



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0126/18
2	Advertiser	Nutricia Australia Pty Limited
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	21/03/2018
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety Unsafe behaviour

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts a young toddler learning how to collect eggs and a young toddler learning to crawl through a dog door.

THE COMPLAINT

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

In the advert a small toddler crawls through a pet flap on the front door of a house - the impression is that the milk drink gives him the strength / initiative to do that action - it totally ignores the safety aspect of crawling thro' the door and out onto a road way. The danger is ignored.

THE ADVERTISER'S RESPONSE

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

Description of Advertisement



There are two advertisements that the complaint might be referring to. We describe both advertisements below.

30" video - This Aptamil Toddler Stage 3 advertisement depicts scenes with one girl and one boy, both over the age of 12 months, reaching developmental milestones. The video starts with the girl, with her mum in the background, walking towards a chicken coop to collect eggs. The video then shows the boy, with his dad in the background, crawling through a dog flap door. The girl is shown excited collecting an egg, putting it into a basket and walking with her mum. The boy is shown smiling having gone through the dog flap door, with his mum's legs in the edge of the picture. The images are coupled with inspirational quotes, noted below.

15" video – This Aptamil Toddler Stage 3 advertisement depicts a boy, over the age of 12 months, with his dad going in the background, crawling through a flap dog door, with his mum's legs in the edge of the picture. The boy is shown smiling having gone through the flap door.

The advertisements have been on air since April 2017, placed on TV-Free to air, TV-on demand, TV-pay, cinema, internet, internet-social-facebook.

Response

We explain below the reasons why the advertisements do not breach the Australian Association of National Advertisers Code of Ethics (Code).

The complaint states that the advertisement "totally ignores the safety aspect of crawling thro" the door and out onto a road way". However, as explained below, there has been no disregard for the child's safety, and no breach to section 2.6 of the Code.

No disregard to the child's safety

The child was inside the laundry room with a male acting as the dad doing the laundry. The child's real mum was standing outside the door on the deck as the child went through the dog flap door. From an outside perspective, we see mum on the edge of frame watching the child.

The video was shot at the back of a house where there is a large dog flap on the back door, which was specifically built for the campaign. This door led directly to a wooden deck in the backyard. Therefore, differently from what is stated in the complaint, the child does not go towards a roadway. We note that there is nothing in the video to suggest that was the case.

At no times the child was left alone. As noted above, the child's mum was on set. There



was also a nurse on set all the time. Please refer to the attached “statement from the agency” (pages 1 and 2, in particular), which attests compliance with the Child Safe Code of Conduct.

No breach of section 2.6 (Health and Safety):

As we explain in this section, the advertisements show common practices which were well supervised by adults, and therefore are not in breach of section 2.6 of the Code.

Section 2.6 of the Code states that “advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety”. “Prevailing Community Standards” is defined as “the community standards determined by the Advertising Standards Board as those prevailing at the relevant time in relation to Advertising or Marketing Communications. Prevailing Community Standards apply to clauses 2.1 – 2.6 below. The determination by the Board shall have regard to Practice Notes published by AANA and any research conducted by the Advertising Standards Bureau.”

The Practice Note to the AANA Code of Ethics (Practice Note) explains the following on “Prevailing Community Standards”:

“Prevailing Community Standards apply to all parts of Section 2. This means that the Board will have regard to community standards at the time the advertising or marketing communication was published. Prevailing Community Standards are determined primarily by the Board, whose members are representative of the community, on a case by case basis, as part of the complaints process. To assist advertisers and complainants, this Practice Note provides some guidance into Prevailing Community Standards. It is influenced in part by previous decisions of the Board, the AANA’s intent in developing this Code and any relevant research (of the AANA or Advertising Standards Bureau as relevant). There is no one test of Prevailing Community Standards. The Prevailing Community Standard will differ in relation to the different restrictions in relation to health and safety, nudity, language, violence and portrayal of people.”

The Practice Note notes examples of real and actual health and safety wrongs in providing examples of breaches to section 2.6: i.e., images of bike riding without helmets/not wearing a seatbelt, riding down a hill in a wheelie bin, using a mobile phone while driving, bullying. This is consistent with precedent, which also focuses on real and actual unsafe behavior and promotion of unsafe behavior in cases of breaches to section 2.6: e.g., product being used incorrectly in a manner which could result in injury and unsafe actions around traffic.

As we explain in this response, the advertisements do not show or promote any unsafe behavior, and bear no resemblance scenarios considered to be in breach of section 2.6



of the Code. Rather, the advertisements show children exploring new things, while being accompanied by their parents. In our view, the advertisements are clearly with community standards and appropriate standards of care.

We note that the focus of the advertisements is to show the delight children have after first experience and achievements, and not the alleged unsafe behavior. In this regard, we note that the Board has consistently concluded that advertising which could feature unsafe behavior does not breach the Code if in line with community standards. E.g., (i) a television advertisement which featured two children playing on a trampoline while their mother looks on (GlaxoSmithKline Australia Pty Ltd – 0269/15), (ii) A television advertisement which shows a man and his son changing a tyre at night (Energizer Australia – 0404/16), and (iii) A television advertisement which depicts a young boy and a man lying under a car which is raised on axle stands (Super Cheap Auto Pty Ltd – 0376/15).

In particular, we note part of the decision on case number 0269/15:

“The Board noted the trampoline depicted in the advertisement has safety padding and a net, appears in good condition and is set up in a safe location. The Board noted the two boys in the advertisement are being monitored whilst they bounce on the trampoline and that this scene is very brief. The Board noted that its role as a community Board is to make decisions in-line with community standards. The Board noted the ACCC safety advice but considered that it is common practice for parents to let more than one child use a trampoline at a time and in the current scenario the children are well supervised and the overall scenario is one which would meet community standards on health and safety.”

For completeness, we note that sections 2.1, 2.2, 2.3, 2.4, 2.5, 2.7, the AANA Code for Advertising and Marketing Communications to Children, and the AANA Food and Beverages Marketing and Communications Code are not relevant in the context of the complaint.

THE DETERMINATION

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

The Panel noted the complainant’s concern that the advertisement depicted a child in an unsafe situation.

The Panel reviewed the advertisement and noted the advertiser’s response.

The Panel 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 Panel noted the television advertisement depicts a young toddler learning how to collect eggs and a young toddler learning to crawl through a dog door.

The Panel noted the complainant’s concern that a child is shown crawling out the dog door of a house and this is dangerous as they could crawl onto a roadway.

The Panel noted it had previously considered a television advertisement for GlaxoSmithKline Australia Pty Ltd in case 0269/15 for a similar safety issue, in which:

“The Board noted that this television advertisement for Panadol features an image of two children playing on a trampoline whilst their mother looks on. The Board noted the complainant’s concern that only one child at a time should use a trampoline.

“The Board noted that its role as a community Board is to make decisions in-line with community standards. The Board noted the ACCC safety advice but considered that it is common practice for parents to let more than one child use a trampoline at a time and in the current scenario the children are well supervised and the overall scenario is one which would meet community standards on health and safety.”

The Panel noted the advertiser’s response that the child in the advertisement was supervised at all time and that an adult is visible in the advertisement in every wide shot. Further, the Panel noted the advertiser’s response that the dog door is in a laundry which leads to a backyard, not a roadway, as it would be unwise to have a dog door leading directly to the road from an animal safety perspective and it is generally understood this would not be the case.

The Panel considered that the concern raised by the complainant is an interpretation that is unlikely to be shared by most reasonable members of the community.

The Panel considered that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety and did not breach Section 2.6 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Panel dismissed the complaints.

