



CASE REPORT

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| 1. Complaint reference number | 414/08 |
| 2. Advertiser | Dr Tim's Success |
| 3. Product | Slimming |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Health and safety – section 2.6 |
| 6. Date of determination | Wednesday, 12 November 2008 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This TV advertisement opens with a graphic stating "Dr Tim's success" and cuts to three young women standing beside a poster proclaiming the possibility of losing "up to 6 kg in four weeks". Then a graphic appears in which the excess fat of a moderately overweight woman's torso is being nibbled away by cartoon style bite marks until the torso becomes trimmer. A voice over says "Dr.Tim's Success is a safe, pharmacy supervised program that works by simply making your body consume its excess fat." The final graphic shows a man wearing a stethoscope behind the words "Dr Tim's success - the weight program with a doctor behind it".

THE COMPLAINT

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

I think it is disgusting with the amount of problems associated with girls and body image that this add represents an already thin girl needing to loose weight. We have come so far with education and health programs that this add is step in the wrong direction.

THE ADVERTISER'S RESPONSE

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

The Dr. Tim's Success "Ketosis" commercial is one of a series of commercials promoting the Dr Tim's Success weight loss program. The product has been created by a medical practitioner who has specialised in the treatment of overweight and obesity, and who supplies similar products to hospitals for the treatment of obesity.

We are disappointed to hear that the complainant finds the advertisement offensive. This commercial has formed part of our TV advertising campaign since September 2007. It has been aired in regional and metropolitan areas of NSW and Queensland. We have not directly received 1 complaint about this, or any commercial in the series. To the contrary it has resulted in a large number of complimentary comments.

The Dr. Tim's Success program:

The Dr. Tim's Success program includes a meal replacement product that is available only through trained Dr. Tim's Success consultants in pharmacies. When used as instructed, the product will safely put the user's body into a state of ketosis - a state in which the body produces ketones as it breaks down excess body fat.

While the Dr. Tim's Success program promotes exercise and healthier eating habits, weight loss results directly from the body being in a state of ketosis.

The use of the Dr. Tim's Success program is restricted to overweight adults (BMI greater than 27 OR greater than 25 with co morbidities) who qualify with a medical/health screening process. It is not available to children i.e. males under 18 females under 16.

Our target audience is overweight adults particularly females between the ages of 25 – 54 and therefore our advertising is tailored to that market.

The Ketosis Commercial

This particular 15 second commercial explains, in a simplified but accurate statement, how the process of ketosis, and therefore the meal replacement product, works:

“Dr. Tim’s Success is a safe, pharmacy supervised program that works by simply making your body consume its excess fat.”

To illustrate this point, the accompanying visual shows the excess fat of a moderately overweight woman’s torso being nibbled away by cartoon style bite marks until the torso assumes a trimmer, healthier weight. The visual device used to depict the ‘body consuming its excess fat’ is an obvious exaggeration (advertising puffery).

However, great care was taken not to exaggerate the amount of weight one might expect to lose with the Dr. Tim’s Success program. The thinner torso image was chosen as a representation of a healthy weight. This image was retouched to appear plumper, for use at the beginning of the ‘body consuming its excess fat’ sequence. We estimate the Body Mass Index (BMI) of the plump model featured to be approximately 27 – 30 and therefore classified as overweight – obese.

Dr. Tim’s Success seeks to promote a healthier weight for everyone classified as overweight (BMI 27 – 30), not only those who suffer serious obesity (BMI 30+). In the commercial, a moderately overweight torso is transformed into a torso representing a healthier, ideal weight. The torso at the end of the sequence is considered to be in the healthy weight range, she is not particularly ‘thin’ and certainly not underweight.

For these reasons, we disagree with the complainant’s comment that “this add represents an already thin girl needing to loose weight.”

We acknowledge and share the complainant’s concern about problems associated with young girls and ‘body image’. However, obesity also is a major health problem for the broader community, and it is linked to serious health conditions including diabetes, high blood pressure, heart disease, stroke, osteoarthritis. There is widespread concern that obesity is approaching epidemic proportions in Australia.

As previously stated, children are not permitted to use the Dr. Tim's Success products and program. Therefore, this commercial, and the Dr. Tim’s Success campaign in general, does not seek to target young girls.

No children or young girls are depicted in this or any other Dr. Tim’s Success commercial. In fact, another commercial in the series also address weight loss for men.

Media

Media for this campaign was planned to reach women aged 25-54. The majority of the advertising was placed during Women’s Daytime (9am – 4pm) when the majority of children and teens would be at school. Ch9 was chosen in order to more efficiently target the older demographic (Ch10 skews younger). For the small number of spots that appeared in peak (6pm – 10.30pm), programs such as the News, A Current Affair, Today Tonight and All Saints were selected as they were more suitable older skewing programs. The only possible exception to this would be the spots which appeared in Sunrise and Today which were again selected for their suitability to reach the target audience but also because, being early in the day, it gave them the rest of the day to act on the message.

At no stage was any program selected with a view to reaching either teens or children. Even the show in which the complainant saw the ad – Mercurio’s Menu – is a food and travel show, which is not children’s programming. Given the product relates to food replacement, we believe a food show to be a relevant environment.

Summary

The Dr Tim's Success campaign, and the "Ketosis" commercial in particular, does not target children in any way. It does not set a bad example or pose any danger to any child who may inadvertently be exposed to the commercial. It does not make any false or misleading claims. It does not promote any unhealthy activity or an unhealthy lifestyle. On the contrary, the product is created by a medical doctor and used under the supervision of trained pharmacy staff to improve the health of the user.

We are satisfied that the commercial complies with all aspects the AANA Advertiser Code of Ethics, including Section 2.4 and Section 2.8 of the code and all aspects of the AANA Food and Beverages Advertising and Marketing Communications Code (Oct 2006). What's more, we are satisfied that commercial does not depict or promote anything that is contrary to Prevailing Community Standards on health and safety.

We respectfully ask the Advertising Standards Board to set aside this complaint.

Furthermore, we would request that it be considered

- 1. If the TV aspect ratio of the complainant's TV set is appropriately set so as to show a correct perspective to the picture*
- 2. That the complainant may have issues about their own weight or body image or someone close to them which would prejudice their opinion*
- 3. That this may be vexatious or spurious attempt by one of our competitors to attempt interfere with our advertising campaign.*

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 the application of Section 2.6 of the Code, relating to prevailing community standards on health and safety.

The Board noted the complainants' concerns that an overly thin woman is used in this advertisement and that this will have a negative impact on body image for women.

The Board viewed the advertisement and considered that the female body shown did not appear overly thin. The Board considered that the advertisement was not suggesting people should take an unhealthy approach to weight loss or should become overly thin. The Board therefore determined the advertisement was not contrary to prevailing community standards on health and did not breach Section 2.6 of the Code.

The Board noted that it is not appropriate for the Board to comment on the efficacy or suitability of the advertised product.

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