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Advertising Standards Bureau Limited  
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# Case Report

1	<b>Case Number</b>	<b>0043/18</b>
2	<b>Advertiser</b>	<b>The Local Shack</b>
3	<b>Product</b>	<b>Food / Beverages</b>
4	<b>Type of Advertisement / media</b>	<b>TV - Free to air</b>
5	<b>Date of Determination</b>	<b>07/02/2018</b>
6	<b>DETERMINATION</b>	<b>Dismissed</b>

## ISSUES RAISED

2.1 - Discrimination or Vilification Gender

## DESCRIPTION OF THE ADVERTISEMENT

A television advertisement which depicts a man and woman on a first date, the woman is depicted as having a low deep voice.

## THE COMPLAINT

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

*The advertisement uses a person who would likely be assumed to be transgender as the punchline of the joke for the premise of the whole of the ad.*

*I believe this advertisement breaches section 2.1 of the AANA Code of Ethics by portraying a person in a way that discriminates against and vilifies a section of the community based on their gender and sexual orientation, through a tired, stereotypical and offensive joke about trans and gender diverse people. The ad portrays the woman to have deceived the man by having a masculine voice, and the fact the woman may be gender diverse to be "awkward". This reinforces negative stereotypes about trans and gender diverse*





people.

*This is so disappointing to see such a transphobic advertisement. Transwomen already have so much discrimination against them. Imagine seeing that ad and being invalidated even further. It is unacceptable.*

## **THE ADVERTISER'S RESPONSE**

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

*Thank you for your correspondence of 25/1/2018 with reference to the complaint you have received regarding this TV commercial.*

*Firstly some background – 21CC is a television production company that has been in the business of producing TV commercials and presentations since 1980. In that time we have produced thousands of commercials without complaint. We are not an advertising agency. We assist direct clients, or agencies to produce commercials for broadcast, by arranging production from concept to completion. We do not book airtime for our clients, they arrange that themselves.*

*In this instance, The Local Shack contacted us to produce some TV commercials for short term local airing. They were looking to emphasise the niche advantages of their cafés, which include the ability to order from the table, plus the availability of games to play at each table. They provide the novelty games Jenga, Guess Who and Connect 4 on each restaurant table. To promote the games aspect, they floated an idea of breaking the ice in an awkward date situation, by playing the games.*

## **PREPRODUCTION**

*The main question to address was what constitutes an awkward date? In our opinion it was when first expectations don't meet reality. It was decided to portray the date by giving one of the parties an unusual personal attribute that would surprise the other (having never met) such as a 70s fashion sense or an 80s hairstyle. Eventually it was agreed a unique voice might be a simple thing to depict, so that on first sight, the difference between the two wouldn't be apparent. The choice was then whether to give the male a high helium style cartoon voice, or the girl, a gravelly baritone voice for their date. We decided on the low voice because disparity between look and sound was the greatest.*

## **PRODUCTION**

*When shooting the commercial, the tone of the visuals was paramount. Both parties*



*look in good health, are neat and fashionable. The idea was to show the two young people in a meeting that is at first awkward, but with the help of the café vibe, becomes enjoyable. The portrayal is achieved in a playful and innocent way.*

#### **INTENT**

*This commercial is about human differences and our ability to openly accept them. At no stage does it, or is it meant to, degrade or vilify any one particular person. Visually, the male looks like and is male, the female looks like, and is female. When the female speaks, the sound for most people will be unexpected. The viewer is surprised, as is the other party.*

*Surprise is the producer's intention. The viewer sees that after their initial awkwardness and the vibe of the café, the two connect with each other, and the ice is broken... they are friends. The denouement is feelgood, not negative at all.*

#### **THE COMPLAINT**

*The complaint seems to me to have arisen from the presumption that the girl is in some way transgender, and that the male date or the commercial's premise is making fun of her.*

*But please consider: The female is not visually distinguished by any unusual or crossgender apparel, jewellery, or physiological features. She is definitely not a male in drag, nor is she giving a stereotypical performance of anyone but a female first date, with an odd voice. At no time is either the male or female actor made fun of or humiliated. The storyline is neutral - it portrays the friendly female as not what we expect, but makes no judgement. The viewing audience must make up their minds about their feelings for her. The male actor, whilst initially taken aback by her voice, is not disgusted or mocking at all. He holds her hand and although confused, shows his affirmation and acceptance at the end of the commercial, with a nod and a genuine smile.*

#### **SUBJECTIVE ASSUMPTIONS**

*The basis for complaint about this commercial seems to draw a very long bow.*

*Initially we had considered swapping the roles and giving the male actor a Sylvester Stallone type voice, or giving the female actor a broad German accent with broken English. In either of these alternatives, the attire and dialogue would not have changed, nor the thrust of the commercial, but with those same visuals, the complaint may not have arisen, because the complainant's problem is with their own interpretation of the voice style.*

*I fear that they assume the portrayal has to be transgender because of the deep voice, but that is not necessarily so. Does anyone with a non-typical voice become transgender somehow? The amateur actress is female and is not transgender. But*



*even if she was meant to be transgender, would the male date, assuming he realised, feel awkward in that situation? I think so. But the male is shown to be very gentlemanly about the situation and casts no judgement on this at all.*

*It is still possible to change the voice in post production to something completely different, but the message remains that just because someone's not what we expect, it doesn't make them less likable.*

*This commercial shows that. The commercial is about acceptance NOT division. It is presented in a light good humoured way and crucially, ends in a positive manner. It is plain to see that it is in no way derogatory or humiliating for either party. Please rule to dismiss the complaint, as I see it as purely opportunistic and not a basis for any serious emotional injury at all.*

## **THE DETERMINATION**

The Advertising Standards Board (the "Board") considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the "Code").

The Board noted the complainants' concerns that the advertisement is offensive towards transgender people.

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 the Practice Note for this section of the Code provides the following definitions:

"Discrimination – unfair or less favourable treatment

Vilification – humiliates, intimidates, incites hatred, contempt or ridicule"

The Board noted this television advertisement features a man and a woman meeting for the first time on a date. The woman greets the man with an unexpectedly deep voice. The voice over suggests you can avoid awkward first dates by visiting their venue. The couple then continue to have dinner and play games.

The Board noted the complainants' concern that describing the date as awkward was offensive to trans people.



The Board considered the advertiser's response that there was nothing in the advertisement to suggest that the woman is trans, rather she is depicted as a female with an unexpectedly deep voice.

The Board considered that the initial reaction of the man was confused at her unexpected voice, however by the end of the advertisement it appeared that both were enjoying the date.

The Board considered that the woman in the advertisement was not treated with unfair or less favourable treatment and that the overall advertisement did not humiliate, intimidate, incite hatred, contempt or ridicule towards the woman or towards trans people.

The Board considered that this was not a depiction of material in a way which discriminates against or vilifies a person or section of the community on account of gender and determined that the advertisement did not breach Section 2.1 of the Code.

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

