



Case Report

1	Case Number	0190/15
2	Advertiser	Johnson & Johnson Pacific Pty Ltd
3	Product	Toiletries
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	27/05/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement depicts a baby girl in a small baby bath tub which contains water and bubbles from a Johnson's® baby product. The Advertisement depicts the baby being bathed by an adult who is out of shot; the adult is holding the baby for the duration of the Advertisement, supporting the baby's head with her hand from behind. At the end of the Advertisement, we cut to a product shot of three Johnson's® Baby products.

THE COMPLAINT

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

Baby is lying in a deep semi bubbly bath during the spoken add description a Johnson product I haven't identified the product as I was too concerned about the possibility of potential drownings because of mis information about baby baths the company is projecting. Babies are bathed in ONLY 1-2" of water not almost pouring into the babies mouth. Please remove this image asap.

My wife was almost charged with attempted murder years ago because of bath water.

THE ADVERTISER'S RESPONSE

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

We have considered the Complaint and the relevant provisions of the Australian Association of National Advertisers Code of Ethics (the Code) and the Code for Advertising & Marketing Communications to Children (the AMCC) and submit that the Johnson's® baby 'so much more' TVC advertisement (the Advertisement) the subject of the Complaint complies with the Code and the AMCC for the reasons set out in this letter, and that the Complaint should therefore be set aside.

The ASB has referred us to sections 2.1 (discrimination / vilification), 2.2 (exploitative / degrading), 2.3 (violence) 2.4 (sex / sexuality / nudity), 2.5 (language) and 2.6 (health / safety) of the Code and to the AMCC. We address each of these sections of the Code and the AMCC below.

a. Health / safety

Section 2.6 of the Code states:

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

Section 3.1 of the Code provides that:

“Advertising or Marketing Communications to Children shall comply with the AANA's Code of Advertising & Marketing Communications to Children and section 2.6 of this Code shall not apply to advertisements to which AANA's Code of Advertising & Marketing Communications to Children applies.”

We submit that the Advertisement is not directed towards children; it is targeted to parents of young babies and toddlers. Therefore, in our view, the AMCC does not apply in place of section 2.6 of the Code.

The Complaint asserts that the bath depicted in the Advertisement is “deep” and that babies should be bathed in no more than “1-2” of water”.

However, we submit that there is no actual prevailing community standard on health and safety in relation to the depth of bath water when bathing infants. For example:

- the Royal Children's Hospital of Melbourne's Clinical Nursing Guidelines for neonatal and infant skin care state that bath water depth should be “deep enough to allow the infant's shoulders to be well covered” ;*
- the King Edward Memorial Hospital's Clinical Guidelines for neonatal care do not specify a suggested bath water depth ; and*
- unpublished guidance from the Tresillian Family Care Centres confirms that there is no strict maximum water depth and in fact states that “deep relaxation baths” for infants are possible .*

Our understanding is that the prevailing community standards on health and safety in relation to infant bathing instead relate to issues such as supervision and water temperature:

- *unpublished advice from the Tresillian Family Care Centres states that infants must at all times be supervised when being bathed and should not be left alone at any time ; and*
- *the King Edward Memorial Hospital’s Clinical Guidelines for neonatal care recommend bath water temperature of 36 to 36.7 degrees Celsius for infants .*

Patient safety is at all times JJP’s first priority and the purpose of the Advertisement is to promote a safe and enjoyable bathing experience for babies. The Advertisement clearly depicts a baby being bathed by an adult in a small bath tub (which is not particularly deep), with the baby’s head being supported and held above the water by the adult’s hand from behind for the duration of the Advertisement. The voiceover also clearly depicts a bathing experience between parent and baby that clearly assumes the parent’s presence and supervision at all times. While not visible from the Advertisement, we can also assure the ASB that the water in which the baby was bathed was set at an appropriate temperature. We therefore submit that the Advertisement reflects prevailing community standards on health and safety.

b. Discrimination / vilification

Section 2.1 of the Code states:

“Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.”

The Complaint does not make any allegations of discrimination or vilification and we submit that the Advertisement does not discriminate against or vilify any section of the community and is not demeaning or disrespectful to any group of people.

c. Exploitative / degrading

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 Complaint does not make any allegations of exploitation or degradation and we submit that the Advertisement does not exploit or degrade any individual or group of people.

d. Violence

Section 2.3 of the Code states:

“Advertising or Marketing Communications shall not present or portray violence unless it is justifiable within the context of the product or service advertised.”

The Complaint does not make any allegations regarding portrayals of violence and we submit that the Advertisement does not portray any form of violence.

e. Sex / sexuality / nudity

Section 2.4 of the Code states:

“Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.”

The Complaint does not refer to any allegations of insensitive treatment of sex or nudity. We nevertheless submit that the Advertisement does not depict any insensitive nudity or sexuality.

f. Language

Section 2.5 of the Code states:

“Advertising or marketing communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.”

The Complaint does not make any allegations of use of inappropriate language and we submit that the Advertisement does not contain any inappropriate language.

CONCLUSION

For the reasons set out above, we strongly submit that the Advertisement complies in all respects with the provisions of the Code (including the Codes incorporated therein), and in particular Sections 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 of the Code.

We respectfully ask the ASB to set aside the Complaint.

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 being bathed in deep water and this could lead to parents accidentally drowning their own babies.

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

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 advertisement features a baby girl being bathed using Johnson and Johnson baby bubbles.

The Board noted the advertiser's response that the baby is being bathed in a small bath tub and that there are no prevailing community standards on the maximum depth of water a baby should be bathed in but rather that a baby should always be supervised by a responsible adult.

The Board noted that throughout the advertisement the baby is being held in the water by a female adult and that her other hand is being used to bath the baby and rub the baby's foot. The Board considered that there is no suggestion that the baby is in any danger at any stage during the advertisement and that overall the baby is being appropriately supported and supervised by the woman.

The Board acknowledged the complainant's personal experience could interpret how they view the issue of babies being bathed but considered that in this instance the advertisement does not depict material contrary to prevailing community standards on the safe bathing of babies.

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 complaint.