



## CASE REPORT

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|-------------------------------|---------------------------------|
| 1. Complaint reference number | 62/10                           |
| 2. Advertiser                 | Simplot (Birds Eye)             |
| 3. Product                    | Food & Beverages                |
| 4. Type of advertisement      | TV                              |
| 5. Nature of complaint        | Health and safety – section 2.6 |
| 6. Date of determination      | Wednesday, 24 February 2010     |
| 7. DETERMINATION              | Dismissed                       |

## DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts comical birds in a kitchen, tweeting to the tune and flying around. One of the birds is looking at his reflection in the toaster and another bird, puts a Birds Eye packet over the other bird's face.

## THE COMPLAINT

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

*Part of this advert shows a bird admiring itself in a shiny toaster. Another bird flies over & promptly puts a plastic empty chip bag on it's head. Unless this ad is only shown late in the evening I think it is irresponsible to show frivolity about putting plastic bags on heads. I have a 3 & a 1 yr old & obviously they should be supervised at all times, but monkey see monkey do or rather birdy see birdy do. My eldest son may one day think it is funny to reenact this Ad using our plastic chipbag from the freezer.. I have never shown my children any act of putting bags on head for obvious reasons & I do not expect to see it on TV in a child alluring animated setting.*

## THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complaint/s regarding this advertisement included the following: *You have advised that the complaint potentially relates to section 2.6 of the Code. Section 2.6 provides that "Advertising or Marketing Communications shall not depict material contrary to Prevailing Community Standards on health and safety". In this regard, "Prevailing Community Standards" means "the community standards determined by the Advertising Standards Board as those prevailing at the relevant time, and based on research carried out on behalf of the Advertising Standards Board as it see fit, in relation to Advertising or Marketing Communications".*

*The complaint made on 24 January 2010 expressed concern that the image of a bird with a bag over its head is an inappropriate display, as it may ultimately lead to others following suit (i.e. by copying the action).*

*We do not believe the image could be conveyed in a manner which is contrary to the community standards on health and safety. The actions of the animated birds are not meant to be taken literally - being a form of hyperbole. The core message of the TVC is about the crunch of the golden chips. In any case, the TVC has a G rating and is targeted at grocery buyers between the ages of 25 to 49 years of age.*

*In short, the animated birds in the TVC have been used as an element of fantasy and as helpers to a cook in the kitchen - a light hearted element which is not meant to be literally interpreted. It is not intended to persuade children to copy actions which would be, in most cases, physically impossible*

*for them to do.*

*Based on the above, we maintain that the image is not any way in breach of section 2.6 of the Code.*

*In addition, we have reviewed the image against section 1 and section 2 of the Code. Aside from our response to the alleged breach of section 2.6, we do not believe that the image causes concern under any other section of the Code.*

*Based on our comments above, we do not consider the image to be unsuitable for display in this type of forum or other like forums for future campaigns.*

*We trust that our comments above will help to alleviate the complainant's concerns and assist the Board in its deliberation of the complaint.*

## **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 irresponsible to show frivolity about putting plastic bags on heads.

The Board noted the advertiser's response and viewed the advertisement.

The Board 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 that the advertisement displays animated birds and the chip bag which is a plastic bag, is dropped by one bird, over another bird's face whilst it is looking at its reflection in the toaster. The Board agreed that whilst it is a very dangerous act for living beings to have a plastic bag over their head, the advertisement is animated, does not depict people and does not depict behaviour that is contrary to prevailing community standards on health and safety. The Board also considered it very unlikely that this advertisement would encourage unsafe behaviour.

The Board agreed that most members of the community would appreciate that this advertisement was a light-hearted and fun advertisement for chips and that the depictions in the advertisement were very short and unrealistic. The Board determined that the advertisement was not in breach of section 2.6 of the Code.

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