



Case Report

1	Case Number	0350/15
2	Advertiser	Johnson & Johnson Pacific Pty Ltd
3	Product	Health Products
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	09/09/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

- Other Social Values
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

The Advertisement depicts a cartoon character, Ed, and his friend who are both standing at a bus stop suffering from blocked noses. Their heads are both enlarged, showing the feeling of heavy-headedness that often comes with a blocked nose.

Ed's friend gibbers something to him and then produces a pot from his bag. Ed watches curiously as the friend tilts his head to one side and pours the contents of the pot down one nostril. After a moment or two, the liquid solution trickles out the other nostril, partially unblocking his nose and giving him some relief.

Ed produces his Sudafed nasal spray, which he then sprays into his nostril. Almost instantly, Ed looks better – his head shrinks back to normal and he smiles with relief as he breathes in easily.

The Advertisement ends with Ed and his friend standing below an outdoor structure depicting the product and associated claims.

THE COMPLAINT

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

Disgusting behaviour, hygienically unappropriated.

THE ADVERTISER'S RESPONSE

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

We refer to the notification of a complaint received from the Advertising Standards Board (ASB), reference number 0350/15 (the Complaint).

We have considered the Complaint and the relevant provisions of the Australian Association of National Advertisers Code of Ethics (the Code) and the Code for Advertising & Marketing Communications to Children (the AMCC) and submit that the Sudafed® Spray "Teapot" TVC advertisement (the Advertisement) the subject of the Complaint complies with the Code and the AMCC for the reasons set out in this letter, and that the Complaint should therefore be set aside.

RESPONSE TO THE COMPLAINT

The ASB has referred us to sections 2.1 (discrimination / vilification), 2.2 (exploitative / degrading), 2.3 (violence) 2.4 (sex / sexuality / nudity), 2.5 (language) and 2.6 (health / safety) of the Code and to the AMCC. We address each of these sections of the Code and the AMCC below, as well as prevailing community standards.

Health and safety – prevailing community standards

Section 2.6 of the Code states:

"Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety."

With respect, we submit that the Advertisement does not breach section 2.6 for the following reasons.

The Complaint suggests that the Advertisement depicts "snot" going "all over the floor". This is not the case. As described in section 1 above, the Advertisement depicts one of the characters pouring a liquid solution from a pot into his nostril in an attempt to try and unblock his nose. The liquid solution then trickles out of his other nostril. The liquid depicted clearly has the colour and viscosity of water.

In any event, the Advertisement is intended to demonstrate the efficacy and ease of use of the advertised product in a humorous and light-hearted way. It is our belief that the Advertisement is not likely to cause offence contrary to prevailing community standards, given that the characters being portrayed are animated cartoons and the sequence of pouring the liquid solution through one nostril and flowing out of the other nostril is reflective of what happens when one of these forms of "irrigation" nasal relief is used. In our view, depicting a real person displaying the symptoms of a congested nose would be more likely to cause 'offence'.

Neither the content of the Advertisement, nor its scheduled placement would be likely to cause either serious or widespread offence in light of generally prevailing community standards. This is reinforced by the fact that a similar decision by the Advertising Standards

Authority in New Zealand, which found the Advertisement not to be in breach of the Code Ethics.

Discrimination / vilification

Section 2.1 of the Code states:

“Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.”

The Complaint does not make any allegations of discrimination or vilification and we submit that the Advertisement does not discriminate against or vilify any section of the community and is not demeaning or disrespectful to any group of people.

Exploitative / degrading

Section 2.2 of the Code states:

“Advertising or Marketing Communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.”

The Complaint does not make any allegations of exploitation or degradation and we submit that the Advertisement does not exploit or degrade any individual or group of people.

Violence

Section 2.3 of the Code states:

“Advertising or Marketing Communications shall not present or portray violence unless it is justifiable within the context of the product or service advertised.”

The Complaint does not make any allegations regarding portrayals of violence and we submit that the Advertisement does not portray any form of violence.

Sex / sexuality / nudity

Section 2.4 of the Code states:

“Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.”

The Complaint does not make any allegations of insensitive treatment of sex or nudity. We nevertheless submit that the Advertisement does not depict any insensitive nudity or sexuality.

Language

Section 2.5 of the Code states:

“Advertising or marketing communications shall only use language which is appropriate in

the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.”

The Complaint does not make any allegations of use of inappropriate language and we submit that the Advertisement does not contain any inappropriate language.

Children

Section 3.1 of the Code provides that:

“Advertising or Marketing Communications to Children shall comply with the AANA’s Code of Advertising & Marketing Communications to Children and section 2.6 of this Code shall not apply to advertisements to which AANA’s Code of Advertising & Marketing Communications to Children applies.”

We submit that the Advertisement is not directed towards children; it is targeted at adults. Therefore, in our view, the AMCC does not apply in place of section 2.6 of the Code.

CONCLUSION

For the reasons set out above, we strongly submit that the Advertisement complies in all respects with the provisions of the Code (including the Codes incorporated therein), and in particular Sections 2.1, 2.2, 2.3, 2.4, 2.5 and 2.6 of the Code.

We respectfully ask the ASB to set aside the Complaint.

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 cartoon character expelling a quantity of ‘snot’ which is unhygienic and inappropriate.

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

The Board noted the complainant’s concern that the advertisement depicts disgusting behaviour and considered that the issue of taste falls outside of the Code and therefore cannot be considered as part of the Board’s determination.

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 television advertisement features two cartoon characters suffering from blocked noses and that one of them is shown using a nasal flush which results in a large volume of liquid falling from his nostril and forming a puddle around his feet.

The Board noted the complainant’s concern that the advertisement depicts unhygienic behaviour. The Board noted that the advertised product is a nasal spray and considered that it was reasonable for the advertiser to depict a situation common to people suffering from a blocked nose. The Board noted that people would not normally use a nasal flush in public and considered that for the purposes of demonstrating an alternative remedy for a nasal flush the depiction of the cartoon character with fluid streaming from his nose would be unlikely to encourage people to use a nasal flush in public. The Board noted that cartoon characters are used in the advertisement and considered that the liquid depicted is not identified or made to look horrible.

Overall the Board considered that the advertisement did not depict, encourage or condone unhygienic behaviour and the material shown was not inappropriate in the context of the advertised product.

The Board considered that the advertisement did not depict material contrary to Prevailing Community Standards on health and safety.

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.