



# Case Report

<b>1</b>	<b>Case Number</b>	<b>0016/16</b>
<b>2</b>	<b>Advertiser</b>	<b>Unilever Australasia</b>
<b>3</b>	<b>Product</b>	<b>Food and Beverages</b>
<b>4</b>	<b>Type of Advertisement / media</b>	<b>Billboard</b>
<b>5</b>	<b>Date of Determination</b>	<b>10/02/2016</b>
<b>6</b>	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

Advertising to Children Code 2.04 Sexualisation  
Advertising to Children Code 2.06 Social value

## DESCRIPTION OF THE ADVERTISEMENT

The Advertisement promotes Streets Bubble O Bill ice cream and Streets Splice ice cream. It shows a Bubble O Bill ice cream in the foreground and a green Splice ice cream in the background. The Splice has a bite taken out showing white ice cream underneath its green surface. A speech bubble next to Bubble O Bill contains the words "I CAN SEE YOUR WHITE BITS". A sign with the words "TIME FOR A COOLER SNACK" is shown in the bottom right corner of the Advertisement.

## THE COMPLAINT

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

*This specific advertisement goes against the AANA Code for advertising to children (sections 2.4 and 2.6) as "white bits" is a reference to the slang term "pink bits" which is Australian slang for female genitalia. While the joke may be intended to get adults attention, the Bubble O'Bill ice cream product is predominantly marketed to and consumed by young children.*

## 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 in relation to a complaint about an outdoor advertisement for Streets Bubble O Bill and Splice ice cream (the “Advertisement”).*

*Unilever is a responsible advertiser and has numerous internal review processes, including review by Unilever’s Legal and Corporate Relations Departments to critique all advertisements to ensure compliance with legal and ethical considerations. Unilever takes the AANA Code of Ethics seriously and we have taken great care to ensure that the Advertisement complies with the Code of Ethics.*

## *1. The Advertisement*

*The Advertisement promotes Streets Bubble O Bill ice cream and Streets Splice ice cream. It shows a Bubble O Bill ice cream in the foreground and a green Splice ice cream in the background. The Splice has a bite taken out showing white ice cream underneath its green surface. A speech bubble next to Bubble O Bill contains the words “I CAN SEE YOUR WHITE BITS”. A sign with the words “TIME FOR A COOLER SNACK” is shown in the bottom right corner of the Advertisement.*

## *2. Compliance with the AANA Code for Advertising & Marketing Communications to Children (“Children’s Code”)*

### *2.1 Advertising or Marketing Communications to Children*

*The Practice Note for the AANA Code for Advertising & Marketing Communications to Children lists a number of factors which provide guidance to the Board in considering whether the Advertisement is directed primarily to children.*

*(a) Primarily: Unilever submits that the Advertisement is not directed primarily to children. The Advertisement is an outdoor billboard that can be viewed by both adults and children.*

*(b) Nature of the product: The target audience for our Bubble O Bill advertisements – including the Advertisement - is adults. The Advertisement focusses on the nostalgic appeal of Bubble O Bill and Splice which is based on the Bubble O Bill product format, edgy advertising and delicious taste.*

*(c) Theme of the Advertisement: The Advertisement does not use children’s themes and characters. The words “white bits” in “I can see your white bits” are used to describe the untanned areas of skin, for example under the strap of a swimming costume (see below). The theme and humour of the Advertisement is targeted to adults.*

*(d) Visuals: The advertisement simply shows a Splice product wearing a bikini with a bite taken out and a Bubble O Bill product. The depiction of the products does not appeal to a child’s imagination and wonderment.*

*(e) Language: The words “I can see your white bits” are adult vernacular and are unlikely to capture a child’s attention or to engage a child.*

*Should the Board consider the Advertisement to be primarily directed to children Unilever*

*submits that it is compliant with the Children's Code:*

## *2.2 Section 2.4 – Sexualisation*

*The Advertisement shows a Bubble O Bill Ice Cream talking to a Splice Ice cream wearing a bikini. The visuals and words do not employ sexual appeal, include sexual imagery in contravention of prevailing community standards, state or imply that children are sexual beings and that ownership or enjoyment of the product will enhance their sexuality. The words 'white bits' are a reference to visible untanned skin under the straps of a swimming costume (see below) and as such do not employ sexual appeal or imply that children are sexual beings.*

## *2.3 Section 2.6 – Social Values*

*The Advertisement does not portray images or events in a way that is unduly frightening or distressing to children. The visual shows a Splice ice cream wearing a bikini and white bite taken out of it. It is highly unlikely that children will perceive the visual together with the words referring to 'white bits' as frightening or distressing. The words are used in a light hearted and humorous way that is consistent with modern vernacular and the theme can be perceived as a summer beach scene. Children will either know that 'white bits' refers to untanned skin under the straps of a swimming costume, or they will understand the reference to white bits in accordance with the visual cue of the inside of the Splice being white.*

