

## CASE REPORT

1. Complaint reference number	270/06
2. Advertiser	Kimberly-Clark Aust Pty Ltd (Kleenex - maternity ward)
3. Product	Toiletries
4. Type of advertisement	TV
5. Nature of complaint	Health and safety – section 2.6
6. Date of determination	Tuesday, 8 August 2006
7. DETERMINATION	Upheld – discontinued or modified

### DESCRIPTION OF THE ADVERTISEMENT

This television advertisement is set in the nursery of a hospital maternity ward where a man is viewing a baby through a window and crying tears of joy. There is an image of a baby in a hospital cot wearing a hat. A woman walks up behind him and looks from the man to the baby, then gently moves the man along until he is standing in front of the correct baby, who is also wearing a hat. As he cries even more, she hands him a box of Kleenex and a voiceover announces “Special moments deserve softness. Thank goodness for Kleenex tissues”.

### THE COMPLAINT

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

*The two babies on which focus is put in this ad are wearing hats. This is totally against the Sudden Infant Death Syndrome (SIDS) guidelines and so presents a health risk to the baby and sends the parents a very negative message.*

### THE ADVERTISER'S RESPONSE

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

*In the USA , UK and Italy infants wearing hats is common practice to keep body temperature up. Newborn infants have a hard time regulating their own temperature – hence the hats and swaddling. We were unaware that the guidelines for the safe treatment of babies would be so different in Australia , given the rigorous process followed by our parent company Kimberly-Clark.*

*We have consulted with two Australian midwives and they have confirmed that a baby's head should be uncovered during sleep to reduce the risk of SIDS. It was not our intention to cause any offence and Kimberly-Clark takes this complaint very seriously.*

*We wish to express our appreciation to the Dept of Community Services for raising this concern, and we can assure them that the advertising activity for “Maternity Ward” is now complete. We will take their comments on board for any future communication of a similar nature.*

### 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 whether the depiction of two new born babies put down for sleep wearing hats was a depiction of material that contravened community standards on health and safety. The

Board noted Australia's 'Sids and kids safe sleeping guidelines' which state, in relation to how much clothing a baby should sleep in, 'make sure that baby's face and head remains uncovered...remove hats or bonnets from baby as soon as you come indoors...'.

The Board noted the advertiser's comments that the overseas advertisement did comply with safety standards in those other countries. However the Board noted that the appropriate standard to apply in relation to Australian advertising is Australian community standards. The Board considered that the advertisement, by depicting new born babies put to sleep wearing hats, was a depiction that contravened prevailing community standards on safe sleeping for infants.

On this basis the Board found that the advertisement breached clause 2.6 of the Code and upheld the complaint.

#### **ADVERTISER'S RESPONSE TO DETERMINATION**

Comments which the advertiser made in response to the Board's determination to uphold the complaints included the following:

*'It is not our intention to use 'Maternity Ward' again, however if we were to use it again, we would take steps to modify the ad to satisfy Australian community standards in relation to safe sleeping for infants.'*