



CASE REPORT

- | | |
|-------------------------------|---|
| 1. Complaint reference number | 476/06 |
| 2. Advertiser | Nestle Australia Ltd (Uncle Tobys Plus) |
| 3. Product | Food & Beverages |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Health and safety – section 2.6 |
| 6. Date of determination | Tuesday, 12 December 2006 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features a young female swimmer in a pool advising "Duck down to Woolworths or Safeway"...and then turns around and swims underwater to pick up a packet of Uncle toby's cereal from the bottom of the pool. As she holds the packet to the camera, she continues to speak, with air bubbles issuing from her mouth "and pick up Uncle Toby's Plus to find out how to get your two months free DVD rental from Bigpond movies."

THE COMPLAINT

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

I feel this is a very dangerous ad as children will copy what they see no matter what they are told. A person talking underwater is at great risk of swallowing water and in the end could end up drowning.

THE ADVERTISER'S RESPONSE

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

We disagree with the complainant that this depiction is likely to encourage children to attempt to speak underwater, resulting in drowning.

To the best of our knowledge, the advertisement has not resulted in any complaints from members of the public or resulted in a participation in a dangerous activity by children.

The advertisement was created specifically for the promotion and Uncle Tobys has no intention to again air the advertisement.

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 whether the advertisement contravened Section 2.6 of the Code, dealing with health and safety.

The Board viewed the advertisement and noted the swimmer talking underwater. The Board considered that this is an activity that children often try with no long term ill consequence. The Board noted that this behaviour can be encouraged by swimming instructors as learning to swim and be confident underwater makes children more water safe. The Board did not accept that deliberate talking underwater is dangerous and agreed that it would only be done by children with sufficient

water-confidence.

Further finding that the advertisement did not breach the Code on any other grounds, the Board dismissed the complaint.