



Case Report

1	Case Number	0072/15
2	Advertiser	Vaporfresh
3	Product	Other
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	11/03/2015
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The advertisement opens on a man smoking a Vaporfresh e-cigarette at a bar. As he blows smoke he is joined by a man and a woman who both admire his e-cigarette. A male voiceover talks about how cheap the product is compared to a carton [of cigarettes] and the different flavours available. The final text on screen reads, "Saves you money by Vaping. Vaporfresh. All the smoking pleasure without any smoke. vaporfresh.com.au".

THE COMPLAINT

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

This advertisement actually suggests the product provides the 'pleasure of smoking without the actual smoke' or similar... the problem is the with the suggestion about smoking pleasure, which encourages consumers along the lines that smoking is a pleasurable experience, which is something our advertising laws currently disallow to protect the community, especially youngsters from taking up the habit; considering the research on the inhalation of the chemicals that confer the flavours and other chemicals in cigarettes is unclear about any long-term effects, it seems a health contradiction that such encouragement is allowed without the backup of research.

Vaporfresh's tagline at the end of the advertisement is- 'all the pleasure of smoking, without the smoke.' This implies that smoking is 'pleasurable', a dangerous and misleading notion that could encourage people to start smoking. Normalizing making smoking 'pleasurable',

whilst showing healthy, young people enjoying their e-cigarette, could convince previous non-smokers and ex-smokers to believe they are missing out on some pleasure. Very, very bad!

THE ADVERTISER'S RESPONSE

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

REASON FOR CONCERN: As to brain washing young minds, that it is ok to use without lethal consequences I thought they, "e cigarettes" were as bad as cigarettes. I'm to be proven wrong but I dislike the thought that tobacco companies can get around laws by technicality if it is a tobacco company doing it.

RESPONSE: Promoting a new product that does not contain nicotine, is made from water mixed with vegetable glycerine and flavouring is not an attempt to brain wash anyone, people have a choice to what they do. Had the complainant applied a small amount of research he/she would have found that the e-cigarettes advertised do not contain nicotine nor over 4,000 chemicals 43 of which are known cancer causing compounds as well as 400 other toxins like cigarettes do. We are not a cigarette company trying to get around laws, the products sold are 100% legal in the States the product is marketed in. Vaporfresh does not claim to be a smoking reduction product however there are many testimonials that the product has assisted them to stop smoking cigarettes altogether.

REASON FOR CONCERN: This advertisement actually suggests the product provides the 'pleasure of smoking without the actual smoke' or similar... the problem is the with the suggestion about smoking pleasure, which encourages consumers along the lines that smoking is a pleasurable experience, which is something our advertising laws currently disallow to protect the community, especially youngsters from taking up the habit; considering the research on the inhalation of the chemicals that confer the flavours and other chemicals in cigarettes is unclear about any long-term effects, it seems a health contradiction that such encouragement is allowed without the backup of research.

RESPONSE: The statement "all the smoking pleasure without any smoke" is in fact referring to the apparent pleasure smokers get otherwise they wouldn't smoke and this alternative is without the smoke as it's a vapour and as highlighted by the complainant is a suggestion nothing more.

Should our commercial breach the advertising laws we would not have received a CAD rating for the advert, the laws were checked and found that there are 2 States that the product cannot be advertised within, hence it appears to be simply an assumption by the complainant that we have breached any advertising laws.

Another assumption made by the complainant is the product contains chemicals; however water, vegetable glycerine and flavouring are all ingredients used for cooking and are ingested into the body similar to vaping.

REASON FOR CONCERN: It was advertising smoking!!!!!!!!!!!! And of course depicting young people. I nearly fell off my chair

RESPONSE: The commercial was not advertising smoking, the product is an e-cigarette that contains no nicotine, tar or anything like a smoke.

In regards to young people the cast members are: Lead male 31 years old, Mate 28 years old and female 28 years old.

REASON FOR CONCERN: My complaint is in regards to the way it is portrayed as being a healthier alternative to smoking, whilst still promoting smoke culture as a pleasurable hobby. The add claims that one cigarette is like smoking an entire Carton of cigarettes for the price of a pack. I understand that the e cigarette is completely legal to advertise, however encouraging people to get 10 fold smoke for their buck is negligent because it gives the viewer the impression that it's normal to consume that quantity. Please review the ad and let me know what you think.

RESPONSE: The commercial does not portray the e-cigarette to be a healthier alternative. The ad does not portray that an e-cigarette is like smoking an entire carton it portrays the cost of an e-cigarette is around the cost of a packet of cigarettes but will last as long as a carton.

REASON FOR CONCERN: Vapefresh's tagline at the end of the advertisement is- 'all the pleasure of smoking, without the smoke.' This implies that smoking is 'pleasurable', a dangerous and misleading notion that could encourage people to start smoking. Normalizing making smoking 'pleasurable', whilst showing healthy, young people enjoying their e-cigarette, could convince previous non-smokers and ex-smokers to believe they are missing out on some pleasure. Very, very bad!

RESPONSE: The tagline "all the smoking pleasure without any smoke" refers to the pleasure smokers apparently get otherwise they wouldn't smoke, a vegetarian would not find eating a lamb steak pleasurable and if they saw the Australia day ads promoting the pleasure of having lamb I'm sure it's not going to make them think they should try it.

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 complainants' concerns that the advertisement depicts smoking as pleasurable and although for an e-cigarette and not tobacco cigarettes the overall message is against Prevailing Community Standards on health and safety.

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 advertisement features a man demonstrating the Vaporfresh e-cigarette.

The Board noted that the voiceover describes Vaporfresh as the “same pleasure of a carton” and we see what appears to be a carton of cigarettes in plain packaging on screen. The Board noted the on-screen text at the end of the advertisement says, “all the smoking pleasure without any smoke”.

The Board noted it had previously upheld similar complaints in case 0092/13 and in case 00914/13 where:

“...the Board noted that the reactions of the people using the product are of enjoyment and considered that to depict people enjoying smoking, albeit fake cigarettes, is a depiction which is suggestive of smoking being pleasurable and this glamourises smoking. The Board noted that the Clever Smoke product does closely resemble a cigarette and considered that the advertisement is strongly suggestive of smoking a real cigarette whilst in a public place and whilst surrounded by children.

Consistent with previous decisions (0140/12, 0410/12) the Board considered that glamourising smoking is contrary to prevailing community standards on health and safety.”

In the current advertisement the Board noted the opening scene shows a man clearly enjoying using his e-cigarette in the same manner one would smoke an ordinary cigarette. A minority of the Board considered that the advertisement is aimed at current smokers and is offering them a healthier alternative and is not glamourising smoking cigarettes.

The majority of the Board however considered that the depiction of a man enjoying smoking, albeit an e-cigarette, with an accompanying voiceover which describes smoking as a pleasure is contrary to current community awareness campaigns which seek to highlight the dangers of smoking. Consistent with its previous determinations in cases 0092/13 and 0094/13 the Board considered that the advertisement did depict smoking as a pleasurable experience and considered that this glamourises smoking and is a depiction of material that is against Prevailing Community Standards on health and safety.

The Board determined that the advertisement did breach Section 2.6 of the Code.

THE ADVERTISER'S RESPONSE TO DETERMINATION

The advertiser has not responded to the Board's determination.

Free TV have confirmed that the CAD number for this advertisement has been withdrawn and the advertisement will no longer air on free to air television.

