



Case Report

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| 1 | Case Number | 0384/16 |
| 2 | Advertiser | Brand Collective |
| 3 | Product | Clothing |
| 4 | Type of Advertisement / media | Email |
| 5 | Date of Determination | 14/09/2016 |
| 6 | DETERMINATION | Upheld - Modified or Discontinued |

ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

The advertisement shows a number of fast moving scenes with female and male models engaged in activities where in some scenes they are semi-clothed, in most with only underwear bottoms on and the women are showing their breasts, or in one scene naked except for their volley shoes.

THE COMPLAINT

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

The net ad sent to me showed young people having simulated [sic] on the front of a car. Two gay people were also cuddling in the boot of the car. The pictures were offensive and disgusting.

THE ADVERTISER'S RESPONSE

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

Advertisement complaint reference number: 0384/16

Description of the Advertisement

We have not been informed of the precise email which is the cause of the complaint. We therefore include with our submission a copy of a Volley EDM (Electronic Data Message) attachment issued by us on 24 August 2016 to our customer base. We assume the complainant is referring to Attachment 1. As you will see from the EDM, it depicts a number of people semi clothed in, our view, various socially acceptable positions wearing “volley” branded shoes. The title for the EDM is “SS16 Grassroots”.

Comprehensive comments in relation to the complaint (taking into account the need to address all aspects of the advertising codes)

It is alleged that the advertisement raises an issue under section 2.4 of the AANA Advertiser Code of Ethics (the Code). This section states: ‘Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience.’

The Volley EDM is part of a broader Volley “#Grassroots” advertising campaign. The target market for the campaign is the men and women aged 20 to 35. The intention of the campaign is to promote, in conjunction with Volley product, that our customers will not be socially engineered, are free to express their sexual preference, and are prepared to speak their minds and feel comfortable in their own skin. As a business, we support the move to legalise same sex marriage and this campaign also ties in with that public discussion. The heading “Grassroots” also harks back to Volley’s heritage as being the preferred grass court tennis shoe in days past.

Reviewing the elements of section 2.4 of the Code, we submit that there is no contravention.

Sex

The advertisement complained of does not depict the act of sex. The models are standing or sitting in what we acknowledge to be intimate embraces and where those embraces could be construed as sexual in nature (which we do not concede), such embraces are photographed with sensitivity.

Sexuality

The advertisement does depict sexuality however we believe that the actors are standing in poses typical for a model promoting a fashion label and appropriate to our relevant audience.

Nudity

The models are not naked. All are wearing pants; where some women are not wearing tops, their upper bodies are either covered in some way, or in the case of the video attached at Attachment 1, are only fleetingly exposed.

Sensitivity

The advertisement treats its subject matter with sensitivity. This is evident as:

- The models are in our view beautifully photographed, comfortable and relaxed with what they are wearing and doing*

- *The first photo shows models encapsulating the head line “We’re sick of being socially engineered and we shun political correctness. We’re young and we’re rooting for change. We are children of the sun and are comfortable in our own skin, so don’t tell us who to love or how to be”. All depictions are handled sensitively*
- *Likewise, the next group of photos are of models wearing Volley product sharing their love of each other and comfortable in their own skin*
- *The video does go further than the photos in depicting movement but we believe the models are filmed tastefully and not in a way that is insensitive in breach of section 2.4*
- *As noted, the term “Grassroots” harks back to Volley’s heritage as being the preferred grass court tennis shoe*
- *The EDM is targeted at the adult, fashion-conscious, male and female ages 20 to 35, who are, using the tag lines that we have developed for the campaign, “not socially engineered”, are “prepared to speak their minds” and “feel comfortable in their own skin”.*

In reviewing the other sections in section 2, the only other section which appears to be relevant is section 2.2. We do not believe that the Volley EDM contravenes section 2.2 of the Code as, in our view, the Volley EDM does not employ sexual appeal in a manner which is exploitative or degrading of an individual or group of people. We do not believe any other section of section 2 of the Code is relevant to the complaint.

Conclusion

We submit that the advertisement does not breach the Code, as it does not show sex, sexuality or nudity with insensitivity and believe that the subject matter is treated with sensitivity to the relevant audience.

The advertisement should be considered in the context of the target audience of sophisticated male and female adults aspiring to feel comfortable in their own skin.

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 features images of men cuddling and couples simulating sex and is offensive and disgusting.

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

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 this video advertisement was received via email and features men and women engaging in various types of activities in various stages of undress although always wearing Volley shoes.

The Board noted the complainant’s concern over the depiction of two men cuddling. The Board acknowledged that some members of the community may be offended by a depiction

of a homosexual couple embracing but considered that the issue of two men, or two women, cuddling is not of itself a breach of the Code. The Board noted however that the advertisement also shows scenes where couples, both heterosexual and homosexual, are embracing and kissing passionately while naked or wearing underwear and considered that these scenes are sexualised.

The Board noted that in some scenes in the advertisement women are shown wearing only underpants and shoes and considered that the level of nudity is explicit. The Board noted the Practice Note to Section 2.4 which provides: "Full frontal nudity...is not permitted" and considered that the scenes showing the full breasts and nipples of female models are a clear breach of this Section of the Code.

The Board noted that in some scenes the male and female models are shown lined up, or in embraces, while naked. The Board noted that the genitals of the male and female models are hidden by body parts or props but considered that the overall level of nudity is high.

The Board noted that the advertised product is shoes and considered that there is a lot of focus on the bodies of the men and women in the advertisement as well as the products they are wearing. The Board noted in particular the focus on a woman's breasts when she is on a swing, the close-up of a woman's bottom when she leans in to a car, and the lingering shots of couples embracing, and considered that this focus increases the impact of the nudity and gives the advertisement a sexualised tone.

The Board noted that the advertisement was sent to the complainant as a customer of Volley shoes and considered that an advertisement showing high levels of nudity and sexualised activity has no relevance to the advertised product and is not something most customers of this type of shoe would expect to receive. Overall the Board considered that the advertisement did not treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience of customers purchasing shoes.

The Board determined that the advertisement did breach Section 2.4 of the Code.

Finding that the advertisement did breach Section 2.4 of the Code, the Board upheld the complaint.

THE ADVERTISER'S RESPONSE TO DETERMINATION

In response to the Advertising Standards Bureau's determination of Case 0384/16 dated 27 September 2016 where the ASB determined that the (EDM) advertisement breached one or more of the Advertiser codes administered by the ASB, we confirm that the following measures have been taken:

- The advertising component of the SS16 # Grassroots campaign has ended and no further EDM's will be issued
- Only one EDM that contained the click through video the subject of the determination was issued to customers, being on 24 August 2016 at 8.30pm AEST
- No other EDM issued in relation to the Volley SS16 Grass Roots campaign that contained a

click through video was issued either before or since the 24 August 2016 EDM

- We do not intend again to issue an EDM or other form of electronic marketing that contains either the click through video or a link to the click through video.

We therefore ask that the case report when published include the heading: “Complaint Upheld – Advertising Modified/Discontinued”.