



CASE REPORT

1. Complaint reference number	219/05
2. Advertiser	Bayer Australia Ltd (Berocca)
3. Product	Health Products
4. Type of advertisement	TV
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Tuesday, 9 August 2005
7. DETERMINATION	Upheld – discontinued or modified

DESCRIPTION OF THE ADVERTISEMENT

The first scene in this television advertisement is a close-up shot of a young man running. The next scene shows the front of a freight train that is travelling at speed along a track. As the camera cuts back to show the man running, it is clear that he is running along a separate train track that is soon to merge with track on which the train is travelling. A train signal by the side of the track on which the man is running is shown to turn red indicating that it is not safe to proceed. The young man continues to run along the track. As the tracks merge, the young man is shown to just beat the freight train onto the single track. He continues to run directly in front of the train on the same track. Before and after the tracks merge, the train horn is repeatedly sounded. The words “Berocca Performance is clinically proven to help improve concentration and reduce tiredness and stress”. The final scene in the advertisement depicts the young man in a business suit in an office setting, drinking a glass of Berocca. The voiceover states: “Tomorrow, I might catch a bus”.

THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

“... There are clear safety issues involved here - encouraging reckless and dangerous behaviour, encouraging trespass onto rail property... The safety problems are made worse by its appeal to young people...”

“... I was horrified at this image, particularly in light of the recent campaign “Don’t Play with Trains”. It was shocking and damaging...”

“... I believe this could encourage unsafe practices amongst teenagers who may copy this image and play “chicken” with trains etc... I believe this ad could encourage children to engage in unsafe activities and should be reviewed and withdrawn or have its viewing hours restricted to times when children are not viewing it. I also don’t think it is responsible to be advertising performance enhancing products...”

“It is very clear that a man running in front of a train is not safe, in fact, it is illegal and lethal.”

“It seems to me that such behaviour, if emulated by children or foolhardy adolescents, is incredibly dangerous. Further, ... there is a very high occurrence of fatal suicide attempts by people jumping in front of oncoming trains... To make light of this common and sad occurrence in the form of the absurd display in the advertisement to which I’m referring, is both irresponsible and callous...”

“The advert is... mind-blowingly irresponsible... It is totally irresponsible for a manufacturer (particularly of a product purporting to improve health) to advertise in this fashion...”

“Our concerns on these grounds are two-fold:

1. Since 2001, more than 150 people have died in Victoria... on rail property through trespassing. This is the biggest killer of any incident type excluding suicide. In this context, an advertisement depicting a man trespassing on rail property and playing "chicken" with a train is entirely irresponsible.

2. It also causes psychological and emotional pain to the drivers of trains involved in these kinds of incidents."

Public Transport Safety Victoria, a Division of the Department of Infrastructure; and

Connex Melbourne Pty Limited

THE ADVERTISER'S RESPONSE

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

"The leading man is depicted in the completely fantastic act of successfully competing against a train – as a means of exaggerating the edge in mental and physical performance that Berocca can help to provide... Trains travel at speeds well beyond the capability of even the fastest human athletes – consumers are aware of this and understand that we are clearly applying advertising hyperbole to deliver our brand message."

"... the target audience we are advertising to is adult men 24-40 years. The TVC content features an adult male and does not feature children. The type of programmes that the advertising will be flighted during does not include any children's programming."

THE DETERMINATION

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

The Board considered that the scenes in the advertisement were very realistic to the extent that they showed a person deliberately joining the path of an oncoming freight train that was travelling at speed. Although the athlete is later shown to out-pace the freight train, the Board considered that this aspect of the advertisement did not have the effect negating the realism of the scenes in the advertisement that show the young man running into the train's path.

The Board determined that the depiction did contravene the provisions of the Code relating to health and safety.

The Board therefore upheld this complaint.

ADVERTISER'S RESPONSE TO DETERMINATION

"We recognise the common interests of the Board and ourselves in promoting consumer confidence in and respect for general standards of advertising.

Accordingly, please treat this as confirmation that Bayer Australia Limited accepts the Board determination and have withdrawn this advertisement from all media representation, effective immediately."