



Case Report

1	Case Number	0085/17
2	Advertiser	Fruco Beverages Australia
3	Product	Food and Beverages
4	Type of Advertisement / media	TV - Free to air
5	Date of Determination	08/03/2017
6	DETERMINATION	Dismissed

ISSUES RAISED

2.4 - Sex/sexuality/nudity S/S/N - general

DESCRIPTION OF THE ADVERTISEMENT

This television advertisement features a male rapper performing in the driveway of a mansion surrounded by dancing women. He is then interrupted by the film crew filming him as he is being replaced by another rapper: this rapper is identical but is holding a can of V Energy. The first rapper asks if his doppelganger can distribute money like he can, and we see him holding a wad of notes and using his other hand to distribute them. We then cut to his doppelganger who has money showering down over him even though he has nothing in his hands except the can of V Energy. The voiceover then says, "The massive hit that improves you a bit".

THE COMPLAINT

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

It sexually objectifies women. There are women twerking, wearing practically nothing, and the men act like they're in a strip club throwing money around. It's an ad for Monster energy drink not a strip club.

Because it's very sexually driven. Very sexist and over the top.

*Women twerking with male rapper on V drink ad. Film clip like this would be rated M or MA
Content of ad is offensive to me and my children. Both not suitable for 5.50pm time slot.*

THE ADVERTISER'S RESPONSE

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

We are committed to conducting all advertising and promotions to the highest standards and we take seriously any complaints made in relation to any such advertising and promotion.

As requested, we have addressed the Complaints by reference to all relevant advertising Codes, including the AANA Code of Ethics (AANA Code of Ethics) and the AANA Food & Beverages Advertising and Marketing Communications Code (AANA Food Code).

We note that the Complainants addressed concerns in respect of the Advertisement, stating that:

"Because it's very sexually driven. Very sexist and over the top" and "Content of ad is offensive to me and my children. Both not suitable for 5.50pm time slot"

Having considered the Advertisement and the Complaints, and the requirements of the AANA Code of Ethics and the AANA Food Code, we respectfully submit that the Advertisements do not in any way contravene the AANA Code of Ethics or the AANA Food Code.

Please note that we have not assessed the Complaint by reference to the:

- AANA Code for Advertising and Marketing Communications to Children, as the Advertisement is not targeted to children (please see our explanation below); or*
- Australian Food and Grocery Council Responsible Children's Marketing Initiative, as the Advertisement is not targeted to children; or*
- Australian Quick Service Restaurant Industry Code, as Frucor is not a signatory to this initiative.*

AANA Code of Advertising and Marketing Communications to Children

We submit that the AANA Code of Advertising and Marketing Communications to Children does not apply for the following reasons:

- A "Child" for the purposes of the AANA Code of Advertising and Marketing Communications to Children is a person 14 years old or younger;*
- the average consumer of V Energy Drink is between 18-35 years old;*
- the language and tone of the Advertisement is not of a childlike nature, and features fictional scenario's that a young adult may find humorous or appealing;*
- the Advertisement has been given a "W rating" and accordingly is set in within programming times which are suitable for the intended audience;*

- *as stated in the Campaign Brief, the Advertisement is targeted to 18-24 year olds and features adult characters; and*
- *V Energy Drink includes statements on all packaging/labels that it is "not suitable for children" (given the presence of caffeine).*

AANA Food Code

We submit, having regard to Section 2 of the AANA Food Code that:

Clause 2:

2.1 the Advertisement is truthful and honest, is not or designed to be misleading or deceptive or otherwise contravene Prevailing Community Standards, and is communicated in a manner which is appropriate to the level of understanding of the target audience of the Advertisement with an accurate presentation of all information including any references to nutritional values or health benefits.

As stated above, the target market for V Energy Drink is between 18-35 year olds (with the Advertisement, specifically targeted to 18-24 year olds). Most people are familiar with V Energy Drinks and that they contain caffeine and are not recommended for children and such messaging is included on all packaging in a clear and prominent manner. Further, as noted above, the Advertisement is not intended to be understood by children, but is targeted at adult consumers, mainly grocery buyers.

The Advertisement is intended to be a light hearted, tongue-in-cheek campaign designed to connect with those audiences, particularly in the 18-24 year age range that enjoy life to the full and don't take themselves too seriously. The Advertisement is part of a broader campaign that uses the tagline "a massive hit to improve you a bit" which has been used by the Advertiser, since 2013.

The Advertisement is not intended to be taken seriously. An ordinary person would not consider that by drinking a V Energy Drink, you would be wealthier, own a Rolls Royce, be more attractive to women or appear in movies, advertisements or film clips.

Accordingly, the Advertisement does not contravene Section 2.1 of the AANA Food Code;

2.2 the Advertisement does not undermine the importance of healthy or active lifestyles nor the promotion of healthy balanced diets, or encourage what would reasonable be considered as excess consumption through the representation of product or portion sizes disproportionate to the setting/s portrayed or by means otherwise regarded as contrary to Prevailing Community Standards, and accordingly, the Advertisement does not contravene Section 2.2 of the AANA Food Code;

2.3 the Advertisement does not contain any health or nutrition claims. It does not make any direct or indirect reference to health benefits or nutrition and it does not imply that by drinking V it will benefit your health or nutritional needs in any way, and accordingly, the Advertisement does not contravene Section 2.3 of the AANA Food Code;

2.4 The Advertisement does not include any health related comparisons, and accordingly, the Advertisement does not contravene Section 2.4 of the AANA Food Code;

2.5 The Advertisement does not make reference to consumer taste or preference tests, nor use any scientific terms to falsely ascribe validity to advertising claims, and accordingly, the Advertisement does not contravene Section 2.5 of the AANA Food Code;

