



Case Report

1	Case Number	0060/14
2	Advertiser	Southern Cross Austereo
3	Product	Media
4	Type of Advertisement / media	TV
5	Date of Determination	12/03/2014
6	DETERMINATION	Dismissed

ISSUES RAISED

2.1 - Discrimination or Vilification Gender

DESCRIPTION OF THE ADVERTISEMENT

The TVC opens with three radio hosts, Labby, Stav and Abby talking about what they would do if they won cash from the B105 big-cash “selfie” competition. A few suggestions are made by Labby and Stav (the male hosts) hosts and then Abby (the female host) says “upgrade” and has a daydream of the two male hosts as male models with no shirts.

THE COMPLAINT

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

The ending is a unnecessarily long shot of the female host fondling the two male models (who she has fantasized in replacement of the two male hosts) and I think that the treatment of the two men in the ad to be demeaning. You wouldn't be allowed to get away with the same ad if it was a man 'improving' his female coworkers and fondling their chest, and faces. You shouldn't be able to show this either. Sexist, demeaning, and offensive to both men and women!

THE ADVERTISER'S RESPONSE

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

We act for Southern Cross Austereo. Thank you for your letter of 21 February 2014 to our client detailing a complaint made about a Southern Cross Austereo TV advertisement for B105 (the TVC).

As requested in your letter please find our submissions below on behalf of our client.

The complaint suggests the TVC is demeaning in its portrayal of topless men (the upgraded co-hosts) as objects of desire. The complainant finds the advertisement sexist, demeaning, and offensive to both men and women.

The relevant code is section 2 of the Australian Association of National Advertisers Code of Ethics (the Code) and so presumably the alleged breach relates to discrimination or vilification on the basis of gender and/or employing sexual appeal in a manner which is exploitative and degrading of any individual or group of people.

Our client always goes to considerable efforts to ensure that all marketing and public communications produced and distributed adheres to the Code. Our view, for the reasons set out in detail below, is that the TVC does not breach the Code.

Application of the Code

It is not disputed that the TVC is a marketing communication to which the Code applies.

Section 2.1 of the Code relevantly provides the following:

“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...”

The Code also provides that:

“Prevailing Community Standards means the community standards determined by the Board as those prevailing at the relevant time in relation to Advertising or Marketing Communications. Prevailing Community Standards apply to clauses 2.1 – 2.6 below. The determination by the Board shall have regard to Practice Notes published by AANA and any research conducted by the Advertising Standards Bureau.”

We refer to the AANA 2012 Code of Ethics – Practice Note (the Practice Note) (Annexure B) which relevantly provides:

“Prevailing Community Standards apply to all parts of Section 2. This means that the Board will have regard to community standards at the time the marcomms was published.”

Our client’s position

We submit that the TVC is clearly a tongue-in-cheek joke between three popular radio hosts, Labby, Stav and Abby which would be appreciated and shared between listeners who are familiar with the hosts and who enjoy their radio program. Our submission is that the TVC is within prevailing community standards generally as to the depiction of humorous situations and specifically as they apply to friendly commercial radio hosts and the humorous interaction and role play between them. The nature of this humorous role play is common to radio hosts in different commercial radio programs across the country.

The ad was not intended to be sexist, demeaning or offensive to Labby or Stav or to men or women in general and is not, in our view, readily or easily capable of that construction. Abby is poking innocent fun at her male co-hosts. The ad is light-hearted and harmless. Abby is clearly not being serious, nor does she intend to be taken seriously (as inferred from her over-exaggerated behaviour and comical behaviour). The advertisement was intended to be humorous rather than sexually explicit by virtue of the unrealistic, over-exaggerated nature of Abby’s fantasy “upgrade”. The sound effects add to the overall impression that this advertisement is deliberately light and comically ridiculous and not to be taken seriously.

Furthermore, the ad is directed to an adult audience, as it is aired between 8.30pm and 10.30pm. Consequently, whilst the ad portrays a naked male torso, our client submits that it does so with the appropriate level of sensitivity having regard to the relevant audience ordinarily watching TV at this time.

Prior Board determinations

This section sets out prior decisions which are analogous to this matter and which also relate to potential breaches of section 2 of the Code. In each instance, the Advertising Standards Board (the Board) dismissed the complaints.

Mentos Ice Gum

Case number 410/06 which was determined by the Board on 10 October 2010. In this advertisement, a man at a beach takes a packet of Mentos Ice gum out of his pocket and eats a piece. Due to the cooling effect of the gum, it makes the hair on his chest stand up and his nipples grow. Music starts to play as he walks and people stop to look at him. He then catches a Frisbee on his nipples, runs them along a fence, hangs his sunglasses off them, "scratches" discs on a DJ turntable and presses a button in a lift. A girl joins him in the lift and the doors close as he offers the girl a piece of gum with a bemused look on his face. The Board considered whether the content of the advertisement contravened the Code's approach to sex, sexuality and nudity. The Board noted that the advertisement contains only upper-body nudity (similar to the B105 ad in question) and that the appearance of the contrived, hyper-erect nipples on the central male character was depicted as a result of the cold 'temperature' of the product rather than sexual contact or sexual arousal. In this context, the Board also noted that the advertisement was intended to be humorous rather than sexually explicit by virtue of the unrealistic, over-exaggerated nature of the male character's extended nipples.

