



Ad Standards Community Panel
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Advertising Standards Bureau Limited
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Case Report

1	Case Number	0039/19
2	Advertiser	Subway Franchisee Advertising Fund
3	Product	Food / Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	20/02/2019
6	DETERMINATION	Dismissed

ISSUES RAISED

- 2.2 - Objectification Degrading - men
- 2.2 - Objectification Exploitative - men
- 2.4 - Sex/sexuality/nudity S/S/N - general
- 2.5 - Language Inappropriate language

DESCRIPTION OF THE ADVERTISEMENT

The television advertisement features two women looking at a mobile phone and making comments such as 'yeah' and 'I want a slice of that'. It is revealed that they are looking at pictures of sandwiches as one of the women says 'get in my mouth please'.

THE COMPLAINT

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

The sexual innuendo was very obvious, especially as it was played during breaks in Married at First Sight. My 13 and 14 girls picked up on this sexual innuendo and were themselves shocked. I cannot believe that this passes any decent standards. I rarely watch anything other than ABC and was horrified with this advert. I am a teacher and children are sending images of themselves at younger and younger ages, this type of advert normalised this.



The ad shows two women “swiping” their phone as if to suggest they are on popular dating app “Tinder”. The women suggests “I’d like a slice of that” comparing men to a slice of meat, followed “get in my mouth” suggesting she intends to perform oral sex on the man she has just seen on her phone. It is then revealed they are looking at “sandwiches” and not men. The sexualisation of the ad is inappropriate. The comparison of men to meat is unacceptable. Ask yourself if the ad was cast with two men scrolling on their phone talking about “having a slice of that” and “get in my mouth” the outrage that would ensue.

There is clear sexual innuendo, double entendre when the actor says "look how big it is" and "get in my mouth" before the sandwich picture is revealed.

Totally inappropriate during a G-rated sports broadcast.

The advertisement suggested that choosing a sub wasn’t too dissimilar to tinder. While swiping right on the subs the actors made two sexual innuendos that were wholly inappropriate and unnecessary considering the product. These remarks included ‘look at the size of that one’ and ‘get in my mouth’. The sexual connotations are difficult to ignore and breach the AANA Code of Ethics 2.5- Advertising or 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. It was a cheap marketing ploy for a well known and commonly used product, while also using language not appropriate for an ad screened during a family orientated program.

THE ADVERTISER’S RESPONSE

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

Description of the Advertisement – “Tinder 15” Carved Turkey and Cranberry Relish”

The intention of the advertisement is to create excitement and interest in the fresh new ingredients available at Subway, and to communicate that they are tasty with a light-hearted comedic hook. The proposition is that the ingredients shown are delicious and irresistible.

The advertisement begins with two women looking at a mobile phone “swiping” and expressing their approval with each swipe. This is a tongue-in-cheek, humorous nod to the everyday millennial spending time browsing social networks, connecting with friends and generally living life through a screen.



The twist reveal the comments they've been making are on delicious looking subs, and not their social network content, regardless of what that is.

The advertisement concludes with a brief montage of a selection of the fresh new ingredients available at Subway ("the Advertisement").

The Advertisement is one of a number of comedic advertisements produced that form part of the "Fall in Love with Lunch Again" campaign. The Advertisement will be broadcast on free to air TV between 20 January 2019 and 14 April 2019, it is also available on the "Subway Australia" YouTube page.

Comprehensive comments in relation to the complaints:

Thank you for the opportunity to comment.

Each sub-section of the Code has been addressed as required.

The Advertisement complied with the Australian Association of National Advertisers (AANA) Code of Ethics (Code) for the reasons set out below:

Section 2.1 – Portrayal of People (Discrimination or Vilification)

The Advertisement does not discriminate (i.e. depict unfair or less favourable treatment) or vilify (i.e. humiliate, intimidate, incite hatred, contempt or ridicule) any of the following groups: race, ethnicity, nationality, gender, age, sexual preference, or religious views, disability or political belief.

The double entendre used in the Advertisement suggests that the women in the Advertisement are attracted to what is on their phone (which is left open to the viewer's interpretation). The audio helps to provide context around the irresistibility of the product, while the visual component depicts Subway subs, it is clear that the women want to eat the product (as the humorous line suggests) and this is a reasonable action for the women in the Advertisement and makes sense in context.

The Advertisement uses humour, however this does not create a negative impression. The Advertisement does not feature people with disabilities, minors or rely on gender stereotypes.

Accordingly, Subway does not believe this section applies.

Section 2.3 – Violence

The Advertisement does not feature violence or consequences of violence. The Advertisement does not feature any suggestion of malice, violence against animals or



realistic depictions of the consequences of violence. Accordingly, Subway does not believe this section applies.

Sections 2.2 (Exploitative or Degrading Material) & 2.4 (Sex, Sexuality & Nudity)

The Code requires that advertising shall not employ sexual appeal: (a) where images of minors, or people who appear to be minors are used or (b) in a manner which is exploitative or degrading of any individual or group of people.

The Advertisement does not feature an image of a minor, or any person who appears to be a minor, accordingly sub-section (a) does not apply.

Referring to the Practice Manual that accompanies the Code, the terms exploitative and degrading are defined as:

(Exploitative) taking advantage of the sexual appeal of a person, or group of people, by depicting them as objects or commodities; or focussing on their body parts where this bears no direct relevance to the product or service being advertised.

(Degrading) lowering in character or quality a person or group of persons.

At no point in our Advertisement does a person of any gender appear in a suggestive or sexualised way. The light-hearted nod to social networks is delivered solely on audio, and the innuendo is left to the viewer's interpretation of the scene. The only ambiguous dialogue left to the viewer's interpretation is the following: "definitely", "wow", "yes" and "I'll have a slice of that". None of which Subway considers to be exploitative or degrading based on the above definitions.

