



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0078/16</b>
<b>2</b>	<b>Advertiser</b>	<b>Swisse Vitamins Pty Ltd</b>
<b>3</b>	<b>Product</b>	<b>Health Products</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
<b>5</b>	<b>Date of Determination</b>	<b>09/03/2016</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

The Advertisement features popular celebrity chef, Karen Martini at a dinner party with a group of family and friends. During the Advertisement, Karen talks to the camera about how she loves to entertain and catch up with friends and family and that like everyone, she enjoys letting her hair down but Swisse lends a helping hand with its liver detox product, a product which has ingredients based on scientific and traditional evidence to help support a healthy liver and relieve indigestion and bloating.

## THE COMPLAINT

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

*The advertisement depicted a particular celebrity who "likes to let her hair down" occasionally. This was depicted with a backdrop of a group of women drinking wine. The advertisement then suggested that this product would be useful for people like her, who like to indulge themselves.*

*I believe this advertisement promotes binge drinking, in the sense that it suggests that the harms of drinking can be ameliorated by taking the "detox" pill which is being advertised. This is not only false, but highly unethical and irresponsible in my professional opinion.*

## THE ADVERTISER'S RESPONSE

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

*We refer to your letter concerning a complaint (Complaint) received in relation to the Swisse Wellness Pty Ltd (Swisse) liver detox advertisement aired at 8.40pm on 8 February 2016 on Channel 7 during an episode of "My Kitchen Rules" (the Advertisement).*

*As referred to in the letter received from you, the Complaint relates to Section 2 of the AANA Advertiser Code of Ethics (Code).*

*Set out below is the information requested regarding the Advertisement and our response to the Complaint.*

#### *Description of the Advertisement*

*The Advertisement features popular celebrity chef, Karen Martini (Celebrity) at a dinner party with a group of family and friends. During the Advertisement, the Celebrity talks to the camera about how she loves to entertain and catch up with friends and family. The Celebrity states that like everyone, she enjoys letting her hair down and Swisse lends a helping hand with its liver detox product, a product which has ingredients based on scientific and traditional evidence to help support a healthy liver and relieve indigestion and bloating.*

*For completeness, we note this Advertisement has also been approved by the Australian Self-Medication Industry for the purposes of compliance with the Therapeutic Goods Advertising Code.*

#### *Description of the Complaint*

*The Complaint alleges that the liver detox product being advertised suggests that it may be useful for people who like to "indulge". The Complaint further goes on to say that the Advertisement "promotes binge drinking, in that it suggests the harms of drinking can be ameliorated by taking a "detox" pill which is being advertised".*

*Swisse refutes the Complaint in its entirety. We consider that the complainant has misinterpreted the nature and intent of the Advertisement, for reasons the set out below.*

#### *Section 2 of the AANA Code of Ethics*

*As requested in your letter, we have considered the Advertisement in its entirety against Section 2 of the Code. We consider that the Advertisement complies with Section 2 of the Code for the following reasons:*

- Section 2.1 - no person is portrayed in a way which is discriminatory and no person is vilified. The persons portrayed in the Advertisement are adults enjoying a dinner party.*
- Section 2.2 - the Advertisement is not exploitative or degrading to any individual or group of people. As above, the Advertisement depicts a group of adults (men and women who are generally faded out in the background) enjoying a dinner party.*

- *Section 2.3 - there is no violence in the Advertisement.*
- *Section 2.4 - there is no sex or nudity in the Advertisement.*
- *Section 2.5 - there is no strong language of any kind in the Advertisement.*

#### *4. Specific complaint - Section 2.6 of the AANA Code of Ethics*

*The Complaint in question has specifically referred to section 2.6 of the Code. We note section 2.6 of the Code requires that advertising or marketing communications not depict material contrary to Prevailing Community Standards on health and safety.*

*Whilst “Prevailing Community Standards” is not categorically defined, it is intended to be a fluid concept, dependent on the relevant time.*

*Swisse does not consider that the Advertisement depicts material contrary to Prevailing Community Standards on health and safety for the following reasons:*

