



Case Report

1	Case Number	0153/12
2	Advertiser	Reckitt Benckiser (Aust) Pty Ltd
3	Product	Health Products
4	Type of Advertisement / media	TV
5	Date of Determination	24/04/2012
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

A mum talks about how she wants her children to be healthy, happy and safe and so she used 'Nurofen for children' for her daughter's fever. We then see the mum holding her baby who is wearing a teething bead necklace.

THE COMPLAINT

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

My issue is of a safety concern as the baby is wearing a bead necklace. Nurofen will be of no help should that child swallow a bead. It gives the wrong message that it is ok for babies to wear this kind of jewellery.

THE ADVERTISER'S RESPONSE

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

We take complaints about our advertising and issues of child safety seriously. We note that you have stated that the Board will review the Nurofen for Children TVC in its entirety

against section 2 of the AANA Advertiser Code of Ethics (Code), incorporating the AANA Code of Advertising & Marketing Communications to Children (Children's Advertising Code) and AANA Food and Beverages Marketing and Communications Code (Food and Beverages Code). As a preliminary issue, we note that the Food and Beverages Code and Children's Advertising Code do not apply because the TVC does not advertise a food or beverage product and is not directed primarily to children or relate to goods targeted towards, or have principal appeal to, children.

In respect of Section 2 of the Code, we believe that the only provision of section 2 which has any potential application to the Nurofen for Children (NFC) Testimonial TVC having regard to the complainant's comments is section 2.6 (which we maintain is not breached by the Nurofen for Children TVC). This section states that:

2.6 Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety.

As indicated above, and for the reasons discussed below, we deny that the NFC Testimonial TVC breaches the above section.

By way of background, we would like to make it clear that the NFC Testimonial TVC is a testimonial. The TVC was intended to reflect mothers and children in a natural environment and experiences of motherhood and of the NFC product. As such, the TVC was specifically filmed in a dynamic manner, and the mothers and children in the advertisement were not paid actors.

As such, it was the mother's own child depicted in the NFC Testimonial TVC and Reckitt Benckiser did not provide any direction to the mother in respect of her child wearing or not wearing the necklace. We submit that this mother's choice may well reflect prevailing community standards in respect of health and safety in the context of children's necklaces and other jewellery.

In any case, in our opinion, the TVC does not depict material contrary to the prevailing community standards on health and safety. The necklace is a short necklace which is not designed to be and unlikely to be used as a plaything by the child. The child, as depicted in the NFC Testimonial TVC, is with and supervised by her mother and at no time in the commercial is the necklace anywhere near the child's mouth or in a position that could be considered of risk for the child to swallow it. Anecdotally, we submit that parents of young children often dress them in all kinds of jewellery, whether necklaces, pierced earrings and/or bracelets and we submit that the child shown in the NFC Testimonial TVC is not unusual or at any significant risk by wearing a necklace. Children's clothing often incorporates decorative items and buttons which, if swallowed, could be harmful. However, we submit that children depicted wearing such clothing in television commercials is not contrary to prevailing community standards on health and safety. Nor is the depiction of the child with the necklace, the subject of this complaint, in our submission.

In any case, as regards to the complainant's comment that "it gives the wrong message", we submit that the depiction of the child with the necklace is unlikely to give any message at all. The necklace in question is only visible on screen for 3 seconds and is not a focal point of the TVC. Attention was not drawn to the necklace at any point throughout the commercial.

We submit that most viewers would not have noticed the jewellery or found it to be inappropriate for the child to be wearing it.

The Nurofen for Children TVC has been reviewed and approved by ASMI – approval number ASMI 19926-0212, and complies the Therapeutic Good Act and regulations in relation to advertising.

In light of the above, we request that the Complaint be dismissed.

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 depicts a baby wearing a bead necklace and this is a safety issue.

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

The Board considered whether the advertisement was in breach of 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 advertiser’s response that the mother in the advertisement is not an actor and that the baby is her own child. The Board noted that the mother chose her baby’s outfit and accessories for the advertisement and that the baby is under the constant supervision of her mother whilst she is wearing the necklace.

The Board noted the advertiser’s comment that the necklace is a commonly used teething aid. Although questioning how common the device is, the Board considered that the target audience is likely to be familiar with it and considered that most parents of teething infants would be aware of this product.

The Board noted the important safety concerns surrounding the dangers of babies and young children and accidental choking. The Board considered that in this instance the baby is clearly being supervised, the necklace is short and not able to be put in the mouth and the advertisement does not encourage or condone babies to be left unattended wearing a necklace.

Based on the above, the Board determined 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 Board dismissed the complaint.

