge this obligation (0454/11). It is quite clear that the advertiser is required to positively encourage good dietary habits and physical activity. These advertisements patently fail to depict both good dietary habits and physical activity. The children depicted remain sedentary throughout the advertisements. This amounts to further breach of the RCMI.*

*Further, and in the alternative, the OPC submits that the advertisements and app are in breach of 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”.*

*These advertisements and app contravene prevailing community standards by promoting unhealthy food and beverages to children using fantasy themes, animals and animation.*

*Community standards are generally understood to be norms bounding acceptable conduct.*

*The OPC draws the Board’s attention to findings from the American Psychological Association Task Force on Advertising and Children Report (as discussed by Rose et al, 2013, above) which has found that children under the age of eight do not possess sufficient cognitive ability to understand the persuasive intent of advertising. We submit that the themes, visuals and placement of these ads (in programs including ‘Skippy’), reveal a calculated attempt to profit from this vulnerability. The advertiser has not communicated in a “manner appropriate to the level of understanding of the target audience” and this contravenes prevailing community standards. When considering the scope of ‘prevailing community standards’, the board will be further assisted by recent research showing 83% of Australian main grocery buyers surveyed in 2012 were in favour of banning advertising of unhealthy food at times when children watch TV (Belinda Morley et al, ‘Public opinion on food-related obesity prevention policy initiatives’ 2012 23(2) Health Promotion Journal of Australia 86).*

*Conclusion*

*For the above reasons, the OPC submits the broadcast of these advertisements is unacceptable advertising conduct, which is harmful to children and contravenes prevailing community standards and provisions of the RCMI. We ask the ASB to request that Kellogg withdraw the advertisements 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.*

*1) Description of Advertisement and Summary of Complaint*

*a) Conceptually, this advertising campaign centres upon bringing knowledge to life by providing the main grocery buyer (MGB's) with a tool, namely the App, that allows them to download fun, thought-provoking and interesting facts, which may be conveyed to their child on a LCMs writable wrapper bar.*

*b) The advertisement contains scenes depicting a school girl reaching into her lunch box, picking up an LCMs bar and reading the write on message which states "Snails can sleep up to 3 years".*

*c) Upon reading the write on message, the school girl then turns to face a garden wall where she observes 2 snails fast asleep and states to them "Nighty night".*

*d) The advertisement then cuts back to a kitchen scene where the MBG is depicted handwriting a message on an LCMs bar. In this scene, a pack of LCMs bars is placed alongside a lunch box containing a packed lunch, a bowl of fruit, a container of water as well as some celery sticks in the foreground. A close up of the LCMs bar and details regarding the Exciting Fact App are then displayed with an accompanying voiceover which states: "LCMs write on wrappers Exciting Facts. Another fun way to surprise them."*

*e) The complaint is made under the Australian Food and Grocery Council Responsible Children's Marketing Initiative (RCMI), the AANA Food and Beverages Advertising and Marketing Communications Code (Food Code).*

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

*i) directed primarily to children;*

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

*iii) that 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 responses to each of the substantive complaints are contained below.*

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

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

*The RCMI applies to "marketing communications to children" under 12 "in media". The relevant definitions in the RCMI are set out below:*

*"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."*

*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.*

#### *Media Buy*

*Objectively, Kellogg's media buy is targeted at MGBs and we have gone to great lengths to ensure that the advertisement was not placed in "media" within the meaning of the RCMI.*

*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 for the advertisement (including audience demographic information). In respect of the specific programs referred to in the complaint ("Skippy" and "RSPCA" and "Problem Child Two"), we wish to highlight that:*

- "Skippy" was a bonus spot which ran at 2:11am (not 2.10pm as alleged in the complaint) and no children watched this show;*

- *“RSPCA” was booked as “My Kitchen Rules”. Further, only 8% of the audience for RSPCA were children 0-12*
- *“Problem Child Two” was booked as “Better Homes & Gardens”. Only 22% of the audience “Problem Child Two” were children 0-12.*

*Please note that due to last minute programming changes, several programs were changed to more children skewed programs than were intended by Kellogg. This is clearly a matter outside Kellogg's control.*

*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, The Food Code, the AANA Code of Ethics and other codes where applicable.*

