



Ad Standards Community Panel
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AdStandards.com.au

Ad Standards Limited
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Case Report

1. Case Number :	0210-22
2. Advertiser :	Procter & Gamble Australia Pty Ltd
3. Product :	Health Products
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Determination	14-Sep-2022
6. DETERMINATION :	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.3 Violence

DESCRIPTION OF ADVERTISEMENT

This television advertisement features a young man and woman sitting on a bench in the park. The woman suddenly pulls the man in for a kiss. After a few seconds he passes out and drops to the ground.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Hasn't the girl committed a sexual assault on the boy? Is it responsible to allow this ad to continue, given recent changes to the law on seeking consent prior to such an act?

THE ADVERTISER'S RESPONSE

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

We refer to your letter dated 6 September 2022 providing us with a copy of a complaint (0210-22) (Complaint) received by Ad Standards regarding a Vicks Inhaler Advertisement viewed by the Complainant on Television. Procter & Gamble Australia ('P&G') highly values the work of Ad Standards in supporting compliance and best practice standards for the benefit of both consumers and our broader industry. We appreciate the opportunity to respond to the Complaint regarding the advertisement.



P&G is committed to ensuring that our advertisements are compliant with prevailing law and the AANA Code of Ethics (the "Code"). The advertisement in question (the "Ad") underwent extensive review with the intention to create a compliant advertisement that communicated the benefits of Vicks Inhaler in an impactful yet humorous way. This is supported by CAD's classification of the Ad as 'G', that is, suitable for viewing by everyone and relating to or characterized by a lack of violence, obscenity, or sexual explicitness. This supports our view that the Ad is consistent with prevailing community standards and is in full compliance with the Code.

Vicks has a longstanding reputation in the community for providing leading and innovative products that aid with nasal congestion. A typical and lay consumer would understand the Ad to be dramatizing the impact of nasal congestion, in line with our history of humorous advertising over the many years. The copy would not be understood by the ordinary person to be depicting or promoting socially inappropriate behaviour.

As requested, we have addressed each aspect of the Code below in relation to the complaint and the Ad.

- *2.1 - Discrimination or vilification*

The viewer complaint does not raise any issues that are the subject of Section 2.1 of the Code. Nothing in the Ad depicts material in a way which is discriminatory or vilifies any individual or group of people. The individuals in the material do not act with inequity, bigotry or intolerance nor gives unfair, unfavourable or less favourable treatment to one person or a group because of their race, ethnicity, nationality, sex, age, sexual preference, religion, disability and/or political belief. Nor does the material or individuals in the Ad act in a manner that humiliates, intimidates and incites hatred towards, contempt for, or ridicule of one person or a group of people because of their race, ethnicity, nationality, sex, age, sexual preference, religion, disability and/or political belief.

- *2.2 - Exploitative or degrading*

The Ad does not employ sexual appeal in a manner that is exploitative or degrading of any individual or group of people. The young adult couple (not minors) depicted in the Ad are conservatively dressed and positioned on the park bench. Their physical or other personal attributes are not highlighted in any manner. The kiss that occurs would be reasonably understood to highlight the benefits of Vicks Inhaler rather than to employ sex appeal. The Ad is positive, responsible and suitable for general viewing (further reinforced by the G Rating by CAD).

- *2.3 – Violence*

There is no violence, nor the consequences of violence portrayed or implied in the Ad. The visual and narrative flow of the Ad clearly depicts the progression of a first kiss between a couple. While the female companion initiates the kiss, it is consensual. The male can be seen to lean into the kiss and continue to embrace the female. Without downplaying the seriousness of the topics raised by the complaint, we emphasise the Ad only dramatizes the atmosphere of a nervous first kiss and the benefits of the Vicks Inhaler in a hyperbolic fashion, to communicate the impact of a blocked nose. For thoroughness, we note the Ad does not implicitly or explicitly include depictions that condone or incite violence, intimidating behaviour, abuse, bullying, domestic violence, sexualised violence, use of weapons, vandalism and violence to property, consensual violence, aggressiveness, exposing oneself to dangerous activities, threats,



accidents, horror and gore, human atrocities and massacres, war, torture, exploitation and cruelty, including to animals.

- *2.4 - Sex, sexuality and nudity*

The Ad depicts the characters kissing in conservative, non-sexually suggestive (fully covered) clothing in a public place during daylight hours. The characters are not engaging in sexual activity or nudity. They are not positioned in a sexual manner, nor does the edit or characters focus on any sexually suggestive body part. Both characters are positioned upright. Both characters are adults and engaging in the embraces in a consensual manner.

The Ad is not highly sexualized and is not explicit or inappropriate for the broad audience.

We reiterate comments that the focus of the Ad is a humorous depiction of the impact of a blocked nose.

- *2.5 – Language*

The viewer complaint does not raise any issues that are the subject of Section 2.5 of the Code. There is unquestionably no use of strong, obscene, explicit, coarse or inappropriate language in the Ad. This again is further reiterated by CAD's "G" Rating of the Ad.

- *2.6 - Health and Safety*

The viewer complaint does not raise any issues that are the subject of Section 2.6 of the Code. The Ad does not depict any content that would encourage or condone unhealthy or unsafe behaviour.

- *2.7 - Distinguishable as advertising*

The viewer complaint does not raise any issues that are the subject of Section 2.7 of the Code. It is clear to the lay consumer this is an Ad, and is not disguised/camouflaged in any other form or manner.

Closing Remarks

As mentioned above, the advertisement in question underwent extensive review with the intention to create a compliant advertisement that communicated the benefits of Vicks Inhaler in an impactful yet humorous way. This is supported by CAD's classification of the Ad as 'G', that is, suitable for viewing by everyone and relating to or characterized by a lack of violence, obscenity, or sexual explicitness.

P&G is committed to ensuring that our advertisements are compliant with prevailing law and the AANA Code of Ethics (the "Code"). P&G values the work of Ad Standards in supporting compliance and best practice standards for the benefit of both consumers and our broader industry.

We appreciate the opportunity to respond to the Complaint regarding the advertisement and look forward to receiving Ad Standards determination on this matter

THE DETERMINATION

The Ad Standards Community Panel (the 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 portrays a kiss without consent.



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

Section 2.3: Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised

The Panel noted that the Practice Note for this section of the Code states:

"Although the depiction of violence in an advertisement may be relevant to the story being told in the advertisement, any violence must also be justifiable in the context of the product being advertised, or else will be in breach of this section of the Code... The results or consequences of violence (e.g. a black eye) and audio representations of violence may also be prohibited."

The Panel noted the advertiser's response that the advertisement does not contain violence and the kiss is consensual.

Does the advertisement contain violence?

The Panel noted that the Code and the Practice Note do not provide a definition of violence. The Panel noted that they needed to consider whether the general community would consider this ad to portray violence.

The Panel noted that social and legal attitudes towards consent had changed recently, and some states had adopted a requirement for positive consent before any sexual interaction.

The Panel considered that the depiction of someone kissing another person without their consent would be considered sexual assault. The Panel considered that most members of the community would understand sexual assault to be a form of violence.

However, in this instance the Panel considered that there was no indication in the advertisement that the kiss was not consensual. The Panel noted that the young man does not pull away from the young woman, and in fact, appears to press towards her and rub her back with his hand. The Panel considered that this was an indication of non-verbal consent and that this advertisement did not depict a sexual assault.

Section 2.3 Conclusion

The Panel determined that the advertisement did not present or portray violence and therefore did not breach Section 2.3 of the Code.

Conclusion

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