



Case Report

1	Case Number	0346/15
2	Advertiser	Chemist Warehouse
3	Product	Health Products
4	Type of Advertisement / media	Promo Material
5	Date of Determination	09/09/2015
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

- 2.6 - Health and Safety Depiction of smoking/drinking/gambling
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

Image of a man and boy, both wearing false moustaches, bow ties and a monocle. The man is holding a pipe and the text reads, "Smell like a sir! This Father's Day".

THE COMPLAINT

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

See my comments above. Tobacco advertising. It's also disturbing that a child's image is being used in this context-it almost looks as though the man is offering the pipe to him.

THE ADVERTISER'S RESPONSE

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

Firstly let me apologise for the tardiness of this response but to be frank we considered the complaint so fatuous and unfounded that we did not believe a response would be necessary to assist the bureau in dismissing it.

Given your continued efforts to engage with us and seek response we apologise that we did not respond earlier and submit the following to assist you in your deliberations and help you

reach your determination.

Your correspondence indicates that you had not seen the material to which the complainant has complained as such we have appended it to this email for your reference.

As far we can deduce the nub of the complaint is that the image of a man holding a pipe in some way is being used to promote pipe smoking or that the image is meant to communicate that pipe smoking is in some way sophisticated. To reach this conclusion it must be that the image of the pipe smoker presented is one of a desirable, suave, event-garde urbane, cosmopolitan gentlemen that many would aspire to emulate. It is not reasonable that any of these adjectives would be used to describe the clichéd, parody of British nobility that our pipe smoker is meant to represent. He is more laughable than aspirational, and this is the intent. He is meant to be a parody a source of amusement not desire.

Further, the complainant goes on to state that “it's also disturbing that a child's image is being used in this context-it almost looks as though the man is offering the pipe to him.”

Both complaints are entirely misguided to the point of appearing at best laughable at worst vexatious.

The imagery of the man holding the pipe is intended to be satirical and comical, he is not meant to represent a person one would aspire to be like but rather someone to be laughed at. His overall appearance and the way he is displayed is not to hold him up as character for which we should aspire to emulate but rather someone whose appearance should make us smile. It is a satirical representation one which is more laughable than it is desirable. When we consider that fake moustache, the monocle or the pursed lips, the character displayed is more Charlie Chaplin than Charlie Sheen. He is in no way represented as an aspirational character that children or adults should aspire to, on the contrary he is deliberately displayed as a hammed up stereotype, and an image to make you laugh not covet.

The second point rose being, that it appears the child is being offered the pipe is again not an interpretation of the image that any reasonable member of the public would reasonably draw. The child like the adult is depicted as having fun, playing with a bow tie and doing his best to have “ham it up” whilst dressing up as a clichéd nobleman.

The entire advertisement is a light hearted satirical look at those clichéd representations of British nobility. No reasonable viewing of this advertisement by any reasonable reader would result in them concluding that we were in any way endeavouring to promote pipe smoking as a desirable and sophisticated habit. On the contrary having the pipe appear in this parody of nobility somewhat diminishes any perceived sophistication of the habit.

We hope that this response fully addresses any concerns the bureau may have had though should you require any further detail or a more in-depth response we remain keen and happy to work with you to address any ongoing concerns.

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 complainant’s concerns that the advertisement depicts a man holding a pipe which promotes tobacco and suggests that smoking is sophisticated.

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 that this promotional material for Chemist Warehouse features an image of a man and boy wearing matching suits and bow ties. They both have false moustaches and the man is holding a pipe.

The Board noted it had previously upheld a similar image which showed a man holding a pipe in case 0410/12 where:

“The Board noted the advertisement features an image of a man with a pipe being held in his mouth.

The Board noted that its role is not to determine whether an advertisement complies with the provisions of relevant legislation related to advertising cigarettes or tobacco products.

In relation to the advertisement’s compliance with the Code of Ethics the Board considered whether the depiction of a person who appears to be smoking a pipe was a depiction of material that contravened prevailing community standards on health and safety. The Board noted that government policy is to reduce the exposure of the public to messages and images that may persuade them to start or continue smoking or use tobacco products. The Board considered that while the community tolerates a level of smoking it does not tolerate images which promote smoking as glamorous or fashionable.

The Board noted the advertiser’s response that the man in the image is a picture of the designer of the product. The Board noted that the man is presented in a manner that is sophisticated and formal. He is seated on a formal chair and is wearing a business style shirt.

The Board affirmed its strong view that images glamorising smoking should not be permitted and amounts to a depiction of material contrary to prevailing standards on community health and safety and contravene section 2.6 of the Code. Consistent with previous decisions (521/10, 131/11 and 140/12) the Board considered that the depiction of the gentleman of smoking did glamorize smoking and is contrary to community standards on health and safety regarding smoking.”

In the current advertisement the Board noted that the tagline of the advertisement is, “Smell like a Sir!” and considered that this phrase would be familiar to the target audience of the advertisement as part of an online collection of memes used to ‘convey elegance, wealth and class’ (<http://knowyourmeme.com/memes/feel-like-a-sir>).

Regardless however, the Board considered that this reference to a ‘sir’ in conjunction with

the formal attire worn by the man and boy and the image of the pipe in the man's hand amounts to an overall suggestion that smoking a pipe is a sophisticated activity and that by smelling of tobacco smoke you can achieve this sophistication. The Board noted the use of a child in the advertisement and considered that although the pipe is being used as a prop, along with the false moustaches and bow-ties, in the Board's view the use of a smoking instrument next to a child should not be encouraged.

Consistent with its previous determination the Board considered that presenting smoking in a positive light is contrary to Prevailing Community Standards on health and safety.

The Board determined that the advertisement did breach Section 2.6 of the Code.

Finding that the advertisement did breach the Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

We thank the Board for its determination and confirm that in light of your findings we will no longer be using the offending advertising material. It has been withdrawn.