

Case Report

1. Case Number :	0045-25
2. Advertiser :	L'Oreal Australia Pty Limited
3. Product :	Health Products
4. Type of Advertisement/Media :	TV - Free to Air
5. Date of Decision:	19-Feb-2025
6. Decision:	Dismissed

ISSUES RAISED

AANA Code of Ethics\2.6 Health and Safety

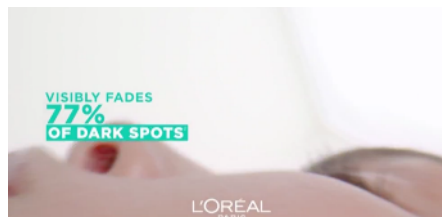
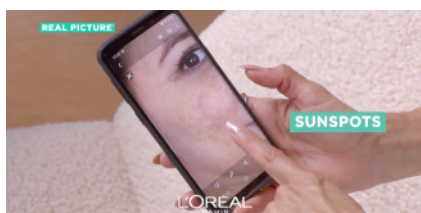
DESCRIPTION OF ADVERTISEMENT

This free to air television advertisement features a close up of a woman's face with a voice-over saying "more dark spots in summer, say game over. L'oreal Paris Bright Reveal serum with niacinamide fades 77% of dark spots including sunspots."

A woman says "Dark spots gone."

The voice-over says "L'oreal Paris Bright Reveal serum."

The woman says "I'm worth it."



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

L'oreal advertises a Niacinamide product that whitens skin blemishes, including sunspots. Such a product and advice about sunspots diverts people from seeking medical advice about sun damage and may well delay treatment of what could be cancerous/precancerous lesions.

I write as someone with a family history of malignant melanoma and as a retired GP specialising in mental health.

1. My concern is that people who use the product in an effort to fade dark spots may delay getting a professional opinion as to whether the spot could be skin cancer, particularly melanoma, and therefore decrease the chance of it being diagnosed and treated early, resulting in the risk of a poorer outcome. During the Australian Open this ad. is being broadcast frequently and, given that many viewers may themselves be tennis players who, by being out in the sun more are at increased risk of skin cancer, the number of people potentially put at risk is increased.

2. The final line of the ad. says 'I'm worth it.', which to me implies that having dark spots decreases your 'worth' in some way. In an era where so much advertising centres round body image and can adversely affect people's mental health if they feel they don't 'live up to' the vision in advertisements - in this case, flawless skin - I am concerned about viewers' mental health as well as the potential for spending money on products that may/may not work in an effort to feel 'worth it'.

THE ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

We refer to your letters of 6 February 2025 regarding two complaints received by Ad Standards dated 20 January 2025 (First Complaint) and 25 January 2025 (Further Complaint) (collectively, the Complaints) relating to a L'Oréal Paris Bright Reveal Niacinimide Serum (Product) TVC.

As requested, further information about the TVC is included below and uploaded to the response form.

As part of the L'Oréal Group, L'Oréal Australia (L'Oréal) is a responsible corporate citizen that respects community standards and takes compliance with consumer regulations, including the AANA Code of Ethics (Code), very seriously. L'Oréal strives to ensure its advertising is transparent, truthful and compliant with all consumer regulations.

L'Oréal has been innovating in the area of sun protection since it launched its first commercial sunscreen 90 years ago in 1935 and has long been dedicated to sun safety through research, product innovation, public education campaigns and partnering with health care professionals and NGOs, to help prevent certain skin cancers

L'Oréal is proud of its strong history in supporting sun safety in Australia and throughout the world and is highly cognisant of and respects community standards relating to sun safety.

Locally, L'Oréal has a number of ongoing partnerships with health care professionals and NGOs including Melanoma Institute Australia who are at the forefront of global advances in melanoma research and treatment and Skin Check Champions who provide skin checks at various events to the public in an attempt to prevent skin cancer.

L'Oréal strongly denies that it has breached the Code in any way. In order to address each part of Section 2 of the Code, please find our responses below:

Part 2.1- Discrimination or vilification

The TVC does not breach Part 2.1 of the Code as it does not contain material that is discriminatory or vilifying in nature or likely to be deemed discriminatory or vilifying in nature.

Part 2.2- Sexual appeal

The TVC does not breach Part 2.2 of the Code as it does not contain material that is sexual in nature, or likely to be deemed sexual in nature.

Part 2.3- Violence

The TVC does not breach Part 2.3 of the Code as it does not contain any material that is violent in nature or likely to be deemed violent in nature.

Part 2.4- Sex, sexuality and nudity

The TVC does not breach Part 2.4 of the Code as it does not contain any material that refers to, or depicts sex, sexuality or nudity or is likely to be deemed to depict sex, sexuality or nudity.