#### *Theme, visuals, and language*

*Kellogg acknowledges that the advertisement features imagery which is imaginative and fantastical in nature, which has been used to illustrate the exciting and thought-provoking nature of various facts regarding the world we live in. Kellogg disputes that the use of fantastical imagery alone necessarily leads to a conclusion that an advertisement is directed primarily at children, and says that fantasy is common in adult directed media. For example, the DVD of the First Series of “Game of Thrones” is rated “R” even though the series is quite clearly in the fantasy genre. In the advertisement the subject of the complaint, such imagery is used to encourage MGB’s to download and use the Exciting Fact App so that they may convey interesting and fun facts to their child during their lunch time experience, from time to time.*

*The voiceover “LCMs write on wrappers Exciting Facts. Another fun way to surprise them” is an adult’s voice and the language, whilst straightforward, is not such that it could be argued to be child-focused as it is addressed directly to MGB’s. The use of the word “them” makes it clear that the advertisement is talking to MGBs, not children.*

*In addition, the LCM’s bars, are depicted in the closing frames next to a packed lunchbox, which is also indicative that this advertisement is aimed at those persons responsible for preparing school lunches, being more often than not, the MGB of a household.*

*Furthermore, the Exciting Fact App was purposely designed to be downloaded and used by MGB’s and not children. This supports the fact that the advertisement is directed at MGB's and not children. The website where the App can be downloaded includes the following information about the App:*

*We know how much your kids enjoy being surprised, which is why we want to help you create fun messages to write on their LCMs wrappers each day.*

*Our brand new Exciting Facts App will help give you new and exciting daily facts and make it easier than ever to surprise your kids with a message they'll love.*

*It is apparent from the web copy that the intended audience of the App is adults, rather than 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 RMCI.*

*4) 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 argues that the advertisement contravenes section 2.1 of the Food Code by:*

- promoting unhealthy food and beverages to children using fantasy themes, animals and animation;*
- not communicating in a manner appropriate to the level of understanding of the target audience.*

*This aspect of the complaint is founded on the allegation that the advertisement is directed at children. We respectfully submit that:*

- for the reasons stated above the advertisement is directed at MGBs, not children.; and*
- we have communicated in a manner appropriate to the level of understanding of MGB's, as they are the target audience.*

*The board has previously found that "advertising a snack is not, of itself, something which is contrary to prevailing community standards" (0228/12). The advertisement does not make any nutrition benefit claims in relation to the product (express or implied) meaning that there cannot be any "reasonable expectation" on behalf of consumers that nutrition information will be included in the advertisement. Accordingly this aspect of the complaint must fail.*

*I would like to take this opportunity to address a few other matters that were raised in the complaint.*

*The complainant states that “LCM Original Bars are very high in sugar (30% by weight), contain saturated fat from hydrogenated soyabean oil and are high in energy, containing 1720kj per 100g. They are not a healthy snack choice, and the consumption of energy dense, high sugar products such as LCM Original Bars can contribute to weight gain and obesity in children.”*

*In response Kellogg says:*

- *Whilst LCMs contain 30% of sugar by weight, by virtue of their serve size, a bar contains less than 9g of sugar;*
- *An LCMs bar contains less than 430kj per serving.*

*We endeavour always promote good dietary habits by advertising LCMs in the context of a balanced school lunch containing a sandwich, fruit and water, as depicted in this advertisement. Furthermore, we purposely do not show the LCMs bar being consumed prior to the school lunch being eaten as we wish to encourage healthy eating habits and emphasise the treat like nature of our product. Only one LCM bar is depicted in the lunchbox meaning that the advertisement does not encourage overconsumption.*

*In relation to physical activity, the advertisement shows children in a playground being active and engaging in a range of physical activities, which we submit, promotes the importance of an active lifestyle. Whilst the main character is seated during this advertisement, it would be reasonable to infer that once the child has finished their lunch, she would join her friends and take part in various physical activities in the school playground.*

*In relation to the statement made by the complainant that the App "...expressly encourages daily consumption, with the promotional website stating "We know how much your kids enjoy being surprised, which is why we want to help you create fun messages to write on their LCMs wrappers everyday", we contend that the reference to "everyday" relates to the generation of a new Exciting Fact everyday and not consumption of our product everyday. Further, the advertisement the subject of the complaint do not include this statement. We submit that the phrase "LCMs write on wrappers Exciting Facts. Another fun way to surprise them" does not in any way suggest that LCMs are to be consumed in excess or every day. We endeavour to convey to MGB's that LCMs is a product that may be enjoyed from time to time as part of a balanced diet.*