*Under Section 2.6 of the Children's Code advertising or marketing communications to children shall not demean any person or group on the basis of ethnicity, nationality, race, gender, age, sexual preference, religion, disability, mental illness or physical disability. We submit that the Advertisement does not demean women or children, or any other person or section of the community. In particular, the Advertisement is not sexist or sexual, and women or children are not portrayed as sexual objects.*

*The fact that the Splice ice cream is shown wearing a bikini clearly does not demean children or women on the basis of gender or age.*

## *3. Compliance with AANA Code of Ethics*

### *3.1 Section 2.5 of the Code of Ethics*

*Under section 2.5 advertising and Marketing communication shall only use language which is appropriate in the circumstances (including appropriate for the relevant audience and medium). Strong or obscene language shall be avoided.*

*We submit that the audience understands that the words "white bits" in "I can see your white bits" are used to described the untanned areas of skin, for example under the strap of a swimming costume.*

*The words are used in a light hearted and humorous way that is consistent with modern Australian vernacular. The Splice ice cream in the Advertisement is wearing a bikini and consumers will understand that the words in the Advertisement are a playful reference to the untanned areas of skin under a bikini as well as to the white bite taken out of the Splice.*

*Even if the words “I can see your white bits” were used without the reference to a bikini and the white bite taken out of the Splice, we believe that they are not inappropriate and conflicting with the prevailing community standards as it is widely used vernacular that is understood to refer to untanned areas of skin. Some examples:*

- *The Daily Telegraph reported on 4th December 2015: “NRL star Sam Burgess has flashed his bare bum at Whitehaven Beach to tan his “white bits” yesterday”.*

*(See: <http://www.dailytelegraph.com.au/entertainment/sydney-confidential/nrl-star-sam-burgess-flashes-his-bare-bum-on-holidays-with-phoebe-hooke-at-whitehaven-beach/news-story/446baac3150d06dff04601d743f81b68> )*

- *A facebook site called “Show us your white bits” refers to untanned parts of skin. It encourages users to share images of their untanned skin under their swimming costumes.*

*[See: <https://www.facebook.com/ShowUsYourWhiteBits/> ]*

- *The facebook site for “White Bits Mobile Spray Tanning” offers spray tanning to cover untanned areas of skin.*

*[See: <https://www.facebook.com/WhiteBitsTanning> ]*

- *On 11 January 2015 The Mirror website from the United Kingdom contained the headline “Jodie Marsh posts NAKED selfie to show off her ‘white bits’“ together with a topless picture of Jodie Marsh covering herself with one arm with visible untanned areas of her skin.*

*[See: <http://www.mirror.co.uk/3am/celebrity-news/jodie-marsh-posts-naked-selfie-4958831> ]*

- *A number of Australian websites, as well as Westfield UK, sell a range of tanning products under the brand Anatomicals and the names “No More White Bits Instant Self Tan Mousse” and “No More White Bits Body & Face Self Tanning Cream”.*

*[See: <http://www.shopstyle.com.au/g/women/anatomicals/no-more-white-bits-instant-self-tan-mousse-200ml>*

*and*

*<https://uk.westfield.com/stratfordcity/products/uk-superdrug/no-more-white-bits-body-and-face-self-tanning-cream-125ml/f04c8526-4cb0-47ab-923a-a4a15589e5ea> ]*

*The Practice Notes to the AANA Code of Ethics state that words which are innocuous and in widespread and common use in the Australian vernacular are permitted provided they are used in a manner consistent with their colloquial usage, for example with gentle humour, and not used in a demeaning or aggressive manner.*

*We submit that in the context of the Advertisement, the words “I can see your white bits” cannot be classified as strong or obscene language that is inappropriate in the circumstances or language that would generally be considered to be offensive. The language used in the Advertisement is commonly used in Australia and well within the prevailing community*

*standards and the standards set by the AANA Code of Ethics.*

### *3.2 Section 2.1 of the Code of Ethics*

*Under Section 2.1 of the Code of Ethics 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 gender race, ethnicity, nationality, gender, age, sexual preference, religion, disability, mental illness or political belief.*

*We submit that the Advertisement does not portray women, or any other person or section of the community, in a way that discriminates against or vilifies them. In particular, the Advertisement is not sexist or sexual, and women are not portrayed as sexual objects.*

*The fact that the Splice ice cream is shown wearing a bikini clearly does not amount to discrimination against women.*

*The reference to “white bits” is commonly used in Australia to describe areas of untanned skin and is well within the prevailing community standards and the standards set by the AANA Code of Ethics (see above).*

### *3.3 Sections 2.2, 2.3, 2.4, 2.6 of the Code of Ethics*

*The Advertisement does not employ sexual appeal, portray violence, refer to sex, sexuality or nudity, or depict material that is contrary to Prevailing Community Standards on health and safety. We submit that the Advertisement complies with these sections of the Code of Ethics.*

## *4 Conclusion*

*We submit that the context of the Advertisement and the language used are well within prevailing community standards and that the Advertisement complies with the Code of Ethics.*

## **THE DETERMINATION**

The Advertising Standards Board (“the Board”) considered whether this advertisement breaches the AANA Code for Advertising and Marketing Communications to Children (the “Children’s Code”) and the AANA Code of Ethics (the “Code”).

