MISLEADING VISUAL PACKAGING OF FAST-MOVING CONSUMER GOODS (FMCG) IN SOUTH AFRICA: A FOCUS ON SELECTED DRY CONSUMER FOODS

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Declaration by student

I hereby declare that the dissertation submitted for the degree *Magister Technologiae*: Graphic Design (MTGD99) at Tshwane University of Technology is my own original work and has not previously been submitted to any other institution of higher education. I further declare that all sources cited or quoted are indicated as such and are acknowledged by means of a comprehensive list of references.

AKINJIDE O. AKINWALE

Date: 6 August 2018

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Abstract

Product packaging aesthetics influences consumers’ desire to purchase a product and plays a vital role in product branding. Still, product packaging must comply with certain acts and regulatory codes. The European Parliament's Directorate General for Internal Policies published a report on misleading packaging practices. This report indicates that misleading visuals on packaging and non-functional slack-fill have been problematic in 13 member states (Lawrynowicz, Charlton, Kalouta, Margaritis, Margi, Navickaite-Sakalauskiene, Nóbrega, Schusterova, Singleton, Stoimenov, and Szigályi, 2012). These practices have also caused a rise in lawsuits against big brands in the United States (Stoehr, 2016). Consumer complaints lodged with the Advertising Standards Authority of South Africa (ASASA) may be indicative that similar problems exist in South Africa.

This study examined the depiction of products on packaging as well as slack-fill. The sample consisted of fast-moving consumer goods (FMCG) in South Africa, comprising 24 biscuit and 37 cereal packs. The results indicate that some manufactures use imagery to potentially mislead consumers by exaggerating and misrepresenting the colour, texture, shape, and composition of the products. Potential non-functional slack-fill was evident in 16 of the 37 cereal pack samples. Future studies could consider how misleading packaging affects sales and the implications of cognitive dissonance on consumers' shopping habits once they become aware of having been misled.
Acknowledgements

First, I would like to express my special thanks and gratitude to my supervisor, Prof. Rudi de Lange, for his constant encouragement, constructive input and invaluable support during the process of this research study. I am truly grateful.

Special thanks to Mr Immy Mohamed for his support. Gladys, Edna and Edit – I appreciate your support.

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To Almighty God: I cannot begin to express my gratefulness for your love over my life. I appreciate the strength, courage, and wisdom granted me to complete this research study. I will forever be grateful.
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Definition of key terms

Deceptive labelling/packaging: This is marketing exploitation that purposely alters or manipulates the understanding of the consumer (Attas, 1999). It is a practice that influences the consumer’s buying attitude with incorrect information (Clarke and Sweeney, 2000).

Misleading packaging: Misleading packaging, in the context of this study, is referred to as any packaging that aims to influence consumers with deceptive information. This practice may be evident in the packaging size, type or visual representation concerning both the textual and visual components on the packaging. It is when packaging features cause, or possibly lure consumers into making purchases that they would not have done if these features are absent (Lawrynowicz et al., 2012).

Packaging design: Fundamentally, packagings are intended storage devices for maintaining, as well as protecting objects for an extended period. A well-designed packaging also acts as a communication tool, which could be a combination of visual elements and text, in presenting an object in the best possible way to maximise sale (Stanujkic, Karabasevic and Zavadskas, 2015).

Slack-fill: Slack-fill is the difference between the real capacity of a pack and the quantity of product enclosed in it (Kaszubowski, 2016). A packaging that contains non-functional slack-fill and does not give room to view its content by the consumer shall be deemed to be misleading (FDA, 2016). Other terms that have the same meaning is ‘air filled’, over size packaging.
# Acronyms and abbreviations

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<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tr>
<td>ACCC</td>
<td>Australian Competition and Consumer Commission</td>
<td>The ACCC is a statutory authority that enforces the Competition and Consumer Act of 2010 in Australia. Additional roles of the ACCC are to promote fair trade, promote competition and manage the national infrastructure for Australian citizens (ACCC, 2015).</td>
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<tr>
<td>ASASA</td>
<td>Advertising Standards Authority of South Africa</td>
<td>The ASASA is a self-regulatory body constituted and funded by the marketing communication industry in South Africa and whose mandate is to safeguard consumers' interests (ASASA, 2015a).</td>
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<tr>
<td>DTI</td>
<td>Department of Trade and Industry</td>
<td>The DTI strategic objectives include “Promote structural transformation, towards a dynamic industrial and globally competitive economy” (DTI, 2017).</td>
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<tr>
<td>EU</td>
<td>European Union</td>
<td>The EU is an alliance and the amalgamation of a number of nation-states of Europe and in recent times had become involved in politics (Hurrelmann, Gora and Wagner, 2015).</td>
</tr>
<tr>
<td>FDA</td>
<td>United States Food and Drug Administration</td>
<td>The FDA is an agency set up within the Department of Health and Human Services in the United States of America to regulate food and drugs (medication). The FDA ensures the efficacy, protection and safety of public health and veterinary drugs. The body also regulates the production, marketing and use of tobacco products in ensuring the</td>
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<td>FDA</td>
<td>Federal Drug Administration</td>
<td>safety of public health, and guide against usage by minors. FDA is also responsible for safeguarding food supply; encourage medical products development to curb any threat to the wellbeing of the public (FDA, 2015).</td>
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<tr>
<td>FMCG</td>
<td>Fast-moving consumer goods (FMCG)</td>
<td>These goods are categorised as low-cost products and are a target for the poor whose population are more than half of the world. They spent a significant portion of their income on these goods, hence, makes the FMCG industry the fourth biggest in the world (Kumar, Vohra and Dangi 2017).</td>
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<td>ICC</td>
<td>International Chamber of Commerce</td>
<td>The ICC is a global business organisation that promotes international trade and responsible business practice. They, inter alia, developed generic codes for advertising self-regulation (ICC, 2011b).</td>
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<tr>
<td>MCA</td>
<td>Marketing Code Authority</td>
<td>The MCA is a South African “self-regulatory body that governs the advertising and promotion of health products” by their members (MCA, 2015).</td>
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<tr>
<td>OIML</td>
<td>International Organisation of Legal Metrology (Organisation Internationale de Métrologie Légale)</td>
<td>The OIML is an international organisation whose function it is to improve the regulations and standards for legal metrology authorities and for industry usage. It provides mutually recognised systems within the international market by testing, standardisation, endorsement, and certification within the legal metrology community globally (OIML, 2017a).</td>
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<tr>
<td>POS</td>
<td>Point of sale</td>
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<td>Point-Of-Sales and Point-Of-Purchase has similar meaning, it refers to and form of special exhibit that advertises merchandise. Retailers locate point-of-purchase display near cash registers at the end of an aisle, in a store’s entry way, or anywhere they might be noticed (Clow &amp; Baack, 2018).</td>
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<th>QCA</th>
<th>Qualitative Comparative Analysis</th>
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<td>QCA is a process whereby researchers determine the contribution that different variables or conditions make to a given outcome and which allows a researcher to create a causal inference based on a small research sample (Ragin, 1987).</td>
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<th>SABS</th>
<th>South African Bureau of Standards</th>
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<td>The organisation’s strategic objective contributes to the efficient functioning of the economy through standards development for the advancement of South Africa’s socio-economic well-being in the global economic sphere. Additionally, the SABS facilitates the improvement of South Africa’s competitiveness in the global markets by delivering relevant assessments of access to markets. (SABS, 2018).</td>
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Chapter 1. Introduction

1.1 Background of the study

Product packaging influences how consumers perceive goods and it also affects the sale of consumer goods. It is therefore in the best interest of manufacturers and retailers to display their products in the best possible manner (Gipson, 2011). Packaging has also been considered as an important part of a modern lifestyle and affects business planning as it plays an important role in product branding and manufacturers’ identity (Mishra and Jain, 2012). Manufacturers furthermore use packaging design to influence consumers’ buying behaviour of consumer goods at the point of sale (POS) in a store (Kotler and Armstrong, 2008).

The boost in consumers’ behavioural change and self-service has led to the increase in the use of packaging by manufacturers to influence sales and to activate consumers’ impulsive buying decisions (Mishra and Jain, 2012). Packaging creates appeal and differentiation (Davies, 2008) and communicates its contents at the point of sale to the consumer (Mishra and Jain, 2012). Packaging also protects consumers’ interests with the information it provides, such as easily understood symbols, size, content information, batch number, date of manufacture and expiry dates. Visual images on packages provide a look and feel of the product, and draw attention at the point of sale, especially with regards to products that consumers are not conversant with (Underwood, Klein and Burke, 2001).

About 7 percent of an overall product cost relates to packaging, and this cost forms part of the price consumers pay for the product. Even so, there is still misleading and deceptive packaging on the shelves and this is annoying to the consumer (Consumer Reports, 2012). The images on packaging not only communicate product information, draw attention, and influence consumers, but they are also sometimes used to deliberately mislead consumers. “Packaging is one of the most powerful tools in the marketing communications mix, but as it stands now, the packaging does not delight consumers” Johnsen, (2013:1).

A study by Sixsmith (2010) entitled “Where is the Fruit?” brought to light that some manufacturers of fresh fruit provide misleading information as regards the product displayed on the packaging. The results have shown that half of all products studied contained less fruit than its visual representation or reference on the packaging.

The report on misleading packaging practices by the European Parliament’s Directorate General for Internal Policies (hereafter referred to as the EU Report) makes it clear that packaging may not mislead consumers in any
way or manner, especially as regards the ingredients of foodstuff (Lawrynowicz et al., 2012). This report identified two general areas of misleading packaging practices in no less than 13 EU member states, namely misleading the public with regard to (1) the product quality and (2) the product quantity in the packs. The study also highlighted several misleading aspects of packaging design, one of these being the oversized design (or slack-fill) of packaging. One manufacturer, for example, half-filled the inner package and inflated it with air with the intention to sell at a higher price.

Complaints emanating from Portugal entailed the use of visuals depicted on product packaging that did not correspond to the enclosed product. In Italy, such practices are prevalent in cosmetic products. Poland, Lithuania, and Germany refer to such practices as 'selling air', while the practice is termed slack-fill in the United Kingdom and Ireland. Most complaints involve the use of visuals that do not correspond to the actual products or product visuals on the packaging that bear no resemblance to the enclosed products. Another area of concern is the use of green packing for cosmetics by some manufacturers. This practice is implemented to mislead the consumer into believing that the manufacturer uses nature-based ingredients; this is seen as a process of misinforming the consumer regarding the quality of the product (Lawrynowicz et al., 2012).

A well-known example of a food manufacturer that misled consumers in Australia is the Arnott's Biscuits case. In 2008, the Federal Court in Australia found the company guilty of misleading consumers by means of false, deceptive and misleading information on some of its packaging and labelling for its snacks. Snack Right's product packaging created the impression that a fruit indicated in the product name, and illustrated on the packaging, was the primary fruit in the biscuit filling. The investigation found that the filling of the biscuits also contained other fruits like sultanas and that these were not disclosed. Admitting the misleading practices, Arnott's Biscuits Limited undertook to amend their packaging design and to cease from such practice in the future. The company also confirmed its intention to notify consumers on its website of the outcome of the case (ACCC, 2008). The Australian Competition and Consumer Commission (ACCC) Trade Practices Act of 1974 (later replaced by the Competition and Consumer Act of 2010) prohibits misleading in any form. The Food Descriptors Guideline to the Trade Practices Act states under the heading Images and Pictures that:

If pictures on the label give a misleading impression of the composition of the product, it may breach the Act. Similarly, if food pictured on the label constitutes a small percentage of the product, it might be
inappropriate to give it a disproportionately large pictorial emphasis (ACCC, 2006:8).

Following a complaint by Viva! (Vegetarians’ International Voice for Animals), the United Kingdom’s National Trading Standards cited Tesco (a British multinational general merchandise and grocery retailer) for misleading packaging. Tesco used photographs of reeds and bulrushes as visual images on duck meat packs, while, to the contrary, the birds were discovered to have been bred indoors without access to any pools of water, lakes or ponds. As a response to the complaint, Tesco decided to redesign the label (Viva!, 2006).

In an article published in Food Navigator,¹ Nieburg (2012) reported on a claim concerning a misleading practice brought by a consumer against Lindt and Sprüngli, a US subsidiary of Ghirardelli Chocolate. Nieburg noted that Miller (the complainant) felt misled after purchasing Ghirardelli Chocolate that did not contain any white chocolate, contrary to the product visual on the packaging and labelled “White” or “White Chocolate Flavoured”. Miller argued that this practice violated a series of Californian laws and could be regarded as misleading and fraudulent advertising. Attempts to dismiss the lawsuit by Ghirardelli were rejected. Godoy (2015) affirms in another class action against similar products manufactured by Ghirardelli that resulted in a $5 million settlement that was open to any customer that had purchased certain Ghirardelli products in the United States. Ghirardelli also agreed to amend the labelling/packaging of the product sold as Chocolate’s Premium Baking Chips – Classic White.

In a South African context, there is little research on consumers’ perceptions of packaging visuals or how packaging visuals affect their purchasing attitude (Venter, Van der Merwe, De Beer, Kempen and Bosman, 2011). However, there are numerous complaints by consumers to the ASASA concerning irregular packaging practices in the fast-moving consumer goods (FMCG) industry.

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¹ Food Navigator is “an award-winning daily online business-to-business publication covering the North American food & beverage market, providing daily news, features, analysis, online events, face to face events, a weekly podcast and video coverage of the issues and stories impacting CEOs, marketers, brand managers, R&D execs and regulatory affairs experts in the industry” (Foodnavigator, 2017).
Codes and acts that control misleading advertising practices

The International Chamber of Commerce (ICC) established various codes that guide the advertising and communication industries. The ICC, as the world's largest business organisation, promotes international trade and regulates responsible businesses across the globe, with a membership of 6 million in more than 100 countries (ICC, 2015). This body encourages marketing to a viable economy while allowing for consumer choice. The ICC emphasises that the international business community is cognisant that an efficient market economy relies on consumers being supplied with product information that is accurate and non-misleading and by using marketing communications that is credible (ICC, 2012).

The ICC Consolidated Code to regulate the business industry constitutes core principles of honest and truthful practice (ICC, 2011a), while its Framework for responsible food and beverage marketing communications also prohibits any form of misleading practices in marketing communication through self-regulatory systems (ICC, 2012).

Similar to the ICC Codes, the ASASA Advertising Code of Practice guides against misleading packaging practices. This Code is based on the international codes as prepared by the ICC. The ASASA Advertising Code of Practice has several sections and appendices which the ASASA enforces and updates from time to time to keep up with the changing needs of industry and society at large. Section II, Clause 4.2.1, of the General Principles, for example, states: “Advertisements should not contain any statement or visual presentation which directly or by implication, omission, ambiguity, inaccuracy, exaggerated claim or otherwise, is likely to mislead the consumer” (ASASA, 2015f).

The ASASA is a self-regulatory body constituted and funded by the marketing communication industry in South Africa. It was established in 1968 by the marketing and advertising industry as well as media owners. The ASASAs primary mandate is to safeguard consumers' interests in South Africa and to keep abreast of modern life requirements (ASASA, 2015a).

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3 Article 3 (“Honesty”): “Marketing communications should be so framed as not to abuse the trust of consumers or exploit their lack of experience or knowledge” (ICC, 2012:5). Available at: https://iccwbo.org/publication/framework-for-responsible-food-and-beverage-marketing-communications-2012/

4 Available at: http://www.asasa.org.za/codes/advertising-code-of-practice
The ASASA\(^5\) does not encourage or accept political advertising complaints from the public nor does it monitor the activities of the media. The self-regulatory body is reactive in its operations, it responds to consumer and industry's complaints and does not initiate its investigation, nor does it monitor compliance to its rulings, unlike the regulative bodies in Brazil, India, and the United States of America. A comparative study carried out by Harker and Cassim (2002) indicates that a similar legal structure complements advertising self-regulatory processes in three countries, namely the United Kingdom, Australia, and South Africa.

The ASASA aims to adopt and enforce the Code of Advertising Practice in South Africa. The aforementioned body furthermore garners financial support from more than 40 companies that acknowledge the importance of self-regulation. Regrettably, as at early 2018, the ASASA has been placed under business rescue and is at the time of writing in search of extensive industry funding (ASASA, 2018).

The ASASA is the only accredited body to determine and administer an advertising code as stipulated by the South African Electronic Communications Act of 2005 (Act No. 36 of 2005). The electronic broadcasters are also compelled to abide by its regulations. The ASASA also outlined three codes\(^6\) for good practice in the advertising industry.

There are numerous acts as well as statutory bodies in South Africa to help protect consumers from misleading advertising. These include acts that monitor consumer goods such as liquor, medicine and tobacco to acts that regulate patents, design, and copyright (ASASA, 2016a).

The Foodstuffs, Cosmetics and Disinfectants Act of 1972 (Act No. 54 of 1972), for example, provides regulations relating to the labelling and advertising of foodstuffs. Section 34 stipulates that:

> The pictorial representation on the label or any advertisement of a foodstuff may not be presented in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding the contents of the container or its character, origin, composition, quality,  

\(^5\) The ASASA is the only independent body in South Africa that practices a self-regulatory method to monitor the advertising of complementary and alternative medicine (CAM) and advertising aimed at children. The ASASA is the only advertising regulator in the whole of Africa that provides an online platform for its South African consumers to lodge complaints; all its rulings are accessible via its website but rulings that are more than 30 days old require a subscription fee to access (ASASA, 2015a). [http://www.asasa.org.za/about/](http://www.asasa.org.za/about/)

\(^6\) These are, namely, the Advertising Code of Practice, the Sponsorship Code, and the Consumer Code. [http://www.asa.sa.org.za/codes/](http://www.asa.sa.org.za/codes/)
In 2008, the South African legislature established a legal framework – the Consumer Protection Act of 2008 (Act No. 68 of 2008) (CPA). The CPA aims to protect consumers' interests and enables them to have access to a system that can redress any malpractices by manufacturers or marketers. Chapter 2, Part F, of the Act – titled “Right to fair and honest dealing” – prohibits any form of misleading claims or visuals on product packaging and labels. Manufacturers may not use words or conduct that are false, deceptive or that mislead consumers or end users of their products, by any means, in the advertisement of goods or services (South Africa, 2008).

The South African Bureau of Standards (SABS), established by the Standards Act of 2008 (Act No. 8 of 2008)7 has the mandate to promote the standardisation of quality of commodities (DTI, 2017). The South African National Standard: Labelling requirements for prepackaged products (prepackages) and general requirements for the sale of goods subject to legal metrology control (known as SANS289:2016), defines non-functional slack-fill in packaging as “the empty space in a prepackage that is filled with less than its capacity” (SABS, 2016:8). Slack-fill is only allowed for the protection of the product, if there is a machine requirement during the filling process, if the product settles during transport or if the package performs another function.

The Trade Metrology Act of 1973 (Act No. 77 of 1973) (endorsed by the DTI) requires that packaging must comply with the SANS289:2016 requirement.8 Clauses 6.1 and 6.2 of Section 6 (titled “Misleading practices”) state that:

packages shall be manufactured, constructed or displayed in such a manner that a purchaser might not reasonably be misled with respect to the quantity or identity of product contained therein. It further states that if a consumer cannot fully view the product in a prepackage, it shall be considered to be filled, and shall be misleading if it contains non-functional slack-fill (SANS, 2016:8).

