



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0121/17</b>
<b>2</b>	<b>Advertiser</b>	<b>Chemist Warehouse</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>22/03/2017</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

- Other Social Values
- 2.2 - Objectification Exploitative and degrading - women
- 2.6 - Health and Safety Within prevailing Community Standards

## DESCRIPTION OF THE ADVERTISEMENT

There are 2 versions of this television advertisement for Chemist Warehouse, each promoting flu shots.

The first version shows a man returning to his office after having had a flu shot at Chemist Warehouse. His office is open-plan and is full of people who are showing signs of the flu – coughing, blowing noses, sneezing – but the man doesn't look concerned and we see him take a tissue and hold it up to a male colleague's nose, take the phone off a female colleague and hold it against his own ear and then high five a third colleague. We see a woman sneeze over a cookie she is holding in her hand and the man dances up to her, takes the cookie from her and go to take a bite out of it.

A male voiceover says, "Be this confident. Arm yourself with a flu vaccination from Chemist Warehouse" and we see the man hugging a male colleague who has a red nose.

The second version shows a woman dancing her way on to a bus after having a flu vaccination at Chemist Warehouse. The bus is full of passengers who appear to be suffering from the flu but the woman does not seem concerned and we see her dance around them and touch them or their tissues.

A male voiceover says, "Want to be this confident? Arm yourself against the flu with a vaccination from Chemist Warehouse" and we see the woman take a chip from a bag another

person is eating from.

## **THE COMPLAINT**

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

*The implication is you can be protected from infection if you have a flu injection. This is totally irresponsible advertising.*

*1. Flu immunisation does not protect you totally from all types of cold infections. False confidence is being encouraged.*

*2. Putting yourself deliberately at risk in such away is foolhardy.*

*3. People suffering so obviously from cold or flu should be home in bed recovering, not passing it on to everybody they come in contact with.*

*This is the message that should be given. Stay home until you're better.*

*Find it revolting. Very unhygienic and children might think it is ok to do this.*

*To have an advertising campaign targeting women and men separately is fine, but the one with the woman in the bus is offensive in that it is degrading to women. The way she is portrayed objectifies her and does not portray women in a positive image. The fact that at the end of advertisement she appears to be giving a man in the bus a lap dance makes it even more offensive. This is sending the wrong image of women to the community.*

*The ads imply that if you get a flu shot you can't catch colds or other infections. However the flu shot is only designed to minimise the risk and severity of certain flu strains. It does not prevent other viruses such as the common cold, nor does it prevent bacterial illnesses. I believe that implying otherwise, as these ads do, is irresponsible and may lead some people to believe that if they get a flu shot they have immunity they do not and possibly engage in risky behaviours.*

*First off it's just gross that the main actors would rub a tissue on their face when someone else had just sneezed into it as well as the other things they do and it is misleading. The other people could have any infectious disease; cold, measles etc. that the flu shot does not protect against but according to the ad the main people are fine!*

## **THE ADVERTISER'S RESPONSE**

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

*Thank you for alerting us to the concerns raised by the complainants as appended to your correspondence. The complaints relate to two television commercials promoting the flu vaccination service offered by Chemist Warehouse. Whilst both advertisements are light-*

*hearted and convivial the message conferred is an important one; get vaccinated and reduce your likelihood of influenza infection. The advertisements show recently vaccinated patients (as evidenced by the band aid like plaster visible on their upper arm and the opening visual of them leaving the flu shot clinic) happily going about their day, confident in their vaccine conferred immunity to the seasonal flu.*

*The clear message communicated in the advertisement about the service is that if you are vaccinated against influenza you reduce your chance of influenza infection.*

*This is an important health message communicated by all Governments; Federal and State on an annual basis to encourage the Australian public to get vaccinated to reduce population wide morbidity and mortality caused by influenza. The primary difference between the Government funded campaigns and the Chemist Warehouse campaign is our campaign directs the patient to a service provider, other than that both are endeavouring to encourage patients to get the flu shot.*

*The health message being communicated by Chemist Warehouse is not novel or new, but rather a message that has been promoted by health departments globally for many years.*

