



## **CASE REPORT**

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|-------------------------------|---------------------------------|
| 1. Complaint reference number | 509/09                          |
| 2. Advertiser                 | Herbert Adams/Patties Foods     |
| 3. Product                    | Food & beverages                |
| 4. Type of advertisement      | Pay TV                          |
| 5. Nature of complaint        | Health and safety – section 2.6 |
| 6. Date of determination      | Wednesday, 11 November 2009     |
| 7. DETERMINATION              | Dismissed                       |

## **DESCRIPTION OF THE ADVERTISEMENT**

This television advertisement depicts a freezer section in a supermarket. The voiceover says: "*Buy 100 year anniversary packs of Herbert Adams and you could win a first class trip to London ...* ." A woman is depicted reading the back of the Herbert Adams packet and looks around to see if anyone is looking, she steps into the freezer section and is then seen pressed up against the front of the freezer. The voiceover says "*best you start acclimatizing.*"

## **THE COMPLAINT**

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

*It is a concern if children mimic this as it will lead to suffocation.*

## **THE ADVERTISER'S RESPONSE**

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

*With regard to the above referenced complaint regarding the Herbert Adams London Promotion television advertisement, I would like to offer the following response on behalf of Patties Foods:*

*The advertisement is to advertise the Herbert Adams on-pack promotion where consumers have the chance to win a first-class trip to London.*

*The nature of the complaint is in reference to section 2.6 of the AANA Code of Ethics which states that the advertising "shall not depict material contrary to Prevailing Community Standards on health and safety", with the complainant suggesting a danger to children if they mimic the action in the commercial.*

*The part in the ad where the woman gets into the freezer to 'acclimatise' herself for the London weather is clearly intended to be humorous and neither a real nor achievable scenario; the humour coming from the absurdity of a well dressed woman getting into a supermarket freezer.*

*Clearly getting into a supermarket freezer is not actually possible. To create this fantasy, we in fact had to build new, shorter shelves in order to make room for the actor to fit in the freezer.*

*Furthermore, the television commercial in question was granted a PG rating by CAD and therefore has not appeared in children's programs.*

## **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 act of climbing into the freezer might be copied by children and could lead to suffocation.

The Board noted the advertiser's response that the freezer was purpose built with shorter shelves inserted so that the woman could fit into the freezer.

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 complainant's concerns that the advertisement depicts unsafe behaviour, because it might be appealing to children. The Board empathised with the complainant's concern and agreed that the advertiser could have used a less confronting image of the woman in the freezer to convey the same message. However, the Board determined that the advertisement was intending to be humorous in the sense that it would be totally absurd to walk into a freezer (if it could be done) to acclimatize oneself. The Board agreed that although the advertisement might offend some people, it was unlikely that a child or adult would actually fit into the freezer in a supermarket even if they were to attempt mimicking the actions of the lady in the advertisement. The Board noted that the advertisement is rated PG and is not directed to children. The Board determined that the advertisement did not depict material contrary to prevailing community standards on health and safety and did not breach section 2.6.

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