



Case Report

1	Case Number	0442/15
2	Advertiser	Vitaco Health Australia Pty Ltd
3	Product	Food and Beverages
4	Type of Advertisement / media	Transport
5	Date of Determination	11/11/2015
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading
- 2.2 - Objectification Exploitative and degrading - men
- 2.2 - Objectification Exploitative and degrading - women
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.5 - Language Inappropriate language
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

Two images. One with a model covering her private areas and the text "no naughty bits." The other with a woman looking like she is pinching a male on the bottom. The text reads "Un-guilty satisfaction."

THE COMPLAINT

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

Advertisement portrays nudity (exposed buttocks), objectification of men, sexual harassment, offensive behaviour.

Almost nude. Inappropriate for public trains and buses.

I object to this ad as I have to walk past it with my 8 years old daughters who want to know a/. why is she naked

b/. what naughty bits

c/. what does the whole thing mean.

I find the ad facile. It really is humour nodding to the absolute lowest common denominator.

Why should the general public be subjected to Vagina's and Breasts being labelled, by some advertising copy writer, as NAUGHTY? Really contradictory to what we are teaching kids. Here we are teaching the kids to guard their bodies, have self respect, do not let anyone have their way with your body and yet, in 2015, I have to walk to school, with the 1000 or so other kids who go to schools in the region, like I am living in the 1970s.

To have this kind of crude advertising driving all through a global city like Sydney, plastered on every corner, is really sexist, inconsiderate to social mores and offensive.

What century are we living in?

Hopefully the female anatomy is more that "naughty Bits" to a voyeir? Women are more than sex objects ... This sends a tricky message to kids - your body is naughty - according to some omnipotent male eye. My daughters (who are 8) are very very confused by the message. I don't really want to explain to them that some people will be sexually gratifying themselves when 'springing' someone naked. And no, their body is not naughty. This as is is puerile. I object to it being on my streets.

THE ADVERTISER'S RESPONSE

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

We have objectively considered whether this advertisement breaches the following sections of the Advertiser Code of Ethics :

Section 2.2 : Objectification, Exploitative and Degrading

Section 2.4 : Sex/Sexuality/Nudity

Vitaco recognises that while some people may have different perceptions of the advertisement, the intent of the advertisement is to communicate the functional benefits of the protein bar.

Issue 1 – Train and Bus (Lo Carb)

In the image, the woman pretends to be pinching the rear of the life guards, when in actual fact, it doesn't happen as the image depicts, i.e. she is deriving cute, innocent, cheeky satisfaction minus any guilt as she is not really pinching. The phrase "Un-Guilty Satisfaction" seen together with the protein bar, makes a clear association between the image and the protein bar that offers satisfaction minus the guilt.

Although the focus of the image is on the girl, she is well covered, is not in a sexualised pose and the image does not include any explicit nudity and the spirit of the ad was a light-mannered play on words supported by a food image. The image of the two men demonstrates an accepted part of surf boat culture, i.e. surf boat rowers pushing speedos up before rowing to avoid their butt cheeks chaffing on the boat's seats, and is an almost daily scene at Australian surf beaches.

The image has been portrayed since 1st Sept in outdoor media (back of buses) and this is the first complaint we have received in the past 7.5 weeks. On the contrary, we have received comments on social media labelling this as good advertising of the product, indicating solid comprehension of the intent of the ad.

As such we believe the content of the advertisement does not contravene the above sections of the code and recommend the complaint to be dismissed.

Issue 2 – On the back of Telstra booth and Bus (Naked protein bar)

The usage of talent is in very close connection with the text “No Naughty Bits” making a clear association between the image of the woman and the product being advertised, a food product without any “naughty bits”, i.e. nasty ingredients.

Although the focus of the image is on the girl, she is well covered, is not in a sexualised pose and the image does not include any explicit nudity. More importantly, the spirit of the ad was a light-mannered play on words supported by image.

As such we believe the content of the advertisement does not contravene the above sections of the code and recommend the complaint to be dismissed.

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 advertisements are inappropriate for display on public transport, contain images that are degrading to men and women and contain inappropriate nudity.

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

The Board considered whether the advertisement complied with Section 2.1 of the Code which requires that 'advertisements shall not portray or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.'

The Board noted there were two images appearing on public transport.

1. Features a woman wearing a bikini bottom and covering her breasts with her arm. The text reads “no naughty bits.” There is a picture of the product – Naked protein bar at the bottom of the image.

2. The other with a woman in a bikini looking like she is pinching a male surf boat rower on the bottom. The text reads "Un-guilty satisfaction."

In relation to the first image the Board considered the overall tone of the advertisement and noted that the woman wearing a bikini and standing in front of the ocean did bare some relevance and in the context of selling a ‘health bar’ was reasonable to expect the advertiser to show a healthy looking model.

The Board noted that although the woman is not wearing a top her breasts are not exposed. The Board noted that in particular the woman is not posed in a sexual way but rather a confident yet conservative way by trying to cover her breasts.

The Board considered that the advertisement does not present or portray material in a way which discriminates against or vilifies a person or section of the community on account of gender and does not breach Section 2.1 of the Code.

In relation to image 2, the Board noted that although not commonly seen on beaches anymore, the image of the men with their bathers pulled between their bottom cheeks, is intended to capture the slightly dated practice that rowers used in larger surf boats.

The Board noted that the men are standing confidently on the beach and are not ashamed or trying to hide the fact that they are revealing their bottoms. The Board noted that the representation of the male surf boat rowers in this way is not presenting material in a way which discriminates against or vilifies a person or section of the community on account of gender and does not breach section 2.1 of the Code.

