

# Grey goods shake, rattle, roll competitors

Shoprite/Checkers is importing EU products and selling them in local stores, often at cut-throat prices

**S**HARP-eyed shoppers may have noticed some unfamiliar brands, or different variants of well-known brands, on the shelves in Shoprite/Checkers stores lately. Products such as Cadbury's Dairy Milk biscuits, Nestlé Yorkie and Toffee Crisp bars, Kit Kat Senses, Sunsilk shampoo's henna variant, Fairy Dishwashing Liquid, Nestlé Shreddies and Weetabix Oatbix Bites perch next to their local counterparts.

If shoppers looked closely at the packaging of these products they'd discover European terminology and contact details, but no mention of a South African address or phone number at all.

That's because they were not intended for sale in this country, and were not supplied to the supermarket group by the South African subsidiaries of the global manufacturers.

Shoprite made its own arrangements to import the EU products and sell them in its South African stores, to provide consumers with what the company terms "wider choices with a range of lower-priced alternatives" and to build competition in "certain categories where large suppliers may dominate the market".

The term for such goods is "parallel imports" or "grey goods".

They are perfectly legitimate, genuine items – they just weren't intended to be sold where they are, in fact, being sold. A typical example would be a Nokia cellphone for sale on a South African website. It's the genuine article, but not distributed for sale in South Africa by Nokia SA, because it wasn't intended for this market, so Nokia SA wouldn't give the owner the benefit of Nokia's two-year warranty.

The Shoprite group maintains all the imports in question are well-known brands sold in the EU and consequently they conform to the standards of the EU countries.

"More competition within a category drives prices down and provides a wider choice in terms of product and price," the group says. "Yet, in the end, the consumer maintains the right to choose which product he/she wants to buy."

But the question is: are consumers being given the information they need to make an informed choice? To avoid consumers being prejudiced by unwittingly buying "grey goods" that enjoy no after-sales service in South Africa, the Consumer Protection Act requires the suppliers of grey goods to disclose this to consumers and to make it clear that the products may not be backed up by the authorised local distributors, as the goods were not



**BY WENDY KNOWLER**  
consumer@knowler.co.za

imported or distributed by them, and they are thus not responsible for them.

South African operations of these global companies have discovered the foreign variants of their brands sharing Shoprite shelf space with their own products. Others have seen the appearance of brand categories that they have chosen not to market in South Africa.

All told Consumer Watch that while Shoprite was at liberty to source and import these European market products via other channels, they – South African divisions of the global companies concerned – were not legally liable for them in the event of a problem.

So I asked the Shoprite group why it wasn't disclosing, via labelling, that the goods were privately imported by Shoprite, and as such Shoprite should be contacted in the event of any queries.

I also asked whether the group intended to put its contact details on the packaging, as will be required in terms of the new food labelling regulations, which become effective in March.

With regard to the issue of disclosing grey goods, the group said that in its view, "this is not the kind of scenario that the legislator wanted to sanction, but rather instances such as a consumer purchasing a television set from a retailer, and when said product fails, the consumer being informed that the product will have to be shipped back to China for four months for repairs.

"A strict and narrow interpretation of this provision could lead to fairly illogical results."

In any event, Shoprite said, "the Shoprite Group provides redress on any product it sells to customers, should this be requested, as per normal procedure."

As for the new labelling regulations, Shoprite said it was in the process of having all product labels adapted to comply with Regulations Pertaining to the Labelling of Foodstuffs by March 2012.

"Contact numbers will have to be displayed on foreign market prod-



**ON THE SHELF:** These are some of the grey groceries on sale at Shoprite/Checkers outlets around the country.

## And here's what local companies had to say...

### **Kraft Foods South Africa (Cadbury)**

"Kraft Foods South Africa is aware that various retailers are bringing a variety of our brands into the country, but cannot control what these retailers import and are not legally responsible for brands in South Africa that are not imported or produced by us.

"However, we do receive questions from consumers via our local consumer helpline, mostly related to limited availability. We direct all consumer queries to the retailers that have imported the products, and Kraft Foods South Africa has verbally highlighted the potential consumer confusion to our retail partners."

### **Unilever SA**

(Shoprite is importing a European market variant of Sunsilk shampoo and selling it at a far cheaper price than the Sunsilk sourced by Unilever SA. It has also imported other Unilever products from the EU.) "It has come to our attention that some of our retailers are stocking

Unilever-branded products which have been imported from outside the country. Unilever has not authorised the import of these products, but we have no legal right of recourse to stem the tide of these grey imports and are thus dependent on retailers to comply with the Consumer Protection Act as a method of governance in this regard. "We cannot comment on price differences, as this is confidential to the respective retailers and their offshore sources, and we are thus not privy to this information.

"We have not received any queries or complaints from our consumers regarding these products. However, should we receive any complaints, we will endeavour to assist the consumer and protect the Unilever brand."

### **Nestlé South Africa**

"Nestlé South Africa is aware of the importing of Nestlé products from other Nestlé markets by local retailers. We will assist consumers with regard to product information. Our consumer services division has

been provided with the relevant product knowledge to assist them when responding to queries about these imported products. We have so far received only one complaint – about the Nestlé Toffee Crisp Bar." Asked if Nestlé South Africa was happy to see these imported Nestlé products on shelf, alongside local Nestlé products, the company said: "Product variety increases choice for local consumers' convenience and pleasure."

Responding to my observation that many of the imported Nestlé chocolate bars were very close to their best-by dates, and in the case of one batch of Nestlé Shreddies, were past their best-by date, Nestlé South Africa said: "Although the merchandising of these imported products is the responsibility of the retailer, we will assist in the monitoring of quality standards on shelf."

### **Proctor & Gamble**

Commenting on Shoprite's decision to import P&G's Fairy Dishwashing Liquid, so far on sale only in KZN

branches of Shoprite Checkers, P&G South Africa said: "We were not made aware by Shoprite that they intended to bring this brand into the South African market and have not assisted them in doing so. "We can not prohibit them from doing so, but the necessary support infrastructure would not be in place from our side to deal with consumer questions or complaints. And by law we cannot be held liable for any issues related to these brands. So these calls would be redirected to the retailers

### **Pioneer Foods**

Boxes of Weetabix Oatbix Bites sit alongside Bokomo Weet-Bix products on Shoprite/Checkers shelves. "Shoprite imported the product without the knowledge or co-operation of Pioneer Foods. Weetabix is not allowed on South African shelves due to the obvious trademark infringement with Weet-Bix and we have started with the process to address this issue."

ucts for them to be allowed into the country."

The group said the local counterparts of the manufacturers, such as Nestlé and Cadbury, were "fully aware" of the imports and, "in fact, receive sales data from the group to indicate market acceptance of vari-

ants not available locally".

But a box of Nestlé Shreddies I found in a branch of Checkers Hyper last week was particularly problematic, as it was more than a week past its best-by date.

A batch of the Coco variant, which was within its best-by date,

featured a competition lure on the front of the pack, but clearly nobody buying the pack in South Africa would be eligible to enter.

Responding, Shoprite said the "expired" Shreddies were "an operational oversight" and that the stock had since been removed.

As for the competition, the group said this was not misleading, in its view, as the promotion "clearly and conspicuously directs the consumer to the UK website, which would alert the consumer to the fact that it is a UK-based competition and not a South African initiative".