



Complaints Department
Advertising Standards Authority
Mid-City Place
71 High Holborn
London WC1V 6QT

2 May 2019

Dear Carrie Speer

ASA Complaint Ref: A18-475546, Mondelez/Cadbury Secret Santa Campaign

Thank you for sending the draft recommendation to the ASA Council regarding our complaint about the Cadbury Secret Santa advertising campaign. We welcome the opportunity to add further comments in light of seeing the response from Cadbury and your own assessment.

We understand from the draft recommendation that:

- The ASA agrees that these are HFSS adverts that contained a promotional offer.
- That the CAP rules are clear that HFSS adverts containing a promotional offer must not, by their content, be designed to appeal to under-12s. That this ad was a promotional offer was confirmed by the Promotional Marketing and Direct Response Panel on 28 February 2019.
- That because all versions of the advert opened with a primary age girl in school donning the Secret Santa mask to play the game with a teacher, and later featured a primary school age boy playing the game with an older, secondary school aged sibling, the overall concept and therefore the promotional offer it contained were presented as something in which children were encouraged to participate. We agree with the comments of one of the PMDRP members on this point: "Another Panel member noted that, while it wasn't apparent from the ads that children could not participate in the promotion, there was no doubt that the ads targeted them; showing children gifting was surely inviting children to participate?"

We utterly reject Cadbury's contention that neither the overall concept nor the wearing of a Secret Santa mask does not appeal to children. Wearing masks of favourite characters, and dressing up, are known favourite games for under-12 children. The fact that two of the three core scenes in the shorter version of the advert feature primary school age children having fun playing Secret Santa and wearing a mask constitutes clear evidence that those creating the ad felt that wearing a Santa mask is something appropriate to this age group of children, and linked it to a 'hide-and-peek' themed narrative (eg one child hiding behind a door, another under a bed) which also is widely accepted as a children's favourite game.

We therefore agree with the ASA Complaints Executive's assessment that "children, including those of pre-school and primary school age, would generally find appealing the

idea of sneaking around in a Santa mask to secretly leave a gift of chocolate for someone. By depicting three scenarios in which children acted as a Secret Santa (one of which also featured a teenager receiving the chocolate), **we considered children who saw the ads were more likely to visualise themselves playing that role** and that they were therefore likely to engage with the content of the ads.” [our emphasis] We would like the ASA Council to consider that in the shorter version of the advert, the game is in fact played **first and primarily** by children, not adults, as the children’s scenes open the advert and constitute the longest ones, as well as being scenes that appeared in all versions of the advert, unlike some of the scenes depicting adults.

We believe that overwhelmingly this advert therefore fails the test of ‘not being targeted by its content to under-12s’, and that the overall assessment of the ASA supports this contention. We do not agree that because an advert may also have appeal for older children or adults, this means it did not target under-12s. We believe such a ruling would create an unacceptable precedent with the effect of undermining future application of the section of the Code regarding the content for any advert featuring a promotional offer.

We would strongly argue that in this specific case, the advertiser should and could have made it absolutely clear through the content that this promotional activity was designed for adults. They did not. They chose to feature primary age children both prominently and predominantly. We strongly believe that this is therefore a breach of both the rules and the overall spirit of the CAP Regulations which are designed to ensure promotion of HFSS products is not done in ways designed to appeal to children.

We would therefore like to request that the ASA reviews its recommendation in the spirit of the intended purpose of the CAP Regulations which is to prevent advertisers from targeting children with promotions and advertising of HFSS products, and which has clear guidance on the content of any advert containing a promotional offer. We call on the ASA Council to consider the logic in the assessment and rule to uphold our complaint.

We look forward to hearing the response of the ASA.

Yours sincerely,

Barbara Crowther
Co-ordinator, Children’s Food Campaign