



## Case Report

1	Case Number	0058/16
2	Advertiser	Pharmacare Laboratories
3	Product	Slimming
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	09/03/2016
6	DETERMINATION	Dismissed

### ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

### DESCRIPTION OF THE ADVERTISEMENT

This 15 second television advertisement promotes the new slimright skinny range of products for weight maintenance. There are depictions of different women wearing summer clothing (shorts and singlets, dresses) dancing and/or drinking juices, as well as product images.

### THE COMPLAINT

A sample of comments which the complainant/s made regarding this advertisement included the following:

*It's promoting unhealthy body perceptions and generally unhealthy attitudes towards weight management by implying that women should aspire to be skinny - defined by Macquarie as 'lean; emaciated'. The women in the ad, some of whom are depicted 'enjoying' Skinny drinks, are already very slim/skinny and clearly have no need to lose weight, but the ad implies that they do. The use of the word 'Skinny' over and over again in the song and voice over further emphasises the idea that women should aspire to be skinny. The use of male voices in the song and the choice of words 'I love em, I love em, I love em... skinny' could also be construed as implying that men love their women skinny. When I first saw this ad it was much earlier in the evening and I was watching television with my 10-year-old daughter - I was particularly concerned about how it will potentially contribute to negative body image issues among young women and girls. In summary, I find it incredibly offensive and irresponsible of Nature's Way to suggest that being skinny, in other words underweight, is desirably and something that all women should aspire to. I'm not totally familiar with weight management codes of conduct but it also seems that this ad is suggesting that people buying the products*

*will become skinny by using them, which seems incredibly misleading. And there's no mention of how they should be used in conjunction with a healthy diet and exercise plan, or anything along those lines, which also seems irresponsible.*

## **THE ADVERTISER'S RESPONSE**

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

*PharmaCare Laboratories hereby wish to respond to complaint 0058/16 in regard to the above comment, in particular in relation to our compliance with the voluntary & self-regulatory AANA Code of Ethics, in particular Section 2, Part 2.6 (issue raised) in relation to prevailing Community Standards on health and safety and also in view of the Food and Beverage Advertising and Marketing Communications Code (also self-regulatory).*

*We are of the strong view that the models we portray are of a healthy weight including body mass index (20-24.9 kg/m<sup>2</sup>) and the term 'Skinny' is merely a brand name based on the fact that the individual product formulas for the individual goods are comprised of 'skinny' ingredients, such as probiotics, garcinia & Medium chain triglycerides, which help to support gut metabolism and fat burning. The Skinny Gut Weight Loss shake is also a formulated meal replacement which contributes to weight loss as part of a diet and exercise program. Most, if not all of the food products on their label, stipulate its consumption in conjunction with a healthy diet and exercise program.*

*We are both highly concerned and shocked that a consumer would think that we would be promoting the excessively, thin, or any unhealthy body perceptions, or that we are being misleading in anyway, since we have taken the effort to select models that reflect the maintenance of healthy weight within Australian government parameters of body mass index (20-24.9kg/m<sup>2</sup>). In addition we have specifically formulated the food goods with metabolizing and fat burning ingredients, to assist as special purpose foods within the FSANZ code, in the context of a healthy diet and exercise regimen, as per the label.*

*We strongly refute all aspects of the above complaint including alleged breaches of self-regulatory Codes stated.*

*Addressing of AANA Code of Ethics Section 2:*

- 2.1 Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.*

*PharmaCare Response: We are of the strong view that this aspect of the Code of Ethics is not relevant to the advertisement, and therefore we are not in breach of the Code.*

- 2.2 Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.*

*PharmaCare Response: We are of the view that the advertisement is not sexually exploitative in any manner, and we are thus not in breach of this aspect of the Code.*

- *2.3 Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised.*

*PharmaCare Response: We are of the strong view that this aspect of the Code of Ethics is not relevant to the advertisement, and therefore we are not in breach of the Code.*

- *2.4 Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.*

*PharmaCare Response: Although the ad does show exposure of the stomach area, we are not of the view that such depiction is insensitive to gender or depicting nudity of a sexual nature, and merely showing a fit and healthy stomach area reflective of a healthy active female person. Thus we are not in breach of this aspect of the Code.*

- *2.5 Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.*

*PharmaCare Response: We are of the strong view that this aspect of the Code of Ethics is not relevant to the advertisement, and therefore we are not in breach of the Code.*

- *2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety:*

*PharmaCare Response: Regarding, –*

- *Dangerous behaviour: We are of the strong view that this aspect of Part 2.6 of the Code of Ethics is not relevant to the advertisement, and therefore we are not in breach of the Code.*

- *Extreme or illegal unsafe behaviour: We are of the strong view that this aspect of Part 2.6 of the Code of Ethics is not relevant to the advertisement, and therefore we are not in breach of the Code.*

- *Unsafe driving/transport issues: We are of the strong view that this aspect of Part 2.6 of the Code of Ethics is not relevant to the advertisement, and therefore we are not in breach of the Code.*

- *Distress or psychological impacts: We are of the strong view that this aspect of Part 2.6 of the Code of Ethics is not relevant to the advertisement, and therefore we are not in breach of the Code.*

