



ADVERTISING  
STANDARDS  
BUREAU

Level 2, 97 Northbourne Avenue, Turner ACT 2612  
Ph (02) 6173 1500 | Fax (02) 6262 9833  
[www.adstandards.com.au](http://www.adstandards.com.au)  
ACN 084 452 666

## Case Report

1	Case Number	0227/14
2	Advertiser	iNova Pharmaceuticals Australia Pty Ltd
3	Product	Health Products
4	Type of Advertisement / media	Free TV
5	Date of Determination	09/07/2014
6	DETERMINATION	Dismissed

### ISSUES RAISED

- 2.1 - Discrimination or Vilification Sexual preference
- 2.4 - Sex/sexuality/nudity S/S/N - general

### DESCRIPTION OF THE ADVERTISEMENT

The advertisement highlights the inconvenience of using traditional cough liquids when you are 'on the go' by creating a comical connection between untimely spooning in both the cuddling and medicinal sense.

The advertisement shows several scenes including

1. Two males are lying on a beach when one male rolls over, spooning his friend by surprise as he reads a book
2. A woman spoons a statue contently in a park scene
3. Three strangers spoon each other while waiting in line for the bus in a city scene
4. An older woman spoons a young male on a diving platform as he is about to dive into a pool

### THE COMPLAINT

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

*I was offended by this advertisement as "spooning" is an intimate, and adult concept which can have sexual connotations too. Spooning is not widely known to children. It is not something which children need to know about. In our modern culture it is very difficult to protect children from knowing too much too soon, and this advertisement is quite corrosive*

*and antithetical to children's innocence. While the ad tries to be humorous, that does not alleviate the damage that it does.*

*I saw this ad with my son (9 years old) when we were watching The Voice during a family viewing hour, and I was embarrassed and thought the ad was highly inappropriate for a child to see. It unnecessarily introduces adult concepts to children. Parents should have the choice about when they discuss these kinds of things with their children, they should not be foisted onto children through TV advertising.*

*The worst part is that the advertiser knew the advertisement was inappropriate, but it chose to make the advertisement and the company chose to run the ad anyway because they thought it would sell more product. Please see the link below for the advance stories from May about the proposed Duro Tuss campaign, which demonstrate the company knew the program was not suitable for most audiences but they screened it anyway.*

*<http://www.campaignbrief.com/2014/05/inova-set-to-launch-an-inappro.html>*

*The ad depicts two men embracing, or 'spooning' on a beach and goes on to compare this activity to be 'not ok'. In fact viewers are asked to hashtag #whennottospoon.*

*With the other examples in the longer version of the add the reason 'not to spoon' has something to do with the physical position they are in such as being at a bus stop, about to dive into a pool from a high board etc.*

*The two men are however laying on adjacent towels on a beach. There is nothing to stop those two men wanting to spoon if they have that sort of relationship with each other. If I were inclined to spoon my boyfriend on the beach in public I don't think it would be offensive, no more than a man and a woman having a harmless cuddle.*

*Clearly the reason 'not to spoon' comes from a homophobic assertion that two men can't show public affection and that such a display of affection is considered offensive or distasteful.*

*This ad reinforces homophobia. That being hugged by a member of the same sex is somehow inappropriate.*

## **THE ADVERTISER'S RESPONSE**

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

*The idea behind our latest advertising campaign is to illustrate potential situations when the act of spooning is untimely and / or comical in both the cuddling and medicinal sense.*

*The examples which have been included in the advertisement demonstrate the spooning of friends, objects and strangers in a public setting. All four spooning situations are considered comical as it is not common to see spooning of any form in public, let alone amongst strangers or with objects.*

*We have made efforts to ensure that the advertisement does not communicate that spooning is wrong, rather that there is a 'time and a place' for spooning. This is reinforced in the opening voiceover of the 30 second advertisement, "there's a time and a place for spooning."*

*The scene that has drawn particular concern in the complaints features in both the 30 second and 15 second cut down advertisements. This scene involves two male friends who are relaxing on a beach. One male rolls over to spoon his unsuspecting friend. The friend looks*

*back, surprised and perplexed by what is occurring.*

*The scene has been included as it illustrates an example of public spooning between two friends, which in this case is both humorous and awkward due to the fact that it is occurring in a public setting and is out of character between these two friends. It is not intended to communicate that affection or physical contact between these two male friends is wrong.*

*Under the provisions of Section 2 of the AANA Advertiser Code of Ethics which inter alia says 'Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief' (Code 2.1) and 'Advertisements shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone' (Code 2.4).*

*We submit that in relation to Section 2, our advertising agency and our media buyers and planners have taken care to ensure that the scheduling of our commercials complies with the provisions of the Code.*

*The complainants state, "Clearly the reason "not to spoon" comes from a homophobic assertion that two men can't show public affection and that such a display of affection is considered offensive or distasteful" and "This ad reinforces homophobia. That being hugged by a member of the same sex is somehow inappropriate."*

*Under Section 2.1 and 2.4, we believe that the TVC in its entirety and in the context in which it is shown does not breach the AANA Advertiser Code of Ethics. An objective viewer, having regard to the entire TVC would not believe that the TVC is contributing to the lack of morality in our society or advancing any form of 'homophobia'. The idea is meant to be humorous and light-hearted. Hence we believe that the 'spooning' as illustrated in the advertisement is not asserting homophobia and in the circumstances (in the entire context of the TVC) meant to be humorous, light-hearted and were 'appropriate'.*

*Specific to the scene in question in which two males are spooning in a beach setting, we believe that within the context and humorous tone of the advertisement, this scenario does not portray homophobia in any manner.*

## **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 complainants' concern that the advertisement depicts homophobic material in its suggestion that two men hugging is not appropriate.

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

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which

discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

The Board noted the advertisement features different scenarios where people hug either another person or an object and the voiceover suggests that Duro Tuss is for when "spooning just isn't right".

The Board noted that there are many different scenes showing people 'spooning' and considered that the scene showing a man hugging his male friend is not marked out as being any different from the other examples shown. The Board noted that all the examples depict people hugging someone or something at a time or a place which is not convenient: a man trying to dive in to a pool is prevented from doing so by a woman hugging him; three people hug whilst waiting in a bus queue; a woman hugs a statue in a park. The Board noted the advertised product is a tablet form of cough medicine which is more convenient to take than cough medicines which require a spoon and considered that the most likely interpretation of the scenes featured in the advertisement is that there are times when 'spooning' is not appropriate or convenient.

The Board specifically noted the beach scene where a man hugs his male friend and considered that this scene does not suggest that two men showing physical intimacy towards one another is inappropriate but rather that at that particular moment the man receiving the hug was not expecting it and it was not appropriate or wanted. The Board considered that it was not a suggestion that it was unwanted because it was another man, rather that "spooning" is inappropriate while lying on a beach.

The Board considered that the advertisement did not portray or depict material which discriminates against or vilifies a person on account of sexual preference.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience".

The Board noted the complainant's concern that 'spooning' is "an adult concept which can have sexual connotations...(and)...is not widely known to children". The Board noted the Macquarie Dictionary definition of spooning:

- (of two people) to lie very close together, facing the same direction, with bodies curved inwards

The Board noted that whilst some members of the community may consider spooning to be a sexualised concept in the Board's view the examples of spooning in the advertisement are presented in a manner which is affectionate and considered that these examples are not sexualised or suggestive of sexual activity. The Board considered that in the context of the scenes depicted in the advertisement and the official dictionary definition the use of 'spooning' in the advertisement is not inappropriate for a broad audience which could include children.

The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience.

The Board determined that the advertisement did not breach Section 2.4 of the Code.

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