



Case Report

1	Case Number	0004/16
2	Advertiser	Nimble Australia
3	Product	Finance/Investment
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	10/02/2016
6	DETERMINATION	Dismissed

ISSUES RAISED

- Other Social Values
- 2.1 - Discrimination or Vilification Gender
- 2.1 - Discrimination or Vilification Race
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.4 - Sex/sexuality/nudity S/S/N - nudity
- 2.6 - Health and Safety Bullying (non violent)

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement depicts a woman returning to her apartment after a holiday to be confronted by an unknown man wearing her dressing gown over his white underpants and brushing his teeth. She asks him what he was doing in her room and he replies that it's his room because her flatmate had told him she had died. The woman says she can't afford to move because she has spent all her money on her holiday then a man in a rabbit costume appears and suggests that if she needs money fast she should just 'Nimble it'. A voiceover then gives a brief overview of how to apply for a loan using Nimble.

THE COMPLAINT

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

It should not be considered acceptable that a female has to get a fast loan to move out cause of a male and his friends taking over her rental and saying she has died. It's disgusting they think it's funny to wear her clothes. It's demeaning to women and is a form of bullying which in today's society should not be made fun of in any way and should not be tolerated. Women have to leave their homes due to domestic violence. I'm sure they would not take this ad as a

joke

We like to watch family feud at 6pm and I am horrified to see the nimble ad at that time.

It clearly displays a larger man in his white underwear without a shirt on. Why couldn't he be wearing normal shorts? I am repulsed every time we see it and it certainly is not appropriate for my children to see or for it to be on at 6pm during a family friendly program. Please have it removed immediately.

I feel that the behaviour of the young men is undesirable, especially the young man walking around in his underwear and amusing himself by passing wind. Surely we are above this type of behaviour.

Stereotyping a foreign individual (Hispanic/Mexican guy). Men behaving badly yet again. Evicting (female) renter returning from holiday. Perpetuating negative stereotyping. (Is this uncouth fellow farting at the end of the advert and laughing at his good fortune at the expense of the female evicted from her room. Not cool to promote this type of advertising. Also a lame attempt at comedy. Thumbs down on this.

The most offensive part of the ad is to do with the goat, having a grown Man in a rabbit's suit saying "Come on Spanky" and the poor goat with underwear on his head. This is highly sexually suggestive for a Lending ad. I am not easily offended but to me this is completely inappropriate from Nimble.

THE ADVERTISER'S RESPONSE

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

Nimble Australia Pty Ltd (Nimble) has carefully considered the complaints received by the Advertising Standards Bureau (ASB) as outlined in the complaint number 0004/16.

We appreciate ASB giving us an opportunity to respond before the Advertising Standards Board considers this matter.

Nimble respects the AANA Advertiser Code of Ethics (the Code), and we are confident that our advertising complies with the Code.

The Television Commercials (TVCs), which are the subject matter of the complaint, were granted a W and G rating, for the 30 second and 15 second TVC, respectively, by CAD and have been scheduled in accordance with these ratings.

We carefully review and consider the contents of our advertising before it is broadcast, and we take viewer complaints seriously. All Nimble TVCs undergo an internal and external compliance approval process. We are concerned that some viewers claim to be offended by our TVCs. However, we respectfully submit that none of the TVCs mentioned in those complaints has breached Section 2 of the Code.

The advertisements

The complaints received by the ASB refer to Nimble's "Roommate from Hell" advertisements. There is a 15 second and 30 second version of each advertisement. We have submitted copies of each with this response.

The complaints

There are three complaints comprising ASB complaint number 0004/16.

The first complaint was, received on 2 January 2016. This was on the 15 second 'G' rated TVC. The complaint stated that a grown man in a rabbit suit saying 'Come on Spanky' to a goat with underwear on its head was highly sexually suggestive (complaint 1).

The second two complaints were received on 11 January 2015. Both were in relation to the 30 second 'W' rated TVC. One complaint was due to the obese semi-naked man scratching himself and the possibility of children seeing (complaint 2), and the other claimed that a man in underpants gave the impression of purposely breaking wind (complaint 3).

Our response

Complaint 1

Complaint 1 comprised one key element and two other possible elements:

- a man wearing a rabbit suit*
- the man said "Come on Spanky" which was highly sexual (key complaint)*
- the goat has underwear on its head.*

Nimble has been using a man in a bunny suit in its advertisements for years. This is a well-established branding practice. Some may like the bunny, and others may not. The bunny is not offensive. It is common for people to dress as animals, trees, or other items in advertisements, on video clips, and in other forums.

The claim that the phrase, 'Come on, Spanky', is highly sexually suggestive for a lending ad is subjective, and of negligible merit. There is nothing to indicate any sexual activity, connotations, or suggestive behaviour. There are no winks or sexual body language. We respectfully submit that the phrase is not used to be sexually suggestive but merely for the purposes of the Nimble Bunny ushering the goat out of the apartment to enable the woman to pack. There is absolutely nothing in the TVC indicating sexually suggestive undertones.