- *Body image/self-esteem: We are of the strong view that the bodies depicted in the advertisement are healthy, fit and lean, and show a low proportion of fat tissue in the stomach area, indicating thus healthy parameters of waist measurement, weight and body mass index (as above) to reflect the desirable and healthy range of fitness as prescribed by the Australian government & Dietary guidelines, in regard to the prevention of disease associated with obesity, which would help reduce the Australian government's Dept of Health's financial loss in doing this.*

*The term 'Skinny' is merely a brand name based on the fact that the individual product formulas for the individual goods are comprised of 'skinny' ingredients, such as probiotics, garcinia & Medium chain triglycerides, which help to support gut metabolism and fat burning. The Skinny Gut Weight Loss shake is also a formulated meal replacement which contributes to weight loss as part of a diet and exercise program. Most, if not all of the food products on their label, stipulate its consumption in conjunction with a healthy diet and exercise program.*

- Emotional exploitation: We are of the strong view that this aspect of Part 2.6 of the Code of Ethics is not relevant to the advertisement, and therefore we are not in breach of the Code.*
- Depiction of suicide: We are of the strong view that this aspect of Part 2.6 of the Code of Ethics is not relevant to the advertisement, and therefore we are not in breach of the Code.*
- Public health issues: Again, we are of the strong view that the bodies depicted in the advertisement are healthy, fit and lean, and show a low proportion of fat tissue in the stomach area, indicating thus healthy parameters of waist measurement, weight and body mass index (20-24.9 kg/m<sup>2</sup>) to reflect the desirable and healthy range of fitness as prescribed by the Australian government & Dietary guidelines, in regard to the prevention of disease associated with obesity, which would help reduce the Australian government's Dept of Health's financial loss in doing this.*

*Further, We are both highly concerned and shocked that a consumer would think that we are promoting a serious eating disorder, or that we would be promoting the excessively, thin since we have taken the effort to select models that reflect the maintenance of healthy weight within Australian government parameters of Body mass index.*

- Community Service Announcements/Government campaigns: See Health Dept comment above.*
- Social messages: We are of the view that we are portraying a message of consuming the FSANZ food products, specifically formulated to special purpose food standards Part 2.9, within a healthy, active diet and lifestyle including exercise, by showing fit and healthy women who are within the TGA healthy Body mass index (as above). Details of the consumption of the goods in the context of a healthy diet and exercise program are stipulated on the packs of the goods.*
- Re Consumables, Smoking, Bullying/undermining public safety messages, Protective clothing/safe working arrangements, Gaming and gambling: We are of the strong view that this aspect of Part 2.6 of the Code of Ethics is not relevant to the advertisement, and therefore we are not in breach of the Code.*

*In addition, we have read through and acknowledged also the voluntary/self-regulatory AANA Food and Beverages Advertising and Marketing Communications Code, and are of the strong view that we are not in breach of any aspect of that Code. Again, we have taken effort on the packaging artworks to stipulate use of the goods in the context of a healthy diet and exercise program.*

*We hope that this complaint response alleviates all of your concerns. We are of the strong view that we have gone to great length to show compliance with all of the sections of the*

*voluntary, self-regulatory AANA Codes of Ethics and relevant associated Food & Beverage Advertising Code.*

*To this end, we are therefore of the strong view, that we are not in breach of any aspect of the Codes. We strongly refute all aspects of the above complaint including alleged breaches of self-regulatory Codes stated.*

*Should you have any questions or need further information, please do not hesitate to contact us. We would also appreciate the opportunity to discuss in order to resolve the matter amicably.*

*We welcome the opportunity for further dialogue and discussion of your view on this matter.*

## **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 the complainant’s concern that the advertisement promotes unhealthy body perceptions and attitudes towards weight management by implying that women should aspire to be skinny.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered Section 2.6 of the Code. Section 2.6 of the Code states: “Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”.

The Board noted that this 15 second television advertisement features women in summer clothing dancing whilst a male voiceover sings the Alan O’Day song, ‘Skinny Girl’ which was an Australian Singles Chart entry in 1980.

The Board noted that the advertised product is called Skinny and considered that it is not inappropriate for the advertiser to use this word in their advertising of the product. The Board acknowledged that some members of the community may find the name of the product, ‘Skinny’ to be offensive or inappropriate with regards to a person’s body weight but considered that it has no jurisdiction over the name of a product.

The Board noted the complainant’s concern that the models in the advertisement are very slim/skinny and have no need to use the product. The Board noted that there are various female models depicted in the advertisement and considered that they all appear to be of normal healthy body weights. The Board noted that whilst the women in the advertisement do not appear to be in need of the product to lose weight the Board considered it was reasonable for an advertiser to promote the possible results of using their product and that most members of the community would agree that the women in the advertisement are showcasing the results of the product range.

The Board noted the complainant's concern over the use of a male voiceover. The Board considered that in this instance the use of a well-known song which is sung by a male does not amount to a suggestion that men think women should be skinny. The Board noted that as well as the song lyrics we hear a female voiceover describing the advertised product and considered that overall the message of the advertisement is about products called Skinny which are available to purchase and not that men, or women, think that women should be skinny.

Overall the Board considered that the advertisement does not depict, encourage or condone an unhealthy body weight or attitude towards body weight, and that it does not suggest that women should aspire to be skinny.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards.

The Board determined that the advertisement did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.