



**Ad Standards** Community Panel  
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**AdStandards.com.au**

Advertising Standards Bureau Limited  
ACN 084 452 666

# Case Report

1	<b>Case Number</b>	<b>0308/18</b>
2	<b>Advertiser</b>	<b>National Pharmacies</b>
3	<b>Product</b>	<b>Health Products</b>
4	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
5	<b>Date of Determination</b>	<b>11/07/2018</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

- Other Social Values
- 2.2 - Objectification Exploitative OR degrading - children
- 2.4 - Sex/sexuality/nudity S/S/N - sexualisation of children

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features various scenes, including a scene with a young boy in swimwear scratching his bottom.

## THE COMPLAINT

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

*Extremely distressing vision of a very young child extracting bathing suit from posterior. This is one segment of the advertisement but is in very, very poor taste.*

*This ad is definitely not suitable and could attract the wrong kind of viewer. Tasteless...*

*A small scene with a close up of a young child scratching his arse through his bathers/underwear. I don't need to think of children's dirty itchy arses at dinner time or any time. Please get them to cut that scene.*



*My wife and I really do not need to see a child doing this. It would be more appropriate for the child to sniffle and blow his nose or scratch it's head.*

*Not only is this offensive and unnecessary in itself, I believe it may also be seen by pedophiles and viewed in a sexual manner. It makes me ill to even have to write this. I reported my concerns to National Pharmacies but she disregarded my feedback as "disappointing". It really is a no-brainer. That part of the ad should be deleted. There is enough child exploitation in advertising as it is, let alone in real life.*

*As above, the ad is fine except for that 2 second butt scratching, I don't want the advert banned just that 2 second scene removed as I am a National Pharmacies member & I like the company, just not this advert  
Refer back to the last box filled in. A very young boy in his underwear scratching his bottom. If that was a very young girl people would be disgusted.*

#### **THE ADVERTISER'S RESPONSE**

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

*Complaint Reference No. 0308/18*

*We refer to your letter dated 28 June 2018 addressed to National Pharmacies regarding complaints received by Ad Standards in respect of a scene in a National Pharmacies advertisement.*

*National Pharmacies*

*Formed in 1911 the Friendly Society Medical Association Limited (trading as National Pharmacies) employs some 1,000 people and provides member benefits at 52 pharmacies in South Australia, Victoria and New South Wales as well as operating 20 optical stores and one hearing store.*

*National Pharmacies is a mutual organisation where profits made through operations are returned to members in the form of benefits. It has the health and wellbeing of its members and customers as its priorities.*

*National Pharmacies prides itself on the role it plays in the community and takes its legal and governance obligations extremely seriously. It believes that all of its activities, including its advertising, comply with all relevant standards.*

*blackbocks Jamshop*

*blackbocks Jamshop is a South Australian based advertising agency. blackbocks was*



*founded in 2011 and merged with Jamshop in 2017.*

*blackbocks Jamshop works collaboratively with many significant clients to help them connect their brands with their customers and to make a difference within the community.*

*blackbocks Jamshop has represented National Pharmacies for a number of years and developed a number of campaigns during that time, including the current "Where Wonder Meets Wisdom" campaign (Campaign) which contains the scene which is the subject of the complaints.*

*blackbocks Jamshop is a professional and highly experienced agency which ensures that all advertising it develops complies with all relevant legislative and regulatory standards.*

#### *Advertisement*

*The Campaign highlights the important role played by pharmacies (and in particular National Pharmacies) in providing health and wellbeing services and information to the community. It identifies a number of common queries, complaints and conditions with which a pharmacy can assist and encourages customers to ask for help with the tag lines "if you have the wonder, we have the wisdom" and "National Pharmacies. Where wonder meets wisdom."*

*The Campaign is targeted at individuals and families who encounter health and wellbeing issues in their daily lives and who would be assisted by information and guidance from a pharmacist. It is aimed at adults not children.*

*The Campaign is comprised of a number of elements including 15, 30 and 45 second television commercials and some advertising livery on trams. Scripts for those television commercials accompany this letter. The scene which is the subject of the complaints only appears in the 45 second and 30 second commercials. In this letter, we refer collectively to the television commercials containing the scene in question as the "advertisement".*

*The television campaign commenced on Sunday 10 June 2018 and continues until Saturday 4 August 2018. The television commercials are running across Seven, Ten, SBS and their affiliated stations with various combinations of three 15 second, one 30 second and one 45 second commercial. They also appeared online.*

