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STANDARDS
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Case Report

1	Case Number	0233/14
2	Advertiser	Johnson & Johnson Pacific 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

2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The advertisement depicts a woman, called Audrey, suffering from a cold. Audrey is then shown taking “Codral® Cold & Flu, New Formula” tablets in her home while a super appears on the screen stating: “Always read the label. Use only as directed. If symptoms persist, see your healthcare professional”.

Audrey then heads out of home, no longer showing the symptoms of her cold. On her way out Audrey has several misfortunes on her way to a party and the final shot of the Advertisement is a packet of a “Codral® Cold & Flu” branded product on a bench and the final voice over states: “You see, Audrey is a certain type of person. She is a Soldier On® person thanks to the powerful relief of Codral®” while a super on the screen reads “aches and pains associated with cold and flu”.

THE COMPLAINT

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

Here is my complaint. Although the ad does support 'Soldier On' for a "nasty cold", the appearance of the

Codral Cold & Flu packet at the beginning and end of the ad suggests the message also applies to flu.

Under the influence of this much repeated 'Soldier On' badge-of-courage message, even a

reasonable person could be forgiven for concluding it is ok to attend social occasions and work when contagious with flu.

My complaint parallels that of sports concussions where sufferers are inadvisably told to 'suck it up' or 'tough it out', when proper medical advice is to refrain from sport for some months.

Members would be aware that flu is caused by a highly contagious virus, spread by coughing and sneezing. It is much worse than a bad cold and sometimes leads to serious complications. Thus, accepted medical and pharmacist advice for flu sufferers is, bed rest, particularly during the contagious period of up to 5 days after symptoms appear.

Yes, the Codral website does state flu sufferers 'will need a lot of rest. .. ', but, there is no suggestion that one should stay at home and get bed rest. 'Soldier On' is clearly poor advice to those who are contagious.

Bed rest is the proper advice, or in Codral language, 'Soldier Of!.

Neither is 'Soldier On' proper advice for serious coronaviruses such as MERS and SARS, which are initially difficult to discern from flu.

It is obviously in Johnson & Johnson's self-interest to have flu spread widely in the community through contagious people attending social occasions and work. I am not suggesting Johnson & Johnson would deliberately advise such attendance. Rather, the 'Soldier On' message, unintentionally, has this result, which are an undue risk and a serious community health and safety issue.

Further, people's immune systems can be susceptible to any new versions of the flu, leading to epidemics every three years or so, or even less frequent but more frightening pandemics, one of the world's most pressing health issues. Whilst flu presently occurs only in a minority of the population, future epidemics or pandemics are much more concerning.

And the Codral website advises, "Talk to your Pharmacist before taking any cold and flu products."

That's all very well, but not all Codral cold and flu products are sold pharmacy only. Of the twelve or so

"Codral cold and flu products" (Codral terminology), five are pharmacy only. The remaining Codral products, are sold in supermarkets, grocery stores (and online), where professional pharmacist advice regarding flu is not available. Proper advice such as, bed rest until the fever subsides, in order to protect the health and safety of the community.

A reputable multinational like Codral's parent, Johnson & Johnson, the world's most broadly based health care company, could be expected to place the consumer firmly at the centre of its ad campaign and properly advise bed rest for flu.

In fact, the Johnson & Johnson Pacific Pty Limited website (www.jnj.com.au) states, "The desire to make people healthier and safer is at the heart of our Company's giving." So, let's give the good advice of bed rest for contagious flu sufferers so promoting a healthier and

safer community. Let's not be selfish: let's consider others.

My second grounds for complaint is that the 'Soldier On' advice contained in the ad is misleading or likely to mislead (or deceive) consumers (with flu), when they should be in bed if contagious, and thereby infringes the Trade Practices Act (Australian Consumer Law), even if inadvertently. These grounds are also a most serious matter.

I believe the previous low level of complaint regarding this pernicious ad merely reflect its subtle nature, and the general complacency of viewers.

Remedy Sought:

For all these reasons, I seek a direction, in the interest of community health and safety, for Codral

(Johnson & Johnson) to remove its 'Soldier On' message (and the jingle music) from all media. That the message has been used for thirty years speaks only to its success as a marketing device, but for flu sufferers it is irresponsible public advice, even if only implied.

