



## Case Report

1	Case Number	0015/16
2	Advertiser	Carl Jnr Burgers
3	Product	Food / Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	10/02/2016
6	DETERMINATION	Dismissed

### ISSUES RAISED

- 2.1 - Discrimination or Vilification Gender
- 2.2 - Objectification Exploitative and degrading - women
- 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 for Carl's Jr features a woman in a white bikini on a beach. The female voiceover says, "To look this hot in a bikini I have to give up almost everything. But there's no way I'm giving up my Carl's Jr Western Bacon Cheeseburger" and we see the woman pulling a burger out of a bag placed between her parted legs. We see the woman eating the burger and sticking her finger in to it then sucking off the sauce, and then we see some sauce dripping on to her breasts followed by more finger sucking.

### THE COMPLAINT

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

*My boys questioned what the woman was doing on the Carl Jnr advertisement and I was terribly uncomfortable trying to explain why this company was selling burgers this way. I am horrified these ads have been allowed on Free to Air television. This is the first time I have made a complaint, but in a time of unprecedented violence towards women, I cannot believe we are being subjected to this horrendous objectification of women. That these ads are allowed to play during family viewing is disgusting. I work hard to teach my boys respect towards women, then have to counter ads like this.*

*The gratuitous sexualisation of the woman eating a hamburger, and the inappropriateness of the hours at which the ad (which is very sexually suggestive) is played (the cricket games start at around 7pm). The sexual objectification of a woman to sell a hamburger I find to be in poor taste and offensive*

*Pornographic during family broadcast and time slot, degrading to women.*

*I don't think it's appropriate to see a lady in a bikini eating a burger, dripping sauce all over her boobs.*

*I find the ad offensive. It is extremely sexually suggestive with the female touching her chest under the strap of her bikini top, the product of the hamburger being shown between her legs, the female sucking on her fingers. The content is inappropriate for young people to be exposed to - especially young boys who are watching the cricket.*

## **THE ADVERTISER'S RESPONSE**

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

*The advertisement in question which carries CAD approval with an M classification was scheduled to run in a BBL match. On the said night there were 2 BBL matches scheduled to run back to back. The first game finished early therefore the presentation team (SCA employees) were required to compact all remaining advertisers ads into the second game where our Carl's Jr ad was always scheduled to run because of its M rating. The fact that the advertisement ran at 9.03pm instead of post 9.30pm was an accidental error due to the condensed time frame.*

*We take community opinion seriously and hence have created PG version (attached with CAD details) and we have taken the M version completely off air. For the remaining duration of the BBL tournament we will be running the PG version.*

## **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 features a gratuitous use of a woman in a bikini which is demeaning to women, exploitative and degrading, and uses sex to sell a food product in a manner which is pornographic and inappropriate.

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 for a burger features a woman on a beach in a bikini eating a burger. The Board noted that there are two versions of the advertisement, a PG rated version and an M rated version.

The Board noted that advertisers are free to use whomever they wish in their advertisements and that the depiction of an attractive woman in conjunction with a product is not of itself contrary to the Code.

The Board noted that the woman is wearing a bikini and considered that as the woman is on a beach it is not inappropriate for her to be wearing a bikini. Similarly, the Board noted that there are often take away outlets located near suburban beaches and considered that a woman eating a burger on a beach is a scenario which would be common across Australia and that the advertisement showing a woman on a beach in a bikini enjoying a burger does not of itself amount to a depiction which discriminates against or vilifies a person or section of the community on account of gender. The Board considered that the woman is not depicted in a manner that is negative and that both the PG and M rated versions of the advertisement do not breach Section 2.1 of the Code.

The Board considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states: “Advertising or marketing communications should not employ sexual appeal in a manner which is exploitative and degrading of any individual or group of people.”

The Board noted the complainant’s concerns that the advertisement depicts women as sex objects and

The Board considered that the advertisement is clearly using sexual appeal, in the form of images of an attractive woman in a bikini. However the Board noted that in order to breach this Section of the Code the use of sexual appeal would need to be considered both exploitative and degrading.