*Accordingly (and while not expressly raised by the complainant), the advertisement does not breach section 2.2 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 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 Kelloggs LCM bars are not a healthy dietary choice. In addition the advertisement does not encourage healthy dietary habits or 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; or
2. the media in which the communication activity appears is clearly directed primarily to children; 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 Skippy, RSPCA Animal Rescue and Problem Child 2. The Board noted that the airing of the advertisement during these programs were not intended by the advertiser but were station directed bonus slots that were outside of the request times of the advertiser. However, the Board considered that Skippy is a program that regardless of the audience is clearly directed primarily to children. The Board noted that whilst Problem Child 2 and RSPCA Animal Rescue could be of appeal to children, they are directed at a family audience and not directed primarily to children. The Board noted that the programs in which the advertisement was broadcast do not have audiences which are predominantly children.

However, on this basis the Board determined that the advertisement was broadcast in programs where regardless of the audience, are clearly 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 (young girl reading and acting on the idea with the character snails), the visuals (the young girl peering into the bushes and whispering to the snails) and the language used (child’s voice reading the facts, then the female voiceover stating “LCM write on facts are another way you can surprise them”).

The Board agreed that the advertisement is obviously 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 an adult hand writing the facts on the LCM bar at the kitchen bench with the inclusion of a bowl of fruit and the packed lunch box indicates that the advertisement is aiming at an audience of parents or those responsible for buying groceries and/or preparing the lunch boxes 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 girl looking into her lunch box and reading the fact written on the bar. The Board noted that the focus of the advertisement is then predominantly on the young girl peering into the bushes and the home of the snails where they are sleeping in their rocking chairs. The Board considered that this scene in particular is reminiscent of programs that are directed to children, for example the ‘In the Night Garden’. The Board noted that the larger portion of the advertisement is spoken in a childlike manner and the girl whispers “nighty night” to the snails which is language that would be commonly used by children or to children when they are very young. The Board noted it had previously considered a similar advertisement for LCM bars (0228/12) where it found that the advertisement was not directed primarily to children. In that instance the Board noted that the voice over made reference to artificial colours and flavours and determined that this reference was clearly intended to be of appeal to the main grocery buyer. The Board considered that in the current advertisement the language as well as the theme and visuals are clearly directed primarily to children under 12.

The Board noted that as the advertisement is directed primarily to children and has been shown in programming directed to kids, 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, LCMs do not meet the Kellogg Global Nutrient Criteria for a healthier dietary choice.

On the basis of the confirmation by the advertiser, that the product does not meet the criteria for a healthier choice product, the Board noted that the product was not a healthier dietary choice and is not 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; 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 advertisement showed images of a lunch box on the lap of the young girl as well as on the kitchen bench at home that contains a sandwich, some fruit and fresh vegetables. The Board noted however, the girl is not seen consuming any of the food from the lunchbox, nor does the voiceover refer to consumption of the other contents of the lunchbox prior to eating the LCM bar. Some members of the Board considered that the depiction of the product in association with a sandwich and the other products 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 a possible interpretation in this instance

is that the girl is sitting down to eat her lunch before being allowed to head off to play. However, in the Board's view the fact that the advertisement depicts a school playground does not amount to an implication or encouragement of physical activity by children. The Board noted that in a previous case considered by the Board (ref: 0228/12) the advertisement depicted a school playground scene where children were actively moving about and this was dismissed. The Board considered that this 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 directed primarily 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 LCM bars are not consumed only by children, it is a snack product 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 LCM bars as a snack product 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 LCM's 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 LCM bars as a snack 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 and that it was clear that there was only one LCM bar packed into the lunch box.

The Board noted that the advertisement included visuals of a large bowl of fruit on the bench, a sandwich and chopped vegetables in accompaniment with the bar and that there is no suggestion about the frequency of consumption of the bars.

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 RESPONSE TO DETERMINATION**

We confirm that we will discontinue the advertisement based on the decision of the ASB.