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7 Initially established by section 2 of the Standards Act, 1945 (Act No. 24 of 1945).
8 SANS (2012:1) states that: “The SABS Standards Division acts as an arbiter in the development and maintenance of South African National Standards”.
The International Organization of Legal Metrology (OIML⁹) has a similar requirement and also prohibits non-functional slack-fill. Based on international best practices, SANS289:2016 is similar to Annex E of the OIML regarding the prohibition of misleading prepackages. Under E.2 Complete Filling, it is stated that:

A prepackage may not be partially filled in such a way that may deceive a consumer unless the difference between the actual volume of the packing material and the volume of the product it contains (slack-fill) is required in the production process. If a consumer cannot fully view the product in a prepackage, it may be considered to be filled. A prepackage with excessive non-functional slack-fill (slack-fill that is not required by any production process) is considered to be a misleading one (OIML, 2016:28).

Misleading packaging in South Africa

A study similar to the EU study referred to above has not yet been conducted in South Africa. However, complaints lodged with the ASASA provide a glimpse of some of the misleading issues in South African packaging design. One such a complaint is the case SIMPLY CEREAL / P J WAGENAAR / 18513. Wagenaar laid a complaint with the ASASA regarding a misleading visual image on the packaging for Simply Cereal. He argued that the image is a “gross misrepresentation of the actual contents of the product”. He was expecting the muesli cereal to resemble the image portrayed on the packaging closely but was disappointed to find out it did not bear any resemblance. The visual presentation is a golden, sticky-type product with an abundance of fruit, but the enclosed product has no resemblance to it.

The manufacturer of Simply Cereal claimed the product could not be moist and sticky because it is roasted muesli. They also pointed out that raisins were amongst the ingredients used, but the formulations exclude honey, sultanas or glucose. The manufacturer claimed to have carried out a test on the product to check their claim and, subsequently, informed the complainant and issued him a replacement voucher as a sign of goodwill. The manufacturer gave an assurance to amend the visual image on the packaging. The ASASA Directorate could not make a ruling on this issue as the complainant “merely described the packaging rather than articulate the precise reason for his objection”. As indicated above, the respondent nonetheless did indicate that it would amend the visual image on the packaging (ASASA, 2013b).

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⁹ Legal metrology deals with how legal requirements and measuring instruments are applied (OIML, 2017b).
Yet another case relevant to the present discussion is that of CITRO SODA / V HAUPT / 21330. Haupt complained that a certain Adcock Ingram product misleads consumers. The ASASA, however, rejected the complaint lodged by Haupt. Haupt argued that Adcock Ingram's packaging of its Citro-Soda is misleading. The visual image of cranberries and the word “cranberry” on the packaging suggest that cranberry is one of the ingredients. Cranberry is, however, not listed as one of the ingredients, and no reference is made to it in the packaging insert. Haupt argued that such practice can be classified as misleading and against the Marketing Code Authority (MCA) guidelines. He further stated that such practice might also not align with the ethical, professional and responsible way of advertising health products as stated by the MCA.10

The ASASA Directorate studied all documentation submitted by the complainant as well as the respondent and noted that it needed to consider what the reasonable interpretation and expectation would be when consumers are confronted with the packaging. The letter of complaint offers no further basis for the assumption that cranberry is also an ingredient of the product, except for the fact that the word “cranberry” is written on the packaging as well as showing a picture of cranberries. Had this been a typical foodstuff or sweet product (i.e. something meant for consumption as food, drink or a snack), the Directorate would perhaps have found merit in the suggestion that the imagery and word “cranberry” might imply its presence as an ingredient. However, this product is medicinal, intended for use as a urinary alkaliniser and gastric antacid. Furthermore, it appears to be an extension of the respondent’s existing range, which traditionally contains the original flavour and appears to have expanded to include an orange flavour variant and a cranberry flavour variant. The use of cranberries in this particular context of a non-food product, therefore, appears reasonable and unlikely to mislead consumers into expecting to find cranberry content. It is common practice for medicinal products to be given a fruity flavour to make the consumption thereof more palatable. The complainant has given no more information why she expected to find cranberry in the ingredients list other than the fact that she presumed that she would. As explained above, the use and reference to cranberry appear justifiable under the circumstances. It should also be added that the ingredients listed on the packaging appeared to correct the complainant’s inaccurate assumption quickly and easily. Hence, the ruling found the packaging not to be misleading, nor does it in any way breach Clause 4.2.1 of Section II for the reasons put forward by the complainant; as a result the complaint was rejected (ASASA, 2013a).

10 Product’s nature, its constituents or indication(s) shall not be misleading in any way. Product’s advertising and its promotion shall not comprise any overstated assertions about the product’s health benefit (MCA, 2016).
1.2 The research problem

The EU Report (Lawrynowicz et al., 2012) highlights that manufacturers sometimes mislead consumers by producing packaging that is oversized and where images are visually misrepresenting the contents of food products. While a similar study was never conducted in South Africa, some rulings by the ASASA are an indication of how some manufacturers could potentially mislead consumers.

1.3 The aim of the study

This study investigated misleading packaging design with the focus on images that misrepresent the product as well as the occurrence of slack-fill.

1.4 The research objectives

The research objectives are:

• To analyse the visuals on a sample of selected South African dry consumer food packaging available in South African retail stores and to compare these with the products in the packaging.
• To engage with manufacturers as regards the potential misleading images on packaging and the observed non-functional slack-fill of the pack.
• To lodge complaints with the ASASA concerning the package design and non-functional slack-fill.
• To analyse consumer complaints lodged with the ASASA regarding misleading South African packaging.
• To measure the slack-fill of the applicable packaging.

1.5 Delimitation of the study

This research study excludes:

• Investigating nutritional facts on the packaging with a view on determining the accuracy thereof.
• Comparing the product’s actual net content to the values indicated on the packaging.

1.6 Research approach

The study used a research approach based on the Qualitative Comparative Analysis (QCA) technique to investigate the visual image of a product on the packaging and to determine if this image is an accurate representation of the product contained in the packaging. The QCA technique is widely
used by researchers to conduct experimental comparative social science studies (Verweij and Noy, 2013). Charles Ragin developed the QCA technique in 1987 as a methodology to link quantitative variable-based and qualitative case-based research. Since its creation in 1987, researchers have further reported that QCA is also used with larger samples (Marx, 2016). The QCA technique allows one to look at causation that involves different conditions and the combination of conditions (Ragin, 2008).

In the context of this study, the visual misrepresentation on the pack is the causation, while the variables (colour, design, composition, texture, and shape) and the combination thereof are the conditions that lead to the potential misrepresentation of the product displayed on the packaging.

The QCA approach allows one to generate a profile for food packaging that may potentially mislead consumers. Using five variables (being colour, texture, shape, composition, and design) in comparing the visual image of the product on the packaging against the actual product in the package enables one to make inferences as regards the variables that could contribute to misleading imagery employed on packaging. Five assessors compared the image on the product packaging against the actual product in the packaging by using a five-point Likert-type scale. These ratings were done for each of the five variables. Each assessor had to state whether he strongly agreed, agreed, was undecided, disagreed or strongly disagreed with a given statement. A typical statement for the five variables would be “The COLOUR of the product on the pack is the same as the product?”

The study also determines the packages’ slack-fill properties if applicable on some products. The process consisted of opening the product package and cutting the front panel to level with the enclosed product (see Figure 4.2). The top (empty) space was measured to determine the slack-fill percentage of the packaging, and the results are subsequently coded for analysis (see Table 4.1 for tabulated results of the sixteen products examined).

A visit to a cereal factory to check the process of sealing and packing the products revealed that cereal packagings could be packed with minimal slack-fill space as shown in Figure 4.3.

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11 The five people that assessed and coded each item were 2 senior staff members from TUT photography department (W. Bussiahn and F. du Toit), one senior staff member from graphic design department (R. de Lange), a postgraduate student on a master’s level and myself Akinwale A.O.
The study also considered the requirements as stipulated by the ASASA Advertising Code of Practice\textsuperscript{12}, the Foodstuffs, Cosmetics and Disinfectants Act of 1972 (Act 54 of 1972)\textsuperscript{13}, the Trade Metrology Act no. 77 of 1973 that requires packaging must comply with SANS 289 of 2016\textsuperscript{14} also, the EU study\textsuperscript{15} (Lawrynnowicz \textit{et al.}, 2012) in determining the extent of misleading packaging practices in South Africa.

A pilot study conducted during the planning phase of this project has shown that imagery on a package has the potential to mislead the consumer. The pilot study looked at one variable (the composition of the product) to determine whether the image of the product on the packaging represents the product in the packaging. The results of the pilot study are presented in Chapter 3.1.

### 1.7 The sample

The sample consists of the population of 61 dry fast-moving consumer goods (FMCG) foodstuffs available on the shelves of Spar, Pick ‘n Pay (stylised as PnP), and Checkers stores and comprised 37 cereal and 24 biscuit product packagings. The sample is limited to products produced by South African manufacturers and selection was based on availability of funds. All the products were purchased in Pretoria and Midrand between April and June 2016. A detailed list of these products is given in Addendum 1. The same list with reduced information is given in Table 3.1.

### 1.8 The analysis of consumer complaints, engaging with manufacturers and lodging complaints with the ASASA

One of the study objectives was to analyse consumer complaints lodged with the ASASA. These were complaints about slack-fill and the misrepresentation of the product on the packaging. The method for

\textsuperscript{12} Advertisements must not comprise any statement or product image representation on a packaging, which directly or by inference, omission, uncertainty, inaccuracy, overstated claim or otherwise, that might mislead consumers (ASASA, 2015f).

\textsuperscript{13} Product image depiction on its package or any advertisement of a foodstuff, may not be falsely presented. Any misleading or deceptive tendency about the product in a package should be avoided in other not to create an inaccurate impression with regards to the “contents of the packaging or its character, origin, composition, quality, nutritive value, nature or other properties in any respect” (South Africa, 2010:25).

\textsuperscript{14} Clause 6.1 and 6.2 of Section 6; Misleading practices states that “packages shall be manufactured, constructed or displayed in such a manner that a purchaser might not reasonably be misled with respect to the quantity or identity of the product contained therein”. (SANS, 2016:8).

analysing the consumer complaints involved accessing the ASASAs’ online subscription database of consumer complaints and rulings. Keywords such as misleading packaging, packaging design and food packaging allowed one to extract relevant and related complaints about package designs. Seven complaints that are related to this study were analysed based on their arguments in correlation with the Code of Practice quoted.

The researcher engaged with four manufacturers during the study. The complaints were about potential misleading packaging designs of their products. Correspondence with the four manufacturers attached hereto as Addendum 4, Addendum 6, Addendum 8 and Addendum 9 respectively. Following this, two complaints were lodged with the ASASA about a potential misleading visual image on packaging and a possible occurrence of slack-fill (See Addendum 5 and Addendum 7 for the applicable rulings as delivered by the ASASA).

1.9 Ethical clearance

The Faculty of the Arts Research Ethics Committee (a standing sub-committee of the Tshwane University of Technology Research Ethics Committee) approved and granted ethical clearance for this research project (Ref No.: FREC 2016/02/12 – see Addendum 2).

1.10 Outline of chapters

Chapter one expounds the design and method for data collection. This study was conducted using comparative quantitative analysis (CQA) and this method is discussed in detail in subsequent chapters of this dissertation.

Chapter two offers discussions related to the existing literature on food packaging visuals and its impact on consumers. This study specifically references the global as well as the South African consumer food packaging experience.

Chapter three provides the results of the visual image on the packaging compared to the actual product using five variables (being colour, design,

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16 ASASAs website, a database of all rulings. Rulings issued within the last 30 days are accessible free while earlier rulings attract a subscription fee from R50 a single ruling to R3386 for a year access to all rulings (ASASA, 2017).

17 Tiger brands, Kellogg, Galletas Gullón and Bakers biscuits.

18 Tiger brand’s Simply cereal super fruiti.

19 Kellogg’s Frosties corn flakes.
composition, texture, and shape). A pilot study conducted prior to the main study is also discussed.

Chapter four discusses the slack-fill of selected South African dry consumer food packaging. The chapter also discusses the results of and interactions with manufacturers of four sampled products. The chapter further presents the results of two complaints the researcher and his supervisor lodged with the ASASA and other consumer complaints acquired from the ASASAs online database.

Chapter five presents the conclusion to the study and outlines a number of recommendations and suggestions for further research which may emanate from the results of this study.
Chapter 2. Literature review

Research suggests that photoshopped imagery on food packaging which do not resemble or is not an accurate representation of the actual enclosed products and misleading slack-fill packages are the most common forms of consumer deception in product packaging and advertising (Held and Germelmann, 2014).

This chapter reviews the existing literature on (misleading) visual images on packaging and packaging slack-fill and how these impact on consumers.

2.1 Visual images on packaging

Visual imagery on the package is one of the basic characteristics of packaging and the image is used to enhance consumer consciousness for a product at the point of sale (Silayoi and Speece, 2007) and has a significant impact on consumers' opinions when they choose a product (Van Rompay, De Vries, Bontekoe and Tanja-Dijkstra, 2012).

The visual aesthetics displayed on product packaging is one of the most effective ways to differentiate products at the point of sale. It creates significant product value for the product, makes it unique to consumers (Mumcu and Kimzan, 2015) and adds beauty and a pleasing look to the packaging (Tractinsky, 2013).

Underwood et al., (2001) provide a theoretical framework to help one understand how product imagery on packaging adds to the communication effect that creates attraction vis-à-vis the product as well as the responsiveness that the packaging creates when an image of the product features on it. The results suggest that consumers' attention to product packaging tends to increase when the product imagery is displayed on the packaging. However, the effects of product imagery depend on how well the brand is known to consumers.

Therefore, where there is an increase in consumers' perception of unfamiliar and lesser known brands, product imagery on packaging helps to communicate the enclosed product. Imagery is more effective than written words. (Pavio, 1986). Also, there is a higher expectation that the consumer will engage more readily with a product with product imagery on the packaging than in instances where an image is absent. It triggers a spontaneous visualisation of the product's look, feel, taste or smell, which
MacInnis and Price (1987) describe as a depiction of sensory information in action. Consequently, where product offerings do not provide credibility, consumer dissatisfaction could translate into the abandonment of the product. Hence, it is essential for manufacturers to be credible when designing product packaging as dissatisfied consumers may opt for a more suitable product brand (Chan, Patch and William, 2005).

2.2 Misleading visual images on packaging

A recent study by Tal, Niemann and Wansink (2017) investigated the imagery on product packaging and the depiction of serving sizes. They aimed to determine if a serving size image on a cereal package would influence the quantity that a consumer would serve him- or herself. Their study consisted of two parts. The first part compared serving size images on 158 cereal packages against the nutrition information label on the package itself. The second part entailed an experimental procedure where 51 students were asked to serve themselves a portion of cereal from boxes with images displaying different serving sizes.

For their first part, Tal et al., (2017) measured and calculated the weight and calories of the serving size displayed on the packaging by filling a bowl with cereal and milk as suggested by the image. They then compared these values against the nutrition label on the packaging. Their results indicated that the images of the serving sizes are on average 64% greater than shown in the nutrition panels. The serving size images on the 158 cereal boxes represent 220 calories whereas the average suggested calories on the nutritional panel are 133 calories. The depicted serving size is 58.9 grams versus the 35.6 grams as stated on the nutritional panel. The difference between the depicted serving size and the recommended serving size was highly significant (p < 0.001).

In the second part of the study, the researchers asked university students to pour from a box a portion of cereal that they would typically consume. One half of the group received packaging with an exaggerated and multiple serving size image, while the other half received one with a single serving size that matched the nutritional label. The students were then asked to repeat the procedure with a different cereal, except that each of the two groups now received the other box. Students that received the multiple serving size boxes poured on average 17.8% more cereal than the group that received the realistically scaled, single serving box. The average calories for the multiple and single size serving boxes were 162 grams versus 137 grams and 42.6 grams versus 36.1 grams respectively. The differences here were thus also significant (p = 0.02).
Even though the generalisability of the experimental results is limited, it suggests that images on packaging may have the ability to influence consumer behaviour, contrary to the nutritional information textually stated on the label. What is significant is that the images on existing cereal boxes mislead consumers by suggesting that they should consume more than is stated on the nutritional information label. It is not just that the images on packaging may misrepresent the enclosed products, they could also distort the intended usage of the product – in this case a misrepresentation which may give rise to the overconsumption of the product.

In a related study, Wang (2013) determines the role of visual imagery on food packaging and the way in which consumers perceived product quality and brand preference. The study investigates how consumers’ mind-sets about images of food products on packaging, influence their perception of the products’ value, quantity and brand preference. The study carried out an experimental survey to observe and measure attitude towards visual packaging design elements like logo, colours, typeface, size and graphics. A popular snack packaging was redesigned using a made-up brand name and appearance served as the stimuli material. Data collection used a seven-point Likert-scale response option (ranging from a strongly agree to strongly disagree selective options) from respondents that comprises 315 undergraduate university students in northern Taiwan. The questionnaire required the 315 participants to respond on the Likert-scale about the visual aesthetics of the snack’s packaging and to evaluate the brand.

The results indicated that food product quality and brand preference are affected directly by consumer attitudes towards visual imagery on the packaging of food products. The study also provided some insight into the effects of visual imagery on packaging when buying a food product at the point of sale. Furthermore, the results of this study corroborate the results of other studies where the authors have “argued that perceived value positively influences brand preference and perceived product quality influences perceived product value” (Wang 2013:811).

Wang's study (2013) confirms that visuals on food packaging affect a consumer's perception of a product's quality and value. It also affects brand preference and can cause impulse buying. Hence, the findings of Wang’s study suggest that food manufacturers should treat visual packaging design as an essential part of the product development process. Companies can maximise brand preference and create a positive perception of a product through the design aesthetics on the package,
especially the product images, as Underwood et al., (2001) found that this attracts attention at the point of sale.

In another related study, Underwood and Klein (2002) investigated how the inclusion of product images on packaging influences consumers' beliefs and attitude towards the brand and the product. Previous studies report that designing packaging with an image of the enclosed product often significantly increases the sale of such products (Day, 1985; Scully, 2001). Packaging design that features product imagery attracts attention at the POS, especially when it comes to new and unfamiliar brands (Underwood et al., 2001).

Underwood and Klein (2002) tested two hypotheses, namely that including a picture of a product on its packaging would positively affect consumers' attitude and that it would be more pronounced with a low familiarity than a high familiarity product. Two hundred and sixty five university students were tasked to evaluate computer-generated images of food packages of national and less familiar private brands in three food product categories. The stimuli images featured a realistic product image on the packaging, or packaging without the product image. Students were randomly allocated to one of four treatment groups. They had to report their viewpoints concerning the product and assess the packaging, just as they would when shopping. The study also measured the level at which the respondents value the sensory benefits of the imagery on the packaging.

The study indicated that the imagery on the packages enhanced positive beliefs regarding the brand and taste. The results have further shown that imagery on the packaging not only created a unique stimulus for attention, but also had a significant effect on taste beliefs for consumers who value sensory stimuli more.

