



CASE REPORT

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| 1. Complaint reference number | 329/09 |
| 2. Advertiser | GlaxoSmith-Kline |
| 3. Product | Health Products |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Health and safety – section 2.6 |
| 6. Date of determination | Wednesday, 12 August 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This is a television advertisement depicts people with cold and flu symptoms and others who show no symptoms, because they have taken Panadol cold & flu plus decongestant. In one scene, there are two men sitting at a bus stop. One of the men (who looks unwell), accidentally sneezes near the other man and then apologises, saying that he has a terrible cold. The other healthier looking man, empathises with him and replies “I know what you mean”. The man with the cold replies, “you do not have a cold”. The healthier man says, “yes I do, I was feeling awful yesterday, but I fought back with panadol”. A similar situation occurs with a woman and a man in a later scene.

THE COMPLAINT

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

We are in the middle of H1N1 epidemic when the health department is trying to contain the spread of any flu by encouraging those that are ill to remain away from others until they are well. This advertisement says it is ok to continue going into the public and spread disease by not being protective of droplets from sneezing and coughing. It is poorly timed for airing and it is poor advertising.

THE ADVERTISER’S RESPONSE

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

We note, from the ASB correspondence, that the complaint raises issues under section 2 of the AANA Advertiser Code of Ethics. The ASB has indicated that the allegations raised are specifically in relation to section 2.6 which states:

"Advertisements shall not depict material contrary to prevailing standards on health and safety."

It is on the basis of this section of the Code that GlaxoSmithKline (GSK) addresses our response.

The complaint in question relates to the Panadol Cold & Flu + Decongestant television commercial (TVC) entitled 'Bus Stop' (Attachment 1). The 'Bus Stop' TVC depicts two men sitting at a bus stop shelter, one of whom is exhibiting the symptoms of a common cold. The man with a cold sneezes towards the second man in a manner such that the large newspaper the second man is holding in front of him (and thus hiding him) crumples and flutters from the blow of the sneeze. A dialogue ensues where the second man indicates that he too has a cold but that he has treated his symptoms with Panadol Cold & Flu + Decongestant and so he is not suffering and so can go about his daily routine without the symptoms of being un-well with a simple cold. In the latter part of the TVC, the bus shelter scene is repeated the following day but in this instance' a

woman is un-well, and the un-well man from the first sequence is now feeling well and so a repeat newspaper fluttering scene ensues.

This advertisement is part of a campaign which Panadol (or related GSK brands overseas) have run for over 4 years without complaint. The sneeze towards the newspaper is an exaggerated action for advertising effect. It is done with the intent being to juxtapose an ill person with one who has sought treatment and so does is not hindered in their daily routine by the symptoms of cold and flu. In the instance of the 'Bus Stop' TVC, the intent is for the everyday person depicted therein to describe how in their specific situation Panadol Cold & Flu + Decongestant is of sufficient efficacy to be their preferred brand for the relief of cold and flu symptoms, such as nasal congestion.

This particular advertisement, as with all Panadol advertisements, was precleared and vetted by the Australian Self-Medication Industry (ASMI) Advertising Services section (Attachment 2 - contact ASB). As the ASB is no doubt aware, ASMI pre-clearance and vetting is a mandatory prerequisite for all therapeutic goods advertisements to ensure compliance with the Therapeutic Goods Advertising Code and the ASMI Code of Practice. Both of these codes impose extensive requirements which would not permit depictions of persons engaging in practices for other than their intended purpose, nor in an inappropriate setting.

The purpose of the advertisement in this instance is to show that relief is at hand and the setting is one that people find themselves in every day, waiting for the bus. The fact that the advertisement depicts an embellished action for film effect does not mean that we advocate such a practice. The casual viewer would have to apply an equally exaggerated lack of commonsense to deliberately engage in the scenario we depict. The point of the advertisement is to encourage people to seek relief so that they do not suffer from the symptoms of colds & flu (including sneezing). Hence the concern expressed by the complainant is misdirected as it implies the viewer would only take out of the advertisement that they should sit at bus stops and sneeze on passers by. This is a particularly unrealistic scenario given that the same advertisement goes on to discuss the treatment of the symptoms and then goes on to suggest a suitable solution to avoid repetition of the occurrence. To consider only one portion of the advertisement to the exclusion of the remainder would be unreasonable.

The complainant refers to:

"People sneezing on other people saying sorry about that because (they) have this really bad cold! and the other person saying that's ok because they have a cold as well".

Her reason for concern is that she is of the view that:

"We are in the middle of H1N1 epidemic when the health department is trying to contain the spread of any flu by encouraging those that are ill to remain away from others until they are well.

This advertisement says it is ok to continue going into the public and spread disease by not being protective of droplets from sneezing and coughing.

It is poorly timed for airing and it is poor advertising".

GSK would like to address some of the key points of the complaint:

Firstly, it has to be recognised that this is an advertisement and so some level of theatre is necessary to gain the attention of viewers, hence the use of the large newspaper which crumples and flutters from the blow of the sneeze, Secondly, in neither instance is the un-well person actually sneezing directly on a person, in both instances the well person is protected by the large newspaper, The intent was to make a point about a symptom that the Panadol product can relieve; hence it is necessary to show the symptom. In this instance we have chosen to do so in a theatrical manner, which commonsense would tell the viewer is not routine practice, but does serve a meaningful purpose in the context of the advertisement.

Importantly GSK is advertising a medicine that is designed to relieve nasal congestion through the presence of a decongestant as part of the formulation, The decongestant acts by constricting the blood vessels thus improving breathing, drainage and stuffiness, Such action would dry the nasal

and Eustachian passages and thus allow comfortable breathing for long periods.

In closing, we are disappointed to hear that one viewer finds our Advertisement inappropriate but we believe that this is because they have over analysed the nature of the advertisement in such a way as to be of the view that the 'Bus Stop' TVC promotes an inappropriate visual depiction, when this is clearly not the case. However, we do appreciate that such concerns should be brought to our attention and we certainly take these comments into consideration when developing advertising.

We believe that we have acted diligently and responsibly in the handling of this TVC and have in no way depicted circumstances contrary to the prevailing community standards on health and safety.

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 complainant’s concern that the advertisement might encourage and promote the spreading of disease, because it displayed people who were not applying caution when sneezing by covering their mouth and nose.

The Board considered whether the advertisement was in breach of section 2.6 of the Code. Section 2.6 of the Code states:

“Advertisements shall not depict material contrary to prevailing community standards on health and safety”.

Members of the Board acknowledged the complainants concern and agreed that there were real and imminent social and health concerns regarding the recent World Health Organisation’s cautioning in relation to the possibility of an imminent pandemic , which was associated with the spread of flu related diseases amongst the wider community.

However the Board considered that although the images in the advertisement were very graphic, that they were an effective means of demonstrating to viewers how easy it is for colds and flu to be spread amongst people and therefore, this product would reduce the symptoms.

The Board considered that the images in the advertisement were a very visual but effective way of demonstrating the public health message. The Board considered that the woman sneezing without covering her mouth was not a depiction of material that would contravene prevailing community standards on health and safety, as she did have a tissue and the main message of the advertisement is to demonstrate how easily the flu can be spread and to take appropriate precautions, in this case by purchasing a product which would assist people to avoid the symptoms associated with cold and flu.

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.

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