



CASE REPORT

1. Complaint reference number	298/05
2. Advertiser	Bayer Australia (Berocca - platform)
3. Product	Health products
4. Type of advertisement	TV
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Tuesday, 11 October 2005
7. DETERMINATION	Upheld – discontinued or modified

DESCRIPTION OF THE ADVERTISEMENT

The opening scenes in this television advertisement depict a young man running across a footbridge over a railway station. He looks over his shoulder to see a freight train approaching the station. The man runs down a flight of stairs that connects to the platform. The train and the man reach the platform at the same time. The man sprints along the platform next to the train in an effort to beat it to the end of the platform. The man hurdles over obstacles in his way. A voiceover states: *“Taking Berocca Performance everyday is clinically proven to help reduce tiredness and stress and improve concentration. With Berocca Performance, you really can get more out of every day.”*

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

“... This ad, while not as unsafe as the earlier, however, is unsafe. The Railways spend a lot of time trying to make the railways safe. Berocca should be fined for abusing the privilege of showing ads and disregarding the safety warning of the earlier ad...”

THE ADVERTISER’S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

“... There is no suggestion that the jogger runs onto the train tracks and at no point does he even consider joining the path of the train – his movements are confined to running down stairs and along an empty platform.”

“... The complainant describes our TVC as showing a man “out running a train” and a man who “picks a fight with a train”. This is not a correct description of events in our TVC and unfairly raises safety issues.”

“In addition, the complainant refers to our previous Berocca TVC which Bayer Australia Limited withdrew following the 9 August 2005 determination of the ASB panel... Bayer Australia Limited wish to highlight that we have specifically excluded this type of activity from our current TVC.”

“... we do not consider this advertisement breaches community standards on health and safety, for the reasons outlined below.”

“The leading man does not engage in an activity that puts himself or others at risk of injury. The scenario of a jogger ‘pacing’ himself next to a train on an empty platform is well within acceptable public boundaries.”

“With regard to section 2.4, the target audience we are advertising to is adult men 24-49 years.

The TVC content features an adult male and does not feature children. The type of programmes that the advertising will be flighted during does not include any children's programming...

THE DETERMINATION

The Advertising Standards Board ("Board") considered whether this advertisement breaches section 2 of the Advertiser Code of Ethics (the "Code").

The Board noted that the advertisement had a similar theme to its last advertisement that depicted a man running on the railway tracks in front of a train. The Board took into account that the advertiser had specifically avoided using images that showed the man running in front of the train and onto the tracks. However, the Board was of the view that the scenes in the advertisement breached the provisions of the Code relating to health and safety.

The Board considered that the man was not simply "jogging", "pacing" himself against the train, but rather sprinting along a platform, needing to hurdle objects in his path. The Board was of the opinion that sprinting along a platform and hurdling large objects even if to 'pace' against a speeding train is a clear health and safety issue – and is an activity contrary to the prevailing community standards on health safety.

The Board considered that the advertisement breached the provisions of the Code relating to health and safety. Accordingly, the Board upheld this complaint.

ADVERTISER'S RESPONSE TO DETERMINATION

"We recognise the common interests of the Board and ourselves in promoting consumer confidence in and respect for general standards of advertising. Accordingly, please treat this as confirmation that Bayer Australia Ltd has withdrawn this advertisement from all media representation, effective immediately".