Designing packaging with an image of the enclosed product displayed on it significantly affects brand beliefs, but this effect did not spontaneously favour brand evaluation. The study further indicated that the effect of imagery on packaging occurs when it benefit sensory only (in this case the taste, sight, and smell) are seen and are essential to consumers, while the imagery has a lesser influence on the functional benefits of the product such as nutrients, price or the healthfulness of the product. Hence, if the package design effect goes beyond packaging attributes, it will influence the way consumers evaluate a product.

Underwood and Klein's (2002) study confirms that imagery on packaging will add more value to the brand and that consumers prefer such packaging. Thus, using a product image could be essential in food product
packaging design, as this may positively enhance consumers' beliefs about the taste of the enclosed product. Notwithstanding the evidence that design can influence a consumer's beliefs regarding a brand and product attributes, it should be noted that, in the experiment under discussion, only 265 university students were used to collect data from only three food products (candy, bacon, and margarine). The results may not apply to all other categories.

The literature review has shown that pictures on food packaging can influence how consumers view and evaluate brands, products and even the taste of the product. Kisielius and Sternthal (1986) propose that the effects of product imagery on packaging are stronger for consumers who are likely to discern the advantage of the product as conveyed by the imagery.

Venter et al.'s 2011 exploratory study investigated consumers' perceptions of food packaging. A snowball sample of 25 grocery-buying subjects from Potchefstroom, South Africa, and who were older than 18 years of age, participated in the study. Subjects were asked to answer three semi-structured questions. The first was: “What are your thoughts regarding food packaging in general off the top of your mind?” They then viewed an empty glass bottle without a label, a plastic pouch, and a white, empty carton box and were asked: “What would you change about this packaging so that it would draw your attention?” and “What do you understand about the product inside this type of packaging?” (Venter et al., 2011:275). This approach enabled the participants to express their real attitudes, motives, and perceptions towards packaging.

The participants preferred packaging with a glass bottle and plastic pouch because one can see and evaluate the enclosed product before purchasing it. The study highlights that a visual representation of the product as an information attribute is essential. This trait is vital in packaging as imagery with inaccurate information can mislead consumers when manufacturers are communicating the product benefits.

2.3 Slack-fill in packaging

Packages are typically sized optimally. Even though some have functional slack-fill with moderate airspace, others have excessive non-functional slack-fill that mislead consumers (Kaszubowski, 2016).

A recent study looked at how consumers behave when they are confronted with a slack-fill package (Wilkins, Beckenuyte and Butt, 2016). This study analysed the behaviour of 245 consumers when faced with images of a well-known chocolate brand and different quantities that are supposed to
go into the package. The first picture was the chocolates in their package, followed by four pictures of a plate with different amounts of chocolates. These amounts were higher and lower than the actual fill of the package.

The subjects also received the real product in their packaging so that they could experience the size of the box and see the printing and finishing of the box. They were requested to imagine that they bought the product for a loved one. When they give it to the person, it would be shared between the two of them. They were then shown three plates with different quantities of chocolates and asked which of these they would expect to be in the box. The subjects later received a fourth image of a plate with fewer chocolates. They were informed that this is the actual amount that will be in the box. Wilkins and his co-authors then measured the subjects’ responses on a seven-point Likert-type scale and determined their cognitive dissonance, consumer expectations, and consumer attitude towards the marketing practice and their post-purchase behaviour.

The results indicate that a deceptive practice such as slack-fill “lead to cognitive dissonance and the extent to which feelings of cognitive dissonance and being deceived lead to negative post-purchase behaviours” (Wilkins et al., 2016:215). The study conclude that there is a high probability that consumers will not repurchase the product, brand and that reputational loss may occur. There may be adverse behaviour by the consumer, and it may even create dissonance even for loyal customers. The authors highlight limitations, namely that the experiment covered one product and used British consumers. The study tested intended purchasing behaviour and did not measure subjects’ response after they bought a product with a slack-filled package. One item highlighted in this study, and which is discussed in chapter 5, is that future studies should look to what extent consumers will tolerate slack-fill practice.

Folkes and Matta (2004) conducted four experiments to test the effect of package shape on product quantity judgment. Packages that consumers perceived as attractive at POS are believed to contain more product volume than a similar product with the same size, but that is less appealing. They examine how the shape of a packaging “can mentally contaminate consumers' volume judgment” (Folkes and Matta, 2004:390).

The study used 413 participants for the four experiments, from students to shoppers (field experiment), to judge the volume of a container with differences in attention-attractive shapes. Using a paired comparison method, participants were simultaneously presented with an attractively shaped (i.e. irregular) package and a mock, ordinary shaped package with the same type of product. Each of the bottles contained an equal volume of lemonade and apple juice; the unusual bottle proved more attractive than the ordinary, mock bottle.
The results revealed that most shoppers base their volume judgment on unusually shaped containers. Attractive containers capture more attention and are perceived to contain more volume, even when the less attractive usual containers have the same volume. The study explains that this belief and the attractive-attention attribute contaminate rational judgment of product quantity. Hence, packaging with attention attracting shapes influences size judgment that is likely to impact purchasing behaviour.

The work by Folkes and Matta (2004) has shown that the attractiveness of a package influences consumers' perception of volume. In a similar study, Underwood and Klein (2002) found that enhanced attention on packaging has the potential to attract attention and be considered by consumers, thereby increasing sales.

One can infer from the works by Folkes and Matta (2004) and Underwood and Klein (2002), that the attractiveness and shape of a package can influence consumers' product judgment and impact on their purchasing attitude. This, in turn, directs the inference that a larger display size of a package and attractive graphics may be reasons why marketers opt to slack-fill and design packaging with enhanced product imagery that may mislead the consumers at the POS.

Authors of trade journals and comments from consumer watchdog and consumer activist perspectives likewise penned the issue of slack-fill. According to Lawrynowicz et al., (2012), the EU study indicates that 13-member European states had engaged in misleading packaging practices in (1) misleading the public about the product quality and (2) the product quantity in the pack.

The EU study highlights several misleading aspects of packaging design. The study reports that over the years, consumers had filed numerous complaints regarding misleading product packaging. Consumers’ grievances concerned issues such as inaccurate and misleading nutritional claims to covering up product contents and unhealthy facts. The comparison between the same products of different manufacturers shows that one manufacturer half-filled the pack or inflated it with air so as to wrongfully enable him to sell at a higher price.

In July 2016, Bentele, Fournier and Koza (2016) reported in the National Law Review (NLR) on a rise in slack-fill litigation by consumers against manufacturers of products with slack-fill packaging in the United States. The following year, Boone III (2017) noted a rapid increase in litigation of food products slack-fill. Boone III and Burwick (2018) later noted this trend in 2018 and how the cases were dealt with individual state law in America.

The steady increase in complaints directed against consumer goods manufacturers for slack-fill packaging range from allegedly misleading
consumers as regards the quantity of product in the packaging for anything from pet food to laundry detergent. With manufacturers of consumer goods and food products experiencing an increase in class action lawsuits on slack-fill, it is imperative for manufacturers to review their products and packaging to avoid slack-fill claims (Bentele et al., 2016).

Similarly, Stoehr (2016) agrees that slack-fill lawsuits are on the rise in the United States of America. Lawsuits have been brought against big brands recently where the plaintiffs usually rely on the United States Federal Drug Administration's (FDA) law that prohibits packaging with non-functional slack-fill in consumer products.

Yet another example of slack-fill litigation reported by Klein (2016) states that four New York consumers filed a federal lawsuit on 28 July 2016 against Barilla, the world's leading pasta maker, alleging a misleading practice considering the degree of non-functional slack-fill in its pasta boxes. Barilla allegedly engaged in misleading slack-fill practices as evidenced in two of its products, namely Whole Grain ProteinPLUS® and White Fiber Pasta. A New York statute, the General Business Law Section 349, prohibits this practice of employing excessive non-functional space in consumer product packaging.

2.4 Summary

The review of misleading imagery on the packaging is not confined to the misrepresentation of the actual product in the package. As indicated above, images are sometimes meant to mislead consumers even as regards the recommended consumption of the product. The work by Tal et al., (2017) has shown that images on cereal packaging that depict larger portion sizes than advised on the product's nutrition label may lead to over-consumption as the misleading imagery distorts the product usage and affects consumers' attitudes towards purchasing the product due to its misleading tendency.

The study by Wang (2013) confirms the effect of visuals on food packaging as related to food quality, value and brand preference amongst consumers and found that it causes impulse buying. Hence, the findings of this study suggest that food manufacturers should treat visual packaging design as an essential part of the product development process.

20 Klein is a managing partner at Klein Moynihan Turco LLP (KMT), a full-service law firm. https://www.lexology.com/library/detail.aspx?g=7ea7b157-cefd-4962-9ebf-e51d47c886c7
The sources reviewed above dealt with deception and the slack-fill of consumer food packaging and its consequences. The review has shown a rise in consumer dissatisfaction in the United States, hence the steady increase in litigation. In other parts of the world, consumers do not necessarily respond negatively towards slack-filled packages by instituting legal action, but they may nonetheless form a negative association with a product that has been identified as being slack-filled.

Many authors caution against slack-fill practices. Wilkins, Beckenuyte and Butt (2016) suggest that it is imperative to consider consumer satisfaction or dissatisfaction. Consumers’ dissatisfaction might come as a result of cognitive dissonance arising from slack-fill in packaging. Wilkins, Beckenuyte and Butt (2016) note that if a consumer experiences any package deception, this could potentially create a strong dissonance, which in its turn will lead to negative feelings towards such a product and which will subsequently hurt the brand as well as the manufacturer.

Visual imagery on packages contributes to this impulsive buying attitude by enhancing consumers' consciousness of the product (Silayoi and Speece 2007) and has a significant influence on consumers' opinions when they choose a product (Van Rompay et al., 2012). The following chapter provides the results of the five objectives mentioned in Chapter 1.4 above.
Chapter 3. The results

This chapter provides the results of the pilot study and the results of the comparison of the visuals on the packaging, evaluated against the product in the packaging.

3.1 The pilot study

The initial intention was to follow a quantitative approach where the plan was to measure and quantify the image on a package, compare this to the actual product and then to use a statistical test to see if there were any differences. While this approach seems to be appropriate for the product in the pilot study, a quantifiable approach was deemed to not be suitable to compare issues such as texture and colour where a more subjective judgment would apply. The texture of a bran flake, for example, would be of less importance than the texture of a larger product such as a biscuit. Hence it was after the pilot study that a decision was made to follow the Qualitative Comparison Approach (QCA) and not a quantifiable approach as the QCA was deemed more appropriate to judging visual issues on packaging design.

The pilot study considered the imagery on the packaging of Bokomo Muesli Rusks and compared the image to the actual product in the pack. The image on the pack shows more raisins in the product, while some sprinkled raisins are also visible in the image; this strongly suggests that one should expect to see more raisins in the product. The pilot study tested the hypothesis that there are more raisins in the image than what one would find in the real product.

The process entailed the photographing of four sides of every rusk, obtained from 4 four Bokomo muesli rusks packs. The next step was counting the raisins on each side and then comparing the means of the visible raisin per side, with the mean visible raisins per side of the images on the package.

Details of the four samples are given in Table 3.1 below. The front panel of the Bokomo muesli rusks is shown in Figure 3.1. A photographic image of each rusk (as an example) is illustrated in Figure 3.2.
The results

The results indicate that the front panel of the pack for Bokomo Muesli Rusks is potentially misleading as the number of raisins on the actual rusks is significantly lower than those that are portrayed on the packaging. The mean number of raisins on the Bokomo pack is two raisins per side, while the raisins per side on the actual rusks range from 0.46 to 1.35 raisins per side, which translates to a mean difference that ranges from 32% to 77%. A summary of the visible raisins on the pack as compared to the actual rusks of the four packs is given in Table 3.1 below.

![Figure 3.1 The front of the BOKOMO Muesli Rusk pack](image)

The P values and descriptive statistics of the 4 Samples and the front of the BOKOMO pack is given in the table below.

Table 3.1 The mean number of rusks on the sides of the actual rusks in the four BOKOMO samples and on the BOKOMO pack

<table>
<thead>
<tr>
<th></th>
<th>No of rusks</th>
<th>No of sides</th>
<th>Total no of raisins visible</th>
<th>Mean raisins per side</th>
<th>P value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bokomo Pack</td>
<td>3</td>
<td>5#</td>
<td>10</td>
<td>2</td>
<td>n.a.</td>
</tr>
<tr>
<td>Sample 1, pack 1</td>
<td>15</td>
<td>60</td>
<td>98</td>
<td>1.63</td>
<td>0.2101</td>
</tr>
<tr>
<td>Sample 1, pack 2</td>
<td>15</td>
<td>60</td>
<td>61</td>
<td>1.02</td>
<td>0.0026*</td>
</tr>
<tr>
<td>Sample 2, pack 1</td>
<td>15</td>
<td>60</td>
<td>75</td>
<td>1.25</td>
<td>0.012*</td>
</tr>
<tr>
<td>Sample 2, pack 2</td>
<td>15</td>
<td>60</td>
<td>66</td>
<td>1.1</td>
<td>0.0026*</td>
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<td>Sample 3, pack 1</td>
<td>14</td>
<td>56</td>
<td>73</td>
<td>1.3</td>
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<td>Sample 3, pack 2</td>
<td>13</td>
<td>52</td>
<td>89</td>
<td>1.71</td>
<td>0.1454</td>
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<tr>
<td>Sample 4 (500 gram)</td>
<td>14</td>
<td>56</td>
<td>55</td>
<td>0.98</td>
<td>0.0011*</td>
</tr>
</tbody>
</table>
There are two sides visible of the two front rusks, and 2-half sides of the back rusk. The researcher decided that this will give a total of 5 sides for calculations.

* Significant difference at 0.05.

Figure 3.2 The photographic record of the samples

Figure 3.3 The enclosed product and the visual image on the packaging
3.2 The visual image on the pack compared to the actual product

This section provides the results of a comparison between the actual product and the image on the pack. The sample consisted of 61 dry foods products (37 packs of cereals and 24 packs of biscuits), which were purchased in Pretoria and Midrand from Checkers, Pick ‘n Pay and Spar stores. The sample consisted of all the South African products available on the store shelves.

The process entailed photographing the actual products, scanning the visual image on the product pack and placing these side by side on Google Forms. It allowed for the comparison of five product variables, namely the colour, texture, shape, composition, and design of the products with the image on the product packaging. The reason for using the five aforementioned variables is that some authors mention them as design elements in packaging which influence consumers (Gofman, Moskowitz and Mets, 2010; Hamlin, 2016).

The initial goal was for one person to adjudicate whether there was an observable visual difference between the image on the pack and the actual product. These potential differences are best seen in the colour of a product, followed by the shape, composition, design and lastly texture. Deciding whether the colour of a product image is the same as the actual product in the pack is somewhat of a subjective judgment. One could use a colour meter and make a rational decision based on numerical values and a predetermined cut-off point or one could simply decide at face value whether the colour of the image resembles the product. One must nonetheless accept that there will be colour differences that will take place from taking a photograph, the printing process, and the final appearance of the product. The same would apply to the visual appearance of the texture (to a certain degree at least) but not for the design, composition, and shape. In addition, the visual appearance of texture is in part determined by colour as well.

To obtain a more objective decision whether the visual image of the product is an appropriate representation of the product itself, the study used the mean judgment of five assessors. A process of visually comparing two items with each other is qualitative, and it is for this reason the QCA is an appropriate method to analyse the information and coming to a sound conclusion. The results, regarding the QCA method, is explained and interpreted in sections 3.2.1 to 3.2.5 at the end of this chapter.
Five assessors presented their opinions on whether there was an observable visual difference between the visual image on a product packaging and the actual product inside the pack. The assessors responded to five statements on a five-point Likert scale (1= strongly disagree to 5= strongly agree). These five statements are:

- The COLOUR of the product on the pack is the same as the product.
- The TEXTURE is the same.
- The SHAPE is the same.
- The COMPOSITION\(^{21}\) is the same.
- The product DESIGN\(^{22}\) is the same.

The results were analysed using the data from mean ratings calculated from the responses from the five assessors. The results are shown in Table 3.2 below. An expanded table with the individual scores of each assessor is appended to the study as Addendum 3. The table in the addendum also provides the minimum, the maximum, and the standard deviation. The values added to the means show that there was some variability amongst the assessors and an indication of the qualitative nature of making a judgment where a visual comparison is to be made.

### Table 3.2 The mean rating of 61 actual products’ colour, texture, shapes, composition and design of actual product when compared to the visual image on the packaging

<table>
<thead>
<tr>
<th>MANUFACTURERS</th>
<th>PRODUCTS</th>
<th>COLOUR</th>
<th>TEXTURE</th>
<th>SHAPE</th>
<th>COMPOSITION</th>
<th>DESIGN</th>
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<td>1 BAKERS</td>
<td>BETTA MILK CHOC SNACK</td>
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<td>BOUDOIR FINGER BISCUIT</td>
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<td>2,4</td>
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<td>2,8</td>
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<td>4,2</td>
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<td>4,2</td>
<td>4,4</td>
<td>4,2</td>
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</table>

\(^{21}\) The word composition here refers to ingredients in an image such as a muesli product, or the raisins in a rusk.

\(^{22}\) The word design implies the overall look and feel of the product.
<table>
<thead>
<tr>
<th></th>
<th>Brand</th>
<th>Product Description</th>
<th>Value 1</th>
<th>Value 2</th>
<th>Value 3</th>
<th>Value 4</th>
<th>Value 5</th>
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<td>DE VRIES</td>
<td>GINGER BISCUIT</td>
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<td>3,6</td>
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<td>16</td>
<td>GULLON</td>
<td>VITALDAY (HAZELNUT SANDWICH WITH OAT &amp; CHOCOLATE CHIPS)</td>
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<td>VITALDAY YOGHURT FLAVOURED CREAM SANDWICH WITH OAT &amp; RED FRUITS</td>
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<td></td>
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</tbody>
</table>

The following sections address each of the five variables (colour, texture, shape, composition, and design) used in the qualitative comparative analysis of the visual image on the product packaging vis-à-vis the actual product inside the pack.

### 3.2.1 Colour

Twenty products obtained a mean score that ranges between 1 and 2. Thirty obtained a mean score with a range of between 2.1 and 3. Seven products obtained a mean score, which ranged from 3.1 and 4, while only four products obtained a mean score, which ranged between 4.1 and 5. Most products had a low score on colour when compared with the visual on the packaging. The results of the mean ratings clustered in four groups are presented in Figure 3.4 below.
An example of a product with a low mean score and a high mean score regarding colour is given in Figure 3.5 (product no 26 in Table 3.2. The mean rating of 61 actual products’ colour, texture, shapes, composition and design of actual product when compared to the visual image on the packaging above) and Figure 3.6 respectively. The product displayed in Figure 3.5 below obtained a rating of 1; this is a good example where the colour of a product is noticeably different when compared with the image on the packaging. The assessors agreed, all rated this item on colour as 1. The colour in the picture was thus not considered to be a true representation of the colour of the actual product.
The product in Figure 3.6 below obtained the highest rating of five, making it a good example of a product with accurate colour representation when compared with the image on the package. Dissimilar to the product in Figure 3.5 above, assessors agreed, all rated this item on colour as accurate. The colour in the picture represents the colour of the product.