The Board noted the Practice Note to Section 2.2 which provides:

- Exploitative means clearly appearing to purposefully debase or abuse a person, or group of person, for the enjoyment of others, and lacking moral, artistic or other values.
- Degrading means lowering in character or quality a person or group of persons.

The Board noted that in the M rated version the advertisement opens on a rear view of a woman lying on her stomach on the beach and then shows the woman standing up and rubbing sun screen on to her chest, with her hand going under her bikini top onto her breast

A minority of the Board considered that by focusing on the woman’s body before showing the advertised product the advertisement is presenting a woman in a manner which is exploitative. A minority of the Board noted that when the woman eats the burger we see tomato sauce dripping on her breasts and considered that this focus on a woman’s breasts in the context of a burger advertisement is not relevant to the product and is exploitative and that the many images of the woman’s body in conjunction with the burger are degrading to women. A minority of the Board considered that the M rated version of the advertisement

did employ sexual appeal in a manner which is exploitative and degrading of women.

The majority of the Board however noted that the woman is presented as enjoying eating the burger and considered that the focus on her body is relevant to the voiceover where she talks about wanting to look good in a bikini but not wanting to give up her Carl's Jr Burgers. The majority of the Board acknowledged that the focus on the woman's body and the scene showing the sauce dripping on her breasts are a use of sexual appeal but considered that burgers are messy to eat and if you do eat a burger whilst wearing a bikini it is quite likely for sauce to drip on to your body. The majority of the Board noted that the woman is presented as confident and enjoying her burger and considered that whilst the manner in which she is depicted is exploitative in the sense of being unnecessarily focused on her body, including her breasts and bottom, it is not degrading to women to show a woman on the beach eating a burger. The majority of the Board considered that the M rated version of the advertisement did not employ sexual appeal in a manner which is exploitative and degrading of women.

The Board then noted the PG rated version of the advertisement. The Board noted that in this version the opening scene showing the woman lying on her stomach and the scene where the tomato sauce drips on her chest are missing and considered that, based on the discussion above, the PG rated version of the advertisement minimised the gratuitous focus on parts of the woman's body and was also not employing sexual appeal in a manner which is exploitative and degrading of women.

The Board determined that both the PG and the M rated versions of the advertisement did not breach Section 2.2 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 that both the PG and the M rated versions of the advertisement depicts a woman in a bikini eating a burger. The Board noted the complainants' concerns that the advertisement is pornographic and uses sex to sell a product.

The Board noted that the woman's bikini covers her private areas and considered that the level of nudity was consistent with the wearing of a bikini on a beach and was not inappropriate. The Board noted that in both versions of the advertisement we see the woman applying sunscreen to her chest and considered that this scene is mildly sexualised.

The Board noted the M rated version of the advertisement shows tomato sauce dripping from the burger on to the woman's breasts and considered that her breasts are adequately covered by her bikini top and that overall whilst this scene is sexualised it is not inappropriate for the relevant M rated audience.

The Board noted the poses of the woman throughout both versions of the advertisement and considered that whilst the woman is clearly posing in a manner to highlight her figure her poses are not overly sexualised or what most reasonable members of the community would consider to be pornographic. The Board noted in particular the scenes where the woman sucks sauce from her finger and when she lowers bacon in to her mouth whilst lying on her back. The Board noted that it is not uncommon to suck sauce from your fingers when eating a burger and considered that although the woman's action in sucking her finger does appear

contrived and mildly sexualised in the Board's view this scene is clearly in the context of sucking sauce and is not sexually explicit. The Board noted the scene showing the woman eating bacon whilst lying on her back and considered that whilst this is not the usual way to eat a burger in the Board's view it is intended to highlight the pleasure the woman takes in eating the burger and is also only mildly sexualised .

The Board noted that CAD had rated these advertisements PG and M and considered that overall both versions of the advertisement treated the issue of sex, sexuality and nudity with sensitivity to their relevant PG or M rated audiences.

The Board determined that the advertisement did not breach Section 2.4 of the Code.

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