



## **CASE REPORT**

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|-------------------------------|-----------------------------------|
| 1. Complaint reference number | 351/03                            |
| 2. Advertiser                 | Aventis Pharma Pty Ltd (Telfast)  |
| 3. Product                    | Health Products                   |
| 4. Type of advertisement      | TV                                |
| 5. Nature of complaint        | Health and safety – section 2.6   |
| 6. Date of determination      | Tuesday, 14 October 2003          |
| 7. DETERMINATION              | Upheld – discontinued or modified |

## **DESCRIPTION OF THE ADVERTISEMENT**

The material reviewed by the Board opens with a visual of a wooden signpost standing in the grass. The sign reads: “Flowers for Sale”. The camera angle then cuts to a visual of two men driving in an old, mustard coloured convertible, with the roof down, the two men framed within the windscreen of the car. It is not visible at this point, whether or not the driver and passenger are wearing lap-sash seat belts. The driver of the car then looks to the passenger and says: “Go the geraniums, mate”. Text appears in the bottom left hand corner of the screen in white writing against the brown colour of the road. It reads: “Filmed under controlled conditions.”

The camera angle then cuts to the front view of the car driving down a country road, with grass and trees on both sides of the road. The convertible is shown approaching a roadside flower stand at moderate speed. Several buckets of flowers are stacked on top of each other. The camera angle then cuts to a close-up image of the geraniums in the flower stand. The passenger of the car, who is not wearing a seat belt is shown to lean forward and place one hand on the top of the windscreen and one hand on the door of the car to raise himself from the passenger seat. The camera angle then shows a close-up of the passenger, whose entire torso is leaning out of the car, as he dips his face into the row of buckets of geraniums as the car continues to drive past the flower stand.

The camera then pans back to show the passenger slump back into the passenger seat, and returns to the image of the two men, framed within the windscreen, laughing. This shot is followed by a close up of the passenger laughing. An image of the Telfast packaging then drops from the top of the screen. Underneath the image of the packaging appear the words “Hit Hayfever head on” – in bold, blue font and in capital letters. A voiceover is then heard to say the words “Hit Hayfever head on”.

## **THE COMPLAINT**

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

*This commercial is sending the wrong message... the passenger stands to lean right out, most of his torso out of the car...surely these are showing that ‘if you’re in an open car you don’t have to wear a seat belt.*

*The absolute wrong message... Police are trying to get the message across “Seat belts save lives” and that it is against the law not to wear seat belts”. I think these commercials are totally irresponsible...*

## **THE ADVERTISER’S RESPONSE**

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

*The advertisement is intended to be quirky and eye catching... it is quite obvious that it is a dramatisation of an event unlikely to occur in everyday life...*

*The concerns mentioned in the complaint were taken into consideration during preparation of the ad and the following steps were taken to ensure proper standards were met:*

- *the ad was filmed under controlled circumstances (and a warning to this effect appears on the screen).*
- *The driver was wearing a sash belt in the ad*
- *The NSW Police and Roads and Traffic Authority were consulted prior to filming.*

*We believe the advertisement has addressed the concerns and warns the viewers that it represents a dramatisation filmed under a controlled situation....*

## **THE DETERMINATION**

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

The AANA Advertising Standards Board (the “Board”) considered whether this advertisement breached section 2 of the Advertiser Code of Ethics (the “Code”).

The Board’s prima facie view was that the depiction of a passenger on a public road not wearing a seat belt in a moving vehicle is contrary to current community standards on safety, as it is mandatory to wear a seat belt in such circumstances and dangerous for passengers not to do so. The danger of not wearing a seat belt is further exacerbated by the passenger’s conduct in stretching his torso out over the side of the car.

The Board reviewed the advertiser’s submissions and considered as relevant the fact that the small print qualifying statement “Filmed under controlled conditions” appeared on the screen at the same time as the conduct described above was depicted. The Board considered the impact of the qualifying statement in relation to the visuals on screen and came to the view that it had little impact in relation to the dangerous conduct depicted. The Board did not feel that one could qualify illegal and dangerous conduct, the focal point of a visual commercial, with the simple qualifying statement “Filmed under controlled conditions”. The qualifying statement does not acknowledge the illegality or danger of the conduct depicted nor does it warn viewers against emulating similar conduct.

The Board considered that the presence of the passenger in the vehicle without a seat belt on, combined with the manner in which the passenger leaned out of the vehicle, depicted material contrary to the prevailing community standards on health and safety.

The Board confirmed its prima facie view and accordingly, the complaint was upheld.