That Codral does not market separate cold, and flu, products with distinctly different advice for each, is indeed part of the problem which Codral has itself: generated.

It is apparent that Johnson & Johnson have based their whole Codral marketing strategy on this catchy, but misplaced, 'Soldier On' message and can be expected to defend it most vigorously, whatever the facts.

Consequently, my complaint warrants careful consideration.

The advertisement promotes attitudes which are contrary to proper management of cold and flu like illnesses. In particular the promotion of attending group gatherings while affected by an infectious illness.

This type of attitude in a serious flu epidemic will cost lives and even with lesser viruses will spread the illness through a higher portion of the community at a high cost to our society but cynically with greater sales for the advertiser.

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 complaints and the relevant provisions of the Australian Association of National Advertisers Code of Ethics (the "Code") and submit that the Codral® Cold and Flu advertisement (the "Advertisement") the subject of the complaints complies with the Code and all laws and for the reasons set out in this letter the complaints should be set aside.

In response to the complaints received by the ASB

We wish to respond to the concerns raised by the two complainants in relation to our Advertisement.

The ASB has referred us to section 2.6 of the Code, that Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on Health and Safety. The complaints, allegedly falling under section 2.6, refer to: not spreading serious/non serious cold and flu illness; that 'Soldier On®' is not proper advice to those who are contagious; and that some products are sold where a pharmacist is not available to give advice. One of the complaints also alleges misleading and deceptive conduct which we deny. We also deny that we are in breach of section 2.6 of the Code and all other allegations and we set out below:

- A. Our research regarding cold and flu and treatment of the symptoms;*
- B. Consumer testing and validation of the Advertisement;*
- C. Our response to the complaint about not spreading serious/non serious cold and flu illness/use of the Soldier On ® message and Prevailing Community Standards on Health and Safety;*
- D. Our response to the complaint that some products are sold where a pharmacist is not available to give advice (supermarkets/grocery and online);*
- E. Our response to the complaint alleging misleading and deceptive conduct;*
- F. The relevant audience of the Advertisement; and*
- G. The purpose of the Advertisement*

A. Our research regarding cold and flu and treatment of the symptoms
We submit the Advertisement and the Soldier On® trade mark and jingle are representative of actual consumer behavior that the majority of people when suffering from an upper-respiratory illness, take a medicated product to relieve symptoms to enable them to go about their day.

In a study from 2007, 68% of 843 respondents confirmed that they took a non-prescription cold and flu product when suffering from a cold/flu. The respondents were nationally represented based on age (18-64) and location and it confirmed that the majority choose to treat a cold and flu with a product like Codral®.

In another national study regarding upper-respiratory illness (including cold and flu, cough and sinus) we conducted in 2012 with 846 respondents (Female 54% Male 46%) regarding their treatment, 67% of people responded they go about their day as normal when they are sick. Contrary to the complainants view, only 33% stay at home when suffering from such illness.

Furthermore, we submit that consumers are able to make the distinction between mild upper-respiratory symptoms and severe upper-respiratory symptoms. In a third national study we conducted in 2012 we researched treatment occasions of upper respiratory illness, with 728 respondents who reported experiencing 4,016 suffering occasions over a period of 21 days. On a scale of 1-6 (1 being the mildest and 6 the most severe), 63% of respondents rated the severity of their symptoms between "1 – 3", and 22% of respondents at "4". Only 11% rated severity at "5" and only 4% of respondents rated the severity at "6".

The findings from this third study show that 85% of respondents, i.e the majority/ prevailing amount, described their symptoms at the lower, mild to medium end and only a minority of 15% described their symptoms at the more serious end of the spectrum.

That study also revealed people treat their symptoms more often on a workday (60% treat with medicated and non-medicated treatment such as herbal treatment) than a non-workday.

Again that study further supports that actual consumer behaviour is to treat symptoms and go about their day meeting obligations, and the Advertisement merely reflects that reality.

B. Consumer testing and validation of the Advertisement

Johnson & Johnson Pacific developed the Advertisement based on:

(a) the findings of our research on prevailing community views about mild to medium incidence of cold and flu;

(b) how the prevailing number of people in the community behave i.e the majority take a cold and flu product to treat symptoms; and

(c) the majority of treatments occur on workdays,

indicating that people are treating to enable them to go about their day and meet their obligations when suffering from a cold or flu. This was also supported by our testing of the Advertisement before final production.