![Figure 3.6 An example of a product with a high mean score where the colour of the product on the pack appears visually correct compared to the actual product](image)

3.2.2 Texture

Six products were analysed and obtained a mean score that ranged between 1 and 2. Sixteen products scored between 2.1 and 3, twenty-nine had a mean score that ranged between 3.1 and 4, while 10 products had the highest mean score between 4.1 and 5. The mean rating’s result clustered into four groups is represented in Figure 3.7 below.

![Figure 3.7 Mean rating of 61 products’ texture compared to the image on the packaging](image)
A good example of a product with a low mean score of 1 in texture compared to the pack image is shown in Figure 3.8 below. When compared, the texture of the product is noticeably different from the image on its pack when compared.

![Figure 3.8 An example of a product where the texture and composition of the image on the pack appears visually different compared to the actual product](image)

A product with a high mean score regarding texture is given in Figure 3.9 below with a mean rating of 5, which represents a good texture comparison of the product and the image on its pack. Also, the product design was rated the highest, with a mean score of 5. This product, concerning texture, shape, and composition, also obtained a high mean score. This is an example of a product with all the five variables rated high, except for scoring a 4.4 mean in colour.
3.2.3 Shape

Two products obtained a mean score from between 1 and 2, 10 products showed a mean score, which ranged between 2.1 and 3, while 26 products showed a range of 3.1 and 4 mean score and 23 obtained a mean score between 4.1 and 5. The results of the mean rating in four clustered groups are shown in Figure 3.10 below.

Of the total products compared, only two products were rated low against a comparison to its shape with a mean score of 1 and 2. The same product
in Figure 3.8 that had a low mean score of 1 in texture comparison, also scored the lowest mean score of 1.6 with regards to the shape of the product compared to its image on the packaging. The second lowest product scored 2. These results show that most products' shapes are accurately portrayed on the packaging.

A good example of a product with a lowest mean score in shape is shown in Figure 3.8 above.

3.2.4 Composition

Four products had a mean score that ranges between 1 and 2, fifteen products had a mean score between 2.1 and 3, and 32 obtained a mean score from 3.1 and 4, while 10 scored a mean of between 4.1 and 5. Figure 3.11 below illustrates the composition mean rating results in four clustered groups. The lowest mean score product for composition is shown in Figure 3.8 above.

3.2.5 Design

Three products’ designs were compared to their image on the packaging and obtained a mean score between 1 and 2, while 19 products obtained a mean score ranging between 2.1 and 3. Twenty-eight products showed a mean score between 3.1 and 4, while 11 products scored between 4.1 and 5 as shown in Figure 3.12 below and which furthermore illustrates results of the mean ratings in four clustered groups.
Products with a low mean score and a high mean score regarding design comparison are given in Figure 3.13 below and Figure 3.9 above respectively. The former obtained the lowest mean score in product design as compared to its pack image while the latter obtained a high mean score for design.

Figure 3.13 A product rated with a lowest mean score for product design
3.3 Discussion of the results: Images on the packaging versus the actual product

This section provides a discussion of the results. The results in Figure 3.4 above indicate that the colour of product images on the package is a variable where an image can easily misrepresent the actual product. Colour amongst the five variables had most strongly disagree and disagree overall mean rating of 2.5; hence, colour obtained the lowest mean score of 2.5 resulting in 34 products with a mean score between 1 and 2.5 and 26 products with a mean score between 2.6 and 5.

This result reflects a discrepancy in the actual colour of the products as compared to the images displayed on the various packages.

Texture is the second lowest rated variable with a mean score of 3.3 and had 13 products rated with a mean rating between 1 and 2.5 and 47 between 2.6 and 5 followed by composition and design obtaining the same mean score of 3.4 for all 61 products.

Composition recorded seven products with a mean score between 1 and 2.5 and 54 products with 2.6 and 5, while design had eight products with a mean score between 1 and 2.5, with 53 products scoring between 2.6 and 5.

Shape recorded the highest mean score of 3.7 for all the 61 products. These results indicate that the shape of the actual products showed less discrepancy when compared to the images on the packaging.

The relative importance of the five variables to product and its packaging, as acknowledged by Finn (1988), is that it is well established that graphic elements in advertisements, such as colour and design, can influence a variety of advertising results. It has also been shown that visual images can be used to convey a specific belief amongst consumers (Miniard, Bhatla, Lord, Dickson and Unnava, 1991). Any modifications or enhancements to product image can impact consumer choice (Peracchio and Meyers-Levy 1994) and “[t]he price of the product, brand, package size, colour and package material are a few contributing influences with regard to purchasing decisions” (Lal, Yambrach and McProud, 2015:64).

Foodwatch, a European non-profit organisation that advocates for more consumer rights and exposes practices by the food industry that are not in the interest of consumers, offered a 15-point action plan against misleading packaging to national and European regulations. One of the points is presenting an accurate product image. Foodwatch advised that images of food products on packaging must resemble the actual enclosed
product and exaggerated or enhanced images must be prohibited (Foodwatch, 2017a).

One could then ask: When is a product judged accurate or acceptable by a reasonable consumer using the five variables mentioned earlier to determine the level of expectations found in a product? Silayoi and Speece (2007) argue that the visual aesthetics on packaging plays a vital role to some consumers and they are mostly concerned about it, while a small number of consumers are more interested in the product details on the packaging. How will consumers accept the accuracy of the product as illustrated on the packaging, and when are they expected to be satisfied or dissatisfied with the product imagery, for example, using the product with the lowest mean score in all the five variables in Figure 3.13.

Oliver (1987) notes that while dissatisfaction is a condition for consumer’s complaint behaviour, not all dissatisfied consumers tend to complain. Silayoi and Speece (2007) argue that one should also know that the way consumers view and assess packaging differs. Hence, what is acceptable to one consumer might not be acceptable to another. However, as elaborated by Wickliffe and Pysarchik (2001), price and brand are the two main factors that cover the areas of a product attribute, which has a thorough influence on consumers' behaviour; other elements of the characteristics include colour, weight, appearance, structure and quality.

Williams, Wikström and Löfgren (2008) note that specific packaging designs of food products leads to consumer satisfaction when the designs protect the enclosed products efficiently and can extend the product’s lifespan.

Abbott, Holland, Giacomin and Shackleton (2009) argue that consumers' overall rating of products is based on the physical means of the product, natural properties and intellectual features that include the design of the product which are the brand features that differentiate it from similar or other products. Hence, consumer satisfaction is entirely based on product attributes, which are the brand features (strong or weak) that distinguish the product from similar and/or competing products on the market.

A study on the influence of shape and colour on desserts by Ares, Besio, Gimenez and Deliza (2010) notes that consumers created some sensorial expectations like taste towards the colour and the visual image on the packaging. Consumers’ opinion of a product can be affected by these expectations. Consequently, the package colour and the visual image of food packaging can influence consumers' buying intention.
However, a consumer's product patronage depends on product brand loyalty, which may exclude consideration for other factors such as price and other variables (Tariq, Nawaz, Nawaz and Butt 2013). The variables investigated in this study (colour, texture, shape, composition, and design) may have been included in the other variables not considered by Tariq et al., (2013). It can be concluded that a consumer's perception of unsatisfactory product colour or product composition, which is not similar to the image on the packaging, may thus ultimately not be relevant in the case of consumer brand loyalty. However, other elements not examined by this study may also contribute.
Chapter 4. The results (Slack-fill, interaction with manufacturers and rulings by the ASASA)

This chapter presents the occurrence of slack-fill, a discussion on the interaction with manufacturers regarding alleged visual image misrepresentation on packaging and slack-fill and a discussion of the results of the interactions with manufacturers of four sampled products. It furthermore examines two complaints sent to the ASASA and the manufacturers' response and the resultant ASASA rulings, a review of a consumer's complaint to the ASASA and its ruling and, lastly, the inferences based on the consumer complaints.

4.1 The slack-fill of selected South African dry consumer food packaging

The second objective of this study was to measure the occurrence of slack-fill as regards consumer food products and to determine if it is functional or non-functional considering the applicable acts and codes.

Slack-fill in product packaging refers to the difference (space) in the volume of a pack and the quantity of the product enclosed in the pack and which space is non-functional (Kaszubowski, 2016). The results of this study indicate that non-functional slack-fill practices occur in some of the product packaging examined.

A study on shopping behaviour by Brian Wansink23 notes that 75% to 80% of consumers ignore size labels or never bothered to check package information on net weight and other information but instead base their purchase instinct mostly on package dimensions (Consumer Reports, 2010).

The provisions of the ICC Consolidated Code of Advertising and Marketing Communications Practice in Article E1 on honest and truthful presentation prohibit marketing communication that contains images, statements or any material that tends to mislead consumers in any way (ICC, 2011a). The Code of Federal Regulations, Title 21, states: “In accordance with section 403(d) of the act, food shall be deemed to be misbranded if its container is so made, formed, or filled as to be misleading” (FDA, 2016). The act further explains that packaging that contains non-functional slack-fill and does not

23 Professor Brian Wansink is Director of the famed Cornell Food and Brand Lab at Cornell University in Ithaca, New York, and has studied the shopping behaviour of consumers over many years. 
https://dyson.cornell.edu/people/brian-wansink
give room to view its content by the consumer shall be deemed to be misleading (FDA, 2016).

The OIML also prohibits Non-functional slack-fill. In its Quantity of Product in Prepackages Recommendation Report it is stated that:

A prepackage may not be partially filled in such a way that may deceive a consumer unless the difference between the actual volume of the packing material and the volume of the product it contains (slack-fill) is required in the production process. If a consumer cannot fully view the product in a prepackage, it may be considered to be filled. A prepackage with excessive non-functional slack-fill (slack-fill that is not required by any production process) is considered to be a misleading one (OIML, 2016:28).

The repealed Trade Metrology Act of 1973 (Act No. 77 of 1973) has been replaced by the Legal Metrology Act of 2014 (Act No. 9 of 2014) and has a similar requirement. Chapter 7 of the Act prohibits false statements that relate to quantity. Section 33 stipulates that:

Subject to subsection 2, any person who directly or indirectly makes any false, incorrect or untrue declaration or statement or wilfully misleads any person as to the quantity or a measurement value, expressed by number or in terms of any measurement unit, of any item in connection with its purchase, sale, counting or measurement or in the computation of any charges for services rendered or for any other measurement of a legal nature on the basis of number or measurement, is guilty of an offence (South Africa, 2014:32).

Advertising self-regulatory Codes, similar to national and international legislation, also appear to prohibit slack-fill. The provisions of the ASASAs Code of Advertising Practice in South Africa (Appendix J) declares that:

presentations in advertising for food and beverage products should accurately represent the material characteristics [emphasised by the researcher] of the product featured, in particular, but not exclusively, with regard to taste, size, nutritional content, health benefits, nature, composition, method and date of manufacture, range of use, efficiency and performance, quantity, commercial or geographical origin or environmental impact (ASASA, 2015c).

One could very well read and interpret the references to composition and quantity in the above extract as being references to slack-fill.

This study examined 37 cereal products and determined the slack-fill of each pack by measuring the empty volume between the top of the package and the product. These products were part of the original sample of the
study. The reason for only using these products is that it is the prominent (empty) space present in the packaging of these products. The upper front surface area that represents the slack-fill is of importance as this study considered slack-fill from a graphic design perspective.

This above-mentioned surface area is what a designer uses to embellish the product package. It is for this reason that the value for slack-fill is given as the upper surface difference between the height of the pack and the product in the pack. In a package with a height of 290 mm and an enclosed product height of 150 mm, the difference thus is 140 mm and which translates to a 48% slack-fill as demonstrated in Figure 4.2.

As this study could not establish what would or could be considered as a fair percentage of functional slack-fill (i.e. as permitted by regulations or acts), the study only selected packaging with a noticeable degree of slack-fill. The question remains as to what an appropriate value would be for allowable functional slack-fill. Hence, the researcher noticed that from the 37 selected products, 21 packs have 22% or less (empty) space; one can readily accept the presence of this minimal space as a functional slack-fill and the researcher thus decided to consider, as a working hypothesis, empty space of 22% or less as functional. While 16 packs revealed an (empty) space of between 23% and 48%, this could as a consequence be regarded as non-functional slack-fill and any noticeable (empty) space measured above 22% in a package is thus considered to be non-functional slack-fill for the purposes of this study, especially products that are made of the same ingredients or are manufactured from only one substance (corn, wheat, and oats cereal). The results of the 16 slack-fill packages are presented in Table 4.1 below.
<table>
<thead>
<tr>
<th>BRAND</th>
<th>PRODUCT</th>
<th>PACKAGE mm</th>
<th>PRODUCT mm</th>
<th>EXCESS DIFF.</th>
<th>EXCESS DIFF. %</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 BOKOMO</td>
<td>CHOC BITZ ORIGINAL CHOCOLATE OAT CEREAL</td>
<td>245</td>
<td>130</td>
<td>115</td>
<td>47%</td>
</tr>
<tr>
<td>2 BOKOMO</td>
<td>O-TEES MULTIGRAIN TOASTED CEREAL 0- YEAH CHOCO FLAVOUR WHEAT FREE</td>
<td>310</td>
<td>205</td>
<td>105</td>
<td>34%</td>
</tr>
<tr>
<td>3 BOKOMO</td>
<td>O-TEES MULTIGRAIN TOASTED CEREAL 0- YUM ORIG FLAVOUR WHEAT FREE</td>
<td>310</td>
<td>210</td>
<td>100</td>
<td>32%</td>
</tr>
<tr>
<td>4 BOKOMO</td>
<td>RIGHT START BRAN FLAKES</td>
<td>300</td>
<td>160</td>
<td>140</td>
<td>47%</td>
</tr>
<tr>
<td>5 BOKOMO</td>
<td>RIGHT START FIBRE PLUS CRUNCHY BRAN STICKS</td>
<td>215</td>
<td>140</td>
<td>75</td>
<td>35%</td>
</tr>
<tr>
<td>6 BOKOMO</td>
<td>WEET-BIX BITES HONEY</td>
<td>275</td>
<td>190</td>
<td>85</td>
<td>31%</td>
</tr>
<tr>
<td>7 KELLOGG</td>
<td>ALL-BRAN FLAKES</td>
<td>290</td>
<td>150</td>
<td>140</td>
<td>48%</td>
</tr>
<tr>
<td>8 KELLOGG</td>
<td>COCO POPS</td>
<td>265</td>
<td>150</td>
<td>115</td>
<td>43%</td>
</tr>
<tr>
<td>9 KELLOGG</td>
<td>FROOT LOOPS CORN, WHEAT AND OAT CEREAL WITH FRUIT FLAVOUR</td>
<td>265</td>
<td>150</td>
<td>115</td>
<td>43%</td>
</tr>
<tr>
<td>10 KELLOGG</td>
<td>FROOTIES FROSTED FLAKES OF CORN</td>
<td>265</td>
<td>160</td>
<td>105</td>
<td>40%</td>
</tr>
<tr>
<td>11 LIFE BAKE</td>
<td>GRAIN-FREE GRANOLA</td>
<td>215</td>
<td>150</td>
<td>65</td>
<td>30%</td>
</tr>
<tr>
<td>12 NESTLE</td>
<td>BAR-ONE CHOCOLATE &amp; CARAMEL FLAVOURED CEREAL</td>
<td>300</td>
<td>175</td>
<td>125</td>
<td>42%</td>
</tr>
<tr>
<td>13 PICK N PAY</td>
<td>STRAWBERRY &amp; YOGHURT CLUSTERS</td>
<td>235</td>
<td>135</td>
<td>100</td>
<td>43%</td>
</tr>
<tr>
<td>14 SIMPLY CEREAL</td>
<td>SUPER FRUITI (TOASTED MUESLI WITH FRUIT)</td>
<td>240</td>
<td>180</td>
<td>60</td>
<td>25%</td>
</tr>
<tr>
<td>15 SPAR</td>
<td>SPAR SQUILLOS CRUNCHY OAT HOOPS CHOCOLATE FLAVOURED</td>
<td>245</td>
<td>150</td>
<td>95</td>
<td>39%</td>
</tr>
<tr>
<td>16 TIGER BRANDS</td>
<td>JUNGLE ENERGY CLUSTERS</td>
<td>235</td>
<td>180</td>
<td>55</td>
<td>23%</td>
</tr>
</tbody>
</table>

Twenty-one products had a slack-fill of 0% or 22% respectively. Five products had a mean between 23% and 33%, eight products had a mean between 34% and 44%, while three products' mean was between 45% and 55%.

**Figure 4.1** below represents the results of the mean percentage ratings in four clustered groups, as explained above.
Examples of product with 22% slack-fill and with 48% slack-fill respectively are given in Figure 4.2 below.

Figure 4.2 Product with a 22% slack-fill (left) and 48% slack-fill (right)

4.2 A discussion of the results

There are six acceptable reasons recognised and approved by the FDA for functional slack-fill in a food package permissible in America (FDA, 2016). The permissible reasons are:

- Protection of the contents enclosed: The extra space in the packaging is intended for the protection of the enclosed food; this occurs in products like potato chips where the additional air functions as a cushion, thus preventing the product from being broken during transportation.
- Machine requirement for enclosing the product: If the machine used for inserting and sealing the packaging does not allow filling the package to the very top.
- Unavoidable product settling during handling and delivery: Products like sugar, cereal, and dog food are considered to settle during transit.
- Packaging performs a particular function: The extra packaging is needed to prepare the food.
- The package can be used independently of the food it contains.
- If the packaging requires extra space for labelling, a minimal space that facilitates handling of the product, where tamper-proofing is needed or used to discourage pilfering from off the shelves.
The quantity of functional slack-fill is not specified in any acts or regulations in South Africa. SANS 289 (see SANS 289) does not directly address the issue of what percentage of functional slack-fill is allowed but instead focuses on ensuring that the weight and product image of the enclosed contents in the packaging correspond with what is declared on the label/packaging. However, in extreme cases, it is possible that an unusually low level of fill might be challenged for its potential to mislead the consumer under general laws prohibiting deception.

The researcher and his supervisor visited a factory where a breakfast cereal product is manufactured. We observed the workings of the filling process, met with a manager and discussed machine requirements and the non-functional slack-fill that one finds in typical corn-based cereal products. The researcher toured the factory and noticed the filling process of Bokomo Corn Flakes. What was noticeable was that claims that air (or nitrogen) is needed to protect/preserve a cereal product in a pack might not be valid as (1) this factory does not fill the corn flakes packs with air to create (empty) space in the package, and (2) the machine that seals the product pack can seal without the need to create (empty) space (slack-fill) in the package. Upon departure, a 1 kg pack of Bokomo Corn Flakes was given to the researcher. The package revealed 22% of (empty) space as seen in Figure 4.3 below. It could be observed during the visit that filling machines may not always require the amount of slack-fill in corn cereal products as one could see in some products examined in this study.