The Board determined that the advertisement did not breach Section 2.1 of the Code.

The Board considered whether the advertisements were in breach of Section 2.2 of the Code. Section 2.2 of the Code states: “Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.”

The Board noted that in order to be in breach this section of the Code the image would need to use sexual appeal in a manner that is both exploitative and degrading.

The Board noted in relation to the first image the woman is presented in a way that suggests she is not embarrassed about her body but is simply trying to maintain some modesty and cover her private areas.

The Board noted that the woman has an active role in the advertisement as she is looking toward the camera and happily smiling. The Board noted the product being advertised is a health bar (protein bar) and that the name of the product is ‘naked’ which is indicative of the natural nature of the ingredients used and that there are no hidden ingredients or harmful ie: ‘naughty’ ingredients.

The Board noted that most members of the community would understand the link between the image and the product and considered that overall the use of an attractive woman wearing little clothing in the context of a health bar promotion did not amount to an image that was inappropriately using sexual appeal in a manner which is exploitative and degrading towards women.

The Board considered that although the woman is presented as attractive, the advertisement is not using her sexual appeal in a manner that is exploitative and degrading and did not breach section 2.2 of the Code.

The Board considered that overall the advertisement did not employ sexual appeal in a manner which is exploitative and degrading towards women.

The Board considered the second image. The Board noted that in the second image the woman at the foreground of the image was seemingly pinching one of the rowers on the bottom. The Board noted that the woman is positioned a significant distance away from the men and her hand is placed in a way that makes it appear as if she is pinching him. The Board acknowledged that although the men are not aware that the woman has set up a photo in this way, overall the concept is a light hearted and humorous.

The Board noted that the men are dressed in surf life saver attire and that some members of the community would consider this exploitative. In the Board's view, the portrayal of the men in the image could be considered exploitative but not degrading.

The Board considered that there is a balance between the genders by showing the man with bare bottoms and the woman posed in a bikini. The Board considered that on balance the advertisement did not employ sexual appeal in a manner which is exploitative and degrading towards men.

The Board determined that the advertisement did not breach Section 2.2 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.4 of the Code. Section 2.4 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience".

The Board noted that in image 1, the woman is standing with no bikini top on and as a still image the viewer does not know why she is not wearing a top.

The Board agreed that this is a flirtatious and cheeky pose but that she does not reveal her breasts.

The Board noted that there is a connection between the product and in particular, the name 'Naked' and the depiction of the woman without a top. The Board noted the reference to 'naughty bits' and agreed that this was both a reference to the ingredients of the protein bar and the exclusion of any 'naughty' ingredients and a reference to the private areas of the woman.

The Board considered that most members of the community would recognise the innuendo in the advertisement linking the woman to the bar but agreed that the innuendo was mild and not inappropriate.

The Board noted that the advertisement was viewed on public transport. The Board considered that the advertisement was targeting an adult audience who would likely be interested in the type of product being sold however, that as a poster, the actual audience would include children.

The Board noted that the concept of a broad audience is an evolving view that does collectively mean everyone. The Board acknowledged that the location of the buses – being mobile, and the size of the display would mean that in this case the audience would include children.

The Board considered that there is a significant difference between the targeted audience in this matter - which would be adults and the broad audience which could include children based on the location of the images.

The Board considered whether young woman and girls would be likely to take offense to the image and considered that the overall tone and theme of the advertisement did not contain sexual content and was not intended to portray a sexualised tone and in this way, most members of the community would not consider the advertisement inappropriate.

Similarly in image 2, the Board noted that there is a connection between the product and in particular, the name 'Lo-Carb - protein' and the tag line 'un-guilty satisfaction.' The Board noted the reference to 'un-guilty satisfaction' and agreed that this was both a reference to the ingredients of the protein bar and the apparent pinching of the bottom of the man without actually pinching it.

The Board considered that although the target audience for this type of product would likely be adults, the image could be viewed by a broad audience including children. The Board considered however, that the image did not contain material that was overtly sexualised and did not treat the issue of sex, sexuality and nudity with sensitivity to the relevant broad and that neither image breached Section 2.4 of the Code.

The Board then considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: "Advertising or Marketing Communications shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided".

The Board noted concerns regarding the use of the term "naughty bits" in image 1 and "un-guilty satisfaction" in image 2 and considered the message this is sending to young people regarding their bodies.

The Board noted that most people are familiar with the term 'naughty bits' and that sometimes the private areas of the body are referred to in this way as children in particular are taught to keep these areas covered up. The Board considered that in this context the term is intended to be playful and lighthearted and is not intended to be a broader message to young people and girls in particular to be ashamed of their bodies.

The Board noted the reference to 'un-guilty satisfaction' is not derogatory and is intended to be humorous

The Board determined that the advertisements did not breach Section 2.5 of the Code.

The Board considered 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 community concern relating to self-esteem and the link with body image to health bars and other products promoted as assisting with weight loss or body type.

The Board noted that depiction of the women in both images and the men in image 2 appear healthy and fit. The Board noted that good self-esteem is a positive attribute and considered that its use in conjunction with an image of a happy, confident men and women amounts to an overall depiction which is positive.

The Board considered that overall the advertisements do not advocate a particular body weight or image other than a healthy body and do not depict material contrary to prevailing community standards on body image.

The Board determined that neither of the advertisements breaches Section 2.6 of the Code.

Finding that the advertisements did not breach the Code on other grounds, the Board dismissed the complaints.