



CASE REPORT

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| 1. Complaint reference number | 388/08 |
| 2. Advertiser | Johnson & Johnson Pacific Pty Ltd |
| 3. Product | Health products |
| 4. Type of advertisement | TV |
| 5. Nature of complaint | Health and safety – section 2.6 |
| 6. Date of determination | Wednesday, 8 October 2008 |
| 7. DETERMINATION | Dismissed |

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement opens on a man getting out of bed looking miserable with a cold and realising he has to go to work. Outside he hears someone whistling the Codral jingle. As he puts the kettle on, the radio also is playing the jingle. He takes a Codral tablet and leaves the house and as he goes to work people all around him are singing the jingle. As he bursts through the doors to the foyer of his office, he shouts the words of the jingle in a loud voice, to the surprise of people in the foyer. A voice over announces "The combination of Codral's active ingredients help you win the fight against cold and flu...don't let colds or flu steal your day away from you. With Codral you can soldier on."

THE COMPLAINT

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

Although my complaint is as a private citizen, it is relevant to note that I sit on my hospital's Pandemic Influenza Committee, which is charged with meeting the possible future challenges in WA of managing a widespread national / international pandemic emergency.

One of the few key strategies to minimise harm and the impact of any pandemic is the concept of SOCIAL DISTANCING, where the infected member of the public is encouraged to stay away from work, crowds and social occasions where the infective agent can be passed on. This community minded harm minimisation tactic is directly undermined by the codral promotion. The worst case scenario is that the ingrained community habits caused by this ad could cause hundreds of deaths and greatly accelerate the spread of an epidemic.

The codral "Soldier On" advert has set a dangerous precedent that is directly counter to the Centre for Disease control (CDC) recommendations and accepted worldwide infection management principles. This advert has created the belief that the right thing to do is to return to work, full of the codral product and to cheerfully spread virulent pathogens amongst workmates and the wider community.

I seek an assurance that, in the interests of community safety, the promotion of sound infection control principles and to attempt to reverse ingrained unsafe community habits caused by this single advert, that the ASB has or soon will take steps to ensure that the soldier on advert is never again seen or heard.

THE ADVERTISER'S RESPONSE

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

The Soldier On slogan and jingle have been closely associated with Codral branded products and used successfully in advertising since 1985, being over 20 years. We are sorry that the complainant finds the jingle annoying. This specific advertisement was first broadcast in June

2007, and we have not received any other complaint of this nature in relation to this advertisement.

The intent of the Soldier On slogan, jingle and the advertisement as a whole is to communicate to adults feeling unwell with a cold to use Codral branded products to help manage their symptoms and get them through the day. The cold sufferer featured is shown with a blocked red nose and sniffles; he is mobile and takes a Codral branded product to help him with these symptoms. As he begins to face the day he is actively encouraged by bystanders on the street and clearly feels a dramatic uplift in his spirit and mood as a result of this encouragement.

The transformation shown in the advertisement is clearly an exaggerated one, with the Codral product user shown skipping and singing down the street into an office building. As is common in television advertisements, self-evident exaggeration (or advertising puffery) is used to highlight the issue and offer a potential solution, within the limited time of a television commercial.

We acknowledge the complainant's concerns about the spread of influenza in the workplace. In Australia, cold and flu tend to be interchangeable terms that mean similar things, with flu the worse of the two. They present as transient, self-limiting symptoms that most adults simply manage with self-medication, including using Codral branded products. Influenza, on the other hand, is a serious respiratory infection that occurs in a minority of people, requires bed rest, and can require hospitalisation in the very young, elderly and frail. This advertisement clearly does not and is not meant to target such groups of people.

It is important to note that although Codral branded products are widely known and used in the community, they are not a general item of commerce. Codral branded products can only be obtained from a pharmacy. Pharmacy staff are on hand to advise during the purchase of every Codral branded product. Pharmacy is an environment wherein professional advice is always available, and customers may be advised to seek medical advice and/or rest in bed, as appropriate. Importantly, in providing this advice, health care professionals would take into account the health and safety of the community.

For these reasons we disagree that the advertisement would encourage an adult with influenza symptoms to take their condition lightly and buy Codral branded products from a pharmacy in order to go to work.

We remain satisfied that the advertisement complies in all respects with the provisions of the AANA Code of Ethics (including the Codes incorporated therein), and in particular section 2.6 of the Code. We remain strongly of the view that the advertisement does not depict material contrary to Prevailing Community Standards on health and safety.

We respectfully ask the Advertising Standards Board to set aside this 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 considered the application of Section 2.6, relating to health and safety.

The Board considered whether the advertisement was contrary to prevailing community standards of health and safety, having regard to the complainants' concerns about the spread of influenza in the workplace. The Board accepted the advertiser's response, regarding the use of its products for cold symptoms, availability only through pharmacies and the use of exaggeration in the character's portrayal skipping and singing down the street to an office building. The Board agreed that the advertisement did not contravene prevailing community standards of health and safety.

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