- *Whilst the Complaint refers to the promotion of “binge drinking”, the Advertisement is for a liver detox product, not alcohol and there is very little alcohol depicted in the Advertisement. Where the advertisement features alcohol, each glass is based on a standard serving size and there is no depiction of any binge drinking or other forms of excessive consumption of alcohol whatsoever. The Advertisement presents an ordinary, mature and responsible approach to alcohol, the adults are sitting down to a dinner party with food and wine, the setting of the Advertisement is a relaxed and controlled environment and there is no partying, dancing or clubbing.*
- *The reference the Celebrity makes to “letting my hair down” is not a reference to being able to drink to excess or binge drink, the Celebrity is referring to a chance to enjoy food, wine and good company with friends (i.e. to relax and enjoy herself). This is supported by the fact that the Advertisement clearly states the product is for healthy liver support and to help relieve the symptoms of indigestion and bloating, noting that indigestion and bloating can be quite common occurrences after a large meal. As the Celebrity is a well-known chef, the focus of this Advertisement is the Celebrity’s enjoyment of entertaining on the whole, not alcohol consumption.*
- *The Advertisement does not state, nor imply at any point that by taking a “pill” a person can reverse or improve the effect of drinking too much alcohol. No reference to alcohol is made in the Advertisement.*
- *The claims made in the Advertisement that the product may help support a healthy liver and may assist with indigestion and bloating are claims backed by scientific and traditional evidence. We submit that such claims, given they are supported by appropriate evidence, cannot be considered “unethical” as suggested by the complainant or against Prevailing Community Standards on health and safety. This Advertisement has also been approved by the Australian Self-Medication Industry Ltd for the purposes of the Therapeutic Goods Advertising Code.*
- *The Advertisement is intended to be light-hearted and demonstrate responsible fun amongst adults. It does not depict aggressive, unsafe, dangerous or unsocial behaviour.*

### *Section 3 – Other Codes*

*We do not consider any of the other codes applicable to this Compliant for the following reasons:*

- Advertising or Marketing Communications to Children - there are no children depicted in the Advertisement, nor is this Advertisement aimed at children. The actors cast are all well over the Australian legal drinking age of 18 and the Advertisement was shown after 7pm at night which is not within a timeslot accessible or aimed at children.*
- Federal Chamber of Automotive Industries Code of Practice relating to Advertising for Motor Vehicles - the Advertisement does not feature motor vehicles.*
- AANA Food and Beverages Advertising and Marketing Communications Code – the Advertisement is not advertising food or beverage products.*

*Swisse takes its advertising and the claims made in its advertisements extremely seriously. Whilst not strictly bound by the Code, Swisse is fully aware of the requirements of the Code and does all it can to ensure that its advertisements and marketing campaigns are in compliance with them at all times.*

### **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 binge drinking by suggesting you can drink however much you like and then just take a detox pill to prevent any damage to your body.

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 television advertisement depicts celebrity chef, Karen Martini, with a group of friends explaining that she likes to entertain and catch up with friends and family and letting her hair down and that the advertised product, Swisse Liver Detox lends a helping hand.

The Board noted the complainant’s concern that by showing Karen and her female friends drinking wine the suggestion is that you can binge drink but taking the Liver Detox will counteract any damage.

The Board noted Karen and her friends, male and female, are shown eating as well as drinking and considered that both these activities are given equal attention in the advertisement. The Board noted that Karen talks about over-indulging and considered that Karen is not shown to be under the influence of alcohol, her wine glass only has a small amount of fluid in it and she makes no mention of overindulging specifically in alcohol. The Board noted that the voiceover in the advertisement, as well as the onscreen text, says, that the advertised product can help support a healthy liver and relieve indigestion and bloating. The Board considered that the reference to over-indulging is presented in the advertisement as meaning eating and drinking and that there is no suggestion that this is something which should be done on a regular basis. Overall the Board considered that the advertisement does not promote binge drinking and does not suggest that the advertised product can ameliorate any side-effects resulting from the excess consumption of alcohol.

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.