



Case Report

1	Case Number	0151/16
2	Advertiser	Boeringer-Ingelheim Pty Ltd
3	Product	Health Products
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	13/04/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

2.3 - Violence Cruelty to animals

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens on a woman walking across a train platform dragging a baby elephant with its trunk wrapped around her lower leg. The female voiceover talks about the tired, heavy, aching feeling you can get in your legs and we see a different woman sitting on a train with an octopus wrapping its tentacles around her legs. The voiceover then goes on to say that Antistax can reduce swelling in the legs and we see the first woman step off the train and walk across the platform, standing on the trunk of the elephant as she passes.

THE COMPLAINT

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

I am writing to you re the Antistax ad on TV. It shows at the end a woman stepping on a small elephant trunk and it pans to the hurt look on its elephant face.

*I think this callous ad will lead to small children thinking it is acceptable to hurt or stand on small animals (e.g. puppy, kittens etc) because adults are doing this.
Please review this ad as a matter of priority*

THE ADVERTISER'S RESPONSE

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

This letter is Boehringer Ingelheim's formal response to your letter in regards to the complaint made against the Antistax television commercial.

We believe the complaint has no basis and when the panel reviews the material and our response, it should agree the Antistax advertisement has not breached section 2 of the code.

Description of the Advertisement

The Antistax television commercial is aimed at educating consumers about the condition of tired, heavy, aching legs and introducing them to a new product called Antistax, which is a Leg Health Supplement.

The ad opens with the women dragging the ANIMATED elephant which is used to symbolically convey the sensation of tight, tired, heavy, aching legs, which is how consumers describe the condition.

At the end of the advertisement a different female talent is seen walking off the train and down the platform walking free from the heavy feeling and simply steps (not stomps) on this animated elephant's trunk. Again in a symbolic manner to show she is not being held back by the condition.

Please see attached appendix 2, which is an email from Maxus confirming there were no children's programming that was bought and ran for the Antistax advertising. The spot list outlining which programmes the advertisement featured in is attached and marked appendix 3.

Boehringer Ingelheim Formal Response

Clearly the advertisement does not breach 2.1, 2.2, 2.4, 2.5 and 2.6 of the code and are not applicable to the complaint or the Antistax advertisement. However, we would like to address section 2.3 which states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

There are a number of points we would like to make in our response to the complaint and section 2.3. They are:

- When you view the advertisement in its totality, from the opening where the elephant is attached to the women's leg to the end of the advertisement, it's clear the animated elephant is depicting the tired, heavy feeling people experience with this condition. The final scene highlighted in the complaint, shows the female stepping on the trunk of the animated elephant is a symbolic gesture that she is not going to be bothered from the inconvenience of tired, heavy, aching legs. The step is not a violent stomp, simply a passing over step as if to say, I will not drag you around anymore. When you view the advertisement in total, it makes sense why the lady is walking freely and unconcerned by the animated elephant.

- It's our opinion; the actual scene of the lady walking on the trunk is not one that can be classified as a violent act. The elephant is an animated character and in the context of the total advertisement is not likely to incite violence in any shape or form. Therefore it does not breach section 2.3.

- Also, we believe it's not reasonable to presume children will think it's acceptable to treat all small animals in this way just by seeing the female stepping on the animated elephant.

- The advertisement was reviewed by CAD and given a G classification. This would indicate CAD was not concerned by the female stepping on the animated elephant. Nor did CAD caution it may breach 2.3 of the Advertising Standards Bureau code.

- Very importantly, this advertisement was targeted at adult women 35-65 years old. Despite its G rating from CAD, the advertisement was targeting adult programming. Even though we contend the advertisement would not influence children negatively, the TV spot list (appendix 3) clearly shows we were not targeting children's programming.

Conclusion

Boehringer Ingelheim stands by the Antistax advertisement and contends it does not breach section 2 of the code and our response clearly sets out the reasons why. This is a global advertisement that has been played in many countries around the world for some years and has not received any caution for potential violence.

We look forward to a quick resolution to this matter and receiving the panel's determination.

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 concerns that the advertisement depicts a woman standing on an elephant's trunk which is cruel and could lead children to think it is acceptable to hurt animals.

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

The Board considered whether the advertisement was in breach of Section 2.3 of the Code. Section 2.3 states: "Advertising or Marketing Communications shall not present or portray violence unless it is justifiable in the context of the product or service advertised".

The Board noted that this television advertisement features a woman walking with a baby elephant attached to her leg before we see her stand on its trunk.

The Board noted the advertiser's response that the elephant is animated and is intended to represent the feeling of tired and heavy legs and not an actual elephant. The Board noted that in a later scene we see an animated octopus with tentacles wrapped around a different woman's legs.

The Board noted that it had previously considered complaints about the use of computer-generated animals in case 0161/10 where:

"The Board noted the complainants' concerns that the advertisement is distressing in its depiction of animals being used as cleaning tools.

The Board noted that the images are computer generated images (with the exception of the duck which was accompanied by an animal handler and not harmed) and that they are quite realistic in appearance. The Board considered that the message of the advertisement - to use an environmentally friendly product, was relevant to the images used in the advertisement. The Board considered that, although visually confronting, the advertisement's message

provided a context for the depictions...”

In the current advertisement the Board noted that the voiceover talks about the sensation of tired, heavy and aching legs and considered that the use of the computer-generated elephant, and the octopus, are relevant to, and given context by, the voiceover. The Board noted that unlike in case 0161/10, the animals in the current advertisement are not realistic and considered that although we do see the woman standing on the elephant’s trunk in the Board’s view this scenario is in the context of having taken the advertised product and not feeling tired or heavy anymore, rather than deliberately causing harm to an animal. The Board acknowledged that this concept may not be understood by children but considered that children would be likely to view the elephant, and the octopus, as cartoon-like rather than actual animals.

The Board noted the advertiser’s response that although the advertisement had been rated ‘G’ by CAD their media buy targeted programs directed at adults, not children. The Board noted the spot list provided by the advertiser and considered that although the advertisement was aired during programs aimed at a more mature audience, for example Dr Phil, The Graham Norton Show, Judge Judy, the advertisement’s ‘G’ rating means it could be seen by a broad audience which would include children.

The Board noted the complainant’s concern that children may think it is acceptable to hurt animals but considered that children are able to differentiate between real and animated creatures and in the Board’s view the complainant’s interpretation of how children may view this advertisement is unlikely to be shared by the broader community. The Board considered that the advertisement does not depict, encourage or condone cruelty to animals.

The Board determined that the advertisement did not breach Section 2.3 of the Code.

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.