



CASE REPORT

1. Complaint reference number	153/09
2. Advertiser	Reckitt Benckiser - Nurofen
3. Product	Toiletries
4. Type of advertisement	TV
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Wednesday, 22 April 2009
7. DETERMINATION	Dismissed

DESCRIPTION OF THE ADVERTISEMENT

Television advertisement depicts a scene at a car race track where two cars are racing. One car is blue, the other green. Green car has Zavance signage over it. Race engineer call for more speed, as green car falls behind blue car. Woman replies “OK, I’m on to it”. Image shows woman appear to be suffering from head ache. Voice over discusses fast effective relief from pain using product. Woman “activates” product and green car is observed to accelerate and pass the blue car. Image of two “speedometers”, show a reading of 90 on the left and 180 on the right. Green car is seen to speed away with voice over “target pain fast, with Nurofen Zavance”.

THE COMPLAINT

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

This advert depicts speeds for a car which are at least 70kms over and above any speed restriction of any Government in Australia. It encourages speed, and recklessness when driving.

THE ADVERTISER’S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following:

We refer to your email dated 7 April 2009.

We have carefully reviewed and considered the consumer complaint regarding the Nurofen Zavance television commercial which raises issues under section 2 of the AANA Advertiser Code of Ethics.

We treat complaints about our advertising seriously, particularly where, as in the present case, we understand the claim to be in respect of encouraging unsafe driving. Our response to the points raised is as follows:

1. The complainant refers to section 2.7 of the AANA Code which states that “Advertisements for motor vehicles shall comply with the Federal Chamber of Automotive Industries (FCAI) Code of Practice relating to Advertising for Motor Vehicles” 2c FCAI code. It is important to highlight that this section is applicable for advertisers of motor vehicles. Nurofen Zavance is a healthcare product and not a motor vehicle. Moreover, the main message of the TVC is to demonstrate that Nurofen Zavance is absorbed up to twice as fast as standard Nurofen.

2. The complainant states that the TVC depicts speeds for a car which are at least 70kms over and above any speed restriction of any Government in Australia. Our response:

- *The setting of the television commercial (TVC) is a race track, not a public road. This is clearly evidenced by: 2 branded cars racing against each other; shots of pit crew; the pit area and radio communication with the driver.*
- *With regard to the actual speed, there is no unit of measure displayed on the two odometers. Rather, we see one odometer positioned at around 90 and at approximately 180. This is intended to visually represent that Nurofen Zavance is absorbed up to twice as fast as standard Nurofen (180 being twice the number of 90).*

3. Advertising of all medicines has to comply with the Therapeutic Goods Advertising Code (TGAC). The object of the Therapeutic Goods Advertising Code 2007 (the code) is to ensure that the marketing and advertising of therapeutic goods (medicines) to consumers is conducted in a manner that promotes the quality use of therapeutic goods, is socially responsible and does not mislead or deceive the consumer. All the advertising for Nurofen Zavance has been approved by an independent body, the Advertising Services of the Australian Self-Medication Industry to ensure it is compliant with the Code (approval reference number 16141-03/09 and approved 3rd March 2009).

In conclusion, we take all consumer complaints seriously. RB believe we have met all of the requirements for advertising medicines to consumers, as set out in the Code and we do not believe we have breached the section 2 of the AANA Advertiser Code of Ethics as it relates to advertising of motor vehicles.

Thank you for bringing this complaint to our attention. We trust this response meets with your satisfaction.

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 that this advertisement is not an advertisement for motor vehicles and that therefore the FCAI Car Code does not apply.

The Board noted the complainant's concerns that the advertisement depicts driving of a vehicle in a reckless manner and at an unsafe speed, and considered the application of Section 2.6 of the Code, relating to prevailing community standards on health and safety.

The Board noted that the advertisement depicts two cars racing, drawing an analogy between fast acting pain relief of the product and the speed of the vehicle. The Board noted that the cars depicted in the advertisement are clearly intended to be participating in motor sport, having regard to the racing livery and race track portrayed. The Board considered the speed of the vehicles shown in the advertisement was relevant to that portrayal of motor sport and was clearly not intended to encourage or condone reckless driving or excessive speed by drivers on ordinary roads in Australia.

The Board found no contravention of prevailing community standards relating to safe driving behaviour on Australian roads and determined there was no breach of Section 2.6 of the Code.

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