



Case Report

1	Case Number	0233/13
2	Advertiser	Bayer Australia Ltd
3	Product	Health Products
4	Type of Advertisement / media	TV
5	Date of Determination	24/07/2013
6	DETERMINATION	Dismissed

ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - nudity

DESCRIPTION OF THE ADVERTISEMENT

Ad begins with an ultrasound showing baby in-utero, pans to pregnant couple, next shot is baby playing, then mum changes baby on change table and applies nappy rash cream to baby's bottom. Models of layers of skin are shown demonstrating how the nappy rash product works to protect baby's skin. End shot is product shot of Bepanthen ointment.

THE COMPLAINT

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

This is not appropriate for any television at any time.

I don't believe that a child's genitals should be shown on TV. There should be laws on showing children naked. There are too many scary people in the world looking at children let alone babies naked showing their private parts.

The ad exposes the baby's genitals. I note that showing a bottom seems to be acceptable but this ad shows a little too much of the baby girl. I don't believe that this is necessary or appropriate.

Female baby used in ad. Genitals can be seen (plenty enough to know that child is a girl). I thought this was not allowed. It concerns me that these images are made public given the prevalence of paedophilia in Australia. Having 2 girls myself I really object to this little girl

being exposed in the ad and am totally surprised this ad was ever allowed to be broadcasted.

You could clearly see the baby's vulva (private parts).

Can see the little baby's vagina in 2 shots of the advertisement.

I am just really concerned that they showed too much of the female baby's front bottom. I actually thought it wouldn't be allowed with petafiles out there. (Surprised the mother of the baby allowed it).

The baby's female genitalia area was clearly shown at least twice in the ad - would the same be allowed for a male child. Where is the respect for the female child who is not able to ok this invasion of privacy. A poor example of respect for the female gender, and fodder for inappropriate viewing by some members of society.

The vagina of the baby girl is clearly seen. I believe this is highly inappropriate, as the person is under age of 18 and can be viewed in a sexual nature with certain individuals.

It is unnecessary and completely inappropriate! It exposes the individual child used in the advertisement and violates her rights. Given the number of pedophiles in our community this advertisement should never have been aired.

Female baby's genitals are clearly visible, have no problems with a view, as in other adverts, of side of leg or bottom but not genitals being shown. May encourage perverts.

THE ADVERTISER'S RESPONSE

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

We are writing in response to your letters dated 2 July 2013 and 5 July 2013 regarding consumer complaints relating to a television advertisement for Bepanthen Ointment.

Background

We note that the complaints were initiated and submitted online to the Advertising Standards Bureau.

Your letter states that in addition to considering the specific issues raised by the complainant, the Advertising Standards Board will review the advertisement against section 2 of the Advertiser Code of Ethics (Code). In this regard, you have asked us to consider whether any issues within the advertisement fall within section 2 of the (Code).

In our view, the only section of the Code which is potentially relevant to the complaint is section 2.4, which provides that Advertising or Marketing Communications shall treat sex, sexuality or nudity with sensitivity to the relevant audience.

For the purposes of our response, we note that the Code for Advertising & Marketing Communications to Children does not apply because the advertisement, having regard to the theme, visuals and language use, is not directed primarily to children. Also, the advertisement has not been placed in any timeslots or programs that children are likely to be viewing.

Similarly, the AANA Food and Beverages Marketing and Communications Code does not apply because the advertisement does not relate to a food or beverage.

Bayer's response to the complaint

Bayer is extremely mindful of its responsibility to develop communications that do not raise concern amongst the community. Bayer has run this advertisement in other markets overseas, for example the UK and Brazil, where the advertisement was positively received by consumers.

Bayer also has stringent internal procedures to ensure that advertising material is compliant with relevant legislative requirements, however on this occasion the image portrayed in the Bepanthen Ointment advertisement inadvertently shows the baby's genitals. Bayer has taken steps to address the concerns raised by the complainants by blurring this image in the advertisement. A copy of the updated advertisement is provided for your review.

We trust that the concerns of the Advertising Standards Bureau have been sufficiently addressed, but should you require any further information, please do not hesitate to contact us.

Otherwise, we look forward to your favourable response.

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’ concerns that the advertisement includes images of a young baby girl’s genitals and is inappropriate.

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

The Board then 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 advertisement features a young mother changing her baby on a change table and applying nappy rash cream to baby's bottom. Models of layers of skin are shown demonstrating how the nappy rash product works to protect baby's skin. The final shot is of the product Bepanthen ointment.

The Board considered that it is acceptable for an advertiser of baby nappy rash cream to show the application of the cream or the cream being used. The Board noted that there is a fleeting glimpse of the baby’s genitals and that there is a direct relevance to the product.

The Board agreed that in general, the use of a baby’s naked behind can be considered appropriate in certain situations when the product is relevant. A minority of the Board expressed concern over the visuals including exposed genitals and considered that the exposure of a baby’s genitals is a level of nudity that is gratuitous and unnecessary for the promotion of product.

Overall however the majority of the Board considered that there is a certain level of nudity that is accepted by the community in relation to young babies and that in this instance where the advertisement shows a caring mother applying cream to the babies naked bottom for the purposes of assisting with nappy rash and is extremely fleeting. In this context the Board considered it is not inappropriate and is suitable for broadcast.

The Board determined that the advertisement did not depict inappropriate nudity and that the advertisement did not breach section 2.4 of the Code.

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