



Case Report

1	Case Number	0334/10
2	Advertiser	Pharmacare Laboratories
3	Product	Toiletries
4	Type of Advertisement / media	TV
5	Date of Determination	11/08/2010
6	DETERMINATION	Upheld - Modified or Discontinued

ISSUES RAISED

2.3 - Sex/sexuality/nudity Treat with sensitivity to relevant audience

DESCRIPTION OF THE ADVERTISEMENT

Three young men are loading surfboards in to a camper van next to the beach when one of them spots an attractive woman heading their way wearing a bikini. He makes the other two men aware of her, and they all make appreciative noises whilst the camera slowly pans up the woman's body.

The next scene shows a man sitting in a red convertible, playing a guitar and singing a song about spotting attractive women and sharing the sight with your mates. A man climbs out of the boot of the convertible and sprays himself with Brut deoderant, and the woman is shown sashaying past the men with the camper van whilst they all admire her.

The final scene is of a can of Brut sitting on the beach with the woman shown from behind walking away and the words "Brut Code #85 Spot and Share" written on the screen.

THE COMPLAINT

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

This advert focuses on the breasts of a woman and encourages the viewer to ""spot and share"" as in saying perv and tell your mates to have a perv on women thus objectifying women and encouraging the viewer to gaze on the body of women as an object to be perved on.

To me this add is extremely degrading to women and alludes to degrading behaviour to women from men in that situation but also solidifys the idea that only attractive women are

worth noticing. It reinforces the view that to be appropriately male you must treat women like objects that are to be disrespected by leering behaviour and only valuing superficial looks. I think the admaker was very irresponsible in showing a car pull up and a male getting out of the boot of the car. I think this also is against motor vehicle rules. My main concern is that police and Fire Brigades are trying to show teenage school children in a "Brigades in Schools Program" how dangerous and wrong this is and we have an ad which appeals to these same teenagers showing this being done.

I find these ads offensive and demeaning to women for the following reasons:-

- the camera focuses and lingers on the women's body to imitate a man's eye view as he perverts over the women's body. I find this scene quite disgusting to watch as a women.

- the ad reinforces the highly sexist view that women are objects to be looked at

- the "sharing" of the perve with the group of men attempts to make such behaviour acceptable when most women find it disgusting.

- the ad has no relation to the product that is being sold. In fact it is not even clear what is being sold.

- the ad has been shown at 6pm when children and young teens would be watching. I believe this is not suitable for this age group.

It is degrading to women as though they are pieces of "meat" there for the pleasure of men to perve at and making a scene out of it with your mates. I think womens bodies are beautiful and should be appreciated but not in this manner. I thought society had come further than this with a reduction of sexualising women.

I believe this ad is sexist and demeaning to women

It is the "spot and share" ad for Brut deodorant. It is highly sexist in that it encourages men to spot attractive women and tell their mates about it hence the "spot and share". The deodorant ad bears no relation to the bikini-clad woman in the ad who is there merely to be objectified by teenage boys. This is further heightened by the fact that you never actually see the woman's face merely her body in a bikini. This promotes a culture of disrespect and objectification of women and directly contravenes the code which states: "Advertising or Marketing Communications shall treat sex sexuality and nudity with sensitivity to the relevant audience and where appropriate the relevant programme time zone."

THE ADVERTISER'S RESPONSE

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

We have considered the complaints and the issues raised in your letter in light of the AANA Code of Ethics and respond as follows:

1) *Advertisement content*

The complaint refers to a modified advert, the previous rendition of this advert has already been ruled against by the board, for reasons of safety. The Previous complaint reference is 0267/10, in that ruling the board upheld the complaint on the basis of a breach of section 2.6 of the code, because the previous version of this advertisement showed a car in motion, which has now been rectified.