Before producing the final version of the Advertisement, we then tested it in animatic form with 150 randomly selected respondents who had suffered with cold or flu in the past 12 months and who treat with over the counter medication. These respondents were from Australian capital cities to replicate national proportions.

The testing confirmed that the Advertisement is in line with the Prevailing Community Standard on health and safety and found that:

- 81% of those tested agreed the Advertisement is very/quite relevant;*
- 69% of those tested agreed “it showed things I could relate to”;*
- 57% stated that “I could really identify with the people in it, [i.e Audrey]”;* and
- 62% of people tested stated that “Codral® helps me get on with my day/Soldier On®”.*

The prevailing support for the Advertisement is well summarized by the respondent who stated:

“Codral® is predominantly a product aimed at keeping the common cold and flu at bay, so you can get on with your day” Female 32 years old.

So based on our research and our testing of the Advertisement before production, we submit that consumers relate to the fact that in the Advertisement, Audrey is suffering from a cold

and she chooses to treat her mild to moderate symptoms with Codral® Cold and Flu to help her meet her obligations.

C. In response to the complaints about not spreading serious/non serious cold and flu illness and that ‘Soldier On®’ is not proper advice to those who are contagious: Prevailing Community Standards on Health and Safety

The two complaints refer to:

(a) “serious flu epidemics that cost lives”, and “serious coronaviruses such as MERS and SARS”. These can be grouped under a category of life threatening influenza epidemics/pandemics; and

(b) a second group of less serious cold and flu infections.

(a) Life threatening influenza epidemics/pandemics

With respect to life threatening influenza epidemics/pandemics, we submit the Prevailing Community Standard on Health and Safety includes the following.

The reasonable person, suffering from a serious influenza, with serious symptoms would likely see a Health Care Professional (HCP), such as a doctor or pharmacist. The HCP, in accordance with their role, would advise on the appropriate course of action to manage and treat their illness.

If it actually is a life threatening influenza epidemic/pandemic, then the HCP is likely to advise that the sufferer be separated from family and friends, effectively be quarantined from general society and the sufferer receive specialist medical care from trained HCPs such as doctors and nurses as part of that quarantining from general society. The HCP is also likely to notify the appropriate health authorities. Those health authorities would also have a role to play in such a case and be likely to advise the community on the appropriate actions to be taken. For example the “Department of Health and Ageing Australian Health Management Plan for Pandemic Influenza 2009” advises a number of measures including: individuals to wear a surgical mask when instructed by health authorities; identifying and quarantining people who have been in close contact with an infectious case, and providing antiviral prophylaxis; and at the community level, potentially the closure of schools and childcare centres, workplace measures, cancellation of mass gatherings, and changing public transport arrangements to limit crowding and movement restrictions.

We also note the extremely rare incidence of the serious life threatening influenzas of MERS and SARS referred to by one of the complaints. Middle East Respiratory Syndrome coronavirus (MERS) is a viral respiratory infection, and according to data from the Australian Government Department of Health (DoH), no cases have been identified in Australia to date. The DoH further reported there was one case of Severe Acute Respiratory Syndrome (SARS) in Australia in 2003, and only 4 reports of SARS since then. Further, we submit if there is a serious life threatening influenza epidemic/pandemic, the “reasonable person” would also make their own appropriate decisions such as limiting their interaction in society. For example, during the SARS concern in 2003, people from Australia voluntarily

reduced their air travel to Asia.

We submit that:

(a) the Advertisement, which advertises a product to treat the symptoms of cold and flu, is directed at the category of sufferer at the lower end of the spectrum;

(b) the remaining and full Codral® range available in various channels including pharmacy, supermarkets/grocery and online as permitted by the relevant health authority depending on the ingredients in the product (although not the subject of the Advertisement but referred to by one of the complaints); and

(c) the “Soldier On®” trade mark and jingle,

are therefore clearly not intended to apply to situations of life threatening influenza epidemics/pandemics. We further submit that the “reasonable person” would have that view. By reasonable person we mean the person representing prevailing and reasonable views regarding the management of non-life threatening cold and flu, in keeping with Prevailing Community Standards on Health and Safety under the Code.