The Board also noted in this case that many of the complaints received dealt with the tastefulness of the advertisement, including comments that the advertisement was 'repugnant', 'gross' and 'moronic' and made some viewers feel sick. The Board agreed that some people would find this advertisement tasteless but that most people in the community would see the humour in the advertisement and would not find it so offensive that it should be taken off the air. The Board found that advertisement did not breach the Code and dismissed the complainant.

Like the Mentos Ice advertisement, while it is possible that some people might find the TVC in question to be distasteful, most people would find it humorous and not sexually explicit, degrading or offensive to men or women.

Kolotex Aust Pty Ltd

Case number 97/02 was determined by the Board on 22 April 2002. In this advertisement a gloved and stiletto-booted woman wearing tights under a short Dalmatian-patterned dress, is walking behind two crouching men, naked except for dog-style collars, the leashes of which are held by the woman.

A complainant considered the advertisement demeaning to men as it depicted the men as animals, 'dog like' and not worthy of wearing clothing. The complainant felt the advertisement to be deeply offensive on grounds of both race and gender.

The Board dismissed the complaint finding that while some people clearly had different perceptions of the advertisement it represented a satirical comment on a patriarchal world. If men wearing collars was not found to vilify men, we suggest it is unlikely that topless men being touched could amount to the vilification of men.

Advanced Medical Institute

Case number 0284/10 decided by the Board on 14 July 2010. In this ad a woman is trying to reach for a cookie jar in a cupboard but cannot reach. She calls to her husband to help. He opens his robe and she looks over him responding with shock and awe at what she sees. She then appears to stand on his erect penis to obtain the required height to reach the jar. The Board dismissed the various complaints about this ad finding that as the ad was only run between noon and 3pm during weekdays (excluding school holidays) and after 8:30 pm, where children are unlikely to be watching television and therefore the advertisement did not

breach Section 2.3 of the Code which requires advertisements to treat sex, nudity and sexuality with sensitivity to the relevant audience and the relevant programme time. Consequently, whilst the advertisement portrayed issues of sex and sexuality, the Board found it did so with the appropriate level of sensitivity having regard to the relevant audience ordinarily watching TV at this program time zone.

This ad is analogous to the B105 TVC as it is also directed to an adult audience as it is aired late at night (8.30pm-10.00pm).

Conclusion

In view of our client's submissions, and in light of the above decisions, as well as in the context of prevailing community standards, our submission to you is that while it is possible that some people might find this advertisement tasteless; most people would find it humorous and not sexist, demeaning, degrading or exploitative.

It is respectfully submitted that the Advertising Standards Board should take no further action with respect to the TVC and that the Complaint should be dismissed.

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 complainant's concerns that the advertisement depicts a woman stroking the bare chests of two men and that this is sexist, demeaning and offensive.

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 the advertisement features three radio presenters promoting their show.

The Board noted the complainant's concerns that the female presenter is shown stroking the naked chests of two men and that this is not appropriate behaviour.

The Board noted it had previously dismissed a similar complaint in case 0203/10 where a woman is seen admiring men and patting one of them on the bottom:

"In the Board's view the advertisement is a parody of advertisements that use attractive women to present products - the parody element is clearly shown by the women redirecting the viewer's attention to the product not to the men cooking and the depiction of the men wearing only underwear as they walk away - a clear reference to the use of scantily clad women in advertising. The Board considered that the depiction of the woman patting one of the men on the bottom is a continuation of the parody. The Board considered that the tone of the advertisement is light hearted and flirty and that the men happily go along with the woman's references to them being good looking. The Board considered that the advertisement

is not demeaning to men and does not discriminate against or vilify men.”

In the current advertisement the Board noted that the men appear to be happy to be stroked by the woman and considered that the overall tone is light hearted and that for the reasons as described in case 0203/10 the content is not demeaning to men or to women. The Board noted that the advertisement is directed at adults and considered that whilst its CAD rating of ‘W’ means it would likely be seen by children, in the Board’s view the content is not offensive and is not inappropriate for a broad audience.

The Board noted the complainant’s concerns about the reaction to the advertisement if the roles had been reversed and a man was seen stroking two women. The Board noted that its role is to consider each advertisement on its own merit and that addressing hypothetical alternatives is not part of its role.

Consistent with its previous determination the Board considered that in this instance the content of the advertisement does not meet the threshold of behaviour which would be considered discriminatory or vilifying.

The Board 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 complaints.