*The media buyer for the campaign was a Channel Strategist at blackbocks Jamshop who has over 15 years experience in channel strategy, planning and buying.*

*The television commercials are all rated 'G'. CAD reference numbers are below:*



*45 sec (includes boy scene):*

*Key # NP00645745*

*CAD #G5U5PROA*

*30 sec (includes boy scene):*

*Key # NP00645730*

*CAD # G5U5OROA*

*15 sec A:*

*Key #NP00645715A*

*CAD # G5U5LROA*

*15 sec B:*

*Key #NP00645715B*

*CAD# G5U5MROA*

*15 sec C:*

*Key #NP00645715C*

*CAD# G5U5NROA*

*A CAD classification notice from FreeTV accompanies this letter.*

*A digital copy of the 45 second advertisement containing the scene in question also accompanies this letter.*

#### *Response to Complaints*

*The complaints communicated to National Pharmacies all relate to a single two second scene which appears in some but not all of the advertisements in the Campaign (Scene).*

*The Scene depicts an unidentified boy (shown from the back) wearing a swimming costume. He scratches his bottom (from outside his swimming costume) as he is about to run through a garden sprinkler. The inference is that the boy has worms or some similar condition causing itchiness.*

*National Pharmacies sell approximately 12,000 worm products a year. It is one of the most common family health issues and the subject of requests for information and assistance in National Pharmacy stores on an almost daily basis.*

*In the context of the message in the advertisements and the surrounding scenes (eg, pimples, sunburn), the Scene is an example of another everyday health and wellbeing issue which is the sort of issue which National Pharmacies can assist with, by providing*



*answers to questions or delivering other services.*

*The inclusion of the Scene is not gratuitous in any respect. It is one of a number of examples used, all of which are common issues addressed by pharmacists. It is a very quick and does not receive more prominence than any other scene.*

*The description of the Scene is inconsistent across the complaints which have been provided. To ensure there are no misunderstandings:*

*The boy is not wearing underwear. He is wearing a swimming costume.*

*There is no image of "the semi-naked rear of a young boy". He is wearing a normal swimming costume which fully covers his bottom.*

*The boy is not extracting his swimming costume from his bottom. He is simply scratching his bottom (from outside his clothing).*

*The Scene is not played in slow motion. It is the same speed as the rest of the advertisement.*

*We have had regard to all of the relevant advertising standards and, in particular, the AANA Code of Ethics (Code). It is respectfully submitted that the advertisement does not breach any of the relevant standards.*

*As you have identified specific provisions of the Code as having relevance to the complaints, we deal with each of those provisions in turn.*

#### *Section 2.1 - Discrimination or Vilification*

*This section prohibits advertising from portraying people or depicting 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 advertisement (and, in particular, the Scene) does not contain any material which could be said to constitute discrimination or vilification.*

*We note that one complaint suggests that if the child appearing in the advertisement had been a girl, there would be an "uproar" or people would be "disgusted". We do not understand this to be a suggestion that there has been any form of discrimination or vilification but, for the sake of clarity, it should be noted that no significance can be attached to the gender of the child appearing in the advertisement.*

*The advertisement is fully compliant with this section.*



## *Section 2.2 - Exploitative or Degrading*

*This section prohibits advertising from employing sexual appeal in a manner which is exploitative or degrading of any individual or group of people.*

*The AANA Practice Note states that:*

*“Exploitative means clearly appearing to purposefully debase or abuse a person, or group of persons, for the enjoyment of others, and lacking moral, artistic or other values;*

*Degrading means lowering in character or quality a person or group of persons.”*

*In addition, the AANA Practice Guide: Managing Images of Children and Young People provides that advertisers must take reasonable steps to ensure that images of children and young people are not sexually exploitative in nature.*

*The Scene is not exploitative or degrading in any sense. It does not objectify children or portray them as objects of sexual appeal. It is a two second scene of a child with a common ailment and is entirely consistent with the surrounding scenes in the advertisement and the theme of the Campaign more generally.*

*While the child is not fully clothed, he is wearing a normal swimming costume. The Practice Note makes it clear that the use of images of persons who are not fully clothed will only be problematic if the use of those images is exploitative or degrading. That is plainly not the case in this situation.*

*The advertisement is fully compliant with this section.*

## *Section 2.3 - Violence*

*This section prohibits advertising from presenting or portraying violence unless it is justifiable in the context of the product or service advertised.*