*The Australian Government website about immunisation encourages all Australians to get immunised to reduce their chance of infection*

*<http://www.immunise.health.gov.au/internet/immunise/publishing.nsf/Content/immunise-influenza>*

*The Federal Governments current advertising to support this message is shown below: [Get the flu shot before the flu gets you]*

*This advertisement like that presented by Chemist Warehouse, uses a light hearted approach to communicate a simple but important message, influenza vaccination prevents influenza infection.*

*The manner in which the Federal Government's message is being communicated is eye-catching and appealing based upon the jocular presentation of the flu germ creature, but despite the manner chosen to communicate its message, the message conferred remains, get vaccinated and reduce your likelihood of influenza infection.*

**"GET THE FLU SHOT BEFORE THE FLU GETS YOU"**

*Most if not all consumers will understand the message, that to avoid a "nasty flu" you should get a flu shot and would not expect based upon the manner of the advertisement to see an orange critter attacking them during flu season. The jovial nature of the Chemist Warehouse advertisement is also immediately apparent, it is clear from the music and the behaviour of the main characters in both Chemist Warehouse advertisements that this is a whimsical advertisement. It is an inappropriate and misplaced interpretation of the message conferred by the advertisement to suggest it is promoting that patients post vaccination should revel in other's germs or dance with their tissues. It is apparent that the advertisement is a parody, that the message relayed is not that post vaccination one should celebrate amongst others germs but rather that you should get vaccinated to enjoy a reduced risk of influenza infection. Both the Federal Government and Chemist Warehouse use amusing eye catching scenes and*

*advertising to communicate this important health message.*

*Some of the complainants suggest that the advertisement misrepresent the health benefits of a patient being inoculated with the influenza vaccine. This is not the case. The benefits of influenza vaccination are not overstated, nor misrepresented, they are clear and even articulated in the voice over “be this confident, arm yourself with a flu vaccination...” To contend that further health benefits are inferred is to imply the Australian public is unaware of why you would get the flu shot. Chemist Warehouse’ does not think this is the case. We contend that the Australian public know that the Flu shot protects against the flu, the Chicken pox shot protects against Chicken pox and Typhoid vaccination protects against typhoid. The Australian public are well aware that the benefit conferred via influenza vaccination is increased immunity to the seasonal influenza virus, the flu shot reduces your chances of getting the flu. The advertisement does not suggest that the flu vaccination protects against the common cold, nor chicken pox, nor hepatitis A. The advertisement is clearly for the influenza vaccination service which will confer increased immunity to influenza, no other reasonable conclusion about the message the advertisement is intended to communicate can be reached.*

*To directly respond to the six subclauses to Section 2 of the AANA Advertiser Code of Ethics;*

- 2.1 - The advertisement is not discriminatory nor vilifying of any member of the community.*
- 2.2 - Nothing in the advertisement is exploitative nor degrading.*
- 2.3 - The advertisement contains no violence.*
- 2.4 - There is nothing in the advertisement that is sexually explicit*
- 2.4 - There is no nudity nor sex in the advertisement.*
- 2.5 - None of the language could be deemed offensive.*
- 2.6 - Chemist Warehouse contend that no reasonable person would conclude that the advertisement promotes anything other than the benefits of flu vaccination, being increased influenza immunity conferred by the vaccination. It is not reasonable to conclude that the advertisement promotes any unsafe or unhealthy habits or practices or in any way constitutes an endorsement or encouragement toward such unsafe practice. The advertisement, consistent with government messaging and advertising, promote influenza vaccination to confer immunity to influenza.*

*In short Chemist Warehouse contend that any reasonable person would see the advertisement as promoting the flu shot and its clear benefit in conferring to the patient immunity against influenza. The ad is satirical in nature and intended to capture the audience's attention and inform them about a vaccination service available that will protect them against the flu. All Government’s, both state and federal, of either major party, encourage Australian patients to get the flu shot each year, this advertisement is entirely consistent with this Government messaging and policy.*

*We will gladly provide the Bureau with further detail as and when required, though given the nature of the advertisement, one that promotes an important health service, we hope that*

*nothing further is required to enable the Bureau to dismiss the complaint upon review.*

## **THE DETERMINATION**

The Advertising Standards Board (the “Board”) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the “Code”).