The dialogue "get in my mouth please" is spoken over an image of the phone screen displaying food products. There is no ambiguity here, and it is clear the dialogue refers to the product and is not sexual in nature.

The comments in the complaint acknowledges that the purpose of the Advertisement was to show women being interested in a sub or sandwich, showing the maker of the complaint has demonstrated their understanding of the nature of the double entendre.

Subway acknowledges the Panel is not bound by previous determinations, however, given the similarity of the advertisements Subway makes reference to the determination for S&P Constrictions (0459/14) in which the Board (as it was known at the time) determined that the advertisement made it clear the innuendo was in relation to the product and not the man.

The S&P Constrictions advertisement was set on location at residential construction



site. A muscular 'tradie' (male) works in the yard on the house while two women make comments which appear to be about the tradie: "look at the size of that", "mm, beautiful", "just so strong and lasting". It is revealed at the end of the advertisement that these comments are related to the quality of the house being built.

Viewed as a whole, in our opinion, our Advertisement is objectively more conservative than those examples that were dismissed by the Panel and the S&P advertisement referred to above.

Finally, the Advertisement features only women. No males are depicted in any manner. Accordingly, Subway does not believe males have been objectified for the enjoyment of others) nor lowered in character or quality.

Section 2.5 language

The Advertisement was rated "G" by CAD. The script contains no profanity or allusions to profanity. Further Australian vernacular which would ordinarily be permitted, or colloquialisms are not used in the commercial. On this basis, Subway does not consider this section applies to the advertisement.

Section 2.6 – Health and Safety

The Code provides that advertising or marketing communication shall not depict material contrary to prevailing Community Standards on health and safety. Having reviewed the Advertisement against the Code's Practice Note it is Subway's view that no unsafe practices involving motor vehicles, bullying, or the portrayal of a body image are present in our Advertisement. On this basis, Subway does not consider this section applies to the advertisement.

Section 2.7 – Clearly Distinguishable

The Advertisement featured on a free-to-air commercial network during a commercial break. Subway does not consider this section applies to the advertisement. The Advertisement begins with the Subway Logo and sonic identity, which clearly signals to the viewer that this is a Subway branded communication and advertisement. The Advertisement depicts Subway Sandwiches and concludes with the Subway Logo, making it clear to the consumer that they are watching a Subway commercial advertising our products.

On the basis of the above, we respectfully submit that the complaint received should be dismissed.

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 complainants’ concerns that the advertisement was exploitative and degrading to men, and featured sexual language and innuendo which was too sexualised for a general audience.

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

The Panel noted that this television advertisement depicts two women making comments as they swipe across a phone. At the 6th second of the advertisement it is revealed that they are swiping through pictures of Subway meals.

The Panel considered whether the advertisement was in breach of Section 2.2 of the Code. Section 2.2 of the Code states:

“Advertising or Marketing Communication shall not employ sexual appeal:
(a) where images of Minors, or people who appear to be Minors, are used; or
(b) in a manner which is exploitative or degrading of any individual or group of people.”

The Panel noted the complainant’s concerns that the advertisement used phrases such as “I’d like a slice of that” and “Get in my mouth” as women were swiping on a phone, which appeared to be referring to men and was treating men like a piece of meat.

The Panel first considered whether the advertisement contained sexual appeal.

The Panel considered the advertisement and noted that there is no depiction of men in the advertisement. The Panel considered that the advertisement did not contain sexual appeal.

The Panel considered that the advertisement did not employ sexual appeal and did not breach Section 2.2 of the Code.

The Panel 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 Panel noted the complainants’ concerns that the sexual innuendo in the advertisement were too sexualised for an audience that would include children.

The Panel noted the complainants had viewed the advertisement during the day and



on Prime-time television, which allows M rated advertisements from 7.30pm during the week, and considered that the relevant audience for this advertisement would include children.

The Panel considered that the advertisement was clearly intended to be sexual innuendo and that most adults would recognise the language in this advertisement to be sexual innuendo.

The Panel considered that the references to “Yeah”, as “I’d like a slice of that” and “Get in my mouth” are accompanied by images of the food product and there is no sexual activity or depictions in the advertisement.

The Panel noted that it had previously considered a similar issue in case 0030/18, in which:

“The Board considered while the drawing may be suggestive of parental intimacy there is no direct reference to or portrayal of sexual activity. The Board considered that the sexual connotation was humorous, and that the focus of the advertisement is on the parents’ discomfort, and that overall the impact of the sexual suggestion is sensitive to a broad audience which would include children.”

Consistent with the previous determinations the Panel considered that while the current advertisement may be suggestive of sexual activity there is no direct mention of, or portrayal of, sex and the context is quickly made clear that the woman are talking about Subway.

The Panel considered while the innuendo of “I’d like a slice of that” and “Get in my mouth” may be understood by some children, young children would not understand the innuendo as the phrases are accompanied by images of food. The Panel considered that while the advertisement may initially be confusing the message of the advertisement would become clear when the product was revealed at the 6 second mark.

The Panel considered that while some might consider the advertisement to be in poor taste the advertisement did treat sex, sexuality and nudity with sensitivity to the relevant audience.

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

The Panel considered whether the advertisement was in breach of Section 2.5 of the Code. Section 2.5 of the Code states: “Advertising or Marketing Communications 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”.



The Panel noted the complainants' concerns that the sexual references in the advertisement were too sexualised for an audience that would include children.

The Panel considered that while there may be an allusion to sexual themes, there is no strong or obscene language in the advertisement and considered that the language was not inappropriate for the relevant broad audience.

The Panel determined that the advertisement did not use language which was inappropriate in the circumstances and did not breach Section 2.5 of the Code.

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

