



## **CASE REPORT**

1. Complaint reference number	218/08
2. Advertiser	Schering-Plough Pty Ltd
3. Product	Health Products
4. Type of advertisement	TV
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Wednesday, 9 July 2008
7. DETERMINATION	Dismissed

## **DESCRIPTION OF THE ADVERTISEMENT**

The advertisement begins with Dad sneezing. He is lying in bed groaning. He has a bad cold and is milking it for all its worth. Mum comes into the bedroom. She has a toddler by her side and she isn't about to allow Dad just to lay about, family routine must continue.

MUM: You can't still be in bed!

DAD: Oh I'm sick, I've got a bad cold.

Mr. Sniffles appears from under the covers next to Dad.

MR Sniffles: And we have a sore throat.

MUM: Right!

Mum walks away. She reappears with a pack of Demazin tablets.

Mr Sniffles: Ohh, D-D-Demazin!

MUM: Yes D-D-Demazin! Two tablets now, because Billy's got to get to Soccer and Ellie's due at netball. I can't do both.

Mum pulls Mr Sniffles out of the bed. The advertisement cuts to Mum as she kicks Mr Sniffles into oblivion. It then cuts to Billy dressed for soccer standing by one car. Ellie dressed for netball standing next to another. Mr. Sniffles goes sailing overhead.

Cut to Day/Night pack shot next to a glass of water. Mum and Dad are in the background.

Voice over: Tell the sniff to get snuffed with D-D-Demazin adult strength day and night tablets.

Text appears at bottom of screen: Always read the label. Use only as directed. Your pharmacist's advice is required. If symptoms persist see a doctor or pharmacist.

## **THE COMPLAINT**

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

*The advertisement is encouraging people to take adult strength medicine and then drive which goes against the safety directions of the product. The ad is encouraging possibly dangerous acts.*

## **THE ADVERTISER'S RESPONSE**

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

*It has been alleged that the Complaint raises issues under Section 2 of the AANA Code of Ethics ("the Code"), in particular Section 2.6 which provides as follows: "Advertisements shall not depict material contrary to prevailing community standards on health and safety." Schering-Plough notes that the Advertising Standards Board will, in addition, review the Advertisement in its entirety against Section 2 of the Code. Schering-Plough has reviewed the other parts of Section 2 of the Code and respectfully submits that the Advertisement does not fall within any of those other parts of Section 2. The Complaint alleges: "The advertisement is encouraging people to take adult strength medicine and then drive which goes against the safety directions of the product. The ad is*

*encouraging possibly dangerous acts."*

*The suggestion that a person can take DEMAZIN tablets and then drive a car does not go against the safety directions for DEMAZIN. DEMAZIN contains two different types of tablets, "Day-time" and "Night-time", which have different formulations. The DEMAZIN label states that the Day-time tablets, as used by „Dad" in the Advertisement, are non-drowsy, and as such, no warning against driving in the safety directions is required. This is one of an increasing number of medications formulated to be effective against cold and flu and not associated with the side effect of drowsiness. Conversely, as the "Night-time" tablets may cause drowsiness, the label includes a statement advising the consumer not to drive a*

*vehicle or operate machinery, if affected; however, this is not relevant here, as the Night-time tablet is not the medication taken in the Advertisement.*

*Schering-Plough does not accept that the prevailing community standard for the safe use of medicines be based on generalisations or assumptions, such as, all cold and flu tablets cause drowsiness. Schering-Plough maintains that the acceptable community standard for the use of any medicine is for consumers to always read and follow the directions on that medicine" s label, and to seek the advice of a health care professional, as appropriate in the particular circumstances. Every medicine is different and carries its own unique risks which must be considered in the context of each person" s own situation and medical history.*

*This is supported by the Advertisement, which includes the following text on the screen:*

*"Always read the label. Use only as directed. Your pharmacist" s advice is required. If symptoms persist see a doctor or pharmacist".*

*Accordingly, Schering-Plough submits that the Advertisement does not go against prevailing community standards for the use of medicines. In addition, DEMAZIN is not displayed on open shelves in pharmacy and is only available for purchase by a consumer after consultation with a pharmacist.*

*Schering-Plough notes that the object of the Code "is to ensure that advertisements are legal, decent, honest and truthful and that they have been prepared with a sense of obligation to the consumer and society and a fair sense of responsibility to competitors."*

*Schering-Plough firmly believes the Advertisement complies with the object of the Code. Schering-Plough takes its responsibility to advertise its consumer products in an ethically sound and medically correct manner very seriously. As part of this, all its advertisements are reviewed by ASMI to ensure compliance with all relevant industry codes.*

## **THE DETERMINATION**

The Advertising Standards Board ("Board") considered whether this advertisement breaches Section 2 of the Advertiser Code of Ethics (the "Code").

The Board viewed the television advertisement and noted that the male character took Demazin to help deal with his cold and flu symptoms.

The Board noted the complainant's concern that this action was against prevailing community standards on the use of non-prescription medications and operating vehicles or machinery.

The Board referred to the advertiser's response which clearly states that Demazin day-time tablets are non-drowsy and do not affect a person's ability to drive.

The Board agreed therefore the actions depicted in the advertisement were not contrary to prevailing community standards and as such were not in breach of the Code.

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