This is a case of a single person incorrectly attributing the ad to some kind of sexual activity, which was not at all Nimble's intention.

The goat is wearing a collar and a bandanna around its neck, and some jewellery – bangles or a necklace tangled around its horns, and a dark blue garment with shoestring straps and coat hanger tabs which could be a singlet top also over its horns. The garment doesn't appear to be underwear as it has straps and hanging tabs.

The intention of the goat having accessories and clothes attached to it was to give the impression that the girl's bedroom was an absolute mess and had been completely taken-over by multiple people. This is indicated by the uneven bird picture, excessive garbage on the table, a three-bunk bed, and general goods sprawled across the room. There is a common perception that goats eat anything, so would do well in a very messy room full of garbage. Nimble did not intend to convey any sexual connotations throughout this TVC. The goat was intended to indicate the extreme mess of the room, and the bunny was supposed to tell the lady how she can get a loan so she could afford to move out of the mess.

Complaint 2

The second complaint alleged that the obese semi-naked man scratching himself was offensive, especially as it was shown when children are still watching television.

*The man is wearing oversized short-style full briefs with a pink open gown (the aggrieved housemate's gown). He is arguably 'cuddly' rather than obese, and is probably typical of the average Australian male. Note that the Australian Bureau of Statistics reported in 2011 that the average Australian male weighed 85.6 kilos
[<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4338.0main+features212011-13>].*

The TVC is rated 'W', so is not broadcast during any 'C' (Children) or 'P' (parental guidance) programs, or adjacent to P or C periods. This is consistent with FreeTV Australia's Placement Codes.

Nimble never intended for the advertisement to be offensive. Instead, it is supposed to be humorous as a slightly exaggerated version of a real life scenario. The new roommate is so unbearable and shows his lack of consideration and has no respect for the aggrieved roommate's belongings, that she must leave the house.

The TVC is only aired when permitted by its rating. This is the only way Nimble can try to stop children watching. If a parent or guardian allows their child to watch TV outside of C and P times, there is always a risk that the child may observe material that is not entirely appropriate for the child.

Complaint 3

The final complaint alleges offence due to the roommate purposely breaking wind.

We assume that the complaint is referring to the scene at 26 seconds of 30 second TVC where the Roommate bends his knees to pull the legs of his shorts down as he is walking out of the bathroom. The roommate is merely adjusting his shorts, and is not indicating that he is or has passed wind. The action complements the fact that he has been in the toilet, which is consistent with the flushing sounds in the background immediately after the man closes the toilet door. There is no noise or any other evidence that he has passed wind.

The 30 second TVC is not broadcasted during P or C programs or adjacent to P or C periods, in line with FreeTV Australia's Placement Codes.

Summary

Nimble's advertisements are not intended to be taken literally, and have for years exaggerated a difficult situation that could warrant needing a small loan during unexpected situations. Nimble's TVCs are reviewed and classified as required under the FreeTV Australia guidelines, and take care that we have regard to prevailing community standards. All advertisements and marketing communications treat sex, sexuality and nudity with sensitivity, relevant to the audience.

If the elements of the advert, such as the goat, were truly offensive, we would expect more than one complaint. The fact that only one person complained indicates that the ad is not truly offensive, and the person is possibly a competitor, someone who dislikes our industry, a disgruntled staff member, or an individual who is not representative of the Australian community.

We request that these three complaints are dismissed as having no real ground for offence, and no genuine support other than a single complaint on three different topics.

Additional complaints

The first complaint, received on 22 January 2016, stated that the viewer sees the TVC at 6.00 pm, and is 'repulsed' as it is not appropriate for children to see a larger man in his white underwear without a shirt on (complaint 4).

The second complaint, received on 13 January 2016, objected to seeing a man in his underwear walking around, as it is rude and inappropriate (complaint 5). We assume that this complaint relates to the Nimble TVCs even though the advertiser and advertising description states 'Wallet Wizard'.

The third complaint, received on 12 January 2016, expressed concern regarding stereotyping men, particularly a foreign individual, in a negative manner. (complaint 6)

There are two complaints, received on 18 and 13 January 2016, which expressed concern regarding the man in his underpants (complaint 7), and that a semi-naked Asian scratching himself is in poor taste (complaint 8).

Another complaint, received on 25 January 2016, stated that the TVC scenario is demeaning to women, and is a form of bullying which in today's society should not be tolerated. The complaint stated that women who have to leave their homes due to domestic violence would not take the TVC as a joke (complaint 9).

Two complaints received on 26 and 28 January 2016 raised concerns regarding the man in his underwear who appears to crouch to adjust his bodily parts or pass wind (complaints 10 and 11).

The last complaint, received on 28 January 2016, stated that the TVC is extremely offensive, distasteful and vague due to the man wearing underpants, scratching at the front of them. The complaint also raised concern on the timing of the broadcast of the TVC (complaint 12).

Our response

We refer to our response to the ASB dated 19 January 2016 to respond to complaints 4, 5, 7

and 10 -12.

