

CASE REPORT

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| 1. Complaint reference number | 97/09 |
| 2. Advertiser | Johnson and Johnson |
| 3. Product | Nicorette |
| 4. Type of advertisement | Print |
| 5. Nature of complaint | Health and safety – section 2.6 |
| 6. Date of determination | Wednesday, 8 April 2009 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This image shows a man in a Nicorette branded tracksuit sitting next to a sleeping man. The sleeping man has a lit cigarette in his mouth and smoke is rising into the air. The man in the tracksuit is holding one finger to his mouth to signify silence.

The wording at the top of the image states “You don’t smoke 24 hours a day, so why use a 24 hour patch.” The image at the bottom of the image states “Nicorette 16 hour patch, designed to give your body a break while you sleep.”

THE COMPLAINT

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

I would like to make a complaint regarding the Nicorette advertisement which shows a man asleep on his back in bed with a lit cigarette hanging out of his mouth with another man in a green and white top above him with his finger/hand to his mouth going "Shush". Appearing in our West Australian Newspaper as a full page advertisement. It states "you don't smoke 24 hours a day, so why use a 24 hour patch? NICORETTE 16 hour patch, designed to give your body a break while you sleep." The advertisement goes against what we were taught when growing up YOU DO NOT SMOKE IN BED (or play with matches)- how many fires have been caused by this and houses burnt down and people burnt by bed linen catching fire - and here is a BLATANT advertisement showing this. I think it is sending out a wrong message to children who cannot understand the finer inuendos of this advert. Surely with the intelligence of the advertising industry they could come up with much better advertisements.

THE ADVERTISER’S RESPONSE

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

We are in receipt of your letter e-mailed on 11 March 2009 regarding a complaint received by the Advertising Standards Bureau concerning a Nicorette newspaper advertisement. Description of Advertisement: The advertisement shows a man asleep in his bed, smoking a cigarette. The text on the advertisement says “You don’t smoke 24 hours a day, so why use a 24 hour patch?” The caption underneath says “Nicorette 16 hour patch, designed to give your body a break while you sleep” Complainant’s Reason for Concern: “The advertisement goes against what we were taught when growing up YOU DO NOT SMOKE IN BED (or play with matches)- how many fires have been caused by this and houses burnt down and people burnt by bed linen catching fire - and here is a BLATANT advertisement showing this. I think it is sending out a wrong message to children who cannot understand the finer inuendos of this advert.”

The approved indication for Nicorette 16 hour patch is for the treatment of tobacco dependence by

relieving nicotine craving and withdrawal symptoms, thereby facilitating smoking cessation in smokers motivated to quit. The Nicorette Patch should be applied upon waking up in the morning and removed at bedtime. The Nicorette 16 hour patch advertising campaign was developed to explain one of the key differences between 16 hour and 24 hour nicotine replacement patches. The difference being, you do not wear the Nicorette 16 hour patch to bed at night. People do not smoke while they are asleep, so why would they wear a patch while asleep? Clearly the idea of smoking when asleep is absurd and we have utilised this absurdity to show the benefit of our product. It has never been our intention to encourage the behaviour of smoking in bed, nor to condone this behaviour.

In 2004/2005 when the “sleep smoker” advertising campaign was initially launched, both the concept and the final television advertisement were thoroughly researched. The results indicated that not one of those surveyed took out the message that the advertisement was encouraging smoking in bed or when asleep. In fact over 85% of consumers told us that the message of the commercial was “Gives my body a break from nicotine when I sleep”. Additionally, there was no issue of safety raised. These research findings are equally relevant to the newspaper print advertisement as the execution and take out message of both the television and the print advertisements are identical. Furthermore, the television commercial was subject to a previous complaint of a similar nature which was dismissed (Complaint 56/05). Johnson & Johnson Pacific does not promote smoking and contends that smoking was not promoted in the advertisement. Smoking is a waste of human potential, a major driver of health system costs and a burden to the whole community. Despite government funded health messages concerning smoking, the government estimates that over 3 million Australians smoke daily. Quitting smoking may be one of the hardest, yet most rewarding things a person can do. It is established that using nicotine replacement therapy, such as the Nicorette Patch, doubles a smokers chances of quitting compared to using will power alone.

Johnson & Johnson Pacific subjects proposed advertising to rigorous review. We remain satisfied that the claims made in the advertisement are accurate, balanced, not misleading and importantly, do not contradict current community standards on health and safety. Also, the advertisement appearing in the newspaper was reviewed by the Australian Self Medication Industry Association (ASMI) and approved (documentation available on request). We believe that this advertising is consistent with the requirements of the AANA Advertiser Code of Ethics, section 2 and specifically sections 2.6 and 2.8. Accordingly we ask that the Advertising Standards Board dismiss the complaint, as it did previously for the sleep smoker television commercial, where it found no contraventions of the Advertiser Code of Ethics.

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 image of the man smoking in bed is dangerous as it gives children a message about unsafe smoking.

The Board noted that government policy is to reduce the exposure of the public to messages and images that may persuade them to start or continue smoking or use tobacco products. The Board considered that while the community tolerates a level of smoking it does not tolerate images which promote smoking as glamorous or cool.

The Board considered carefully the image of the man smoking in bed. The Board considered that this image is not glamorising smoking and that it was able to be used in advertising this product.

The Board then considered whether the image of the man smoking in bed was contrary to community standards on health and safety or was likely to give a message to children that it is acceptable to smoke in bed.

The Board considered that the depiction of the man smoking in bed was not realistic - he has his eyes closed and is suggested that he is asleep, and there is another man watching him while he sleeps and smokes. The Board considered that this image, placed in a newspaper, was not targeted to children and was unlikely to be interpreted by children as suggesting that it is acceptable to smoke, or in particular to smoke in bed.

The Board determined that the advertisement was consistent with prevailing community standards in

that it depicted the preferred approach of not smoking, while suggesting that the particular product is a useful means of achieving that ultimate goal using the product to cut down cravings.

The Board accepted that this product itself is a product that assists or is intended to assist people to stop smoking and that any advertisement for this product could be said to have some positive health outcome.

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