The Board noted the complainants’ concerns that the advertisement depicts a woman giving a man a lap dance on a bus, depicts people ignoring medically suggested hygiene practices around people who are unwell with flu and colds, and suggests that the flu vaccination provides immediate and full protection against any flu or cold.

The Board noted some of the complainants were concerned that the images of people touching used tissues and getting physically close to people suffering from flu-like symptoms is revolting and makes them feel unwell but considered that advertisers are free to use whatever scenarios they wish in their advertising and this issue does not fall under the Code.

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

The Board considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: “Advertising or marketing communications should not employ sexual appeal: . . . in a manner which is exploitative and degrading of any individual or group of people.”

The Board noted the AANA Practice Note which provides guidance on the meaning of the terms exploitative and degrading:

“Exploitative - means clearly appearing to purposefully debase or abuse a person, or group of persons, for the enjoyment of others, and lacking moral, artistic or other values.

Degrading – lowering in character or quality a person or group of people.”

The Board noted that in order to breach this Section of the Code the images would need to be using sexual appeal in a manner that is considered both exploitative and degrading.

The Board noted that there are two versions of this television advertisement, each featuring a person having a flu jab then interacting with people displaying symptoms of the flu.

The Board noted the complainant’s concern about the version featuring a woman on a bus and that it presents the woman in a manner that is degrading as she is shown to give a man a lap dance.

The Board noted that the woman is wearing a red dress and wedge heeled shoes and considered that her overall appearance is not sexualised. The Board noted that the woman dances her way on to the bus then continues to dance around the passengers and considered that her behaviour is suggestive of being happy and confident. In the Board’s view, the woman does not behave in a sexualised manner: she is not lap-dancing but just dancing generally and when she sits on the man’s knee it is to steal a chip from the person sitting next to him.

The Board considered that the advertisement did not employ sexual appeal and determined that the advertisement did not breach Section 2.2 of the Code.

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 the complainants’ concerns that the advertisement is contrary to Prevailing Community Standards as it implies that as soon as you have the flu vaccination you are immune to all cold and flu-like viruses and are free to engage in unhygienic practices such as sharing a tissue or hugging a person who is unwell.

The Board noted the advertiser’s response that the message of the advertisement is that the flu vaccination will reduce your chance of being infected with the flu virus. The Board noted that the man and the woman are both shown to engage with sick people immediately after receiving their flu shots. A minority of the Board considered that this implies that if you have had the flu vaccination then you are immune to other people’s illnesses, regardless of what they are, and do not have to worry about normal hygienic practices, and is suggestive of the vaccination providing immediate protection which is contrary to Prevailing Community Standards on health and safety.

Following considerable discussion however, the majority of the Board considered that while the behaviour of the main characters in the advertisement does not promote caution around un-well people, in the Board’s view the exaggerated behaviour of the main characters is highlighting an important public health message. The Board acknowledged that the advertisement does not make it clear that the flu jab does not cover all types of flu, and that it takes time for the vaccination to start to work, but considered that the overall primary message is still that of the importance of getting a flu vaccination in order to minimise your risk of contracting the flu. The majority of the Board noted that there are government campaigns highlighting the need for good hygiene and the effectiveness of the flu jab, including how long before the vaccine starts to work, and considered that most members of the community would be familiar with this and would not view the current advertisement to be suggesting that best practice be ignored. Overall the majority of the Board considered that the exaggerated and humorous behaviour of the actors in both advertisements does not undermine the important health and safety messages around hygiene and the flu.

The Board noted the complainants’ concerns that the advertisement could encourage children to touch other people’s tissues and generally practice unsafe hygiene. The Board noted that both versions of the advertisement had been rated ‘W’ by CAD and considered that the relevant audience would be broad and would include children. The Board noted that safe hygiene practices are promoted in schools and considered that it is very unlikely that children would view the advertisement and then copy the behaviour of the adults in it as it is so exaggerated.

Overall the majority of 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 complaints.