One argument that one can use to try and justify the space one encounters in typical cereal packaging is the settling argument. Settling, however, would only be a valid argument if one could find a significant quantity of broken product at the bottom of the inner pack. One could also argue that the excessive amount of non-functional slack-fill practised by some manufacturers is somewhat due to marketing concerns and issues. Brian Wansink notes in most of his studies that consumers tend to choose a bigger package on the shelf when presented with the same net amount of product in a smaller package, thinking a bigger pack is better value for money (Consumer Reports, 2010). Furthermore, “consumers are approximately four times more sensitive to package price than package size” (Çakir and Balagtas, 2014:6).

Chandon and Wansink (2012) further acknowledge that consumers pay little or no attention to product volume changes, especially changes in packages for all three spatial dimensions (width, length, and height). Larger

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package sizes influence consumers' willingness to pay (Chandon and Ordabayeva, 2009) and are more cost-effective with lower unit prices; hence, it is more profitable for food manufacturers to make bigger package sizes (Chandon and Wansink, 2012).

As an example, Kellogg's Frosties Corn Flakes are denser than a non-sugared product, will weigh more and will thus occupy less space. Producing packaging without non-functional slack-fill will result in a smaller container. The slack-fill of the Frosties product was 40%, while a similar non-sugar-coated product (being Bokomo Corn Flakes) was 22%.

A consumer may perceive a smaller pack as less desirable. This is a common form of deception in packaging practice where a product pack is designed, formed or filled to create an illusion of a certain amount or quantity of content, which is inconsistent with the actual content due to a certain percentage of the package having been filled with air (Wilkins, Beckenuyte and Butt, 2016).

It could also be that a very minimal functional slack-fill is required for such a product. For example, 1 kg Bokomo Corn Flakes in Figure 4.3 below is a good example where there appears to be a minimal slack-fill. The product in the cellophane pack is nearly filled to the top, and there is very minimal space between the upper surface of the cellophane pack and the outer package, a sharp contrast to the product with 48% slack-fill in Figure 4.2 above.
There are still unsettled arguments as regards what percentage of slack-fill is permissible and, likewise, at which point the percentage of slack-fill will or should be considered non-functional. When would slack-fill be justifiable? When it can be attributed to settling, a sealing machine requirement, or when it is needed to protect the product during transportation? The above inquiry appears challenging to ascertain, and these questions remain unanswered, as there are currently no consensus or clear guidelines to determine such a percentage or what occurs with different products.

4.3 Interaction with manufacturers regarding alleged visual image misrepresentation on the pack and slack-fill issues

One of the objectives of this study was to interact with manufacturers and obtain their responses vis-à-vis products that one could see as slack-filled and where the image on the pack did not appear the same as the actual product contained in the package.
This section describes the researcher's interaction with four manufacturers as regards a possible misleading product packaging. This section furthermore offers a perspective on how some manufacturers respond to consumer complaints.

4.3.1 Tiger Brands

On 30 September 2016, Tiger Brands was contacted via email with a view on complaining about one of their products, namely Simply Cereal Super Fruiti. The complaint centred on the product not matching the content portrayed by the visual printed on the packaging. Besides, the image on the packaging depicts a product filled with fruit and nuts while the product consists mostly of oats. The quality, colour, and composition of the cereal portrayed on the packaging clearly did not represent the actual product in the packaging (see Figure 4.4 below).

![Figure 4.4 The product package image and the actual content](image)

On 5 October 2016, a request was forwarded to inquire as regards the date the new packaging would be on shelves in South Africa. Tiger Brands responded two days later and stated that the packaging revision takes place progressively as old ones are depleted and the introduction of new packaging filters into the market. The initial complaint and response from Tiger Brands are given in Addendum 4. After that, a complaint was sent to the ASASA and was ruled in favour of the researcher. ASASA accepted the undertaking by Tiger Brands not to use the packaging in future and it must be withdrawn within a stipulated deadline. See Chapter 4.5 for the
complaints and response, while full details of the rulings can be found in Addendum 5.

4.3.2 Kellogg

On 30 September 2016, a formal complaint was forwarded to Kellogg's Consumer Affairs regarding the excessive slack-fill as regards their product sold as Frosties. The researcher informed the company via email that even though a reasonable amount of functional slack-fill is allowed for food packaging, the Frosties packaging displayed slack-fill which could be deemed non-functional and may be unjustifiable for this particular product (see Figure 4.5 below).

![Image](image_url)

**Figure 4.5** The product package image and the actual content

The packaging was compared to the enclosed product, and it was noticed that the package is half empty. Some consumers could see it as a false representation of the actual quantity of the product.

A reply was received from Kellogg's the same day. An apology was tendered for the unfortunate and unintended experience I had had with their product. The company's representative assured the researcher that the quality assurance manager had been informed of the issue and that he would further investigate the matter.

The company requested the following:
- The best before date
- The production date
- The production time and L code
- The name of the store from where the product was purchased
- My postal address
- My contact telephone number
The researcher proceeded to provide the representative with the requested information outlined above on 3 October 2016, and a response was received on the same day. In the response, the representative indicated that the complaint had been forwarded to the Quality Department for further investigation. Also, the researcher was informed that feedback would be sent to him within 10 to 20 working days. However, the researcher did not receive any feedback.

After 28 working days, the researcher sent a reminder email on 11 November 2016 requesting feedback as promised in the correspondence dated 3 October 2016. The representative replied on 15 November 2016. In her response, the complaint itself was not addressed, but instead, she was more concerned if I had received the complimentary voucher sent to me.

The researcher received the complimentary voucher but did not redeem it, as it could compromise the findings of this research study. Another voucher was promised via a registered mail. The initial complaint and response can be seen in Addendum 6. After that, a complaint was sent to the ASASA and was ruled in favour of Kellogg as there is no specific self-regulatory code that addresses slack-fill. See Chapter 4.5 for the complaints and response. Details of the rulings are found in Addendum 7.

4.3.3 Gullón

In examining the product image of Vitalday yoghurt-flavoured cream sandwich with oat and red fruits packaging, the result revealed a potentially misleading practice by Gullón, the manufacturer. The image on the front of the pack portrays a dark, brownish biscuit filled with yoghurt-flavoured cream. This image could be seen as misleading, as it appears to be an exaggerated representation of the real product.

The ratio of yoghurt-flavoured cream sandwich with oat and red fruits on the package image is visibly more than in the enclosed product (see Figure 4.6 below).

Figure 4.6 The product package image and the actual content
A complaint as regards this misleading product image on the product packaging was sent to Gullón on 5 October 2016.

Two days later, the researcher received a response thanking him for contacting them on the issue, as the information raised is beneficial to improve their daily work. It was also stated that the opinion of their customers is a vital part of their success and for these reasons they try to give each complaint the attention it deserves.

The response further confirmed that the researcher's complaint had been forwarded to the marketing department who will make sure such an incident does not reoccur in the future. The researcher was furthermore thanked for his interest and confidence shown in Gullón biscuits.

No date was given for a revised packaging to be rolled out. Hence, investigation continued as this research study progressed and, as of June 2018, the product is no more in Spar, Pick n Pay, Checkers or Dischem stores. Gullón's response, as well as the initial complaint, is appended to this study as Addendum 8.

4.3.4 Bakers

A careful examination of the packaging for Bakers Boudoir Finger Biscuits revealed a possible misleading practice by the manufacturer, Bakers. The sugar-coated brown biscuit product pack image was compared with the enclosed products, and the result was that the two bears no colour and texture resemblance to each other (see Figure 4.7 below).

![Figure 4.7 The product package image and the actual content](image)

A complaint was sent to Bakers on 5 October 2016 concerning a possible misleading representation of the Bakers Boudoir Finger Biscuits image on the pack. A response was received on 7 October 2016 acknowledging receipt of the complaint. An apology was also tendered for the researcher's experience with their product not meeting expectations. A member of the Consumer Care personnel requested the information listed below regarding the product manufactured by Bakers:
The researcher provided all the required information in a reply dated 10 October 2016. No response was received until a follow-up mail was sent on 1 December 2016. The researcher then received a reply on the same day, stating that the complaint was sent to their (Bakers’) factory on 10 October 2016 and that a voucher sent to the researcher via SMS was not redeemed and if the researcher would like the voucher to be resent. A reply to the email was sent stressing the fact that the complaint had not been addressed and hence the voucher was not redeemed and it furthermore urged Ms Whittington to address the complaint raised by the researcher.

A reply was sent notifying the researcher that the product (Bakers Boudoir Finger Biscuits) is produced in Portugal and the complaint was escalated for an internal investigation. She further stated that if the researcher felt that there was no improvement to the biscuits, they would gladly arrange to collect them for testing. Unfortunately, Ms Whittington appeared to have missed the point of the complaint, and the researcher decided to contact her again as this study progressed. The complaint to Bakers and its response are given in Addendum 9.

4.4 Discussion of interaction with the manufacturers

Tiger Brands did not deny my allegation that there is a difference between the visual image of the product on the packaging and the real product. Neither did Kellogg dispute the slack-fill complaint. Furthermore, the two companies were willing to send the researcher complimentary vouchers as a gesture of goodwill.

Tiger Brands indicated that steps were being taken to revise the Super Fruiti packaging, but no date was tendered for the new packaging to be on the market, while Kellogg apologised for the unfortunate and unintended experience the researcher had had with the product.

Gullón thanked the researcher for contacting them and stated that the complaint was very useful to improve their daily work and that the opinion of customers is a crucial part of their success. However, the image on the Vitalday packaging has not been rectified since October 2016, which is when the complaint was lodged.
Bakers, on the other hand, advised that the product in question is produced in Portugal and the complaint was escalated for an internal investigation to improve on the quality. A goodwill voucher was offered, but as of yet no feedback has been received from Bakers. None of the manufacturers disputes the complaint of possible misleading practices that contravene the ASASAs Code of Advertising Practice. Appendix J: Food and Beverage Code – Par. 6: “Misleading” states:

Presentations in advertising for food and beverage products should accurately represent the material characteristics of the product featured, in particular, but not exclusively, with regard to taste, size, nutritional content, health benefits, nature, composition, method and date of manufacture, range of use, efficiency and performance, quantity, commercial or geographical origin or environmental impact (ASASA, 2015c).

Two complaints lodged with the ASASA as regards a possible misleading packaging are discussed in more detail below.

4.5 The results of two complaints lodged with the ASASA

Six months after the complaints were lodged with the four above-mentioned manufacturers, further investigation revealed that all the packaging is still on the shelves of Pick n Pick, Checkers, and Spar.

Hence, the researcher and his supervisor forwarded two complaints to the ASASA on 25 April 2017 about a possible misleading visual representation of the product on the packaging for Simply Cereal Super Fruiti, a cereal package made by Tiger Consumer Brands Limited. A possible slack-fill complaint was laid on 9 June 2017 against Kellogg’s as regards its Frosties corn flakes.

The ASASA ruled in favour of the complaint against Simply Cereal Super Fruiti. The packaging’s product image exaggerates the enclosed content, which may mislead consumers (see Figure 4.4 above and Addendum 5 for the detailed complaints and ruling).

The ASASA ruled in favour of Kellogg’s as no self-regulatory code by the ASASA specifically prohibits non-functional slack-fill. See Addendum 7 for the ASASAs ruling and the product shown in Figure 4.5.

As indicated in the ruling concerning Kellogg’s Frosties, the ASASA was unable to come to a ruling on the issue of non-functional slack-fill and whether any value is excessive or not. The Advertising Code of Practice does not provide any guidance on slack-fill. Hence, the ASASA could not deliver an effective judgment but advised to channel the slack-fill
complaint to the SABS who would be in a position to make a decision relying on the provisions of the Trade Metrology Act.

The details of the two complaints, manufacturers' response and the ASASAs ruling are summarised below.

**First complaint:**
**CASE NO:** 2017-5627F  
**DATE:** 31 May 2017  
**COMPLAINANTS:** Akinjide Akinwale and Prof Rudi De Lange  
**COMPANY/ RESPONDENT:** Tiger Consumer Brands Limited  
**PRODUCT:** Simply cereal super fruiti

**COMPLAINT:** The visual representation of the cereal on the front panel portrays an embellished and exaggerated claim about the quality, colour and composition of the actual cereal enclosed in the package.
The proportion of fruit pieces on the spoon is significantly more than the portion of fruit pieces in the actual product.
The use of the words “SUPER FRUITI” and “with fruit pieces” and the fruit visual images on the left of the pack further emphasise that the product could be a fruit-based muesli product.

We communicated with the advertiser on 30 September 2016 and raised our concern about the advertisement on the pack design. Tiger Food’s email replies on 4 and 7 October 2016 indicate that they will change their packaging (see the email correspondence in Addendum 4). We purchased a new pack on Friday 21 April 2017 to see if they change their advertisement on the package. It is still the same.

These visual images and words on the package will mislead consumers as they are exaggerated claims, and they do not represent the material characteristics and composition of the actual product.

**The reasons for our compliant:**
Consumers are likely to believe that the image on the packaging (with lots of polished fruits) and the text reference to fruit will have a similar colour, quality, and composition to the product contained in the packaging and which may contravene Clause 4.2.1 of Section II (General Principles – “Misleading claims”) of the Advertising Code of Practice. This clause states that “advertisements should not contain any statement or visual presentation which, directly or by implication, omission, ambiguity, inaccuracy, exaggerated claim or otherwise, is likely to mislead the consumer” (ASASA, 2015f).

This practice also contravenes Clause 6.1 (titled “Misleading”) of the Food and Beverage Code.
Presentations in advertising for food and beverage products should accurately represent the material characteristics of the product featured, in particular, but not exclusively, with regard to taste, size, nutritional content, health benefits, nature, composition, method and date of manufacture, range of use, efficiency and performance, quantity, commercial or geographical origin and environmental impact (ASASA, 2015c).

The advertiser misleads the consumer by visually exaggerating the quality, colour, and composition of the product through the use of images and textual claims on the packaging.

RESPONSE: The respondent denied the allegation that its packaging is likely to mislead consumers. However, it also submitted that they have been working on updating the packaging and that the old would be discontinued. They envisaged the current packaging would be depleted in the market by the end of July 2017.

THE ASASAs RULING: UPHELD – Undertaking accepted from respondent on condition that the packaging of the Simply Cereal Super Fruiti should not be used again in future. On receipt of the ruling, the respondent was instructed to withdraw the packaging with immediate effect. See Addendum 5 for the full details of the ruling.

Second complaint:
CASE NO: 2017-6290F
DATE: 31 August 2017
COMPLAINANTS: Akinjide Akinwale and Prof Rudi De Lange
COMPANY/ RESPONDENT: Kellogg company of South Africa
PRODUCT: Kellogg’s Frosties Cereal
COMPLAINT: The size of the box (outer cardboard box) exaggerates the quantity of the product, which creates an illusion of more product and represents a form of consumer deception. The slack-fill in the secondary cellophane pack is excessive; it is non-functional and not justifiable regarding product settlement, product protection or machine-filling requirements.

The first complaint communicated (30 September 2016) with Kellogg’s broached the issue of the non-functional slack-fill. They replied on the same day and apologised for the “unintended experience”. They never disputed the non-functional slack-fill complaint. See the correspondence at the end of this complaint.
The reasons for our complaint:
The basis for our complaint relies on two clauses in the Advertising Code of Practice. The first is that the size of the packaging may mislead consumers into believing that the enclosed product is more than it really is based on the size of the packaging. Clause 4.2.1 of Section II (“Misleading claims”) states, “Advertisements should not contain any statement or visual presentation which, directly or by implication, omission, ambiguity, inaccuracy, exaggerated claim or otherwise, is likely to mislead the consumer” (ASASA, 2015f).

The second is Clause 6 (titled “Misleading”) of Appendix J – Food and Beverage Code:

Presentations in advertising for food and beverage products should accurately represent the material characteristics of the product featured, in particular, but not exclusively, with regard to taste, size, nutritional content, health benefits, nature, composition, method and date of manufacture, range of use, efficiency and performance, quantity, commercial or geographical origin or environmental impact (ASASA, 2015c).

The oversized pack may mislead consumers in that it visually presents more than one finds in the package, and that it does not accurately represent the size of the product.

RESPONSE: The respondent argued that the complaint is not valid or relevant since the packaging in question has since been replaced. It also questioned our motive behind the complaint, as we might have a commercial interest in the complaint. A previous ruling by the ASASA was cited, noting that consumers do not base their purchasing instinct on the size of the package but instead focus on the weight indicated on the pack.

THE ASASAs RULING: DISMISSED – There are a number of issues noted by the ASASA that were clarified and addressed in the 6-page ruling. See Addendum 7 for the full details of the ruling.

4.6 Consumer complaints lodged with the ASASA as regards misleading South African packaging of food products

One of the objectives of this study was to analyse consumer complaints of misleading South African packaging and labels of food products. These complaints can be accessed on the ASASAs online database of old as well as recent rulings (however, one needs to subscribe to be able to access rulings older than 30 days). The researcher gained subscription access to
This database and searched for complaints concerning food packaging using the following keywords:

- Misleading packaging
- Product packaging
- Food packaging.

This study identified only seven consumer complaints that are similar to the focus of this study. These case studies nonetheless provide an excellent perspective on how the ASASA views and adjudicates consumer complaints regarding potential misleading food packaging.

Table 4.2 and Chapter 4.7 below provide a summary of the consumer complaints, ASASAs response to these complaints and the inferences one can draw from these case studies.

The first case is where a consumer complained about the composition of Ouma Nutri Rusks. The packaging portrayed a product filled with almonds and cashew and pecan nuts while the actual product contained only peanuts. The manufacturer (Nola Foods) undertook to amend its packaging after receiving correspondence from the ASASA.

The second case is one where BM Foods, makers of Lumpfish Caviar, portrayed lumpfish caviar on the packaging when in fact it is not caviar. This misleading act was picked up and a complaint was sent to the ASASA by J. Estcourt. The ruling was to withdraw the packaging.

Two consumers filed the third complaint against Shoprite Checkers concerning its Choice Muesli Breakfast Cereal – Hawaiian Crunch. The complainants argued that the package visual bears no resemblance to the product. The ruling was upheld, and the undertaking to remove the packaging with immediate effect and not to be used again was acknowledged.

The fourth complaint was submitted against Pioneer Foods, makers of Bokomo Otees. The ruling was upheld, and an undertaking by Pioneer Foods to withdraw the inconsistent packaging with immediate effect was accepted.

G. Mitchell lodged the fifth complaint against Kellogg’s Special K Chocolate Cereal Bar. The complainant argued that the visuals on the packaging do not resemble the enclosed product and, thus, will mislead consumers; however, Mitchell’s complaint was dismissed by the ASASA because a reasonable person will in this instance not accept the visual on the packaging to completely resemble the enclosed product.
The sixth complaint concerned Jungle Energy Crunch. M. Ashley noted that Tiger Brands Limited (the manufacturer of Jungle Energy Crunch) is misleading consumers by calling the product “energy crunch”. He further stated that product claims and the quantity indicated on the packaging are false. The ASASA instructed Tiger Brands to ensure that no misleading claims are made henceforth.