*The advertisement (and, in particular, the Scene) does not contain any violence or menace of any kind.*

*None of the complaints appears to raise any concerns about violence.*

*The advertisement is fully compliant with this section.*

## *Section 2.4 - Sex, sexuality and nudity*



*This section requires advertising to treat sex, sexuality and nudity with sensitivity to the relevant audience.*

*There is nothing in the advertisement or Scene of a sexual nature. There is nothing which is sexually suggestive or inappropriate. There is no sexual innuendo.*

*There is no nudity. The child in the Scene is not fully-clothed but that is because he is wearing a swimming costume as he is about to run through a garden sprinkler. The child is shown from the back and his swimming costume fully covers his bottom.*

*There is nothing sexual about the swimming costume or the child's pose or actions. The Scene is self-evidently about worms and the assistance National Pharmacies is able to provide with everyday conditions like that.*

*The advertisement is fully compliant with this section.*

#### *Section 2.5 - Language*

*This section requires advertising to only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium) and to avoid strong or obscene language.*

*The advertisement does not contain any inappropriate language. The Scene has no language and the voiceover merely states "Or how do you fix this?".*

*None of the complaints appears to raise any concerns about language.*

*The advertisement is fully compliant with this section.*

#### *Section 2.6 - Health and Safety*

*This section prohibits advertising from depicting material contrary to Prevailing Community Standards on health and safety.*

*The advertisement (and, in particular, the Scene) does not contain any unhealthy or unsafe practices, images or themes. Indeed, the advertisement conveys a positive health and safety message by encouraging people to seek advice and assistance regarding health and wellness issues.*

*None of the complaints appears to raise any concerns about health and safety.*

*The advertisement is fully compliant with this section.*

#### *Section 2.7 - Distinguishable as advertising*



*This section requires advertising to be clearly distinguishable as advertising to the relevant audience.*

*The advertisement is prominently branded as a National Pharmacies advertisement and deals with services and assistance available from National Pharmacies. There is no reasonable prospect of the advertisement being confused with other content and we note none of the complaints suggested any confusion had arisen.*

*The advertisement is fully compliant with this section.*

*We do not understand there to be any suggestion of concerns arising in respect of any other part of the Code or other applicable standards.*

*Next steps*

*We trust this letter addresses all of the issues which need to be addressed in this matter. If further responses or information would assist the Panel, please let us know.*

*On the grounds outlined in this letter, we respectfully submit the complaints should be dismissed.*

*We look forward to your determination.*

## **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 complainants' concern that the advertisement features inappropriate scenes of a young boy scratching his bottom.

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

The Panel noted this television advertisement features various scenes of people asking questions about medical issues, including a scene which shows a young boy scratching his bottom through his underwear.

The Panel first noted the complainants' concerns that the depiction of the young boy scratching his bottom was gross and that they would prefer not to see it.

The Panel noted that the issue of tasteful or distasteful advertising was not one which falls within any provision of the Code and could not be considered by the Panel.



The Panel considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: “Advertising or Marketing Communication shall not employ sexual appeal:

- (a) where images of Minors, or people who appear to be Minors, are used; or
- (b) in a manner which is exploitative or degrading of any individual or group of people.”

The Panel noted the complainants’ concern that the advertisement features child exploitation by focussing on his bottom.

The Panel noted that the young child is depicted scratching his bottom through his underwear while a voice over asks ‘how do you fix this?’.

The Panel considered that in the context of an advertisement for pharmacies depicting a child with a medical condition is not inappropriate and does not sexualise the child.

The Panel considered that there was no sexual appeal present in this scene or in any other scene in the advertisement and determined that the advertisement did not breach Section 2.2 of the Code.

The Panel 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 Panel noted the complainant’s concern that the advertisement focusses on the child’s bottom in a way that was inappropriate and could attract the wrong viewer.

The Panel acknowledged that there is significant community concern around the sexualisation of children and the need to keep children safe from inappropriate attention.

The Panel considered in this advertisement the scene featuring the child scratching his bottom is brief and is not the focus of the advertisement.

The Panel noted that it is common to see a child scratching their bottom when they have worms and that there was a clear link between the ailment and the product being advertised.

The Panel considered that the boy is wearing underwear and is not naked, and the brief depiction of the child scratching his bottom is not a sexualised action nor is the action the focus of the advertisement.

The Panel considered that the advertisement did not include imagery that could be



considered sexual in nature and therefore did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and did not breach Section 2.4 of the Code.

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

