



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
ACN 084 452 666

Case Report

1. Case Number :	0175-20
2. Advertiser :	Sanofi
3. Product :	Health Products
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	10-Jun-2020
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

DESCRIPTION OF ADVERTISEMENT

This television advertisement opens on a young boy playing in a park. He is throwing a frisbee for his dog to catch. The boys mother and father watch on with enthusiasm. His mother lifts up her phone to take a picture of her son and the dog playing. The mother turns to the side and coughs. The son throws a frisbee to the dog. The dog jumps and tumbles in the air as it catches the frisbee. The boy's father claps and cheers after seeing what just happened. The mother looks over to her husband looking confused as to what she has just missed.

The screen splits and the woman appears in both frames. The left frame shows a computer graphic of lungs and the text "Dry Cough". The right shows a computer graphic of a throat and the text "Irritated Throat".

The family and their dog continue to walk in the park.

The voiceover of the advertisement states "Don't miss a moment. New Bisolvon Duo Syrup is a 2 in 1 formula traditionally used to soothe an irritated throat and relieve an associated dry cough. Bisolvon Duo. Moments uninterrupted."

THE COMPLAINT

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



During COVID-19 anyone displaying the symptoms of a dry cough should be self isolating and attending a COVID-19 testing clinic. This ad clearly infers that you can take a dose of cough medicine and continue your day which is opposing information from the chief medical officer.

THE ADVERTISER'S RESPONSE

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

I write to you on behalf of Sanofi-Aventis Healthcare Pty Ltd (ACN 076 651 959) (“we” “us” or “our”).

This letter is in response to your letter dated 22 May 2020, regarding a complaint you received in relation to our Bisolvon Television Advertisement (“Advertisement”).

The issue raised in the complaint was in relation to section 2 of the AANA Code of Ethics (“Code”), and in particular, we understand only section 2.6 of the Code to be relevant to the complaint (e.g. dealing with health and safety & prevailing community standards).

Relevant health standards

We understand the relevant health standards in question are in relation to community COVID-19 measures.

The Australian Government (health.gov.au) suggests that to protect others you must:

- *practice good hygiene*
- *practice physical distancing*
- *follow the limits for public gatherings*
- *understand how to isolate if you need to*

How these guidelines relate to the Advertisement and the complaint

In our view, the Advertisement is not inconsistent with the prevailing standards on the basis that:

- *There is no indication in the Advertisement that the woman was experiencing any acute respiratory symptoms (such as cough or sore throat) prior to being in a public place;*
- *The woman shows appropriate hygiene by coughing into her elbow, not her hand;*
- *After the woman coughs, the family is seen walking through the park, with no intent shown to conduct further outdoor activities;*
- *No other people are seen in the park (outside of family members), therefore appropriate social distancing and limits for public gatherings are adhered to.*

Complaint inaccuracy



We would also like to point out that the complaint (in the AD DESCRIPTION section) incorrectly states that the woman in the Advertisement was seen taking a dose of the cough mixture post her cough symptom developing and continuing with her 'families' day out in the community.

The Advertisement does not contain any footage of the woman taking a dose of any product, and as described above, there is no intent shown to conduct further outdoor activities following her cough.

The Advertisement was submitted to and approved by a Delegate of the Department of Health prior to release.

It is important to note that as part of the mandatory Therapeutic Goods Administration (TGA) requirements, the Advertisement was submitted to, reviewed and approved by Consumer Healthcare Products Australia ("CHP") as delegate for the Department of Health, the regulatory body responsible for consumer advertising of non-prescription pharmaceutical products.

Approval of the Advertisement was granted by CHP on 21 April 2020.

Enclosed is a copy of the relevant approval from CHP for your reference.

Subsequent directives after release of Advertisement

On 21 May 2020, Sanofi received the following guidelines from CHP:

In this current environment, many themes common to cold and flu advertising may not accord with the public health campaigns that are in place as a result of COVID-19, in particular the following themes (and others) may prove difficult:

- Persons who display symptoms, take a product and then go outside in public*
- Persons who display symptoms, take a product and then use public transport*
- Persons who display symptoms, take a product and then attend a workplace*
- Showing transport arrangements inconsistent with current social distancing recommendations*
- Showing workplace arrangements inconsistent with current social distancing recommendations*
- Showing sick people in a workplace, on public transport etc*
- Showing sick people who are not using PPE*

It is therefore possible that advertising that was compliant before COVID-19 could now be in breach as a result of an inconsistency with the current public health campaigns.

Members are reminded that section 21 of the TGAC requires that all advertising "must not be inconsistent with ... public health campaign[s]".

On 28th May 2020, the TGA released guidance regarding advertisements of cold and flu medicines, stating,



Promoting a product as enabling someone to attend a workplace, school or other activity outside of home while experiencing cold and flu symptoms (even if temporarily controlled) conflicts with the Department of Health's advice to stay home when unwell.

In our view, the relevant Advertisement is not in conflict with these updated guidelines for the reasons specified in page 1 of this letter. For these reasons, we are of the view that the relevant Advertisement does not contravene the AANA Code of Ethics.

We understand that public health and safety is an important issue (particularly during this unprecedented and challenging period) and look forward to working together with Ad Standards to ensure a prompt review of the Advertisement takes place.

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 depicts a woman with a dry cough who takes the cough mixture advertised and then continues her day, which is contrary to advice from the Chief Medical Officer.

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

The Panel considered whether the advertisement complied with 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 complainant's comment that anyone with a dry cough should self-isolate and attend a COVID19 testing clinic. The Panel noted that due to the COVID19 pandemic there has been an increase in concern in the community about people that are unwell being in public.

The Panel noted the advertiser's response regarding information from the Therapeutic Goods Administration, and noted that the woman is not depicted taking the advertised product and that the woman is depicted with her immediate family with no other people in the park.

The Panel noted that there are many reasons for which a person may have a dry cough or a sore throat, not all of which are related to a person being unwell. Allergies, throat irritants and medical conditions such as asthma can be related to a sore throat or dry cough. The Panel noted that the woman in the advertisement does not appear to be unwell or displaying signs that she may be suffering from respiratory infection such as a red nose, puffy face, or appearing fatigued.



The Panel considered that whilst current recommendations on social distancing and personal hygiene measures during the COVID19 pandemic are important, the Panel has taken the view that a degree of regulatory pragmatism is needed when evaluating advertisements at this time. The Panel noted that there is no suggestion in the advertisement that social distancing or other personal hygiene measures are unimportant, or a depiction that trivialises the COVID19 pandemic. The family in the advertisement is shown to be complying with all health advisories.

The Panel considered the behaviour depicted is a portrayal of usual community behaviour and in normal times is not contrary to prevailing community standards.

The Panel considered that the advertisement did not contain material which would be contrary to Prevailing Community Standards on health and determined that it did not breach Section 2.6 of the Code.

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