



## **CASE REPORT**

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|-------------------------------|-----------------------------------------------------------------------------------------|
| 1. Complaint reference number | 407/07                                                                                  |
| 2. Advertiser                 | Smart Cup Pty Ltd                                                                       |
| 3. Product                    | Health products                                                                         |
| 4. Type of advertisement      | TV                                                                                      |
| 5. Nature of complaint        | Discrimination or vilification Other – section 2.1<br>Other - Causes alarm and distress |
| 6. Date of determination      | Tuesday, 11 December 2007                                                               |
| 7. DETERMINATION              | Dismissed                                                                               |

## **DESCRIPTION OF THE ADVERTISEMENT**

This television advertisement is set in a surgery when a doctor advises "The results have come in, and unfortunately you're not pregnant." On the other side of the desk, a young woman in shock, breaks down and starts crying. As the camera pulls back we see a young man sitting next to her with a massive relieved grin on his face. A male voiceover yells "That's relief! SmartCup antacid with natural spring water. And now in B & C vitamins."

## **THE COMPLAINT**

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

*My husband and I are currently on the IVF programme. I find the ad to be inappropriate, upsetting and entirely disrespectful to the feelings of people in a situation such as ours.*

## **THE ADVERTISER'S RESPONSE**

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

*We would like to give a brief overview of this campaign to give some context. We believe it is important to note that "that's relief" is an expression invented by SmartCup to describe the reaction that consumers would have upon using our product.*

*The relevant audiences demographic in the SmartCup Television Commercials are males, 20-35 years of age, who we believe will understand the humor intended — while the general tone of the TVC is being light hearted and clearly employs a melodramatic situation, it does become imperative from a creative point of view to stretch an idea to extremes to make humor work.*

*SmartCup is a fun, tongue-in-cheek brand message, which incorporates playful advertising to deliver the message. The depiction of a young adult elated upon hearing that his girlfriend is not pregnant is purely to bring out the expression of "that's relief" and is in line with our brand philosophy*

*With all due respect to people who are on the IVF program, the humor intended is not to display any sign of disrespect by singularly picking on them. As a matter of fact, there are many cases where the couples are actually relieved to hear of an unsuccessful conception due to their family, financial or social status.*

*We used this situation to create a strong brand connect with our target audience. SmartCup feel that the advertising does not constitute discrimination or vilification.*

## **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 the complainant's concern that the advertisement is upsetting to some members of the public and disrespectful to people undergoing fertility treatment.

The Board considered that the advertisement was intended to be humorous - comparing a situation in which one person finds relief with the benefit that the advertised product can provide. The Board noted that some members of the public who have lost a baby or been unable to conceive may find the advertisement distressing rather than amusing. However the Board considered that the advertisement's depiction of the couple's situation is not vilifying of or discriminatory of any group in society and is most likely to be considered humorous. The Board determined that the advertisement did not breach section 2.1 of the Code.

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