[GB] TV ad ruling overturned after review

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The issue concerned the showing of an advertisement for a granola product placed by the Kellogg Marketing and Sales Company (UK) Ltd. The advertisement appeared between episodes of the Mr Bean cartoon. The complainant was the Obesity Health Alliance which argued that it was an ad for a product that was high in fat, salt or sugar (HFSS product) that was advertised in programmes commissioned for, principally directed at or likely to appeal to audiences below the age of 16. As such, it infringed the Broadcasting Committee of Advertising Practice's (BCAP) Code rules 32.5. and 32.5.1, namely:

These products may not be advertised in or adjacent to programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 16 (32.5) and food or drink products that are assessed as high in fat, salt or sugar (HFSS) in accordance with the nutrient profiling scheme published by the Food Standards Agency (FSA) on 6 December 2005.

The Advertising Standards Authority (ASA) found the ad to be in breach of those articles of the Code. Kellogg's lodged an appeal for an independent review of the decision. To be accepted, it needed to be established that there was a "substantial flaw" in the initial ruling. This is a relatively uncommon occurrence. It is relatively uncommon for the ASA to be forced into overturning a decision like the one made in the Kellogg's case, the last being in November 2017; in that year, the ASA dealt with over 27 000 complaints about more than 19 000 ads.

Originally, the ASA had accepted the proposition that the use of the branding character (Kellogg's famous Coco the monkey character) and music meant that the product in the ad, even if it was not in itself HFSS, meant that the context brought the ad into the infringing territory. However, the company argued that (i) the ad did show the granola product as being clearly differentiated from the core Coco Pops range; (ii) ASA rules state that it is fine to use a brand character usually associated with a sugary food to promote a healthy one and (iii) its original Coco Pops range has now been reformulated with a 40% reduction in sugar, which means that it is no longer officially classified as a junk food.

Following the independent review, the ASA has cleared the ad of breaking any UK advertising rules on the grounds that "We considered that Coco Pops Granola was the focus of the ad throughout, including through the use of close-up shots of the product and product pack, and that, although the ad drew attention to the

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milk ‘turning chocolatey’, a phrase used in ads in relation to Coco Pops original cereal and other [junk food] products in the range…we considered it would be clear to both adult and child viewers that the product being advertised was Coco Pops Granola.”

ASA Ruling on Kellogg Marketing and Sales Co Ltd (UK) Ltd

https://www.asa.org.uk/rulings/kellogg-marketing-and-sales-company--uk--ltd-a18-1.html

The nutrient profiling model

https://www.gov.uk/government/publications/the-nutrient-profiling-model

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