



Ad Standards Community Panel
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AdStandards.com.au

Advertising Standards Bureau Limited
ACN 084 452 666

Case Report

1	Case Number	0003/19
2	Advertiser	Mars Wrigley Confectionery
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	23/01/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.6 - Health and Safety Within prevailing Community Standards

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features three women in an office discussing their best weekends. One woman reaches into the packet of Maltesers that she's holding and pulls out two Maltesers balls between her thumb and first finger and says "Brighton, last weekend". The second reaches into the Maltesers packet and pulls out three Maltesers balls between her thumb and first finger and says "Ibiza, 2015". The third woman says "Glastonbury, last summer" and pours a packet of Maltesers into her mouth.

THE COMPLAINT

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

There is implied reference condoning illicit drug use. More maltersers are associated with 'good times' and the way the chocolates are put in the women's mouths implies they are like pills.



I find the sexual nature of the advertisement highly inappropriate for a product that isn't specifically for adults. Furthermore, this is an advertisement that has been aired at times that allows it to be viewed by children. The sexually suggestive nature of the advertisement is distasteful, and quite off putting.

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 letters dated 7 January 2019 and 11 January 2019 providing us with a copy of a complaints (0003/19) received by the Ad Standards (the Complaints) regarding a Mars Wrigley Confectionery advertisement, 'MALTESERS® Best Weekend' (Advertisement).

Mars® respects and acknowledges the right of the public to provide opinions regarding advertising content and also values the work of the Ad Standards. Mars therefore appreciates the opportunity to respond to the Complaints as follows.

A description of the Advertisement

The online Advertisement relates to MALTESERS®, a product of Mars Wrigley Confectionery. MALTESERS® is a brand that doesn't take things too seriously and looks on the light side of life in an inclusive way. The general premise behind the Advertisement is that three female co-workers are taking a break from work and talking about their 'best' or most enjoyable weekends whilst eating MALTESERS®.

Mars contends that the Advertisement does not breach any section (including Section 2) of the AANA Advertiser Code of Ethics (the Code) which also covers the AANA Code for Advertising and Marketing Communications to Children and the AANA Code for Food and Beverages Marketing.

The AANA Code for Advertising and Marketing Communications to Children is not applicable in this context as the Advertisement is not directed at children. This is in line with our commitments to not advertise to children under 12 as part of the Mars Marketing Code and as a signatory to the Responsible Children's Marketing Initiative.

The Advertisement complies with the AANA Code for Food and Beverages Marketing: there is no suggestion the Advertisement misrepresents the product, makes any health or nutrition claims, shows any unreasonably excessive consumption given the context of the Advertisement or is otherwise contrary to Prevailing Community Standards. Sections 2.1 – 2.3, 2.5 and 2.7 of the Code do not appear relevant to the Complaints or



to the content of the Advertisement and are addressed further below:

2.1 - Discrimination or vilification

This section does not appear relevant to the Complaints or the content of the Advertisement. The Advertisement does not discriminate or vilify any person.

2.2 - Exploitative or degrading

This section does not appear relevant to the Complaints or the content of the Advertisement. As indicated above, the Advertisement does not depict or imply sexual appeal in a manner which is degrading or exploitative of any individual or group of people.

2.3 – Violence

This section does not appear relevant to the Complaints or the content of the Advertisement. The Advertisement does not suggest violence towards any person.

2.4 - Sex, sexuality and nudity

The focus of the Advertisement is intended to be on the characters enjoying MALTESERS® chocolate whilst taking a break in the office. The nature of the Advertisement is light-hearted and jovial, showing office workers chatting about their favourite past weekends. The Advertisement shows that swapping stories brings different people in the workplace together.

We understand that the complainants are concerned that the consumption of MALTESERS® in the Advertisement coupled with mentioning the destination of each characters favourite weekends, Brighton, Ibiza and Glastonbury, is sexually suggestive, and in fact suggestive of 'sex with multiple people at once'. However, we submit that the scene is ambiguous, particularly as:

- it is open to interpretation whether the MALTESERS® represent anything other than chocolates to the characters;*
- if the MALTESERS® were taken to represent something other than chocolate, it is open to interpretation what they could represent; and*
- it is open to interpretation what the characters are referring to in relation to the European towns mentioned.*

Importantly, the Advertisement does not depict any actual sexual act taking place. The characters could be referring to various activities, including chocolate consumption. We consider that any alleged sexual undertones, if at all present, are minor, and are sensitive to the intended audience which would be considered to be adults of a similar age group to the characters in the Advertisement.

We also note that Ad Standards has found that advertising with a double entendre, where children would interpret a non-sexualised meaning, to be compliant with the



Code as it treated the issue of sex, sexuality and nudity with sensitivity to the relevant audience (e.g. Red Rooster – 0296/17, Cotton On – 0124/17).

2.5 – Language

This section does not appear relevant to the Complaints or the content of the Advertisement. No inappropriate or obscene language is used in the Advertisement.

2.6 - Health and Safety

We understand that one of the complainants is also concerned that the consumption of MALTESERS® confectionery in the Advertisement coupled with mentioning Brighton, Ibiza and Glastonbury, could suggest drug use, contrary to Prevailing Community Standards on health and safety.

Mars® submits that the viewpoint being offered by this Advertisement is certainly not in any way representing or condoning illegal drug use. It simply is a jovial and light-hearted skit making fun of the relatable moments in the office bonding with co-workers over a snack.

2.7 - Distinguishable as advertising

This section does not appear relevant to the Complaints or the content of the Advertisement. It is clear that this piece of film is an advertisement for MALTESERS®.

Mars is committed to complying with the Code and all relevant advertising laws and codes at all times and on the basis of the above, maintains that the Advertisement does not contravene the Code. Mars® respectfully submits that the Complaints should be dismissed.

Should you require any further information, please do not hesitate to contact us.

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 features sexual references which are inappropriate to be viewed 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 television advertisement featured three women in an office



eating Maltesers. The first woman holds up two Maltesers and says “Brighton, last weekend”. The second woman holds up three Maltesers and says “Ibiza 2015”. The third woman says “Glastonbury, last summer” and pours an entire packet of Maltesers into her mouth.

The Panel noted that this television advertisement had been given a rating of “W” by CAD meaning that they could be played at any time except during or adjacent to children’s programming, and that care should be taken when placing in programs directed to children. The Panel noted that the relevant audience would therefore be broad and would likely include children.

The Panel noted the complainants’ concerns that the advertisement featured references to known party holiday locations and considered that the women’s comments were references to the sexual activity of the women at these locations.

The Panel noted the advertiser’s response that the advertisement does not depict any sexual activity or direct sexual references and that the scene is ambiguous as to what the characters are referring to.

The Panel considered that some people would take the meaning from the advertisements that the women are referring to sexual encounters at the places mentioned, however considered that this is not explicitly stated in the advertisement. The Panel considered that the women could be referencing how much fun they were having in those places, how much they had eaten etc. The Panel considered that the women’s statements were unlikely to be seen as inappropriate by most adult audience members. The Panel considered that the references in the advertisement were subtle enough that most children watching the advertisement would not understand the sexual suggestion in the advertisement.

The Panel noted that it has consistently determined that advertisements which use sexual suggestions, 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 complaints.

