



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0001/19
2	Advertiser	Thomas Farms Kitchen
3	Product	Food and Beverages
4	Type of Advertisement / media	Radio
5	Date of Determination	23/01/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

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

DESCRIPTION OF THE ADVERTISEMENT

This radio advertisement features a scene of a man texting his partner about what to do for dinner that night. A voiceover states that by purchasing the advertiser's product a consumer will have more time to text about other things. The advertisement ends with the phrase "Hey. Winking emoji. Eggplant. Question mark."

THE COMPLAINT

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

*The ad then ended by saying
"wink emoji, eggplant, question mark"*

The sexual overtones in this ad referred to the practice of sexting, and I believe this innuendo to be inappropriate for that time slot which is school pickup time.

THE ADVERTISER'S RESPONSE



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

We refer to your letter of 3 January 2019 regarding Complaint Reference No: 0001/19, filed in respect of an advertisement for Thomas Farms Kitchen products.

Description of the Advertisement

The Advertisement is a 30 second radio advertisement promoting Thomas Farms Kitchen '20 Minute Recipe Bags' which, in a subtle, light-hearted yet cheeky manner, suggests that by using the Product, consumers will save time in the kitchen and free up time for more desirable activities.

In the Advertisement, a man sends his partner a text message asking, 'What do you want for dinner? Smiley face emoji'. The Advertisement then promotes the Product's potential for consumers to avoid this 'daily text routine' and suggests that consumers will have more time for 'more important things' by purchasing the Product. This concept is demonstrated when the man in the Advertisement then sends his partner a cheeky text message of a 'wink emoji, eggplant, question mark', suggesting he now has more time available for intimacy rather than kitchen chores.

The Advertisement was broadcast via radio on Nova 91.9 in Adelaide. We direct you to the enclosed script and copy of the Advertisement by way of further elucidation of the Advertisement.

Response of Thomas Farms Kitchen

For the avoidance of doubt, we acknowledge the right of the complainant to file the Complaint, and indeed support Ad Standards' escalation of the Complaint pursuant to applicable complaints management protocols. However, Thomas Farms Kitchen categorially denies that the Advertisement breaches any section, or is any way inconsistent with the requirements, of the AANA Advertiser Code of Ethics.

The Complaint alleges contravention of the Code on the grounds of failing to treat sex, sexuality and nudity with sensitivity, constituting an asserted breach of Section 2.4 of the Code. Thomas Farm Kitchens, without reservation, denies that the Advertisement constitutes a breach of Sections 2.1 – 2.7 of the Code, or for that matter any other section of the Code, given the Advertisement, relevantly employs an innuendo (via use of 'emoji') to subtly refer to the potential for an intimate interaction between the man in the Advertisement and his partner and does so in a sensitive manner having regard to the relevant audience.

According to Survey 8 2018 of GFK Ratings, 70% of Nova 91.9's listener audience during 3-4pm Monday – Friday was aged 18 years and over.



The Advertisement does not:

- *contain any element that portrays people or depicts 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 (Section 2.1);*
- *contain any element which employs sexual appeal where images of Minors, or people who appear to be Minors, are used; or in a manner which is exploitative or degrading of any individual or group of people (Section 2.2);*
- *contain any element which presents or portrays violence (Section 2.3);*
- *treat sex, sexuality or nudity with insensitivity to the relevant audience (Section 2.4);*
- *contain any strong or obscene language (Section 2.5); or*
- *contain any material contrary to Prevailing Community Standards on health and safety (Section 2.6).*

Moreover, the Advertisement is clearly distinguishable as advertising material and for this reason Thomas Farms Kitchen does not believe the Advertisement constitutes a breach of Section 2.7 of the Code.

Conclusion

For the reasons included in this response, Thomas Farms Kitchen is of the firm view that the Advertisement does not breach the Code.

Nevertheless, Thomas Farms Kitchen respects the process to be undertaken by Ad Standards with respect to the Complaint, and welcomes any feedback or requests for further discussion of the Complaint with Ad Standards.

THE DETERMINATION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainant's concern that the advertisement featured sexualised language which was inappropriate to be heard by children.

The Panel viewed the advertisement and noted the advertiser's response.

The Panel 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 Panel noted that the relevant audience for this radio advertisement would be broad and would include children.

The Panel noted the complainant's concerns that the advertisement featured



references to sexting which were inappropriate to be heard by children.

The Panel noted that the radio advertisement features a man messaging his partner about what is for dinner and a voice over suggests that if you purchase the advertiser's product you will have time to message about more important things. The man then messages his wife "Hey. Wink emoji. Eggplant. Question mark".

The Panel noted that the eggplant emoji is recognised by many adults as a symbol for a penis when sexting, however considered that this is not something that would be known by most children.

The Panel considered that the use of the word 'eggplant' in this advertisement was a double entendre referencing both the advertiser's food product and a sexual suggestion. The Panel noted that it has consistently determined that advertisements which use double entendre, where a non-sexualised explanation of the meaning would be taken away by children, do treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience (0136/18, 0296/17 and 0124/17).

Consistent with previous determinations, the Panel considered the advertisement was not inappropriate for viewing by a broad audience which would include children and did not breach Section 2.4 of the Code.

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaint.