In the complaint reference 0267/10 the board further ruled in the following way:

2) *AANA Article 2.1 – Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.*

The Board considered the content of this advertisement under section 2.1 of the Code, in the ruling of the 24th June and found that the advertisement “does not amount to discrimination against or vilification of women”

3) *AANA Article 2.3 – Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone.*

The commercial received a W rating from CAD (G with a warning) which states that the spot “may be broadcast at any time except during P and C programs or adjacent to P or C periods. Exercise care when placing in cartoon and other programs promoted to children or likely to attract a substantial child audience”.

The Board then considered whether the advertisement complied with section 2.3 of the code and ruled “The board considered that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and that the advertisement did not breach section 2.3 of the Code.

The Board then considered whether the advertisement complied with section 2.5 of the Code. The Board considered that the song spot and share is not sexually suggestive and is not strong or obscene language..... The Board considered that the song and the language are not suggestive of rape and that the advertisement does not breach Article 2.5 of the code.

Summary

We refer to the arguments we previously submitted to, and which were accepted by, the Board in defence of the advertisement under Articles 2.1, 2.3 and 2.5 of the Code and similarly rely upon them to defend this complaint. We also point out to the Board that we relied upon the reasons set out in the Board’s recent favourable determination under these Articles when rectifying the TVC for re-submission to CAD for broadcast. Therefore we request that the complaints against this advertisement be dismissed.

Response received for 267/10:

We have considered the complaints and the issues raised in your letter in light of the AANA Code of Ethics (specifically Articles 2.1 and 2.3) and respond as follows:

1) *Advertisement content*

The commercial features an attractive young lady in a bikini walking confidently by the beach as three young men in board shorts pack a surfboard away in their van. As she passes one of the young men nudge his mates and they turn to admire and smile at her. She turns her head smiling towards the young men as she passes by. A whimsical musical number revolving around the Brut product occurs during this scene, which is clear hyperbole.

2) *AANA Article 2.1 – Advertising or Marketing Communications shall not portray people or depict material in a way which discriminates against or vilifies a person or section of the community on account of race, ethnicity, nationality, sex, age, sexual preference, religion, disability or political belief.*

The young lady's bikini and the men's board shorts are wearing entirely appropriate clothing for any Australian beach and the scene depicted is consistent with both societal norms and popular family television shows such as Bluewater High or Home & Away. She is depicted as a confident young woman and the scene is in no way threatening or aggressive. Clearly the lady is not disparaged, abuse, vilified or discriminated in any way and therefore does not infringe Article 2.1 of the AANA Code of Ethics.

3) *AANA Article 2.3 – Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone.*

The commercial received a W rating from CAD (G with a warning) which states that the spot “may be broadcast at any time except during P and C programs or adjacent to P or C periods. Exercise care when placing in cartoon and other programs promoted to children or likely to attract a substantial child audience”.

The complaints in question refer to an air time on Saturday 5th June, in late afternoon during the AFL. Clearly this is not an infringement of our rating classification. Neither, would we argue is the advertisement content, beach clothing or mild flirtation shown, offensive to the vast majority of the television audience at that time.

Again we would argue that the scene depicted in the Brut commercial is consistent with many Australian television shows broadcast at a similar time slot. Consequently, the commercial does not infringe Article 2.3 of the AANA Code of Ethics.

Summary

In particular we noted the complainants objected to what they saw as gratuitous objectification of women, and on this basis considered the commercial to be inappropriate.

To address this specifically, we would ask the ASB to consider the following:

(i) *The entire scene needs to be viewed in the context of an Australian public beach and a typical Australian theme of young men appreciating the attractiveness of young women. To deny that this occurs is a denial of the Australian way of life, and in fact the commercial is reinforcing a positive, rather than negative, aspect of our society.*

(ii) *The young woman is portrayed in a positive light, as the friends are naturally and openly appreciating her goods looks, but do not threaten or intimidate her in any way, in fact they keep a respectful distance in honour, or in awe, of her beauty and out of respect for her.*