(b) Less serious cold and flu infections and Prevailing Community Standards on Health and Safety

We submit that in the event of less serious cold and flu infections, the Prevailing Community Standard on Health and Safety is that people first assess their symptoms and how they feel, if they feel particularly unwell they may then see an HCP or if not feeling so unwell they may decide to self-treat symptoms with a cold and flu product to relieve their symptoms to enable them to go about their day and meet their obligations. This is well supported by the data we discussed above in relation to our research regarding cold and flu and treatment of the symptoms (section A above) and consumer testing and validation of the Advertisement (section B above).

We submit based on the data set out above and the practices of the majority in the community, that it is widely held by the community to be appropriate for a person to take products (if they so wish), such as Codral® branded products, to manage and treat the self-limiting symptoms at the lower end of the spectrum of seriousness and then to go about their day and attend to their obligations, when they would otherwise find this difficult.

We submit that the Prevailing Community Standard on Health and Safety in cases of less serious cold and flu infections is not to be quarantined from general society, which is the essence of the suggestion of the complaints. We submit that the complainants’ concerns are not an accurate reflection of prevailing community standards in relation to the lower end of the cold and flu spectrum. If they were, then those with less serious incidence of cold and flu would not be permitted to interact with anyone else, and would be restricted from meeting their obligations such as attending to/caring for their children, their parents, or others to whom they have obligations. If that were the prevailing standard then individuals with a cold or flu like illness would not, and perhaps would not be permitted to, attend a group gathering, social occasions or work, and this could mean that individuals with a cold should not be allowed to leave their homes and should be quarantined (irrespective of where they fall within this spectrum of seriousness). This does not, in our view, nor based on the research

cited above, reflect the prevailing community attitude to people with colds and flu.

The Advertisement

We submit that the Advertisement and the Soldier On® jingle featured in that advertisement reflects and complies with Prevailing Community Standards on Health and Safety that when suffering from a less serious cold and flu the majority treat it with a cold and flu product, such as Codral® Cold and Flu, to enable them to go about their day.

We also make the following comments about the Advertisement.

The Codral® Cold & Flu branded product featured in the Advertisement (and clearly shown with a large pack shot close to the beginning and then again at the end of the Advertisement) is scheduled by The Standard for the Uniform Scheduling of Medicine and Poisons as Pharmacy Only Schedule 2 (“S2”) as it contains paracetamol, phenylephrine and codeine. As an S2 product it is only available for purchase in store in pharmacy or from pharmacy online, where, from our enquiries, a pharmacist is available by phone to answer questions from a consumer. The S2 product in the Advertisement is not otherwise for sale, for example, it is not available in the supermarkets/grocery channel or from supermarkets/grocery online sellers. We note that we do not set the regulations on where over the counter medication may be sold, as that is determined by the relevant health authority.

As the Codral® product featured in the Advertisement is only available in the pharmacy channel, pharmacy staff are available (including by the pharmacy online sellers) to advise a customer about the purchase of the Codral® Cold & Flu branded product in the Advertisement and customers may be advised to seek medical advice and/or bed rest, if appropriate according to the health care professional, or to treat their symptoms in other ways such as taking a cold and flu product like Codral®. Importantly, in providing this advice, health care professionals would also take into account the health and safety of the community.

We also submit that the “Soldier On®” jingle and trade mark are in line with the Prevailing Community Standards on Health and Safety discussed above.

The Advertisement playing the “Soldier On®” jingle also contains a super stating “Always read the label. Use only as directed. If symptoms persist, see your healthcare professional”, which is a mandatory statement required by the relevant health authority further directing the viewer of the Advertisement to consider if they should seek advice from a health care professional.

One of the complainants also states the Advertisement should instead recommend “bed rest”. In our view, advising someone to take “bed rest”, i.e confining to bed, is medical advice, more appropriate from a health care professional such as a doctor or pharmacist and more appropriate in a more extreme case than is depicted in the Advertisement.

We therefore submit that the Advertisement, the Codral product featured in the Advertisement and the “Soldier On®” trade mark and jingle, well known to Australians for 30 years, reflect the widely held view (ie the Prevailing Community Standard on Health and Safety), that when suffering from a non-life threatening cold and flu, the majority treat it with a cold and flu product, such as Codral® Cold and Flu to feel better and relieve their symptoms to help them

go about their day and meet their obligations.