Additionally, we would like to clarify that the man in the TVC was not scratching or adjusting any private parts as alleged in complaints 8, 10, 11 and 12. Nimble's TVCs are intended to be humorous and slightly exaggerate real life scenarios. Hence, the roommate is portrayed as someone who is unbearable through his lack of personal hygiene. The man scratching his upper body (and not any private parts) evidences this.

The fact that so many complaints reference an incorrect fact (scratching the underpants) makes us question whether these complaints are genuine, or whether someone (such as a consumer advocate or a competitor) has prompted or motivated complaints.

The fact that one complaint referred to 'Wallet Wizard' also raises a question about complaint validity.

Nimble's TVCs are respectful towards ethnicity and cultural sensitivities. Nimble does not intend for the TVCs to be discriminatory or to stereotype any specific race, as alleged in complaints 6 and 8. In fact, the cast in the TVCs are from diverse cultural backgrounds. It is standard practice these days for advertisements to contain a mix of actors from various genders and races.

Nimble's TVCs are developed with due consideration of prevailing community standards. As outlined previously, Nimble's TVCs are intended to be humorous and an exaggeration of real life scenarios. Nimble does not intend to demean or bully females or males nor does it or its TVCs tolerate violence. The TVC do not promote any violence towards women as alleged in complaint 9.

The complaint about the TVC being aired at an inappropriate time is not valid, as Nimble obtained the appropriate rating from CAD for TVC, and the TVC is only aired during the acceptable time slot for its rating.

It is our firm belief that the TVCs comply with section 2 of the Code. We hope that the Board agrees with this view, and we look forward to receiving the determination. Please do not hesitate to ask if we can be of further assistance to the Board.

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 complainants' concerns that the advertisement depicts a man in his underpants adjusting his genitals and breaking wind, is discriminatory towards Hispanics as it uses a stereotypical depiction, is demeaning to women, is sexually suggestive and features a woman being bullied in to leaving her home.

The Board noted the complainants' concerns about a depiction of a man breaking wind. The Board noted that while the issue of passing wind is not a subject that is generally discussed or considered acceptable in public, the Board agreed that, consistent with a previous

determination in case 0277/14, while many people in the community have found the depiction of a person passing wind to be vulgar and in poor taste, this issue does not breach any specific provision of the Code.

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 that this television advertisement features a woman returning from holiday to discover her roommate has rented out her room to someone else and she now has to find somewhere else to live.

The Board noted the complainants' concerns that the Hispanic man is negatively depicted in a stereotypical manner.

The Board considered that the man is not depicted as representing a particular ethnic group or nationality but rather as an undesirable flatmate who happens to be male. The Board considered that there was nothing in this man's actions or behaviour to mark him out or identify him as belonging to a particular ethnic group and considered that the advertisement did not portray or depict material in a way which is discriminatory or vilifying of a person or section of the community on account of their race, ethnicity, nationality or gender.

The Board determined that the advertisement did not breach Section 2.1 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 the complainants' concerns over the depiction of a man in his underpants. The Board noted that the man's underpants are baggy and considered that the overall impression is of a man who is a slob rather than a man being depicted in a sexualised manner. The Board noted that the underpants cover his genitals and considered that the level of nudity is not explicit or inappropriate and the man is not posed in a sexual manner.

The Board noted the complainants' concerns over the depiction of a man readjusting his genitals. The Board noted that the man is shown to readjust his underpants but considered that this scene was very fleeting and the man did not touch his genitals but rather the material of his underpants. The Board considered that whilst some members of the community could find this scene to be in poor taste the Board considered that the man's actions were not sexual or inappropriate in the context of the portrayal of a man who appears to be a slob.

The Board noted the complainant's concern over the phrase, "Come on, Spanky" which is directed at a goat and that this is sexually suggestive. The Board noted that this scene features in the 15 second version of the advertisement which is a follow on advertisement from the one where the woman discovers her room has been given to someone else.

The Board noted that the goat has underpants on its head and considered that the woman is packing and there are clothes everywhere and therefore the underwear on the goat is reflective of the chaos of packing rather than a sexually suggestive scenario. The Board noted that the man calls the goat Spanky but considered that this word is not of itself sexual and in the overall context of this scene showing a woman packing there is no sexual innuendo or suggestion of any sexual activity. The Board considered that the complainant's interpretation of this scene is unlikely to be shared by the broader community.

The Board determined that the advertisement did not breach Section 2.4 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 the complainants' concerns that the advertisement depicts bullying behaviour from the man towards his female roommate.

The Board noted that the woman returns from holiday to discover that her room has been given to someone else and considered that the woman's reaction is one of annoyance at her flatmate. The Board considered that the woman is depicted as taking charge of the situation by planning to move and considered that her flatmate is portrayed as inconsiderate rather than as a bully.

The Board acknowledged that there is significant community concern around the issue of bullying but considered that the advertisement did not depict material contrary to Prevailing Community Standards on bullying.

The Board determined that the advertisement did not breach Section 2.6 of the Code.

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