The Board noted the complainant’s concerns that the advertisement is directed to children and contains a reference to female genitalia.

The Board viewed the advertisement and noted the advertiser’s response.

The Board considered the definition of advertising or marketing communication. Under the Children’s Code, advertising and/or marketing communication means:

“any material which is published or broadcast using any Medium or any activity which is undertaken by, or on behalf of an advertiser or marketer, and

- over which the advertiser or marketer has a reasonable degree of control, and
- that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly the product, service, person, organisation or line of conduct, but does not include Excluded Advertising or Marketing Communications.”

The Board agreed that this billboard advertisement could be considered to draw the attention of the public to a product in a manner calculated to promote or oppose directly or indirectly that product.

The Board then considered whether the advertisement is an advertising or marketing communication to children under 14 years of age.

The Board considered whether the advertisement is directed primarily to children (14 years or younger). The Board noted the practice note for the Food and Beverages Code which states that whether an advertisement or marketing communication is “directed primarily to children” is an objective test based on several factors including, but not limited to the combination of visual techniques, product and age of characters and actors. The use of any one factor or technique in the absence of others may not necessarily render the marketing communication “directed primarily to children.”

The Board noted that the dictionary definition of “primarily” is “in the first place” and that to be within the Children’s Code the Board must find that the advertisement is aimed in the first instance at children.

The Board noted the marketing communication is a billboard.

The Board noted the visuals of the advertisement with the bright colours and the depiction of a Bubble O Bill ice cream talking to a Streets Splice ice cream. The Board noted that the Splice ice cream is wearing a bikini and considered that whilst the visuals of the website would be very attractive to children the depiction of the Splice in a bikini is directed more towards adults than children.

The Board also considered the language and theme of the advertisement. The Board noted that the Bubble O Bill character has a speech bubble next to its mouth which reads, “I can see your white bits”. The Board noted that this sentence is simple enough to be read and understood by young children but is a factual comment on being able to see the inside of the ‘Splice’ and not particularly directed to children.

The Board noted recent Community Research (“Community perceptions of advertising directed primarily to children, Colmar Brunton Social Research, December 2015) which indicated that community members are more likely to consider an advertisement as directed primarily to children if the advertisement features a product for children. In the Board’s view the advertisement depicts two ice creams, one of which, the Bubble O Bill, is a product for children. However in the Board’s view the inclusion of the Bubble O ’Bill in conjunction with the Splice product does not create a strong impression that the advertisement is directed primarily to children. The Board considered that the overall look of the advertisement has a retro look and feel which would be appealing to adults and considered that on balance the advertisement would be of appeal to a broad audience and is not directed primarily children.

Considering the products' depicted, the visuals, language and theme of the advertisement, the Board considered that whilst the advertisement would be of appeal to children it is not directed principally at children.

The Board then considered whether the product itself was directed to children. The definition in the Children's Code states that "product means goods, services and/or facilities which are targeted toward and have principal appeal to Children."

The Board considered whether the ice cream products depicted in the advertisement are products which are targeted toward and have principal appeal to children. The Board considered that Bubble O Bill with its cowboy face and pastel colours would be of strong appeal to children 14 and under. The Board considered however that Streets Splice ice cream is of more appeal to adults and is not a product that is targeted to and of principal appeal to children.

Having determined that the marketing communication is not directed primarily to children and that one of the products in the advertisement are not targeted toward and of principal appeal to children, the Board determined that the provisions of the Children's Code did not apply.

The Board then considered whether the advertisement was in breach of Section 2.4 of the Code of Ethics. 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 complainant's concern that the reference to "white bits" is a reference to female genitalia. The Board noted that the Splice ice cream has had a bite taken out of it and therefore its white insides are visible against its green outer layer. The Board noted that the Splice is wearing a yellow bikini and considered that the reference to "white bits" is a play on words against both the exposure of the inside of the ice cream as a result of the bite, and a reference to tan lines which can result of wearing a bikini in the sun. The Board considered that the complainant's interpretation of "white bits" being a reference to "pink bits" and thus to "female genitalia" is an interpretation unlikely to be shared by the broad community. The Board considered that even if some members of the community interpreted the reference as a sexual reference, this is an interpretation that would be unlikely to be understood by children.

The Board considered that the advertisement did not depict sex, sexuality and nudity and that even if some members of the community considered that the advertisement did have a sexual connotation, that this connotation was mild and was delivered with sensitivity to the relevant broad audience.

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

Finding that the advertisement did not breach the Children's Code or the Code of Ethics, the Board dismissed the complaint.