(iii) *The young woman does not mind being admired. Clearly she is aware of her physical attributes and wears clothing and acts accordingly. To suggest that an attractive bikini clad young woman is going to walk down an Australian beach and not be admired, or to suggest that a woman would be offended if she was so noticed or admired, is a denial of normal human nature. Further, she does not appear afraid or threatened by the actions of the young men and clearly appears to be comfortable and happy as she smiles and welcomes their looks of appreciation.*

(iv) *Given the target market of the product being advertised, being a men's deodorant spray designed for men who wish to pay more attention to their personal appearance and attractiveness to women, it is clearly justifiable to portray an attractive woman in the advertisement. Objectification would only occur, in our view, if an attractive woman (or an attractive man) was placed in an advertisement when they had no place at all in that context. This is not the case here.*

(v) *Rather than reinforce stereotypical objectification of women by men, it is our submission that the advertisement does the exact opposite; it portrays and therefore encourages a normal, healthy, respectful, playful and harmless interaction between young men and young women. Clearly different considerations would apply if the young woman appeared uncomfortable, was spoken to rudely, had her path physically blocked or was otherwise intimidated by the presence of the young men. In our view, the young men acted*

entirely appropriately and respectfully towards the young woman and she appreciated that conduct. To suggest that the commercial was an objectification of women merely because she wore a skimpy bikini and was attractive would be an illogical and unfair ruling by the ASB.

THE DETERMINATION

The Advertising Standard Board ('the Board') considered whether the advertisement complied with the AANA Code of Ethics ('the Code').

The Board noted the complainants' concern that this advertisement promotes the objectification of women, in particular by focusing on and lingering on the woman's body, depicts unsafe behaviour, uses inappropriate language, discriminates against men by suggesting that men should only treat women as objects, that the image of the woman is irrelevant to the product, that the advertisement hints at gang rape and is unsuitable for children to watch.

The Board viewed the advertisement and noted that it was a modified version of a previous advertisement (267/10) which the Board had determined breached section 2.6 of the Code.

The Board noted the advertiser's response. The Board viewed the advertisement and noted that the image of the vehicle moving (which was part of the original advertisement) has been removed and replaced by new footage which is additional close up images of the woman accompanied by what sounds to be louder groans and noises from the men.

The Board first 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 ...sex.'

The Board noted its comments in the previous case on this issue:

The Board noted that there is no relationship between a woman in a bikini and the product being advertised. The Board noted the focus in the advertisement on the woman's body and breasts and the depictions of the men staring at the woman because she is attractive. The Board considered that the woman is objectified. However the Board considered that the overall theme of the advertisement is light hearted and is specifically directed to depicting men who appreciate the beauty of a woman. The Board considered that the theme song which invites men to ensure that their friends also see the attractive woman is related to the woman as she has herself presented herself at the beach and there is no indication that the men do anything to the woman other than watch her. In addition the Board noted that the woman appears confident and happy to receive the attention from the young men. The Board considered that there is a proportion of the community who would find the objectification of the woman in this advertisement unacceptable. However in the Board's view, although the

advertisement objectifies the woman, it does not amount to discrimination against or vilification of women.

The Board noted that the modified version of the advertisement contains slightly more emphasis on the woman's crotch and in the scene where there is the close up and focus on the woman's body the sounds of the men have been considerably amplified. The Board considered that the extended (albeit only slightly) emphasis on the woman's body in conjunction with the sounds that the men are making changed the 'lighthearted' tone of the advertisement into something slightly menacing and demeaning to the woman. In the Board's view the modified version of the advertisement does objectify women to the point of discrimination and breaches section 2.1 of the Code.

The Board noted a complainant's concern that the advertisement discriminated against men by depicting them as needing to 'ogle' women. The Board considered that the advertisement did depict a stereotypical image of the young men which some people in the community would consider undesirable. However the Board considered that in this particular advertisement the depiction did not suggest that all men behave in this manner and did not amount to discrimination or vilification of men.

The Board then considered whether the advertisement complied with section 2.3 of the Code: '...shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the relevant programme time zone'.