2.6 The Advertisement does not make reference to taste, size, content, nutrition and health benefits which are non-specific to the promoted product or inaccurate in all such representations, and accordingly, the Advertisement does not contravene Section 2.6 of the AANA Food Code;

2.7 The Advertisement does not appear within segments of media devoted to general and sports news and/or current affairs using sporting, news or current affairs personalities, live or animated as part of the Advertisement, and accordingly, the Advertisement does not contravene Section 2.6 of the AANA Food Code;

2.8 The Advertisement does not portray V as a substitute for meals, and accordingly, the Advertisement does not contravene Section 2.8 of the AANA Food Code;

2.9 The Advertisement complies with the AANA Code of Ethics and the AANA Code for Advertising and Marketing Communications to Children is not relevant, and accordingly, the Advertisement does not contravene Section 2.9 of the AANA Food Code.

We note that clause 3 of the AANA Food Code does not apply to the Advertisement, as the Advertisement is not targeted to Children.

On the basis of the above, we do not consider that the Advertisement contravenes the AANA Food Code, having regard to Sections 2 and 3 of the Code or otherwise.

AANA Code of Ethics

We submit, having regard to Section 2 of the AANA Code of Ethics that:

Clause 2:

2.1 the Advertisement does not portray people 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. Portraying women as attractive does not itself constitute discrimination or vilification of women, nor is there any negative portrayal of any race, gender or ethnicity.

Accordingly, the Advertisement does not contravene Section 2.1 of the AANA Code of Ethics;

2.2 the Advertisement does not employ sexual appeal in a way which is exploitative or degrading of any individual or group of people, there is no debase or abuse of any person or group of people, accordingly, the Advertisement does not contravene Section 2.2 of the AANA Code of Ethics;

2.3 the Advertisement does not contain any violent graphics or imagery, and accordingly, the Advertisement does not contravene Section 2.3 of the AANA Code of Ethics;

2.4 the Advertisement is not sexually suggestive, there is no nudity, nor is it inappropriate for the relevant audience. We note one Complainant referred to "twerking", however, the Advertisement has been edited in such a way, to avoid any explicit or sexually suggestive imagery is used, the dancing is used in an appropriate context, the actors are clothed, the Advertisement is intended to reference the actors filming of an advertisement, film or music video and the scenes are used in a light-hearted, humorous and fun way, and accordingly, the Advertisement does not contravene Section 2.4 of the AANA Code of Ethics.

2.5 the Advertisement features language which is innocuous, it does not feature strong or obscene language or language which is inappropriate for the relevant audience and medium, and accordingly, the Advertisement does not contravene Section 2.5 of the AANA Code of Ethics; and

2.6 the Advertisement does not depict any material which is contrary to Prevailing Community Standards on health and safety, including any unsafe practices or images, and accordingly, the Advertisement does not contravene Section 2.6 of the AANA Code of Ethics.

We note that clause 3 of the AANA Code of Ethics does not apply to the Advertisement. On the basis of the above, we do not consider that the Advertisement contravenes the AANA Code of Ethics, having regard to Sections 2 and 3 of the Code or otherwise.

THE DETERMINATION

The Advertising Standards Board (the "Board") considered whether this advertisement breaches Section 2 of the AANA Advertiser Code of Ethics (the "Code") and the AANA Food and Beverages Advertising and Marketing Communications Code (the "Food Code").

The Board noted the complainant's concerns that the advertisement is very sexualised and inappropriate for viewing by children.

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

The Board 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 this television advertisement features a male 'rapper' performing in the driveway of a mansion. He is surrounded by dancing women. The film crew stop filming and adds in another rapper who is the identical man but holding a can of V Energy drink. The new singer appears better and the women choose to go with him.

The Board noted that the advertisement is portrayed in the genre of a music video. The Board noted the advertiser's response that the target market for V Energy Drink is 18-35 year olds.

The Board considered that the current advertisement depicts dancers and music that would appeal to the target market of young adults. The Board noted that the women in the

advertisement are using movements commonly seen in music videos. The Board noted that their movements are mildly sexualised but the women are completely covered and there is no inappropriate nudity or sexual activity.

The Board noted that when the new rapper appears, the women choose to go with him and that they are not coerced into leaving with him but do so willingly. The Board noted that the dance movements are fleeting and considered that the women are not overtly sexualised in their movements.

The Board noted that the advertisement had been given a 'W' rating by CAD and that the advertisement was aired in the appropriate time for the rating.

The Board considered that the advertisement did treat the issue of sex, sexuality and nudity with sensitivity to the relevant audience and determined that the advertisement did not breach Section 2.4 of the Code.

The Board then considered whether the advertisement breached section 2.1 of the Food Code which provides:

'Advertising or marketing communications for food ...shall be truthful and honest, shall not be or be designed to be misleading or deceptive or otherwise contravene prevailing community standards, and shall be communicated in a manner appropriate to the level of understanding of the target audience of the Advertising or Marketing Communication with an accurate presentation of all information including any references to nutritional values or health benefits.'

The Board noted that the advertisement uses the tagline "a massive hit to improve you a bit" and noted that the replacement rapper looks the same as the first rapper but he has the drink so he is somehow better than his original self.

The Board noted that it had previously considered an advertisement for the same product (0526/14) where the same tagline was used "improves you a bit." In that case the Board determined that the tagline is "advertising puffery or humour and is not of the specificity needed to be a health claim or likely to mislead consumers about possible gains purely due to the consumption of the beverage."

Similarly in this case, the Board did not consider there was anything misleading about the product improving a person in anyway and did not breach section 2.1 of the Food Code.

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

