



Case Report

1	Case Number	0092/13
2	Advertiser	Sure Deal
3	Product	Other
4	Type of Advertisement / media	Internet
5	Date of Determination	27/03/2013
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

2.6 - Health and Safety Depiction of smoking/drinking/gambling

DESCRIPTION OF THE ADVERTISEMENT

Advertisement for fruit flavoured vapour (tobacco and nicotine free) e-Shisha Pipes featuring claims that it is a safe way to smoke as there are no toxins or tar. There is a video which shows people smoking the product.

THE COMPLAINT

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

Advertisement can be viewed and the product can be ordered by children. False claims that the product isn't harmful, but making smoking seem like a fun activity to share with friends.

THE ADVERTISER'S RESPONSE

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

Original complaint section -

*1. Advertisement can be viewed and the product can be ordered by children -
The advertisement is not aimed at, nor marketed to children. SUREdeal is an online group buying site that offers deals to our members on behalf of third-parties. As per our terms (3.1), you are required to be 18 years of age (and will also need to have a credit card) to purchase any deal from SUREdeal - <http://www.suredeal.com.au/terms>*

Customers are required to create an account with SUREdeal before making a purchase - <http://www.suredeal.com.au/sign-in> and they must agree to the terms and conditions at this time.

According to the Code for Advertising and Marketing Communications to Children:

“Advertising or Marketing Communications to Children means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for Product

Advertising or Marketing Communications to Children means Advertising or Marketing Communications which, having regard to the theme, visuals and language used, are directed primarily to Children and are for a Children’s Food or Beverage Product”

However, no children are featured in the advertisement, nor are the themes, visuals and language directly primarily to children for this product, or any other advertised on SUREdeal.com.au.

2. False claims that the product isn't harmful, but making smoking seem like a fun activity to share with friends-

The e-Shisha is designed to help reinvent “smoking” to be healthier (which it is) and more socially acceptable in this form than by smoking the harmful alternative - tobacco cigarettes. While quitting smoking is (of course) the best course of action to take to an addiction, many believe products such as these to offer a safer and more socially acceptable alternative for those who have tried and failed to quit numerous times. Choosing the non-harmful alternative is advertised to be the better option.

The product is a Tobacco-Free, Nicotine-Free, Fruit Flavoured Vapor E-Shisha Pipe, with zero tar, and toxins which make it a great alternative to regular smoking. This is how the product has been advertised, as well as focusing on the negatives of smoking tobacco cigarettes such as the harmful and undesirable side-effects.

Nowhere in Section 2 of the Advertiser Code of Ethics (Code for Advertising and Marketing Communications to Children or Food and Beverages Marketing and Communications Code) in the links provided on the complaint notification, does it make reference to advertising non-harmful alternatives to smoking cigarettes, nor does this advertisement appear to breach the AANA 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 concerns that the advertisement shows people smoking a cigarette style product which could encourage children to copy the behaviour and to smoke tobacco products and makes claims about the product not being harmful.

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

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 the advertisement features text describing the product (the E-shisha), how it works, the benefits of the product and the deal itself. Included as part of the deal as it appears on the internet page, is a video, including scenes of people being interviewed about the product and showing them smoking.

The Board noted that the product itself is not a tobacco based product and that it is not the Board’s role to comment on the legislation around tobacco advertising and legislative requirements. The Board also noted that upon reviewing the advertisement, it is not within the remit of the Board to consider the suitability of the product but only the way that it is advertised and the depiction of smoking within the advertisement.

The Board noted that the video footage shows people being using the product and being asked for their opinion. The Board considered that the opinions of the people are all positive and that the users appear to be enjoying and savouring the flavours and ease of use of the E-shisha. The Board considered that the advertisement is depicting people replacing tobacco cigarettes with a non-tobacco product but does so in a manner that makes smoking appear trendy and desirable.

The Board noted that the text included as part of the advertisement describes the deal being offered and also the functionality of the E-Shisha pipe. The Board noted that in particular the text mentions “set a new trend for non-smokers who don’t want to be left out of the smoking area.” The Board considered that this type of statement reinforces the idea that smoking is considered a ‘cool’ or ‘fashionable’ thing to do and that people who do not join with the smoking crowd, may be socially disadvantaged.

The Board considered that this is, in the Board’s view, a depiction that glamourises smoking and that glamourising smoking is contrary to prevailing community standards on health and safety.

Consistent with previous decisions (0140/12 – Nena and Pasadena and 0410/12 – De Rucci Bedding) the Board considered that the advertisement glamorises smoking and that a depiction of smoking in this manner is clearly contrary to community standards on health and safety regarding smoking and that the advertisement did breach of Section 2.6 of the Code.

Finding that the advertisement breached Section 2.6 of the Code, the Board upheld the complaint.

ADVERTISER RESPONSE TO DETERMINATION

We have removed this advertisement.