This is also well supported by the data discussed above from our research regarding cold and flu and treatment of the symptoms (section A) and consumer testing and validation of the Advertisement (section B).

The “Soldier On” trade mark and jingle in all media

We submit that Soldier On® is not offered as advice, rather it is based on consumer insights of what cold and flu sufferers choose to do in accordance with Prevailing Community Standards on Health and Safety. That is supported by our research regarding cold and flu and treatment of the symptoms (section A) and consumer testing and validation of the Advertisement (section B).

We also note that whenever we use the “Soldier On” trade mark or jingle in any media, we use the mandatory statement as required by the relevant health authority, which states: “Always read the label. Use only as directed. If symptoms persist, see your healthcare professional”, further directing the consumer to the health care professional.

D. In response to the complaint that some products are sold where a pharmacist is not available to give advice (supermarkets/grocery and online)

One of the two complaints also refers to sales of Codral® generally online.

As noted above, we do not set the regulations on where over the counter medication may be sold and in that light we make the following comments.

Sales in the pharmacy channel

Under those regulations, as discussed above in section C, the S2 product in the Advertisement may only be sold in the pharmacy channel (in pharmacy and by pharmacy online) and from our enquiries a pharmacist is available to give advice.

Sales in the non-pharmacy channel

The relevant health authority has permitted the sale of certain cold and flu products, including some of the Codral® range, in supermarkets/grocery and online where pharmacists are not located or available based on the ingredients/formulation of the products. Under those regulations products sold in the supermarkets/grocery channel (ie not the pharmacy channel) must not contain certain ingredients. From the Codral® range these are: pseudoephedrine, dextromethorphan, codeine and chlorpheniramine, as those ingredients are only to be sold in the pharmacy channel where a pharmacist is available to advise. As noted above, we do not make that regulatory decision.

We also submit that where our products are sold in channels where a pharmacist is not available, they are sold in accordance with health authority regulations and there are a number of statements on our packaging to inform the consumer. The back of all medicinally based Codral® packs sold in the supermarkets/grocery channel, online and in pharmacy state to ask your doctor if “you are taking anti-depressants, (or) any other medicines to treat cough and cold”, as well as a number of other recommendations about asking your doctor for advice depending on the ingredients of the particular product. It should also be noted

that all products in the Codral® range, whether sold in pharmacy, supermarkets/grocery or online have statements on pack that if symptoms persist (or don't improve within 7 days) to see your doctor/health care professional. All Codral® tablets (ie non S2 products) sold in the supermarket/grocery and the online channel also contain a statement that "For a wider range of Codral® products please visit your pharmacy".

We also note that consumers are well versed in searching the internet for health information. Three in four Australians have stated they have used the internet to diagnose symptoms and one in three Australians stated they have used the internet for health advice (Pure Profile for Medibank 2013: 1008 Australians 18-65). As a result, those purchasing in the supermarket/grocery channel and online from pharmacy groups and retailers also have the ability and do, find information about cold and flu.

It should be noted that we do not sell Codral® products directly online. We note that one complaint states that the Codral® website says "Talk to your pharmacist before taking any cold and flu products". Our statement is under the heading "What should I do if I am taking other medication" and it is in that context, not generally about getting pharmacist advice, that the statement is made.

We therefore submit that Codral® products are appropriately sold in all channels in accordance with health authority regulations, Codral® packs in all channels contain appropriate statements to the consumer and are compliant with all laws.

E. In response to the complaint alleging that "Soldier On®" contained in the Advertisement is misleading and deceptive conduct

We deny the allegation that the Advertisement and the Soldier On® jingle is misleading or deceptive in any way for the reasons set out above and repeat our statements regarding: our research about cold and flu and treatment of its symptoms; consumer testing and validation of the Advertisement; and Prevailing Community Standards on Health and Safety and we submit the Advertisement, the availability of the Codral® range (regulated by the relevant health authority and with which we comply) and the "Soldier On®" trade mark and jingle are in line with and comply with the Prevailing Community Standards on Health and Safety and are not misleading or deceptive in any way as the reasonable consumer understands the role of Codral® to help them feel better by managing the symptoms of less serious colds and flu, to help them meet their obligations and go about their day.

The Advertisement playing the "Soldier On®" jingle also contains a super stating "Always read the label. Use only as directed. If symptoms persist, see your healthcare professional", which is a mandatory statement required by the relevant health authority.

All statements in the Advertisement are true and not misleading in any way (including the "Soldier On®" trade mark and jingle) and comply in all respects with the Australian Consumer Law and all laws including laws regarding the advertising of pharmaceuticals.

F. The relevant audience of the Advertisement

We submit that the relevant audience of the Advertisement are those suffering at the lower end of the cold and flu spectrum. The Advertisement therefore depicts Audrey, who is suffering from a cold, as stated by the voice over. She is otherwise mobile and clearly able to obtain symptom relief from an over the counter cold and flu product and the Advertisement

and the Soldier On® jingle are directed to that category of sufferer.

G. The purpose of the Advertisement

The intent of the Advertisement as a whole is to communicate to adults feeling unwell with a cold at the lower end of the spectrum that, as Audrey does, they could use Codral® branded products for symptom relief to help get them through the day and meet their obligations.

Further comments

One of the two complainants, while acknowledging that we would not deliberately or intentionally encourage the spread of flu, states it is in our business's interests to spread the flu. We are disappointed that is their view, we reject that and are proud to be a part of a group of companies that has a great history and track record of inventing and developing pharmaceuticals that, where possible cure serious illness and in the case of cold and flu, where a cure does not yet exist, provide a product that treats the symptoms, makes the sufferer feel better and helps them go about their day when appropriate in line with prevailing community standards on health and safety.

Conclusion

In summary we submit that: the Advertisement regarding the Codral® Cold and Flu product; the availability of the full range of Codral® products in various channels for sale as permitted by regulatory health authorities depending on the ingredients/formulation; and the "Soldier On®" trade mark and jingle, well known to Australians for 30 years, are in line with the widely held view (ie the Prevailing Community Standard on Health and Safety), that when suffering from a non-life threatening cold and flu, the majority treat it with a cold and flu product, such as Codral® Cold and Flu to feel better and relieve their symptoms to help them go about their day and meet their obligations.

We therefore remain satisfied that the Advertisement, the full range of Codral® products available in various channels and use of the "Soldier On"® trade mark and jingle, comply in all respects with the provisions of the AANA Code of Ethics (including the Codes incorporated therein), and in particular section 2.6 of the Code, and nor would they mislead or deceive consumers for the reasons set out above. We remain strongly of the view that the Advertisement (including the use of "Soldier On"®) does not depict material contrary to, nor is the availability of the full range of Codral® products contrary to, Prevailing Community Standards on Health and Safety.

We therefore respectfully ask the Advertising Standards Board to set aside the complaints.

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 promotes attending social functions when you have the flu and that this is against prevailing community standards.

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 woman with a cold taking Codral and then being able to carry on with her busy day despite the obstacles she faces.

The Board noted it had previously dismissed a similar advertisement for the same advertiser in case 388/08 where:

“The Board accepted the advertiser’s response, regarding the use of its products for cold symptoms, availability only through pharmacies and the use of exaggeration in the character’s portrayal skipping and singing down the street to an office building.”

The Board noted that six years have lapsed since its determination in the previous case and considered that community standards on health and safety can and do change over such a period of time.

The Board noted in the current advertisement that whilst the advertised product, Codral, is for Cold & Flu, the voiceover clearly states that the woman in the advertisement has a “nasty cold”. The Board noted the complainants’ concerns that flu epidemics can cost lives and any encouragement to participate in society when you are suffering from the flu is contrary to prevailing community standards. The Board acknowledged that most responsible workplaces encourage staff members who are unwell to not come in to work but considered that in this instance the woman in the advertisement is not coughing or sneezing and she is clearly not so unwell that she should not be out in public. The Board noted the fantasy element to the advertisement with the woman’s quick recovery after taking the advertised product and the numerous unlikely situations she finds herself in and considered that overall the advertisement did not condone or encourage people to behave in a manner contrary to prevailing community standards on health and safety with regards to cold and flu viruses. 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.