The seventh complaint was lodged in September 2016 by Simba (Pty) Ltd against Gatbro International, makers of Krunch Potato Chips, for using an image and concept similar to that of the Simba product. The ASASA noted that Gatbro had breached a previous ruling. Hence the breach allegation was upheld, and in order not to impose sanctions, Gatbro was reminded to refrain from practices that contravene the law. (see Table 4.2 below for more details about these cases). The text in the table below is taken verbatim from the ASASAs rulings.
Table 4.2 Seven consumer complaints related to this study on ASASAs database (ASASA, 2015e)

<table>
<thead>
<tr>
<th>NO</th>
<th>CASE NO</th>
<th>DATE</th>
<th>COMPLAINANT</th>
<th>COMPANY/ RESPONDENT</th>
<th>COMPLAINT</th>
<th>PRODUCT</th>
<th>RULING</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5160</td>
<td>01 June 2006</td>
<td>Peter Griffiths</td>
<td>Nola Foods a division of Foodcorp (Pty) Ltd</td>
<td>The complainant submitted that the packaging is misleading in that it creates the impression that the rusks contain almonds, cashew and pecan nuts. However, the ingredients list indicates that they only include peanuts.</td>
<td>OUMA NUTRI RUSKS</td>
<td>UPHELD: Undertaking accepted from respondent on condition that the packaging is amended within the deadlines stipulated</td>
</tr>
<tr>
<td>2</td>
<td>14096</td>
<td>09 Oct 2009</td>
<td>J Estcourt</td>
<td>BM Food Manufacturers (Pty) Ltd</td>
<td>Mrs Estcourt lodged a consumer complaint against BM Foods packaging for its Lumpfish caviar. The packaging lists the descriptor of the product as, among other things, “BLACK SEAWEED “LUMPFISH” CAVIAR” and states below this “Delicacy made of Seaweed”. A visual of the product is shown in a bowl below. In essence, the complainant submitted that the packaging is misleading as it packaged and marketed as caviar, and even refers to “lumpfish”, when in fact it is not caviar.</td>
<td>Lumpfish caviar</td>
<td>UPHELD: Packaging must be withdrawn in its current format</td>
</tr>
<tr>
<td>3</td>
<td>19940</td>
<td>23 Mar 2012</td>
<td>Ms Nonjabulo P Grafton</td>
<td>Shoprite Checkers (Pty) Ltd</td>
<td>Ms Grafton lodged a consumer complaint against the respondent’s packaging of its Choice Muesli Breakfast cereal, Hawaiian Crunch. It has images of oats, bananas, pineapple, wheat and raisins. It shows a bowl containing oats, nuts, dried fruit and what appears to be sliced peaches and banana. The wording “SERVING SUGGESTION” and “Rolled Oats, Wheat Flakes, Barley Flakes with real Fruit &amp; Nuts” appears next to the bowl.</td>
<td>Choice Muesli Breakfast cereal, Hawaiian Crunch</td>
<td>UPHELD: The undertaking is accepted on condition that the packaging in question is removed with immediate effect within the deadlines stipulated in Clause 15.3 of the Procedural Guide and not used again in future in its current format.</td>
</tr>
</tbody>
</table>
### COMPLAINT:
The complainant submitted, in essence, that the packaging is misleading as the depicted product and the actual product inside the packaging is not the same. More specifically, she submitted that there is hardly any fruit in the muesli yet on the packaging the product is depicted as having chunks of fruit.

#### Advocate Dellene Clark

**Advocate Clark lodged a consumer complaint against a Pioneer Foods' packaging of Bokomo's Otees Multigrain Toasted Cereal.** The packaging contains, inter alia, the claim "*Wheat FREE*" on the front panel and "*NOT SUITABLE FOR PEOPLE WITH WHEAT, SOYA AND MILK ALLERGIES*" on the side panel below the ingredients listing. **COMPLAINT:** In essence, the complainant submitted that the advertisement is misleading as the information conveyed on the side of the pack contradicts the prominent "*Wheat FREE*" claim made on the front.

#### Mr Grant Mitchell

**Mr Mitchell lodged a consumer complaint against the packaging for Kellogg's double milk chocolate cereal bar.** The packaging is headed "*double milk Chocolate CEREAL BAR*" and states, inter alia, "*Rice and wheat cereal bar with milk chocolate pieces dipped into a smooth milk chocolate layer*". Alongside the wording, an image of the cereal bar is shown. The bottom appears to have been dipped in chocolate, and the top half shows chocolate pieces as well as between the rice and...
|   | 21198 | 16 Jan 2013 | Myke Ashley-Cooper | Tiger Consumer Brands Limited | Mr Ashley-Cooper lodged a consumer complaint against the name of the respondent’s “Jungle energy crunch” oats, as seen on the packaging. **COMPLAINT** The complainant submitted that the respondent has “... no right to call [the] products ‘energy crunch’ as [the respondent's] rolled oats are indeed NOT crunchy …” He also stated that he does not believe the claim that the product contains “… 20% Cranberries, Raisins and Papaya …” When asked for clarity on this, the complainant submitted that there is only a minimal amount of fruit particles in the pack, and certainly not 20% as claimed. The complainant submitted that a representative of the respondent attempted to address the issue with him directly, but he “... ended the conversation and advised that [he] was going to lay a charge against [the respondent]”.

Jungle Energy Crunch | The respondent’s attention is drawn to the provisions of Clause 4.1 of Section II of the Code, which set out the expectations for substantiation of claims, and the respondent is instructed to ensure that no misleading claims are made in this regard once the three-month deadline expires. Failure in this regard may result in the Directorate considering more severe sanctions as contemplated in Clause 14 of the Procedural Guide.

| negates the complainant’s somewhat unmotivated argument. Based on the above the image cannot be regarded as misleading for the reasons set out in the complaint. It is therefore not in contravention of Clause 4.2.1 of Section II of the Code. The complaint was dismissed.

| cereal. **COMPLAINT** The complainant submitted that the product advertised in no way resembles the advertised product. The cereal bars that he purchased “... must have been a dud or a ‘single milk chocolate’ with very few milk chocolate pieces”.

| 6 | 21198 | 16 Jan 2013 | Myke Ashley-Cooper | Tiger Consumer Brands Limited | Mr Ashley-Cooper lodged a consumer complaint against the name of the respondent’s “Jungle energy crunch” oats, as seen on the packaging. **COMPLAINT** The complainant submitted that the respondent has “... no right to call [the] products ‘energy crunch’ as [the respondent's] rolled oats are indeed NOT crunchy …” He also stated that he does not believe the claim that the product contains “… 20% Cranberries, Raisins and Papaya …” When asked for clarity on this, the complainant submitted that there is only a minimal amount of fruit particles in the pack, and certainly not 20% as claimed. The complainant submitted that a representative of the respondent attempted to address the issue with him directly, but he “... ended the conversation and advised that [he] was going to lay a charge against [the respondent]”.

Jungle Energy Crunch | The respondent’s attention is drawn to the provisions of Clause 4.1 of Section II of the Code, which set out the expectations for substantiation of claims, and the respondent is instructed to ensure that no misleading claims are made in this regard once the three-month deadline expires. Failure in this regard may result in the Directorate considering more severe sanctions as contemplated in Clause 14 of the Procedural Guide. |
<table>
<thead>
<tr>
<th>No.</th>
<th>Date</th>
<th>Complainant</th>
<th>Respondent</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>7</td>
<td>2015-2475F</td>
<td>05 Sept 2016</td>
<td>Simba (Pty) Ltd</td>
<td>The Directorate considered a complaint against the respondent’s packaging for its “Krunch” potato chips, in particular, the use of an image of a crown and the slogan “KING OF FLAVOUR” was at issue. The Directorate upheld the complaint, finding that the elements as mentioned earlier, and therefore the packaging as a whole were in breach of Clause 9 of Section II of the Code because it featured concepts that are similar to what Simba had been using for years, with no apparent explanation for the similarities.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Gatbro International Manufacturing (Pty) Ltd</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Accordingly, the Directorate is satisfied that the POS material and display units are in breach of the previous ruling, and therefore in violation of Clause 15 of the Procedural Guide.

The breach allegation, therefore, was upheld, and the respondent reminded to ensure compliance in all its future advertising. While the Directorate is not considering additional sanctions at this stage, the respondent was told that further justified breach allegations might well result in such considerations and the potential imposition of sanctions as contemplated in Clause 14 of the Procedural Guide.
4.7 A discussion of the seven consumer complaints

The relevant clause in the ASASA Code of Advertising Practice, used for cases 1 to 6, is misleading claims. Clause 4.2.1 of Section II.

This clause implies that the imagery of food packaging may not be portrayed falsely or in a way that will mislead consumers. This requirement is also a requirement of the Foodstuffs, Cosmetics and Disinfectants Act of 1972 (Act No. 54 of 1972). Section 34.

Although the ASASA does not decide a complaint with recourse to any act, one should still take cognisance of acts that apply to the complaints. Therefore, one would expect a visual image of a product on packaging to represent accurately the real product enclosed. One can also rightfully ask whether the colour of the visual representation on the package (for example in Figure 4.8 below) accurately represents the real product.

![Figure 4.8 A product with colour misrepresentation on the packaging](image)

The seventh case was initially upheld for Clause 9 of Section II of the Code (titled “Imitation”). The respondent had used some design elements and a slogan similar to the complainant’s product pack, and the ASASA had earlier ruled against the respondent. Hence, this is a breach allegation of the Procedural Guide: Clause 15.5 states: “Offending advertising is to be withdrawn from every medium in which it appears, notwithstanding that
the complaint did not specifically refer to that particular medium” (ASASA, 2016b).

Imitating another product could also be classified as misleading, as the intention was to make consumers believe that they are buying the original product.
Chapter 5. Summary, recommendations, suggestions for future studies and a conclusion of the study

As the title to this chapter suggests, it provides a conclusion to the study, offers some recommendations and suggestions for possible future studies, which may emanate from this research as well as serving as a summary of this study.

5.1 Summary

The recent study in the EU on the issue of misleading packaging practices identified two general areas of misleading packaging practices, namely misleading the public as regards (1) the product quality, and (2) the product quantity in the packs (Lawrynowicz et al., 2012). While a similar study has never been conducted in South Africa, rulings by the ASASA indicate how manufacturers attempt to mislead consumers. Two specific case studies suggest that manufacturers use potentially misleading visual images on their packaging designs.

Advertising self-regulatory mechanisms and acts are available that can assist and guide manufacturers on how to avoid consumers being misled. In South Africa, the Advertising Code of Practice, Clause 4.2.1 of Section II, makes it clear that. Section 34 of the Foodstuffs, Cosmetics and Disinfectants Act of 1972 (Act No. 54 of 1972) requires that product packaging must comply with labelling requirements.

Similarly, the Consumer Protection Act of 2008 (Act No. 68 of 2008), Chapter 2, Part F, prohibits any form of misleading claims or visuals on product packaging and labels. Manufacturers may thus not use words or conduct that are false, deceptive or that mislead consumers or end users of their products, by any means, in the advertisement of goods or services (South Africa, 2008).

This study considered the visual images on a sample of product packaging and compared it to the actual product in the packaging concerning quality and quantity. The study also analysed consumer complaints regarding misleading South African packaging and labels of food products and measured slack-fill occurrence where applicable. The study delimited itself from investigating the nutritional facts on the packaging, neither investigated whether a product's weight corresponded to the weight indicated on the pack.
This study used a QCA analysis approach to investigate five variables (colour, texture, shape, composition, and design). These aforementioned variables were examined using a Likert-type scale. The criteria for analysing the products included using a Likert-type scale to solicit feedback in the form of data from five assessors and which entailed responding to five statements per product; this allowed the study, by using five variables, to determine whether the product's image on its packaging resembles the actual product.

This method helped to create a profile for potentially misleading food packaging amongst the population of products sampled. It compared the visual depiction of the product on its packaging and the actual enclosed product. This process entailed photographing each product and scanning the visuals on the product packaging and placing the photographs and scans side by side on Google Forms where the comparisons took place. The sample consisted of a population of dry FMCG in the cereal and biscuit food category in grocery shops in South Africa. Sixty-one products (37 packs of cereals and 24 of biscuits) were selected from Spar, Checkers, and Pick n Pay stores. The study measured the level of non-functional slack-fill occurrence in 37 sampled cereal product packages to determine any potential misleading tendencies as seen in Figure 4.2.

The study further accessed the ASASAs website to analyse consumer complaints as regards misleading packaging. Seven consumer complaints related to this study were identified and scrutinised to come to an understanding of how the ASASA adjudicates misleading food packaging complaints.

Amongst the potential misleading packaging identified by this study, two products were selected, and their manufacturers were engaged for comment. Following this, complaints of possible misleading packaging were lodged with the ASASA.

The relevant acts, the ASASA Code of Practice and consumer complaints lodged with the ASASA assisted the study to arrive at a projected judgment on misleading package design.

The Arts Research Ethics Committee granted ethical clearance, reference No: FREC 2016/02/12 for this research study. (See Addendum 2).

The literature identified seven articles that deal with the topic of this study, and in particular the impact of misleading packaging on consumers and the effect on sales. A few of the pertinent items that came to the fore in the
review are briefly summarised below. The misrepresentation of products on packaging and non-functional slack-fill is a way of misleading consumers (Held and Germelmann, 2014). Non-functional slack-fill in packaging forms a cognitive dissonance in consumers' minds which may lead to product neglect. Consumers are also not likely to repurchase a product after noticing a slack-fill. This adverse behaviour may result in unfavourable sale figures and brand reputation damaged (Wilkins, Beckenuyte and Butt, 2016). Authors of trade journals and consumer watchdogs also highlighted the slack-fill issue and the rise in litigation across the United States of America.

Scholars have rightly reported that packaging enhances product value and creates a unique look for consumers (Mumcu and Kimzan, 2015). The aesthetics of product packaging is a useful way to differentiate between products at the POS while the design also makes it appear pleasant and appealing (Tractinsky, 2013). Consumers engage with packaging that are attractive, and this triggers consumers' ability to visualise the enclosed product's look and feel, described as an interpretation of sensory information (MacInnis and Price, 1987).

Packaging imagery and serving suggestions influence a consumer's serving quantities, influences consumer behaviour, and may misrepresent the enclosed product, distorting the product usage (Tal et al., 2017). Imagery on packaging furthermore influence the product's value and quantity and affects the way consumers perceive the quality of the product and the brand preference (Wang, 2013).

The slack-fill measurement of 37 products revealed a non-functional slack-fill in no less than 16 products. The remaining 21 products recorded a minimal slack-fill mean of 0% and 21%, while the remaining 16 ranges from a mean of 23% to 48%.

The results of the five variables used for all the 61 products revealed a 2.5 mean score for colour. Fifty of the products obtained a mean score between 1 and 3. Seven recorded between 3.1 and 4, while four products scored a mean of between 4.1 and 5. Thus using 2.55 as a midpoint, it translates that colour of fifty products, i.e. 82% of the total product's colour on the packaging image did not accurately represent the enclosed product. The colour misrepresentation could be a deliberate attempt to boost the product's appeal and attraction at the POS as supported by Underwood, et al., (2001) claim that the colour of enclosed products compared to the image on the packaging plays a vital role in marketing the product.
Furthermore, visual images of product used on packaging have been proved to attract attention at the POS. The product images aids in providing the product’s look and feel to consumers, especially new and unfamiliar products. Hence, the result of this study revealed a discrepancy in the colour of products as portrayed on the packaging; this may be in order to attract attention as claimed by Underwood et al., (2001).

The researcher engaged with four manufacturers of products sampled by this study. Complaints of possible misleading practices were sent via email, and none of the manufacturers tendered a solution to the complaint raised. Instead, replacement vouchers were offered or sent to the researcher (vouchers which, for reasons stated above, were never redeemed).

Due to a lack of resolution by the manufacturers as regards the complaints, two complaints were lodged with the ASASA about a possible misleading product packaging as detected by the results of this study. The first complaint concerned the visual product image on a packaging and the second was about a possible slack-fill in a cereal packaging. The former portrayed the enclosed product on the packaging in a way that could mislead the consumer as regards the composition and the quality of the product. The latter centred on a packaging slack-fill where the enclosed product is lesser than the package volume, thereby creating an illusion of more contents than is actually present. In essence, the packaging is oversized compared to the enclosed product as seen in Figure 4.5.

The complaints were supported with photographs of the packaging and its contents; two clauses from the Advertising Code of Practice were quoted in the complaints to the ASASA to make a fair and equitable judgment in its rulings. The first complaint on the visual packaging was ruled in favour of this study (see Addendum 5). The respondent’s undertaking to stop using the package was accepted. The slack-fill complaint was dismissed, as the Advertising Code of Practice did not specify precisely on slack-fill allowance; however, the ASASA encouraged the researcher and his supervisor to forward the complaint to the SABS with reference to the Trade Metrology Act. This could be recommended for further studies.

This study further searched and retrieved seven relevant consumer complaints from the ASASAs online database and looked at how the ASASA adjudicates the complaints. The inferences from the seven complaints were analysed in Chapter 4.7. Five of the complaints were upheld where one was based on a breach allegation. One was dismissed on the grounds that a reasonable consumer would not expect the image on the packaging to look precisely like the product. Then one may ask, why use an image
that does not look exactly like the product?. Such practice is an act of misleading.

The last complaint was about claims. The respondent's attention was drawn to the Code's expectation for substantiation claims and the ASASA instructed the respondent to ensure that no misleading claims are made on its product packaging.

This study found that there is not a precise description in the ASASA Code of Advertising Practice that provides guidelines concerning non-functional slack-fill or the allowable percentage. The only statutory item that deals with non-functional slack-fill is the Trade Metrology Act. Clause 6.1 and clause 6.2 of Section 6 (“Misleading practices”) of the Trade Metrology Act state that “packages shall be manufactured, constructed or displayed in such a manner that a purchaser might not reasonably be misled concerning the quantity or identity of a product contained therein” (SANS, 2016:8).

The study recommends that the ASASAs Code of Advertising Practice should include a section to provide guidance on non-functional slack-fill. The only section that one could use to address non-functional slack-fill is a section in Appendix J that states that the “...food and beverage products should accurately represent the material characteristics...” (ASASA, 2015c). A typical recommendation could be phrased as follows: Food packaging which does not allow one to observe the enclosed product should not contain slack-fill of more than 10% of the package size when opened as seen in Figure 4.3 above.

The study concludes by making two recommendations for future studies. One study can consider the effect that misleading images on packaging have on consumers in South Africa. Another study could look at the value that consumers place on product variables such as colour, texture, composition, shape, and the design of the product and how they affect their purchasing instinct at the POS.

5.2 Recommendation

Considering the results of this study, one could recommend the drafting of a Code that specifically addresses slack-fill issues to be incorporated into the Advertising Code of Practice. Such a Code could help to minimise deceptive practices whereby packaging are prominent with less product, or unnecessarily filled with air (Wilkins, Beckenuyte and Butt, 2016). As the ASASA strives to ensure that a self-regulatory system works for the general public, it's Code of Advertising Practice on misleading practices should be amended to make provision for a simplified slack-fill regulation. The Code's
ambiguity was evident in the ASASAs ruling on the slack-fill complaint submitted by this researcher and his supervisor.

The allowable percentage of functional slack-fill should be specified as not all product required space for sealing or air to protect the product as was observed during our factory visit. The current Code is vague and does not allow a complainant to raise the issue of slack-fill in packaging. One could recommend that the Code of Advertising Practice should embed the OIML and SANS Code to its self-regulatory mandate. Such an update may help to foster compliance and deal with matters mentioned in the EU Report (Lawrynowicz et al., 2012).