Part 2.5- Language

The TVC does not breach Part 2.5 of the Code as it does not contain any language that is offensive or unsuitable for the ClearAds rating it was given by ClearAds.

Part 2.7- Distinguishable as advertising

The TVC does not breach Part 2.7 of the Code as it is clearly advertising and is unlikely to be deemed otherwise.

Part 2.6 (Advertising shall not depict material contrary to Prevailing Community Standards on health and safety)

Section 2.6 of the AANA Code of Ethics states, "Advertising shall not depict material contrary to Prevailing Community Standards on health and safety." The Ad Standards Practice Note on Section 2.6 provides that the section "requires that advertising must not depict content that would encourage or condone unhealthy or unsafe behaviour having regard to Prevailing Community Standards."

L'Oréal strongly denies that it has depicted material contrary to Prevailing Community Standards on health and safety within the TVC.

L'Oréal also rejects the claims that the safe use of its Product "diverts people from seeking medical advice about sun damage and may well delay treatment of what could be cancerous/precancerous lesions" (First Complaint) and that "people who use the product in an effort to fade dark spots may delay getting a professional opinion as to whether the spot could be skin cancer, particularly melanoma" (Further Complaint).

It is important to stress that the before and after images shown within the TVC are cosmetic blemishes. They are not melanoma or cancerous or precancerous moles or lesions. The spots shown are not raised, lumpy, crusted, shiny, rough, scaly, pale or pearly in colour, which are typical warning signs of skin cancer. The TVC also repeatedly emphasises via voiceover, text on screen and the name of the product ("dark spot serum") that the product is intended for use on dark 'spots'. Spots are flat, cosmetic blemishes or pigmentation on the skin.

Additionally, the TVC does not depict any unhealthy or unsafe behaviours. For example, the TVC does not depict any risky or unsafe sun behaviour (such as sun exposure or tanning without protective clothing or sunscreen) and the use of the Product as depicted in the TVC is not unhealthy, unhygienic, unsafe or likely to lead to injury. The Product is used as intended and is safe for consumers when used according to directions.

L'Oréal respectfully notes that it is not an advertiser's obligation under the Code to promote sun safety or health messages, so long as the advertiser does not actively discourage such practices. As noted in an earlier case report (Pacific Equity Partners, 0008-14), "The Board noted that the sun safe message is well known to Australians and considered that it is not an advertiser's role to actively promote this message so long as they don't actively discourage it." This is also referenced in Case Report 0083-23 (Uber Australia Pty Ltd).

At no point in the TVC are viewers discouraged, actively or otherwise, from seeking medical advice or treatment about suspicious moles / lesions or undertaking regular skin checks with a medical professional. Respectfully, L'Oréal suggests that the TVC is highly unlikely to convey any such implied message to ordinary and reasonable viewers.

The TVC is intended to promote a cosmetic that is intended for cosmetic purposes only. Accordingly, L'Oréal strongly denies it has breached Part 2.6 of the Code.

Separately, the Further Complaint alleges that through the phrase, "I'm worth it", L'Oréal has implied that having dark spots decreases your worth in some way. This allegation is strongly refuted. The phrase, "I'm worth it" and various iterations of this phrase have been used as a trade mark by L'Oréal Paris for over 40 years. Additionally, L'Oréal is a fierce advocate for beauty diversity and inclusivity and celebrates beauty in all shapes and forms. The TVC does not imply that having dark spots decreases one's worth in any way. Instead, the message "I'm worth it" is, and always has been intended to empower consumers to invest in their beauty products because they are worth it.

It should be noted that the TVC is no longer on air and ceased airing on or around 26 January 2025.

THE DECISION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement promotes behaviour contrary to community safety messaging.

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

Section 2.6: Advertising shall not depict material contrary to Prevailing Community Standards on health and safety.

The Panel considered that Australia has the world's highest incidence rate of melanoma and the prevention and there is strong community messaging about the importance of skin checks.

A minority of the Panel considered that prevailing community standards in this area would be that dark spots on the skin be examined by a medical professional, not covered up, and the messaging in the advertisement would be contrary to community standards.

The majority of the Panel, however, considered that the advertisement is a beauty ad and not a health promotion. The Panel considered that most members of the community would not interpret the advertisement as discouraging medical treatment or suggesting that potential melanomas should not be investigated.

The Panel considered that the advertisement did not contain material contrary to Prevailing Community Standards on health and safety.

Section 2.6 conclusion

The Panel considered that the advertisement did not breach Section 2.6 of the Code.

Conclusion

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaints.