



10/659

**DECISION****Meeting 8 December 2010****Complaint 10/659**

Complainant: S. Cowan  
Advertisement: Puraz Health Limited

**Complaint:** A baby lying on a sheepskin rug was the opening scene for the television advertisement for Puraz collagen capsules. The opening voiceover that accompanied the scene of the baby on the rug stated:

“Why do babies have such soft skin?  
Because babies’ skin is full of collagen.”

The Advertiser stated that their collagen supplement would help restore collagen that had been lost through age, stress and sun damage.

**Complainant, S. Cowan, said:**

“The advertisement includes images of a baby sleeping prone (on the tummy) and on a soft surface. It was seen on Friday 29 October at about 9:15am, on Television One. The clip can be viewed at <http://www.puraz.co.nz/>

The prone position, especially when also on a soft surface, is dangerous for babies during the developmentally critical first six months of life. It is internationally accepted to be the most significant risk factor for sudden infant death. Safety advice is ‘face-up, face clear, smokefree’ when babies sleep. (For verification contact Dr P. Tuohy, Advisor to the Minister of Health, Child and Youth Health, ...)

Health-funded campaigns and professional efforts to educate parents to place babies ‘on the back’ every time and place they sleep, are undermined by imagery of babies sleeping prone. It weakens perceptions of importance and invites risk-taking by parents, especially those in social systems with fewer role models of safe practice.

Sudden infant death is still the main cause of post neonatal death in New Zealand and where the most gains in improving infant mortality rates can be won. Yet back sleeping has not yet been normalised across society or we would not need to be making this complaint. Coroners continue to report concerning numbers of instances

of babies placed in non-recommended positions before their deaths (side, front, propped on pillows, scrunched in chin-to-chest positions). (For verification, check with Chief Coroner, Judge N. MacLean. ...).

....

I make this complaint within my capacity as a citizen with concern for the influences on young parents and also as the director of Change for our Children which holds education contracts with the Ministry of Health for preventing sudden infant death and promoting infant health. I am confident that this complaint will have the support of all who work in health, especially, midwives, doctors, nurses as well as the Child and Youth Mortality Review Committees (CYMRC) around the country (For validation contact K. Guilliland, New Zealand College of Midwives ..., A. Baldwin, Chief Operating Officer, New Zealand Plunket Society, ..., Dr N. Baker, Paediatrician, National Chairperson, CYMRC, ...).

This advertisement is designed for female audiences and is being aired to women at home in the mornings. It is promoting practices that are dangerous to babies (prone sleeping and soft surfaces) and is being promoted by a company called Puraz Health.

There is potential for confusing viewers and implying that this is a health advertisement and that the images of the baby are acceptable to health authorities. They are not. I ask for your urgent attention to this complaint and the removal of this advertisement as soon as possible.”

**Duplicate Complainants shared similar views.**

**The Chairman ruled that the following provisions were relevant:**

**Code of Ethics**

**Basic Principle 4:** All advertisements should be prepared with a due sense of social responsibility to consumers and to society.

**Rule 2: Truthful Presentation** - Advertisements should not contain any statement or visual presentation or create an overall impression which directly or by implication, omission, ambiguity or exaggerated claim is misleading or deceptive, is likely to deceive or mislead the consumer, makes false and misleading representation, abuses the trust of the consumer or exploits his/her lack of experience or knowledge. (Obvious hyperbole, identifiable as such, is not considered to be misleading).

**Rule 12: Safety** - Advertisements should not, unless justifiable on educational or social grounds, contain any visual presentation or any description of dangerous or illegal practices or situations which encourage a disregard for safety.

**The Advertiser, Puraz Health Limited, said:**

‘Thank you for the opportunity to clarify our position. As you will no doubt be aware as advertisers we continually receive complaints not just from this ad but from all

advertises almost on a weekly basis. I explained very clearly to S. Cowan that as these ads cost many thousands of dollars to create and we would not remove the advert just by receiving a complaint from any individual but actually directed her to your organisation to make a formal complaint. I also informed S. Cowan if the appropriate Authority seen the ad as cause for concern then we would be happy to remove it immediately.

...

The ad in question has been run for many months, viewed by a large audience with very few complaints compared to general complaints generated by other ads.

The ad in question is of a baby in daylight lying & resting on a sheepskin rug, certainly not wrapped up in bed as suggested by the complainant, paragraph 4 'place they sleep'.

I would suggest this to possibly be normal practice for most babies after spending many long hours in bed lying on their backs.

The ad in question is for the promotion of a Natural Beauty product and does not relate to or promote practises that are dangerous in any way to the health of babies as implied by the complainant, Paragraph 8 'it is promoting practices that are dangerous to babies'.

Puraz Health Ltd goes to great lengths and cost to ensure all our advertising complies not only legally but morally with NZ Standards. For the reasons outlined above we as a company do not believe that this ad has contravened the advertising standards. In the unlikely event that the Advertising Standards Authority found the ad to breach Advertising Standards then Puraz as a responsible company would remove the ad immediately.

Thank You for the opportunity to respond to this complaint.”

**Further correspondence from the Advertiser, Puraz Health Limited, said:**

“ ...

As outlined in our initial response.

In the advert the baby is resting on a sheepskin in daylight hours which as I suggested would be a normal position for a baby after spending many long hours positioned on their back while sleeping in bed.

Any Parent or Guardian would have to be very naive to interpret from the ad that this is the preferred sleeping position for a baby. It clearly shows a baby resting on a sheepskin in broad daylight.

In my opinion this does not in any way portray 'disregard for Safety' as implied by the complainant.”

**Further correspondence from the Advertiser, Puraz Health Limited, said:**

“ ...

You will see attached a full page ad in 'The Natural Parent Magazine' September issue. The ad showing a baby lying on a sheepskin (similar to the Puraz ad) on its

front with words promoting a good nights sleep. Not only this but if you look down the bottom of the page the ad is actually endorsed by 'The Neonatal Trust' and 'Asthma New Zealand'

As stated in our previous Responses this pic of a baby lying on their front is widely used throughout the wider advertising spectrum. We would find it grossly unfair if the complaint against our ad was upheld which we use to show the softness of the babies skin (nothing to do with sleep) while this company and others use similar ads to actually promote a good nights sleep and are were permitted to continue using the same pic. If the complaint was upheld this would no doubt put Puraz Health at a severe disadvantage to our competitors.

As this is a very crucial point I would ask that this email and information attached be included along with our other responses to the committee.”

**The Agency, Admarkit Ltd, said:**

“Admarkit Ltd prepared the advertisement in question for Puraz Health Ltd. We would like to provide our response as below:

Firstly, we have great respect for S. Cowan's work. We would not in any way want to be associated with anything that would encourage unsafe behaviour for children or babies and in this case I don't feel we have been.

In preparation of this advertisement we simply wanted to depict the beauty of a young baby's skin so as to provide an introduction to our advertisement on skin care. To achieve this we purchased licensed footage from a respected provider of stock footage of a baby that we understand has been used extensively in other TV work. We also had the advertisement approved firstly by TAPS (Peter Pratt) and then TVCAB. We took all reasonable steps to ensure the advertisement was ethical and truthful.

While I can understand S. Cowan's position, I feel in this case we have met the requirements of the Code of Ethics, Principe 4 and Rules 2 and 12.

**Principle 4:**

The baby in the stock footage is being portrayed in a very normal, natural way that does not make any endorsement of how babies should be put to bed. Even when placed on their backs, babies do tend to roll onto their sides as I experienced with my own son when he was born in 2007.

**Rule 2:**

The footage is truthful representation of a baby resting and no reasonable person in my view would connect that with how a baby should be put to sleep in their cot. Further there is no connection with the preparation of a baby for sleep, and the daylight setting implies that the baby is in a day room and being monitored.

While we fully support S. Cowan's efforts to promote 'back sleeping' to help reduce SIDS, in this instance we don't feel there is sufficient justification to modify or remove

this advertisement as we are not endorsing any mode of preparation for sleep but simply depicting a baby in a normal pose.

Rule 12:

The advertisement does not depict a dangerous or unsafe situation nor encourage disregard for safety when it comes to putting children to bed, as this advertisement is completely unrelated to the subject of preparing babies for sleep. It is an advertisement for adult skincare, featuring a baby in a normal daylight situation. Any review of babies in photography will show a wide range of resting positions (for example A. Geddes) and this should not be an issue relating at all to SIDS unless the subject is specifically about preparing babies for sleep.

The complaint comes from a highly specific viewpoint and appears to request what is beyond the realms of fair depiction in day to day television and would thus place an unfair burden on producers, agencies and their clients.”

**Commercial Approvals Bureau (CAB) said on behalf of the media:**

“We have been asked to respond to this complaint under the Code of Ethics Basic Principle 4 - social responsibility and Rule 2 - truthful presentation.

Two complainants queried the position the infant was lying in the opening sequence of this 60 second commercial and felt it was contrary to advice given to mothers regarding SID syndrome. The infant shots are quite incidental to the advertisement as a whole.

The commercial opens with S. Heazlewood seated in a lounge chair posing the question: "Why do babies have such soft skin?" She continues: "because baby skin is full of collagen and as years go by that collagen is depleted by UV rays, stress and aging." The advertisement then continues to extol the benefits of taking Puraz health capsules which are designed to be absorbed whole in the small intestine so the collagen is not broken down and lost before it has a chance to be of benefit. Taken over a sustained period Puraz 100% Collagen works to help delay the signs of aging by replenishing the body's natural collagen stores.

TAPS approval PP8894 was given to this commercial which cannot play in children's time. It first aired in February 2009.

The child, who is clearly not a newborn baby, is shown lying with its face turned to one side on a sheepskin rug. There are no loose toys, pillows or blankets obstructing breathing. There is nothing at all to suggest that the child is in a cot or bassinet having it's sleep. The infant could quite easily be having a simple cat nap while having a bit of 'tummy time' on the rug on a floor while a caregiver is present. Infants by this age, who experience a lot of tummy time, develop good head control and will often even turn themselves and be quite capable of rolling over to move to a position where they can breathe comfortably.

To read anything more into this commercial is unwarranted and the complaint should therefore not be upheld.”

### **Deliberation**

The Complaints Board carefully read all correspondence in relation to the complaint, and viewed a copy of the television advertisement. It noted the issues raised by the Complainant in relation to the advertisement specifically that by showing babies lying face down in a prone position, the advertisement was promoting unsafe practices that were dangerous to the health of infants.

The Chairman directed the Complaints Board to consider the advertisement with reference to Basic Principle 4 and Rules 2 and 12 of the Code of Ethics. Basic Principle 4 required the Complaints Board to consider whether or not the advertisement was prepared with the due sense of social responsibility to consumers and to society. Rule 2 required the Complaints Board to consider whether or not the advertisement contained anything which, either directly or by implication, was likely to deceive or mislead the consumer, or exploit his/her lack of experience or knowledge and whether it contained any visual presentation of a dangerous practice which would encourage a disregard for safety, thereby breaching Rule 12.

As a preliminary matter the Complaints Board noted that TAPS approval had been given to this advertisement.

Turning to Rule 2 of the Code of Ethics, the Complaints Board was of the view that there was nothing in the advertisement that could be considered misleading. Therefore, the Complaints Board was unanimous in its decision that the advertisement was not in breach of Rule 2 of the Code of Ethics.

Assessing the advertisement under Rule 12 of the Code of Ethics, the Complaints Board noted where the Complainant's statement said that: "The prone position, especially when on a soft surface, is dangerous ... it is internationally accepted to be the most significant risk factor for sudden infant death" a claim that could be verified by the Advisor to the Minister of Health, Child and Youth Health. They then turned to the Advertiser's response which stated that the advertisement shows the baby in daylight, resting on their front a sheepskin rug, not in bed where they would be placed to sleep.

The majority of the Complaints Board was of the opinion that, showing a baby lying on its front was not dangerous in itself, as long as the baby was awake and not sleeping. However, the majority was of the opinion that baby in the advertisement was asleep, lying in the face down position on a soft surface, which was a position that had been decided by experts to be the most significant risk factor for sudden infant death and as such, depicted a dangerous practice. The majority also stated that while babies do need time on their front - so that they could exercise their neck and back muscles - showing a baby that was ostensibly asleep and lying face down on a rug, could potentially send the wrong message to some viewers that this was the preferred way to allow babies to sleep. Accordingly, the majority Complaints Board ruled that the advertisement was in breach of Rule 12 of the Code of Ethics.

A minority disagreed. They were of the opinion that because the baby was shown on a rug on the floor, in the daylight, and not in bed at night, encouraged the view that the baby was more likely to be resting rather than sleeping. Therefore, the minority found that the advertisement did not contain any visual presentation of a dangerous

practice, or anything that would encourage parents to disregard the safety of their babies. As such the minority found that the advertisement had not breached Rule 12 of the Code of Ethics.

Turning to Basic Principle 4 of the Code of Ethics, the majority of the Complaints Board considered that a large proportion of the viewers of morning television were likely to be parents and were of the view that the advertisement could send the wrong message to new parents that it was safe to put their babies sleep in a face down prone position. Therefore, the majority ruled that advertisement did not meet the due sense of social responsibility to consumers and to society required under Basic Principle 4 of the Code of Ethics.

A minority disagreed. They found that the advertisement was promoting a natural beauty product that used the baby as a way to introduce the topic of collagen - which was central to the Advertiser's product - and found that the fleeting scene of the baby lying on its stomach on the rug did not promote the idea that it was acceptable for babies should be placed on their stomachs to sleep, nor would it encourage parents to become complacent about how their baby was positioned when they were put in bed. Therefore, the minority found that the advertisement had been prepared with the requisite responsibility required under Basic Principle 4 of the Code of Ethics and, therefore, ruled that there had been no breach of the Code.

However, in accordance with the majority, the Complaints Board ruled to uphold the complaint.

**Decision:** Complaint **Upheld**