



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0110-20
2. Advertiser :	PharmaCare
3. Product :	Health Products
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	25-Mar-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.1 Discrimination or Vilification

DESCRIPTION OF ADVERTISEMENT

This television advertisement depicts three children as a voiceover states "fussy eater" (little girl in pink shirt), "super active" (young boy wearing medal and holding soccer ball), "having a growth spurt" (little boy in green shirt). A woman comes is then depicted stating: "When kids need a vitamin boost they'll love, I trust Kids Smart Vita Gummies. Packing with healthy nutrition to help support healthy growth and development, immunity, thinking brains and strong bones. No matter how fussy they are, kids love Kids Smart Vita Gummies."

THE COMPLAINT

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

The advertisement obviously involved one negative description (the fussy eater), and two positive ones (the sports star and the one having a growth spurt.) It is unacceptable that the girl accepts the diminishing description while the boy children are celebrated. I believe this violates the industry code regarding the Portrayal of People, in particular, Gender Stereotypes as it is communicating to the audience (of young children watching the family movie, Home Alone) that young girls are weaker than young boys and cannot be classed as a 'sports star' or strong enough to have a growth spurt and flex their muscles, instead, treated as the belittled 'fussy eater.' This



advertisement is irresponsibly communicating to its audience that a lack of gender equality is acceptable

THE ADVERTISER'S RESPONSE

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

PharmaCare Laboratories Pty Ltd (PharmaCare) refers to the complaint it received in relation to its KIDS SMART VITA GUMMIES advertisement as seen on free to air digital TV on Channel 76 (7Flix), 7pm on the 29th February 2020 (Kids Smart Vita Gummies Advertisement) and provide our response below.

Advertisement Description

The KIDS SMART VITA GUMMIE advertisement centers on the household and the real-life situations and concerns that parents in general have, when looking to supplement their children's diets. The key message is aimed at growing healthy kids. The advertisement offers parents an alternate solution to supplementing their children's diets in an enjoyable vitamin format (gum mies) that kids are happy to take.

The Complaint

*AD DESCRIPTION: The advertisement showed a mother giving her 3 children VitaGummies. The daughter was described as a 'fussy eater' and was given the vitamins. One son was deemed a 'sports star' with a medal and was given a vitamin. The other son was described as having 'growth spurts' and flexed his bicep.
REASON FOR CONCERN: The advertisement obviously involved one negative description (the fussy eater), and two positive ones (the sports star and the one having the growth spurt.) It is unacceptable that the girl accepts the diminishing description while the boy children are celebrated. I believe this violates the industry code regarding the Portrayal of People, in particular, Gender Stereotypes as it is communicating to the audience (of young children watching the family movie, Home Alone) that young girls are weaker than young boys and cannot be classed as a 'sports star' or strong enough to have a growth spurt and flex their muscles, instead, treated as the belittled 'fussy eater'. This advertisement is irresponsibly communicating to its audience that a lack of gender equality is acceptable.*

Response

PharmaCare take the AANA Codes of Ethics seriously and we are confident that the advertisement does not contravene Section 2 of the AANA Code of Ethics, and in particular, section 2.1 (Discrimination or vilification\gender) which is the issue raised to date.

PharmaCare Kids Smart Vita Gummies are formulated to the highest of TGA standard to help support healthy growth and development in children aged 2- 12 years of age. PharmaCare Kids Smart Vita Gummies offer parents an option to make supplementing their children's diets more enjoyable and easier for children to take. With only 2.5% of



children aged 5-14 and only 3.3% of people aged 15-24 eating enough fruit and vegetables (<https://www.aihw.gov.au/reports-data/population-groups/children-youth/overview>), Kids Smart Vita Gummies has successfully provided Australian parents with an enjoyable and easy way to boost their children's daily vitamin intake.

The Kids Smart Vita Gummie advertisement was created and directed with our target audience (Women 25-54) in mind who are looking for ways to fill their children's nutritional gaps. We randomly selected children of different ages and genders to be part of the advertisement. When filming an advertisement with children as main characters, we generally find on the day of the shoot that some children become shy and do not perform well in front of a camera. Therefore, it is only on the day of shooting the advertisement that the gender of the character is determined.

The purpose of this advertisement is to drive awareness for the Kids Smart Vita Gummie brand and its unique product offering. Throughout the advertisement we comply to mandatory safety statements enforced by the Consumer Health Care Products of Australia. We also mention, that the Kids Smart Vita Gummie advertisement in question has been on free to air TV for approximately 18 months without any complaints.

In relation to section 2.1 (Discrimination or vilification\gender) 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. We maintain the content of our advertisement is not contrary to current community standards on discrimination or vilification\gender due to the random selection process undertaken in the development of the advertisement and our focus being on providing our target audience (women 25-54) with a vitamin/supplement option to address concerns for their children's nutritional gaps.

Media Placement

Our media buy avoids children's programming and we do not buy advertising spots between 3pm - 5.30pm as a general media buying rule. Our media buying target audience is women 25-54. As per the AANA advertising code we have ensured the advert is not placed in programs principally directed to children.

In summary, PharmaCare is certain the Kids Smart Vita Gummies advertisement in question does not breach any part of section 2 of the AANA Code of Ethics and does not breach the AANA's code in relation to section 2.1 (Discrimination or vilification\gender).

THE DETERMINATION

The Ad Standards Community Panel (Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).



The Panel noted the complainant's concern that the advertisement contains gender stereotypes indicating that girls are weaker than boys by referring to the boys in positive ways and referring to the girl as a fussy eater.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray 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.'

The Panel noted the Practice Note to Section 2.1 provides the following definitions:

"Discrimination – unfair or less favourable treatment.

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule."

The Panel noted the Practice Note for this section of the Code states:

"Stereotypes may be used to simplify the process of communication in relation to both the product offered and the intended consumer. As such, advertisements may feature people undertaking gender-stereotypical roles ... or displaying gender stereotypical characteristics... but they should take care to avoid suggesting that stereotypical roles or characteristics are:

- *always associated with that gender;*
- *the only options available to that gender; or*
- *never carried out or displayed by another gender.*

as this may amount to discrimination on the basis of gender."

The Panel noted the advertiser's response that the gender of the children was not shown in the script, and was only determined on the day.

The Panel noted that it had previously considered a similar issue in case 0377-19, in which:

"The Panel considered that the advertisement did feature some people in gender stereotypical roles, however there was no suggestion in this advertisement that these roles are only associated with this gender, that they are the only options available to those genders, or that they are never carried out or displayed by another gender. The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of gender and determined that the advertisement did not breach Section 2.1 of the Code."

The Panel considered that, in the current advertisement, the advertisement did refer to the girl in a negative tone, in comparison to her brothers. The Panel considered



that the negative characteristic of 'fussy eater' was associated with the young girl, however there was no suggestion in the advertisement that all girls are fussy eaters, or that being a fussy eater is a trait only associated with girls.

The Panel considered that advertisers should take care when producing advertisements that characteristics referenced in advertising should not be negatively associated with a particular gender. The Panel considered that the new part of the Code of Ethics Practice Note, quoted above, was designed to encourage advertisers to avoid using gender stereotypes in advertising and also considered that advertisers should take into account that the community is becoming less tolerant of gender stereotyping.

The Panel considered however that it is required to determine whether or not the material met the requirements of Section 2.1 of the Code. The Panel considered that the content of the advertisement did not show the girl to receive unfair or less favourable treatment because of her gender, and did not humiliate, intimidate or incite hatred, contempt or ridicule of the girl because of her gender.

The Panel considered that the advertisement did not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of gender and determined that the advertisement did not breach Section 2.1 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.