The Board noted its comments in the previous case on this issue:

'The Board considered that the advertisement is not sexually suggestive and does not contain nudity. The Board considered that the song 'spot and share' does not imply sexual behaviour. The Board considered that the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience and that the advertisement did not breach section 2.3 of the Code.'

As mentioned above the Board noted that the modified version of the advertisement contains slightly more emphasis on the woman's crotch and in the scene where there is the close up and focus on the woman's body the sounds of the men have been considerably amplified. The Board considered that the extended (albeit only slightly) emphasis on the woman's body in conjunction with the sounds that the men are making changes the tone of the advertisement and makes the advertisement somewhat sexualised. The Board noted that the advertisement has a W classification which means that it can be placed in G programming but with care. The Board considered that the modified version of the advertisement did not treat sex and sexuality with sensitivity to the broad G audience, which would include children, and would be able to view the advertisement and determined that the advertisement breached section 2.3 of the Code.

The Board also considered whether the advertisement complied with section 2.5 of the Code and noted that section 2.5 requires that 'advertising or marketing communications shall only use language which is appropriate in the circumstances and strong or obscene language

should be avoided.’ The Board considered that the song ‘spot and share’ is, in the context of the modified advertisement, slightly sexually suggestive but is not strong or obscene language. The Board considered that the reference to seeing the attractive woman and making sure your friends also see her is not inappropriate in the context of the advertisement. The Board considered that the song and language are not suggestive of rape and that the advertisement does not breach section 2.5 of the Code.

The Board also considered whether the advertisement complied with section 2.6 of the Code which required that advertising or marketing communications not depict material contrary to prevailing community standards on health and safety. The Board noted the image of the men in the car and noted that the modified version of the advertisement does not show the vehicle being driven. The Board considered that an image of a stationary car in which a person is seated without a seatbelt or is positioned getting out of the boot is not a depiction of behaviour that would breach community standards on safety in vehicles and safe driving. On this basis the Board determined that the advertisement did not breach section 2.6 of the Code.

Finding that the advertisement breached section 2.1 and 2.3 of the Code the Board upheld the complaint.

ADVERTISER RESPONSE TO DETERMINATION

Focus on girl

Following the ASB’s ruling in June that the TVC was in breach of 2.6 of the code (a breach of community safety standards on safety in vehicles and safe driving), we edited the commercial accordingly, ensuring the vehicle was only shown stationary. This effectively shortened that sequence by one second. The “gap” created had to be accounted for while still keeping the sound track in sync. This was done through the addition of a whip-pan to the car and an extension of the sequence of the girl walking towards the camera. The focus on the girl is no closer than on the previous commercial, but it is slightly longer to accommodate the ASB’s concern about the moving vehicle. Given that the ASB dismissed the complaints in relation to 2.1 or 2.3 of the code, it seemed reasonable to marginally extend the exact same footage of the girl without having to re-sync the entire singing sequence, which would have incurred further additional costs.

Sound effects

The exact same sound file was used for the revised version so we have not elevated the “appreciative” noises made by the guys as the girl approaches. I would suggest that any variation is either perceptual or accounted for by altered sound levels on the particular stations or viewing equipment at the time of broadcast, but certainly not by an altered sound file.

Summary

The alteration to the commercial was only made to accommodate the ASB’s request to comply with 2.6 of the code. The shot of the girl walking towards camera was not deemed to be a breach of the code, hence the extension of that sequence to compensate for the excess time created by our “car edit”. The appreciative sounds made by the guys have not been altered in any way.

Modification of advert

We will address the ASB’s concerns and alter the TVC accordingly, maintaining the safety features of the latest version of the TVC, and editing the focus on the girl scene to replicate

the previous version of the TVC that the ASB approved for the girl segment, we trust that will then satisfy the ASB's concerns.

In addition to this, and to further accommodate the ASB, we will adjust the "appreciative" sounds of the young men in the previously approved TVC. We trust that will then satisfy all of the ASB's concerns.

We will not air this TVC until such changes are made, and have in the interim discontinued the airing of this version of the TVC