



CASE REPORT

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| 1. Complaint reference number | 426/09 |
| 2. Advertiser | Fasta Pasta |
| 3. Product | Food & Beverages |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Health and safety – section 2.6 |
| 6. Date of determination | Wednesday, 23 September 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

A young man and woman are dining at a busy Fasta Pasta restaurant. The advertisement shows food being prepared and then the man scrunching his forehead up as he eats. His girlfriend places her finger near his forehead and the shot shows a red laser "dot" displayed on the man's forehead.

THE COMPLAINT

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

With the safety issues being reported in the media regarding the inappropriate use of lasers (eg being pointed at aircraft) I believe that this could be sending the wrong message to consumers. The use of laser pointers should not be used at all in such a manner, particularly given the advertisement is on in a timeslot when it can be viewed by a wide cross section of the public. The ad is implying that it is okay to shine a laser at a person (eg sitting in a restaurant) - why not in their eyes?

THE ADVERTISER'S RESPONSE

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

We had received CAD advice on the script prior to producing this ad, it was approved and received a W rating, as there was no particular viewing of a weapon. Not sure when this ad was on air, but as it was given a W rating it should be fine in terms of ad standards.

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 depiction of a red spot appearing on the young man's forehead (which may have been caused by the use of a laser beam) is sending the wrong message to consumers especially since the use of lasers in such a manner is prohibited in most Australian jurisdictions.

The Board viewed the advertisement and considered whether the advertisement was in breach of section 2.6 of the Code. Section 2.6 of the Code states, "*advertising or marketing communications shall not depict material contrary to Prevailing community Standards on health and safety*".

The Board noted the spot on the man's head and noted that there had been a community concern in Australia regarding the use of laser pointers because they have been misused, leading to the development of laws and regulations specifically addressing use of such lasers.

The Board noted that in Victoria, New South Wales, and Canberra Australian Capital Territory, a laser pointer with an accessible emission limit greater than 1mW is classified as a prohibited weapon and any sale of such items must be recorded. In Western Australia, regulatory changes have classified laser pointers as controlled weapons and demonstration of a lawful reason for possession is required. As of the year 2000 some states have banned the manufacture, sale and possession of laser pointers higher than class 2. In New South Wales and the Australian Capital Territory, the product safety standard for laser pointers prescribes that they must be a Class 1 or a Class 2 laser product. The Board noted that the tone of the advertisement was that the young man had taken a big risk by dining at an Italian restaurant (in preference to the cooking of his grandmother "Nona") and in doing so, had publicly humiliated the family by snubbing their grandmother's superior Italian cooking. The Board noted that in accordance with the tone of the advertisement, the depiction of the red spot on the young man's forehead was symbolic of a dot from gun and unlikely to be from a laser pen. Members of the Board agreed that although the advertisement was not a particularly positive portrayal of family ties, that the spot on the man's forehead was not caused by a laser pen and that in this instance, the advertisement would not be in breach of prevailing community standards on health and safety.

The Board then considered whether the advertisement was in breach of section 2.1 of the Code.

Section 2.1 of the Code states:

"Advertising or Marketing communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief."

The Board noted that the advertisement was stereotyping of Italian 'mafia' families however, it considered that in line with other media where mafia families are depicted, the advertisement was intended to be funny and over the top and was not demeaning towards Italian families in general and therefore not in breach of section 2.1 of the Code.

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