The Foodstuffs, Cosmetics and Disinfectants Act of 1972 (Act No. 54 of 1972) is clear on packaging and representation of products, and the Trade Metrology Act SANS289:2016 is also clear on the issue of slack-fill. The self-regulatory code administered by the ASASA should be strengthened on the non-functional slack-fill issue. Section II of the Advertising Code of Practice addresses the issue of misleading and honesty, so too does Clause 4 (titled “Honesty”) and Clause 6 (titled “Misleading”) of Appendix J of the Food and Beverage Code. These clauses are vague and have no direct effect on slack-fill; hence, this study recommends a specific code that will address slack-fill issues in packaging.

### 5.3 Suggestion for future studies

The study indicated that the images on some packages might mislead consumers (see Chapter 4.5 and Addendum 5). However, what this researcher did not determine, and what could be potential topics for future studies, are how much consumers care about the design of the product image on packaging, and how vital consumers regard the product’s colour, texture, shape, and composition on packaging.

An investigation of how the exaggeration of a product’s colour, taste, shape, and composition affect consumers may also extend the results of the current study. One could also explore other types of consumer food packaging as this study focused only on dry consumer cereal and biscuits products.

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26 Clause 2, Honesty of the General Principles states that: “Food and beverage advertising should not be so framed as to abuse the trust of consumers at whom it is directed or who are likely to be exposed to it or exploit their lack of experience or knowledge or their credulity” (ASASA, 2015f).
5.4 Conclusion

This study analysed the product image as displayed on selected packaging and compared it to the actual product in the package. It also measured the noticeable slack-fill in the sample of cereals and biscuits that were available in selected South African retail stores.

The literature review indicated that there are design irregularities in the food packaging industry. Some of these irregularities are discussed in a report by the European Union (Lawrynowicz et al., 2012) and highlight the misleading packaging practices in the EU. The rise in litigation in the United States regarding the slack-fill in packaging is another example of a design irregularity and is an indication that consumers are not satisfied with misleading packaging design (Bentele et al., 2016). The frequency and scope of these misleading practices in South Africa are scant due to limited research in this field (Venter et al., 2011).

The results of this study have indicated that some package designs may not comply with the requirements as set out in section 34 of the Foodstuffs, Cosmetics and Disinfectants Act of 1972 (Act No. 54 of 1972). Some of the products did not comply with the five variables examined, where colour of 82 percent of the 61 products is the major deviance. In respect to slack-fill, 16 out of the 37 cereal pack sampled were evidently non-functional slack-fill. Hence, these package designs may not comply with the requirements as set out in section 34 of the Foodstuffs, Cosmetics and Disinfectants Act of 1972 (Act No. 54 of 1972).

This study gave rise to two complaints being lodged with the ASASA. One complaint was about the visual image on a packaging that did not resemble the content of the package and the other a possible slack-fill occurrence in a cereal packaging. The first complaint was that the image on the packaging does not represent the enclosed product, and exaggerates the quality, colour and composition of the product (see Figure 4.4 and Addendum 5). The basis for this complaint is that the packaging contravenes the ASASAs Advertising Code of Practice, in particular clause 4.2.1 of Section II. The ASASA ruled in favour of the complaint lodged by the researcher and his supervisor. Such a ruling may suggest that several products in this study sample may potentially mislead consumers.

The second complaint was about the non-functional slack-fill in a cereal package (see Figure 4.5 and Addendum 7). The ASASA ruled in favour of the manufacturer as no ASASA code explicitly prohibits non-functional slack-fill. The two codes, cited in the second complaint, is Clause 4.2.1 of
Section II ("Misleading claims") that states. The second was (Appendix J) of the Food and Beverage Code.

This Code refers to issues of composition, characteristics, and size, but not to the issue of packaging that is not full. Hence, the ASASA dismissed the complaint but advised to raise the issue with the SABS, as this is a matter covered by the Trade Metrology Act of 2014 (Act No. 9 of 2014). This Act requires that packaging must comply with SANS289:2016. The full details of the ruling can be found in Addendum 7 below. Even though the ruling did not go in favour of this study, the results suggest that potential non-functional slack-fill may occur in some of the packaging. The results are furthermore similar to the issue of non-functional slack-fill as discussed in the EU Report.

Applying the findings of this study in packaging design process could lead to improving consumer's satisfaction and affect sales positively. Venter et al., (2011) suggest that in understanding consumers' perception of a product, packaging designers and manufacturers should conduct related research for their products.

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27 Clauses 6.1 and 6.2 of Section 6 ("Misleading practices") state that "packages shall be manufactured, constructed or displayed in such a manner that a purchaser might not reasonably be misled concerning the quantity or identity of a product contained therein". (SANS, 2016:8).
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ICC. See International Chamber of Commerce.


OIML. See International Organization of Legal Metrology.


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<td>SUPER FRUITI (TOASTED MUESLI WITH FRUIT)</td>
<td>NONE</td>
<td>19/01/2016</td>
<td>19/01/2017</td>
<td>1 kg</td>
</tr>
<tr>
<td>59</td>
<td>SPAR</td>
<td>SPAR QUINOS CRUNCHY OAT HOOPS CHOCOLATE FLAVOURED</td>
<td>3022016</td>
<td>NONE</td>
<td>03/02/2017</td>
<td>350 g</td>
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<td>60</td>
<td>SPAR</td>
<td>SPAR TOASTED MUESLI WHOLE NUT CRUNCH WITH FRUIT &amp; NUTS</td>
<td>NONE</td>
<td>28/04/2016</td>
<td>28/04/2017</td>
<td>700 g</td>
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<tr>
<td>61</td>
<td>TIGER BRANDS</td>
<td>JUNGLE ENERGY CLUSTERS</td>
<td>NONE</td>
<td>07/11/2015</td>
<td>07/07/2016</td>
<td>500 g</td>
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</table>
Faculty of the Arts Research Ethics Committee, a standing sub-committee of the TUT Research Ethics Committee.

The TUT Research Ethics Committee is a registered Institutional Review Board (IRB 00005968) with the US Office for Human Research Protections (IORG# 0004997) (Expires 9 Jan 2017). Also, it has Federal Wide Assurance for the Protection of Human Subjects for International Institutions (FWA 00011501) (Expires 22 Jan 2019). In South Africa it is registered with the National Health Research Ethics Council (REC-160509-21).

16th February, 2016

Dear Akinwale

C/O Professor R de Lange and P Sidogi

Decision: Final Approval

Title of the project: MISLEADING VISUAL PACKAGING OF FAST MOVING CONSUMER GOODS (FMCG) IN SOUTH AFRICA – A FOCUS ON SELECTED DRY CONSUMER FOODS

Thank you for submitting your research project for ethics review. Faculty of the Arts Research Committee, have reviewed the application and take note that there are no sensitive issues. However the committee recommends that you append the list of the 30 products you intend to purchase at the end of the proposal.

You are hereby granted ethical clearance to carry out your data collection.

Yours Sincerely,

Prof. Anne Mastamet Mason (PhD, UP)

Chairperson: Faculty of the Arts Research Ethics Committee
Addendum 3. The raw and mean scores for the 61 products

The results of 61 products examined by five assessors, score per product and their mean scores for 5 variables used in comparison of the product to its package image.

<table>
<thead>
<tr>
<th>PRODUCTS</th>
<th>COLOUR</th>
<th>TEXTURE</th>
<th>SHAPES</th>
<th>COMPOSITION</th>
<th>DESIGN</th>
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<td>Mean</td>
<td>Mean</td>
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<tr>
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<td>BOUDDOR FINGER BISCUIT</td>
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<td>WHITE CHOC KITS</td>
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<td>PREMIUM RUSKS DOUBLE CHOCOLATE</td>
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<td>Description</td>
<td>Calories</td>
<td>Protein</td>
<td>Fat</td>
<td>Carbohydrates</td>
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<td>GINGER COOKIES</td>
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<td>BELVITA BREAKFAST BISCUITS CHOCOLATE &amp; CEREALES</td>
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<td>O-TEES MULTIGRAIN TOASTED CEREAL O-YUM ORG FLAVOUR WHEAT FREE</td>
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<td>2.6</td>
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<td>27</td>
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<td>WEET-BIX BITZ HONEY</td>
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<td>WEET-BIX WITH MUESLI</td>
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<td>2.6</td>
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<td>Item</td>
<td>Calories</td>
<td>Carbohydrates</td>
<td>Fat</td>
<td>Fibre</td>
<td>Sugar</td>
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<tr>
<td>All Bran Flakes</td>
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<td>Grain-Free Granola</td>
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<td>Muesli Big Crunch</td>
<td>43</td>
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<tr>
<td>Muesli Fruit &amp; Nuts</td>
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<td>Muesli Multigrain</td>
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<tr>
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<td>Muesli Swiss Style</td>
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<td>Crunchy Granola Bars Oats &amp; Chocolate</td>
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<td>3</td>
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<tr>
<td>Bar-One Chocolate &amp; Caramel Flavoured Cereal</td>
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<td>Berry Cereal Bars</td>
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<td>3</td>
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<td>Strawberry &amp; Yoghurt Clusters</td>
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<td>Cereal Bars (Apple &amp; Cranberry Flavour)</td>
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<td>Cereal Bars Chocolate Brownie</td>
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Calories: 2 - 4; Carbohydrates: 1 - 4; Fat: 1 - 4; Fibre: 1 - 4; Sugar: 1 - 4
|   | Product Description                             | 1  | 2  | 3  | 4  | 5  | 6  | 7  | 8  | 9  | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 |
|---|-----------------------------------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| 57| Cereal Bars Strawberry & Yoghurt Flavour      | 4  | 4  | 2  | 2  | 3,2| 4  | 4  | 4  | 2  | 5  | 1  | 3,2| 4  | 4  | 4  | 2  | 4  | 3,6| 4  | 4  | 4  | 5  | 1  | 3,6| 3  |
| 58| Super Fruti (Toasted Muesli with Fruit)       | 2  | 4  | 2  | 4  | 4  | 3,2| 2  | 4  | 4  | 1  | 5  | 1  | 2,6| 2  | 4  | 1  | 5  | 1  | 2,6| 1  | 4  | 1  | 5  | 1  | 2,4| 2  |
| 59| Spar Squillos Crunchy Oat Hoops Chocolate Flavoured | 1  | 4  | 2  | 2  | 1  | 2,0| 4  | 4  | 4  | 5  | 2  | 3,8| 4  | 4  | 4  | 5  | 2  | 3,8| 5  | 4  | 5  | 5  | 3  | 4,4| 5  |
| 60| Spar Toasted Muesli Whole Nut Crunch with Fruit & Nuts | 1  | 4  | 1  | 1  | 1  | 1,6| 2  | 4  | 1  | 4  | 1  | 2,4| 2  | 4  | 1  | 4  | 1  | 2,4| 1  | 4  | 1  | 4  | 1  | 2,2| 1  |
| 61| Jungle Energy Clusters                       | 2  | 4  | 2  | 4  | 1  | 2,6| 2  | 4  | 2  | 5  | 1  | 2,8| 3  | 4  | 2  | 3  | 1  | 2,6| 4  | 4  | 1  | 2  | 1  | 2,4| 4  |
Addendum 4. Correspondence with Tiger Brands

My email correspondence with Tiger Brands

Dear Sir/Madam,

I would like to lodge a complaint about your product “Simply Cereal Super Fruit!” Please see attached document.

Thank you.

Kind Regards
Akinjide Akinwale
Dear Sir/Madam

COMPLAINT ABOUT MISLEADING PRODUCT IMAGE ON SIMPLY CEREAL SUPER FRUITY PACKAGING

I am writing today to complain about the product image on the Simply Cereal Super Fruity packaging. The image on the front of the pack portrays carefully selected and polished dried fruits, and oats arranged on a spoon. This image is misleading as it is an exaggerated representation of the real product.

I compared the image on package against the actual product. The actual product does not match the content as portrayed on the spoon. The image of the product on the spoon portrays an embellished and gross exaggerated claim about the quality, colour and composition of the actual cereal and dried fruits of the product.

The image on the package will mislead consumers to believe that the enclosed product has the actual composition and quality of the dried fruits and cereals. The ration of dried fruit on the spoon is more than in the product.

See the comparison below:

Could you kindly respond to my complaint?

Thank you for your anticipated response.

Sincerely

Akinjide Akinwale
Dear Mr. Akinwale;

We are in receipt of your e-mail and we are glad that you took the time to contact us. We have circulated your feedback to all personnel concerned including our packaging and marketing division hence wish to apologise concerning your experience with our Simply Cereal product.

Please be assured that we value your ongoing support and welcome your feedback at all times. The product range you contacted us about is a recent acquisition into our range of Tiger Brands products hence we are currently actively taking measures to revise and update the packaging across the range of goods.

We are certain that you will find our new packaging once introduced into trade acceptable since we take extensive measures to ensure our labelling complies with regulatory framework and consumer expectation.

We will be more than pleased to send you vouchers as a gesture of goodwill for the purchase which are redeemable at most major outlets such as Pick ’n Pay, Checkers & Shoprite stores; should you consent to this hence we thank you in advance for your postal address.

Kind Regards
Desmond Govender
Dear Mr Govender,

Thank you for response to my complaint and offering me a voucher. I would like to know when the revised and updated package will be in stores.

Kind Regards
Akinjide Akinwale

Dear Mr. Akinwale;

We are in receipt of your e-mail and assure you that we are glad to be of service.

Please receive confirmation that we will proceed with postage upon receipt of your preferred postal address.

We can confirm that our packaging revision takes place progressively as old packaging is depleted and introduction of the new packaging filters into trade.

Kind Regards
Desmond Govender
Addendum 5. ASASAs ruling on Tiger Brands

ASASAs ruling on Tiger Consumer Brands Limited (Simply Cereal Super Fruiti)

In the matter between:

MR AKINJIDE AKINWALE
DR RUDI DE LANGE

and

TIGER CONSUMER BRANDS LIMITED

31 May 2017

TIGER BRANDS / SIMPLY CEREAL SUPER FRUITI / A KINWALE / 2017-5627F

Mr Akinwale and Dr de Lange lodged a consumer complaint against the packaging of the Simply Cereal Super Fruiti muesli product produced by Tiger Brands.

The packaging consists of a box, with a blue background and images of the muesli product on a spoon and at the bottom of the packaging. The packaging also contains images of an apple, banana slices, grapes, nuts and apricots. On top of the front panel, the packaging has a claim which states, *inter alia*, "toasted muesli with fruit pieces".

COMPLAINT

In essence, the complainants submitted that the visual representation of the cereal is misleading as it portrays the proportion of the fruit pieces on the packaging significantly more than the actual fruit pieces found in the product. The misleading communication is further emphasised by claiming "with fruit pieces" and the product name "SUPER FRUITI". The complainants argued that the packaging is likely to mislead consumers into believing that colour, quality and the proportion of the fruit pieces as depicted on the packaging will be same in the actual product, which is in contravention of Clause 4.2.1 of Section and Clause 6.1 of Appendix J.

Chairperson of FAC: Judge Bernadt Njeepe
Acting CEO: G Schimmel
Directors M Gendel G Gardner N Bulluba (observer) A Allison C Bosak I Louw D Dickens A Pimentel S Vos D Madichy P Pilkay
RELEVANT CLAUSE OF THE CODE OF ADVERTISING PRACTICE

The complainants identified the following provisions of the Code as relevant:

- Section II, Clause 4.2.1 – Misleading claims
- Appendix J, Clause 6 – Misleading

RESPONSE

The respondent denied the allegation that its packaging is likely to mislead consumers. However, it also submitted that it had been working on updating the packing; and due to changes in its portfolio strategy, it is discontinuing the product in the current packaging. Furthermore, it indicated that based on the stock at hand, it is most likely that the product will be depleted in the market by end of July 2017.

ASA DIRECTORATE RULING

The ASA Directorate considered all the relevant documentation submitted by the respective parties.

The ASA has a long-standing principle which holds that where an advertiser provides an unequivocal undertaking to withdraw or amend its advertising in a manner that addresses the concerns raised, the undertaking may, at the discretion of the ASA, be accepted without considering the merits of the matter.

The respondent has voluntarily decided to discontinue selling the product in the same packaging. The Directorate is satisfied that this undertaking addresses the concerns raised by the complainants.

The undertaking is therefore accepted on condition that the packaging of the Simply Cereal Super Fruiti muesli in its original format is not used again in future.

Given the above:

- The respondent’s current packaging must be withdrawn;
  
  Chairperson of EAC: Judge Bernard Ncube
  Acting CEO: G Schimmel
  Directors M Gendel G Garden N Bulbulia (observer) A Allison C Boash L Louw D Dickens A Pimentel S Vos D Petlachy P Pilay
• The process to withdraw the packaging must be actioned with immediate effect on receipt of this ruling;

• The withdrawal of the packaging must be completed within the deadlines stipulated by Clause 15.3 of the Procedural Guide;

• The packaging may not be used again in future.

The respondent’s attention is drawn to Clause 15.5 of the Procedural Guide.

[Signature]

ON BEHALF OF THE ASA DIRECTORATE
Addendum 6. Correspondence with Kellogg

My email correspondence with Kellogg Company of South Africa

Dear Sir/Madam,

I would like to lodge a complaint about your product “Kellogg’s Frosties”
Please see attached document.

Thank you.

Kind Regards
Akinjide Akinwale
Kellogg’s Consumer Affairs
Kellogg’s Consumer Affairs
Private Bag X16
Gallo Manor - 2052
Tel: 0860 200 601
E-mail: consumer.sa@kellogg.com

Dear Sir/Madam

COMPLAINT ABOUT THE EXCESSIVE “SLACK-FILL FILL” OF KELLOGG’S FROSTIES

I am writing to complain about the excessive slack fill of your FROSTIES.

I accept that a reasonable amount of functional slack-fill is allowed for food packaging. However, I regard the massive amount of slack-fill of your FROSTIES package as a gross misuse of slack-fill and believe that it is nonfunctional and unjustifiable for this product. Half of the package is empty.

The size of the package is an exaggerated representation of the real amount of the enclosed product, which creates an illusion of more product, and thus represents a form of consumer deception.

See the comparison of the size of the box and the actual product on the next page.

Could you kindly respond to my complaint?

Thank you for your anticipated response.

Sincerely,

Akinjide Akinwale
Dear Akinjide

Thank you for contacting Kellogg’s SA.

I would like to apologies for the unfortunate and unintended experience you have had with our product. Please be assured that the quality assurance manager has been made aware of the issue and will further investigate the matter.

Please provide me with the following information:

- The best before date
- The production date
- The production time and L code
- The name of the store you purchased from
- Your postal address
- Your contact telephone number

Warm regards and many thanks

Limpho Lenong
Consumer Affairs Representative
77 Steel Road, New Era, Springs, 1560
Tel: +2711 360 1925
Limpho.Lenong2@kellogg.com
Dear Limpho,

Thank you for the details provided.

Please be advised that I have forwarded the details to our Quality Department for further investigation. You will receive feedback within the next 10-20 working days with regards to your complaint via post.

Ref nr: 030042969A

Thank you,

Limpnho Lenong
Consumer Affairs Representative
77 Steel Road, New Era, Springs, 1560
Tel: +2711 360 1925
Limpnho.Lenong2@kellogg.com
From: Akinjide Akinwale [mailto:akinjide.akinwale@me.com]
Sent: 11 November 2016 09:05 AM
To: SA, Consumer
Subject: Re: Packaging Complaint

Dear Limpho,

I hope you are well.

It’s over 10-20 working days and no feedback yet from your Quality Department to my complaint.

Kind Regards
Akinjide Akinwale

SA, Consumer <Consumer.SA@kellogg.com>  @  RESPONCES  16 November 2016 at 12:09  CS
RE: Packaging Complaint
To: Jide Akinwale <akinjide.akinwale@me.com>

Dear Akinjide

I am sorry to hear that you have not received any correspondence from us.

According to our records, your letter with vouchers was sent to the below address on the 04th of October 2016.

I will be sending a registered letter to you to avoid it getting lost. Post office tracking number RD 704 047 413 ZA.

Unit 52 Country View Estate
344 Sonneblom Road
MIDRAND
1687

Ref nr: 030042969A

Thank you,

Limplo Lenong
Consumer Affairs Representative
77 Steel Road, New Era, Springs, 1560
Tel: +2711 360 1925
Limplo.Lenong2@kellogg.com

Kellogg’s
Dear Limpo,

I hope you are well.

Since 30th September 2016 that I lodged a complaint, no response to my complaint/enquiry about the excessive empty space in Kellogg’s Frosties packaging.

Each time I follow up on this issue, your focus is sending voucher rather than dealing with my complaint.

Kindly direct my complaint to the relevant department if you cannot help me. Thank you.

Regards
Akinwale Akinjide
Tshwane University of Technology
Department of Visual Communication (Graphic Design)
Faculty of the Arts
Cellphone: 072 8106856
E-mail: akinjide.akinwale@me.com
Addendum 7. ASASAs ruling on Kellogg’s slack-fill

ASASAs ruling on Kellogg’s "FROSTIES" frosted flakes of corn.

In the matter between:

MR AKINJIDE AKINWALE
FIRST COMPLAINANT

DR RUDI DE LANGE
SECOND COMPLAINANT

and

KELLOGG COMPANY OF SOUTH AFRICA (PTY) LTD
RESPONDENT

31 August 2017

KELLOGGS / FROSTIES / A AKINWALE & ANOTHER / 2017-6290F

Consumer complaints were lodged against the packaging of the respondent’s 400g Kellogg’s Frosties Cereal.

The packaging indicates that the contents weigh 400g, features an image of the respondent’s “Tony the Tiger” and provides some nutritional information.

COMPLAINT

The complainants took issue with the size of the box relative to the amount of cereal contained inside the cellophane bag. They argued that the size of the “slack fill” (referring to the empty volume) is excessive and non-functional, and therefore not justifiable. As a consequence, they conclude that the only reason for using such large boxes and so much slack-fill is to mislead customers into thinking that the enclosed product contains more Frosties than is the reality.

The complainants also made reference to international guidelines and regulations which prohibit excessive slack-fill. They added that in South Africa the issue was regulated by the Trade Metrology Act no. 77 of 1973, which requires packaging to comply with the South African National Standards 298 of 2013 (SANS 298). This standard permits slack-fill for the protection of the product, in instances where machine
packaging occurs or when product settling occurs during transport and handling. However, it adds that if consumers aren’t able to fully view the product in a pre-package, the container used shall be considered to be filled, making any non-functional slack-fill misleading. The complainants supported their arguments by making reference to a recent visit to a similar product manufacturer who confirmed that the amount of slack-fill seen in this product is not functional or due to any logistical or manufacturing requirements.

RELEVANT CLAUSE OF THE CODE OF ADVERTISING PRACTICE

The complainants identified the following clauses of the Code as relevant:

- Clause 4.2.1 of Section II of the Code – Misleading claims
- Clause 6.1 of Appendix J of the Code – Misleading

RESPONSE

The respondent submitted that the packaging at issue has since been replaced which suggests that the complaint is no longer relevant or valid. It also questioned the complainants’ motive, arguing that consumers do not generally visit manufacturing sites and discuss packaging fill issues with managers.

It also noted that the one complainant was a professional graphic designer and Creative Director at City Media Group, meaning that he might have a commercial interest in this issue, and may be masquerading as a consumer complainant.

In dealing with the merits, it noted firstly that Appendix J of the ASA Code is no longer in force, and that the ASA has no jurisdiction to consider or impose any existing legislation, such as the Trade Metrology legislation referred to by the complainants. In any event, the packaging at issue is similar to any other cereal packaging found on the market.

Given the above, and given previous ASA decisions noting that consumers tend to focus on the weight indicated rather than the size of the container, the packaging cannot be misleading.
ASA DIRECTORATE RULING

The ASA Directorate considered all the relevant documentation submitted by the respective parties.

There are a number of issues to clarify and address:

Status of complainants

The respondent raised concerns over the complainants' motives, arguing that the first complainant appears to have a potential commercial interest, whereas the second complainant works at the Tshwane University of Technology's (TUT) Department of Visual Communication.

The Directorate put the respondent's concerns to the complainants for comments. The complainants advised that they did not act on behalf of a competitor or any company that produces or advertises food products. They explained that the first complainant was a postgraduate student at the TUT doing research about misleading product packaging, whilst the second complainant was a full-time academic staff member and the first complainant's academic supervisor.

In Alcat Test / HA Steinman / 12001 / 12307 (11 June 2009), the Advertising Standards Committee (the ASC), dealing with an appeal of a Directorate ruling, had to consider whether the complainant in that matter, met the criteria of a "competitor complaint" in terms of the Code. The ASC ruled as follows:

"In the instant case, although it may have been suggested by the Respondent, there is no evidence before us to suggest that in lodging the complaints the Appellant was acting on behalf of any competitor to the Respondent. The fact that the Appellant may have ties with various entities in the industry does not mean that he was acting as their agent in lodging the complaints. The Appellant states that in lodging the complaints he was acting on his own behalf and in his own right as a concerned citizen. In the absence of any evidence to the contrary, we accept this submission and accordingly must decide the matter on the basis that the complaints were lodged by the Appellant in his own individual capacity".

Chairperson of FAC: Judge Bernard Ngewe
Acting CEO: G Schelmen
Directors: M Gendel A Allison C Borah L Lung D Dikana A Pimentel S Vos D Phelesha T Khumalo P Pillay
Similarly in this case, there is nothing before the Directorate to suggest that the complainants are acting for or on behalf of a competitor. The complaints appear to be genuine and appear to be directed at consumer concerns.

In the absence of any concrete evidence to show that the complainants are lodged by or on behalf of a commercial entity or individuals with a commercial interest in the matter (refer Clause 4.12 of Section I), the ASA has no reason to doubt the complainants’ bona fides, and will regard this as a consumer complaint.

Appendix J of the Code

The respondent submitted that the provisions of Appendix J of the Code (Food and beverage code) have since been recalled and were no longer in force. It did not elaborate on this, however.

It should be noted that Appendix J to the Code is still valid, has not been recalled or amended, and is therefore still regarded as part of the ASA Code.

Accordingly, this argument is not accepted, and the ASA is not precluded from considering disputes pertaining to Appendix J.

Amended packaging and merits

The respondent explained that the complaint falls outside the scope of the ASA’s jurisdiction as the packaging is more than 90 days old, and has since been replaced. It added that the ASA has no jurisdiction over issues covered by the Trade Metrology legislation. It cited the following precedents:

- **Twisp Electronic Cigarette / T Louw / 2017-5349F (28 April 2017)** in which the ASA noted that it was not able to rule on the legality (or not) of products, and that such questions fall to the appropriate authorities.

- **Unilever / ClassiClean / 1862 (11 March 2005)** in which the Directorate ruled that “The nature of the product is such that the consumer will check the weight of the product in making a size/price comparison with another product, as well as checking the amount of product needed per wash. Given this, and as the
respondent’s packaging contains the stated quantity of the product, the Directorate is of the view that the packaging is not misleading.

- **Bioslim Soup / Ms V Palmer / 1561 (19 October 2004)** in which the Directorate noted an opinion from the SABS that companies were free to use any container they wish and that the question to be answered is whether the packaging was misleading.

Clause 3.3 of the Procedural Guide states that “The advertising complained against must be current and / or have been published within the last 90 days of lodging the complaint”.

The respondent pointed out the batch complained against expired in February 2017 (as confirmed by the first complainant prior to lodging the complaint), and that the packaging at issue was replaced with new packaging in October 2016. In addition, it submitted an image of the new packaging along with its cellophane-packed contents. This poses a number of problems for the ASA:

1) The dispute in this instance is not about the imagery used on the packaging as much as it is about the actual size dimensions of the packaging. Neither party provided any clarity as to the actual dimension of the box relative to its contents. As such the ASA is not in a position to determine whether the respondent’s new packaging is substantively different in size to the old packaging.

In addition, if there is a possibility that the two boxes are substantively similar in size, the fact that the respondent now uses new packaging becomes immaterial, because the material change would be in the imagery and text, not in size, meaning that the question around the provisions of Clause 3.3 of the Procedural Guide become moot.

2) As is the case with most dry cereal products, the amount of settling of the product is rather subjective, as the contents could easily be shaken or propped to appear more or less full inside the cellophane. The Directorate is therefore not in a position to base any conclusions on the images provided.

3) As was highlighted by the respondent, the Directorate is not in a position to determine whether or not the packaging falls foul of the provisions of the Trade Metrology Act.

Chairperson of FAC: Judge Bernard Ngepe
Acting CEO: G Schimmel
Directors: M Gendel A Allison D Borein L Louw D Dickens A Pimentel S Yos D Padiachy T Khumalo P Pillay

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Clause 6 of Appendix J reads as follows:

"Presentations in advertising for food and beverage products should accurately represent the material characteristics of the product featured, in particular, but not exclusively, with regard to taste, size, nutritional content, health benefits, nature, composition, method and date of manufacture, range of use, efficiency and performance, quantity, commercial or geographical origin or environmental impact."

Both the respondent’s previous and current boxes contain an image of its Frosties in a bowl with milk. From the images provided by both parties, the actual shape, size and appearance of these Frosties appear similar to the imagery used on the packaging.

In addition, both its old and new packaging clearly indicates the weight as “400g” on the front panel in clear, bold lettering.

In the absence of any suggestion that the package contents do not match was its claimed on the box, and in the absence of any suggestion that the actual product is not similar in shape and appearance to what is shown on the box, the Directorate is not convinced that the respondent’s packaging is misleading for the reasons advanced in the complaint.

As such, the respondent is not found to have contravened Clause 4.2.1 of Section II or Clause 6 of Appendix J.

The complaints are dismissed, and the complainants are encouraged to raise this issue with the SABS with reference to the Trade Metrology Act.

[Signature]

ON BEHALF OF THE ASA DIRECTORATE

Chairperson of FAC: Judge Bernard Ngospe
Acting CEO: G Schimmel
Directors M Gendel A Allison C Boshin I Louw D Dickens A Pienaar S Vos J Radocy T Khumalo P Pillay
Addendum 8. Correspondence with Gullón

My email correspondence with Gullón

Dear Sir/Madam,

I would like to lodge a complaint about your product “Vitalday yoghurt flavored cream sandwich with oat & red fruits” packaging.

Please see attached document.

Thank you.

Regards

Akinjide Akinwale
Galletas Gullón
Ctra. A Burgos, Km. 1,5
34800 - Aguilar de Campo – Palencia
Spain
Tel: 979 12 21 00
E-mail: informate@gullon.es

Dear Sir/Madam

COMPLAINT ABOUT MISLEADING PRODUCT IMAGE ON VITALDAY YOGHURT FLAVOURED CREAM SANDWICH WITH OAT & RED FRUITS

I am writing today to complain about the product image on the Vitalday yoghurt flavored cream sandwich with oat & red fruits packaging. The image on the front of the pack portrays a dark brownish biscuit filled with yogurt flavored cream. This image is misleading, as it is an exaggerated representation of the real enclosed product.

I compared the image on the package against the actual product. The actual product does not match the content as portrayed on the package. The image of the product on the package portrays an embellished and gross exaggerated claim about the quality, colour and composition of the actual biscuit.

The image on the package will mislead consumers to believe that the enclosed product has the actual color, composition and quality of the biscuit. The ratio of yogurt flavored cream sandwich with oat and red fruits on the image package is more than in the enclosed product.

See the comparison below:

Could you kindly respond to my complaint?

Thank you for your anticipated response.

Sincerely

Akinjide Akinwale
Good afternoon,

First of all, we want to thank you for contacting us because this information is very useful to improve our daily work. In Gullón Biscuits consider that the opinion of our customers is a key part of our success, for this reason we try to give each the attention it deserves.

According to your inquiry, we confirm you that your criticism has been transmitted to Marketing Department so that this incident does not happen in the future again.

Thank you very much for your interest and confidence shown in Gullón Biscuits.

If you have any other question, please don’t hesitate to contact again with us.

Best wishes

Dpto. Calidad- M. Ambiente
Galletas Gullón S.A.
Addendum 9. Correspondence with Bakers

My email correspondence with Bakers

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Jide Akinwale
Packaging complaint
To: talk2us@bakers.co.za

Dear Sir/Madam,

I would like to lodge a complaint about your product “Boudoir finger biscuits” packaging.

Please see attached document.

Thank you.

Kind Regards
Akinjide Akinwale
Bakers Biscuits
Private Bag 116,
Rivonia Road, 2128
Tel: 0860 100 138
E-mail: talk2us@bakers.co.za

Dear Sir/Madam

COMPLAINT ABOUT MISLEADING PRODUCT IMAGE ON BAKERS BOUDOIR FINGER BISCUITS

I am writing today to complain about the product image on the Boudoir finger biscuits packaging. The image on the front of the pack portrays lots of icing sugar on top of smooth dark brown biscuit. This image is misleading, as it is an exaggerated representation of the real encased biscuit.

I compared the image on the package against the actual product. The actual product does not match the content as portrayed on the package. The image of the product on the package portrays an embellished and gross exaggerated claim about the quality, colour and composition of the actual biscuit.

This will mislead consumers to believe that the image product on the packaging is same as the biscuit enclosed. The quality of the biscuit and the icing sugar on the image package is far better than the enclosed biscuit.

See the comparison below:

Could you kindly respond to my complaint?

Thank you for your anticipated response.

Sincerely
Akinjide Akinwale
The product package image and the actual content image
Good day Akinjide,

Thank you for taking the time and trouble to email us with regard to your unsatisfactory experience with one of our Bakers Boudoir biscuits.

Please accept our sincere apologies for your experience not meeting with the expectation you have come to expect from a Bakers product. We are firmly committed to ensuring excellent customer satisfaction and are able to do this with the valuable feedback we receive from our consumers.

To that end, May we ask you to please forward the below mentioned details so that we can forward your complaint on to our factory for an internal investigation.

1. Your title
2. Your postal address
3. Estimated date of purchase
4. Store and Store location of purchase
5. Best Before and Manufacturing dates printed on the packaging (If still available)

We believe that nothing is more important than customers satisfaction and your input will assist us to achieve the high standards to which we aspire.

We would also like to send you a voucher via SMS to compensate you for the experience. Please confirm which number you would like us to send this voucher to and if you would like to redeem it at a Pick n’ Pay or a Shoprite/Checkers store.

Should you have any other concerns, please do not hesitate to let us know.

Kind Regards,

Nicole Whittington
Snackworks Consumer Care
Email: nicole@consumercontactcentre.co.za
Tel.: 0860 100 138
Office Hours: 8.00am - 4.30pm, Monday - Friday (excl. Public Holidays)

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http://www.avi.co.za/aviemaildisclaimer.html
Good day Nicole,

Thank you for your response, please find below as requested.

Kind regards,
Akinjide Akinwale

On 10 Oct 2016, at 4:02 PM, Nicole Whittington <nicole@consumercontactcentre.co.za> wrote:

Good day Akinjide,

Thank you for taking the time and trouble to email us with regard to your unsatisfactory experience with one of our Bakers Boudoir biscuits.

Please accept our sincere apologies for your experience not meeting with the expectation you have come to expect from a Bakers product. We are firmly committed to ensuring excellent customer satisfaction and are able to do this with the valuable feedback we receive from our customers.

To that end, may we ask you to please forward the below mentioned details so that we can forward your complaint on to our factory for an internal investigation.

1. Your title: MR
2. Your postal address: 52COUNTRY VIEW ESTATE, 344 SONNEBLOM ROAD, MIDRAND 1687
3. Estimated date of purchase: 4 APRIL 2016
4. Store and store location of purchase: CHECKERS KOSMOSDAL Rietspur Rd. Centurion
5. Best before and manufacturing dates printed on the packaging (if still available): BATCH NO: L1801283 | MAN DATE: NONE | EXP. DATE 18/10/2016

We believe that nothing is more important than customers satisfaction and your input will assist us to achieve the high standards to which we aspire.

We would also like to send you a voucher via SMS to compensate you for the experience. Please confirm which number you would like us to send this voucher to and if you would like to redeem it at a Pick n’ Pay or a Shoprite/Checkers store.

Should you have any other concerns, please do not hesitate to let us know.

Kind regards,
Nicole Whittington

Snackworks Consumer Care
Email: Nicole@consumercontactcentre.co.za
Tel.: 01160 100 138
Office hours: 8.00am - 4.30pm, Monday - Friday (excl. Public Holidays)

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http://www.avr.co.za/avrmalclaimer.html

<image001.png>
Good day Mr Akinwale,

Thank you for following up with us.

The information was received and escalated to our Factory on the 10/10/2016.
We arranged to send you a voucher via SMS, however, I see that this was not redeemed. Would you like us to resend this to you?

Kind Regards,

Nicole Whittington

Snackworks Consumer Care
Email: nicole@consumercontactcentre.co.za
Tel.: 0800 100 138
Office Hours: 9:00am - 4:30pm, Monday - Friday [excl. Public Holidays]

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http://www.avi.co.za/avimaladdressclaimer.html

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Morning Nicole,

Thank you for your response and the voucher you offered. However, my complaint has not been addressed by your factory since it was escalated since 10/10/2016, Hence I did not redeem the voucher sent to me.

Kindly note that the complaint is more important than the voucher offered. Thank you.

Kind Regards

Akinjide Akinwale Creative Director
City Medical Group
M: 072 810 6856 | T: 012 749 1300
www.jideakinwale.co.za
Good day Mr Akinwale and thank you for your response.

With reference to the problems you experienced with our Bakers Boudoir biscuits, please be advised that this product is produced in Portugal, and all of the information provided was escalated for an internal investigation in order that they can improve on the quality.

We do hope that you redeem the electronic voucher we sent on the 11/10/2016. Please do not hesitate to let us know if you feel that there is no improvement to the biscuits and we will gladly arrange to come and collect them from you for testing.

We believe that nothing is more important than Consumer satisfaction and your input will assist us to achieve the high standards to which we aspire.

Kind Regards,
Nicole Whittington
Snackworks Consumer Care
Email: nicole@consumercontactcentre.co.za
Tel.: 0860 100 138
Office Hours: 8.00am – 4.30pm, Monday – Friday (excl. Public Holidays)

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